WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE COUNCIL

Wednesday, 20 May 1998

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 4.00 pm, and read prayers.

LOCAL AREA EDUCATION PLANNING

Petition

Hon E.R.J. Dermer presented the following petition bearing the signatures of 568 persons -

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned residents of Western Australia oppose the means whereby the educational future of our children is being decided under the Local Area Educational Planning (LAEP) process in the Perth Education District.
>
> We protest that:
>
> > The LAEP process is designed to give the appearance of community endorsement for decisions already made by the Western Australian Education Department;
> >
> > while LAEP guidelines emphasised the need to develop and consider all options, the procedures adopted by the Drafting Committee have made this impossible;
> >
> > the recommendations made ignore crucial issues relating to social justice educational programs, local community needs and student and parental preferences;
> >
> > the recommendations made ignore current international educational research findings by assuming that the educational interests of our children are best served by school sizes well in excess of one thousand students.
>
> Your petitioners therefore respectfully request that the Legislative Council will give this matter earnest consideration and your petitioners as in duty every bound will ever pray.

[See petition No 1616.]

EASTERN DISTRICTS OMNIBUS 3 AMENDMENT

Statement by Attorney General

HON PETER FOSS (East Metropolitan - Attorney General) [4.05 pm]: By way of explanation of the amendment to the metropolitan region scheme, which I table, the eastern districts omnibus 3 amendment was initiated by the Western Australian Planning Commission in February last year. It consists of 19 separate proposals for modifications to the metropolitan region scheme in the Shires of Swan, Mundaring and Kalamunda and the Town of Bassendean which are the result of requests from landowners, local governments or state government agencies.

The major proposals in the amendment were to rezone 61 hectares of Caversham land and 125 ha of Jane Brook land from rural to urban; transfer the former technical and further education site at Kiara from the public purpose reservation to urban as it is no longer required for education purposes; transfer the Disabilities Services Commission's Pyrton site at Eden Hill from the public purpose reservation to urban as the site is no longer required by that commission; and reserve 100 ha of rural zoned land to parks and recreation reservation on the southern boundary of the Avon Valley National Park.

Other proposals involving smaller areas of land are to adjust the boundaries of the Ellenbrook nature reserve to include more land suitable for fauna habitat; transfer a public purpose reserve set aside for a high school in Hazelmere to the rural zone; reserve 13 ha of rural zoned land at Forrestfield for parks and recreation due to the very high conservation value of the vegetation on that land; and transfer 1.2 ha of parks and recreation reservation on the eastern bank of the Bennett Broom at Caversham to the rural zone as the land has been degraded.

Other changes include adjustments to several highway reserves to allow for redesign; minor additions to parks and recreation reservations; transfer of two areas of land in the Swan Valley to the rural zone to allow development for residential purposes; and transfer an area of Kalamunda land from parks and recreation to urban to allow residential development.

The amendment was advertised for a three month public comment period and 97 submissions were received. Two were received after the advertised period. The majority of submissions opposing the amendments were based on the cultural significance to Aboriginal people of the land involved or its environmental, conservation or recreation value. Several modifications were made as a result of the submissions received.

The Kiara TAFE site is to be zoned urban deferred and the Disability Services Commission's Pyrton site has been deleted from the amendment. The modified amendment is now laid before Parliament for 12 sitting days. I commend the amendment to the Council.

Hon Tom Stephens: In future, Minister, will you give us some notice?

Hon PETER FOSS: I intended to do so. I did not do this myself.

[See paper No 1615.]

SELECT COMMITTEE ON THE WESTERN AUSTRALIAN POLICE SERVICE

Disclosure of Evidence to Solicitor General - Motion to be an Order of the Day

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.07 pm]: I move -

That motion No 9 be made an order of the day for the next day's sitting.

By way of explanation, this motion deals with some evidence provided to a select committee of this House. The Attorney General seeks to have some of that evidence made available in respect of an ex gratia compensation claim. I seek to make the motion an order of the day to expedite its consideration in the event that the urgency indicated by the Attorney General still applies in the next couple of days.

Question put and passed.

SITTINGS OF THE HOUSE

Extended beyond 10.00 pm

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.08 pm]: I move -

That the House continue to sit beyond 10.00 pm.

So there can no doubt about what we are doing today, it is my intention to deal with Order of the Day No 3, the Acts amendment (Abortion) Bill. My intention is that the House sit beyond 10.00 pm, if necessary, to consider that Bill. I give an assurance that if we are debating that Bill at 10.00 pm, it will be the only matter dealt with after that time. I cannot indicate when we might finish, as that will very much depend on honourable members.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.09 pm]: As members know, this is one of a number of potentially debatable motions relating to matters that come before the House. At the earliest opportunity the Minister should reassure the House that it will have an opportunity of considering not only Order of the Day No 3, which was raised here at nine o'clock last night, but Supplementary Notice Paper No 40 that was circulated by me and my colleague. I fully appreciate that this is a debatable motion at this time.

The PRESIDENT: Order! The motion might be debatable but it is very much a case of explaining whether the House should sit beyond 10.00 pm. It is not an opportunity for going into any of the substance of the abortion debate.

Hon TOM STEPHENS: No, Mr President, but it is a motion that could be amended to allow the House to sit beyond 10.00 pm for the purpose of taking Order of the Day No 3 and for consideration in Committee of the Supplementary Notice Paper No 40.

The PRESIDENT: Order! As I said, this motion cannot be amended. The question before the House is whether the House should sit beyond 10.00 pm. According to the standing orders, it is a procedural motion.

Hon TOM STEPHENS: It nonetheless leaves me with the opportunity of indicating that I hope that the House will not enter into a series of motions now or in the near future that would deprive members of the House being able to consider Supplementary Notice Paper No 40.

The PRESIDENT: Order! The Leader of the Opposition is not speaking to the motion before the Chair. If he wants to make those points he should make them at some later stage in the sitting when other motions are moved. The question before the Chair is that the House sit beyond 10.00 pm.

Question put and passed.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Labour Relations Legislation Amendment Bill (No 2) - Extension of Time to Report

Hon Kim Chance presented a report from the Standing Committee on Public Administration requesting that the time in which it has to report on the Labour Relations Legislation Amendment Bill (No 2) 1997 be extended from 19 May 1998 to 26 November 1998, and on his motion it was resolved -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 1617.]

OCCUPATIONAL SAFETY AND HEALTH REGULATIONS 1996 FOR PRIMARY INDUSTRY

Review

Resumed from 30 April on the following motion -

That the Occupational Safety and Health Regulations 1996 for primary industry be reviewed with the intention of developing and implementing a code of practice.

to which the following amendment was moved -

That all words after "That" in the first line of the motion be deleted and the following words be inserted -

the primary industry sector be encouraged to develop an industry code of practice for approval by the Minister for Labour Relations under section 57 of the Occupational Safety and Health Act 1984 to enhance and support compliance with the duty of care provisions of that Act and the Occupational Safety and Health Regulations 1996.

Amendment to Motion

HON LJILJANNA RAVLICH (East Metropolitan) [4.13 pm]: We are now considering the amendment moved by Hon Tom Helm to the motion to review the Occupational Safety and Health Regulations 1996 for primary industry. In moving his amendment, Hon Tom Helm endeavoured to ensure that there was no opportunity for the agricultural sector to move away from the obligation that it should be a part of and comply with the regulations of the Occupational Safety and Health Act. It was of great concern to me that it was not the intent of the substantive motion. Hon Murray Criddle indicated that that was not the intended substantive motion and that the idea was that there would be a move to establish a code of practice in the primary industry sector. That code of practice would take the place of the existing regulations. That causes me grave concern because an exemption of the industry from the Occupational Health and Safety Act regulations would open up the floodgates for other industry sectors to argue that the same should apply to them.

From that viewpoint, I could not support the substantive motion and, therefore, I support the motion which is currently before the House that the primary industry sector be encouraged to develop an industry code of practice. However, there are no restrictions on the industry being able to do that with the approval of the Minister for Labour Relations under section 57 of the Occupational Safety and Health Act with support and in compliance with the duty of care provisions of that Act, and the Occupational Safety and Health Regulations.

Hon Tom Helm's motion reinforces the fact that any code of practice which the primary industry sector develops will serve to enhance and support compliance with the duty of care provisions in that Act and that, in my view, is very satisfactory. I would be very concerned if at the end of the day the primary industry sector moved away from having to adhere to the regulations of that Act because it is the regulations which provide for the operation of that Act. I have a problem with the code of practice being developed and implemented in place of the existing regulations.

Hon M.J. Criddle: Are you saying that you want both?

Hon LJILJANNA RAVLICH: We want both in place. We want the Government to adhere to the Act and the regulations. There is no way that I could justify not looking at a publication by WorkSafe Western Australia entitled "State of the Work Environment: Occupational Injuries and Diseases 1995/1996". I do not have the 1996-1997 publication. A substantial body of evidence suggests that there is a very high incidence of occupational injuries and diseases in the agriculture sector in Western Australia. Therefore, I cannot understand why Hon Murray Criddle would want farmers to be exempt from the provisions of this Act's regulations. In his speech, Hon M.J. Criddle said that farmers do not understand the regulations and because of that they might want to be exempt from them. That is a very weak argument indeed.

Hon M.J. Criddle: You ask anybody in the bush.

Hon LJILJANNA RAVLICH: Hon Murray Criddle should ask any blue collar worker on a construction site.

The PRESIDENT: Order! I say to Hon Ljiljanna Ravlich that I will stop other members from interjecting if she will address her comments through me; and members, please do not interject.

Hon LJILJANNA RAVLICH: Thank you, Mr President, I will indeed. I enjoy interchange with you, so I am happy to comply with that direction.

The PRESIDENT: Order! You will not get any interjections from me.

Hon LJILJANNA RAVLICH: The argument that has been put is very weak indeed, because that same argument can be used for any sector of the workplace. The bottom line is that few workers in the building and construction industry, the tourism industry or any other industry in this State would have consulted the regulations or have gone out of their way to consult the regulations, or would even understand the regulations. There is probably some correlation between the degree of training and expertise of workers and their level of understanding of the regulations. Grano workers in the building and construction industry would be governed by a set of regulations. The bottom line is that most blue collar workers in the building and construction industry, be they bricklayers, grano workers or whatever, would not have an in-depth understanding of the regulations.

Therefore, the argument that because farmers do not understand the regulations, they should not have to adhere to them, is very weak indeed, and if that is the reason that we should move away from requiring that industry to adhere to the regulations, I am afraid that reason is not good enough. Ethnic people, for example, in this State and country who cannot read or speak English and who do not understand the tax form must still at the end of the financial year put in tax returns.

This is a nonsense argument, and it is an argument that is designed to achieve a certain outcome; that is, to establish one set of rules for the agricultural sector in Western Australia and another set of rules for other workers. No special provisions have been made for the agricultural sector in Western Australia. All industry groups are covered by the same provisions. That argument has not been used for other industry groups. Therefore, I cannot see why that argument should be used for the agricultural sector in Western Australia.

Hon B.K. Donaldson: It is unique.

Hon LJILJANNA RAVLICH: If that is the only excuse - and from my memory of the debate that was the only excuse that was put by Hon Murray Criddle - it is not good enough.

We must bear in mind that what we are talking about is not a duty of care by farmers to themselves but a duty of care by farmers to their workers. The case of Mr Thorpe and his daughter is quite unusual. I suspect that is the case that prompted Hon Murray Criddle to bring this motion before this place. There are no good reasons why farmers should be exempt from the Occupational Safety and Health Regulations 1996 for primary industry. When it comes, for example, to the debate about whether hairdressers should be covered by the Occupational Safety and Health Act and its regulations, I am sure members on that side of this House will argue that hairdressing is a fine institution and hairdressers do a great job; therefore, of course hairdressers should be covered by that Act. However, when it comes to whether farmers should be covered by the same Act, they expect that for some reason they should be given special exemption.

In my view, the agricultural sector is not prohibited from putting in place a code of practice; and I understand that money has already been granted for that purpose. Therefore, it is of some amusement to me that a substantive motion is before this place that the Occupational Safety and Health Regulations 1996 for primary industry be reviewed with the intention of accepting and implementing a code of practice. The bottom line is that money has already been allocated for the development of a code of practice, and perhaps we should be asking a different set of questions.

I refer to a question on notice dated Tuesday, 7 April 1998 that was asked in the other place by Mr John Kobelke of the Minister for Labour Relations. The question is in five parts, and it asks -

(1) In the current 1997-98 financial year, how much money has been allocated to non-government organisations to assist in occupational health and safety programs for workers in primary industries?

(2) What are the names of all the organisations receiving funding to assist in the development of programs to improve occupational safety for workers in primary industries?

(3) What was the specific allocation for each organisation?

(4) What were the objectives or required outcome for each of these allocations?

(5) What are the answers to all of the above questions for the 1997-98 financial year and the 1996-97 financial year?

Interestingly, the response was that in 1997-98, FarmSafe WA Inc was granted a sum of $85 000 to provide support for specific activities to promote farm safety. The outcomes were to reduce the incidence of injury in agricultural industries, deliver occupational safety and health training in the farming sector, achieve specific learning objectives by participants in the abovementioned training, disseminate occupational safety and health information, and promote farm safety through FarmSafe Week and at field days. A strong emphasis was placed on the delivery of training, with the grant payment being linked to the number of participants trained.

In 1996-97, a sum of $85 000 was also granted to the Western Australian Farmers Federation, and the objectives were to be met over a three year grant period. I do not know whether that was $85 000 over three years, which would make it an enormous sum of money - $255 000 - for the development of a code of practice for rural employers. This House has before it a substantive motion which basically asks whether the industry can develop a code of practice. That is a bit of a joke. It is almost a waste of parliamentary time that a member of the National Party would seek permission from the Parliament for that industry to develop a code of practice when the agricultural sector has already received a sum of $170 000 over two years, and has more money coming its way, for this specific task. I do not know where Hon Murray Criddle is coming from.

Hon Kim Chance: Who got that sum of money?

Hon LJILJANNA RAVLICH: The Western Australian Farmers Federation received $85 000 in 1996-97, and the objectives were to be met over a three year grant period. I am not sure whether that was $85 000 for each of three years or a one-off payment of $85 000 to be spent over three years.

The prime objective was to develop a code of practice for rural employers. The second objective was to establish regional cells of FarmSafe throughout regional and rural Western Australia. The remaining objectives were to develop an awareness of farm safety throughout all rural industries in Western Australia; to effectively encourage farmers to adopt safe working practices in accordance with a code of practice to be developed by the industry; to reduce the rate of lost time and work related to injury and disease in the rural sector throughout Western Australia by 10 per cent between July 1993 and July 1997 and in the same period achieve a 50 per cent reduction in the level of tractor related fatalities. Money was also to be used to liaise with other primary and secondary industries in order to promote compatible uniform safety standards throughout the State; to promote farm safety through written publications and the electronic media; to coordinate with tertiary and secondary institutions in respect of developing course curriculum; and to encourage, where applicable, the development and presentation of appropriate education and training programs.

That is a major concern to me, because it seems that the WA Farmers Federation on behalf of the agricultural sector - on behalf of farmers - has been allocated this money. It was allocated a couple of years ago; yet now we have this substantive motion before us that the occupational safety and health regulations 1996 for primary industry - we know there is not a specific regulation for primary industry - be reviewed with the intention of developing and implementing a code of practice. We already have a code of practice which should, by this stage, be fairly well developed. For the life of me I do not know what the substantive motion is all about. However, as Hon Murray Criddle said, the intent was that the industry would develop a code of practice specifically for the primary industry sector and, in doing so, would have a case to argue for its exemption from the regulations of the Occupational Health and Safety Act.

I cannot understand why any member representing the Agricultural Region would want to do this. I can only put it down to the fact that an Esperance farmer, Mr Thorpe, was charged by WorkSafe following the death of his 13 year old daughter in a wheat silo. Hon Murray Criddle wants to ensure that such a fatality does not happen again. His motion appears to be an aberration.. Anyone representing the Agricultural Region or workers in Western Australia would want the regulations and operations of WorkSafe to be tightened to ensure that such fatalities do not occur.

The amendment moved by Hon Tom Helm will reinforce the fact that we do not have any problems with the industry developing a code of practice, but that the code, which will be approved by the Minister for Labour Relations under section 57 of the Occupational Safety and Health Act, should enhance and support compliance with the duty of care provisions of the Act and the health regulations 1996.

I am amazed that the substantive motion was moved. I am speaking to the amendment. However, in view of the rate of occupational injuries and diseases in Western Australia in the agricultural sector I am at a loss to understand how a member could argue in this place in support of the agricultural sector receiving an exemption from the regulations.

I turn now to a document entitled "State of the Work Environment - Occupational Injuries and Diseases, Western Australia 1995/96", because it highlights the problem we face in this State with all industries. The manufacturing and construction industries are the highest risk industries for occupational injuries and disease. Agriculture is up

there with the best of them. For some reason, Hon Murray Criddle suggested that workers in the agriculture sector - not the farm owners, but the thousands of farmhands who are employed within the sector - should not have any protection. We should not do away with the regulations just because WorkSafe is a dead loss. I will provide some prosecution figures on fatalities which will highlight what a dead loss WorkSafe is; and will also later highlight the reason perhaps Hon Murray Criddle seeks an exemption for the agriculture sector from the regulations.

I turn to some figures about working days lost per million hours worked. This is an industry injury index. In the agriculture sector, per million hours worked, males lost 1 084 days; and females lost 1 367 days. The figures are high; and they run fourth behind the manufacturing, construction, cultural and recreational sectors. I turn to the chart indicating industry-duration rates, covering average working days lost due to injuries and disease. Agriculture is right up there among the industries. It follows mining which is a very high risk industry. The average number of working days lost due to injuries and disease is 27.1 for males and 41.9 for females. The time lost due to injuries and disease per million hours worked in the agriculture sector is 33.6 days for males and 25.8 days for females. Compared to other industries, it is a considerably higher rate, because in all industries the time lost due to injury and disease per million hours worked for males is 31.8 days and for females 16.4 days.

Hon M.J. Criddle interjected.

Hon LJILJANNA RAVLICH: I am not talking about farmers. I came across a case the other day where WorkSafe prosecuted someone for injuring himself. I do not know where we stand on that matter. However, if farmers want to ensure their working environment is not safe, that is the risk they will bear, but they should not be placed in a special category. If at the end of the day we open the floodgates for farmers, other industries will also demand an exemption from the regulations.

Members on this side of the House will not cop it. We do not accept that there is a special case for farmers in this situation; nor do we accept that there is a special case for farm workers. Those who employ farm workers should look after them in accordance with the Act and regulations. That is the bottom line. We will not have the health and welfare of workers in this State jeopardised. That is one of the attitudes that distinguishes members on the other side from members on this side.

I point out to Hon Murray Criddle that I could detail more of those statistics, but the picture gets only bleaker.

Hon M.J. Criddle: We are trying to overcome that with a code of practice.

Hon LJILJANNA RAVLICH: We know that members opposite were given money to establish such a code a couple of years ago. Where is it? What has happened to the money? The member can have his code of practice, but farmers will not get an exemption from the regulations and there is no reason that they should.

Why would they seek such an exemption? What is the intent of the original motion? Why would Hon Murray Criddle seek to exempt the industry from having to meet the requirements of the regulations of the Occupational Safety and Health Act?

Hon M.J. Criddle: It is a better way to go.

Hon LJILJANNA RAVLICH: It is not. The member might be prepared to risk himself, but he will not risk the workers of Western Australia.

Hon B.K. Donaldson: Share some of the other experiences in the report on the injuries and the reasons for them. I would like to hear about them.

Hon LJILJANNA RAVLICH: The frequency rate for lost time injuries and diseases per million hours worked for the agricultural industry is 33.6 per cent for males and 25.8 per cent for females. It is placed fourth after manufacturing, construction, transport and storage.

Hon B.K. Donaldson: What are the cost statistics?

Hon LJILJANNA RAVLICH: The average cost for lost time injuries and diseases is $17.36m for males and $8.964m for females. Given the figures for occupational injuries and diseases in Western Australia, I cannot understand why members would want an exemption from the regulation. I am amazed. I would be more than interested to hear the Minister's response. If I represented the agricultural sector of Western Australia, I would want to do the best thing by the workers; I would want to provide them with increased protection. Members opposite cannot tell me that a code of practice that is not in force -

Hon Greg Smith interjected.

Hon LJILJANNA RAVLICH: The member should sit there and daydream.

Hon Greg Smith: I have been a farmer, too.

Hon LJILJANNA RAVLICH: We know about the RSPCA and the dead sheep.

Members opposite cannot tell me that any member of the National Party who is interested in the welfare of his or her workers would want an exemption from the regulations given these statistics.

Hon M.J. Criddle: Because we want to improve the situation.

Hon LJILJANNA RAVLICH: If the member wanted to improve the statistics he would call for a review of the Act and what WorkSafe is doing; he would seek to reinforce the regulations and improve them and implement a code of practice. Instead, members opposite want everything kept as it is. They will develop a code of practice, which no-one will give two hoots about, and they will then seek exemption from the regulations.

I am very pleased that Hon Tom Helm has moved this amendment, which will prevent Hon Murray Criddle from misunderstanding. It is very clear. The Opposition does not have a problem with the Government's establishing a code of practice - it has already provided the money to do that. However, in accordance with the Occupational Safety and Health Act, the code of practice will specifically enhance and support compliance with the duty of care provisions of that Act and the Occupational Safety and Health Regulations of 1996.

I half suspect that Hon Murray Criddle does not want to see farmers fined by WorkSafe for unsafe practices or for deaths that might happen on their properties as a result of unsafe work practices. I also suspect that that is what the motion is all about. It is not a bad calculated risk, because if members -

Hon Simon O'Brien interjected.

Hon LJILJANNA RAVLICH: I am not impressed with WorkSafe WA and that is why I have given notice of a motion for a full and comprehensive inquiry into its operations. I and all the people I represent think it is doing a lousy job. I am happy to put that on the record. Hon Norm Kelly asked how many inspections have been undertaken of hairdressing salons - I do not know what period was involved - but the response was five.

Hon Ken Travers: That was to get a haircut.

Hon LJILJANNA RAVLICH: What an appalling record! I am told by my friends in the building and construction industry that one cannot get a WorkSafe inspector on a site until there is a fatality. They do not want to know about it because if they have to go to a site they might have to write a report. How pathetic is that?

I refer members to some questions I put on notice, because I suspect that the responses might reveal the motive behind this motion. The first question was: How many employers have incurred penalties for a breach of the Occupational Safety and Health Act 1984 by causing the death of or serious harm to an employee? The response was: In 1993 there were 14; in 1994 there were 15; in 1995 there were nine; in 1996 there were 34; and in 1997 there were 34. The fines imposed are interesting, and this is one of the reasons I have given notice of a motion for a comprehensive inquiry into WorkSafe WA. Most employers risk being fined by WorkSafe WA because at the end of the day it is probably more cost effective for them to take the risk than to put in place the proper occupational health and safety provisions. The second question was: What was the highest penalty incurred by an employer for a breach of the Occupational Safety and Health Act 1984 for causing the death or serious harm to an employer? I was told that in 1993 there were two fines of $20 000 each; in 1994 there was one fine of $25 000; in 1995 there was one fine of $10 000; in 1996 there was one fine of $17 500; and in 1997 there was one fine of $50 000. This is for causing the death of individuals! If that is the value the Government puts on life then this is a very pitiful state of affairs.

I reiterate the fact that I believe farmers are not a special case - just like members opposite do not think maritime workers are a special case; just like they do not think building and construction workers are a special case; just like they do not think nurses are a special case. I do not think farmers are a special case; they are not above the law; they will sit with everyone else.

Hon Eric Charlton interjected.

Hon LJILJANNA RAVLICH: They will sit with everyone else. Hon Eric Charlton may make up the numbers for the Government and may be trying to seek some favours, but while I am in this House I will do my darnedest to ensure that he does not achieve any of his underhanded objectives. We need to ask a number of questions: Why do farmers consider themselves so special?

Hon Simon O'Brien: Why do you consider yourself so special?

Hon LJILJANNA RAVLICH: Why would a member of the National Party want an exemption from the regulations,

given the accident rates in the agricultural sector; and what has happened to the code of practice which has already been funded? Many people would like to know where taxpayers' dollars have gone and why a code of practice is not already in place? I fully support the amendment to the motion proposed by Hon Tom Helm which states -

> That all words after "That" in the first line of the motion be deleted and the following words be inserted -
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> > the primary industry sector be encouraged to develop an industry code of practice for approval by the Minister for Labour Relations under section 57 of the Occupational Safety and Health Act 1984 to enhance -

and I emphasise "to enhance" -

> > - and support compliance with the duty of care provisions of that Act and the Occupational Safety and Health Regulations 1996.

Under no circumstances would we support making this industry sector or any other industry sector exempt from the Occupational Safety and Health Act 1984, or from its regulations, because at the end of the day they form the operational mechanism by which this Act is implemented.

HON KIM CHANCE (Agricultural) [4.54 pm]: I support the amendment, which more accurately describes the nature and proper process which is required of a code of practice under section 57 of the Occupational Safety and Health Act 1984. In acknowledging the point made by Hon Murray Criddle that one can achieve more by education than by prosecution - and I certainly agree with that - I have an uncomfortable feeling that some people in primary industry see this motion as a means of circumventing the intent of the Act. If that is the case, I could not support that view.

Hon Ljiljanna Ravlich: He has already put it on record.

Hon KIM CHANCE: I cannot support that view because it is a denial of the shocking record that farming has in its safety and industrial practices, particularly in the serious and fatal injury statistics. I listened with interest to the figures quoted by Hon Ljiljanna Ravlich. One must bear in mind that, even though they illustrate farming to be somewhat more dangerous than other industries, they are the lost time injury figures, the LTIs, which take account only of reported accidents. The problem is the vast bulk of farm accidents, those which form the LTIs, are generally not reported because most of the farm work force is self-employed. The real problem in farming is in that serious and fatal injury area, which is massively over-represented. I will not present any facts or figures, but I know figures are available. Indeed, I have heard statistics quoted by a former colleague of ours, Hon Sandy Lewis, which illustrate how horrifyingly dangerous this profession is at that serious and fatal injuries level. I support the need to draft regulations, under a code, which are more applicable to and more compatible with the farm workplace. I agree with the argument that the present regulations are, in far too many instances, so inappropriate to the farm workplace as to be laughable - laughable if it were not so serious.

There is a very real and justified reason for the call by the primary industry sector to make those regulations more applicable. I could go through them one after the other, but I do not intend to do that. As a result of the inappropriateness of some of those regulations - and I mean inappropriate wording of the regulations, not inappropriate intent of the regulations - there is a downgrading in the standards across all industry. For instance, while it has always been, or was until not too long ago, an offence in the regulations to leave open all large water containers on building sites, the argument from the primary industry sector was, "That is a stupid regulation. You could not possibly have that in a farm workplace because that is a water trough." Consequently, those regulations were removed to satisfy the legitimate requirement of the primary industry sector to have open water containers in workplace areas.

As a result of those objections, they were removed. That removal has application right across the state work force, including that on construction sites. Of course, the construction industry is the very reason that those regulations were put in there in the first place. I am trying to illustrate that the inappropriateness of the wording of the regulations is having a downgrading effect on the whole of the WorkSafe regulations.

Debate adjourned, pursuant to standing orders.

[Questions without notice taken.]

RAIL SAFETY BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon E.J. Charlton (Minister for Transport), read a first time.

Second Reading

HON E.J. CHARLTON (Agricultural - Minister for Transport) [5.37 pm]: I move -

That the Bill be now read a second time.

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

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

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

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

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

the capacity of the applicant to demonstrate the competency and capacity to meet the requirements of the Australian Rail Safety Standard - AS 4292 - and any other applicable standards;

the possession of an appropriate safety management plan that identifies the potential risks associated with their railway operation and the systems and resources to be employed to address those risks;

the applicant's possession of the financial capacity or public risk insurance to meet reasonable accident liabilities; and

for new entrants, the applicant having made any necessary access arrangements for infrastructure or rolling stock.

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

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

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

to furnish returns on incidents or accidents consistent with the Australian Rail Safety Standard;

to take all reasonable steps to ensure that their employees have the skills, capacity and training to perform rail safety work adequately, are of sufficiently good health and fitness to do so, and are not under the influence of drugs or alcohol while carrying out safety work;

to review and revise their safety management plan annually;

to be subject to independent inspections at least once a year to ensure compliance with their safety management plan and safety standards; and

when required, to furnish a written report on any incident or other matter that may affect or be otherwise relevant to the safe construction, maintenance or operation of the railway.

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

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

The purpose of these inquiries is, again, the pursuit of improvements in standards or practices in order to prevent any recurrence of the accident or incident. Inquirers will act quickly and with as little formality as possible to determine the cause of serious incidents or accidents and are not to apportion blame or determine liability.

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

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

The Government was pleased to move an amendment to clause 50 in the other place to ensure the Bill strikes a fair balance between the need to conduct full and timely investigations into the cause of rail incidents and the need to protect witnesses from self-incrimination. The Government fully supports the new arrangement proposed in this legislation. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

BUSINESS OF THE HOUSE

Acts Amendment (Abortion) Bill - Assembly's Message

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.43 pm]: I move -

That Order of the Day No 3 be now taken.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [5.44 pm]: This motion relates to the consideration of the Legislative Assembly's message No 113 relating to the Acts Amendment (Abortion) Bill. As members will appreciate, this motion provides all members with an opportunity to speak. I will take this opportunity to indicate to the House something of which, no doubt by now, some members are aware; that is, I oppose the passage of this legislation. However, I note that this procedure would normally see the House arrive at the Committee stage at the completion of the consideration of this motion. That process is the standing practice of this House. If the Attorney General stops shaking his head and holds his eyes steadily, he will see that Order of the Day No 3 states "Consideration in committee of Legislative Assembly Message 113".

Hon Peter Foss: I wonder why you are addressing that now.

Hon TOM STEPHENS: I am indicating that I am speaking about that which would be the consequence in the normal course of events if we were to agree to the motion moved by the Leader of the House. The next step would be for us to arrive in Committee. If that was about to happen, I would more sanguinely tolerate the processes that I understand we must go through as a House. Regrettably, I have been alerted to a strategy that may unfold.

Hon N.D. Griffiths: A stupid strategy.

Hon TOM STEPHENS: During this debate I will ask for assurances to be given that that strategy will not be adopted.

The PRESIDENT: Order! As much as I am following what the Leader of the Opposition is saying, one matter we must recognise is that Standing Order No 162 provides that we will not anticipate an Order of the Day or another motion of which notice has been given. I am quite happy to hear the Leader of the Opposition, but I just draw that to his attention for the time being. Earlier when he was seeking to amend a motion, one reason I said that it could not be done was that he was trying to amend it in anticipation of something happening. I think he recognised that that would be out of order; not just the mere amending of the motion to extend the House to sit beyond 10 o'clock. Contravention of Standing Order No 162 brought that into play. I just raise that standing order with the Leader of the Opposition. He knows what it says, and I ask him to recognise it in his comments.

Hon TOM STEPHENS: So that all members are aware of it, I will read it out. It states -

> . . . no motion or amendment shall anticipate an order of the day or another motion of which notice has been given.

I am not anticipating an order of the day.

The PRESIDENT: Order! The point is that the motion before the House is not anticipating an order of the day. It is quite a proper motion. However, the comments of the Leader of the Opposition must be relevant to the motion before the House and in his comments he cannot start to anticipate something that may, or may not, occur.

Hon TOM STEPHENS: Indeed, I will not, and as you know, Mr President -

The PRESIDENT: Order! I said that I am quite happy to hear the Leader of the Opposition. I am merely pointing out the provisions of Standing Order No 162.

Hon TOM STEPHENS: Mr President, I appreciate your guidance. From the day of your election, I have always acknowledged the position you are in as the Presiding Officer and my obligation to you in that position, being from the opposite side of the House from me, and that you sit in the Chair without a guarantee of a sufficient number of government members to protect you in your rulings.

Hon N.F. Moore: Would you like to replace him, Mr Stephens?

The PRESIDENT: Order! I do not wish to interfere with the comments of the Leader of the Opposition, and I do not want anyone to interject. However, I invite the Leader of the Opposition to continue his comments now he has recognised Standing Order No 162.

Hon TOM STEPHENS: Procedural motions can be amended as they relate to a motion before the Chair. For instance, if I decided to move an amendment to adjust the time at which the House rises -

The PRESIDENT: Order! I do not wish to enter into debate with the Leader of the Opposition. Importantly, the House should recognise that I stated earlier that the reason the Leader of the Opposition could not amend the motion was not because standing orders prevented his doing so in the normal course of events; rather, he was endeavouring to amend it in anticipation of an order of the day or a motion. That is where the member fell foul of standing orders.

Hon TOM STEPHENS: However, I could have moved to amend that motion for another time at which the House may choose to rise. It could have been 9.00 pm or 11.00 pm, and we could have had an interesting discussion about the differences.

The PRESIDENT: I do not want to enter a conversation with the Leader of the Opposition. I ruled him out of order because he infringed Standing Order No 162. If he had not done so, I would have clearly ruled to be in order any amendment he wanted to move. We are running out of time.

Hon TOM STEPHENS: Not in my case.

Hon N.F. Moore: It is an unfortunate standing order.

Hon TOM STEPHENS: Under standing orders, I do not run out of time, and nor does the Leader of the National Party or the President.

Hon N.F. Moore: We will run out of patience.

The PRESIDENT: Order! If the Leader of the Government and the Leader of the Opposition continue to interject on each other, they will both run out of time - they will not be in the Chamber.

Hon E.J. Charlton: That is a very good standing order!

Hon TOM STEPHENS: I indicated to members with an interest in this legislation that I was prepared to consider Order of the Day No 3 being brought forward to this point in today's deliberations to give the Committee an opportunity to consider the amendments now submitted for members' consideration on Supplementary Notice Paper No 40. I have said to the member who will have the carriage of the Bill following the successful passage of this motion that the Chamber will be well served if an orderly process is adopted in handling this Bill. We should not deprive any individual in this House the opportunity to move amendments. I hope that in the processes of this debate to change orders of the day members will realise that an opportunity arises for orderly treatment of this issue and the accommodation of individuals' respective viewpoints which will not unduly delay the House.

An alternative is that an unfair process be unleashed which will effectively deny members the opportunity to move amendments. I would accept in a more sanguine manner bringing on Order of the Day No 3 if an assurance was forthcoming from all sections of this House, particularly from the member handling the Bill, that a motion will not be unleashed to suspend standing orders to prevent the consideration of amendments which appear on the Supplementary Notice Paper.

Order of the Day No 3 was placed on our agenda about nine o'clock last night by virtue of receipt of message No 113 from the Assembly.

Hon N.D. Griffiths: It was a funny time for the receipt of a message.

Hon Cheryl Davenport: I agree.

Hon TOM STEPHENS: Members of the Legislative Council have had only little opportunity to consider the detail of the message since. If one tried to secure a copy of message No 113 at that time last night, it would have been unavailable through this House. I realised that it was possible to obtain it from another route and message No 113 was secured.

That led us to respond and produce amendments to the message which appear on Supplementary Notice Paper No 40. Therefore, I commend that members do not unleash on this place any process which would stop consideration of those amendments. We will not be considering the abortion Bill - that is, the Bill which appears under Order of the Day No 3 - but a message. With the successful passage of the motion before us, we will not have the opportunity to vote against that Bill. Instead, we will be left only with the opportunity to deal with the message from another place -

Hon Barry House: Which is always the case.

Hon TOM STEPHENS: That is correct.

Hon Ljiljanna Ravlich: Why should there be an exception this time?

Hon TOM STEPHENS: I do not ask for an exception. I want members to realise that they do not have the opportunity to vote against the Acts Amendment (Abortion) Bill. We will deal with a message essentially containing some restrictive amendments to the Bill. That is the only vote with which this House will be confronted.

Hon Mark Nevill: So?

Hon TOM STEPHENS: Some members, of whom I am one, have placed amendments before the House. We should have the opportunity to amend that message and to argue for amendments before that message is dispensed with.

Hon Mark Nevill: How many amendments did you move to the Davenport Bill? Zero!

Hon TOM STEPHENS: That is not the case.

The PRESIDENT: Order! The Leader of the Opposition has the call. He is starting to stray from the path upon which we both agreed.

Hon TOM STEPHENS: Hon Mark Nevill is wrong. Since the Davenport Bill left this House, it has grown enormously.

Hon Mark Nevill: I am talking about when it was in this place previously.

Hon TOM STEPHENS: Amendments were moved at that time, which I supported, which wound back the process of a one-line Bill repealing all sections to allow abortion without any reference to any other Statute.

