WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE ASSEMBLY

Thursday, 19 March 1998

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 10.00 am, and read prayers.

CRIMINAL CODE AMENDMENT BILL

Committee Procedure

THE SPEAKER: I wish to make a statement to remind members of some of the procedures that will follow in the Committee of the Whole on the Criminal Code Amendment Bill and to indicate that very special attention has been given to the way in which the committee will be chaired. In essence, the members chairing the committee will be especially careful to ensure that the rights of all members are preserved.

Members know that in Committee, clauses as printed in the Bill and proposed new clauses are taken in their numerical order, and the Bill is taken strictly in sequence. This is particularly important when dealing with a long clause. Members should be aware that Standing Order No 186 provides that -

> No amendment shall be proposed in any part of a question after a later part has been amended, or has been proposed to be amended, unless the proposed amendment has been, by leave of the House (or committee) withdrawn.

Simply put, the Committee keeps moving forward through the Bill and through each clause of the Bill, and cannot go back to an earlier clause or even to a part of a clause which is prior to the most recent amendment moved. If such an action is thought necessary, it requires an appropriate direction from the House to the Committee.

It is important that the earliest notice possible is given to the Chair of any amendments which members wish to move in order that no member is inadvertently precluded from moving any amendment. All amendments must be in writing and signed, if they are not on the Notice Paper already, as it is critical that all members clearly understand the questions being put, and that they are properly recorded. Members will be required to read in full any amendments they propose. If needs be, the Chair will halt proceedings until the amendment has been copied and circulated among members.

Where necessary, questions put from the Chair will be explained in greater detail than usual. If any member is uncertain of the question, he or she is entitled to have it restated. The Chair, when putting the question, will state which group, in the opinion of the Chair, has the majority, and as the voices for or against may come from all parts of the Chamber, a close vote will be difficult for the Chair to call on the voices alone. I caution members to listen very closely to that call from the Chair to decide whether they wish to call for a division.

Two Standing Orders are important for a member in relation to the calling of a division. Standing Order No 192 provides that -

> A division cannot be called for, unless more than one voice has been given on each side for the Ayes and Noes.

Standing Order No 193 provides that -

> A member calling for a division shall not leave the House, and shall vote with those who, in the opinion of the Speaker or Chairman of Committees, were in the minority.

Members should also be aware of some very important provisions in relation to the divisions procedure. When a division has been called and the doors have been locked, the Chair will state the question before the Committee. The Chair will then invite the ayes to pass to the right of the Chair, and the noes to the left of the Chair. There will then be a pause before tellers are appointed. The pause is essential because of Standing Order No 202, which is as follows-

> No member shall cross from one side to the other after the Speaker or Chairman of Committees has appointed the Tellers.

Consequently the Chair will be especially careful that members have a chance to take their places before appointing the tellers. Where possible the member chairing a Committee will call on an experienced teller, but other members may be required to perform that duty.

Potential complications in Committee will be avoided if the Chair and members ensure that questions being put to the Committee are clearly understood and sufficient time is taken to allow proper procedures to occur.

AMBULANCE, ROCKINGHAM

Petition

Mr McGowan presented the following petition bearing the signatures of 99 persons -

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

We the undersigned, respectfully request that Rockingham be granted a further fully staffed ambulance on top of the one already stationed here already in order to cater for the increasing population of the area and the high number of call outs required both via the community and the Rockingham Kwinana Districts Hospital.

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 158.]

ABORTION LAWS

Petition

Mr Wiese presented the following petition bearing the signatures of 39 persons -

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

We, the undersigned,

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

are vigorously opposed to abortion;

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

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

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

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

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

[See petition No 159.]

RIGHT OF WOMEN TO SAFE AND LEGAL ABORTIONS

Petition

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

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

We, the undersigned: 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 160.]

TRANSPORT ASSISTANCE FOR EARLY INTERVENTION CENTRE

Petition

Mr McGowan presented the following petition bearing the signatures of 57 persons -

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

We the undersigned, wish to express our concern at the possibility that the transport assistance currently provided to children attending the Early Intervention Centre in Mosman Park may be removed following the completion of the review currently being conducted by the Dept of Transport. We urge the members to prevent this from happening as it will lead to undue financial hardship for a number of families and may lead to some children being prevented from receiving the help that they require in their educational development.

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 161.]

BETTING CONTROL AMENDMENT BILL

Second Reading

MR COWAN (Merredin -Deputy Premier) [10.13 am]: I move -

That the Bill be now read a second time.

This Bill makes a number of changes to the way sports betting can be conducted by licensed bookmakers. Currently, the Minister must approve organisations wishing to have bookmakers attend professional footrace meetings and the venues at which the betting is to occur. These approvals are valid for 12 months.

This system has presented some administrative difficulties. Often organisations lodge their requests for approval for bookmakers to field at footracing events leaving very little time to obtain ministerial approval. The current provisions also mean that bookmakers may field at subsequent footracing events at approved venues within the 12 month approval period, without the requirement for the organisations to advise either the Betting Control Board or the Minister of these events. This creates difficulties controlling individual events.

To overcome this, the Bill provides for permits to be issued for individual events, and locations for sporting events will be registered by the Betting Control Board. The Betting Control Board has had a number of requests for the provisions regarding bookmakers' betting on professional footracing to be extended to professional cycling and wheelchair events.

In considering these requests, and, in the context of the development of sports betting by bookmakers in other States, particularly in the Northern Territory, the Bill will broaden the provisions of section 4A to allow bookmakers to attend and take bets on designated sporting events such as Australian Football League football matches and test or one day cricket matches. Designated sporting events will be determined by the Betting Control Board and will be published in the *Government Gazette.*

The Betting Control Act stipulates that a prescribed amount, currently 50 per cent, of the betting turnover levy payable by sports bookmakers operating at horse or greyhound racecourses is paid into the consolidated fund.

The Bill will allow the Betting Control Board to collect this portion of the levy for distribution to sporting or other organisations as directed by the Minister for Sport and Recreation. Similarly, a prescribed portion of the levy from betting conducted at a designated sporting event will be payable to the board for distribution in the same manner. Initially, the prescribed portion will be 100 per cent. The current provisions of the Act require bookmakers to deliver a betting ticket to all bettors, other than telephone bettors. However, bookmakers are permitted to operate credit betting and it is traditional that most credit bettors decline to take the tickets issued to them by bookmakers at the time the bet is lodged. The reluctance of credit bettors to take their tickets means bookmakers, through no fault of their own, are not complying with the provisions of the Act.

The Bill amends section 31 of the Act to require bookmakers to issue a ticket for each bet and to deliver the ticket to the bettor unless the regulations prescribe otherwise. This will allow the requirements for the issuing of betting tickets to be varied to suit telephone and other credit betting practices. The current activities of full-time sports bookmakers operating from a racecourse have highlighted the demand from bettors for opportunities to bet on new sporting events and betting contingencies. Ministerial approval is presently required before new sporting events and betting contingencies can be offered to punters.

To facilitate approvals, the Bill will amend section 4B of the Act to transfer the responsibility for approving events and contingencies for sports betting from the Minister to the Betting Control Board. Under delegated powers, in appropriate circumstance, the chairperson of the board will be able to issue approvals with minimum delay.

The Betting Control Act stipulates that a bookmaker shall employ only persons who hold a bookmaker's employee licence. This requirement has caused difficulty for bookmakers, particularly at country race meetings, when staff call in sick at short notice. Bookmakers in the metropolitan area normally have access to a pool of licensed bookmakers' employees. However, this is often not the case in remote areas.

The Bill will amend the Act to allow the steward in control of a race meeting to issue temporary bookmakers' employees' licences on the day of a race meeting. The criteria to be used by the steward to assess applications for temporary licences will be set by the Betting Control Board.

While calling of the card events may be conducted at prescribed venues under the Betting Control Act, the board is aware that many calling of the card events are conducted at country venues without the approval of the board. The board believes the existing provisions in the Act are unnecessarily onerous and time consuming and do not encourage organisations to seek board approval for such events. The Bill will amend the Act to allow the board to authorise and control the settlement of bets and betting on calling of the card events. Approvals will be published in the *Government Gazette*. In addition, the Bill contains a provision requiring bookmakers fielding at calling of the card events to lodge returns and pay a betting levy to the race club conducting the event on which the betting occurred. This levy is currently paid into the consolidated fund.

The probity arrangements covering licensed persons at the Burswood International Resort Casino permit the Gaming Commission to conduct periodic police checks on licensed persons for audit purposes.

The Bill introduces a similar provision under the Betting Control Act so that periodic police checks can be conducted on bookmakers and bookmakers' employees. The States and Territories have, at a meeting of the Racing Ministers' Conference, been asked to enact legislation to recognise prior interstate betting offences.

The Bill contains amendments to enact this request. The Bill also contains some technical amendments which allow the board to delegate its duties as well as its powers; allow any offence committed under either the Betting Control Act or the Totalisator Agency Board Betting Act 1960 to be prosecuted by the board; delete redundant references to the Commissioner of State Taxation; and extend the provision allowing the seizure of evidence to an officer authorised by the board.

Section 36 of the Act requires that a review of the Act be conducted as soon as practicable after 1 January 1991 and every fifth anniversary after that date. As a result of the major amendments to the Betting Control Act that came into operation in June 1996, it was decided that the review that was due as soon as practicable after 1 January 1996, would be conducted in conjunction with the review of the Act required under the Competition Principles Agreement.

The Bill sets the next review five years after the date of proclamation of the Betting Control Amendment Bill. I commend the Bill to the House.

I table an explanatory memorandum.

[See paper No 1260.]

Debate adjourned, on motion by Ms Warnock.

CRIMINAL CODE AMENDMENT BILL

As to Committee

MR PENDAL (South Perth) [10.24 am]: I move -

> That the Committee of the Whole House, when considering the Criminal Code Amendment Bill, has the power to consider any amendments to the Health Act in relation to abortion.

The motion has been circulated for some time and is a perfectly normal, ordinary, legitimate and longstanding procedure within the House. Indeed, it is essential that the House agree to this before it proceeds into Committee.

Without the instruction, because that is what it becomes, those who seek to place certain provisions relating to the subject matter within the Health Act would be unable to do so. That would then not only reduce or cut off, but would permanently remove, the opportunity for those members to make points that they believe to be entirely relevant to the debate. It is in no-one's interests to defeat any legitimate aspirations on the part of any member of the House at this stage. With fore knowledge of what those amendments will be, whether one agrees with them is hardly the point. To those members and, indeed, to many members of the public, they are relevant and central to the Committee debate. I ask members to inform themselves of this point: It is in no-one's interests to defeat this motion.

This device was used on 2 May 1972, if I recall - not that I was here that long ago - in respect of a similar matter. Therefore, the precedent has been set.

An instruction to a Committee is no more nor less than a device by which the House says it is valid that the scope of the original Bill be broadened in Committee. Of course, the Bill originally introduced, as I recall it, was confined to amendments to both the Criminal Code and the Evidence Act. This is therefore a valid, legitimate request that its scope be widened sufficiently to allow proposed amendments to the Health Act to be dealt with.

It is essential for the rights of anywhere up to 25 members that this motion be passed. These amendments represent the combined views of some Liberal, Labor and Independent members, both here and in another place. Therefore, I commend the motion to the House as a legitimate mechanism by which a major matter can be debated. Of course, members are not being asked to make a judgment on the strength or otherwise of the proposed amendments that have been circulated. However, this is not unlike the situation facing some members last night: We voted for the second reading of a Bill with which we generally disagreed. It was stated clearly by all of those members that we voted for the second reading so that we could proceed to the Committee stage to express further contrary opinion. In effect, what we are doing today is no different in principle and, for those reasons, I commend the motion to the House.

MR COWAN (Merredin - Deputy Premier) [10.28 am]: I will comment very briefly on the process of an instruction to a Committee. It is rare that such an instruction is given, particularly in this format, which is quite broad. Notwithstanding your ruling, Mr Speaker, that we are dealing with the issue of abortion and, in the context you put forward, the Criminal Code, which covers the issue of abortion, it is appropriate to permit an instruction to allow for the Committee of the Whole to debate whether regulations should be incorporated in the Health Act.

While I am not averse to the instruction being given, members of this place should be aware that the most appropriate method to amend the Health Act might be to introduce separate legislation. I recognise that, from the member for South Perth's point of view, if instruction were given, it would be a vehicle to allow him to do that. That would then expedite the process, rather than his having to go through the process of preparing a separate amending Bill.

Mr Pendal: I might well be prevented from doing what you are saying because that might well require a message. The best advice, from the same source to which you would go, was that an instruction would be the appropriate method.

Mr COWAN: I was about to say that the only thing preventing the introduction of a private member's Bill would be the requirement for a message, because I have no doubt that some costs would be associated with the counselling requirements in relation to proposed changes to the Health Act.

It is appropriate for this House to consider that we have in another place some legislation that may at some time or other find its way into this place. Given that that legislation seeks to repeal certain provisions of the Criminal Code, it would be more appropriate for any amendments to the Health Act to be inserted in that legislation when it was considered in this place. Of course the member for South Perth would be able to argue that we do not know yet the precise construction of that legislation and how it may or may not be dealt with by another place before it reaches here. Events may preclude the member for South Perth from being able to request that the Committee be given an instruction to deal with matters which are not necessarily contained in the Bill that may come to us from another place.

The provision is quite rarely used in this context. Although instructions have been given previously, this would be unusual in as much as if we agree to the instruction and look closely at the proposed amendments on the Notice Paper from the member for South Perth, we are effectively removing the title of this Bill and converting it to an Acts amendment Bill which will allow us to amend the Health Act and the Criminal Code. Of course those amendments are associated with abortion. I accept, Mr Speaker, that you are perfectly correct in the ruling you have made that it is in order and the House should consider it.

In this instance in order to canvass the very broad spectrum of the contents of the proposals put forward by the member for South Perth we should agree to this instruction being given. We need not debate the content of the provisions at this stage. Given that we have already had a very extensive debate on this issue, it is appropriate for us to cover all issues and agree to the instruction so that we can debate the issue of whether some regulations should

be placed in the Health Act to cover the issues that are dealt with by the member for South Perth's proposed amendments. Although I do not subscribe to the over prescriptiveness of the member for South Perth's proposals, it is appropriate for us to consider that option. I support this motion for an instruction to be given to the Committee of the Whole.

MS MacTIERNAN (Armadale) [10.33 am]: I speak for a number of people who do not support the substance of the proposed amendments of the member for South Perth. Nevertheless, we are prepared to support this motion in order that we can have an opportunity to bring this debate to a conclusion.

MR KOBELKE (Nollamara) [10.34 am]: I support the motion. As it seems to have broad support I will speak very briefly. The instruction to be given to the Committee is an accepted procedure, although it may not be commonly used. Mr Speaker, your ruling very clearly set out the reasons that it is appropriate that this motion be carried and the precedents for it. One key element in the argument you put was that any extra material must relate to the main thrust of the Bill. Clearly that is the intention of the member for South Perth's amendments. He has placed some of those amendments on the Notice Paper in the form of amendments to the Health Act. Therefore, we need the ability in Committee to be able to move such amendments to the Health Act.

One point I would like to make which has not been made so far in this debate is that the member for South Perth's amendments could possibly proceed without this motion; but they would have to be redrafted to apply the Criminal Code. People would generally accept that such amendments would sit much better in the Health Act. Therefore, it is most appropriate that we carry this motion and leave the option open, rather than require the member for South Perth in proceeding with his amendments to redraft them, and that amendments in the form he and I wish to see go into the Statutes be incorporated into the Criminal Code.

MR PRINCE (Albany - Minister for Health) [10.36 am]: Although some people would probably not wish the motion to go forward because they would not agree with the substance of the amendments which then appear before the Committee as a result of passing the motion, I urge all members nonetheless to agree to the motion so that those amendments can be put before the Committee and debated. It is necessary and desirable for this House to debate this subject as fully and comprehensively as possible so that the public whom we serve can see that we have done the job that we should be here to do. Consequently I urge all members, even those who for good reason would not want to have this motion proceed, to agree to its going forward in order to debate the substance of the amendments that follow. I agree with the comment that if the amendments were to become law, they would be far better elsewhere than in the Criminal Code. As I said last night, the Criminal Code is a statement of minimalist standards of principle. It is not and never should be considered to be an area of law where we are prescriptive as to process of administration. Those things are put into Acts which are intended for that purpose, and the Criminal Code is not.

Question put and passed.

Committee

The Deputy Chairman of Committees (Ms McHale) in the Chair; Mr Prince (Minister for Health) in charge of the Bill.

Mr STRICKLAND: I rise to speak as a local member, the member for Innaloo. The only person who has not had an opportunity to speak in this debate is myself because of the special role that I have in this place. My constituents, however, do require representation and do have a right to know my stance on this matter. Standing orders do not preclude me from speaking; therefore, my speaking is totally in order. The practice of Speakers and the House is that Speakers deliberately do not involve themselves in debate from the Chair and do not show bias by supporting or opposing Bills that are introduced in this place. This debate is an exception: It is a conscience matter and a conscience vote. I inform the Chamber that I will be voting during the Committee stage, and I will be seeking the call again as soon as possible simply to put my views and proposed actions on the record of this Chamber so that my constituents can see that they have been represented.

The action that I am taking is extremely rare, but it is not without precedent. The Clerk has advised me that it is likely that 1888 was the previous occasion in this State that a Speaker spoke during a Committee stage. Other more recent precedents have been set in other Parliaments, but it is an extremely rare occasion.

The DEPUTY CHAIRMAN (Ms McHale): I have allowed the member for Innaloo to make that brief statement, notwithstanding that no question is yet before the Chair.

Clause 1: Short title -

Mr STRICKLAND: I am generally opposed to abortion. However, I do accept that certain circumstances, such as deformity, require the option of choice. My wife shares my views and is generally opposed strongly to abortion. As an elected person, I must take consideration of the views of my constituents beyond my personal views. I am

absolutely repulsed by the East German athletic experiments which involved women athletes being made pregnant and then aborted to improve their capacity in the sporting arena. I am disturbed by reports that abortion has been used as a contraceptive device. Any woman who aborts obviously faces huge traumas and emotional turmoil in reaching that decision. The woman will live with that decision forever. It is a personal dilemma, and not one that I believe should be judged by others.

Supporters of laws to make abortion illegal ignore reality. It reminds me a little of King Canute, who failed in his bid to sit on his throne and order the tide to stop coming in. Were we to legislate to suddenly change what has become 25 years of practice, according to the information that members have presented to the Chamber, about 8 000 women per year will be placed in a quandary. I believe most of those women will still seek to abort. Which doctors will perform these terminations, given that they are illegal and they will face prosecution and loss of licence to continue to practise as a doctor? Will we see 100 women a week lined up at Perth airport for a flight to the eastern States?

I believe I have a responsibility to listen to medical opinion and to heed public demand. I will not support moves to impose particular cultural or religious views on this matter across the State. I will not support amendments which seek to achieve a de facto anti-abortion law through over-restriction and impediments. I do, however, strongly support counselling both before and after the event. This is a difficult motion for me to be involved in and debate, but I believe I have a responsibility to represent my constituents on this matter.

Mr PENDAL: Before we get to the substance of clause 1, I seek leave of the Committee for permission to be given for members who have sponsored amendments to discuss those amendments from the central Table and to have an adviser, or at least to be in some other position in the Chamber where those members can rely upon an adviser; in other words, to be granted a facility similar to that enjoyed by Ministers who handle a Bill. That has not been done previously. Any Minister, not just this Minister, enjoys that privilege in this Chamber. However, that privilege is not a question of a right that exists under a standing order but is a longstanding convention or courtesy. I contend that a Minister who is in charge of a Bill, or a member who is sponsoring a serious amendment, should have the right to precisely that facility.

The fact that that has not been done previously leads me to remind members of what I was told by former Premier John Tonkin when I asked him at a press conference when I was a journalist many years ago whether it was good that something that his Government intended to do should go ahead on the grounds that there was no precedent anywhere in Australia. He said to me, "Young man" - at that time, that remark was more relevant than it is now - "precedent should never stand in the way of good debate." That is the argument that I put today. I am not asking for that facility to occur now, because some non-technical and general points will be made on this and other clauses prior to our arriving at the amendments that I sponsor; and, as I recall, the member for Swan Hills and other members have also proposed amendments.

Therefore, the leave of the Chamber that I am seeking is for a member who is sponsoring an amendment to be given the same privilege that is extended to the Minister who is handling a Bill. That is all it is: It is a privilege that we extend to the Minister to have at his convenience and in a convenient location an adviser on this matter.

The DEPUTY CHAIRMAN (Ms McHale) : That is not a question for leave of the Committee. It is entirely the prerogative of the Chair as to who is allowed on the floor of the Chamber. That prerogative has been exercised in this case, but I will not accede to the request by the member for South Perth to bring forward an adviser on the basis not that there has been no previous precedent, but for the good order of proceedings in this place both in this debate and in future debates.

Mr BARNETT: As Leader of the House I support your ruling, Madam Deputy Chair. I do not think it appropriate that other advisers be brought in. A circumstance in which that may be acceptable is if we were dealing with a private member's Bill in the form of an amendment, for example, to the Health Act. In private members' time that would be appropriate, but it would be inappropriate now. Crown Law advice is available, and that advice on occasions may be available to other members. This is not a government Bill, and I do not accept that we should have a variety of people potentially coming to the floor of this Chamber, many of whom - although well qualified to provide professional advice - are associated with different points of view in this debate. I commend the Deputy Chairman's ruling.

Mr PENDAL: With the utmost respect, the Leader of the House has just undermined his own argument. The Minister for Health is not here sponsoring a government Bill -

Point of Order

Mr RIPPER: I do not believe that the member for South Perth is speaking to clause 1. He is seeking to canvass a ruling. I submit that he is out of order.

The DEPUTY CHAIRMAN: There may be some merit in the comment of the member for Belmont, but for the sake of ensuring that members have an opportunity, within the rules of this place, I will allow the member for South Perth to bring his remarks to a conclusion, bearing in mind that I generally accept the comments of the member for Belmont. I make it very clear that this would also be a position adopted by the Speaker in this Chamber.

Committee Resumed

Mr PENDAL: Quite rightly and properly, the Minister for Health - both in this Chamber and outside - has been at pains to tell members and the public that he is not here as the Bill's advocate. He is here - to use his words - as the Bill's facilitator. He represents a person in this place who was charged with the responsibility of bringing into the Chamber a Bill on which the Government had no position. If that is true, let us put it to the test and ask for the retirement of the parliamentary counsel from the Chamber. I am sure he will not take that as a personal insult. He is a man of great distinction. Let us test that.

My friend, the member for Kalgoorlie, stands in court, defending the right of people to be properly briefed. Is she saying now that she is happy that people who are sponsoring serious amendments should not have the same facility that she offers her clients?

The DEPUTY CHAIRMAN: Order! I have ruled that the member's request will not be acceded to. He is now trying to extend his argument, and I ask him to bring his comments to a conclusion.

Mr PENDAL: I have no desire to antagonise either the Chair or members. I understand that I have the right to move a motion of dissent. We can debate that motion all day if we wish. I do not want to do that. I have seen people waste time in this place and in the other place - simply to waste time. One of the arguments that I will shortly use is that we have spent precious little time on the central issue at stake here. If people think that two and a half days is a long time, they should revise their thinking. I am trying to avoid moving a dissent motion, which I doubt many people have an appetite for. I am simply trying to avoid that situation. With the utmost respect, Madam Deputy Chair, you are not in a position where you are unable, with the concurrence of the House, to permit movers of amendments to have the same facility available to them that a Minister has - a Minister who is not even handling a government Bill yet has access to one of the best parliamentary counsel in the country. Do members and Madam Deputy Chair think that that represents fairness and equity? I do not think it does.

Ms MacTiernan: You did not raise these issues during earlier debate, and they are serious matters.

Mr PENDAL: With respect, it was not raised by the member for Armadale.

Ms MacTiernan: I was not here.

Mr PENDAL: Neither was I, and because something has not happened -

Ms MacTiernan: You were never concerned.

Mr PENDAL: I will bring my remarks to a close because I do not want to antagonise the Deputy Chairman, at least unduly. It is only a couple of minutes ago that the Speaker broke a precedent of 110 years' standing, and I applaud him for it. He said that he wanted the right to represent the views of his electorate. As the member for Peel said, he can do that under the rules. This Committee is capable of allowing that to occur in this case.

Several members interjected.

Mr PENDAL: Members should not tempt me. I will move a dissent motion if I am pushed too far! I do not ask for anything special. I am asking for some fairness. I am surprised to hear those comments from members of the Labor Party. I have spent 18 years listening to them -

The DEPUTY CHAIRMAN: Order! The member's time has expired.

Mr PRINCE: I wish to comment on my role and that of Mr Calcutt, the parliamentary counsel as adviser at the Table. As I have said to the member for South Perth - and he accurately quoted me - I am here representing the Attorney General as a facilitator of debate, and for as long as I stand or sit at this Table that is my function. Should I wish to make any remarks as the member for Albany, representing the people of that place, I will move back to my seat to do so. The adviser is a government officer who is paid by the people. His role here is to act as an adviser providing a facility to this Chamber, not as an advocate of any position, or any amendment or clause of the Bill. This is an extraordinary position. He is not advocating, and neither am I, any particular part of the Bill or any amendment that may be put.

