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# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

## HANSARD

25 November 1998

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**MR SPEAKER** (Mr Cornwell) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

## LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL (NO. 2) 1998

**MS TUCKER** (10.32): I present the Land (Planning and Environment) (Amendment) Bill (No. 2) 1998, together with its explanatory memorandum.

Title read by Clerk.

**MS TUCKER**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, this Bill primarily contains two amendments to the Land (Planning and Environment) Act. The first amendment expands the provisions in the Act regarding minor amendments to development approvals. The second amendment expands the third-party appeal rights against decisions on development applications.

Let me first describe the changes to the minor amendments provision in the Act. At present, a lessee who holds an approval to undertake a development may apply to amend it. If PALM is satisfied that it is a minor amendment then the approval can be amended without notifying any third parties, such as neighbours or persons who previously objected to the development. There are also no appeal rights against such amendments. This is much simpler than the normal development approval process, because it is considered that minor amendments do not warrant as much attention as a new development application. Unfortunately, the lack of transparency in this process means that it could be abused by amendments being approved as minor amendments which do, in fact, have major impacts on the surrounding neighbourhood.

This issue was brought to my attention last year by an example of how this process can be abused. In Brown Street, Yarralumla, an application to build a very large house that took up nearly the whole block had generated many objections from surrounding residents because of the overshadowing it would cause. After discussions with the objectors, PALM approved the development, but with a number of conditions, including a reduction in the height of the building. The residents would have preferred tougher conditions, but thought they had reached a compromise with the landowner and PALM.

However, without any notification to the residents, the landowner applied for a minor amendment to increase the height of the building by about 600 millimetres to almost back to the original plan. PALM approved this, again with no notification to the residents. The next-door neighbour only found out about this amendment by chance after construction work had begun. The 600 millimetres increase in height may sound minor, but for the next-door neighbour it meant that he lost all the sunlight to his backyard on mid-winter afternoons. It was certainly a major impact on him that PALM had not taken any account of.

The former Planning Minister, Mr Humphries, acknowledged in the Assembly last December that this matter had not been handled well by PALM. He said:

> ... it was unwise of PALM to amend the original approval without going back and talking to the original objectors. It was apparently within the power of PALM to make the decision, but it was, I think, unwise to make the decision without having consulted with those who were clearly stakeholders in this matter by virtue of their objection to the original building height for the proposed structure. I have indicated to PALM that this should not recur and have instructed that procedures in PALM are to change to address such situations in future.

My Bill will ensure that this situation does not happen again by putting into the Land Act the consultation requirements that Mr Humphries referred to. My Bill provides that PALM must give notice of an application for a minor amendment to each person who objected to the original approval of the development application and make available copies of the application for inspection. The objectors then have 14 days in which to provide comments on the application. The objectors will also be notified of PALM's decision on whether to amend the development approval; but, given that it is still a minor amendment, I have not gone as far as providing appeals to the AAT. Hopefully, the public exposure that minor amendments will receive from these amendments will put sufficient pressure on PALM to make responsible decisions. I have also tightened up the criteria by which minor amendments can be granted by ensuring that the amendment not cause any increase in detriment to any person or the environment.

I turn now to the other part of my Bill relating to third-party appeals. My Bill amends those parts of the Land Act which relate to reviews of decisions on development applications by the Administrative Appeals Tribunal. Prior to the Government's amendments to the Land Act at the end of 1996, any person who had submitted an objection to a development application could lodge an appeal with the AAT - or the planning appeals board in those days - if they were unhappy with the decision to approve the application. However, the Government amended the Land Act in 1996 to restrict appeals to persons who are "substantially and adversely" affected by a decision. This means that virtually the only people who are entitled to appeal against a development are the neighbours. A person who does not live near the development but who may have a personal or professional interest in planning matters or who may be concerned about the broader impacts of the development on the overall planning of Canberra is not able to appeal.

The Government justifies this restriction on third-party appeals because it thinks that appeals just hold up development and that people in one part of town somehow have no right to be lodging appeals about developments in another part of town. I think these arguments are very weak. Firstly, I doubt that any people put in appeals about developments on the other side of town or even on developments next door just for the fun of it. The AAT can reject vexatious or frivolous appeals very quickly. Secondly, I do not agree with the line that any development is okay if it is generating economic activity, and therefore it should not be held up by appeals. There is a range of environmental and social impacts of development that cannot be quantified in economic indicators but are real nonetheless. Developers do not have to bear the long-term costs of their developments. They just build them and then sell them off. But the residents of Canberra will have to live with these developments for their lifetime.

I therefore think it is quite legitimate for any resident to be able to raise the concerns through the AAT about developments that are going to adversely impact on them, either directly or indirectly. I believe that appeals against development on public interest grounds - not just personal interest, but public interest grounds - are an important part of our democratic process that should not be arbitrarily restricted. My Bill basically reverts the third-party appeal provisions to what existed before 1977, which the ALP introduced when it was in government. I have deleted the requirement that persons must be substantially and adversely affected by the decision to be able to appeal.

My Bill also omits the provision in the Act which prevents third-party appeals on development applications which have been subject to an environmental impact assessment. There is an assumption here that all the issues have been canvassed in the environmental assessment, so there is no need for appeals. However, this ignores the fact that the public have not had the opportunity of formally questioning the adequacy of the final environmental assessment on which the decision to proceed with the development has been based.

Mr Speaker, in conclusion, this Bill provides the Assembly with the opportunity of opening up the development approval process to increased public accountability, which will, I believe, lead to better quality development in our national capital. I commend this Bill to the Assembly.

Debate (on motion by **Mr Smyth**) adjourned.

## TERRITORY OWNED CORPORATIONS (AMENDMENT) BILL (NO. 2) 1998

**MR QUINLAN** (10.41): Mr Speaker, I present the Territory Owned Corporations (Amendment) Bill (No. 2) 1998, together with its explanatory memorandum.

Title read by Clerk.

**MR QUINLAN**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, the Bill I present today amends the Territory Owned Corporations Act 1990 to ensure that the government of the day consults with the committee responsible for the scrutiny of public accounts before appointing board members to Territory-owned corporations. We have had many debates in this place about the value of the Assembly's committee structure and the work that the committees do. The debate of 28 April of this year, which established the new and current committee structure, was replete with high-sounding notions of open and more accountable government. They were all very worthy. In fact, it was Mr Osborne who, in moving the motion, said that the new model "gives members the potential to scrutinise departments and Ministers to a far greater extent through specialist committees that follow a department and a Minister from day one".

I agree with Mr Osborne's sentiments and would simply add that scrutinising appointments to TOC boards is well within the realm of discharging that very duty. Indeed, it may be said that the real work of the Assembly is often conducted outside this particular chamber. The media would probably agree with that statement. We should never forget the tremendous importance of our committees when we consider the fact that we have a unicameral parliament and an electoral system that virtually guarantees minority government after every election.

Mr Speaker, I am a firm supporter of the role that committees play in the Assembly and will defend them against any attempt to limit their role or the ability to do their job properly. The great value of the committee structure is that a great portion of the partisanship which so dominates this chamber is removed in committee work, and it can be said that much more is accomplished with three or four MLAs sitting around a table than with 17 sitting around this particular chamber. My Bill, Mr Speaker, formally integrates the appointment of the TOC board members into the work of the Assembly committee structure, specifically the Chief Minister's Portfolio Committee, which incorporates the public accounts committee.

The legislation does not attempt to hold up appointments to boards. In fact, the legislation makes provision for the Government to appoint board members without consulting the committee, if the number of board members falls below that required by either the TOC's own articles of association or the Federal Corporations Law. In this respect, the legislation is sensible and realistic. The legislation does not bind the Government to any recommendation the committee makes. Again, the legislation is sensible, in that it recognises the legitimate right of shareholders to appoint board members as they see fit.

What this legislation does do is formalise a process whereby the shareholders - that is, the Government - consult with the committee about appointments to boards of TOCs before those appointments are made. Once the shareholders have presented the committee with a name or a list of names as possible appointees to TOC boards, the Government must not appoint a board member without first considering the committee's recommendations, as long as the recommendations are made by the committee within 30 days of the presentation of the possible board appointees.

As chair of the Chief Minister's Portfolio Committee, incorporating the public accounts committee, I see this legislation as sensible, workable, necessary and in no way restrictive to the shareholders or the Government. In that role, I have already written to the Chief Minister suggesting - without casting any aspersions on the considerable work done by those who serve and have served their community - that a wider range of government appointees may well be available in Canberra. I commend the Bill to the Assembly and look forward to the support of all members.

Debate (on motion by **Ms Carnell**) adjourned.

## HEALTH REGULATION (MATERNAL HEALTH INFORMATION) BILL 1998
## Postponement of Order of the Day

**MR BERRY** (10.45): Mr Speaker, I move:

> That order of the day No. 1, private Members' business, relating to the Health Regulation (Maternal Health Information) Bill 1998 be postponed until the first sitting day in March 1999.

Mr Speaker, I have made no secret of the fact that the process in dealing with the issue of abortion in this Assembly has been carried through with indecent haste. Mrs Carnell chuckles. Perhaps she does not think it has been done with indecent haste. Let me go through the history to demonstrate my argument. On 26 August, Mr Osborne, by leave, without going through the usual processes in this Assembly, introduced the Health Regulation (Abortions) Bill 1998. Mr Osborne, before that, had the opportunity to go to the Assembly's Administration and Procedure Committee, as everybody else does, and have the Bill ordered in the priorities set down by that committee and debated in private members business on that day with reasonable notice; but he chose instead, by stealth, to introduce this Bill.

The community reaction was predictable. There was outrage in the community. There was shock in the community at the methods that had been used by this member to introduce this Bill. This is a member, Mr Speaker, who said that he would not turn back the clock. This is a member, Mr Speaker, who quite clearly intended to turn back the clock, quite contrary to his earlier commitment to the ACT community. But that did not sway him from the course. Subsequently, Mr Speaker, there was a rally of proportions rarely equalled in the Australian Capital Territory. Men and women came out in droves to protest at the process, in the first place, and at the substance, in the second place.

Mr Osborne's speech made little mention of his intentions. His intentions then were to close down the provision of abortion services in the ACT and force 1,700 ACT women to go somewhere else for an abortion. Some, of course, would go interstate. It also increased the probability of backyard abortions and, of course, increased the likelihood of illness and injury for women.

Mr Speaker, I think the protest from the community shook Mr Osborne a bit. I think Mr Osborne expected it to doddle through the Assembly with the support of some members, without any public scrutiny at all. Thankfully, the community response to his efforts was strong, and deservedly so. Mr Speaker, that community response went on for some time. It involved deputations and representations to all of the members of this place. Those who are pro-choice and those who are anti-choice were subjected to the pressures from the individual pressure groups within the community.

Mr Osborne steadfastly refused to indicate what he was doing, until the last minute, when he indicated that 18 November was a likely day for the reintroduction of his Bill. We all stood back and wondered what was going on behind the scenes. We now know that Mr Osborne and Mr Humphries were collaborating on a set of amendments, some of which might save Mr Osborne from some pain from the pressure that he had received in the community, pressure that he had never had before. At the end of the day, whilst rumours persisted, nobody ever saw what was going on in respect of these amendments.

By 18 November it had become clear that everything was not going Mr Osborne's way, as should have been the case. It was an appalling piece of legislation, designed to stop abortions in the ACT and to humiliate women. That is what it was about. It was about imposing the narrow views of individuals on women. It was about saying to women, "It is not your choice; it is mine".

**Mr Humphries**: I rise on a point of order, Mr Speaker. I can understand Mr Berry wanting to put these issues in the course of debate today; but it seems to me that the issue he has raised in his motion is designed to delay the debate, and he should focus on the reason for delay rather than recite all the arguments that we are presumably going to have later today, if this motion does not succeed. So I think Mr Berry would make the proceedings a little bit easier to handle if he was a little bit more to the point.

**MR BERRY**: That was a very disingenuous use of the standing orders, Mr Humphries. Mr Humphries knows clearly what I am trying to do here. I am trying to win the support of certain members in this place to an important cause; that is, the deferment of this legislation. All of the background is necessary in the scheme of things so members can consider it. You yourself may have heard it all before, Mr Humphries; but in this debate you have not heard it yet, and I am going to reinforce it at every opportunity.

**MR SPEAKER**: But not if I decide otherwise. I would caution you, Mr Berry. As Mr Humphries rightly points out, this motion does speak of a deferral. I understand that you need to make the case for why it should be deferred, and you have given some background already in relation to how this legislation was introduced in the first place. But that does not, I believe, require you to then enter into the debate on the pros and cons of the issue. I think you were perfectly in order to have made mention of how the matter was introduced, because that is very germane to what you are saying and why you seek to have it deferred; but I do not believe that you can discuss the issue itself, and I just caution you and remind you of that. Please continue.

**MR BERRY**: Thank you, Mr Speaker. I am sure that you will accept that, if one is trying to defer debate on a particular piece of legislation, one needs to know what one is deferring and why. I would ask for your indulgence to ensure that that information comes through loud and clear - not only to the people in this place, who have probably heard the debate over and over again, but for others in this community who have not heard the debate and who are here today and who may in future read the record of it.

**MR SPEAKER**: Mr Berry, if there are issues within the matter that is perhaps going to be debated later that justify your case for deferral, by all means you may canvass those; but please do not debate the pros and cons of the issues in the piece of legislation. I am sure that you are capable of doing that.

**MR BERRY**: It needs to be said, Mr Speaker, and it needs to go to the detail of the issues to explain the gravity of the law which we are considering and why it ought to be delayed for important examination.

**MR SPEAKER**: I am not unhappy with that approach.

**MR BERRY**: Thank you, Mr Speaker.

**MR SPEAKER**: But it is when you start debating the pros and cons - - -

**MR BERRY**: It is always in my heart that I keep you happy, Mr Speaker. It is important to have a happy Speaker, I have to say - especially for somebody who is pressing the envelope a little. Mr Speaker, it is important that we have time to look at all of those issues which were contained within that appalling legislation which Mr Osborne so stealthily brought to this Assembly.

I was talking about 18 November and how it became clear that Mr Osborne did not have the numbers at that point to have his Bill passed through this Assembly. Instead of ensuring that the community was aware of what was in the back of his mind and in the minds of others in this Assembly, Mr Osborne kept very quiet, until the next day, about what was going to happen. When we came into this chamber we learnt that the plan was to withdraw his original Bill, because it was clear that he did not have the numbers, and to introduce a new and different Bill, which was to be debated this week, one week later.

Mr Speaker, we still do not fully understand. We did not fully understand the implications of his first Bill by the time we got to 18 November. We certainly cannot have had the time to this point to understand the implications of his second Bill. Because it is quite clear from the debate out there in the community that there are additional implications, we need this extra time desperately. We cannot, in good conscience, pass legislation through this place, particularly legislation of this magnitude, without properly considering all of the detail.

The legal magnitude of this legislation, I think, is understood by most. The implications for women in the ACT are not clearly understood, in my view, and neither are the impacts on other pieces of legislation. I cite, for example, the Crimes Act. All of these issues need to be better understood by members of this Assembly before they make decisions on this legislation, before they even enter the debate. It would be improper, and we would

be derelict in our duty, if we did not fully understand all of the issues surrounding this legislation before we entered into the debate. I have been associated with the abortion debate for a long time, and I can tell you that I do not fully understand the implications of the Osborne Bill. I heard this morning on radio some erudite explanations of the effects of the legislation. It was described by one eminent person as "ramshackle". When you have academics from the university describing legislation which we are about to consider within a week as "ramshackle", that, in my view, is cause for concern.

Mr Speaker, we also heard this morning on ABC radio a description of abortion law throughout Australia. I will bet that very few of the members of this place - and I will include Mr Osborne in this - fully understand the abortion laws throughout Australia, because they are complex. It is therefore most important that members sit back, take a few deep breaths and look at all of the aspects associated with the attempts which are being made here. This is an attempt to take the pressure off Mr Osborne. He deserves pressure for what he has done, because what he has done is unconscionable. It should never have happened.

This is an ideological agenda. It is the work of zealots who aim to restrict women's rights, who aim to impose their own opinions upon women. In other words, they are saying, "It is not your choice; it is mine. I am the one that is going to make the choice here. I am going to choose what hoops you will have to go through before you decide on whether you will have a termination or not". Indeed, this is an attempt to take over the consciousness of women. It is appalling that it is done with such short notice. Mr Speaker, the community expects better of its legislators, and I would seek Mr Osborne's support - - -

*An incident having occurred in the gallery -*

**MR SPEAKER**: Order!

**MR BERRY**: I would seek Mr Osborne's support to postpone this legislation.

**Mr Humphries:** You only got half the gallery, Wayne.

**MR BERRY**: It is not funny, Mr Humphries.

**MR SPEAKER**: Order! The member's time has expired. Just before I call Ms Tucker, I would remind people in the gallery that you are most welcome to come and listen to this debate; but that is what I would like you to do - to listen. Applause, comments, et cetera, I am not prepared to tolerate. This is far too serious. I do have the power to suspend this sitting, and I will do so if things get out of control.

**MS TUCKER** (11.01): I rise to support this motion of adjournment. I am very concerned, as I think many people in the ACT community are, about how this issue has been handled in the Assembly. As members are well aware, initially when the Bill was tabled by Mr Osborne we were not aware that it would happen. Then there was a period of time when we were not allowed to know when it would be brought back to the Assembly. We were given about one day's notice of that, and that was only through persistence. I do not think every member was given even that one day's notice.

We were then presented with 10 pages of amendments by Mr Humphries, I think one day before the debate. Those amendments were hurriedly turned into a Bill, which Mr Osborne then claimed as his. That was one week ago. We are now in a situation where it appears that we will be forced to debate this issue to its completion one week after it was tabled. It is not the same Bill that Mr Osborne tabled some months ago. It has different issues that need consideration and that the community needs an opportunity to talk to members about.

What I find absolutely stunning about this process is that people who are considering supporting this Bill or an amended version of it apparently understand and are across all the complicated issues that are brought up by this Bill. I want to list what they are. I am going to actually have available a copy of this list of issues for every member in this place who will support this Bill being debated today. I will expect a full and detailed explanation from each of those members on each of those points to justify their support for pushing this legislation through, because I can tell you, Mr Speaker, I have not had time to consult widely on this. I have not had time to understand the complexities of these legal, medical and social issues. I am fascinated by the thought that the rest of the members of this place have.

That is why I wait with great interest to hear how they respond to these issues. I believe that they owe it to the ACT community to be very articulate on these issues. I am sure that members of this place will grant as many extensions of time as are required. We will be happy to grant leave to speak again, if necessary, because this is obviously such an important issue that we want members to have the opportunity to go into the subject in detail.

Firstly, members, I assume that you understand the issues around the preamble. We are looking forward to an explanation from you of why it is good law to regulate an activity which is illegal. We are interested to hear from you what you believe this will mean for medical practitioners who are being regulated whilst doing an illegal act. How will you advise them to deal with this? What is the implication of the mention of the Crimes Act in the preamble to this legislation? How have you come to this position? And whom did you consult with?

Now we get to the definitions part. What are the implications of the term "approved facility" and the manner in which this will be determined by regulation? Are members going to amend this legislation now to take into account comments from the scrutiny of Bills committee, such as the definition of "parent" being unclear, inconsistency in the definition of "woman", and so on?

Now we get to the information section. How do you know that this information is correct? Whom have you consulted with? Are you across all the most recent research? Why do you believe that it is appropriate to give only the risks of abortion and not the risks of having the child? How does this relate to other serious medical procedures? How does this fit with the medical profession's ethical standards and responsibility? Where is the evidence that the existing facility does not provide women with information they need to support their decision? Whom have you consulted with on this?

On the consent issue, we look forward to your explanation of the legal implications of providing written consent, especially in relation to the preamble. Whom have you consulted with? On the 72 hours cooling-off period, we look forward to your showing evidence that women are making this decision without serious consideration at present. We would like you to address the advice of the ACT Discrimination Commissioner that such a mandatory delay could constitute unfavourable treatment by causing distress or even illness, in addition to loss of earnings.

Also would you describe to us how the requirement to consult an unrelated medical practitioner is in the interests of good health care? We look forward to a response from members to the ACT Discrimination Commissioner's advice that subsection 7(1), which requires a woman to consult an unrelated medical practitioner, could "constitute unfavourable treatment on the grounds of pregnancy". This requirement may constitute unfavourable treatment because of additional expense and time involved as well as requiring the woman to submit to a third and possibly unwanted medical consultation. We also look forward to your addressing the ACT Discrimination Commissioner's advice that the Bill could be inconsistent with the Discrimination Act 1991.

On the matter of approval of information pamphlets, the Medical Defence Association possibly will advise its members not to be a member of the panel, as the Bill presents serious medico-legal issues that would leave a practitioner vulnerable at all times to pending legal action. How will the advisory panel members avoid the threat of litigation? How many practitioners do you know who, regardless of their personal belief on abortion, believe that their medical practice should be subject to politics and who would risk 12 months' deregistration when the Crimes Act is still very relevant and the ACT has no legal precedent to rest on? I am sure that you must be across all these issues and the Medical Defence Association's concerns; so I also look forward to hearing your response to that.

If this Bill is passed, each and every one of you is saying that you understand all these health, legal and social issues associated with the Bill that I have just outlined and you are saying that you have proof that the clinic that currently performs abortion services in the ACT is not providing adequate information and counselling. You are saying that you believe seven days over two sitting weeks is enough time to consult the Canberra community and you are satisfied that there has been an assessment of why pregnancies are unwanted in the ACT, that this Bill addresses those issues and that the two members responsible for it are not attempting to legislate their personal religious beliefs but are responding to community needs. As I said, I look forward to hearing all that detail. If you cannot give it, you cannot allow this Bill to be debated today.

**MR CORBELL** (11.08): Mr Speaker, I rise today to support the motion by my colleague Mr Berry to delay consideration of this Bill. What is at stake here is an issue that I raised in this place last week, and that is the credibility and legitimacy of this legislature and the way it is viewed by the Canberra community. What we have before us today is a Bill which members saw only a week ago. We have amendments to this Bill, which some members want debated today, which were seen less than 24 hours ago.

How can we, in good conscience, suggest that we are in a position to pass this legislation today? How can we, in good conscience, argue that we understand the implications of this legislation and, indeed, the effect that the proposed amendments will have upon it? How can we, in good conscience, say that we are ready to make a decision in such a hurried way but we will require women to wait three days? How can we make that sort of judgment? How can we do that in any good conscience?

Mr Speaker, I think it is appropriate that we wait until we have had an opportunity to discuss these complex social, political and legal questions in significant detail - discuss them with our colleagues, discuss them with our constituencies, discuss them with those who wish to raise matters with us. Mr Speaker, I will quote from a number of letters which I have received on the issue of abortion legislation. The first is from Bishop Richard Randerson, who is the Assistant Bishop for the Anglican Diocese of Canberra and Goulburn. He says in his letter:

> Indications are that these complexities are already taken seriously by both family planning professionals and by women inquiring about terminations. Because of such complexities, I believe that a task force to make a detailed investigation ahead of any new legislation -

any new legislation, I emphasise that -

> is the only responsible way to proceed.

And, briefly, I quote from another person who has contacted my office:

> A matter as important as this should be open to extensive debate at the very least.

Mr Speaker, after a week of seeing this Bill on the table and after less than 24 hours of seeing the amendments which are proposed for this Bill, to then make a decision on it is, I believe, completely unacceptable. As members of this place, not only do we have a responsibility to make laws, but we have a responsibility to make good laws, and we have a responsibility to make them in the best interests of the people of the Australian Capital Territory. If we proceed down the path today of making this legislation, not only will we do ourselves a great disservice, but we will do a great disservice to the people of the Australian Capital Territory. For that reason, I urge members to support the adjournment today.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.12): Mr Speaker, I do not support this motion. There are a number of reasons for providing for motions and legislation of this kind to be debated within a certain timeframe. Of course, much of the legislation that this Assembly has considered in the past has been considered in rather shorter timeframes than three months - which is, in effect, the time from when this issue was first raised in some degree in the form that it is before us today to our reaching this particular point today.

Obviously, other legislation that the Assembly considers from time to time is less complex or less difficult than issues of this kind. But, Mr Speaker, at the end of the day, what we have before us is a piece of legislation which is on a path that the Assembly has trodden on a number of occasions before. I do not refer specifically to abortion legislation here; I refer to legislation which is about providing information to people undertaking certain processes or procedures. That concept is not new. That concept has been traversed by the Assembly on a number of occasions in the past, and that concept is one that I do not believe we need more than three months to properly consider.

In a sense, the Bill involves two fundamental issues. It involves the question of the form in which the information should be provided to women before they undertake an abortion and it involves, obviously, some overlying issues of abortion as such and what kind of involvement the parliament and others should have in the regulation of abortion. On the first question, Mr Speaker, I do not think there is any doubt that the Assembly has had enough time to be able to consider the fundamental questions about the nature of the information and the way in which it should be provided. Those provisions, in some form or another, have now been before the Assembly for the better part of three months. That is long enough to be able to consider and debate those issues.

On the question of abortion and the overlying issues about abortion, Mr Speaker, I would suggest, with respect, that three years would not be long enough to assist members of this place to move to some kind of resolution of those fundamental conflicts. Members of this place come to this place in, I suppose, all cases with strong predetermined views about issues like abortion. Perhaps there are people who have come to this place without such views. I would be surprised if there were any. But they come with those views, and I think, with respect, that any amount of time might pass and the chance of those members being prepared to change fundamentally what they believe about abortion per se is a very low chance indeed.

Bishop Randerson suggested, as quoted by Mr Corbell, that we should have a task force on this issue. With great respect to the bishop, I think the likelihood of, for example, members of this place getting together in some committee form and agreeing on issues as fundamental as abortion, finding some compromise on abortion per se - I put to one side for a moment the question of health information - is extremely unlikely, no matter how much time a task force or committee or select committee or whatever might be given.

Alternatively, some further work might be done on the structure of information to be provided to women. But, with respect, I think those issues are properly canvassed in the legislation as it now appears before the Assembly. Not many of the issues are particularly new. In fact, very few of them are especially new. I think the Assembly has had more than enough opportunity to be able to consider them in the time available. I know that it is nice to be able to, with a flourish, grandstand in these sorts of debates and look like the champion of a certain cause by arguing for things to be put off. But that is not necessarily in the interests of effective law-making and it is not, I think, in the interests of the community today, which deserves the chance to have this issue come to a head.

This issue has been a vexing issue. There are strong views for and against both abortion per se and this legislation in particular. I do not think that creating a further period of time beyond the three months we have already had to consider these issues is necessarily going to elucidate them for anybody in the community. I think, for that reason, Mr Speaker, that we should do the work which is on the program for today, and that is to debate this Bill.

**MR STANHOPE** (Leader of the Opposition) (11.17): Mr Speaker, I support the adjournment of this debate. I take the point made most lately by Mr Humphries in his contribution that it is not in the interests of effective law-making to adjourn this matter. I think, Minister, there is a significant difference between effective law-making and good law-making. We can crash laws through, but there is nothing to be gained by crashing through a bad law. The arguments made by my colleagues Mr Berry, Mr Corbell and Ms Tucker are sound and reasonable.

It is not right and appropriate to talk about a Bill that has been before us for three months, as has been suggested. We have had a Bill before us for a week, a second Bill, and the third Bill, in effect - Mr Moore's amendment - which I believe I received a faxed copy of this morning and am yet to open. At this moment I am being asked to consider proposals that I have not yet looked at.

This is an incredibly difficult subject. It is a subject on which there are a range of views. The legislation and the amendments which have been proposed raise the most difficult issues. It is completely unacceptable that we should take onto ourselves today the task of passing into law issues that create the most extreme difficulties for everybody in the community. It is not that we are any great font of wisdom here; we are all incredibly fallible. It is not that we have any special knowledge about the application and the implications of the provisions that we will be dealing with today. This has been drawn to my attention very succinctly by some of the correspondence that each of us has received and, most tellingly, some of the correspondence the Attorney-General has received just yesterday and today.

It must be most alarming to each of us in this place and to everybody in the community to think it is possible that, by the end of today, we will have abortion legislation in the ACT when people such as the ACT Discrimination Commissioner, as late as yesterday, wrote to her Minister, the Minister responsible for her agency, saying:

> I am writing to advise you that aspects of the above Private Member's Bill ... appear to me to be inconsistent with the Discrimination Act 1991 ...

The ACT Discrimination Commissioner wrote to her Minister as late as last week to say that, in the view of the ACT Discrimination Commissioner, this legislation breaches the Discrimination Act.

As late as last week, the ACT Division of General Practice wrote to every member of the Assembly saying:

> In relation to the Osborne Abortions Bill, the ACT Division of General Practice considers Gary Humphries' amendments to be insulting to the intelligence of women in making informed choices about their health care, and to the professionalism of their medical practitioners.

The ACT Division of General Practice went through the Bill clause by clause and concluded:

> This legislation will increase the social, economic and health pressures on women particularly the young, poor and socially disadvantaged, who are especially vulnerable. These women are less likely to be able to afford alternatives and may force them into a situation of procuring a backyard abortion;
>
> The ACT Division of General Practice holds that the Humphries amendments to the proposed Osborne Abortions Bill have done nothing to alleviate general practitioners concerns and confirms their view that this legislation is unacceptable and contrary to good medical practice.

Regarding the Attorney-General's plea today that we not delay the passage of effective legislation, I would ask members, when determining the need for this Bill to be adjourned, to consider the letter which each of them received today from the ACT Director of Public Prosecutions. This is a most concerning piece of correspondence from the Director of Public Prosecutions. The ACT Director of Public Prosecutions wrote to his Minister, the Attorney-General, today saying:

> My attention has been drawn to the above legislation. Despite the frequent, if not usual, but highly desirable, practice of seeking my comments on proposed legislation with a significant criminal law comment, my advice was not sought on this Bill before or after its drafting.

The Director of Public Prosecutions went on:

> I have serious concerns about a number of aspects and believe that, as presently drafted, the Bill will cause significant enforcement problems and expense. I have prepared these comments in relative haste, having had little time within which to consider the Bill and its implications.
>
> Many of the terms used in the Bill are vague and imprecise, which means that their interpretation is not clear. That imposes a real impediment to enforcement, particularly as it will lead to appeals, which are expensive and time-consuming and possibly failed prosecutions with the attendant consequent costs payable to the acquitted defendant.

> It also means that people are uncertain as to whether they are committing an offence as the interpretation of the relevant provisions is uncertain. This is highly undesirable in the criminal law, where citizens are entitled to know precisely when they are breaking the law or not.

The Director of Public Prosecutions made some specific comments on a number of particular clauses. In referring to subclause 9 he said:

> Sub-clause 9 ... creates another offence but provides an exception (or, perhaps, a defence - it is not clear which) but relies on the definition of "medical emergency". While such a concept in civil law may be able to be suitably vague, this vagueness is quite unsuited to the criminal law, where the liberty of the individual and integrity of property is at stake. This phrase is defined with significant vagueness and variable terms ...
>
> Finally, subclause 14 ... given the definition in subclause 14 (3) may prevent a transcript being prepared of proceedings. To "disclose the identity of a woman" is not the same as merely naming the woman and no transcript service will be equipped to decide what information contained in a transcript will do the former.

We need to understand the significance of the office of the Director of Public Prosecutions. It is the senior and pre-eminent prosecuting authority in the Territory. One of the most senior legal figures in the ACT concludes his letter of today's date to the Attorney-General as follows:

> As presently proposed, the Bill has many difficulties for this Office ...

In light of this advice from the Director of Public Prosecutions, for us to continue today is simply untenable. The Director of Public Prosecutions continues:

> It has also serious problems for a transparent and enforceable criminal justice system. The opportunity should be taken to rectify such problems before enactment so that, at least, a workable piece of legislation is enacted.

It is simply beyond the wit of the 17 of us to deal in this place today with those trenchant criticisms by the DPP. It simply cannot be done; it cannot be achieved. We cannot do it. We are not up to the task. This matter must either be referred to a committee or postponed until at least March next year. It would be reckless in the extreme for this Assembly, in light of this sort of advice from both the Director of Public Prosecutions and the ACT Discrimination Commissioner, to dare to proceed with this legislation today. It would be an absolute outrage for us to seek to do so. We have no option but to put this matter off. We must either refer it to a committee or put it off until at least March next year.

**MR HARGREAVES** (11.26): In speaking to the motion to adjourn this matter, I would take issue with a comment made by a previous speaker when the accusation of grandstanding came up. Mr Humphries referred in a throwaway line to Mr Berry's - I believe he was referring to Mr Berry - grandstanding. Mr Humphries clearly confuses conviction with grandstanding. Grandstanding is when people go public on these issues. With one position and in a very positive way they address crowds and then prevaricate when they are pressed. That is grandstanding. I would put people's motives in question when they do this sort of thing. Mr Speaker, whether you like his views on these matters or not, Wayne Berry is a man of conviction. To accuse him of grandstanding is a cheap shot and it ought to be condemned. I do so right now.

Mr Speaker, I support the motion to adjourn this debate. There are those of us who could be called fence-sitters, if you like. We could be called confused or accused of having battles with our own souls, if you like. Nonetheless, it is a very difficult position to be placed in and I wish to heaven that it had never occurred.

Mr Speaker, this morning I received a copy of some amendments that Mr Moore is promoting. We are being asked to decide today, in a number of hours, what people take a lifetime to decide. I would like to pay tribute to what Ms Tucker said in the newspaper today. I think it was particularly well put and absolutely spot on. She said that we are being asked to vote on legislation without having a cooling-off period. We are actually voting to have a cooling-off period in the legislation but we are not demanding the same thing of ourselves. I think that was particularly well taken. Mr Speaker, I urge the Assembly to give people like me more time to consider the legislation.

**MR MOORE** (Minister for Health and Community Care) (11.29): Mr Speaker, unlike Mr Hargreaves, I am not confused about this issue. I am not a fence-sitter on this issue. I have a very clear position. My clear position is that I oppose this legislation. In fact, given the opportunity, I would decriminalise abortion and completely remove it from the Crimes Act. I would not hesitate to do that if I believed I had the numbers. I am also interested in ensuring that, whatever the outcome from this legislation, it is what I would call the least worst solution.

Let me say, Mr Speaker, that this Assembly and previous Assemblies, in dealing with planning issues, have insisted that the community have adequate time to consider planning issues. Now, how do planning issues compare to women's lives? How do planning issues compare to the right of a woman to control her own body? They do not compare, Mr Speaker. Mr Berry has put up a very sensible proposal this morning and that proposal is to postpone this debate.

I have worked particularly hard, and so have my staff and particularly my senior adviser, on these issues over the last week - well into the night on many occasions. I think we have some sensible amendments to make to this Bill, if that is going to be the case - if this Bill passes. But there is nothing better I would like than to postpone this and to have more time to be able to get a better consideration of this Bill, better consideration of the amendments that we were still working on towards midnight last night.

Mr Speaker, members have the opportunity to push this legislation through. We know that. But we also have the opportunity to ensure that there is proper consideration of legislation that so fundamentally affects people. It seems to me that adjournment of this debate is entirely appropriate. I could spend significant time debating the issues in the legislation, but that would be inconsistent with the spirit of the way people have conducted this debate. The issue has been about adjourning the debate. What we should do is adjourn it and give people the opportunity to consider the issues in a great deal more depth. Mr Speaker, I would argue that that is an entirely appropriate way to deal with this legislation.

**MR KAINE** (11.32): Mr Speaker, I do not support the motion to adjourn the debate entirely today. But, in taking that position, I do not believe that the matter should be debated to a conclusion today. There is clearly a continuing interest in the community on the subject. I have been in this place since its inception in 1989 and, as you know, Mr Speaker, I was a member of its predecessor body as far back as 1974. The issue of abortion has been on the agenda in one way or another all of that time.

There are people here today in the visitors gallery who are either pro-life or pro-choice, and those people, I am sure, would like to see some of the issues in this debate resolved, and they would no doubt like to see them resolved in their favour. I am not certain that a debate here today is going to resolve too many of the issues, nor will it resolve them necessarily in anybody's favour. But I think that to simply adjourn the debate and say we are not going to discuss it at all addresses nothing. There are issues that are being raised today that need to be dealt with. They need to be dealt with in this place because there are questions of legality and so on that are currently happening in our community and they cannot continue to be ignored.

I would suggest, Mr Speaker, that there needs to be a debate today, but I am very conscious of some of the matters raised by members of the Opposition. I am very aware - although I received the document only 15 minutes ago - of the comments by our DPP. I am aware that our Discrimination Commissioner has made some comment. That in itself, of course, is not necessarily conclusive. The commissioner can make comment, but it has no particular standing unless the commissioner is making a ruling on a case before her. The fact that she has an opinion at this stage is not necessarily decisive one way or the other.

But the thing that concerns me most - and Mr Moore has already spoken on the issue - is that 10 minutes ago I also received the folder which contains Mr Moore's proposed amendments. I would have to ask the question: How can any of us deal with a piece of legislation when amendments are put on the table that Mr Moore says he was working on all night and the rest of us have not seen? His amendments may be perfectly legitimate and perfectly reasonable, but how do I know? There are many issues that need to be resolved in the mind of every member of this place before we debate the matter to finality.

