Legislative Council

Tuesday, the 21st April, 1970

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (5): ON NOTICE

1. BOARDS AND TRUSTS

Details of Personnel

The Hon. F. J. S. WISE, to the Minister for Mines:

Will the Minister submit to the House in printed form for the purpose of laying on the Table an up-to-date list of the personnel of all Commissions, Trusts and Boards operating under State Statutes, together with the remuneration paid to each person along the lines of the information supplied in September, 1967?

The Hon. A. F. GRIFFITH replied:

The information is Tabled herewith (see Paper No. 312).

The answer was tabled.

2. FERTILISERS

Stock Feed Supplement

The Hon. N. McNEILL, to the Minister for Mines:

(1) Can he advise whether there is a shortage of the element Cobalt for use as a stock feed supplement in Western Australia?

(2) If there is a shortage—

(a) to what can this be attributed;

(b) is such a shortage contributing to the already critical conditions in the livestock industry?

(3) Is it correct that there has been a very significant increase in the price of—

(a) Cobalt stock lick supplement;

(b) mixed fertiliser containing Cobalt?

(4) To what extent is such a price increase due to—

(a) price increase of the fertiliser content;

(b) Cobalt content;

(c) increased charge for mixing such fertilisers?

(5) If price increases have occurred as referred to in (3) and (4) above, what investigations have taken place to determine whether such increases are fully justified?

(6) What is the source of the Cobalt used as stock feed supplement?

The Hon. A. F. GRIFFITH replied:

(1) There is no present shortage.

(2) (a) and (b) Early in 1970, when demand was not high, there was a temporary limitation of supply due to a prolonged strike at the mine in Canada from which most world supplies of cobalt are drawn. Alternative sources of supply have subsequently been drawn on to replenish stocks.

(3) to (5) Despite some extra cost of cobalt from the alternative sources, which are now providing the supply, there has been no significant increase in prices to farmers of stock lick supplements or fertilisers containing cobalt. The price of stock supplements has not increased. The price of superphosphate plus cobalt has risen 55 cents per ton.

(6) Mostly cobalt sulphate from Canadian ore; cobalt carbonate has been used as an alternative.

3. MILK BOARD

Deliveries to Noalimba Migrant Centre

The Hon. CLIVE GRIFFITHS, to the Minister for Mines:

(1) Has the Milk Board notified the State Tender Board that it is illegal for milk to be delivered into a district by a vendor other than one licensed for that particular district.

(2) If so—

(a) why is the Tender Board continuing to grant contracts to vendors who are not so licensed;

(b) when was such notification made?

(3) If no such notification has been made would the Minister instruct the Milk Board to do so in order that the State Tender Board does not continue to contribute toward this apparent malpractice?

The Hon. A. F. GRIFFITH replied:

(1) No; over a period representatives of the Milk Board and the State Tender Board have conferred. The tender forms for milk state that "Tenders from licensed vendors only will be considered".

(2) (a) Sunny West Co-operative Dairies Ltd. claim to be lawfully supplying milk to Noalimba Hostel.

(b) Answered by (1).

(3) Legislation is being considered.

4. DROUGHT RELIEF

Farmers' Transport Costs

The Hon. F. R. White (for The Hon. E. C. House), to the Minister for Mines:

(1) As the Government disallowed a request by farming organisations to pay outward transport costs for sheep to agistment through Drought Relief, is the Minister aware that the Government proposal is for return payment on rail freight scale only and that—

(a) rail freight averages 42c a mile; and

(b) road transport averages 65c a mile?

(2) As road transport is the universal method used for the cartage of stock in Western Australia and because such a large portion of the State has no rail service, would the Government be prepared to recognise road transport and pay a greater proportion of the difference?

The Hon. A. F. GRIFFITH replied:

(1) Yes.

(2) The Government has agreed to payment of 25 cents per mile per 100 sheep for return from agistment by road transport. This is equivalent to at least 50 cents per mile for semi-trailer transport and compares favourably with allowances in other States where the maximum level of assistance was equivalent to 50 cents per mile with the first 40 miles being paid by the farmer.

5. *This question was postponed.*

WORKERS' COMPENSATION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th April.

THE HON. R. H. C. STUBBS (South-East) [4.40 p.m.]: The amendments to the Workers' Compensation Act in the Bill before the House are the result of the adoption by the Minister concerned of certain recommendations of the committee appointed by the Minister for Labour in another place. I understand the committee was appointed approximately 18 months ago. The aims of the inquiry were to make recommendations on—

(a) the rates of weekly payments, other specific monetary payments and allowances and the maximum total liability therefor, with particular regard to the relationships of these payments with those pertaining in other States of Australia; and

(b) the introduction of new provisions or the amendment of present general provisions of the Act thought necessary to provide reasonably adequate and just compensation to injured workers in this State.

The committee duly met under the chairmanship of Mr. Mews, Chairman of the Workers' Compensation Board. Other members of the committee were Mr. Hogg, General Manager of the State Government Insurance Office; Mr. Trigg, Manager of the Chamber of Manufactures Insurance Company Limited who represented the Fire and Accident Underwriters Association of Western Australia; Mr. N. Hearn, President of the Western Australian Employers Federation; Mr. G. J. Martin, Assistant Director of the Western Australian Employers Federation; Mr. K. Summers, Officer-in-Charge, Trades and Labour Council, Western Australia, Compensation Department; and Mr. Clohessy, nominee of the Trades and Labour Council of Western Australia.

The committee had 11 meetings and considered 93 items. Of these items, the Trades and Labour Council submitted 44, of which 21 were accepted, 19 rejected, and four withdrawn. The State Government Insurance Office submitted four, of which three were accepted and one was rejected. Dr. McNulty submitted three, of which one was accepted and two were rejected. The Chairman of the Workers' Compensation Board submitted 18 of which 16 were accepted, one was rejected, and one was withdrawn. The Law Society of Western Australia submitted 24, of which seven were accepted and 17 were rejected.

Let me say that the Opposition appreciates the work of the committee and is grateful for the amendments which have been offered; they are certainly welcome. Members of the Opposition, of course, are sad at not receiving all that we hoped we might achieve. Of the many items which we hoped would be included in the amendments, one concerned the recognition of a *de facto* wife so far as the payment of compensation is concerned. Another item concerned the earnings of a spouse being disregarded for purposes of dependency. Other items, too, were rejected. There are very many women in the work force nowadays, including working wives, and the Opposition considers that their case should be treated on its merits. After all, the insurance premium is paid for the worker. If there is an accident, I do not think the question of dependency comes into it. We hope there will be a change of heart in future and working wives will obtain compensation.

The rejection of item 10 troubles me considerably. Compensation will not be paid on the death, or serious and permanent disablement, of a worker whose accident is attributed to serious and wilful misconduct. It is horrifying to think that

a widow and children will be without compensation on the death of a husband whose accident is held to be caused through wilful misconduct. At the time when they will need an income, they will be deprived of it. I really cannot understand why a provision like this has been omitted from our legislation when it has been adopted by every other State in Australia, by the Commonwealth, and by England in so far as it has been included in the English Act since, I think, 1920. I am not sure of the exact date but I shall refer to it later when I shall mention the exact year.

Item 20 was also rejected. This item concerns industrial deafness and I shall refer to this matter, too, a little later on. One item which has been adopted is the rehabilitation of an injured worker. Members of the Opposition are very happy about this provision and we consider it is a great break-through. It is most desirable that every effort should be made to rehabilitate a worker so that he may enjoy a useful occupation.

We are pleased to see that the disease known as mesothelioma will be included in the schedule of compensable diseases. It is caused through the inhalation of asbestos dust from blue asbestos which is geologically known as crocidolite. It causes a blocking of the bronchial tubes and cases of cancer have been known to follow.

So far as pneumoconiosis is concerned, I am more than a little worried because of my own personal experience. Only a couple of years ago I endeavoured to obtain compensation for a person suffering from pneumoconiosis. I found that the records of the mine where he had been employed were destroyed and I had great difficulty in proving that he had actually been employed by the mine. To prove membership I had to go to the laboratory and also to the A.W.U. I personally made a statutory declaration, because I had worked on the same mine as the man concerned. In fact, I was on the shift when he bored into fracteur and was blown up. I was able to cope with the situation at that time, but it worries me to think how difficult it would be when records are destroyed.

I also feel concern about item 43 which deals with the limit of recognition of an industrial disease, other than pneumoconiosis, being reduced from three years to one year. Many diseases can come to light long after that period and I consider the person who requires compensation will be disadvantaged.

I should like to come back now to the fact that industrial deafness is not compensable. Only last week an officer of the Public Health Department appeared on television and said that industrial deafness was not recognised so far as compensation is concerned. I will not quote him, because I cannot actually remember his words, although his general meaning was clear, I think; namely, it is time it is recognised. It is well known that 85 decibels in excess of tolerable noise can cause deafness. Also, it is recognised that noise is harmful to workers, and can cause errors and accidents through the judgment of the worker being affected as a result of his attention wandering. Nearly all the residents of mining towns are stone deaf if they have worked on machines for many years. It is difficult to have a conversation with them, and this has been caused through industrial deafness.

Of course, industrial deafness occurs in many other industries, too. Even the farmer is affected. Many farmers and their employees are quite deaf because of the transmission and engine noise of tractors. This state of affairs will continue until something is done about it. Personally, I think it will continue until industrial deafness is recognised as a compensable disease. Until this time, employers will not worry unduly whether their employees are becoming deaf.

On the occasion of my maiden speech in 1962 I drew the attention of the House to industrial deafness. My remarks are to be found in *Hansard* on pages 419, 421, and 422. I have been doing this ever since. In 1963 my remarks will be found on pages 508 and 578. I am unhappy to say that I cannot find a record of remarks on this subject in 1964. I was certainly remiss that year. In 1965, my remarks are to be found on pages 432, 1024, and 1426. In that year I moved a motion in the House concerning industrial deafness. In 1966, my remarks are to be found on pages 103 and 762. In 1967 they are to be found on pages 152, 266, 267, 320, and 1691. Again last year, in the last part of the session, they are to be found on pages 1062, 1164, and 1166.

I forecast that whilst I am in this Chamber I will bring this matter forward year after year in the hope that the Government will have a change of heart and make industrial deafness compensable. The Government has had a change of heart regarding the dependants of workers who live outside the State or outside the Commonwealth. I also drew the attention of the House to that point in my maiden speech. The part of the Bill which worries me very much is the conduct clause. Perhaps I should quote the Workers' Compensation Act of South Australia. It is Act No. 32, and section 5 reads—

> No compensation shall be payable in respect of any injury if the injury is consequent on or attributable to the serious and wilful misconduct of the workman unless the injury results in the death or permanent total incapacity of the workman.

That is the vital point. It means that if the worker is found to be guilty of misconduct in his work, his widow and children are not deprived of workers' compensation at the time when they need it most. However our Act is different; section 7 (2) (c) provides—

> if it is proved that the injury to a worker is attributable to the serious and wilful misconduct of that worker, any compensation claimed in respect of that injury shall be disallowed;

I think that is a frightful situation. As I said before it is at the time of the death of, or serious injury to, the worker that his dependants need compensation. They want to be tided over until better times, but under our Act they are deprived of compensation. A widow who is left with several children has no workers' compensation benefits.

This provision is included on page 5 of the South Australian Act; it is to be found at page 58 of the Victorian Act; in the New South Wales Act, section 77 at page 19; it is found at page 6, section 92 of the Commonwealth Act; and it is included in the Tasmanian Act and the Northern Territory legislation. Also, this provision has been in the English Act since 1920.

This matter was brought up in a case as recently as yesterday, and the Workers' Compensation Board finding was given. As a result, the finding is public property and I can quote it. This case—I will not read it all—concerns a person who travelled to Geraldton to sell Land Rovers. He went out shooting with some people—although he had never owned a gun in his life and was not interested in shooting—ostensibly to sell a Land Rover, and the evidence indicates that he discussed with the party the product he was selling. After they returned and divided the ducks between them they had a few drinks and during the conversation he continued to talk to these people in an effort to sell them a Land Rover. On his way back to Geraldton his vehicle turned over and he was killed.

At the Workers' Compensation Board yesterday it was admitted that this man was virtually working at the time because he was endeavouring to sell this type of vehicle. However, under our Act he was guilty of misconduct because he drank a certain amount of alcohol during the time he was with the shooting party. The last part of the finding is significant, and it says—

> Fitz Gibbon L. J. stated in McCaffrey -v- Great Northern Rail Co. (1902 L.T. 27) "I cannot give to this word 'attributable' the narrow meaning of the *causa causans* of the accident; it means that the injuries suffered by a man would never have been sustained but for his own serious and wilful misconduct." This is not so in some other States where the relevant provisions have the word 'solely' before 'attributable.' I think it permissible to mention that in most other jurisdictions this defence has been taken away in the case of death,—

And death occurred in the case I am quoting. To continue—

> —and it is probably time that such a step was considered in this State.

Those are the words of the Chairman of the Workers' Compensation Board; that is, it is probably time that such a step was considered in this State. The chairman went on to say that the application failed.

I think it is a sad state of affairs when a widow and children are deprived of compensation. After all, not very many cases of this nature would occur in Western Australia. I would not know the number; but this is the first case I have heard of. My research led me to discover that this case would come up yesterday; after the decision was given it became public property and so I am able to quote it. Mr. President, I foreshadow amendments to the Bill, and I will speak to them in Committee.

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [4.56 p.m.]: I thank members for their contributions to the debate on this Bill. A number of matters have been raised by members, and I might refer to a point raised by both Mr. Ron Thompson and Mr. Stubbs. Those members both mentioned the committee which was set up and listed its terms of reference. In effect, the Bill before us today is the result of an agreement between the various interested people mentioned by those members.

Both Mr. Stubbs and Mr. Thompson quoted the suggestions put forward by different people, the number accepted, and the number rejected. I do not know why certain suggestions were accepted and others rejected; I was not at the meetings. However it could be, of course, that some of them were rejected because almost the same suggestion was put up by somebody else and the other person's suggestion was accepted.

Overall, I am pleased to see that the members who spoke to this Bill agreed that the committee did a good job. I understand that it is not quite true to say that the legislation in this State now is well below the standard of most of the other States, as suggested by Mr. Ron Thompson. I have checked with those people who study these things most carefully, and they assure me that this is not so and that our legislation is very much in line with that of other States. It is better in some regards, and perhaps not quite as good in others.

Also, I do not believe it is true—as Mr. Thompson said, or used words to this effect—that the workers' compensation legislation in this State has always been very bad legislation. I remember when I first became a member here, I was told by a number of members representing different parties of the pride they had in this type of legislation in Western Australia being in the forefront and the fact that the original legislation was almost written in this Chamber. I was not here at that time, either.

The Hon. F. J. S. Wise: I believe it was originally introduced by a private member.

The Hon. G. C. MacKINNON: I believe the legislation was virtually framed in this Chamber.

The Hon. F. J. S. Wise: That is not quite right.

The Hon. G. C. MacKINNON: That is what those members told me.

The Hon. L. A. Logan: The Bill spent about 12 hours or more in Committee.

The Hon. G. C. MacKINNON: At that time the legislation was regarded as being quite a model of its type. The matter of *de facto* wives has been mentioned and the reason they have not been included is that the provision involves some very serious difficulties indeed. This point has been examined most carefully and the committee was unable to agree on it. Indeed, I am informed that this also applied to the suggested amendment in regard to culpable negligence of the like suggested by Mr. Stubbs.

Those of us who have worked in factories and in industry generally, appreciate the situations in which wilful misconduct can lead to difficulties not only in regard to the worker himself but also in respect of other workers; it could place them in jeopardy. I daresay that, in the extreme, wilful misconduct could include even suicide. There are difficulties inherent in this matter. We all obviously have sympathy for the problems envisaged and outlined by Mr. Stubbs, but this aspect also was not agreed to by the committee of inquiry that examined this legislation. As Mr. Stubbs has said, perhaps in the fullness of time a number of things might change, as they have done over the years.

Mr. Ron Thompson made reference to a sum of $12,000,000 profit over a period of five years. I made inquiries about this matter and I was told there is no way of determining what the figure of profit and loss in this particular field might be. Suffice it to say that the premiums committee—which, as members know, is headed by the Auditor-General—considers these matters of premiums and possible profit very closely. These are determined by the Auditor-General as chairman and by the other members of the board, three of whom represent the insurance companies.

Mr. Ron Thompson also referred to the number of companies involved. This is appreciated but it is felt that companies who wish to be engaged in this aspect should not be limited at this stage. I repeat that my investigations and the information I have been given on the very latest summaries of Eastern States legislation indicate that Western Australia is not behind the other States.

On a proper analysis and by comparison we are slightly ahead in many aspects though, depending on the point of view. I daresay there are a few matters where it can be said we are somewhat behind the other States. Mr. Stubbs seemed to give the impression that he was both glad and sad at the legislation. He was glad because there was some improvement and sad because certain things were not being done. I daresay this would apply in the case of any compensatory procedures which might be established in an Act such as this which deals with insurance. I believe that those who have spoken on the procedure followed—that is, by all the bodies concerned getting together and working out a compromise which represents the views of those involved—will feel that this is a very good way of handling the situation.

In this manner we achieve a good measure of balance. This is perhaps more so today when it is likely that the sons of the T.L.C. representatives might quite possibly be studying at the University as doctors and engineers while the sons of the industrialists might just as easily be studying at the Institute of Technology learning to be tradesmen.

We see this about us all the time. While the rigid class distinction of days gone by has died very hard, it is certainly past the time when it should have died. We know that most of the people on these committees are looking not only to their own interests but also to the interests of those they represent and, as is only natural and human, they also look to the interests of their families.

The situation I described a minute ago is not only possible but very often it does exist. I thank members for their comments and commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. G. C. MacKinnon (Minister for Health) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Amendment to section 7—

The Hon. R. H. C. STUBBS: I move an amendment—

> Page 4, line 16—Delete the passage "Subsection (3) of section" and substitute the word, "Section".

I again ask the Committee to give this matter serious consideration. We would have hearts of stone if we let the provision in the Bill go through as it is. We are dealing with people; with the wives and children of a deceased worker who might have committed wilful misconduct. My proposal, which is outlined in the next amendment, is contained in other Australian Acts and in the English Act and the Committee should, on the ground of compassion alone, accept the amendment.

The Hon. G. C. MacKINNON: I do not think there is any more or less compassion associated with one provision in this Bill than there is with any other. When we talk about injury, death, or the loss of earning power to a worker and all that it means to his family and his hopes and aspirations, then of course the matter is one for very real compassion indeed.

At the same time this is a matter of agreement, of business, of insurance, and that is the situation under the Workers' Compensation Act. This has been thrashed out with quite a deal of give and take on both sides. Certain aspects have been agreed to with the possibility of securing premiums within a reasonable level. Other aspects have also been considered by the responsible men who dealt with the problem, and these are the amendments they suggested.

I am no less compassionate in this matter than is Mr. Stubbs, but the facts are as I have stated them, and I hope that Mr. Stubbs and the Committee will be prepared to leave the Bill as agreed to unanimously by the gentlemen who investigated this matter so thoroughly. Let us give it a try. In the fullness of time other amendments might be considered necessary and these, of course, will be made if they are found to be improvements.

The Hon. F. R. H. LAVERY: I support Mr. Stubbs in his amendment. I have been in this Chamber for 18 sessions of Parliament and it has always been instructive to hear the Minister in charge of the Bill speak about the history of the legislation. Strangely enough, the history of this Act started with a Liberal member in this Parliament. I refer, of course, to Dr. Saw, who had witnessed so much poverty in industry that he prevailed upon the people concerned to bring down compensation legislation.

I have also been here long enough to know that there have been numbers of Bills before this Chamber dealing with the controversial to-and-from clause. Eventually this was accepted. A person who brings about his own death in an accident as a result of having consumed too much liquor is in quite another category so far as insurance is concerned. If a man is involved in a smash and loses his license because he has consumed too much liquor, one would not ask the insurance company to pay that type of compensation.

But in the case of the man's dependants —his wife and children—who might not even know he has been involved in an accident as a result of drink, the matter is quite different. Why should they suffer?

On one occasion while I was waiting at the Commonwealth Oil Refineries—now BP—for the gates to open at 6.45 a.m. I saw a man fall 166 feet from a silo at North Fremantle. He was wheeling a barrow of concrete almost at the top of the building. The outside plank happened to be weaker than the others and the handle of the barrow caught his leg and threw him over the rope. He fell 166 feet and his boot was found 120 feet away. It fell off while he was falling. The evidence given was that he had brought about his own death because he was wearing incorrect footwear. Because of the evidence that I and the others who were watching were able to produce, Mr. Tom Fox was eventually able to secure compensation for the man's widow and four children.

I understand the position in which the Minister finds himself and I also understand that these things have been discussed and that there has been a good deal of give and take, but seeing that the to-and-from clause was eventually accepted there is no reason why we should not support this amendment.

The Hon. G. C. MacKINNON: I think it is accepted by everybody that there is a necessity to abide by the law. Once we move outside the law—whether it be a law written into the Statutes or one relating to the ordinary acceptance of reasonable behaviour—we lose certain of the protections which the law provides, and it seems unreasonable to me that the person who drinks too much, and on top of that speeds, or does something similar, and who breaks both the written and the accepted laws of behaviour, should be given the protection of other laws.

The Hon. F. R. H. Lavery: Only his dependants.

The Hon. G. C. MacKINNON: Let me give an extreme case of a fellow who is walking down the street beating people up and who happens to strike someone who beats him up. Surely a fellow like that does not deserve the protection of our laws! It would seem to me that the same thing would apply in a factory when a man stepped outside the direct rules and regulations of that factory and put both himself and his fellow workers at some risk. There are those who take guards off machines. I know it happens because I did it myself when I was young and silly. Perhaps some members will say I am now old and silly.

The Hon. W. F. Willesee: You are a most discerning Minister.

The Hon. G. C. MacKINNON: There is a need to encourage safety in industry and what has been done in this regard

in recent years has been tremendous. I think at one time it was generally accepted that for every $1,000,000-worth of construction one man would lose his life. I understand that used to be the formula in America, but it is certainly not the position today.

I think there is a need to keep some laws in this regard. Members opposite would argue immediately that the provision in our Act is a punishment for those who are left behind. But surely this is the position when anyone steps outside the norm of behaviour. Whenever a breadwinner acts in the way members have instanced he puts his wife and children at some risk in regard to a penalty. Probably many people do not think of this when they speed—they put their families at some risk. In this regard I think the borders should be laid down strictly. I ask members to vote against the amendment.