The member for South Perth wishes to advocate a particular view and particular amendments. Mr Calcutt is here to assist that to happen because he is provided by the taxpayer and should perform that function. That is all. If the

member wants to bring other advisers into the Speaker's Gallery, with the consent of Madam Chair that can be done. However, there is a fundamental difference between my role, as Minister at this Table, and the role of this gentleman as an adviser, and what the member wishes to do - which is to advocate a different position. There is a difference between the facilitator and the advocate. In that sense the member's argument is flawed.

Mr Pendal: It is the first gag, and it is indicative of the way this debate will go.

Mr PRINCE: With respect, member for South Perth, I take offence at that. I am adamant there should be no restriction on this debate.

The DEPUTY CHAIRMAN (Ms McHale): There is no motion of dissent because there is no ruling. I have exercised a discretion which is vested in the Speaker and in the Chair to allow on the floor of the Chamber whomsoever the Chair wishes to invite and to make welcome. That is the end of the argument. The Speaker is upholding precedent, not working against precedent.

Points of Order

Mr KOBELKE: I draw the attention of the House to Standing Order No 66, which states -

> The Speaker only shall have the privilege of admitting strangers into the body of the Chamber, to the number of six. Members of the Council shall have the privilege of admission there to seats to be appointed by the Speaker; but, prior to any division, such strangers and members shall, if ordered, withdraw.

The ruling that has been made by you, Madam Deputy Chair, is in keeping with that standing order.

The other overriding standing order relates to the general governance of business in this place. It is in keeping with standing orders that we look to precedents from Westminster and other like Parliaments around the world and from established practice. The overriding principle is to look to the management of the Chamber, so that it can function effectively.

Under Standing Order No 66 the Speaker may allow people who are not members onto the floor of the Chamber. Management issues must be taken into account. Given that we are looking at the conduct of the whole proceedings, I hope that in consultation with the Speaker it would be possible to ensure a fairly free reign is given to members who need advice to speak with a limited number of people either behind the Chair or across the Bar, so that those members who are seeking help can have that assistance with the guidance and permission of either the Chairman or the Speaker

The DEPUTY CHAIRMAN: There is no point of order. It is open to all members to speak quietly to members of the public in the Speaker's Gallery to seek advice.

Mr COWAN: Madam Deputy Chair, will you clarify how you will allot debating times during Committee? Would you repeat the rules governing the times that will be allotted and the number of times that a member may speak to a clause? Has the member for South Perth, in taking issue with you as Deputy Chairman, used up any allotted time in speaking on clause 1?

The DEPUTY CHAIRMAN: This debate will be run in accordance with the standing orders, as we have conducted ourselves in debate on other Bills. For the sake of those who may not be aware: The time limit is five minutes. Members are not limited in the number of times they speak as long as they alternate. The member for South Perth understands entirely my position.

Committee Resumed

Mr PENDAL: If I recall correctly, Madam Deputy Chairman, you referred to your ruling.

The DEPUTY CHAIRMAN: No, I did not. I said it was my privilege to invite people onto the floor and I was exercising that discretion and privilege.

Mr PENDAL: You used to the word "discretion" to clarify the Chair's position. That is helpful from my point of view as it is not a ruling. When I said that I would move a dissent from your ruling, I was pleased to hear it was not a ruling, but your discretion. If it is your discretion it is open for me to seek the leave of the Chamber to achieve what I want. I will seek leave of the Chamber and if the Chamber denies leave that is fine, I will proceed with clause 1.

The DEPUTY CHAIRMAN: I remind the member for South Perth that we are dealing with clause 1. Please bring this to a conclusion.

Mr PENDAL: These matters are germane to my argument so they are relevant to clause 1.

Before I ask that your discretion be put to the test and the Committee be requested to give me leave or deny leave

as it sees fit, there may be a second way out. The upper House gave leave for the then Chief Hansard Reporter, Mr Jim Cox, to appear on the floor of the Chamber on the day of his retirement in order that the Chamber could pay tribute to his work. I do not think it is satisfactory for advisers to sit behind the Speaker's Chair and neither is it terribly convenient for people to be occupying the Speaker's Gallery, as communication is difficult.

If I am denied that leave, there is a second way, and I think it is a reasonable compromise; that is, I might seek the permission of the Chamber to occupy one of the seats that is normally occupied by the member for Churchlands or the member for Vasse and that at the appropriate time an adviser be in a position to have a chair next to either position. That has been done before in the circumstances I have just described. I do not even think we are asking for some extraordinary act of generosity. We are asking for a bit of equity and fairness. We are not talking today about the Skeleton Weed and Resistant Grain Insects (Eradication Funds) Act, the Dog Act or even the Education Act; we are talking about something more important than all of that. Madam Deputy Chairman, I seek the leave of the Committee that at the appropriate occasion, and only then, the sponsors of amendments have the same facility at the Table of the Chamber as the Minister who has carriage of the Bill.

Point of Order

Mr RIPPER: Madam Deputy Chair, this is entirely a matter for your discretion, therefore, the member for South Perth has no capacity to seek leave or to move a motion of dissent.

Mr Pendal: It is at the Chair's discretion to make the ruling.

Mr RIPPER: It is not parliamentary to interrupt a member while he or she is taking a point or order.

Mr Pendal: Tell that to the member for Armadale.

Mr RIPPER: I think on the basis of your advice to the Committee, Madam Deputy Chairman, the member for South Perth does not have the capacity to do what he seeks to do.

The DEPUTY CHAIRMAN: I accept the member's comments. There is no capacity for the Committee to do what the member for South Perth requests.

Committee Resumed

Mr PRINCE: There is no desire on my part for the member for South Perth or any other member in this place to be deprived of appropriate advice as debate flows. Clearly, Mr Calcutt and Mr Cock, when he arrives, will be available to advise members on any aspect they require. Regarding other advisers present in the Speaker's Gallery, I put the following proposition, but not by way of motion or other such procedure: If a member wishes to obtain advice during debate and asks that debate be suspended for a short period, I would like that to happen. Debate would not be constrained by a brief hiatus in proceedings. If the member for South Perth or anyone else wanted to consult someone for five minutes, it would be more than appropriate that debate be briefly suspended.

The DEPUTY CHAIRMAN: The speed at which proceedings move is a matter for the Chair to decide. If it is clear that a member needs advice, I am sure the Chair will accommodate that situation enabling suspension only within a reasonable time depending upon the proceedings of the Committee. I remind the Chamber that if the public are to sit in the Speaker's Gallery, the agreement of the Speaker is required. I make that observation.

Mr PENDAL: On the last point regarding the Speaker's Gallery, the breach was my fault entirely. I sought permission from the Speaker yesterday for guests to attend, and I did not seek that approval this morning - I apologise. However, that underlines the very point I was trying to make; namely, the incapacity for quick communication in the Chamber. Members must confront that situation as they have denied the opportunity to rectify the difficulty. Do I take it that the ruling, Madam Deputy Chairman, also applies to the second part of my request for an arrangement, which is not without precedent, for advisers to sit near a member's bench?

The DEPUTY CHAIRMAN: Again, it is not a ruling, but a matter of discretion about who sits on the floor of this Chamber. If the member seeks somebody to sit on the floor of the Chamber, I decline. The answer is no.

Mr Cowan: Good ruling.

A government member: Let's get on with debate.

Mr PENDAL: I ask members not to be too impatient about this debate for it is the starting point in remarks I wish to make on clause 1. I use the occasion, not unlike the facility extended to the Speaker in his capacity as the member for Innaloo, to restate my position unequivocally. This is not necessarily representative of the people who have worked across party lines with me and others in respect of the Bill in the past 10 days. I oppose abortion. I oppose abortion on demand.

Point of Order

Mr McGINTY: We are on clause 1 of the Bill. There is a requirement in Committee that comments have some degree of relevance. That is not present in the current speech.

Mr KOBELKE: I think we are seeing a little jumpiness from my colleague the member for Fremantle. The member for South Perth has been on his feet for a couple of seconds and has clearly not transgressed any standing orders in relation to the short title in clause 1.

The DEPUTY CHAIRMAN: Members know very well the standing order relating to relevance. I thank the member for Fremantle for reminding members of that order. This is a sensitive debate with members coming from different angles. It will be in the interests of the community on this issue to move to the substance of the clauses.

Committee Resumed

Mr PENDAL: Clause 1 is indeed the short title.

Mr Graham: It is a good job it is not the long title!

Mr PENDAL: I am surprised to hear that comment coming from the member who made a serious contribution to the debate the other day.

Clause 1 is the relevant question. This is a matter which touches on perhaps one of the most fundamental issues with which we will ever deal in this Parliament. It is worth dwelling on clause 1 in what we are about to do. Clause 1 under standing orders and by convention permits a wide ranging view to be expressed about the subject soon to be under discussion.

This Bill aims to amend the Criminal Code and the Evidence Act. Members are aware that a proposed amendment on the Notice Paper seeks to rename the short title of the Bill. Of course, the House has already signalled its desire to see that debate take place, as the first motion we dealt with about 10.15 am today was whether the House would issue the instruction to broaden the Committee stage into discussion of the Health Act. That is the reason that the title - I do not move the amendment yet - of the Criminal Code Amendment Act will be removed and put in its place will be the Acts Amendment (Abortion) Act.

Incidentally, it will be pleasing that for the first time the title of the Bill will then contain the truth of the matter. For once we will avoid the euphemisms, niceties and respectable words. We will know for the first time, if we had any doubts about it before, that we are talking about an abortion Act.

Mr KOBELKE: The title of the Bill is one we have seen many times; namely, a Criminal Code Amendment Bill. Such Bills generally relate to minor rearrangements of the Criminal Code, which is one of our major Statutes in importance and volume. The Bill before us is very different from what one would normally call a criminal code amendment Bill. This Bill will make major changes to the Criminal Code in relation to abortion. Regarding the foreshadowed amendment, it is not appropriate that this Bill be titled the Criminal Code Amendment Bill.

It is appropriate to have at least some brief understanding of the contents of the Bill. I draw on a letter from John Finnis, the Professor of Law and Legal Philosophy at University College Oxford, who has provided a brief overview of this Bill. The letter clearly shows why the title of Criminal Code Amendment Bill is not an appropriate title, and states -

> Its meaning and effect are perfectly clear, though rather misleadingly set out.
>
> Abortion performed by a medical practitioner on a healthy and competent female will become lawful provided only two conditions are satisfied:
>
> 1. the doctor or someone else gives her some information "about the consequences of an induced miscarriage", and
>
> 2. she thereafter expresses her consent to the abortion.
>
> Absolutely no other preconditions, e.g. about the possible danger or bad consequences of continuing her pregnancy, need be satisfied. The abortion will in fact be "justified" and lawful even if the operation carries more risk to her health than continuing the pregnancy. It will be lawful right up to the moment of birth. This Bill thus displays a contempt for the life of the unborn child unsurpassed (so far as I am aware) by any other law in the world (leaving aside regimes of forced abortion like China's). It is outrageously more indifferent to the presence and interests of the child - even a fully viable child - than are the laws of the United Kingdom, the other countries of the European Union, or even the United States.

> Because of the word "or" at the end of subclause (3)(c), the Bill's references to danger to "health" or other "serious consequences" are all completely irrelevant and inoperative except in one sort of case, namely, where the female in question is incompetent (as lawyers say), or for some other reason it is "impracticable for her to" give informed consent (see subclause (4)). In those circumstances the abortion can be performed on her without her consent, if one or other of the preconditions specified in (3)(a), (b) or (c) is met. For example, if a mentally disabled young woman becomes pregnant and the presence of her child would have serious adverse consequences for her family, though not for her or the child, the family could lawfully bring it about that she had an abortion without her consent, even against her expressed wishes. This too is an extravagantly irresponsible and contemptuous feature of the Bill, unparalleled, so far as I am aware, in any civilised country.

That letter, much more capably than I could have, very briefly reflects the problem in the short title of this Bill. It would have people believe that this legislation is quite innocuous and that it is merely tampering with the Criminal Code. This Bill is not just providing minor amendments to the Criminal Code. As the Bill currently stands it will wipe out a tradition which, with its failings and problems, has been in place for many decades in this State, and which is reflected in the law of the other States of the Commonwealth of Australia. The Bill will legalise abortion and provide open slather for the deaths of unborn children. This Committee must look carefully at the short title because it is not appropriate.

Mr BRIDGE: I find this absolutely unbelievable. The subject matter before the Committee is found in the Criminal Code. Are members intellectually incapable of getting anything straight or understanding anything? We are in this Chamber to debate an issue that has its origins in the Criminal Code, and we are considering ways of amending the system either within or outside the Criminal Code. Therefore, it is not appropriate to question whether the title of the Bill should be changed. If members are to talk about those sorts of things, they might as well pack up and go home because they are not dealing with the substance of the matter. I find this so bizarre that I am embarrassed to listen to it. Members should get real. We have a problem on our hands. This is a community issue and it is not our issue with which to play games. It is of profound importance in the community. Some people are for the amendments and some are against them. They can never all be fully accommodated, but we must search for a solution that gives as much recognition as possible to those extreme positions. Some people would find comfort in keeping these provisions in the Criminal Code. The Pope would probably echo my sentiments on this matter and say that some aspects should be kept in the Criminal Code. For his sake, let us consider doing that. Others think that abortion should not be dealt with in the Criminal Code. Likewise, we should try to accommodate them.

Members should think about what they are debating. They are trying to come up with a mechanism that takes into account and gives regard to those who are the subject of this impending legislation. We are not the subject of the impending legislation; it relates to another group of people. Members should give some recognition and respect to their integrity and their position. That will not be done by dilly-dallying and by this kangaroo, wombat and billy goat stuff. We should be mature people who recognise that a group of people in the community are relying on some responsible debate, and we should respond to that. I will not have a bar of the suggestion that the name of the Bill is not relevant.

Mr BAKER: The member for Kimberley seems to acknowledge the need to accommodate the various views in the debate. He seems to acknowledge that it is a very important issue for most people, that people in the community are concerned about the abortion issue and that their views should be debated in this Chamber. Yet, he does not want to allow full debate on the short title. I am mindful of the length of the discussions on the Labour Relations Legislation Amendment Bill last year. I recall that the debate in the other place on the short title took some time. The short title performs a function in the legislation. It is the name by which the Bill will be referred to when it becomes an Act in due course. It cannot be said that we are not dealing with matters of substance. We are dealing with the name of what may be historic legislation.

Mr Graham: It is all historic.

Mr BAKER: I agree with the member for Pilbara, but, comparatively, and getting the priorities right, this is more historic than most of the legislation dealt with. When we dealt with the amendments to the industrial relations Bill last year, it was said that it was the most historic piece of legislation with which the Parliament had dealt for many years.

Mr Graham interjected.

Mr BAKER: I did not at any stage criticise the views of the member for Pilbara on that Bill. I respected his views and his right to air them, although I disagreed with many of them. It is wrong to try to short-circuit a debate on clause 1 dealing with the short title. There seems to be a view of late that we should expedite matters.

Ms MacTiernan: You go on and talk all day about the short title. We will not interrupt you.

Mr BAKER: I am not seeking to spend all day talking on this Bill.

Mr PENDAL: I seek to clarify one matter. I have no hang up about the title. Earlier I welcomed the fact that to accommodate my amendments to the Health Act, the title of this Bill was suggested as being the Acts Amendment (Abortion) Bill 1998. The advice from the Clerks at the Table who competently serve all members was that to accommodate the expression of the Chamber to broaden the scope of the legislation to the Health Act, we must change the title of this Bill. That was no political agenda of mine, or anybody else's. If we want to talk about filibustering, we need only go to the people who have been mucking around, talking in opposition to that, who have unnecessarily taken up time. It is simply a facility to change its name from the Criminal Code Amendment Bill, which it was. It was amending the Criminal Code and the Evidence Act.

Mr Prince: I don't find any evidence of a change in the Evidence Act.

Mr PENDAL: I might have misread something if am wrong about that. The original Foss Bill which the Government is facilitating seeks to amend the Criminal Code. That is why it was called the Criminal Code Amendment Bill. The Government decided - at 10.10 this morning - that it would accommodate me and like-minded people by allowing the Committee to have the power to consider an amendment to the Health Act in relation only to abortion. That was the Government's decision, not mine, but I am grateful that the Minister agreed.

Once that decision was made, it was then impossible to continue to debate a Bill called the Criminal Code Amendment Bill. It had to be called the Acts Amendment (Abortion) Bill 1998, or the Clerks could have found some variation of that. Therefore, we are properly referring to that new title. My earlier comment was to welcome the fact that for the first time introduced into the title of the Bill was the reality of it and that, therefore, we were not dealing with some euphemism which has had a habit of creeping into the debate on this topic in more ways than one. Things have been entirely relevant. To those members who feel we do not have an obligation to dwell on clause 1, I say that this public debate started four weeks ago. The Bills we have seen came to us nine days ago. We should contrast that with what we have just done in this Chamber with the School Education Bill.

Mr Graham: Not the Australian Grand Prix.

Mr PENDAL: Absolutely. Neither should it have been. The education Bill was a very important Statute, but the Minister brought it into this Chamber in about November of last year - the Minister can correct me if I am wrong - and he presented a Green Bill and allowed that to lay upon the Table of the House for two or three months. It circulated throughout society. Why did the Minister for Education do that? He thought the education Bill was an important piece of legislation. This Bill has been treated with more despatch and less respect and it does not warrant that.

Mr PRINCE: The question of the name is one about which I pause but briefly, but I should refer to some of the remarks made by the member for South Perth about the haste and despatch. This matter comes before the public as a result of actions taken by prosecutorial authorities and uncertainty being created. Whatever one may think about the subject matter of abortion, the biggest evil we are grappling with is uncertainty. Consequently we must act with despatch insofar as we can as legislators remove uncertainty.

If some people find the speed with which this matter has been brought into Parliament, the suspension of standing orders, and the way in which the Parliament is dealing with this matter disagreeable and part of the uncomfortable zone in which we have put ourselves, that is regrettable; however, I advocate as strongly as I can that the uncertainty in society must be, insofar as it can be, legislatively laid to rest as soon as possible, but not without proper, comprehensive and full debate. The Bill before the Committee is intended to trigger just that - comprehensive and full debate as I have no doubt the amendments will. There is no other agenda behind this, other than to facilitate that end.

Mr BAKER: I will respond to a couple of points raised by the Minister. I agree that certainty is central to this debate. It is a matter of certainty to ensure doctors know where they stand in law and also for members of the broader community to know exactly what the law is and what they are not permitted to do. The issue of certainty not only relates to the key legal issues; it also goes to the matter which deals with the name of the amendment Bill. Surely the present name does not give any certainty as to what the Bill is about. If a member of the public were doing research in years to come and wanted to find out exactly what was debated at this time and tried to locate the amendment Bill, the names given to the Bill and the short title would not assist in that regard. They create uncertainty. The short title of the Bill could relate to any one of a couple of hundred provisions in the Criminal Code.

Mr Prince: Five hundred.

Mr BAKER: That is excluding the rules. If we are to argue about the need for certainty - we all accept there is a

need to make sure the law is certain, for many reasons - we should remember that certainty starts with the short title of Bill. Let us adopt our general policy and acceptance of the need for certainty from that point onwards.

Mrs PARKER: I seek clarification from the Clerk as to the need to alter the title of the Bill. I understand the title of the Bill must be changed so that the amendments to the Health Act can be encompassed in those being proposed by the member for South Perth. If we must change the title of this amendment Bill to embrace the integrity of all of the amendments that are before us from the member for South Perth, it is not an issue of being pedantic or point scoring or filibustering at the beginning of the debate; it is a matter of setting a framework at the outset within which we can debate the entirety of the amendments the member for South Perth has put before us. I seek your clarification of that for the benefit of those in the House. We are not point scoring here; we are debating the framework in order to keep the integrity of the amendments as we proceed through this important debate.

The DEPUTY CHAIRMAN: It is entirely up to this Chamber what it ultimately determines as the title of the Bill. The member can call it the Pink and Green Bill if he wishes, but it is not a matter for clarification; it is a matter for further debate if necessary in this House. However, ultimately, the House will decide what will be the short title of the Bill.

Mr WIESE: I understand that if we were to fail to pass the proposed amendments, the result would be that we would be debating the Criminal Code Amendment Bill and the following amendments would then be consequential and out of order. Will that mean that everything else will not be able to be debated?

The DEPUTY CHAIRMAN: No.

Mr TRENORDEN: This is a ludicrous debate. We have Statute before us which, as the Minister for Health has just pointed out, contains some five hundred clauses. We are debating whether we will amend that Act. The member for Joondalup made an outrageously stupid statement that this Bill will be known as whatever it is made. That is just not true. The Bill will amend the Criminal Code or the Health Act; it will be one or the other. What we are doing here is an absolute nonsense. We are being asked to vote on pure emotion at the start of this debate; nothing more than that. If this request is carried and the rest of the amendments are lost, we will insert into the Criminal Code a section which will be entitled whatever the amendment is, which would be absolutely ludicrous.

In the past the way of dealing with these matters was very important because we had a physical method of putting these Bills together. Now we have a consolidated method; but that is all we are talking about. We are trying to throw a heap of emotion through a procedural process and it should be totally thrown out.

Mr BAKER: It is not an emotive issue when we are dealing with the short title of the Bill; it is a fundamental key issue. Amendments have been made to many pieces of legislation in the short title of the amendment Bill including inserting a key word or phrase that relates back to the very gist of what is being amended. It may well be that the member for Avon is right; however, if that is the case, then D.C. Pearce and R.S. Geddes, who are the authors of *Statutory Interpretation in Australia* and are widely considered to be experts, are wrong. Paraphrasing what they say about the short title of a Bill, they say it a convenient method of identifying the legislation. I understand and accept the member for Avon's comment that the Bill may be known as the abortion amendment Bill through common parlance and usage. However, what happens when someone wants to obtain a copy of the amendment Bill?

Mr Trenorden: They will either get the whole Act or a section of the Act; that is the way it works.

Mr BAKER: I accept what the member is saying. However, what if they are seeking a copy of the amendment Bill?

Mr Trenorden: It will not be a Bill; it will be part of the Act.

The DEPUTY CHAIRMAN: Will the member for Joondalup direct his comments to the Chair.

Mr BAKER: Having a copy of the amending Bill helps people to find and locate a piece of legislation by having a key word or phrase included in the short title. What are we doing? We are amending the Criminal Code and many of the provisions we are amending use key words such as "abortion" and "procurement". It is being suggested that the short title of the Bill should say what it is. Let us call a spade a spade.

Mr Graham: Move an amendment.

Mr BAKER: The member for Pilbara was not too concerned about allegations of waffling on during the Industrial Relations Amendment Bill debate last year.

Mr Graham: Are you a gambling man?

Mr BAKER: No, I am not.

The DEPUTY CHAIRMAN: Order!

Mr BAKER: Pearce states that the key objective of the short title of a Bill is the Bill's identification. We accept that or we do not. Do we want certainty in the identification, or do we want to make it uncertain? I think it is proper to have a debate on this issue. We all agree that certainty in law is central to this whole debate. The certainty issue will also ensure that the Bill, when it becomes an Act, is easily identified.

Ms MacTIERNAN: I am not quite what sure what the member for Joondalup is debating because no amendment has been moved. I gather an amendment has been foreshadowed. However, I want to short circuit what appears to be some filibustering. Is it possible to defer consideration of this item until the end of the procedure because there is only sense in amending this provision if the substantive clauses are passed? If the substantive clauses of the amendments that have been foreshadowed are not passed, then there is no case whatsoever for arguing an alteration to the name. In order for us to do what we are supposed to do - that is, get on to arguing the substance of this matter - is it possible for it to be done procedurally?

The DEPUTY CHAIRMAN: The member can move that clause 1 be postponed until the conclusion of discussions on the long title.

Ms MacTIERNAN: I will not do that. However, that is important advice for the member who has indicated he will move, but has not yet moved, this amendment.

Mr PENDAL: I am astonished at the sensitivity and the lack of consistency on the part of some members. I do not know whether people are aware of how much time we spent on clause 1 of the industrial relations legislation last year.

Ms MacTIERNAN: None. You are confused.

Mr PENDAL: Was there not? I am not confused. I said 20 minutes ago that I would not move the amendment at this stage, because once I did, I would then have to confine myself to the motion moved. Therefore, the capacity for me or anyone else to make wider ranging comments would be removed. If some members find that a bit uncomfortable, that is tough. When the Labor Party felt that the Bill to which I have just referred went to the core of its existence the debate went on for hours. This is a Bill that goes to the core of the views and beliefs of many people in this Chamber. If other people must endure those most dreaded weapons freedom of speech and a contrary point of view, that is tough. I move -

> Page 1, lines 4 and 5 - To delete "*Criminal Code Amendment Act 1998*" and substitute "*Acts Amendment (Abortion) Act 1998*".