I come back to the point that I make, Mr Speaker: It is time to get some of the major issues in the question of abortion on the table in this place. The debate on this Bill in principle is perfectly in order so that any of us who have a strong opinion on some aspect or all aspects of the matter can put those matters on the table. I do not really know fully,

for example, what Ms Tucker thinks. She has spoken and has expressed her concern, but at the moment we are only debating an adjournment motion. We are not debating the issues of the matter before us. Ms Tucker has expressed some views and I would like to know in some detail the things that concern her.

Members of the Opposition have done likewise. They have made the point that we need to make good law. Of course we do. We would not be here if we were not here to do that. I agree that there are enough questions on the table to raise a real concern in my mind as to whether we should proceed to the in-detail debate on this Bill today. There are very important issues that people will want to put on the table that we all need to go away and think about a bit. I am not convinced that there is a great deal of complexity in the issues raised by this Bill. There are many complexities in the question of abortion, but that is not what we are debating. That is not what this Bill is about. In those circumstances where an abortion is currently legal, this Bill talks about exercising some control over how the abortion is performed.

I do not think that is unreasonable at all. I do not personally find it any more complex than Mr Moore does, but obviously other people do. They are being asked in this Bill to make some very significant decisions that affect the very lives of people in our community, and that is not something that we can do right now, right here. Mr Speaker, I do not agree with the notion of simply pushing off the debate entirely until some time into the future because it merely defers a necessary debate on these matters, but I will consider my position when we have completed the debate in principle. If the Bill is agreed to in principle, there is the question of where we go from there.

I think that that is the point at which some of us would have real concerns about debating some of the issues that are already on the table. Some have not yet been put on the table, no doubt because the debate has not even started yet. I think that that is when some of us would have some real problems with proceeding too far today. I think it is essential that we debate the matter in principle today and then determine where we are going to go from there.

**MR SPEAKER**: Before I call Mr Smyth, I would like members to listen very carefully to what I have to say. It has been drawn to my attention by the Clerk that the motion before the Chair is that order of the day No. 1, private members business, be postponed until the first sitting day in March 1999 - not adjourned: Postponed. The problem we have at the moment is that that is what we are debating. The motion to postpone consideration is a separate issue. If this postponement motion were to fail, it would not preclude a member moving that the debate be adjourned at any stage. I hope that is clear to members.

**MR SMYTH** (Minister for Urban Services) (11.39): Mr Speaker, if the facts that have been presented to us are true, in that there are 2,000 abortions performed in the ACT every year, I consider that a very serious matter. Were this debate to be postponed or delayed in any way till March or April next year, half a year, in that period we are talking of the likelihood of a further 1,000 abortions. Clearly, I believe - and I think most here would know it - that that would be the ending of 1,000 human lives and possibly affecting, to a very serious degree, a significant number of the women involved in those abortions.

I believe that if the additional information that Mr Osborne seeks to have provided in the material that is available saved just one life in that period - deferred or stopped one abortion - that would be a tremendous outcome. I do not believe that we should postpone, adjourn or delay this any further. If members wanted to send it to a committee, and I do not, they could use standing order 174, which provides that, after a Bill has been agreed in principle, a member may move that the Bill be referred to a select or standing committee. I also do not believe that that would be appropriate, but that option would be there for those that would like to take that path.

I think that we need to press to conclusion on this, certainly to protect the women involved and most certainly to protect the unborn who are at gravest risk here. It is always the case that the abortion debate is one about choice; it is never about the life of the unborn. I think we all need to focus on that. With that in mind, Mr Speaker, I would say that we should not postpone this debate. We certainly should not adjourn it. It should not go to a committee. We should press forward and resolve this issue today.

**MR QUINLAN** (11.41): Mr Speaker, I rise to support the motion. Mr Humphries made the point that there are people in this place with predetermined views. It is, I think, a point that he has relied on not for the first time. I rather think that the primary issue here is the public debate and the public airing. We are, in fact, accountable to the people of the ACT. We recognise that accountability and we do conduct full debates, despite the fact that we may believe that there are people with predetermined views. In the public debate in the last week or so we have heard lies, damn lies and statistics in relation to breast cancer. That question remains open and cannot be answered in this place, because we are not experts.

The provisions of this Bill, as far as I see it, are not a yes-no to abortion. As it is amended, they are more about sending women on a guilt trip. Like all members, I have received mail, emails and telephone calls on the subject and its various dimensions. One of those revolves around the ex post-psychological impact on women who have an abortion - possible detrimental effects as we see it, as mentioned in the Bill.

I would like to think that the debate benefits from the best professional advice and, amongst other things, the probable increase in ex post-psychological impacts on women who have an abortion and have no choice, who are in a desperate situation where they really have no choice but to have an abortion and are forced to endure the guilt trip first. I rather consider, at least intuitively, that being exposed to confronting and graphic pictures or drawings, and having been forced on a minimum three-day guilt trip to absorb those, it may well give rise to further detrimental effects on people who have an abortion and who feel the necessity to have an abortion.

I find it quite daunting, if not terrifying, to be making decisions that can have such far-reaching impacts without the very best professional opinion from both sides in the public debate. I support those who have risen today. The point has been well made that, by the end of this day, we may well be debating a further abortion Bill than the one that we started the day with, because of Mr Moore's compromises that he has brought forward that none of us have had the time to absorb and to internalise. Mr Speaker, I strongly support the motion.

**MS TUCKER**: I seek leave to speak again.

Leave granted.

**MS TUCKER:** I think it would be useful for me to remind the Chief Minister and her Government, in particular, of the Chief Minister's consultation protocol which was released in December 1997. Six points are listed which will indicate whether or not it is required that consultation be undertaken. Four of those six points, I believe, absolutely apply to this discussion. I will read them out: The issue directly affects a significant group in the community; the proposal will significantly affect the rights and entitlements of ACT citizens; a significant number of people or particular groups are likely to have strong views on the issue; the change is likely to directly affect the quality of life for people in the ACT. Four out of six points, Mr Speaker, are obviously related to this. We have new amendments from Mr Moore and we have information from the DPP, which I have not seen. I have only recently seen the information from the ACT Discrimination Commissioner. These are obviously important matters. This protocol would dictate to this Government, and every other member of this place that I understand has supported this consultation protocol, that we adjourn this debate.

**MR OSBORNE** (11.45): Obviously I will not be supporting the adjournment put up by Mr Berry. I have just a couple of points to make. I am interested in the letters that were tabled by Mr Stanhope. I find it interesting that the DPP would choose to circulate to every member of the Assembly a letter to his Minister. I find that an interesting approach from the public servant in relation to his stance on that. I believe that in the amendments Mr Moore has certainly addressed many of the concerns of the DPP.

Secondly, on the Discrimination Commissioner, I felt it important to cast my mind back to 1992 when the abortion clinic was opened. I had a look at the votes on that night, Mr Speaker. I looked down the list and, surprise, surprise, whose name should appear there? It was Rosemary Follett's. Who is Rosemary Follett? She is the Discrimination Commissioner. I felt it very important that that be on the record, Mr Speaker. So I hardly think that she comes into the debate.

**Ms Tucker**: So what are you implying exactly, Mr Osborne?

**MR OSBORNE**: There are no serious implications. I am just putting it on the record, Mr Speaker. I am not implying anything. I am just saying that it needs to be on the record. This issue has been on the table for a number of months now. The final result that we have, I do not think, is different from the second part of the first Bill that we tabled. It is just stalling tactics on the part of the opponents. I think it best that we deal with the issue today and, hopefully, come up with a sensible outcome.

**MR STANHOPE** (Leader of the Opposition): I seek leave to speak again.

Leave granted.

**MR STANHOPE**: There are just a couple of things that I would like to add to my contribution. I would like, initially, to respond to the point that Mr Osborne just made in relation to the Discrimination Commissioner's position and Mr Osborne's drawing of some parallel conclusion between the fact that Ms Follett voted in a certain way in this place and now, as Discrimination Commissioner, is - - -

**Mr Osborne**: I have a point of order, Mr Speaker. I certainly did not do that.

**MR SPEAKER**: I uphold the point of order. Just be careful, Mr Stanhope.

**MR STANHOPE**: I am sorry. I will respond then to the comments that Mr Osborne just made which related to Ms Follett. I was not suggesting anything else, Mr Osborne; there was, perhaps, some looseness in my language. Nevertheless, it is quite relevant for us to have some regard to the fact that Ms Follett, as the Discrimination Commissioner, is providing advice that in her position as Discrimination Commissioner she believes the proposed Bill potentially breaches the Discrimination Act.

That is just a bald statement of fact by the Discrimination Commissioner and it is a view, having been expressed by the Discrimination Commissioner, which we must take seriously. It is the sort of issue which those of us here today may be able to draw some conclusions on, but it is an issue in relation to which we should perhaps draw on other advice. I refer in that context to the report tabled yesterday by the scrutiny of Bills and subordinate legislation committee, a committee chaired by Mr Osborne. In a report tabled in this place yesterday, by Mr Osborne, Mr Osborne's committee tended to support Ms Follett. Yesterday Mr Osborne, in a report tabled by him, provided this information to us. This is your report, Mr Osborne, and it reads:

> Laws governing abortions may also involve debates about the scope of the "right to privacy". In Article 17.1 of the ICCPR it is stated:
>
> > No one shall be subjected to arbitrary or unlawful interference with his privacy [, or] family ...

I am quoting there. The ICCPR obviously does not take appropriate account of gender language. The report goes on:

> Some argue that the right of a woman to her privacy includes an unqualified right to decide whether she will terminate her pregnancy.
>
> The statement in Article 17.1 that a person shall not be subject to arbitrary or unlawful interference with her or his family brings other interests into focus. The woman may claim that any limitation on her ability to decide whether to terminate her pregnancy is an interference with her family.

And it goes on. It is interesting, Mr Osborne, that in your own report you actually go into some discussion on this and say:

> These claims by women, fathers and parents based on Article 17.1 may also be based on or supported by Article 23.1, which states that
>
> > The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

It is interesting, Mr Osborne, that your committee goes on:

> The Committee does not offer a view as to how a rights analysis would or would not support any of the provisions of this Bill. This is a matter for the Assembly.

One of the things that concerned me when I read your report of yesterday's date, Mr Osborne, was: How many of us here today, with the information available to us - in light of the fact that we will at some time today, if this matter goes ahead, be debating the third of the abortion Bills, Mr Moore's Bill - have the capacity or the tools at hand to engage in a rights analysis?

**Mr Moore**: I would like to take a point of order, Mr Speaker. I am sorry, Mr Stanhope, but there is something that I would like to just clarify. Mr Stanhope referred to my Bill. I do not have an abortion Bill. I will not put up a Bill. I have circulated some amendments to something that I consider an appalling piece of legislation.

**Mr Wood**: It is not a point of order.

**MR SPEAKER**: Order! It is a point of clarification.

**Mr Wood**: Where is that in the standing orders?

**MR SPEAKER**: Well, it is a point of clarification.

**MR STANHOPE**: Anyway, the point I wish to make is that I think it is quite ironic that the Discrimination Commissioner has provided advice that she believes that this Bill today is inconsistent with the Discrimination Act and, in making that decision, she relies primarily on its impacts on privacy; yet we had provided to us yesterday the report of the scrutiny of Bills and subordinate legislation committee, chaired by Mr Osborne, giving us a detailed analysis of how the abortion Bill possibly impinges on the privacy aspects of our international human rights obligations. So Mr Osborne's committee is, in effect, supporting the position put to us yesterday and that put to us last week, in a more formal sense, by the Discrimination Commissioner.

There is just one other remark I will make in relation to this. There was one other representation, which I think every member of the Assembly received, which brought home to me the seriousness of the issue that we are debating here today and which is the reason why I feel that we simply cannot proceed with this today, that we must take advice, that we must think much more seriously about the implications. That was the advice from Family Planning ACT. I do not know how many members have taken that advice to heart. Family Planning ACT has stated unequivocally to each of us that the impact of this Bill, as it stands, would potentially mean the closure of the Reproductive Healthcare facility and the necessity for women seeking such services to travel interstate. Family Planning ACT says, "We would have to close the clinic, for a number of reasons".

We are here debating a Bill which Family Planning ACT says will, as a natural consequence, lead to the closing of the clinic. I cannot see how we can possibly proceed with this, in the context of the information that is available to us, our lack of understanding of the implications of the amendments and the grave concerns that have been expressed to us by a number of incredibly senior legal and discrimination representatives within the community and by the society of general practitioners. We are actually debating today the possibility that, as a result of our actions today, in the view of Family Planning ACT, the clinic will close. That is its view. I cannot believe that any member of this place would genuinely suggest that we should charge ahead and do that, with that potential result. It is just unthinkable that we should contemplate it.

**MR RUGENDYKE** (11.55): Mr Speaker, I do not support the motion to postpone the debate. This debate has been formally on the table of the Assembly for almost three months now and, as Mr Kaine pointed out so succinctly, there has been ongoing debate in the public forum for considerably longer. We have all been working through the issues regarding this Bill and I am sure that we can take the matter forward today. I believe that we should try to make some progress with the Bill. We cannot ignore the Bill or delay it unnecessarily. This Assembly is going to have to tackle the debate at some stage and reach an outcome. I would like to see us utilise the time today to address as much of the procedure as possible. So, Mr Speaker, I do not support the motion to postpone the debate.

**MR HARGREAVES**: I seek leave to speak a second time.

Leave granted.

**MR HARGREAVES**: Mr Speaker, no doubt everybody here would like to see the matter dealt with, finalised, packed up and sent home. I, too, would like that. But, Mr Speaker, those of us who have had the privilege of a quick cast of our eyes over the amendments that Mr Moore has produced and the original Bill will note that Mr Moore's amendments address many of the issues raised by the Discrimination Commissioner and the DPP. However, Mr Speaker, as my leader, Mr Stanhope, said, we may not have the wit to make that connection. We may not have sufficient command of the law, or command of the Discrimination Act, to make a judgment in the space of a couple of minutes or a couple of hours. It concerns me that we might be doing that. For all I know, the amendments put forward by Mr Moore may very well address those issues.

But, Mr Speaker, in the course of the last couple of months I have got an absolute barrow-load of information from both sides of the argument. I would like to express my appreciation to those people who have given it to me. Whilst they have contributed to my confusion and my anxiety, they have also clarified many issues for me. However, I was able to sit back and - even though it was a short period of a couple of months - in my view, digest a bit of it. Mr Speaker, I am quite prepared to stand up here as one-seventeenth of this chamber and say that I do not have the capability to digest it all quickly. I make no apologies for that lack of ability.

I support the postponement of this debate because I would like to see it proven that the amendments that Mr Moore proposes to Mr Osborne's Bill actually address some of the questions that Family Planning have. If they do, perhaps there is going to be an easier life for them. I would like to see whether those amendments actually do address the issue that Mr Smyth raised - that there are so many abortions in this town and, if we can prevent one of them, the whole thing is worth it. I would like to see it happen.

I am not particularly firm on how long the delay needs to be; but I think that doing it today, rushing headlong into it today, with what appears to be conflicting information placed before us, is placing a rather heavy burden on us, and particularly on those of us for whom the issue is not black and white. I ask the people here who have an absolute clarity in their minds about what we are talking about to consider this: Is the Bill about abortion or not? Is the Bill about information or not? Is there a connection in there or not? Is it going to infringe people's rights? Are we talking about one life or are we talking about two lives? When does life begin and when does it actually take human form? Is that relevant? I would like them to answer those questions. If they have that clarity in their minds, then they are very fortunate people, because, Mr Speaker, I have only got half of that clear in my mind. It is an enormous responsibility for those of us in this chamber who are not the lucky recipients of a black-and-white picture. I would urge all of the members who do not have any difficulty with proceeding with this thing now because either their minds are made up or they have a speed-reading ability that we can all envy to consider the position that people like me are in.

I would also be interested in the views of those members who have not spoken yet, because I think they owe it to us to assist us. I think they owe it to the community to make their positions known - whether they are pro one position, pro another position or, like me, in a position of abject confusion. I think they owe it to people. We cannot have people just sitting silently in this chamber when we are talking about these sorts of issues. I challenge those who have not spoken yet to do so.

**Ms Carnell**: On whether we adjourn or not?

**MR HARGREAVES**: It is up to you, Kate. The ball is in your court.

**Ms Carnell**: Oh, don't be silly.

**MR HARGREAVES**: I am not being silly. That is an arrogant way of approaching it.

**MR CORBELL**: Mr Speaker, I seek leave to speak again.

Leave granted.

**MR CORBELL**: Mr Speaker, I rise only briefly to respond to some comments across the chamber from the Chief Minister. Those comments were, basically: What is the point of making a comment on whether or not we adjourn? The Chief Minister nods. Mr Speaker, it is important that members in this place declare their position. It is important, because it is not just about endorsing whether or not we adjourn; it is about whether or not you endorse the process that it is proposed this Bill goes through.

**Ms Carnell**: On a point of order, Mr Speaker, and a serious point of order: That is not what this debate is about. This debate is about whether we adjourn or not, full stop.

**MR SPEAKER**: The motion is, in fact, about whether or not we postpone. I would remind members that that is the motion.

**MR CORBELL**: Thank you for the correction, Mr Speaker. It is indeed about whether or not we postpone this debate until a later month. But it is not just about endorsing the postponement; it is about whether or not members in this place are prepared to allow a process that will result in this Assembly being put in a position to pass a law which I think most members in this place are not confident about and do not understand the full implications of. That is what this postponement proposal is about. It is about whether or not we feel that we are capable of passing this law today and whether or not we are confident that the community of this city has had the opportunity to comment fully on the propositions that have been put to us only within the last 24 hours, because the amendments are only 24 hours old. Mr Speaker, that is the proposition.

That is why it is important that members state their view. If they do not state their view, they are condoning a process which denies the residents of this city, the people we are elected to represent, an opportunity to comment fully and which denies us an opportunity to understand completely the implications of what is being put before us.

**MR BERRY** (12.04), in reply: Mr Speaker, I think that we have heard all of the arguments, comprehensively, to postpone this debate. I am disappointed that the Chief Minister has not expressed a view.

**Mr Humphries**: Yes, you would be, wouldn't you? It is the old game, is it not - get Kate Carnell? Forget about abortion, forget about women; it is all about Kate Carnell, isn't it, Mr Berry?

**MR BERRY**: I just think it is important, Mr Speaker, that the leader of the Government, and the other women in this Assembly, might have expressed a view in this debate.

**Ms Carnell**: I promise that I will, but not on whether we adjourn or not.

**MR BERRY**: Whether we postpone or not. Mr Speaker, I think the motion to postpone has been well made out by all of the speakers who have supported it by way of the contributions they have made. I must admit that when I came into this place this morning I did not know about the letter from Mr Refshauge. It arrived at 10.43 am. It cast a new light on the urgency to delay final consideration of this matter. What he has said is quite alarming. Indeed, Mr Speaker, as I assume that every member has a copy of this in their office, I will not take the trouble to circulate it - although it may be important that it is on the record in the Assembly; so perhaps I will seek leave to table it.

Leave granted.

**MR BERRY**: Mr Speaker, I do not need to go to the detail of that letter. My leader, Mr Stanhope, went through it in great detail and explained the urgency of delaying consideration of this matter. Mr Speaker, I can count, and I think the numbers are against postponement, although some members have not spoken. I simply base my calculations on some assumptions, which I think are not wild.

That is a pity, because I think it sends a message to the community that this Assembly, before it enters into a debate about the in-principle issues concerning this sort of legislation, is not prepared to inform itself. An Assembly that is not prepared to inform itself is an irresponsible Assembly. In the course of debate over the ensuing hours, we will labour each point of this legislation until we get to the detail stage, and none of us will be properly informed when we get there, or fully informed, or adequately informed, because we will not have listened to the experts in the field. We will not have adequately explored the detail of the legislation which has been put before us.

I turn to some other amendments which came to my office after the Assembly began its sitting. They are the amendments which Mr Moore has prepared, described as the paste-up version. I think that is how it is described.

**Mr Moore**: No; there are the amendments, and then you have a paste-up version so you can read it more easily.

**MR BERRY**: Mr Moore, I have read it only once. In fact, I have not read it yet. So, this presents another dimension for consideration. On a quick scan, I see that they propose amendments to legislation which it is anticipated will endure the process in the Assembly. In principle, I have a great deal of difficulty with the proposal by Mr Moore. I have heard him say that he is looking for the least worst situation. I guess I will have to try to inform myself in the short time available to me whether those proposals which he has put forward are the least worst; indeed, whether they are tolerable. But my in-principle position is that I am concerned about them. I heard what he said earlier in relation to this matter and acknowledge that he has a preferred position in relation to the matter. That is probably irrelevant to this debate about postponement but it is worthy of mention in the debate.

Mr Speaker, I will be disappointed, as many of my colleagues who support me on this matter will be, if the numbers do not stack up for this postponement. It is an important move on an important piece of legislation, which is now extremely controversial, given the additional advice and information which have come to us even while we sat. I was curious as to why Mr Osborne went to great lengths to mention the Discrimination Commissioner's name. I was troubled that that had a streak of meanness in it; but he says that he intended no imputation. Then I wonder why he mentioned her name. In any event, that troubled me.

I heard Mr Rugendyke's contribution to the debate. I am disappointed that he will not stand up for his constituents that are concerned about this legislation and listen for just a little longer. I heard some reports about his position this morning. I think it was reported that he had not made up his mind yet. I say, Mr Rugendyke, that between now and the end of the in-principle debate is a very short period, and I do not know how you are going to find yourself properly informed by the end of this day. I do not, for the

life of me, understand how you can properly contribute in an informed manner when there are so many controversial criticisms around in relation to this legislation, which, on the face of it, is destined to be rammed through this place, if one can take any notice of the intentions of the proposer of this legislation.

I have to say that I think Mr Osborne's behaviour in relation to abortion has been utterly disgraceful and appalling. It is the sort of stuff which makes people concerned about the ability of politicians, especially politicians who change from one particular flavour to another when it suits them. This appeals to a very small constituency, and that may well be Mr Osborne's intent; but he has a responsibility to others in his constituency who have a different view.

I respect the views of those people who are opposed to the pro-choice position. I think I understand it. I believe that, if that is their position, they should be respected for it - indeed, in some respects, honoured for it - but I do not think they should be allowed to impose it on other people. And that is where we part company. If they have a particular philosophical difference with this position, I am content with that and I would never ask them to change their minds; but I just implore them not to impose it on others. That is why I think we need to adjourn this debate. At the end of the day, if we are better informed and there is a delay where we can take a couple of deep breaths, we can think in clearer air.

I have already made comments about the relationship between the sale of ACTEW and this matter. I need not say any more about it. I think there is a connection. Many out there in the community think there is a connection and think that this ought to be delayed until the end of that debate at least, because of the way this Assembly operates and how there is a dependence on certain votes in this Assembly to get pet projects through. So I say, Mr Speaker, that all of the arguments to delay consideration of this Bill have been well made out. Although I can count, I am rather disappointed at some of the things that have been said - and not said - by people who will be voting in relation to this matter.

Question put:

That the motion (**Mr Berry's**) be agreed to.

The Assembly voted -

| *AYES, 8* | *NOES, 9* |
|---|---|
| Mr Berry | Ms Carnell |
| Mr Corbell | Mr Cornwell |
| Mr Hargreaves | Mr Hird |
| Mr Moore | Mr Humphries |
| Mr Quinlan | Mr Kaine |
| Mr Stanhope | Mr Osborne |
| Ms Tucker | Mr Rugendyke |
| Mr Wood | Mr Smyth |
| | Mr Stefaniak |

Question so resolved in the negative.

## HEALTH REGULATION (MATERNAL HEALTH INFORMATION) BILL 1998

Debate resumed from 18 November 1998, on motion by **Mr Osborne:**

That this Bill be agreed to in principle.

**MR MOORE** (Minister for Health and Community Care) (12.16): Mr Speaker, the legislation first put to this Assembly in August was not only flawed, but unworkable. It was an attack on the basic human rights of women in our community and their capacity for autonomous decision-making about their lives. It sought to regulate and interfere with the privacy and confidentiality of the doctor-patient relationship.

I respect members' personal views about abortion, based on their own beliefs, religion or personal circumstances. However, it is not the place of this Assembly to impose those views on women in such a way as to impact adversely on their health. If we, as a community, value our rights to freedom of thought, conscience and religion, then we cannot support laws which impose one particular religious or moral view on those who have different views. Mr Speaker, we live in a culturally and spiritually diverse society. That original Bill that was put to this Assembly, in particular, undermines that diversity.

The human rights of women also include the right to have control over and to decide freely and responsibly on matters relating to their sexuality, including sexual and reproductive health. They must be able to make such decisions free of coercion, free of discrimination and free of violence. Only women themselves can make those choices. And it is just that - a choice - a choice about an unplanned pregnancy. Many women will choose to continue with such a pregnancy. There is no evidence whatsoever that liberal abortion laws encourage women to have abortions. In fact, when abortion is illegal or very difficult to obtain, there is little, if any, reduction in the abortion rate. But there is a much higher risk of unsafe abortions, increased morbidity and even increased mortality - that is, death - for women.

The original Bill and, to a lesser extent, the current Bill before us would put women seeking an abortion through a degrading and traumatic process. Originally, there was an attempt to introduce measures to have the effect of making access to safe abortion services so difficult that women who decided to have an abortion would be faced with punitive laws and inappropriate involvement of medical specialists and psychiatrists; would be forced to label themselves as mentally ill; would be confronted with information and material which may not be appropriate to their needs; or would have to undergo the stress and expense of going interstate to have their abortion. Those who could not afford this may go ahead with an unwanted pregnancy. Some may even resort to unsafe and illegal procedures, thus risking their health and wellbeing.

Australian law already prohibits the administration of any medical treatment to a competent adult unless her or his consent is first obtained. It applies equally to every medical procedure. To be legally effective, the consent must be adequately informed.

A doctor is already legally obliged to inform about potential risks. One problem with the Bill before us today, Mr Speaker, is that it requires information to be presented, regardless of whether the content of that information and the way in which it is presented are suited to a woman's particular needs, concerns and circumstances. It would seem that this is designed to coerce or to persuade women not to proceed with the abortion. As I said earlier, Mr Speaker, it is entirely inappropriate for us as an Assembly to in any way coerce women in this decision-making process. The original so-called cooling-off period of 72 hours showed a lack of respect for the ability and the right of women to make their own decisions about abortion, in their own time and in their own way. It also, by its structure, interfered with the privacy of women in being able to make that decision.

The Bill also seeks to change the law in the Territory so that an abortion can no longer be performed on a legally competent patient aged under 18 without the consent of a parent or legal guardian. Currently, a doctor can treat someone under 18 if he or she thinks they are mature enough and believes they have sufficient intelligence to understand fully what having an abortion means. The legislation would again override and interfere with that doctor-patient relationship. In cases where a young woman is pregnant because of incest and is wanting an abortion, then seeking consent from the potential perpetrator would not be in her best interests.

Mr Speaker, the trend in other Western countries is towards liberalising abortion laws. It is a human rights issue for women. This year is the fiftieth anniversary of the International Declaration of Human Rights. Mr Speaker, there are members of this Assembly who would mark this occasion by effectively denying women in Canberra and the region a basic human right, and that is to decide for themselves about their own bodies. At issue here is the democratic process. Repeatedly, the evidence is that a large majority of all citizens in our community support a woman's right to safe, legal abortion and that it should be her decision, in consultation with her doctor.

This entire Bill shows a lack of trust and respect for women and characterises them as unable to make their own decisions about whether or not to proceed with a pregnancy, as unable to seek and get assistance with that decision when they need to, and as unable to live with the consequences of that decision. Women can be trusted to make their own decisions, and high-quality information and counselling are already available in the ACT.

This Bill, Mr Speaker, or even the original Bill, would not stop abortions in the ACT. At best, it would stop them being done safely and legally. That is "at best" from your perspective; from any ordinary person's perspective, I have to say it would be "at worst". When the new Bill was introduced, Mr Speaker, should we have said, "Hooray! We have got a fantastic change."? Or should we have looked at what the new Bill was really about? The new Bill still contains criminal penalties regarding which facilities abortions can be performed in; complex requirements about second doctors, which may present impossible difficulties to some women; certification requirements, backed by criminal penalties, which interfere in doctor-patient relationships and privacy; requirements which force doctors to provide advice against their will and their expertise, including what can only be described as anti-abortion propaganda; certification requirements which will deter and humiliate women and risk the privacy of their medical affairs; provisions subjecting doctors to potential deregistration without appeal on political, not medical,

grounds; and provisions constituting Canberra's Catholic private hospital in legislation as a gatekeeper in approving how abortions can be accessed. Those are the sorts of things that are tied up in this particular Bill that has been presented.

It seems to me that we need to consider very carefully what we have in front of us. Mr Speaker, I emphasise again that I am strongly pro-choice. If I had the chance to decriminalise abortion completely today, I would do it. If the numbers were in this Assembly, I would not hesitate. We would remove it from the Crimes Act. But I think it is appropriate that we see the legislation in front of us in the context of what has happened in the last three months. Mr Berry earlier put it to a certain extent in its context, and I have done so over the last few minutes.

Mr Speaker, the idea behind the Bill before us is patronising and offensive. For example, the notion of under-18s being required to have parental consent is patronising and offensive. On privacy issues, the public certification process is liable to expose individuals. Clause 11 on medical emergencies is simply outrageous. It is about revealing information on individuals which could only be used to persecute. And do not think there will not be persecution. We have only to look right around the world, at a range of places, to see what happens where there are strict laws on abortion and people are persecuted. Indeed, I am very pleased that it has not happened in our society, but one can look at the extreme situations in the United States, for example, where people are killed because of their private views. Ironically, Mr Speaker, the people who take that action are the same sort of people who insist on having a conscience vote themselves, who insist on their own religious freedom.

This legislation deals with a second doctor and other breaches of best medical relationships. They are simply an insult to the medical profession. The process that we have in this legislation is simply too bureaucratic. It is bureaucratic, I would argue, on purpose. It is deliberate. It is designed to foil an attempt to allow a woman to make her own decisions. Mr Speaker, I think the language of the legislation that we have before us is the thing that actually gives away the character of the people who have put the legislation together and identifies clearly what it is about. The language is offensive. It assumes guilt. It assumes wrongfulness. It imposes strong religious morality. It insults doctors. It assumes that doctors are incompetent and dishonest. Mr Speaker, that is the style of the language that underlies this particular legislation.

This Bill is conceptually wrong. What is being done now is effective - women are being given information and they are being allowed to make their own choice - and it should be left alone. We have an opportunity to reject this Bill out of hand, and that is what we should do.

Mr Speaker, I think it would be remiss of me not to mention that I have circulated amendments to this legislation. Why would I do that? It would be very easy for me to be pure and to stay with what I have just said were my beliefs. Indeed, I hold those beliefs very strongly. Every member is going to have to consider this. To hold those views very strongly but to stand here in this Assembly, vote against it, lose and say, "Yes, I feel good" is just not enough.

We have to consider the possibility, as we have to do with every piece of legislation, that this legislation just might pass in principle. If it passed in principle and there were no amendments, what then? We would then have the piece of legislation that I have just described. So I take that responsibility very seriously, Mr Speaker, and I ask myself: Is this legislation likely to pass? And the answer I give myself is: Yes, it is likely to pass. In that case, we have to be ready to provide the least worst solution.

The amendments that I have circulated, Mr Speaker, are about the least worst solution. They are about putting a set of objects in the Act to make sure that people understand what the legislation is about. The least worst solution, as I see it, is a 72-hour cooling-off period, which Mr Humphries and Mr Osborne say their legislation is about. The least worst solution also includes providing information for women, which is what they say their legislation is about. The least worst solution is making sure that that information does not carry with it the sort of bias that I spoke about before. It is genuinely about information.

Mr Speaker, I would love this Bill to disappear. I would love the situation to have never come into this house in the first place, because I do not think we needed to do anything about it. But I am not going to take the sort of approach that I accused Mr Berry of taking the other day when I called him a struthioid. I am not going to take the sort of approach of an ostrich that buries its head in the sand. I am going to make sure that if this legislation does pass in principle then we are in a position to ensure that we get a reasonable outcome so that women are not put in the sort of position they will be put in if this legislation passes in its current form.

Mr Speaker, I do not want to move the amendments, and I urge members not to get to that stage. What we should do is reject this legislation out of hand and not have to deal with this issue, accept that the system that currently operates is operating particularly well. We do not need this legislation and we ought not to support it. Very simply, at the in-principle stage of this legislation, the best thing for members to do is to reject the legislation, because it is just not good enough.

**Sitting suspended from 12.33 to 2.30 pm**

## QUESTIONS WITHOUT NOTICE

### Rural Residential Development

**MR STANHOPE**: Mr Speaker, my question is to the Chief Minister. Given the Chief Minister's assertion that she did not see the report of the Estimates Committee until it was tabled yesterday, can she say if she has now had the opportunity to peruse it? In particular I ask whether she is aware of the following comment at paragraph 3.37:

> The committee heard evidence from the Executive Director of the Office of Financial Management which was in stark contrast to the emphatic evidence given to the committee in earlier evidence taken in respect of leases relating to the failed Hall/Kinlyside development.

**MS CARNELL**: It was not an assertion that I did not see it until we came to the house yesterday; it was the truth. I had not seen it and I think a number of my Ministers had not seen it either, probably for the same reason that a number of members had not picked up the comments of the DPP or others on their email this morning before they came into the house, or later on in the house. Often, you might just come into the house without doing that first. Anyway, we had not seen it before yesterday. I did read the document during the debate yesterday. Yes, if that is what paragraph 3.37 says, then I am sure it is in the document. Is that what the question was? I think it asked whether I am aware that that is what paragraph 3.37 says. If that is what it says, then that is what it says.

**MR STANHOPE**: Mr Speaker, I ask a supplementary question. Given the committee's conclusion, which the Chief Minister has now just acknowledged that she has read, that the credibility of witnesses appearing before committees is not enhanced by discrepancies such as those that appeared in the evidence of the director of the Office of Financial Management, will the Chief Minister refer the issue of the evidence of the director of the Office of Financial Management to the Auditor-General for independent consideration and comment?

**MS CARNELL**: Mr Speaker, you would have thought after yesterday that those opposite, particularly Mr Stanhope, who I have always thought was a cut above Mr Berry in terms of sleazy political approaches to things, would have laid off getting stuck into public servants by name in this situation. Mr Speaker, I have to tell you I am not going to answer questions that are about getting stuck into public servants. They are not acceptable in this place.

## Canberra Cosmos

**MR QUINLAN**: Mr Speaker, my question is to the Chief Minister. The Government has provided considerable sums to support the Canberra Cosmos - direct grants, grants through Soccer Canberra, sponsorship by government enterprises and the underwriting of loans. Disappointingly, the Cosmos is yet to reward this public investment. In the latest shake-out, or in recent times, I understand that an officer of OFM has been appointed to the board which is chaired by Mr Ian Knop. Can the Minister say whether this is a great coincidence, or has the Government moved to have direct input to, or at least a monitoring role over, the Cosmos?

**MS CARNELL**: Mr Speaker, it is interesting that the public servant involved in this question might be the same as the one in the first question. Is that a coincidence, Mr Speaker?

**Mr Quinlan**: It is not.

**MS CARNELL**: It is not? I am very pleased that it is not the same public servant. However, it is still a question about public servants. I have this view on public servants.

**Mr Quinlan**: I take a point of order, Mr Speaker. The question was: Can the Chief Minister say whether this is a great coincidence or has the Government moved - - -

**MR SPEAKER**: That is not a point of order, Mr Quinlan.

**MS CARNELL**: Mr Speaker, the public servant being spoken about does have observer status on the board. Taking into account the loan or the underwrite that exists between the ACT Government and the Cosmos, it is very appropriate that, to protect ACT public money, we make sure that we are keeping an eye on what that board is doing.

**MR QUINLAN**: I address a supplementary question to the Chief Minister. Given the situation of the Cosmos, has the Government moved to revise its business plan for Bruce Stadium? When does the Government intend to provide the Assembly with some indication of that plan, if not table it in toto?

**MS CARNELL**: Mr Speaker, I am not aware of any changes in business plan. I would hope that Mr Quinlan is not sounding the death knell of the Cosmos. That would be very unfortunate, Mr Quinlan.

**Mr Quinlan**: I am just worried about projections.

**MS CARNELL**: Mr Quinlan, I would be very negative about any projection that suggested any of our teams were not going to be here next year or the year after. We will be working, and I will be working, very hard - - -

**Mr Quinlan**: I did not suggest that at all.

**MS CARNELL**: There would be no reason to change the projections, unless Mr Quinlan is suggesting that the Cosmos are going to fall over. The Cosmos are doing it reasonably tough. There is no doubt about that. But the Government will continue to work very hard with the Raiders, with the Brumbies, with the Cosmos, with the Cannons, with the Capitals and with all of the other teams in the ACT, which I think are very important to this city. Sure, it is true that the ACT Government or taxpayers cannot be propping these teams up all the time, but we will be doing everything we can to give them every chance to ensure a bright future.

## Interim Tuggeranong Homestead Community Authority

**MR CORBELL**: Mr Speaker, my question today is to the Minister for Urban Services. Can the Minister confirm that a member of the Interim Tuggeranong Homestead Community Authority has recently resigned rather than sign a code of conduct and confidentiality that prohibits them from consulting the community organisation they represent or discussing any aspect of the interim authority's deliberations with the community? How can the Minister explain the role of community representation on the Interim Tuggeranong Homestead Community Authority if representatives of community organisations are expressly forbidden from representing the community when participating on this body?