The Hon. R. THOMPSON: I support the amendment. As the other States and the Commonwealth have agreed to what Mr. Stubbs proposes I think it is hardly fair that we should be out of line. The other evening I instanced the case of a policeman who, admittedly—and this came out in evidence—had stopped at a hotel and had had several drinks. Later that evening he turned his car over and was killed. But is it fair and reasonable that his wife and children should be deprived of some security? This sort of accident could have happened to anybody. There are many cases where people who have not been drunk have turned their cars over. I think it is only fair that in a case such as the one I referred to compensation should be payable to the widow and children of the worker involved.

I used to work in an industry which was governed by the maritime Act. The provisions of that Act were quite stringent yet frequently we were directed to do work which was contrary to the Act. Under the threat of the sack we were told that we had to do certain things. We were informed that under the laws of our engagement we could be sacked if we did not do what the foreman instructed us to do. Yet if we did not comply with the safety regulations provided for under the maritime Act we could find ourselves in the position where we were doing something which could be classified as contributory negligence and, as a result, could have been deprived of workers' compensation—in that industry the workers come under the Western Australian Workers' Compensation Act.

In those cases the workers are directed to do things which could be construed as wilful negligence and, in my view, it is not right that the dependants should be deprived of their just dues. There have been only a few cases where compensation has been refused and probably there have been numerous cases where compensation has been paid. However, it seems to me that it should be paid in the cases to which we have been referring.

When concluding the debate the Minister said that our Act was not behind the Acts of other States, and that at one stage we were in front. We were in front in 1924 when the late Alex McCallum had the Workers' Compensation Act overhauled and brought up to a standard which was a little ahead of that applying in the other States. That was the first time we had taken the lead but, since then, our provisions have deteriorated until about five years ago when our Act was definitely the worst in Australia; and it is still certainly not the best.

The Hon. G. C. MacKinnon: I am sure it is as good as any other.

The Hon. R. THOMPSON: It is not.

The Hon. G. C. MacKinnon: That is a matter of opinion.

The Hon. R. THOMPSON: I will give the Minister a conspectus of workers' compensation in Australia and I know he will take the time to read it. When he does so he will find that our Act is nowhere near as good as the other Acts in operation in Australia.

I support the amendment because it does not give any benefit to the person who contributes to his own death or injury but gives the benefit to the people who are entitled to it. After all, the premiums have been paid and the insurance companies concerned have made their 30 per cent. gross profit on those premiums. All we do if we do not accept the amendment is to put more money into the pockets of the insurance companies. As I said at the second reading, it can be proved that up to the end of June, 1967, $12,000,000 profit was made from workers' compensation insurance in Western Australia. Even if the amendment affects only one case in every five years, it will be a measure of security for the widows and children involved. I think we in this Chamber can be generous enough to say that out of the profits made by insurance companies this cover can be given. If the other States and the Commonwealth can give it, surely Western Australia should be able to do the same.

The Hon. G. C. MacKINNON: The authorities whom I have asked have said that they do not know how a person would go about determining the profit to which Mr. Ron Thompson has referred. Mr. Thompson himself said that there were 107 companies engaged in this sort of insurance.

The Hon. R. Thompson: That is so.

The Hon. G. C. MacKINNON: I agree that there would be many cases where there was wilful neglect and compensation

has been paid; and probably in a few other cases compensation was not paid. All I can say is that there is a good reason for retaining the principle which is now in the legislation. The main bulk of workers abide by the laws and we all realise that everything that is done has to be paid for. If there are extra imposts, and extra payments are provided for, costs go up and up. It seems desirable that some sort of restriction, control, or disadvantage should be provided for under certain circumstances. In any event, the families concerned are not denied all assistance. There are other types of assistance which flow to them.

We should think very carefully before we attempt to change the present provision. Therefore, I ask members to vote against the amendment.

The Hon. R. THOMPSON: The position is not quite as simple as the Minister seems to think. I ask members to cast their minds back to about five years ago when there was a blow-back at the BP refinery at Kwinana. A worker was burnt to death. A coroner's inquiry was held and the widow was refused compensation. The lady concerned had a young family and a great many commitments and after the inquiry she had to turn around to try to find a solicitor who would handle her case.

At that time the Trades and Labour Council as we know it was not operating in Western Australia. This lady went to see several solicitors and I intervened on her behalf in an effort to do something for her. She could not get anywhere because the onus of proof was on her to find out what caused the accident. As members know, all these large concerns have a very good security system and it is very difficult to find out what has gone on at those works. After the widow had been to see the solicitors it looked as though she was finished so far as workers' compensation was concerned; because they told her they could not possibly build up a case on her behalf. They said that they could not get into the works to find out what had happened and they could work only on what had been said at the coroner's inquiry. This would be insufficient evidence to win a case.

Eventually, the widow was able to get in touch with a solicitor who handled the case through common law. Late last year, or early this year, she was awarded a considerable sum in compensation.

Although we can deal with a case concerning a person who has had a fight or who gets drunk, when an accident occurs within the tight security of an organisation it is a different story. The man to whom I have been referring lost his life and it was eventually proved that he was not negligent. The cause of death was a faulty valve within the plant.

Do not let us deal with this matter too lightly. It is better to be wrong sometimes and pay compensation to deserving people. I have the records of the case and I will make them available to the Minister if he would like to see them. What I have said is 100 per cent. true, because I have carried out quite a lot of research into the case. It is not always the person who is deemed to be negligent who is denied compensation; an honest person can, as I have just illustrated, be denied compensation. I support the amendment.

The Hon. G. C. MacKINNON: I must say that I accept Mr. Ron Thompson's description of the case he has quoted in its entirety because I have never found him to be anything but truthful. However, we are all aware that bad cases make bad laws. When one works on a particular case one observes it from a different angle. However, I still believe that in matters such as this it is better to stick to principles rather than to examples. I believe, at this stage, we should accept the Bill in its present form, and that means refusing the amendment.

The Hon. R. H. C. STUBBS: I would like to mention a point which worries me, and which could happen to any one of us or to commercial travellers. Any one of us could have a drink and then be in an accident through no fault of our own. The fault could be in the motorcar. When a person is found in such circumstances it is not generally known how long he has been lying on the road.

I read recently that something happens to the sugar content in the blood when a person is left lying on the road for some time after an accident. The longer a person is left lying on the road the greater the reading in the blood test.

The Hon. G. C. MacKinnon: Are you sure about that?

The Hon. R. H. C. STUBBS: I read about it recently, and I will try to get hold of the article. It is one of those things which one carefully files away for future reference. I put it away too carefully. I can assure the Minister that I have read such a statement, but I do not know how authentic it is. I understand that after a certain time the alcohol content of the blood rises through the reaction of sugar in the blood.

In view of the fact that, during the hearing of a case yesterday, the Chairman of the Workers' Compensation Board said, in effect, it is time we recognised the procedures in other States, I ask the Minister to give me an assurance that he will make representations in the right quarter to see whether the dependants or the man concerned could be given an *ex gratia* payment. The wife and children would then not be disadvantaged.

The Hon. G. C. MacKINNON: Yes, I will bring the matter to the attention of the Minister for Labour. Of course, Mr. Stubbs could write to him, personally, but I am prepared to bring the case to the Minister's notice.

Amendment put and a division taken with the following result:—

Ayes—9

Hon. R. F. Claughton	Hon. R. Thompson
Hon. J. Dolan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. R. H. C. Stubbs
Hon. T. O. Perry	*(Teller)*

Noes—14.

Hon. N. E. Baxter	Hon. L. A. Logan
Hon. G. W. Berry	Hon. G. C. MacKinnon
Hon. G. E. D. Brand	Hon. N. McNeill
Hon. V. J. Ferry	Hon. I. G. Medcalf
Hon. A. F. Griffith	Hon. S. T. J. Thompson
Hon. Clive Griffiths	Hon. F. R. White
Hon. J. G. Hislop	Hon. J. Heitman *(Teller)*

Pairs

Ayes	Noes
Hon. J. J. Garrigan	Hon. C. R. Abbey
Hon. H. C. Strickland	Hon. E. C. House

Amendment thus negatived.

Clause put and passed.

Clauses 6 to 15 put and passed.

Clause 16: Amendment to First Schedule—

The Hon. R. THOMPSON: Most of us appreciated that the second reading of this Bill, in another place, was made on the 17th March this year. At that time it was stated that the legislation was drawn up as a result of the proposals submitted by the committee set up some 18 months ago.

The recommendations which were finally brought down were, in the main, accepted by all parties. At the time the weighted average of the States was taken into consideration to arrive at the weekly payment. The figure arrived at was $26.10, as is shown in paragraph (b) on page 13 of the Bill. That was the Australian average. However, since then there have been several increases in the other States and, as a result, on the 19th March this year, the Trades and Labor Council of Western Australia wrote to the Minister for Labour as follows:—

> Dear Sir,
>
> We have to hand the 1970 Bill to amend the Workers' Compensation Act together with your Second Reading Speech.
>
> We would express the opinion that the Bill represents a fair presentation of the Enquiry Committee's recommendations. However, because of the delay in presenting same to Parliament, the reason for which is contained in the Speech which is appreciated, the weekly payments and the wife allowance are now out of date.
>
> Since the presentation of the Report, the Queensland weekly rate has gone from $28.45. to $29.35., South Australia from $22.00. to $27.00., Tasmania from $27.40. to $29.80. This would reflect an average of 90c. per week increase and, therefore, we suggest that as you have made provision in the current Bill for the re-siting of the weekly rates, Section 16 para. (b) should be amended to provide for a $27. per week payment; paragraph (c) $20.25., paragraph (d) $12.25.
>
> The current Australian average for the wife allowance is now $7.50. per week and we, therefore, suggest that Section 16 (e) (v) should prescribe this rate in lieu of the $6.90. quoted.
>
> In view of the need to constantly review Workers' Compensation Acts, and for equitable benefits to be prescribed, we would ask that an Advisory Committee be appointed to meet, at least, yearly for report and recommendation.
>
> Accordingly, we would be grateful if you would take the necessary steps to have the above amendments made to the Bill.
>
> Although we do not think it is necessary, to further the suggestions we would be quite willing to attend a Meeting of the existing Enquiry Committee.

It can therefore be seen that the Trades and Labour Council has rightly pointed out to the Minister that we are out of step with the rest of Australia at the present time. Two days after the legislation is presented to the House the workers in Western Australia are at a disadvantage to the extent of 90c compared with the other States. Under legislation introduced into the Federal House of Parliament on the 19th March, this year, we find that a worker without dependants is not receiving $26.10. Under the current legislation he will receive $31.80; the allowance for a wife will be $7.70, as against our $6.90; and the children's allowance will be $5.60, as against our $6. To take a man with two children, which is about the standard family, under the Commonwealth payments he will receive $45.10 a week, but under the State legislation which we are now discussing he will receive a grand total of $39, which puts Western Australian workers at a total disadvantage compared with the Commonwealth of $6.10.

The Hon. L. A. Logan: What is the average of the States of the Commonwealth?

The Hon. R. THOMPSON: The average of the States was mentioned in the letter I read. To make the increases that are necessary, this Bill would need to be amended in three or four places, but the main amendment would be to increase the

sum of $26.10 by 90c to an amount of $27. This brings it within the average of the States.

I was making the point that in Western Australia a postman with a wife and two children who fell from his pushbike and had to go on compensation would receive $45.10 a week under the Commonwealth Workers' Compensation Act; but a similar worker in the same circumstances would receive $39 under the legislation we are now considering.

I ask the Minister to delay the Committee stage of the Bill with a view to bringing down the amendments I have suggested. If I start moving amendments now, what happened on a previous clause will occur again: it will be said that this is what the committee recommended. It is true the committee recommended $26.10, but that was well over six months ago. Increases have taken place since then. When he spoke the other night, Mr. Ferry said he had had a look at the amendments to the Workers' Compensation Act, but when he did so he obviously did not compare the payments that were operative in the other States with what is contained in this Bill.

I would like the Minister to delay the Committee stage of the Bill and refer the matter to the Minister for Labour. These are legitimate requests and they can be verified. The provisions to which I have referred can be found in the various Acts. I can make documents available to prove what I am saying. I have the Commonwealth legislation in front of me now, and I think it is fair and reasonable that as this Bill has been introduced as a result of a degree of unanimity between all the parties concerned, the Minister should go back to the Minister for Labour and say, "Let us put this Bill in order; let us bring it up to the average throughout Australia at the present time, and amend the Bill in clause 16, paragraphs (b), (c), (d), and (e) (v)." Four amendments are necessary to bring us up to the Australian average, which is what this legislation is aiming to do.

The Hon. G. C. MacKINNON: I would prefer, of course, to complete the Bill and leave the adoption of the report until tomorrow or a later stage of the sitting, which would give me a chance to talk to the Minister for Labour. The Minister is aware of this. I shall have a talk with him and if there is anything we can do we can recommit the Bill at a later stage. I would point out that in my second reading speech I said—

> Although the rate of weekly payments at present provided has in general been found to be comparable with those of other States, it is proposed that in one direction they be amended. In the past it has been provided that regardless of the number of dependants an injured worker may have, or the amount of his pre-accident earnings which he has lost through injury, there be a specific maximum weekly rate—the present maximum is $39.20—and it has been shown that hardship has arisen in some cases by this limit, and accordingly it is proposed that the present specific maximum be changed and that the new limit be the previous average weekly earnings of the injured worker. It will be appreciated that this change will only be effective in the case of a worker whose pre-accident earnings were considerable and the number of whose dependants would take him beyond the present limit.

This has a bearing on the matter we are discussing. As Mr. Ron Thompson says, if we alter this figure we shall have to alter a number of others, plus a number of administrative matters.

I suggest that if we could leave the adoption of the report, I could discuss the matter with the Minister, and we could recommit the Bill.

The Hon. R. THOMPSON: I accept that, Mr. Deputy Chairman (The Hon. F. D. Willmott). I would point out that when the averages were worked out by the committee the figures then were: New South Wales $26, Victoria $20, Queensland $29.30, South Australia $27, and Tasmania $29.80. If we divide the total of $132.10 by five, that provides the basis for the $26.10 on which they worked. The Minister may take this letter, which is a copy of the one the Minister for Labour has. It may assist him in his discussions. It mentions the sections that need to be amended, and the relevant increases, which are worked out on a scale which would be fair and just.

I did not want to move any amendments because I thought the Bill had been brought about with some sort of unanimity. I am therefore giving the Minister the opportunity to move amendments. I trust he will be successful with the Minister for Labour, but if he is not, I should like him to advise me either personally or through the Chamber tonight, so that I might have an opportunity to put some amendments on the notice paper in this respect.

Clause put and passed.

Clauses 17 and 18 put and passed.

Title put and passed.

Bill reported without amendment.

PERTH MINT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. A. F. Griffith (Minister for Mines), read a first time.

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.57 p.m.]: I move—

That the Bill be now read a second time.

I am only taking advantage of the suspension of Standing Orders to move the second reading of the Bill. We will then continue with the notice paper as it is now.

As the title of this Bill implies, this measure proposes some changes in the establishment of the Perth branch of the Royal Mint.

Before explaining to members what is now proposed, I wish briefly to trace the progression of the several branches of the Royal Mint set up in this country prior to the establishment of the Australian Mint at Canberra.

The Sydney branch ceased operations in 1926 and the Melbourne branch in 1968, but this latter operated in a minimal manner because a large percentage of its staff had long since transferred to Canberra.

The Perth branch was established by Royal Proclamation issued on the 13th October, 1897, under the provisions of the Coinage Act of the United Kingdom. While this branch has continued to accept contracts for the minting of coin and coin blanks, mainly for some foreign countries, it has, since 1940, minted coins for the Commonwealth. Originally, its main functions were the refining of gold, which still continues, and the minting of sovereigns, which ceased in 1931.

The attachment between the Royal Mint and its Perth branch is of a purely formal nature, because the costs of establishing, maintaining, and operating it have been met by the State. Consequently, the State receives the full benefit from the revenue produced by its operations.

This Bill provides for the creation of an instrumentality now to be known as the Perth Mint, which will carry on the present functions. This proposal emanates from the express desire of the authorities in the United Kingdom to sever their association with their Perth branch, and their subsequent agreement that its control and management should be transferred to the Western Australian State Government.

Official procedures consequent on this change will necessitate the issue of a Royal Proclamation, the form of which has already been drawn up, and it will be necessary to repeal some local Acts under which funds have been made available for the conduct of the Perth branch.

There is provision in the Bill for the appointment of a director, and a deputy director to act during his absence. He will be a body corporate capable of suing and being sued, of acquiring, holding, or disposing of real and personal property and, subject to the Minister, will be responsible for the administration of the Act.

It follows that the property of the Perth branch and any future assets will be vested in the director in his corporate name.

Adequate provision will be made for the taking over of existing established staff who are being given several options. That section of the staff will be permitted to transfer their entitlements as to leave and superannuation under existing Imperial arrangements to the State service conditions, or, alternatively, they may transfer to the State service retaining the Imperial conditions to which they are currently entitled.

Here, it may be of interest to members if I indicate some of the service conditions presently existing in this branch of the Royal Mint. The staff, although not entitled to long service leave, for instance, do enjoy more liberal annual leave conditions, up to a maximum of six weeks in the case of the more senior staff.

In addition, those of the staff who are "established" staff are entitled on retirement to retirement benefits which include a non-contributory personal pension and a lump-sum additional allowance. Both benefits are based on service and salary and are at present calculated in accordance with the provisions of the Superannuation Act, 1965, of the United Kingdom.

These officers possess an Imperial Civil Service Certificate, which is issued by Her Majesty's Civil Service Commissioners in the United Kingdom. Members will appreciate that all parties concerned have been negotiating the proposed changeover for some considerable period. In fact, by agreement in 1960 between the Treasurer and the Deputy Master and Comptroller of the Royal Mint, London, it was decided that, after the amount of the basic pension had been determined, the pension payable to this qualified staff would be brought into line, as far as the cost-of-living increases were concerned, with similar non-contributory pensions payable under our Superannuation Act of 1871.

Members of the staff not holding the Imperial Civil Service Certificate and referred to as "unestablished" staff, are not entitled on retirement to any non-contributory pension and lump sum additional allowance. Their entitlement is limited to a gratuity. Under the same agreement, it was decided that for the purpose of calculating the amount of the gratuity payable in each instance, this category of staff would be regarded as having similar status to persons temporarily employed under the Public Service Act of this State. Although these latter employees are not, in fact, paid gratuities on retirement, they are entitled to receive payment in lieu of

long service leave not taken and such payment might be regarded as a form of gratuity.

A representative of the Department of Labour has had discussions with the Deputy Master and representatives of the wages employees, concerning the matters to be covered by the proposed agreement, covering the terms and conditions of service of the wages staff.

All employees were circularised in 1964 with information, which set out broadly the terms and conditions under which staff would be transferred to the State. This circular indicated that wages staff would be employed under the conditions applying to staff in Government departments and instrumentalities.

Members may be assured that the rate of remuneration of the Royal Mint employee transferred to a State refinery will be no less favourable than that to which he would have been entitled in respect of the position which he normally occupied in the Royal Mint immediately prior to transfer. Subject to there being no break in service, employment with the Royal Mint, which has been deemed to have been continuous, will be regarded as service with the State. Recreation leave and sick leave credits will be carried forward.

The Bill necessarily makes provision for the appointment of permanent and temporary officers and for the engagement of wages employees. In the case of the officers, the recommendations relating to appointments and salaries to be paid will be made by the Public Service Commissioner. The appointment of permanent officers will be made by the Governor and temporary appointments by the Minister. It is intended that the Minister shall, subject to any award or agreement in force, and on the recommendation of the Public Service Commissioner, determine the conditions and terms of employment of both the permanent and the temporary officers.

I shall not dwell further on the terms and conditions of employment at this point, but if there is any particular aspect on which members desire more detailed information, I shall be pleased to make this available at the appropriate time when the Bill goes into Committee.

Nevertheless it may be of interest to members to know that, as late as last week, senior Treasury officials met with the representatives of the staff and the administration of the Mint to clear doubts which existed in the minds of the staff and to ensure that the Bill fulfilled the undertaking given in 1964 that, if the control of the Mint was transferred to the State, the staff conditions would be no less favourable than those which obtained before that event.

It is also interesting to note that as a result of those discussions the Government saw fit to introduce amendments to the Bill to improve the conditions where it was considered those already provided in the Bill did not measure up to the undertaking given.

The funds available to the director to enable him to exercise his powers and functions will comprise moneys appropriated by Parliament, moneys borrowed with the prior approval of the Treasurer, and moneys received as a result of the operations of the Mint.

Moneys accruing from these sources are to be paid into an account to be called "The Perth Mint Account" located at the Treasury or at a bank approved by the Treasurer. All expenses of the director shall be charged against that account.

There will be a second account, in continuation of the account which is at present maintained at the Reserve Bank, for the purpose of recording bullion transactions with and through that bank.

It is also proposed that the director shall be required to maintain a complete set of financial accounts and, at the 30th June each year, arrange for the preparation of a balance sheet and revenue account, which statements are to be submitted for audit by the Auditor-General, who will be required to furnish a report on the result of his examination of those accounts.

Copies of the financial statements bearing the Auditor-General's certificate together with his separate report will be forwarded to the Minister who shall lay them before each House of Parliament.

In addition to the borrowing powers accorded the director under this measure, there will be the power of temporary investment of funds not immediately required. Such funds may be invested in such securities as the Treasurer may direct. Interest from investment shall be the property of the director.

Determination of fees and charges payable for services rendered or materials supplied by the director, shall be such as are recommended by the Under-Treasurer and approved by the Minister. The Bill contains the usual regulation-making power.

In conclusion, it is the wish of the Treasurer that, as the Mines Department has had a long association with the Royal Mint, this legislation should be administered by the Minister for Mines.

Debate adjourned, on motion by The Hon. F. R. H. Lavery.

Sitting suspended from 6.8 to 7.30 p.m.

KEWDALE LANDS DEVELOPMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the 8th April.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [7.30 p.m.]: The second reading of this Bill was introduced at great length by the Minister. The tendency of the Bill is to regard the existing Kewdale Lands Development Authority legislation as being eminently successful; and that becomes the springboard for the Bill before us. However, I am not of the view that the Kewdale Lands Development Act of 1966 has proved to be as successful as the Government might have imagined. The valuations were based on the 1966 levels but in many cases action was not taken in respect of some of those properties until 1968. So, the owners of land who were pegged to a rural valuation in 1966 were forced to accept in 1968 valuations which were then two years old, as against increased valuations—which applied throughout the metropolitan area in those two intervening years—they should have received.

The effect of this was that many people, owning property within a similar distance as Kewdale is from the centre of Perth—which is approximately seven miles—could not re-establish themselves on the money they received for the properties which had been taken over. Therefore many of them were either forced to go further afield to obtain replacement land, or to give up the the livelihood they were following. In some cases people owning five acres of land were given sufficient money only to purchase three acres or less, but the replacement land did not prove to be an economic factor of production in their particular industry. If through force of circumstances they had to obtain replacement land further afield then they were too far away from a marketing point of view. There are still several owners in this category who are dissatisfied.