This may go to the heart of the law and the way in which we are at great pains to clarify the separation of powers. How many times has a situation occurred in which someone has been charged for an offence under the Criminal Code and Parliament has intervened prior to the hearing of the case and therefore before the judicial system has had its chance to play its role? I am no lawyer but I reported courts of law for many years; indeed, I reported this place for a few years. It goes to the question of certainty that a number of members have mentioned so far. I am asking this to determine the propriety of Parliament's acting before the court makes a decision. That decision might be much welcomed by the pro-life, pro-abortion or pro-choice people. It is a serious question about the number of occasions on which Parliament has been asked to intervene in this way.

Mr MARSHALL: I accept what the member said about free speech. In here we observe sheer good manners and respect for each other's opinions and, with a sense of fair play, we allow everyone to say his piece. Years ago when I was in New York I was invited backstage after seeing the musical of "My Fair Lady". I met an actor who had been saying the same lines on stage for 12 years at matinees and evening shows. I asked how he did it without getting bored. He said,"I take a small sentence, like 'See that black cat'. When I want to change the intonation on stage I emphasise the word 'see' to put the onus on visualisation . Next time I emphasise 'black' to put the onus on colour. Another time I will emphasise 'cat' and the audience knows it is not a dog or anything else."

We can do this in the House too. The same lines can be repeated many times in different ways, but in the end we must all vote. We have all studied the second reading debate and have been networking and discussing the issue backstage. We all know how we will vote on this matter. I, like the members for Kimberley and Armadale, believe that we are overdoing the way we vary the lines.

In free speech we are forgetting about courtesy, good manners and respect for our fellow colleagues. All of a sudden fair play is going out the window. I hope that speakers who follow will ask themselves if they are properly addressing this matter. Most important, what do the electors think when we talk about little and get nowhere? We must get to the issues and get things moving in this House.

Mr PRINCE: I am sure we have all benefited from the exhortations of the coach!

I refer the member for South Perth to section 11 of the Criminal Code which reads -

> A person cannot be punished for doing or omitting to do an act, unless the act or omission constituted an offence under the law in force when it occurred, nor unless doing or omitting to do the act under the same circumstances would constitute an offence under the law in force at the time when he is charged with the offence.

Every time we change the Criminal Code, the Road Traffic Act or any other piece of legislation where offences are created people will have been charged under the law as it was and brought before the court while the charges may have changed materially and may not even exist. Mostly it happens in relation to penalties. However, where a person is charged, and before the judicial process is finished, it is somewhat unusual that there is no longer an offence of that nature. I have no doubt it happens occasionally. Over 20 years of practice I can think of only a few occasions. Whether it would be appropriate for the Attorney's discretion is entirely a matter of the circumstances. That will depend on what happens in this Parliament regarding the legislation we are debating and what ultimately becomes law.

The member asked the question in the context of it perhaps being better to wait until the judicial process has run its course. I do not know what the doctors charged intend to do, nor should I. However, they will come before the Court of Petty Sessions in a few weeks and be asked whether they want a preliminary hearing. If they elect to have a preliminary hearing, that will be scheduled for some time hence - probably six to 12 weeks later. If they plead not guilty and the matter goes to trial, as it would in the District Court, it is unlikely that that would happen before the middle or the end of next year. Even if they plead guilty, months will elapse before the matter is disposed of. Given that scenario, the uncertainty to which I have referred will extend for far too long. In the public interest, we must resolve the uncertainty. While I understand the point with regard to the case, what might happen to that case might be affected by what we do here. However, that will ultimately be at the discretion of the Attorney General, if he has any discretion, which, of course, will depend upon the results of our deliberations.

Mr COWAN: I will make my position very clear. I am cognisant of the words of the member for Dawesville; that is, that we have done enough talking and we should get to the vote. While I do not deny the member for South Perth the opportunity to move down this path, he will get no support whatsoever from me. It might have been a different story had a Bill been introduced to amend the Health Act. I assume that when this debate is completed and we have a clearer picture of the will of the Parliament - both Houses - as a Government we might be required to amend the Health Act. While I will not deny the member's right to move down this path and to seek to vary the title of this Bill, having said that I would support the Bill as it stood at the second reading, I will oppose this amendment. I know that means that none of the amendments proposed to be moved by the member for South Perth will be permitted by the Chair. That is entirely appropriate.

Mr PENDAL: I like to think that the Deputy Premier is one of my friends in this place. I hope that does not do his career any damage; I do not think it will - they tell me he intends to retire soon anyway. Another is the member for Dawesville. I will briefly refer to the remarks he made about the time that we have taken. That comment can come only from a member who has been a Minister too long or a member who has never been in opposition. In all fairness, they are the two groups of people who like to see debate limited. I hope that the member for Dawesville never finds himself in opposition, because he is a good man. However, if he does, he will then find that if he does not have the numbers, at least he has the capacity to express his view. He should cherish that notion. The Deputy Premier has been five years in government. His view is certainly different from the view he expressed when he sat on this side of the Chamber. One's desire for short or long debate is often predicated by one's location in this place.

I will rephrase the question I asked the Minister: Can he tell me the last time that a case of major public significance and impact was intervened upon by the Parliament's intending to make new laws on the subject before the court?

For those members on the government benches who feel uncomfortable about our slowing down the process, one of the best Liberals who ever sat in this House or any Australian Parliament was a man called Andrew Mensaros. He knew more about the right to be heard in a real and practical sense than almost anyone I can think of here. It is all academic to us - we grew up in Australia or England - and we take all these things for granted. He grew up in a communist country, from which he became an exile, and found refuge in this country. He told young members like me that whatever we do we should not be party to a move to make the legislative process too rapid. He said that every time that happens the legislation is "mucked up". If the Bill is unimportant, we muck it up a little; if it is important, we muck it up a lot. He would not use colloquial language like that, but the message was absolutely unmistakable. He had learnt from living under the most repressive communist regime the value of coming into this place and not only expressing one's view but also putting other people to the inconvenience of having to listen to it. I implore members not to adopt the attitude that we are filibustering. We are not; we are less than two hours into the Committee stage. The boot will be on the other foot another day, and I promise those members who will be on the government benches one day that they will want to use those same arguments.

Members should not think that the Government is happy about the state of this Bill. A Minister approached me last

night to see whether we could halt the proceedings because he regarded this whole thing as a bloody disgrace. He did not understand what was going on.

Mr Cowan: That means he is a disgrace.

Mr PENDAL: If he is a disgrace for having the manliness to admit that he has worries about the Bill, we have a very serious situation.

Mr PRINCE: The question put to me was when or whether a Legislature had intervened by legislation in a case before the courts. To my knowledge, never; it might have happened, but not in contemporary history - post 1945 -

Mr Pendal: I thank the Minister for that. It is unprecedented.

Mr PRINCE: I am being very precise. At no time has an Act of Parliament been directly related to a court case. Whatever may come out of these deliberations, this is not something related to the cases currently before the court.

Mr Pendal: We are discussing section 259 of the Criminal Code.

Mr PRINCE: It does not intervene in those cases.

Mr Pendal: I realise that, but the Minister understands the point I am making. We are dealing precisely with a matter now before the court.

Mr PRINCE: That is right. However, that of itself - a Legislature dealing with a matter of law that is the subject of a case before the court - happens almost every time we discuss the Criminal Code. There is always a case, or many cases, under way in the courts related to burglary, assault, breaking and entering and so on. There are cases before the court every time we debate this law and even as the resultant Bill becomes an Act.

Ms MacTiernan: A useful example might be the abolition of the law banning homosexual activity in Tasmania.

Mr PRINCE: That has happened in Tasmania but I cannot recall anything like that happening here in the past 50 years. However, at any time that we touch any form of criminal law, cases will be before the courts relating to that law.

Dr TURNBULL: If this Chamber determines that the short title will contain the words "Criminal Code Amendment Act 1998" and if regulations relating to exactly what is meant by informed consent, mental health or counselling are made, will those regulations be placed under the Criminal Code or the Health Act? This is a fairly important issue because the purpose behind the proposed amendment seems to be that the member for South Perth sees consequences either in further elaboration or even in regulations which might flow from this legislation.

Mr PRINCE: It is only if the amendments, which refer to clause 3 and bring new laws into the Health Act, were passed that any new regulations might be required. The member for South Perth is foreshadowing amendments to the Health Act. If they were passed in whatever form and consequential regulations were required, it would obviously be my task as Minister for Health to attend to that matter and lay regulations before the Chamber. If the Chamber does not pass the amendments to bring in changes to the Health Act, then no regulations will be required, and that is it. There is no question at all of coming in with regulations under the Criminal Code because the amendments of the member for South Perth relate to the Health Act. If that happens, regulations under the Health Act may be required. The only other amendments he is talking about are to the Bill, which is a Bill to amend the Criminal Code.

Dr TURNBULL: If clarification of the terms within the Bill were required, would that clarification have to come from the courts or would that be part of the role of a Chamber such as this?

Mr PRINCE: There is no scope under the Criminal Code for making any regulations other than those with regard to fees and such things. If it were considered desirable to have regulations about counselling, accredited counsellors or anything of that nature, it would be incumbent upon me and the Government to bring back some form of amendment, not to the code but probably to some other piece of legislation, defining what is counselling and so on. I use that only as an example. The code has no regulation making power, so we would not contemplate regulations under the code. If the amendments to the Health Act proposed by the member for South Perth are passed, it may be that some regulations will be required. If that were so, I am sure that the Government would feel obliged to look at that matter in the proper exercise of subsidiary legislation.

Ms MacTIERNAN: I oppose the amendment that is being proposed by the member for South Perth. When I rose earlier and expressed concern about filibustering, it was not because I believed that the member for South Perth did not have the right to fully debate an issue which is very clearly of great importance to him. I was merely making a point that that issue should not be debated ad nauseam in relation to procedure. We were very keen for this debate to move on and to have us deal with the substance of the matter, which is of concern not only to the member for South

Perth but also to most members in this place. The reason I will not be supporting the amendment is that I cannot support the member's proposed amendment to clause 3. As I will not be supporting his proposed changes to the Health Act, it makes no sense to support the changes to the title. It is not that I am opposed to the notion of regulation of termination of pregnancy being within the Health Act, but the amendments before us today simply do not do the job. They do not provide what women in this State need and deserve; that is, access to safe, legal abortion. There is an issue of urgency here in a way that perhaps there is not with other pieces of legislation. The urgency is that women are out there with pregnancies with which they are most unhappy. There are women reaching the end of the time when it is safe to have terminations of pregnancies. Those women are being put in very difficult situations by the delays that are taking place in dealing with this legislation.

Mr BAKER: The Minister referred earlier to the effect of changes in the law. He mentioned section 11 of the Criminal Code and very briefly summarised it. I will read section 11 because it is important we appreciate the effect of changes in the law and where these changes would mesh in. Section 11 is headed with the words "Effect of changes in law". It reads -

> A person cannot be punished for doing or omitting to do an act, unless the act or omission constituted an offence under the law in force when it occurred, nor unless doing or omitting to do the act under the same circumstances would constitute an offence under the law in force at the time when he is charged with the offence.

I have a question about the use of the word "act". I believe the Minister would acknowledge that in many cases an act is not performed during a brief moment in time but is what is commonly known as a continuing act. What would the law say in the circumstance where the act of procuring an abortion continued from one day to the next; for example, it commenced at 11.00 pm and finished at 2.00 am?

In response to a question from the member for Armadale, the Minister referred to the various powers of the Attorney General. If the Attorney General were to lodge or file a nolle prosequi in the criminal case that was referred to, the effect of that would obviously be to quash the charge or indictment, but would it also have the effect of ceasing to apply the law to those persons at the time the nolle prosequi was served?

Mr PRINCE: With regard to section 11 of the Criminal Code and what is in a shorthand way called the charge of procuring an abortion, I refer to section 199, which states -

> Any person who with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind . . .

The administration of a substance or the use of force clearly takes place over a relatively limited time and almost never over a number of days. Therefore, it is not a continuing act of long duration. The offence is, for example, the infliction of force with the intent to procure. The intent to procure may be proved by a series of acts over a period of time, but the offence is the act of force. In that sense, the member has slightly misunderstood the nature of the section.

With regard to a nolle prosequi, I refer to section 581 of the Criminal Code. The effect of a nolle prosequi, which I understand these days is done by the Director of Public Prosecutions, is not to quash; and it never has been. It is an advice to the court before which an indictment would otherwise be presented that the prosecutorial authority declines to proceed at this time. I am not aware of any case where the prosecutorial authority has then decided to proceed after having filed a nolle prosequi.

Mr BAKER: Is the Minister saying that the nolle prosequi does not act as a bar to a fresh indictment on the same set of facts?

Point of Order

Mr COWAN: The question before the Chair is to delete certain words from clause 1. A debate about the Criminal Code and its sections has no great relevance to the question before the Chair.

Mr PENDAL: I disagree with what the Deputy Premier has said. It seems to me that it has everything to do with that.

Committee Resumed

Mr PENDAL: We are dealing with the amendments that I have moved, and this debate is important from a philosophical point of view, and also from an interpretative point of view into the future. What we are proposing is not meant to comprise an alternative abortion Bill. The first amendment and those that will follow are confining amendments to the Criminal Code Amendment Bill, the title of which we are now seeking to alter, which was

introduced into the Parliament on behalf of the Attorney General. That was the reason, incidentally - I hope members will have noted it - that our amendments pick up the language of the so-called Foss Bill and of the Criminal Code.

I referred earlier to the welcome use of the word "abortion" in the short title. Nonetheless, in being consistent with the Attorney General, we have picked up the terms "procuring a miscarriage"and "unborn child", and the concept that procuring a miscarriage may be "justified". Under the amendments, the topic of abortion would continue to appear in the Criminal Code and would still be subject to the defence contained in section 259. Of course, as members will have picked up, the intention was that new defences would be inserted into the Health Act - and that is absolutely germane to what we are talking about here - that would legalise clearly defined categories of abortion.

I return for a moment to the point that I have raised with the Minister for Health. I heard the interjection from the member for Armadale in respect of the charges that were laid against homosexuals in Tasmania. My point was simply that Parliament can do what it likes in its own jurisdiction. The only restraint on the Parliament in Western Australia, from what I understand, is the Constitution. The Earl of Pembroke said Parliament can do anything, except change man to woman and woman to man. He was about 200 years too early, because Parliament will soon deal with a gender reassignment Bill, so that saying will soon depart from the scene. Parliament is supreme within the constraints of the Constitution and the Federation.

However, arising from that is my concern that when the Director of Public Prosecutions has launched a prosecution, the outcome of which I do not know any more than does any other member of this Chamber, we should seek to intervene, not in that case - I understand that - but in respect of that precise offence. I believe that is an unhealthy action. I am not seeking to avoid a debate - in fact, I was criticised this morning for allegedly dragging it out - but I would prefer to see the debate take place in three or six months; and if any so-called uncertainty were produced, that would be for other people to deal with. It might well be the case, and it has been the case with many other laws, that it would impose a self-discipline on people if they thought the law was uncertain, and those people would then have to await the outcome of that court case.

The DEPUTY CHAIRMAN (Mrs Holmes): I remind members that we are dealing with the question that the words in clause 1 be deleted. I would be very happy if members spoke to the Bill and did not go off on tangents.

Mr KOBELKE: I would like to address the reasons that the amendment to the short title is so important. The member for Dawesville has urged us to get on with the important issues, and that comment was well received. However, I disagree with his remark that the issues have been widely canvassed enough already. It is not appropriate in Committee or particularly when debating amendments such as this to address the many issues that have been canvassed. In Committee we deal with the substance of the Bill, line by line, clause by clause. From listening to debate and from my contribution, in my view, very little consideration has been given to the content of the Bill. I do not consider that as a failing, because the broader issues need to be addressed. We can continue to address them, because they are very important, but it is now appropriate to get down to the detail of the Bill. When we do that, we will find that this Bill has been very poorly drafted. It contains major flaws. That is the importance of the amendment. It will be no good if we get to clause 3, and after debate have a better understanding of the severe shortcomings of that drafting, if we then find that we cannot do anything about it. At that stage we will have passed over the opportunity of amending the legislation in a workable way. That is why this amendment is crucial.

The member for South Perth's amendments are not the only possible amendments - they may not even be the best possible amendments but they will go a long way to improving this Bill. If this amendment is not carried, we cannot deal with the amendments on the Notice Paper. We will simply be left in Committee to draw out - to the embarrassment of the Government - the incredible problems contained in this legislation. We will not have available to us, through the mechanism of moving amendments, the ability to address the fundamental flaws in the Bill. As this debate goes through Committee, the only process available is to work over and try to salvage from - if members do not agree with them - amendments proposed by the member for South Perth. That is the one mechanism available to the Committee to address the very real problems contained in the Bill.

I return to the member for South Perth: I do not think many members have looked closely enough at the wording of the Bill. Earlier I mentioned an opinion by Professor Finnis. I hope to return to that later. That eminent legal authority pointed out the consequences of this Bill. Members who are very strongly committed to opening up the choice on abortion - while I disagree, I respect their position - should not think that this Bill will deliver that result in the way members think it will. It will create many problems, even for the members totally committed to abortion as a matter of choice.

This is very poorly drafted legislation. The member for South Perth, who has given us the opportunity of achieving something in this legislation, also seeks to provide to members who support abortion a means by which to fix some of the problems. Members may wish to address them in a totally different way from the way I would wish, but members will have an opportunity to address those matters later only if a device is available to them. They would

not be able to move a brief amendment at a later stage that could adequately address these major shortcomings. Members' only opportunity is to support this amendment, so that we can address the proposed further amendments of the member for South Perth.

Dr HAMES: I wish to clarify a few points made by the member for Nollamara, which I do not think are correct. The Deputy Chairman has been amazingly flexible and patient in allowing debate to continue in this way. Unfortunately I have not been here for all the debate this morning, but the debate allowed has varied enormously from the motion "that the words to be deleted be deleted". That is not inappropriate, given that we are dealing with such an important issue. It is not true that this is our only opportunity to address the contents of the Bill. We are debating the short title. Members can call the Bill whatever they wish; it will not affect debate, and it will not affect the member for South Perth's ability to move his amendments. I have clarified that aspect with the Clerk, as has the member for South Perth. Nothing would stop the member raising his amendments during debate on the title of the Bill. As we draw to the end of the debate, we can recommit this clause if we want to change the Bill's title.

The important point is whether the amendments are passed. If they are, the title is probably inappropriate, because it will become an Acts amendment Bill. If the member's amendments are not passed, the Bill will relate to the Criminal Code, and that title will be appropriate. Therefore, when we have debated all the issues - which I would like to get down to quickly so that we can talk about the substance of the Bill without requiring the indulgence of the Chair, which has been given freely so far - we can change the name of the Bill whether or not we support the member's amendment.

Mr BRIDGE: I support the view put by the member for Dawesville. He is correct in suggesting that we must proceed to addressing other aspects of the debate. The reasons are simple: The longer this debate proceeds in this place and it remains unresolved, the more complex and unmanageable this issue will become. That is abundantly clear from public debate. We have witnessed almost stand-up fisticuffs in public on different points of view. Just like on the football field, if a brawl is allowed to continue uninterrupted, everyone will join in, and the situation will get out of hand. The member for Dawesville is conscious of that. It is not true to say that we have not had enough time to understand the issues. Over many weeks we have received hundreds of letters. Many letters have come to this bloke from the bush, and I have responded to every one of them. I have no difficulty in saying that I understand the issue precisely. My position was made clear at 5.58 pm on Tuesday. It does not need to be stated again at 12.40 pm on Thursday. I established my position earlier, on the basis of what people said when we discussed the details. I took many telephone calls and spoke to many interested persons, and we have talked among ourselves. Since Tuesday, there have been meetings all over the place.

If ever a group of people should be familiar with an issue it is members in this Chamber on abortion. As a responsible group of legislators we should strive to reach a conclusion in the legislation that we draft. It would be an horrific outcome and we would be remiss in our duty to the public if we did not conclude this debate today. Various groups in the community are in conflict because of the uncertainty that has arisen. It is paramount that we clarify this issue. I oppose this amendment because it will delay the process and cause further uncertainty and conflict. We should be familiar enough with the issue to make a learned or at least a practical decision on it. We should not try to delay this Bill. That will make it harder for us to arrive at a conclusion. The points are clear: The contentious issue is the fact that abortion is an offence under the Criminal Code. This Bill is an opportunity to leave certain aspects of the issue within the Criminal Code and the Parliament can find a workable process so that other aspects of the issue are removed to another slightly different area. If we go on as we are we will not achieve those outcomes. We cannot leave the situation as it is now, because it is unacceptable. We have had abundant time to bring ourselves up to scratch on this issue.

Mr KOBELKE: I agree with the member for Kimberley about the amount of debate on this issue. However, if he reads the Bill carefully and takes some legal advice on the wording, he will find that it may be different from what he thinks.

It is appropriate when dealing with clause 1 to allow some general coverage to be given to the impact of the Bill as opposed to members' personal views on abortion. I accept the advice given by the member for Yokine on advice from the Clerk. I was wrong when I said that if we do not carry this amendment, we cannot consider the amendments to the Health Act proposed by the member for South Perth. However, I still stand by my statement about the importance of those amendments as a structure to address the fundamental problems in the Bill.

It is appropriate that this amendment to change the short title be adopted. If we pick up some or all of the amendments proposed by the member for South Perth the title should reflect that. We are all aware that the current provisions relating to abortion are found in the Criminal Code in sections 199, "Attempts to procure abortion"; 200, "The like by women with child", 201, "Supplying drugs or instruments to procure abortion"; and 259, "Surgical operations". The member for South Perth has foreshadowed amendments to the Health Act. That is the best way to go.

One problem with the existing legislation relates to counselling. As the Minister for Health stated, we cannot incorporate in the Criminal Code regulations relating to counselling. However, a number of members from a range of perspectives on the issue uphold the importance of counselling. How will that counselling be administered and regulated if we do not address it in this debate? We can only address it in this debate if we have a vehicle which enables us to do so and that vehicle is the amendments put forward by the member for South Perth. If we pass those amendments it is right and proper that the amendment now before the Chamber to delete "Criminal Code Amendment Act" and substitute "Acts Amendment (Abortion) Act" would be the best way to reflect that change. Calling this an abortion Act would reflect what it is, and also that it covers more than one Statute; that is, both the Criminal Code and the Health Act. It is only proper that we carry this amendment and change the short title to what we hope the Bill will become. If this amendment is not carried, I accept that we can address the amendments. However, the title will not reflect what might then be contained in this Bill.

Mr Prince: Standing Order No 267 refers to the change in title.

Mr KOBELKE: I do not suggest that we postpone this clause. I realise that we can use other devices. However, if we do not avail ourselves of devices that are not usually taken up we will find that what I am saying is true. We may wish to adopt other procedures at a later stage. The amendments on the Notice Paper are important. If we want law in this area which is workable and which seeks not only to protect the woman but also to uphold the rights of the unborn child, we need to carry the amendments on the Notice Paper proposed by Mr Pendal. In doing that we will change the nature of the Bill. Therefore, it is appropriate that we carry the amendment that is now before the Chamber and change the short title of the Bill.

Progress reported.

[Continued on page 949.]

STREET SOLICITING IN NORTHBRIDGE

Statement by Member for Perth

MS WARNOCK (Perth) [12.48 pm]: I am concerned about the street soliciting which is still occurring in the Northbridge area. Most of the people complaining about it are not people who are necessarily trying to shut down brothels; they are simply residents who do not want their streets littered with syringes and condoms and crowded with people offering sex and other people seeking it. The residents are aware of some police action to stop street soliciting in the area, because it is a matter we have all been concerned with for 18 months or so. However, they say that it has not been effective and it does not seem to have been properly resourced. The result is that within a fairly short time after a police operation the streets are once again full of kerb crawlers and women looking for customers. It is not appropriate in a residential area and if the Minister will not introduce a red light area as I understand from a newspaper story that I saw recently, I hope that at some time in the future he will tell us when he will bring in the new Act that he has been talking about and thus facilitate my constituents' sorting out this very sensitive and difficult problem. I realise that this is a very difficult area in which to legislate. Other parties have tried to do so before. However, we must do our best to bring this measure before Parliament quickly, and to ensure the area is better resourced.

PEELWOOD PARADE-OLD COAST ROAD - TRAFFIC LIGHTS

Statement by Member for Dawesville

MR MARSHALL (Dawesville - Parliamentary Secretary) [12.50 pm]: I congratulate the Minister for Transport for finally assuring me that traffic lights will be installed by May of this year at the intersection of Peelwood Parade and Old Coast Road. These lights are well overdue as 64 accidents have occurred at that intersection, including one fatality. As a result of the increased growth in the Dawesville strip, combined with the increase in weekend traffic travelling to the south west, further accidents are inevitable.