Hon Mark Nevill: You sat there like a Sphinx.

Hon TOM STEPHENS: I thank the member for that comment, but it was not the case. I urge members not to do what I fear they will.

Hon Ljiljanna Ravlich: We have accepted the opportunity. Move on.

Hon TOM STEPHENS: Having said that, I indicate to the member handling the Bill, as a display of my good faith, that I will sit down. I need not do so.

Hon Ljiljanna Ravlich: Yes you do - it is six o'clock.

The PRESIDENT: Order!

Hon TOM STEPHENS: I resume my seat in the hope that members will not proceed with the foreshadowed motion.

Question put and passed.

Sitting suspended from 6.00 to 7.30 pm

ACTS AMENDMENT (ABORTION) BILL

Assembly's Message - Suspension of Standing Orders

HON CHERYL DAVENPORT (South Metropolitan) [7.30 pm]: I move -

> That standing orders be suspended so far as will enable me to move -
>
> > That the order of the day for consideration of Assembly Message No 113 be discharged and that the question "That the amendments made by the Legislative Assembly in the Acts Amendment (Abortion) Bill 1998 contained in message No 113 be agreed to" be put without amendment.

This will be a very narrow debate. I intend to put three reasons why I believe this legislation should not be held up and subjected to further amendment. I do that firstly on the basis that the Western Australian community needs certainty about its abortion laws. Over the past three and a half months, we have had a very prolonged and protracted debate. The story about the charges against Dr Victor Chan broke on 4 February and community debate, as we all know, has raged for many weeks. Not only has there been community debate but also almost 100 hours of parliamentary debate.

Most normal thinking people believe that the debate has concluded and that the laws on termination of pregnancy have been repealed. I say to all members that one could forgive them for that because I am holding up for them to see the front page of *The West Australian* on 4 April, the morning after the conclusion of both debates on the Bills through both Houses of this Parliament. It has been almost three months and three weeks since we began discussing this legislation, including a month of community debate before we engaged in parliamentary debate, and we have still not finalised this very important law reform.

The community has a right to expect a more speedy and intelligent performance from its legislators. Clearly a significant majority of Western Australians want this change, despite the anti-choice campaign that has been waged against my Bill. If ever I needed that fact to be drawn to my attention, it occurred last week when, on parliamentary business, I visited the towns of Carnarvon and Exmouth. Many sections of the community offered unsolicited congratulations, and they were conservative, Labor and progressive voters.

Clearly, Western Australian women need to know that they can access abortion services that are medically safe and that they are not breaking the law in doing so. I intend to implement every strategy that I can to ensure that that legal access is their right and that that happens very quickly. No doubt, I will be accused of trying to suppress debate in relation to the action I have taken tonight but I have looked very carefully at Standing Orders Nos 248 and 250 in relation to this motion. I will read Standing Order No 248 for the Council's benefit. It states -

> Amendments in Council Bill by Assembly
>
> 248 When a Bill shall be returned from the Assembly with amendments, the Message with such amendments shall be printed, unless the Council otherwise order, and a time fixed for taking the same into consideration in a Committee of the whole.

The phrase under which I could have usefully moved this suspension is "unless the Council otherwise order". That is what I have done because we need to get on and make this law. People might say that perhaps we are bypassing principles. However, in moving this motion, I think most of the members here will agree that it has been unprecedented. It is very rare that we see, in the conduct of these two Houses of Parliament, two Bills, one commencing here and one in the other place. Therefore, for a start this is one of the conventions that have been departed from in relation to this legislation.

I have tried to proceed with members of the Government in a bipartisan way to get an outcome to this legislation.

That was an offer made through a decision conveyed to me from the whole Cabinet and I have never departed from that course. The Leader of the House will agree with me that I have continued to do that all the way through.

To some extent those are unprecedented things and they have been brought about by the fact that neither of the major political parties has taken a party position on this legislation, although at the state level of the Australian Labor Party there is a platform that says we should repeal these three sections of the Act.

The PRESIDENT: Order! The motion that we are debating at the moment is a motion to suspend standing orders for the purpose of doing some other things, as the honourable member stated in her motion. To date she has endeavoured to advise the House why standing orders should be suspended. However, she is now moving into another area which would be better dealt with when we get onto the next motion, on the assumption she succeeds in suspending standing orders.

Hon CHERYL DAVENPORT: Thank you Mr President, I realise the narrowness of this debate and I will try to confine myself to the standing orders. However, in trying to put forward to the House the reasons that I am departing from what is normal practice in this House, I am trying to explain why I have seen fit to use what I believe is appropriate under Standing Order No 248. Both Houses of this Parliament have been subjected to many hours of debate on this matter. We do not need to traverse that debate again.

We all know that this legislation has generated much passion and feeling within both Houses of this Parliament. I continue to acknowledge that that is the case, and I respect the right of other people to hold a view that is different from mine.

The third reason that I do not want, as I have said publicly, to accept amendments to this Bill is that a real risk is involved in dealing with amendments. People know what it is like to be in a lengthy sitting of this Parliament -

The PRESIDENT: Order! Again, Hon Cheryl Davenport is straying into what will be the next debate, assuming that she succeeds in this motion. I do not want to restrict any member from speaking. I just want everyone to understand that three debates will take place. A debate will take place on the motion to suspend standing orders, and there will be a vote on that question. If the House agrees to that motion, there will be another debate on the motion that the amendments made by the Legislative Assembly in the Acts Amendment (Abortion) Bill contained in message No 113 be agreed to. That will be a separate debate. If that motion is agreed to, then, no doubt, Hon Cheryl Davenport, as the initiator of the Bill, will move that the amendments contained in message No 113 be agreed to. There will be plenty of opportunity in those three debates to get into the abortion side of the business.

Hon CHERYL DAVENPORT: I was not aware of that, Mr President; I thought there would be only two debates. I am happy to be guided by you. I do not wish to subject this House to another lengthy debate on the proposed amendments, for very good reasons, and that is why I have moved to suspend standing orders.

HON N.D. GRIFFITHS (East Metropolitan) [7.43 pm]: I oppose the motion. Hon Cheryl Davenport has condemned herself. She has referred to this Bill as part of a process of shutting down debate. The process of shutting down debate will, no doubt, succeed tonight, but it will not succeed overall - the debate has only just begun in our community.

Hon Cheryl Davenport referred to a lack of principle. I agree with her when she says that her stance involves a lack of principle. She said that what she has engaged in is a departure from normal practice. That is correct; it is a departure from normal practice. She referred to the many hours of debate on this Bill. I digress briefly to say that this House has debated the issue of abortion on only two sitting days. I remind members that we are supposed to be a House of Review.

Hon Cheryl Davenport said that if we do not go along with this motion to initiate the process of shutting down debate, we will go over the same old ground. That is not true. What is being sought by those who are opposed to this motion is debate on a few discrete amendments, some of which have not been considered in the form in which they have been presented and some of which have not been considered in the substance in which they have been presented in this House; and, if I may take a liberty, Mr President, they have not been considered in the other place.

What I find particularly galling about the motion moved by Hon Cheryl Davenport, and, no doubt, drawn up by her draftsman, the architect over there - I am looking at the Attorney General; he will answer me if he will - is the lack of courtesy that she demonstrated on two fronts. First, Hon Cheryl Davenport did not have the decency to tell us what was in the motion until after she had moved it.

Second, the normal practice in this House is that a member who wishes to move for the suspension of standing orders says words along these lines: "Mr President, I seek the leave of the House to move to suspend standing orders for the following purpose." Hon Cheryl Davenport did not even have the courtesy to seek leave. I want to make a few points, and I would not have refused the member leave, but she did not even have the courtesy to ask. As far as I am

concerned, Hon Cheryl Davenport and her cohorts - those who back her in this process - stand condemned by the words of her speech.

Question put and a division taken with the following result -

Ayes (26)

Hon E.J. Charlton	Hon John Halden	Hon N.F. Moore	Hon W.N. Stretch
Hon J.A. Cowdell	Hon Ray Halligan	Hon Mark Nevill	Hon Derrick Tomlinson
Hon M.J. Criddle	Hon Tom Helm	Hon M.D. Nixon	Hon Ken Travers
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon B.K. Donaldson	Hon Barry House	Hon J.A. Scott	Hon Bob Thomas *(Teller)*
Hon Max Evans	Hon Norm Kelly	Hon Christine Sharp	
Hon Peter Foss	Hon Murray Montgomery	Hon Greg Smith	

Noes (6)

Hon E.R.J. Dermer	Hon Simon O'Brien	Hon Tom Stephens	Hon Muriel Patterson *(Teller)*
Hon N.D. Griffiths	Hon B.M. Scott		

Question thus passed.

Order of the Day Discharged

HON CHERYL DAVENPORT (South Metropolitan) [7.50 pm]: I move -

> That the Order of the Day for consideration of Assembly Message No 113 be discharged and that the question "That the amendments made by the Legislative Assembly in the Acts Amendments (Abortion) Bill 1998 contained in message No 113 be agreed to" be put without amendment.

I do not wish any amendments to be moved on the amendments contained in the Legislative Assembly's message at this time. People have spoken about courtesy and proposed motions being provided to members. However, I did not see the proposed amendments to the Legislative Assembly's amendments until very late last evening. I asked to see them, but I did not receive them until the end of yesterday's sitting. I closely looked through the proposed amendments today. Only three of the proposed amendments have not been canvassed widely by the anti-choice proponents in the other place. In some cases the amendments were resoundingly defeated, and in other cases the vote was close. It would be a waste of time if we rehashed those arguments. That is a major reason for our not taking that path. One of the proposed amendments seeks to raise the penalty in section 119, which deals with the medical profession. That is an unnecessary move. The other place gave a clear indication of its stance on that matter.

Another reason I have chosen to neither accept nor move amendments is the risk associated with forming a conference of managers should any amendment be accepted. It is time to conclude this debate. The legislation currently contains a review clause, and I will talk about that in more depth later in the next debate. The reason I fear risking this legislation to a conference of managers is that no-one can control who will be elected as managers in either House. It needs only one person not to agree for the legislation to fall over and die, and once again the laws of this State would be very unclear - because the law has not been put into operation for the past 30 years. We cannot return to the situation that we were in prior to 10 February when the two doctors were charged.

I understand the confines of this debate. I do not want to speak out of order, even though I think we should debate certain matters. I have certain fears. I would have liked to move a number of amendments but, after discussion with my colleagues who have supported my position, I have chosen not to do so. I remind members that originally this was a repeal Bill. However, many amendments were made at the Committee stage. Hon Nick Griffiths can smile and carry on, but when I embarked on the introduction of this legislation I was told that it would be very difficult to introduce anything in this place that required a monetary contribution. I was very conscious of that fact, and tried to work within the confines of the standing orders of this House. I have never run away from the need for some limits on our abortion laws. I refer members to my maiden speech in this House on 6 September 1989. I will turn to that speech when we turn to the substantive debate on the amendments from the other place. We have had ample debate; I do not wish to prolong it further. I have outlined my reasons for not pursuing any amendments. However, in later debate I will point to definite flaws in this legislation. I commend the motion to the House.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [7.58 pm]: During debate on the earlier motion to rearrange the Notice Paper, I indicated that I was very concerned that a motion such as this might be moved. I urged Hon Cheryl Davenport and her supporters to consider not moving this motion. The reasons for my request are manifold. They include an argument which should have more import for some people than for others.

The last division is an indication that a minority in this place very much wants to put on the record a committed pro-life position. There is within this Parliament a couple of groups - one of three members of a party and one of two members of a party and hopefully that number will remain constant. They will always be in the minority.

Several members interjected.

Hon TOM STEPHENS: From time to time the National Party is in that position.

A substantial majority in this place wants to ensure that the minority does not have the opportunity to put its arguments, debate them and consider the issues further. If this motion is successful, the minority will not get the chance to detail its support for consideration of each of the clauses that the House might otherwise have before it. The parties that I predict will more regularly be left in that situation than others should have regard to the tyranny of a substantial majority.

I do not think that my party colleagues are using the numbers appropriately in this debate. During my time in this place - it is longer than that of any other member from my side of the House - our party has never gone down this path of trying to prevent detailed debate and consideration of amendments. I point out to my colleagues on this side of the House that I have been their celebrated champion when I have used all the powers at my disposal to argue volubly, strenuously and interminably on issues about which we were united.

Hon Mark Nevill: We are not voting as a party tonight.

Hon TOM STEPHENS: I know.

The PRESIDENT: The Leader of the Opposition has the floor and I do not want any interjections.

Hon TOM STEPHENS: On previous occasions I and others have delivered interminably long speeches recognising that we would not get the result we wanted as a party. However, we would use every device available to put our point of view strenuously and vigorously. The most celebrated examples of that were the debates on the labour relations legislation prior to the change in numbers in this place, the workers' compensation legislation and the native title legislation. On those occasions we championed vigorously the need for the minority to place on the record its opposition to an initiative. The Labor Party has consistently followed that path and I commend it now. I am not suggesting that the pro-life members will filibuster until the bitter end. The debate should have been conducted succinctly this evening.

Members should keep in mind the history of this issue. I will not be long debating it, and I am sure members are relieved about that.

The PRESIDENT: As the leader reminded us earlier, he has unlimited time.

Hon TOM STEPHENS: But I do not intend to use all of it.

As members know, the Criminal Code Amendment Bill came into this place essentially as one principal clause.

Hon Cheryl Davenport: It was amended in Committee.

Hon TOM STEPHENS: Indeed it was, and before it left this place it grew from one line to a more detailed Bill as a result of amendments, some of which I supported vigorously.

Hon N.D. Griffiths: There was one on conscientious objection, which was watered down in the other place.

The PRESIDENT: Order! One at a time.

Hon TOM STEPHENS: Nonetheless, I was delighted that the House agreed to that amendment. So, before it left this House we had a seven page Bill.

This place had versions 132-1 and 132-2. After going to the other place, it became 132-3 by virtue of a motion making it an 11 page Bill. Then debate ensued and amendments were considered in the other place, which produced a new version of the Bill - 132-4. Version 132-4A contained the amendments and we now have version 132-4B.

Half of the version we are now considering is new amendments passed in the other place. Version 132-4B has at least one error in its printed form, but that is of no great consequence. We have instead before us message No 113. By any standard it is a long message. I cannot think of any other Bill that has been the subject of such a substantial message.

Members should think about the processes that are about to be unleashed. Normally sitting at the Table would be the proponent of the Bill. We would go through the message clause by clause and discuss and understand each amendment and its interaction with the Bill and the Act. We would discuss and tease out the clauses and ensure that

all members understood exactly what would happen as a result of acceptance of the message. There would be the opportunity to debate the issues and encourage consideration and adoption of alternative strategies. Normally through that process we arrive at better legislation. The indications are tonight that that will not happen because a sizeable majority, which has formed for a range of reasons, will not accommodate that normal practice.

I am convinced, and I would love to convince the House, that insisting on the amendments being taken en bloc without further debate will produce worse law than that which some members want and it will have consequences that they have indicated they are not seeking to achieve. In addition, the proponent of this legislation and many of her supporters have indicated from time to time during the debates that they hold dear the principle of the sanctity of life, yet there is no expression of that in this message or the Bill.

Plenty of opportunity exists for support of that principle to be placed on the record at this stage. A preamble or footnote could be placed into the Bill expressing the principle which people say they hold dear. Nowhere in the Bill is any support expressed for that principle. The proponent and supporters of the legislation say that the principle is important to them. They frequently repeat that they do not see abortion as something desirable, or even good or a positive; nevertheless, the legislation contains no articulation of opposition to the notion of abortion.

The phraseology of the Bill, by virtue of the amendments in the message, simply outlines a principle that abortion should be endorsed and embraced by Parliament. Other Statutes contain preambles expressing statements of principle. Some of those preambles I find most offensive. Nevertheless, this Bill will not be well passed without a preamble stating the principle to which both sides of the debate claim to subscribe.

In the other place, further attention was given to the conscientious objection clause moved in this place by Hon Nick Griffiths and accepted by the Bill's proponent. However, that provision was subsequently amended in the other place to alter the impact of that conscientious objection clause. It was done deliberately - members spoke indicating as such. I do not think all members in the other place knew exactly what they were doing with that amendment. A couple of amendments were passed.

Hon N.D. Griffiths: One good, one bad.

Hon TOM STEPHENS: Indeed. I will summarise it in this way -

The PRESIDENT: Order! In making that last point, the Leader of the Opposition started to move outside the parameters to which we agreed. Until that point, he was talking about why the motion should or should not be accepted, with or without amendment. He is starting to canvass the substance of certain amendments. That is for the next debate if this motion succeeds. I raise that point for the member's information.

Hon TOM STEPHENS: I understand the point. I will not delay on this matter. I appreciate that if I try in the next debate to canvass the need for amendments -

The PRESIDENT: The member knows I am drawing it to his attention.

Hon TOM STEPHENS: - some member may draw the previous decision of the House to my attention, and I would hate to have not had the opportunity to raise the matter in either debate.

The PRESIDENT: I simply raise it with the Leader of the Opposition.

Hon TOM STEPHENS: I thank you, Mr President. The motion should be defeated as its passage would prevent me moving an amendment which this Bill desperately needs. At the very least, if the amendment were accommodated in this place, I would sit down immediately and rush to the other place to encourage people to embrace the change and run with it. We would then get the Bill out of here in an amended form. I would encourage, and I believe I would get, pro-lifers' support. This would produce succinct and brief debate in both places tonight. Members should give this possibility serious consideration.

The taking of life is the principal issue for those of us opposed to the taking of the life of an unborn child, or the taking of other forms of human life. However, the principle of conscientious objection is an important point in question.

An inserted provision needs further amendment. We have provided the opportunity in this place, by use of the words "procuring of an abortion", for conscientious objection to be available. Down the other end, a grand motion was put by the Deputy Premier which succeeded in changing "procurement of an abortion" to the "performance of an abortion". That left the risk that conscientious objectors to abortion would have an obligation at law to participate in the abortion process. A doctor and nurse cannot be required by contract, duty or obligation to participate in the performance of an abortion. I gather that notion has been accepted by just about everybody down the other end, and up here as well, fortunately.

People argued that a moral and legal obligation should apply to doctors, nurses, counsellors and others, when confronted with the person seeking an abortion -

Hon Cheryl Davenport: The Australian Medical Association has rules for doctors.

Hon TOM STEPHENS: I care not about the AMA rules, but the law, which is all-important. Just as I heard someone argue earlier in the House today that farmers should not be above the law, nor should doctors be above the law. Codes can comply with the law delivered by us, the representatives of the people of Western Australia. No-one should be above the law in this process. The doctors' code should comply with what we put in law.

No obligation should apply to require participation in any way with the process of abortion if people object. What will that mean? If the motion is defeated, I can move the amendment on the Supplementary Notice Paper dealing with conscientious objection to ensure that doctors, nurses, counsellors and others could not be obligated, in any way, to participate in or to refer a person for an abortion in accord with the requirements of the AMA code.

Many people in the community hold this principle very dear. Some people said that Dr Cohen put a gun to the head of Parliament and said, "You pass the law, or we will not carry out any abortions."

Another sector is involved, such as people from the large catholic hospital sector involved in obstetrics services. They have written to many of us. They have been phoning around desperately today in recognition of the way the message has been presented to this Chamber. They can see an enormously devastating impact on them. I use the letter they wrote to me, which is by and large the same as that sent to other members. I will read it because it is the strongest argument for the defeat of this motion in order to then allow the amendment regarding conscientious objection to be dealt with. The St John of God Health Care System Inc provides the hospital service at Subiaco, and indeed in many other parts of Australia; however, we are here dealing with WA laws. It is from Dr Michael Quinlan and is addressed to Hon Tom Stephens, Leader of the Opposition in the Legislative Council. It reads -

> Dear Tom.
>
> The proposed paragraph (2) of section 334 of the Health Act to be introduced pursuant to clause 7 of the Acts Amendment (Abortion) Bill 1998 provides:
>
> > *"No person hospital, health institution or other institution or service is under a duty whether by contract or statutory or other legal requirement to participate in the performance of any abortion."*
>
> The proposed section 334 of the same Act provides that:
>
> > *"334. (1) A reference in this section to performing an abortion includes a reference to-*
> >
> > *(a) attempting to perform an abortion; and*
> >
> > *(b) doing any act with intent to procure an abortion,*
> >
> > *whether or not the woman concerned is pregnant."*

Dr Quinlan goes on -

> I understand that, in the course of the debate, attempts were made to amend section 334(2) by:
>
> (a) substituting the words "procurement of" for "performance of";
>
> (b) deleting the words "participate in" and replacing them with the words "be involved in any way, prior to or during."

The second set of words were the words that my new friend and colleague Hon Phillip Pendal has endeavoured to insert.

Hon Ljiljanna Ravlich: Very new.

Hon TOM STEPHENS: Indeed. I have lost some friends and gained others in the process of this debate.

Hon Ljiljanna Ravlich: You lost more than you gained.

Hon TOM STEPHENS: Well, we will see.

Hon Ken Travers: We are still your friends.

Hon TOM STEPHENS: I thank the member for that. However, Hon Phillip Pendal endeavoured to insert that

amendment in the other House and was unsuccessful for a variety of reasons, not the least of which was the lack of clear thinking by some members of the other place. Mr President, you are very careful in protecting the standing orders of this place and the reputation of the other place. Dr Quinlan continues -

> Both of these proposed amendments were rejected.
>
> The purpose behind rejecting the amendments was clearly to ensure that the persons and institutions referred to in the section had an obligation to refer or counsel a patient in respect of a possible abortion.

I interpolate here and say the proponent of the Bill has identified, by way of interjection, a sense that there should be an obligation on the part of a doctor to refer and that is -

Hon Cheryl Davenport: Just send them to another doctor.

Hon TOM STEPHENS: Hear those words "send them to another doctor"; refer them on to a doctor who will do an abortion.

Hon Cheryl Davenport: No. Refer them to a doctor who will counsel them about the options; whether or not to have a child from conception to birth; and whether or not, if the instance of abortion comes up, the doctor would counsel them under the provision of informed consent.

Hon TOM STEPHENS: That is exactly what the member intends to do. I want to describe that.

Hon E.J. Charlton: I did not hear that. Can you explain that?

Hon TOM STEPHENS: What the proponent of the legislation wants to leave as an obligation in the Statute - in fact, the proponent's friend in this debate, Hon Derek Tomlinson articulated this same commitment to this notion during the Committee stage -

Hon Derrick Tomlinson: Do not attribute anything to me when I have not spoken.

The PRESIDENT: Order! The member should address his comments to me and he will not attract interjections.

Hon TOM STEPHENS: She wants to leave at law an obligation on doctors with a conscientious objection to abortion to have to refer people to the abortion clinics, to an abortion process. Returning to Dr Quinlan, his letter continues -

> The paragraph only excuses participating in the performance of the abortion, that is the actual killing of the foetus. As a consequence, there is imposed upon a medical practitioner or a hospital providing a medical service a civil obligation to refer a woman for counselling in relation to an abortion or to a practitioner who would undertake that procedure and, hence, a civil liability for damages if he, she or it fails to do so.

This area of law has been litigated in New South Wales and has led to Catholic hospitals having to settle out of court specific litigation in this area. Dr Quinlan continues -

> The advice we have from one of Her Majesty's Counsel -

And here Dr Quinlan has fallen into an awful, new - but necessary - habit that is in response to the sorts of comments that the Attorney General has made recently. To continue -

> - (who is not a Catholic) is that the proposed paragraph (b) of section 334(1) does not help for two (2) reasons, first, because it applies only to acts done with intent and as we could never have the intent, we could never have the benefit of the section and, secondly, because the paragraph does not extend to counselling to have either an abortion or the opportunity of an abortion which is a major concern to our organisation.
>
> As you will no doubt understand, it is of the gravest concern to our organisation that it and many doctors, nurses, counsellors and others who have firmly held conscientious, moral and religious convictions are obliged to participate in a process which offends deeply those convictions.
>
> The law, as it will be after the legislation, will restrict greatly the manner in which foetal medicine services will be offered in St John of God Hospitals. Should the legislation be passed as proposed, St John of God Hospitals will have to consider seriously their services in the area of obstetric medicine. In addition, the legislation will alter forever the ethical practices of large numbers of people providing health care and will also prevent medical practitioners, hospitals or counsellors including those providing welfare services from counselling against abortion solely.
>
> It is also of grave concern that we are subjected to this type of legislation. There are clearly implications of civil liberties. Professional people who are much concerned with the care of people from before birth

to death will now become conscripted as part of a process which is clearly abhorrent to them and their convictions. Civil conscription is outlawed by section 116 of the Commonwealth Constitution; it is unfortunate that this principle does not apply to State legislation.

Western Australian law should not deny medical practitioners, hospitals and others the choice of treating patients in accordance with their religious, moral or ethical beliefs.

This legislation is designed to legalise a practise which has been the subject of civil disobedience for many years. It is consequence to be that another group will be equally disobedient to the civil law in the obedience to their conscientious moral and religious beliefs.

We therefore seek the amendment of section 334(2) referred to above to read:

"No person, hospital, health institution, other institution or service is under a duty, whether by contract or by statutory or other legal requirement, to be involved in any way prior to or during the procurement of an abortion."

I regret that I have not written earlier but, as you know, the legislation has only become available only very recently.

Which is in fact the case.

Hon Cheryl Davenport: It was two weeks ago.

Hon TOM STEPHENS: No. Please, let us get the timing of this absolutely right. I was seeking out this Bill in the amended form of 132-4A or 4B in the days following -

Hon Cheryl Davenport: I got it.

Hon TOM STEPHENS: I am telling the member that I could not get it.

Hon N.D. Griffiths: Preferential treatment from the Government.

Hon TOM STEPHENS: I sought it -

Hon Tom Helm: Some may believe you.

The PRESIDENT: Hon Tom Helm, the Leader of the Opposition has the floor. I want the Leader of the Opposition to finish his letter without too many interjections or it will not be comprehensible in due course when it is printed.

Hon TOM STEPHENS: The letter finishes with -

I would appreciate your letting me know the fate of the bill as soon as possible.

Yours sincerely

Dr Michael Quinlan
Chairman, Governing Board

I seek leave to table the letter.

Leave granted. [See paper No 1619.]

Hon TOM STEPHENS: If any member wants that I hope they will draw on it and use it. It is not the only representation that I received. I know others in this place have received similar representations. Women with a conscientious objection to abortion who are involved in providing counselling services, and who have that objection to referring people on, have been on the telephone to me day in and day out over the last few days as they recognise the problems with which they are faced. Some members may not understand this particular area and I can understand that. Ethical education has been very deficient within our community for a long time.

Hon Ljiljanna Ravlich: Who said this?

Hon TOM STEPHENS: The ethical education of many of us.

Hon Barry House: Do not speak for all of us.

Hon TOM STEPHENS: For many of us, and I include myself.

Hon Ljiljanna Ravlich: Is ethical the same as moral?

The PRESIDENT: Order!

Hon TOM STEPHENS: The issues are that those of us, whether members in this place or people out in the wider community, who see abortion as the taking of human life have an obligation to be in no way involved, including by referral. If I were a doctor or a counsellor faced with someone seeking an abortion, I would need the freedom at law to pursue my particular understanding of the principle of the taking of human life and have nothing to do with it other than to say, "I am opposed to abortion. Full stop." I do not have the freedom at conscience to refer.

The PRESIDENT: The Leader of the Opposition is now straying again. I expect that that is the sort of comment that may fit into the next debate, assuming this motion is carried.

Hon TOM STEPHENS: I appreciate that and I will move on. However, this is fundamental: Those members who vote for this motion will effectively deprive the House of the opportunity of considering the importance of that amendment. Many other amendments contained within this message call out for redress. Other amendments on the Notice Paper provide the opportunity of signalling to the community the importance of human life. They try to express in law the principles to which many members have indicated their commitment; that is, to the notion of the sanctity of human life.

Members recognise abortion as something that is not desirable and not to be encouraged. There are ways of formulating a response to the belief systems that members have articulated in the debate. Members have said that there should be no acceptance of the willy-nilly taking of human life; I think it is probably fair to put it that way. I recognise that this minority of pro-life MPs who are begging the House to take on board the arguments we have been endeavouring to put forward face a hard battle. Members have that opportunity, and the way of ensuring it will happen in double quick time would be for members not to agree to the motion that the Hon Cheryl Davenport has moved.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [8.31 pm]: As everyone in this place knows, my position on the legislation has developed since the original Bill was introduced into this House, and then the other legislation into the other place. To my great surprise, both this House and the other place have come to a conclusion; something that has been decided by those people for all their own respective reasons. I support the decision made by some members that we should simply proceed to put the amendments. While I agree with what Hon Tom Stephens had to say when he gave the reasons for and the background to his desire that there should be an opportunity to reput certain amendments, I see no validity in going down that path because members of each House for their own reasons have already made their decision.

No issue has had more debate or more time for consideration than this issue. I do not think that any value will come now, past the eleventh hour, from those of us who have a different point of view trying to prolong this debate. We need to conclude the passage of this legislation and vote accordingly, and the decision will be made. This place, the other place, and the community, must then determine how that legislation will be dealt with.

No person, medical centre or provider of health services in this State should be obliged to participate in anything to do with procuring an abortion if they do not want to. This has nothing to do with a health service. This is about a person's choice to be involved in a procedure. I will wait, along with the rest of the community, with great interest to see what develops. We need to take on board that simply because we as legislators put something into law, does not mean it will stand the test of the law. The law will be there, but it will be for the courts to determine how it is interpreted. It happens over and over again that when Parliament makes decisions, people take action to test whether the interpretation or the content of that legislation stands up to the scrutiny of the court, whether it is the issue that the Hon Tom Stephens referred to as a response from St John of God Hospital, or any other issue that arises out of the content of the legislation. There will be many issues and many examples that will come to the fore.

Whatever comes out of this place at the end, there will be stronger rules for medical practitioners whose choice it is to participate in abortions to adhere to than has been the case for the past 20 or whatever years; because there have been no rules in respect of acknowledging counselling right through to where and when and how procedures take place. It will be a testing time for a lot of people, both those people who want an abortion and those people with the responsibility to perform it. While I agree absolutely with all the thoughts and the reasons why the Leader of the Opposition would like one last opportunity to debate the matter, he seeks an outcome that we cannot successfully achieve bearing in mind that members of this House have quite properly had every opportunity to consider. This Bill is not like a lot of legislation that is introduced, and before we know it, a decision must be made and it is passed through the Parliament. Those of us who have a different point of view from those in the majority should simply acknowledge that. I, along with the others who have that point of view, will simply demonstrate it when we vote.

I predict that this legislation will be back in this place in the not too distant future for amendment, simply to enable its proper administration in the wider community, and more importantly in the medical profession, which in the eyes of some people in the community will be required to administer something that they do not want to administer. No-one should ever be compromised or forced to believe that he or she must participate in some act such as this

which is totally against his or her principles. It has nothing to do with health issues and that is why places such as St John of God Hospital, whose whole role is about saving life, should not ever consider that they must participate in something that is taking away human life.

HON LJILJANNA RAVLICH (East Metropolitan) [8.38 pm]: I support the motion put forward by the Hon Cheryl Davenport that the order of the day be discharged and that message No 113 be agreed to without amendment. I concur with the sentiments of Hon Eric Charlton. There is nothing in the legislation from my reading of it which would force any woman to have an abortion or any person to be involved in the process of procuring an abortion or carrying out an abortion. There are no great concerns there.

I found some of the points made by Hon Tom Stephens to be quite objectionable. The allegation that minor parties have somehow hijacked the parliamentary process is unfair. We have been involved in debating this legislation for quite some time. There is agreement all around that we have spent at least 100 hours on the various aspects of the debate. We have gone over them time and again. People have had ample opportunity to put forward their views.

I see no great difference between the Bill before us and the Bill we passed through this place. It is a disappointment to me that the abortion legislation will remain in the Criminal Code. However, Hon Cheryl Davenport has made it clear she is happy to live with that for the time being in order to pass this legislation.

This is a conscience vote, not a vote on party lines. Hon Tom Stephens went to some length to explain that he was concerned and a bit disappointed that his Labor colleagues were not going down the right track. Hon Tom Stephens is not my moral conscience. I am here with a right to exercise a conscience vote on this issue.

I am extremely disappointed that some members of Parliament have swayed on this issue. I find it a little difficult to believe that one can get to the age of anywhere between 35 - I do not know the age of the youngest member of Parliament - and 60 or 70 without having a position on something as fundamental as this very important issue. As a member of this Parliament I am somewhat disappointed that throughout this exercise members have wavered on this important issue. It transcends party lines. It is the right of all members here to exercise their democratic votes in this place.

It is a waste of time for members in this House to continue going over the same debate. Clearly a sizeable majority in this House has formed its view for good reasons. When the original Davenport Bill went through this place the vote was 22:11 - a convincing two-thirds majority. In the recent division on suspension of standing orders the vote was carried 26:6. I will not pre-empt the outcome of this debate. I could speak until the cows come home but that would not make one iota of difference to the outcome of this legislation. Given that the Government has so much business before it and that this House is continually pressed to address its workload, I find the notion that we should continue to debate this issue for another 100 hours incomprehensible.

Members of the sizeable majority in this House have formed their views based on consultation with their communities and whatever factors they have calculated into their judgments. Public sentiment dictates that long overdue abortion law reform in Western Australia must be passed. I reiterate that, as legislators, it is our responsibility to listen to the wants of our constituents. It is now 1998 and we must ensure certainty for women and for the medical profession. I make no apologies for the fact that I am not here to moralise. I do not want to impart my morals on other people.

The PRESIDENT: I mentioned before that we are dealing with a very narrow area of debate. The member's job is to convince the House why the order of the day should or should not be discharged and whether the motion proposed to be moved should be moved without amendment. I find the question of morals interesting, but I am not sure it is relevant to this stage of the debate.

Hon LJILJANNA RAVLICH: I will take back morals, Mr President.

Several members interjected.

The PRESIDENT: I happen to regard this debate as very serious.

Hon LJILJANNA RAVLICH: Thank you, Mr President. There are many good reasons that this matter should be discharged. I am here to legislate and I will not shy away from that responsibility. We should support this motion because hours of rambling and listening to the same debate will not achieve a different outcome.

To assist the efficient workings of this House and in the best interests of a speedy resolution to abortion law reform, which I think is about 30 years overdue, I fully support the motion moved by Hon Cheryl Davenport.

HON B.M. SCOTT (South Metropolitan) [8.46 pm]: The passing of this motion will deny the opportunity for a minority to place on record its views on amendments passed in the other House and other amendments. It was my understanding - the mover of the motion said so - that if amendments were passed they would go to a conference of

managers. I seek clarification of that. It was my understanding the Bill would need to then go to the lower House again. Therefore I do not believe any amendments would pass. We are living in a real world; we have just been defeated. However, I find it objectionable that the mover of the motion, a woman who has fought for many years for the rights of women - a minority group - has allowed this debate to be managed again by men in the same way the abortion issue has been managed for many years.

We gave an undertaking not to delay the debate. We wanted to put on record our feelings about the genuine amendments before the House. We referred other speakers to the conscientious objection matter. There will be a very serious civil conscription issue in the legislation if we accept that amendment.

Hon Ljiljanna Ravlich said that we have all had the opportunity to go over and over these amendments. I remind her that none of us has had any opportunity to debate them in this House once, let alone over and over again. She referred to ramblings. I remind her again that we are being managed by men and that is what has occurred throughout the abortion debate.

I do not believe that it would be a waste of time to debate these issues on such an important topic. As for saying we must be true to our constituents, I have said before and I will say again, if I were to respond only to the views of my constituents I would be swayed by 10:1 against abortion. If I held the opposite view I would still not necessarily follow the views of my conscience. I would put the view that I felt was for the common good of this community. I believe I have been put in this place to make laws for the common good.

I oppose this motion with great vehemence. I object to the fact that, despite making a promise in good faith not to extend this debate beyond reasonable lengths, we are being denied an opportunity to put on the record our views on these amendments. I feel aggrieved and offended on behalf of the many thousands of Western Australians who may oppose this debate and who have been described as a minority, although I will provide figures when I speak on the substantive notion to dispute that. Here we go again, oppressing a minority.

HON JOHN HALDEN (South Metropolitan) [8.50 pm]: I intend to be brief in my remarks, and I hope to be as non-controversial as possible. I recognise that members on both sides hold views that are heartfelt and based on religious conviction, personal freedom, obligations or beliefs. I do not want to dissuade anyone from expressing his or her view in this debate. However, there is no doubt that in the past three and a half months the process has been abused, principally in the other place.