Recently I received communications from the Minister for Works indicating that a review of the cases which I had put forward was of no avail. It is true that from the point of view of the 1966 valuations the authority could say that it did a fair thing by the owners of the land, but the sting in the tail was that if the people concerned went before a court as a last resort to have their cases reviewed the judgment would be limited to the 1966 valuations.

The result was that if the owners could not negotiate with the department successfully, and the department agreed to arbitration, it would be almost idle to suggest that they could take the issue to court. That was the final suggestion by the Minister and by the department in every instance when such cases were pursued to a conclusion: if the owners were not satisfied they could go to court. However, if they went to court they would fight the cases on the 1966 valuations. Rural valuations in 1966 were not high. In those days the land did not change hands very often, and therefore I suggest that the valuations adopted in 1966 were comparatively low.

I think that under the new legislation, where action is taken to resume land belonging to people or to a family unit operating as a business, we must look very closely at a good replacement value. These people should not be placed in the position where they will lose anything by an occurrence which arose through no fault of their own. It is bad enough for individuals to select areas of land in which to live—and to live under adverse conditions as many of these people with such properties in the outer-perimeter areas do—and then find that just when benefits are accruing to them, as benefits have accrued to owners of property beyond the developmental area, they are compelled to leave their properties, their homes, or businesses. It is even worse when such people stand to lose as a result of a decision made at Government level.

The Hon L. A. Logan: How much an acre were those people paid?

The Hon. W. F. WILLESEE: I do not think it is so much a question of how much an acre they were paid; it is a question of what they are able to do with the money they receive. In retrospect, the stipulated number of dollars given as the purchase price might sound a lot, but what really counts is what the individual can do with that number of dollars to re-establish himself at the standard he was on at the time of the resumption. That is the most important feature as I see it, but that is a factor which the legislation lacks. The 1966 legislation was an academic exercise, and it affected some individuals very detrimentally, much more than it should have done.

On the other hand where development took place in other sections, and drainage was a factor, some of the properties were acquired at a figure which proved to be most satisfactory to the owners. However, we should bear in mind that in many cases the owners were second generation owners, and they were certainly not overpaid. I make this point: there are still several of these owners, whom I know personally, who are dissatisfied in that settlement has not taken place.

Whilst I am on the Kewdale area I would remind the Minister that there are approximately 1,100 acres of land adjoining the present resumption area which I would like to see taken over under the provisions of the Bill, because it contains a provision that action can be taken not for an immediate occasion but for the future. I think if the owners of land in that area were made aware that the land could be classed as industrial in the future it would solve many of their problems, because much of that area will remain rural for a long time to come. Furthermore,

many of the owners wish it to remain as rural, because they are following pursuits on a family basis. The area is only seven miles from Perth, and it has proved to be a problem for some considerable time.

I think the new concept will lend itself to the orderly development of industrial land. In the metropolitan area, and more particularly in the country, it will be possible for the authority to look far ahead, to buy up areas of land adjacent to country towns, and to hold them for a long period of time. Therefore, if the authority does that it will not be caught up in the position which developed when an increase in land valuations took place and values soared for one reason or another.

No-one denies the right of the Government—and, indeed, one hopes there will be further industrial development throughout the State in the years ahead—to make land available competitively. To do that it means the Government must be able to purchase the land at a reasonably low level, having in mind, of course, the treatment of the owners of that land on a fair and equitable basis, in order to give to them the opportunity to replace the land and plant from the proceeds of the sale.

Basically I am in agreement with the purposes of the Bill, and therefore I have no quarrel with it. I would, however, draw attention to the fact that we have, in the words of the Minister, three Acts in the State at this moment dealing with land for industrial development. He referred to the Industrial Development (Resumption of Land) Act of 1965-60, the Industrial Development (Kwinana Area) Act of 1952-59, and the Kewdale Lands Development Act of 1966-68. I think there is a weakness in having three authorities to acquire industrial land, and there is a further weakness in that the land resumption powers are not all vested under the Bill before us.

In effect, if this is to be the authority to acquire land throughout Western Australia with a view to development, either industrial development or semi-industrial development, then it should be given the right to negotiate resumptions on its own —if resumptions are necessary. Apparently we are to go on with the delegation of power by the authority to another organisation. I submit that we lose something by doing this. We lose the intention, the understanding, and the knowledge behind the authority; and also the negotiation point which exists between the individual and the authority, so that when the authority can no longer deal in harmony with an owner it has to use the resumption powers under the Public Works Act. I would prefer to see the whole procedure contained in one unit, so that there is a complete development authority for the whole of Western Australia.

So far as the Bill is concerned it has one very great advantage. It looks to future development, and the authority will be able to plan ahead. The Bill will give to the Government an opportunity to purchase land before a boom takes place; and before the land sharks and developers get to know what is going on, thus preventing them from taking up options on the land and offering increased prices—as happened before. What I have just mentioned are good features in the Bill. I only hope that even at this stage it is not too late to give further thought to the owners of land in the Kewdale area who are still dissatisfied, and who suffered as a result of pegging the land to the 1966 valuations. I hope that in future the approach to all cases of resumption of land from companies, partnerships, or individuals will be made on the basis of the price offered being as close to replacement value as possible.

THE HON. R. F. HUTCHISON (North-East Metropolitan) [7.45 p.m.]: I would like to make a few comments concerning the situation in the Kewdale area, which I visited last Sunday. I found that those living in the area concerned are very disturbed about what has occurred and what might occur in the future.

I have a friend there who has a very nice vegetable garden from which he earns his living, and he and his family are very worried about the future situation. This particular family came to this country quite a few years ago. If its land in this particular area is resumed, it will be the second time since its arrival in this country that the family will have had its land resumed. On the last occasion the man and his wife were told that they would not be disturbed again.

Of course, we know that Western Australia is developing and I suppose that sometimes this kind of activity cannot be helped. However, in such an instance, especially as this man obtains his livelihood from his garden, the Government should pay some compensation over and above giving him the opportunity to establish a garden in yet another area.

Members would all know, of course, that the establishment of a vegetable garden and the erection of a home is no small task. I am sure if the Minister visited this particular property, he would know that what I am saying is true.

The gardener to whom I am referring is not the only one who is worrying. Many other residents are, too. It is not right that the Government should place these people in this position. Some definite plan should be publicised in plenty of time so that if these people must be moved, they can be moved with as little hardship as possible. As a matter of fact, as I have said, I believe the Government should pay some compensation to those who have to move, so that they will be as well as, or even better off than they are now.

It is not so long ago that I visited this area, and I was amazed to see the development which has occurred. However, it is the threat which hangs over these people which is worrying, and worry is a cruel thing. Not only are the men worrying, but their wives are also. This is why I say the Government should announce something definite and, in addition, adequate compensation should be provided for those who are forced to move.

I have referred to this one market gardener as an example, because this will be the second time misfortune has overtaken him. It is the second time he has had to establish a garden from which to earn his living and, incidentally, the population requires good vegetables, and this man is certainly producing them. The development of such a preporty involves a great deal of hard work over many years, and it is not fair that the threat of resumption should apply to such a person.

This man and others to be affected should be told by the Government what is likely to occur, and when it is likely to occur. If resumption is to be definite, those involved should be given an opportunity to build again because, after all, it is no easy task to re-establish oneself. The gardener to whom I have referred has already had to do this once since his arrival in this country. I would call the members of his family well-established Australians because they have been here for some years. He and his wife have reared a family here.

Nothing can be done with the land which may be required for the airport. It cannot be developed. One man has built his home, but has refrained from continuing the establishment of his garden. He is worried all the time because the value of his property is deteriorating. Therefore the Government should pay well when people's lives are disturbed.

I realise that in some instances this cannot be helped because the State is developing so quickly; but, on the other hand, these people need not suffer any hardship if the Government does the right thing. After all, they have struggled and put up with the noise the airport has wrought and now their livelihood is threatened.

I rose merely to make my protest. I do not desire to make a very long speech, but what I am saying is true. The complaints were made to me by the people themselves. I was told that two items had been discussed at a meeting which was held in the area. One of these concerned a noise abatement consultant committee. The other was that the reservation of the land between the eastern boundary of Perth Airport and the western boundary of the railway line at Kewdale, because of the possibility of placing a second runway parallel to the existing one north and south, approximately 5,000 feet further east, would involve many people's properties.

I am asking the Minister and the Government to look into this matter now so that those affected will be fairly treated. It is not possible to establish quickly a thriving vegetable garden which produces the food so much needed by our population. It involves time, labour, and a great deal of worry. On top of all this these people are now faced with the threat of resumption, without knowing anything definite. It is about time the Government corrected the situation because it must surely know what will be involved. It should therefore inform these people and thus relieve their worry.

In addition, as I have said, those affected should be well recompensed. This is not a poor State and therefore good compensation should be possible. These people should be told whether their land is to be resumed, and, if so, how and when, and what compensation they will receive for the fact that their livelihood will be affected. Members must realise that it is becoming more difficult now to get good growing land close to the markets. This has always been hard, but it is more difficult than ever now.

I am voicing this protest hoping that the Minister will take notice and ask the members of his Government to inspect this particular garden. It should be inspected so that something can be done now. This family knows it is in a cage because it has the airport on one side and private property on the other. However, despite this fact the gardener is able to earn a living and supply good food for the markets. We should therefore ensure that this family and others are treated fairly. I am asking the Government to take notice now so that something can be done immediately instead of when it is time for these people to be shoved off their properties.

I also want the Government to let these people know when any move is likely to be necessary and thus make them feel a little safer and more secure. If they are told now they can take steps to secure alternative land to carry on the livelihood they followed for many years before they came to Western Australia and have been following for all the years since, while rearing a family.

THE HON. F. R. H. LAVERY (South Metropolitan) [7.55 p.m.]: Like my leader I support the Bill, but I would like to draw attention to the fact, as outlined by the Minister and contained in the Bill itself, that one authority will take the place of three.

I am disturbed about the number of people likely to be affected by the development which is occurring in the metropolitan area. This development includes the

new Fremantle traffic bridge and roads to serve the Beaconsfield area, and the bridge at the Bulls Creek end of the Canning River.

On the 8th April I asked a question on a matter which I believe is of great importance, and the reason for my question was that I had heard rumours that certain events were likely to occur. I wanted to obtain confirmation regarding the amount the Government had paid for an individual property. If the amount I have heard is correct, and the Government could afford to pay such a price, then my belief is that those who are to have their land resumed under this Bill—that is, for light or heavy industrial purposes—whether a quarter-acre or 500 acres are involved, should at least receive sufficient compensation to enable them to re-establish themselves in any area of their choice. We must remember that the cost of land, building, and everything else is rising at the rate of 12½ per cent. a year.

The Hon. R. F. Hutchison: They should be well compensated.

The Hon. F. R. H. LAVERY: The amount given in the answer to the question I asked seems to be a little out of order. The question I asked reads as follows:—

(1) Has the State Housing Commission recently purchased portion of Swan Location (No. 36) Lots 1 and 20 consisting of 225 perches situated on South Perth foreshore?

I must apologise for referring to Swan location when, in fact, I should have referred to Canning location. The rest of the question reads—

(2) If so—on what date was the purchase effected?

(3) What was the purchase price?

(4) From whom was the said piece of land purchased?

The answer I received is as follows:—

(1) No. For the purpose of consolidating its holdings in Ranelagh Crescent, South Perth, which are Lot 16, containing 3 acres, 2 roods and 18 perches acquired in 1956, and Lot 66 containing 1 acre, 1 rood and 24.6 perches acquired in 1945, the Commission purchased Lot 21, being portion of Canning Location 39, containing 1 acre, 1 rood and 25.6 perches (i.e. 225.6 perches). The consolidated holding now totals 6 acres, 1 rood and 28 perches.

(2) The 30th January, 1970.

(3) $240,000.

(4) Norman Geoffrey McMahon.

I do not intend to imply any disrespect with regard to Mr. McMahon. I am sorry to have to use his name, but it is necessary to do so. I received information to the effect that 21 months ago Mr. McMahon purchased that property at a price between $100,000 and $110,000 less than he sold it for on the 30th January this year.

If the Government is in the position of being able to pay $240,000 for an area of 1 acre 1 rood and 25.6 perches, the people in the areas represented by Mr. Ron Thompson and myself should be fully compensated and should receive a just assessment for their properties which will be resumed to build the bridge over the Canning River and the extension of the roads in East Fremantle. The prosperity of the State is greater than I thought if after a period of 21 months the Government is able to pay $100,000 more than a property cost. Alternatively, the valuer of the State Housing Commission was not clearly informed on what the situation was 21 months ago.

So far as the present Bill is concerned, I have a personal interest in that a relative of mine lives in the area. I should like to show members a map which I have in my possession. It shows the airport runway, the eastern fence of the airport, and the western boundary of Kewdale Railway Yards where the people will be squeezed in.

The Hon. A. F. Griffith: The honourable member will not be able to have this recorded in *Hansard*.

The Hon. F. R. H. LAVERY: I realise that, but anyone who wants to look at the map is welcome to do so. A vast acreage is involved. It is proposed that a new parallel runway will be built on an area of 5,000 feet east of the existing fence of the runway and, if this is so, it will cut through the middle of the established area. It is this area where residents feel that they will be squeezed out. I wish to draw attention to this fact, because it is an interesting point. I hope I have provided food for thought in mentioning how a profit of $100,000 was made in 21 months between the date of purchase and sale to the Government. I support the Bill.

Debate adjourned, on motion by The Hon. L. A. Logan (Minister for Local Government).

BILLS (2): RETURNED

1. Nurses Act Amendment Bill.
2. Local Courts Act Amendment Bill.

Bills returned from the Assembly without amendment.

BUILDING SOCIETIES ACT AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

BANK HOLIDAYS BILL

Second Reading

Debate resumed from the 16th April.

THE HON. R. THOMPSON (South Metropolitan) [8.4 p.m.]: The Bill before the House is quite short and its purpose is to consolidate what is probably one of the oldest Acts of Parliament on our Statute book. The principal Act has been amended on many occasions. The first amendment was effected in 1909 and the legislation was last dealt with in the Parliament in 1961. I feel sure all members will remember that occasion, because a decision was taken at that time to give bank officers and employees a closed holiday on Saturday mornings.

The Hon. A. F. Griffith: I remember the galleries were very crowded.

The Hon. R. THOMPSON: Yes, and they were crowded a few years before that, too. If my memory serves me correctly, they were crowded in 1953 and again in 1956 when similar legislation was brought before the Chamber but was rejected. However, the amendment I have mentioned was accepted in 1961. I do not think the fears expressed by business houses and people on the previous occasions had any foundation. Not many of the public are seriously inconvenienced through banks closing on Saturday mornings. Similarly, I might add, if all shops were closed on Saturdays I do not think we would be seriously inconvenienced.

The Hon. A. F. Griffith: Where is this in the Bill before the House?

The Hon. R. THOMPSON: It is not in the Bill before the House.

The Hon. A. F. Griffith: The Deputy President is being very lenient.

The Hon. R. THOMPSON: I do not think the closing of the banks on Saturday mornings has seriously inconvenienced anyone in particular. However, when the 1961 amending legislation was drawn up, the bank officers agreed, prior to its introduction, to give away several days which had previously been holidays. I believe this was agreed to in consultation with the Minister of the day. However, the Commonwealth Bank Officers' Association, in a letter dated the 9th April, 1970, has forwarded a request to the Minister. It reads, in part, as follows:—

> However, we would like to recall to you our applications over the past number of years for an additional day's leave at Christmas or New Year and feel that this may be an opportune time to incorporate or provide in the Act for the granting of additional Bank Holidays as follows—
>
> 1. An additional holiday immediately following the New Year's Day Holiday, and
> 2. Where 26th December falls on a Saturday or Sunday then the next following Monday be proclaimed as a Bank Holiday, or
> 3. When Christmas Day falls on a Wednesday—

It does not seem to make sense at this point, but I will read it out.

The Hon. G. C. MacKinnon: The whole request does not make sense.

The Hon. R. THOMPSON: To continue—

> —that Friday, 27th December be gazetted as an additional Bank Holiday.

In reading it out, I realise that it does make sense and I am sorry for the comment I made. The association goes on further down to say—

> 1. 2nd January, 1970 is gazetted as a Bank Holiday in both Tasmania and Victoria.
> 2. 28th December, 1970 is gazetted as a Bank Holiday in South Australia and Tasmania.
>
> January 2nd is gazetted as a holiday for the Commonwealth Public Service throughout Australia.

I think we should take into consideration that the Tuesday following Easter and the 2nd January are always held as Public Service holidays. In this way, the Public Service has two extra holidays a year. Although I am not influenced by the Bank Officers' Association in this respect, I have always felt that it is a little ridiculous not to be able to do business with the various Government departments on the days in question but to be able to do business with the banks. I cannot see any real reason for this.

The parent legislation is quite clear in itself, inasmuch as it lays down that any deeds or moneys to be paid shall be paid one day after a bank holiday and that any notes to be met will be accepted as payment one day after a bank holiday.

I go along with the submissions of the Bank Officers' Association, inasmuch as I consider bank officers are entitled to the holidays they request. The letter to which I have referred points out, further on, that bank officers are spread over the length and breadth of the State. Many bank officers have to travel great distances for their holidays and banks cannot operate with a skeleton staff. I think this principle is accepted by all members, because it is known that banks need tight security at all times. Therefore, when there is a break which is longer than a weekend, it allows many bank officers to visit their families.

Although I do not have a copy of the Chief Secretary's reply, I understand it is to the effect that there is provision for

the granting of such holidays by proclamation under one of the clauses of the Bill. I realise this is the position in that the Governor can, by proclamation, declare any day a bank holiday provided it is published in the *Government Gazette* seven days before the holiday occurs. Clause 6 of the Bill says—

> The Governor may, from time to time, by proclamation declare that any day appointed for a bank holiday, in any year by or under this Act shall not be a bank holiday for that year, and may appoint another day to be a bank holiday instead, and the day so appointed shall be a bank holiday accordingly.

Members will see that the Governor has the right to cancel bank holidays or to declare bank holidays other than those stipulated. However, I do not think this provision sufficiently answers the request put forward by the Bank Officers' Association. Also, I trust that due consideration will be given to the request. Although I support the Bill at this stage, I must mention these matters. Most people who work in banks suffer from the pressure of work, which is particularly extreme on Thursdays and Fridays. As members know, banks are open until 5 p.m. on Friday afternoons and, in addition, many officers work overtime. I know this was agreed to as a condition for closing on Saturday mornings but, by the same token, I trust due consideration will be given to the request and amendments will be effected in the near future to meet the request. I support the Bill.

THE HON. V. J. FERRY (South-West) [8.12 p.m.]: I wish formally to support the Bill before the House. I see the measure as a simple and logical one in that the Bill sets out to consolidate into one Act the various bank holidays which are granted throughout the year.

I believe there are arguments for and against the granting of additional holidays for bank officers. I realise that bank managers and officers have a sense of responsibility towards the general public and the commercial world in providing the services they require. I also realise, as Mr. Ron Thompson pointed out, that members of the banking profession do suffer from some disabilities by way of distance, particularly those in the far-flung country branches which are spread all over the State. Therefore the needs of bank officers must be considered. In saying this, I refer particularly to young bank officers who may be boarding away from home and the need for some facility to travel to their homes during a holiday break is apparent.

Nevertheless, as I have said, bank managers and officers have a duty to the public. This principle is recognised and they are very conscious of it; in fact they take a great pride in the service given to the public. I believe this is a tradition which has been built up over the great number of years since banking was first introduced into this State, and it will continue to be the tradition.

As I say, I wish formally to give my approval to the consolidation of provisions relating to bank holidays in one piece of legislation instead of being embodied in several Acts, which has been the case for a long period of time. This is a question of good housekeeping and I support the measure.

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [8.14 p.m.]: I shall be very brief in my reply. It is a fact that the Bank Officers' Association has requested the Government to give consideration to the granting of two holidays, in particular.

However, this is still part of the agreement. The bank officers agreed to forego these days when we gave them Saturday mornings off. Members know what it is like; people want a little bit here and a little bit there. They obtain an agreement and as soon as the agreement is signed they want a little more.

Mr. Ron. Thompson read out clause 6, which provides that the Governor may declare another day to be a holiday in lieu of the holiday proclaimed under clause 5. Clause 5 allows for a proclamation of any special day, so it can be done at any time the Government wishes to change its mind.

Mr. Thompson raised a further point when he said that nobody had been inconvenienced as a result of the Saturday morning closing. That is not correct. If it were not for the agencies opening on Saturday mornings and providing facilities for people to use their services—particularly savings banks—many hundreds of thousands of people would have been inconvenienced. Other people are carrying out the job of the banks on Saturday mornings, and this has enabled the public to receive some service. We should not forget that somebody else is carrying the baby for the bank officers because they do not want to work on Saturdays. That is all I have to say in reply to the debate.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Local Government), and passed.

TERMINATION OF PREGNANCY BILL

Second Reading

Debate resumed from the 16th April.

THE HON. F. J. S. WISE (North) [8.19 p.m.]: I am sure most members present have had the same experience as I have had in regard to the increase in the mail delivered both to their offices and to their homes since this Bill was introduced. Most of us not only respect the views of people qualified to speak or comment, but also are always interested in the views, however strongly held, of other people. That is how this Parliament functions as an institution. No matter how strongly we may differ, that does not necessarily cause us to lose respect for the other person or his opinions.

There is one aspect of this matter that caused me some concern, and led me to suggest to one organisation—a political institution—that its methods are sailing very close to an affront to Parliament and parliamentarians, and very close to action being possible under the Criminal Code. It is a most unfortunate circumstance that that is the situation. We respect the views of others; but any endeavour by irresponsible people to dragoon members of Parliament into expressing what they are going to do and the manner in which they are going to do it, prompts no reply as far as I am concerned.

This is the third Bill of this kind to be introduced into this House of Parliament in five years. The first Bill introduced by Dr. Hislop was to give the House and the community the opportunity to study what he had in mind as a reform of the law relating to the termination of pregnancies. The 1968 Bill differed rather sharply and had many variations from the 1966 Bill.

The 1968 Bill, as members know, was keenly debated in this Chamber, with many opinions strongly voiced both for and against. There were 26 speakers in this House of Parliament to that Bill—three of them Ministers. The Bill passed from this Chamber in a much amended form, and although it is a popular statement to make that the Bill was defeated on a technicality, that is not the truth. The Bill, after having been fully debated in this Chamber, was found to be out of order and not competent to be introduced without a Message from the Governor, which this House does not receive.