Growth in the Dawesville coastal strip is the fastest of all areas in the Peel region. The Halls Head subdivision and the Erskine area have trebled in size in the last five years. The built up area from the new bridge heading south now stretches a further 4 kilometres. It is estimated that 18 000 vehicles travel along this section of Old Coast Road daily, making it very difficult for the residents, particularly those living in Erskine, Bridgewater and Novara, to enter the main drag. This is especially the case when towing a boat or a caravan as they can become stuck on the median strip and many accidents could be caused in this way. Halls Head has a large shopping and two primary schools nearby causing major traffic congestion at certain times of the day. Funding for the traffic signals was approved in this year's Budget and, more recently, federal money was allocated through the black spot program. Traffic signals will allow safer access to Old Coast Road and minimise accidents at the Peelwood Parade black spot intersection. It is pleasing that the long awaited traffic signals will now become a reality.

WESTERN AUSTRALIAN SYMPHONY ORCHESTRA

Statement by Member for Thornlie

MS McHALE (Thornlie) [12.52 pm]: This year marks a major shift for the WA Symphony Orchestra because on 8 January 1998 it was corporatised. This process of corporatisation will embrace all state orchestras by 2000, and represents the biggest shift in Australia's orchestral culture since 1996.

WASO is one of Australia's most successful arts companies as more than 150 000 people attend WASO concerts each year, and it generates 30 per cent of its income through ticket sales. Also, it attracts leading visiting artists from around the world. This corporatisation represents a significant shift for the 89 full time musicians and 19 administrative staff, and the impact of corporatisation will be felt in many other ways.

WASO, in its own words, is being given back to the people of Western Australia. We hope that WASO will now have greater licence than was the case in the past with decisions being made in Western Australia. Its mission will be to increase support for Australian composition and music, and it will seek to establish a presence in the South East Asian region. This year the orchestra will devote resources to the development of new audiences. WASO should be considered a treasured cultural asset which contributes to the cultural life of Western Australia through the presentation of outstanding music, education programs, cultural exchanges and artistic collaborations.

BUSH FIRE BRIGADE VOLUNTEERS

Statement by Member for Southern River

MRS HOLMES (Southern River) [12.54 pm]: More than 16 000 bush fire brigade volunteers around Western Australia play a critical role in helping the community in times of crisis. The State Government last year introduced the use of aerial water bombers for the first time. This method of firefighting was trialled for three month in the hills and proved to be so successful that I understand it will be used again this year.

Regardless of the technology used to fight fires, it is to the volunteers that all the credit must go. I particularly congratulate the Gosnells Bush Fire Brigade members for the tremendous job they do inside and outside the area. Often these people put their own lives at risk to assist others. This group provided 7 000 hours of voluntary service this year, for which they should be highly commended. Acknowledgment must also go to the important part played by family members, for their husbands and loved ones could not participate in this service and spend all hours of the day and night away from home without their tolerance and support.

Last year the City of Gosnells, through its fire prevention officer, assisted by the WA Fire Brigade, implemented a major fire protection plan for the escarpment area of the city. This was a major achievement. My congratulations and thanks go to the Gosnells Bush Fire Brigade and their volunteers and supporters.

JOY 98

Statement by Member for Kalgoorlie

MS ANWYL (Kalgoorlie) [12.55 pm]: I advise members that tomorrow a very important debate will take place at the Esplanade as part of the JOY 98 festival. A team of politicians, comprising Hon Helen Hodgson, the Minister for Youth, and me, will take part in a debate with three youth parliamentarians from the YMCA. The topic of the debate is that all politicians should retire at the age of 40 years. Interestingly, if that were the case, not many current members would be listening to my speech today.

Members may be relieved to know that I am arguing in the negative, and that position was attributed to me by the YMCA. I pointed out that I thought their classing me in that category was somewhat ageist, and that has caused them to rethink their procedures in future years.

Nevertheless, if members are able to attend that debate, I think they will find it thought provoking. It is a timely debate because I am on the record as saying during the course of the current debate that I think a particular class of people tend to frequent these parliamentary benches. I referred to middle aged men, and I am sorry if I caused offence. However, it would be very refreshing if, for a few weeks, the members of this Parliament could be much more representative of the general community.

HON THOMAS OSWALD PERRY

Statement by Member for Collie

DR TURNBULL (Collie) [12.57 pm]: I take this opportunity to pay tribute to Hon Thomas Oswald Perry, a former member for Lower Central Province in the Legislative Council of Western Australia, who passed away two weeks ago. I also wish to express my condolences to his wife Maggie and to his daughters and son.

Mr Thomas Oswald Perry was a member of this Parliament for 12 years and in that time he was an inspired and hardworking representative for the people of the Lower Central Province, including those in the town of Collie which I represent. I am very proud to have been associated with him. He was a wonderful mentor and a very hardworking and highly respected representative of our area. His memory will last for a long time in the Collie, Darkan and south west areas. Other people in this Parliament who knew Thomas Oswald Perry well will express the same opinions. This was demonstrated by the attendance at his funeral of the Deputy Premier and the member for Wagin.

MATTER OF PUBLIC INTEREST

Withdrawal

THE SPEAKER (Mr Strickland): I advise the House that I have received a letter from the member for Kalgoorlie couched in the following terms -

> I wish to withdraw the Matter of Public Interest lodged with you today on the basis that the debate of the Criminal Code Amendment Bill 1998 should take precedence.

Consequently, that debate will not continue.

Sitting suspended from 12.59 to 2.00 pm

[Questions without notice taken.]

WESTERN WARRIORS CRICKET TEAM

Statement by Leader of the Opposition

DR GALLOP (Victoria Park - Leader of the Opposition) [2.39 pm]: This may appear to be an unusual request, but I am sure it will be endorsed by all members of the Parliament. I meant to do this by way of formal resolution earlier this week. Mr Speaker, I request on behalf of the Legislative Assembly, that you send a facsimile to the Western Warriors cricket team, congratulating its members on their magnificent achievement this year. I ask that you do this on behalf of all Western Australians, particularly the avid cricket fans, who have witnessed the team's tremendous performance throughout the year. I also request that you wish them all the best in the Sheffield Shield final starting at the WACA tomorrow.

The SPEAKER: The Leader of the Opposition has expressed a strongly held point of view. I will have pleasure in following that up.

CRIMINAL CODE AMENDMENT BILL

Committee

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

Clause 1: Short title -

Progress was reported after Mr Pendal had moved the following amendment -

> Page 1, lines 4 and 5 - To delete "*Criminal Code Amendment Act 1998*" and substitute "*Acts Amendment (Abortion) Act 1998"*.

Mr PENDAL: The points we wanted to make regarding the suggested new short title are made, and it is appropriate that we now vote on that amendment. That is not to concede that the new short title should not apply. I still see, as do my associates, that the proposed short title provides a clear message regarding the intent of the Bill, and aims to minimise its effect.

Several other major issues have yet to be dealt with, including the suggested amendments to the Health Act. To borrow the words, I think, of the member for Joondalup this morning, we should call a spade a spade. That was the principal reason for including "abortion" in the short title as this is not the time to use euphemisms. We are happy to go to a vote on those terms.

The Minister for Housing earlier said he was relying on the same advice I received from the senior Clerk of the Assembly; namely, that the loss or passage of this amendment will not prevent us from discussing the proposed amendments to the Health Act. In other words, the loss or passage of this amendment is symbolism. Regardless of its outcome, it will enable us to proceed to the substance of our proposed amendments to the Health Act.

Initially, I was led to believe as late as last night that the loss of the new short title would have precluded us from moving to discuss the proposed amendments. I received advice this morning from the Clerk in the same terms as did the Minister for Housing. Without quoting people from a private conversation, the spirit of that advice was that one can call the Bill what one likes - the title could make reference to the stained glass in this place - without affecting the capacity to move and debate the proposed amendments to the Health Act.

I, for one, am happy to go to a vote on the voices. I will vote in favour of a change to the short title because it reflects the Bill's intent and uses the word abortion. This will replace the euphemisms which people use in this place. Once that question is decided, we will be able to deal with the substance of the amendments of which I originally gave notice.

Throughout the afternoon I will pursue the notion that we are being pushed into a bad decision, whatever its outcome, if it is made under pressure cooker circumstances. For example, we considered what was happening in the upper House as late as this morning. Therefore, I will argue certain points for however long it takes.

[The member's time expired.]

Mr KOBELKE: There is general agreement that we need to bring the vote on quickly, but I would like the member for South Perth to complete his comments.

Mr PENDAL: I understand that as late as this morning the Leader of the Government in another place gave notice of amendments to the Davenport Bill. That indicates to me that although some unanimity may exist among members of the upper House on broad issues, many people are uneasy about the detail. I ask members to consider what might be the outcome: After we have considered our amendments, we may find that the Davenport Bill arrives in this place in a form different from that which people expected. What would be the reaction if that Bill arrived here in an amended form? One may well find that a hybrid of the original upper House Bill arrives to be merged with a hybrid of the original lower House Bill. I am not sufficiently good at natural science to know what happens when two hybrids meet in the middle.

Once we have disposed of this amendment, I will concentrate on two arguments: First, I will argue, as I believe will others strenuously, in favour of our flagged amendments. Second, I will argue that what we are doing in these circumstances amounts to a travesty of the parliamentary system. Lest members think that all has failed in the parliamentary system, we will continue to argue that the amendments to the Health Act are paramount in any Foss Bill that is passed. I hope that is clear. It seems that we will end up with the worst of all worlds. After putting this question, we can then set out on the task of persuading the Government to look at another course of action in dealing with the Bill in other than the current pressure cooker circumstances.

Amendment put and a division taken with the following result -

Ayes (16)

Mr Baker	Mr Kobelke	Mr Omodei	Mr Tubby
Mrs Edwardes	Mr MacLean	Mrs Parker	Dr Turnbull
Mrs Hodson-Thomas	Mr McNee	Mr Pendal	Mr Cunningham *(Teller)*
Mrs Holmes	Mr Masters	Mrs Roberts	
Mr Kierath			

Noes (34)

Mr Ainsworth	Mr Cowan	Mr Marshall	Mr Sweetman
Ms Anwyl	Mr Day	Mr McGinty	Mr Thomas
Mr Barnett	Dr Edwards	Mr McGowan	Mr Trenorden
Mr Barron-Sullivan	Dr Gallop	Mr Marlborough	Mrs van de Klashorst
Mr Board	Mr Graham	Mr Nicholls	Ms Warnock
Mr Bridge	Mr Grill	Mr Prince	Mr Wiese
Mr Brown	Dr Hames	Mr Riebeling	Mr Osborne *(Teller)*
Mr Carpenter	Mr Johnson	Mr Ripper	
Dr Constable	Ms MacTiernan	Mr Strickland	

Amendment thus negatived.

Clause put and passed.

Clause 2: Commencement -

Mr KOBELKE: Will the Minister give some explanation for the commencement clause. This Bill contains a

standard one. However, we have the unusual situation of having two Bills in the Parliament on the same issue and it is possible - not probable but possible - that both will pass through both Houses. If that were to happen, then we have not had placed in the commencement clause any controlling mechanism by which the Government would move to one and not the other. I am not sure what is the commencement date for the Bill in the other place; however, if it is of the same form, we could have some difficulty.

Mr PRINCE: The Bill presently before the other place has an identical provision in its clause 2; that is, it comes into operation on the day on which it receives a royal assent. While it is intellectually conceivable that the two Houses of this place could pass mutually contradictory Bills it is unlikely with a repeal Bill, which is what the Davenport Bill is. Repealing sections of the Criminal Code by this place would require an about face by a majority of this place, which would be remarkable to say the least. While it is logically possible, I think it is highly unlikely. In the unlikely event that we end up with two Bills that are mutually contradictory but which have been signed by the Governor, we would have the ludicrous situation of one repealing the operative provisions on which the other acts. The other Act would then be a nullity.

The member for Nollamara's question is obviously speculative and I cannot give him a definitive answer other than to say we will have to wait and see what is the result of the parliamentary process on both Bills. I assure the member that that eventuality has taxed my mind and others' minds. I am advised that it is technically possible for both Bills to operate, but that would be messy, and that is probably the understatement of the day.

Mr KOBELKE: I thank the Minister for the answer as far as he was able to go with it. I have no intention of delaying the Committee. However, it is important that that be on the record, so that we understand whatever unfolds in respect of the passage of this Bill and the other Bill through both Houses. The Minister has stated that he and government officers are already aware that we will need to take that into account if there is any possibility that both Bills are passed by both Houses.

Clause put and passed.

New clause 3: Procuring Miscarriages -

Mr PENDAL: I move -

Page 2, after line 3 - To insert the following -

PART 2 - *HEALTH ACT 1911*

3. After section 316 of the *Health Act 1911* the following new part XIA is inserted -

"**Part XIA - Procuring Miscarriages**

316A. (1) A miscarriage occurs in accordance with this section if, and only if -

(a) procuring that miscarriage is justified for the purposes of this section;

(b) any act procuring the miscarriage is done with reasonable care and skill by a medical practitioner; and

(c) the woman has received appropriate counselling in connection with the procuring of the miscarriage.

(2) Procuring a miscarriage is justified for the purposes of this section if -

(a) the pregnancy demonstrably is causing grave danger to the physical or mental health of the woman concerned, and two medical practitioners have each issued prescribed certificates to that effect; or

(b) grave danger to the physical and mental health of the woman concerned demonstrably will result if the miscarriage is not procured, and two medical practitioners have each issued prescribed certificates to that effect; and

(c) in either case the medical practitioner who procures the miscarriage is fully independent of the medical practitioners who issue the certificates.

(3) A certificate issued under subsection (2) must contain a full statement of the facts and conclusions upon which the medical practitioner has based his or her opinion, and a copy of the certificate must be given to the woman concerned prior to the taking of any action to procure her miscarriage.

(4) A woman has received appropriate counselling in connection with the procuring of a miscarriage if -

(a) a certified counsellor has counselled her concerning the physical and psychological implications of undertaking the miscarriage, and has fully explained to her the nature of the procedure and its effect upon her and upon the unborn child;

(b) the certified counsellor who has counselled the woman has issued a certificate stating that she has been counselled in accordance with the preceding paragraph; and

(c) the certified counsellor who has counselled the woman has given her a copy of the certificate.

(5) A woman has not received appropriate counselling in connection with the procuring of a miscarriage if the counsellor and any organisation to which the counsellor belongs is not fully independent of the medical practitioners who issue the certificates under subsection (2) and the medical practitioner who procures the miscarriage.

(6) A miscarriage is not in accordance with this section if any act is taken to procure that miscarriage before a period of seven days has expired from the date of counselling of the woman in respect of whom the miscarriage is to be procured.

(7) Nothing in this section affects the criminal responsibility of any person in relation to any act done to procure miscarriage of an unborn child capable of being born alive.

(8) For the purposes of subsection (7), evidence that a woman had at any time been pregnant for a period of 12 weeks or more shall be prima facie proof that she was at that time bearing an unborn child capable of being born alive.

(9) No person is under a duty, whether by contract or by any statutory or other legal requirement, to participate in the procurement of any miscarriage.

(10) The Governor may make regulations -

(a) for prescribing the form of certificates to be issued under subsections (2) and (4);

(b) for requiring certificates issued under subsections (2) and (4) to be forwarded to the Executive Director, Public Health;

(c) for prohibiting the disclosure, except to such persons or for such purposes as may be prescribed, of information given or collected pursuant to this section or these regulations;

(d) for certifying individuals and organisations as appropriate counsellors for the purposes of subsection (4);

(e) for providing for and prescribing any penalty, not exceeding five hundred dollars, for any contravention of any regulations.

(11) Nothing in this section affects the operation of section 259 of the Criminal Code. "

Mrs EDWARDES: I foreshadow that I will move amendments to proposed new section 316A in respect of proposed subsections (2)(a) to (c), (6), (8), (10)(c) and (10)(e).

Dr TURNBULL: Madam Deputy Chairman, how do you intend to handle the debate? Are you prepared to accept a vote on each subclause as it arises? This is very important because some members may be prepared to accept some subclauses but not others. There are some extremely important aspects, such as subclause (9), which virtually every member would support. I would like to recommend, or ask with a strong plea, that you submit each subclause separately, so that each can be dealt with as a separate item with a separate vote.

The DEPUTY CHAIRMAN (Ms McHale): The clause will be dealt with in its entirety. There will be opportunities to make amendments, as the member for Maylands has foreshadowed. However, we will vote on the clause in its entirety and will not put each subclause separately.

Dr TURNBULL: I am sorry that you have made that ruling -

The DEPUTY CHAIRMAN: Again, it is not a ruling. It is the procedure of this Chamber that we will deal with the clauses in their entirety, as we have with every other clause.

Mr PENDAL: Effectively, we have come to the nub of what a number of members are seeking to achieve; and without my being too colloquial about it, it is the notion that half a loaf is better than no loaf at all. Members would now be aware that we are starting to deal with new provisions of the Health Act which will indisputably slow down the procedure. Some people have said that it will limit a woman's capacity to apply for an abortion. That is incorrect. These amendments seek to introduce into that process procedures by which a woman in difficult circumstances and who may well be under duress from another will be required to submit herself to a number of tests.

For example, it is proposed that she must consult two doctors. I have heard some peculiar arguments in the past few hours about why we should not permit that to occur. I am not a medico, but since I was a little boy I have been taught that good medicine and good family medicine says that a second opinion is never a bad thing. My wife comes from a medical family, and I have often been confronted with the remark that very few patients of doctors ever feel confident enough to challenge a doctor to explain; and, secondly, to demand the right to a second opinion. Many people offer to the medical profession a level of awe and almost of reverence and believe that because they are not familiar with medical practice, they should not challenge the doctor in that way. That is the reason that for many years, people have said, "Get a second opinion". It is not without significance that women in the United Kingdom cannot have an abortion except in those circumstances.

I realise we are talking about many issues here and it will take many lots of five minutes by me and other people to explain those things. However, it is beyond my comprehension that anyone who was seriously trying to address this issue would have any objection to having to consult two physicians. I said during the second reading debate that we need to draw people's attention to the fact that we are dealing with human life. That is not a moral or a religious description, but a description on the part of geneticists and the World Medical Association about what life is. If it is good enough that a person who has a bad ankle or a particularly severe sore throat is not only entitled but encouraged to seek a second opinion on those relatively minor issues, it is not very onerous to demand that two doctors be consulted on an issue as important as this.

Ms WARNOCK: Early this morning, the upper House of this Parliament made history when we became the first State in Australia to remove abortion from the Criminal Code by a convincing majority.

Mr Cowan: It has not gone through this Chamber yet.

Ms WARNOCK: No, but it has gone through the upper House. If that Bill were passed by both Houses, abortion would then be a matter for the medical practitioners Act or the Health Act and would be carefully regulated like any other medical procedure. That was the situation in the other place. We are now in this Chamber being asked to vote upon a series of proposals which are more repressive than those found in some former Eastern Bloc countries which encourage the idea of compulsory motherhood for the good of the State. There is a faint whiff of the Taliban about this. It reminds me of those two notorious theocracies in the northern hemisphere where women are still regarded as some kind of chattel, not to be trusted to do anything by themselves and having always to be accountable to the patriarchal state.

Some of the proponents of this proposal may believe that it will make abortion slightly less offensive to those people who are opposed to it. I can understand that some people have very strong views about it, but I and the majority of people in our community find it offensively repressive that a woman involved in an unwanted pregnancy - a very difficult and stressful situation - whether she be as young as 11 or in her fifties, should have to ask a series of people about whether she can make a decision about her own body. These proposals are transparently aimed at preventing women from ever choosing a safe, legal abortion and at inevitably driving them out of the State, if they are well off, or into the backyard.

As I said in my first speech on this subject, I, like most pro-choice advocates, would rather no woman ever needed an abortion. However, I know very well at my age that women will continue to seek terminations regardless of how we in this Parliament feel about it. I want those abortions to be safe and legal for the already stressed out woman. I do not want any woman to be subjected to any punitive regime that makes grown women, mothers of families, working women or young teenagers feel that they are less than human and cannot be trusted to decide what they do with their own bodies. I ask the men in this Chamber to think about this: If they were seeking a vasectomy, how would they feel if they had to see two doctors, get a certificate, go to a third doctor, run the gauntlet of a lot of offensive, abusive protesters outside the clinic, get counselling, and wait for a cooling off period, as if they were buying a secondhand car, and all of that after they had discussed it with their wife or partner and had already made up their mind? This is grossly offensive to any reasonably intelligent adult.

Mr Bridge: We would not go through that process. There is no way in the wide world that we would do it.

Ms WARNOCK: I hope that is the case.

We must trust women to make decisions about their own bodies and lives, and if they feel after counselling and after careful thought and discussion with their families and their doctor that they cannot responsibly continue with a pregnancy, they should have access to a medically safe abortion. I feel as strongly about this as does the member for Kimberly, and I ask every man in the place to honestly examine his conscience and think about how he would feel if in considering a vasectomy he had to go through that rigmarole. It is deeply offensive to me as a person to think that my husband, my brother, my son or anyone else would have to endure that. It is darned offensive.

Doctors to whom we have spoken about this matter have explained why they find these proposed amendments completely unworkable and severely restrictive. I will refer briefly to a discussion that I had with some doctors. They said that the proposed amendments put forward by the member for South Perth would severely restrict access to abortion and would be unworkable from the point of view of women and the medical profession. The requirement to prove that continuation of pregnancy would demonstrably cause grave danger to the woman's physical or mental health put far too much burden of proof on doctors. The requirement for the doctor to produce a full statement of the facts and conclusions on which the opinion is based was totally unrealistic. How can one expect every doctor in every case to produce a level of detailed documentation that will hold up in a court of law? What about the confidentiality issue? It would be difficult, even for a psychiatrist, to provide that level of documentation, and, frankly, in an ordinary general practice it would be impossible.

Mrs HODSON-THOMAS: It is important that we recognise that women are extremely vulnerable at the time of pregnancy, and as a mother I recognise that emotions can and do run wild. Women need to take time to reflect on the decisions they will embark on. These amendments will provide an opportunity for a woman to assess her situation with a cool mind. Certainly she will take her concerns to her family, her partner, her children, or her parents. We want that to occur, but we would also like women to speak to two doctors.

It is important that we accept that there will always be very different views on the subject. As I said during the second reading debate, I do not find the subject of abortion an easy one to reconcile with my conscience. Women have written to me, and I am sure to other members, stating that they would like abortion to remain in the Criminal Code. They want to ensure that abortion is not made easy and that women are given the time to reflect before embarking on something that may affect them in the long term. I do not state that glibly. It does not sit well for me to place my value judgments on other women. It never will. However there is no greater gift than a child - than loving, caring and providing shelter for a child and knowing that he or she will grow up and make a contribution to society. This amendment will allow women the opportunity to make fully informed choices. They will decide their fate. Ultimately, they may decide on abortion but please give them time to reflect on their decisions.

Mr BAKER: In both cases the amendments are proposed to be inserted after section 201 of the code. Does section 200 of the Criminal Code purport to create an offence and that offence is a crime?

Mr Prince: Yes.

Mr BAKER: Section 201 deals with the associated issue of "Supplying drugs or instruments to procure abortion" which is an offence. However, it is a misdemeanour not a crime. Does that mean, because any offence under section 200 is a crime it cannot be dealt with summarily, whereas an offence under section 201 can be dealt with summarily being a misdemeanour?

Mr Prince: No. The misdemeanour is indictable therefore it must be dealt with.

Mr BAKER: I notice that the proposed amendment to the Bill that the Minister is sponsoring and the amendments that the member for South Perth is seeking to make will insert the relevant amendment to the Criminal Code after section 201A. In that regard existing section 201 is part of Part IV titled "Acts injurious to the public in general". The Minister would be aware of the life-death provision in section 259 which appears in Part V of the code. That part of the code is headed "Offences against the person and relating to marriage and parental rights and duties and against the reputation of individuals." Why is the new provision being inserted after section 201 rather than after section 259, which is yet another provision relieving people in certain circumstances from criminal responsibility if they participate in procuring a miscarriage?

Mr PRINCE: The reason is straightforward. Insofar as it is possible to do so in the code one finds the section that creates the offence and immediately following it, if there is a specific defence to the offence, state it. There are exceptions to that. The general defences are found at the beginning of the code in sections 23 to 25 and so on. They are general defences applicable to all offences created by the code. It relates to clarity. Section 199 relates to the doing of the abortion; section 200 to the woman doing it herself or being a party to it; and section 201 to those who

assist. That is logical when one considers one is creating an offence. The justification and excuse should follow straight after that. It is a specific justification, authorisation and excuse in legal terms. As the member rightly pointed out, section 259 relating to surgical procedures appears in a different part of the code and is more than somewhat a catch-all for all sorts of things, including discipline of ships and aircraft, exercising rights of way over easements and so on.

Mr Baker: Using your logic, it does not make sense to have a provision of that kind after provisions dealing with domestic discipline, exercise of right of way or easement, and discipline of a ship or aircraft.

Mr PRINCE: Perhaps the conjunction would be better somewhere near grievous bodily harm, but it is not there. It was put there a considerable time ago and everybody knows where it is. It stands alone. Section 259 states that a person carrying out an operation in good faith and with reasonable care and skill upon another person for that person's benefit, is excused any criminal liability for what would otherwise be grievous bodily harm. It is a statement of law. Where it should be in the Criminal Code is a moot point. It has been there for the past 100 or more years, and it seems to be a reasonable place. I cannot see any reason to have the lawful authorisation, justification and excuse for abortion anywhere other than in conjunction with the sections of the code that create the offence of abortion.