**MR SMYTH**: Mr Speaker, I thank the member for his question. Yes, it is true. Ms Rebecca Lamb of MOTH, Minders of Tuggeranong Homestead, has chosen to resign from the Interim Tuggeranong Homestead Community Authority rather than sign a confidentiality agreement. The agreements were required to be signed simply as the homestead authority will be judging submissions that are put to it for the future of the homestead. These will involve a master plan for the homestead. It is a standard practice to do this.

**MR CORBELL**: I ask a supplementary question. Is it not the case that the member of the community authority was invited by the then Minister for Planning, Mr Humphries, in February this year to take up a position on the Interim Tuggeranong Homestead Community Authority as a representative of MOTH, Minders of Tuggeranong Homestead? Under whose direction was the code of conduct and confidentiality developed and implemented? What was the reason for adopting the approach you have adopted?

**MR SMYTH**: Yes, people were invited to represent different groups on the interim authority. The purpose for signing the confidentiality agreement is that we have called for expressions of interest. People will put forward their personal plans, their confidential plans, their commercial-in-confidence plans that they would like to see go forward for the Tuggeranong Homestead site. It is entirely appropriate that these plans be subject to confidentiality until a winner is announced.

## Quamby - Detention Rates of Aboriginals and Torres Strait Islanders

**MR WOOD**: Mr Speaker, my question to the Chief Minister concerns policies for the advancement of Aborigines and Torres Strait Islanders. It is the same question that I asked yesterday, but I expect that she has had the time to consider an answer or will have had a question time briefing prepared for her. So here goes. I refer to the references in the annual reports of the Community Advocate to the considerable overrepresentation of Aboriginal and Torres Strait Islander young people detained in Quamby.

**Ms Carnell**: If you are asking the same question, you will get the same answer.

**MR WOOD**: I did not get an answer. My question is about policies towards Aborigines and Islanders. What actions are being taken to improve those social circumstances in the ACT which bring about such high rates of detention? The question is about social circumstances. I could have raised it not mentioning those high rates of detention. That is only an indicator of the problem to which I refer.

**MS CARNELL**: Mr Speaker, I still come back to the basic premise of the question, the high rate of detentions, which is Mr Humphries' area. Maybe the best way to do it is to respond in two parts. First, I would like to address the statistics that Mr Wood spoke about yesterday, those in the ACT Community Advocate's annual report regarding incarceration of indigenous youth at Quamby. Secondly, I will discuss the action taken by government in addressing the social circumstances of the ACT indigenous community.

I agree that the statistics stated in the ACT Community Advocate's annual report represent an overrepresentation of indigenous peoples at Quamby. However, it is important to look at these percentages in real numbers. The some 29 occurrences of young Aboriginal and Torres Strait Islander people in custody in the period January to March 1998 referred to in the Community Advocate's report represent 14 young Aboriginal individuals. The total in custody on remand in that period was 64. During the same period there was one young Aboriginal person in custody serving a lengthy sentence, out of a total of 10 young people under sentence. Therefore, while the percentages stated in the ACT Community Advocate's annual report were quite high, the actual numbers of indigenous youth either on remand or in residence were quite low. What the actual numbers represent is that a number of indigenous people at Quamby are repeat offenders rather than a large number of the indigenous community. In other words, there is a small number of people who are repeat offenders.

In addressing the second part of Mr Wood's question, the ACT Government is committed to developing programs and strategies that will address the key social, economic and cultural issues that affect indigenous people, as outlined in the ACT Government's implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody report 1996-97.

For the interest of the Assembly, I am very happy to go through all of that. As obviously Mr Wood wants me to do that, I will do so. It is going to take a while. Within my department, that is the Chief Minister's Department, the Office of Business Development and Tourism has established an indigenous employment program in the sport and recreation and the arts and cultural heritage industries. The objective of this program is to establish six trainees in each industry, bringing the total of trainees to 12. The program will improve the relative position of indigenous people, particularly indigenous youth in terms of employment, by preparing, placing and helping train indigenous people in sustainable jobs.

Also within my department, the Aboriginal and Torres Strait Islander Issues Unit has, for the first time, a full complement of staff, all of whom are indigenous. The key issues for the Aboriginal and Torres Strait Islander Issues Unit include native title, reconciliation activities, deaths in custody, the *Bringing them home* report, the ACT Aboriginal and Torres Strait Islander Cultural Centre and the Aboriginal and Torres Strait Islander Consultative Council.

Mr Humphries' department, the Department of Justice and Community Safety, is currently establishing an Aboriginal Justice Advisory Committee, the AJAC. The role of the AJAC will be to develop and implement a comprehensive Aboriginal justice strategic plan as agreed by all States and Territories at last year's Ministerial Summit on Indigenous Deaths in Custody. The department has provided ongoing administrative support for the Aboriginal interview friends call-out roster, with an additional eight people who have completed the first part of the training course this year and are now participating on the roster. The Australian Federal Police has recently appointed a local indigenous person as their Aboriginal liaison officer.

In Mr Smyth's portfolio, the Department of Urban Services is continuing to negotiate with the Commonwealth to develop a bilateral agreement. The current Commonwealth-State Housing Agreement expires on 30 June 1999, and we envisage that a new agreement will be finalised by then. To date, specific funding for indigenous housing has been focused by the Commonwealth on rural areas. Negotiations are continuing to focus attention on ACT indigenous housing issues.

In Mr Stefaniak's area, Youth Justice Services has implemented strategies to address the needs of indigenous clientele. They include the employment of an identified indigenous caseworker with the community unit, with caseworkers working to maintain indigenous clients in the community; the employment of indigenous staff at Quamby; and the development of a range of indigenous-specific programs designed to meet client needs at Quamby.

In education, the Department of Education and Community Services has implemented a three-year ACT-Commonwealth indigenous education agreement. The agreement is currently entering into its third triennium. The agreement includes eight key areas, these being literacy, numeracy, attendance at school, the employment of indigenous people, teaching indigenous studies at ACT schools, parent participation in decision-making, preschool education and professional development for indigenous people. The department has an Indigenous Education Aboriginal Students Unit and an Indigenous Education Consultative Body.

In the Department of Health and Community Care, a draft strategic plan has been developed and it is being considered by the Indigenous Health Forum. Community consultation will be taken early next year, and the completion of the strategic plan is scheduled for March 1999.

Mr Speaker, I could go on and on. We could talk about the Aboriginal Health Centre. But generally I think that gives an overview of the approach that the ACT Government is taking to ensure that such important areas as education, community services, housing, support services, employment services and so on are put in place to help indigenous youth in the ACT.

**MR WOOD**: I have a supplementary question, Mr Speaker. I thank the Chief Minister. The Opposition has got an answer to a question - a day late perhaps, but we have got it.

**MR SPEAKER**: Mr Wood, do you have a supplementary question or do you want to make a speech?

**MR WOOD**: Yes, indeed. I would do both if I could.

**MR SPEAKER**: Get on with it.

**MR WOOD**: Mr Speaker, the Chief Minister mentioned the 1996-97 implementation report, which came down about a year ago. Is there to be an implementation report in the next week or so for 1997-98?

**MS CARNELL**: No, not in the next week or so but there will be a - - -

**Mr Stanhope**: I think you just gave it, did you not?

**MS CARNELL**: I think I probably did. Not in the next week or so, Mr Speaker, but there will be a report.

## Active Australia Games

**MR RUGENDYKE**: Mr Speaker, my question is to the Minister for sport, Mr Stefaniak. Minister, are you aware that the Active Australia Games supported by ACTEW and your own department are now under way in Canberra? I understand that participation numbers are disappointing, to say the least. Could you please advise the Assembly on how many final registrations were received, how many of those were from interstate and how many competitions have been cancelled?

**MR STEFANIAK**: I thank the member for the question. I probably cannot answer all of it, Mr Rugendyke, although I know that when the competition started on the weekend there were a little over 1,000 competitors, both interstate and local. I think initially there were about 33 different sports. I think they have ended up with about 24 or 25. I will confirm the exact number, Mr Rugendyke. If I can still find time and I do not die in the meantime from the dreaded lurgy which I have had for a couple of weeks, I would like to get out there and play some tenpin bowls this time, which I said I would do.

I would not be overly worried, Mr Rugendyke, about what might superficially appear to be a fairly low number. The ACT have these games this year, for 2000 and for 2002. I point out to members that when the Masters Games first started in Tasmania the initial turnout there was about 900, less than what we seem to have for the Active Australia Games. It is a new concept.

I note that several sports decided not to participate because it was too soon after the Masters Games and it would have been quite a big effort for them. It was also too soon after their winter competitions had finished and it was difficult for organisers to do the necessary organisation. I would hope that two years down the track those sports will be more interested in participating. I can understand their reluctance, given the huge amount of work that went into making the Masters Games the success it was. Having been involved in a few sports there myself, and having seen the work done, I can appreciate that point of view.

Nevertheless, from what I have seen so far, the participants are enjoying themselves. I keep bumping into participants and volunteers around town, some of whom are well and truly over 40. It is an excellent concept which I would hope would grow as the Masters Games has. The Masters Games are shared around the States. We would be unlikely to be in the bidding for about seven or eight years. I would hope that for the year 2000 this type of event would take off much more than it has so far. I think it is a very innovative event. It caters for all people aged between 20 and 40. You do not have to be a star; you just have to participate. I think it is a concept that will grow.

Whilst I was initially a little bit disappointed by the low figures, when I put them into the context of the 900 who fronted up at the first Masters Games in Hobart and how that event has grown, I think this is a good initiative. The people I have spoken to are thoroughly enjoying it. I thank ACTEW and the bureau for their hard work. I also thank all the volunteers and the various sports that have made the games what to date seems to be quite a significant success, even though the numbers are reasonably low.

**MR RUGENDYKE**: I ask a supplementary question. Minister, could you advise the Assembly of a breakdown of sponsorships from ACTEW and Sport and Recreation that have been spent on the Active Australia Games?

**MR STEFANIAK**: I would have to take that question on notice. There are a large number of sponsors, Mr Rugendyke. When I opened the Games on Saturday, I read them all out. I will see what I can get for you on that.

## Integral Energy

**MR HIRD**: Mr Speaker, my question is to the Chief Minister. I refer to an announcement that a New South Wales government-owned power company, Integral Energy, is trying to buy a privately owned Victorian power company called Citipower for $1.6m. Noting that this is the case of a government enterprise trying to expand its business in a competitive market, I ask the Chief Minister whether or not she believes our own ACTEW Corporation should go down the same path.

**Mr Corbell**: For $1.6m, yes, I reckon it is a good idea.

**MS CARNELL**: I do not think those opposite should comment on people who get billions and millions mixed up. Mr Speaker, I thank Mr Hird for the question. This issue was raised in the Assembly by Mr Quinlan in an attempt to suggest that ACTEW should be doing the same thing as at least one other publicly owned corporation, Integral Energy in New South Wales. In fact, a number of those opposite have suggested that we do not have to sell ACTEW; that what ACTEW should do is grow; that it should borrow money, and get out into the market.

Mr Speaker, Integral Energy has decided to bid for Citipower in Victoria, and the reported asking price is a mere $1.6 billion. If ever this Assembly needed an example of the financial risks that taxpayers could be exposed to in a national electricity market, then members need look no further than this deal. Here we have a government-owned operation in New South Wales with about 750,000 clients, roughly five times the size of ACTEW, freely admitting that the only way that it can remain viable is to expand. Those opposite have made similar comments.

How is it going to achieve that expansion? By borrowing a hell of a lot of money. I am not privy to exactly how much money would need to be borrowed, but I would be very surprised if it was much less than $1 billion. Mr Speaker, that is a lot of money.

Think about it - $1 billion. That comes on top of the New South Wales Government's decision to borrow $3.2 billion just in the last couple of weeks as part of its efforts to start addressing its unfunded superannuation liability. I do not know about you, but the thought of borrowing $4 billion - it is $4 billion of taxpayers' money, and I cannot believe that Mr Quinlan somehow feels that that is all right - certainly gives me a pretty cold feeling in the pit of my stomach.

It is generally agreed that if ACTEW were to survive as a Territory-owned corporation it would have to try to expand its business because, quite frankly, it is too small, Mr Speaker. If Integral needs to expand, boy, does ACTEW need to expand. But, to do that now, we would be faced with two options. First, ACTEW would have to go further than it has already done into the market, in an effort to undercut the prices of other suppliers. This, of course, would be nearly impossible, because the small volume of power that ACTEW deals with in comparison with its much larger competitors simply does not give it an opportunity to buy well in the market. It would also see Canberra taxpayers exposed to financial risks at a scale that I cannot even begin to imagine. We worry about borrowing $50m. Imagine borrowing $1 billion.

The outcome of that sort of gambling could be losses running into many millions of dollars. Do you seriously think that Mr Berry's Estimates Committee, which obviously looks at very important things like finances, would call me before it and congratulate me on ACTEW losing millions of dollars because they were trying to compete? Imagine him saying, "Chief Minister, not a problem. They were out there in the market doing their best. They have lost millions of dollars, but do not worry about a thing". I can just see the recommendation - "Chief Minister to be congratulated because ACTEW was giving it their best shot. They might have lost a lot of money, but do not worry". It is simply not going to happen.

Then again, Mr Speaker, ACTEW could do what Integral Energy is doing, that is, expand its market share by buying another power company. Right at the moment that is pretty much out of the question because, if you believe the New South Wales Government, our neighbouring power companies are not exactly on the market right now. But if they were, Mr Speaker, the minimum that ACTEW would have to borrow would be significantly in excess of $1 billion, and of course that would be underwritten by the ACT taxpayer. I presume that no-one in this chamber would believe that there would not be really significant risks with such an undertaking. For the life of me, I cannot believe Mr Quinlan and others opposite believe that that is an acceptable approach.

The other day Mr Quinlan made the comment: "If a bank is willing to lend the money, then it must be safe". I have to tell you that any bank will lend a government corporation money, simply because if it falls over the taxpayer picks up the tab. I only wish that Mr Quinlan was a regular subscriber to the newspaper that I think he got the initial information about Integral Energy from. If he had, he would have seen a very interesting article published on 2 November. I think it is an article worth while quoting a little bit from. I hope that other members of the Assembly are listening. The article states:

> The increasing risk of public ownership of New South Wales electricity assets was spelt out on Friday in a set piece of exquisite embarrassment for the NSW Government.

> A one-time hired gun of the NSW Government said that one NSW electricity distributor's bid for a $1.6 billion Victorian rival was placing public money at risk and he suggested the NSW electricity generators were acting uncommercially.
>
> The global head of Deutsche Bank's utilities and energy group, Mr Alan James, told a NSW Upper House inquiry that the public sector could not adequately deal with risks in the current commercial environment and the assets should be privatised.

Mr James worked for the New South Wales Government and, by the way, was feted by them as being a good operator. It seems to me, Mr Speaker, that Mr Quinlan really should take some advice from somebody who worked on the Hogg committee and was regarded as a very good operator. Mr Speaker, the article goes on:

> He -

that is, Mr James -

> called into question NSW distributor Integral Energy's indicative bid for Victorian rival Citipower and he aired suggestions NSW generators were attempting to increase volumes at the expense of profitability.
>
> "As both an industry professional and a taxpayer I believe the risks are unacceptable from a government perspective," Mr James said.

Mr Speaker, those are the words of the Labor Party's former adviser on electricity, not mine. I hope that Mr Quinlan and those opposite take some heed of these comments that the risks are unacceptable from a government perspective.

**MR HIRD**: My supplementary question, Mr Speaker, is: Does the Chief Minister believe that the environment in which ACTEW operates is likely to change significantly after the New South Wales elections held in March next year?

**MS CARNELL**: Mr Speaker, I think that is an important question for the ACT because it really makes a difference to ACTEW. It makes a difference because can you imagine a situation where little old ACTEW, one of the littlest distributors in Australia - - -

**Mr Corbell**: I raise a point of order, Mr Speaker. I think Mr Hird's question asked for an expression of the Chief Minister's opinion, and that is quite out of order.

**MR SPEAKER**: I uphold the point of order.

## Legislative Assembly - Members' Entitlements

**MR KAINE**: Mr Speaker, through you, I direct a question to the Chief Minister. I asked you yesterday about the additional costs of certain vehicles that you had authorised. At the time you could not tell me what the additional cost to the taxpayer was. Can you tell me whether the figures quoted in the *Canberra Times* this morning are correct or not?

**MS CARNELL**: I did not read the *Canberra Times*, sorry.

**MR KAINE**: My supplementary question is: Assuming that the figures are correct - and I have no reason to doubt that they are - in each of the years in which the approvals were given for each of the three vehicles, including Mr Moore's, was the Assembly's budget supplemented to take account of this additional cost, or was the Speaker left to carry the burden as he apparently was with the staff salary allowances? My second question is: Whether that occurred or not in the years in which the approvals were given, has this year's budget been supplemented to take account of all this additional cost, or is the Speaker still carrying the burden?

**MS CARNELL**: Mr Speaker, the costs were met from the Assembly budget for those members - Ms Tucker, Mr Rugendyke and Mr Osborne - and the Executive budget picked up Mr Moore's. Yes, they were internally funded, and still are.

**Mr Kaine**: You did not answer my question. Was the budget supplemented?

**MS CARNELL**: No.

## Police - Patrol Cars

**MR HARGREAVES**: Mr Speaker, my question is to the Minister for Justice and Community Safety. I apologise for the delay. I thought Ms Tucker was going to do it. Can the Minister confirm the report in the Macklin column in today's *Canberra Times*? We can get a copy for you if you have not read it. It states:

> ... at 6pm on a Sunday there were only two patrol cars available in all Canberra.

It was talking about police cars.

**MR HUMPHRIES**: Mr Speaker, even when I do read the *Canberra Times*, I do not read Mr Macklin's column, so I cannot say that I read that particular item. I have no idea whether there were two patrol cars or not. I will take the question on notice.

**MR HARGREAVES**: I ask a supplementary question, Mr Speaker. Thank you very much, Minister. I do not normally read the *Canberra Times* either, but this particular time I did. The Minister may have to take my supplementary question on notice as well. I have no sweat with that. Can the Minister please advise how many cars are available on the weekend for general response in the following areas: Belconnen, Gungahlin, Weston Creek, Tuggeranong and Central Canberra?

**MR HUMPHRIES**: I will take that question on notice, Mr Speaker. I will just say that it is a hard question to answer in terms of cars. The AFP has, I think, no shortage of cars. It is of course - - -

**Mr Berry**: Cars with people in uniforms in them, he meant.

**MR HUMPHRIES**: We know what we are talking about, Mr Berry. It is all right. Go back to sleep. We are fine. We have no doubt - - -

**Mr Moore**: He is not asleep. That is how he always is.

**MR HUMPHRIES**: Is it? I am sorry. I just thought he looked as though he was asleep. I will not answer in terms of number of cars available but in terms of perhaps average number of patrols. Obviously the number will vary from weekend to weekend, and there is no particular number which is necessarily going to be consistent from weekend to weekend. But I will certainly find out as much information as I can and report the answer to Mr Hargreaves.

## Integrated Land Use and Transport Study

**MS TUCKER**: My question is directed to the Minister for Urban Services. You are probably aware that in the Government's 1997-98 budget announced in May 1997 your predecessor, Mr Humphries, announced that work had begun on an integrated land use and transport study for the ACT to help plan for new transport infrastructure that is integrated with Canberra's planning. Nothing was heard about this study until November 1997, when the Government announced, as part of its greenhouse target, that the study would be put out by Christmas 1997. Again, nothing was heard of this study until the 1998-99 budget papers mentioned that the study would come out at the same time as the ACT greenhouse strategy, which was eventually released last September. Unfortunately, the study again did not appear and the greenhouse strategy said it would come out in the latter part of 1998. We are well into the latter part of 1998, so where is this study and why have there been all these false announcements about its completion?

**MR SMYTH**: Mr Speaker, I thank the member for her question. Yes, it is true that the study has not been released yet. Work is still being done on the study, and when it is completed and available I will release it.

**MS TUCKER**: I ask a supplementary question. I would like you to answer the first question, which is: Why? Also I would ask: Has any account been taken of this study in the development of the new ACTION public transport network, if you are working on it and you have got something done?

**MR SMYTH**: It is an integrated land transport strategy. It will take into account public transport, because that is an essential part of our land transport system. As soon as the report is ready, I will be releasing it. As to the delays from previous budget years, I cannot answer for those. I will find out for you, but as soon as the strategy is ready it will be released.

## Karralika Therapeutic Community

**MR BERRY**: My question is to the Minister for Health and Community Care. It is also about a report. I hope we can get our hands on this one. Minister, earlier this year you received from the Health Complaints Commissioner a report on Karralika which spelt out in great detail what was wrong there. You chose to deal with this report by commissioning another report. Is it true that this report is now in your possession? As the recommendations of the Health Complaints Commissioner have so far not been totally implemented, will you be publicly releasing the second report which you commissioned? Would you advise us on the timetable that you have in mind for action on this very important issue?

**MR MOORE**: Thank you for the question, Mr Berry. I think I will answer your last question first. When will I begin action on this very important issue? You will be pleased to know, Mr Berry, that action started straightaway, even before I had the Health Complaints Commissioner's report in my hands. I commissioned a report that was done by Dr Stephen Mugford on the best possible methods of delivering rehabilitation for drug-dependent people at a place like Karralika. That report, I understand, is completed. At the same time we ran a parallel set of changes that were already beginning.

It is not a case of just saying that I commissioned another report and nothing happened. In fact, there have already been significant changes at Karralika. The annual general meeting of ADFACT, which occurred, as my recollection serves me, last Thursday night - it might have been the Thursday before - considered whether they would take account of some of the changes that have been recommended. One of the recommendations is to change the system by which Karralika is governed. One choice I had, Mr Berry, was to say, "Let us get rid of ADFACT. Let us perhaps hand Karralika over to Community Care, the Salvation Army, Centacare or somebody else". The other choice was to try to modify the system that was in place so that we can get the best possible outcomes for people seeking rehabilitation. I determined that the most effective way to do that was to seek some change.

Mr Berry, some people involved with Karralika have come to see me because they do not like the changes that are occurring. That is to be expected. The Health Complaints Commissioner identified a series of problems. It is not enough to say that I just commissioned another report. I did not. Part of the premise of your question is that nothing has happened about the Health Complaints Commissioner's recommendation.

That is not the case. They are being taken very seriously and we are going about an appropriate process to implement the changes to get best practice rehabilitation, having made sure that we knew what best practice rehabilitation was. That is what the process has been about and that is what we are going to do.

Your specific question was: "Will you release the second report, the report done by Dr Mugford?". I have not read that, Mr Berry. I have asked for it to be brought to me. When I have read it, unless I have an overwhelming reason not to, I will certainly release it. I cannot picture why I would have a reason not to. If there is a matter of a personal nature in it, I will make it available to members of the Assembly and explain that problem, but certainly it is my intention, all things being equal, to release it.

**MR BERRY**: I ask a short supplementary question. Will the Minister advise me of his intentions once he has read the report? Will you let me know what you are going to do?

**MR MOORE**: Yes.

## Anti-smoking Programs

**MR OSBORNE**: My question is also to the Minister for Health, Mr Moore, regarding drug education. I did give him a little warning. Minister, what programs are currently available in the ACT, and how much money is spent on those programs, in which emphasis is placed on people either not to smoke or to stop smoking completely?

**MR MOORE**: Thank you, Mr Osborne. I met somebody from the Cancer Society who was giving a paper at the conference that I was at in Melbourne on the weekend. She gave me a copy of the program she runs. I think the title is "Quit. If you can't quit how to minimise harm". It was something to that effect. I understand that it is a very effective program. That is certainly one of the areas where it is done. Healthpact and the Department of Education have anti-smoking and education programs going on. At this stage I do not know the exact dollars being spent, Mr Osborne. I will certainly be happy to take that part of your question on notice.

I think it is important to understand that part of the whole smoke-free areas campaign, part of the program that Healthpact runs, which was started by Mr Berry buying out sports sponsorship and so forth, is really about educational issues. It is really about ensuring that people understand that smoking is not condoned; that we take a harm minimisation approach to smoking by discouraging people as strongly as possible from smoking. We will continue to do that. Mr Osborne, I will get back to you specifically on the dollars.

**MR OSBORNE**: I have a supplementary question, Mr Speaker. Do you have any idea, Mr Moore, of what the success rates of these programs have been over the years, whether there has been a reduction in people smoking? Do you have any idea of the figures?

**MR MOORE**: I will get you specific figures on that as well. The last figures that I looked at of concern nationally were those presented to the Ministerial Council on Drug Strategy. They indicated a significant concern, particularly with young women taking up smoking. Well over 60 per cent of people at ages 12, 13, 14, 15 and 16 had tried smoking. There is some concern about that. We have to keep it in perspective and make sure that we do not confuse smokers with young people who have had two or three smokes because they thought they would see what it was like. As you know, it probably made them feel sick. Even I, who have never considered myself a smoker, probably as a young person smoked two or three packets, probably even two or three packets - - -

**Mr Smyth**: Did you draw back?

**MR MOORE**: There is an interjection asking whether I drew back.

**MR SPEAKER**: I wonder whether you are misleading the Assembly on this.

**MR MOORE**: I have to be very careful. All I can say is that I did my best to look to my mates as though I was smoking properly, and it cost me a great deal in terms of not being able to breathe for some time. Mr Speaker, I think Mr Osborne asked some very important questions. Of course, tobacco is the killer drug. It is the nastiest drug used in Australia. It does more damage than any other drug, followed by alcohol. We must keep that in perspective when we are looking at our strategies to deal with drugs and to minimise the harm associated with drugs. I will get back to you on the specifics of the information.

**Ms Carnell**: Mr Speaker, I ask that all further questions be placed on the notice paper.

## Legislative Assembly - Members' Entitlements

**MS CARNELL**: I have some further information for Mr Kaine in answer to the question he asked me yesterday with regard to the specific costs of the various leases involved for members of the Assembly.

**Mr Kaine**: The *Canberra Times* was right, was it, Chief Minister?

**MS CARNELL**: I did not read the *Canberra Times*, so I do not know whether they are the same. I honestly have no idea. I have the information for Mr Kaine. I seek leave to have it incorporated in *Hansard*.

Leave granted.

*Document incorporated at Appendix 2.*

## Aboriginal and Torres Strait Islander Consultative Council

**MS CARNELL**: I have some further information for Mr Berry with regard to the *Bringing them home* report and the Aboriginal and Torres Strait Islander Consultative Council. Do you want me to read it or do you want it in *Hansard*?

**Mr Berry**: I would be interested to hear it.

**MS CARNELL**: Okay, that is fine. With regard to the question Mr Berry asked me, as you are aware, the Aboriginal and Torres Strait Islander Consultative Council has undergone a review over the past few months. An integral part of the process of the review was to give Aboriginal and Torres Strait Islander community members an opportunity to shape their consultative council so as to ensure that it is representative of the community and that it represents the needs of the community.

The outcome of the review of the Aboriginal and Torres Strait Islander Consultative Council is currently being finalised, although some of the issues raised already include modifying the membership of the council (for example, the need for a youth representative); the need for information on Aboriginal and Torres Strait Islander Consultative Council activities to be circulated regularly through the Aboriginal and Torres Strait Islander community; and the need for community involvement in the nomination and selection processes for representatives on the council.

Throughout the review process the Aboriginal and Torres Strait Islander Issues Unit staff in my department have undertaken an extensive consultation process. This consultation process included contact being made by mail and phone with each indigenous organisation in the ACT; each organisation being given the opportunity to have staff from the Aboriginal and Torres Strait Islander Issues Unit attend at their offices to discuss their view, which opportunity was accessed by several organisations; and staff of the Aboriginal and Torres Strait Islander Issues Unit visiting peak organisations such as the Canberra offices of ATSIC, Aboriginal Hostels Ltd and the Aboriginal and Torres Strait Islander Commercial Development Corporation, the Ngunnawal Centre at the University of Canberra, the Aboriginal Medical Service, the Yurauna Centre at Reid CIT and the Ngunnawal Local Aboriginal Land Council in Queanbeyan. It is anticipated that the new council will be appointed by the end of December.

I think Mr Berry also asked me whether not having a council had affected implementation of the *Bringing them home* report recommendations. We believe that rather than the recommendations of the *Bringing them home* report suffering as a result of the delay in establishing the Aboriginal and Torres Strait Islander Consultative Council, they will benefit from the efforts to ensure that the consultative council is truly representative and is operating effectively. I table that response, Mr Speaker.

## PERSONAL EXPLANATION

**MR QUINLAN**: Mr Speaker, I seek clarification under standing order 47.

**MR SPEAKER**: Standing order 46, I think. Proceed.

**MR QUINLAN**: The Chief Minister apparently misunderstood my question about the Cosmos. I did not at any time mention the demise of the Cosmos. Rather, I was inquiring as to whether forecasts were generally in need of revision, given the circumstances of the Cosmos. I find it very worrying that the immediate demise of the Cosmos would spring to the Chief Minister's mind so immediately.

## AUTHORITY TO BROADCAST PROCEEDINGS
### Paper

**MR SPEAKER**: Pursuant to subsection 8(4) of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, I present an authorisation to broadcast given to a number of television and radio networks in relation to proceedings of the Assembly for today, 25 November 1998, concerning debate on the Health Regulation (Maternal Health Information) Bill 1998 and the authorisation to broadcast vision given to a number of television networks in relation to public hearings of two committees - the Select Committee on Gambling on 30 November 1998 and the Standing Committee on Education on the work for the dole project in primary schools on 1 and 3 December 1998.

## PAPER

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): Mr Speaker, I present, for the information of members, the statement of corporate intent for ACTTAB Ltd for the period 1 July 1998 to 30 June 2001, pursuant to subsection 19(3) of the Territory Owned Corporations Act 1990.

## PUBLIC SECTOR MANAGEMENT ACT - EXECUTIVE CONTRACTS
### Papers and Statement by Minister

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer)**:** I present, for the information of members, copies of contracts made, pursuant to sections 31A and 79 of the Public Sector Management Act 1994, with Tu Pham (fixed-term contract), and Megan Smithies (Schedule D contract variation contract); and copies of short-term contracts, pursuant to sections 31A and 79 of the Public Sector Management Act 1994, with Gordon Davidson, Beverley Forner, Peter Tinson and Rohan Clark. Mr Speaker, I ask for leave to make a statement in respect of the contracts.

Leave granted.

**MR HUMPHRIES**: I would simply ask members, as they peruse the contracts which have been made available under this process, to bear in mind that there is a degree of confidentiality and privacy that attaches to those contracts. I trust that members will respect that in perusing the information contained therein.

## HEALTH REGULATION (MATERNAL HEALTH INFORMATION) BILL 1998

Debate resumed.

**MR WOOD** (3.23): Mr Speaker, I will not be supporting this Bill, although I am a person who would wish to see as few abortions as possible carried out in our community, so it can be said I am anti-abortion; but aren't we all? No-one wants to see abortion, except perhaps in those unfortunate circumstances, often quite a number of unfortunate circumstances, when they are quite essential. I expect that no woman going to the ACT abortion clinic really wants to be there. That is why, in part, I am against the proposal. I believe that women attending that clinic have made up their minds before they go. That is not to say there should not be further consideration, and that is part of what happens there.

That clinic was established some years ago. I was here in the Assembly at that time. I did not resist then the establishment of that clinic. I did not greet it with great enthusiasm, I might say, but I did not resist its establishment. It was an acknowledgment that women were going to have abortions. Indeed, they were travelling to Sydney or other places in considerable numbers to do so. The clinic to me was an acknowledgment that those abortions were happening, whether in Canberra or in Sydney. My position today remains the same. I did not oppose the clinic then and I will not now. I will not support this proposed legislation.

What has emerged in that period is that there are something like 2,000 abortions a year at that clinic for women from the ACT and the region. That is certainly too many abortions. That tells me again that our efforts are in the wrong direction. I believe, whether or not the clinic is there, whatever conditions are imposed upon the clinic, that those abortions will continue. We have to attend to the real issue and that is the number of unintended and unwanted pregnancies, and nowhere in all this debate have I heard that. I believe that is where we have to work. We have to reduce the number of unwanted pregnancies because, in the end, women will front up to the abortion clinic if they have that unwanted pregnancy.

I am aware, as a former schoolteacher and as a former Minister for Education, that there is quite a deal of work in our schools on education, beginning in government schools and, I believe, in non-government schools at the primary level. That work must continue. It must build upon itself. I am not convinced that at secondary level there is enough of it. Clearly, if we are having this large number of unwanted pregnancies, there is not enough of that education in schools. All schools at all levels must attend to this critical issue to see that girls exiting those schools are fully informed and there is no chance of not knowing the consequences of what they do.

Of course, a large number of the abortions are not of naive young children or the more mature young person. A lot of the pregnancies are of mature-age women who already have a number of children and well know what they need to do to avoid a pregnancy. So there is a deal of work to be done at that level as well.

Mr Speaker, that is where I believe our systems should be operating. They should take more concerted measures to see there are not so many unwanted pregnancies that bring about this unsatisfactory high level of abortions in the ACT. That is a difficult task. It is difficult to educate men and women, not women alone, of what they need to do to stop those unwanted pregnancies. Nevertheless, I believe it is not as difficult a task as that of stopping abortions. So let us give due recognition to this factor and let us do considerable work in this area.

**MR SMYTH** (Minister for Urban Services) (3.28): Mr Speaker, I would have thought that the intention of the rule of law was to protect life, to improve life, and I would have thought that all the legislation that we pass in this place, and indeed in any legislature, was for the protection of life or the improvement of life. I have always thought that the measure of a society is the way that it looks after its young, its infirm, its old and, in particular, its prisoners. A very real sign of the maturity of Australian society is that we no longer execute our prisoners, no matter how vile or how gross their crimes. They are not executed because it is now recognised as barbaric to take that life. It is seen as uncivilised. Yet, Mr Speaker, the most innocent, the most defenceless, the young, the unborn, are destroyed. Their lives are taken on the notion of choice, and, when making that choice, those who would oppose this Bill are saying there is no need to have an informed choice.

Mr Speaker, this Bill which we debate today should be acceptable to all here today because it is about choice, an informed choice. I cannot, for the life of me, understand why those who would claim to be pro-choice, truly pro-choice and not just pro-abortion, are against this Bill. What this Bill seeks to do is to assist with the making of an informed choice. What this Bill does is ensure that at the time of greatest pressure all options are put before a woman with the intention of helping her make an informed choice.

I personally would hope that no woman would feel the need to continue to seek an abortion, and I say that for several reasons. First and foremost, I believe that life begins at conception. I would dare to say that I believe that no-one in this place would contest that. If their justification for being pro-abortion is that life begins at some other point in time, I would be very interested to hear the supporting details. In fact the Australian Royal Commission on Human Relationships found in 1997 that "human life is continuous from conception to birth throughout life" and that "the destruction of the foetus destroys human life, and raises issues of serious concern".

Mr Speaker, if we accept this finding, and I know of no work since that refutes it, why is not this fact presented to a woman who is about to make the most monumental decision in another human being's life? It is another's life. It is often said that the zygote, the embryo, the foetus, the unborn child, is just a bunch of cells and therefore abortion is acceptable. That is not true. It is also often said that the unborn is part of the mother's body and therefore it is the mother's choice, and the mother's choice alone,

as to the decision she makes. This also is not true. The information that this Bill would seek to put before a woman considering an abortion would prove this not to be so. So I guess it is understandable that those who are in favour of abortion would seek not to have this information placed before a woman considering abortion.

Those who would vote against this Bill claim to be pro-choice but are against informed choice. Why? Because they realise that their arguments against this Bill are flawed and any information that shows up the flaws in their justification of abortion are to be resisted; they are to be stopped at all costs. If you are truly pro-choice you should be in favour of this Bill. Let me quote the late Sir William Liley, Professor of Perinatal Physiology, formerly of the University of Auckland, who said:

> Biologically at no stage can we subscribe to the view that the foetus is a mere appendage of the mother. Genetically the mother and the baby are separate individuals from conception.

Professor Liley went on to say:

> The unborn child may, for example, be black and male with an AB positive blood type while his mother is a white woman with an O negative blood. The baby cannot be part of the mother. Indeed, it is foreign tissue to the mother. The unborn child's immediate environment, the amniotic sac, and his support system, the placenta and cord, which allow the exchange of food and oxygen from the mother's body to the child and the removal of wastes, are not part of the woman's body, but are formed by the child and have the child's chromosomes.

Mr Speaker, it is imperative that this information be conveyed to women considering an abortion.

This is surely the only situation where we allow the law, or the law as it is interpreted, to allow one person to decide the fate of another's life. Abortion brings us to an amazing divide in logic. Clearly it is the life of another that is at stake and were that life allowed to continue we actually have a whole arm of medical science devoted to the care of that life, the care of the unborn. Indeed, Mr Speaker, we strongly counsel all pregnant women to be especially aware of the care required for the life they carry within them. We run health promotion programs encouraging women not to smoke, not to drink alcohol, to maintain a sensible diet for the good of the unborn, and yet out of the same health budget we can fund abortion.