The present Bill is again an endeavour on the part of Dr. Hislop to have attention given to his version of what the law requires, in an amended form, and is an endeavour to clarify it. I would like to say quite freely that all of us in this Chamber who know Dr. Hislop, know that he has been a member here for close to 29 years. He has, in his private and in his professional and public life, made considerable contributions to the community. In this Chamber he has been the instigator of, and the reason for, more than one reform. Indeed, one such reform was the privilege of adult franchise for this Chamber. There are other things that I can recall, and I wish to mention them at the commencement of my remarks on this Bill because I intend keenly to oppose it.

I believe that the efforts of Dr. Hislop on this subject will ultimately, because of the ideas they provoke and the opportunity they give, have an end which will be worthy of this State. On the other hand, I believe this Bill, if passed, would be a sad occurrence for this State. However, I think in provoking ideas there will emerge something that can be acted upon.

One thing I cannot understand from my examination of this Bill is why its sponsor persists in presenting us with aspects of this subject which this House rejected on the last occasion. I am also concerned about the introduction of a new but possibly doubtful provision. It is of no use saying, as some members have said to me today, that Dr. Hislop did not intend that interpretation. I care not for such comment. This Bill is produced by Dr. Hislop, not the draftsman. It is a Bill drawn up on the sponsor's instructions, and before it was printed it was scrutinised by him and approved. That is the real situation.

The measure deals with human and social problems of world-wide import and because of its very nature brings into a discussion upon it, as it has done, much emotionalism, which includes many facets I fear this Bill disregards. This Bill involves human issues; the health and life of our womenfolk and our future generations. It involves intricate legal aspects, and it involves intimate personal and professional details concerning our medical profession. It also involves moral and Christian issues, modern thinking, and the rights of the individual. It embraces something which we must never overlook—the vital social and economic issues of a nation attaching to legislation of this kind.

I think at all times we must have a full consciousness of the import of our moral laws as well as our civil laws, and I think that better moral conceptions would render much action under our civil laws unnecessary.

A move for laws to be instituted for control over the termination of pregnancy is not new. Indeed, there are many unwritten tribal laws and rules affecting the Aborigines of Australia, and at times I have had close contact with these people and know the measures they adopt, which are very cruel and very real in dealing with this problem.

We have the example of the English laws; I have a copy of the British Act of Parliament in front of me. All of us

know, not merely from what has been said in this Chamber on this occasion, but from our reading and references to the happenings since that law was introduced, how dreadful have been some of the circumstances associated with its administration. It is quite fair to say that in this Bill there are identical provisions and wordings in some particular—some direct, and some oblique; but they are there.

If, therefore, these points which appear in the British law are to be adopted in this State I think it is necessary for us to have a very close look at the effect as well as the cause. Victoria has laws which govern the termination of pregnancy, not under a Criminal Code, as in our case and that of the other States, but under the Crimes Act.

Is it necessary for me to dilate on the circumstances obtaining in Victoria? But there is a similarity—a comparable similarity—in the things that both Acts express as the law.

I think it can be suggested that South Australia has its difficulties. I have also in front of me the South Australian Act introduced by the Attorney-General of South Australia. We know how concerned and worried the Government of that State is in regard to its own law. At this point I would like to say that I would hope a Bill of this kind is never introduced by any Government of Western Australia—I repeat: a Bill of this kind.

In common with many people, I do not believe that this is something the Government must attend to. I would not support any suggestion that this is a matter which should be put on the plate of a Government. It is a matter for Parliament to consider, after Parliament has been well and truly advised by the greatest authorities available on all facets of this matter.

What now are the laws that govern the termination of pregnancy in Western Australia? In the last of those to which I have made brief mention we find that what is sanctioned in some becomes a criminal act in others. The laws obtaining in Western Australia which relate to this subject are covered in the Criminal Code. They have stood unchallenged for a long time, and in regard to pregnancies there has been one prosecution in the last 40 years—that is, under the laws as they exist in Western Australia—because of an abuse of those laws.

Has it been contended anywhere that there is a need to amend the laws as they obtain in this State—laws which give sanction to a practice—or that they are wholly wrong; that they must be amended to give effect to something which is already to be found unworkable elsewhere?

The Criminal Code contains 747 sections some of which are specific in regard to this problem, while others perhaps deal with it in a more abstruse manner. If clarification is necessary I think it is not necessary in the particular section selected by Dr. Hislop, though it is necessary in the section which is operative, as I shall show later when analysing the Bill.

The Bill before us deals only, and in particular, with the sections which refer to the penal circumstances associated with the termination of pregnancy, and it provides for the annulment of three sections—the penal sections of the Criminal Code—and for the purposes of this legislation those three sections shall be the law relating to abortion. Of course this is not a complete law relating to abortion any more than is the title of the Bill.

This is not generally appreciated by those who have clamoured for an alteration of the law and who want Dr. Hislop's Bill to be the determinant in connection with the termination of pregnancy; because I fear that hundreds of these people have no idea what the Bill contains; nor have they any idea what the existing law sanctions in this connection.

There is a hospital in this State where thousands of births occur annually and it has been mentioned in the Press that there also will be hundreds of abortions a year in that hospital. It cannot be refuted that under section 259 of our Criminal Code sanction is given and under which doctors are protected for doing things legally in this connection. Section 259 of the Criminal Code reads as follows:—

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

That is the law. That section gets particular mention in clause 6 of the Bill. I will deal with that later. But that section in the Criminal Code—the permissive section—is to be disregarded if this Bill becomes law, as also is section 290. But the three sections I first mentioned specify what shall be the penalty in certain circumstances. I would repeat, however, that very few people who are clamouring for law reform know what they want. If they get this Bill as law, as it is printed, we will have something between the difficulties that exist in South Australia and in England.

The very texts of the Acts of South Australia and of England, when compared with our own, give that permissiveness. To show the complexities that exist in the laws I would like to quote from a case which has become famous in this connection. I refer to the Bourne case which was reviewed by Mr. Medcalf in 1968 in a most clear and informative manner.

In 1968 and also this year the Minister for Justice made reference to this case which, in a way, has become a standard for study as to the possibilities of this law.

The Bourne case is one where a Harley Street specialist—a man of great prominence in the community; a most respected member of the community; a man who belongs to the society for the protection of the unborn child—was charged with having used an instrument with intent to procure a miscarriage of a girl, contrary to section 58 of the Offences against the Person Act, 1861.

This child, a girl of very tender years—she was under the age of 15—had been subjected to rape of a brutal kind. The parents of the girl presented themselves to the doctor and pleaded with him to treat the child. But not until he had undertaken certain tests as to the possibility of disease, did he agree. However, he was arrested because it was discovered he had done this act.

I would like to touch on a different angle from that dealt with by Mr. Medcalf two years ago. I would like to read the conclusion of the summing up of the learned judge in this case, which was heard before the Criminal Court in England. The judge said—

> There are cases, we are told, where it is reasonably certain that a pregnant woman will not be able to deliver the child which is in her womb and survive. In such a case where the doctor anticipates, basing his opinion upon the experience of the profession, that the child cannot be delivered without the death of the mother, it is obvious that the sooner the operation is performed the better. The law does not require the doctor to wait until the unfortunate woman is in peril of immediate death. In such a case he is not only entitled, but it is his duty to perform the operation with a view to saving her life.
>
> Here let us diverge for one moment to touch upon a matter that has been mentioned to you, the various views which are held with regard to this operation. Apparently there is a great difference of opinion even in the medical profession itself. Some there may be, for all I know, who hold the view that the fact that a woman desires the operation to be performed is a sufficient justification for it. Well, that is not the law: the desire of a woman to be relieved of her pregnancy is no justification at all for performing the operation. On the other hand there are people who, from what are said to be religious reasons, object to the operation being performed under any circumstances. That is not the law either. On the contrary, a person who holds such an opinion ought not to be an obstetrical surgeon, for if a case arose where the life of the woman could be saved by performing the operation and the doctor refused to perform it because of his religious opinions and the woman died, he would be in grave peril of being brought before this Court on a charge of manslaughter by negligence. He would have no better defence than a person who, again for some religious reason refused to call in a doctor to attend his sick child, where a doctor could have been called and the life of the child could have been saved. If the father, for so-called religious reason, refused to call in a doctor, he is also answerable to the criminal law for the death of his child. I mention these two extreme views merely to show that the law lies between them. It permits the termination of pregnancy for the purpose of preserving the life of the mother.

The judge concluded—

> As I have said, I think those words ought to be construed in a reasonable sense, and, if the doctor is of opinion, on reasonable grounds and with adequate knowledge, that the probable consequence of the continuance of the pregnancy will be to make the woman a physical or mental wreck, the jury are quite entitled to take the view that the doctor who, under those circumstances and in that honest belief, operates, is operating for the purpose of preserving the life of the mother.

The verdict was, "Not guilty." That summing up of the judge indicates only part of the legal problem.

Very many other cases have occurred. The case known as the Davidson case of Victoria is an example. This was considered by Judge Menhennit and appears in the *Australian Law Journal* No. 42 of 1969. In this case the judge pointed out that if the doctor endeavouring to produce a miscarriage acted unlawfully the Crown had to prove it, and his summing up and the judgment later given entailed not merely the continuation of the pregnancy, but whether the accused believed or did not believe on reasonable grounds that the act was done to preserve the life of the woman.

The conclusions reached in the Davidson case are somewhat similar to those in the Bourne case, but the real value of the Davidson case is that it resulted in a clarification of the law with reference to Victorian statutory provisions. Judge Menhennit ruled that that case turned on the construction placed on the word "unlawfully."

I quote those two cases—and they are the only ones I will quote, because I do not wish to become tedious—to illustrate that the difficulties associated with the legal side are intricate and involved.

As I have mentioned, we act in this State under the permissiveness or with the sanction of, or the interpretation given to, section 259 of the Criminal Code. I raise again the point that our law has much to compare with British law and the law in other States of Australia; but I am advised it would be a very doubtful proposition indeed whether, in similar circumstances to the Bourne case, the same legal result would obtain in a judgment in Australian courts. Therefore, within the existing law in this State difficult conditions apply, and also there is a very great width in what they sanction.

I have referred to the number of terminations of pregnancies legally carried out in this city daily—or annually, if we like. I think the Minister for Health would agree that they are legally carried out within the sanction of the existing law.

The Hon. G. C. MacKinnon: Both legally and morally right.

The Hon. F. J. S. WISE: This Bill will not meet the disabilities which have been discovered in the existing law—the South Australian law, the Victorian law, and our own. It is futile and idle so to pretend. The suspension of three sections of the Criminal Code for the purpose of this Bill only gives a protection of the wide open door, in my view. The penal clauses will not operate for the purposes of this Act.

Our existing law appears to sanction the termination of pregnancy in hundreds of cases a year, and it is considered by some gynaecologists in this city, and also by those of strong religious principles, to present termination of pregnancy on demand. I have conferred with leading gynaecologists of this city who have indicated to me in strong terms that there is no doubt in their view that this Bill means abortion on demand. Some gynaecologists—and some of great Christian fervour—are in a dilemma about whether some operations performed under the sanction of our existing law are legally or justifiably performed.

I would like to ask the sponsor of the Bill whether to his knowledge, apart from himself, any doctor or group of doctors has made a request to the Government at any stage to amend the existing law.

The Hon. J. G. Hislop: I do not know what you are asking.

The Hon. F. J. S. WISE: I will repeat it: Has any doctor or group of doctors, within Dr. Hislop's knowledge, made representations to the Government to amend the existing law? Have any individuals, organisations, or aggregations of religions presented a case to any Government to repeal the existing law?

What grounds have been presented to justify suspending, annuling, or repealing the existing law? I suggest, Mr. President, that many abortion-on-demand advocates do not know what the present law involves, permits, or sanctions, any more than they know what is in this Bill. Abortion reform has become a catch cry, but what does it mean? I repeat: What does it mean? I would like somebody in this Chamber to try to analyse the term for me.

I feel that the consideration of our womenfolk, young or old, and the effects on the unborn are bound up in the effects of the Bill. Much is wrapped up in this Bill. Is the present measure to provide only—as the present law does, let me make it clear—for the frail and the really ill? Does it provide for those cases where a woman's life, and that of her potential child, are in danger? Does it provide for cases where both, or either, will be sacrificed if pregnancy continues? The present law combines all the requisites in such a matter as that.

Does the present Bill provide for the case of the woman who, at 49 years of age, finds herself pregnant, and is in a grave mental state because she has reared her family and her youngest child is, perhaps, 20 years of age? All of those circumstances are already allowed for in the administration of the law sanctioned by section 259 of the Code which no person, organisation, or group of doctors, has asked any Government to amend.

I ask: Where have there been complaints about section 259? I repeat: We have had one case in 40 or 50 years of a person abusing the law and being prosecuted. I believe there is a very serious case for contemplation concerning the well-being of our womenfolk, their families, and their future. I believe that Christian principles are irrevocably involved, and that the social involvements are far-reaching. They cannot be turned aside. The responsibilities on Governments for the sad cases—for those who must see it through—are vast, and will continue to be.

I suggest that this section of the Parliament which considered the proposed law two years ago is composed of men and a lady from many walks of life. If we include both Houses of Parliament—and we have doctors as members—we are aligned with many religions and beliefs on matters such as the one before us. As a composite group we must accept the responsibility of facing up to the requirements of the law, even if it is against our own beliefs.

As I said initially, this is a matter for Parliament and is not a matter to be foisted on a Government because, as I shall show in my immediate analysis of the Bill, it is not a Government responsibility. No Government would introduce a Bill of this kind. I ask: What will the Government do with this Bill if it is left on the Government's doorstep? Which of the two Ministers from our front bench will enjoy administering the law? It will

be one or other of those Ministers. I repeat: This matter cannot get beyond the responsibility of Parliament; it should not be the responsibility of a Government.

The Bill is entitled, "A Bill for an Act to amend and clarify the law relating to Termination of Pregnancy by Medical Practitioners." I say that the Bill, in its present form, does not clarify the law, but, so far as I am concerned, clouds the law and renders it inoperable.

In the interpretation clause we find that the law relating to abortion means sections 199, 200, and 201 of the Criminal Code. That is the law relating to abortion for the purposes of the proposed Act. Even in its most restricted sense, the annulment of those three sections does not, in my view, in any way clarify the law. The Bill provides for the suspension, in certain parts, of fines—and indeed, imprisonment —which would be attached to those who break the law.

Section 199 of the Criminal Code deals with the case of any person who, with intent, procures the miscarriage of a woman. That person would be liable to imprisonment with hard labour for 14 years. Section 200 deals with a woman who, with intent to procure her own miscarriage, administers any poison or noxious substances to herself. She is liable to imprisonment with hard labour for seven years. Section 201 relates to the person who procures, or who provides certain matters, etc., and in that case the penalty is imprisonment with hard labour for three years.

For the purposes of this Bill that is the law relating to abortion. I do not care whether it is changed by this Act, or by any other Act, but surely that does not suffice to meet the situation. Many sections of the Criminal Code refer obliquely to this problem. Some refer to it directly, especially those mentioned within this measure.

The interpretation part of the Bill deals with the definition of a public hospital; because, as outlined in clause 4, it is part of the operation of this Bill that where treatment for the termination of pregnancy is carried out in a public hospital the penal clauses of the Criminal Code do not obtain. Therefore, if this Bill passes, the public hospitals within Western Australia, approved by the Minister and classified for the purposes of this legislation, will be obliged to accept cases.

Not knowing what the Minister for Health is thinking, I would imagine that power will be given in the latter part of the Bill for perhaps two, three, or more hospitals to be declared public hospitals for the purposes of this Act. I ask: What sort of a burden or imposition is that to place on the Minister?

I will not raise the point; but I suggest that if all are to be declared public hospitals many of the hospitals, which include mission hospitals in my own district, will be declared public hospitals. Many of them receive generous contributions from the Government. Whether or not that matters I do not know; I mention it in passing. However, to the best of my knowledge it takes a tremendous amount of money to run a Government hospital.

Certainly a difficult and delicate situation arises if it is possible to prescribe that public hospitals must be used if a medical practitioner is to be exonerated from the effects of the three sections of the Criminal Code.

I repeat that I have been advised by leading gynaecologists of this city that, in their belief, clause 4 will mean abortion on demand. If this is so, the Bill will be no advance on the present situation, indelicate and difficult as it may be.

I particularly wish to draw attention to another aspect of clause 4. The provision really makes the medical practitioner the social conscience of the community; he will be the authority to decide and adjudicate on a sad social problem. I invite members to read clause 4. The medical practitioner will be the man who will decide matters which should never be expected in this sort of context. We know the wonderful service and advice which we and our families receive from medical practitioners. Do members think that an imposition of this kind should be levelled upon them?

I cannot understand why certain features in the next clause are being persisted with. A similar provision was amended previously in this Chamber to exclude the onus of proof. The onus of proof is a most obnoxious principle and is something against which Parliaments of this State have rebelled. It has been excised from 10 Acts of Parliament during the time that I have been a member of this House. It remains in the gold stealing Act and in one or two other pieces of legislation where it would be most difficult to take any action unless the onus of proof is on the accused.

As a principle, it is not British law and justice. What is it in this context? Subclause (1) of clause 5 deals with duty and says that no person is under a duty whether by contract or by any statutory or other legal requirement to participate in any treatment if he has a conscientious objection. In other words, a person will not be forced to participate, if he has a conscientious objection. The next subclause says—

> In any legal proceedings the burden of proof of conscientious objection rests on the person claiming to rely on it.

This House would never accept that sort of proposition, and a similar provision was taken from the Bill two years ago, on motion by Mr. Medcalf, I believe.

A Bill introduced into the Western Australian Parliament by The Hon. J. B. Sleeman in 1958 dealt with the onus of proof. I can recall one earlier than that. I know the admission will make me very old but I can recall that, in 1937, The Hon. Arthur Watts introduced a burden of proof Bill—a public Bill—to provide that the burden of proof of the guilt of any person charged with an offence under or in contravention of any Act shall, with certain exceptions, always rest with the party bringing the charge.

That is British law: that is British justice. Unfortunately, the Bill to which I have referred was introduced towards the end of the session and it was amongst the items which were slaughtered.

If members imagine why the provision has been included in the Bill surely they must conclude that someone will be forced into a dereliction of duty even though he may have a conscientious objection. Otherwise, why is the clause in the Bill? I would not have a second's hesitance in voting out the whole clause. I do not think it can be amended. Even if subclauses (2) and (3) are omitted, in my view it has no place in the law.

To my mind a better provision would be to stipulate that no person should be asked, or should be obliged, to take part in the termination of a pregnancy unless he or she wishes to do so. The question of duty should not come into it.

Clause 6 appears to sanction anything. No onus of proof is required under this clause, but I ask members to read it closely. Subclause (2) reads as follows:—

> It is a sufficient defence to a charge under such law that a medical practitioner terminating a pregnancy, or any person participating in any treatment for such termination, had a genuine belief, based on reasonable grounds, that the requirements of this Act had been complied with.

This means that any person who participates in any treatment for the termination of pregnancy, if charged with any crime or misdemeanour under the Act, will be able to say, "It is not possible to place a charge like that against me: I believed I was acting in accordance with the law."

That is all that is necessary. Good heavens! It is possible to drive a coach and four through that provision. What could it permit? It could permit of some of the greatest abuses of the law one could ever imagine. What does it mean? Does it mean a doctor or any person assisting him? It does not say the doctor and the patient. If it meant that, surely it would say so. Does it mean the nurse or any other person?

I have endeavoured to show that the Bill is so indefinite and contradictory that no amendments in Committee, including an amendment to the title, could make it acceptable so far as I am concerned. I consider that subclause (2) of clause 6 is a most serious matter.

I now come to the regulation-making power in the Bill. If the Bill passes, it will not be the responsibility of the sponsor or of Parliament: it will be the responsibility of the Government which inherits it. The regulation-making powers are contained in two subclauses. The general one reads—

> The Governor may make regulations prescribing all matters that by this Act are required or permitted to be prescribed, or that may be necessary or convenient to be prescribed, for carrying this Act into operation or for facilitating the operation of this Act.

As I have said, the sponsor will have no say. The Governor, which means the Governor-in-Executive-Council—which, in turn, means the Government—may make regulations prescribing all matters of the kind I have read out.

I submit that the general regulations could be drafted to make the Bill almost limitless in its scope, if a Government so desired. The scope of this Bill, with clauses 4, 6, and 7, as they stand, is limitless. Would this Parliament tolerate that? Would a Government do that? Of course it would not!

At the other end of the scale, a Government could make regulations so restrictive that this Bill could not carry out the functions pretended for it. Further, if a Government thought this Bill, even though passed by Parliament, was unfair, wrong in any sense, or too difficult of administration, would it make regulations at all? That is the situation. What of the subsequent ones? In my view, the specific regulations mentioned in subclause (2), paragraphs (a), (b), (c), and (d), could in one particular break down the sanctity of a patient's rights as now observed by a doctor. I suggest that paragraphs (a) and (b) of clause 7 are an erosion of the Hippocratic Oath. Read them carefully. I will have nothing to do with them.

It is a matter of conjecture which Minister might be asked to administer this legislation—which to me is obnoxious—if it becomes law. Would it be the Minister for Health? I bet he would not enjoy it. Would it be the Minister for Justice? There are so many legal complexities in it: it could certainly belong to him. Imagine the situation if the Crown Law Department insisted to its Minister that regulations drawn under this Bill required much more intimate detail than present laws could conceive or demand. If it is made by regulation and passed by Parliament, that is the law.

I make the point that I am not only criticising the Bill; I make it clear that I hope it is defeated. I hope it is defeated on the second reading. I suggest it does

not improve the present law; it clouds it, rather than clarifies it, without overcoming the problem at all. We should not discard it, imagining that we are placing the responsibility on the Government. In my view, that is a wrong attitude.

I suggest that in such a case as this we should adopt a practice which is not uncommon in Western Australia when a Government is faced with a problem, particularly a social problem. What does it do? I do not care whether it is town planning or whatever it may be; liquor laws, if one likes. Would the Government of itself, without guidance, introduce a Bill? Do we consider that the Bill introduced by the Minister for Mines two or three nights ago was all of his own thinking, however able he may be? He acted in consultation. He acted on advice. We seek advice on matters that are not social. A matter such as this, which is basically so social, affects the fibres of our nation. That is my view.

I think, therefore, we should seek the opinions of those in all sections who have firm views on this subject, whether from a special committee of inquiry or from individuals who will give their views to Parliament, through the Government. I would name outstanding representatives of this community to look at this problem. I would name the Chief Justice or his selected deputy to give opinions.

The Hon. J. G. Hislop: What would he do?