Mr KOBELKE: I put it to members who clearly oppose the amendment, that regulation is needed in some form. They may think these amendments are too restrictive but the laws or regulations of this State must provide a measure of protection for women and unborn children. Something must be done.

Ms Anwyl: That is what the Foss Bill is about.

Mr KOBELKE: No. It does absolutely nothing.

Dr Edwards: Read it.

Mr KOBELKE: I have read the Bill very carefully, and it is next to meaningless in providing protection. The member for Perth is indignant and suggests that somehow the amendments aim to control women. I understand her concern because women are controlled in so many ways. The member for Perth is so committed to her cause that she has left the ground and reality, and is floating somewhere in the ether. I will give three examples that explain how the existing provision will create greater vulnerability for women.

Last year a mother came to me who was most upset because her 15 year old daughter had had an abortion. She had not been told about the abortion, but found some paperwork about it when cleaning her daughter's room. No reference had been made to the girl's family doctor or her family. When she came home after the abortion, her family knew nothing about it and were not able to provide support. The mother opposes abortion, but said that if her daughter had spoken to her the family would have supported her. The current situation provides no backup support for women in that situation.

Another example is a woman who told me she had had an abortion because of the pressure placed on her by her boyfriend and family. If the regulations in the amendment applied, counselling would ensure that proper procedures were in place to provide women with choices. That woman had no choice because of pressure from the people around her. A woman will not be given a choice by removing these suggested controls, which are so necessary.

Another recent example, unrelated to abortion, indicates how pressure can be applied to people. A young lady rang the Leader of the Opposition on a talkback radio program because she had not been paid for working as a stripper and topless barmaid. I wrote letters on her behalf, and it became clear that she was simply being abused by her boyfriend. She was working as a topless barmaid and was not being paid, and I do not know if money was being paid to him. I encouraged her to go to the networks available and said I would do more on her behalf. It was up to her ultimately, and she did not want to take it further. I gave her a letter which she thought might help her to do something about her situation.

On the basis of her recent contribution, the member for Perth is totally out of touch with reality. There must be laws that will allow women to make informed choices. The legislation currently before the Committee in its unamended form is absolutely worthless. It suggests that a woman can give informed consent after she has received counselling about the consequences of an induced miscarriage. That means whatever people want it to mean, because there is no definition of "informed consent" in the Criminal Code. Clearly, some mechanism is needed to ensure the counselling is of a certain standard and that it will help women. There is nothing currently before the Committee to address that point. We know from the many abortions already carried out in this State that some are clearly beyond the pale. Young girls are given abortions without any consultation or proper counselling. I accept that it is not the common rule, but it happens. If regulations are not applied, the situation will get worse.

Mr BAKER: My question relates to clause 3 of the government sponsored Bill. At line 9 on page 2 -

Point of Order

Dr EDWARDS: The member is out of order because we are discussing the proposed new clause 3 moved by the member for South Perth. The member for Joondalup is referring to the clause of the Bill that will be dealt with next.

The DEPUTY CHAIRMAN (Mr Sweetman): The member for Maylands is correct.

Mr BAKER: The same phraseology appears in the amendment before the Committee. Once again, the member for South Perth does not have a legally trained adviser when answering the questions raised. The Minister representing the Attorney General said that he is in this Chamber to act as a facilitator. If it is the wish of the member for Maylands that any questions on legal issues arising from the amendments be directed to the member for South Perth alone, I will comply with that. However, it would be manifestly and grossly unfair.

Committee Resumed

Mr BAKER: I will rephrase the question to bring into relevance the amendment moved by the member for South Perth. The term "not criminally responsible" at line 9 on page 2 of the Bill also appears in the amendment proposed by the member for South Perth. In that regard it would be appropriate to check the interpretation section of the Criminal Code to find out what it means. It states that "criminally responsible" means liable to punishment as for an offence. The term "criminal responsibility" means liability to punishment as for an offence. Because the term used in both cases is "not criminally liable", does it mean that it is still an offence but a person is not liable for punishment? What is the intention? What does the use of these words in the government sponsored Bill and in the amendment proposed by the member for South Perth mean?

Mr PRINCE: The question relates I suppose to the logical thinking that goes behind, first, the creation of the concept of an offence and, second, the concept of guilt, having commission of an offence, followed by punishment. The abortion law contained in sections, 199, 200 and 201 of the Criminal Code is a good example. By those sections of the code, offences are created in the sense that they are defined in words; in summary, the using of the force of any means to procure a miscarriage. That is the offence created by the law. In the absence of any authorisation, justification or excuse in the law, no defence would be applicable. It would simply be a matter that any abortion would be an offence. It has always been the case with our code that there have been authorisations, justifications and excuses for abortion, and they have perhaps been ill-understood and qualified, although not perhaps as well as many would like by judicial decisions. Whether this amendment or the Foss Bill becomes law, it says that, notwithstanding that the facts are that an offence has been committed, in law there is no offence, because although the facts are that an abortion has been procured, that is not an offence if it falls within the justification, authorisation or excuse of the amendment of the member for South Perth or the Foss Bill.

Under section 2 of the Criminal Code, an offence is defined as an act or omission which renders the person doing the act and making the omission liable to punishment. That well summarises what I am saying. It does not say that the facts did not happen. It says that notwithstanding that, there was no offence because it was authorised, justifiable, excused. I can give a literal example to do with a case of wilful murder where a police officer shoots someone who is about to kill. On the facts, he has committed a wilful murder, but because he was preventing this person from killing another, he is justified and excused for his act of killing. There was no offence, although the facts were there.

Mr BAKER: In terms of applying the strict definition of criminal responsibility in the code, it states that criminal liability means liability to punishment as to an offence. It does not refer to the offence. Similarly the term "criminally responsible" means liability to punishment for an offence. It seems to exclude the application of punishment of an offence, not the offence per se. I cannot find any reference to the exclusion of an offence under that definition in the code.

Mr PRINCE: Under section 2 of the Criminal Code, if there is criminal responsibility, there is punishment. We then look at the punishments. Some - for example, a bond for good behaviour - we may consider not to be a particularly obnoxious punishment. Even a discharge as a first offender is a form of punishment, technically. If there is no punishment, there is no offence. It follows in our criminal law that if there is an offence, it must be that punishment, of whatever nature, follows. If there is no criminal responsibility, there is no punishment. That is the end of it. We cannot have that which the member is trying to postulate - an offence without punishment. It is simply unknown to our criminal law.

Mr COWAN: I will comment on the proposal put forward by the member for South Perth. I make it clear, as he will know, that I intend to support the Bill as it stands, rather than accept any change to it. I have not changed my view. I will make a number of points, the first being that I would appreciate it if members decided that this is not a contest between lawyers to determine what they know about the Criminal Code, and we reverted to dealing with the proposed amendments which may be inserted into the Health Act.

Secondly, I have a difficulty in terms of process. We always knew that a number problems would be associated with this Bill being the responsibility of the House and private members, as opposed to something that was government sponsored and, therefore, party politically supported; and would meet quite considerable debate, although we have a clear direction of the way in which it would flow. With private members' legislation there is not that level of discipline. We are seeing the effects of that. Nevertheless there are some problems.

It is possible that we will receive from another place some legislation containing provisions that effectively make no reference to the Criminal Code, but which seek changes to the Health Act. We all know that in any Legislature, if something is dealt with in one session, it is very difficult to deal with it a second time. Someone would rule that the House had already made a decision on that issue. We might send some legislation to another place and it will say that, no, the decision has been made, that it has been decided that the matter does not belong in the Criminal Code; yet we will have legislation which will refer to the Criminal Code. Similarly we will get legislation back which will have a reference to amendments to the Health Act. I would not like to debate to any great depth proposed changes to the Health Act, because I would not like someone in the Chair ruling the debate out of order because it was discussed previously.

I am not a supporter of these amendments. I lend weight to my argument by saying that I would like to be in a position where, as a Parliament, we come through this with some legislation that gives a very clear indication to the public that we have understood what has been the convention for the past 20 to 25 years; that we have amended legislation that controls this issue to reflect more closely the convention; and that we do not find through some technicality that we will have a ruling against us in either House that we cannot debate these things and produce a good result. Therefore, I oppose the amendment.

Ms ANWYL: I oppose the amendment. As legislators, we have a primary responsibility to the electorate to impose legislation that is workable. The legislation proposed by way of the amendment is not workable. I have taken a great deal of note of what health professionals are telling me. I have listened with interest to what members of Parliament think, but at the end of the day, the health professionals in this State must make the system work. When we start to debate the Foss Bill, which provides some regulation, I will ask the Minister for Health about his position. Last night the Minister for Health, who is in an unenviable position, was not able to advise the House what would happen should any piece of legislation occur. I have taken that inquiry further. I have asked professionals who work in this field for their best assessment of what would happen should particular alternatives occur.

I would like to see some vehicle whereby those health professionals could talk to this Parliament about what will happen. Whether it is understood by the members who support the Pendal amendment, the reality is that it will deny to most women in Western Australia the opportunity to have a termination of pregnancy. The principal reasons for that are as follows: It sets out a 12 week limit on when abortions may be performed. I note that the Minister for the Environment has foreshadowed an amendment to extend that to 20 weeks. This model is borrowed from South Australia where that level is set at 28 weeks, not 12 weeks when a child cannot live independently of its mother. Secondly, it is virtually impossible for many women to carry out the steps prescribed in the Pendal amendment. About 85 per cent of women have terminations within the first eight weeks of their pregnancy. Most of those women find that they are pregnant at about six weeks. I am referring to an estimate by Associate Professor of Public Health, Judith Straton, who should know the issues. Individual members will have less of an idea about how the practicalities of this work. The best evidence we have is 85 per cent of terminations are carried out before eight weeks of pregnancy. By the time a woman finds out she is pregnant at six weeks and goes to one doctor at seven weeks, another doctor at eight weeks, a counsellor at nine weeks, and waits for a week at least for an appointment to have an abortion at 10 weeks, she will be coming very close to the 12 week limit. She may not be able to access a termination. We should consider that woman's state of mind throughout this period.

The learned professor goes on to say that it will be virtually impossible for country women to obtain an abortion under these arrangements. I live in the country and have dealings with other women in the country, many of whom live in more remote areas than Kalgoorlie. Those woman will be denied access to an abortion. Furthermore, it will not be rich women who have trouble. They will get on the first aeroplane going east and obtain the services they need. It will not be articulate women like me who have trouble; it will be women who do not have access to the resources I have. It will be poor, disadvantaged women who will be denied access to an abortion under this amendment.

I presume all members voting for this amendment want that to occur. I presume they want something like 95 per cent of the women who currently access terminations to be unable to do so. If they do not want that to occur I invite them to speak to the health professionals who work in this area. I will give them documents that set out the practical effects of this legislation. I urge them to consider the public health crisis that will occur if this debate and this lack of clarity continues for too many weeks or months. I urge them to consider that we will have a very serious problem in this State. It will not be the rich or the city women who are most affected; it will be poor, disadvantaged women,

especially those who live in rural and remote areas of this State who already have less access to health services than their city counterparts.

Mr PENDAL: I agree at least in part with what the Premier said a few moments ago. I therefore put on record some of what would normally be explanatory memoranda that would be distributed to members. Since Independents do not have the facilities that the Committee and the House decided should be given elsewhere, I have not been able to distribute it.

Proposed new section 316A(1) of the Health Act sets out the three key criteria according to which abortions are permitted. They are, firstly, that the abortion is justified. This is a critical legal term with a technical meaning within the section. It does not denote any moral judgment on the justifiability or otherwise of the abortion concerned. Secondly, the abortion must be performed by a medical practitioner. Thirdly, the woman must have been appropriately counselled. Proposed subsection (2) ties in with proposed subsection (1) by stating the circumstances in which an abortion will be justified. These will occur when either two medical practitioners have certified that a woman's pregnancy "demonstrably" - I will come back to that later - is causing grave danger to her physical and mental health; that is, the existence of a grave and demonstrable present health danger or the two medical practitioners have certified that a woman's pregnancy demonstrably will cause grave danger to her physical and mental health; that is, the existence of a grave and demonstrable future health danger. The two crucial elements of proposed subsection (2) currently before us thus are "grave danger" and "medical certification".

We are also insisting that medical practitioners to whom we have made reference must be independent of each other. Proposed subsection (3) details the contents of the certificate which must be issued by a medical practitioner under proposed subsection (2). I will comment later on the professor to whom the previous member referred.

The certificate - this is our intention - must contain a full explanation of the practitioner's decision and the reason upon which it is based. A copy must be given to the women concerned.

Proposed subsection (4) requires a woman seeking an abortion to undergo counselling by a counsellor certified under regulations pursuant to the section. The counsellor must counsel the woman fully on the physical and psychological implications of the procedure and must explain the nature and the procedure and its effect both upon the woman and the unborn child. The counsellor must issue a certificate that the woman has received this counselling and a copy must be given to the woman.

Proposed subsection (5) provides that the counsellor must be independent of any medical practitioner who issues a certificate under proposed subsection (2) stating that an abortion should be performed and any medical practitioner who actually performs the abortion.

Proposed subsection (6) provides that an abortion may not be carried out - we have spelt out a seven day cooling off period or a time for reflection - until that period has expired from a woman having been counselled.

Proposed subsection (7) has a practical effect whereby defences contained in proposed section 316A of the Health Act would not apply in the case of an unborn child capable of being born alive. Any abortion in such circumstances would have to be justified according to the stricter test of section 259 of the Criminal Code, which would continue to be available.

I am reaching the point of proposed subclause (8), and I hope some members are interested in hearing further explanation.

Mr BAKER: I would like to hear the member continue.

Mr PENDAL: Subclause (8) of the amendment is intended to provide that a child is presumed to be capable of being born alive for the purposes of subclause (7) if it is has reached 12 weeks' gestation. Some amendment might be moved in this respect that we would be prepared to examine.

Subclause (9) recognises that abortion is a fundamental issue of conscience and provides that no person may be forced to take part in an abortion. This provision typically will apply to medical practitioners and nurses. One can easily imagine the situation facing someone employed in the public sector, where a contract of service demands that an employee conform with the conditions of a contract.

Subclause (10) gives certain regulation making powers to the Governor. These include the power to prescribe the forms of certificates to be issued by medical practitioners and counsellors and to require such certificates to be lodged with the Executive Director of Public Health. They also include the power to ensure the confidentiality of procedures. That should be welcomed by the members who so far have shown no inclination to support these amendments. They include the power to set up a certification procedure for counsellors and to impose penalties for breaches of the regulations.

Subclause (11) ensures that any abortion that would have been legal under section 259 of the Criminal Code continues to be legal under that section and does not need to comply with the procedures in proposed new section 316A of the Health Act. This covers the situation with emergency abortions.

I hope to some extent that that which would otherwise have been circulated in its written form will give some comfort to the Deputy Premier. He feared that it would become a debate between legal practitioners in the Chamber. Of course, legal practitioners in this place have as much right to take part and express views as anyone else. For his benefit, and for the purposes of the Interpretation Act and any consequences flowing from that, I am obliged to put that on the record.

The Deputy Premier's remarks were another reason for us to slow the process rather than make it more rapid. He interjected upon me when I spoke about a Minister - not the Minister at the Table - who expressed his serious concern about the hybrid legislation that we might produce, not only in this House but also in the other House. In an uncharacteristically uncharitable moment, he said that that is the Minister's fault. That does not matter. If that Minister feels that way, he is in the same position as many other people, including Andrew Mensaros. They believe that if we legislate quickly we invariably legislate badly. The Deputy Premier, whether or not he intended it, added weight to my earlier comments: What right do we have to rush through legislation that will have the most profound effect on the people of this State?

Mr Baker interjected.

Mr PENDAL: Exactly.

I have been informed that the amendments to be moved in another place are not available to us. That adds to the potential confusion and, worse than that, the chaos that might well develop in this State if we are not prepared to slow down the system.

I put that plea before the Leader of the House, who for all of his withdrawal from the debate -

Dr EDWARDS: This clause is insulting to women. It does not recognise what goes on in the community. Its whole intent is to turn back the clock.

At the moment, when women fall pregnant, they take it seriously. They go to see their doctor and have the condition diagnosed. They discuss the situation with their doctor and undergo counselling about what they will do. Listening to the member for South Perth, one would think that the doctor responds by giving them a prescription for an abortion, pats them on the head and sends them off. That is not what happens. In a non-directive way, the doctor listens to the woman, helps her tease out her concerns and tells her the options. No doctor pushes women into having abortions. Any who did so would be stupid in the extreme.

This amendment represents a lot of good effort to frustrate women who are already under an incredible amount of stress. Reference is made to two doctors. The woman will have to wait until she thinks she is pregnant, which will be about week four or five of the pregnancy. She must then make an appointment with the first doctor, which will be around week five or six if she is lucky and can get one. She will then go to that doctor and then to another doctor after that and then to the counsellor. That will all take time and be getting later and later into the pregnancy. This process will not change her decision. Nothing the counsellor will say will change the woman's mind about what she wants to do unless what the member has in mind is not counselling but a directive to those women.

I am extremely worried about what constitutes counselling. Good counselling is about people clarifying what is going on in their life, assessing the options in a clear manner and letting the woman get on with her decision. This path will see many disturbed women in the future because they are either denied access to abortion or put in a position with which they cannot reconcile themselves.

Although the intent is to decrease the number of abortions, we will revisit what happened in the 1960s and 1970s. Women like me who, despite what the member for Fremantle says, are still in their reproductive years and could be faced with this problem, will go to doctors we know are sympathetic. If I were in general practice, the woman coming to me would probably ask for the name of the next doctor they should see. I would tell them and I would also advise about good counsellors. I would make the telephone calls. Would I be breaking the law? I would not be pushing them down any one track; I am not that stupid. In fact, a number of women I saw requesting terminations went away, thought about it more and then thankfully came back and said they would proceed with the pregnancy. The greatest joy for me was then looking after those babies. That decision had nothing to do with me as a doctor; it was the woman's decision.

In this day and age, women need to be autonomous. They have the right to make decisions and they do not need interference from Catholic lawyers and other men with grey hair and grey suits who are trying to impose their moral values on women. Women are worth more than that and they deserve more than that. This clause is atrocious.

Mr THOMAS: This is the nub of the matter. Clause 2(a) provides that an abortion is not permitted unless the pregnancy is demonstrably causing grave danger to the physical or mental health of the woman concerned. That is a very difficult test to meet, and it would mean effectively that there would be a very severe restriction on the availability of abortion in Western Australia. That is the deliberate intent of the mover of the amendment. I respect that position, but it is one with which I strongly disagree. We in this Committee should consider whether that is something we want to do. We should go back to the basic questions: Why would one want to restrict the availability of abortion to this extent? We canvassed these issues in the second reading debate; that is, when does human life begin and what is the nature of a foetus in relation to the concept of humanity and human life?

Yesterday I heard the Minister for Labour Relations and the member for Moore baldly assert that life begins at conception.

Mr Baker: That is their view and they are entitled to it.

Mr McNee: I will debate that anywhere.

Mr THOMAS: The member for Moore - the great theologian. As the member for Joondalup said, he is entitled to his opinion, and I respect that opinion. In many respects, I share it and, to the extent possible in my life, seek to practice it. However, I do not seek to impose it on other people. That is what we must decide. Whatever our views on this matter, are we so certain of them and hold them so strongly that we are prepared to impose them on other people? Normally when one considers the nature of a foetus, particularly in the first trimester, and what is the nature of human life, one deals with metaphysical concepts. Theologians who pronounce on this issue put propositions such as the foetus possesses a soul from the time of conception. However, anatomists have never been able to find the soul; there is no such thing in a physical sense. It is a matter of values. We must decide ourselves what constitutes humanity and try to apply that to these circumstances. We have heard propositions from members opposite and members on this side about what constitutes the essence of human life, but I put to members that that matter can be known only by reference to faith, one's beliefs and one's views on this subject.

Mr Baker: Can you say that about everything?

Mr THOMAS: No. It is not an empirically verifiable proposition.

Mr Baker: Is that the test?

Mr THOMAS: No, but it is one of the tests. People who construe the same holy scriptures and who act in equally good faith come to different answers to that question.

A proposition was put to the Chamber yesterday that a foetus is human life. Yes, a foetus is human life, but in that proposition, the word "human" is an adjective, not a noun, it is human life because it resides within a human body and it is genetically distinct from the mother. I accept all of that, but it must be said also that it is qualitatively different from a foetus later in the third trimester and it is qualitatively different from a child who has been born. People of good faith construing the same holy scriptures come to different answers to the question of what is the appropriate response to the proposition that one should be able to terminate a pregnancy. We must respect the fact that this is a question on which there is not universal agreement in the community. We would be taking a quantum leap toward being a totalitarian society if in this Parliament we applied the sanctions of what is effectively criminal law in as tight a manner as is proposed in this amendment.

Mr BAKER: I have a question for the member for South Perth, but the Minister may be able to assist in answering it because the same term appears in the government sponsored legislation. I refer to the term "person" that is used in proposed section 201A (1) of the member for South Perth's amendments. Is the "person" referred to in that proposed section intended to apply to a medical practitioner who procures a miscarriage? Is that primarily the person with whom the Minister is concerned?

Mr PRINCE: The "person" is a living human being. That clearly includes the mother, the doctor, the nurse, the father, and any other person who might be involved in what would otherwise be classed as the intent to procure and the infliction of force under section 199.

Mr BAKER: Could the term "person" also include persons who might be liable for the principal offence through the law of complicity; for example, persons who aided and abetted before or after the fact?

Point of Order

Ms McHALE: Mr Deputy Chairman, I did not notice that you gave the member for Joondalup the call, and I believe he is getting an unfair advantage by the way that he is questioning the Minister for Health and thereby constantly getting another five minutes to speak.

The DEPUTY CHAIRMAN (Mr Sweetman): The member for Joondalup must relate his comments to the proposed new section.

Ms McHALE: Mr Deputy Chairman, you did not give the member for Joondalup the call the last time that he spoke.

The DEPUTY CHAIRMAN (Mr Sweetman): The member for Joondalup embarked upon what could be seen as an inquisition. He had been on his feet for only 30 seconds. I did think some repartee was taking place between the Minister and the member. It is my fault - bad chairmanship - and in future I will give him the call.

Committee Resumed

Mrs ROBERTS: I want to take issue with a number of comments that have been made during this debate. Those comments were made by a number of speakers, one of whom was the member for Perth, who said that she was offended by what was proposed in these amendments. Other members were offended by the comments that she made in discussing how she was offended. The member for Perth made a comparison between abortions and vasectomies and seemed to think those procedures were worthy of comparison. She asked the men in this Chamber to consider whether they would want to see two doctors before they had a vasectomy. That might not be a bad idea.

However, I do not think we can compare the two procedures, because those of us who believe that we are dealing with a human life believe that an abortion is a lot more serious than a vasectomy. I have spoken to many people who describe themselves as pro-choice and who are on exactly the same side of the argument as the member for Perth, but who say that an abortion is a lot more serious than a vasectomy. The medical procedures when they eventually occur may not be that different, but the thought and contemplation that goes into making the decision to have an abortion and the emotional and psychological significance of having an abortion are such that I do not believe we can compare the two medical procedures. I believe also that only a person who does not believe that a foetus is a human life or who has never carried a child would make that kind of remark.

The member for Perth referred also, as did some other speakers, to the concept of women being chattels and said that this amendment would further entrench women's place in society as chattels. I made the point during the second reading debate that what I believe many women are doing with regard to abortion is treating the child that they are carrying as no more than their chattel. They are perpetrating the same kind of offence on the unborn that perhaps men have perpetrated on them in previous times and at this time. It seems that it is all a matter of pecking order; of determining who is the more important. Only a person who regards the child that a woman is carrying as a product of her body that she can dispose of would express that kind of view. I do not accept those views. I believe that the destruction of a human life is a lot more serious than having a vasectomy, and it is, in a sense, very much similar to the kind of offence that women complain they have suffered at the hands of men.

I also take issue with some of the comments made by the member for Maylands. I am sure the member for Maylands, and also the member for Yokine, are very good doctors, and I am confident that both of them would do an excellent job in counselling women who were considering an abortion. However, they seemed to be a little mistaken about the conduct of their colleagues. I am from a Catholic background and I attended a Catholic school, so it is natural to expect that among my friends and acquaintances are many people from that same background. They are exactly the kind of people who are truly offended when they visit a doctor and an abortion is the first thing that is offered after their pregnancy is diagnosed. Numerous individual cases have been brought to my attention. An abortion was offered as a first course of action to my sister-in-law some 12 years ago. She fell pregnant in her forties. She had one previous pregnancy. The moment the doctor diagnosed pregnancy he said to her, "Naturally at your age you'll want a termination. I'll write out a referral to the clinic."

Mr Carpenter: What did she say?

Mrs ROBERTS: She said, "No thank you very much".

Mr Carpenter: She made a free choice.

Mrs ROBERTS: The member for Willagee is right. The difficulty is that she might have been someone in two minds and she was not properly counselled.