Those who say they are pro-choice say that it is not the right of this place to decide, that it is up to the woman, and yet would deny them access to information that is vital to the making of an informed choice. We have a responsibility in this place to make sound and balanced laws, and this Bill finally puts in place some balance that will protect the rights of the unborn as well as the health of the mother.

Mr Speaker, I believe that we should pass this Bill as a step towards protecting the rights of all human beings to their own life. Indeed, Mr Speaker, the Government of New Zealand has accepted its responsibility as a government to present a balanced parcel of information to those who are considering abortion. The New Zealand Department of Health published in September this year a pamphlet that presents a far greater range of options to those considering an abortion in a non-judgmental way.

The New Zealand pamphlet canvasses all the options and in fact provides the sort of information this Bill seeks to provide. It has a section on the psychological side effects of having an abortion. It has a section on the development of the foetus. It contains a great deal more information than the pamphlets currently distributed by the ACT's abortion clinic or the Family Planning Association. Mr Speaker, it is about time that we in the ACT accepted our responsibility and presented a balanced view of the impact of abortion. Mr Speaker, I will table a copy of this pamphlet. There are enough copies there for each member to have one.

I believe that we should pass this Bill as a step towards protecting the rights of all human beings to their own life. On a more cynical ground, you could say that we should pass this Bill because it will protect doctors and health care staff in the ACT as well as the ACT Government itself from liability due to negligence.

Mr Speaker, I refer to the case of a woman named Ellen. Ellen is a Victorian woman who was pregnant. She underwent an abortion and claims that she was never informed by either the gynaecologist or the hospital where the abortion was performed of the consequences. Ellen suffered severe depression and post-abortion syndrome and took legal action against the Royal Women's Hospital and the gynaecologist who performed the abortion. The Royal Women's Hospital and the gynaecologist have agreed to pay her undisclosed damages mainly for allegedly not warning her that abortion could cause her psychological harm. This is apparently the first such case in Victoria and could trigger several claims. Several counsellors say it is about time. Ellen's case indicates that abortion can plunge unsuspecting women into an ocean of grief. "Nobody wanted to believe this", says Anne Lastman, a Glen Waverley counsellor and founder of Women Hurt by Abortion. Ellen's case is disturbing because in many ways it is so ordinary.

The provisions of Mr Osborne's Bill will at least go some of the way to protecting doctors and all those involved in health care positions, as well as this Government, from possible exposure, but for me, more importantly, it may save a human life. I think we should pass this Bill for more positive ideals rather than just protecting governments and doctors. I think we should pass this Bill for the health and wellbeing of all the unborn and for all women.

Mr Speaker, there is a growing body of information that tells us, as in the case of Ellen, that there are many downsides to abortion. Women are not currently being warned about some of these downsides. I am sure all members here have been flooded with the sort of information that I have. I will take the opportunity to quote some of the reports that have come to me that would indicate that we as a city, we as a nation and we as a world do not take this seriously enough. For instance, a recent study in the *British Medical Journal* found that women who abort are six times more likely to die from suicide than women

who have delivered. A report in the *British Medical Journal* of December 1996 says that the suicide rate in Finland after an abortion was three times the general rate and six times that associated with birth. Suicides are more common after a miscarriage and especially after an induced abortion than in the general population. Yet, Mr Speaker, Ireland, which has the lowest abortion rate of 27 developed countries, was listed by the Commonwealth Department of Human Services and Health as also having the lowest suicide rate for females aged 15 to 24.

Mr Speaker, one of the other unknown or unspoken of effects is the link with breast cancer. One report that I have had put to me says:

> Women who carry their first baby to term cut their chance for breast cancer almost in half. Women who abort their first pregnancy almost double their chance. With 2 or more abortions, there is a 3 - 4 increase.

This is an American report, Mr Speaker, and it goes on:

> For instance. A 15 year old American girl has a 10 per cent lifetime risk of breast cancer. If she gets pregnant in her teens and has the baby she reduces her risk to 7.5 per cent. However, if she has an abortion, her risk rises to 15 per cent ... If the abortion sterilises her and/or for other reasons, she never has another pregnancy, her risk rises to 30 per cent.

Mr Speaker, there are many other examples here. Another report called "The Effects of Pregnancy Loss on Women's Health", in 1994, said this:

> In a survey of 1,428 women researchers found that pregnancy loss, and particularly losses due to induced abortion, was significantly associated with an overall lower health. Multiple abortions correlated to an even lower evaluation of "present health". While miscarriage was detrimental to health, abortion was found to have a greater correlation to poor health. These findings support previous research which reported that during the year following an abortion women visited their family doctors 80 per cent more for all reasons and 180 per cent more for psychosocial reasons.

Another report says:

> The risk of breast cancer almost doubles after one abortion, and rises even further with two or more abortions.

That is in a series of reports from 1981 to 1990. Referring to cervical, ovarian and liver cancer, a series of reports says that women with one abortion face a 2.3 per cent relative risk of cervical cancer. These are reports from 1983 to 1992. Mr Speaker, the *British Journal of Psychiatry* published a review which found that psychological or psychiatric disturbances occur in association with abortion and seemed marked, severe or persistent in approximately 10 per cent of cases. In 1994 the United Kingdom parliamentary commission of inquiry into the effects of abortion on women found that 87 per cent of women it surveyed experienced long-term emotional consequences,

with 15 per cent actually requesting counselling. Mr Speaker, a full list of symptoms would include depression and a sense of loss, frequent weeping, feelings of guilt, loss of self-esteem, isolation, sadness, grief and anxiety, extreme or chronic anger or rage, difficulty concentrating, self-destructive behaviour, suicidal thoughts and attempts, alcohol and/or drug abuse, abuse of relationships, eating disorders, unexpected risk taking, repeat abortions, anxiety attacks and relationship problems. The list goes on and on, Mr Speaker.

It is quite clear to me that whilst we would choose not to accept this, Mr Speaker, we have a duty of care to exercise here. It would be easy to go on and on quoting various reports, but I will not. What I have read would indicate that there are serious downsides to abortion and I truly believe that this information should be available. Mr Osborne's Bill would go at least some of the way to protecting women as well as, hopefully, protecting some of the unborn.

It is curious, Mr Speaker, that with this immense range of information covering a significant number of conditions, from the minor to the life-threatening, women are not being informed. I cannot understand why any reasonable individual cannot see that the right thing to do is to ensure that women are told what they might face as an outcome of abortion. This is all that this Bill seeks to do. *(Extension of time granted)* Why are we, as a supposedly caring society, allowing women to face the possibility of these post-abortion syndrome conditions when, with the passing of this Bill, we may alleviate some of the suffering that is an outcome of having an abortion?

Mr Speaker, I sought information on the sort of material that is available from the clinic and from Family Planning. A friend actually went to the clinic and initially the only brochure she could get was one on display at the clinic. It has a whole lot of general information. I would suggest it assumes that people going there have gone with one option and that is to have an abortion. On seeking further information she was provided with a series of pamphlets. There is one called "Termination of Pregnancy - Possible After Effects & Complications". This has an introduction. It says that possible after-effects of the operation are surgery-related after-effects, drowsiness, pain, nausea and inability to concentrate. It refers to complications. It lists excessive bleeding, retained products of conception, infection, uterine perforation, continuing pregnancy and ectopic pregnancy, but nowhere in that document does it really alert women to some of the major downsides of the termination of a pregnancy.

There is a pamphlet called "Termination of Pregnancy" and again it has nothing. There is one which has information about anaesthetics. That is a good pamphlet that they would issue. There is one called "Termination of Pregnancy - Post Operative Instructions" and there is almost a one-liner, Mr Speaker. It says:

> Feelings of sadness or depression: Women's feelings vary after abortion. It is not unusual to feel sad or depressed two to six days after the operation. This may be a result of the withdrawing of pregnancy hormones. If these feelings persist you should contact the clinic.

But, Mr Speaker, at no time is there any broadening on the possibilities that may be encountered post-abortion. Indeed, at the Family Planning Centre there is a whole range of different pamphlets, including the termination of pregnancy pamphlet. There is one on reproductive health care, having a baby, which seems reasonable, family planning, services for young people, and many more, but yet again, Mr Speaker, there is no specific knowledge that there is a possible downside and it should be taken very, very seriously.

On Monday morning I attended the Chief Minister's breakfast for the ACT AIDS Council with many others from this place. Mr Stanhope and Mr Wood from the Labor Party were there. Ms Tucker from the Greens was there. The Chief Minister, Mr Moore and I were there as well, and Mr Moore presented some awards and spoke briefly on issues such as harm minimisation. Mr Speaker, we do a lot in terms of harm minimisation for those in the drug community and those who are exposed to possible HIV and hep C. Mr Moore spoke about education programs on HIV and hep C. I wrote this down because it struck me as a very important point. He said, "If we can save a single life then it will have been effective". Mr Speaker, if this Bill can save a single life then it also will have been effective. If it can relieve a lot of women from the trauma that they may be exposed to after a pregnancy then it will have been even more effective. Mr Speaker, I wrote down that quote because it is very relevant in the context of this debate.

I have another fear about the use of abortion technology. It would seem there is growing discrimination for that technology to be used against women. In some religious sects and in some societies it is preferable to have a male offspring instead of a female and we are now using this technology to destroy more female embryos and foetuses than male.

Mr Speaker, in his initial remarks this morning Mr Moore spoke of the fact that this year is the fiftieth anniversary of the declaration of human rights. That is so. This year is also the twenty-fifth anniversary of the famous Roe v. Wade case in the Supreme Court in the United States. This was the court case that legalised abortion on demand in America. It is curious that the woman who challenged for the right to have an abortion in America, commonly called Jane Roe, and who consequently ended up working in an abortion clinic is now an anti-abortion advocate and now believes abortion to be wrong.

Mr Speaker, it is never too late to add balance to the information that we supply to those who seek an abortion. Jane Roe was an alias for Norma McCorvey. Ms McCorvey went on to work in an abortion clinic. In 1991 she said she was sitting in the clinic one night when she suddenly realised that she was looking at the charts that showed the development of the foetus. She said that for the first time she realised she was not talking about a bunch of cells; she was actually talking about a human being. It is curious that the lady who was used as the spearhead and is often held up as an ideal for the pro-abortion community has now said that she believes it to be wrong.

I wish to make two final comments. Since this debate has started I, like all of us in this place, have received many letters and calls and had meetings with different groups of people. One group that particularly impressed me is a group called Women Hurt by Abortion. They left me with some material and there is some information relevant to Australia. A Dr MacIsaac from Melbourne said the review of the medical literature identifies approximately 10 per cent of women, perfectly healthy prior to abortion, as having long-term serious physical and psychological problems following abortion.

He lists these problems as surgical injury, infection, infertility, difficulties with subsequent pregnancy and psychological effects. A Melbourne psychiatrist, Dr Eric Seal, goes on to define the post-abortion syndrome, as it is becoming now known, as a delayed or slowly developing prolonged and sometimes chronic grief syndrome.

I was particularly impressed by these women in that in a very non-judgmental way they wanted to do something to stop the suffering of the women that they deal with. They saw that the Osborne Bill was absolutely essential in that people got balanced information. The introduction to this pamphlet says that in practically every case of abortion documented by Women Hurt by Abortion the woman was not given all the facts. Frequently abortion is explained as a clinically safe surgical procedure. But this so-called safe procedure can leave you with permanent physical complications as well as potentially chronic psychological problems. I think that is something that we should all keep in mind. *(Further extension of time granted)* One lady who spoke to me recalled a sign that apparently used to be painted on the side of a building in Newtown. That sign simply said, "The greatest abuse of a woman's rights is to abort her".

**MR QUINLAN** (3.51): Mr Temporary Deputy Speaker, as with a number of speakers before, I am not pro-abortion, I am pro-choice. I support a woman's right to make the decision in relation to child-bearing. This Bill, as constructed, is about forcing women to endure a guilt trip of substantial proportions before they are permitted to make a choice that I believe they have the right to make without permission in the first place.

I want to revisit a point I made this morning in the debate to postpone this matter. I am concerned about provisions requiring exposure to information, Mr Smyth's informed choice. This Bill seeks to enforce receipt of graphic and confronting information and then a three-day wait before a procedure is permitted. I believe there is a distinct possibility, if not probability, that this guilt trip will be an experience in itself that scars individuals. Mr Smyth expressed fears about the detrimental psychological effects, as the Bill describes them. I am concerned that those effects may be exacerbated. People who make this choice, a choice which I believe is their right, probably do so because their circumstances leave them in a position where to continue to full term would have dramatic negative effects on their lives.

I believe that no person who finds that they are pregnant races off to the doctor immediately. I have in recent times had experience of a young couple who found that the young woman was pregnant, and I know that that young couple agonised and agonised before they sought an abortion. We are not, in this Bill, proposing informed choice. We are proposing patronising enforcement and exposure to information, information that is described in this Bill at a disturbing level. As I sit through this debate it is frightening to hear people in this place who have no more medical or psychological qualifications than I have interpreting medical data, drawing conclusions from it, and making law on the basis of their ill-informed interpretation. I think that is a very dangerous way for our society to go.

If there is concern regarding the lack of information, let us make more information available. No-one is going to argue with that. If post-abortion syndrome is rife, if it is a direct function of abortion in reality and if there are no ways to obviate it, then let us inform people in the general sense. Let us promulgate that information to the community.

Let us promulgate the information in relation to breast cancer. These issues seem to have emerged miraculously over the last few weeks. I have no objection to people receiving information, but I have a fundamental objection to people being forced to receive that information in a graphic, confronting format. Think of the danger that we may be exposing people to. A woman having gone through the trauma of finding herself pregnant seeks a termination but first has to go on a guilt trip that we invent in this place. That cannot do anything else but increase the statistical probability of people suffering from depression and other consequences beyond the procedure.

Before I finish I will refer to the provisions relating to seeking parental permission if under the age of 18. I find it extremely anomalous that we would want to set that age different from the age of consent. What sort of crazy logic sets up laws which set the age of consent lower than the age when a woman can make a decision such as this that may affect their lives? Imagine the situation and the additional trauma facing some young woman under the age of 18 who finds herself pregnant, possibly because of the carelessness or the insistence of her partner at the time. Under this law she must go to her parents to get permission to terminate that pregnancy. Her parents may have different values than she has. Her parents may not want to give that permission. What right do we have to set the age at which people can volunteer for a termination different from the age of consent? It is a nonsense in itself. I do not support this Bill at all.

**MR STEFANIAK** (Minister for Education) (3.59): Mr Temporary Deputy Speaker, might I say at the outset that I support this Bill and will be voting for it. I respect the opinions of people who are pro-choice, just like I respect the opinions of people who, like myself, are pro-life. Abortion, of course, is the classic conscience issue. I have heard some comments during this debate that, really, this is all too hard, that we have no expertise in this matter, that it is something that this Assembly should not be dealing with, that there are 15 men and only two women here.

Taking the latter point first, Mr Temporary Deputy Speaker, that is just a fact of this Assembly. It might affect things we do from time to time, but that is, unfortunately or fortunately, just a fact of life, whichever way you look at it, and something that we live with. As to the comment that we have no expertise, that this is something that we cannot make a real decision on because we do not have the required degree of knowledge, that is something that could be said about many pieces of legislation that come before this house. It is something that members have to grapple with, take advice on, consult and talk to other members about in terms of coming up with decisions on certain pieces of legislation. That happens very often in this house. I do not accept that as an argument for either trying to postpone this matter or not dealing with it. From time to time legislation such as this, which is difficult, is going to crop up and it is our role as legislators to vote on and deal with it.

I have heard a number of comments so far in relation to this matter. This is a very different Bill that Mr Osborne has introduced and some of the amendments are very different from what was proposed initially. This is not a Bill about whether abortions should be legal. It is not even a Bill about whether or not the unborn child is a human being. It is not even a Bill about what necessarily motivates a woman to resort to an

abortion although, as part of the clauses in the Bill and some of the amendments Mr Moore is proposing, there is a proposal about finding out why a woman who has chosen to abort has done so. That might help in other aspects in terms of Mr Wood's comment regarding education.

This is a Bill, however, about whether women considering an abortion should have the legislative safeguard of at least a minimum level of information to help them give informed consent. It is about whether women should have the protection of a three-day cooling-off period to help them have time to properly consider the issue and not feel rushed, perhaps, by whatever pressures there may be to have an unwanted abortion. It is also about whether health professionals and others who may wish not to be involved in the provision of abortions can actually decline to be so involved without risking their career. It certainly is, as far as I can see, about getting a few more statistics to help the development of public policy in a policy area generally hidden from a lot of public scrutiny.

I was interested to hear Mr Smyth speak and to look at the publication he has handed around the Assembly. It seems to me to be quite a well-balanced publication. It is entitled "Considering an abortion? -What are your options?" and is a New Zealand publication. It may well be an example of the type of material, if this Bill were to succeed, that could be available to women who are considering whether to have an abortion. It does go through the options. It goes through the options of continuing the pregnancy. It goes through the options of aborting. It goes through things such as what it will cost, what is an abortion, how it is carried out, follow-up care, adoption, guardianship, details and terms of foetal development, helping agencies, physical complications, and psychological effects. It is a balanced publication.

I have also had the benefit of looking at some of the material Mr Smyth has tabled in this debate in terms of what information is available at present. A lot of that information, from what I can see, just deals with women having an abortion and there is very little information in terms of the other option of continuing with the pregnancy. I think this is as much as anything a question of balance. Balance is terribly important. When I look at this Bill I do not see any of the contentious issues there were with the earlier debate when Mr Osborne brought in his first Bill. There is nothing in here about 12-week periods and there is nothing in here about the vexed question of what happens in the case of rape or incest or on the question of foetal abnormality. This is a Bill very much about information.

Some comments were made about relationship to the Crimes Act because, pursuant to sections 40 to 45 of the Crimes Act, abortion is still an unlawful act, although there is case law which has refined that and acted as guidance for courts. This provision enables this law to apply and to apply as far as it goes, and that is basically what that means.

Who could have any problem with the provision in clause 5 that abortions must be performed by medical practitioners and that they must be performed in an approved facility? How could anyone who is pro-choice possibly have a problem with that?

And then we come to the information provisions. Again, there are detailed provisions in relation to the risks involved. Mr Smyth and I have already indicated some of the problems we see with the amount of information and the type of information currently available. This Bill seeks to rectify what is very much an imbalance there.

Clause 9 provides that abortion must not be performed without consent. What on earth is wrong with that? That, I would think, would be something that is absolutely basic. Then we come to the delay required before an abortion is performed, the cooling-off period. I have heard that some members who are pro-choice have a problem with that. For this fundamental decision which a woman would have to make, a decision - - -

**Mr Corbell**: That is patronising.

**MR STEFANIAK**: I am not being patronising, Mr Corbell. For this life-and-death decision, this decision that obviously causes, naturally, so much concern and angst, what is wrong with having a cooling-off period? We have cooling-off periods for much more trivial matters than this one. We have cooling-off periods for purchasing goods from a door-to-door trader. In fact, that is 10 days, I understand, under the Door-to-Door Trading Act. There is a cooling-off period of three business days for buying a car under the Sale of Motor Vehicles Act 1977. There are cooling-off periods in New South Wales for buying a house. A conveyance has a cooling-off period, I understand, of about five days. I understand also that there is a cooling-off period under our gun legislation of some 28 days before certain things can occur. Surely those are much more trivial than what we are discussing here.

The rest of the Bill deals with reports on medical emergencies and the suspension of registration of a medical practitioner who breaches the legislation. There is no obligation on any person to act in relation to an abortion if that is their conscience. Then there is the privacy provision. Surely the privacy provision would be something that anyone who is pro-choice or pro-life would want to see. Then, of course, there are provisions in relation to the information pamphlets.

Another provision which I think is terribly important and on which a number of members have spoken on both sides of this debate is the one about the provision of statistics. It seems to me that we have very few statistics publicly available on abortions that are carried out in the ACT. How are we to have informed public debate or informed public opinion on this issue without collecting and publishing some basic information on what is happening in this Territory? Without this information, how are we to formulate policy which will address the social pressures that some women feel to have an abortion because - I have heard this line before and I think it is a good one - abortion is a medical solution to a social problem?

Some veiled references were made to abortion in the recent paper published by the ACT Department of Health and Community Care entitled “Maternal and Perinatal Status ACT 1994-96”, but very little other statistical information, I understand, is available on the abortion situation in the ACT, except for the statistics provided by the

Health Insurance Commission on the number of Medicare claims for abortion. It is my understanding that South Australia is the only State in Australia which publishes an annual report on abortions in that State through the committee appointed to examine and report on abortions notified in South Australia.

In terms of clause 16, the quarterly reports for the number of abortions performed at a facility, the reasons for which abortions were performed and the other information are terribly important. One of the points Mr Wood raised was the reasons for which abortions are performed. That, obviously, would be of great benefit in terms of assisting some of the problems Mr Wood talked about during his speech.

I will be supporting Mr Osborne's Bill. I note that Mr Moore and Mr Humphries have a number of amendments. No doubt, we will get to them during the detail stage. But from my reading of this Bill, it is very much an information Bill. I think a large amount of what is contained in there is applicable and should be desirable even to members opposite who are taking a pro-choice stance.

**MR CORBELL** (4.10): The proposal before this Assembly today is one which is completely unacceptable. It is a proposal which puts at stake the very credibility of this place and its role as the representative decision-making forum on behalf of the people of Canberra. It is a proposal which seeks to impose upon women the moral and religious views of a minority. It seeks to place a legal sanction on the conduct of an activity which we, as legislators, say is a conscience issue but which, at the same time, hypocritically refuses a woman the right to act according to her own conscience. This Bill is a Bill which this Assembly should reject outright.

We are faced with the prospect today of approving a law which will potentially affect over half of the citizens of this Territory. We do this in a chamber where only two of the 17 members are women. We are asked to consider it in the context of significant and complex questions of law, including rulings in several jurisdictions and in the High Court of Australia. We are asked to accept that this Bill should be adopted in principle so that amendments can be considered. As legislators, we all know that less complex questions than this have been referred for lengthy inquiry and report, for public hearing, for public submissions and for detailed advice from public servants and other professionals. Yet that is not what is proposed for this Bill. Instead, it is proposed that we deal with this Bill now, today.

I have seen this Bill for a period of a week. I have seen the amendments for less than 24 hours. Yet the supporters of this Bill and the proposers of the anticipated amendments ask this Assembly to make a decision today - to get it over with, to use a quote that has been heard around this building quite often in the past few weeks, so as to remove the discomfort and political embarrassment which some members feel. That is a situation which I am not prepared to support or condone.

In all good conscience, how can this Assembly today propose to legislate on this profound social, political, legal and moral issue? I say that we cannot. That is why I supported the adjournment proposal earlier today. Because this Bill has been brought on for debate today, my only possible position is to say this: I oppose it and I will vote to defeat it;

defeat it for the disrepute that it will bring to this Assembly if it is passed as much as for how it proposes to discriminate against women in our community. Mr Temporary Deputy Speaker, that is what will occur: We will discriminate against women in our community. If this Bill is passed today, not only will we be imposing a discriminatory and patronising regime of threat, half-truths and fear on women, but also we will undermine and destabilise the legitimacy of this parliament as a representative decision-making forum.

Mr Temporary Deputy Speaker, what is needed today with this Bill is a considered and principled approach which acknowledges the profound consequences this proposed legislation will have, which allows for detailed public consideration, and which allows for the right to be consulted, to voice opinions on the specific, not just the general, proposals, and to inform and to be informed. On that principle alone, if this Bill is to be approved at the in-principle stage, it must be adjourned today for a sustained period of public inquiry and comment, because I believe that nothing less would be an insult to this Assembly and the notions of representative and participatory democracy for which we purport to stand.

I would now like to address in greater detail the consequences of this Bill if it is enacted. This Bill predominantly, up front, proposes to highlight the primacy of the Crimes Act. Through its preamble, it asserts the primacy of the Crimes Act. As a consequence, it does nothing more than invite the launching of prosecutions of the crime of abortion to test the new law. Mr Temporary Deputy Speaker, this preamble attempts to subvert the groundbreaking common-law rulings which have, effectively, provided women in the ACT with safe and legal abortions. It attempts to subvert the rulings in the Levine case which have provided, effectively, for safe and legal abortion in the Territory. It seeks to again make illegal abortions which have had the sanction of common law for over two decades. I have no doubt that it is exactly the intention of the Bill's proposers and supporters to bring into question those common-law findings. It is an insidious proposal which seeks directly to make currently legal abortions again illegal. I cannot support it and nor should other members of this place.

Mr Temporary Deputy Speaker, I would like to move on now to some other aspects of the Bill which I have further concerns about. The first is in relation to approved facilities. The Bill specifies that abortions can be performed only in an approved facility. This is defined as a medical facility or part of a medical facility as prescribed in regulation. There is no clear indication at all that the clinic which currently provides abortions in the ACT will fit into that criteria. Indeed, there is no guarantee from the proposers of this Bill or those who have stood up in this place today and supported it that the clinic will be able to continue to operate. In fact, they have assiduously avoided mentioning it. Mr Temporary Deputy Speaker, that gives me grave cause for concern. I have no doubt that if this Bill is passed today the ability of the clinic to continue to operate will be under severe threat.

I move on to the provision of information. Clause 8 of the Bill imposes a statutory obligation on the medical practitioner to inform the woman of specific information. This provision I find an insulting and patronising one. Not only that; it is highly impractical. It is impractical because it specifies what sort of information should be provided, for instance, in relation to an alleged link between abortions and breast cancer.

Even if there is some acceptance that this link exists - and I think that that is a point of contention - how are we to say that in future years there may not be other information that should be provided or that the link between breast cancer and abortion has been ruled out?

Are the proposers of this Bill seriously suggesting that we will have to come back and amend it each time new information needs to go in and old information needs to be taken out? Is that the role of this place? Is it the role of the Assembly to determine exactly what type of information should be made available to a woman seeking advice on an abortion? I would prefer a different approach. Indeed, it is the approach that is taken now; that is, that information provided to a woman seeking an abortion should be specific to the needs, concerns and circumstances of the individual woman, rather than some set of prescribed rules, prescribed pieces of information. That, I thought, was what the patient-doctor relationship was all about - meeting the specific needs and concerns of the patient through the effective provision of information.

I move on to the issue of the provision of certain pictures, drawings or illustrations. This form of information provision, which is what is argued by the supporters of this Bill, I find particularly insulting. It is nothing more than an attempt to impose a guilty conscience on a woman who is already dealing with the significant moral and personal conscience issues associated with a decision on whether to have an abortion. It is designed to cause unnecessary suffering and distress and it again flies in the face of that specific role of a doctor in providing the information to a patient, which the patient needs on an individual basis, not on a prescribed uniform basis. Some advice from the Women's Legal Centre for the ACT and Region indicates that it could very well amount to degrading treatment and is contrary to the International Covenant on Civil and Political Rights. Again, unless those people opposite can justify and explain away that, how can they support such a provision?

Mr Temporary Deputy Speaker, I would like to move now to the issue to do with the basis for lodging a certificate and what this may mean for the provision of an abortion in the ACT. The proposal in the Bill requires that, except in the case of a medical emergency, an abortion must not be performed unless a certificate has been lodged confirming that a woman has been given the prescribed information I outlined earlier. This certificate must be lodged within seven days of its being signed and it must be lodged with the prescribed officer, whoever that is, in an area in a clinic or in a hospital which is providing abortion services.

There is the clear potential that this requirement of up to seven days will delay access to terminations for up to seven days. As we are all aware, the amount of time that a woman waits to gain a termination potentially risks greater complication. The longer the period of pregnancy, the greater the danger of some problem in the termination. This proposal, too, is unacceptable. It is a possible threat to women's health, because the earlier abortions are performed, the less the risk. It also implies - and this applies also to the cooling-off period - that women have not already considered their decision and its implications with due thoroughness. *(Extension of time granted)* The cooling-off period

is another of the most patronising parts of this Bill. It suggests that women have not already considered uniformly the consequences of their actions. It suggests that they are incapable of making an informed choice and suggests that they have got it wrong. That is not a proposition that I am prepared to accept.

Mr Temporary Deputy Speaker, in preparing for this debate, my attention was drawn to some advice prepared by a lawyer on the issue of consent and information, which is central to the arguments of those who choose to support this Bill. My attention was drawn to a High Court case in 1992 - Rogers v. Whitaker. In its ruling the High Court stated that a doctor must inform their patient of all material risks associated with a medical procedure. I will quote from this document very briefly:

> The High Court said a risk will be material if, in the circumstances of the particular case, either: a reasonable person in the patient's position, if warned of the risk, would be likely to attach significance to it; or if the doctor is or should reasonably be aware that this particular patient, if warned of the risk, would be likely to attach significance to it.

Mr Temporary Deputy Speaker, what this means is that there was already a requirement to provide to a woman who is seeking an abortion all the information she needs to make an informed decision. That is already a requirement under law as found in this High Court ruling. So, why are we attempting to impose a narrow and strict definition of what sort of information should be made available? Why are we seeking to do that when there is already an obligation upon a medical practitioner to ensure that information is provided. Clause 8 of the Bill is the clause which requires information to be provided. I would argue that in many respects clause 8 is superfluous because of this ruling.

I am drawn again to some comments in this advice which highlight just how absurd this proposal is. This is to do with the requirement that the provision of standardised information about foetal development to the woman seeking an abortion is provided regardless of whether the content of that information and the way in which it is presented are suited to her particular needs, concerns and circumstances. Again, it is us trying to impose between the woman and her doctor how that relationship should be managed without any knowledge of the individual circumstances, needs or concerns of that particular woman. How can we do that? How can we dare suggest we do that? That is exactly what this Bill does.

Doctors are already under a legal obligation to provide information in an appropriate manner. Rogers v. Whitaker does this. If there is some problem with the way doctors provide information, then it should not be restricted just to abortion. If the argument of those on the other side of this place is that there is some problem with the way doctors communicate information to their patients, why are we confining this just to the abortion debate? Why are we not going the whole hog? Why are we not doing it with every aspect of the doctor-patient relationship and the provision of information between doctors and their patients on a whole range of medical procedures? Why are we confining it to abortion? We are confining it to abortion to suit the moral and religious views of a minority and imposing it on the doctor-patient relationship when it comes to women seeking a termination. Again, Mr Temporary Deputy Speaker, it is the sort of approach that I cannot condone or support in any way.

The ACT Discrimination Commissioner provided some comments on this Bill, which I found concerning, in relation to whether it could actually result in discrimination. These views have already been canvassed in this place. I hope that all members have received a copy of Ms Follett's comments to the Attorney-General. I urge members to read them rather than canvass it again here. I do that because I want to finish with some comments from women themselves.

As I said earlier in my speech, there are two women in this chamber who will vote on this Bill; the rest of us are men. The voice of women in this debate will be a minority one. That is an unfortunate outcome of the last election. But I want to take the opportunity to read into the *Hansard* some quotes from letters that I have received from women which I think make clear their concerns. The first letter reads:

> The right to a choice is the issue at stake, not the problem of whether or not we personally believe that abortion is right or wrong. Women throughout Western history have systematically been denied the right to control their own bodies both physically and politically. If once we believe that an individual's right to determine their own course is compromised by that which is mired in outdated historical inconsistencies, we lose the preconceptions that allow us to believe that we will live in a society that privileges freedom of choice over another's imposition of will.
>
> For one person, or a group of persons, to impose their belief that abortion is wrong (whatever political and legal form that that takes) on a group of persons who do not even judge the issue by the same criteria, is an unbearable imposition of will by one upon another.

*(Further extension of time granted)*

I turn to another letter I received - this time from a woman who is a committed Christian. I quote again:

> As a convinced Christian who endeavours to put into practice the principals of my faith I realise the complexity and imperfection of human society. Within the Australian Community request for termination of pregnancy come from all faiths and all strata of society. Restrictive legislation against abortion will not change the social trends that have led to the increased abortion rates. This change can only come from a change of heart.

Another woman wrote to me:

> Whether or not we agree with the reasons a woman chooses to terminate a pregnancy is irrelevant. Her decision should be a private one. I resent the paternalistic attitude that a woman is not sufficiently emotionally mature to decide whether or not she wants to have a baby. Not every woman wants to be a mother.

Another woman wrote to me:

> Whether or not we agree with the reasons a woman chooses to terminate a pregnancy is irrelevant ... I resent the paternalistic attitude that a woman is not ... mature to decide whether or not to have a baby. By deciding to vote against this bill you have demonstrated an understanding of the complexities of pregnancy and abortion and I urge you to do everything in your power to win the support of other MLAs.

But the last quote I want to read is, I think, the most telling one. It goes to the very base of this debate, the fundamental concept we are testing here about whether we can trust a woman to make up her own mind. I quote:

> The Bill does not acknowledge women as thinking, moral agents who are capable of making decisions that are the best for them and their families. In the words of one activist - "if you can't trust me with a choice - how can you trust me with a child?".

I urge members to oppose the Bill.

**MS TUCKER** (4.36): The community, as we all know, generally has been outraged at the handling of this issue by Paul Osborne and now Mr Humphries. The outrage, of course, must also be extended to those members who have supported these processes. I refer to the way the original Bill was tabled, the way Mr Humphries produced 10 pages of amendments the day before debate, the way these amendments were hurriedly turned into a Bill overnight and then presented as Mr Osborne's, and the way we are apparently going to see this new Bill rammed through today. We know that members who support the Bill do not like having to deal with the fuss. I am afraid that members need to live with it: It is their duty as elected representatives to live with the fuss if they put up legislation that a majority of people in the community do not like, that they have not thought through. They need to sit back, listen and do the work before they try to push it through this Assembly.

There is an air of desperation about the tactics at the moment of those opposite and of Mr Osborne and Mr Rugendyke, which are very alarming. On the matter of the Bill's introduction, I do want it on the record that Mr Osborne and Mr Humphries have both shown absolute contempt for credible parliamentary process and also for the community. They and their supporters, knowing that this is an issue of great concern to many in the community, initially purposely kept information about the timing and content of the Bill and amendments to themselves and more latterly introduced Bills and amendments in absurd haste. Now, of course, we have Mr Moore hurriedly putting together amendments which we did not get till this morning. So, the sorry process continues, lurching from one hurriedly put together Bill to hurriedly put together amendments, to another hurriedly put together Bill, to hurriedly put together amendments. What a scandal and what a sad joke this Assembly is becoming! What an outrage it will be if our Chief Minister supports this process, let alone this Bill or an amended version of it!

Mr Speaker, recently I was at a Commonwealth Parliamentary Association conference, where members from various countries and regions talked about parliamentary processes and democracy. As a member of the ACT Assembly, I should have been able to feel proud of how we do it here and I was not. I only hope that the ACT community realises what is going on here and votes accordingly at the next election. I must say that I often think how different it would have been if we had another member of the Greens here instead of Mr Rugendyke.

Since Mr Osborne's original legislation was tabled, there has been a groundswell of support for the right of women to determine their own fertility and to be in control of their bodies. The Bill we are debating today still seeks to limit the circumstances in which abortions can be legally performed in the ACT. It could well force the closure of the current ACT clinic, Canberra Reproductive Health Care Services. This legislation will not stop abortions, and Mr Osborne is living in dreamland if he thinks it will. It will create a two-tiered system that will see women who can afford it travelling to Sydney to get professional and respectful treatment and those who cannot being subjected to the humiliation and injustice of this Bill or even having to access backyard operators. I say this because I genuinely believe that this Bill could abolish virtually all abortions in the ACT, as was the case prior to 1994.

The men responsible for this new Bill have shown no regard for the health and mental wellbeing of women. In fact, this Bill treats them with contempt, not even being allowed to be in control of their bodies. At the same time as Viagara has been pushed through pharmaceutical testing bodies and placed on the market in record time, RU46, a drug that provides an alternative to first trimester surgical abortion, is still not available in Australia. Why? Because of the gender composition of parliaments and peak decision-making bodies in this country. This Assembly is no exception. It is a shameful example of entrenched gender imbalance. That is why there needs to be time to consult the community, health professionals and the legal fraternity to discuss the ramifications of this Bill.

Let us look at women in a very general context: Who are they and what do they represent? What is their role in the family unit? It is more often than not that of a primary care giver, of the one who must restructure her life for her children and partner. It is more often than not the woman who makes sacrifices and is responsible for the continued care of children after separation or divorce. Of course, changes and fantastic contributions have been made by a great many people in different arenas, and I do not intend to quash their work. My point is that two men are responsible for this Bill. They believe that their personal religious beliefs are so supreme that they should be enshrined into legislation and another 13 are being asked to decide.

I am asking you to prove that you are equipped to make that decision. Yes, there is a conscience element to this, but each MLA has a responsibility to understand the full implications of the Bill. This Bill is not the same as Mr Osborne's first attempt and it deserves careful analysis. I challenge each and every one of you in this place to demonstrate that you totally understand the legal and health implications of this Bill, that you have had the required briefings that have allowed you to understand the implications of requiring an unrelated medical officer to provide information to women.