The PRESIDENT: Order! The member knows that he cannot reflect on the other place.

Hon JOHN HALDEN: I would hate to see any abuse of that nature in this place. There is no suggestion that any members will be denied the opportunity to express their views on this issue tonight. Members will be given that opportunity. However, the community wants some decision to be made about this issue, and this House must reach a decision. It cannot sit for long hours going through all sorts of political tactics. That would be undeniably wrong.

This motion attempts to give members an opportunity to speak and then resolve the matter. The amendments allow for a review to take place and that is commendable. Let us not go through a process of torture about our moral convictions, ideological viewpoints and constituents' wishes. Let us get to the point at which, in a responsible and mature way, the majority of members in this place express their view. I do not think anyone in this place is in doubt about how I will vote but, whether the final decision is right or wrong, as a collective, we should make a decision on this matter.

When the legislation is reviewed, I am sure members will be responsible enough to reach a decision about whether it needs amending. It would be wrong to deny that the majority of members have expressed a clear view. It would be wrong not to use the device presented in this motion. It would not prevent members from expressing a view; in fact it would allow that. However, this House will either accept or reject the amendments from the other place. If the House defeats the motion, the Committee of the Whole House will go through the proposed amendments clause by clause but, nevertheless, the majority view will prevail.

This action creates no precedent for the Government because it is a private member's Bill. It is not government legislation; it is not the labour relations Bill, during debate on which the Government used certain tactics, and it is not the land rights Bill, during debate on which the Government used certain tactics. This is a private member's Bill of enormous, significant, moral and personal consequence to each and every member. It does not mean that the procedures of this House that allow for filibustering or extended debate should be utilised purely to cause anxiety in the community. This is not an issue over which the community should agonise, whatever side members stand for.

Each and every member will vote and stand on one side or the other on the basis of personal beliefs. Let us reach that point soon. I will do so with no fear but will make my decision with the best of intentions because I believe it is right. All things being equal, if I am a member of this place in three years' time and must change my mind, I will

do so. I do not want this debate to be like the debate held in the other place. Let us deal with this matter with some personal, moral and intellectual integrity.

[Interruption from the gallery.]

The PRESIDENT: Order! I refer to people in the Public Gallery. There is a rule in this place that the member on his feet is allowed to speak but people in the gallery are not. As much as we are delighted to see people in the gallery tonight, there is no room in the debate for them to participate.

Hon JOHN HALDEN: The 33 members in this place who will have an opportunity to vote will choose whether they want to consider the amendments returned from the Assembly in toto or whether they want to consider further amendments. That vote will be made on the basis of members' beliefs as to what is appropriate or right. No-one should be judged as right or wrong, but I believe it is time this debate reached a conclusion. Members believe they are right, no matter what side they are on. Let us not prolong the debate for frivolous reasons. Everyone in this House knows exactly how I will vote.

HON NORM KELLY (East Metropolitan) [8.58 pm]: I support the motion. Although I had not intended to speak, I want to respond to some comments made tonight in this place and some comments made earlier outside this place with regard to the democratic procedure in this place. Hon Tom Stephens made some remarks in a non-party political debate about the role minor parties play in this place. He drew an analogy with the obvious minority in this place on this issue. Likewise, I heard a statement in the media from a member of this House this morning that if this motion were to succeed, it would be a case of the tyranny of numbers stifling a democratic opportunity for the minority to express their opinions. A true democracy is based on the views of a majority of members but only as long as proper consideration and ample scope is given to the views of the minorities. I strongly believe that the views of the obvious minority in this place and in the other place on this issue have been given ample opportunity to be heard. I am also sure that members who support the Bill in its current form will vote against this motion if they believe the opponents have not been given an adequate hearing. It is important that members, irrespective of their stand on the Bill, vote against this motion if they believe there has been insufficient opportunity to debate this legislation in this place. As I have said, I believe that opportunity has been given. For that reason, I support the motion.

HON E.R.J. DERMER (North Metropolitan) [9.00 pm]: I will speak against the proposition to discharge the order of the day. I do so because it is our responsibility as the House of Review to give all legislation thorough and substantial consideration. Part of that process is the capacity to put, debate and vote upon amendments to legislation before us. That is our key responsibility. If that involves our sitting indefinitely, until the early hours of the morning, to discharge that responsibility we must do so, because that is what we have been elected to do. No member would seek to have this House sit for an extraordinarily long time. However, by opposing this motion I seek to ensure that these amendments are thoroughly and properly considered, and that each member of this House is given an opportunity to vote on each of the amendments. In that way, all members will be able to exercise their responsibilities democratically which will lead to the final structure of the Bill which, sadly in my view, will come from this place.

Because of their substance, a number of the amendments have been debated here before; some have been debated in the other place; and, to the best of my knowledge, some others are new. Many of the amendments are designed to clarify the grey areas that remain in the abortion legislation brought forward in the message from the Legislative Assembly, and I will refer to a couple of examples. One amendment to section 199 stands in the name of Hon Tom Stephens -

The PRESIDENT: Order! I do not want to restrict the member's remarks at all; however, if he is to refer to the specific amendments, that is quite properly the subject of the next debate, assuming that this motion is passed. The member was doing extremely well up until his latest comment. In fact, I intended to ask him to talk to some of his colleagues to show them how it is done. The fact is that the member must convince the House why the order of the day should, or should not, be discharged, and whether the proposed motion should be put, without amendment.

Hon E.R.J. DERMER: I am grateful for your advice, Mr President. I intended to refer to two of the amendments for this purpose: If this discharge motion is carried, the opportunity to consider those amendments is lost. I do not mean to use this opportunity to debate the amendments in the way I would normally if this discharge motion were to be lost. I wish to refer briefly to only two of the amendments to illustrate the importance for this House to consider them and, for that reason, to vote against this discharge motion.

When this Bill was last before this House in a previous incarnation, I raised a number of matters, including that in the amendment and to which I referred during my speech in the second reading debate when policy was being discussed; that is, the status of a child being delivered live from an abortion procedure.

My recollection of the assurances I received from Hon Peter Foss and Hon Cheryl Davenport during the Committee debate was that that child would have the same rights as any other human being for the defence of his life. I was

pleased to receive that assurance, although obviously I am opposed to the substance of the Bill. I believe the right to life extends back to the point of conception. It is very important that that be clarified. The purpose of the amendment to clause 4 relating to proposed new section 199 moved by Hon Tom Stephens is to clarify that issue.

If we are to do our job as responsible legislators, as members of the House of Review - that is what we have been elected to do - if we are to live up to our responsibilities, we must clarify that issue of enormous importance. A sensible, substantial debate, not a long-winded filibuster, will assist in the clarification of that very important issue. The opportunity for members to explain to the citizens of Western Australia what we are about to do tonight will be before this House. That opportunity will exist if this motion to discharge the order of the day is lost, but it will be removed from us - that is, an effective gag - if this motion to discharge the order of the day is carried. That is one example of an extremely important point - quite simply, a matter of life and death - that deserves the full weight of our responsibility and substantial consideration of that amendment.

I have been disturbed by conjecture that children presented live from abortion procedures in Western Australia are left to die. Obviously this would be agonising and drawn out. That notion has deprived me of a number of hours of sleep, and I imagine it would have had the same effect on many Western Australians. In whatever form it is put to the Governor for his signature, this Bill must be 100 per cent crystal clear and 100 per cent unambiguous on the status of a child who is born following an abortion procedure.

We must thoroughly examine, at least, that amendment, if not all of the amendments, to make our position clear as representatives of the people of Western Australia, and also to provide guidance to members of the judiciary of this State when these matters come before them in the future. I would like to receive an assurance from the proponents of this legislation, and from the Minister for Health in time, that that situation - that is, children born alive following an abortion procedure being left to die - does not occur in this State. I imagine many members in this House will have this same view. We cannot present to the people of Western Australia legislation which has any element of ambiguity on that question. It is our responsibility to debate this issue and to present a clear position to the people of Western Australia.

Another amendment which is very important, and one that we must debate thoroughly tonight, deals with the time between receiving counselling and undergoing the abortion. I appreciate that this amendment has been debated in the other place, but it has not yet been debated here. We have a responsibility to debate that amendment. In many instances that period would be an effective defence for women against coercion to have an abortion. I feel for all women who have abortions. They have a lifetime to contemplate those decisions. Whatever legislation comes before this House, it is important that it provide an opportunity for a woman to have one night prior to proceeding with the act of abortion in which to consider that decision, which can be balanced against her having the rest of her lifetime to contemplate that decision after the act of abortion.

I have heard much evidence of women who have a desperately sad existence following the act of abortion. The amendment will give them one night to consider. That is not asking too much. It is certainly not asking too much of the members of this House to live up to their responsibilities and to commit themselves to the most thorough review of this legislation.

I have one more thought I wish to share with the House. My personal view is that the proponents of this Bill realise how fundamentally wrong the Bill is. They want the business done away with quickly because they do not want to face up to what they are putting forward. I mentioned the case of a child being born live in an abortion procedure. Coming from the various assumptions on abortion, that twists and perverts logic. Are we looking at a medical professional who feels it is his professional responsibility to kill the child during the abortion? Will he feel that he has been professionally negligent if he presents a live child from the abortion? Will that put pressure on the medical practitioner to make sure that parents do not end up with a live child? What steps will he take once the child is born live in an abortion procedure? That twist of logic is intrinsic in the business of death, which is the inherent nature of abortion.

For us to say that this legislation has been a bit laborious and has held back other issues for consideration by the Parliament is a dereliction of the duty that each of us has not to procrastinate or waste time but to give substantial consideration to every aspect and every facet of this Bill and to consider worthy amendments put forward with the objective of obtaining a degree of clarity and - for God's sake - some semblance of humanity in what is likely to go forward from this House.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.12 pm]: It is important to clarify one or two issues. I have been here longer than most members. I do not think there has been a Bill that has had as much debate as this Bill, in my memory at least. This motion is asking members to make a decision on whether they are ready to make a final judgment on this Bill or whether they want to consider it further. We will all be making that decision when we vote on this. Those who think they have heard enough and know enough and have reached a decision will

probably vote in favour of this motion, so that they can exercise their right to have a vote on this matter and have it finally determined. On the other hand, members may say that they have not yet made up their minds or they are vitally opposed to the Bill and therefore will continue to argue the point and will vote against the motion.

In response to the previous member, any member in this House who votes for this motion will not in any way be avoiding his or her responsibility. Every member of this House has spent approximately three and a half months contemplating this very serious and significant issue. Any member who votes for this motion will do so on the basis of having made up his or her mind after enormous deliberation that this Bill will be the best that we will get in the circumstances. Some members may support it in its entirety. Even Hon Cheryl Davenport does not support it in its entirety. Members will be making a judgment on the basis of what this Bill represents in its entirety as opposed to what is the alternative, which is further amendments and potentially returning to the original law. It is grossly unfair to suggest that any member of this House will be voting on the basis that he or she wants to get it out of his or her hair. That is not the nature of the debate in this House at all; in fact, I think I said on a previous occasion that this House had demonstrated a significant maturity in its capacity to debate an issue such as this in the way in which it has. When we come to vote on this motion, which is whether we continue to look at the various clauses and amend them, members will be voting on the basis of whether they have made up their mind that this is where the final vote should be taken, and that only after very serious and significant deliberation. It is unfair to members to suggest in any way that they have not taken this Bill with the utmost seriousness.

Hon Tom Stephens read out a letter sent by St John of God Health Care System Inc and signed by Dr Michael Quinlan. I was also sent a letter by Dr Quinlan. I have spent this afternoon having Crown Law assess the issues that have been raised by Dr Quinlan. The legal advice I have is that on a fair reading the expanded definition of "performing an abortion" includes any counselling which occurs for the purpose of enabling an abortion. The Government's legal advice is that the expanded definition applies in proposed subsection 334(2), so that no person will be required to participate in a process which is intended to lead to an abortion. This would include any process, including counselling, which is intended to lead to an abortion. I do not believe that Parliament intends in this Bill to create any new duty or to deny any practitioner the right to decline to offer any service in this area which relates to counselling and the actual carrying out of the abortion. It is my view and the Government's legal view that the amendments proposed by Dr Quinlan are unnecessary.

Hon Tom Stephens: Is the legal advice from which you are quoting something you are able or prepared to table?

Hon N.F. MOORE: The Leader of the Opposition is aware that legal advice is never tabled. However, I will deal with that in a moment if he will let me finish what I am saying.

The view is that proposed section 334(2) does not impose any duty on any person. It is fundamental that we understand that. The letter from Dr Quinlan gives no indication of what obligations of this kind might exist or how they might arise in a way that would require people to do something short of performing an abortion that they would not want to do. The Government, having assessed that legal advice, is of the view that the concerns of Dr Quinlan are unfounded and will not eventuate or create the difficulties about which he has expressed concern. I will be providing Dr Quinlan with a written response to his letter. That is being prepared at the present time and will be forwarded to him tomorrow.

Hon Eric Charlton said that legislation that goes through Parliament is sometimes subjected to legal challenge. If that did not happen, we would be minus about 4 000 lawyers in our society, which some people may argue is a good thing. The whole profession is based upon arguments about what laws mean. This is not the view of the Government but my personal view: If in the event that any aspect of this Bill is found by the courts to be different from that which we imagine it to be or if circumstances arise where things happen that we did not intend, I would be arguing strongly that the Bill once it becomes an Act be amended. That is not to say in any way that I agree with what Dr Quinlan is saying.

Hon Tom Stephens: That is not very reassuring in the absence of a commitment from the Government.

Hon N.F. MOORE: With respect, I am simply trying to say to anybody who is interested that if it is proven at any time down the track - I am not saying it will be - that there is some flaw in this or any other Bill, it is incumbent upon government members or the Government itself to do something to remedy the problem by way of an amendment to an Act. As I have just explained, our view is that Dr Quinlan's concerns are unfounded.

Hon Tom Stephens: The proponent of the Bill wants the Bill to reflect that obligation at law about which Dr Quinlan is expressing concern.

Hon N.F. MOORE: She may have that view and the Leader of the Opposition may have that view, but the view that I am expressing is that the legal advice I have is that the Bill does not do the things that Dr Quinlan suggests it will. As I have said, the Bill imposes no duty on any person in respect of the performance of an abortion, whether it be

the termination itself or events leading up to the termination, which would include counselling. I can only make my judgment based on the legal advice provided to me. I accept that legal advice. As I have said, I will relay it to Dr Quinlan.

Everybody knows that all laws are subject to challenge. I have no doubt that this law will be challenged on a whole range of grounds because of the intensity of the debate and the issues that have been raised. If it is proved that there are problems with the Act, assuming it comes into effect, they will be dealt with by way of further amendment if it is at all necessary at any time in the future.

I am one of those people who does not support this Bill and, as members would know, I did not support the original Davenport Bill. I moved some amendments, even though I did not agree with them, to try to improve the Bill. However, I have come to the conclusion from my personal perspective - and this is not as Leader of the House but as Norman Moore MLC - that this Bill should proceed. If this Bill is passed in its current form and becomes an Act, with all its imperfections and all the parts with which I do not agree, it is better than the existing law which is very simple: The only termination which is permissible under the existing law is if the life of the mother is at risk. That does not reflect the views of the community at this time.

The PRESIDENT: Leader of the House, I have asked members to stick to the rules and I have allowed a fair bit of latitude because I knew the Leader of the House wanted that reply to be heard without interjection. However, I have to ask the Leader of the House to return to the motion before the House and explain why this order of the day should be discharged and whether the proposed motion should be put without amendment.

Hon N.F. MOORE: Thank you, Mr President. I do not believe that we should now amend this Bill at all, but that we should agree to it in its current form. That is better than the alternative, which is to go back to the existing law. I support the motion with no great enthusiasm but that is the only way forward for this House and for the Parliament of Western Australia.

Question put and passed.

Assembly's Amendments Agreed To - Motion

HON CHERYL DAVENPORT (South Metropolitan) [9.22 pm]: I move -

> That the amendments made by the Legislative Assembly in the Acts Amendment (Abortion) Bill 1998 contained in message No 113 be agreed to.

In moving that, Mr President, I have a range of issues that I want to comment upon in relation to the travels of this piece of legislation since it left this House and the way it has been amended. If I depart from standing orders, I hope you will pull me up. I have tried to be as obedient to the standing orders as I possibly can and I will endeavour to do so again.

As I said earlier, the attempt by the Leader of the House to broker further compromise for this Bill once it had passed its third reading in this House on 3 April was very much appreciated by me and I thank him very much for his leadership in that context. I say to him that I wish his colleagues in the other place had been as responsible as he has been in trying to prevent a position of our reaching a stalemate and the legislation falling over and having to be resurrected once again. This State could not have coped with that, and that is one of the main reasons I have accepted what I see on this occasion as inevitable: To accept the views placed before us by the other place.

As members know, the passage of the Bill through the Committee stage in that other place was a lengthy, emotive and sometimes tortuous debate. I took the opportunity, as the proponent of this Bill, and I felt it a responsibility, to be in the Speaker's Gallery in the other place for most of the passage of the Bill. However, from time to time I was disturbed at some of the debate that occurred there. I felt there was some real vilification, particularly of three of the four major doctors who, over the last 25 years, have taken the risk of providing a service in this State to women.

I speak particularly of Dr Victor Chan, the reason why we are all now in the position of instituting this law reform. Some of the comments made of him were absolutely disgraceful and the likes of which have not been displayed here and I hope never will be.

The PRESIDENT: Order! I must have misheard the honourable member. I assume she is not reflecting on the debate in the other place?

Hon CHERYL DAVENPORT: No, I am not.

The PRESIDENT: Do continue.

Hon CHERYL DAVENPORT: In relation to what was mentioned here earlier this evening about Dr Harry Cohen

in that he was accused of pointing a gun to the heads of us as legislators is not true. If members would remember, when this debate first began, Dr Cohen and his colleagues at that time, because of the uncertainty of the law, were prepared to suspend terminations in this State on the basis that they were unlawful because of the strict interpretation of the law that the Director of Public Prosecutions held in the charging of Dr Chan.

I place on the record that the reason the King Edward Memorial Hospital ceased terminations was not because of Dr Cohen but because of the nursing staff who indicated that they were prepared to continue for only six weeks. They were within their rights to say they were not going to assist because under section 201 of the current Criminal Code they could have been charged. Any responsible doctor would be quite irresponsible if he or she continued to perform terminations without the assistance of good quality nursing staff.

I place on the record that I have the greatest admiration for the doctors in this State who have provided a very necessary service to the women of Western Australia over the past 25 years, particularly Dr Cohen and Dr Brian Roberman from King Edward Memorial Hospital who are the doctors who over all these years have been prepared to put their professional reputation on the line and offer that service. I was most dismayed at the allegations made against those doctors that I heard in recent times.

I want to place on the record particular thanks to the solid block of pro-choice members of Parliament who have argued very intelligently and responsibly in this debate during the very long passage of both the Bills through this Parliament. It has not been an easy process and I thank them. I also say to the member for Perth, who carried the passage of this Bill in the other place, a very special thanks to her and to the member for Fremantle for a prolonged and wonderful effort. It certainly was not easy and I respect them all for the extremely difficult circumstances which they were under at many times. I also thank Parliamentary Counsel, Mr Greg Calcutt, who I know had responsibility, which was offered to me originally by the Minister for Health, to advise the member for Perth in her handling of the Bill, and I place on record my thanks for his assistance in what has been a very difficult process.

Finally, I place on record my thanks to Dr Judy Stratton for the medical advice that I have received constantly when I have asked, and even when I have not asked. Dr Stratton assisted me during the passage of the Bill and has continued to assist with the amendments that were negotiated by me with Hon Norman Moore before the Bill commenced its passage in the other place, and also with the amendments that were introduced in the other place. She was always available to provide the best information possible at that stage. I very much appreciated that support.

I agree with many of the amendments that were made in the Assembly. I do not agree with some of them, and I will outline the reasons why; and if I had the opportunity, and if no risk were involved, I would try, from my perspective as a pro-choice activist, to make them much better. However, I do not have that luxury, and I am conscious of the fact that to do that might result in our being back where we started; that is, with outdated legislation.

The first amendment is to insert in clause 4 new section 199. That will transfer back into the Criminal Code that section of the Health Act that was in the Bill that left this place. That is the greatest disappointment of all for me, because it means that part of my attempt to repeal these laws in total has been thwarted, albeit that under the amendment it will now be just a simple offence with a $50 000 fine. I believe that the medical profession should be regulated through its own Acts; that is, the Health Act and the Medical Act. I see no reason that this section should go back into the Criminal Code. However, wiser heads than mine have determined that should be the case.

That was determined only on the casting vote of the Chair, and so be it; I have agreed to accept that. However, I believe this may pave the way for a range of things to occur over the next three years prior to the review. The first thing that may occur is that nuisance complaints will be contrived by, I have no doubt, the anti-choice campaigners, who will use women unmercifully in their so-called counselling services, and burden them with guilt. They will then suggest to them retribution, and the way to achieve that retribution is by using this section of the Criminal Code.

I have talked at length over the past two weeks with the medical profession. I have met with the Australian Medical Association, with the doctors at King Edward Memorial Hospital for Women, and with the various colleges of general practitioners, obstetrics and gynaecology, and I have advised them that it is imperative that general practitioners who refer women to an abortion clinic keep very thorough and clear records so that they can prove that they have fulfilled the counselling and informed consent requirements.

The second area with which I have some real problems is the consequence of frivolous complaints within the community. Once those complaints are laid, they will do irreparable damage to the reputations of those people in the medical profession. That concerns me greatly. It will also cause further damage to the mental health of the woman who has terminated her pregnancy. She has already been vulnerable, and she will be made further vulnerable by the process that may continue well after that event.

I take this opportunity to talk about how things can be taken out of context. I want to clear the record with regard to some comments that were made in *The Australian* by my colleague Hon Nick Griffiths about the information that

was provided to me by the Attorney General prior to the charging of the two doctors. I do that because I believe that is an example of the way frivolous complaints can be made. The article in *The Australian* of 4 May states -

> Mr Griffiths said he was concerned Mr Foss may have acted improperly by passing information to Ms Davenport.
>
> "I mean forget abortion, what if it had been a robbery and the Attorney-General was passing information about a case on to another party," Mr Griffiths said.
>
> Government and Opposition MPs have been concerned at the rapport between Mr Foss and Ms Davenport during the abortion debate.

I take exception to that. I wonder what the innuendo in those comments means. It is true that I had a discussion with Hon Peter Foss prior to the charging of the two doctors. I admit that. Hon Nick Griffiths picked that up from a previous article in *The Weekend Australian* of 4-5 April. When I read that article, I knew that the journalist had got the information wrong. He said -

> Ms Davenport, whose private member's repeal Bill was passed by the upper house this week, said yesterday she had heard of the impending charges in late 1997 and had contacted Mr Foss, who checked with the Director of Public Prosecutions . . .

I rang the journalist on the Monday after that article appeared to tell him that he had got it wrong. I knew in late 1997 of the potential for Dr Chan to be charged, but I did not speak to Hon Peter Foss at that time. I spoke to Hon Peter Foss two days prior to the charging of Dr Chan, and I did that on the basis that he was the Attorney General, and I needed to know whether there been some change in the policy with regard to laying charges under section 199 of the Criminal Code. The Attorney General told me that he did not know, and I asked him whether it was appropriate for him to speak to the Director of Public Prosecutions to determine whether that was the case.

At no time did I collude, as is insinuated here, with the Attorney General to try to stop the course of justice. I did no such thing. Dr Chan and I have known each other for a long time with regard to this debate, and Dr Lee is a constituent of mine, and I felt that I might at least be able to confirm to them whether there was a case and whether it might proceed. All the Attorney General could tell me was that the policy had not changed, and he described what the situation was, and that equated absolutely with the situation that had been described to me by Dr Chan.

All I could do for Dr Chan and Dr Lee was say that I believed they would be charged. Any suggestion that I and Hon Peter Foss colluded in the drafting of this legislation is incorrect. I worked with Hon Peter Foss on this matter because Cabinet made a decision to offer that facility to me, so that we could at least get the legislation right in the drafting phase. I wanted to place those comments about section 199 on the record to illustrate how frivolous was the claim.

To return section 199 to the Criminal Code would not provide any incentive for a medical practitioner to provide a termination of pregnancy service. When I made my first speech in this place in 1989 I expressed concern that King Edward Memorial Hospital had ceased performing first trimester abortions. My concern at that time was how new doctors would receive proper training in such procedures. The return of this section to the Criminal Code will provide no incentive to replace doctors. As I said earlier, only four main doctors in this State undertake these procedures - two at the two clinics and the two chief gynaecologists at KEMH. I have grave fears that even though it is a simple offence which attracts a maximum fine of $50 000, it will be a deterrent to any attempt to provide good professional medical services for women in this State.

The offence of unlawful performance of an abortion should remain in the Health Act because the important check and balance in clause 9 has been deleted. That clause provided for the final check and balance to remain with the Minister for Health in determining whether a doctor had acted outside the justification provisions for terminations. The return of that provision to the Criminal Code means that it is now inappropriate for the Attorney General to have that power, because it destroys the separation between the Executive Council and the legal system. Although I agree that provision needed to be removed from my original Bill, and returned to the Criminal Code, it is a pity because it provided an extra check and balance in this legislation in the context of frivolous complaints.

The next amendment by the Minister for Health in the other place relates to the definition of "medical practitioner". I will return to that later, because it appears twice in these amendments. I will deal with the amendment to clause 7 which relates to section 334, the performance of abortions, in conjunction with subsection (6) which also relates to the definition of medical practitioner. I have concerns about these provisions. I referred to this earlier in relation to informed consent. There could be some potential for people being wrongly charged. The provision relating to "attempting to perform an abortion" is similar to the provision referred to earlier by Hon Tom Stephens. The word "performs" in subsection (6)(a) must be read as "carries out" in relation to the termination. That means a doctor who

performs the abortion or carries out the procedure and does not undertake that procedure in a lawful manner - that is, an abortion is lawful provided it is performed by a medical practitioner and is justified.

The justifications are very important. The discussions I have had with parliamentary counsel suggest that "performs" must be read as "carries out". When that provision is read in conjunction with section 334 of the Health Act, and the justifications are provided, no-one can be charged. The justifications are the key. The medical practitioner who carries out the termination must ensure that he or she receives a signed form from the patient indicating her informed consent and that the counselling medical practitioner referring the patient must provide a certificate indicating provision of the counselling component of the informed consent provision as defined in subsection (7)(a) to (c). It is incumbent on doctors for their own protection, and it is very important that they be accountable under this legislation. This will ensure that frivolous complaints are not made.

The next amendment to clause 7 relates to conscientious objection, which was accepted by me without argument in this place. The provision was amended yet again in the other place to encompass the words "hospital, health institution, other institution or service". We on the pro-choice side have no difficulty with that provision. However, for the benefit of Hon Tom Stephens, I do not believe anyone would present to a Catholic hospital or institution to seek a termination.

Hon N.D. Griffiths: It is not just Catholics who have a problem with this.

Hon CHERYL DAVENPORT: I agree. However, in the context of whether it is an expectation that they would counsel them, it is not. The expectation is that they will tell them, as they do now I assume, that they do not hold that view and would not be prepared to do the procedure. I assume that that would be the end of it. The woman would then move on to another doctor who would provide the informed counselling that is required under the legislation.

Hon Tom Stephens: Do you want to include in the Bill that a doctor, nurse or counsellor is obliged to refer a patient presenting seeking an abortion?

Hon CHERYL DAVENPORT: That would be the humane and ethical thing for a doctor to do when dealing with a woman in pain and difficulty because that is what she is contemplating. I hope that any doctor, whether or not they perform the termination, would still feel they had a humane obligation to that person. We should expect that of any doctor.

Hon Tom Stephens: Is that why your colleagues in the lower House agreed to change the term from "procuring an abortion" to the narrow term "performance of an abortion"? Was it designed to catch those people so they would be obligated to participate in the referral process?

Hon CHERYL DAVENPORT: The Minister for Health discussed that provision. They were his words. I was happy to have the original words. I did not see a problem, nor did I envisage that the member and his colleagues would see this as a problem for conscientious objection. There was certainly no intent on my part in accepting that. The suggestion was put to me by the Minister for Health. Given that we had those discussions, and nothing was raised at that time in relation to this, we felt it was a better way to define it. There was certainly no underhanded attempt to force any Catholic doctor not to make a conscientious objection.

I refer members to section 7(3), which is the justification provision. Although this House accepted that economic consequences would go hand in hand with personal, family and social consequences, I agreed to the amendment on the basis that the Assembly deleted it in the Foss legislation. The words are wide enough to encompass the intent. The word "economic" was lifted straight out of the judgment of Justice Levine from New South Wales in 1971. However, to try to ensure passage of this Bill, I was happy to agree to that change.

The next amendments deal with informed consent. Members will remember that the definition of "informed consent" was far less wordy when it left this place, although we had some healthy discussion along the way. To some extent this is a patronising set of definitions in relation to women. It suggests that women cannot make decisions about when we are capable of parenting a child. However, in the interests of accountability and of trying to be responsible, we agreed to accept these amendments, and we have.

As I said, this legislation will mirror current practice. There are very few women who present to an abortion clinic to have a termination. They first go to their own doctor or another doctor and they are then referred to the clinic for their termination if they choose to proceed down that path. My understanding of the words "appropriately" and "adequately" providing counselling mean that the referring doctor will be required to explain to that woman what is involved from conception to birth and, if she raises the question of abortion, that must be explained in great detail, along with all the ramifications.

Section 5(b) provides that a medical practitioner should offer other counselling independent from himself or herself. I have no difficulty with that. It is appropriate if a woman wants counselling prior to a termination and after that it

be available and she should have that knowledge. However, the mention of a 24 or 48 hour cooling off period is insulting. Of all the women I have spoken to who have had terminations, not one presented to her doctor without having gone through much soul searching and discussion with friends, family and the like. To then tell them after they have been to the doctor that they should have a further two days to cool off is patriarchal, patronising and absolutely unnecessary. I can agree to her being offered extra counselling should she so choose.

Section 7 deals with the question of terminations post 20 weeks. When it left this place, the Bill contained two different paragraphs. This was the provision which the Assembly passed and which I agreed to include in the Committee stage of my Bill. However, the Assembly did not accept the amendments that we made to that provision. I would have been very disappointed had we reduced the gestation period to 16 weeks. Given that this provision deals with 20 weeks, it adequately covers all contingencies.

Paragraph (b) deals with the fact that we had a regulation making section in the Bill. The Assembly, in its wisdom, has chosen to enshrine everything in Statute. Therefore, this amendment deals with the whole question of where late terminations can be conducted. As we all know, in Western Australia they are carried out at King Edward Memorial Hospital. However, there was much discussion in prior debate about the likes of Dr David Grundmann from Queensland who uses late term abortion techniques that are not acceptable to Western Australian medical practitioners.

Hon E.R.J. Dermer: Is that to continue to be prohibited by this Bill?

Hon CHERYL DAVENPORT: Absolutely. That is the reason for the provision in proposed section 334.

Hon E.R.J. Dermer: To prohibit it?

Hon CHERYL DAVENPORT: It will be because the Minister for Health will need to approve the facility.

Hon E.R.J. Dermer: And partial birth is totally prohibited?

Hon CHERYL DAVENPORT: Yes. The Minister for Health will have the final say in the type of facilities used and the methods used. It is prohibited as long as the Minister for Health -

Hon N.D. Griffiths: Where does it say the kind of method?

Hon CHERYL DAVENPORT: Hon Nick Griffiths knows that late term terminations in King Edward are done through induction procedures. The prohibited method is not practised here. It would not be the view of the Minister for Health that this practice go ahead. I abhor it entirely; it is vile. I would not like to see it practised in Western Australia. My understanding is that the Minister for Health would prevent it from happening.

Hon N.D. Griffiths: How?

Hon CHERYL DAVENPORT: As a result of the facilities he approves. If the member wants to ask the Minister -

Hon N.D. Griffiths: He is not here - and we are not having a Committee debate.

Hon CHERYL DAVENPORT: We do not have the Minister for Health here, but I suggest that the member put the question on notice.

Proposed section 334(8) deals with the provision inserted into the Foss Bill before it left the Assembly. This deals with a woman who is a dependant minor. I have accepted this amendment on the basis that it is a way of facilitating the Bill's passage through the House. If I had my choice, it would not be part of the Bill.

However, I am pleased that we have been able to include the provision to cover incest. Unfortunately, although I do not believe many dependant minors present to doctors without a parent with them, the case of incest is totally different. To achieve a way of dealing with that question, it was necessary to amend the clause from the now lapsed Foss Bill. Contact was made by the Government with the Children's Court, and an offer was made by the Children's Court President to make an officer available so an order could be obtained within approximately 24 hours. No appeal is involved in view of the traumatic time faced by a young women aged 16 years or younger enduring such a disgraceful happening by a parent, another relative or whoever. That provision is totally appropriate. I hope that should this provision ever be needed, the 24 hour access will be obtained.

I have spoken to Dr John Charters at Zeras clinic in Midland. He rang me because of his concerns about the provision, urging me not to accept it on the basis of his experience 25 years ago. At that time, Dr Charters refused to do a termination on a girl who was younger than 16 years, and a week later he had to attend her home to pronounce her dead as she had committed suicide. That is what we could face here. The trauma for a young person to find out she is pregnant by her father or another relative, and then to present to a magistrate, albeit the Children's Court, to get an order to have the pregnancy terminated, is very traumatic. It has been said to me that these people will be very

scared and more likely to kill themselves. In that instance, both lives will be lost. This provision will need to be watched with great care, and I hope that it will not be needed very often.

I am also told that the two clinics rarely have such terminations. Zeras, for example, had about five terminations with dependants attending without a parent in the last 12 months. However, the clinics will not perform terminations without a responsible adult being present with the minor. Obviously, the clinics need to protect themselves in the context of the service they offer. Therefore, they make sure that a representative of Family and Children's Services or some other agency is present with that young woman through such a traumatic time.

Proposed section 334(12) deals with monitoring and collecting data in relation to terminations. I suggested this provision. There is no point in legislation that I hope will reduce the number of terminations without collecting data. These paragraphs deal with that aspect. The provision will provide anonymity for women in the collecting of information, but we hope that particulars such as age, reasons and things of that nature will be collected. From that we can develop an adequate public health and prevention campaign leading to a reduction in the number of terminations in this State.

All members have said that over 9 000 terminations per annum in Western Australia is far too many. I could not agree more. The problem for States like Western Australia, where the laws have been in the Criminal Code and it has been illegal to have terminations other than to protect the mother's life, is that we have not been able to collect data. The last piece of research done in this State on terminations was by Dr Judy Stratton in her role of Associate Professor of Public Health at the University of Western Australia. She conducted the research in order to tell Governments that the number of terminations was too high, and we should be able to collect the data regularly if the practice were legal.

I hope we will see the Minister for Health ensure that within this current Budget adequate funds are made available to the Family Planning Association of WA, for example, to ensure adequate counselling and services are provided. They have rarely had the luxury of funding for government counselling for terminations in Western Australia. It is high time it happened. The problem will not go away. Therefore, we need, as a responsible Parliament, to allow organisations to expand their capacity in an attempt to reduce the number of terminations.

Clause 8 provides the review provision. This amendment was proposed by Dr Turnbull in the Assembly, although it is a little short in its time span. I thought it would be better to review the Act after five years, and to report after six years. At the point when members were negotiating these clauses, it was felt that it was far more prudent to accept it as it was and to allow this to go forward. That means that it is incumbent upon Government to commence the review three years after the commencement of this Act and that a report based on that review be made available within another year to each House of this Parliament. While it is appropriate to have a review clause, I will not be here to see the matter reviewed; however, many members will be. I hope that it will not have to go through the same exercise in absolute masochism, or the same tortuous process that this Bill has gone through over the past three and half months. However, it is a worthwhile clause which, I believe, could provide for a longer time, because it will take some time for the mechanisms to be established for collection of data and other things that need to be done. Three years is a bit short, but I accept it for ease of access to this law.

The final amendment is the consequential amendment made necessary for the section that deals with the under 16 years of age access to terminations. It requires an amendment to the Children's Court of Western Australia Act to accommodate that.

Although some members are very upset that they will not have a chance to move other amendments to this legislation, I have looked very thoroughly at those amendments today and there are very few that have not received significant debate in the other place. Several amendments have been proposed and I could not believe the first one, which refers to anaesthetic being administered to a foetus. I find that absolutely fascinating and do not know how it could possibly be accomplished in the first trimester of a termination without real danger to the mother's uterus. However, if those sorts of amendments need to be pursued, there is ample time for that to be raised in the context of the review which will occur in three years and so be it. I place on the record -

Hon E.R.J. Dermer: Do you have no concern for the pain inflicted between now and the next three years?