Mr BAKER: I understand that it is possible under the offence provision of the code that not just the doctor but also other people may be charged with the offence. In chapter II of the code, headed "Parties to offence" section 7 refers to principal offenders and section 8 deals with the persons involved in offences for common purposes. Can they also avail themselves of the justification in proposed section 201A?

Mr PRINCE: The member for Joondalup has correctly stated the terms of sections 7 and 8 of the Criminal Code and answered his own question.

Mr BARNETT: My view is that this issue is primarily up to the women and, hopefully, their partners, families and medical practitioners. However, in terms of the amendments moved by the member for South Perth, a woman faced with a decision on abortion will be stressed, as obviously that is not a decision any woman will take lightly. The amendments moved by the member for South Perth effectively amount to some form of moral obstacle. It is made worse because the obstacle course is set against a time clock of 12 weeks. That is not the sort of law this Parliament should be contemplating. This debate has shown that people respect the views of others, whether they be pro-abortion, pro-choice or anti-abortion, whatever it might be. I respect the views of my friend the member for South Perth. Although I respect his views and the position that he supports, the amendment that he is proposing is a contrivance to prevent women from exercising choice.

I understand his position but this has the effect of a contrivance. It is a moral obstacle course and women, particularly those who are less educated or perhaps have less income or support, will be less able to get through that obstacle course. Beyond that, I do not believe it will work. It is cumbersome and it will fail. That may not concern people, but we cannot escape the reality of 9 000 abortions a year. Some women may comply with this contrivance or obstacle course. How many will fail? Will it be 500 or 2 000 women who will be forced into backyard abortions with unprofessional and unsafe conditions, or will go interstate or whatever else. We are not talking about a small group of people. We would all like to see the number of abortions fall dramatically and more counselling and discussions with partners, friends, and families. We would like to see people take time to think carefully about their decisions. All of those matters are desirable to arrive at some form of informed consent. Society should aim for these things. They are not matters we can legislate for and realistically expect to work. As parliamentarians that would be naive.

Some comment has also been made about the passage of time in this debate. I would like to see the debate progress. We can go on with this debate forever. I suggest that all members of Parliament have expressed their views in the second reading stage and during this Committee debate. People have formed their opinions. The member for South Perth says we should not rush this issue. I have some sympathy for that view. The reality is that it is clear from the strong views expressed on either side of the debate that as members of Parliament we have formed our individual positions. We are all capable of expressing them in a vote if we have the courage to do so.

Mr BARRON-SULLIVAN: A number of members touched on the issue of counselling. The appropriate counselling in this case is not a mechanism or contrivance to provide a moral or legal barrier to abortion nor should it be entirely in the opposite direction either. This Bill refers to the need for a certified counsellor. That distinguishes it from any counselling a woman might obtain from her doctor. This clause is not specific as to the definition of a certified counsellor and I ask whether it is defined in the Health Act or its regulations? The member for Nollamara referred to the provision of genuine counselling. He gave the example of an unfortunate 15 year old girl who was caught up in a predicament. He spoke also about post-abortion counselling. Nothing in this clause indicates anything along those lines. Proposed new subsection 1(c) refers to "appropriate counselling" in connection with the procuring of a miscarriage. It indicates nothing about lending assistance or post-abortion counselling, although other amendments on the Notice Paper go to that point.

Whatever legal instrument is passed by this Chamber, whether it is this clause, the provision in the Foss Bill or one of the amendments that refers to the need for some form of counselling, is it possible or practicable to provide the definition of "counselling" within the regulations of the Health Act? If we agree to some form of counselling, whether or not it is spelt out in the legislation, will the Minister undertake to formulate regulations on "appropriate counselling".

How far I go down the gradation on this issue depends on whether I am convinced that the women concerned are able to make completely informed decisions. I do not see counselling as a contrivance to provide a moral barrier for women to leap over to obtain abortions. It is a way of lending assistance to a woman to make an informed decision before an abortion. I also see that for some women the last thing they would want after an abortion would be to talk to a doctor or counsellor whereas other women may feel comfortable with professional counselling. If we go down this path of certified counsellors, could the Minister advise what sort of person within the health profession might fit into that category? Would they be a psychiatrist, social worker or whatever?

Mr PRINCE: So far as I and my advisers are aware, there is no definition yet in any law of this State of the word "counselling". Clearly, the people who give counsel in the medical and health area are doctors; psychiatrists, a speciality branch of medicine; psychologists; probably to a large extent nurses, in particular areas rather than generally; and social workers - I am talking of those employed in the health area, but of course they counsel far more widely than that. Many people within education do counselling in the context of children in schools and so on. In this area if, as the member so eloquently put it, an instrument appears from the Parliament that requires counsellors in some way to be accredited, I consider it incumbent upon me as the Minister for Health and a member of the Government, to consider what should be in place. In other words, what qualification would be a minimum standard

for accreditation so that people who seek counselling or are referred by their GP for counselling can have some confidence that the counsellor to whom they go has some training and expertise in the relevant area.

Dr Edwards: Would there be a code of practice?

Mr PRINCE: That is certainly a possibility. It would require some careful thought about the appropriate qualifications for a certified counsellor, and I do not know whether there would be a code of practice. I will give an unequivocal undertaking to consider these matters if the Parliament passes law that requires that consideration. I hope members will appreciate that I do not wish to expend the resources of the people available to me in giving that consideration now, when it might not be the product of the legislative process. I hope members will accept my unequivocal assurance and undertaking that this will happen if the product of the legislative process requires counsellors who are in some way accredited, certified or seen to have particular qualifications to deal with the area.

Mr McNEE: Each year 10 000 abortions are carried out in this State. Do members really expect me to believe that every one of those women is a poor person who has had the most terrible experience? I do not deny that some people are in that dreadful position. If I could identify them, I would be happy to help them.

I want to tell members about ladies who have telephoned me. One is the mother of a young girl who is about the same age as my daughter. These people do not live in my electorate and I do not know what religion they are. I did not bother to ask them because I do not care what their religion is. This lady said her daughter went to the doctor and said she was pregnant. She had two children and was expecting her third. The doctor started to write a prescription and, when she asked what he was doing, he said she should have an abortion. That girl and her husband are now the proud and loving parents of a bouncing baby boy. They already had two daughters, and they have all sorts of plans for their son to be a West Coast Eagle or Fremantle Docker.

The mother of another young woman rang me. She does not live in my electorate and I did not ask her religion. She told me her daughter had been married for a year or two and was teaching in a school in Perth. The daughter knew she had a problem with her pregnancy and one day she was summoned to the office at the school at which she worked to take a telephone call. The person at the other end told her she had a problem and that she should have an abortion. That person said they had telephoned her at work because she had only a couple of days in which to have the child aborted as the pregnancy was well advanced. The girl broke down. Her husband was at work elsewhere, and she had to be consoled by the secretary at the school. So much for counselling and so much for the medical profession that supposedly does not make any mistakes! There are good and bad doctors, good and bad farmers, and good and bad politicians.

If the Leader of the House thinks that these provisions will not work, it is within his power to fix them. He is the man and he is a member of the Government. In the final analysis, whatever he says, the Government will wear the odium for what it does. When I came to this place I thought the people in this Chamber would lead, but they are not leaders. We are followers and we are not very good at that. As far as I am concerned there is no room for abortion. I have clearly stated my position, and I am prepared to move back because I have a genuine concern for the people with a real problem. I certainly do not believe that 10 000 women require abortions under these rules, and anyone who tries to convince me otherwise is nuts.

Mr PENDAL: The member for Mitchell put some propositions to the Minister for Health which I think bear further examination. There is a provision in my amendment under proposed new subsection (10) for the Government to make regulations with respect to counselling. As members know, all proposed regulations come to this Parliament and are subject to disallowance. The member for Mitchell has taken my amendment one step further and I think it is a very positive step. My amendments cover pre-abortion counselling and no reference is made to post-abortion counselling. I agree it is a deficiency.

The United Kingdom report mentioned in this Parliament in a bipartisan way indicated that 87 per cent of respondents to the United Kingdom survey expressed in some form or another post-abortion difficulties or traumas. The member's suggestion should be addressed, and I have suggested he may feel inclined to propose some amendments to the amendments on the Notice Paper.

I agree with the member for Moore; the Government is not leading. That is why this sort of debate will continue in this place - not that I think it is a bad thing. It is all very well for the Government to do a Pontius Pilate and say that it is providing four options to the Parliament from which people can choose. It can be likened to throwing a bag of lollies among a group of children. It creates chaos and the children cannot be blamed for that.

I want to return to something the Leader of the House said. The Leader of the House picked up on the business that was echoed earlier by the member for Maylands. He said - I use his words - that we were setting up a moral obstacle course. I reject that and I am insulted by it. This is not a moral obstacle course and I will tell him why. It is a proper, legitimate, medical obstacle course. About 10 or 15 years ago I was diagnosed with an aneurism in the brain. Thank

goodness I and particularly my wife were put through what the Leader of the House would call an "obstacle course". My wife was put through being referred by a GP to a neurologist, to a neurosurgeon, and then to a panel of neurosurgeons, all of which happens before one is taken in for brain surgery. Why is that an obstacle course? They save people's lives by doing that.

Mr Barnett: Did you have a moral problem with the potential surgery?

Mr PENDAL: No, I did not, and neither will the person at the end of this. In other words, if women see it as a surgical procedure, they are entitled to opt for an abortion. However, at least they have been subjected to a serious medical procedure that asks them to reflect, and that is what I am now asking the Leader of the House to do. Normally, his arguments are better than that, but that is pathetic. There is no moral obstacle course. No-one in this House can say that we can legislate for morals. However, we are trying to legislate for procedures and requirements that will put in people's way a prohibition on shortcuts and a choice between making -

[The member's time expired.]

Mr THOMAS: The proposition that human life begins at conception, and therefore abortion should not be permitted, or at least should be very severely restricted, cannot to be determined objectively. It is a matter of values. For the most part the religious tracts that are used to justify that are founded in some sort of faith. In order to justify the propositions in the Pendal amendment, one must refer to some form of metaphysics or faith. That is a good thing in the sense that people should consider these matters; nonetheless it is a different matter altogether to say we should impose those values when they are not widely accepted in the community. They are not universally accepted in the community as is reflected by the statistics of what goes on at the present time.

We need to understand also that if we impose those values by way of the Pendal amendment or some other form of restrictive legislation, we will impose what I would argue, and have argued, is a form of assault on the woman concerned. It is the most profound imposition that I can think of to say that a woman must in those circumstances carry a pregnancy to full term. The imposition on the woman's body, the imposition on the woman's mind, and I suggest, on the woman's spirit, of making that compulsory is something we should consider very carefully. I would ask those who believe there are grounds for saying that abortion should not be permitted to look at the beliefs that give rise to that conclusion and acknowledge that others are able to come to a decision, which is in the end different, but which is also based on ethics, values and a consideration of the unique nature of human life, but come to a different conclusion.

People feel very strongly about these matters because we are talking about the nature of human life, the autonomy of the individual and people do, as is evident in the debate that has gone on in this Chamber, feel very strongly about these matters. We had this debate in the Labor Party 20 years ago when we debated whether a conscience vote on this matter would be allowed, because in the Labor Party obviously, there are quite different but genuinely held points of view on these matters. The fact that this debate is taking place over 20 years after that debate within the party reflects the wisdom of the decision that there should be a conscience vote. The fact that the other parties represented in the Parliament are also exercising a conscience vote confirms that that was a wise decision.

I urge moderation from all members from both sides in the way in which they address the issue and address each other. When this debate began on Tuesday, it was conducted in a gentlemanly manner, if I may use that term. Other people's points of view were respected. While it is acknowledged that there will probably not be a meeting of the minds, it should be acknowledged that all people are approaching the issue from an ethical basis and seeking to have the issue resolved on that basis.

The temperature has gone up a bit largely among the members who sit on this side of the House who feel very strongly about it. I urge all members of this House, and particularly my colleagues, to respect each other's point of view and the fact that although they feel very strongly about this issue and come to different conclusions on it, we do so on an ethical basis. Although I argue, I believe very strongly indeed, that it is wrong for the State to make pregnancy compulsory after conception, I can also accept the validity and the ethical basis of my colleagues for arriving at a different conclusion on this issue. We should take the heat out of the debate and recognise that what we are trying to do is make practices and legislation to be imposed on the community at large. In doing that we should respect each other's point of view on these issues.

Mr BAKER: Is it the intention of the Minister for Health or the Attorney General to seek to avail themselves of the justification referred to in the amendment.

Mr PRINCE: Anyone who falls under the operations of section 7 of the Criminal Code, which deals with parties to the offence, is able to be charged if there is a principal offender. If the principal offender is not an offender and has committed no offence because he has authorised, justified or excused, it logically follows that the person who is the accessary similarly is not criminally responsible.

Mr BAKER: That answers the question in relation to section 7 of the code, which deals with the principal offenders. What about accessaries after the fact? Is it the Attorney-General's intention, as far as the Minister has been briefed, that the justification in proposed section 201A would also apply?

Mr PRINCE: Of course it does. If there is no principal offence, two or more people cannot form a common intention and prosecute an unlawful purpose because there is no unlawful purpose.

Mr BAKER: The word "act" appears in the second line of proposed section 201A. It also appears in the amendment of the member for South Perth. The Criminal Code generally refers to acts and omissions. Why is it in that case that the provision refers to acts rather than omissions? It could be argued that in certain circumstances a person could commit the relevant offence by omission.

Mr PRINCE: The answer to that is quite simple: If a woman is in a situation where perhaps a miscarriage is likely over which she has no control, in the sense that, for want of a better way of describing it, it would be a natural miscarriage, medical professionals do everything they can to prevent it happening. That is active. In order to abort there must be a positive act. If there is no positive act the abortion will not happen. Therefore, there is no point in having an offence and hence a defence to an offence of omission in this instance. It is quite different and distinct from omitting to do something which will preserve life. It does not apply in this area. Only where we have a positive act can we have an offence which can be authorised, justified or excused. The amendments provide for that.

Mr BRIDGE: One feature of this debate has clearly been allowed to reach a point of irrelevance. It is all right for us to say that we are absolutely against abortion and not to have a bar of it. I submit that probably everybody feels that way.

Several members interjected.

Mr BRIDGE: Members do not know about it. No woman would willingly want to submit herself to this process if she had a choice.

Mr McNee: Nobody is arguing with that.

Mr BRIDGE: Yes they are. The member for Moore says that he does not disagree with that and for the purposes of agreement we say that we do not disagree with it. We then proceed to engage in the most complex and irrelevant debate for producing a set of rules and procedures to deal with it. That is where the confusion erupts and the impracticalities emerge. If we were to conclude, and the member for Moore says he has no disagreement, that that is the basis on which we should address this issue, we could sensibly attempt to come up with the most measured form of procedure that takes that into account. If we do not do that, we will continue to highlight the extent of diverse opinions and positions on this issue.

The member for Moore said that he was absolutely against abortion. He then went on to say that, notwithstanding that, he was prepared to step back. If I understand the member for Moore correctly, he is saying that he is absolutely against abortion but he would have regard to others with opinions different from his. On that basis we could be working towards a framework.

Several members interjected.

Mr BRIDGE: Members are making it difficult. The amendments put forward by the member for South Perth do not have the remotest ability to be relevant to people in country areas.

Mr Pendal: Yes they do.

Mr BRIDGE: It is absolutely impractical to even minutely consider their relevance to the bush.

Mr Pendal: You are a fair man and a good man. We will give you assurances in a few minutes on that very issue.

Mr BRIDGE: I will be pleased to hear that. On the face of what I read of the member's amendments, they are far removed from any relevance for people in the bush.

Mr Omodei: That is not true. Why do you not think before you say these things?

Mr BRIDGE: Members opposite have all got up -

Mr Baker: Would you like a response?

Mr BRIDGE: Yes.

Mr Baker: Let us look in general at parties involved in a dispute regarding child welfare matters at the Family Court -

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): If the member for Joondalup could refrain from this sort of interjection and take the opportunity at a later stage and if the member for Kimberley could address the Chair, please, we will continue.

Mr Baker: I thought the member for Kimberley was accepting my interjection.

Mr BRIDGE: The member has been up and down like a bandicoot all day. Let others have a go. The member has been up on his feet all day. He should take a little time out -

The DEPUTY CHAIRMAN: Perhaps the member for Kimberley would address the Chair.

Mr BRIDGE: I have been here all day, Mr Deputy Chairman.

The DEPUTY CHAIRMAN: I appreciate that.

Mr BRIDGE: I cannot recall in the six hours that I have been here one logical word expressed or one of substance by them. I am getting a bit frayed around the edges.

Amendment on the Amendment

Mrs EDWARDES: I move -

> That the new clause be amended by deleting the word "demonstrably" in proposed section 316A of the *Health Act 1911* subsection (2)(a).

In talking to the amendment I will address some aspects of the other amendments.

Points of Order

Mr RIPPER: Mr Deputy Chairman, the Minister seems to be wanting to speak to her amendment plus other aspects of the amendments moved by the member for South Perth. I am quite happy with that, but I seek your guidance as to whether you will extend the opportunity to other speakers in the debate to speak to both the amendment moved by the member for South Perth and the amendment to the amendment moved by the Minister.

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): Although there might be a degree of latitude if the Minister crosses the line slightly, she will be dealing with her amendment.

Mrs ROBERTS: Whenever we have all these points of order, other interruptions and your rulings, people who have only five minutes on their feet have the clock running down. The clock should be halted when a member takes a point of order or when you give a ruling.

The DEPUTY CHAIRMAN: I am advised that the clock is usually halted. There has been an error but presumably it will be halted from now on.

Mrs ROBERTS: It was not halted when the member for Kimberley was speaking.

The DEPUTY CHAIRMAN: Apparently it was an error.

Committee Resumed

Mrs EDWARDES: The reason for this amendment in particular and the basis for all the other amendments is that new section 316A attempts to introduce tougher tests than those we have been debating in the Chamber during the past two days. Essentially, the majority of members in this House have agreed to proposed paragraphs (a) and (b). Some want to go further to proposed paragraphs (c) and/or (d). What has been put forward in the member for South Perth's proposed subsection (2)(a) and (b) will make the test much harder and tougher than the Davidson test. We have not addressed our minds to it in advance. The words "demonstrably" or "grave" as opposed to the word "serious" have not been addressed in cases around Australia. Those words are not taken from any other sections in any other Acts or codes from any other States or Territories. Therefore, the community would have no confidence in that wording.

I am attempting to give the community some confidence in whatever law we arrive at. The member for South Perth's amendment will not return confidence to the community. The doctors will not know where they stand. No level of interpretation has been offered on that wording. We must move back to our discussions over the past two days, particularly in the case of proposed new section 201A(2), paragraphs (a) and (b) in relation to the Davidson test.

The other stricter test relates to section 259 of the Criminal Code, and is addressed by the member's proposed new section 316A in subsections (7) and (8); that is, any termination of any pregnancy beyond 12 weeks must meet the preservation of a woman's life test. That will make current practice much tougher. My amendment seeks to provide

for 20 weeks, which will relate to the regulations of the Births, Deaths and Marriages Act, which is common practice in Western Australia.

We can introduce counselling. Despite our differences, we support the notion that some counselling should take place before and/or after the miscarriage occurs. The amendment moved by the member for South Perth attempts to do that, but it also introduces tougher tests which have not met the level of interpretation of the Davidson test. The member's amendment would not return confidence to the community. I urge members to support my amendment.

Mrs ROBERTS: These days, a significant amount of pressure is placed on young women and couples to have fewer children, and to have terminations and abortions. It is a very real pressure. I have been advised of many cases where women have gone along with having a third or fourth pregnancy, but the assumption by the doctor has been that the woman would naturally want to terminate the pregnancy. The member for Moore referred to such a case. Recently a person was telling me about the last time his wife became pregnant. She was urged to have a termination, as she had been when she was pregnant with her three children, and as her daughter had been when she fell pregnant at the age of 17. Subsequently she made those people proud grandparents.

Pressure to terminate a pregnancy comes not only from the general practitioner but also from employers, and acquaintances. The assumption is that a person aged 17, 18 or 19 - or not married - and pregnant, should have an abortion. That is a societal pressure. It is not a religious pressure to keep the child. The pressure is on the woman to terminate the pregnancy. When a woman in her late thirties - let alone late forties - falls pregnant the assumption is that she will not want to return to having babies at that age. Perhaps there are problems or the risks are increased. Therefore, the thought is that the woman would want to have a termination. In this debate we must acknowledge the considerable pressure placed on women to have terminations for societal reasons.

I want to raise another matter relating to that kind of pressure. I am not sure that members are necessarily aware of the extent of the changes in family patterns these days. My oldest daughter was in a class of about 25 or 26 children in year 2. Of that number, 16 children were sole children; they had no siblings. When I went to school an only child was in the minority. I was the odd one out, because most of my friends had between two and eight brothers or sisters. Considering the financial and other pressures placed on families these days, most couples choose to have only one or two children -

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): Order! Bearing in mind the number of people who wish to speak on aspects of this legislation, I ask the member to address her remarks specifically to the amendment.

Mrs ROBERTS: Mr Deputy Chairman, I am sorry that you do not see the significance of my remarks. They point to the fact that considerable pressure is placed on women to have terminations. Faced with that pressure, women must be able to go to a couple of doctors for appropriate guidance and counselling. They should not be encouraged to take the option which they would be more likely be pressured to take. That is my argument.

I have two daughters, and people say to me that I must want a son. If I had a third child, frankly, I would prefer a daughter. Couples are having two children, and the notion is that it would be nice to have one of each gender. It does not bother people like me whether we have daughters or sons. I am very grateful that I have two daughters. However, not everyone thinks as I do - especially men. Many men think that they would like to have sons, and that pressure is placed on their wives. Another pressure is not to have a large family these days. In those circumstances, if the first born happens to be a daughter, the feeling is if the couple decides to have only one other child, for personal, social and economic reasons, they would like that child to be a boy, because one or both would like a son. If we totally relax the abortion laws and do not require some degree of counselling, women will terminate pregnancies when they know it is a girl.

These are some of the matters to which we have not turned our attention at this point. I want members to be aware of the significant pressure placed on people to have fewer children, and to have terminations. Proper counselling is important.

Mr BAKER: I support the Minister's proposal to delete the word "demonstrably". I thought it appropriate to consult a dictionary. When interpreting Statutes there is a clear authority in support of the proposition that it is appropriate to call upon that dictionary to determine the definitions of the key words. My copy of *The Australian Concise Oxford Dictionary* - the new Australian standard edition - states that "demonstrative" means "logically conclusive; giving proof; serving to point out or exhibit". In view of the proposed certificate provisions in proposed section 316A, the real proof or certification or logical conclusion will be evidenced in that certificate. I support the amendment.

Mr RIPPER: I have listened to debate throughout most of the afternoon. I have enjoyed the contributions by most members but we have reached the stage where we need that speech about the black cat from the member for Dawesville! The arguments have been well and truly canvassed by many members. Members are eager to vote on the amendment moved by the member for South Perth. I thought we had almost reached the stage where we could

have a vote on that amendment and then the Minister for the Environment moved her amendment on the amendment. That process threatens to take us into even more lengthy debate. The standing orders allow a question to be brought to a vote. No-one in this debate would want to use that mechanism but I hope all members participating in the debate can recognise the need to bring the matter to a resolution.

I ask the members for South Perth, Moore and Joondalup whether they give the Chamber an undertaking that we will vote on the amendment moved by the member for South Perth before we rise at 6.00 pm today. Does the member for South Perth want to give the undertaking by interjection?

Mr Pendal: I do not want to; I will speak to it.

Mr RIPPER: I would like from the member an undertaking that he will recognise the rights of other members to have these matters brought to a resolution. It would be a pity if we had this informative debate this afternoon, yet we left this place at six o'clock without taking a vote. In that case, we would not return until Tuesday week when the arguments will be cold and the points made by members will disappear, maybe not from our memory, but into the ether.

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): Order! One way to achieve what the member seeks is for members to address the amendments before the Chair.

Mr RIPPER: I address the need to resolve both the amendment before us and the amendment moved by the member for South Perth. I am keen for a vote to be taken on the matter. I strongly oppose the amendment moved by the member for South Perth. I want to hear an indication from the three most vociferous speakers in this debate that the matter will be brought to a resolution before 6.00 pm.

Mr PENDAL: The amendment moved by the Minister for the Environment has some merit. She is seeking to remove "demonstrably". In fact, the real effect of the amendment we have sponsored lies in the procedures; that is, with the issuing of certificates and counselling, and not in the test of danger. The Minister has made a very good point.

I hope the member for Belmont is not proud of the fact that he is the first opposition member in the history of the Westminster system anywhere the world to threaten the gag.

Mr Ripper: I have not threatened the gag.

Mr PENDAL: That is what the member did. I have been in this place for only five years, but the member should rethink what he said as he will be hoist with his own petard if he becomes an advocate for the use of the guillotine.

Mr Ripper: What is your response to my question?

Mr PENDAL: I will come to that.

Mr Ripper: In this speech?

Mr PENDAL: If the member keeps interjecting, I will need another five minutes.