Do you understand that this will, in effect, count out medical practitioners that have expertise in family planning practice? How is this in the interests of good health practice? Do you genuinely believe that these practitioners want to deal with unwanted pregnancies and that a woman wants to face making such a traumatic decision? Do you actually understand the relationship of this Bill to the Crimes Act, the implications of deregistration for practitioners and the invitation it makes for a very costly and undesirable court challenge to give the ACT the precedent it does not currently have? What about the very issue of regulating an act that is illegal? Do you understand what has happened in Western Australia and that abortion was decriminalised and then regulated? Do you think that the people of the ACT deserve this Assembly to at least understand what happened there and how it is working now? Do you understand how the definition "approved facility" was the very tool used to stop virtually all abortions in the ACT until 1994 - yes, that is right, 1994? I am obviously asking these questions to empty chairs, but they will be on the record. I also want it on the record that no-one here listening is currently supporting this Bill. Do you believe that this definition - - -

**Mr Humphries**: I beg your pardon, Ms Tucker.

**MS TUCKER**: I beg your pardon; Mr Humphries is sitting here, as is Mr Smyth. I apologise to Mr Smyth and Mr Humphries. Mr Humphries was in the back. I did not think he was listening; but, if he tells me he was, I am glad that he can talk and listen at the same time. If you believe there are problems, do you have proof or are you happy to rely on Mr Osborne's and Mr Humphries' religious opposition to abortion as a means of deciding women's fate? Are you aware that the approval of information in pamphlets will be determined by a panel consisting of two representatives from Calvary Hospital? Do you know that, regardless of their particular view, practitioners associated with Calvary are required to abide by the practices of the Little Company of Mary? They are Catholic nuns and one would probably understand that they have a fixed position on this matter. If you look at the mission statement of Calvary Hospital you will see that it says:

> The doctors and staff of Calvary Hospital dedicate ourselves to continuing the healing ministry of Jesus.

The action plan reads:

> To initiate a process whereby we critically analyse, appraise and develop an action plan for the ongoing integration of the mission and values of the Little Company of Mary into our everyday life and work.

I think we might need to consider the appropriateness of this if two of the people who are going to be putting together so-called objective information wear the hat of the Calvary Hospital.

Do you believe that you can make a decision that contradicts the expert advice of medical practitioners and peak bodies, including the Public Health Association, the Australian Reproductive Health Alliance, the ACT Division of General Practice, which reported that they surveyed their ACT GP members and 90 per cent of 120 GPs were opposed to the

Bill, Dr Clare Willington, Dr Marjorie Cross, Dr Rosemary Yuille, the Royal Australasian College of Physicians, the ACT branch of the Australian College of Midwives, and the Women's Centre for Health Matters? I am asking these questions because I am challenging the conscience of members. As a woman in this Assembly, I am in the minority on an issue that affects women in the majority. I feel responsible to the Canberra community, particularly the women of Canberra, that have shown in many different ways, particularly through the rally that was attended by several thousand people, that they do not want this sort of legislation.

Here I will take the opportunity to remind the Government and Mr Osborne, although I do not know that they need differentiating, about consultation. As I read out this morning, if you look at the Chief Minister's protocol on consultation, four of the six matters listed relate directly to this kind of legislation. We need to have time to consult on the issues. I want to hear how consultation has been carried out by these members so that I can understand why they think that they have the support, the advice and the understanding on the issues.

I received a constituent letter that I would like to refer to from an older woman who recounts what it was like when abortion was illegal and women were forced to attend backyard abortionists. This older woman said:

> During 1932, when the depression was at its height, my mother was one of those women -

who experienced abortion -

> She was fortunate in not losing her life but for years afterwards she experienced ill health which would have been avoided had abortion been available legally. After her return home from hospital, she did not consult our family doctor as she feared she would again be "dobbed in" and pestered further by the attentions of the police.
>
> A woman does not need the "advice" of priests, politicians, nor, as in times past, the "attention" of the police in this connection. Health procedures which women consider necessary to their wellbeing, including pregnancy termination, should be funded by Medicare. After all, men's conditions - such as prostate surgery - are funded by Medicare.
>
> People with fundamentalist religious views are entitled to their opinions. They are not, however, entitled to influence, in any way, the availability of medical procedures that other men and women require. The turmoil two years ago in the St George area of Sydney, with the threat of the imposition on their hospital of the Sisters of Charity is a signpost as to how most people, men and women, feel in this regard.

I also have a letter from Dr Tony Adams that I would like to read. He writes to Assembly members:

> I write to add my name to the list of those in the ACT who support strongly the right of women to safe and legal abortion in the Territory.
>
> One of the most enduring memories of my career in medicine was, as a junior intern in Adelaide in 1960, of standing helplessly by the bed of an 18 year old girl as she died from gas gangrene as the result of a back yard abortion.
>
> Working in student health services in Sydney in the late 1960s I again came across the results of desperate young women seeking dangerous illegal abortions.
>
> This public health problem virtually disappeared in the early 1970s when termination of pregnancy was made legal across most of Australia.

This discussion obviously has occurred in the past and it is extremely upsetting to everyone in the ACT that we are having it again.

Another point that needs raising in this debate is the fact that Mr Osborne has not been a great ally of my work on services for families and children at risk and has not been a strong voice on issues that contribute to a pregnancy being unwanted, including education, welfare, public housing, and community sector services. His position on abortion would have more credibility if he had come out as strongly on these issues because, obviously, there is a relationship between these social factors and the choice women make about their fertility. I do not recall Mr Osborne initiating any debate that has contributed to advancing these issues.

In the many speeches I made in the last Assembly about the importance of family support services, about inadequate community services, about increasing costs of education, and about the committee inquiries I have chaired looking at these issues, mostly there was silence from Mr Osborne. That is another very unacceptable aspect of Mr Osborne's position and the position of his supporters on this issue. They should have been vocal at least over the last few years in arguing for support for these areas and so, I might add, should the church groups who are supporting this Bill.

When I voted against budgets because they were short-sighted in their priorities and did not acknowledge the long-term costs of inadequate funding and the provision of prevention and early intervention services, there was no support from Mr Osborne. Okay, that was his choice; but now he tables this legislation which basically attacks the right of women to make decisions about their lives. It would have gone down better if he had been a champion for women and families in our community, if he had raised the issue of poverty and the widening gap between the rich and the poor.

In his tabling speech for the original Bill, Mr Osborne stated that a study published in the *Medical Journal of Australia* found that 60 per cent of women stated financial concerns as their reason for having a termination and only 5 per cent listed health. His final statement reads:

> And above all, Mr Speaker, it sets out to ensure that choice is informed.

I guess we can be confused. It is a very confusing statement that he has made. I am very dismayed that Mr Osborne's Bill, contrary to his statements and parts of his speech, will most likely affect the disadvantaged in our community. He says that his Bill is about information. No, the very essence of this Bill is about control. I state for the record again that 60 per cent of women stated financial concerns as the reason for termination. *(Extension of time granted)* I repeat that 60 per cent of women stated financial concerns as the reason for termination according to a study published in the *Medical Journal of Australia*. Has Mr Humphries or Mr Osborne embarked on an assessment of why the terminations were carried out? Do they understand or even care that this community has transformed over the last five years from being stable with good prospects for work, particularly in the public sector, to a place of uncertainty where casual contracts are the flavour of the day and uncertainty and fear are real? Babies and children are not casual and we are not awarded them on temporary contracts.

Do not worry about women and families who simply cannot afford another child: Either condemn the women to backyard abortions or force them to carry unwanted pregnancies and make further heart-rending decisions, placing the women at further risk and, potentially, other children and family members at risk. What a supportive and caring view of the world Mr Osborne, Mr Humphries and their supporters have! Can a family of five children on a low income be considered similarly to a wealthy couple having their first child? I want to make it very clear that I do not want to reduce this to economics. No dollar value can be placed on the love, support and security parents give to their children; but, at the same time, there is no way to increase the hours in a day that a parent may need to provide support for the children. I repeat: It is usually the mother who does this.

A parent's love may be infinite, but the resources behind it, the weekly pay packet, are very finite indeed. They can only buy so much food, pay so much rent and provide so much in warm clothing. So, I challenge Mr Osborne, Mr Humphries and their supporters: If they are really serious about reducing unwanted pregnancies, they will have the support of a great many people - all the agencies and organisations that educate young people on sex education, those that provide support and assistance to low-income and single-parent families and, I dare say, the greater community.

This Bill is not about that, however. It is about personal, ethical and religious beliefs. As I said, Mr Osborne and others are entitled to have these beliefs. They are theirs personally and they have a right to them. But these views and beliefs do not reduce unwanted pregnancies, poverty, violence and substance abuse. If you truly care, you would withdraw this Bill and undertake a real assessment of these issues, rather than condemning women and families to greater emotional and economic grief.

To the members of this Assembly who are supporting or considering supporting this Bill, I do want you to explain to all women in the ACT what gives you the right to make up their minds for them on an issue as personal as carrying a child, giving birth to that child and nurturing that child.

If you think it is equally a man's choice, how is it that men do not feel equally responsible once the child is born? There are exceptions, of course; but, on the whole, men do not feel the same degree of obligation and commitment to their children. The statistics show clearly how often, when the going gets tough, the tough get going. It can be especially tough when a child is born ill or with a disability, when the honeymoon is over, when the financial burdens increase. Who is left to cope? Most often it is the woman. That is just how it is. If we get to the situation where we see equal responsibility being taken, maybe there will be a slightly stronger argument, although even then it is only the woman who can carry the child to birth and that does give her a unique place in the decision. But this will come about only when we see male politicians arguing for and funding appropriately the services which support families, only when we see them acknowledging the value of parenting and following that through with serious policy decisions and resourcing.

Do they really think that it is an easy choice for women? Do they really believe that women use abortion as a form of birth control? What a sad and sick view of women that is. Where on earth does such a view come from? Maybe some women do take the decision more lightly than others, as some men make life decisions more lightly. But to suggest that women on the whole do not have a sense of the importance and seriousness of their decision, to suggest that it is not difficult, to suggest that women are incapable of making such decisions without compulsory information sessions being imposed on them is both insulting and unacceptable in the extreme. Women have to take many personal factors into account. Women have to go to their own conscience.

How is it that the men in this Assembly, and sadly it appears even the Chief Minister, would deny them this right? I am quite unable to comprehend how they could believe that they have that right or how they could be so cold in their self-righteousness. This Bill must be rejected. If it is not, I hope that members of the ACT community will remember the arrogant men and one woman who have ensured that we have turned the clock back, who will be responsible for trauma for disadvantaged women and families, for serious ethical dilemmas for medical practitioners, and for problems for the courts as well, according to the DPP, and who will be responsible for women having to undergo compulsory, absurd and biased information sessions concocted not to be objective but to actually persuade the women in a certain direction. I cannot believe that members on that side have said that this is objective information. It is clearly directed towards one outcome, which is: Do not have an abortion.

An argument was put by Mr Smyth or someone else - I do not know who it was - that there is an obligation to give this kind of information anyway. I would be fascinated if I went to a doctor over a heart complaint and was told by that doctor only the risks of having surgery. I would also expect to be told, and would be told, the risks of not having surgery, and I would make a balanced decision. This Bill in its present form is nothing like that. It is a joke. It is so biased that I cannot believe anyone can stand up and defend it. Its object is totally clear. It is to dissuade women from going with the decision that they may have made.

Members are quite clear on what I and the community want to know from any member considering supporting this Bill. I listed this morning in arguing for an adjournment the issues that I think require clarification. I circulated that list to people so that they would not have to take notes, but I have noticed that nobody has bothered to address any of those issues. I find that very concerning. I have asked Mr Rugendyke whether he is interested in responding. He says basically that he wants this matter out of the way. Mr Kaine says that he does not think he needs to respond. No-one else has felt the need to do that. These are important questions that need clarification and if the people in this place who are going to support this Bill have not articulated clearly how they think these problems can be addressed, then we are indeed a sham of a parliament.

Since then, of course, we have had more questions, quite a few more. The DPP came out with an analysis of Mr Osborne's Bill. We now have a DPP analysis of the proposed amendments of Mr Moore. There are still serious concerns. How can a parliament push through this Bill when we have those kinds of questions unanswered? *(Further extension of time granted)* We still have not heard any reasonable answers to the concerns raised by the Discrimination Commissioner. We have just had a slur on her character by Mr Osborne, which is really not a particularly satisfactory response.

Debate interrupted.

## ADJOURNMENT

**MR SPEAKER**: Order! It being 5.00 pm, I propose the question:

That the Assembly do now adjourn.

**Mr Moore**: I require the question to be put forthwith without debate.

Question resolved in the negative.

## HEALTH REGULATION (MATERNAL HEALTH INFORMATION) BILL 1998

Debate resumed.

**MS TUCKER**: I also had a few more questions put to me at lunchtime by a solicitor. One question was regarding whose responsibility it would be to prove that the literature was given, read and understood. Do you need an independent solicitor or position statement to that effect, as is currently the case in most commercial matters? A number of issues were raised about the resource implications of this Bill. The resource implications for the courts were raised by the DPP as well. Another question someone might like to answer is: Will any community legal education process be undertaken to advise ACT women and girls of the new legal requirements if the Bill is passed? If so, by which organisation and how would that be funded?

Another question was: Bearing in mind the Marion case regarding the competence of minors to give consent to medical procedures and the concept of guardianship, is it proposed that consent proceedings be heard before the ACT courts or the Family Court of Australia? Another question was: In relation to the legal concept in Gillick's case about competence of children to consent to medical treatment, how is it proposed that the new requirement to obtain consent of a parent by a minor will overcome that legal presumption? Another very interesting question was: Would this legislation be in breach of the Commonwealth Sex Discrimination Act for discrimination on the grounds of pregnancy? That is a very interesting question. I hope that members who are supporting this Bill or who have amendments to it have fine, well-articulated and thought out answers to those questions.

Basically, we are still waiting to hear any really clear arguments from that side. We are just hearing murmurs. From Mr Smyth we had his position on where life begins. That is fine; that is his personal belief. I do not have a problem with that. But we have had no answers to all the questions that have been raised. He thought that medical practitioners would be liable if they were not providing that information. I think that raises a really interesting question, because that is coming up in the medical profession. If you do not present the information exactly because it is your professional belief that it is not correct, will you be liable?

Then there is the question of the humane and compassionate aspect. This is just about presenting information which we will dictate as politicians to doctors. One doctor, Dr Ann Hosking, actually gave me the example of how she would feel as a doctor when presented with a client who needs to have a termination or has decided to have a termination because she has a grossly abnormal child. Should the doctor sit down with this patient and show her pictures of how a normal foetus looks during development? How would the doctor feel about doing that? How is that in the interests of the psychological health of that patient? How do people in this place think they have the right to impose those kinds of requirements on doctors? How dare they interfere to that degree in the doctor-patient relationship?

In conclusion, I will not go through all the questions I have asked. You have all got copies of them and they are on the record already. I am still waiting for answers. I think these questions are so serious that, by the end of this debate on the Bill in principle, I hope that we will see either an adjournment or a referral to a committee of some kind. If we do not see that, then it will be a scandal. This Assembly will look appalling. It will be mentioned in the national and international media and members will have to take responsibility for their actions today. As a final point, I would like to say to the members of this place who feel this is a conscience vote for them that I ask them to leave that conscious decision with the women, as is their right. My last comment is that a chant this morning that I thought was particularly apt was: "How about getting your rosaries off our ovaries?".

**MR STANHOPE** (Leader of the Opposition) (5.04): Mr Speaker, I will not be supporting this Bill. I also have to say at this stage that I do not support Mr Moore's amendments. There is about Mr Moore's amendments just a whiff of a Faustian compact that leaves me feeling rather uncomfortable. I also do not adopt the very sanguine acceptance that some of those who have spoken in favour of this legislation have about its genesis and the basis for the legislation - the very bland statement that this Bill is just about the provision of information. That this Bill is just about the provision of information is a claim that I have heard, particularly from Mr Smyth and Mr Stefaniak; that we simply want women to be aware of all aspects of the procedure that they are seeking. It seems to me that in a claim such as that there is a suggestion that the information that is currently being provided is in some way inadequate.

There seems to me to be a suggestion that the Reproductive Healthcare Services Clinic is not acting in a professional and competent way. It seems to me to suggest that members of this place have been lobbying the Minister and have been lobbying the Reproductive Healthcare Services to improve their information and the information they provide. I think it is interesting to ask what lobbying has Mr Osborne done of the Minister for Health? Mr Moore shakes his head and says none. What lobbying has Mr Smyth done? What steps have been taken by Mr Osborne, Mr Smyth, Mr Stefaniak and the others who have indicated that they are supporting this legislation to determine whether or not the information that is currently provided is adequate? None.

Every member of this place, I think, has been provided with a kit of the information that the Reproductive Healthcare Services currently provides to women seeking their assistance. There is information provided on a whole range of subjects, detailed information. There is a client information pamphlet, information on anaesthetics, a brochure on patient information, a brochure on termination of pregnancy information for general practitioners, termination of pregnancy post-operative instructions, and a brochure on possible after-effects and complications following termination of pregnancy. All this information is currently provided by a competent professional and dedicated service. I bet not a single member of this place has made representations to the Minister.

In my time here, over this last year, there has not been a single debate on the adequacy or otherwise of this information. Why do we need legislation? We have a set of information. It is quite detailed information. If members had concerns about this information why did they not raise it as an administrative matter in the same way that people in this place raise questions about a myriad other issues? They take it up with the relevant Minister. They write letters. They lobby. They seek to have amendments made. They seek to have improvements made. How many times have Reproductive Healthcare Services or Family Planning ACT rejected overtures to review their literature? Have Family Planning ACT and Reproductive Healthcare Services been engaged in a battle, refusing to amend their literature? The answer, clearly, is no. Because it is clearly no, I think each of us is entitled to be very cynical about the reasons why we are now debating this legislation. In fact, we are not just entitled to be cynical about the reasons why this legislation has been introduced. We would be incredibly naive to think that it is just in order to ensure that women seeking an abortion are appropriately counselled or have appropriate information available to them. That would be an incredibly naive view for us to adopt.

We must look behind that bland and sanguine explanation of why it is that on this day, in this year, at this stage in the development of this debate, we are again debating abortion. We need to ask ourselves why is it that we have jumped back 30 years. Why are we having this debate that was had 30 years ago? It is not just about the provision of information. When one looks at the Bill it becomes immediately apparent that this is not just about counselling and the provision of information and a cooling-off period.

That becomes incredibly clear as soon as you open the Bill and see the attention which it gives to the Crimes Act. As soon as I saw the reference to the Crimes Act in the preamble the alarm bells for me rang loudly and clearly. Because of the complexity of the lawfulness or unlawfulness of abortion, because of the existence of the provisions within the Crimes Act, it does not take a genius to know that once you start fiddling in this area you raise immediately the spectre of the legislation impacting on the court's interpretations in the Menhennitt and Levine rulings. It cannot be denied or avoided. The potential thereby exists. The uncertainty is created. No-one in this place can give me a guarantee that this Bill, if passed, will not upset forever the basis on which abortions in the ACT are lawful. So the alarm bells ring, and they ring in more ways than just concern about the impact that this Bill has on Menhennitt and Levine.

We have explicit written advice from the ACT Discrimination Commissioner that in her professional view as the ACT Discrimination Commissioner she can give the Attorney-General no guarantee that this Bill is not inconsistent with the Discrimination Act. I am staggered that we are proceeding with this debate when a person as senior and as significant in this community as that advises the Attorney that she cannot give a guarantee that a Bill which he has basically proposed and which we are now debating, if passed, will not breach the Discrimination Act, and yet we proceed with the debate. That staggers me. It staggers me that we are proceeding with a debate on a Bill fostered basically by the Attorney-General when he has been given explicit written advice by the Discrimination Commissioner that if passed it will probably offend the Discrimination Act.

In addition to that we have the advice from the Director of Public Prosecutions that has been referred to. We also have advice - this does cause me enormous concern - from the Community Advocate. All of these senior officers within the Attorney's portfolio, three of the most senior officers in the ACT public sector, the Director of Public Prosecutions, the ACT Discrimination Commissioner and the ACT Community Advocate, feel the need to communicate with all members of this place about their concerns over this legislation.

The Community Advocate, in advice that has not previously been referred to in debate, deals with just one proposal, the proposal relating to the need for a woman under the age of 18 to obtain consent. The Community Advocate has advised us that there are legal authorities which call into question the efficacy of this proposal. The Community Advocate quotes Gillick's case in which it was ruled that a child, somebody who is under 18, who is intelligent and mature enough to fully understand the nature and consequences of a treatment or procedure can give a valid consent.

The High Court, in Marion's case, endorsed the Gillick decision and agreed that the power or role of parents to consent to medical treatment on behalf of a child diminished gradually as the child's capacity and maturity grew. The Community Advocate expresses concern that we are proceeding with legislation which in its provisions upsets a High Court decision on the capacity of an adolescent to be regarded as a mature person and entitled to make her own decisions and entitled to give her own consents. The law has already dealt with this issue. We now have a Bill which potentially upsets the Menhennitt ruling, the Levine ruling and the Gillick rule, and we do this blindly. We do this without the advantage of any thorough investigation of what we are debating. We do this in an Assembly apparently not prepared to allow appropriate community discussion of this issue.

This Assembly, very shortly I think, will be tested on the question of whether or not it is prepared even to allow a committee of this place to investigate these issues. I share, entirely and precisely, the sentiments expressed by Ms Tucker if this Assembly is not prepared to allow a committee of this place to thoroughly investigate all of these issues, their implications and their impact. I share the sentiment expressed by Ms Tucker that it is an absolute travesty of the rhetoric in here about our determination, willingness and obligation to consult with this community. It is just a parody and, as expressed by Ms Tucker, a joke.

There are a couple of other matters in relation to the Bill that should be mentioned at this in-principle stage. If we get through the in-principle stage - as I have said, I hope we do not - these matters will be debated later today in much more detail. There is a whole raft of concerns and they have been expressed to each of us in communications that each of us has received. I think it is relevant that we have some regard to the representations that we have received and the range of issues that have been addressed to us by other speakers who are opposed to this Bill. This legislation is an insult to women. This legislation, in the view of a number of commentators, offends United Nations and international conventions that we, as a nation and as a community, have committed ourselves to.

It staggers me that a jurisdiction such as this would contemplate passing into law legislation that some of the most senior commentators in this community believe potentially breaches international conventions that Australia has signed. How is it that we, as a legislature, are here today debating a Bill that it is seriously suggested to us by commentators and by senior public officials for whom we must have regard offends United Nations and international covenants? The Discrimination Commissioner has concerns to that effect.

The scrutiny of Bills committee, chaired by Mr Osborne, brought down a report yesterday raising the need for a discussion on the implications of this Bill for some of our United Nations and international obligations. Yet, here we are, rushing headlong, lemming-like, into debate and potentially the passage of legislation that tomorrow will stand in opposition to international obligations which Australia as a nation has accepted.

A whole range of issues that need to be addressed in detail can only be addressed appropriately through a committee or a public consulting process. There is the issue that I have mentioned about the impact on the criminal law. There is the issue I have just raised about the impact on privacy legislation and our international obligations.

There is the issue raised succinctly by Mr Corbell of the impact of this legislation on what is an approved facility and the effects of that. As Mr Corbell was making his case about the impacts of this legislation on an approved facility, Mr Humphries interjected. *(Extension of time granted)* When Mr Corbell was making his case about the impact that this legislation would have on the definition of an approved facility he repeated the claim that has been made to us by Family Planning ACT that there is a very real possibility that, as a result of this legislation, the clinic will close. Mr Humphries is prepared to do it again. Mr Humphries shakes his head and suggests that that is an absolute nonsense.

**Mr Berry**: That is what he would like to see.

**MR STANHOPE**: That is right. On what basis can Mr Humphries shake his head and claim that that is a nonsense when the people who have responsibility for the management of the Reproductive Healthcare Services Clinic tell us unequivocally that if this Bill is passed the clinic will have to close?

**Mr Humphries**: It is scaremongering. The legislation will not close the clinic.

**MR STANHOPE**: Mr Humphries, I think it raises the very issue of the attitude to the clinic of those who are supporting this legislation. It does give some illustration of the basis for the support which this legislation is achieving in this place from some members, and it goes to the other issues that have been raised, particularly by Mr Corbell and Ms Tucker. This is a Bill about control. This is not a Bill about providing information. This is a Bill exerting control over women and their rights to make decisions for themselves.

If Family Planning ACT write to me and tell me that this Bill would lead them to consider closing the clinic, then, without some detailed investigation of that claim or that assertion through an extended public consultative process or through a committee process, I am inclined to take them on face value and believe them. I am not prepared to simply stare the other side out, or play blindman's buff and just cross my fingers and hope that it does not close. I do not think that is the game we are in here, of simply staring each other out and seeing who is standing at the end of the day and whether or not we have a clinic. It is just scaremongering. It is a nonsense.

Other issues that have been dealt with and which cause me enormous concern are issues going to the impact on the relationship between a patient and her medical practitioner, issues around the provision of anatomical drawings, issues around the professional panel and issues around prying into the private lives and private business of women. I will conclude my contribution to the debate, Mr Speaker, by referring to some of the correspondence that I have received. I have referred previously in this debate to the correspondence which each of us received from the Discrimination Commissioner. I harp on this, it seems, but I think it is incredibly important. It goes to the heart of it, for me. These are people in this community for whom I have the highest regard; people in this community appointed by the Government, by those opposite, to most senior positions within this Territory. Let us not forget that. Ms Follett, Mr Refshauge and Ms McGregor were all appointed by this Government to those most senior positions.

We have advice from Mr Refshauge, we have advice from Ms Follett and we have advice from Ms McGregor that this legislation is seriously flawed; yet here we are, blithely charging on, negotiating these troubled waters. "She'll be right at the end of the day. Don't you worry about it. We are just making sure women have a little bit of information here and there. Don't you worry about that. Nothing to worry about in this legislation. Just a little bit of information here and there". Well, I am just a bit more cynical than that.

Each of us has received correspondence from a number of medical practitioners in town. Each of us has received correspondence from the society of general practitioners expressing their alarm at what this Bill does to the relationship between a doctor and patient. I referred earlier to the correspondence from the ACT Division of General Practice, a letter written by Dr Stan Doumani. I do not wish to defame him but Dr Doumani is not exactly a raging radical in the community. Dr Doumani is trenchant in his criticism of these proposals. Dr Doumani wrote in relation to the Osborne abortion Bill and Gary Humphries' amendments. This is the point I was making in relation to Mr Moore's amendments which upset Mr Moore. Mr Moore sees them as his least worst option, but they compound the felony. They do not make it go away. They compound it at this stage. A concern that I have about where we find ourselves is that those second tier amendments suffer from this same criticism. This criticism from the ACT Division of General Practice applies just as much to Mr Moore's amendments as it applies to Mr Humphries' amendments, which now make up Mr Osborne's Bill. Dr Doumani wrote:

> In relation to the Osborne Abortions Bill, the ACT Division of General Practice considers Gary Humphries' amendments to be insulting to the intelligence of women in making informed choices about their health care, and to the professionalism of their medical practitioners.

That is the view of the doctors of the ACT about this Bill.

We have advice from specific practitioners. This was a letter written to me and I think to all other members of the Assembly. It is from a practice in Belconnen. I will not name the individual doctors as I do not know whether the letter was for publication. It says this:

> We have been general practitioners in Canberra for a total of 50 years and are against the proposed Bill ... Abortion is an unhappy and undesirable outcome but in my opinion the present arrangement in the ACT is the best service that can be offered to the women of Canberra who find themselves confronting this problem.
>
> Abortion is a very undesirable option for a pregnant woman but we accept that for some it is the least undesirable outcome given the circumstances confronting the woman. In our experience it is not a decision that most women attain without the most considerable soul-searching and anguish. In our experience most doctors help the woman to arrive at her own decision after considering all the pluses and minuses of either outcome. There will always be some women and

> some doctors who do not fit into the above scenario - however in our experience these are a small minority. Laws never have prevented nor ever will prevent women who are desperate from obtaining an abortion.
>
> The Bill which proposes exclusion of some doctors from counselling regarding possible termination produces an unnecessary and unproductive impediment in the decision-making process and may exclude a trusted professional who has a valuable relationship with the affected woman.
>
> The proposal to show pictures of the abortion process focuses on the operation and ignores the long term outcome. If this proposal has validity then all patients considering an operation should be given pictures of the operative procedure before making their decision.
>
> Another key issue in any abortion debate is that any restrictive or prohibitive edict primarily affects the less advantaged members of our community.
>
> Those who are against abortion are never forced to have one.

Each of us has that wisdom in our offices. Each of us has received that sort of advice from the medical practitioners in Canberra, endorsed and supported by their Division of General Practice. That is the view of the doctors of Canberra.

We all know the view of the majority of the women of Canberra. The introduction of this legislation has created enormous division within this community. It has created enormous anguish and anger. I have no doubt from the discussions that I have had that this legislation is opposed by the vast majority of the people of the ACT, and I think those opposite who are supporting this legislation know it. This legislation is unnecessary. It is not wanted. It was uninvited. It should not be supported.

**MR HARGREAVES** (5.28): Mr Speaker, I have had enormous difficulty with the avalanche of information that has come forward by email and through the mail and from people who have spoken to me in the last couple of days. I made mention earlier on that it is my view that we may not have the wit to consider this information as quickly as we are being asked to. I would prefer, in fact, to have a procedure available to us whereby we are able to see the evidence for and against, laid side by side, and to have it considered in some sort of a committee in which we can all take part. I think that would be a much better process for all in the end.

Mr Speaker, I cannot describe to you the extent of the distress, the anxiety and soul-searching this Bill and its predecessor Bill have given me. For some in this chamber it is a fairly straightforward issue, either pro-choice or anti-abortion. But the issue is not that black and white. All of us, I would hope, come from the same starting position and that is a strong belief in the sanctity of life. Some of us differ on when that life actually begins or takes on human form. I respect this different view but I believe that life starts at the moment of conception and that the life created is that of another human being.

The question that plagues me is: Do I have the right to end one? Do any of us have that right? One can argue for aeons about this issue but, Mr Speaker, it is not the issue before us today.

My understanding is that currently, under sections 40 to 45 of the Crimes Act 1900, it is illegal to prevent a child being born alive or to contribute to a child's death. I am aware that the contention is that, where the Act says it is unlawful in some circumstances, there is learned opinion that, ergo, it must be lawful in some circumstances. I am uncomfortable with the two references to this legislation in the Bill, but I am prepared to countenance it because I do not think it alters anything in it. This Bill is about information.

In the Health Regulation (Maternal Health Information) Bill which we are debating in principle now, it concerned me that there was an illogical reference to the age of 18. Society has passed this issue years ago and now young people at less than this age can do any number of things, not the least of which is to join the armed services, give approval for major surgery, and obtain a drivers licence which, in the hands of some, is a weapon which kills their contemporaries. Mr Speaker, the age for statutory rape is 16 and we should recognise that if a young person can consent to sex at 16 then the decision to terminate should also be available at that age.

Mr Speaker, I agonised about the type of information which ought to be available to people making this most difficult of decisions. I also agonised over the role of this Assembly in insisting on the provision of information. What persuaded me in my own thoughts was that the Assembly is not only a legislature; it is, or should be, a voice of the community to its members on how society at a given time feels about certain issues. I do not pretend that the Assembly always gets it right, and I recognise that some statements by the Assembly are not greeted with acclaim by vocal segments of our community; but, Mr Speaker, I think it is our duty to try to reflect the attitudes of society whenever we can.

It is also difficult, Mr Speaker, to take a position when we are very much aware that many of our constituents are for a position and many are against. A check of the correspondence received in my office on the abortion issue, not counting the numerous phone calls that I received, revealed that 95 letters were in support of the original Osborne Bill and 103 were against it. It can be seen, therefore, that the feelings were about even in the correspondence that I received. But whom do I represent in this chamber? Do I represent the popular majority? If so, I would vote against the Bill because 103 people were against it. Should I vote according to my conscience? My colleagues in the Labor Party have been magnificent in their support during a most difficult time.

Mr Speaker, the Bill talks about the type of information required for the making of an informed decision. I have some difficulty here because it provides information on the negative side of having an abortion. It does not talk about the positive side of such a termination. It does not talk about the negative side of carrying to term nor the positive side of carrying to term.

There is an assumption by the drafters of the Bill that the provision of positive information about carrying to term is really not that necessary because those overjoyed by the pregnancy have figured it out by themselves. It is further assumed that those seeking an abortion have worked out that they could be better off in the long run by not proceeding with the pregnancy and that life would be better if an abortion took place. You could be forgiven for thinking that these people do not need to be reminded how well off they would be if an abortion proceeds. The negative sides, physically and emotionally in addition to socially, are usually either apparent or advised by the GP when pregnancy is diagnosed. One would hope that the physical issue is something a doctor, seeking to avoid negligence suits, would address with his or her patient.

So what is left? What is left is the issue of society making absolutely sure that the decision to end another life is taken with all the information we can gather. Mr Speaker, if someone could compile a booklet addressing all four facets of information required to make an informed decision, I would be so pleased. However, in lieu of a complete set, I support the provision of that information which should assist in the decision.

I accept that most women have made up their minds already and that any other information may not alter that decision. But, if it does change one mind, then perhaps it is worth while. If a life is not taken, then perhaps it is worth while. It seems to me, Mr Speaker, that the difference between a termination and any other life-saving or threatening medical procedure is that in a termination we are talking about two lives, and this is a unique situation.

Mr Speaker, it is a common criticism of this Assembly that 15 men are taking decisions which affect women's lives and that we have no right to do so. I disagree with this fundamentally because I have equal responsibility to female and male constituents. Like it or not, I am faced with this duty, Mr Speaker. I reject this criticism from people who have not taken part in such a decision. I have, Mr Speaker, and I know exactly how hard it is.

However, it is absolutely imperative that those professionals who will provide information pamphlets do so not only from a professional perspective but also from a gender-based bias. It is my firm belief that any panel charged with approving information to be provided to decision-makers comprise a significant number of women.

I firmly believe also that the approval process for this information should not be in the protected domain of the medical specialist. It is a fact in this country that most medical specialists are men. It is also a fact that most practitioners in the nursing profession are women. The nursing profession is most often best placed to be able to assist in addressing fundamental issues facing women today. When Dr David Nott instituted the Women's Health Centre in the mid-1980s he recognised that it must be staffed by the very gender it sought to serve. It is therefore imperative, Mr Speaker, that the approval panel for information to be provided to women making the decision to terminate a pregnancy should have a significant proportion of female members to bring that woman's perspective to the issue.

I have given support to the inclusion of two nurses to the advisory panel for this very reason, and I look forward to seeing whether or not that will manifest itself at a later stage. I believe that they should be recruited from the specialist area in hospitals which deal with women's issues and from the area specialising in women's health issues in the wider community. It is most appropriate that there be a clinical psychologist involved in the approval process as well. It is a mistake to assume that there are significant psychiatric problems stemming from abortions. It is also quite true that most of the women who have abortions experience some type of psychological distress, and this is an important aspect of the long-term effect of having such a termination.

Mr Speaker, it has been said that if this Bill passes it will mean the closure of the current termination clinic. I do not believe that that will be so, and I sincerely hope that I am right. For the record, Mr Speaker, I will use my vote in this Assembly to prevent the closure of the clinic if it is threatened. I do not believe it is right to force women who have, they believe, a legitimate cause for a termination to go interstate or to a backyard butcher or to attempt to do the procedure themselves. Surely we are more responsible than this.

I had hoped that I would never have to be a party to such a decision as this. It has caused me considerable pain and anxiety. I will depart from these notes for a moment, Mr Speaker, to say that very few people who have spoken before me have had the courage to admit it or to express anything like it. It is something which I have agonised over, and I know that there are people in the community who will disagree with any decision I take. But I will take a position because my conscience dictates to me at this time, having received all manner of advice, abuse, threats and approaches, after all of that, that I will make the right decision.

Mr Speaker, I would like to place on the record my appreciation to all of those people who have given me their views and advice, gently and genuinely, and in particular my party colleagues who have recognised that this is an issue for the deepest recesses of our souls. It is one for us to decide in the loneliness of our own hearts. They have placed no pressure on me at all. Indeed, my colleagues have been most supportive. I would only hope that those opposite could conduct themselves with such compassion. It is times like this which make me proud to be part of such a great party.

Mr Speaker, I urge all members here to think deeply, as I know we all have, and vote according to their convictions and not in response to the pressures they have experienced.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.42): Mr Speaker, I rise to support this Bill. My reasons for doing so should come as no surprise to any member of this house or to anybody else in the ACT. My views on the question of abortion have been aired many times over my almost 10 years of membership of the ACT Legislative Assembly. Indeed, my views about abortion were published by the Right to Life Association before the last ACT election and should be of no surprise to anybody.

I support this Bill, as I supported the original Bill which came before the house in August, because I believe in the sanctity of human life and the need for laws of the Territory to protect that life from its inception to the extent that it is reasonable to do so. This Bill in one sense does not go so far to protect the sanctity of life as the earlier Bill Mr Osborne introduced did, but it does, by the provision of clauses providing information to women and for the operation of a cooling-off period, go some way towards protecting that human life and the sanctity thereof, and a small step in that respect is better than no progress at all.

There has been an enormous torrent of nonsense spoken about this legislation. We have heard in the course of the last few days, and to some extent also in the preceding three months, exaggerated claim heaped upon prediction of cataclysmic outcome. The claims made in some cases are just too silly to be worth repeating, but the most hysterical of those claims has been the assertion made very matter of factly, and repeated in the chamber today, that the ACT Family Planning Clinic would close if the legislation were to pass today.