Hon CHERYL DAVENPORT: At eight weeks, it is not a human being. It is a collection of cells.

[Interruption from the gallery.]

The PRESIDENT: Order!

Hon E.R.J. Dermer: This legislation provides for unrestricted abortion at 20 weeks.

Hon CHERYL DAVENPORT: I do not agree with the member. I do not believe that life begins at conception. As

I have said constantly, not even 17 Nobel scientists can agree on when life begins. I do not intend to go into that argument, because I do not agree with the member's position. What he is telling women is patronising. He is telling them that they cannot decide when their own families should be stressed due to unwanted pregnancy. We have many unloved and unwanted children in this State already, and in the context of what psychologists in the education area have said to me during this debate, those are the kinds of cases that they are dealing with on a daily basis.

Why has the member not raised these issues before if he cannot trust a woman to make that decision, and members have said that there has not been enough done for women to assist them in adoption and other things? I do not believe a child feels pain at that point. Up until recently, if it still happens, boys were circumcised at two or three days of age and were not anaesthetised.

Hon E.R.J. Dermer: What about the children who are aborted between eight and 20 weeks?

The PRESIDENT: Order, members!

Hon CHERYL DAVENPORT: That is absolutely stupid and would jeopardise the fertility of the woman, and she is my primary concern in this debate.

Hon E.R.J. Dermer: What about eight to 20 weeks?

The PRESIDENT: Order! I allowed Hon Ed Dermer to ask a question because I thought it was reasonable in the context of this debate. If all members interject at the same time, it is better that we listen to the person who has the call.

Hon CHERYL DAVENPORT: After 20 weeks a very different process takes place, and life is still not viable until 22 weeks. It cannot be a living, breathing human being and 22 weeks is the earliest.

If ever I needed convincing that it was time that this debate concluded, it was when I read the article in last weekend's *The Weekend Australian* by Victoria Laurie concerning Vanessa Hicks; a very courageous young woman to whom I referred in my second reading speech under the pseudonym of Sue. Her records were unethically accessed by obviously anti-choice people who made her life an absolute nightmare. This woman has courage. She had had three stillbirths - first twins and then another - then last year had a massive stroke, recovered and found herself pregnant as the result of a reversal of a vasectomy, which is a 30 000 to one chance. She had to make a decision, at the very outset of this abortion debate, whether she would continue to have her child or have a termination so that there might be quality of life for her family. The human being - or beings - who revealed those records from the operating list at King Edward Memorial Hospital for Women disgust me; they were prepared to harass this woman who had made a very difficult decision. This is one of the reasons that I put forward this legislation because it is time that we had humane laws in this State for women who make very difficult decisions when they decide to terminate a child. It is not an easy decision for anybody and I admire any woman who has the courage to put her family circumstances first before bringing into this world a child who may not be loved or wanted. I pay tribute to Vanessa Hicks.

As I said earlier, in my second reading speech, I remember clearly the work done by Megan Sassi in making sense of archaic laws that have existed in this State for many years. I hope that I have done my best. It certainly is not perfect legislation, but I do not know that it is possible for Parliaments to make perfect legislation. What we have done is the best we can, given that we have not been able to have a party disciplined debate. That is the reason that it has taken so much time; it has involved a conscience vote and there is so much passion around this debate. I am very proud to stand in this place before members and I hope that in the years to come the legislation will stand the test of time. Tomorrow, on 21 May, it will be nine years since I entered this Parliament. My first speech was on this issue. I feel very proud to have been able to do the job I have.

HON N.D. GRIFFITHS (East Metropolitan) [10.20 pm]: I do not agree with the proposal that the motion be agreed to. Before I go to the substance of my remarks, I wish to make some brief observations about some of the matters raised by Hon Cheryl Davenport. First, she made reference to the question of abortion and suicide. An organisation which is properly concerned about women being dealt with humanely, and properly concerned with the welfare of children and the children who are unborn, is Women Hurt by Abortion. That organisation caused to be placed in *The West Australian* newspaper on Thursday, 14 May 1998 some facts dealing with abortion and suicide. The pertinent observation is that for over 20 years, research studies have clearly demonstrated a connection between abortion and suicide. If women subject themselves to the evil practice of abortion, they are more prone to suicide.

The second observation is with respect to Hon Cheryl Davenport's remarks about an article in *The West Australian* newspaper recently. The facts of the matter are that after the so-called Davenport Bill, this Bill in its secondary form, was passed through this House, two articles appeared in *The Weekend Australian* newspaper on Saturday, 4 April. Those two articles taken together indicated or stated that a course of events had occurred between Hon Cheryl Davenport and the Attorney General. I was very concerned about that, because unlike some people in the community,

I have read the provisions of the Director of Public Prosecutions Act. Therefore, I thought the appropriate course of action was to ask the Attorney General a question as to whether the matters which caused me concern were the case, noting the content of section 29 of the Director of Public Prosecutions Act. The Attorney General answered that question I put to him on 9 April. He said they were not the case and his account was consistent with what Hon Cheryl Davenport said this evening.

However, it was inconsistent with what Hon Cheryl Davenport was reported to have said to journalist Mr Matt Price under whose name the two articles in question were penned. I spoke to Mr Price subsequently and I informed him of the reason why I asked the question, namely, what he had reported originally and the fact that there were certain provisions in our law in the Director of Public Prosecutions Act. I informed him of the Attorney General's answer. The article that Hon Cheryl Davenport refers to merely points out the difference between the Attorney General's answer to this House on 9 April and what the journalist reported as having been said to him by Hon Cheryl Davenport, which led to the publication of the first two articles.

Hon Cheryl Davenport interjected.

Hon N.D. GRIFFITHS: That is a very reasonable thing for Hon Cheryl Davenport to say that the journalist was wrong, but with respect to the honourable member, it is most incorrect for her to assert that my part in the matter was an example of a frivolous complaint.

The next observation I will make in general terms about the speech of Hon Cheryl Davenport is that it was a very interesting and lengthy speech because it dealt with a very lengthy message. Why did it deal with a very lengthy message? It did so because for all intents and purposes, if Hon Cheryl Davenport and those who vote with her have their way, the Legislative Assembly with respect to this abortion Bill will have become the House of Review. What is the point of this Chamber?

All this House has done prior to today with respect to the Bill, even the title of which was changed by the other place, is occupy two sitting days of parliamentary time. I know they were long days; I regret they were long days. Members will recall I spoke against the proposition that we extend the sitting of the House and I voted that we not stay up too late. However, the fact remains that all we did was occupy two days of parliamentary sitting; one day on the second reading, and the other dealing with the Committee stage, adoption of the report, and the third reading. Again, that involved the unusual step of suspension of standing orders. This House has not acted as a House of Review. Frankly, I would have thought members of the Legislative Council have as much right to express their views on the various subtexts of this legislation as the members of the other House. The process we are going through tonight prevents us from doing so.

Hon N.F. Moore: I think you are reflecting on a decision we have already made.

Hon N.D. GRIFFITHS: I think I am accurately expressing what has occurred. A number of amendments have been placed on the Notice Paper. If we proceeded to deal with them, as is in my view the normal course of events, we would be just about through them. Those who want to expedite the legislation have actually delayed it once again. Many of the so-called pro-choice refer to us as anti-choice. We refer to ourselves accurately as pro-life; there is another expression I can use accurately in some cases with respect to them, but they are certainly anti pro-life. I do not think we need use the word pro in that context.

I want to make some brief general observations with respect to the amendments and then deal with some areas that the amendments will enable me and others to comment on. I will not deal with them in any detail, noting of course that Hon Cheryl Davenport sought in her remarks to cover matters of quite great detail that we cannot deal with because we have relatively limited time under standing orders - and quite properly so because we are dealing with a motion and not a Committee debate. We wished to move amendments for two reasons. First, we were hopeful that there would be some changes, and in particular what caused us concern was the question of conscientious objection. I know what Hon Norman Moore said, and I hope he is right - he may be right. I am aware that St John of God Hospital has an opinion from one of Her Majesty's Counsel to the contrary. I say that, at the very least, there is cause for concern. There should not be cause for concern, there should be certainty, and it should be on the side of St John of God Hospital, otherwise this would be a very dreadful society to live in. It is bad enough with the spate of abortions that are occurring, but if that becomes a problem, the Government had better act quickly and introduce a Bill - and it will have my full support - which had better have a retrospective provision.

The issues that we wanted to canvass and have members record their votes on were in some cases novel, in other cases refined, but in any event it was appropriate that members of this House, as members of Parliament, have their names recorded for history as to where they stand on the issues. That is a view I have. I know there is a contrary view put which I have heard and I do not agree with. I refer to the issue of avoiding pain to an unborn child in the process of abortion. I heard what Hon Cheryl Davenport said and if I have time, I will deal with it in greater detail

later. On the question of imprisonment for doctor abortions, that would reflect how we value human life, and if we have imprisonment for doctor abortions at a certain tariff, then we would move on to increase the imprisonment for that very rare beast, in fact, in recent history - the mythical backyard abortionist.

Then there is the concern that Hon Ed Dermer raised so eloquently tonight and in Committee when we dealt with the Bill; that is, the situation of the child that is born subsequent to the procurement of a miscarriage. In that regard an amendment on the Notice Paper seeks to eliminate ambiguity to safeguard the child because we do not want any unintended consequences. We are trying to play it safe. There is nothing wrong with being careful, particularly when dealing with human life.

Although I understand - if I may move to the boundary of the standing orders for the moment - the question of coercion was dealt with elsewhere, it is reasonable for members of this House to record whether they are for or against an offence dealing with coercion to have an abortion. I use the word "coercion" in general terms. Equally, it is reasonable that members of this House have it recorded for history whether they agree with the practice of abortion merely because a child happens to be a male or a female. It seems the pro-choice group is afraid of that. I have dealt with the question of conscientious objection.

The counselling provisions in the message are not sufficiently wide; they do not deal with the effect of an abortion on the unborn child. It is not just death; it is also suffering. Hon Cheryl Davenport does not seem to appreciate the notion of foetal pain, although it was dealt with by some members during the second reading debate. We want people to be aware of what happens. Through counselling, we want women contemplating abortion to be made as aware as they reasonably can be of what they are doing.

Hon E.R.J. Dermer: Informed consent.

Hon N.D. GRIFFITHS: It is not a label; it should be real informed consent, although I know it does not bother some. That is the reason for the ultrasound provision. I hope others will talk about that in greater detail. We want to deal with the question of counselling, particularly post abortion counselling. At present the message indicates that the doctor merely has to say it is available. Where is it available?

I do not think abortion is right at any time. The message provides for open slather at 20 weeks. We are of the view, given the way science is developing, that it is reasonable that the 20 weeks be brought back to 16 weeks. It is proper that that question also be put to members of the Legislative Council so that history can record just where they draw the line on open slather.

I refer to the issue of post 20 weeks or post open slather and the decision of these "small G" gods appointed by the Minister, those who have the power of life and death - two of the six. Who should they kill? We say that the concept of incompatibility with life should at the very least be considered by this House and, again, members of this House should have their names recorded for posterity on where they stand. However, the pro-choice people will not let us do that because they are afraid of history. They have turned their minds from and turned their backs on the issue; they do not want to know. When human beings are ashamed of what they are doing they do not want to know and they refuse to properly debate issues.

Finally, we are concerned with due process. It is an abomination to our society and the way it behaves that any judicial decision should be totally removed from review. The circumstances where a review would succeed in overturning that issue would be very grave, but as a matter of principle to remove any appellant or review process from the system absolutely is fundamentally flawed and inconsistent with the operation of a civilised society.

The tactic of misleading the public, and in the process so many members of Parliament, seems to have worked. That tactic was to spread the message that if the Legislative Council amends the message, off it will go to the conference of managers and the Bill may be lost. Those who said that cannot read, cannot understand or have knowingly misled people. It is a disgraceful tactic and it is about time they were nailed for it.

I will highlight some matters that I consider to be extremely important. I refer first to counselling. The opponents of the pro-life forces in this Parliament, or whatever label we want to put on them, were shamed into considering counselling. The word "counselling" is not included in Bill No 132-1, but it is mentioned in Bill No 132-2 only as a result of pressure from the other place. The counselling before us is inadequate.

The day to day practical counselling in Western Australia is capable of being very good. Unfortunately the funding is very one-sided. A so-called, to be kind to it, pro-choice organisation, the Family Planning Association of WA, says it does not get enough. However, it gets much more than the other groups in our community who are trying to do something worthwhile and trying to give pro-life choices to women, children and families. Those groups are deserving of funding from the Government. If, after all this, the Government does not fund those groups adequately all of the talk about regretting the number of abortions and wanting to do something about them will be pious talk.

I will briefly mention some of the organisations in the category to which I refer. If I leave out an organisation I apologise to the good people concerned. They include: Pregnancy Problem House, Pregnancy Assistance, Pregnancy Lifeline, Post Abortion Helpline and Women Hurt by Abortion. I hope those groups receive decent funding from the Government to redress the awful situation in which our society finds itself.

I was not going to spend much time dealing with the central issue of this debate while dealing with the message. However, in her comments Hon Cheryl Davenport again raised what is the primary issue, namely that of life and death. That part of the message that relates to this issue in particular, and those amendments to the message which relate to it, deal with section 199 of the Criminal Code. Society places a value on human life by the tariff it puts on those who take it, by the punishment it makes those who take it liable for. Notwithstanding comments to the contrary, life begins at conception. I do not want to be unparliamentary, but those who say otherwise deny science and the evidence. They just do not have a clue. They are living in a world of superstition and darkness when it comes to knowledge.

I refer the House to part of a transcript of a court case in the United States. Members may recall the issue involving the future of seven embryos. The presiding judge had to decide the legal status of the embryos. In the course of doing so he had to consider the question of when life began. As is the case in these matters, expert evidence was taken and the expert witness was cross-examined. The expert witness in question - unfortunately, he is now deceased - was probably, if not certainly, one of the leading geneticists of the twentieth century. I refer to the late Professor Jerome Lejeune. I turn to the pertinent part of the cross-examination and I quote from pages 69 and 70. The witness was asked by counsel -

> How do we define a human life?
>
> A. Oh, yes.
>
> Q. Now, of course, when you define a human being, what we're assuming there is that a human being has certain rights whether God given rights or legal rights?
>
> A. That is not what defines a human being.
>
> Q. Of course not. I understand. But I take it and I will ask you directly, Dr Lejeune: You have referred to the zygote and the embryo as quote 'early human beings.'
>
> A. Yeah.
>
> Q. Do you regard an early being as having the same moral rights as a later human being such as myself?
>
> A. You have to excuse me, I'm very, very direct. As far as your nature is concerned, I cannot see any difference between the early human being you were and the late human being you are, because in both case, you were and you are a member of our species. What defines a human being is: He belongs to our species. So an early one or a late one has not changed from its species to another species. It belongs to our kin. That is a definition. And I would say very precisely that I have the same respect, no matter the amount of kilograms and no matter the amount of differentiation of tissues.
>
> Q. Dr Lejeune, let me make sure I understand what you are telling us, that the zygote should be treated with the same respect as an adult human being?
>
> A. I am not telling you that because I am not in a position of knowing that. I am telling you, he is a human being, and then it is a Justice who will tell whether this human being has the same rights as the others. If you make difference between human beings, that is, on your own to prove the reasons why you make that difference. But as a geneticist you ask me whether this human being is a human, and I would tell you that because he is a being and being human, he is a human being.

Frankly, that is the position and those who say otherwise are, to use the vernacular of some of our good friends in the United States, just plain stupid. Given that we are talking about killing human beings, let us consider the sorts of human beings being killed.

We know it is open slather in pregnancies of less than 20 weeks. I am obliged to one of my colleagues in the other place for bringing the word into operation in this context. One of the doctors was mentioned by name, but I do not do that unless it is necessary. That work - the open slather and killing before 20 weeks - is done by the exterminators of Midland and Rivervale. Under the message, when at least 20 weeks of the pregnancy have passed, it is taken from the hands of the exterminators and given to the doctors of death. They will decide what categories of human life will die on the basis of a very loose piece of wording - severe medical condition. It is not a laughing matter, it is a serious matter.

Withdrawal of Remark

Hon DERRICK TOMLINSON: The honourable member has just accused me of laughing. I take offence at that and I ask him to withdraw.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): I am not at all sure that the actual accusation that someone is laughing is unparliamentary, but if it is offensive to the member in that context, I ask Hon Nick Griffiths to withdraw.

Hon N.D. GRIFFITHS: I certainly withdraw and I will go further. If my remark in any way caused any offence whatsoever to Hon Derrick Tomlinson, I apologise to him.

Debate Resumed

Hon N.D. GRIFFITHS: I am frightened by what happens at the King Edward Memorial Hospital for Women. I have been seeking evidence about what happens at King Edward and, although I have come across some evidence, I would like more. I was able to pass this publication to some of my colleagues in the other place a couple of weeks ago, but I still think it needs to be noted. The evidence is contained in the document "The Impact of Antenatal Screening for Down Syndrome in Western Australia: 1980-1994". A number of people wrote this article, all of whom are stationed at King Edward Memorial Hospital. It is contained in the Australia-New Zealand "Journal of Obstetrics and Gynaecology". Effectively, the article points out that amniocentesis had been used, but then along came maternal serum screening or MSS. It was introduced into Western Australia as a screening test for Down syndrome and neural tube defects in 1991. The article sets out what took place with respect to activities at King Edward with unborn babies who had Down syndrome and makes the rather proud pronouncement -

> The gradual introduction of MSS programmes had little discernible impact until 1994, when 38% of Down syndrome fetuses were ascertained as a result of increased risk MSS tests -

The word Orwellian was used in another context in question time today. This is the terminology of the brave new world of genetics of the doctors of death. The article continues -

> - and the birth prevalence of Down syndrome decreased significantly.

Is Down syndrome one of the severe medical conditions? What other severe medical conditions will justify the killing - the taking of human life? Many severe medical conditions, if we are to use language in its normal sense, are capable of being corrected. Much of the work that is being done at King Edward Memorial Hospital will enable the correction of many defects and ailments. I am not concerned about the good work, but about the killing, the taking of human life for, frankly, no good reason whatsoever.

As members will recall, Hon Cheryl Davenport made observations about foetal pain. I made a brief remark about that in my opening comments. In Australia if a living thing, an animal, was in its mother's womb, it would be treated better than human life in this aspect, as Hon Cheryl Davenport and those who support her - Hon Peter Foss and the rest of them - would have it. These baby animals would be better treated than human life. That does not say much for what is an increasingly barbaric, callous society. I sometimes shake my head in disbelief at the ignorance of those who argue from what they call a pro-choice point of view. They have not bothered to find out what is going on.

Hon E.R.J. Dermer: They do not wish to come to terms with what is going on.

Hon N.D. GRIFFITHS: I will give those members the opportunity to do that. I will place on the record some facts from various sources and I hope they take the opportunity to look these matters up. I hope as soon as it can be arranged - given the numbers in this Parliament, it might be a few years away yet - further legislation will be introduced dealing with abortion law which will be in the nature of a repeal Bill.

One of the more august bodies in Australia is the National Health and Medical Research Council. That body produces codes of practice. In this area, codes of practice are very important indeed. These are rather more significant than the codes of practice of the Australian Medical Association. I refer to the sixth edition of the "Australian code of practice for the care and use of animals for scientific purposes" published in 1997, which, in part, states -

> The Code covers all live, non-human vertebrates. Eggs, fetuses and embryos must be treated in a humane manner where development of an integrated nervous system is evident.

It goes on to say -

> Unless there is specific evidence to the contrary, investigators must assume fetuses have the same requirements for anaesthesia and analgesia as adult animals of the species.
>
> . . . During surgery of the mother, consideration must be given to any special requirements for anaesthesia of the fetus.

Yet we are told that an amendment under the name of Hon Tom Stephens was viewed with disbelief. I think it was viewed in that way out of pure ignorance. The case is strengthened by significant research and observations over a considerable period. The research to which I refer is relatively recent; it is up to date scientific knowledge. I will make some quick observations and refer to a publication entitled "The Foetus as Transplant Donor" by Dr Peter McCullagh, a Wiley Medical Publication. On page 121 it states -

> Sentience, that is the capacity of a subject for sensation, including perception of pain, is sometimes claimed to be the pre-eminent quality on which attitudes towards treatment of that subject by others should be based.

That puts the matter into context. I refer to the last page of the article, which states -

> . . . the first trimester foetus has started to acquire sentient capacity perhaps as early as 6 weeks, certainly by 9 to 10 weeks of gestation. Anatomical examination of such foetuses indicates the probability that differentiation sufficient for reception, transmission and perception of primitive pain sensation has already occurred.

The matter is advanced further by a significant inquiry, the report of which is entitled "Human Sentience Before Birth". What could be more apt when considering this subject? This was produced by a commission of inquiry in October 1996. It was established by the charity, CARE Trust. The introductory remarks under the pen of the Right Honourable Lord Rawlinson of Ewell, PC, QC, make the observation -

> Women are particularly concerned as they will only be able to make informed choices about abortion -

Again we are dealing with informed choice -

> - or about medical treatments that aim to benefit unborn babies if they are given full information about the development of their children.

The fact that we are unable to deal with our amendments means that women who may be contemplating the awful evil of abortion in Western Australia will be denied that. The committee made many findings. The summary of the main findings states -

> By 14 weeks, sensory receptors are present over almost all the body surface, and the unborn baby is active and has a wide range of abilities some of which start from very early in a baby's development.

I remember the comment made about 20 weeks' gestation from someone on my left. It continues -

> Before birth a baby's abilities are tailored uniquely to life inside the womb. . . .
>
> Since there is no direct objective method of assessing pain in any subject, adult or fetus, human or animal, conclusions about the experience of pain must be based on what is considered to be reasonable from the available evidence.

That is a very proper and sensible observation. It continues -

> Only in the last decade has the scientific community realised that babies born either at term or prematurely may feel pain and until recently many operations were performed on newborn babies with only limited pain relief.

As a society we must move on and take notice of what science has discovered. That is why now, of all times, not just as a matter of morality, ethics or religion, but as a matter of science, we should reject this awful practice of abortion. The next point really comes close to the observations of Hon Cheryl Davenport. It states -

> Almost everyone now agrees that unborn babies have the ability to feel pain by 24 weeks after conception and there is a considerable and growing body of evidence that the fetus may be able to experience suffering from around 11 weeks of development.
>
> Some commentators point out that the earliest movement in the baby has been observed at 5.5 weeks after conception, and that it may be able to suffer from this stage.

The abortionists could not care less; they will not even let us move an amendment to debate this issue, let alone vote on it. When they talk about humanity, they are inhumane. This commission was of the view that it appeared increasingly likely that pain and suffering are being inflicted on unborn babies. This is particularly pertinent. It reads -

> In medical or veterinary practice where there is uncertainty about whether a newborn baby, child, adult or animal can feel pain it is normal for them to be treated as if they do. However, when it comes to the unborn

> baby medical procedures are usually carried out without anaesthetic being administered to the child. Under British law there is more protection given to animals before birth than to the unborn baby.

As it is under British law, so it is under the Davenport-Foss Bill.

I wish to address one final issue. I am very concerned about conscientious objection but I note the words of Hon Tom Stephens when he canvassed that, and I have mentioned it in passing. Australia is an island and, although it is said that no man is an island, Australia is part of a community of nations. It has played for a long time a very significant role in the United Nations. Members of the Australian Labor Party are very proud of their involvement in the United Nations. When it comes to questions of human rights, no voice in the community is louder in favour of human rights than that of the Australian Labor Party. I am proud to be a member of the Australian Labor Party and I am very proud to be pro-life. My involvement with each is consistent, and should be consistent, but frankly I do not know how others can have a contrary point of view. They should be aware of some of the international accords to which Australia is a party because of its involvement in the United Nations. I know these do not have the force of black letter law, although some do with respect to commonwealth matters, but certainly they are seen to be codes of behaviour and codes of principle setting out the values that Australia stands for as one of the great democracies in our world and, until we started to deal with this dirty business, one of the great civilised countries.

I will not be cheeky and ask for an extension of time because I know Hon Max Evans wants to give this the red light. However, I will quickly refer to these observations. The Universal Declaration of Human Rights, article 3, states that everyone has the right to life, liberty and security of person. Article 25.2 states that motherhood and childhood are entitled to special care and assistance. The preamble of the Declaration of the Rights of the Child 1959 states that the child by reason of his physical and mental immaturity needs special safeguards and care, including appropriate legal protection, before as well as after birth. Principle 4 states that the child shall enjoy the benefits of social security; that he shall be entitled to grow and develop in health, and to this end special protection shall be provided both to him and to his mother, including adequate prenatal and postnatal care. It also states that the child shall have the right to adequate nutrition, housing, recreation and medical services.

Those are great words. I wish we had a society that did that. Unfortunately we do not. The International Covenant on Civil and Political Rights, article 6, states that every human being has an inherent right to life; that this right shall be protected by law and no-one shall be arbitrarily deprived of his life. Article 5 states that sentence of death shall not be imposed for crimes committed by persons below 18 years of age, and shall not be carried out on pregnant women. I wonder why that is the case.

The Convention on the Rights of the Child, December 1988, again restates that which was said earlier. Article 6.2 states that parties must ensure to the maximum extent possible the survival and development of the child. Article 23 states that parties recognise that a mentally or physically disabled child should enjoy a full and decent life. The unborn also deserve a full and decent life. The fact that we are treating this message in this way means that they will not.

HON SIMON O'BRIEN (South Metropolitan) [11.05 pm]: This is probably the last major act in this Chamber in this awful and difficult saga. It was commenced with rashness and has proceeded with undue haste. It has been awful because it has caused us as a Parliament to contemplate whether it is right to encourage by our legislation the killing of thousands of unborn children in our society every year. It has been difficult - every member in the House would acknowledge this - because it is the most difficult issue that has come before the House in all the experience of the members who are here, from the Father of the House down to the newest member.

I said in my second reading contribution that this issue was being progressed with undue and indeed indecent haste. I reassert that now, having seen the message that has come to us from the other place and having been generally aware, as we all have, of the many incarnations and rearrangements of the matter that is treated in this Bill. This has been the case from beginning to end of legislation being made on the run. That is proved by the fact that we have seen change and counter change at all stages in both places.

The history of the evolution of the Bill to this stage, which is known as No 132-4B, has been enunciated earlier by a couple of speakers. We saw a first version of this Bill which simply repealed every provision relating to abortion in the Criminal Code, which was then followed at the Committee stage by a whole raft of amendments designed to make a provision in the Health Act and the Medical Act. The Bill was sent to another place where it was changed beyond recognition. I might add that the Bill went through several incarnations in that other place. We have now a Bill before us which has been altered and hacked about and is indeed unrecognisable - in some ways thankfully - from that Bill which Hon Cheryl Davenport initially introduced into this place. We will have occasion to regret legislation made on the run. I do not believe that this legislation will be any exception to that rule that legislation made without due consideration is ill advised.

On this final opportunity, I place on record the personal odyssey that I have experienced in the course of this debate. I intimated some time ago to the House that I have never in my life had to confront the question of abortion and its morality. In that private capacity I am fortunate, because it is a very difficult question which many people in our community have to consider every day of the week. For some people the decisions that they make cause them great pain, both at the material time and also throughout the rest of their lives. However, I was spared that until this debate occurred in this place. Then I had to make my evaluation of where I stand on this particularly difficult issue.

I have mentioned before that, like all members, I have been bombarded with a great deal of information, anecdotes, survey results, letters and all forms of correspondence and personal representation. However, to cut through all of that material - some of which was helpful, a great deal of which was not - the central question that we have to deal with is broken down into two points of view. The first is that put forward by the proponent of this Bill, that it is a question of a woman having a choice over what happens to her body. That is sometimes called the pro-choice argument. The other point of view - and it is diametrically opposed to the first - is that the unborn child has a right to life, as does any human being after their birth. These two points of view which are held very strongly by their respective proponents are irreconcilable. That has created a dilemma which this Parliament has now been forced to address.

When we look at the legislation and the way it is treated by society at large, at present it is a pity that there has not been more ongoing review by the Parliament about our laws that relate to that issue. I will return to that when I consider one of the amendments specifically. However, I place on record my view in my own conscience as a result of the agonising deliberation that, like other members, I have had to undertake to reach a decision in this matter. I formed the opinion that the unborn child is a human being; however, one of the main differences between an unborn child and other human beings is that an unborn child has no means to advocate for itself. It has little protection in law and it requires the protection of all of those on whom it is reliant.

Hon E.R.J. Dermer: A great responsibility.

Hon SIMON O'BRIEN: In particular, a responsibility exists and is contained within and incumbent upon the institutions of our society, including this Parliament, to protect the unborn child. Our colleague, Hon Ed Dermer, was able to crystallise this point when he referred to a comparatively rare occasion of an aborted foetus being born alive and the dilemma that that may cause to a medical practitioner, or abortionist, who has undertaken to terminate - an ugly word - that unborn child's life and is then confronted with what is a live baby. This is not a matter in dispute, that live born baby is entitled to the protection of the law and if one deliberately kills that child one is guilty of murder. That child has the protection of the law.

However, Hon Ed Dermer poses the question: What about five minutes or five seconds before that child is born alive? Does it have some other status? Can its life be snuffed out without any course of action taken against those who conspire or act to snuff out that unborn child's life? That seems to be the very nub of the problem.

I sat here and listened some time ago to an argument which I found deeply offensive relating to this very point. It was an argument which based point upon point upon claim upon claim that the unborn child is not a child; that it can have no claims to protection from anybody. The inference was that to suggest an unborn child may have some rights to life threatened the fabric of our society! I notice some members nodding as they recall that occasion and the dismay that some of us felt as we heard the words from that particular ambulatory moral vacuum who delivered those words and that sick argument.

I concede it would be a particularly rare occurrence for a foetus who is intended to be aborted to be born alive; but if it happens, we have a situation of a live human being who should be dead. The question arises, perhaps in the room or, dare I say, the backyard: Do we now leave that child to die by exposing it? It would probably be a very premature baby so should it just be left to die by denying it any form of sustenance? Should we actively kill the child by cutting off its air supply; by wringing its neck; by failing to resuscitate it if its lungs are filled with fluid? The strict answer is that child has been born alive and we must sustain its life; or those responsible at the time must sustain its life. Whether that happens is something that I cannot vouch for in all circumstances.

The question then arises: What about five seconds before such a child is delivered live? Are we so obtuse as to suggest that that same child seconds earlier is not a human being; is not entitled to the dignity which attaches to humanity and is not entitled to the protection that a civilised and decent society should apply to all of its inhabitants and creatures? To me, the answer is yes; the unborn child is nonetheless a child, and if anything is in greater need of protection than are most other humans in society. It would be grossly unfortunate if we were so blind to that reality that we wanted to legislate along other lines.

The question that then arises is: What about that same unborn child a month earlier in the proceedings? Where does the cut off point apply? I do not intend to explore that well canvassed and irreconcilable point again, because it has

been debated at length in this Chamber and elsewhere, but it raises in my mind questions that are unanswerable by the pro-abortion lobby. It cannot offer to me any valid logical cut off point at which time an unborn child is something other than a human being.

I turn now to the amendments that have been presented by the Assembly. I note with some satisfaction that the Assembly at least has moved to put the act of abortion back into the Criminal Code. That is small comfort at face value, because this is still an abortion on demand Bill. It is an extremely liberal - small "l" - abortion Bill. Why do I take any pleasure in noting that the Assembly has placed a new section 199 into the Criminal Code, which states basically that it is unlawful to perform an abortion unless certain criteria apply? The reason is that although it is only a gesture, it will at least send a signal to the community that we still place some value on the life of the unborn child and are not completely devoid of the humanity that we hope distinguishes us from other forms of life. If we say that it is a crime to kill an unborn child, even though the Bill provides also that virtually every situation is an exception, at least we will start from the right point.

Clause 8 provides for a review by the Minister for Health after three years from the commencement of this Act. I anticipate that some problems may arise with this Bill before that time and that some amendments may need to be made, but nonetheless it is important that this issue be reviewed constantly so that we can keep a finger on the pulse of our society at least in this respect and look at the whole issue with some sort of objectivity, and hopefully the next time this Parliament needs to visit this issue, we can do so without the undue haste, the rash of amendment and counter-amendment, and the legislating on the run of which I was so critical in my opening remarks.

The third aspect of the amendments is the question of allowing open slather abortion up to the term of 20 weeks. Many children are born prematurely, and some are born so prematurely that their life cannot be sustained outside the womb. That is always a tragic event, not only because fate has snuffed out the life of the child so prematurely, but also because of the grief of the family and others involved. I am told that medical science has now advanced to the stage where babies born as early as five months do not always die, and that there is some hope, based on realistic expectations and medical technology, that foetuses at 20 weeks, or even younger, may survive if born prematurely.

The question that is sometimes asked during this debate is, how many of the 10 000 or so abortions that are performed per annum are performed legally in accordance with the current law; that is, because the mother's life is in danger? The answer is virtually none. Many obstetricians have no experience of any such occasion, and others can perhaps quote one occasion of which they are aware in their many years of experience of an abortion being deemed by them to be necessary to preserve the mother's life.

However, on many occasions it becomes apparent in the course of a pregnancy that the continuation of that pregnancy to full term may pose a serious threat to the mother's life. However, ironically, on many occasions the response of the mother and the father, and any other family members who are involved, is not to say, "Let us kill this unborn child, and it will be legal, because we are protecting the life of the mother", but to allow the pregnancy to proceed past the 20-24 week limit, or for as long as can be done safely, and then induce the birth early enough that the mother is not exposed to the risk of going to full term, but not so early that the premature child has no chance of survival.

It is a ghastly proposition that the day may come, if it has not already, when a hospital or other medical institution in this State may on one floor induce the birth of a baby, with the aid of medical technology, very early in the pregnancy in order to save its life and the life of the mother, and at the same time on another floor of that same medical institution abort an older foetus because it is inconvenient.

I have made my views on the subject quite clear on a number of occasions. I thank members for paying me the courtesy of listening to my views once again in summary.

In closing I offer the genuine observation to all the people who may be hurting, or who may be hurt by abortion, the question of abortion, the decision to have an abortion or not, and to the people who have the view that abortion should never be contemplated and those who think abortion can be contemplated: Whatever view anyone holds, I respect the right to hold those views. I do not condemn anyone. However, I urge people in this State to have a look at what we hold sacred, and to think about whether they hold human life as sacred. It is important that people do that, because in the fullness of time the question may be whether others - including powerful people in this Chamber - hold their lives sacred.

HON MURIEL PATTERSON (South West) [11.31 pm]: I do not support the motion. I repeat: I do not support the motion! The Professor for Law at Oxford University, an Australian, John Finnis, stated that if this Bill is passed it will be second only to Communist China in its content and as it relates to the unborn child. I understand that in the tutoring of the Family Law Act, students are lectured that the child is a paramount consideration - not the woman, nor the man, nor a family member, but the child. In this Bill I see precious little consideration of the unborn child. We have been subjected to a considerable amount of misleading information. Among that information was the

Westpoll statistic that 82 per cent of people favoured legal abortion. Perhaps members do not know that that poll surveyed only 400 people in Western Australia.

Hon E.J. Charlton: And we do not know what questions were asked.

Hon MURIEL PATTERSON: That is correct. We do not know what questions were asked, but we know that it was a very narrow poll. We did not hear very much about a recent Australia-wide Morgan poll which indicated that only 47 per cent of people wanted abortion laws eased, and in the age group 14 to 24 years only 33 per cent wanted abortion laws eased. Have members heard of that poll? I certainly had not heard of it until recently. I believe the Westpoll survey has been used for the convenience of members who are pro-abortion.

Ever since the abortion debate commenced I have repeatedly heard or read about the case Roe v Wade, but very little of the detail, other than that this case opened the way to legalised abortions in the United States. On the twenty-fifth anniversary of the case, Jane Roe told the story behind Roe v Wade. I will read only part of the case, because it is very long. Members should know that the evidence of Norma McCorvey on 21 January this year is testimony to the Senate Subcommittee on the Constitution, Federalism and Property Rights. I have checked with the Clerk and asked whether such information must be given under oath - as is the case in Western Australia; he assured me that is the case.