The Hon. F. J. S. WISE: I think I heard an interjection, "What would he do?". He would surely have a better understanding of the law than this Bill pretends to have; a better understanding of the legal involvements which the British law, the South Australian law, the Victorian law, and our own law present to us. I would suggest that the Government appoint a woman, in particular a woman with a few children, to express the complete point of view of our womanhood on this matter. I would suggest the appointment of a gynaecologist recommended by the Royal College of Obstetricians and Gynaecologists. I would suggest the appointment of one of the leading clergymen, either an Archbishop or a Bishop; and there would be others. These people could report to Parliament, through the Government, on this vexed question; not in a piecemeal fashion—and this is piecemeal if ever anything was—but to give us, with their expert, excellent backgrounds, the benefit of their views on every facet of the matter, to guide this Parliament into producing something, no matter how important the realities we have to face, no matter whether they oppose our own sensitivities or our own points of view.

That is what Parliament requires. It is not a matter to be foisted onto the Government to find a law to meet a situation. It is for the Parliament, with the guidance I have mentioned and with the assistance of the Government, to develop something which could be a workable law, not a piecemeal Bill. I oppose the measure.

THE HON. I. G. MEDCALF (Metropolitan) [9.17 p.m.]: Mr. President, this Bill has posed very difficult problems for all members of Parliament, and members of the Legislative Council in particular. Two years ago we had to consider a Bill in very similar terms to this one, as Mr. Wise and other members have mentioned, and on that occasion we had to search our consciences very deeply to see whether or not we were prepared to support the Bill in the form in which it then came before us. On that occasion, as Mr. Wise said, no fewer than 26 of the 30 members of this House spoke to the Bill, and they voiced various opinions. I suppose it was a case of so many men, so many opinions. There were so many different ways of looking at the Bill; so many different attitudes which members had before they ever came to the Bill; and so many different backgrounds which engendered different reactions to the Bill.

So again on this occasion, when another measure has come before us, the members of the Council have again had to search their consciences. I suppose many members, having gone through this exercise two years ago, and having gone through it in great detail and at some length, do not feel disposed to perform the same activity again to quite the same extent. This, of course, is quite natural. I must confess that I, myself, having gone into this matter very carefully in 1968, felt hardly called upon to go through the same exercise all over again when the matter had not been discussed in another place.

However, I suppose all members of Parliament, when they decide to accept office in Parliament, must be prepared to face the difficulties which go with that office. One of those difficulties is that they have to make up their minds on great public questions, and they have to be prepared to search their consciences once, twice, three times, again and again, as many times as they are called upon to do so, in the performance of their public duty.

I suppose once again we reach a situation of so many men, so many opinions. There are always variations of opinions and we may always differ on points of view and express different opinions. Indeed, if we all had the same opinion on every subject the world would be a most uninteresting place and this House would be an unreal place. So I reiterate generally, what I said on that occasion two years ago, because I have not seen any real reason to change my views, except that we have before us tonight a Bill which, in

some details, is different from the Bill which was before us then, and which was based largely on the United Kingdom Act.

I regret that I find myself expressing a different view from some other members of this House, whose opinions I greatly respect. It is a cause of pain to me that I should have a different view from some of these members, but I suppose they would grant me the favour of appreciating that I am just as honest and conscientious in my view as I believe they are in theirs.

The offences which are now contained in the sections of our Criminal Code dealing with abortion were first created by an Act of Parliament which was passed in the 43rd year of the reign of George III; in the same year in which Matthew Flinders completed his circumnavigation of the Australian coastline; three years before the Battle of Trafalgar; and 13 years before the Battle of Waterloo. This was the year. Members might wonder what that has to do with this Bill, but I mention those historical facts merely to illustrate that the law with which we are dealing is very old, and the offences which were created in 1802 still exist in much the same form and much the same words in our present Criminal Code.

As has already been mentioned by previous speakers, these offences are set out in sections 199, 200, and 201 of the Criminal Code. I do not propose to weary the House by reading out those provisions; however, the most important section is 199 which creates the provision under which persons committing the offence commonly known as abortion are most generally prosecuted. That section states that 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, or uses any other means whatever, is guilty of a crime, and is liable to imprisonment with hard labour for 14 years.

The only mitigation or breaking-down of this offence in Western Australia is contained in section 259 of the Criminal Code. This section has already been read out tonight, and I will summarise it briefly. It simply says that a person is not criminally responsible for performing, in good faith and with reasonable care and skill, a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time and to all the circumstances of the case.

That means the operation of abortion is lawful in Western Australia if it is carried out in good faith, with reasonable care and skill, and for the preservation of the mother's life. These are the only criteria of the law in this State and the only circumstances in which an operation is lawful. If you have a look at that section, Mr. President, you will see that it contains a number of rather doubtful terms—terms of doubtful meaning, and terms of legal complexity. I refer to the phrase, "a surgical operation." The section refers only to a surgical operation; it does not refer to the use of drugs on their own, for instance. It merely refers to an operation. The section refers also to an operation "upon an unborn child." Is the operation of abortion performed upon the unborn child, or is it performed upon the mother? These are areas of doubt. The section refers also to an operation performed upon a person "for his benefit" and raises one or two other legal complexities.

So it means that if we in Western Australia have to rely upon section 259 of the Criminal Code, and if we consider that all the acts or operations which are performed in this State are validated by section 259, then I think we are making a mistake because that is a section of most doubtful protection.

Mr. Wise was kind enough to refer to the illustration I quoted when I spoke in the House two years ago—the case of R. *versus* Bourne—and he dealt with this case at some length this evening. I have the report of the case with me but I do not now propose to quote it at any length because I think it has been sufficiently dealt with. However, I would like to quote from the headnote of that case as follows:—

> A young girl, not quite 15 years of age, was pregnant as the result of rape. A surgeon, of the highest skill, openly, in one of the London hospitals, without fee performed the operation of abortion. He was charged under the Offences against the Person Act, 1861, s. 58, with unlawfully procuring the abortion of the girl.
>
> The jury were directed that it was for the prosecution to prove beyond reasonable doubt that the operation was not performed in good faith for the purpose only of preserving the life of the girl. The surgeon had not got to wait until the patient was in peril of immediate death, but it was his duty to perform the operation, if on reasonable grounds and with adequate knowledge, he was of opinion that the probable consequence of the continuance of the pregnancy would be to make the patient a physical and mental wreck.

Then follows a great deal of legal discussion as to the thin dividing line between an act performed for the preservation of the mother's life and that performed for the preservation of her health.

There is, of course, a thin line between health and life because health has a bearing on life, and this is referred to by the judge, Mr. Justice Macnaughten. However, the conclusion of the case was really that the judge said it was up to the Crown to establish beyond reasonable doubt that the act was not performed for the preservation of the mother's life; and he indicated that if the probable consequence of the continuance of the pregnancy would be to make the patient a physical and mental wreck, then the operation would be equivalent to an act for the preservation of the mother's life. This is the general purport of the case.

That case was heard in 1938, but it is still not law in Western Australia, and it never has been the law of Western Australia. It may be that one of these days it will be accepted as being the law in Western Australia; but as the law now stands I am informed on very high judicial authority that that situation does not necessarily obtain here.

However, the medical profession in Western Australia, many of whom were trained overseas, seem to believe—or many of them seem to believe—that they have protection in this State if they perform an operation in somewhat similar circumstances to those referred to in R. *versus* Bourne. They also seem to believe that they have the protection of the law if they perform operations in other circumstances not quite the same as R. *versus* Bourne but which affect the mother's health, or even where the child may be born physically handicapped. In the performance of these operations I do not believe that medical practitioners in Western Australia have the protection they think they have.

On the last occasion I spoke on this subject I quoted from a number of medical textbooks which I said must have given members of the medical profession in this State the feeling that they were protected if they performed such operations in circumstances outside those referred to in the Criminal Code. For example, at page 952 of Maves on *Obstetrics*, it is said that the abortion is lawful if performed "to preserve the mother from serious illness." Camps and Purchase in *Practical Forensic Medicine*, say the operation is lawful "if the mother's health is in danger," and Lord Horder at p. 42 of the *British Encyclopaedia of Medical Practice* says that "pregnancy can be terminated if it is a menace to the life or health—mental or physical—of the woman."

Members of the medical profession in this State are very well educated, but many of them have been educated in other parts of the world and naturally they have imbibed the contents of texbooks which are not necessarily true in Western Australia. Therefore if any member of the medical profession in Western Australia holds these views he is, I believe, much mistaken. In my opinion he may be breaking the law of this State if he were to act on the presupposition that those statements are correct.

I believe that members of the medical profession in Western Australia are in quite a serious position in doing what Mr. Wise says they are doing, and what I fully believe they are doing. They are in a somewhat serious position, no matter how proper their motives are, and in my opinion their motives are entirely proper.

Nevertheless, I consider that such activities may well be in breach of the law. This, I admit, is my own opinion with which others may differ; but nevertheless I believe this is so. I have said this before and I have not seen any reason to change my view. The Western Australian Council of Churches apparently shares a view somewhat similar to my own, because it produced a memorandum or paper on this subject which no doubt has been received by all members of Parliament.

Views very similar to those I have already expressed are set out in much better form in this memorandum which has been produced by the Western Australian Council of Churches, and therefore I will quote briefly one or two extracts from it. The following appears on page 2:—

> There would seem to be little doubt that a substantial majority of the members of the community would wish to see the law authorise the termination of a pregnancy in those circumstances where its continuance threatens the life of the mother or threatens grave impairment to her mental or physical well-being. Such a law would require informed and competent medical opinion honestly to conclude that the risk to the mother's life or mental or physical well-being requires that the life potential of the foetus be terminated. This is the honest weighing of the value of the life in being of the mother against the value of the life potential of the foetus.

A little further down the same page, and carrying onto the following page, appear these words—

> The present uncertainty does expose members of the medical profession to risk and strain, and it could therefore be desirable to amend the present law to make it clear that a pregnancy may be terminated if its continuance involves serious risk to the life, or serious risk of grave injury to the health whether physical or mental, of the pregnant woman, whether such risk would arise during the course of the pregnancy or thereafter.

If we look at the Bill before us we find that, generally speaking, there are three grounds set out which would permit the termination of pregnancy.

The first one is that continuation of the pregnancy would pose a greater risk to health than if the pregnancy were terminated. I agree with other speakers who have indicated that this is not a sufficient standard for them, that there is a greater risk in a pregnancy continuing than if it were terminated. When we previously considered this question I was at some pains to give my view that every pregnancy involves a certain amount of risk; that a woman is obviously not in the same danger if she is not pregnant. If she becomes pregnant, there is some risk, however slight, to her life. I have discussed this with gynaecologists and they say, "Of course there is."

Likewise, in considering the second ground, that the continuation of pregnancy would pose a greater risk to health than if it were terminated, the same point is demonstrated. Clearly, the continuation of the pregnancy is a greater risk to health than if it is terminated. The continuation of the pregnancy must place some strain on the mother; everybody knows that. Therefore I agree with other speakers—including Mr. Wise—that this provision is too wide and, as I indicated on a previous occasion, I consider this clause should be amended.

I propose, if given the opportunity, to move amendments accordingly. I would substitute a provision that there must be a substantial risk to life. "Substantial" is a word which is capable of legal meaning; it is a word well known to the law. Perhaps I may have the opportunity to say more on that on another occasion. A substantial risk, in my view, is quite a definite standard which is capable of definite evaluation, and is a stricter and more severe standard than that contained in the Bill at present.

Likewise, in the case of a risk to health, I am suggesting it should be a substantial risk not only of injury, but of serious injury to the mental or physical health of the woman before it should be possible to terminate a pregnancy legally.

The third ground is that there is a substantial risk of physical or mental abnormalities so that the child would be born seriously handicapped. Once again the word "substantial" is used. I repeat that this is in the Bill and therefore I have not seen fit to propose any amendment to it. This ground, of course, would include the rubella cases where the mother contracts rubella and the child might be born deaf or blind. They would come under that third ground that there was a substantial risk of physical or mental abnormalities so that the child would be born physically handicapped.

The Bill provides that two doctors must express an opinion after a personal examination of the woman, and I do not quarrel with that. I find that having two doctors is eminently better than one doctor; that having two doctors is a satisfactory way of achieving some reasonable check. The Bill also provides that treatment must be carried out in a public hospital. I think the significance of specifying a public hospital is that it would, presumably, debar the so-called clinics about which we have read in the newspapers and which have been established in other States.

A doctor may have his own private hospital or clinic into which he places his own patients. Under the Bill a patient would have to go into a public hospital except, of course, in an emergency which is dealt with in clause 4(1)(b), and appears to be akin to the common law position where a doctor operates because he believes that the termination of pregnancy is immediately necessary to save the life of the woman, or to avoid grave permanent injury to her health. I intend to propose that the word "permanent" be inserted after the word "injury" in line 2 on page 3.

It is relevant that I should refer in general terms at this stage to the amendments I have placed on the notice paper because it will indicate my attitude to the Bill. I have also put on the notice paper an amendment to delete the residential requirement, which I believe was taken from the South Australian legislation. It imposes a requirement that a woman shall reside for two months in Western Australia before she becomes eligible for such an operation.

I do not believe this is proper for two reasons; one that it may impose medical difficulties if a woman has to wait two months for an operation when, in fact, she may need one immediately on very good grounds. Secondly, I believe that there may be constitutional doubt as to this clause, because it may impose a discrimination so far as the residents of the different States are concerned. I will propose therefore that that provision be deleted. I will also suggest that the next subclause, which refers to a woman's actual or reasonably foreseeable environment, be deleted, because I do not think it adds anything to the Bill.

The conscience clauses, which have been referred to in great detail by Mr. Wise, will also receive attention in the form of amendment. I did speak on this question at some length on the previous occasion and my views on the subject have not changed at all.

This legislation is permissive only so far as anyone seeking to have an operation for the termination of pregnancy is concerned. It is, I repeat, permissive: no-one will be compelled to have such an operation; that goes without saying.

I emphasise it is permissive, because so far as the doctor or the nurse, or any of the other attendants at the operation, is concerned it is not permissive as at present drawn; it is compulsory unless the people in question can establish a conscientious objection.

This to me is repulsive, just as it was found repulsive by Mr. Wise. Two years ago I indicated that I could not support such a provision in our Act; and I cannot support it any more at this stage. Accordingly I propose to seek to amend the conscience clause so that no doctor or nurse will be forced to establish a conscientious objection. If they have to establish a conscientious objection they have to positively do something; the onus is on them.

If a doctor or a nurse once participates in an operation, perhaps on *bona fide* humanitarian grounds to save a woman's life, he or she might be debarred from claiming that their conscience prevented them from performing a further operation. Members will at once see the difficulties in which medical people might find themselves in such a situation. Accordingly I believe those clauses should be removed from the Bill.

The amendments which I have suggested, and to which I have referred, would, I believe, answer the points made by a number of members. I feel that a number of those members would find that the amendments I propose would make the Bill more acceptable and that they would, in fact, overcome the objections raised by those members; particularly by Mr. Clive Griffiths, who referred to the foreseeable environment and a number of other points.

The Hon. A. F. Griffith: Would you express a view on clause 6 (2) in the light of what Mr. Wise said, particularly the words, "based on reasonable grounds?"

The Hon. I. G. MEDCALF: If a doctor makes a decision he must base it upon reasonable grounds. If a doctor ever has to answer for the performance of any act he must be prepared to justify that act, and the standard test is whether or not he properly performed the act upon reasonable grounds; whether he had reasonable grounds for the belief based on the fact that he was a doctor with medical knowledge and that he had to use medical judgment in respect of a medical operation. This would be the standard for an average doctor.

This standard would, of course, be imposed on him by the court. When we talk about anything being based upon reasonable grounds we must realise it is the court which ultimately decides this aspect; the court has the right to decide what the reasonable grounds are. The court tries to put itself in the position of the person who is performing the act and decides whether in all the circumstances of the case the person acted reasonably. This goes on all the time.

Whenever one's conduct is called in question it is a matter of looking to see whether one had reasonable grounds for doing what one did at the time one did it; not with hindsight or afterthought but at the time one performed the act, with the facts known to one; and the court would decide whether one performed the act upon reasonable grounds.

The Hon. A. F. Griffith: If the clause did not contain the words "based on reasonable grounds" it would mean something entirely different.

The Hon. I. G. MEDCALF: I think it merely expresses the common law position; it merely attempts to clarify that the person performing the operation—the medical practitioner—must have a genuine belief based upon reasonable grounds. These reasonable grounds must be grounds which the court considers reasonable, bearing in mind the circumstances of the case, not necessarily what the medical practitioner might think reasonable, but what the court —putting itself in his position at the time— considers to be reasonable grounds. In the ultimate any test of reasonable grounds will be the test the court imposes after placing itself in the shoes of the person before it.

As I have indicated, I am not prepared to support the Bill without amendment. I am, however, prepared to support the second reading subject to the amendments I have proposed being acceptable. It is only on that basis that I will support the Bill at the second reading stage.

Basically I have three reasons for supporting the measure before us. In the first place, generally speaking, the grounds included in the Bill as proposed to be amended are in accordance with the recommendation of the Western Australian Council of Churches. I believe this is an important recommendation and it is based on the deliberations of a number of leaders of the churches from various walks of life; deliberations made after consulting legal and medical opinion and, of course, after taking the views of their own church people. Generally speaking I believe the case has been set forth in reasonable terms and on that ground I will support the Bill.

The second reason I support the Bill is that I believe the law does need clarifying and that this is a genuine attempt to clarify it. I believe the measure, if amended, will have that effect. I believe that the medical profession, with its present practices and beliefs, may be sailing very close to the wind, and I feel the Bill will give protection to the modern medical practices adopted by most reputable people practising in this field of medicine.

Thirdly, I believe, that women are entitled to be accorded the dignity of being allowed to make a decision affecting their own bodies, within the limitations of the very restricted area I suggest the Bill should embrace. I feel, quite humbly, that in a sense it is impertinent for us legislators, who are men, to be considering what is a matter very personal to women.

I concede it is not only the province of women; society has a say in this matter. The preservation of the race and the preservation of public morality are matters which are also the concern of this Legislature and are the care of society; but I believe we should accord this dignity to women to allow them some greater say within the limited area which, I believe, the Bill will embrace.

THE HON. C. R. ABBEY (West) [9.51 p.m.]: I rise to declare my position on this Bill. I find myself in much the same position as Mr. Medcalf. The principles of the Bill are undoubted, and they are something which the great majority of our community desire to see clarified. I find myself in very considerable doubt about the present position. I do not intend at this stage to delve into the legal complexities of the Bill, because this has been done very ably by Mr. Medcalf and we have had the benefit of advice on the legal complexities from the Leader of the House (the Minister for Justice). So, this House finds itself in the position where a great deal of information has been placed before it to assist members in the consideration of this great social issue.

On both sides of the House we find ourselves taking sides, but not politically. We find opponents of the Bill, and we find those who believe that the principles it contains are just. My intention is to support the Bill if it is suitably amended, as Mr. Medcalf indicated.

As it should, this legislation has attracted a tremendous amount of public interest. The same as every other member of the House, I have received reams of correspondence for and against the measure, and I have made up my mind that I believe a clarification of the law is essential and that I will formally support the Bill if it is suitably amended.

From the inquiry which is taking place in Victoria we find the situation in that State has aroused a great deal of concern in Western Australia, because I believe the legal situations in both Western Australia and Victoria are very similar. This being so, we could in future well find ourselves with an inquiry which disclosed a situation similar to that which existed in Victoria, where it seems some people are under the protection of those in high places, and where illegal operations are obviously carried out to the very great detriment of the women. When this opportunity presents itself, surely we should take steps to ensure that the same thing does not happen in Western Australia.

I shall refer to a few excerpts from a number of letters which have been addressed to me on this matter. I do not wish to weary the House by reading any of these communications in full, but I think some portions of them give a very good indication of what people who have given a great deal of thought to the matter and, indeed, who are vitally concerned, feel about it. As Mr. Medcalf said, we are in a very difficult situation in this House in that there are 29 male members and one female member; yet we have to make up our minds on a matter which so vitally affects the women of the State.

The following is a portion of a letter from a lady residing at Kalamunda who has given a great deal of consideration to this question:—

> I consider that it is wholly inconsistent with modern thought and humanitarian principles that a woman should be compelled to bear any child that she does not want. Also, it has been shown that the existence of unlawful activities which meet a strong public demand and are therefore made available by those who are motivated by considerations of profit, leads to unlimited evils which can only be eradicated by amendment of the law. Consider, for example, the situation which arose from the Prohibition Act in America.

We all recall that. To continue—

> It is clearly most desirable to stop illegal abortion in Australia, and only possible to do this by making it legal. Dr. Hislop's Bill in fact does not go far enough.

That is the opinion of a lady who has given this matter a great deal of thought. It merely echoes what many of the thinking women of this State feel about the question.

A great deal has been said in previous debates about surveys that have been made among various sections of our community, not only in the more affluent section but in much more representative areas. These surveys have shown that a very large percentage of the population among those questioned do believe that the law needs clarification. In one case the proposition posed by a person who took a petition around was: We the undersigned citizens of Western Australia are in favour of the liberalising of the termination of pregnancy laws along the lines proposed by Dr. Hislop, and call upon members of Parliament to introduce the necessary legislation as soon as possible.

That was the extent of the survey in the form of a petition and I think that was a fair expression. It was not necessarily intended to flavour the intentions of anybody. The result of the survey was six to one in favour, or about 85 per cent.

I know it will be said that a petition can be so shaped that people will sign it anyway, but I do think that on a matter of great social importance such as this there are very few people who would sign it blindly. Surely if that is an indication of the situation then this House must take notice of it.

This Bill, obviously, is one which should be dealt with in Committee. A considerable number of amendments has been listed, and it is a Bill which can much more clearly be dealt with in Committee. For that reason I intend to support the second reading, with the intention and purpose of amending the Bill to bring it into a suitable form. If the measure, when amended, is passed by this House, I sincerely hope that it will be in such a form as to allow its introduction into the Legislative Assembly to enable a reasonable debate to take place there, because it is necessary that both Houses express an opinion.

We must face this issue. I do not believe it should be decided by a referendum. It is our responsibility to make up our minds and I believe we should do this. I hope that this evening the Bill will be completed in this House. However, I do make an earnest plea to any member who has sufficient legal knowledge to amend the Bill if necessary to ensure its introduction into the Lower House, to do so. I believe it is vital that the Bill should leave this House in such a form that it can legally be accepted in another place. On that basis, I support the measure.

THE HON. F. R. H. LAVERY (South Metropolitan) [10.1 p.m.]: When I spoke on a similar Bill in 1968 I did not make a very lengthy speech. However, what I said was not influenced by anyone else. I was guided by my own conscience.

I feel it has been a little difficult for members of this House, not so much as members of Parliament but as members of this House, to have to debate this Bill a second time when so much pressure for and against has been directed at us by our constituents. We are being asked to make a decision which will affect the lives of people yet unborn because people yet unborn will have to live under the existing provisions of the Criminal Code or under the provisions of this Bill if it becomes law. I feel it is a lot of responsibility to place on one small group of people to have to make a decision a second time.