Putting to one side the amendments which Mr Moore will propose to the Bill today, even if those amendments were not to be moved, indeed, Mr Speaker, even if the original Bill Mr Osborne put on the table last August were to be passed by the Assembly today, it would be sheer nonsense to suggest that people would be unable to have abortions. That was not the effect of either of those pieces of legislation. The effect is not that abortion be prevented outright. Mr Speaker, it is sheer nonsense in the context of this legislation to suggest that the Family Planning Clinic is at all at risk in this process.

Following very close on that assertion is the assertion, again made in this house today, that the reference in the legislation to the Crimes Act is somehow a backdoor ban on abortion; that somehow, despite the clear intention of the legislation to prevent the Crimes Act operating any differently from the way in which it operates now, the Crimes Act is lifted up in some different way and has some different operation by virtue of this Bill. That also is a claim that is simply not borne out by careful and fair reading of the legislation before the house today.

I might say, Mr Speaker, that this fearmongering is understandable to some degree. The original Bill did generate some real limitations on Canberra's small but profitable abortion industry. I concede that it would be difficult to apply the brakes to this juggernaut that was set in train when that Bill first appeared, even when the Bill before the house is actually much less extensive in its operation than its predecessor was. Never mind that the Bill before the house today merely aims to introduce notions of full disclosure and a cooling off seen in many other pieces of legislation which this Assembly has passed and which no doubt will appear in many others in the future. Never mind that that is the case. Let us hunt down the sinister hidden agendas which are very clearly linked to the actual words of the Bill. Let us find the sinister hidden agenda and use them, the imputed motives, to condemn the legislation.

Mr Speaker, I am going to take the rare and daring approach of suggesting that the Assembly should consider the Bill for what it says, not what is imputed to be the motives of people who support it. There are some hidden agendas, I think, in this debate

and I will return to them in a little while. If we look at the substance of this legislation, not the mere words of its detractors but the substance, the general objectives, I think, would be very hard to argue with.

The Bill first of all is focused on the concept of full disclosure to a person undertaking an abortion. In other fields, Mr Speaker, a person undergoing treatment or surgery is expected to receive full disclosure about the complications and potential risks involved in that particular operation or procedure. Indeed, the liability of doctors who conduct such procedures or operations without that full disclosure increases. When you consider any other sort of medical or surgical procedure that a person might undertake, the common law requires that you be advised of all reasonably foreseeable risks and consequences, or the consent which you give in the absence of such full information could be nullified and a battery on your person could be committed.

The question I pose today is this: What is wrong with applying those same principles to disclosure before abortion? What is wrong with applying those very same common-law principles to women who might undertake to obtain an abortion? Some might say, "Well, what is wrong with letting the common law apply in this area and let it apply to the duty of doctors?". The problem, of course, is that the common law in this area is not particularly helpful. The common-law status of abortion is, to say the least, somewhat unclear. Reference has been made to various common-law decisions which have laid out what the position of those undertaking abortion might be. It is, at least on the face of it, different from what appears on the face of the Crimes Act, particularly sections 40 to 45. So, Mr Speaker, reliance on the common law is not an easy option in this particular case and therefore it is appropriate to set out clearly what it is that the duty on doctors in these circumstances should be. I do not see any reason whatsoever, and I have heard no reason in this debate so far, why those principles of disclosure should not apply in this case - none whatsoever.

Mr Speaker, the second issue is the issue of the cooling-off period, the second main plank of this legislation. As others have said in this debate, before you complete the purchase of a vacuum cleaner from a door-to-door salesman, before you purchase a second-hand car, you are required to experience the effect of a cooling-off period. That is imposed by the law of the Territory. How much more important is a decision on having an abortion than either of those things? If we should wait 10 days before confirming a sale from a door-to-door salesman, why should we not wait 72 hours before confirming the decision, as some would have it, to end another human life within a woman's womb? How much more serious are the consequences of making the wrong decision in the case of having an abortion?

I have not heard anyone in this debate contend that sometimes the decision to have an abortion can be the wrong decision for the woman concerned. I am told that a delay of 72 hours between inquiry or seeking information and the carrying out of an abortion is not unusual - indeed, it is even customary - in the case of abortions in the ACT. If a cooling-off period is imposed by law, are we really imposing anything so terribly shocking on the way in which the legislation might operate?

Mr Speaker, I think that issues like this deserve to be taken seriously on their face value, not on the basis of what people might impute to be the real reasons, so called, behind such moves. We should consider this as we would consider other measures to do with the health and safety of citizens of this Territory who might undertake particular procedures or operations, or have their rights in some way affected by particular activities in the Territory.

Cigarette packets today carry health warnings which these days include specific warnings of the risk to pregnant women of smoking or being subjected to side-stream smoke. Governments around Australia are now investing some money in informing people, educating people, about the risks of side-stream smoke as well as smoking itself. It does seem strange to me that we as a community should insist on full warnings being brought to the attention of every person who might choose to light a cigarette by the words that appear on the packet as they open it and yet baulk at the concept of providing information about consequences which can be at least as severe, if not much more severe, when they apply in respect of a woman having an abortion.

Mr Quinlan spoke in the debate about the guilt trip we impose on women who might be considering an abortion by requiring that medically accurate information pursuant to the Bill is put before them before they make that decision. Why is he not troubled by the guilt trip each smoker experiences when they light a cigarette from the packet that says "Smoking may kill you" but is perfectly relaxed at the concept that it is okay for information not to be provided for in legislation of the same kind? I think there is little difference between those concepts. If a person is entitled to be warned about risks, the question of the guilt trip you suffer by having that risk brought to your attention is a minor consideration in the question of putting that information before people.

**Mr Berry**: Why should there be a guilt trip? You are saying that there should be a guilt trip.

**MR HUMPHRIES**: Mr Speaker, I would ask Mr Berry for some courtesy in this debate, please. Mr Speaker, let me address some of the myths which have been perpetrated in this debate. One of the ones I am most intrigued about is the argument that goes: "How dare men interfere in decisions women make about the use of their own bodies?". That goes to the question, of course, of the unfortunate reality that there are only two women in this Assembly who will be taking part in the debate on this Bill.

Mr Speaker, let me answer that in two ways. First of all, it is true that abortion is not simply a question of a woman's decision vis-a-vis her own body. If it were, as a small-l liberal, I would not hesitate to assert that the decision should be hers and hers alone. But I believe that the decision involves two people - the person seeking the abortion and the person within that person, the unborn child.

The second response to the argument, "How dare men interfere in women's decisions about their own bodies?", is that those who espouse it are not being particularly consistent. I have to confess that in this respect I am a serial offender. I introduced a Bill into this place in 1995, in fact, almost three years ago to the day, which did provide for interference in women's capacity to make decisions about their own bodies. It was a very direct and very intimate interference in, you might say, women's reproductive processes.

I proposed an amendment to the Crimes Act. Mr Speaker, interestingly, my proposal to interfere in women's rights to make a decision about their own bodies was not opposed by women's groups. Indeed, quite the contrary. It was strongly supported by women's groups in the ACT and received unanimous support from members of this Assembly. My amendment to the Crimes Act was to ban a practice called female genital mutilation, sometimes known as female circumcision. In doing so, there was no doubt whatever that the Assembly directly and - - -

**Mr Moore**: Always done as children.

**MR HUMPHRIES**: No, not always done as children.

**Mr Moore**: Almost always done to children.

**MR HUMPHRIES**: It applied to adult women as well as to children. In fact, it applied to women 14 years and above, Mr Moore. *(Extension of time granted)* I thank members. Legislation to ban female genital mutilation was not only not condemned by those who take the view that men should not interfere in women's rights to control their own bodies, it was actually supported by them. Incidentally, the legislation was introduced on 23 November and passed less than three weeks later. Apparently members had no problems on that occasion in dealing with the legislation very quickly. So, Mr Speaker, I think that the argument is a nonsense, and it depends very much on whether the people raising the argument happen to agree with what is being proposed by way of interference or whether they do not.

An argument I have also heard today is that this is an abuse of parliamentary process. In particular, Ms Tucker felt that it was wrong of the Assembly to rush through this legislation and there needed to be more time. I simply note in this debate that just on three years ago Ms Tucker was one of a number of members of this place who wanted to consider legislation less than one week after it was introduced, namely, legislation dealing with the right of citizens to initiate their own referenda. Ms Tucker was very pleased, against the wishes of the movers of that Bill, to bring the Bill forward for consideration immediately. If it is an abuse to do it in one week, Mr Speaker, I wonder what that says about three months.

Another argument has been that doctors are insulted by the requirements to do certain things; that it is suggested that they are incompetent; that this degree of regulation is quite inappropriate; that doctors are perfectly capable of making decisions and giving advice to their patients which lie within ethical considerations; and that there does not need to be any imposition by the legislature in that process. I have considered the Commissioner for Health Complaints' annual report, Mr Speaker. The commissioner's brief includes promotion of the rights of consumers in respect of being informed and educated about health matters that may be relevant to him or her. The other principle of relevance here is that a person should be entitled to reasonable access to information about his or her health.

It is interesting that in the report for 1996-97, the last report I have seen, complaints about lack of information being provided or inadequate information being supplied to patients accounted for almost 10 per cent of all the complaints made to the Commissioner for Health Complaints. Of course, of those about whom complaints were made as individual practitioners, more than two-thirds were doctors. So, Mr Speaker, those who believe that doctors are not capable of making decisions that are in the interests necessarily of their patients ought to look carefully at what is in that report. It suggests otherwise.

Another argument we have heard in this debate today is that this is an untried concept; that we are foisting some newfangled and untested concept of disclosure onto women in the ACT. I understand that the proposals are very close to proposals on medical right-to-know provisions that appear in a large number of other jurisdictions. In fact, 19 American States, including South Dakota, Mississippi, Kansas, Ohio, Louisiana and Pennsylvania, and more recently New Zealand, across the Tasman, have adopted similar right-to-know legislation. It is hardly trailblazing.

Mr Speaker, I want to close my remarks by making some brief reference to the concerns of other members of the ACT public sector, particularly the Director of Public Prosecutions, the Discrimination Commissioner and the Community Advocate. I believe that a large number of these concerns, if not all, will be addressed by the amendments which have been circulated in the chamber. I understand that Mr Moore's amendments have been circulated in the chamber.

**Mr Moore**: Yes, they have.

**MR HUMPHRIES**: Yes. I understand that Mr Refshauge, for example, is substantially assuaged by the amendments which have been moved. There are a couple of issues which perhaps have not been picked up but which have now been picked up by amendments which have now been circulated in the chamber. If members are seeking to sink the Bill merely on the basis that they believe they can argue that it is inadequate in some way, I would suggest that they ban that approach and instead say they do not like it rather than they do not believe it is effective.

I appeal to members to consider not what the Bill once was or what they believe the motives of the mover or movers are or were, but rather to look at what it says. If this was legislation on a range of other fields talking about the rights of consumers in other fields of activity in the ACT, I do not believe we would see the criticism that we are seeing here today. Because we are building in rights of women in respect of information and in respect of the capacity to have a cooling-off period, because we are introducing this concept in respect of abortion, we have a whole series of other considerations emerging in the debate. That does not mean that such concerns are legitimate in that respect. I think it is unfortunately true that the view of many people of this Bill is being clouded by what went before. That is a wrong consideration. This Bill deserves to be considered on its merits, on what it says, not what people think is behind it. I ask members on that basis to give this Bill a chance to be able to provide a level of information and disclosure which in other fields we already take for granted.

**Sitting suspended from 6.04 to 7.35 pm**

**MS CARNELL** (Chief Minister and Treasurer) (7.36): Mr Speaker, I believe that real choice is about having a full suite of information. I am pro-choice but I believe that choice is available to women or, for that matter, anybody else in our community only when they know what that choice entails and what the breadth of that choice is. Being pro-choice is not about being pro-abortion. It is about being pro the right of a woman to choose whether she has an abortion or whether she does not and, if she does not, what other option she may choose. From my perspective, this is not a black-and-white issue, because choice is not black and white.

It seems that some members believe that being pro-choice is just about believing that abortion is the only option, or the only sensible option. I do not believe that. I believe very strongly that a decision by a woman to have an abortion because she believes that is her only choice is no more desirable than a decision to keep the child because she believes that is her only choice. Real choice is about having access to a full suite of information. From my perspective as a woman, women will never be truly empowered to make decisions for themselves until they have access to a full suite of information about all life choices and until they have a full suite of services to back up that full suite of information. My support for the pro-choice movement is based upon information and empowerment.

The numbers in this house on pro-life versus pro-choice, anti-abortion versus pro-abortion, whatever we want to call it, is 10 : 7. I and a number of others are in the minority in the house, according to what members campaigned on at the last election. We have to assume that no member would have fibbed in the very definite statements they made prior to the last election. That means that there is always a chance of legislation that narrows the choice of women in the area of terminations.

Mr Berry raised the issue of abortion after the last election, something that I would have assumed anybody who had been in this house for five minutes - and Mr Berry has been here for much longer than that - would not have done. I will not in any way suggest why he may have done that, but Mr Berry raised the issue, and from that moment abortion has been on the agenda in this Assembly.

**Mr Quinlan**: Rubbish!

**MS CARNELL**: Sorry, that is a true statement. I would have preferred no Bill. I would have preferred no debate on this issue because - - -

**Mr Berry**: You could have fixed it last week, and you did not.

**MR SPEAKER**: Hitherto, this debate has been heard in gentlemanly silence and indeed in ladylike silence.

**Mr Berry**: And with only reasonable interjections.

**MR SPEAKER**: No, there have been no interjections, Mr Berry, and please do not put your feet on the chairs. I would like the same opportunity for the Chief Minister to speak and be heard in silence as I am sure you would ask for, Mr Berry. I would ask all members therefore to observe this. I am not going to tolerate interjections and unruly behaviour after dinner. They did not occur prior to dinner.

**MS CARNELL**: Mr Speaker, I have not made any personal comments at all, apart from stating the fact that Mr Berry raised the issue of abortion after the election. That is a true statement. I have not made any comments about that. The fact is that he did and from the moment that happened, even though Mr Stanhope tried to take it off the agenda, it was on the agenda of this Assembly.

**Mr Quinlan**: Not true.

**MS CARNELL**: I am sorry. Every statement I have made is true. I still have the letter Mr Berry sent me with regard to the issue.

**Mr Quinlan**: It is not true that it stayed on the agenda.

**MS CARNELL**: Mr Speaker, it has been on the agenda from that time. Fairly obviously, when the pre-election numbers were on the side of the pro-life movement, everybody on the pro-choice side was nervous, and I suppose people on the pro-life side thought they had a bit of a go here. From that moment we from the pro-choice side had a problem. I would have preferred no Bill. From my perspective, the status quo is fine.

Mr Osborne's first Bill was totally unacceptable. It had no redeeming features, because it was an anti-abortion Bill - nothing more, nothing less. The second Bill still has a number of problems which, if not fixed, will mean that I will not be able to support the final Bill. They include requiring a second doctor in the whole equation, requiring a doctor not associated with the family planning clinic to give information. I will not ever support a piece of legislation that requires names and addresses of patients to be given to a Minister, regardless of what condition or what procedure that patient may have had.

Mr Speaker, I do not believe that the provision to require parental consent for under-18s is acceptable in this day and age. I believe really strongly that that will create a huge problem for a lot of young people. Young people who are regarded as being quite capable of making many other decisions in their lives, for instance to have intercourse in the first instance, will have to ask for parental consent to go ahead with a termination. There would be many circumstances - and we have heard many of them today - in which that would be simply untenable for young people. I understand that something like 9 per cent of terminations conducted in the ACT are for women under the age of 18 - something like 150 a year.

Comments have been made that if Mr Osborne's first Bill or his second Bill unamended saved one life then it would be worth it. I have to say, Mr Speaker, that in my view that clause could cost a life. It could cost a life very easily if a young girl decided to go down the path of an illegal termination. I am sure that that would be as bad. Costing a life is not acceptable under any circumstances.

The other side of the coin- and I have touched on this already from my perspective of what choice is about - is information. Information is only any good if it is balanced. Information is of any use to make a choice, to make a decision or to empower only if it provides all arguments and access to counselling and to the sorts of services that may be

available if a particular choice is taken. I do not believe that the appropriate approach with this Bill is to say that it is black and white. This is predominantly an information Bill, Mr Speaker. As we heard in the presentation speech and as we have heard all the way through, this is a Bill about providing information to women and to ensure that informed choice is possible. Mr Speaker, as you have heard already, I believe that informed choice is possible only with a full range of information.

One thing that I am likely to get into all sort of trouble for is what I am about to say. I do not believe that the information package provided by the Family Planning Clinic at the moment gives a full range of information. I think it provides very good information for somebody who has decided to have a termination, but what about for somebody who has not decided?

**Mr Quinlan**: That could be fixed. You do not need legislation for that.

**MS CARNELL**: Yes, it could be fixed, but in debating this legislation here today I think that is important. I think it is important to do what people who are trying to look at this Bill in black and white have not done. I do not in any way criticise the Family Planning Clinic. Their role is to provide information for women who have made an appointment to have a termination.

The information package that we were all sent by Reproductive Healthcare Services is very good. The brochure on patient information has sections entitled "General Information", "What Does an Appointment Involve?", "Can Someone Come with Me?", "What Does the Operation Involve?", "Cost", "What should I bring?" and "Transport". That is very sensible for somebody who has made an appointment.

The next one, "Termination of Pregnancy - Possible After Effects & Complications", is quite a good brochure also. I am not sure that it is totally comprehensive but it is a good brochure. It talks about the possible after-effects of the operation - drowsiness, pain, nausea. It also talks about complications that might occur and what you should do about them. The next brochure gives information about the anaesthetic you will have with your termination. This is also a good brochure. It talks about anaesthesia, about the risks of anaesthesia and about preparing yourself for anaesthesia.

The "Termination of Pregnancy - Client Information" brochure has sections entitled "The Abortion Procedure", "At the Clinic" and "After Your Operation". It also tells people to remember to confirm their appointment the day before the operation and not to eat or drink before the operation. It also says, "You must bring your Medicare card with you". That is all good information. The brochure "Termination of Pregnancy - Post Operative Instructions" gives good information on how to look after yourself following the operation. There is also an information brochure for general practitioners, but that is not given to patients. The package also contains a form for giving consent to surgery. You need to consent to any medical treatment. Also included is a form on which patients going to the clinic can give information about themselves. A lot of the information that would be required in this Bill is already being collected.

Mr Speaker, nowhere in that set of brochures - maybe the Family Planning Clinic did not send me all of them but I assume they did - does it give any information for somebody who has not quite made up their mind. I believe really strongly that the counselling given is very good and does provide that information. It does ask women whether they have any other questions and provides information about other counselling services if required.

But the package does not give a full range of information. If anybody here believes that the information in it gives women the capacity to make a choice, then I think they had better read it again. What it does is give information to people after they have made a choice. I accept that probably no-one in this whole place agrees with me, but where is the approved independent information package that allows women to make the choice in the first place? From my perspective it does not exist, or if it does exist it certainly is not given to every woman so that she is empowered to make a choice in her best interests.

Mr Speaker, I do not believe that this is a black-and-white issue. I believe that if we do not pass this legislation today there is a risk that in the term of this Assembly we will see in front of us another piece of legislation from that majority of people who have at least claimed to be pro-life. I do not believe that that would be appropriate. It is certainly not something that any of us would wish. If we adjourn this debate, what will happen? We will go through all of this again in March or April. None of us know the way that the numbers will stack up then.

The other option is to fix the Bill now to achieve what I believe could be very desirable outcomes for women who want to make a choice based upon all information, as I think all women do. Mr Speaker, I have been working very closely with Michael Moore and with Malcolm, his very capable senior staffer, to achieve what I believe, if all Michael Moore's amendments are passed, will be a very reasonable outcome. *(Extension of time granted)* It will also ensure that this issue does not raise its ugly head again in the term of this Assembly. The numbers stack up in favour of the pro-lifers. I do not want this issue revisited. I do believe that a full information package, balanced and independent, would improve the situation for women who are making a very important decision in their lives. If that is what comes out of this debate and Mr Moore's amendments today, then I believe we will have improved the whole situation. Again, I accept that other people will not agree with me.

I will use an analogy. If we were considering whether we should mandate the situation that all people getting prescriptions dispensed in the ACT should get a full suite of information on both the pros and the cons of the drugs being prescribed, would there be a debate? No. Some pharmaceutical manufacturers would have a problem and some pharmacists might have a problem, but generally there would not be a debate, because we rarely debate, at length anyway, giving people more information or balanced information. I believe that in this Bill the information is not balanced, but we can change that. There are amendments on the table that will do that.

Mr Speaker, this is something that means a lot to me personally. In my professional life I spent a very large amount of time getting to a stage in pharmacy where consumer information on medications became mandatory. Information has to be produced by manufacturers. That CMI information has to be approved by a third party and produced at the cost of drug manufacturers. They have to do it. I think that is a huge step forward.

Once upon a time all we had was information in packets. It was manufacturers' information. You could not be confident that it was balanced. Now we can be. CMI balances that information. It is approved by a third party. That is what Mr Moore's amendments will do. They will give us information approved by an independent group of people - a balanced, independent, full suite of information.

Mr Speaker, not all that long ago, in the last Assembly, I brought down the Health Records (Privacy and Access) Bill, which allowed patients access to their medical records. It was not embraced fully by the medical profession but was something I personally believed very strongly about. I believe information is power. This is not a new approach for me. Right from the beginning of this debate I said I had no problems with information. I have no problems with the 72-hour delay after information is given, because I think it takes that long to digest information. The Family Planning Clinic tells me quite categorically that the delay is longer than that now, so the Bill does not cause a problem to current practice.

At the end of this debate today we can be confident that women have a full suite of information giving the pros and cons. When they make this important decision in their lives, a decision for them personally, they will have in front of them information about keeping a baby, adopting a baby, guardianship, abortion, the services available and the support available. If a woman makes a decision based upon that information, then the Reproductive Health Services Clinic can come in and do the great job that they do. Anything that even slightly endangers them I would not be within a country mile of, but the amendments overcome that. I believe the amendments will improve the situation for women, will empower women, and from a medical perspective, like the Health Records (Privacy and Access) Bill and the requirement for consumer medication information, will take another step towards ensuring that consumers of our medical services are empowered where the balance in power is not in their favour. Doctors and medical services always have more power than the patient. That is never so real as when the patient is a woman, especially a young woman, having such a traumatic experience as a termination. Let us make sure that those women have just that fraction more empowerment.

**Mr Berry**: So they are forced to be.

**MS CARNELL**: There is no forcing at all. If somebody gets the package of information and chooses not to read it, that is their decision.

**Mr Berry**: They have to see the pictures.

**MS CARNELL**: They do not have to see anything. The information is there. If they want to look at it, if they want to read it, they can.

**Mr Berry**: It is there now.

**MS CARNELL**: If they want to read it, if they want to look at it, they can. If they do not, no problems either. But it is there if they want to read it. So is the information on not going ahead. There is great information from Reproductive Healthcare Services about going ahead. Let us empower women just that little bit more, Mr Speaker.

**MR KAINE** (7.57): There are times when the way debate runs in this place absolutely confounds me, and I suppose that this is one of those occasions. I get the impression from time to time that people have actually switched sides. I come back to the point that I made during the earlier debate about deferring debate until March. I made the point there that the basic purpose of the legislation before us is to deal with the situation where abortions are not unlawful, and there are such cases. It is to make sure that those abortions are carried out properly and - I take the Chief Minister's point - to make sure that women who are contemplating an abortion are fully informed and are able to make a fully informed choice. How anybody can argue that that is not a proper course of action is beyond me.

It astonishes me that some of the things that have been thrown into the debate have nothing to do with the question at all. For example, it was alleged earlier in the afternoon that a group of people were trying to impose a minority religious view on people. In fact, Mr Osborne and Mr Humphries were referred to rather scathingly in that context. The Chief Minister, however, says that she is worried because in this place the pro-lifers are in the majority. You cannot have it both ways. Either the place is under threat because, in some people's terms, there is a majority view which impacts upon the alternative view, or it is a minority view that we are pushing. Which is it? The fact is that it is neither.

To assert that the pro-life view is a view held only by people with a religious conviction is totally wrong. Dozens of people have written to me in the last few months on this subject, and very many of them begin with the proposition: "I am not a deeply religious person but ...". I would guess that a lot of people sitting in this chamber today have had the same sorts of letters. To begin the debate from the viewpoint that this is a minority religious view that somebody is trying to impose is totally wrong, and I was amazed that anybody would try to put such an argument.

As a part of that, there was some criticism of the proposed advisory body because two people from it would actually come from Calvary Hospital. Where is the religious content in that? Those people happen to be medical professionals. Are people saying that they are going to practise their profession somehow directed by the hierarchy of the church that they belong to? If they were all religious people, you might be able to sustain the argument. The fact is that they are not. There are very few members of the religious order at Calvary Hospital. They are lay people, and they are professionals into the bargain. To assert that somehow they are going to pervert the course of justice on an advisory board because they happen to work at a hospital run prima facie by a group of Catholic nuns is just taking the argument a bit too far. I do not accept it, personally.

I thought that the Chief Minister put the argument in a nutshell. She said that for the pro-choice group the status quo is fine. If you start from that premise, nobody need ever do anything about anything. Where there are two sides to an argument and one side says, "As far as we are concerned, that is fine; therefore, you do not need to do anything", we would not be doing much in this place at all, ever. The fact is that the Chief Minister put it very succinctly. For the pro-choice people the status quo is fine, because there is very little threat to them at all in this.

The argument flows that because for us the status quo is fine people with a different view must not attempt to change the status quo at all even, incidentally, if the change is for the better, even if the change is to protect people who are considering abortions, and to make sure, first of all, that people fully understand the ramifications of what they are doing; secondly, that they have time to think about it a little bit rather than making a decision off the top of the head; and, thirdly, that if they decide to go ahead it is done under controlled conditions by medical professionals in a proper facility. How on earth could any of that be adverse to the interests of a woman who is contemplating an abortion? Yet we are told by people here today that we must not proceed with this Bill. My simple question is: Why not?

Some of us with a different view were challenged to explain all sorts of terms and definitions in the Bill before us. My point of view is that if you have a question about a definition it is up to you to sort out what the definition means. It is not for me to come in here and argue it. I do not see why I should be challenged to do so. More importantly, we were challenged to show, for example, that the existing facility is not providing women with all the information that they need. I do not doubt for a minute that women who go to one of the facilities do get a lot of very useful information. I am not challenging that. I am not arguing about it at all. What this Bill does, though, is say that any medical practitioner has to provide this information. Women do not have to go to one point in order to get the information. They can go to their medical practitioner and that medical practitioner is obliged, under this Bill, to make sure that their patient gets all the information. Again, what is wrong with that? I see nothing wrong with it at all.

The fact is that the pro-choice lobby is not prepared to compromise on a single point but the pro-life group is expected to compromise constantly. It is a very one-sided point of view. I do not accept that one side has rectitude on its side and the other one does not. That applies to both factions. It seems to me that the pro-life group are constantly being asked by the pro-abortion group to put up or shut up. I do not accept that as being a reasonable position at all.

I think it has been an interesting debate. Some interesting aspects have come out of it, many of which have no bearing on the Bill. As is always the case with an issue like this, a lot of red herrings have been drawn across the trail, I presume in the hope that we will get distracted from what we are really about and we will come to a conclusion different from the one we otherwise might have.

I have just a word of comment about the input from the Discrimination Commissioner and the DPP. Mr Speaker, you and I have been in this place a long time and we have passed a lot of legislation. Never before in my experience has either of those people written to us about any legislation that was before this place. No matter how important the legislation was, no matter how trivial it was, neither of them saw it within their purview to write to this place. They are both public officials, and neither of them saw it within their purview to write to members of this place and pretend to direct us how we should or should not vote or to persuade us one way or the other. Indeed, it is not their place to do so.

I was rather staggered to find on my email system a message from our DPP disagreeing with the legislation that we are debating here. If he has a problem, he is perfectly entitled to go to the Minister to whom he is responsible and make his points. It is then a matter for that Minister whether he disseminates that information and those doubts to the rest of us, but I find it quite peculiar that for the first time in my memory - and I have been around this place a long time - on this issue, those two people saw fit to raise questions about legislation before the house. Are we going to have that every time we get a piece of legislation in future? Are those two officials going to write to us all and say, "You should support this" or "You should not support that lot."? I think it is improper that they chose to become involved in that fashion. I must say that I was rather surprised that the Labor Party grabbed that and brought it in here as though it should somehow persuade us that the course of action that we are proposing to pursue is wrong. I think that the two officials are out of order. I think the Labor Party was out of order in putting that to us.

Mr Speaker, there is a democratic process in this place. I know that some people do not like that. When I spoke before, I said I thought that there were issues in the wind that needed to be aired in this place. There were some who did not think that should occur. I do not know what they hope to gain by declining to allow us to debate the issue. We go through a two-phase process. Shortly we will be asked to vote on this Bill in principle. If, as the Chief Minister asserts, the people who are in favour of the legislation, whether you call us pro-lifers or whatever you like to call us, are in the majority the Bill will pass in principle. Then we will get to the detail stage. That is where the pressure is really on.

I presume from today's argument that the Chief Minister lumps Mr Moore in amongst the pro-lifers. You could have surprised me. I have never noticed him in that category before. Yet to my astonishment today Mr Moore is proposing amendments. He is doing what the rest of you should have done. He is proposing amendments that will make the legislation acceptable to him. That is the democratic process in this place. If you do not like the Bill, you put amendments forward. You do not do what some members did and challenge the rest of us to justify our position. You move amendments to correct what you think is wrong with the legislation. Where are all the amendments from all the people in this place who do not like the Bill that is before us? I have only two lots of amendments before me, one from Mr Moore and one from Mr Humphries.

**Mr Corbell**: Are you going to vote against the Bill? That is the third option. You can vote against it.

**MR KAINE**: You can vote against it but, given the numbers appear to be agin you, would you not think it would be worth while putting forward some amendments that would make the thing more palatable to you instead of just arguing against it and saying, "We will not compromise."? I have made the point before. One side of this argument is totally unprepared to compromise. The other side is prepared to do so. Mr Moore has recognised that. I do not agree with much of what Mr Moore has put forward but I accept his right to do so. I think that the fact that he has chosen to do so to try to make the legislation more acceptable to him means that he has come into this place with a good heart and with good intent. That is surely what we all ought to be doing.

As I said at the beginning, Mr Speaker, I am rather surprised at the tenuous nature of some of the debate and what some people say and do. When this debate is over today - and I do not know yet whether the Bill is going to pass in principle and I do not know what the end product is going to look like, because we have a lot of amendments to consider - I can guarantee one thing. Whatever the outcome, the mover, Mr Osborne, is going to be terribly disappointed because what comes out of this process will be nothing like what he came into the debate with two months ago, so somebody has had a win. The community is going to decide who that was. The legislation is going to be nothing like what Mr Osborne set out to achieve. It will be considerably watered down and considerably changed. That is the democratic process, Mr Speaker.

**MR RUGENDYKE** (8.10): Mr Speaker, I rise to support this Bill in principle. I do have difficulty with some of the proposed amendments. We can debate those amendments once the Bill has been agreed to in principle. I believe, for example, that the provisions of appropriate information and a cooling-off period are important aspects of this Bill. However, I do have concerns about some amendments, the consent provision being one of them. I therefore support the Bill in principle.

**MR BERRY** (8.11): First of all, I would like to deal with Mr Kaine's comments. The silver fox has lost none of his debating skills. He presented a great case for his particular point of view, but he really covered up the way we operate here. Mr Kaine suggested that nobody should ever vote against anything completely; that they should always look at the ambit claim and amend it. It was only the sensible people who amended things; it was not the sensible people who opposed them outright. Some of us have very clear and opposing views in principle on issues and we cannot compromise ourselves by looking at the ambit claim and amending it, thereby undermining the base of our in-principle position. I think Mr Kaine's assessment of those who oppose the issues of principle here was a little unfair but undoubtedly skilfully put. Mr Kaine and I are on the opposite side of the fence in relation to this.

I have always called myself pro-choice, but after Mrs Carnell's description of pro-choice I wonder about myself. I think the pro-choice movement that Mrs Carnell belongs to is different from the one I belong to. Mrs Carnell's version of pro-choice seems to be the sort of pro-choice which is "mine". She wants to make the choice for women. For instance, she wants to make the choice about what information women will be forced to receive. That is not pro-choice. Pro-choice is about the right of a woman to choose, not the right of legislators to choose the direction that women will take if they decide on a particular course. Mrs Carnell drew a curious analogy with the supply of drugs, but she made no effort to look at other invasive medical procedures and why it is we are treating this one differently in the law. I have to say that Mrs Carnell's version of pro-choice is quite different. No matter how many times the Chief Minister says she is pro-choice, it will not change her track record. She cannot say "pro-choice" enough to change her track record.

Mrs Carnell said, "I would have preferred no Bill". She had the chance and she refused to take that position. She refused, for example, when I moved a motion looking for her support and the support of others in calling on Mr Osborne to withdraw his Bill in response to a call from a massive rally outside this building. It was no more than a call, but it would have put significant pressure on Mr Osborne. Mrs Carnell refused the call.

That is not pro-choice. Last week Mrs Carnell refused to support moves in this Assembly designed to knock out the move for legislation proposed by Mr Osborne. That is not pro-choice.

**Mr Stanhope**: She did speak at the rally.

**MR BERRY**: She said at the rally that she was pro-choice, but I say again that you have to do more than say it. You can say black is white as many times as you like, but it will still be black. That is the position that Mrs Carnell has found herself in. She has dug a very deep hole for herself. By saying, "I am pro-choice" till the cows come home will not change her track record. She can never claim to be pro-choice. What she can claim is that her version of pro-choice is choosing what women will be forced to undergo. That is her version of pro-choice. It is a different version of pro-choice to mine.

The empowerment of women which Mrs Carnell went to great lengths to describe is indeed a noble aim, but the empowerment of women is also about letting them make their decisions unencumbered by law. What this Bill sets out to do is to encumber the decision-making process for women in the area of abortion with law that has heavy punishments, law that has been criticised by experts. Wiser people than us have made strong criticisms about the law that we are fiddling with today. This is a ramshackle process. It has been described as a ramshackle process to patch up ramshackle law. It cannot work.

I should also deal with Mrs Carnell's description of why this matter was put on the agenda. She said it was because of a four-year-old Bill of mine that this was put on the agenda. I suppose it may well have been on the agenda before, if somebody had turned the page in the *Hansard* where it is mentioned. That will never go away. It is etched in stone; it is etched in history. I suppose that on that score it is always on the agenda. That is as feeble an excuse as the one that Mr Osborne first expressed when he decided to do a turnaround on the abortion issue. It is just plain feeble, weak and pathetic.

This is about Mrs Carnell and her Government keeping Mr Osborne in his comfort zone because they need him. There is no question about that. I expressed that view earlier and I will express it over and over again. This new version of pro-choice which has emerged because of the need to keep Mr Osborne in his comfort zone is quite intriguing and remarkable. It is something that will be remarked upon by many for a long time.

I turn to Mr Humphries. Mr Humphries drew curious analogies between the health warnings on cigarette packets and the warnings that, by law, will be given to women if they choose to have an abortion. He said, "Why is it that the Labor Party would support a guilt trip on somebody smoking a cigarette and not support a guilt trip on somebody choosing to have an abortion?". This tells you how far out of step Mr Humphries is. This is an appalling understanding of the issues. This is the point that we have made over and over again about the legislative approach which is embraced by Mr Osborne and the amendments which Mr Moore proposes. It is about creating a guilt trip. That is not acceptable and can never be acceptable to pro-choice. Anti-choice people may wish to inflict their views on others and force them to adopt the narrow line that they have decided upon for themselves, but it is not the approach that ought to be taken in relation to the provision of these services.

I am disturbed that our chief law officer has that view of the world in relation to abortion. He says, "Why is it that the Labor Party can endorse a guilt trip on cigarette smoking with a health message but will not support a guilt trip on abortion?". What are we on about here? Does this legislation have as its prime aim making women feel guilty? So far as Mr Humphries is concerned, I suspect that it does. This legislation is about making women the victims because they have exercised choice. I think that is an appalling position, but the analogy that was drawn by Mr Humphries really painted the picture for us.

Let us have a look at his other analogy. He then went to laws on female genital mutilation. What an appalling analogy! It would make one weep to see our chief law officer drawing an analogy between laws on female genital mutilation and a woman's right to choose. What an appalling analogy! It tells you how this Minister thinks in relation to the issue of abortion. One wonders how he thinks in relation to a whole range of issues.

Mr Stefaniak tried to convince us that really this was just about information and that abortions would be as available as they once were, but he had not talked to Mr Smyth, because Mr Smyth thinks that it will stop abortions and that it will save 1,000 lives.

**Mr Smyth**: No, not true. I said that I hoped that it would stop abortion.

**MR BERRY**: He hoped that it would save 1,000 lives.

**Mr Smyth**: That is a big difference. You are misrepresenting.

**MR BERRY**: I would rather be firmer in my understanding of the laws that you are attempting to pass than to be just hoping. I would hope that we were in a better position to examine these laws and to pass good law for the Territory. Mr Smyth, I think your understanding of the law is poor. You should not proceed down the path of making law if you do not understand it well.