The evidence reads -

> Good morning. My name is Norma McCorvey. I'm sorry to admit that I'm the Jane Roe of *Roe v Wade*.
>
> The affidavit submitted to the Supreme Court didn't happen the way I said it did, pure and simple. I lied! Sarah Weddington and Linda Coffey needed an extreme case to make their client look pitiable. Rape seemed to be the ticket. What made rape even worse? A gang rape! It all started out as a little lie, but my little lie grew and became more horrible with each telling.
>
> Not only did I lie, but I was lied to. I did not come to the Supreme Court on behalf of a class of women. I wasn't pursuing any legal remedy for my unwanted pregnancy. I did not go to the Federal Courts for relief. I met Sarah Weddington to find out how I could obtain an abortion. She and Linda Coffey said they didn't know where to get one. Sarah already had an abortion but she lied to me just like I lied to her! She knew where to get one, obviously, but I was of no use to her unless I was pregnant. Sarah and Linda were looking for somebody, anybody, to use to further their own agenda. I was their most willing dupe.
>
> Since all these lies succeeded in dismantling every state's protection of the unborn child, I think it's fair to say that the entire abortion industry is based on a lie.

Hon E.R.J. Dermer: It is certainly a denial of the truth.

Hon MURIEL PATTERSON: The evidence continues -

> Here's the *truth* of what I saw in the abortion industry.
>
> I saw procedure rooms where sanitation and hygiene were after-thoughts. I worked with a doctor who operated on women while he was barefoot. I've worked in the clinics where drug use was rampant among clinic workers. I've had a doctor ask me to lie about the age of a fetus so he could charge more money for an abortion. One foreign-born doctor's entire line of so-called counseling went like this: "You want an abortion, I give you abortion."

Further on the evidence reads -

> It was my pseudonym, Jane Roe, which had been used to create the "right" to abortion out of legal thin air. But Sarah Weddington and Linda Coffey never told me that what I was signing would allow women to come up to me 15, 20 years later and say, "Thank you for allowing me to have my five or six abortions. Without you, it wouldn't have been possible."

Further on -

> I finally grew tired of the lies and deception and decided to come out and tell the truth. My eyes were opened after I accepted Jesus Christ into my heart and then took my first objective look at a fetal chart. When the facts are clearly laid out, even a four-year-old child can see that it's a baby.

Can members believe that all these years this woman had not looked at a foetal development chart? She continues -

> I am dedicated to spending the rest of my life undoing the law that bears my name. It is my sincere prayer that there be no 30th anniversary of *Roe v Wade*. I would like nothing more than to have this law overturned, either by an act of Congress or a reversal in the Supreme Court.

During debate on 18 March several members quoted that case. I would like them to be aware of the foundation of it.

One of the common arguments of pro-abortionists is that we will be condemning women to backyard abortions, which involve a major risk factor. That has been the catchcry. It is opportune for me to interest members in some statistics for abortion complications when the procedure is performed earlier than 13 weeks. In England and Wales the statistics are recorded and published yearly. United Kingdom doctors are obliged to notify the Health Department of annual statistics within seven days. The figures I provide here relate to 1996. Unfortunately the 1997 or 1998 figures are not available. The figures for 1996 are: Haemorrhage, 150; sepsis, 389; perforation, 115; and other, 96. Abortion is legal in the United Kingdom. So much for safe legal abortions!

The law as it now stands complies with the laws set down by our creator and recognises the sanctity of life over all else, albeit our stewardship in enforcing the law has been sadly neglected. Several hundred years ago Alfred the Great said, "For a law to be righteous it must comply with God's law." That was the case at our country's birth enshrining the Westminster system of government. To go against such laws denies the existence and authority of God, paving the way for laws based on situations, ethics and moral relativism. Where will it end if laws are made on that basis? There must be absolutes and accountability to someone other than self. Therefore, enforcing the law is not the real answer. The real answer is a change in attitude.

Let us be mindful that Parliament is constituted to protect the wellbeing of every citizen. It has no legitimate power to exclude one person from lawful protection. No governing body can legitimately authorise the committing of crimes against its own or any people. The unborn child does have rights, as Hon Nick Griffiths stated earlier.

This has been a good debate. It has made each of us face up to what abortion means. Many people do not think very much about what they are doing. The fact that this has been such a public debate has given everyone the opportunity to think about where they stand on this issue. Members of the public will be more aware of the reality of abortion.

I recall a few years ago hearing about the various United Nations covenants and treaties signed by the Australian Government. I felt indignant about that because we in Australia care for our children and do not require outside influence. Today I am having serious doubts and second thoughts about that as without a doubt those covenants recognise an unborn child as having a complete identity with its own individual rights.

During my initial speech on this issue on 18 March I referred to the valid arguments used by the pro-abortionists that a foetus cannot survive without the mother's body. However, I omitted to add that even when the baby is born it is still unable to survive without the mother's assistance for a period of months or even years.

Over the past couple of months I have been enormously encouraged by the quality and number of letters sent to me by the medical fraternity. I commend the vast number of doctors who remain true to their professional oath and committed to the wellbeing and health of their patients. I will read one such letter -

> The unborn child at 11 weeks has the ability to sense pain, as well as to breath (fluid), swallow, sleep, dream, awaken, taste, learn things and react to light and touch. What more does it need to do to deserve our respect and protection?
>
> My colleagues who perform these acts, I am convinced, must depersonalise the babies whose lives they end. As they account for all their body parts, ensuring that none are left behind, do they not recognise them as people?
>
> These doctors who perform abortions are in the vast minority. There are two in Western Australia who are responsible for approximately 4,000 deaths a year each. There has been much public outrage for the threat posed to these two lucrative careers and so little said about those 9,000 people dying. Where are our values?
>
> One of these doctors is paid by taxpayers, such as myself, approximately $1500 a morning, as well as the $300 he requires from each of the pregnant ladies who attend in one morning.

So, $6 000 is not bad for a morning's work.

Hon E.J. Charlton: Especially when they tell us the health system cannot cope.

Hon MURIEL PATTERSON: The letter continues -

> . . . not too many doctors are jumping up to take his place. Perhaps this is more to do with the moral sacrifice than the current legal uncertainties.
>
> I refuse to pay for the slaughter of 9,000 Western Australians each year.

> Mr Scott Blackwell, president of the Australian Medical Association does not represent the association when he makes sweeping comments in favour of abortion on demand. The AMA branch council have succeeded in silencing the outspoken president although he has not yet offered a retraction. He has been advised that as president he can not hold ties to the Association for Legal Right to Abortion. Unfortunately the many members who have complained or resigned feel that the damage has already been done.

I note that in respect of the successful challenge to Dr Blackwell's presidency by Dr Capolingua-Host, tomorrow's *The West Australian* states -

> She displaced GP Scott Blackwell in what is believed to be the first time the position has been contested in the AMA's 100-year history.

Obviously a number of other doctors may have contributed to his downfall over the abortion issue. I do not know what happened because I have not been privy to the reason for the challenge.

Last week I spoke to several past members of Parliament, one of whom is a doctor. He said he has delivered over 4 000 babies and believes that half the women on the IVF program are there because of internal damage caused by abortion. We do not know what damage is done.

A young man I have never met rang me several weeks ago and told me that at 19 years of age he was a participant in a pregnancy. He and his partner decided on abortion. He told me that it played on his mind to such an extent that he became an alcoholic. He said it was not until he looked at his life and made an effort to change that he was able to live for the future rather than the past.

Some of the literature I have read on this subject has sickened me. I had intended to read some of it to the House but I cannot. It is unbelievable what is done with aborted babies. They are used in the manufacture of face creams and for other purposes. I can imagine the pro-abortionists saying that that would never happen in Australia. In time, I wonder. Who would have believed that 9 000 to 10 000 abortions would be performed in this State, which has a population of only 1.7 million people? If we liberalise abortion law, late term abortion becomes a real threat, as several other members have mentioned tonight.

In a case in America a prospective mother opted for a late term saline abortion, but something went wrong and the baby was delivered live. This is not an isolated case. I refer to a baby, not a foetus. The heart can beat for several hours. This baby was left to die, and without medical attention the process takes a few hours. The baby was wheeled on a trolley outside the room into an alleyway where she was found by a women passing by, who took her, administered medical attention and adopted her.

I will read to members something unique which I acquired from the Ambassador Speakers Bureau in Nashville. This is probably the only written testimony in the world by an aborted child who, by accident, survived and can now speak for herself. I recently attended a function at which the abortion debate was mentioned. I referred to this case and three people said that they had met her. She came to Australia and they said she was an excellent public speaker. She does not condemn; she does not stand in judgment on anyone; yet her message is that there is life before birth. I read to members this biography of Gianna Jessen -

> A survivor of an unsuccessful saline abortion, Gianna Jessen is a talented young women with a powerful testimony. Aborted in the third trimester of her teenage biological mother's pregnancy, Gianna weighed a mere two pounds at birth. Her critical condition caused her to spend the first few months of her life in a Southern California hospital.
>
> Gianna was eventually placed in foster care and soon diagnosed with cerebral palsy. Doctors believed that Gianna would never be able to sit up independently and chances of her ever walking and crawling were as dim. However, by the grace of God, faithful prayers and consistent love of a dedicated foster mother and family, Gianna proved the doctors wrong.
>
> Gianna persevered through endless physical therapy sessions, and after a delicate surgery at the age of 3½, Gianna, for the first time, walked with the aid of a walker and light leg braces. Two months later Gianna was legally released for adoption and another miracle took place. She was adopted by Dianne DePaul, daughter of her foster mother. Thus, Gianna was permitted to remain in her long time family and Penny, Gianna's foster-mom, now became Gianna's legal grandmother.

That spoke volumes for this family. Continuing -

> With love and attention, Gianna's physical condition improved and now after four delicate operations, Gianna walks and runs without leg braces, and enjoys an active life.

> Gianna's passion is music and she has been gifted with a beautiful voice. Her pre-teen years were filled with singing in churches and schools and participating in the San Diego Christian Youth Theater where she performed the "The Wizard of Oz", "Pollyanna", "Cinderella" and other musical productions. She also played the lead role in "Alice in Wonderland" in the CYT Disney-character tour group. These times are now far behind her but a treasured part of her childhood.
>
> Gianna is actively pursuing her music career. She has written and recorded her first solo album, "For the Sake of Love", and her music is a welcomed part of her ministry to audiences nationwide and internationally.

I thought that was a beautiful story.

Hon E.R.J. Dermer: It was.

Hon MURIEL PATTERSON: It gives the lie to the claim that there is not life before birth. I wonder whether she would have suffered cerebral palsy and other problems if she had been cared for immediately after her birth.

The law already places boundaries around freedoms for the proper protection of society and its members, especially on behalf of those with no voice. For example, the law prohibits paedophilia despite complaints by some perpetrators of unfair discrimination and violation of personal rights. It is an unavoidable obligation of government to set appropriate boundaries on moral issues.

Hon Nick Griffiths quoted from the United Nations declarations, and I will not repeat them. However, I refer to the last few lines on the conclusion of the Convention on the Rights of the Child 1989. It reads -

> Consideration was also given to the Convention on the Political Rights of Women and to the Convention on the Elimination of all Forms of Discrimination Against Women. In neither of these conventions was there any indication of a specific right to abortion. There is no evidence that any United Nations treaty ratified by Australia includes a binding commitment to support a specific right to abortion. On the contrary, there is an overwhelming support for the right to life of the child, and the child's right to appropriate legal protection before as well as after birth to maintain that right.

I raise a point for this House to ponder: If one can dispose of one class of society in the form of the unborn, and with it so-called civilised morality, what prevents the next group from being selected to be wiped out? In fact, not to do so when demanded by a select group will leave one open to charges of discrimination.

Several works of verse were sent to me, some of which were very beautiful. I thought the one I now cite in its utter simplicity told it all. It is entitled "Right to Live" -

> I have the right to live
> It is the right of every man
> Since life on earth began.
>
> I have the right to give
> To give all the love
> To give all the joy I can.
>
> I am so small I know
> I could be held within your hand
> But you must understand
> I will need time to grow
> And time is the greatest gift of God I know.
>
> Give me a chance to find out what it is
> like to be climbing over the mountains
> and meadows of the earth.
> Give me an chance just to know and love you.
> Give me a home, give me a name, give me my birth
> I am a child of God.
>
> There is so much for me to do.
> So much that I can give
> It all depends on you.
>
> I'll give you my love if you give me
> the right to live.
> I'll give you my love if you give me
> the right to life.

I cannot vote for the creation of two classes of person in Western Australia. I must defend a person's right to life as a greater right than the right to manage life.

HON B.M. SCOTT (South Metropolitan) [11.58 pm]: I rise as a new day is about to dawn, according to the clock, in Parliament and the State of Western Australia. A new day is about to dawn as we bring into this State the most liberal abortion laws of any State in Australia. As a minority of pro-life members, we knew that we did not have the numbers to defeat this Bill. This is an historic occasion for the Parliament of Western Australia, and for those taking part in debate.

In my preamble, for the benefit of those who have not been with us all the way, a group of pro-life members came together early in debate under the leadership of Hon Phil Pendal. I acknowledge his leadership as this group of pro-life members have stuck together in the face of much heated opposition. For many of that group, it was perhaps the first time they had experienced being part of a minority group.

For me as a woman in this place, that was not a new experience. I acknowledge that leadership because it brought out a sense of direction in many members, and a sense of camaraderie that did not exist before; it was a different situation in the Parliament. We knew we had a conscience vote, so we were driven by our consciences and nothing else. That has been a new experience for all members in this Parliament. I also acknowledge the help that was given to that group by Greg Craven, who is the Dean of Law at Notre Dame University, and Terry O'Connor, QC. Much has been said in this debate about all the facets of the details of the law. The Bill went from this House to the other place, and another Bill came to us.

I want to dwell not on the detail of the clauses but on the myths and the misunderstandings that have surrounded this debate. I believe that our society today is a great believer in myths and perhaps more so than any other age. I believe this is due largely to the fact that our popular media rarely examine issues in detail and we rely on slogans and 20 second grabs. Abortion is an issue that is no different. I believe that it would be helpful if I used my speech to examine the principal myths that developed around this abortion debate and this issue. By doing so, I hope that members will finally realise what they are about to do, and commence the process necessary to bring us back from the brink by rejecting this motion. Let me focus on some of the major myths, as I believe it is important that these matters be looked at.

Number one myth; I will begin with the slogan that we heard very early in the piece: My body, my choice. This slogan was very cleverly pitched at both men and women. I spoke at length in my second reading contribution about this issue being a human rights issue, and other people have spoken along those lines. This is a human rights issue but it was delivered as a women's issue; that is, it was about her body and her choice. I put that myth at number one because I believe it leads to almost all of the other myths of this issue.

Let us look at the first contention: My body. That is simply incorrect. Scientific evidence has stated that there are two bodies involved. This is not a personal belief or counter contention, but a simple scientific fact. When the sperm from the male joins the ovum from the female, the partial genetic information from the two partners becomes complete and a new human being is created. This may be confirmed by DNA test.

This also puts the lie to another common myth; myth number two: The child, foetus or embryo is really not human. Other speakers have spoken at length about this. We have heard the myth that this is just a bunch of cells; nothing very important. We are all just a bunch of cells. It really is only the external appearance, the makeup on the outside, which is different. It is very easy to fall into the old prejudices that this looks nothing like us, therefore it is not one of us, and therefore we can abuse it and its dignity. Even if it was not one of us, that would not give us carte blanche to abuse its dignity, but the simple fact is that it is one of us. Just as an old man is a human being in its final stages, so an embryo is a human being in its first stages. This myth of considering that something is not as good as us, is less worth valuing, was a myth that pervaded the thoughts of the people in the days of the slaves. Because the slaves were black, handy and cheap, they were not as good as the white people. We could use them and abuse their dignity. It is no different to the Kanakas who were used in Queensland on our very own territory, or the Aborigines in our own State, or women to a degree, who were considered different, weaker and less than equal, therefore not worthy of the dignity that men maintained was their prerogative.

I will read a letter from a doctor that I received which endorses those first two myths. It is a letter from a Dr Bruce Thyer, who is from the group Doctors Against Abortion. His letter reads -

> The Doctors Against Abortion holds that all human life is precious, irrespective of colour, sex, creed, age, degree of dependency and healthiness. Dear member, this is an ethical issue at heart; the unborn child is human at its core and because of its humanness, we as a society are obliged to provide adequate protection for its life. The degree of dependency of the born child, and of the unborn child, differs but in terms of humanness there is no difference at all. Just as the medical profession is committed ethically to the support of human life, and has promised to comfort the sick, and to ease suffering, and to "first do no harm", so we believe that all members of Parliament need to examine carefully the ethics of a Bill which proposes to lift away society's protecting hand from the unborn child.

I want to continue on myth number two about two distinct bodies. At this stage in the child's life it is intimately connected to the mother and so there is a conflict of rights. Resolving those rights should have been the main part of this debate. It should have been the main part of everybody's argument. This is what this debate should have been all about. If we had not abused the procedures of the Parliament by suspending standing orders for no obvious reason, it might have developed along those lines.

The PRESIDENT: Does Hon Barbara Scott suggest that standing orders were abused in this House?

Hon B.M. SCOTT: I did, and if that is incorrect, I withdraw that.

I refer again to Dr Thyer's letter to back that up -

> The contention that this debate is as much about the rights of women to govern their own bodies as they deem fit, that this debate is merely an extension of the politics of sex, does little to advance the cause of women. Indeed to contend that this is the core issue demeans the just cause of female equality and trivialises the life of the unborn child. The Doctors Against Abortion urges all members of Parliament to ensure that is the process of enlightened behaviour that has seen the painful and slow, and yet incomplete, climb of women and the Aborigine in our society to a position of equality, be extended in the very near-to-hand twenty-first century to the unborn child.

It would not surprise me if in five, 10 or 15 years a call was made for another sorry book to be signed by members of this Parliament today. Just as it may be difficult for some members of this Parliament today to admit that Administrations in the past made grievously bad decisions about what were considered lesser human beings with lesser rights, I remind the Parliament that we may in five, 10 or 15 years be asked to say sorry to the women who went through abortions in this day and age.

It is worth having a brief look at an analogy for some guidance in this conflict of rights. International maritime law provides a good example. If a vessel passes a stranded person at sea that vessel is required to stop and rescue that person, otherwise the master will be tried for murder. The reason is straightforward: If the master ignores the stranded person that person will almost certainly die. This is very similar to a child in the womb: It cannot survive without the mother. However, abortion is not just leaving the child to die. It is the captain deciding to run over the stranded seafarer. The principal difference between the stranded person and the unborn child is a legal one.

Under the Criminal Code in Western Australia a child is not defined as having rights until it is born. In Queensland, on which State's Criminal Code ours was modelled in 1901, this definition was changed earlier this year after a man struck his pregnant girlfriend and killed the child. He was able to be charged only with illegally procuring a miscarriage. In Queensland a child is now defined as having rights from the moment of conception, but abortion is specifically excepted from this definition.

However, human rights cannot be removed by legal definitions. They are innate and inalienable. By passing these laws we do not legitimise anything; we simply add ourselves to the band of nations which happily violate human rights.

Returning to the slogan "My body, my choice", the second problem with this is the contention itself - my body; therefore, my choice legitimised. For example, suicide, euthanasia, dodging the draft, not wearing seat belts or crash helmets, etc are all illegal; yet they are based on personal decisions - things we do to our own bodies.

Pro-abortionists are saying that abortion is a personal matter; it is women's business only and it should therefore be legal. Governments have legislated quite a few things for society's own good. Just by being part of a society we give up a significant amount of control over our daily lives as societies have rules which require us to be punished if we do not follow them. We gave up our right to choose long ago. We in this Legislature today have an obligation to legislate for the common good. Any civilised society should be driven by legislation that is in the common good.

In short, pro-choice as a general argument is a nonsense. We, as members of Parliament, must decide whether overall something will have a good, a bad or no effect on the community. Thus, in the case of abortion, for the pro-choice argument to work honestly its advocates must show that abortion has no ill effects on society or that the ill effects are outweighed by the ill effects of prohibition.

Myth number three is that pro-choice does not equal pro-abortion. This is worth evaluating. Will an analysis uncover a raft of myths which lead irretrievably to the conclusion that pro-choice is in this case no different or no more than pro-issue?

I refer now to those principal effects of abortion of which we have some knowledge. This has been canvassed by other speakers. We know that approximately 9 000 or 10 000 abortions are carried out in this State each year.

Hon Derrick Tomlinson: More than 10 000.

Hon B.M. SCOTT: That provides us with one of the highest infant mortality rates in the world. On average about 30 000 live births a year occur in this State; therefore, about one-quarter of foetuses do not survive.

The most important calling of this Parliament is to protect the innocent. However, the pro-abortion lobby does not accept that an unborn child is a human. If it does it sees it as belonging to a different class, with fewer rights. It is an interesting way of arguing, simply not accepting the strongest objection to one's view. However, we have already dealt with that myth and its variations at some length.

I will dwell here on the fact that this has been sold as a women's issue and it is something that does not work to favour women or children or protect either.

In many cases abortion damages the mother. This introduces the next common myth; that is, abortion is a safe procedure with an almost non-existent mortality or morbidity rate and with no side effects. We have heard that myth perpetuated in the past few months. The evidence against this myth is growing each day. Unfortunately, due to the secrecy surrounding abortions, the lack of post-operative follow-up, the often long term nature of their effects and the strength of the dogma that abortion is harmless, this evidence has been a long time coming and is still far from complete. We do not have any mandatory reporting.

Some of the effects of which we have an inkling include an increase in breast cancer; significantly increased suicide rates; difficulty in carrying future babies to full term; and psychosis, often leading to physical symptoms, especially during the anniversary month of the abortion. At this point I seek leave to table a report, which is an extensive document, called "Women Hurt by Abortion".

Leave granted. [See paper No 1620].

Hon B.M. SCOTT: I do not have time to go through all the effects which come under post abortion syndrome. One already referred to this evening was suicide. In addition, a high number of doctors suggest that many women go on the in vitro fertilisation program because of the effects of abortion on their reproductive capacity.

The fourth myth is that no negative societal impacts result from abortion. The most obvious impact is the significant drain on the Health budget as a result of dealing with these problems. The House of Lords' Rawlinson report refers to adverse effects on the father, the woman's parents, other children and medical staff and the adverse effect on the dignity of the handicapped. That is one of the principal issues I will highlight. If it is acceptable to abort unborn children because they do not measure up to society's expectations of normality, what does that say about the value of people with disabilities in our society? It indicates to me that people with disabilities are not seen as part of the variety that is the human family. This would adversely affect the culture of care and respect for the disabled and the extraordinarily hard-won community services provided for the disabled. It also has the general effect on the community of abandoning the principle of the sanctity of human life, to which other speakers have referred.

Myth number five derives directly from this general community effect. It is usually called the social justice argument and it requires a sort of divine judgment on the future prospects of the child. It is best illustrated by example: If born, this child will be unloved, not properly cared for, undernourished, unhappy, and unfulfilled. The child is a potential criminal and, therefore, it is best for the child if the pregnancy is terminated. To put the lie to this ridiculous myth, all that is necessary is to apply the same logic to the person sitting beside one. Of course, that person will have all his rights confirmed in law. For example, if the person is a drug addict or criminal, do people say he is a dropout, a no hoper, society should abandon him because he has no hope for the future and he should be terminated?

Hon Cheryl Davenport: People do say those things.

Hon B.M. SCOTT: They do not say he should be killed. Closely related to this myth is the contention that an unwanted pregnancy equals an unwanted child. This is so rarely the case. Usually the circumstances surrounding the pregnancy are unwanted. Indeed, if an adoption agreement is entered into, the child is often the most wanted and the most loved of all children.

Central to the pro-choice case is the myth that decriminalisation will give women a free choice. The Rawlinson report dismisses this myth. The Rawlinson report is from the House of Lords in England and it is a significant report. I refer to it on the understanding that most members have either read it or are familiar with it. It is stated in the report that -

> The issue of abortion is often presented as one of a woman's choice . . .The philosophy of choice is, however, flawed where all the options are weighted in favour of abortion. Women who now regret a previous abortion might have taken another option if alternatives, and the necessary support to take one of those alternatives, had been offered. The Commission received evidence from many of the witnesses and

> from the case histories of individual women indicating that far from being a choice of several alternatives, the decision to have an abortion often appeared to be the only "choice" available to them. Such a decision does not represent a free choice.

If the woman's partner, father or husband forces her into it, that is the only choice. That is not a choice for any woman.

Hon Kim Chance: Not to mention economic circumstances.

Hon B.M. SCOTT: Certainly, often it is economic rationalisation. The seventh myth is one of the more repugnant, and it is simply a case of scaremongering on the part of the pro-abortion lobby. It involves the spectre of nineteenth century backyard abortions using knitting needles and the like. Clearly, if abortion were outlawed and the law were enforced, the social and medical conditions of the nineteenth century or even the 1950s would not somehow magically return. To suggest otherwise is mischievous in the extreme. In Ireland, for instance, where abortion is illegal, the death and morbidity rate from abortion is the lowest in the world.

Hon Giz Watson: They all go to England.

Hon B.M. SCOTT: It can be seen that the pro-abortion case systematically uses a variety of myths to minimise or deny the significant negative impacts of abortion, exaggerates the danger of prohibition, and boosts the benefits of the legislation. Given the extensive use of these techniques, one can only conclude that in this case pro-choice is not an honest reflection of the proponents' activities. Indeed, they are pro-abortionists.

The empirical evidence, though of course inconclusive, provides some verification. In the United States in 1972, prior to the enactment of its legislation, approximately 100 000 abortions were carried out each year. Today, more than 1.5 million abortions are carried out each year. It is a myth that repealing this abortion Bill will decrease the number of abortions. I keep hearing people on the pro-abortion side and the other side say that they would like to reduce the number of abortions. They have not said why, because they are in favour of it. I think I know why: It must be the most terrible experience to go through and the darkest hour of anyone's life, because of the reality of the situation. That is the reason that drives most people to say that the number of abortions must be reduced.

Myth number eight is that 81 per cent of Western Australians want abortion on demand. How many times have people heard that in a 20 second grab or seen it in a headline? I would like to quote from Dr Bernard Nathanson, an ex-abortionist who was personally responsible for 75 000 abortions in the United States. He was one of the founders of the National Association for the Repeal of the Abortion Laws in America. He stated in his book *The Hand of God* that -

> We persuaded the media that the cause of permissive abortion was a liberal, enlightened, sophisticated one. Knowing that if a true poll were taken, we would be soundly defeated, we simply fabricated the results of fictional polls. We announced to the media that we had taken polls and that 60% of Americans were in favour of permissive abortion. That is the tactic of the self-fulfilling lie. Few people care to be in the minority.

What are the true figures? Fortunately, there are some reputable polling firms in this country. During the last week of February a Morgan gallup poll asked two questions. They have not been widely published. The first question was: Do you approve or disapprove of the termination of unwanted pregnancies through surgical abortion? In Western Australia, 67 per cent of the people polled answered yes to this question. That is significantly less than the 81 per cent constantly reported. However, that is a rather vague question. The pro-abortionists would say it means people approve of abortion on demand, but I say it means people approve of abortion in certain circumstances. The response to the second question, which relates directly to what is being done here, supports my view. The second question is clear and unequivocal: Currently in most Australian States abortions are illegal unless the mother's life is in danger - do you think the law on abortion should be changed to make it easier to obtain an abortion, harder to obtain an abortion, or do you think the law should remain as it is? In WA a mere 53 per cent of the people polled thought it should be made easier to obtain an abortion. That is hardly an overwhelming majority.

Hon Ken Travers: Mere?

Hon B.M. SCOTT: I am talking about the myth that 81 per cent of Western Australians voted for abortion on demand. The figure was 53 per cent. Worse still are the results of the sex breakdown. Only the national figures are available and they indicate that, while 48 per cent of men think the law should be softened, only 46 per cent of women think this way. This is an important result because the pro-abortionists, who have claimed to be representing the interests of women, are in fact representing the interests of less than half the women in this country.

However, I find no consolation in these figures for they indicate that approximately half of our community do not value children above all else and, indeed, are prepared to kill them. I have said many times in this Parliament that

in a civilised society we should value our children. The most vulnerable people in our community are the young, the old, the frail and the disabled.

Nonetheless there is a small glimmer hope for the future. It lies in our youth who seem to have transcended the moral degradation of our generation. Only 33 per cent of the 14 to 24 age group thought that abortion laws should be relaxed - I do not know whether that was because they were closer to the womb or that they are idealistic. That is a matter of conjecture. At the same time, 63 per cent thought the laws should remain the same or be toughened.

However, even this hope was almost smothered this week by a story a young friend told me. Like many other members I have canvassed many people and many women on this issue. Recently I was speaking to a young friend, and I asked her directly what her thoughts were on abortion. She knows that I am a member of Parliament. She said that she had never been confronted with the problem, and that she would not have an abortion. However, she said that a 24 year old friend had recently returned from two years overseas. She had had a long term relationship, which had broken up, and she returned home to find herself pregnant. She told her friends that she had decided to keep the baby. Two weeks ago, my friend said that she saw the woman's closest friend and asked how the woman was getting on. She said that yesterday was D-day; her father took her to an abortionist. That confirms the myth that very often there is no choice in abortion for women; that they are forced to come to that decision.

The next myth I find rather offensive. That is, only Roman Catholics are anti-abortion. Once again I turn to Dr Bernard Nathanson, who said -

> We systematically vilified the Catholic Church and its "socially backward ideas" and picked up the Catholic hierarchy as the villain in opposing abortion. This theme was played endlessly. We fed the media such lies as "we all know that opposition to abortion comes from the hierarchy and not from most Catholics" and "Polls prove time and again that most Catholics want abortion law reform". And the media drum-fired all this into the American people, persuading them that anyone opposing permissive abortion must be under the influence of the Catholic hierarchy; and that Catholics in favour of abortion are enlightened and foward looking. An inference of this tactic was that there were no non-Catholic groups opposing abortion. The fact that other Christian as well as non-Christian religions were (and still are) monolithically opposed to abortion was constantly suppressed, along with pro-life atheists' opinions.

The pro-abortionists sold the myth that this was a women's issue. However, seven of the eight women members of the National and Liberal Party coalition continually attended the pro-life meetings. One coalition woman member was pro-abortion. To my knowledge, of the eight women only one is a Catholic. Members will also recall that one of the first anti-abortion demonstrations at this Parliament was by the group, Women Hurt by Abortion. I believe the group was responsible for donating the education kits used in schools to teach young children about the beginning of life. However, despite this obvious universality, members of Parliament and the pro-abortion lobby have jumped on the anti-Catholic bandwagon. For instance, Hon Giz Watson used this device to attack Geraldine Capp, a reporter for *The West Australian*. In her article, Ms Capp, stated -

> Traditional morality has always emphasised the intrinsic worth and equal value of every human life regardless of its stage or condition. This extends as far back to pre-Christian Greek physicians such as Hippocrates.

Hon Giz Watson was given a full page to respond to Geraldine Capp's article. In that response she said - she may not have been quoted correctly, because that is not always the case - that Capp did not define the "traditional morality" to which Capp referred. She also said that if Capp was referring to a Roman Catholic Christian traditional morality, she should have said so. Clearly Ms Capp was not referring to Roman Catholic morality; she was referring to every mainstream moral code back to Hippocrates, and that is exactly what she said. This is made even more obvious by Ms Capp's statement that this ethic of reverence for each and every human life also became a cornerstone of the Judean-Christian heritage.

Hon Tom Stephens: It is embraced by Tibetan Buddhists too.

Hon B.M. SCOTT: This sort of abuse pales into insignificance against the extraordinary and often repeated claims that the Roman Catholic Church is responsible for the over-population of the world. Such a claim is almost too stupid to warrant a response, but it is so widespread and gaining such momentum that I feel I must reply. The world's two most populous countries - China and India, which together account for almost half the world's population - not only have minuscule Christian populations, let alone Roman Catholic, but also anti-Christian laws. How is the Roman Catholic Church supposed to be influencing population growth in those countries?

It is also important to note that natural birth control methods which the Catholic Church promotes, and which seem to be the root of this ridiculous claim, were not developed for the Roman Catholic Church but for use in Third World countries. The reason is simple: A condom costs the equivalent of a day's pay for the average Indian rural workman

and two days' pay for a working woman. Interestingly, a study of 19 843 Indian women in the British Medical Journal in September 1993 showed conclusively that for these women in their culture and circumstances, natural birth control methods are more effective than are artificial methods in the west.

The last myth is one of values; that is, the often repeated statement that we must not impose our values on the rest of society. The statement is unsound on two levels. Firstly, it is internally inconsistent because the statement is, of course, an expression of a value system - a system based on having a society with no value systems. Secondly, it contradicts the primary purpose of Parliament which is the implementation of value systems through laws for the good of the community. To say that killing and stealing are wrong and to enforce that view through the law is indeed imposing a value system on society, but, Mr President, would you want people around you who have the opposite view and do not believe those values are important? Our South-East Asian neighbours are often criticised for over-emphasising community values at the expense of individual freedom. With the passage of this legislation we would appear to be going to the opposite extreme, and we may achieve a far worse result.

I remind members that the responsibility for this Bill and its outcomes lies with each and every member of Parliament. We are aware of the outcome - the Bill will be passed - and we should look very closely at what we do as members of Parliament after the proclamation of this legislation.

It is important that we lobby the Government to provide funding to pregnancy support agencies which are currently helping women find alternatives to abortion. I refer here to the family planning group and others. We should consider seriously support and counselling for women who may suffer from post-abortion syndrome. I do not suggest that all women suffer in that way, but many do. Many agencies are being starved of funding. The Family Planning Association or a similar organisation should be funded to conduct a statewide campaign not dissimilar to the very successful safe driving campaign "Appoint a Skipper", to ensure that people have access to family planning and responsible parenthood methods such as birth control and contraception. Education programs should target the groups currently seeking abortions. It is also very important to undertake some form of reporting because at the moment it is difficult to obtain accurate details. Therefore, as a follow up to the passage of this Bill, I would like to see accurate, detailed reporting - not the provision of names - so that we can classify where the commonalities lie between young women, married women or whatever. I will be lobbying in support of that process.

Many members, including pro-life members, must strive to achieve these goals. We have heard very often in the past few months that members want to reduce the number of abortions in this State. My fear is that the passage of this Bill will increase the number of abortions, and I challenge members to demonstrate their sincerity by supporting lobbying efforts so that some good results may flow from this Bill, which I believe is an evil Bill.

We should also lobby for the provision of ultrasounds in counselling so that a true life image can be shown to the mother to help her make a real choice. We have spoken extensively about informed consent, and how doctors could face litigation if all the facts are not provided. A real life, ultrasound image of unborn children would help women to understand clearly what will happen not only to the unborn children but to the women's bodies.

In my first speech to this Parliament I said that the abortion debate in Western Australia must begin with the recognition that life begins at conception; that a civilised society will be and can be judged on how we value our children, our frail, our elderly and our disabled.

The Bill condones abortion on demand. The hundreds of letters and telephone calls I have received have urged me to vote against the Bill, which I will do because I believe this is a human rights issue, not just a women's issue.

HON GIZ WATSON (North Metropolitan) [12.47 am]: I support the motion. I do not wish to re-engage the full debate. We are approaching an historic occasion as this Bill is about to pass through this House and become law. However, I wish to place on the record the position of Greens (WA) members. The Greens seem to have been singled out for some particular attention for being pro-choice. I am happy to reiterate that our position all along has been that we need to repeal all sections of the Criminal Code which refer to abortion, and to ensure that abortion is treated like any other medical procedure. That continues to be our position. We are disappointed that abortion will remain in the Criminal Code, and we are concerned that doctors can still be challenged legally.

The Bill is less than perfect but, on advice, we have decided to support it in its current form and not to attempt any further changes to it. That advice has come from a number of quarters, including the medical profession. I guess we have measured the Bill as returned from the Assembly against the dangers of any further delays to the passage of the Bill. However, I wish to raise two concerns relating to the possibility of any further delay. As we have noticed over past weeks, if delays occur the anti-choice groups attempt to frustrate the passage of the Bill through this place. That delay, and the confusion that ensues, suits their case.

Another major concern is that the current law is unworkable and is dangerous. We have heard about women causing themselves harm as a result of the uncertainty about the availability of and access to abortion procedures. We have

decided that it is more important that this Bill - imperfect as it is - should pass through this place tonight. We will wear the fact that it is a less than perfect piece of legislation.

In saying that, I will mention three issues about which the Greens have ongoing concerns. The first is the issue of parental involvement in the case of minors under 16 years of age. We have grave concerns that this will put considerable pressure on such women and that laws mandating parental involvement may cause harm to those minors where they purport to prevent an increase in illegal and self-induced abortions. The risks associated with mandatory parental involvement are unacceptable and could well lead to very difficult choices for minors. We are disappointed that this amendment has been added to the Bill.