I want to be critical of some actions which are taking place now, but I do not want to leave anyone in doubt as to my intention regarding this Bill. I stated that very clearly regarding the Bill in 1968, and the *Record* newspaper published a section of my speech in which I expressed my doubt whether the privileges of Parliament were almost, if not completely, being infringed. However, the paper did not publish the last paragraph of my speech which appears on page 1775 of *Hansard* under the date of the 16th October, 1968, and which reads as follows:—

> I did state a few months ago that I was not in favour of the Bill, and I want the people who are trying to bring pressure to bear on me to know that they are not influencing me at all in the decision I have now taken. I oppose the Bill.

Like other members who have spoken tonight, I find that the contents of this Bill have not helped me in any way to change my mind on the subject. Now members know where I stand. I shall vote against the Bill and hope it will not be read a second time.

During the course of my speech I will probably make some comments which may not sound so nice, but these and other remarks I feel I should make in accordance with my conscience. I think if anyone in this world could not be called an egotist he would be Fred Lavery. However, I would like to repeat a remark passed about me some months ago. This remark, which has sunk in rather deeply, was, "Fred Lavery has always had time to stop by the wayside and help someone less fortunate than himself."

Actually, I have lived that way all my life but I had not thought of it until the remark was made. However, it was very nice for someone to make it. It is on that basis I wish to speak tonight.

We have all received letters from people in support of and against this Bill. I have a file here containing about 25 letters some of which are very sensible and are opposed to the Bill while others equally sensible are in support of the Bill. I do not want to challenge the right of these people to correspond with me, as I am the representative of their district and have been elected by them. However, I do challenge their right to suggest that if I do not oppose this Bill I am in the position of a murderer. Two letters I have received have said that. This, actually, is strange because I raised the same complaint during the debate on a similar Bill. Despite this fact the same two people sent me exactly the same letter again. All I want to say to them is that God will look after them in the final count, and so he will look after me.

I am not happy at all with this Bill. First of all I would like to indicate to the proposer (Dr. Hislop) that I am not opposed to his introducing the Bill again, but I am rather amazed that he has introduced this time a Bill which is not the same as the one which left this Chamber and was sent to another place in 1968. I would have thought that a man with his parliamentary experience and wonderful medical knowledge—he is recognised all over the world as one of the best diagnosticians—would

have enough political sense to introduce this time a Bill based on that which passed this Chamber previously, particularly in view of the trouble he had in getting the Bill through this House; it was only passed by this Chamber after many amendments were made. However, for some unknown reason, on this occasion he has included in the measure some good provisions that are in the British legislation and some that are in the South Australian legislation.

I suppose he has every right to do this and I have no right to criticise. I have only done so to try to indicate that if Dr. Hislop had wanted to change the opinion of some members in this Chamber he should have included certain provisions which might have done this.

I agree with the view of Mr. Wise. I believe that this Bill has become so wide in its implication that it is almost an insult to suggest that it would not provide an open sesame so far as abortion on demand is concerned. After listening to Mr. Wise tonight, I am more convinced than ever that this is so.

I would like to refer to a couple of cases about which I was asked and in connection with which I have given some help. It does not matter whether a religious body such as the one which presented the petition now on the Table of the House or those which presented the petitions which were laid on the Table of the House two years ago, bring petitions here. The people who signed the petitions did so in the very best of faith and according to what they believed to be right.

When I look at the Bill which was introduced previously, and when I see the Criminal Code provisions outlined in the present one, I feel there is some need—as the Minister for Justice has said—for a tightening of the law.

Doctors who are dealing with the awful disease of muscular dystrophy have now reached a stage in their investigations where they can, with some surety, tell a prospective mother whether she is about to have a boy or a girl. It is then left to the mother to decide whether or not to have her child, knowing that a son will be born with muscular dystrophy. If the mother decides against having the child then the doctors concerned should be protected.

I would like to quote two cases which have come to my notice. The first concerns a Roman Catholic family with a daughter just under 18 years of age. The daughter fell by the wayside and became pregnant. Her father was quite happy to accept the child but he did not want his daughter to marry the young man concerned. The family was worried for some time, and they then asked me for some help so that they could prohibit the marriage of their daughter.

I rang a priest whom I knew very well and his advice was that although the marriage could be stopped, the young couple would probably run away from home and live *de facto* until the age of adulthood, and then marry. The parents of the girl were very worried so I told them that the Bill which is now before us stated that a gynaecologist, a psychiatrist, or a medical man would be able to advise. The parents saw a doctor, who sent them to a psychiatrist and—I am sad to say—an abortion was effected. So, when it strikes home, gone is the laughter, irrespective of the thought beforehand.

The second case I wish to mention also concerns a girl who became pregnant. The lad concerned wanted to marry her, and the parents of the girl, at first, consented. However, the parents suddenly decided not to consent to the marriage, but to send the girl to her aunt in England to have the pregnancy terminated. Despite all we hear with regard to the English law, and abortion on demand, the girl went to three clinics and was refused admission for the termination of her pregnancy. Because the girl could not get rid of the child, her parents did not want any more to do with her. That is what some children have to suffer. The father of the boy is trying to bring the girl back again so that his son can marry her, and the matter is now in the hands of some people who may be able to assist.

The point I am raising is that in one case the people who were opposed to the termination of pregnancy had an abortion performed and as I said: Gone is the laughter when it strikes home. In the other case the child was turned down by her parents.

As far as I am concerned this is a social problem, and with our permissive society what will happen if we pass this Bill? The permissive society is here whether we like it or not. It is practised under our very noses and if this Bill is passed it will be a case of open sesame for those people who have no thoughts of what might happen to a young woman so long as a few dollars can get the matter cleaned up.

You will remember, Mr. President, that some years ago a Bill was before this House to amend the Matrimonial Causes and Divorce Act. The amendment was to make it possible for a divorcee to marry his divorced wife's sister. I cannot think of anything more repulsive than that. When I spoke against that Bill I said that the combined churches had sent me a letter, but that I had not received a letter from the Catholic community. I interviewed the Archbishop of Perth—then Bishop Goody—and discussed this matter with him. He told me that the letter sent by the Archbishop of the Church of England was decided on by all the churches.

I quoted the letter in Parliament, and I said that one could go to South Australia and marry one's divorced wife's sister. An interjector asked, "Who is going to pay?" For any sins I have committed, I have had to pay. However, if this Bill is carried a person who commits a sin will pay very little. I am concerned with what will happen to the girl and her future life, particularly if she is of immature age. That thought alone turns me against the present Bill.

As I said earlier, the Bill which was presented two years ago was passed by this Chamber. The Bill having passed, I had to agree with the contents, and I did think that a similar Bill would come before us on this occasion. However, clause 4 (1) (a) (i) reads as follows:—

> (i) that the continuance of the pregnancy would involve greater risk to the life of the pregnant woman or greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated;

That provision is very different from the provisions of the Bill which left this Chamber in 1968. Subparagraph (ii) reads as follows:—

> (ii) that there is a substantial risk that, if the pregnancy were not terminated and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped,
>
> and where the treatment for the termination of the pregnancy is carried out in a public hospital;

Of course, if that is carried, I shall have to support the remarks of Mr. Wise: namely, the Public Health Department will have to carry the burden of the whole of the legislation. There is no doubt that this will be true. The situation today is that, from time to time, the Government finds it necessary to take over what are known as "C"-class hospitals. The Government takes them over and improves them. Consequently it will, in effect, be a matter for the Government. I could not agree more with the remark made by Mr. Wise when he asked, "What Government would bring down this Bill?"

I think you would admit, Sir, that the Leader of the Government in this Chamber, both in 1968 and this year, gave a very sophisticated and informative report on the legal side of what would happen if the Bill becomes law. He admits—and probably I would have to admit—that there is a need for tightening the legislation. However, there is no need for easing the legislation. As far as I am concerned the Bill before us proposes to ease the law. I cannot see it any other way.

I have mentioned that doctors who are investigating muscular dystrophy have found that the disease or the disability—whatever one likes to call it—comes down through the female sex. This has been proved quite definitely. With the amount of research that has been undertaken, it is possible for doctors to advise a pregnant woman on the effects of muscular dystrophy. A woman should know the risk of carrying a child if muscular dystrophy runs in her family. If she wants to take that risk, it would be her own decision. In other words, a woman should be allowed to make a decision whether she will take the risk of bringing a deformed child into the world or of bringing into the world a child who will eventually become deformed. That kind of decision may be all right. Perhaps the Minister for Justice had this in mind when he said the law needs clarifying.

The Bill refers to doctors acting in good faith. I suggest that the doctors who attended the girl I mentioned previously acted in good faith. Or did they?

I wish to pass a comment on a letter which was published in *The West Australian*. I only wish to refer to the last paragraph of the letter. Members of Parliament have received letters from various new organisations. So far as I am concerned people are justly entitled to form associations in the same way that associations have been formed by those who favour abortion. However, I doubt the sincerity of some of the people. A letter by Mrs. Doris Martyr was published in *The West Australian* on the 30th March, 1970, under the heading, "Abortion and mental health." In that letter Mrs. Martyr criticised members of the Legislative Council, although the Bill was not before the House at that time. The last paragraph reads—

> And the doctor? The World Medical Association's international code of medical ethics says: "A doctor must always bear in mind the importance of preserving life from conception till death."

That lady may, in all good faith, believe what she wrote. However, how does she reconcile the fact that she and the organisation to which she belongs and the organisation which has sent me letters are quite happy that life shall be preserved from conception until death? She agrees with the conception side of the principle. Why is she happy to see the 20-year-old sons of other mothers sent to Vietnam to fight in a war that has nothing to do with us and to shoot and kill the sons of Vietnamese mothers? Do they not have the right to live, too?

I make one other point: Who is genuine on this subject? From correspondence and pamphlets which we receive we are told

that there is life from the moment of conception. When all is said and done, miscarriages can occur through natural causes. One of my nieces has been pregnant six times, but she had five miscarriages. She has now adopted two other children, because she wanted children.

Why is it that no religious body will bury the body—as it is called—resulting from a miscarriage, unless the child had been conceived for a period of 28 weeks? Why is it not registered in the Bureau of Census and Statistics? We are going a long way from Christian principles as I learnt them, and I am no paragon of virtue—make no bones about that.

I oppose the Bill, because I believe in my own heart that it is not right. I do not oppose it because I think the law is not right. I am not capable, as Mr. Medcalf is, of analysing the law to the last detail. Yet, I am capable of knowing right from wrong. While I live I will always know the difference. Apparently I am not doing too badly on earth, because it is said that three score years and ten is one's allocation. I have gone past that now, so I must be doing a reasonable job on earth, or I would have been taken away before now. I say, "Live and let live."

When a tragedy strikes a home, the people involved have to meet the situation in the normal sense. I cannot see the justification for bringing a Bill before Parliament for the third time. There has been a great deal of public agitation on this subject over many years, but the Bill which has been brought forward on this occasion is not in line with the intention of the sponsor. I know Dr. Hislop's intention perfectly well. However, that intention has been lost sight of by whoever drafted the Bill because there are too many "ifs" and "buts". I agree that whoever drafted the measure would have done so in consultation with the doctor.

The Hon. A. F. Griffith: I listened to a Bill to establish adult franchise for the Legislative Council about eight times.

The Hon. F. R. H. LAVERY: Yes, and finally the Minister saw it through.

The Hon. L. A. Logan: The honourable member might see this one through.

The Hon. F. R. H. LAVERY: The Minister saw it through, because he saw the light. My main objections to the Bill centre around clauses 5 and 6, which have the respective marginal notes of "Participation in treatment" and "Savings." Clause 5 (1) reads as follows:—

> Subject to subsection (2) of this section, no person is under a duty whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection.

Let us stop there for a moment. If that was the end of it, perhaps I would agree, but it then says—

> In any legal proceedings the burden of proof of conscientious objection rests on the person claiming to rely on it.

I suppose there are thousands of doctors in the world, and hundreds in Australia, who would not want to participate in it; and why should they have to? If they do not want to, they have medical friends to whom they can send these people. No doctor would say, "I dont want to do it; you can go and see someone else," if he saw a person lying half dead. Under those circumstances he would do it.

Look at the number of terminations of pregnancy occurring in the State all the time. Of course they are occurring. There is a clinic at the Fremantle Hospital which is dealing with them. The clause continues—

> Nothing in subsection (1) of this section affects any duty to participate in treatment which is necessary to save the life or to prevent grave injury to the physical or mental health of a pregnant woman.

Subclauses (2) and (3) do not tie up with the first subclause, as far as I can see. Clause 6 has to do with savings. Clause 7, as Mr. Wise said, hands over the complete control of this piece of legislation to the Government for it to act on, to pay on, and to do all that is necessary in regard to it.

My speech might sound a bit broken here, but there are some things I had to say. People have sent letters to me, and all but two of them have used reasonable language. As yet I have not replied to those people but when the Bill has been dealt with I shall do so. I have not done so yet, because I did not want to reply while the Bill was *sub judice*. They have said that if I voted for the Bill I would be voting to commit murder. People have no right to write to me in those terms, whether I am a member of Parliament or an ordinary citizen. I have always had a clear conscience on these things. I think the Minister and those on the opposite side of the House would agree that in many political situations I have taken a middle line. I am not taking a middle line this time. I am opposed to the Bill.

THE HON. V. J. FERRY (South-West) [10.33 p.m.]: I rise to make my position clear on this issue, an issue on which I had a good deal to say two or three years ago, when it was fully and exhaustively debated in this House.

The Bill on this occasion leaves a lot to be desired. I believe that the Bill as printed is quite inadequate for the purpose it sets out to achieve, but I do not propose to oppose it at the second reading.

I shall support it at the second reading in the hope that in the Committee stage, and by possible amendments that will flow from further debate, there will be some genuine attempt to clarify the law. I believe that is capable of being done. That is my motive for supporting the Bill at the second reading stage; not that I support it in the present form at all, but I believe it is necessary for further debate to ensue to try to reshape the Bill into what might be a more generally accepted document. I am looking to the Committee stage to achieve that. For those reasons I support the Bill.

THE HON. R. THOMPSON (South Metropolitan) [10.35 p.m.]: What does one say after listening to speakers such as Mr. Wise and Mr. Medcalf? I think we have heard the most knowledgeable speakers we could ask for on an occasion such as this. I do not intend to take up much of the time of the House, because I expressed myself quite clearly when this Bill was debated in 1968. I opposed it then. I shall oppose it on the second reading on this occasion, and I shall oppose it through the Committee stage, if it gets that far—which I trust it will not.

In 1968 I pointed out that I considered that if any legislation of this nature was necessary it should be brought in by the Government after full consultation with the Minister for Child Welfare, who gave quite an impassioned speech in support of the Bill on the last occasion, when he mentioned the cases he had seen.

The Hon. A. F. Griffith: You would be in your element then. Can't you think of something to say?

The Hon. R. THOMPSON: Possibly the Minister would not like what I was going to say. I was going to boom him up in a moment.

There should also be consultation with the Minister for Health and the Minister for Justice. I think it is beyond the capacity of a private member to bring in legislation such as this, because there are too many features of which the layman would not know. On the three occasions that we have had this Bill brought before the House, no reasons have been given to us —not one—why this legislation should be passed or accepted by this Chamber. Nothing has been brought forward to us on any occasion.

I can therefore go along with what the Minister for Justice said. He said words to the effect that he was watching the South Australian legislation and having a close look at it. He gave a superb description of his inquiries into the English Act, the South Australian Act, and other legislation that he had had for perusal.

This Bill should be defeated on its second reading. I think it is a Government responsibility. If we were the Government, I would consider it to be our responsibility. If the law needs clarifying, it is the Government's job to do it.

The Hon. A. F. Griffith: With all this opposition, I am wondering why the Bill went through on the voices the last time it was introduced.

The Hon. R. THOMPSON: I oppose the Bill.

THE HON. G. W. BERRY (Lower North) [10.38 p.m.]: I intend to support the second reading of this Bill, in the hope that the amendments proposed by Mr. Medcalf will be made. I do not agree with the view of some members that the Bill will provide for abortion on demand. I hold the view that it is an attempt to clarify the law as it exists. I consider that abortion on demand is something like this—and I quote an article from page 25 of *The Bulletin* dated the 10th January, 1970, under the headline, "Abortion for $1.39", as follows:—

> Following the trend that abortion is a matter for the individual conscience, Singapore has made the operations legal. Only two days before the New Year the republic's Parliament voted 32-10, with one abstention and 15 Members absent, including Prime Minister Lee Kuan Yew, who made a speech supporting the Bill. Under the law, to be reviewed by Parliament in four years, abortions will be performed in Government Hospitals for $S.5.

That is $1.39 in Australian currency. That is what I consider to be abortion on demand. I think the present Bill is an attempt to clarify the law as it exists, and I think it will do just that. After hearing Mr. Medcalf state the amendments he proposes to move in the Committee stage, I think the legislation will clarify the law as it exists, and I think this is necessary.

As previous speakers have said, the legislation will not stop backyard abortions; I do not think for one minute that any legislation could do that any more than some of our present legislation can stop some other things that go on.

The Hon. L. A. Logan: It would minimise it.

The Hon. G. W. BERRY: It might minimise it. However, I think that abortions, or other unlawful acts, will continue to be performed so long as there is sufficient incentive.

I did not speak to the Bill which was introduced in 1968, but I supported it because I thought it was a genuine attempt to obtain some clarification of the law regarding abortion as it was being practised. This is a matter about which people have to think very hard, and I might say that I gave it a considerable

amount of thought, and I have been most worried whether the decision that I was about to make would be the right one.

After thinking about the matter and reading letters that have been sent to me —as well as others—I became a bit confused as to just what I should do. However, I now feel that with the proposed removal of the clause regarding environment within the foreseeable future, which is a contentious clause because it is one that does not have a great deal of bearing on the decision to be made by the medical practitioner, the Bill leaves no grounds other than purely medical grounds to be considered, and it will clarify the legal position of medical practioners. I support the second reading and hope that the proposed amendments will be accepted.

THE HON. R. F. HUTCHISON (North-East Metropolitan) [10.44 p.m.]: I suppose I will be the last speaker in this debate and this is not a subject on which I like to speak. However, it seems to me to be ridiculous that men should stand up and debate something when they have no knowledge as to how it would appear to a woman.

I am a mother of seven children; I have five great grandchildren, and I am very proud of all of them. At 30 years of age I was left very poorly off, and I reared all of my children. I have never regretted the struggle I had. I managed to give them all an education and I did this by taking in men as boarders and lodgers in my house, and by feeding them. Those men always treated me with respect because I demanded it.

I think it is the height of impertinence —even in what is the highest legislative Chamber in the State—to have to listen to a lot of men, as I have had to do tonight, giving their views on what they would do to women or what women should do themselves.

When I first came into this Chamber women did not even have a vote at the elections for this House unless they owned property worth a certain sum of money. I had the law changed—I think four times—and now everybody has a vote and have as much say as anyone else.

I think the matter before us could well have been left alone and I do not admire the person who introduced it. He knows life better than most men here because he has had to deal with it, and I am amazed that a doctor of the standing of Dr. Hislop should bring a Bill such as this into a House of Parliament to be voted on and decided by a lot of men. Apart from me, there is not a woman here and I am making my protest now.

I repeat that I think this is an impertinence to women. I will not delay the House any longer; however, I am not going to vote on this Bill, I am going out to have a cup of tea.

The Hon. V. J. Ferry: That is what you did last time.

The Hon. R. F. HUTCHISON: I am hoping that the Bill will be soundly defeated and that men will start to think with a little reason and realise what they owe to their own wives and families. They take wives and then come here and talk about abortion, which is merely the murder of an unborn child. I do not agree with it and I think that women who do not want children should not get married and should live a chaste life on their own. Mr. President, I intend to oppose the Bill.

THE HON. J. G. HISLOP (Metropolitan) [10.48 p.m.]: Mr. President, the Bill has been well debated, and there is nothing further for me to say. I commend it to the House.

Question put and a division taken with the following result:—

Ayes—17

Hon. C. R. Abbey	Hon. L. A. Logan
Hon. N. E. Baxter	Hon. G. C. MacKinnon
Hon. G. W. Berry	Hon. N. McNeill
Hon. G. E. D. Brand	Hon. I. G. Medcalf
Hon. R. F. Claughton	Hon. S. T. J. Thompson
Hon. V. J. Ferry	Hon. F. R. White
Hon. A. F. Griffith	Hon. F. D. Willmott
Hon. C. E. Griffiths	Hon. J. Heitman
Hon. J. G. Hislop	*(Teller)*

Noes—8

Hon. J. Dolan	Hon. R. Thompson
Hon. R. F. Hutchison	Hon. W. F. Willesee
Hon. F. R. H. Lavery	Hon. F. J. S. Wise
Hon. T. O. Perry	Hon. R. H. C. Stubbs
	(Teller)

Question thus passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. J. G. Hislop in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement—

The Hon. CLIVE GRIFFITHS: It is apparent from the complexity of views expressed by members in this and during a previous debate; from views expressed by organisations, groups of people, and individuals, that this is an extremely contentious Bill. We have heard widely differing opinions from both medical and legal experts whose authority I would not question.

I have already expressed my thoughts on the matter, based finally on the dictates of my conscience. I am certainly not adamant that I am right. However, I am just as certain that other members cannot be adamant that their views are right. Therefore I was moved to place on the notice paper an amendment in the knowledge and belief that there is inherent in the minds of a great number of people an attitude that has been held

by many generations before them; namely, that abortion in any form is morally wrong.

Similarly, there are many people who do not share this deep moral attitude and who maintain that abortion, in varying degrees, should be permitted. It is my conviction that these varying attitudes go far deeper than some people realise. Therefore, in order to obtain a definite and accurate answer on what the majority of people want we should give them an opportunity to expresss their own views on the question.

It may be said by some that we should accept this responsibility and should not evade making the decisions. However, I point out that over the years this Parliament has decided to refer less important questions that do not involve the moral, social, and fundamental Christian issues that are involved in this legislation, to a Select Committee, Royal Commission, or persons outside this Parliament for their examination.

I do not believe there is anything wrong in holding a referendum on an issue such as this. I would also remind members that should the Bill finally pass through all stages in this Chamber it will, if amended, indicate to those people that that is the opinion and decision of the members of this Chamber. My amendment will give the members of the public an opportunity to agree to the Bill or to reject it. It will give a clear indication whether or not society is ready to adopt this attitude towards abortion. Therefore, I move an amendment—

> Page 1, line 12—Add after the word "passed" the following proviso:—
>
> "and provided that the Act shall not operate until it has been ascertained by a vote of the electors on the State Electoral Rolls that a majority of them approve of the clarification of the law as contained in this Act".