**Mr Smyth**: And I think your assertions have been in very bad taste. You misrepresent people continually because you think it is smart in politics.

**MR SPEAKER**: Order!

**MR BERRY**: I do not mind. It is okay. I can protect myself, Mr Speaker. It was very clear that Mr Smyth's intention was that this legislation would save lives - that is, prevent abortions; that is, force women to go somewhere else for them. I read to you a letter which I was given to read to a public meeting recently. It talks about the history of abortion. I think it is important to have it on the record here. It states:

> I am very sorry I am unable to accept the invitation to speak at today's public meeting in support of a woman's right to make a decision about whether or not to terminate an unplanned pregnancy.

> It is disturbing to hear that members of the Legislative Assembly are moving to restrict women's access to safe, legal abortion in the ACT. This would be a dreadful step backwards and would inevitably cause a great deal of misery and hardship to many women.
>
> It was very difficult in the 1950s when I had to seek an abortion. It was illegal, there was no counselling or information. You could not speak of it, let alone get help to terminate. There were good reasons why I could not marry then. I knew I could not continue with the pregnancy.
>
> Old wives methods did not work, so I braced myself and went to three different doctors to ask for help, only to be rebuked with rigid moral lectures. I was humiliated. There was no alternative but to seek the services of a "backyard" abortionist. It was expensive, dangerous, secretive and terrifying.
>
> Many women have died at the hands of backstreet abortionists, and I could have been one of them. I admire beyond words the courage of women and men who have worked against entrenched attitudes and laws in the area of birth control.
>
> I wish the pro-choice campaign a successful outcome to the fight against the Osborne bill in the ACT.

Hazel Hawke signed that.

Mrs Carnell also went to the issue of information. I think her presentation was disingenuous, and I think the evidence will bear me out. Mrs Carnell went to a range of information brochures to back up her case for more information, that is, the imposition of information on women who have made a choice to have an abortion. Mrs Carnell was careful to avoid the APFA counselling standards, which I understand are used at the clinic in the ACT. Let me read to you part of them.

> The experience of an unintended pregnancy is individual to each woman and the role of the counsellor is determined by the client's individual needs.

Good comment. I continue:

> The requirements for support or counselling may vary depending on the woman's life circumstances and how she feels about her decision.

Very sensible statement. I continue:

> For many women who feel the decision to terminate a pregnancy is straight forward the role of the counsellor is to provide support and information. Other women experience an unintended pregnancy as a life crisis and require additional support. Some women may request counselling to facilitate the decision-making process.

*(Extension of time granted)* It is clear that to legislate a standard set, or suite as Mrs Carnell called it, of information for all women is inappropriate. The philosophy of counselling adopted by the APFA is quite clear. It has to be flexible to suit the needs and lifestyles of various women. I read on. Paragraph 1.3 states:

> Counselling is recognised as an integral part of abortion service provision. Different models of counselling have been identified as necessary to meeting the varied needs of women experiencing an unintended pregnancy. For those women who feel comfortable with their decision 'intake interviews' are usually sufficient for the client's needs. These sessions require the counsellor to give information regarding the procedure, risks and expected outcomes, clarifying any unresolved issues in relation to the decision, emotional preparation for the procedure and contraceptive review if appropriate.

Again, that is a flexible approach, an approach suitable to an individual woman's needs. Listen to this:

> Decision-making counselling or post-operative counselling require a higher level of intervention. These sessions involve increased therapeutic and interpersonal skills on behalf of the counsellor in order to assist the client with the process of resolving the various issues in relation to the decision and/or her experience and circumstances.

This is not the picture that has been painted for us in this debate. The picture that has been painted for us by those who oppose the imposition of this suite of information is that a few sheets of paper are handed to women as they walk in the door and that is the end of it. That is not true, and it is disingenuous of those who have put that view to this Assembly. That is why we need more time to think about this. What you are proposing has a very shallow base.

Mr Speaker, there are other issues which of course are important in dealing with this matter. Let me go to the questions which were put to us by Ms Tucker. When Ms Tucker circulated these around the chamber herself I thought it was cheeky but a good idea, but I wonder how many would respond. Mr Kaine responded by saying that he did not think it was his job to respond to all these questions. I think I probably agree. It may not be but it certainly is the job of the chief law officer, it certainly is the job of the Minister for Health and it certainly is the job of our only woman on the Executive to respond to these questions.

Ms Tucker asks, "Can you explain why it is good law to regulate an activity which is illegal?". That is a pretty good question. I think I can answer that one. A lot of the questions I cannot answer but this one I think I can answer. They do not have the courage to decriminalise it. That is the one I can answer. They would be on entirely different ground if it were not for that criminal law. "What will this mean for medical practitioners who are being regulated whilst doing an illegal act?". I do not know Ms Tucker. I do not think anybody else does either. "How do you advise them to deal with this?". I do not know. "What is the implication of the mention in the Crimes Act in the preamble to this legislation?". I do not know. "How have you come to this position and who did you consult with?". I do not know that either. "What are the implications of the term 'approved facility'?". I do not know. "Are you going to amend this legislation now to take into account the comments from scrutiny of Bills, such as the definition of parent being unclear?". I am not sure. I have seen a mound of amendments but I do not know whether they address the issue or not. "Why do you believe it is appropriate to only give risks of abortion and not risks of having the child?". Nobody has explained that.

This is the very point that we discussed earlier today. How is it that we can call ourselves responsible law-makers when none of us really know what we are doing in relation to these laws? Mrs Carnell has a version of pro-choice that not many of us from the pro-choice movement would ascribe to. My long-serving and skilled friend Mr Kaine has a version of how we should deal with legislation. According to him, we should not oppose things in principle, it seems. I think we are going to be at odds on that for some time, my friend.

**Mr Kaine**: Just produce your amendments, Wayne.

**MR BERRY**: I do not intend to amend it. The amendments that I have seen are as appalling as the legislation itself. I do not support them. You will not see my vote going with legislation that goes out of this place containing those sorts of amendments. I do not support that approach.

Many questions remain unanswered. In fact, there has been no attempt at all to address them. I find that disturbing. This Bill is anti-abortion and anti-choice. That is the sentiment of the people who have moved it and many who support it. No amendments will change that. Anyone who is pro-choice cannot vote for the Bill and really should not support legislation which contains the proposed amendments. *(Further extension of time granted)* The Bill recognises the provisions of the Crimes Act. It specifically acknowledges that abortion is a crime but seeks to restrict and regulate it. This is contradictory. What sorts of law-makers are we? Let us go back a year or so to when Mr Moore was talking about euthanasia legislation. Is it possible to come up with some sort of regulatory framework which makes special regulations in this sort of form which might enable us to consider euthanasia in some mysterious way? I do not know.

This is bad law, because it is not law that deals with the problem that faces us. Any member who supports this Bill will demonstrate their unwillingness to think about the issue, their unwillingness to be properly informed and their unwillingness to accept their responsibility. Sound law should come from this place and mean something to those we legislate for, in this case the women of the ACT and other women who come to the Territory for services provided quite legitimately.

It is particularly disturbing that we have now seen two expressions of opinion from the DPP in relation to amendments before this place. Mr Moore's amendments have also come in for some criticism, but it is very difficult in the scheme of things to get one's head around all of the advice of the DPP in order that we can make a sensible judgment in relation to the amendments.

Mr Speaker, this Bill sets a precedent for other bad law to follow. I do not think we should be setting those sorts of precedents in this place. Why is it that members in this house are not prepared to consider decriminalisation? I will tell you why. They have other ill-intent for women who might be seeking these procedures in the ACT. Mr Osborne has never expressed any sympathy for the 1,700 women who in a year choose to have an abortion or who might be forced to go to another place for an abortion. All he has wanted to do is make them feel guilty and humiliate them. Mr Humphries does not mind sending them on a guilt trip. That sort of attitude is something that we really need to feel ashamed about, because it is not a humane way to develop laws for the constituency which we represent.

If people are sincere in their attempts to ensure true choice, then they ought to be serious about looking at the provisions of the Crimes Act. You cannot consider this legislation without looking at the Crimes Act. Do you, Mr Osborne, think it still should be a crime to have an abortion? Do you really think it should be punished? Do you really think it should be a crime to have an abortion? Do you really think a woman should be subject to a criminal charge if she has an abortion? Tell us. Tell us whether you think it should be a crime or not. Come on, where is your courage? Let us hear from you. Of course you think it is but you are not game to say it. It is the old politician showing through. People might find out what your true agenda is. You do not mind it being a crime.

**Mr Osborne**: Tell us about the High Court.

**MR BERRY**: Mr Osborne refers to the High Court. I am pleased that he does, because it gives me an opportunity to inform him about the way that the medical profession operates. Members of the medical profession and those who employ them have to operate in accordance with the guidelines set by the various courts; otherwise, they can be sued. If they do not comply with the standards set by the courts, then the Medical Defence Union will not insure them and they will not be able to practise. Those are the facts of the matter. They do not have to have laws like this to guide them on that course. They instinctively know that you cannot work that way. They know professionally that you cannot work that way. That is why in every other procedure among the thousands of procedures that are conducted throughout health systems they do not have to have laws like this to regulate them. Doctors know. Their professions know, the public hospital systems know and the private hospital systems know that they have to comply with the standards which are set from time to time in judgments of the courts.

So cut that nonsense out. If you want to persist with that nonsense, we will have a mound of legislation and regulation for invasive medical procedures and drug administration that you cannot jump over. Stop the nonsense. The High Court decision is no justification for regulating every medical procedure. It is an appalling straw to hang on to. If you were fair minded, we would have that mound of legislation to jump over now.

I think some quite crazy views have been expressed here tonight in support of weird law, weird law which is intended to create difficulties for women, which lacks true compassion and which only satisfies the narrow views of zealots. This law should not be supported.

**MR OSBORNE** (8.42), in reply: I thank the majority of members, who, it appears, are going to support this Bill in principle. I understand that there are some amendments to come to the Bill which will determine whether the Bill is passed at the completion. We will get to that after the in-principle debate. I thank the majority of members for standing up and speaking about what this Bill is really about. I especially thank Mr Hargreaves for his courage in relation to this legislation. I could imagine that there would be tremendous pressure on him, not necessarily from his Caucus but certainly from within the Labor Party ranks. I certainly admire the very tough decision that you have made in relation to this Bill, Mr Hargreaves.

Mr Speaker, how interesting was it to listen to Mr Berry's speech? It was not until after 15 minutes and two extensions, in about the twenty-eighth minute, that he acknowledged the High Court in relation to information. This Bill conforms with the High Court principles set out in Rogers v. Whitaker. It also conforms with many subsequent High Court cases. In Rogers v. Whitaker the High Court did not say that all material information must be provided in all medical procedures except in the case of abortion. The High Court made no exemptions.

The provision of information is a basic right for all patients. The provision of information benefits women and the medical profession. What problem does information pose to members opposed to this piece of legislation? None whatsoever. Why are these people afraid of information? Clearly, patients must have time to consider the information provided to them. This Bill, regardless of the garbage coming from those opposed to it, is patient orientated.

I would like to read to you, Mr Speaker, the important checklist of Meg Wallace from the Attorney-General's Department. It is set out in her book *Health Care and the Law* as follows:

> There should be no coercion, patients should be encouraged to be frank, ask questions, and make up their own minds. Provide interpreters ...
>
> Give the patient adequate time to make a decision, ask more questions, talk to others, think about the matter, etc.
>
> Advise the patient that he or she can get another medical opinion, and assist the patient to seek it if requested.
>
> Ensure that the patient understands:
>
> the diagnosis, including the degree of uncertainty in this;
>
> the prognosis, and any degree of uncertainty in this;

> the anticipated effects of not undergoing the proposed treatment;
>
> the nature of the intervention, eg how invasive it is, whether it will be painful, how long it will take, how they will feel before, during and after it;

Here is a good one, Mr Speaker:

> any significant long and short term physical, emotional, mental, social, sexual or other outcome which may be associated with the proposed treatment ...

The list goes on and on. I would like to finish on one very important point, Mr Speaker. One thousand women a year, unsolicited, contact Women Hurt by Abortion. How on earth can Kerrie Tucker, for example, stand here and claim to be speaking for women? I ask her: What about the 1,000 women - and I imagine that they are only the tip of the iceberg - who have been hurt, who have not been adequately informed? That is what this Bill is about. It is about informed choice.

I thank the members who it appears are going to support this Bill in principle. At the end of the day, I doubt that all of us will be happy, but I think the reality will be that not all of us will be unhappy. Once again, I thank members, especially Mr Hargreaves and Mr Kaine, for their support. As I said, I look forward to continuing the debate in the detail stage.

Question put:

> That this Bill be agreed to in principle.

The Assembly voted -

| *AYES, 10* | *NOES, 7* |
|---|---|
| Ms Carnell | Mr Berry |
| Mr Cornwell | Mr Corbell |
| Mr Hargreaves | Mr Moore |
| Mr Hird | Mr Quinlan |
| Mr Humphries | Mr Stanhope |
| Mr Kaine | Ms Tucker |
| Mr Osborne | Mr Wood |
| Mr Rugendyke | |
| Mr Smyth | |
| Mr Stefaniak | |

Question so resolved in the affirmative.

Bill agreed to in principle.

**Mr Berry**: I seek leave to table the Crimes (Amendment) Bill which I moved in 1994 and the explanatory memorandum to the Crimes (Amendment) Bill (No. 2) 1994.

Leave granted.

## Proposed Select Committee

**MR BERRY** (8.50), by leave: I move:

That:

(1) a Select Committee on Abortion be appointed to examine the detail of the Health Regulation (Maternal Health Information) Bill 1998 and the exposure draft of the Crimes (Amendment) legislation and any other related matter;

(2) the Committee be composed of:

(a) the Government backbench Member;

(b) Opposition Members; and

(c) Members of the cross benches;

(3) the Committee report by the first sitting day in March 1999;

(4) on the Committee presenting its report to the Assembly resumption of debate on the question "That clause 1 of the Health Regulation (Maternal Health Information) Bill 1998 be agreed to" be set down as an order of the day for the next sitting;

(5) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Mr Speaker, throughout this debate, time and time again concerns have been raised about the inadequacy of the process that we are using to consider what is an important breach of the rights of a woman. Time and time again attention has been drawn to questions which have been raised about the effects of the Bill and the amendments which have been proposed by various members. We have two layers of amendments on top of the Bill. In my view, nobody in this place has a full understanding of what these things mean.

**Ms Carnell**: Yes, we do.

**MR BERRY**: Mrs Carnell interjects and says, "Yes, we do". I must say, Mrs Carnell, that you have not made a very good explanation of it so far - neither have any of your members - and you have had plenty of time. So, Mrs Carnell, I find that pretty hard to believe. Indeed, Mr Speaker, we have advice from rather strong authorities that there

are questions to be raised in relation to the legislation. The DPP has raised questions in relation to the legislation. He has raised further questions in relation to the amendments, which would read - - -

**Ms Carnell**: We have fixed the last two. There are another two amendments that fix it.

**MR BERRY**: Mrs Carnell says that they have whipped out the back of the envelope and drawn up another few. "We've fixed it", she says. Do you think we would believe that, given the performance thus far? Heavens above! How many people have to tell you that something is wrong with the process? Why does it take so much effort to get it into your head that something is wrong? It astounds me that, because this is a piece of legislation that will keep Mr Osborne happy, we can break all sorts of conventions about dealing with legislation. Why do we have to do this? We do not have to do this until next March. There is no rush.

If you want good law, you should have a good consultation process and a good understanding of what you are doing when you do it. It is fair to say that none of us have a good understanding of what we are doing. Mr Moore will have an understanding of what he is doing; but that is not good enough for me, because the amendments that he is putting forward I find unacceptable. I do not accept the legislation and I do not accept any of the amendments. I think legislation which contains any of that sort of thing is bad law. Other people have different views, but they do not have a full understanding of the issue.

I have circulated the draft of the Crimes (Amendment) Act which I proposed in 1994. I have no intention of formally introducing that legislation into this chamber, and never have had, I might add; but you cannot consider this legislation now without considering those aspects of the Crimes Act which create the criminal offence of abortion for women and for those that assist them. You just cannot pass this legislation without considering it. If you want to run for cover and hide away from it, you should not be allowed to because, if you are trying to regulate abortion on the one hand, you cannot not think about the criminality of it. In black-letter law, that is how it stands. It would show clear ignorance or arrogance, both perhaps, on your part for you to proceed down this path without looking at those aspects. I am not saying that at the end of the process there would be sufficient numbers to decriminalise abortion. I rather doubt it. But I do not think that you can have a committee of inquiry without looking at the issue. If you did not look at the issue, then you would be, I think, erring in your duty to serve your constituents.

It is important that members consider how we create good law in respect of this. We have had one of the biggest demonstrations outside this Assembly by women, and men, concerned about this issue. Half of our constituency, or thereabouts, is affected by these laws - and people are still drawing them up on the back of an envelope. Last night Mr Moore and his staff drew up a bunch of amendments. I think I got the latest version of them somewhere around the middle of today. Is it called the "Moore Abortion Bill" - the paste-up version? The "Moore abortion amendments" is a fair description, I suppose. We have since received some from Mr Humphries, which have been circulated amidst the mass of amendments which have been provided to this Assembly.

Mr Speaker, there is no argument about establishing this committee. The argument is really about those people in this place accepting their responsibility to do so and to properly consult. Mr Speaker, I reckon that there is a fair chance that this motion will pass. That is if people - - -

**Mr Hird**: You are rubbing your tummy again.

**MR SPEAKER**: Order! The house will come to order.

**MR BERRY**: You should have had the courage to speak, Mr Hird.

**Mr Hird**: I do not need to. I have had a go at this many times before.

**MR SPEAKER**: Order, Mr Hird! Mr Berry has the floor.

**MR BERRY**: And you did not do much of a job of it - - -

**Mr Hird**: Well, you are not doing much of a job yourself.

**MR SPEAKER**: Order!

**MR BERRY**: Mr Speaker, I think there is a fair chance that this Bill will pass. Mr Moore said on ABC radio this morning:

> There is nothing I would like better than to see this legislation fall at the in-principle stage today, or be adjourned or delayed, and I will be supporting any move to do that.

I reckon that is pretty solid support. I reckon Ms Tucker will support this. The strength of my argument will convince most of my colleagues, I think, as it is a conscience issue. Who else is there to convince? I think we have just about got it sewn up. But, if we need any more convincing, we will look to another comment from Mr Moore. There are three possible ways of dealing with any piece of policy. The first one is to oppose; the second, to agree; and the third, to delay. I am very comfortable with opposing or delaying, and I will be supporting them as vigorously as I can.

**Ms Carnell**: So you are admitting that this is just delaying?

**MR BERRY**: I am quoting Mr Moore. I am now sure that I have his support for this committee, because that means delaying it so that we can consider the matter properly. Mr Moore's track record has been rock solid on that score, especially when he was on the crossbench in this place. If anybody wants me to read what he said again, I have got the piece of paper in my pocket.

Mr Speaker, I must say that, when I was thinking about the composition of the committee, it was a little difficult to come up with - - -

**Mr Moore**: It was difficult to get the numbers right, was it?

**Ms Carnell**: So you put everybody on except us.

**MR SPEAKER**: Order! Mr Berry, you have the floor.

**MR BERRY**: I have plenty of time. Let them go.

Mr Speaker, of course, nobody has complained about this composition. I raised it with Mr Moore. He has not complained about the composition, although he did tell me earlier that he would not be supporting this committee. Now that I have informed him of his position, which he stated on the radio this morning, I rather suspect that he has spun around. He might have forgotten that. I have taken it up with the Greens and I have informed Mr Kaine, given his comments in relation to the matter this morning. So, on the basis of all the information I have on it, I think there is a good case for this committee of inquiry going ahead.

We need to listen to people like the Discrimination Commissioner in detail about her position. We might even get the opportunity to listen to Mr Richard Refshauge in relation to this matter, because we would be better informed as a result of that. We would be better informed if we were to receive some advice from the professional organisations which represent the various colleges of doctors who deal with this matter. We would be better informed once we had heard from the professional organisations and unions which represent all of the professional groupings within health. I think that would be a wise course, and that is why I have proposed it. We would be able to listen to eminent lawyers, medical professionals and other professionals who might have an interest in the matter.

We would not be restricted to the sort of rhetoric that we have heard in relation to the advice which is being encapsulated in the legislation and the subsequent amendments. We would be able to have a wide-ranging view about the matter.

I think Mrs Carnell was complaining that the Government was not included on the committee. If you have a better idea, I will take up the advice of my wise and experienced friend Mr Kaine and say to you, "Well, where are your amendments?". Mr Kaine might ask you to produce a few amendments. Even though he could not convince me to use his formula, he might be able to convince you.

**Ms Carnell**: We are happy to go ahead with the Bill.

**MR BERRY**: You are going to support this committee, are you?

**Ms Carnell**: No. I said that we are happy to go ahead with the Bill.

**MR BERRY**: You can put yourself up on this committee. Put up an amendment. If you complain bitterly that you want to be on it, I am sure that we can accommodate you. It is a bit of a hollow complaint. Mr Speaker, this is an opportunity for people to demonstrate how serious they are about dealing with legislation in this place and how they want to consider all of the issues - the effects of the criminal legislation; the effects of the

laws which have been introduced by stealth, and in collaboration, by certain parties in this place; and the amendments that have been drawn up overnight, which some of us received as late as midday today, and the amendments that have been drawn up since, to legislation which impacts on the right of a woman to choose, which limits pro-choice. This law imposes on women our choices as legislators.

I think it will also expose the frailty of the Right to Life Association in relation to this matter. I cannot understand how they could support this legislation. I listened to Bill Stefaniak earlier and, according to him, it actually allows terminations. Which terminations does the Right to Life Association support? Does it support terminations under this Bill? I noted earlier that the Right to Life Association did not support the Osborne Bill, yet it was more explicit in relation to terminations. The Right to Life Association of Australia - - -

**Mr Osborne**: On a point of order, Mr Speaker - - -

**MR BERRY**: You will get your chance.

**Mr Osborne**: Is he going to stand up, or is he going to sit down?

**MR SPEAKER**: Sit down, Mr Berry.

**Mr Osborne**: I think Mr Berry may have inadvertently misled the Assembly there, because certain elements of Right to Life Australia did not support the original Bill, but I believe the ACT branch of Right to Life did, Mr Speaker.

**Mr Corbell**: On a point of order, Mr Speaker: Mr Osborne is debating the issue.

**MR SPEAKER**: There is no point of order, Mr Osborne.

**Mr Osborne**: Mr Speaker, could you give me a call when it is my turn to speak, because I am finding it very hard to keep my eyes open.

**MR SPEAKER**: I will most certainly do so, Mr Osborne. You will have the opportunity.

**Mr Osborne**: I am falling asleep over here listening to him, Mr Speaker.

**MR BERRY**: If I can get a little bit of an extension here I will try to make it a bit more up-beat to keep you awake. I know that it is after your bedtime. I seek a short extension, Mr Speaker.

**Mr Humphries**: You have had 10 minutes, Wayne, to make your point. You are just repeating yourself.

**MR SPEAKER**: You cannot have an extension until your time has run out, actually. It has now.

**MR MOORE** (Minister for Health and Community Care) (9.08): Mr Speaker, of course, Mr Berry has the right of reply, which he is entitled to. I rise to explain why I will not be supporting this motion to send the matter to a committee. It has nothing to do with the fact that the committee is constructed without any Executive members on it at all. That has no effect on my supporting or not supporting it, because I would have been happy to move an amendment to it. Mr Berry is quite accurate when he quoted what I said on the radio this morning about being prepared to delay the Bill. Indeed, I attempted to delay the Bill earlier today and supported his attempt to do so. Things have changed, Mr Speaker, in a number of ways. First of all, they have changed because the Bill has been passed in principle. That is the first and most important one. Secondly, Mr Speaker, each member - - -

Members interjected.

**MR MOORE**: And I voted against the Bill in principle. Mr Speaker, in relation to the interjections here, let me say that I have not done any interjecting and I am not intending to this evening.

**MR SPEAKER**: Things may have changed, but they have not changed so far as my attitude to interjections is concerned, I would remind all members.

**MR MOORE**: These issues are particularly difficult. When I heard Mr Hargreaves speak, although I disagreed with his approach, I understood the difficulty of the decisions he was making. Mr Speaker, I have made a judgment - and each of us can only work on our judgments - about how I can act in the best possible interests of women. Mr Speaker, in political terms, we had an Assembly that was arrayed against those of us who believe in choice. We have managed to get to a point where I think I can deliver the least worst option for women. I believe that, if this process goes on through a committee and is extended, things can only get worse. I cannot see any way in which they could get better for women. It is on that basis that I make this decision, Mr Speaker. Politics is not just about arguments for and against, and it is not just about compromise; it is also, critically, about timing.

**Mr Berry**: It is night-time now. It was daytime this morning.

**MR MOORE**: Mr Speaker, I hear Mr Berry. I know that Mr Berry has made his judgment. Mr Berry has made a series of political judgments since he has been in this Assembly, and I have noted those judgments. One thing that, I guess, reinforces my view more than anything else is that I am making a different judgment from Mr Berry. It seems to me, Mr Speaker, that we have an opportunity now, and I do not think we will have as good an opportunity again under these circumstances. It is a difficult judgment to make, but what we are elected to do is to make a judgment the way we see it.

There would have been nothing easier for me than to have remained pure, not to have put any amendments, to have stood back and said, "I am just going to vote against this and watch it go down by 10 to seven. I did everything I possibly could do". That may suit some people. I had a discussion with Ms Tucker on Friday night - I hope she does not mind my repeating it - in which she put the view that that was the correct thing to do. My judgment was that it was not the correct thing to do. We differ in that.

I do not think we differ in our intention to attempt to protect women in the best possible way. I think the approach taken by Mr Berry here is a head-in-the-sand approach. If he wishes to bury his head in the sand, he is entitled to do that; but it is a matter of judgment. Mr Speaker, it is on the basis of that judgment about what I think is the best way I can deliver that I will be opposing this motion.

**MS TUCKER** (9.13): I will be supporting the motion to send this controversial issue to a select committee. I think it is a very sensible motion. I have already spoken on the reasons why I believe we do need to have more time to consider the implications of what we have been presented with in this place. There are still outstanding questions and concerns that I have not heard anybody address. I will not repeat all of them, but I will note particularly the concerns about the Commonwealth Sex Discrimination Act, the ACT Discrimination Act and comments by the DPP. Even about Mr Moore's amendments, there appear to be concerns. The unclear intention of the reference to the Crimes Act is still an issue. The issue that was highlighted by the DPP was that, when you make actions criminal offences, it is very important that it is made quite clear exactly what the offence is. If that is not clear, it is very difficult - in this case, for the patient, the doctors and the courts.

Of course, now we also have Mr Humphries' amendments to consider. In the last hour, a whole new concept has been introduced to this place, which is the "dependent minor" definition. I have not heard that definition before. I have read it in Mr Humphries' amendment and I see what he is saying. I would like time to understand the implications of that for the Convention on the Rights of the Child, the Gillick interpretation and all those other legal issues.

**Mr Humphries**: It is from Western Australia, Kerrie. It is Western Australian legislation.

**MS TUCKER**: Mr Humphries can interject across the table to explain it to me; but I do not think that is a good process, Mr Humphries. I would actually like time to talk to other people and get advice on the particular issues. Mr Kaine apparently felt that my questions were inappropriate, when I was asking people to respond and explain their position on the various issues that I raised and on which I personally had not had time to get full advice. That is what I like to do before I make a decision on something as important as this.

I think it is entirely appropriate, in the very hasty and inappropriate process we are seeing today, for Mr Kaine and every other member of this place who is supporting this process to explain very clearly their understanding of these concerns, because it appears to be the only opportunity we will get to actually hear what these members think are the issues and how they can feel comfortable with them. I think they have an absolute responsibility to come up with that information. I have not heard any speeches full of information. I have heard very light, disappointing speeches from everyone in this place who is supporting this Bill. I have not heard anything of any great depth, and certainly nothing that would satisfy me.

Mr Moore said that he hoped I would not mind him relating a conversation in the car park. I would not mind if he had got it right. What I said was that I thought he had made a strategic mistake in leaping in and announcing that he was going to rush in with amendments to make it easier, basically, for people in this place to come to some kind of compromise. Strategically, I still think that was an error. I think Mr Moore should have consulted other people, including members of the community. As Mr Moore knows, for some time we have been working as a group, as members of the Assembly and representatives of the community. What I said to Mr Moore was that I thought he had made a strategic error in communicating the development of these amendments to people who perhaps would have held a harder line and voted against this Bill if he had not offered them the soft option. That is what I said. I think it is perfectly reasonable for him to develop amendments to be used at the very last minute if all else fails.

As I said, I think there are just too many issues here. This process is appalling. I have said it already so many times today that I will not keep saying it; but Mr Berry has once again offered members - Mr Rugendyke and Mr Kaine, in particular - the opportunity to support reasonable process. We have not seen it today. We have not had nearly enough explanation or opportunity to look at these issues. Maybe someone will stand up now and give us all the information that we would like to have; but I doubt it very much. So I urge members to support Mr Berry's motion.

**MR CORBELL** (9.18): Mr Speaker, I too will be supporting Mr Berry's proposed select committee.

**Mr Humphries**: What a surprise!

**MR CORBELL**: Mr Humphries, as usual, in a snarly remark across the chamber says, "What a surprise!". Mr Speaker, what I think is a surprise is that those members who are opposed to this proposition think it is all right to push through this piece of legislation tonight, when there have been none of the usual processes that this Assembly uses for getting community feedback on controversial or contentious pieces of potential legislation. That is what I think is surprising. That is what I think is wrong about this process. That is why I am supporting this referral.

I am sure that some of the people opposite will say that this is a delaying tactic. Mr Speaker, I say that this is a matter of the utmost principle. It is a matter of providing for members in this place to have adequate and effective consultation with the citizens of Canberra on what this Bill means. Not only that; it also means that we are able to draw to attention, in a more comprehensive and detailed way, the concerns that are still raised by the Director of Public Prosecutions and the ACT Discrimination Commissioner, just to name a couple who have raised serious concerns about the impact this Bill will have on women in Canberra.

Ms Tucker stood up in this place earlier today and read from the Government's own consultation manual. That manual outlines very clearly when consultation should occur. I cannot remember all the instances, so I will have to recite them off the top of my head. Ms Tucker may correct me if I am wrong, but they included if a substantial number of people in the community were affected; if people in the community had strong views on the issue; and if people would be directly affected by the decision.

I do not think any member in this place can stand up and say, "That is not the case with this piece of legislation", because so clearly it is. Mr Speaker, on those grounds alone, we have a very good case for this select committee. Unlike Mr Moore, who is not here to listen to the remainder of this debate - I hope that he is listening to it in his office - I reject the accusation that members who are pursuing this line of dealing with this Bill are putting their heads in the sand. I reject that absolutely. Far from putting my head in the sand, I have confidence that through an open and public process - not a process that rams this Bill through at goodness knows what hour this evening - the absurd propositions in this Bill and the reasons why this Bill cannot be supported will be brought into the light of day through an appropriate select committee examination.

It may be the case that some members on that committee will not agree with that. It may even be - and I do not rule it out - that a majority of members will disagree with that evidence. But it will be there, Mr Speaker. It will be there, it will have been put publicly, it will have been put openly and it will have been put in the best traditions of this place in allowing the community to have their say. As my colleague Mr Hargreaves says, "It will be there side by side with the contrary point of view on whatever the issue is". That is the way we should deal with proposed legislation of such a contentious nature.

Mr Speaker, I am pleased also to see from Mr Berry's motion that the select committee would be appointed to examine not only the detail of the Bill that is currently before us, the Health Regulation (Maternal Health Information) Bill, but also Mr Berry's exposure draft of the Crimes (Amendment) Bill. I think this is a very sensible course of action. It is sensible, because we have heard Mr Moore argue that his amendments will do what is now being done in Western Australia. But what Mr Moore failed to say, and what other members in this place failed to say when they used that argument, was that in Western Australia abortion is decriminalised. What we are attempting to do here is put in place regulations to regulate an act which the Crimes Act still says is illegal. Is it any wonder that some people, including a reader in law at the ANU, say, "This is ramshackle legislation."?

So I would like a select committee to consider what is the best way of producing a good law in the Territory. I have a view that, if we are going to pursue the course Mr Moore is proposing in relation to the regulations he is proposing as part of these amendments, we can do that only if abortion itself is decriminalised. I do not believe that we can examine one without the other. That is why it is important that it be placed in the terms of reference for this proposed select committee. We have not heard those people on the other side of the house argue about decriminalisation. We have not heard them say, "If we are going to go down the Western Australian path, let us do it properly". Instead, we have got this ramshackle approach which is being rammed through this Assembly tonight.

Mr Speaker, that brings me to my final point. That comes back to the point that I will continue to make in this debate. Members who are opposed to my views may get tired of hearing it, but I will continue to say it because I believe that it is fundamentally important. What some members in this place are doing here by opposing opportunities for open public examination, for a select committee, for more time to examine in proper detail the consequences of this Bill, is undermining the legitimacy of this place. They are creating

a perception of this place as an institution which is out of control; which pays no regard to public opinion; which does not live up to the tenets it sets itself in relation to public consultation or participatory democracy; and which is in most respects an institution that people in Canberra can no longer respect.

If we as members of the Legislative Assembly truly believe that, as an institution, we have an obligation to make good laws, to act in the best interests of the people of Canberra and to maintain the integrity of this place as a representative chamber, then we have a responsibility to ensure that, on a contentious piece of legislation such as this, every opportunity is taken for members of the community to have their say. *(Extension of time granted)* If we do not do that, if we do not provide that avenue, we bring into disrepute the legitimacy of this chamber and we bring into disrepute every one of us - not just those like me who argue that it is the wrong approach to oppose a select committee, but every one of us. We will all be tarred with the same brush.

So I ask members in this place to allow the integrity of our decision-making processes to remain, to allow all information to be presented in an open and credible way where it can be examined and debated to the fullest and widest extent possible, and then to let us make the decision. That is the way to proceed. To ram this Bill through tonight does us no credit at all, particularly those who choose not to support this select committee tonight.

**MR RUGENDYKE** (9.29): Mr Speaker, I rise to oppose the motion. Earlier today I voted against an attempt to postpone the debate. I see this motion to refer the issue to a committee as yet another delay. As I stated earlier today, the issues have been on the table for three months at least. We have the debate in front of us. I would like to see the Assembly make progress in the chamber while we have the opportunity. Therefore, I will be voting against this motion.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (9.30): Mr Speaker, I will be very brief in speaking to this motion, which does not really require much time to dispose of. Let me say that the level of hypocrisy that I have heard in some of these comments tonight does not surprise me; but it does, I think, need to be drawn to the attention of some people listening to this debate. Ms Tucker and Mr Corbell, from the Greens and the Labor Party, tell us how dreadful it is to attempt to deal with a Bill with many amendments in the space of time that has been provided for consideration of this Bill. If such action brings this house into disrepute, then the house was brought into disrepute on many occasions in the past, and in particular at this time almost exactly three years ago, when the Labor Party and the Greens worked together to bring forward debate on a Bill which had been on the table for one week - seven days - which was rather longer than this Bill, which was the citizens-initiated referendums legislation, and they saw fit to dispose of that legislation within the space of seven days.

**Ms Tucker**: And Mr Moore, from memory.

**MR HUMPHRIES**: Maybe so; but you saw fit to dispose of the legislation within the space of seven days. If it was good enough three years ago, Mr Speaker, it is good enough today. The other argument I have heard tonight, which I have to comment on, is that we need time to hear all these different groups. Who seriously believes that in this

debate, by sitting around a table and receiving submissions from a variety of community groups, the views of people in this chamber about this legislation are going to change? Not one person. You know it, and you know it, and you all know it. Not one person is going to change their view - - -

**Mr Hargreaves**: Well, I don't know it, Mr Humphries.

**MR HUMPHRIES**: Okay, maybe Mr Hargreaves. Mr Speaker, with the possible exception of Mr Hargreaves, not one other person in this place is going to change their view about abortion. You know it and I know it, and everybody out there knows it as well. You will listen to the people that you want to listen to who are opposed to the Bill. People on this side of the chamber - not that there are many of them on the committee, according to Mr Berry - will hear the people that they want to hear. At the end of the day, people will come back to the Assembly in precisely the same position as they left it, after the motion tonight. So, Mr Speaker, it is a waste of time to consider this. Mr Berry put his finger on it quite succinctly when he said, "I am equally in favour of opposition and delay". That is what this motion is. It is opposition through delay. I do not propose to support that.

Finally, you want to hear from people like the Director of Public Prosecutions about these very important views that he has put before the Assembly on these questions to do with the problems with the Bill. It was not very long ago that the Director of Public Prosecutions was telling the Assembly that it needed to pass legislation to put prevalence of offences into the Crimes Act. Where was the Assembly when he was making those sorts of calls? It was turning a deaf ear to those calls. Members on that side of the chamber ignored that call. So do not tell me now that you think that the Director of Public Prosecutions is all that important in a debate like this. As far as you are concerned, it is not who is saying it, it is what they are saying.