The second issue is that doctors can still face criminal charges. The Greens are disappointed that the Criminal Code still applies.

The third issue is the requirement for an independent doctor to offer the opportunity for counselling. That could well be a problem, especially in country towns where there might be only one or two doctors. If those doctors are not willing to offer that service, it will put women in those towns at a disadvantage. The Greens are also concerned that there is no obligation on the part of a doctor who chooses, quite rightly, not to provide that service or counselling himself or herself to refer the patient to another doctor. Again, that limits choices for women in country towns.

I will respond to the issue of United Nations obligations as raised by Hon Muriel Patterson. Australia has been taken to task for not complying with the conventions on the elimination of all forms of discrimination against women. It was asked why it was not meeting its obligations to provide all forms of reproductive rights, including access to safe legal abortions. I would argue that we are in breach of our obligations as a signatory to the United Nations conventions rather than the converse.

I will conclude my remarks because I am eager to see the progress of the Bill through this place. I am very proud to be part of this historic change and to be an ongoing supporter of the reproductive rights of women.

HON KEN TRAVERS (North Metropolitan) [12.50 am]: In my contribution during the second reading stage of the original Davenport Bill I spoke about the need to hear and understand the views of women in this debate, and I still think that is the case. Before voting on this legislation, I continued to consult not just with my partner but also with a number of women friends to whom I am very close, to gain their views. All of them supported the view that this legislation should be passed, and that is how I intend to vote.

This legislation is not exactly what I suspect many members want. Something closer to the original legislation passed by this House would have been satisfactory. However, I have looked at the amendments made in the other place. I followed the debate in the other place for a time. I realise members there have gone through a difficult process. The message they have sent back to us probably sums up a fairly reasonable position that brings the two Houses together and will provide certainty for women in Western Australia who seek termination of their pregnancy.

I have felt like a lone voice in the northern suburbs because my office is surrounded by those of members of Parliament who have a different view from mine. From talking with people in the community, I have been surprised at the support they have shown for this legislation. This has not necessarily come through in the telephone calls and letters I have received, but when I have been at functions and people have come up to me and talked spontaneously about this issue. In my time in this place very few Bills have received that reaction.

Over the past couple of months, as a result of this debate, I have looked at my moral code to strip it back to the basics, to see whether I should reconstruct any of it, to evaluate where I am today and whether morals are a constant thing or whether they change, not just personally, but in a collective society. In that process I acknowledge the contribution during the second reading stage of Hon Christine Sharp. Having spoken to her, I read her views and the moral position she has taken. I do not know that I totally agree with it even now, but it was an interesting part of the process. I also looked at the views expressed by Leslie Cannold in *The Abortion Myth: Feminism Morality and the Hard Choices Women Make*, to which Hon Derrick Tomlinson referred. It brought an interesting perspective about the right of a woman to choose when she wishes to be a mother and whether we should take that position.

I also thought about when life begins. I have agonised over that. I keep coming back to the position that it is when the foetus can survive outside of the mother. Challenging questions have been thrown at me by members in this place, although not in this Chamber. I have been asked when a foetus becomes a life, whether it is at 20 weeks, or 22 weeks, or 28 weeks of gestation. As a result of those questions, I was forced to challenge some other moral views I have about this society. When I was asked the questions about when a foetus becomes a life, I wondered whether it was referring to a baby born in Western Australia, in Perth, or in the Kimberley regions, in the outback regions to a family from a low socioeconomic background, or a baby born in Africa or China. Each and every child born in those places has a different life expectancy which will be determined by economic circumstances that were made in places like this Parliament. We as a society are constantly making economic choices.

Are the life support machines in Perth available to all other children in the world? No. In fact, many children in the world today are dying simply because they do not have food. It is not even a matter of their having access to technology. Yet we in this place are making decisions based on economic choices. Will the people who have argued strenuously that we should be protecting the rights of an unborn child give up their economic wealth and resources, and commit it to saving the lives of children outside of Australia? In saying this, it is not my intention to make those people feel bad, but merely to point out that we must all be careful what we say when we moralise about these issues.

We must also take into consideration the world's population. Are we reaching overpopulation? If we are not getting close to it, when will it occur? What will it mean to society when the ability of the world to produce food has reached its limit? How will we then make choices about who will survive, and who will not?

The PRESIDENT: Order! I know the debate has ranged fairly widely, but the question before the House is that the amendments made by the Legislative Assembly be agreed to. This is not a third reading or second reading debate. I wonder whether the member can mention the amendments we are considering now and again in his speech.

Hon KEN TRAVERS: Mr President, you always give me good advice in these situations, and I appreciate that. The amendments that have come from the other place do relate to many of these issues, including whether a doctor who performs an abortion outside of the requirements of the Health Act will be subjected to the Criminal Code. Earlier a member made a comment about the position of doctors in the debate. I wonder how many of those doctors who are opposed to this legislation have made the decision to go overseas to make a contribution to saving some of the lives of children outside of Australia, and to give up their economic resources within Western Australia and their security and their benefits.

We must look at the amendments to do with informed consent. Of course, I will never have to make the decision to abort, and I hope most people will not be in that position. The options in the amendments covering informed consent will give people enough assistance to enable them to make an appropriate judgment on this issue. I am glad to see the provisions relating to doctors are the only part of the legislation that has been returned to the Criminal Code. I would have hated to be in the position of passing judgment on the women who have had to make this decision, and to support legislation being passed in this place that would make them criminals. In fact, if this Parliament passes this legislation tonight, we will merely be catching up with what has been occurring in Western Australia in the past 25 years. That comes back to the issues I raised earlier, the choices that we as a society must make, and a realisation that moral values are not constant, but are always changing.

We need to make a decision that will give certainty to the people of Western Australia. We accept this Bill as it has been amended in the other place, although not necessarily because we support every amendment. Obviously, when this House passed the Bill earlier it did not insert those amendments, but I am prepared to live with them. Comment was made earlier in the evening about some proposed further amendments and the process adopted tonight. I was set in my views. I have certainly looked at the issue long and hard and regard this Bill, incorporating the amendments in the message, to be a satisfactory outcome.

I am happy to place on record for history that I opposed each and every one of the amendments proposed on Supplementary Notice Paper No 40. I opposed the requirement for the use of abortion anaesthetic to ensure beyond reasonable doubt that any unborn child is not subject to any pain. I oppose the idea of a penalty of 10 years' imprisonment imposed on a doctor. I oppose an increase in a penalty from five years' to 14 years' imprisonment. I oppose the improper motives provision.

I am happen to support the amendments in the message on the Table this evening. We have reviewed this legislation. I am confident that we have fulfilled our role in the parliamentary process as a House of Review. It is unusual, I acknowledge, that under this Bill, if a doctor breaches section 334 of the Health Act, he or she will be subject to a penalty under section 199 of the Criminal Code. However, it will not make a great deal of practical difference and if it gives some comfort to those with concerns about the Bill originally introduced in this place, I accept it to achieve the certainty we need in our community.

The issue was raised earlier in the debate of funding for pro-choice groups. I assume that members were referring to the Family Planning Association of WA, which is not just a pro-choice group. The Association for the Legal Right to Abortion is a pro-choice group. The Family Planning Association provides a range of support and advice to people about options, not only regarding abortion, but also about alternatives to abortion. Most importantly, it provide advice about preventive measures. It provides sex education and information on contraception. It is about family planning. It is involved at the beginning to try to prevent the number of abortions which have been occurring in Western Australia.

Therefore, I was pleased to hear Hon Barbara Scott refer to the need for us all to ensure that greater funding is directed to such organisations. It is a disgrace that our Family Planning Association receives from the Government

less than half the allocation given to the South Australian Family Planning Association, yet South Australia has a slightly smaller population than ours to educate and assist. I hope that one thing to arise from this debate will be greater funding to groups like the Family Planning Association.

A suggestion was made earlier that the Government should be funding some of the groups such as Women Hurt by Abortion. These organisations have a legitimate role to play in our society; however, they should not be funded to provide counselling. It says something about what the people who advocated funding for such groups think counselling is. Counselling should provide all the options available to someone so an informed choice can be made. It is not about driving people in one direction or another. I accept that those groups have a right to encourage people in one way or another. The Association for the Legal Right to Abortion has the right to educate people. The Family Planning Association seeks to provide people with options.

In conclusion, I congratulate Hon Cheryl Davenport for the way she has conducted herself throughout the debate, and for the way she has worked to achieve a very successful outcome of certainty for women in Western Australia. It reminds me of a card I was pleased to receive from Hon Cheryl Davenport upon my pre-selection. I still have that card as it means something to me. On the front it said "Commitment". Inside it read "Success is to have commitment when others around you have given up." That indicates what Hon Cheryl Davenport has been through since arriving in this place until the historic moment of the passage of this Bill.

HON MARK NEVILL (Mining and Pastoral) [1.06 am]: I support the motion. I am opposed to abortion, which I find difficult to accept. However, such a decision is for the woman in question to make. Not many women take the decision to have an abortion lightly.

Hon Nick Griffiths posed a number of questions to those who have a different view from him, and he said we should answer them for the record and for history. I have some questions for some of those people who absolutely oppose any abortion for the record and for history. These can be added to his list: Do they believe that the victims of rape should be able to have an abortion, and if so, should they then be charged with a criminal offence? It is clear that some people who are opposed to abortion believe that they should be charged. Good on them. If they want people in my position to state our case on every issue, they should state their position on that issue. Do those people believe that victims of incest should be allowed to have an abortion? Do they think that such abortions should be included in the Criminal Code? Place those answers on the record so we know how these people think on these sensitive questions.

I remember people like Lyla Elliott in the early 1980s who railed against the meagre funds applied to the Family Planning Association. People who opposed that sort of funding are those who oppose contraception in all its forms. We have seen 9 000 or 10 000 abortions performed a year because of that absolute denial of reality. Whatever happens to the law, many abortions will be performed in this State; it does not matter whether it is legal or illegal.

The Government should set a target for a reduced number of abortions in this State. It should be set at around 5 000 abortions a year, and we should fund the Family Planning Association and other non-government bodies which provide sensible advice. In that way, we can reduce the number of abortions carried out in this State to such a level. The Bill has a review clause. We should look at the results of such an effort at the time of that review. The Government has many other targets, and a target in this area would be admirable.

Prior to this Bill, for the past 20 years in this State we have had abortion on demand. This Bill really gives us in practical terms more prescriptions on abortions. I cannot really see how people who oppose this Bill cannot accept that obvious fact. I would prefer this Bill to the current legislation in which we have provisions in the Criminal Code that are not enforced. They are bad law. We have here a much better piece of legislation. As I have said, this legislation puts more prescriptions on people getting abortions in this State. It is a sensible piece of legislation and I indicate my agreement with this motion.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [1.11 am]: I was wanting to delay my comments so that I could not be falsely accused of jumping in front of anyone who wanted to speak and robbing them of the opportunity of speaking. I hope that Hon Ray Halligan will forgive me. I did not realise he was about to jump up.

The problem faced by those of us who are opposed to abortion and to abortion law repeal is that that is not the question with which we are now faced by virtue of the motion that is before us; instead we are simply left with a motion that requires us to consider the message from the other place and then either agree or not agree to it with no opportunity for any other alternative. I have indicated in earlier debates why I find it an unsatisfactory way of having to proceed. Issues have been canvassed during this debate to which I wanted to respond in part. I was interested to hear on at least a couple of occasions the fact that the proponents of this legislation referred to the phenomenon of suicide on the part of women faced with an unwanted pregnancy. I want to refer to some material with which I have

been provided by the organisation known as Women Hurt by Abortion, which has been endeavouring to provide some publicity for the situation facing women who have had an abortion and who have then moved on to appear in the suicide statistic.

The advertisement appeared on 14 May in *The West Australian* following the difficulties that that organisation had in publicising that statistic. It reads that for over 20 years research studies have clearly demonstrated a connection between abortion and suicide, yet the medical establishment remains silent. In 1926 researchers found that aborted women were nine times more likely to suicide than women in general. In recent times a Finnish study found that women who abort are six times more likely to die from suicide than women who had delivered. Health professionals are not being trained to identify, treat or prevent abortion trauma, while the unethical continue to make unsubstantiated claims at the expense of women's health and without fear of accountability. Suicide has become a major health issue in our community. The Federal Government is spending millions aimed at preventing deaths from suicide. More men are dying from suicide and more women are attempting suicide. Quite apart from the enormous suffering in human terms, the increasing suicide and attempted suicide rates are putting even more strain on our public hospitals and health care system, which are already so overstretched that people with life threatening conditions cannot access easily the medical help that they need when they need it. We know this only too well. We in the Opposition have been endeavouring to highlight this in the public debate day in and day out over recent months.

The *British Medical Journal* in December 1996 published a Finnish register linkage study on women who had suicided within 12 months of aborting, delivering or miscarrying. They found that women who aborted were six times more likely to commit suicide than women who delivered and three times more likely than women in general. Women Hurt by Abortion has commented that the study presents only part of that suicide picture. It says that the post-abortion syndrome typically does not present until some five to 10 years after the abortion and then usually in association with a triggering event, such as a subsequent birth, death or miscarriage. The organisation indicates that in its view if the Finnish study had had a longer time frame and if it had taken into account a previous abortion history of those who suicided following a birth or miscarriage, the suicide abortion rate would have been much higher. It is interesting to note that Ireland, where abortion is still illegal and consequently the abortion rate is low, is listed according to the Commonwealth Department of Human Services and Health booklet on youth suicide in Australia as having the lowest suicide rate of 27 developed countries for females aged 15 to 24 years.

Hon Mark Nevill: You can attribute that to confession, too.

Hon TOM STEPHENS: Can one? I suppose one could attribute it to clover.

Hon Mark Nevill: You could do that.

The PRESIDENT: Order!

Hon TOM STEPHENS: I have deliberately taken the course of not interjecting on any of my colleagues, except where the interjection was invited.

Hon Mark Nevill: You do not have to respond.

The PRESIDENT: Order!

Hon TOM STEPHENS: Unless the member has something sensible which he wishes to say to me, I would appreciate his doing the same to me.

In 1994 a United Kingdom parliamentary report by the Commission of Inquiry into the Operation and Consequences of the Abortion Act reported that in 1976 a symposium was held at Westminster Hospital on investigations into 1 000 attempted suicides which occurred during 12 months in the hospital catchment area, mainly among young people. The researchers reported that the only common factor that they found was that seven times as many women who attempted suicide had had abortions as there were in the control group. The figure rose to nine times as many women as in the general population. There is no indication in this survey of the incidence of confession among those women. However, a constant seems to be the impact on those women of the abortion reality in their lives. In the survey not one woman who attempted suicide was pregnant. Even more disturbing was the psychiatric profession's response. The commission heard from Dr Kuman, representing the Royal College of Psychiatrists, that it would not be routine or even likely that someone being treated for attempted suicide would be asked about any history of previous abortion. Furthermore, no further investigation into this link had been investigated by the psychiatric profession.

In a published study of 71 aborting adolescents, Campbell and others found that 29 per cent of post-abortion adolescents made suicide attempts. This study was published in the journal "Adolescence" in 1988. In a 1986 study of some 3 636 subjects researchers at the University of Minnesota found that 202 adolescents had attempted suicide. An induced abortion was commonly found and statistically associated with a suicide attempt. Other factors

associated were divorce, unemployment, separation, legal difficulties, gaol, and suspension from school. A Columbia abortion information survey project conducted through an agency called Over Arms in 1993 found that of 828 aborted women, 27 per cent were suicidal, 81 per cent had lower self-esteem, 32 per cent had drug-alcohol abuse problems, 32 per cent indicated that they were experiencing nightmares, 11 per cent had attempted suicide and 46 per cent presented with despair or hopelessness.

The Akron Pregnancy Service found in a 1993 study of 344 aborted women 66 per cent with symptoms of guilt, 22 per cent with nightmares, 38 per cent with lowered self-esteem, 46 per cent with an inability to forgive self, 27 per cent with despair and hopelessness, 54 per cent with regret and remorse, and 16 per cent with suicidal impulses. A 1991 study at the Insititute for Abortion Recovery and Research, Portsmouth, found that of 232 aborted women, 36 per cent had experienced suicidal ideations, a complex way of saying they had experienced suicide ideas. Reardon's 1987 study of over 100 women who suffered post-abortion trauma found that 60 per cent had experienced suicidal ideation, 28 per cent had attempted suicide, and 18 per cent had attempted suicide more than once, often several years after the event.

There is anecdotal evidence of abortion being associated with male suicidal behaviour and other self-destructive behaviour. A survey of some of the material that is available around the globe on this issue of abortion and the suicide connection would alarm anybody and everybody. It is understandable then that there are many in the community concerned by the absence of publicity of that reality, the absence of serious media treatment of that reality, and the need for groups such as Women Hurt by Abortion which must press on with expensive advertising programs to try to draw that information to public attention. Those people who profess a concern for the needs, rights and interests of women should be at the forefront of ensuring that this material is available for women. The medical profession should be out there involved in ensuring that this information is available more readily in the public domain. Indeed, one would hope that the abortion advocates would want to balance the scales by making some reference to this type of material that is available in the research journals that deal with medical questions and the health problems facing women. There have been calls for an independent inquiry into a whole range of issues across Australian and Western Australian political life. I would have thought that this area lends itself to detailed analysis and study of the research material which suggests a most unsatisfactory link between abortion as a phenomenon occurring in the lives of women and suicide statistics.

Another issue is the need for women to have some opportunity to access counselling. In the view of many, and it is certainly my view as well, they should have some information about another link, which is the link between the experience of abortion and the phenomenon of breast cancer. I refer to another advertisement which had to be placed by Women Hurt by Abortion in *The West Australian* on 15 May in order to gain some coverage for this phenomenon. The advertisement reads -

> For over 40 years, cancer studies have been demonstrating a probable link between breast cancer and abortion.
>
> **Of the 30 studies published worldwide, 24 have linked abortion to an increased risk of breast cancer.**
>
> Incredibly, those responsible for abortions still choose not to warn women of the danger hiding behind "it's not proved yet" or "there needs to be more research".
>
> This irresponsible action is based on a **single** and obviously flawed Danish study. The study, which according to Professor Joel Brind, wrongly misclassified over 60 000 aborted women.

Since 1957 there has been mounting evidence of the abortion-breast cancer link but despite the substantial evidence and increasing incidence of breast cancer in our communities, those in positions of responsibility to be involved in warning the community and especially women have not been out there in the marketplace doing exactly that.

Abortion continues to be, regrettably, aggressively and recklessly promoted by many as a safe surgical procedure. During this debate in both Houses of this Parliament claims were made that this procedure is a safe medical procedure, as though it simply left no negative consequences for women, let alone the unborn child. It is apparent our young women are not being warned before becoming sexually active and aborted women are not being advised to be more vigilant in watching for signs of breast cancer. Health professionals themselves seem poorly informed of the now substantial evidence of an abortion-breast cancer link. According to the National Health and Medical Research Council, in Australia the incidence of breast cancer has increased from one in 16 to one in 13 within the short space of the past 20 years. I am told that the Cancer Foundation and health bureaucrats have not yet taken up the challenge of responding to these statistics and studies. Instead they hide behind their simple statement: Not yet proven. They also proceed with the unsubstantiated recall hypothesis. Those with cancer are more likely to report an abortion history than those without. There are many people in this Chamber who are deeply suspicious of the way the medical fraternity has handled some health issues, and the way it has tackled the issues of asbestos historically,

which has been particularly offensive for its recklessness. At various periods over the last 30 years members in this place have taken divergent views on this question of the differing attitudes of medical fraternity from one end of that time scale to another.

I had hoped that there would be people in this Chamber who would have expressed some concern about the existence of studies establishing the clear indicators of linkage that would justify some additional research in the area, and also alerting people to the possible connections between abortion and breast cancer and the need for an aborted woman to have a real sense of the need to be alert for this disease occurring in her life following the abortion.

Basically, the medical profession, which has long ignored the problem of abortion trauma, continues to remain silent while unscrupulous professionals and the self-interested pro-abortion lobby group make all sorts of unsubstantiated claims at the expense of women's health. Of the 30 studies published worldwide, we now have 24 linking abortion (particularly an abortion of the first pregnancy) to an increased risk of breast cancer. There is worldwide supporting evidence for this trend.

Joel Brind, a Professor of Biology and Endocrinology at Baruch College of the City University of New York whose meta-analysis was published in the *Journal of Epidemiology and Community Health,* October 1996, found an association between abortion and breast cancer and concluded that induced abortion should be included among the significant independent risk factors for breast cancer irrespective of the number, stage of pregnancy and timing of the abortion relative to the first pregnancy carried to term.

His analysis was a compilation of all the international literature since the first study appeared 40 years ago which pooled the results of the 23 separate studies available at the time. He found women who abort may have a 30 per cent overall greater risk of breast cancer than other women. Brind warned that his findings were conservative, and the risk may well be higher, especially in subgroups such as teenage, first pregnancy aborters and those who never subsequently carry a pregnancy to term.

Brind said his findings were consistent with what was already known of human biology, oncology and reproductive endocrinology and were supported by a body of laboratory data as well as epidemiological data on other risk factors involving oestrogen excesses. All of which together pointed to a plausible and likely mechanism by which an abortion may add significantly to a woman's breast cancer risk. He did not find the same association between miscarriage and breast cancer, which was probably due to the low oestrogen levels in the first trimester known to be associated with miscarriage.

Brind stated he was convinced that such a broad base of statistical agreement ruled out any reasonable possibility of bias, and that several studies had adequately dealt with the possibility of 'reporting bias', a hypothesis abortion advocates have desperately clung to despite the evidence to the contrary.

Within a few months of Brind's analysis being published, a Danish study was produced and loudly acclaimed to have disproved the abortion/breast cancer link.

The reference here is to an article by Melbye titled "Induced Abortion and the Risk of Breast Cancer" in *The New England Journal of Medicine* of January 1997.

As could be expected, this study was eagerly embraced by the pro-abortion community and widely reported in the media. It was then picked up by health bureaucrats and some medical scientists as justification for not alerting people to this potential link that was becoming more apparent and correlated.

Brind was scathing in his criticism of Melbye's Danish study's 'oversights' and misrepresentations. Indeed, even to the untrained eye, it is obvious Melbye has included a substantial proportion of older women (who because of their age are more likely to have developed cancer) for whom they had no abortion data, and a substantial proportion of younger aborted women, for whom not enough time had elapsed for cancer to have developed. (He included all women born from 1935 to 1978, although his abortion data is taken from 1973 to 1992, and his cancer data was taken from 1968 to 1992). The figures speak for themselves.

> To date, much of the theory put forward by researchers on the cancer/abortion link, centres around a woman's first full-term pregnancy causing significant hormonal changes, permanently altering the structure of the breasts. Of course, a termination of this first pregnancy abruptly interrupts the process, leaving millions of breast cells suspended in a 'transitional state', and, according to researchers, more vulnerable to becoming cancerous. What researchers do not seem to be discussing is the relationship between the tremendous internal stress caused by the unresolved grief post-abortion and cancer.
>
> Depression and stress interfere with the immune system, making a woman more vulnerable to cancers and infections. This may help explain why some researchers have linked abortion with other forms of cancer.

The third advertisement that appeared in *The West Australian*, this time on 16 May, was clearly positioned in the newspaper by the Women Hurt by Abortion organisation in the lead up to the debate in this House in the hope - or hope against hope - that it may have some impact on the legislators in this place before they agreed to the motion that is now before the House. That motion would have us embrace the message from the other place containing the amendments to the abortion Bill, devoid of obligation to ensure that these facts are available to the women of Western Australia as they proceed into the abortion industry.

The advertisement says that post-abortion syndrome is understood to be a type of post-traumatic stress disorder. A recent American study found that within three to five years of aborting, one in five women met the full diagnostic criteria for post-traumatic stress disorder. Women who show outward signs such as post-natal depression, suicidal behaviour, drug and alcohol abuse, eating disorders, miscarriage, family breakdown and other problems, can be suffering from post-abortion syndrome. Many women do not consciously connect the abortion with the damage being suffered and health professionals are not trained to identify, treat or prevent post-abortion syndrome. Consequently, most sufferers have no access to the professional help they need. To continue -

> Professor Philip Ney, whose major review and analysis 'Mental Health and Abortion' was published in the *Psychiatric Journal of the University of Ottawa* November 1989, stated in his summary -
>
> > There has been insufficient research on medically induced abortions and most studies are badly flawed.
> >
> > There has been no prospective study in which a sample of the population has been evaluated before they were pregnant and then followed for a period of time after they were aborted or delivered.
> >
> > Most studies have shown short periods of follow up.
> >
> > Most evaluations have depended upon questionnaires or brief interviews which do not allow a patient the opportunity to express her deeper distress.
> >
> > There have been few studies with comparison groups.
> >
> > There have been no studies in which the psychological impact of the physical complications has been ascertained.
> >
> > There have been few studies in which the real reason for the abortion was clearly stated.
> >
> > There have been no large epidemiological studies.
> >
> > There have been no studies on the prevalence of aborted women in various populations.
> >
> > Most studies have only 60 to 70 per cent of sample in follow-up evaluation.
>
> From the research surveyed in this article it can be reasonably concluded that abortion is not being critically controlled by scientific study like other medical procedures.

This is the simple medical procedure that is described by the proponents of this legislation as being safe. I think one person even made a claim during the debate on the second reading of the Bill in this place that there had been no deaths from hospital medically carried out abortions in this country; a claim which we know to be untrue.

> In 1992 the *British Journal of Psychiatry* published a review of over 70 studies which found that psychological or psychiatric disturbances occur in association with abortion and seem marked, severe or persistent in approximately 10 per cent of cases.
>
> Given the serious limitations of many of the studies to date and their frequent interpreter bias coupled with the tendency of Post-Abortion Syndrome to be labelled by its presenting symptoms, a figure of 10 per cent probably underestimates the true picture.
>
> In 1994, a UK Parliamentary Commission of Inquiry into the effects of abortion on women found 87 per cent of women surveyed experienced long-term emotional consequences with 15 per cent actually requesting counselling.
>
> I am told that health professionals are not being trained to identify, treat or prevent post-abortion syndrome. It seems most women deeply damaged by abortion are unable to access the professional help they need.

I believe that the study of those phenomena and the claim for the prevalence of the existence of the phenomena of the post-abortion syndrome is justification for an independent inquiry into this whole area of human experience.

We as a community, and certainly the women of Western Australia, need to have the opportunity of understanding

more about this abortion trauma. We need to know why it is that the trauma is being deliberately ignored by the medical profession, which seems to be reluctant to examine how much abortion trauma is costing the Health budget.

One must also question to what degree the abortion industry has contributed to the incidence of breast cancer and associated health problems of drug and alcohol abuse, psychiatric disorders and increasing suicide and attempted suicide rates in this State. If people associated with this industry and the advocates and proponents of this legislation were prepared to show consistency in their professed concern for women they would be advocating the need for information on the impact of abortion on the health of women following that tragic experience.

I have listened attentively to the words of a proponent of the legislation hoping there would be at some stage the opportunity for some media coverage of her concern or fears about abortion. There has been no coverage of any of that comment coming from that quarter. I have not heard it myself from the advocates of abortion law repeal. In part it is because abortion is seen as somehow a right that must be secured and that we cannot talk about the ugly side to it because it would somehow or other jeopardise the securing of that right. That approach is doing the women of Western Australia a grave disservice.

The message before us that would be agreed to once this motion is dealt with invites a real call for the message to be amended in many places. We know that opportunity is no longer available to this House and has passed us by as a result of a decision of this House.

I am particularly appreciative of the comments in this debate by so many of the pro-life members who have spoken. As a result at this stage my comments will not necessarily last for very long because so many of the arguments have been put so well. I specifically refer in the first instance to the argument put by my colleague, the Deputy Leader of the Labor Party, Hon Nick Griffiths, who has well and truly covered the message and the need for the amendments that would have been appropriately considered had we followed the normal course. I will not deal too much with that area, particularly in view of the fact that following his contribution other pro-life members from the other side of the House, such as Hon Muriel Patterson, Hon Barbara Scott and Hon Simon O'Brien, have well and truly put on the record some very important comments documenting so much of the argument why this Bill, even with these amendments, should not be agreed to by the Parliament.

I know the pro-life members have not finished speaking yet. I understand my colleague Hon Ed Dermer will speak and Hon Ray Halligan will also speak. However, I want to join with those pro-life members who have commented on the experience that we have had as a group, which, as Hon Barbara Scott said, came together soon after the arrival of this legislation in the Parliament and worked with Hon Phil Pendal in trying to develop a response. It has been for all of us an extraordinary experience, and it has been unprecedented for me in the time that I have been in this place. It has been very rewarding to dialogue about issues in which the discipline of parties is not able to intrude easily. I have appreciated that experience, and I join with others who have recognised that this core group will need to do more work, because some people are advocating other issues that they want to bring before this Parliament that are straight attacks on that principle of life; they want to see the passage of legislation that will attack life at the other end of the time scale. I pay tribute to all those members of Parliament, particularly Hon Phil Pendal, who have worked with our group for their splendid sense of purpose in trying to reduce the damage that will be done to the women of Western Australia and to the life of the unborn children of Western Australia as a consequence of the liberalisation of the abortion laws of this State.

I have not referred to some amendments on Supplementary Notice Paper No 40 that I believe are still the basis for arguing against the carriage of this motion and that are, in the absence of those additional words, justification for the defeat of the message from the other place. One amendment that is particularly dear to my heart deals with coercion. I have said to my colleagues in the pro-life group that I am staggered that the advocates for the rights of women have not considered it necessary to include such a provision in the Bill. I am staggered to think that people can go on record and proudly argue for the defeat of a provision that seeks to protect women from being forced, threatened, intimidated or coerced to move into the abortion industry. Anyone who has read about this issue - which I had not done a great deal before this debate - will know that there is much evidence that women are pressured, threatened, intimidated and forced. I am staggered that a member in the other place would argue for the deletion of the word "coercion" on the basis that it is entirely acceptable for women to be coerced to move towards an abortion experience. I find it extraordinary that a member would be prepared to occupy the time of the Parliament by articulating a defence for that phenomenon.

I have been parodied in the electronic media for my sense of disbelief and bewilderment, but I continue to be bewildered by the outlandish responses of various players in this Parliament to what I believe are legitimate attempts to protect women and to provide women with the opportunity of defending themselves at law. If a woman were buying a transistor or an encyclopaedia she would have better prospects of protection at law than will be available to her from the advocates of abortion law repeal who have seen fit to reject the amendments on Supplementary Notice Paper No 40.

One of my proposed amendments would make it an offence for a person to procure or attempt to procure the consent of a woman to an abortion by force, threat, intimidation, coercion, deceit or fraudulent means and that person would be guilty of a crime and liable to imprisonment for 10 years. Further, a medical practitioner who performed an abortion knowing that a person had procured or attempted to procure the consent of the woman concerned to that abortion by any of the means mentioned in subsection (4) would be guilty of a crime and liable to imprisonment for 10 years. I am staggered that the defenders of the rights of women, those who claim that role and have based their political careers on an association with women's issues, have allowed themselves to fall in with the advocacy of the abortion industry and will leave the legislation such that it will allow people to be coerced into procuring an abortion.

I am one of a group that argues strongly for the inclusion of other words in the legislation, about which I have spoken a little. I refer to amendment No 8 of the Assembly's message. I have dealt with this a little and it is clear that my sensitivities on this issue have gone unheard. That will not stop me saying more on the topic, although I appreciate that no-one is listening.

Hon N.D. Griffiths: We are listening.

Hon TOM STEPHENS: No-one from the other side of the argument is listening. The Bill should give doctors, nurses, other medical personnel and counsellors the freedom to be at some distance from the obligation to participate in the procurement of any abortion if their consciences so dictate. Although claims have been made about the notion of referral, by virtue of the legal information provided by the Leader of the House, I have read at length alternative opinions in this area. There is still no undertaking from the Government that if the claims made with reference to this amendment impinge on the rights and consciences of doctors, nurses and other medical personnel, amending legislation will be made available immediately. I find that unacceptable. Some people will not find this debate congenial because they would like to leave some obligation on doctors to refer patients for abortion. Hon Giz Watson, even after the earlier debates, argued that doctors, nurses and counsellors should have an obligation to refer people for abortions. A legal case was mounted in this area in respect of a Catholic hospital and doctors refusing to provide full information about abortions because they believed that they could not in conscience do that.

This issue is dealt with in the standard ethical text books to which anyone wanting to deal with questions of moral philosophy or legal ethics can refer. One can get caught up in the issue of cooperation in the offence or crime of another. The starting point is that if something is morally, ethically or legally wrong, having made that observation, one has an obligation to keep as far away from that reality as possible.

A systematic moral philosophy establishes the code for the application of these principles and rules of thumb in assessing morality in this dilemma. In this case the issue is being involved with abortion even by the simple act of referral. Distinctions are made between immediate and mediate cooperation in this area. The former involves collaboration in the evil act itself. Actively assisting a thief in taking another's property illustrates the point for those who do not have sympathy with the notion of abortion being so wrong. Mediate cooperation is when the cooperator provides some means necessary to enable a principal agent's achievement of his or her purpose. In the example of the act of murder, that would be supplying the gun. Mediate cooperation is further classified in this system of moral philosophy by breaking it up into principles of proximate or remote. The whole notion of getting close to the action of the main agent is the question of how seriously one is involved in complicity with an act that according to one's own conscience is wrong.

I had the opportunity to study an interesting article on this question in the book to which I referred in an earlier debate - *Church, State, Morality and Law* - and which includes some statements with which I do not entirely agree. However, it also deals with the notion of the distinction between immediate and mediate cooperation. It provides an opportunity for people who have this sense of conscientious objection to any action, whether it be abortion or other realities that they consider to be plainly and absolutely wrong, to determine how to respond to the various circumstances and dilemmas they face in their professional, social or family life. It provides a method for people to look through these issues and to establish what should and could be their response.

I found the construction of the argument very compelling. It refers to immediate cooperation being precluded and being too closely bound up with the achievement of an evil result to admit of any real moral distancing on the part of the collaborator. Anyone still trying to sort out what we are on about, which is clearly beyond the comprehension of Hon Giz Watson, should read this article. It is the framework from which I have operated and the basis for this amendment, which would protect people who hold similar views about abortion to mine and those of people such as Dr Michael Quinlan of the St John of God Health Care System Inc and Sister Naomi McClements from the Sisters of the Good Shepherd, who is involved in counselling work in the northern suburbs. She has been in regular contact with me. That order of religious women is famous for its work among young women in our community. They are a very dedicated group of Catholic nuns who have done quality work but who are now faced with real problems in respect of the Bill passed by the other place and the message before us today.

There will be those who see this debate as simply too fussy and dealing with something that is imprecise. Others will see the distinction as sophistry on the part of those engaged in looking at the issues. As I said, people have developed this complex template to work through the dilemmas we face in our everyday lives. They argue the case why people should try to find ways of distancing themselves from those things they see as wrong. It is based on the application of general principles to resolve the moral dilemmas to which some people might refer as meaningless cant. However, to others it is a way of building up the notion of embracing good and avoiding evil. It is not sophistry or a resort to the use of invalid arguments to embrace some sort of ingenuity in the hope of deceiving others. This is not an act of deception on the part of those who have foreshadowed the amendment we are now not permitted to move.

By virtue of the acceptance of this message and the passage of this Bill, members are delivering real problems to Western Australians. We all have an obligation to dwell on those problems and the moral complexities with which we are presenting doctors, nurses and counsellors. We should make some political decisions in response to those moral dilemmas that leave us at least with a record of having appropriately supported and protected those professionals. We are obligated to attend to all the relevant moral and legal factors in order to avoid a collapse of principles under the pressing weight of any circumstance. That is our obligation as legislators and it is clearly shared by other professionals and all citizens.

There is a real need for the conscientious objection clause that would have been included if my amendment and that sponsored by the other pro-life members of Parliament had been successful. I am most disappointed. Despite the assurances of learned counsel to the Government that were relayed in part by the leader of the Government, I am not comforted. I share the concerns of those who have continued to express their opposition to the enactment of this legislation without the inclusion of the amendment that I have put on the Notice Paper.

There is something to be said for the whole notion that Hon Barbara Scott flagged in her amendment to this message. That amendment referred to the real time ultrasound opportunity for women.

I understand the ignorance of the 1960s, the days when foetology and embryology were antiquated and primitive and when the current technological advances were not available to the hippies of the day. I understand the attitudes of those in that bygone age, when people knew nothing of foetology and embryology. I cannot understand people who continue to lock themselves into science that pre-dates the arrival of technologies that can hit us between the eyes -

Hon Muriel Patterson: The ultrasound.