The Hon. N. E. BAXTER: I have examined the amendment very closely and in my opinion it is contrary to the provisions contained in clause 2 which provides—

> This Act shall come into operation on a date to be fixed by Proclamation, being a date not later than six months from the date on which it is passed.

The amendment does not stipulate in what period the referendum shall be held, and therefore, in my opinion, is contrary to clause 2. For those reasons I ask for your ruling, Mr. Deputy Chairman (The Hon. F. D. Willmott), whether or not the amendment is in order; in other words, whether or not it will impose a charge upon the Crown.

The Deputy Chairman's Ruling

The DEPUTY CHAIRMAN (The Hon. F. D. Willmott): Mr. Baxter has asked for a ruling on the validity of this amendment and whether or not it will impose a charge upon the Crown. The following is my ruling:—

> I have examined the amendment as it appears on the addendum to the notice paper, and in my opinion, the amendment does not impose a charge on the State as defined in section 46 of the Constitution Acts Amendment Act for the reason that the appropriation of money for the operation of the Electoral Department is covered in the Annual Estimates.

I therefore rule the amendment to be in order.

Dissent from Deputy Chairman's Ruling

The Hon. N. E. BAXTER: I move—

> That your ruling be disagreed with.

[*The President resumed the Chair*]

The PRESIDENT: Does any member wish to debate this question by speaking for or against it?

The Hon. A. F. GRIFFITH: I do not wish to speak for or against it but from my own personal feelings, and having had a look at Standing Order 320, I suggest that this is a matter upon which you, Mr. President, might deliberate tonight; we should not leave it for another day.

The PRESIDENT: I will leave the Chair until the ringing of the bells.

Sitting suspended from 11.2 to 11.18 p.m.

President's Ruling

The PRESIDENT: Having studied section 46 of the Constitution Acts Amendment Act, 1899, in it's entirety, I am convinced that the amendment does not in any way conflict with that section, and I therefore uphold the ruling given by the Deputy Chairman of Committees (The Hon. F. D. Willmott).

Committee Resumed

The Hon. N. E. BAXTER: I trust the Committee will not agree to this amendment and I have several reasons for saying this. I believe that a referendum would not gain anything, plus the fact that it would be very difficult, in my opinion, to hold a referendum within six months of the assent to this Bill, which is what would be required were the amendment passed. The electoral rolls would have to be prepared in that very short period and all the arrangements for a referendum made.

I would like the assurance of the Minister for Justice that the Electoral Department would, with all its other commitments, be able to carry out a referendum of this type in the time allowed. It is possible it could be done, but it would be a big demand on the department.

However, apart from that, I do not see the necessity for a referendum. Since 1968 we have had the opportunity to assess

the opinion of the people of the State, and we have obtained that opinion. If this amendment is passed we would, through the electoral roll, again ask for this opinion on legislation. That would mean that every person on the roll would have to be *au fait* with the provisions in this Bill before they could, in all conscience, cast a vote.

The Hon. G. C. MacKinnon: They would also have to be *au fait* with the existing provisions in the Criminal Code.

The Hon. N. E. BAXTER: That is so. I do not think a very big percentage of the people would be in that position. Many of them would not be able to understand how to read this Bill and the Criminal Code in relation to one another. That is why I say I trust the Committee will not agree to the amendment.

The Hon. A. F. GRIFFITH: First let me say to Mr. Baxter that if it is the wish of Parliament that a referendum be held, it is the responsibility of the Government to conduct one in exactly the same way as it would be the responsibility of the Government of the day, if this Bill became law, to give effect to clause 7 which deals with regulations. I believe Mr. Wise would agree with me, despite his contention in respect of clause 7.

The Hon. F. J. S. Wise: Exactly. You are not dealing with anyone in the kindergarten class, you know.

The Hon. A. F. GRIFFITH: I know that.

The Hon. F. J. S. Wise: Then do not be so presumptuous.

The Hon. A. F. GRIFFITH: I am not being presumptuous. We have heard complaints tonight concerning the fact that we are debating the subject of this Bill for the third time. I believe it is Parliament's right to do this if the necessity arises. One point this third debate has proved to me is that there is opportunity for a change of mind when the subject of a Bill is debated more than once. It will be recollected that the Bill introduced in 1968 was, as I remarked in my second reading speech, given a second reading on the voices. Substantial amendments were made and they too, if I remember correctly, were passed on the voices. I find no fault with the change of mind. I merely point out that that is the case.

The Hon. F. R. H. Lavery: You are not casting a reflection on the vote, are you?

The Hon. A. F. GRIFFITH: I am not casting a reflection on anyone. I am saying that Bills, similar in content, can be debated on a number of occasions. I reiterate what I said before; that is, those in another place should have debated this Bill when it arrived there. Now that this measure has passed the second reading, I hope that during the Committee stage amendments will be passed so that the Bill is substantially the same as the one introduced in 1968 and that it will then be accepted for debate in another place. I see nothing wrong with a point of view of this nature.

Dealing with the amendment, I believe it would be impracticable to carry out a referendum within the terms of the amendment. I do not think it would be a fair thing to expect the Electoral Department —which I imagine would be the department to deal with the matter—to carry out a referendum and return the result in six months.

You, Mr. Deputy Chairman (The Hon. F. D. Willmott), have ruled that the amendment moved by Mr. Clive Griffiths is in order. If a referendum is carried out, it will cost someone something. It will cost the taxpayers something. Therefore the way I see it is that Parliament would have to consider in some form or other a Bill to appropriate the money to conduct this referendum. I am not sure of this, but I believe a referendum Bill would have to be passed. I am certain that there would have to be some form of appropriating the necessary money to conduct the referendum.

In addition to this, the questions would have to be put to the people, and on what basis are the questions to be put? It is completely unclear to me, from the amendment, what the questions would be. I believe Parliament would have to contemplate these questions. I merely make these points to indicate that the matter would not end here. It would have to be carried further. What would a referendum achieve? In my opinion it would not achieve a great deal of good. On the contrary, it could result in a great deal of unhappiness and controversy among families and people generally.

The Hon. R. F. Hutchison: I agree.

The Hon. A. F. GRIFFITH: I would be loath to agree to a referendum being held on this matter. Apart from the other factors I have mentioned, how this proposal would be accepted in another place—where it would go as it would be part of the Bill—I do not know. However, it is certainly competent for those in this Chamber to express an opinion, and mine is that we should not agree to the amendment.

The Hon. R. F. Hutchison: Why did the Bill not go to the Legislative Assembly?

The Hon. A. F. GRIFFITH: It did.

The Hon. F. R. H. Lavery: But the Speaker ruled it out of order.

The Hon. R. F. Hutchison: I did not know they had so much common sense.

The Hon. CLIVE GRIFFITHS: I moved this amendment feeling very confident indeed regarding your decision, Sir, should

it be challenged. Mr. Baxter, when opposing it, gave us very good reasons for supporting the amendment. He said that since 1968 we have had adequate opportunity and information given to us to allow us to know what the electors felt on this particular issue.

I would pose the question: What is the opinion of the electorate on this particular issue? The honourable member used an interjection to bolster his argument for not holding a referendum, and the interjection was in exactly the opposite vein to his original argument. The interjection was to this effect: How would people be expected to know what was contained in this Bill and what the present situation was?

I say that argument would not hold any water at all, and because of the multitude of reasons expressed by many members with regard to the moral, Christian, and far-reaching aspects of the issue it goes far beyond what 30 members of Parliament ought to decide on behalf of nearly 1,000,000 people. The people ought to be given an opportunity to let us know, once and for all, their views on a major piece of legislation such as this.

The Hon. R. THOMPSON: I think all members know my feelings on the Bill, but I feel this amendment, at this stage, is putting the cart before the horse. The amendment states that the Act shall not operate until a referendum is held. We do not know what the Act will be because many amendments have been foreshadowed.

The Hon. A. F. Griffith: The amendment could have been moved on recommittal.

The Hon. R. THOMPSON: I consider that would have been the right place to move the amendment. Although I intend to oppose the Bill, let us look at the finished product. That can only be done on recommittal.

The Hon. F. R. H. LAVERY: I cannot understand the attitude of Mr. Clive Griffiths in attempting to bring his amendment forward at this stage. Clause 2 of the Bill states that the Act shall come into operation on a date to be fixed by proclamation, being a date not later than six months from the date on which it is passed. The honourable member proposes to add the following proviso:—

> "and provided that the Act shall not operate until it has been ascertained by a vote of the electors on the State Electoral Rolls that a majority of them approve of the clarification of the law as contained in this Act."

There is no Act at the moment; this is purely a Bill.

The Hon. A. F. Griffith: But every Bill becomes an Act.

The Hon. F. R. H. LAVERY: Not every Bill. I have seen many Bills produced by the Labor Party, but a window on the other side of the House has always been open, ready to receive those measures.

The Hon. A. F. Griffith: I think the honourable member has got me there.

The Hon. F. R. H. LAVERY: I have to agree with the Minister.

The Hon. A. F. Griffith: You cannot go far wrong if you agree with me.

The Hon. F. R. H. LAVERY: We should not be squibs. We are elected by the people to make decisions on their behalf. There is not a member sitting in this Chamber who has not had to give second thoughts to this Bill. I ask the honourable member: Do we want the Paisley set-up in this Chamber? I say, make the decision yourself and do not squib it.

The Hon. CLIVE GRIFFITHS: I take strong exception to the suggestion that I am squibbing it. I will not take up the time of the Chamber by reading from the two volumes that I have in front of me containing similar cases where the same honourable member who has just spoken supported moves for referendums on issues that are far less involved than the present one as far as moral and Christian attitudes of individuals are concerned.

The Hon. F. R. H. Lavery: Can you quote one of those examples? I have not voted for a referendum as yet.

The Hon. CLIVE GRIFFITHS: For the information of the honourable member I will have a look to make sure that he did vote on the occasion I have in mind. A vote was taken and his name may or may not have been included.

The Hon. F. R. H. Lavery: That is better.

The Hon. CLIVE GRIFFITHS: I would suggest the honourable member looks at page 2414 of *Hansard* for 1963, where he will see that he supported a move by Mr. Wise for a referendum on the fluoridation of water. I could probably find his name in Vol. 3 of the 1959 *Hansard*. I am referring to a referendum on a licensing Bill, but I just cannot find the actual vote. He did support a referendum move in 1963.

If it was an absolute necessity to support a referendum on an issue such as the fluoridation of water, then I do not think I am evading the issue, or squibbing it, by asking for a referendum on this particular issue.

As far as I am concerned I am not sure what the people in Western Australia, or the people in my electorate, want. I have quite a bundle of letters, and I am now receiving telegrams containing eight or more signatures. I have them sorted into various piles.

I have stated my views as far as my own personal conscience is concerned. We have heard very eminent authorities

express both points of view on this issue; and nobody could argue about their qualifications to express an opinion.

I do not know how anybody can suggest that it would be evading our responsibility to refer the matter to the people of the State. The form in which the Bill is passed—if it is passed—does not matter. The people should be asked what they think of the measure.

I do not intend to speak further on this subject. I will leave it to the Committee to decide. I have put forward the suggestion that there ought to be a referendum and it is now up to the members of the Committee to make up their minds and decide whether or not there will be one.

Amendment put and negatived.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Termination of pregnancy—

The Hon. I. G. MEDCALF: I move an amendment—

> Page 2, line 21—Delete the word "greater" and substitute the word "substantial."

The Hon. R. F. CLAUGHTON: The amendment would affect subparagraph (i) of paragraph (a) of clause 4(1). The intention at the moment is that a termination of pregnancy may be carried out if the risk to the pregnant woman is greater than if the pregnancy were not terminated.

I point out to the Committee that, once a child is born, the responsibility for that child resides entirely with the parents. The State does not take the child under its own care. The parents are expected to feed, clothe, house, educate, and minister to the needs of the child.

The amendment seeks to take away from a woman the responsibility of deciding whether she will, indeed, give birth to a child. Unless the Government is prepared to accept greater responsibility for a child during the time it is normally under the care of its parents, we cannot fairly impose this kind of responsibility upon a parent, particularly in the light of the provision which is outlined in this subparagraph.

The Hon. A. F. Griffith: Is the honourable member speaking to subclause (1)?

The Hon. R. F. CLAUGHTON: I am speaking to the amendment to delete the word "greater" and to substitute the word "substantial."

The Hon. A. F. Griffith: That has nothing to do with the infant child.

The Hon. R. F. CLAUGHTON: With due deference to the Minister, it has everything to do with the child and with the pregnant woman herself. Also, the amendment in question leads to another amendment which will be moved wherein we will be asked to delete the words, "than if the pregnancy were terminated." In other words, the Committee will be asked to change the whole character of the clause. That is the step which members are considering. The Committee will be asked to judge whether a pregnant woman has to be subjected to substantial risk to her life or substantial risk of injury to her physical or mental health. If this is agreed to, the clause will be much more restrictive than it is at the moment.

The effect will be to cut down enormously the number of abortions that can be performed legally. Certainly it will not substantially change the situation which now exists. It is of no use pretending the situation does not exist. We all know cases that could be mentioned. A number of cases are referred to certain hospitals, particularly on the weekend, and women are treated for inter-uterine bleeding. This is the result of a self inflicted abortion. These things do occur and we should make some attempt to provide for them.

I will state that if the clause is allowed to stand as it is, we will not eliminate this sort of situation. In many of the cases to which I have referred the woman concerned would not be able to demonstrate that the continuation of pregnancy would be a greater risk to her life than if the pregnancy were terminated.

The Hon. G. C. MacKinnon: Yes she would. It is almost automatic. It is less risk to terminate a pregnancy than to allow it to run to a full term. This is why the amendments must be made. This is what I have been advised by a competent medical authority.

The Hon. R. F. CLAUGHTON: Surely the Minister is dealing with total statistics. When one comes to the individual case this is not the position.

The Hon. G. C. MacKinnon: Surely we must deal with total statistics when legislation covers the total population. A competent medical authority has advised me that this is the situation.

The Hon. R. F. CLAUGHTON: The Committee cannot deal with some fictional total population. The legislation will be applied on a person-to-person basis. The doctor will have to make a decision on the individual case before him. It may be true, generally speaking, that the risk to a woman's life in an abortion is less than the risk of allowing the pregnancy to go to its full term.

I would ask members not to agree to this amendment, but to allow the clause to stand substantially as it is in the Bill at the moment. There is cause for some concern about what the situation might be if the Bill were accepted in this form, about how the present hospital organisation could cope with this situation. Obviously, many cases that are now attended to in the

home, at private surgeries, and so on, will go to the hospitals. If this legislation becomes law, these abortions will possibly be performed in public hospitals, as defined in the Act. I should think some provision would have to be made to cope with the situation. I am not sure just how the Minister would set about doing that. From the experience in South Australia and in England, and wherever this sort of reform has been instituted, there have been consequently a larger number of these operations because of the change in the terms of the legislation.

While we may express concern about this aspect, I wish that members would leave this provision as it is in the Bill; otherwise we are closing our eyes to the actual situation as it now exists.

The Hon. A. F. GRIFFITH: This is an important clause, because the way in which the Committee passes this Bill will determine the extent to which pregnancies are terminated. I suggest that if the clause is passed in the way Mr. Claughton wants it passed, termination of pregnancy could be done at will.

The Hon. J. Dolan: That is what he wants.

The Hon. A. F. GRIFFITH: It says, "continuation of the pregnancy would involve greater risk to the pregnant woman than if the pregnancy were terminated." It is quite obvious that if the woman is pregnant there must be a greater risk to her life. Therefore, a medical practitioner, looking at the law, would have to satisfy himself that the risk was greater; then he would have fulfilled the terms of the law.

I want to make it clear again that where there is substantial risk to the life of the mother, or there is substantial risk of serious injury to her physical and mental health, my sympathy rests with the mother; but I do not want to go as far as Mr. Claughton wants to go, and I therefore support the amendment.

The Hon. F. R. WHITE: I rise to support this amendment. I think this subclause is the most undesirable part of the Bill, and in reality, in its present form, would allow abortion on demand. The proposed amendments in the first three lines of this subparagraph would really create a duplication of what stands in section 259 of the Criminal Code. The amended first three lines would then read, "that the continuance of the pregnancy would involve substantial risk to the life of the pregnant woman," and there would not be any comparison with the rest of that subclause. I therefore support this amendment because it would remove abortion on demand, which the present subparagraph would allow.

The Hon. J. DOLAN: I want to make my position perfectly clear. I do not intend to oppose the amendments, not because I support them, but I want to wait until these amendments are carried, and I will express my views about the clause as it stands when it is amended. It does not alter my position at all. After these amendments have been carried or partly deleted, it is my intention to oppose the clause as it remains.

The Hon. N. E. BAXTER: I am rather staggered at the reception of these amendments. My first thought on having a look at this was that it might fit in with what members require in the legislation, but the more I study this the more I am convinced that the words in the Bill are the words we want. Let members study this closely.

The Hon. A. F. Griffith: You must speak for yourself, you know. You speak for yourself. Don't you say what we want.

The Hon. N. E. BAXTER: The Minister can have a go at me when I sit down. Let us have a look at the words in this Bill, to see what they really say. They say that two doctors in conjunction have to decide whether the continuation of a pregnancy creates a greater risk to the life of a woman or whether the risk is lessened by the fact that she has a termination of the pregnancy.

When we read this with the amendment, it is much wider, and amounts to what members have referred to as "abortion on demand." It is opened up a lot wider, because it says that two doctors must decide that continuation of the pregnancy would involve substantial risk to the life of a woman. When we get to the section that deals with the physical and mental health of the pregnant woman, the same thing applies. The two doctors have to make a decision that if the pregnancy continued there would be a greater risk to the physical and mental health of the woman than if the pregnancy were terminated. If the word "substantial" is inserted it is broadened and made more open. What I disagree with is abortion on demand.

The Hon. G. C. MacKINNON: In 1968 I made my position on this Bill perfectly clear, and this amendment, of course, is straight in line with the proposal then. I rise because I might be able to assist. Obviously this Bill has some interest for the Minister for Health and for anyone associated with the portfolio of health. I am advised by very competent authority that the difference between the Bill as written and the clause as it is proposed to be amended is the difference between a comparison judgment and a quality judgment. There is very little doubt, I am informed, that there is less risk in general in terminating a pregnancy than there is in allowing it to run the full nine months, at the end of which time the normal birth procedure follows, which, although a normal physiological function,

always carries some risk with it. Certainly we will get variations on this. If the pregnancy goes over three months, I am told, it then has to be terminated by a Caesarean section, and there is a greater degree of risk.

However, if the pregnancy is terminated in a reasonable time—a month or six weeks—then the judgment is a comparative one and virtually automatic. When the question is whether it is a greater risk to terminate than to run the full term, the judgment is always automatic—to terminate.

With the suggested amendment it becomes a quality judgment, which is an entirely different thing, because then one has to judge whether the danger is substantial or minor. This is a proper judgment and one, I am told, which any medical practitioner makes virtually every day. To take an extreme case, if a child were a haemophiliac—a bleeder—then certainly the risk of removing his tonsils would be too grave; but if he is normal so far as bleeding is concerned the doctor would remove his tonsils. Those are two extremes, and this sort of judgment is made all the time, I am told; and I accept the advice given to me that the amendment will change the judgment from being a comparative one to a quality one.

This makes a big difference, and I believe the clause as it will read if this amendment is passed, would be more proper under the circumstances when viewed in a general attitude. I assess that people wish to take any change in this law gradually and on the basis of clarification rather than a revolution to a completely new order of things.

The Hon. R. F. CLAUGHTON: The phrase "abortion on demand" keeps raising its ugly head and I have not heard anyone who has used it so far define what it means. I am not endeavouring to reform members, but this clause does not provide what I consider to be abortion on demand. A woman has to go to the doctor and then obtain a second opinion as to whether an abortion can take place. In no sense could that be considered abortion on demand.

A good deal has also been said about the prevalence of abortion by unqualified people, and the undesirability of this. If this amendment is passed it will not change to any great degree the situation that exists now; it will still be there. So I feel it is rather hypocritical of members to claim that they are concerned for these people and then change the law so that the same situation continues.

If we want to improve the situation we must have a provision in the Bill largely in this form. If we do not want this then we should make it quite clear and not talk about how we feel sorry for these people and how we want to improve things for them, because we will not do it if we adopt the amendments put before us.

I am glad the Minister mentioned that the risk involved becomes greater as the term of pregnancy progresses; in other words, it is a greater risk at 10 weeks than at eight weeks, and so on. I think it would become impossible to carry out an abortion under this clause, and we would have to turn to the other clauses of the Bill, which provide for particular conditions such as where the operation is immediately necessary to save life. I would ask members to reconsider and adopt the clause as it stands.

The Hon. CLIVE GRIFFITHS: I merely wish to say that when I spoke in the second reading debate I advocated that this paragraph of clause 4 should be amended in order to receive my support. I feel the amendments proposed by Mr. Medcalf would make the clause revert to what was passed in this Chamber in 1968 and, in my opinion, relieve it from providing the situation of which Mr. Claughton does not approve; that is, the well-used term of abortion on demand.

The honourable member asked what people mean by "abortion on demand" and went on to say that nobody had defined it. I think perhaps abortion on demand is not the correct term at all. However, I think everybody is well aware of the meaning of the term in common usage.

I think that whether it is called abortion on demand, abortion on request, or abortion for any reason at all is immaterial. I feel that the clause as it stands provides for abortion where there is no great risk to a woman's health or life. I am confident that the proposed amendments tighten up the provision and bring it into line with the clause which was passed by this House in 1968. I feel justified in supporting the amendment.

The Hon. R. F. CLAUGHTON: Mr. Clive Griffiths mentioned the term "abortion on demand" and my objection to this term is simply that it is a loose way of expressing oneself. It does not say exactly what one is thinking, it says any number of undefined things. Let us say exactly what we mean and not use a cliche that is an excuse for thinking.

Amendment put and passed.

The Hon. I. G. MEDCALF: I move a further amendment—

> Page 2, line 23—Delete the word "greater" and substitute the word "substantial".

Amendment put and passed.

The Hon. I. G. MEDCALF: I move an amendment—

> Page 2, line 23—Insert before the word "injury" the word "serious".

The Hon. R. F. CLAUGHTON: Here again, apparently "injury" is not sufficient. We have to subject the woman to serious injury before we are satisfied. On what grounds members arrive at this decision I am unable to determine. If a woman is to suffer injury, surely this is sufficient reason for her to be granted relief. Serious injury is something which, by law, she should not be required to suffer, and yet that is what is proposed in the amendment. All the degrees of injury up to "serious" will have to be borne by the woman and she will have no recourse whatsoever. Therefore I do not see the necessity for the amendment and I cannot support it.