I return to the amendment before the Chair, which presumably is some relief to you, Mr Deputy Chairman. The Minister for the Environment moved that "demonstrably" be removed from the provision. Some members, including the member for Joondalup, suggested that this would not be a loss from our point of view, as it represented something of a concession and would see progress in the debate. For my part, I intend to support the Minister's amendment.

The second aspect the Minister for the Environment raised in her few minutes' contribution related to the 12 week period being extended to 20 weeks. We are not really supposed to discuss that issue because we are discussing the narrow amendment to the amendment. I make a request of the Minister for Health: Maybe not straight away, but can he give some indication of the medical position on this matter? It is not unfair to indicate that he has spoken privately to a number of members about this matter, and spoke with some authority on the subject. Since the Minister for the Environment raised that aspect, there may be some room to move. That does not relate to this clause.

I said honestly that the request of the member for Belmont will come back to haunt him. I will do the haunting. It is now on the record.

Mr Ripper: What is your answer?

Mr PENDAL: My answer is no. If I had my way, we would not be bulldozed to make a decision by six o'clock. Why should we take seven months to consider the School Education Bill?

Mr McNee: We took longer to deal with the Dog Act!

Mr PENDAL: Indeed.

Several members interjected.

Ms MacTiernan: Women are urging us to make a decision.

Mr PENDAL: Can I get a word in edgeways, member for Armadale? The Minister for the Environment made a good point about the deletion of "demonstrably". Once that amendment is disposed of, unless there are other speakers, I will be interested to hear from the Minister for Health about the 12 or 20 week period issue. I implore members not to go down the path of simply removing the matter from the agenda in one fell swoop.

Mr PRINCE: With regard to 12 or 20 weeks, I am informed that a procedure in the form of a biopsy is performed by doctors at ten and a half weeks' gestation. Culturing the results can lead to diagnosis of a chromosomal abnormality. Further, an amniocentesis is not able to be performed with any security until about 18 or 16 weeks. The product drawn from the embryonic fluid takes a week or thereabouts to culture before tests determine whether chromosomal or other abnormality is present. Abnormalities of an anatomical nature can be found only by using an ultrasound at about 16 or 18 weeks. If we are talking about gross foetal abnormality which leads to the child being born and dying soon after, that is the position where a termination is offered early in the pregnancy. It is not possible to do that at 11 or 12 weeks to 20 weeks.

The advice from Professor Con Michael and others is that abortion should not be performed after 20 weeks other than in extreme situations. However, it should be possible to do so up to 20 weeks, given proper circumstances of testing and so on. After 20 weeks is not something that should be contemplated as we routinely keep 24 week gestation children alive by artificial means when they are born prematurely.

Dr TURNBULL: We are looking at finding some way to ensure that mothers receive support, and a counselling system is appropriate. That is the main reason that I support the proposals of the member for South Perth. The amendment moved by the Minister for the Environment, when applied to the other amendment, makes the proposition much more reasonable and more in line with health requirements.

I agree with everything the Minister said about termination of pregnancy up to 20 weeks. I support him. Some people say that there should be a delay between when the woman makes contact with her general practitioner and when she has a termination. I think seven days is a little long and I agree entirely with the decision to make that time two days. Many people ask why women should wait. I have had the opportunity to speak with such mothers and I know they need some time in which to absorb information.

A very interesting survey was conducted about the amount of information patients take in during a visit to the doctor. Obviously they take in what they talked about while they are the consulting room. The doctor asks the patients whether they fully understand what was said and the patients say yes. The patients were interviewed after they left the surgery. By the time the patients had got outside the doctor's consulting rooms, outside the building, they had lost one-third of the information that was given to them. By the time the patients arrived at the chemist to fill the prescription given to them by the doctor, they had lost a further one-third of the information. I used to think it was a terrible statistic; that the patients had already lost two-thirds of the information they had been supplied with and discussed in the surgery. When I go to the nursery to buy my plants, I have a discussion with the staff there. I find that by the time I leave the nursery, I cannot remember whether I should be planting seedlings in acid soil or sandy soil, or both. I can understand the situation patients are in when it comes to their retaining the information they are given. When people are very anxious and extremely stressed, they do not take in very much information.

We must have a time factor. Every woman from the country who is involved in this situation should have time in which to consider a decision to terminate a pregnancy. I have found that that delay has sometimes resulted in women not going to the appointment made at the abortion clinic. It is very sensible for a time delay to apply, and I agree with the Minister for the Environment in that regard. I also agree with her entirely about the deletion of paragraph (c). These are not necessarily hurdles, although many people have talked about them as being such.

At the moment women must consult with two doctors: The referring doctor and the doctors at the clinic. Those two doctors must provide paper work in support of the procedure. The referring doctor must produce a letter to the doctor at the clinic. In many ways these are not necessarily hurdles. I see that no matter how we end up with this Bill these issues must be addressed.

Dr HAMES: I, too, would like to see these issues voted on this evening. I will oppose the amendment to delete the word "demonstrably", and I will explain why. It is not so much specifically that I agree with the word being in the clause. It is more that I intend not to support the amendments by the member for South Perth as a whole. If I vote for this deletion, in effect, it will be a test vote for what is likely to happen in terms of the general feeling of the Chamber for the total support, or otherwise, for the amendments of the member for South Perth. If the first amendment is carried, I will support the rest because it would be better to have them in, than not.

As I was saying, I intend not to support the amendment moved by the member for South Perth. I prefer to have the changes that have been suggested by the member for Kingsley as part of that, if it were to be passed. However, I will vote against it in the first instance because to some extent that will shorten the total time in which we will probably debate the specific issues of the member for South Perth, and all the others will not be as imperative.

Mr Thomas: You want to use it as a straw vote.

Dr HAMES: Yes. I am suggesting that the members who oppose the amendments moved by the member for South Perth may wish to vote against this amendment on the amendment, even though it, in itself, may seem to be reasonable if the amendment moved by the member for South Perth were to win in the long run.

Mrs HOLMES: I support the amendment on the amendment. I also support the foreshadowed amendment for the removal of the words, based on their meaning in the dictionary, which does not change the intent. In that regard, this deletion ties in with the rest of the amendment moved by the member for South Perth. Counselling is a very important part of ensuring there are not serious consequences. On Monday a doctor telephoned me in my office to apologise for being late for an appointment with me, and to say that she could not make it. She had been dealing with a young woman who was pregnant who had come to see her. This doctor had a checklist which she ran through when anyone came to her in those circumstances.

She ran through the checklist with this young woman and told her to go away and to think about her situation and then to come back to see her. That is not to say that the doctor was not taking into account the danger of the physical, emotional or other stress factors involved. The doctor told me that by following this method, which she devised over many years in her profession, quite a number of women came back to her after they had thought about their situation and went through with having the baby. The doctor told me that the Australian Medical Association should take some responsibility in drawing up a code of conduct, at the very least, for doctors who deal with this very serious matter. It was very heartening to learn of the success that the doctor had by using the method she had devised.

To replace the words "demonstrably" and "grave" by the word "serious" in the foreshadowed amendment does not change the fact. We must be very mindful of what we are doing in these circumstances. The actions of that doctor reveal the need for counselling in this matter. Whatever happens we must ensure counselling gets into this legislation.

Mr MacLEAN: First of all, I support the amendments. I am a little concerned about the intention of the Minister for Housing to use this amendment as a straw vote. By removing those words, we are returning clause 2 to the Davidson test; that is, the current test used for the practice of abortion.

If the Minister for Housing votes against this amendment, he will be voting against the current practice with which, in the past couple of days, he said he agrees. I am not happy with the word "demonstrably". It is not clearly enough defined and it will allow too much of an unknown quantity. It will become a new test; whereas all the other words relate to the Davidson test which has been tried. By making it a new test we will introduce the uncertainty that both the pro-life and pro-abortion groups want to eliminate. We do not want any more uncertainty in this situation.

Proposed subsection (3) comprises a number of amendments. I seek assurance from the Chair that we will vote on them in sequence rather than as a whole. Despite my anti-abortion stand, they contain issues with which I cannot agree. They could be easily amended to provide a more acceptable position. If we vote on the amendment as a whole, it will not proceed and that will be a disappointment to me and many others. It contains aspects with which people who do not support abortion will agree.

The member for Cockburn felt that people like me were something of an imposition. Abortion is a profound imposition.

Mr Thomas: You can observe it, but you should not impose it on others.

Mr MacLEAN: That is why, like the member for Moore, I am willing to accept that on some occasions, although I do not agree with abortion or wish to encourage it, it is an issue in society and we must make it safe for women. If it is ad hoc every doctor will want to do it and it will not be safe; there must be checks and balances. I have too much respect for women to allow ad hoc abortion to cheapen their morality.

Ms McHALE: There is some superficial attraction in the amendment and foreshadowed amendments of the Minister for the Environment. I was initially inclined to support them because I thought they might improve the Pendal clause. However, after hearing the comments of the Minister for Housing, I have changed my view and I will not be supporting those amendments. If they are passed we will be tinkering around the edges of a retrogressive clause introduced by the member for South Perth.

I urge members who feel inclined to improve the amendment of the member for South Perth and who are concerned about counselling opportunities, for example, not to be persuaded by these amendments but to vote them out and vote

out the substantive amendment moved by the member for South Perth. Initially, I thought the Minister's amendments would remove some of the uncertainty which is creeping back into this arena. Rather than removing any uncertainty the Pendal amendment reintroduces it. Although the Minister's amendments attempt to deal with that, they do not remove the uncertainty.

Purportedly we all seek the same outcome. The Pendal amendment, and to some extent the Minister's amendments, will have the explicit effect of reducing the number of abortions in Western Australia probably to less than 500 annually. If we are genuinely committed to reducing abortions we would be tackling the issue from a completely different angle, such as examining the real preventive measures to ensure that the number of abortions is reduced.

Members should not get sucked in to believing that the Minister's amendments will provide a better outcome. As some speakers have canvassed, they refer to two medical practitioners and a certified counsellor. They will also prohibit abortions that are post 12 weeks.

The substantive amendment moved by the member for South Perth is fundamentally flawed in relation to abortions which take place post 12 weeks. One might have recourse to the Criminal Code in relation to the mother's physical wellbeing and say that any abortion required on that basis is all right. However, if abortions required as a result of severe congenital deformity cannot take place after 12 weeks, they will not be lawful terminations. That would be a retrograde step.

The amendment on the amendment with which we are now dealing seeks to reduce access to safe, legal abortion. The amendments posed by the member for Kingsley do not change the nature of the substantive amendment in any major way. Members should not let their concerns be assuaged by this amendment; it is important to see through it and vote it down.

Mr PENDAL: I suggest that we test the view of the Committee to see whether we can make progress. A number of members have said that the amendment on the amendment moved by the Minister for the Environment is reasonable; that is, the removal of the word "demonstrably". If we vote on that, it would then perhaps help if we moved en bloc to her proposed amendments marked (2), (3), (4), (8) and (9). They appear to be consequential upon these. Then we might spend the rest of our time discussing the attached amendments, which on the face of it - I say no more than that - make a bit of sense. That does not necessarily mean we will vote on the last amendment. However, we should now test the feeling of the Committee on the removal of this word, which I will support, and then support the removal of the other words the Minister has proposed.

Amendment on the amendment put and a division taken with the following result -

Ayes (24)

Mr Baker	Mrs Hodson-Thomas	Mr McNee	Mr Prince
Mr Barnett	Mrs Holmes	Mr Masters	Mrs Roberts
Mr Board	Mr Johnson	Mr Nicholls	Mr Sweetman
Mr Bradshaw	Mr Kierath	Mr Omodei	Dr Turnbull
Mr Cowan	Mr Kobelke	Mrs Parker	Mr Cunningham *(Teller)*
Mr Day	Mr MacLean	Mr Pendal	
Mrs Edwardes			

Noes (23)

Ms Anwyl	Dr Hames	Mr Marshall	Mrs van de Klashorst
Mr Brown	Ms MacTiernan	Mr Riebeling	Ms Warnock
Mr Carpenter	Mr McGinty	Mr Ripper	Mr Wiese
Dr Constable	Mr McGowan	Mr Strickland	Mr Osborne (*Teller*)
Dr Edwards	Ms McHale	Mr Thomas	
Dr Gallop	Mr Marlborough	Mr Trenorden	
Mr Graham			

Amendment on the amendment thus passed.

Point of Order

Ms McHALE: Mr Deputy Chairman, can you tell me who called for the division?

Mr Kobelke: I did.

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): I did hear voices calling for the division.

Mrs Roberts: You need only one voice under the standing orders.

Ms McHALE: The person calling for the division should be on the side of the minority.

The DEPUTY CHAIRMAN: Two voices are required and I called for the Noes.

Committee Resumed

Mrs EDWARDES: I move -

> That the new clause be amended by deleting the word "grave" and substituting "serious" in subsection (2)(a) and (b); and by deleting the word "demonstrably" in subsection (2)(c) of new proposed section 316A of the *Health Act 1911*.

The reasons for these amendments are the same as those I gave previously - to give some confidence back to the community as the test to be applied for justification of the procurement of a miscarriage as it would apply under the Criminal Code Act. That would reinforce the Davidson test, which is similar to paragraphs (a) and (b), which are the amendments to the Criminal Code that we have been debating over the past two days.

Mr PENDAL: I am prepared to accept that amendment to the amendment. I do that with some reluctance, but given that we are talking about the description of an action or an assessment coming from the category of "grave" to "serious", I do not believe it alters the core contents of my amendments. For that reason and because we seem to be making some progress, it is appropriate.

Mr PRINCE: To move from the word "grave" to the word "serious" is to replicate the wording from Davidson. That wording is well understood and well known. Although it is still capable of being litigated, it is less likely to be litigated than would be a new term "grave", which would be subject to some degree of lack of certainty with respect to the word "serious". Consequently it is good practice and good law to stick to words and phrases that are well known, judicially interpreted and well understood. Therefore, this amendment put by the Minister for the Environment is a good one. I am delighted to see the member for South Perth agreeing.

Amendments on the amendment put and passed.

Mrs EDWARDES: I move -

> That the new clause be amended by deleting paragraph (c) of subsection (2) of new proposed section 316A of the *Health Act 1911*.

I move this because although I support certification by two medical practitioners, I do not support requiring those two medical practitioners to be independent of the medical practitioner procuring the miscarriage. That would impose an extra unreasonable barrier which would add to the trauma that the woman is facing. Under the amendment we have the woman going to the general practitioner, then having to see another one, if not two, medical practitioners in order to receive a certificate, and then having to go to a counsellor to receive a certificate. Then we have the woman receiving the abortion by another doctor, if she wishes to proceed after that period. The amendment is putting a huge number of barriers to a decision being made. Although it could be regarded as a supportive mechanism, it is totally unnecessary. The requirement to have to satisfy two medical practitioners is well known in this State in a number of other areas. That is all that is required in this instance. The decision does not need to be independent of the medical practitioner procuring the miscarriage.

Mr PRINCE: Given the time, I need some indication about whether the amendment moved by the Minister for the Environment is likely to be the subject of debate for some time.

Mr PENDAL: I am still trying to catch up on a couple of things. Let me make clear that following this amendment, the question of the proposed reduction in cooling off period from seven to two weeks will be discussed. I want to spend considerable time on that because a reduction from seven to two weeks is not a reduction but an emasculation. That is not what we are talking about here, so let us put that to one side. The Minister is asking whether we will have a long discussion. We have made some progress this afternoon but I am not in a position, having been given some discretion by the group with whom I am working, to say that in four minutes we can deal with an absolutely fundamental issue. I would prefer that we report progress and seek leave to sit again.

Progress reported.

CRIMINAL LAW AMENDMENT BILL (No 2)

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Prince (Minister for Health), read a first time.

ADJOURNMENT OF THE HOUSE

MR BARNETT (Cottesloe - Leader of the House) [5.59 pm]: I move -

That the House at its rising adjourn until Tuesday, 31 March, at 2.00 pm.

I do not want to debate this issue, but I make the observation that we have had three days of debate on the abortion issue. The debate over the first two days was conducted in goodwill and everyone had a say. I must say, as Leader of the House, that we have not progressed to any significant extent today. I know that people wish to express their views, but I hope that when we return, and after the intervening week in which members will have considered their positions and perhaps have had further discussions, the House might make reasonable progress. We did not make reasonable progress today; indeed, a lot of tactics were used which I do not believe added to the dignity of this Chamber.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [6.00 pm]: I wish to echo the remarks of the Leader of the House. I too have been disappointed with the way in which debate has failed to progress this afternoon. I made some comments earlier in the debate in which I sought undertakings from various people engaged in the discussions that we might be able to get to a vote on the amendment moved by the member for South Perth by 6.00 pm. Those undertakings were not forthcoming. I hope that when the House resumes at the time indicated by the Leader of the House, we will be able to reach a resolution of these questions without in any way restricting the ability for all of the arguments to be put. This is a serious and emotional issue, and we do have the right to represent our constituents and we do need to fully canvass all of the arguments. We also need to reach a resolution. That is a matter of the rights all the members of the Parliament - the rights of those in the minority on any question and the rights of those in the majority on any question. It is also a matter of the obligation of this Parliament to the community to resolve this issue. Our respect and credibility as an institution will hinge to a certain extent on the behaviour which all of us exhibit when we resume our debate on this issue.

MRS ROBERTS (Midland) [6.01 pm]: I take issue with the comments of the Leader of the House. Members of this House should be aware that the Government has placed us in the situation we are in today. The Government's lack of action has led us to this situation. It is the Government that is responsible for this mess in which we find ourselves. The Government should take heed of its actions over the course of the next week and come back to this House with some better ideas on how to run the Parliament.

MR PENDAL (South Perth) [6.02 pm]: I echo the remarks of the member for Midland. The remarks that we have heard from the Leader of the House are only ever made when the Government does not get its way. In the ordinary course of events in this House, the Government always gets its way, because the Government has the numbers.

Mr Thomas: It is not a government matter.

Mr PENDAL: I do not need to be told that.

The Leader of the House is understandably a bit upset, because he has not been in control as Leader of the House. I remind members of whose decision that was. It was the Government's decision. The member for Belmont bemoaned the fact that the Parliament had spent the best part of a day dealing in some detail with the Bill. Those words will come home to haunt him. If the Parliament is not about this, what is it about?

Mr Ripper: It is about debate. It is also about resolution.

Mr PENDAL: Is the Parliament about fast tracking Bills and suspending standing orders? If it is, we should get rid of the standing orders; get rid of you, Mr Speaker; get rid of the Parliament; and let the Government run the show without any constraints. That is what the Government is upset about today. Those remarks are made by people depending entirely on where they sit in this place. I have been in this place long enough to know that when we sit on the government benches, we whinge about what the Opposition is doing to hold things up, but when we sit on the opposition benches, we whinge about the tyranny of numbers on that side and what that can do. We made history this week. For the first time, certainly since I have been in this Parliament, we have seen dastardly and antidemocratic actions such as you, Mr Speaker, coming into the Chamber to express your opinion as a private member. One never knows where that sort of behaviour may take the parliamentary process! I ask members opposite to reflect on that. No time has been lost, and if we go into the week after next and spend another week on this matter, it will be time well spent.

Question put and passed.

House adjourned at 6.05 pm

QUESTIONS ON NOTICE

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

AMPHIBIANS AND REPTILES - LICENSING SYSTEM

2898. Mr PENDAL to the Minister for the Environment:

(1) With reference to the continuing requests by the Western Australian Society of Amateur Herpetologists that amateur reptile and amphibian enthusiasts be allowed to keep these animals on similar conditions to people in every other State of Australia, is the Minister aware that Western Australia is now the only State in Australia that does not allow amateur reptile and amphibian enthusiasts to keep these animals?

(2) Is the Minister aware that New South Wales recently brought in a licensing system to regulate the keeping of amphibians and reptiles by amateur enthusiasts?

(3) Does the Minister intend to implement a comparable licensing system for Western Australia?

(4) If not, why not?

Mrs EDWARDES replied:

(1) There is considerable variability between States and Territories in the approach they take to licensing the keeping of reptiles, with Western Australia the most restrictive in terms of pet reptiles. Reptiles may currently be kept in Western Australia under licence for scientific and private study purposes and also public display purposes, but not as pets.

The *Wildlife Conservation Act 1950* and wildlife conservation regulations have no specific provisions to enable a properly regulated pet reptile keeping system to be operated. There is therefore no immediate prospect for licensing the keeping of reptiles as pets. Unrestricted private reptile keeping is not something we would consider for Western Australia, because of the concerns it would raise for the conservation of various reptile species in the wild.

(2) Yes.

(3) An improved licensing system which could be applied to the keeping of reptiles is under consideration as part of the development of a replacement Bill for the *Wildlife Conservation Act 1950*. The WA Society of Amateur Herpetologists will be consulted in the development of this Bill.

(4) See (3) above.

TEACHER TRAINING - TERTIARY ENTRANCE EXAMINATION SCORE

2906. Dr CONSTABLE to the Minister for Education:

In each of the last five years, what was the cut-off TEE score required to undertake teacher training at each of the tertiary institutions in Western Australia offering such courses?

Mr BARNETT replied:

In the last five years the cut-off TEE scores required to undertake teacher training at tertiary institutions in Western Australia were as follows:

	1994	1995	1996	1997	1998
Curtin University of Technology					
Early Childhood Education	310	300	290	270	292
Primary	311	300	290	270	301
Secondary	312	300	290	270	270
Murdoch University					
Primary	304	296	285	260	280
Secondary (BADipEd,BScDipEd)	304	303	285	260	283
Secondary (BEd)			285	260	280
The University of WA					
Physical and Health Education	328	319	307	311	301

Edith Cowan University					
Bunbury					
Primary	300	270	260	260	260
Churchlands					
Early Childhood Education	320	284	276	260	260
Primary	300	270	260	260	260
Mt Lawley					
Primary	303	270	260	260	260
Secondary					
Art Education	318	270	260	268	260
Business Education	300	270	260	260	260
Design and Technology Education	300	274	260	260	260
Drama Education	313	272	260	260	260
English Education	315	270	260	260	260
Home Economics Education	300	270	260	268	260
Library Education	300	270	260	275	260
Mathematics Education	300	270	260	264	260
Physical Education	337	314	299	271	273
Science Education	300	270	260	267	260
Social Science Education	301	270	260	267	260

SCHOOL PSYCHOLOGISTS - STAFFING FORMULA

2934. Dr CONSTABLE to the Minister for Education:

What is the current staffing formula for school psychologists?

Mr BARNETT replied:

There is no centrally prescribed formula for school Psychologists. However, there is a minimum ratio of 1:2000 students.

ASIAN CURRENCY CRISIS - EFFECT ON COMMERCIAL EDUCATION SECTOR

3006. Mr BROWN to the Minister for Education:

(1) Has the Minister or any of his departments and agencies assessed the degree to which the commercial education sector may be affected by the Asian currency crisis?

(2) If so, what is likely to be the economic effect on the commercial education sector in the next 12 to 18 months?

(3) If not, why not?

Mr BARNETT replied:

(1)-(3) Yes. The Department of Education Services has responsibility for the administration of the *Education Service Providers (Full Fee Overseas Students) Registration Act 1991.* A basic premise of the Act is to ensure the current and future economic viability of private (commercial) providers. The Department continues to gather market intelligence through the monitoring of providers and consultation with key industry stakeholders.

The crisis may result in an overall decrease in student numbers which may impact financially on smaller and recently registered providers over the next 12-18 months. However, the effect of the Asian economic crisis on the education market is not likely to be consistent throughout Asia. Student enrolments from some South-East Asian countries may in fact rise slightly as a favourable exchange rate may make Australia a more attractive study destination than the United Kingdom, USA or Europe.

SCHOOL OVAL RETICULATION

3046. Mr BROWN to the Minister for Education:

(1) How many school ovals will be reticulated in the 1997-98 financial year?

(2) What is the total amount the Government has made available for reticulation?

(3) How many schools in the Bassendean electorate will be provided with reticulation?

Mr BARNETT replied:

(1) Capital Works funding has been provided from the 1997/98 program to reticulate eleven (11) schools.

(2) Total funding for 1997/98 program is $952,000.

(3) Ashfield Primary School will be provided with reticulation as part of this program.

TERTIARY CLASSICAL MUSIC EDUCATION REVIEW

3061. Ms McHALE to the Minister for Education:

I refer to the Ministerial review of Tertiary Classical Music Education and ask -

(a) how many submissions were received;

(b) has the working group reported to the Minister;

(c) if so, will the report be public;

(d) what are the recommendations of the Review; and

(e) if the working group has not reported, when will it do so?

Mr BARNETT replied:

(a) 103.

(b) No.

(c) A decision on this will depend upon the nature of the Report.

(d) Not applicable.

(e) The working group is expected to report by the end of April.

WORKERS' COMPENSATION - CLAIMS AND ADMINISTRATION COSTS

3266. Mr KOBELKE to the Minister for Labour Relations:

For each of the financial years 1986-87 through to 1996-97, under the Workers' Compensation and Rehabilitation Act -

(a) what was the total number of employee claims;

(b) the number of employees able to claim under the Act;

(c) administration cost of the Directorate and the Compensation Magistrate's Court;

(d) number and total of payments for claims relating to injuries occurring on the way to or from work (journey claims);

(e) number and total of payments of claims for work related deaths; and

(f) total of all insurance premiums paid by employers for workers' compensation insurance?