Hon TOM STEPHENS: - with a real appreciation of the unborn child in the womb. It is time for those who believe the life of a child in the womb is not human life at all, who are trying to clothe themselves in garments that were more suited for a bygone era, to move on. We are confronted with scientific information which proves indisputably that we have an unborn child in the womb from very early in the pregnancy. That issue was canvassed well by my colleague, Hon Nick Griffiths.

Hon N.D. Griffiths: Our opponents believe in myths, but they promote lies.

Hon TOM STEPHENS: There is something to be said for people shaking away the old, antiquated furniture of the mind, and recognising that new furniture can be applied to the consciousness that comes from the acceptance of what science can currently deliver to observe what is going on in the womb of a pregnant woman. Is there any wonder Hon Barbara Scott identified the statistic relating to young people? Here we are basically dealing with dated people, promoting an out of date argument which has no relevance to the scientific observation of the unborn child in the womb.

It is no wonder their arguments have found no favour with the youth of the emerging generations, with which we will all be faced in double-quick time. There is not much we can do about those with closed minds, closed hearts and closed ears. Perhaps we should simply look on as they flap around in their sarongs, feeling comfortable with their view of the world. I liked wearing my sarong -

Hon N.D. Griffiths: In the 1960s.

Hon Ken Travers: You still have it, don't you?

Hon TOM STEPHENS: I keep it at home. I do not wear it out in public. That is what people are doing when they display their outdated views on the life of the unborn child. They know technology is available to dispel these sorts of myths. I see the people who pursue these views as simply being swept away by history, and eventually being discredited by a community with an appetite for a more realistic approach for that which we are dealing with here. As they rediscover an appreciation and respect for the life of the unborn child, people will wonder how on Earth these people populated the Parliament and the media, dominated the debate and succeeded in getting this awful Bill agreed to by this place.

That may take time. I am keen to work with anyone else who wants to participate in the process of ensuring that the youthful who see the value of that science get their chance to take their place on the public stage and re-establish a real sense of respect for the sanctity of human life, not simply the vacuous articulation of respect for the principle without being prepared to enshrine it in any way. These members do not want any comma, full stop, suffix, prefix, preamble or anything in the Bill in that regard; they want it stripped of sensitivity.

I am genuinely disappointed by those who purport to be pro-life and to uphold the sanctity of life principles, and in unguarded moments say that abortion is not good, but who are still not prepared to go public in this legislative arena to improve this Bill to reflect what they purport to be their guiding principles. I would love to give them that opportunity, even if it is a distilled version of an expression of the sanctity of life and a preamble for the purposes of education. I would have grabbed that in preference to this Bill, which simply conveys the impression that members celebrate, rejoice in and support the phenomenon of abortion in our community.

I also am disappointed about other features of the debate, not the least of which has been those members who have purported to share an opposition to abortion, yet have facilitated the measure's passage in many ways. I could be harsher - I will not. I am genuinely disappointed about those who purport to be opposed to legislation, but have done so much to facilitate its passage, for whatever reason.

For me the mood of the Parliament and the public debate had many parallels with the potential response of women to the notion of an unplanned and unwanted pregnancy. We are dealing with an issue in the panic of an unplanned and unpleasant reality. The unplanned event was the prosecution of doctors, leading to the flap of activity which has produced the desire to ignore all advice, facts and counsel. Without using one's intellect, ears and eyes, there is a desire to get some form of new order in place which is pushing this Parliament in a direction which will not produce a satisfactory result for the community.

I now refer such members to an article concerning a talk given by Dr Catherine Kovesi-Killerby in reference to the abortion debate.

Dr Kovesi-Killerby rejoices in her label of being a feminist and a pro-life feminist. Over the past month the abortion debate has polarised quite properly into two camps. Broadly speaking these have been that of the pro-lifers, often depicted as simple illiberal Catholics, and the pro-choice lobbyists, who are generally portrayed as sophisticated, liberated women. In other words, we have catholicism and repression versus choice and liberation. She writes -

> Feminists, we have heard over the last few weeks, have declared that to be anti abortion is to be anti woman, to be attempting to turn the clock of the liberation movement back.
>
> What I would like to argue tonight is that abortion is, of its very essence, profoundly anti woman.
>
> In fact abortion harms women, ignores their rights, and exploits and degrades them.
>
> The feminists that we have seen on TV over the last weeks present themselves as belonging to a united camp.
>
> Any divergence from their views is seen as a betrayal.
>
> These views are expressed in a poem from the Feminist Women's Health Centre entitled: "A message to Women Seeking Abortion from the staff of the clinic." It reads:
>
> > May you know that your body is yours,
> > May you know that your judgment is sound.
> > May you know that your life is your life.
> > We honour you.
> > Our wish for YOU and for all women
> > is total sexual and reproductive freedom.
> > We hope you will consider yourself 'pro choice'
> > and work to keep abortion safe, legal and
> > accessible for your sisters in the future."
>
> Feminists, however, are far from united on the abortion issue and those in favour of abortion, euphemistically called 'pro choice', are a recent phenomenon amongst feminists.
>
> Susan B. Anthony, one of feminism's early leaders, wrote in her newsletter *The Revolution,* that "when a woman destroys the life of her unborn child, it is a sign that, by education or circumstances, she has been greatly wronged."
>
> Elizabeth Caddie Stanton wrote: "When we consider that women are treated as property, it is degrading to women that we should treat our children as property to be disposed of as we wish."

> Alice Paul, who drafted the original version of the Equal Rights Amendment, referred to abortion as "the ultimate exploitation of women".
>
> In America there is now a long-established organisation called Feminists for Life, and even that icon of Australian feminism, Germaine Greer, in her book *Sex and Destiny* has spoken strongly against abortion as destructive of women.
>
> What has happened in the feminist movement, then, that has led to many women who claim to be feminists advocating abortion?
>
> There are two aspects of the modern feminist movement which, when combined, produce an abortion culture.
>
> The first is that of opening doors for women to professional and public life. The second is that which advocates sexual freedom for all.
>
> Yet, as Frederica Matthewes Green argues, participation in professional and public life is significantly complicated by responsibility for children, while uncommitted sexual activity is the most effective way of producing unwanted pregnancies.
>
> The dilemma that this leaves many women in is that they are in the simultaneous pursuit of behaviours that cause children and which are hampered by them.
>
> This dilemma often finds its resolution on the abortion table.
>
> The situation is compounded by societal attitudes.
>
> If women's rights are judged to be in conflict with their own children's rights, then something is surely deeply wrong with our social life.
>
> In a culture that treats pregnancy and childrearing as impediments, and which often requires that any children produced be perfect, women and their babies are surgically adapted so that they will fit in.

By way of interpolation on this article, I see in so many areas of the health administration the natural suspicion of people from the medical fraternity, yet in this abortion area suddenly the doctors' solution and their involvement in the abortion process is somehow to be separated out from all of the other suspicions that typically the contemporary feminist movement might have in relation to a whole range of other areas. In reference to abortion somehow or other the medical solution, the doctors' right to be involved and their right to have no-one else involved in the abortion process, is championed, yet in all of the other areas of medical practitioners' activities and interface with patients, there is regularly pressure for the involvement of the State by ensuring that the rights of individuals - women, children and others - are protected by Statute. However, with regard to abortion, somehow doctors are to be relieved and freed by virtue of the arguments for the repeal Bill of any regulation or regime in this regard.

I also find farcical the other side of the argument that says that women will always do the right thing in reference to this issue and do not need the laws to interfere on that question. In the area of industrial law, on that basis, we would have produced laws governing the relationship between female employers and their employees which included exemptions so that the laws did not apply to them on the assumption that women would always do the right thing and would not need the guidance of the law to compel them to do the right thing. It is also like the argument about women in the commercial world providing financial advisory services - they must be doing the right thing. The feminists had to push women in their direction with the support of all the processes and all the madness that says do your banking with that firm because it is run by women and they will look after you; they have some sort of superior ethic governing the way they will look after the finances of the world. We know where that ended up in the case of Western Women Financial Services. Women became the victims of that women-controlled financial institution.

When will people learn that we are all just human, men and women, and we all need to have laws to govern our interface with each other, our children, and our society? By virtue of being male or female does not provide us with some opportunity or guarantee that we will always do the right thing, otherwise we would have people in this place move for the exemption of half the population in respect of all the laws we deal with, on the basis that women will always do the right thing, given some of the arguments that we have had put in the process of this debate. A recent article by Dr Catherine Kovesi-Killerby stated -

> If women are an oppressed group, they are the only such group to require surgery in order to be equal.
>
> Camille Paglia, an apparent radical feminist but perhaps just another conformist abortionist, unwittingly expresses this position when she rails against "fascist nature" which ties a woman to her reproductive functions and enslaves her.

> Is the only way out for a woman to submit to a procedure which vacuums out the contents of her womb, and which denies her own humanly creative nature?
>
> Frederica Matthewes Green likens the situation to the Greek myth of Procrustes.
>
> Procrustes was an exacting host. If you were the wrong size for the bed he provided for you, he would stretch or chop you to fit.
>
> The abortion table, she argues, is modern feminism's Procrustean bed, a bed that, in a hideous twist, the victims march in the streets to demand.
>
> Like an animal caught in a trap, trying to gnaw off its own leg, a woman who seeks abortion is trying to escape a desperate situation by an act of violence and self-loss - violence against another who is flesh of her flesh, and violence against herself.
>
> Abortion is not a sign that women are free, it is a sign that women are, in one way or another, desperate.
>
> Abortion is not a sign that women have a choice, but is a solution for women who feel that they have no choice.
>
> If women want to do themselves a service, they would do better to march in the streets demanding sexual respect and employment flexibility, a culture which is friendlier to all mothers, and more support for those in financial and emotional distress.

These are the sorts of statutory objectives in response to those sorts of observations of Dr Catherine Kovesi-Killerby that I will enthusiastically embrace in Statute as opposed to the Statute that we are to be lumbered with tonight.

What kind of concern for women is demonstrated by our society when we put more stress on helping a woman to kill a child than bear it, however difficult her situation? To my knowledge only the pro-life movement has made unconditional offers of emotional and financial support to women who find themselves with an unwanted pregnancy. In America the pro-life movement offers women over 3 000 centres where they can find compassion, assistance, real alternatives and life giving choices. It has been observed that the abortion movement offers women a wounded body, a scarred mind and a dead foetus.

Who is it who profits from abortion? In the television coverage of the debate in Perth one of the most grotesque scenes shown was of women running up to Dr Chan with shrieks of enthusiasm and kissing him as a great champion of their cause. To his credit, Dr Chan looked decidedly uncomfortable to have this role thrust upon him. The truth is that Dr Chan, like others who work in abortion clinics, has made a very good living out of aborting women's children.

In recent weeks we have heard of women who attacked the pro-life movement for being run by men trying to control women. However, the abortion industry is run primarily by men who make a lot of money out of it. It has been estimated that the abortion industry makes about $500m a year. The sale of unborn children's parts could push that figure into billions. The French cosmetics industry, for example, is one of the principal buyers of foetal products, so that in the most grotesque twist of all women can buy back the dead products of their wombs as creams to plaster on their faces. It could be said that the way in which women have become victims of the abortion culture is really a peripheral aspect of abortion. However, while bearing in mind that of course the child is a much more profound victim than the woman who allows it to be killed, it is important that we not allow a vocal group of a particular branch of feminist culture to speak for all feminists, let alone all women.

My most extensive comments in reference to this were my expressed opposition to the second reading of this legislation. Now we are left with a more narrow debate, and I am proposing to wind down.

Hon Simon O'Brien: You are just getting your second wind.

Hon TOM STEPHENS: No, I am not. As all members know, I am capable of going to excess but I am not going to do that; although it is tempting from time to time, particularly in view of the fact that I am told there are - and this is a serious reality - abortion clinics and hospitals that are waiting for the enactment of this legislation before they will get going again. It is tempting to keep going in the hope that some lives are saved in the meantime before they wind themselves up again once this legislation is whisked through this place and down to the Governor and signed.

Hon Mark Nevill: If you look at clause 7(b) they must be approved under this Bill.

Hon TOM STEPHENS: I think the member will find that the industry is ready to crank itself up again pretty quickly and presumably there will be other consequences pretty rapidly as well; for instance, I predict the dropping of the charges against Dr Chan and Dr Lee as a consequence of the passage of this legislation.

Hon N.F. Moore: The good Lord will sort it out.

Hon TOM STEPHENS: I have always worked on the basis that one must also apply some human ingenuity to help this process and our obligation as legislators is to participate in the process of trying to bring about a sense of more -

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! Until this stage, members have done a good job of refraining from interjecting. Please continue to do so.

Hon TOM STEPHENS: I accept that the Bill, as introduced, was in my view absolutely atrocious. The Bill, by the time it left this Chamber, was not much better. The Bill, by the time it was dealt with in the other place, was a little bit better. The amendments before us embody that slight improvement. Nonetheless, as an expression of my opposition to the principles of this Bill and in view of the only vote available to me I will vote against these amendments, not because I want to see the Davenport Bill without them, but because it is the only vote I have left. I want to be on the record that I would need a stack more amendments before I was prepared to vote for this message. I am placed in a futile position as a result of the gymnastics of the processes unleashed somewhat unfairly by those who have engineered the consideration of the issues.

I want to finish my comments on a slightly different approach. I accept that those slight improvements have been brought about by the strongly motivated minority associated with the pro-life corps who were eventually able to get so limited a response as these amendments; nonetheless, that is what finally happened, otherwise we would have been left with this atrocious Bill that had the support of the Attorney General for enactment in this State, which was extraordinary.

Leaving that aside, I want to recognise that people across both sides of the debate have responded to it by genuinely sharing viewpoints based on their experiences of life that have produced diametrically opposite conclusions. We have all been bombarded by the campaigns from both sides of the argument. Presumably - I think the evidence is there - there has been some indication that some people have listened to some of the debate. I have noticed with appreciation that the language of the proponent of the legislation has moved regularly into the use of the terminology "unborn child". I appreciate that she has done that. In the process of this debate consciousness has been raised even in the advocates of this Bill.

Hon Cheryl Davenport interjected.

Hon TOM STEPHENS: I was hoping that the embracing of the expression of the pro-life side of the argument at least reflected that.

Hon Cheryl Davenport: I do not believe I have done that, I am sorry.

Hon TOM STEPHENS: I am trying to finish up being nice.

Several members interjected.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! The member is trying to finish up.

Hon TOM STEPHENS: Being nice. I want to place on record that we have seen people draw on their own experiences in their response to the abortion legislation. For many of us it has been an extraordinary journey. That has been especially the case for me. It has meant delving into an area of human activity that I have not previously confronted.

Many friends and acquaintances who have had abortions and who have been personally affected by them have shared that reality in their discussions with me. Presumably many other members have also had that experience. One cannot but feel a call upon one's humanity to respond to women who have had that experience in their lives.

The conscience vote in this place has presented us all with the opportunity to do much soul searching. One cannot but recognise that there have been some widespread displays of sincerity to so many of the comments made in this debate.

I want to focus on identifying a common agenda that is articulated on both sides of this debate. I want to focus on the fact that some of the elements of the arguments that were put by people from the pro-choice side are identical to the arguments that have been put by those of us on the pro-life side of the argument. Now that we have lost and they have won, there must be a recognition that common ground is the only sensible direction in which to move. I want to explore that common ground to see whether ways can be found of developing key strategies for promoting life and choice - real choice - in areas which impact directly upon this issue of abortion.

The abortion debate should provide us with a context in which we can move into that common ground and develop strategies where we draw on the experience of women and men in the broader community with regard to abortion

and where we as individuals, as legislators, as a Parliament, as a Government and as parties respond to strategies that are aimed at tackling these issues.

The Parliament has resonated with cries from both sides of this debate about the need to be concerned for women. Members have articulated the need to provide good counselling services that will aid the decision making with regard to abortion and provide facts upon which women can base their decision. I hope that is a genuine desire and that organisations that simply push women in directions that are unhealthy are relieved of the opportunity of drawing upon the public purse. I hope that members on both sides of the debate will respond more vigorously to the reality, which I think members on both sides of the House have identified, of women who labour under the injustice of a patriachial society, where their self-determination is severely restricted by their responsibility to bear children, particularly children whose existence is unplanned.

I have heard members on the pro-life side of the debate express concern that the unborn child has not been adequately respected, yet I have also heard, or I hope I have, the murmerings of respect for that reality from the other side of the debate. We need to build that respect into the institutions of our community and ensure that that respect permeates our society.

We need to ensure that women are not pressured into having abortions and that they are given the freedom to choose. We need to ensure that the women who will now have the opportunity at law of opting for an abortion will not suffer damaging physical and psychological consequences forever, if that is possible. We must make sure that the disregard for human life demonstrated in abortions does not devalue our respect for human life in other situations, such as for the aged, the sick, the infirm and the terminally ill. Truths have been articulated on both sides of the debate. All members must accept those common truths from both sides of the debate, and that should be the motivation behind an action plan that tries to reduce the incidence of abortion in the community as a raw statistic. The advocates of the Bill say that legalising abortion will have that effect. I do not accept that. I do not want it to be proved. Instead, I want an action plan to be put in place that will reduce the number of abortions. I do not want the number of abortions to escalate as it did in Great Britain and other countries once abortion was legalised. The number of abortions has increased in those countries, despite claims made to the contrary.

It seems to me that the proponents of this Bill must recognise that on the other side of the debate there is a willingness to participate in the process of improving the social circumstances that have led to the abortion option being embraced by so many people in the community. Unfortunately, in my view this has not been adequately tackled in the Bill in any way at all. Beyond this Bill, some action must be taken. I hope the advocates of this Bill will state plainly, simply and clearly, now that they have won the most liberal abortion laws in Australia, that abortion at least is not good.

Hon Cheryl Davenport: We have never said it was good.

Hon TOM STEPHENS: Is the member prepared to say it the other way; that abortion is not good for women?

Hon Cheryl Davenport: It is not something anybody wants to have but at times it is a must for some women.

Hon TOM STEPHENS: Can the member see the difference between what she has said and what I am encouraging her to say?

Hon Cheryl Davenport: No I cannot. It is about a life and a choice.

Hon E.J. Charlton: Do not worry about her, Mr Stephens.

Hon N.D. Griffiths: I would not worry about that.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! Will Hon Tom Stephens address the Chair?

Hon TOM STEPHENS: It is an invitation to try another way of articulating this issue now that law reform has been achieved; that is, the member can identify that abortion is not a good phenomenon. I hope she does not want women to embrace it. The member might identify it as a negative and encourage people to walk away from that reality. I hope she might now see an opportunity for a common pursuit in this debate from both sides of the argument. It is an important step that should be taken, otherwise people too easily can become locked into a bygone age. I understand the historical reasons for the rhetoric but now that it is no longer relevant, particularly once the legislation is enacted, the facts from the other side of the debate should be accepted. We must ensure that we have a real strategy which is aimed at the health, safety and wellbeing of mothers. That strategy should be vigorously promoted and protected in any decision relating to pregnancy. Human life is precious, and it must be respected in any decision by a woman in relation to her pregnancy. The community must support values through the provision of appropriate educational and community services.

Unfortunately in our community there is real individualism and focus on self-interest which leads the community down a path that, in the end, will not result in good health for the community. We must encourage the principles of community responsibility as well as the pursuit of the interests of individuals. We must set up support systems for pregnant women and their children, in all the environments in which they operate; so that the scales of freedom are weighted in a different direction. We should not underestimate the real difficulties that regularly emerge for women in society as they adopt the cumbersome roles of mother, worker and partner in contemporary society. Life is not easily ordered for women, and the embracing of the notion that life orders itself through the abortion process is extraordinarily unacceptable; it is a contradiction in terms.

I would like to encourage the notion that life takes many twists and turns, and that process and its complexities will enrich all of us - just like gold being refined through the furnace of life - and we will be better individuals. As we embrace the twists and turns of life, it will be better for our families and the community. The prospect of ensuring that we produce results for the community should be very attractive. We must make sure that we put on hold the rampant individualism which can damage individuals as a result of the obsessive pursuit of the needs of the individual without regard to the impact on others and on the community. Through that process we will lose a sense of responsibility for taking care of the rights and needs of others, and we will damage our society.

There is a need in our community to support the care and upbringing of children, and to relieve the pressure on women who choose to have an abortion. We must find ways to ensure that women do not face the responsibility for a pregnancy alone. They must have the support of communities, societies and Governments, in every possible way. Women should have the opportunity of obtaining the justice to which they are entitled when faced with a pregnancy - planned or unplanned, wanted or unwanted. Governments have a responsibility for that - this Government especially, having facilitated the enactment of these very liberal abortion laws. That responsibility must be sheeted home together with the need to provide support in an attempt to turn the statistics which could blow out as a result of these changes to the abortion laws.

We must ensure that babies with severe birth defects are provided with all the support and medical attention that it is humanly possible to provide. Responsibility for those children should be more easily accepted by mothers, families, extended families and the broader community. Where the community does respond appropriately, there should be real support for those individual responses.

We must support life and the quality of life. I make this point particularly to members on the other side of the House: We must have social action programs aimed at improving the quality of life of our community. There must be real government support for improving that social context so that women realise there are alternatives to the false choice they so consistently seem to think is the only option. Governments have a real obligation to respond to that need.

Other debates will provide us with the opportunity of building on these programs. We must talk about implementing improved sex education in our community and providing improved support for quality family relationships with a real understanding on the part of men and women of their responsibilities in their various relationships as husbands, mothers and parents. That can be done through a proactive response to the new reality that is delivered to us by this legislation.

I hope that we will see real government support for programs dealing with crisis pregnancies. I also hope that schools and higher education institutions will be involved in formal ethical education, so that people have a real sense of understanding the weighing up of ethical decisions. I do not see that reflected in these horrible statistics.

Hon E.J. Charlton: We have many things to do before we get to that.

Hon TOM STEPHENS: It would not be a bad place to start given this State's recent track record not only in relation to this issue but in all areas of human endeavour. I refer to the business community, the political community and the media. Ethical education could be well and truly embraced by everyone.

Hon E.J. Charlton: It must start with respect for one another.

Hon TOM STEPHENS: It takes many forms. However, there is a real need to assist communities because we are failing in our ethics, as is so obvious in the courts and the political arena. This is a very important expression of that same collapse of ethic. There is also a need for an appropriate government response. I hope members opposite will find ways to embrace that concept.

I have spoken at length on this debate, but I have deliberately not detailed the passionate opposition I feel towards this Bill. I have been soundly defeated. However, in pursuit of the objectives that I hold dear, I want to find the common ground and build upon the expressions of support for those principles that members on both sides have articulated in this debate. I hope there will be speedy indications of real support. I hope people also recognise that I have deliberately refrained from attacking individuals -

Hon E.J. Charlton: That is to your great credit.

Hon TOM STEPHENS: - despite enormous provocation at times in this debate. Some pressures that have been applied to me have been absolutely unconscionable. However, I tell members that no level of pressure upon me on an issue such as this would have me react in any different way from that which I have chosen in this debate.

Hon Derrick Tomlinson: And so say all of us!

Hon TOM STEPHENS: I hope people, particularly those who have endeavoured to apply that pressure, understand that.

HON RAY HALLIGAN (North Metropolitan) [2.56 am]: I join in what has been a long and very difficult debate. The diversity of opinion has been obvious. When one considers the belief in their argument and the quality debate from individual speakers, they are to be commended for the strength of their convictions. Many words have been, and will continue to be, used to describe that which is being done to allow the termination of a pregnancy. Those in this place are doing their best to satisfy what they see is the will of the majority of the community. Of the many suggestions that have come forth in debate some have asked for leadership; others have told us to ignore our conscience as their opinion is the only one to be held; and still others have tried to explain what the majority in the community wants and have asked that the final vote reflect that position. Whatever the final vote, it is obvious that there is an urgent need to clarify the laws as they relate to this issue. We have travelled this road, but it is one we are destined to follow until we find its end.

If this motion is to receive the support of the House, it is important that there be provision to protect women who are pregnant and may be subjected to some form of harassment or duress to terminate that pregnancy. For that reason, there must be a provision in the Criminal Code to cover that situation. To me, the enactment of these laws is purely to protect women. It is not to use the force of the laws for what these women are deciding upon, but to protect them from others who, for their own purposes, wish to have a pregnancy terminated. To give credit where it is due, the pro-life group seems to stand out. One must admire the passion and commitment of Stephen and Carmen Court. They have, no doubt at considerable expense in both time and money, endeavoured to provide a meaningful argument for their cause. They are to be commended for their untiring efforts. In the Courts' third open letter published in *The West Australian* of last week, mention was made of statistics. We are all aware of the uncertainty of numbers on which we often tend to rely so heavily. They were used again in this letter to try to convince members and others in the community about what the majority in our community want, or otherwise.

In fact, Hon Barbara Scott made mention of the Morgan gallup poll of February this year. I am not sure that she read all the statistics. It is somewhat confusing as it appears that two questions were asked. Firstly, it asked whether the laws on abortion should be changed. The question read: "Currently in most Australian States abortions are illegal unless the mother's life is in danger. In your opinion, do you think the law on abortion should be changed to make it easier to obtain an abortion, harder to obtain an abortion, or do you think the law should remain as it is?" We have heard that the figure for Western Australia was that 53 per cent of respondents answered in support of making it easier to obtain an abortion; to remain as it is, 26 per cent; and in support of making it harder to obtain an abortion, only 9 per cent. The figure for those undecided was 12 per cent. The other question, which appears to represent an anomaly, was: "Do you approve or disapprove of the termination of an unwanted pregnancy through surgical abortion?" The response in this State was that 67 per cent of people approved of surgical abortion, and only 22 per cent disapproved. I bring those statistics to the attention of the House as the suggestion was made that members had not heard of this Morgan gallup poll. It was stated that only 47 per cent of Australian people wanted abortion laws eased. The question then asked was: "Does the Westpoll conveniently serve their purposes?" Therefore, it was important that the rest of those figures be made available to members.

Another Morgan gallup poll, which was certainly conclusive, is worth reading to members. In 1966, a question was asked about the use of contraception to prevent pregnancy. The Australian figure was that 93 per cent of respondents approved of contraception. No figure is provided for Western Australia. That figure was consistent also with the 1995 poll in that regard. I do not suggest that these figures are overwhelming evidence that we should take a particular stance on this issue. However, they indicate that a large number of people believe that their will must be strongly considered.

I expect all members will agree that the number of abortions needs to be reduced. There is equally a great need for contraception education for our young adults. The fact that this legislation is required is regrettable but nonetheless it is necessary to clarify 25 years of uncertainty. I am prepared to admit that the legislation before us is not what I would prefer, but to revert to the status quo would ignore the 9 000 or 10 000 women who rightly or wrongly require some certainty on this issue.

We have heard a great deal about women wanting to terminate a pregnancy and the soul searching that they undertake

before making a final decision. I believe that members of this House and the other place have also undertaken much soul searching before deciding how they would vote. I would like to read just two items into *Hansard*. The first is a letter from Libby Lloyd, who is the Head of Department, Social Work at King Edward Memorial Hospital and Princess Margaret Hospital for Children. It reads -

> I have counselled over 500 women at K.E.M.H. requesting termination of pregnancy.
>
> How can I assist you to understand the experience of these women, after all the information, misinformation, rhetoric, passion and exhaustion of these weeks?
>
> For the sake of these women and their families I will try, because the delay and complications of the current impasse is so destructive to the 10,000 women in W.A. and their families facing an unwanted pregnancy this year, next year and every year . . .
>
> All of these women made decisions as caring and responsible women to end or to continue the pregnancy so that their family, the future child and they would not suffer.
>
> Women facing this situation come in all ages, socio-economic backgrounds, relationships. People in your neighbourhood, family and electorate. Men are affected too. People with failed contraception (30-50%), married people (30%), people who are sad, ignorant, unlucky, realistic, scared and brave. A few have a much wanted pregnancy, but a severely disabled foetus. All deserve our compassion and quality healthcare.
>
> Doctors, nurses, counsellors and social workers I know in all the Perth agencies involved in termination of pregnancy are caring, responsible and committed to fully informed consent. They all put great effort into ensuring ambivalent women are supported to clarify their options as they know these women would otherwise face complications in adjustment.

The last letter I wish to read is from the Church of Jesus Christ of Latter-Day Saints and is addressed to Hon Peter Foss. I believe that it was distributed to all members. I will read just part of it. It reads -

> The Church of Jesus Christ of Latter Day Saints is strongly opposed to the liberalization of abortion laws.
>
> Abortion is one of the most revolting and sinful practices of our day and should be opposed by responsible governments.

It would be simple enough to leave it at that full stop, but the letter in fact goes on. It reads -

> The only exception should be,
>
> 1. When pregnancy has occurred as a result of incest or rape.
> 2. The life of the mother is in jeopardy in opinion of a competent medical authority.
> 3. The fetus is known to have severe defects.

I read that last letter to show that there are some churches which believe that what is happening must be attended to. It is not something we can just push aside and ignore or about which we can bury our heads in the sand. Whatever happens to this legislation, whether it be passed or not, it would appear that until such time as we can intervene, and I am not sure how we can do that, there will be 9 000 or 10 000 abortions each year in Western Australia. The best possible thing that we can do at this time is to say yes to this motion and pass this Bill. However, I agree with other speakers that things need to be done to reduce the number of abortions to the lowest possible level. We must provide counselling and support for agencies that will try to ensure that pregnancies go to full term. I support the motion.

HON E.R.J. DERMER (North Metropolitan) [3.10 am]: I make an appeal to all those members who are contemplating voting for this proposed legislation. Before they do so, they should look squarely in the eye of what they are proposing to do. Understand it for exactly what it is, and for pity's sake, do not do it.

HON BARRY HOUSE (South West) [3.11 am]: I support the motion, following the previous support that I offered to the Davenport Bill, which was on the basis that at the time that Bill was the only vehicle we had to address an untenable situation which existed in reality and had departed a long way from the law. We have a responsibility as legislators to close that gap. We have a responsibility to produce workable, realistic and compassionate legislation. I believe this Bill will not satisfy everybody's needs, but it goes a long way towards doing that and should be supported.

The real situation was brought to light by the Director of Public Prosecutions issuing two prosecutions. During the second reading debate, I said I did not like abortion, and that still stands. I can see myself supporting it where it would affect me personally only in extreme circumstances. I recognise that ultimately it has to be the woman's decision. Practically every woman I have spoken to and consulted - and there have been many over the past couple of months - has supported the general thrust of what this legislation will produce.

It is interesting to note the most vitriolic and passionate opposition to the legislation has come from men. I am at a loss to understand some of the earlier comments that this happens to be a women's issue, in which the decision is being made by middle class men. During the previous second reading debate, my contribution followed a very passionate contribution by Hon Eric Charlton and I realised, due to some interjections from him, that he also was a realist, despite his committed point of view of the legislation.

I think we both agreed that we would probably come to an acceptable middle ground. This Bill, when passed, will go a long way towards doing that. We have before us a Bill which removes the ridiculous prospect of prosecuting, through fining or gaoling, 9 000 to 10 000 women a year, possibly 50 doctors and perhaps hundreds of other medical professionals as well. That is what would happen if the letter of the existing law were carried out.

This Bill will provide counselling for women who ultimately decide to terminate. It is their decision. It is not compulsory; it is a choice. It will ensure that the procedure will be conducted in hygienic conditions by qualified medical professionals. It will recognise that there are circumstances where abortion may be considered; once again, that is a situation where it may be considered; it does not have to be considered. That is the individual's prerogative.

It provides significant penalties for those performing abortions outside the legislative guidelines and, most importantly, it clarifies the legal boundaries for those involved. The moral boundaries still are an individual choice and it does not impinge on those moral boundaries at all. Everybody is entitled to their belief in this situation. Everybody is right in the sense that they have a view and they have a commitment towards a point of view and they are entitled to it.

I have no illusions about the fact that this debate will be completed once we take the vote here tonight. There is no doubt that the debate will continue in the public domain. The one thing that this debate has done for many people, certainly for me, is to highlight the number of terminations that are carried out each year. I said in the second reading debate that I was quite staggered to learn that approximately one in four conceptions are terminated. As other members have said, as a society we need to pay some attention to that fact. Having said that, I cannot believe that the number of abortions will rise as a result of this legislation being passed. I will be surprised if it does. My prediction is that it will fall rather than rise because for the first time in 30 years there will be far more scrutiny on women who seek or even consider terminations.

Any law that cannot be, or is not, enforced for some reason is a bad law. This is the current situation. As responsible legislators, we have an obligation to address that. The alternative, if we do not support this legislation, is to revert to the status quo, which is untenable. The current legislation before us will produce a workable, realistic and compassionate legislative framework. It should be supported on that basis.

HON M.D. NIXON (Agricultural) [3.14 am]: Mr Chairman, I rise to support the motion but, more importantly, to outline why because I am on the record in the first instance as opposing the Davenport Bill. I thought it was far too free, far too open-ended with no restrictions at all. I am on record as supporting some of the later amendments and finally opposing the overall Bill because I believed it was still too much a case of abortion on demand.

The motion we are now debating is that the amendments made by the Legislative Assembly in the Acts Amendment (Abortion) Bill 1998 contained in Message No 113 be agreed to.

I support the amendments because they improve the Bill. They add more restrictions to the Bill and therefore bring it closer to what I desire. Having said that, overall it is still far less restrictive than I wish, because I value human life. However, I am realistic enough to believe that, first in trial by combat and later by proof through exhaustion, the legislation is about as good as both sides of the argument will get it at this point in history.

I agree with Hon Barry House that there is a need for certainty in legislation. By supporting this motion we will gain that. With the passage of time it will be necessary and important to review the operation of the Act. It will not necessarily increase the number of abortions because although this Bill is more restrictive than the original Bill that was passed by this House, the law as it was being practised was far freer than the written law until now.

These amendments are in the best interests of Western Australians and fulfil my wish that the original Davenport Bill contain further restrictions.

HON NORM KELLY (East Metropolitan) [3.21 am]: I made my position on abortion quite clear in the second reading so I will not go into detail on that. It is on the record for all to read. We are debating the amendments in Message No 113 explained by Hon Cheryl Davenport in support of this motion and by other members in opposition to it. Therefore, there is no need for me to cover those details.

All members here are under no illusion about what we are faced with tonight; that is, the possibility of passing this Bill in its present form and bringing to Western Australia laws for which a majority of Western Australians have been campaigning. The other choice is not to support the Bill at this stage, thereby effectively finishing it and leaving the

community to continue with the existing laws of this State. As some members said, those laws have been abused over the past 30 years. They are bad laws because they have been extremely difficult to enforce. Although that should not be the sole reason for changing laws, bad laws that cannot be enforced should be changed.

Obviously the Bill contains significant changes which, after extensive debate in both this House and the other place, have resulted in a Bill that is not ideal for either side of the debate. I am strongly opposed to some components of the Bill; nonetheless, my concerns are overridden by the more serious consequences of this Bill not being passed.

As I expressed earlier tonight, all sides of the argument have been adequately debated. All members have had ample opportunity to put forward their ideas, whether by speaking, moving amendments or lobbying strongly outside this place. All members have received huge amounts of correspondence on the issue. I appreciate that so many members of the public have made their feelings clearly known to me. One person who lives in the Kenwick area of my electorate and is a member of my party is strongly opposed to the position that I have taken. However, I appreciate the clear and concise arguments that he has presented in trying to persuade me to change my position on this Bill.

I said during the second reading debate that I conducted a survey in my region to find out the true level of feeling among the electorate on this issue, and that 81 per cent of the respondents supported either the original form of this Bill or some conditional changes to it to ensure that the existing laws were changed.

That is only one component of the position that I take, the other two components being my personal view, which is strongly for free and legal access to abortion, and the view of my party, which also supports that position. I believe that this triumvirate of reasons which I represent as a member of Parliament - my personal beliefs, the beliefs of my party and the beliefs of my electorate - are united in wanting to have this legislation approved. For that reason, I support this motion.

HON CHERYL DAVENPORT (South Metropolitan) [3.27 am]: I do not intend to canvass all the arguments that have been put tonight, because most people have heard those arguments a number of times, and everything has been said. However, I want to thank all those people who have supported me through the very long passage of this Bill. I also want to thank the members of this House for at least providing certainty to the women in this State and to the medical profession that women will be able to access legal and safe abortion. I acknowledge the contribution that has been made by the opponents to my position, and while I have always tried to acknowledge their right to have a view that is different from mine, they have not convinced me to change my mind, and I have not done that. I ask all members to support the motion.