Amendment put and passed.

The Hon. I. G. MEDCALF: I move an amendment—

Page 2, lines 25 and 26—Delete the words "than if the pregnancy were terminated".

The Hon. R. F. CLAUGHTON: To make further amendments would cause unnecessary hardship to a woman, and I oppose the amendment.

Amendment put and passed.

The Hon. I. G. MEDCALF: I move an amendment—

Page 3, line 2—Insert before the word "injury" the word "permanent".

The Hon. R. F. CLAUGHTON: I referred to this provision during the second reading. It contains the word "grave" and my interpretation is that it means very serious injury—almost to the point of death. This amendment now proposes that the injury shall not only bring the woman to the point of death, but also that the injury will be permanent. Here again I think the Committee is carrying injustice to extreme lengths. It shows a lack of compassion on the part of members towards a woman placed in such a situation. If her condition is grave this should be sufficient without further providing that her injury shall be permanent.

In the time allotted to him, it would be very difficult for a medical practitioner to make a decision on whether he should carry out the operation, based on the condition that the injury to the woman would be permanent. No doubt he could decide that grave injury would result, but can we fairly ask him to judge that the injury to the woman will be permanent? Members are being unfair not only to the woman concerned but also to the medical practitioner performing the operation.

The Hon. I. G. MEDCALF: I believe the word "permanent" should be inserted for the reason that this paragraph deals with pregnancy that is terminated by one medical practitioner as distinct from two. The previous paragraph of this subclause dealt with pregnancy terminated by two doctors and where the treatment is carried out in a public hospital. However, in the paragraph with which we are now dealing, the operation does not have to be performed in a public hospital, and it can be carried out by one medical practitioner.

It is necessary to insert this word, which was in the Bill as passed by this Chamber on the last occasion. The word is not in this Bill and it is necessary to insert it to ensure no abuses occur where one medical practitioner alone is performing the operation and a public hospital is not involved.

Amendment put and passed.

The Hon. I. G. MEDCALF: I move an amendment—

Page 3, lines 4 to 8—Delete subclause (2).

I point out that I have varied the amendment that appears on the notice paper. If I am permitted, I am splitting the amendment at this stage because subclauses (2) and (3) deal with unrelated subjects on which members may have different views.

Amendment put and passed.

The Hon. I. G. MEDCALF: I move an amendment—

Page 3, lines 9 to 15—Delete subclause (3).

The Hon. N. E. BAXTER: I trust the Committee will not delete this subclause because it provides a saving factor for the doctor in relation to his patient. The clause asks the doctor to form an opinion in good faith regarding the termination of a pregnancy and he may have some doubt about whether it should be performed, even to the extent of feeling he should look at the woman's actual or reasonably foreseeable environment. He could inquire about her home life, the number of children she has, and so on, and then decide whether he should terminate the pregnancy and whether grave injury to the woman's health is imminent. The provision has no impact on the termination of pregnancy itself, but it is necessary to leave it in the Bill.

The Hon. G. C. MacKINNON: There are several aspects in this Bill. Up to date we have dealt with the medical aspect and this has clarified the law materially. We now get to the sociological aspect and in that connection I think we should leave this provision in the Bill.

It was left in the Bill in 1968. At that time I used a reverse example of a woman who may have a number of children and who may desire to have a pregnancy terminated. She could be a wealthy woman who could afford help at home and her husband may be able to give the children a better than average education. This should be taken into account.

Conversely there are situations in the State—perhaps more so in the remote areas—where these conditions do not apply; where the woman might be very

poor; where her environmental situation is poor, and these factors ought to be taken into account on sociological grounds. It is perfectly reasonable to retain this provision in the Bill.

The Hon. A. F. GRIFFITH: I was not very happy when we put this provision in two years ago. I ask the Committee to appreciate that reference is made to "subparagraph (i) of paragraph (a) of subsection (1)" and that the risk we are referring to is expressed in subparagraph (i) —that the continuance of the pregnancy would involve substantial risk to the life of the pregnant woman, or substantial risk of serious injury to the physical or mental health of the pregnant woman. The first decision to be made is one of urgency and we should not throw in any superfluous words.

The Hon. R. F. CLAUGHTON: A pregnant woman may be advised by her doctor to go home and rest, but she may have three or four children—perhaps a couple with chicken pox—she may have the evening meal to cook, clothes to wash, and so on and, accordingly, her doctor's advice would be quite ridiculous. He could not isolate her from her environment. In the case of a person in relaxed circumstances with a well-managed household the doctor could determine that there is no substantial risk to her life and health.

The Hon. F. J. S. Wise: What does the sponsor of the Bill think?

The Hon. R. F. CLAUGHTON: On the other hand a woman may live in very difficult circumstances; her husband may beat her up; she may have a number of children with whom she finds difficulty in coping, and in such circumstances her environment would become an important factor in the doctor's decision as it relates to her physical health.

If the woman is reduced to such a stage that she is unable to cope with the situation, the advent of another child to the household could be a precipitating factor to her mental breakdown, or it could involve her in such a way that she would not be able to care for herself and other members of her family. This could happen quite easily if she could not take time off to convalesce.

This provision plays an important part in the legislation. It exists in section 259 of the Criminal Code, under which the doctor has to take into account the conditions under which the person lives. I do not see any necessity for the removal of this provision, because it is an important part of the legislation.

We are doing very little to assist the people concerned, and if we delete the subclause we would deprive another section of the community of assistance from doctors, because the doctors would not be able to take into consideration the normal environment in which the women lived.

The Hon. CLIVE GRIFFITHS: I want to reaffirm my stand on the subclause. I opposed it in 1968, and in the second reading debate I said I intended to oppose it on this occasion. The Minister for Justice summed up my views very adequately when he gave some reasons for feeling this provision is unnecessary. I oppose the amendment.

The Hon. F. R. WHITE: Subclause (3) is supplementary to subclause (1) (a) (i) which we have already amended, which now states that the continuance of the pregnancy would involve substantial risk to the life of the pregnant woman or substantial risk of serious injury to the physical or mental health of the pregnant woman, etc.

If we consider the mental health aspect we could at this stage say that a doctor, in considering whether or not the woman's mental health would be impaired, would take into account the environment of the woman. Subclause (3), which it is proposed to delete, specifically mentions the environment of the woman.

I would like to ask Mr. Medcalf this: If a doctor who terminated a pregnancy is questioned in a court of law, in view of the fact that there was a provision such as this in the Bill but it was deleted, would the court say that Parliament had deleted it; therefore, it could not accept that the doctor agreed to the abortion after having taken into account the actual environment of the patient? Would the deletion of this provision prejudice the doctor in taking all these matters into consideration when he makes a decision to terminate a pregnancy?

The Hon. I. G. MEDCALF: I cannot say what a court of law might decide; I can only give my opinion. My view is that a court of law would not take into account the fact that Parliament had deleted this provision from the Bill; I do not think it would be entitled to do that. However, it would be entitled to take into account the law, in whatever amended form it was passed by Parliament. That answers the first part of the question.

Regarding the second part, I believe that if the doctor has to judge the mental health of the pregnant woman and whether there is substantial risk of serious injury to her mental health, he will take into account her environment. How far he would go in taking this into account would depend upon the circumstances of the case and upon his own judgment; but I feel that he could not overlook her environment. Therefore, I think it would not make a great deal of difference.

I would point out that this provision was in the original Bill, and clause 4 (1) (a) included the words "the existing children of the family." Therefore, it was called the social clause. It might well have been included originally, because of its reference

to the social clause. However, as I said in 1968, I do not think it makes a great deal of difference whether or not it is included. I have on this occasion moved that it be deleted.

The Hon. N. E. BAXTER: I cannot agree that the deletion of this provision will not be taken into account by a court of law. It has been a recognised principle that in a court of law the intention of Parliament in relation to legislation is taken into consideration. Very often legislation is not entirely clear as to intent. In this clause there is an expression of intent in relation to the decision to be made; and if the matter arose in court and the question of the environment of the woman was raised, the court would inquire as to what happened to the legislation before it was passed. It would ask why Parliament had deleted the provision under discussion. The intent of Parliament could be used as a plea; and as the provision has been deleted it would be fair for the court to assume that it was the intention of Parliament to do so. I suggest that it would be very dangerous at this stage to delete the provision from the Bill in view of what has transpired, and what could transpire, in a court of law.

The Hon. R. F. CLAUGHTON: Those who opposed the second reading of the Bill are becoming very pleased, because their aims are being achieved bit by bit.

The Hon. J. Dolan: You are doing it.

The Hon. R. F. CLAUGHTON: I would refer to a comment which was made in *The Australian* of the 12th July last year. This was made by a spokesman for the Victorian branch of the Australian Medical Association, when speaking on abortion law reform. He said there might be a possibility of their freedom of action being curtailed by a partly successful liberal attempt to codify the law; and that if attempts to liberalise the situation resulted in the definition of permissible medical reasons for abortion some doctors might find themselves hamstrung. That is the very situation we are reaching. If the provision is deleted it would take away from the medical practitioners the circumstances which they would normally take into account, such as the place where the patients lived or the environment. I believe members should not support this amendment. If it is passed the doctor will have one further opportunity for manoeuvre or decision taken from him. I therefore ask members to oppose the amendment.

The Hon. I. G. MEDCALF: I cannot agree with Mr. Claughton. From what he was saying I gathered he was in favour of the amendment. If, in fact, we leave this amendment in the Bill, we are in a sense limiting the doctor, because if he has to make a decision on a woman's mental or physical health he would take into account all the relevant factors he would be expected to, whether or not they were in the Bill. If we specifically include certain things in this Bill it could be said that we are limiting a doctor to the particular things included. That is why I gained the impression that Mr. Claughton must be supporting the amendment. It does, in a sense, limit the doctor. He has to use his proper professional judgment and it could well be that in some cases it may be relevant to consider the environment.

The Hon. N. E. Baxter: It says he "may."

The Hon. I. G. MEDCALF: The doctor is entitled to do so whether or not it is in the Bill.

The Hon. R. F. CLAUGHTON: I think the point raised by the honourable member is answered by the fact that the subclause itself is permissive. It says that account "may" be taken. In other words, the doctor does not have to, but if it is necessary then he is able to.

Amendment put and a division taken with the following result:—

Ayes—18

Hon. C. R. Abbey	Hon. F. R. H. Lavery
Hon. G. W. Berry	Hon. N. McNeill
Hon. G. E. D. Brand	Hon. I. G. Medcalf
Hon. J. Dolan	Hon. T. O. Perry
Hon. A. F. Griffith	Hon. R. Thompson
Hon. Clive Griffiths	Hon. S. T. J. Thompson
Hon. J. Heitman	Hon. W. F. Willesee
Hon. J. G. Hislop	Hon. F. J. S. Wise
Hon. R. F. Hutchison	Hon. R. H. C. Stubbs
	(Teller)

Noes—6

Hon. N. E. Baxter	Hon. G. C. MacKinnon
Hon. R. F. Claughton	Hon. F. R. White
Hon. L. A. Logan	Hon. V. J. Ferry
	(Teller)

Amendment thus passed.

The Hon. J. DOLAN: I have listened quite patiently and quite silently to the debate on the various amendments made to this clause, but my opinion has not been altered one bit. All the amendments do not mean that much! Clause 4 (1) (a) provides for a medical practitioner and one other to make the decision. I notice that the trend seems to be that they are entirely dissociated from one another. One medical practitioner forms the opinion that an abortion is justified. Then he obtains another opinion. When he has the two opinions and the woman has been examined then—slaughter!

We must take into consideration what has occurred in Victoria where these doctors joined not only in twos, but sometimes in threes and fours, to carry out abortions.

Paragraph (b) of this subclause allows the decision to be made by only one doctor in certain circumstances. Do members really believe that a doctor, if he is anything like those in Victoria, will not find all these conditions to his satisfaction? Of course he will. We are not so naive as to believe otherwise. I consider the

whole clause as it has been amended is exactly the same as it was before the amendments were made. It is throwing the matter wide open, and I will not be a party to it. I oppose the clause as it is amended.

The Hon. I. G. MEDCALF: I am sorry that I find myself in disagreement with Mr. Dolan. I have checked this carefully and I believe it makes a very substantial difference to the circumstances under which this operation could be performed. I would not say that if I did not believe it to be true. The word "substantial" itself has a very definite meaning in law. There is no question that it means there must be a considerable amount of risk, or a large, momentous, or material risk; and that is a matter of degree. Two doctors, if they do not make a proper judgment, can be brought to account.

A later provision is that they are required to give certificates and these certificates would involve them in a breach of the law if they were false. They would have to exercise their proper judgment and I believe that if they used the wording of this Bill in order to perform an abortion without there being a substantial risk to life, they would be in danger of losing their medical certificates. Therefore I believe the amendment does make a difference.

With regard to paragraph (b) this, as was mentioned earlier, deals with an emergency situation. Paragraph (a) deals with two doctors in a public hospital when an operation is being performed in such a hospital. Paragraph (b) deals with one medical practitioner in an emergency, when he has to perform an immediate operation.

The doctor has to decide whether the termination is immediately necessary to save a life or prevent a grave permanent injury to health. This is a situation which can occur now without breaking the law. If a doctor believes it is necessary for him to operate immediately to save a life then he is entitled to do that under the present situation.

The Hon. A. F. Griffith: Section 259 of the Criminal Code would cover that situation.

The Hon. I. G. MEDCALF: In fact, there are other sections of the Criminal Code which, to my mind, make it obligatory for a doctor to perform an operation where it is necessary to save a life.

The Hon. F. J. S. WISE: I have remained silent feeling that I have said enough to express my view. My view is that the nine or more amendments which have been made do not make the measure any more acceptable. We have reached a farcical situation. What is the opinion of the sponsor of the Bill with regard to the amendments? I regret that it is necessary to ask that question. I propose to vote against the clause as amended.

The Hon. J. DOLAN: I would like Mr. Medcalf to explain the situation to me.

The Hon. F. J. S. Wise: Should it be Mr. Medcalf who makes the explanations?

The Hon. J. DOLAN: It is Dr. Hislop's Bill but Mr. Medcalf has taken up the cudgels on his behalf. We had the situation where the sponsor voted to delete a subclause in his own Bill. I would like to know who will check the action taken. If a case of abortion is investigated a doctor would not sign a certificate saying he did not examine the woman and did not form his opinion in good faith. I would like clearly explained to me who will check in each case; or, is there to be a check? Hundreds of abortions are taking place. Do we have to wait for a death before an inquiry takes place?

The Hon. G. C. MacKINNON: It seems to be forgotten that the ethical standard of the medical fraternity in this State is very carefully safeguarded by the Medical Board. In these matters, the Medical Board is zealous in the extreme. It has extensive powers and it might be recalled that only a couple of years ago I introduced amendments to the Medical Act, at the request of the Medical Board, to change some of those powers.

Doctors are judged by their peers in virtually everything they do and almost inevitably they face two penalties for any offence they might commit. Even if it is a matter of an ordinary civil offence such as getting drunk, or doing something equally foolish, almost inevitably a doctor would face another penalty imposed by the Medical Board.

With regard to their practices, they are stringently watched by the Medical Board and there is no need to write the sort of protection which has been referred to into the Bill. That protection is already written into an Act which covers that particular aspect.

Another aspect which has been touched on slightly is that in all interpretations of the present law there is one area in which doctors have, up to date, run some risk. Mr. Medcalf mentioned this aspect, and Dr. Hislop knows it well. I refer to the situation of a mother contracting German measles during the early stages of her pregnancy. The risks then are very grave indeed that the child will be malformed or subnormal when it is born. Certainly, there have probably been times when such a woman has had her pregnancy terminated. However, this was never considered in the broad case and this is the area in which humanitarian actions by doctors have been carried out at some

risk. Of course, clause 4(a)(ii) covers this situation, and this will be a tremendous advance.

We have recently appointed a genetic counsellor in one of our laboratories, and we are reaching a stage where parents can be counselled in regard to genetic imperfections. In some situations, the imperfections can be estimated with considerable accuracy, so this is a very important advance indeed.

There has been some comment with regard to Dr. Hislop. Over recent years Dr. Hislop has fought a lone battle. and he has brought this very important matter to the attention of the House. If Dr. Hislop feels that the Bill is safe in the hands of Mr. Medcalf then I am quite prepared to accept his judgment.

The Hon. R. F. CLAUGHTON: If members are willing to accept only a small measure of reform then I would expect to see a much greater effort to provide other social means to alleviate certain situations in which women find themselves. The Western Australian Council of Churches, in a recent publication, asked if abortion was the best thing that could be offered to the mother of an unwanted child. I would say the responsibility of bearing and rearing a child is the responsibility of the mother, and is something the State should not take away from her. I would add, further, that if the woman decides to bear the child and she finds herself in difficult circumstances, then it is the duty of the State to see that means are provided by which she is able to care for the child in a reasonable way to bring it to developmental potential.

The Western Australian Council of Churches makes various suggestions regarding sex education and the dispersal of ignorance. It is interesting to comment that, in a recent survey of 200 pregnant women held in Melbourne, 78 women had not known that pregnancy resulted from sexual intercourse. The survey was taken of 200 women on the lower-economic scale. This seems an outstanding situation in our day and age. Nevertheless the survey has shown it to be a fact.

This type of ignorance does exist in our society, but it is something that does not have to be tolerated. The problem could be overcome by suitable educational means. In saying this, I do not mean, necessarily, that sex lessons should be given in schools. A careful approach must be made, but it should be done through the medium of education.

The submission from the Western Australian Council of Churches also suggests publicising the dangers of induced abortion. I do not altogether agree with the claim which is made by the council.

Further, it points to the need for increasing responsibility in sexual relationships and also to the preservation of an idealistic attitude towards human life in all its relationships. These last two are moral attitudes which are in the province of the church to promote, but a government should not try to legislate on such matters. Measures should be taken to ensure that people on lower-income scales are covered by health benefits. Many people find it difficult to pay the contributions on their current incomes.

I shall refer to the amounts provided for unmarried mothers. Different rates are paid according to the age of the girl. Girls aged 16 to 17 receive $3.50 per week; those aged 18 to 20 receive $4.75; and those aged 21 and over receive $8.25. There seems to be no sense in this arrangement. The age of an unmarried mother does not matter. All of them have to undergo hospitalisation and take steps to care for the child. Napkins cost the same whether a mother is aged 16 or 21. It does not make any difference. The shops do not make a reduction on the basis of age. It is an unreal situation to vary the scale of assistance to unmarried mothers because of their ages.

Some might argue that younger girls are more dependent on their parents. However, the cost to the unmarried mother is the same, regardless of her age. If members intend to pass the Bill in its present form, I would expect to see greater efforts made to provide the social assistance necessary to overcome the problems which exist at the present time.

Clause, as amended, put and a division taken with the following result:—

Ayes—15

Hon. C. R. Abbey	Hon. L. A. Logan
Hon. N. E. Baxter	Hon. G. C. MacKinnon
Hon. G. W. Berry	Hon. N. McNeill
Hon. G. E. D. Brand	Hon. I. G. Medcalf
Hon. V. J. Ferry	Hon. S. T. J. Thompson
Hon. A. F. Griffith	Hon. F. R. White
Hon. Clive Griffiths	Hon. J. Heitman
Hon. J. G. Hislop	*(Teller)*

Noes—7

Hon. J. Dolan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. R. H. C. Stubbs
Hon. R. Thompson	*(Teller)*

Clause, as amended, thus passed.

Clause 5: Participation in treatment—

The Hon. I. G. MEDCALF: I move an amendment—

Page 3, line 20—Delete the words "to which he has a conscientious objection."

Amendment put and passed.

The Hon. I. G. MEDCALF: I move an amendment—

Page 3, lines 21 to 23—Delete subclause (2).

Amendment put and passed.

The Hon. I. G. MEDCALF: I move an amendment—

Page 3, line 27—Insert before the word "injury" the word "permanent".

I wish to explain that this amendment is not on the notice paper, but, on further comparison with the Bill as passed on the last occasion, I noted that this word was then inserted, and it was also in the original Bill. I believe it should be inserted because it ties in with clause 4(1)(b).

Amendment put and passed.

Clause, as amended, put and passed.

Clause 6: Savings—

The Hon. J. DOLAN: I intend to oppose this clause by way of principle. I am not going to debate it.

Clause put and passed.

Clause 7 put and passed.

Title put and passed.

Bill reported with amendments.

SUPERANNUATION AND FAMILY BENEFITS ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. A. F. Griffith (Minister for Mines), read a first time.

House adjourned at 1.16 a.m. (Wednesday)

Legislative Assembly

Tuesday, the 21st April, 1970

The SPEAKER (Mr. Guthrie) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (27): ON NOTICE

1. HOUSING

Manning: Flats

Mr. MAY, to the Minister for Housing:

(1) How many persons will be accommodated in the State Housing Commission flats being erected in Kelsall Crescent, Manning?

(2) What eligibility criteria will be utilised regarding occupancy?

(3) When will construction be completed?

(4) When will the flats be occupied?

Mr. O'NEIL replied:

(1) Twenty-four.

(2) These flats will be allocated to women over 60 years of age whose incomes do not exceed $20 per week and whose liquid assets do not exceed $600.

(3) and (4) May, 1970.

2. POLLUTION

Swan River

Mr. BATEMAN, to the Minister representing the Minister for Health:

(1) Is he aware that on the programme "Today Tonight" on Channel 2 sometime prior to the 23rd March, 1970, a spokesman for the Swan River Conservation Board had declined to give the names of firms allegedly allowing effluent to flow into the Swan River?

(2) If "Yes" will he advise the names of firms concerned and subsequent action taken against the offending companies?

(3) If he is not aware of the situation in (1) will he have the necessary investigations made and advise the names of the offending firms?

Mr. COURT replied:

(1) It has been board policy in the past not to reveal names of permit holders. This policy was reversed at the board meeting on the 12th March, 1970, and now the list is available to Press and other *bona fide* news media, and other approved bodies and persons.

(2) and (3) Under the Swan River Conservation Act 1958-66 the board grants permits for discharge of treated wastes—either directly to the river or through drains or other means by which the waste may finally reach the river.

Applications for permits to discharge treated wastes are examined and approved or disallowed, according to the merits and the information in the application which must include—

(i) type of waste;

(ii) quantity;

(iii) chemical analyses.

There are no offending firms; the 27 companies discharging do so as a result of the aforesaid applications and after investigation by the industrial committee of the board, a report from the inspector, and consideration by the full board.

3. TRAFFIC

Adelaide Terrace: Access

Mr. MITCHELL, to the Minister for Traffic:

(1) Is it a fact that traffic from Plain Street is to be denied access to Adelaide Terrace at certain times of the day?

(2) If "Yes" how is it proposed that the great volume of traffic using this road can gain access to the terrace and beyond?