Mr KIERATH replied:

(a) Figures are not available prior to 1988-1989 as the WorkCover WA database was only commenced mid-1988. Due to the reporting arrangements with insurers some claims for which less than one day or shift was lost from work were not included prior to the 1996-97 financial year.

1986-87	Not available
1987-88	Not available
1988-89	44 551
1989-90	49 267
1990-91	49 929
1991-92	52 453
1992-93	57 977
1993-94	56 812

1994-95	54 954
1995-96	59 498
1996-97	63 257

(b) This information is not retained in the system.

(c)

1993-94 $million	1994-95 $million	1995-96 $million	1996-97 $million
2.128*	2.729	2.377	2.690

* A transitional period which reflects the combined cost of the former Workers' Compensation Board and the Directorate.

(d) Data are not available prior to 1988-89 as the WorkCover WA database was only commenced mid 1988 or, for accidents occurring after 24 December 1993, when changes to the Workers' Compensation and Rehabilitation Act 1981 made these accidents non compensable. Due to the reporting arrangements with insurers some claims for which less than one day or shift was lost from work were not included over that period.

	Number of Claims	Cost of Claims $
1986-87	Not available	Not available
1987-88	Not available	Not available
1988-89	2 088	5 900 032
1989-90	2 802	7 932 945
1990-91	3 040	8 927 296
1991-92	2 969	9 487 018
1992-93	2 910	9 009 630
1993-94	1 493	4 760 616
1994-95	Not applicable	Not applicable
1995-96	Not applicable	Not applicable
1996-97	Not applicable	Not applicable

(e)

	Number of Fatalities	Cost of Fatalities accrued in each year $
1986-87	Not available	Not available
1987-88	Not available	Not available
1988-89	36	1 035 061
1989-90	27	1 501 441
1990-91	26	1 687 592
1991-92	22	1 339 027
1992-93	25	1 525 834
1993-94	18	939 218
1994-95	31	2 224 649
1995-96	18	804 548
1996-97	20	591 757

(f) The following breakdown represents insurance premiums paid by employers to approved insurers. Premium income received in the year shown does not reflect necessarily the premium earned in the year, ie it may include premium outstanding from the previous year or pre-paid for the following year. The premium figures are actual and take into account discounts and surcharges.

	Premium Income of Insurers ($Million)
1986-87	247.813
1987-88	280.125
1988-89	298.506
1989-90	297.525
1990-91	278.032
1991-92	258.734
1992-93	276.001
1993-94	323.500
1994-95	347.315
1995-96	346.531
1996-97	375.324

QUESTIONS WITHOUT NOTICE

PRIVATE PATIENT INCOME TO PUBLIC HOSPITALS

963. Dr GALLOP to the Minister for Health:

Perhaps I should be asking the question of Black Beard, given that I look like Long John Silver! I refer to the Minister's claim yesterday that private patient income to Western Australian public hospitals had fallen over the past eight to 10 years from approximately $140m a year to $11m, and I ask whether the Minister stands by this claim. If so, how does he reconcile his figure of $11m with the figure of $55.8m in 1997-98 provided to the Opposition by Treasury in December 1997?

Mr PRINCE replied:

If I made an error yesterday, I regret it. Members will appreciate that at the time I was speaking without notes and had not looked at those figures immediately prior to giving my answer. It was my recollection, and it still is, that the figure has dropped from $140m in 1984-85 to somewhere in the vicinity of $11m. I cannot reconcile that with the information the Leader of the Opposition has.

Dr Gallop: I will give you the Treasury information.

Mr PRINCE: I would be grateful for that. I do not want to mislead. No-one will doubt there has been a huge reduction in private patient income flowing into the public hospital system. It is possible that I was thinking in terms of the metropolitan hospitals, rather than the totality of the system. I will ensure the accurate figures are given to the Leader of the Opposition as soon as they can be found. If I have misled, I assure the House it was entirely unintentional.

MARTIN FAMILY JUDGMENT

964. Mr TUBBY to the Minister for Housing:

I draw the Minister's attention to the decision by Mr Justice Wallwork to award $20 000 to the Martin family from Homeswest.

(1) Does the Minister intend to appeal this decision?

(2) If he is still to receive advice on the matter, will the Minister inform the House when he receives the advice?

Dr HAMES replied:

I thank the member for some notice of this question.

(1)-(2) It is true that Homeswest and I were fairly surprised at the ruling that came down against Homeswest, in which Homeswest was found to have acted in a racist manner in the management of the Martin case. The judgment found that mostly there had been errors in law by the Equal Opportunity Commission. It found to the effect that Homeswest should have taken more notice of the fact that the reason for the significant overcrowding problem within the Martin house was that Homeswest had evicted other members of this family from other parts of the State for various reasons.

Homeswest should bear some responsibility for that. This judgment will make the management of Homeswest properties fairly difficult in the future if it means that whenever people who are evicted for not paying rent or creating disturbances in the neighbourhood go to another property with the result that Homeswest has problems at that property, Homeswest is responsible because of the original eviction. Homeswest is studying the issue closely.

We will have to consider very seriously appealing that decision. I believe this judgment will make the management of Homeswest properties exceptionally difficult. Nevertheless Homeswest has a responsibility to act in a fair and impartial manner. I am confident it does that to the best of its ability. In fact, Homeswest tends to bend over backwards to be impartial to people, not to treat them on the basis of race and to make sure every one is treated equally. We will look through the judgment to see whether Homeswest has taken actions that are racist. If that is the case, they will be changed. From the total concept of the ruling, we will have difficulty in managing Homeswest properties if it is left unchallenged.

In response to the last part of the question, any future developments will be brought back here to the attention of the House.

COMMONWEALTH'S SHARE OF HOSPITAL FUNDING

965. Dr GALLOP to the Minister for Health:

Yesterday the Minister told the House that the Commonwealth's share of hospital funding in Western Australia had gone up by practically nothing in the past 10 years, while the State's share had increased by 7 per cent. How does the Minister explain the fact that Western Australian Treasury figures, given to the Opposition last December, show that the Commonwealth's proportion of public hospital funding in Western Australia has increased by 8 per cent since 1989-90, while the proportion of the State of Western Australia has fallen by 6 per cent?

Mr PRINCE replied:

I have now checked some papers concerning both this question and the previous one which were not with me yesterday. Private patient fees in 1984-85 were $68m; that is, 11.8 per cent of the total cost. In 1997-98 they were $55m, which is 4.6 per cent of the total cost - I transposed the figure 11 in my mind. Between 1984-85 and 1997-98 the percentage of private patient fees dropped from 11.8 per cent, nearly 12 per cent, to 4.6 per cent. I am referring to the figures I have in front of me. Over the same period, from 1984-85 when Medicare started, the State's contribution as a percentage of the total cost has gone from 45.3 per cent - that is, $261m - in 1984-85 to $618m or 51.9 per cent, nearly 52 per cent, in 1997-98. In the same period of 1984-85 to 1997-98 the Commonwealth's contribution has gone from $247m, or 42.9 per cent of the total, to $518m, or 43.5 per cent. The Commonwealth's contribution over 12 years is now 0.6 of 1 per cent. The State's contribution has gone up 7 per cent in the same period. The increase in the State's contribution is almost exactly, but not quite, the same as the decrease in private patient fees which are directly related to the proportion of the population that is insured privately and that uses it.

We all know that private insurance for the cost of hospitalisation is, as the Premier described so succinctly, a "dud" as a product. A private health insurance patient using a public or private hospital will not be refunded the total cost of that hospitalisation from his insurance and Medicare combined; that is not necessarily the hospital fees but the other fees. He will be out of pocket; yet if he goes into a public hospital as a public patient he will receive the same medical care, albeit perhaps not the same hotel type services found in private hospitals, and will pay nothing directly.

Therein lies the fundamental problem with private health insurance. It is why it has gone down and continues to slide despite what the Federal Government has done. As a result, the State has had to increase its proportional share of hospital funding by about 7 per cent over 12 years. Commonwealth funding has increased 0.6 of 1 per cent in proportional terms.

The Leader of the Opposition asked me about the situation in 1992-93, the first year of the current Medicare agreement. Members may recall that in that first year under the new health care agreement, signed at the time by Labor Governments in Canberra, here and elsewhere, the Federal Government took $70m out of financial assistance grants - untied grants - and put it into tied grants for hospitals. Consequently, that year the State had no option but to take $70m out of its contribution to hospitals in order to plug a hole in its revenue that it could use at its discretion. That was done because the Federal Government contributed not one extra dollar to the State that year. It chose to move money from unallocated grants to tied grants. That is an aberration immediately obvious on a graph which indicates that no extra funding came from the Commonwealth in the sense of an across-the-board return of the taxpayers' dollars to Western Australians through the services the Government of this State must provide.

PERTH GLORY SOCCER TEAM

Harmony Strategy

966. Mr MARSHALL to the Minister for Multicultural and Ethnic Affairs:

(1) Has Western Australia's national soccer team, Perth Glory, been appointed to promote the State Government's living in harmony strategy?

(2) If so, how much has been paid to undertake this promotion?

(3) What is required to do it?

Mr BOARD replied:

I thank the Parliamentary Secretary for Sport and Recreation for some notice of this question.

Not many questions without notice about the multicultural and ethnic affairs portfolio are asked. One of the reasons is that the Opposition and the Government are of like mind regarding what we are trying to achieve for the community of Western Australia.

(1)-(3) We should all be very proud that Perth Glory has adopted a Government strategy in promoting harmony in Western Australia. Members of the team have done that not only formally by signing charters, but also by wearing patches on their stripes. I am very proud of that because those games are being beamed not only around Australia, but also to other parts of the world. It is the first national team of any code of sport to adopt a harmony strategy such as this.

I am also pleased to say that it will not cost the Government or the community any money. Perth Glory has adopted this program as a community commitment and in recognition of multiculturalism and its harmony within Western Australia. The Office of Multicultural Interests ran a very successful harmony day at the home game against the Brisbane Strikers with a grant of some $3 000 towards promotions on the day. The duration of the overall promotion will be free of charge to the Government.

Approximately 5 000 people living in harmony charters have gone out to most of the major companies in Western Australia. The Broken Hill Proprietary Co Ltd, McDonald's Family Restaurants and Coles Myer Properties Ltd will be displaying charters on their walls. Members on both sides of the Chamber should be very proud of what has been achieved in the community.

COLONOSCOPIES

Waiting Lists

967. Mr McGINTY to the Minister for Health:

I refer to the Minister's answer to a question this week in which he revealed an 11 month waiting list for people requiring a routine colonoscopy at Fremantle Hospital and the Minister's solution to this unacceptable delay to refer patients from Fremantle to Rockingham Hospital.

(1) Is the Minister aware that his funding constraints have reduced the number of colonoscopies performed at Rockingham Hospital this year by 30 per cent to a total of 216, and that the last colonoscopy for this financial year was performed two weeks ago?

(2) Given that no money is available to perform any colonoscopies at Rockingham Hospital, how will it help to refer patients from Fremantle to Rockingham?

Mr PRINCE replied:

(1)-(2) It will help when the money goes with the patient.

Mr McGinty: Will you take money out of Fremantle Hospital?

Mr PRINCE: No, that is part of the waiting list strategy whereby a central bureau collates the information as we speak. It then advises the patients where they can have their procedures with a much shorter wait than at present. The money goes with the patient to the location he chooses, after consultation with his doctor. That is a better use of the total system. Members opposite know as well as I do, that the system would operate much better if we had much more money in it. Together with all the other state and territory Ministers that is part of what we have been battling with the federal Treasury and the federal Health Minister over for the past year or more.

Our Premier, with all the other Premiers, is now going to Canberra to continue the battle of the States and Territories irrespective of whether they are Labor, Liberal or National. It must be addressed at the commonwealth level because it has 80 per cent of the taxes.

They are all the triggers with regard to private health cover as I have just discussed with the Leader of the Opposition. It is in the Commonwealth's hands to correct this matter; the States do not have the capacity to do it. As soon as those funds are injected into the system many of these matters will be cleared up. In the meantime, the system must work as efficiently and effectively as possible within its constraints.

I am ensuring the movement of resources through the Metropolitan Health Services Board around the total metropolitan area to meet people's needs. If that means moving money from one place to another, that will happen. However, it must be done with the patient's compliance and with the cooperation of general practitioners, who are the gate keepers.

CRIME IN NORTHAM

968. Mr TRENORDEN to the Minister for Police:

Can the Minister advise the House of progress by the Police Service in Northam in dealing with local crime and of any recent developments to deal with crime more effectively in the community?

Mr DAY replied:

I thank the member for some notice of this question.

Much comment has been made about the recent Delta program changes, most of which has been positive. It was pleasing to see the very positive and supportive editorial in this morning's *The West Australian*. On the other hand I was interested to see the comments of the Opposition spokesperson on police reported in yesterday's *The West Australian* to the effect that the only way to measure the success of Delta is by objective benchmarks such as crime rates. "Delta could not be classed a winner until they drop", she said.

The story in the Northam police district and subdistrict is a very good one. The Northam district is a benchmark of the success of the Delta change program whereby districts have been given responsibility for their own management and budgets to take effective action to lower crime and increase community satisfaction. The Northam station has achieved lower levels of burglary and theft. It has also decreased offences by 21.6 per cent overall.

Mrs Roberts interjected.

Mr DAY: The member for Midland obviously does not want to hear some good news. I suggest that if she listen for a moment she will hear some very good news. Community satisfaction with police in Northam is at almost 90 per cent. In the Northam district overall, which is a very large part of the wheatbelt, there has been a 12.5 per cent decrease in crimes across the board. Clearly there have been some outstanding successes. In addition, crime rates have also decreased across the State in areas such as motor vehicle theft - to answer the comment made by the member for Midland - homicide, sexual penetration and indecent assault. The community satisfaction rating of our police is the second highest in Australia.

Mrs Roberts interjected.

The SPEAKER: Order! Member for Midland.

Mr DAY: The story about car theft in Western Australia is that it is coming down rather than going up, which is a very good thing. The member for Midland should recognise that fact and start getting behind the police, who are working very hard to bring this about.

There has been a very significant development today under the ongoing Delta program with the announcement by the Police Service of the investigative practices review. This has been the first major review of investigative practices within the Police Service for 20 years.

Mrs Roberts interjected.

The SPEAKER: Order! Member for Midland.

Mr DAY: This will result in a number of things, such as the deployment of investigators in local areas; they will be moved from a central concentration into the suburban areas and other parts of the State where they will be most effective. It will provide for increased investigative training, increased accountability and quality of investigations, improved coordination of investigative efforts and improved collection, collation and presentation of evidence in court cases - in other words improved quality of prepared briefs. The Police Service recognises that the Delta reform process is ongoing. The editorial in *The West Australian* states that "critics should give the system a go before leaping to judgment".

Rather than making continuing derogatory attacks on the Police Service, I suggest that the member for Midland and the Opposition generally get behind the Police Service and its hard working officers and what they are seeking to achieve. We must recognise that a lot of good is being achieved in reducing crime and dealing with crime in Western Australia.

WORKERS' COMPENSATION

Claim Payments

969. Mr KOBELKE to the Minister for Labour Relations:

I would like to provide the Minister with a copy of a question and an answer he gave to me this week.

(1) Was the Minister telling the truth when he refused to answer my question on notice 3066 by claiming that "the information requested is not readily available and would require considerable research by the Actuary of the Premium Rates Committee, to extract and compile. I am therefore not prepared to commit such resources for this purpose"?

(2) Is it not true that the figures I requested, which related to workers' compensation payments, are available but, to save himself embarrassment, the Minister made up a false answer as an excuse not to provide this information?

Mr KIERATH replied:

(1)-(2) This is really very simple. The member's question asked for information from 1986-87 on a whole lot of categories in paragraphs (a) to (j) with a whole range of issues for each year. For some of those years the figures are not available. I sought advice from the Workers' Compensation and Rehabilitation Commission or WorkCover. That was the answer given. I stand by it and put my name to it. The advice I received was that the information would require considerable research by the Actuary of the Premium Rates Committee. It is not prepared to do research work for the Opposition, but if the member has a question about a particular area of concern, it would be more than happy to have someone go into those areas. However, it is not prepared to go on a long, extensive fishing expedition.

The SPEAKER: Before I give the member for Nollamara the call for a supplementary question, I remind members that they cannot impugn improper motives even by a question.

WORKERS' COMPENSATION

Claim Payments

970. Mr KOBELKE to the Minister for Labour Relations:

Will the Minister try to explain how the answers to all those questions I asked were presented in full detail in tabled paper 1202 last week?

Mr KIERATH replied:

I will have the matter investigated.

LABOR INDUSTRIAL RELATIONS REFORMS

971. Mrs HODSON-THOMAS to the Minister for Labour Relations:

Recently the Leader of the Opposition expressed the opinion that Labor Governments in Australia introduced industrial relations reforms similar to those introduced by Margaret Thatcher in Great Britain. Will the Minister inform the House of some of the British reforms to which the Labor Party is laying claim?

Mr KIERATH replied:

Members can imagine my surprise when the Leader of the Opposition was on radio at the end of January.

Dr Gallop interjected.

Mr KIERATH: I have a transcript of what the Leader of the Opposition said on radio. I will give him the exact date. The interview was with Liam Bartlett of 6PR at 4.35 pm on 30 January of this year. In response to a caller by the name of John, the Leader of the Opposition said that his long time friend Tony Blair was giving the Tory Party of the UK bouquets on the industrial relations policies. Basically their IR reforms are very similar to the ones here. He said that the reforms had laid the foundations for the resurgence of Britain's economy, especially in international markets. Industries that were dying are now growing again in the UK. The difference between the Labor Party here and the Labour Party in the UK is that the UK Labour Party is pragmatic and realistic. The Leader of the Labor Party in Western Australia should give bouquets to Margaret Thatcher and her reforms and say that they were the basis of the resurgence of Britain's economy.

Mrs Roberts interjected.

The SPEAKER: Order! The member for Midland.

Mr KIERATH: The Leader of the Opposition's difficulty is that if he maintained the same IR line here, he would be in conflict with his good friend. If he is seen to be supporting those reforms, he will be at loggerheads with his own party. Therefore, he was caught between a rock and a hard place. He went on to lay claim - this is the staggering part about this - that Labor had introduced some of those reforms in this country. He laid claim to credit for enterprise bargaining. Enterprise bargaining was stolen from the federal coalition at a federal election. The federal Labor Party won that election on a fear campaign against enterprise bargaining and then, in its very first term of government, introduced it. That was fascinating in itself. There were three main areas: First, the 1980 Employment

Act which reversed the onus of proof on unfair dismissals in the UK - this coalition has done that in this country; second, the 1982 Employment Act, which removed the unions' legal immunity from court action - again a federal coalition Government reversed that; third, the 1984 Trade Union Act stipulated secret ballots before strike action. I have no need to remind members that it was not Labor but the coalition Government that introduced secret ballots for the first time.

Dr Gallop: I will be giving a speech tonight. Do you want me to send it to you first so that you can ask questions on it?

Mr KIERATH: I am prepared to accept that. The Leader of the Opposition has been caught out once again.

INDUSTRIAL COMMERCIAL EMPLOYEES HOUSING AUTHORITY

Missing Files

972. Ms MacTIERNAN to the Minister for Housing:

On 11 February 1998 the Industrial Commercial Employees Housing Authority advised me that it could not meet my freedom of information application because the property sales files on the controversial Karratha land transactions had gone missing.

(1) Is it true that the files went missing after the Opposition started questioning the Minister over the matter?

(2) If not, when precisely were they found to be missing?

(3) Have any other files pertaining to the ICEHA land sales through residential equities also gone missing?

(4) What action has been taken by the Minister to determine how these files went missing?

Dr HAMES replied:

I thank the member for some notice of this question.

(1)-(4) It is true that the files went missing after the Opposition started asking questions on this matter. The Opposition started asking questions about 1995. The files actually went missing in late November or early December 1997. Another file is missing as well. We have undertaken a thorough search within Homeswest and ICEHA to try to find the files, unfortunately without success.

HOMESWEST

Missing Files

973. Ms MacTIERNAN to the Minister for Housing:

Has the Minister considered following the example of the Minister for Transport of calling in a private investigator to determine the location of those files?

Dr HAMES replied:

No I have not.

AUSTRALIND SENIOR HIGH SCHOOL

Parking Problem

974. Mr BARRON-SULLIVAN to the Minister for Education:

I refer the Minister's attention to the serious parking problem experienced at Australind Senior High School.

(1) Can the Minister advise the House what steps are being taken to resolve this matter?

(2) What is the anticipated schedule for the necessary planning and the final construction works?

Mr BARNETT replied:

(1)-(2) The member for Mitchell is a very good local member. He has been extremely active at the Australind Senior High School in addressing those parking problems. The Education Department has negotiated the purchase of an area of land of some 4 700 square metres. The contract of sale is yet to be concluded. Through the Department of Contract and Management Services, a consultant is being appointed, and will negotiate with the local shire, and work on the design and construction. All going well, the new parking facility should be in place before the end of the year.

INDUSTRIAL AND COMMERCIAL EMPLOYEES HOUSING AUTHORITY

Commission on Sale of Properties

975. Ms MacTIERNAN to the Minister for Housing:

In November last year the Minister said that he obtained legal advice on 23 May 1996 on the irregularities in ICEHA's selling arrangements and that attempts had been made to recover the commission of $128 000 improperly paid to the unlicensed real estate agency Residential Equities. Can the Minister now tell us what attempts were made and whether they met with any success?

Dr HAMES replied:

Given that the answer was provided in May last year -

Ms MacTiernan: The answer was provided in November last year. In November the Minister said that he had received legal advice on the matter in May 1996. He said that he had taken action. Tell us what that action was!

Dr HAMES: My point is that, given that it was last year - unfortunately I did not receive notice of the current question - I do not recall the exact details of my earlier response. I do not recall saying that we were seeking to recoup that funding. However, I will check the answer I gave earlier.

I have already answered a question on this matter earlier this week. I said that the matters were being dealt with by the appropriate authorities in the appropriate manner. The member should wait until the results of those procedures have been completed before she continues further investigation about what has happened, because some of those questions may well be answered in that process as it occurs.

JET SKIS

976. Mr MASTERS to the Minister representing the Minister for Transport:

The use of jet skis on Geographe Bay has created strong community concerns about environmental and aesthetic impacts. Can the Minister please advise -

(1) Are there any limits on the noise levels that can be emitted by jet skis?

(2) Are there penalties for the removal or other interference with the muffler systems of jet skis?

(3) If yes, how many offenders have been prosecuted in the past two years for noise related offences?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

(1) The marine safety regulations currently require that all vessels are fitted with an efficient muffler. However, there is no provision in the WA Marine Act to prescribe maximum noise limits for any type of vessel.

Transport marine officers address vessel noise complaints by application of a regulation prohibiting vessels from travelling in such a manner as to cause nuisance to any person. Offending vessels are normally directed to move on and drivers can be prosecuted to a maximum penalty of $2 000 for failure to comply.

Transport is currently negotiating with the Environmental Protection Authority on the feasibility of empowering transport marine officers to enforce Environmental Protection Authority boat noise standards on the water.

(2) There is currently a maximum penalty of $500 for failure to have a muffler fitted, although there is no penalty for interfering with muffler systems. Transport will be introducing regulations to rectify this situation in the context of the maritime Bill which is expected to be submitted to Parliament shortly.

(3) No vessel has been discovered to be operating without a muffler during the past two years.

HAMERSLEY IRON PTY LTD

Retrenchments

977. Mr RIEBELING to the Minister for Resources Development:

I refer to the fact that the London based company RTZ announced a record profit of more than $0.5 billion recently for its Pilbara subsidiary, Hamersley Iron Pty Ltd.

(1) Is the Minister aware that within one week of the announcement the same company sacked or retrenched 200 workers?

(2) Does the Minister support the company's actions against its workers?

(3) What action, if any, has the Government taken to protect Western Australian workers from this greed?

Mr BARNETT replied:

(1) I am aware of the reports. It is true that Hamersley Iron, a subsidiary of Rio Tinto, has operated very profitably. It has increased its tonnages quite significantly. I am not aware of the detail of the reduction in staff. However, I accept the member's figure of 200.

(2) Obviously no Government likes to see companies, particularly successful companies, reduce their work force. However, that is a constant state in the mining industry. There are constant changes in manning levels. We see a decline in some mining operations and expansions in others. Overall, the mining industry in this State is progressing very strongly.

(3) Although I always regret to see any employee lose employment, the overall effect in the Pilbara will be strong employment. We have seen a delay in some projects when there has been a sense of anticipation, and people feel frustrated. Karratha has strong anticipation of the development that may take place. Employment prospects within the resources industry are good, but by its nature, the industry involves the dislocation of employees. The Government does not propose to take any action. We maintain an ongoing dialogue with major employers in the industry, but we do not interfere directly in employment practices.