Question put and a division taken with the following result -

Ayes (24)

Hon Kim Chance	Hon John Halden	Hon N.F. Moore	Hon W.N. Stretch
Hon J.A. Cowdell	Hon Ray Halligan	Hon Mark Nevill	Hon Derrick Tomlinson
Hon M.J. Criddle	Hon Tom Helm	Hon M.D. Nixon	Hon Ken Travers
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon B.K. Donaldson	Hon Barry House	Hon J.A. Scott	Hon Bob Thomas *(Teller)*
Hon Max Evans	Hon Norm Kelly	Hon Christine Sharp	
Hon Peter Foss			

Noes (9)

Hon E.J. Charlton	Hon Murray Montgomery	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon E.R.J. Dermer	Hon Simon O'Brien	Hon Tom Stephens	
Hon N.D. Griffiths	Hon B.M. Scott		

Question thus passed; the Assembly's amendments agreed to.

ADJOURNMENT OF THE HOUSE

On motion by Hon N.F. Moore (Leader of the House), resolved -

That the House at its rising adjourn until 2.00 pm on Thursday, 21 May.

House adjourned at 3.32 am (Thursday)

QUESTIONS ON NOTICE

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

JET SKIS - SEADOO JETSPORTS' DONATION TO WATER POLICE

1315. Hon J.A. SCOTT to the Attorney General representing the Minister for Police:

(1) When did the Water Police and the Department of Transport develop a policy on jet skis?

(2) Did Seadoo Jetsports donate two jet skis valued at $11 000 to the Water Police during the period of policy development?

(3) If so, is the Minister for Police satisfied that this donation did not unduly influence policy decisions?

Hon PETER FOSS replied:

(1) The Water Police was not involved in the development of the current policy on jet skis. Current policy was developed by the Department of Transport.

(2) SeaDoo donated two jet skis to the Water Police on December 24, 1996 for use on a temporary basis. Both machines were returned to SeaDoo in May, 1997.

(3) Yes.

GOVERNMENT DEPARTMENTS AND AGENCIES

The Western Australian Club (Inc) Membership

1431. Hon LJILJANNA RAVLICH to the Minister for Tourism:

(1) Has any Government department or agencies within the Minister's portfolios paid for membership to The Western Australian Club (Inc) for a member of staff since February 1993?

(2) If so, please provide -

(a) the name of staff member; and
(b) the amount paid?

Hon N.F. MOORE replied:

(1) According to financial records of the Western Australian Tourism Commission, it has not paid for any membership for members of the WATC to belong to the Western Australian Club (Inc).

(2) Not applicable.

GOVERNMENT VEHICLES LEASED OR OWNED

1500. Hon NORM KELLY to the Attorney General representing the Minister for Police:

For all agencies under the control of your Ministry, can the Minister for Police advise -

(1) How many vehicles are leased or owned by those agencies?

(2) Of these, how many are -

(a) passenger vehicles; and
(b) commercial vehicles?

(3) Of the total number of vehicles, how many are -

(a) petrol or diesel powered;
(b) LPG powered; or
(c) powered by other means?

Hon PETER FOSS replied:

(1) 1324 vehicles.

(2) (a) 866 passenger vehicles.

(b) 458 commercial vehicles.

(3) (a) 1186 vehicles are petrol powered, 138 vehicles are diesel powered.
(b)-(c) Not applicable.

GOVERNMENT VEHICLES LEASED OR OWNED

1501. Hon NORM KELLY to the Attorney General representing the Minister for Emergency Services:

For all agencies under the control of your Ministry, can the Minister for Emergency Services advise -

(1) How many vehicles are leased or owned by those agencies?

(2) Of these, how many are -

(a) passenger vehicles; and
(b) commercial vehicles?

(3) Of the total number of vehicles, how many are -

(a) petrol or diesel powered;
(b) LPG powered; or
(c) powered by other means?

Hon PETER FOSS replied:

(1) Bush Fire Service (BFS) - 28.
Fire & Rescue Service (FRS) - 401.
State Emergency Service (SES) - 94.

(2) (a) BFS - 18 sedan wagons, 8 4WD.
FRS - 86 passenger vehicles.
SES - 12 passenger vehicles.

(b) BFS - 2 civilian buses.
FRS - 315 commercial vehicles.
SES - 82 commercial vehicles.

(3) (a) BFS - 28.
FRS - 400.
SES - 94.

(b) BFS - Nil.
FRS - 1.
SES - Nil.

(c) BFS - Nil.
FRS - Nil.
SES - Nil.

GOVERNMENT VEHICLES LEASED OR OWNED

1502. Hon NORM KELLY to the Minister for Tourism:

For all agencies under the control of your Ministry, can the Minister advise -

(1) How many vehicles are leased or owned by those agencies?

(2) Of these, how many are -

(a) passenger vehicles; and
(b) commercial vehicles?

(3) Of the total number of vehicles, how many are -

(a) petrol or diesel powered;
(b) LPG powered; or
(c) powered by other means?

Hon N.F. MOORE replied:

	WESTERN AUSTRALIAN TOURISM COMMISSION	ROTTNEST ISLAND AUTHORITY
(1)	35	70

(2)	(a)	35	(a)	32
	(b)	Nil	(b)	38
(3)	(a)	35	(a)	68
	(b)	Nil	(b)	2
	(c)	Nil	(c)	Nil

GOVERNMENT VEHICLES LEASED OR OWNED

1503. Hon NORM KELLY to the Minister for Sport and Recreation:

For all agencies under the control of your Ministry, can the Minister advise -

(1) How many vehicles are leased or owned by those agencies?

(2) Of these, how many are -

(a) passenger vehicles; and
(b) commercial vehicles?

(3) Of the total number of vehicles, how many are -

(a) petrol or diesel powered;
(b) LPG powered; or
(c) powered by other means?

Hon N.F. MOORE replied:

MINISTRY OF SPORT AND RECREATION

(1) 30 vehicles are leased.

(2) (a) 30.
(b) nil.

(3) (a) 30.
(b)-(c) Nil.

RECREATION CAMPS AND RESERVE BOARD

(1) 8 vehicles are leased.

(2) (a) 1.
(b) 7.

(3) (a) 8.
(b)-(c) Nil.

WESTERN AUSTRALIAN INSTITUTE OF SPORT (WAIS)

(1) 4 leased vehicles.

(2) (a) 3 passenger vehicles.
(b) 1 commercial vehicle.

(3) (a) 4.
(b)-(c) Nil.

WESTERN AUSTRALIAN SPORTS CENTRE TRUST

(1) 10 leased vehicles

(2) (a) 10 passenger vehicles.
(b) Nil.

(3) (a) 10.
(b)-(c) Nil.

MINE SAFETY AND INSPECTION ACT INCIDENTS

1530. Hon HELEN HODGSON to the Minister for Mines:

(1) How many incidents have been reported under the *Mine Safety and Inspection Act* and the associated regulations in each year from 1994 to 1997?

(2) How many of these incidents have been due to a breach of the Act or the regulations?

(3) How many of these incidents referred to in (1) above have been in respect of Western Mining Corporation or WMC Resources operations in each year from 1994 to 1997?

Hon N.F. MOORE replied:

(1) The incidents that have been reported under the Mines Safety and Inspection Act and the associated regulations in each year from 1994 to 1997 are:

1994	809
1995	925
1996	1498
1997	1693
	4925

(2) This is not known as it is not practicable for the District Inspector to investigate each and every reported incident. Each Inspector makes an assessment of the potential for serious harm in each reported incident and may -

(a) accept the information given;
(b) call for a more detailed report;
(c) carry out an investigation.

The mining industry is encouraged to report all incidents, no matter how seemingly minor in nature, so that early detection and identification of statistical trends can be flagged by the Inspectorates to the industry as a whole.

(3) The incidents referred to in (1) above is respect of WMC Resources operations in each year from 1994 to 1997 are:

1994	116
1995	157
1996	231
1997	252
	756

MINING FATALITIES

1533. Hon HELEN HODGSON to the Minister for Mines:

In respect of each fatality in the mining industry since January 1, 1997, I ask the Minister -

(1) Has an investigation into the fatality been concluded?

(2) If so, on what date?

(3) Was the fatality attributable to any breach of the *Mine Safety and Inspection Act 1994* or associated regulations?

(4) Have any charges been laid in relation to any breaches?

(5) If no charges have been laid, why not?

(6) If so, against whom have the charges been laid?

(7) At what stage is each prosecution?

Hon N.F. MOORE replied:

(1) The following fatalities have occurred since January 1, 1997:

NAME	DATE OF FATALITY
George BROCKWELL	10/4/97
Peter ABEL	13/4/97
Desmond ROUTLEY	9/6/97
Peter TYLER	26/6/97
Raymond KNOTT	10/7/97
Kerry EVERETT and Clinton VODDEN	1/9/97
Graeme TURNER	13/9/97
Stephen LAWRENCE	12/10/97

Abdul BAKER	21/11/97
Fiona STEVENS	8/1/98
Gary GARCIA	31/1/98
Andrew CHRISTIE	19/3/98

The Department's investigations into the fatalities of George BROCKWELL, Peter ABEL, Desmond ROUTLEY. Peter TYLER, Raymond KNOTT, Kerry EVERETT and Clinton VODDEN have been concluded.

(2) The investigations were completed on the following dates:

George BROCKWELL	12/5/97
Peter ABEL	14/7/97
Desmond ROUTLEY	22/9/97
Peter TYLER	17/12/97
Raymond KNOTT	2/10/97
Kerry EVERETT and Clinton VODDEN	20/3/97

(3) Any breach of the Act or Regulations is determined by the Courts and so this cannot be answered until all legal proceedings have concluded. This conclusion has only been reached in the case of certain charges arising from the George BROCKWELL fatality, where two charges resulted in guilty pleas, which have been dealt with by the Courts. In the same case, two other charges are to be defended and have not yet been heard by the Courts.

(4) Yes.

(5) Not applicable.

(6) The following charges have been laid:

George BROCKWELL	Hedges Gold Mine
	Mr N Bennett
	Mr R Vergone
	Alcoa of Australia
	Leighton Contractors
	Mr Z Soemya
Raymond KNOTT	Forrestania Gold NL
	Mr B Dawes
Peter ABEL	Mr P Pelham
	Mr D Cullen

(7) Each prosecution is at the following stage:

George BROCKWELL	Hedges Gold Mine	Pleaded Guilty
	Mr N Bennett	Pleaded Guilty
	Mr R Vergone	Withdrawn
	Alcoa of Australia	Withdrawn
	Leighton Contractors	Trial set for June 1998
	Mr Z Soemya	Trial set for June 1998
Raymond KNOTT	Forrestania Gold NL	No trial date set to date
	Mr B Dawes	No trial date set to date
Peter ABEL	Mr P Pelham	No trial date set to date
	Mr D Cullen	No trial date set to date

QUESTIONS WITHOUT NOTICE

ROTTNEST ISLAND CAPITAL WORKS PROGRAM

1524. Hon TOM STEPHENS to the Minister for Tourism:

(1) Will the Minister now make available to the House full details of Rottnest Island's $66m capital works backlog?

(2) If not, why not?

(3) How much of this $66m program will be paid from revenue raised by the recently increased landing fee and accommodation and mooring charges for the island?

(4) What is the intended time frame for the Government to complete work on this backlog?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I read in today's paper that I was somehow or other neglecting to provide this information and in fact quite deliberately not providing it yesterday. The reason for not providing it yesterday is that I ran out of time. One has 10 minutes in which to speak on an urgency motion. There was no intention on my part to withhold the information; indeed, it has been made available for six months or so.

Hon N.D. Griffiths: Do not take 10 minutes now; just answer the question.

Hon N.F. MOORE: I will take as long as it takes to answer the question.

The PRESIDENT: Order!

Hon N.F. MOORE: The answer is as follows -

(1) The Rottnest Island capital works program is as follows -

	$'000
Upgrade holiday accommodation	11 600
Landscape upgrade	3 300
Kingstown upgrade	7 500
Interpretation - Heritage - plan implementation	1 000
Services at popular bays	500
Infill accommodation	3 500
Upgrade moorings	100
Infrastructure services	9 000
Water storage	1 000
Jetties - apart from main jetty	500
Power transmission	300
Tourist services	700
Visitor centre - stage 2	300
Heritage buildings - including seawalls	4 420
Military heritage facilities	600
Power - wind - generation	250
Modify main jetty	700
Tearooms	1 580
Increase the range of family and backpacker accommodation within the settlement	17 500
Army jetty/barge relocation	2 000
Total program	66 350

(2) Not applicable.

(3) It is expected that $18.23m will be directed to the Rottnest Island Authority's 10 year capital works program as detailed in (1). This equals all of the revenue from the increase in accommodation and landing fees. It is proposed that the additional charges for moorings will be directed to marine management strategies to protect the island's fragile marine environment.

(4) Although the Rottnest Island Authority's capital works program is projected over 10 years, no decision has yet been made as to the time frame for its completion.

NURSES' PAY RISE

1525. Hon TOM STEPHENS to the Minister for Finance:

Does the Minister for Finance accept the comments of the Minister for Health that the federal Budget surplus should be used to fund the nurses' pay rise?

Hon MAX EVANS replied:

The Budget surplus is for the next year of 1998-99. The pay rises are for this year. I know no way in which can we spend next year's money this year. The Leader of the Opposition might be able to tell me how.

DE FACTO RELATIONSHIPS PROPERTY LEGISLATION

1526. Hon N.D. GRIFFITHS to the Attorney General:

When does the Attorney General intend to introduce a de facto relationships property Bill to allow the Family Court to deal with property disputes in de facto relationships?

Hon PETER FOSS replied:

It will probably be in the spring session.

Hon N.D. Griffiths: You say that every year.

Hon PETER FOSS: The Bill is there. I do not like to quote a newspaper, but I have deferred bringing the Bill forward for the time being.

Hon Ljiljanna Ravlich: You love the Press and the Press loves you.

Hon PETER FOSS: It is mutual!

Hon Ljiljanna Ravlich: Do not tell me, tell the Press.

The PRESIDENT: Order! Hon Ljiljanna Ravlich will understand that other members are waiting to ask questions.

Hon PETER FOSS: It was a matter of concern to me. I did not wish to have that matter running at the same time as the abortion debate. Some of the people with concerns about the de facto legislation are similar to those who have concerns about abortion.

Hon N.D. Griffiths: You are so sensitive!

Hon PETER FOSS: The subject is sensitive. One other small problem is the fact that the Family Court is financed by the Federal Government. By conferring jurisdiction on the Family Court, we have the small problem of how we operate that with the Federal Government.

Several members interjected.

The PRESIDENT: Order!

AUSTRALIND BYPASS MEDIAN STRIP OPENING

1527. Hon BOB THOMAS to the Minister for Transport:

On 8 April 1998 I asked the Minister -

> Did the Minister or senior officers of Main Roads Western Australia direct or instruct Main Roads' staff in Bunbury to agree to the consultant's proposal to a crossover of the median on the Australind bypass?

The Minister answered -

> No-one instructed Main Roads to approve that opening in the median strip. It was recommended to Main Roads' head office in Perth, following the application from Bunbury, and the person in charge of Main Roads, Perth office approved it. He did not direct or tell anyone to do anything; he simply approved it, because he is the person who has the responsibility to make those decisions.

I now ask -

(1) Who made the recommendation to Main Roads' head office in Perth that the application be supported?

(2) Who was the person in charge of Main Roads' Perth office who approved the application?

Point of Order

Hon BARRY HOUSE: This series of questions has been asked several times previously. I believe that is contrary to standing orders.

The PRESIDENT: It is certainly contrary to standing orders if the same question has been asked in the same session. I am not aware that that is the case. My understanding, unless I am corrected, is that this is a continuation of a series of questions on the same subject. Hon Bob Thomas has been here long enough to know the rules. I have stated them. If he knows that he is breaching them no doubt he will tell the House, otherwise he will please finish the question.

Hon BOB THOMAS: To the best of my knowledge I have not asked this question before.

Several members interjected.

The PRESIDENT: Order! It is a proper point of order. It is also important that points of order be raised occasionally.

Hon BOB THOMAS: I have asked a number of questions on this issue.

Hon BOB THOMAS: To continue -

(3) Can the Minister confirm that this person did not direct or tell anyone to do anything?

(4) Can the Minister confirm once again that he had no involvement in this decision?

Hon E.J. CHARLTON replied:

(1)-(4) I was in Bunbury yesterday, to give a really recent update to the member. I again called into the Gateway Service Station and had coffee with the people who were with me. I met none of the owners or operators and no-one would have known who I was, just to make that clear to the member in case he thinks I was having some behind the scenes discussion on the issue. It is time that the member acknowledged that the obvious conclusion anyone would make, if he drove down that road, is that an opening in the median strip is necessary. It takes no direction by anybody. The owner-operator of the service station simply made an application to Main Roads to have an opening in the median strip. The owner-operator was required to put forward a consultant's design and plan, which was done. Main Roads in Perth approved it. It needed no direction from anybody. Surely even someone like Hon Bob Thomas would agree that is a great idea.

AUSTRALIND BYPASS MEDIAN STRIP OPENING

1528. Hon BOB THOMAS to the Minister for Transport:

In view of the Minister's continued insistence that he had nothing to do with the overturning of the recommendation on the strip, can he explain why Mr Barry Clarke, an executive director of Main Roads, sent a fax dated 4 February 1998 to Mr Derrick Lee, south west regional manager of Main Roads, on which he had handwritten "appeal to HMT upheld" and "RM instructed to implement". Can the Minister confirm that "HMT" is a reference to himself, the Honourable Minister for Transport, and can he also confirm that the south west regional manager was instructed to approve the opening?

The PRESIDENT: Order! The problem is that that is not a supplementary question. It is a different question. A supplementary question must seek some clarification of a matter just raised. New material has been introduced into the question. It would have been proper as another question; however, it is not a supplementary question.

COURTS - ADDITIONAL COURTS AND MEDIATION ROOMS

1529. Hon HELEN HODGSON to the Attorney General:

The 1998-99 Budget Statement document states under the heading of "Justice" on page 591 that a significant issue and trend for the department is the "pressing need for additional court and mediation rooms". In the light of this statement -

(1) What funds will be made available in the 1998-99 Budget to provide additional court and mediation rooms?

(2) In which court buildings will these rooms be made available?

(3) Will additional qualified mediators be appointed by the State?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) $5m.

(2) May Holman Centre, attached to Central Law Courts.

(3) No.

IRON ORE LOADING FACILITY

1530. Hon J.A. SCOTT to the Minister for Transport:

(1) Is the Minister considering a proposal to build an iron ore loading facility at Kwinana?

(2) Will this loading facility be handling ore from Koolyanobbing?

(3) What new infrastructure will be required and who will be paying for it?

(4) Why is this ore not being exported from Esperance?

(5) What measures will be taken to reduce dust and noise pollution?

Hon E.J. CHARLTON replied:

(1)-(5) I did get notice of the question prior to question time but I will seek further clarification on the information that has been provided to me. I ask that the question be put on notice or be put to me again during questions without notice tomorrow.

COLLIE DISTRICT HOSPITAL

1531. Hon J.A. COWDELL to the Minister representing the Minister for Health:

Can the Minister confirm reports that in the past 12 months or at some point in the past 12 months -

(1) surgical services at the Collie District Hospital have been reduced by 33 per cent;

(2) the staff development program at Collie District Hospital has been disbanded;

(3) the shortage of laundry supplies at Collie District Hospital has been so critical that staff had to send a taxi to Bunbury for nappies and used singlets to wash geriatric patients;

(4) pharmaceutical supplies at the Collie District Hospital have been reduced to such critical levels that taxis have been sent to Bunbury for urgent supplies of standard stock like IV fluids; and

(5) nursing rosters at the Collie District Hospital had a 20 per cent vacancy factor, forcing the hospital to rely on casual and agency staff?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Dr Murphy, a medical practitioner who undertook approximately one-third of all surgery at Collie, resigned and has not been replaced. Nurses' industrial action reduced theatre lists by 25 per cent from late February to 5 May. Christmas closures are instituted because of medical staff going on leave - this is routine. The Easter closure is for two weeks - although this was only a 50 per cent closure.

(2) A staff development nurse has been appointed full time for four weeks - she commenced 11 May 1998 - and is to be continued at 0.5 FTE following that. This is envisaged to be a permanent replacement. The staff member undertaking that role went on long service leave from 29 December 1997 to 1 March 1998 and was not replaced during that time because of a lack of suitable and willing candidates to fill this position.

(3) The maternity unit did purchase nappies on one occasion because of exceptional activity - this is normally one delivery every two days - of eight mothers and babies on the same day, 8 May. These were purchased from the local pharmacy and no taxi was involved. The maternity unit did not at any stage run out of nappies although the staff did have to use disposables rather than cloth. No patient has been washed with a singlet. The health service normally supplies washers but, in the event that no washers are available, disposable washers are also on imprest. The linen supply is currently being audited to determine routine replacement needs.

(4) Pharmacy supply levels are currently being evaluated by nursing staff to identify which stock levels need to be increased. This issue was the subject of a memo dated 20 April 1998. This memo identifies alternative strategies to deal with stock-outs such as phoning the pharmacist on call. The incident of using a taxi to get IV fluids from Bunbury occurred at an exceptionally busy time for nursing staff and they were unable to check stock in either accident and emergency or the operating rooms. Both areas held stock of the item that was sent for. It is normal routine for staff to check these areas for IV stock in the event that pharmacy stocks are depleted.

(5) Nursing staff vacancies have been about 10 per cent with another 10 per cent of staff not being available because of various workers' compensation claims or suspension. The average vacancies in recent rosters have been 13 per cent although these are now down to around 10 per cent and will continue to improve. Recent frequent advertisements have recruited three new nursing staff, and interviews this week should allow for the recruitment of a further two to three staff. Re-advertising is anticipated next week. Recruitment to and retention in country areas is always difficult. Collie Health Service does rely on casual and agency staff to fill the vacant shifts and this is a routine strategy that all hospitals utilise to allow some flexibility in staffing levels to cater for the peaks and troughs of activity. Many of the local nursing staff rely on casual work to supplement their incomes and to allow them the flexibility to work when they desire.

AGREEMENT ACTS

1532. Hon GIZ WATSON to the Leader of the House representing the Minister for Resources Development:

In respect of the review of state agreement Acts in relation to their compliance with the federal competition policy -

(1) Which Acts are being reviewed for their compliance?

(2) Which company is carrying out the review?

(3) For what department is the review being carried out?

(4) On what basis were such Acts chosen for this evaluation process?

(5) Will all state agreement Acts be assessed to see if they comply? If not, why not?

(6) Is the Iron and Steel (Mid West) Agreement Act 1997 to be assessed to see if it complies with federal competition policy? If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The North West Gas Development (Woodside) Agreement Amendment Act 1994 is being formally reviewed in accordance with Western Australia's obligations under the competition principles agreement to review and reform, if necessary, all legislation with potentially anticompetitive elements. The national competition council has also requested that Western Australia conduct in-house an informal assessment for three other agreement Acts to see if they contain non-trivial restrictions on competition which do not confer a net community benefit. The three agreements which are being assessed on an informal basis are the Wesply (Dardanup) Agreement Authorisation Act 1975, the Iron Ore (Mt Goldsworthy) Agreement Act 1964 and the Nickel (Agnew) Agreement Act 1974.

(2) Economics Consulting Services, in conjunction with Economic Research Associates, is carrying out the formal legislation review of the North West Gas Development (Woodside) Agreement Amendment Act 1994. ACIL is conducting the informal assessment of the three other agreement Acts.

(3) The Department of Resources Development.

(4) The North West Gas Development (Woodside) Agreement Amendment Act 1994 was chosen for review in consultation with the state Treasury and in line with the principles of national competition policy.

(5) If the informal assessment of the three agreement Acts identifies non-trivial restrictions on competition which do not confer a net community benefit, the State Government has committed to review all agreement Acts which have clauses with similar effect.

(6) No. The Iron and Steel (Mid West) Agreement Act 1997 contains no clauses which prima facie would cause a case for formal legislation review and it was not one of the agreements nominated by the National Competition Council for informal assessment.

CLAREMONT SPEEDWAY AND RAVENSWOOD DRAGWAY

1533. Hon NORM KELLY to the Leader of the House representing the Premier:

(1) Who are the members of the committee investigating a new site for the existing Claremont Speedway and Ravenswood Dragway?

(2) Do any of these members have a financial interest in either the speedway or the dragway?

(3) If so, who are these members and what is their interest?

(4) What sites are being investigated as a possible new site?

(5) What is the estimated cost of establishing a new site?

(6) What financial commitment has the Government made to establish a new site?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

I do not have the answer and ask that the question be placed on notice.

AUSTRALIND BYPASS MEDIAN STRIP

1534. Hon BOB THOMAS to the Minister for Transport:

In view of the Minister's insistence that he had nothing to do with overturning the approval of the median strip on the Australind bypass, his refusal to answer some questions and his obfuscation on other questions, I ask -

(1) Can he explain why Barry Clarke, an executive director of Main Roads, sent a facsimile dated 4 February 1998 to Mr Derek Lee, south west regional manager of Main Roads, on which he had handwritten "Appeal to HMT upheld" and "RM instructed to implement"?

(2) Can the Minister confirm that "HMT" refers to himself as the Honourable Minister for Transport?

(3) Can he confirm that the south west manager was instructed to approve the opening?

Hon E.J. CHARLTON replied:

(1)-(3) I am fairly confident that HMT refers to me. I sometimes wonder whether people would like to interpret the letters differently, but for the member's benefit they mean Hon Minister for Transport.

Main Roads made the decision for the obvious reasons to which I and everybody else in the community agreed. It is time we took notice of the Attorney General. If I am to give directions to anyone I should direct that we get on with it so that people using that highway can take advantage of it.

LEGAL PRACTICE BOARD FUNDING

1535. Hon JOHN HALDEN to the Attorney General:

(1) How much money has been provided to the Legal Practice Board in this year's Budget?

(2) How much money was provided to the Legal Practice Board in the 1996-97 and 1997-98 Budgets?

(3) If appropriate, how does the Attorney General justify this funding in the light of the significant funding the Legal Practice Board receives from other, non-government sources?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) $250 000.

(2) 1996-97, $245 000; 1997-98, $250 000.

(3) The funding contributes to the operation of an integrated library service for the entire legal profession, the judiciary and other government agencies.

FREMANTLE PORT AUTHORITY

Meetings with Police and Security Firm

1536. Hon KIM CHANCE to the Minister for Transport:

(1) Did any member of the Fremantle Port Authority staff meet with the Western Australian police and/or the security firm employed by Patrick the Australian Stevedore between 1 January and 8 April 1998?

(2) When did the meetings take place?

(3) What was the purpose of the meetings?

(4) Were notes or minutes of the meetings kept?

(5) Was the Minister advised of the meetings?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Western Australian police - yes; security firm employed by Patrick - no.

(2) 2 April 1998.

(3) To liaise about potential problems if the events publicly rumoured in newspapers at that time occurred.

(4) Not by Fremantle Port Authority personnel.

(5) Not specifically.

PRESCRIBED BURNING POLICY

1537. Hon CHRISTINE SHARP to the Minister representing the Minister for the Environment:

I refer to my question 280 of 30 April regarding the latest editorial in the *Landscope* magazine.

(1) Is the criticism of the Department of Conservation and Land Management's prescribed burning policy by community groups and independent scientists, published by the Friends of the Chuditch last month, the "Orwellian forces" to which the chief executive of that department is referring?

(2) If yes, why is the publication of scientific evidence which is independent of CALM perceived as being "Orwellian"?

(3) Does the Minister agree that the "Orwellian" metaphor is more appropriate for describing a government agency which is intolerant of independent criticism?

The PRESIDENT: Order! The third part of the question is verging on an opinion.

Hon MAX EVANS replied:

I thank the member for some notice of this question and note that an appropriate response was given previously to a similar question.

(1)-(3) Successive Governments in this State have adopted prescribed burning as the optimal strategy for the protection of human life and property. It is understood that some people would like to see the State's prescribed burning policy changed. The Department of Conservation and Land Management will be publishing a series of articles in *Landscope* to examine all aspects of the State's prescribed burning policy, including its ecological impacts.

FREQUENT FLYER POINTS

Use by Government Employees

1538. Hon LJILJANNA RAVLICH to the Leader of the House:

(1) What is the Government's current policy on the use of frequent flyer points for private purposes which have been accumulated by its employees on official business?

(2) Will the Minister provide a copy of the policy?

(3) Does this policy apply to all government agencies and statutory corporations?

(4) If not, to which of those agencies and corporations does it not apply?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(4) The policy relating to the use of air travel incentives, such as frequent flyer points, is set down in the attached circular issued to chief executive officers in October 1991 by the then Public Service Commissioner. I table the document.

[See paper No 1618.]

GREENHOUSE GAS EMISSIONS FROM BUSES

1539. Hon KEN TRAVERS to the Minister for Transport:

On Tuesday, 28 April, the Minister quoted figures comparing the greenhouse gas emissions for Euro 2 diesel buses versus gas buses.

(1) Do these figures refer to the emission of greenhouse gases from the actual bus or do they include the gases produced during the refinement or processing of those fuels?

(2) If not, does the Minister know what is the total contribution of greenhouse gases, including refining or processing of the fuel, for diesel and gas powered buses?

(3) Can the Minister confirm that there is an increase in the level of greenhouse gases, especially CO_2 emissions, from the refining operations necessary to remove sulphur from diesel?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Yes, the figure I quoted refers to emissions from the bus only.

(2)-(3) This information will take longer to obtain. If the member puts the question on notice I will provide an answer.

I suppose I will have to find out what gas emissions come from transporting gas as well as from diesel to satisfy the member's intense questioning!

GREENWOOD PRIMARY SCHOOL SALE

1540. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:

(1) Will the Minister confirm that the Greenwood Primary School site has been sold for $3.3m?

(2) Prior to this sale had the Education Department obtained a real estate valuation for the Greenwood Primary School land and buildings respectively?

(3) If not, why not?

(4) If yes to (2), will the Minister table the most recent real estate valuation obtained for the Greenwood Primary School land and buildings respectively?

(5) How much of the money realised by the sale of Greenwood Primary School will be reinvested in the primary schools now educating the students who would otherwise have been educated at Greenwood Primary School?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) Yes.

(3) Not applicable.

(4) The valuation by the Valuer General's Office dated 3 February 1998 is $2.025m for the highest and best use.

(5) Reinvestment from the sale of Greenwood Primary School was in line with the proposal as accepted by the parents and the Education Department. The allocation from the trust account was as follows:

West Greenwood Primary School	$599 000
Allenswood Primary School	$ 52 000

A further $15 000 was provided to assist with parking improvements at West Greenwood Primary School. When the requirements of the surrounding schools are finalised in line with the local area education planning process a portion of the remaining funds will be utilised to ensure the best quality education facilities and outcomes for all affected students.

BEADON CREEK DREDGING

1541. Hon TOM STEPHENS to the Minister for Transport:

(1) Is the Minister aware of the ongoing calls for the dredging of Beadon Creek boat and port facility at Onslow?

(2) When will the Minister be making arrangements for the dredging of Beadon Creek to allow for the ongoing operation of that town's port and boat handling facilities?

(3) What funds has the Minister allocated for this work in 1998-99 and when will the work commence and be completed?

Hon E.J. CHARLTON replied:

I cannot give the member an immediate answer to that question. He may put it on notice or I will get the answer for him tomorrow.

ADOPTION ACT

Amendment

1542. Hon CHERYL DAVENPORT to the Minister representing the Minister for Family and Children's Services:

Following the release in late 1997 of the final report of the adoption legislative review committee -

(1) Does the Minister now propose to amend the Adoption Act 1994?

(2) If so, will the amendment Bill contain amendments to the information and contact veto provisions to assist pre-1994 adoptees?

(3) If not, why not?

(4) What is the proposed time frame for the amendment Bill?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Public comment on the final report of the legislative review committee closed on 30 April 1998. No decision will be made until the Minister for Family and Children's Services has considered all comments.

(2)-(4) Not applicable.

WORKSAFE PROSECUTIONS

1543. Hon HELEN HODGSON to the Attorney General representing the Minister for Labour Relations:

I refer the Minister to his answer dated 28 April 1998 to question without notice 1448 and ask -

(1) How many prosecutions were commenced by WorkSafe Western Australia Commissioner, Mr Bartholomaeus, between May 1994 and September 1995?

(2) Of these, how many may be open to challenge because Commissioner Bartholomaeus was not properly appointed during this period?

(3) What action is the Government taking to deal with challenges to prosecutions made by Commissioner Bartholomaeus between May 1994 and September 1995?

Hon PETER FOSS replied:

I thank the member for some notice of this question. I ask that the question be placed on notice.

GASCOYNE PLANTATION OWNERS

1544. Hon KIM CHANCE to the Minister representing the Minister for Primary Industry:

What steps will the State Government take to assist those affected plantation owners in the Gascoyne area who are faced with significant losses and considerable economic hardship, as a result of the recent business collapse of some fruit and vegetable agents at the Canning Vale markets?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. For some time there has been strong support among growers and buyers from all around Western Australia for greater security for growers whose product is in the possession of agents. In response to this, and with support from growers, agents and buyers, the Perth Market Authority is examining insurance schemes and other suitable arrangements whereby growers could be fully or partially covered for their exposure in the event that an agent failed financially. As part of this process, the Perth Market Authority has employed a consultant to examine whether a scheme operating elsewhere in Australia could be applied in this State.

In addition, the Minister for Primary Industry has requested the Perth Market Authority to examine its by-laws to see whether they can be improved for the benefit of growers. As part of this review, the Perth Market Authority is

seeking input from growers, buyers and agents. I urge growers in Carnarvon and elsewhere to make contact with the authority to make clear their views on these changes to the by-laws.

DEATHS IN CUSTODY

1545. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the Attorney General's refusal to take any responsibility for the death of David Ryan in Casuarina Prison at the weekend, and his statement that a death in custody is a matter for the Ministry of Justice bureaucracy. I ask -

(1) I refer to the Attorney's comments on 18 March 1998, in response to question without notice 1288, reported at page 793 of *Hansard* that -

> One of the important things about ministerial responsibility is that Ministers are responsible for what their departments do, whether the Ministers know about it or not.

And -

> The department is the Minister, and the concept that the Minister, in whose name everything is done and who is responsible for everything, should not know what is happening in the department is quite contrary to the constitutional idea of accountability.

Given those statements, how is it that a death in custody can be a matter for the bureaucracy of the Ministry of Justice and not the Attorney General when, in the Attorney's words, the ministry is the Attorney?

(2) When will the Attorney at last take some responsibility for the extraordinary spate of deaths in custody that are occurring while he is the responsible Minister and, by his definition, is the responsible department?

Hon PETER FOSS replied:

(1)-(2) That was a lovely statement.

The PRESIDENT: Order! In my view the first part of the question was more of a statement than a question. I do not know whether the words uttered included a question. The second part contained a question.

Hon PETER FOSS: It was a false statement.

Hon Tom Stephens: It was your statement.

Hon PETER FOSS: It was a false statement because Hon Nick Griffiths said that I do not take responsibility for these deaths. I have never said that, and I do not know what the Press wrote about it. Nobody should make public comments about these matters because once these deaths occur they are sub judice. All deaths in custody are referred to the coroner, who has immediate jurisdiction of them. In addition, a disgraceful statement was made by Brian Tennant blaming His Excellency the Governor. Firstly, Mr Tennant must know that the Governor always relies on the advice of his Ministers; and, secondly, if anyone is to be blamed, it should be him for the false hopes he raised in large quantity in some prisoners that there was some argument on the basis he had put forward.

I read to the member yesterday what the Government is doing. He did not like to hear that a great deal is being done and will continue to be done. Because he was not prepared to deal with the answer I gave yesterday -

Several members interjected.

The PRESIDENT: Order! The Attorney General should cease his answer until the House comes to order. I will not cut off the answer but I do not want to hear any more interjections.

Hon PETER FOSS: A clear answer was given yesterday, but Hon Nick Griffiths, rather than accepting that answer and commending the Government for taking action on so many parts, has stood and made a false statement.

Hon Tom Stephens: You are a disgrace.

Hon PETER FOSS: No, the disgrace is in someone standing in this House pretending to ask a question and then making false statements. Hon Nick Griffiths knew perfectly well because he was told yesterday - he obviously paid no attention to the answer whatsoever - that a lot is being done. The Government has not heard the lovely suggestion again from Hon Nick Griffiths that the problem is caused by locking people up in medical observation cells because this prisoner, as the member well knows - it is probably why he has given up on that suggestion - was in a self-care unit.