**MR STANHOPE** (Leader of the Opposition) (9.34): Mr Speaker, I support the establishment of this committee. I indicated earlier today that I felt that any suggestion that we proceed with this debate and this Bill today was simply untenable in terms of process and in terms of dealing with this serious issue in a serious way. The debate today has simply reinforced my view that we, as an Assembly, as a group of 17 people, are not fit, in terms of the information available to us and our collective understanding of the issues we are dealing with, to deal with this issue tonight. It is simply untenable that, before the end of tonight, we will have concluded our consideration of this mishmash of legislation.

I am very concerned at the attitude that Mr Moore has adopted to this as well. I really am personally offended that Mr Moore should suggest that, because I do not necessarily think that he has done the right, the strategic and the politic thing in acting as he has in bringing forward his amendments, his legislative packet, in the way that he has, I was not acting in the best interests of furthering this debate. I simply disagree with Mr Moore about that. I am one of those who have opposed changes to the status quo.

Mr Moore, it appears, has been working for a number of days on a package of legislation. He did not take me into his confidence. I learnt late yesterday afternoon of Mr Moore's intentions. I received before lunchtime today Mr Moore's legislative package. This might seem like a terrible failing on my part, but I have yet to open it. I have yet to read the first section of Mr Moore's legislative package. I have been engaged in this debate today. I have been listening intently to it. I am yet to open the document.

It is an absolute nonsense that we should proceed to finalise this issue tonight. Referring this matter to a select committee is the only reasonable thing to do. It is what we should have done when this debate started at half past 10 this morning. We should have agreed then to do the right thing and refer this matter off to a select committee for inquiry so that we could come to understand the implications of everything we propose to do.

That view is backed up by the evidence and the advice that we have received over the last couple of days. I am intrigued at the trite way in which the views of the DPP are dismissed by the Attorney. We are not talking here about some junior clerk; we are talking here about the second or third law officer of the Territory. The second or third most senior law officer in the ACT saw fit to advise his Minister that he had problems with the piece of legislation which this body is dealing with today. This is no trifling matter. The ACT Discrimination Commissioner, a statutory officer, has informed this committee that the Bill we are dealing with probably infringes international conventions. Yet we think, "Oh, well; so what? We will just ride over the top of that. What is a little UN convention here or there? The ACT Legislative Assembly does not mind impinging on UN conventions. We will just run over the top of those". That is truly appalling. And we will do that without the benefit of the advice potentially available to us from those officers, from representatives of women in the ACT and from individual women who would wish to put their perspective to a select committee of this place.

I am not afraid of this issue. My head is not in the sand. I am prepared to take the hard decisions that need to be taken on this, ill-equipped as I am. But I am mindful of the issue that has been raised here on a number of occasions - the fact that 15 of us here are men. I seek to empathise and understand the issue of abortion from the perspective of a woman. I seek to do that, but of course I cannot. None of us 15 men can. It is a physical impossibility for us. We try to deal with this as a matter of principle, in accordance with our own consciences. But who are we to deny to women's organisations and individual women the right to come before a select committee of this place and put their perspectives to us? What right do we have to deny them the opportunity to come and say to us, their elected representatives, "This is what it means. What you are proposing to do to me means this to me".

I read in the latest amendment circulated by the Attorney-General:

> A person shall not perform an abortion on a woman unless the consent of the woman has been obtained in writing, specifying the time and date of the consent.
>
> Penalty: 200 penalty units.

I have not quite caught up with the penalty unit system yet, but I think that means $20,000 - - -

**Mr Humphries**: It is $2,000.

**MR STANHOPE**: It is $2,000. My mind boggles at some of these proposals. A woman in that desperate situation has arrived at that position. She has gone through her own personal anguish. The doctor says to her, "We cannot do anything until you sign this document". The woman says, "I have got no intention of signing anything. Why do I have to sign that?". And the doctor says, "Well, if you don't sign it, I get fined $2,000. So will you please sign it?". This is what we are reduced to. This is a nonsense. I just cannot believe that there are any cogent or sensible arguments for not supporting a committee of inquiry into this issue. There are just none.

We have the evidence of three of the most senior people in the Attorney's department. Irrespective of the views which Mr Kaine has about the propriety or appropriateness of those senior statutory officers making known their views, I must say, Mr Kaine, that I am perplexed that three of the most senior officers in the Attorney's department should feel free to make known to him their concerns about the deficiencies in this legislation and you feel that those three senior officers should actually keep their concerns secret. I understand at one level your concerns; but, in terms of three independent statutory officers, I do not really accept your analysis in that regard.

**Mr Kaine**: I am a bit perplexed by that too.

**MR STANHOPE**: Yes.

**Mr Kaine**: For different reasons, I suspect.

**MR STANHOPE**: I understand some of the issues you are seeking to address; but I guess I am saying that I disagree with you, Mr Kaine. These are senior, independent statutory officers, and in the context of this debate it is most relevant that we know of their concerns.

I would like to just reiterate these points: I am concerned that the Assembly seems to be afraid to consult with its community. I am concerned that the Assembly is prepared to be so insulting to the women of the ACT that it will not give them a genuine opportunity to express to this Assembly a woman's experience of what this sort of degrading and insulting legislation means to them, in the context of their relationship with their medical practitioner. I am concerned that we are not allowing the women of the ACT an opportunity to put that perspective and those views. I am concerned that we have arrived at the position we have. As I said when Mr Moore was not here, I am concerned at his fall-back legislation. I am one of those, Mr Moore, that think you have made a strategic mistake. I believe that your judgment on this was wrong. It strikes me as the sort of appeasement that Neville Chamberlain attempted when he came back from Munich, waving his bit of paper. We know that it did not work then, and I do not think it works now in the interests of the women of the ACT. I think you have made a mistake. I think it is fair that I say that I do not share your judgment on this.

I will conclude my remarks there, Mr Speaker, but I would like to say that, in terms of an issue of this significance and magnitude and the depth of feeling that this issue generates within the community, I think it is an indictment of the Assembly for it not to agree to a public process in relation to an issue of this order. I think it is a genuine indictment of this place.

**Mr Moore**: On a point of order, Mr Speaker: Under standing order 47, I seek to explain where a part of my speech has been misquoted. Mr Corbell referred to me in terms of the Western Australian legislation. I have not referred to the Western Australian legislation at all. I do not use the Western Australian legislation. I think that was inappropriate.

**MR HARGREAVES** (9.44): We have had a lot of people talking about sticking heads in the sand. Let me tell you, Mr Speaker, my head is not in the sand. In fact, it is so far up that there are bullets flying everywhere. I make no apology for my position on that. I reject any suggestion that anybody might level that my head might be in the sand on this thing.

My head, as a matter of fact, Mr Speaker, is in a perplexed and confused state because an enormous amount of conflicting information has been given to me. I have had an enormous number of amendments coming from Mr Moore and one from Mr Humphries. I have had a good look at them. I have had a good look at them tonight. In the case of Mr Moore's amendments, I had a good look at them during the day.

One of the things that struck me about Mr Humphries' little spiel just a moment ago is something which I have seen all too often in the Assembly. It was as useful as an ashtray on a motorcycle. Giving me lessons in history is absolutely useless. I was not here at the time, Mr Humphries. When you start to give me lectures on things that occurred in this chamber in 1992, quite frankly I could not care less. I would urge you not to waste your time because it does not do anything except extend the number of words you get into *Hansard*. Mr Humphries was saying, "Why would we have one of these inquiries? After all, everybody has made up their mind. Their views are not going to change".

**Mr Humphries**: Except maybe yours.

**MR HARGREAVES**: Except maybe mine. I acknowledge the concession. Thank you very much. You would want to have this sort of opportunity not only to change your mind; it might possibly be that you might have some of your views confirmed. You might find, in fact, that there are elements of your own argument which are sustained to a greater degree. Some of us take decisions on a wing and a prayer. We trust our judgment. We trust our hearts. Some of us hope to God we are right, and every now and again, Mr Speaker, we get it wrong.

When you see the extent to which Mr Osborne's Bill is proposed to be amended by Mr Moore, you are talking chalk and cheese here. I do not profess to be anywhere near as clever as Mr Moore who sets himself up all too often, in my view, as the expert on various issues. He sets himself up as a champion of the people in human rights and drug reform, et cetera, et cetera, ad nauseam, and only he, it would appear, has the wit and the power to be able to draft things.

I do not have that facility, Mr Speaker. I look at a piece of legislation, not unlike my colleague Mr Rugendyke over here, and bells go off; but we do not have the capacity to digest it that quickly and to come up with an amendment which may make sense to us and to other people. We need help to do that and this Assembly has processes to enable us to get that help. One of those processes is the committee system, which I find particularly valuable. I do not consider these things a waste of time in helping me, and I do not consider these things a waste of time because people out there in the general public have an opportunity to say something to us face to face.

As I mentioned earlier, I received 103 pieces of correspondence which said, "Do not support the Bill". I received 95 pieces of correspondence which said, "Support the Bill". I got a stack of phone calls. No doubt my colleagues got similar sorts of figures and similar sorts of correspondence. How valuable would it be if everybody who did write to me was able to come and speak for 10 or 15 minutes to the whole lot of us sitting together? How valuable would it be for them to be able to come and have their say instead of having to commit their views to writing and maybe get it read or maybe not? If they come and speak to us while we are sitting in an Assembly committee we have no choice but to listen to them, no choice but to digest what they say, and no choice but to respond. It is my view, Mr Speaker, that that is a particularly effective element in the democratic process.

Mr Moore stood there and said that he is prepared to have this raft of amendments considered and voted on but he is not prepared to let us have them scrutinised in an open forum. In my view that is a denial of opportunity to those very people, and I am staggered that Mr Moore would take this position. I am also staggered, Mr Speaker, that he is not here, because he normally is. I was going to eyeball him because he disappoints me. One of the beauties of the committee inquiry system is that it allows ordinary people, general members of the public, it allows experts in the various fields of law, medicine and any other related discipline for that matter, and those of us who are fortunate or unfortunate enough to be elected to this place and represent them, to see these arguments put side by side at the same time.

When I was looking at this matter things seemed to come in waves. I would get a surge and something would hit me in the face. I would think, "That is right; that is fine; I will go down that way". Then, a matter of minutes later, or hours or days later, whack, another one would come along and I would think, "That one is right and the other one is wrong". What I would have given, Mr Speaker, to have had time out and to have somebody say, "There is A, there is B. That is the difference between the two". Then I would have been made able to make, I believe, a much more considered judgment. Mr Moore denies me that opportunity.

Mr Humphries may very well be right. The position that I hold at the moment may very well not change, but, Mr Speaker, there are people in the gallery at the moment who I have not spoken to and maybe I would have liked to have had the opportunity to do that. There are people in the gallery tonight who, judging by their presence all day, would give their right arm to be able to say something to a select committee. They are being denied the opportunity to do that, and I think it is disgraceful.

For Mr Humphries to suggest that Ms Tucker and Mr Corbell are guilty of hypocrisy, as he did in his speech a moment ago, was a bit rich. If there is an exercise in hypocrisy at the moment, Mr Moore is the flag bearer. He stands there and he says, "I am not going to vote for Mr Osborne's Bill but I have a set of amendments myself", and that set of amendments turned the whole thing on its head. He has not got the courage to say, "I am not going to vote for Mr Osborne's Bill, but I am going to put my own Bill up", because this is what this looks like. He has not got the courage to do that, but he has the courage to give it to us at 8.30 in the morning, thank you very much, and expect us to digest it and vote on it before the witching hour, I would hope.

**Mr Humphries**: You have had 14 hours to look at it. That is lots of time.

**MR HARGREAVES**: Thank you. I am not the first person tonight in this place to get timing wrong.

Also, he does not give anybody else the opportunity to do that. I think it might have been Mr Kaine who accused us, and probably quite rightly, for not coming up with amendments of our own. To that accusation I respond that some of us have not had the time to digest it enough to be able to compile amendments. *(Extension of time granted)* This is my first extension, Mr Speaker, and I dare say it is my last. Mr Kaine asks why we do not put forward amendments. I hope I do not take a liberty from Mr Rugendyke but I hope and pray that he is in the same boat I am. We need more time to be able to look at these things and to develop them. We need to be able to develop an amendment. Unlike Mr Moore, we would like to take them around to people involved in the next issue, as significant and as important as this one, and speak to the stakeholders. The stakeholders are those people who were concerned enough to write to us or to speak to us on the telephone. We have not given them that opportunity. So it is a double problem for us.

I would ask those people who have the balance of power to consider this motion for a select committee very seriously. Denial of it is a denial of the democratic processes that we have been put in here to uphold, to administer and to apply. This is an opportunity for those of us who do not have a good enough command of the Bill to hear from the experts and to measure them one by one on the blackboard, side by side. We will never get that opportunity if we do not do this. Mr Speaker, I commend the motion to the Assembly.

**MR STEFANIAK** (Minister for Education) (9.55): Mr Speaker, had this been the first Bill in relation to the abortion issue introduced into this Assembly last week and we were debating it for the first time this week with this lot of amendments, there may be some justification for what members opposite are saying. I have been in this place for all but a couple of years. I have seen a number of occasions when Bills were introduced by members of the Labor Party, be it in government or in opposition, and if they had the numbers they were passed the next week. In the case of Ms Tucker, I would remind her of the Residential Tenancies (Amendment) Bill late last year which was introduced on 3 December and passed on 10 December. In fairness to Ms Tucker, there - - -

**Mr Corbell**: Following extensive community consultation.

**MR STEFANIAK**: She had flagged that about 12 months before but the drafting had only just been done. There were real concerns about that Bill, especially from the Housing Industry Association.

**Mr Corbell**: And what did you do? You adjourned it to allow debate.

**MR STEFANIAK**: No, it was passed, Mr Corbell. In fact, there was a division, 10 : 7, and it got through on the 10th. Mr Speaker, in this particular instance we have had this issue before this Assembly since the August sittings. I think Mr Hargreaves indicated that he had some 301 representations. We all have, Mr Speaker. I have had a number of representations. I have had some very concerned people on both sides of the fence come in to see me. I have talked to them. In some instances I have made my position quite clear to them after discussing it with them. Certainly, there has been significant representation and significant consultation on this issue, and now we have Mr Osborne's Bill and a number of amendments in plain English. I think it is pretty obvious what the amendments and what the Bill seek to do.

I am somewhat amazed, like Mr Kaine, at the points raised and the fact that three public officials have also raised them. In a way I tend to share his concern. I think the DPP should have corresponded with the Attorney, and I am a little bit amazed at some of the other stuff there. But, be that as it may, we have had a stack of consultation.

Mr Berry probably has been the most frank in terms of what this motion for adjournment is all about. He has made it quite clear that he does not like this Bill and he does not like the amendments. He has very much a pro-choice attitude. He always has had, to his credit, I think, in the 12 years or whatever it is he has been in this place. He has indicated that he wants to oppose it, and if he cannot oppose it but can adjourn it, fine, because that suits his aim. He does not want this passed in any form. At least he is straightforward about it. Other members are just trying to make a bit of a sham about adjourning it, saying, "Let us have more consultation, let us delay the matter further". I think they are quite wrong.

Mr Stanhope indicated that he wanted to adjourn it. He also made a rather amazing comment, given that we have just had, I think, 200 pages of penalty legislation. He said he is not up on this penalty unit stuff, which I found a bit amazing from the Leader of the Opposition and shadow Attorney-General. Maybe he is not really across this particular issue also. I found that concerning. I also found his comment a bit strange in relation to Chamberlain and Munich; as if, were Chamberlain in this chamber, he would not adjourn it but would debate it, and we were wrong because we were being like Neville Chamberlain. Far from it, Mr Speaker. I would think Neville Chamberlain would have adjourned it so that he would not have to make a decision, when quite clearly, at Munich, he did, and a small country got sold down the drain as a result of the appeasement there.

**Mr Corbell**: Yes, that is what Mr Moore is doing.

**MR STEFANIAK**: I do not think that is the case at all.

**Mr Corbell**: That was the point Mr Stanhope was making.

**MR STEFANIAK**: I think it is exactly the opposite to what your leader said. Mr Speaker, we have had three months of extensive consultation. For those of us who have been in previous Assemblies - I accept that Mr Hargreaves and a few other members have not - this issue has been raised on a number of occasions. I think Mr Humphries is right in that most of us do have fairly set views now in terms of this issue. We have a different sort of Bill, but a Bill with amendments in plain English, on this very important issue, and I think members of the community expect us to debate it and expect us to come to a decision. It is not something members of the community want to be hung on a hook over for months on end and have delayed and extended and extended.

I think this motion is just a delaying tactic. There would be some merit perhaps if the whole issue had only been introduced last week, but it has not. It has been around for three months. I cannot see any benefit that we would get from supporting the Bill going off to a committee for further debate. Also, I have significant concerns about Mr Berry's composition of the proposed committee. It is absolutely amazing. It is virtually everyone except the Executive, and I think there are some real problems there. I will certainly be opposing his motion, Mr Speaker.

**MR CORBELL**: Mr Speaker, this is very important. I seek leave to speak again.

Leave granted.

**MR CORBELL**: I thank the Assembly for its indulgence and I will be brief. Mr Speaker, there are a couple of points that have been raised in this debate which I think it is very important to respond to so that members can properly consider the proposal to establish a select committee. The first is the point that was made by Mr Humphries earlier in the debate when he said that there is no point having a select committee because MLAs will not change their minds. It will not matter, so therefore it is not necessary. Well, as my colleague Mr Hargreaves has indicated, there is at least one member in this place who has not made up their mind.

More importantly, there is a principle at stake here. It is not just about whether we have all made up our minds. How can we make up our minds when we do not know the views that are out there that need to be expressed in a formal way to this Assembly through the select committee process? It is a bit like that old saying on justice, Mr Speaker. Justice must not just be done, it must be seen to be done. I would argue in this case that law-making should not just be done, it must be seen to be done. I think that is a fairly important principle. I think that is one of the fundamental reasons why parliaments have committees in the first place - so that that opportunity for comment can be addressed and arguments that perhaps we do not even know about can be aired in a public way. That is in response to Mr Humphries' point.

My next point is perhaps the most important one. I was thinking about precedents. Mr Humphries raised the issue of precedents. I was thinking about the principle that was established, if you see it this way, last year when we were debating a Bill proposed by Mr Moore. It was in relation to allowing voluntary euthanasia in the Territory. The Bill got to the in-principle debate. Every member in that Assembly, the Third Assembly, spoke to the Bill. Every member had declared their position on the Bill, for or against, except one. That member stood up and said, "I am not sure. I am not confident that I have all the information available to me to make an informed decision. I want more time". That member was Mrs Littlewood.

Mrs Littlewood then moved to adjourn the Bill. On that occasion the Assembly said, "We respect your view; we respect your need for further information". The Assembly agreed to adjourn the Bill. It had not even gone to a vote. The Assembly agreed to adjourn the Bill because there was a member, on a conscience vote issue, who did not believe they had had adequate time or information to make an informed decision. My question is: What has changed?

Mr Stefaniak would argue that what has changed is that this is not a new Bill; that Mr Osborne introduced this Bill three months ago and we have had plenty of time. If Mr Stefaniak had heard the comments made by Mr Osborne in his summing-up in the in-principle debate he would know that Mr Osborne said that this is a different Bill. This is different from what he proposed before. If it is different the Bill that was introduced three months ago is not relevant, Mr Speaker. It is a new Bill and it was introduced a week ago. Amendments were provided less than 24 hours ago. So maybe Mr Stefaniak should think again about his argument.

Mr Speaker, the final point I want to make is in relation to another point made by Mr Stefaniak about the composition of the committee. This was a vexed issue for me when Mr Berry first raised it with me. I was of the view that all members of the Assembly, Executive and non-Executive alike, should be members of the committee. I believed at the time that that was the most appropriate course of action to take. When Mr Berry flagged this with me I thought about it some more and I came to the conclusion that there is a convention in parliaments that members of the Executive are not on committees. That applies in our other standing committees and there is an important convention there that needs to be addressed. For that reason I felt it was appropriate to say all non-Executive members.

If Mr Stefaniak cites that as a reason for not supporting this motion for a select committee, why does he not move an amendment? I would support it. Why does he not move an amendment to put in all members and remove the distinction between Executive and non-Executive members? If that addresses the concern, let us do it, because, Mr Temporary Deputy Speaker, the important thing for me at the end of the day is that we have a process which is open, which is understandable and which is an avenue for people in Canberra to address their views on this most important piece of legislation. I thank the Assembly for its indulgence.

**MR KAINE** (10.08): I do not support the establishment of this committee. I indicated when this debate started this morning that I thought we should proceed with the in-principle debate and keep an open mind on where we might go from there. I have done that today, Mr Temporary Deputy Speaker. Listening to the debate today has convinced me that referring this to a committee to report at some time in the future would get us nowhere other than where we are at right now.

I think Mr Humphries accurately summed it up. People have already taken a position on this Bill. The vote will be no different in three, four or five months' time than it will be tonight. I think people have had the opportunity. This debate has been going on for a long time today and it is going to be a long time before it is finished. I can see that. I can probably expect to go home and have some cornflakes for breakfast when the debate finishes, and I am not looking forward to that.

I think my position probably is no different from that of most other people here tonight. First of all, I did not come to this debate with a vacant mind. I came to this debate with a fairly good background on the issues, and I think everybody else did too. Every one of us has a bunch of files in our office where people have written to us, as Mr Hargreaves said, on one point of view or another. In fact, I have three files. I have those for the Bill, I have those against the Bill, and I have those that are pro-life but against Mr Osborne's initial Bill. They were pro-life but they did not like his first Bill, so I have three files. In addition to those three files of correspondence, I have a very large library of literature on the subject that I have accumulated. I have not only accumulated it over the last two months either. I have been accumulating literature on this subject for over 20 years, during all of which time debates have taken place in this place at various times. So I do not think any of us, including members of the Opposition, came to this debate with a completely vacant mind on the subject. They came here with a fairly good background knowledge. During the last several hours we have debated the question of Mr Osborne's Bill. It is a fairly simple Bill. It is not complex at all, but people have attempted to portray it as being complex. It is a very simple Bill.

During the day I have had the benefit of reading the DPP's position on the matter. I have been able to read the Discrimination Commissioner's position on the matter, and I have to say that that particular submission is considerably one-sided. It is all very well to call up one international agreement that emphasises the rights of the woman and totally ignore another international agreement that talks about the rights of a child, including the rights of a child before it is born. Why did not the Discrimination Commissioner put that one in the submission? It was very one-sided. I have read them both, and I have given them serious consideration. I have rejected much of what was in both of them because I am not sure that they were properly thought through before they were put to us.

I have read the input from the Community Advocate. I have also read quite a large number of other communications that I have received today from quite a wide range of people who were aware that this debate is taking place. Some of them have been keeping their ear to the ground to find out how it is going. During the day a number of people have let me know what they think about the debate that has been taking place today. They have not got closed minds out there. They are not in a vacuum. I have had plenty of input.

I have had a look at Mr Moore's amendments and I can assure you that I have had time during the day, in the middle of all of this debate, to make up my mind about which parts of Mr Moore's amendments I am going to accept and which I am going to reject, and I presume that everybody else has done the same. Nobody can say that they came to this debate this morning without information on the subject and that their information has not been added to during the day. Nothing that is going to happen during the six months of the committee is going to change their minds.

If Mr Corbell and Mr Berry would give me a cast-iron undertaking that, if the Right to Life Association appears before this committee, at the end of the day they will change their view because of what the Right to Life Association says to them, I would be only too happy, but they will not give any such guarantee that they will change their mind during a committee hearing. In fact, Mr Corbell actually gave himself away. He said, "What we should do is let all these people come and talk to us because we should be seen to be listening" - not actually listening, but be seen to be listening. If that is all we are going to do, why waste our time? It will be a waste of time. I conclude where I began. I believe that people already have taken their position and any amount of committee input is not going to change that.

Mr Berry's motion to establish this committee is really quite a clever one because by excluding the five members of the Executive he excludes five people from one side of the argument. So, when the committee reports in May, or whenever, it is really going to be a balanced report, is it not, representing the views of both sides of the argument, when the majority of the members of that committee, using Mr Berry's membership formula, would be from the pro-choice side? We would get a very convincing committee report at the end of the day that says the Bill should be rejected and we should then immediately move to decriminalise abortion. That would be the recommendation. You can see it now.

I reject the proposal for a committee. It would lead us nowhere. It would convince nobody, other than where they are at at this moment. I have to conclude by saying that if Mr Berry wishes, if he thinks the tide and the time are right, to move to decriminalise abortion, he is at liberty to put a Bill before this place and try his luck.

**MR CORBELL**: I seek leave to make an explanation under standing order 47.

**MR SPEAKER**: Yes.

**MR CORBELL**: Thank you, Mr Speaker. Mr Kaine said that I had said we should listen without listening. At no stage did I use those words. The point I was making, Mr Speaker, was that the process was as important as the outcome.

**MR SPEAKER**: Thank you.

**MR SMYTH** (Minister for Urban Services) (10.15): Mr Speaker, I will be brief because this is where we started this morning. I congratulate Mr Kaine and I agree with his analysis. Mr Berry said at the outset that this was to waste time. I thought I heard Mr Corbell say "seen to be listening", but we will let *Hansard* reveal that for all of us in the morning.

Mr Speaker, if the figure of 2,000 abortions a year is true for the ACT, that is some 40 abortions a week. We are talking of 10 or 12 weeks before this committee would report. That is another 500 lives that may potentially be saved. I am for giving those lives the opportunity. A bit of information may save them. I hope that the rest of the Assembly will vote accordingly.

**MR SPEAKER**: The question is that Mr Berry's motion be agreed to. Mr Berry, to close the debate.

**Mr Berry**: I think we should have a quorum first, Mr Speaker. I might want to speak to the crowd.

**MR SPEAKER**: A quorum is required. I am not sure that anybody else will bother to speak, Mr Berry, but you do require a quorum. You shall have one.

**Mr Berry**: Yes. I want to see if they want to speak. I want to listen to them. I am not like this mob opposite.

*(Quorum formed)*

**MR SPEAKER**: I call on Mr Berry to close the debate.

**Mr Berry**: Unless somebody else wants to speak on the matter.

**MR SPEAKER**: I beg your pardon?

**Mr Hird**: Who is running this ship?

**Mr Berry**: I just thought somebody else might have been half asleep and might have wanted - - -

**Mr Hird**: That is very generous of you, but he is the Speaker.

**MR SPEAKER**: Nobody stood up.

**MR BERRY** (10.16), in reply: Thank you, Mr Speaker. I note the informative contribution made to the debate by Mr Smyth from the government benches.

**Mr Smyth**: I am pleased that you are pleased.

**MR BERRY**: It was as helpful as usual and quite out of the field. It was just a lot of nonsense and you know it. I do not know why you keep saying it. Whom are you trying to impress with that rubbish?

**Mr Smyth**: No, it is only nonsense because you choose to ignore the reality of it.

**MR BERRY**: The fact of the matter is that it will not stop one termination and you know it. You go on with all of this melodrama about saving lives and all of that nonsense. This is about humiliating women. Accept your responsibility, Minister.

**Mr Smyth**: You said this morning that you respected that view, yet now it is nonsense. You are a hypocrite.

**MR BERRY**: You want to humiliate women and make them feel guilty.

**MR SPEAKER**: Order, please!

**MR BERRY**: That is what you want to do.

**MR SPEAKER**: Mr Berry has the floor.

**MR BERRY**: One of the interesting things about this debate, Mr Speaker, is to listen to the changing views. Mr Moore, this morning, was rock solid on delaying, and I note that people quoted me as saying I wanted to waste time on this matter. Well, they are re-creating history in relation to the matter. That was not what I said. They might have been listening to my quote from Mr Moore when he said on radio this morning what his position was and confused it, because it is getting late. No, Mr Moore made it clear that he would do anything possible to delay this Bill. But he said in his speech that it is different now. Yes, I suppose it was daylight this morning and it is dark tonight. The weather is different from what it was this morning. I do not know what else is different except that Mr Moore has changed his mind.

I would not have bothered with this committee proposal were it not for the comments of Mr Moore this morning because I would have known that there was no chance without Mr Moore's support. He was shown the copy of the motion that I had drafted. I had consulted with women's groups and other members in this place and had their acquiescence to it. When the reality was put in front of Mr Moore he changed his mind. Maybe if it had been his idea it might have been a different thing, but that is history now. His mind has been changed.

Mr Kaine cannot escape criticism here because I think I heard him say earlier today that he would not have minded some committee consideration or an extended hearing.

**Mr Kaine**: I have been convinced today that I do not need it. That is reasonable, isn't it?

**MR BERRY**: He now tells me he is convinced that he does not need it. Mr Kaine, I must say I respect your experience. I must say that you have developed talents over the period that I have known you in this place that I never expected - that you could come to understand the complex nature of this legislation and the amendments that have come before us, and the opinions from eminent people, in such a short time. You have increased the level of respect that I had for you.

I wonder who else will change their minds tonight? The point was made, probably by Mr Humphries, amongst his weird analogies, that nobody would ever change their mind in response to a committee inquiry.

**Mr Humphries**: On abortion.

**MR BERRY**: Okay, on abortion. I think my colleague Mr Hargreaves would express a different view in relation to the matter. Perhaps there are others of us who would have a different view not only on abortion but on the amendments which have been put before this place in relation to the matter. It would also allow the community to put pressure on members, one way or the other, to determine their position and perhaps to determine a new position. I have no difficulty with that. I do not intend to change. I have no reason to change my views in relation to the pro-choice cause. I would hope that some who claim they are pro-choice might change theirs one day. I would hope that people like Mr Rugendyke, who is new to this place, might have the opportunity to listen to other views about this matter and not be influenced by the political imperatives. Nevertheless, it seems that Mr Rugendyke's open mind is closed. That is something of a pity but it does not surprise me that much, given his connections.

Mr Kaine made a point about my listening to the Right to Life Association and changing my mind. No, I would not change my mind. Their position is extreme and it is one they are entitled to, but it is not one that I would try to press upon other people. I do not endorse the Right to Life Association's philosophy. I think it is extreme and in some cases inhumane, but at the same time I would be prepared to look at the amendments and the logic behind them in relation to this matter.

The Right to Life Association's position on this legislation is inexplicable. It just shows the amount of hypocrisy that one can expect from this organisation when it comes to putting the pressure on women. They are people who profess not to support abortions of any kind yet they will support the humiliation of women. I think that is disgraceful. I do not mind their position about not supporting abortion providing they keep it to themselves and observe their own standards. That is fine with me and, as I said earlier, I respect them for it if that is the discipline they seek to follow. In fact, I would honour their right to persist with that doctrine for themselves, but for no-one else. It is not their right to impose their views on someone else. It is not their right to humiliate women who seek access to this procedure. It is not their right to make women guilty who - - -

**MR SPEAKER**: Mr Berry, are we discussing your motion or are we attacking somebody who is not in a position to defend themselves?

**MR BERRY**: Mr Speaker, that has never bothered the Right to Life Association if they have wanted to attack anybody, so I would not feel too sorry for them.

**MR SPEAKER**: I am speaking about in this chamber. Please, you have a motion. You are concluding debate on it.

**MR BERRY**: Mr Speaker, there are others who might be described as having extreme views, but at the end of the day this comes down to whether or not women should have a choice and whether we, as legislators, should be able to listen to the views of the extremists, if that is the case, who might wish to come before an Assembly committee and make up their own views in relation to the technicalities which have been pointed to by various opinions, as I mentioned earlier.

There are a couple of amendments I would not mind considering myself. I am a little bit cautious about them because they are complex in nature and might require some legal advice before I could proceed. That opportunity is being denied to me. I had a look at some of the law but I am not prepared to write up my proposed amendments on the back of an envelope. I think that sort of approach, the approach taken by Mr Moore and others in this place, is quite unacceptable on issues as important as this.

Mr Speaker, I mean no personal attack on any member of the Right to Life Association. I respect their right to have - - -

**Mr Moore**: You have attacked everybody.

**Mr Humphries**: Wayne, please. Come off it. What a hypocrite.

**Mr Corbell**: I take a point of order, Mr Speaker. Mr Humphries has called Mr Berry a hypocrite. That is, as you know, quite disorderly in the house. I ask that he withdraw it.

**MR SPEAKER**: I have ruled before. I am sorry, I did not hear it.

**Mr Humphries**: I withdraw, Mr Speaker.

**MR SPEAKER**: Mr Berry, your time has expired.

*(Extension of time granted)*

**MR BERRY**: Though they might be offended by my position, I am not offended by theirs, as I said, as long as they do not try to impose it on others.

Question put:

That the motion (**Mr Berry's**) be agreed to.

The Assembly voted -

| *AYES, 7* | *NOES, 10* |
|---|---|
| Mr Berry | Ms Carnell |
| Mr Corbell | Mr Cornwell |
| Mr Hargreaves | Mr Hird |
| Mr Quinlan | Mr Humphries |
| Mr Stanhope | Mr Kaine |
| Ms Tucker | Mr Moore |
| Mr Wood | Mr Osborne |
| | Mr Rugendyke |
| | Mr Smyth |
| | Mr Stefaniak |

Question so resolved in the negative.

**Detail Stage**

Clause 1

**MR BERRY** (10.32): Clause 1 is quite easily a quote. It reads:

> The Legislative Assembly wishes to ensure that proper information is provided to a woman who is considering an abortion.

That implies that the information which is being supplied to a woman at this stage is not proper.

**Ms Carnell**: It is certainly not complete.

**MR BERRY**: Mrs Carnell, from her few scraps of paper, suggests that it is not complete. "Proper" and "complete" are two entirely different matters. This clause should be opposed because it imputes that somebody is doing something improper. I am surprised that that was not picked up in the amendments that were constructed by Mr Moore, because that is the first glaring example of where those sorts of imputations in the legislation are endorsed. No evidence has been presented to this Assembly that improper information is being provided to a woman. Evidence is being provided to this Assembly from scraps of paper - - -

**MR SPEAKER**: Mr Berry, I call you to order. Standing order 180 states that there is an order that should be observed in looking at this Bill. What you are debating at the moment is clause 1 of the preamble. In fact, the preamble comes in at paragraph (d) of standing order 180. What we are debating at the moment is Part 1 - Preliminary - Short title - namely: "This Act may be cited as the Health Regulation (Maternal Health Information) Act 1998".

**MR BERRY**: No, that is not what you said. You said clause 1, Mr Speaker.

**MR SPEAKER**: Yes, it is; but, if you look at standing order 180, you will see that the preamble comes later.

**MR BERRY**: Okay.

**MR SPEAKER**: It is a clumsy arrangement, but that is the way it is. So, the question is that clause 1 be agreed to.

**MR BERRY**: How does one get to debate it?

**MR SPEAKER**: There will be plenty of opportunity, I am sure, to debate. We have until 10.30 tomorrow morning.

**MR BERRY**: I apologise; I withdraw that. I should have started on the second page.

**Mr Moore**: We have much longer than that.

**MR SPEAKER**: Mr Moore, that is when we will resume sitting. What I am saying, Mr Berry, is that you cannot debate the preamble at the moment.

**MR BERRY**: I am sorry; I withdraw it. I just did not turn the page.

**MR SPEAKER**: I understand; it can be confusing. The question is: That clause 1 - namely, Part 1 - Preliminary - Clause 1 - Short title - be agreed to.

Question resolved in the affirmative.

Clause 2

**MR SPEAKER:** The question now is: That clause 2 be agreed to.

Motion (by **Mr Berry**) put:

That the debate be adjourned.

The Assembly voted -

| *AYES, 7* | *NOES, 10* |
|---|---|
| Mr Berry | Ms Carnell |
| Mr Corbell | Mr Cornwell |
| Mr Hargreaves | Mr Hird |
| Mr Quinlan | Mr Humphries |
| Mr Stanhope | Mr Kaine |
| Ms Tucker | Mr Moore |
| Mr Wood | Mr Osborne |
| | Mr Rugendyke |
| | Mr Smyth |
| | Mr Stefaniak |

Question so resolved in the negative.

Clause agreed to.

Proposed new clause 2A

**MR MOORE** (Minister for Health and Community Care) (10.38): Mr Speaker, I move:

That the following new clause be inserted in the Bill: Page 2, line 14:

**"2A. Objects**

The objects of this Act are to -

(a) ensure that adequate and balanced medical advice and information are given to a women who is considering an abortion;

(b) ensure that a decision by a woman to proceed or not to proceed with an abortion is carefully considered;

(c) ensure that abortions are only performed by appropriately qualified persons and in suitable premises;

(d) provide statistical reports to government on the occurrences of abortions in the Territory;

(e) protect the privacy of women having abortions; and

(f) provide for the right of persons and bodies to refuse to participate in abortions.".

Mr Speaker, I present an explanatory memorandum for all the amendments in my name. It would have been circulated to members earlier.

This amendment inserts an objects clause. It will help to display the principles implicit in the success of the vote in principle. It will help with interpretation. In particular, it will help prevent this legislation being construed in a draconian manner. As far as I am concerned, Mr Speaker, that is the most important part. The amendment sets out the objects as follows: To ensure that adequate and balanced medical advice and information are given to a woman who is considering an abortion - I emphasise the words "adequate and balanced medical advice"; to ensure that a decision made by a woman to proceed or not to proceed with an abortion is carefully considered; to ensure that abortions are only performed by appropriately qualified persons and in suitable premises; to provide statistical reports to government on the occurrences of abortions in the Territory; to protect the privacy of women having abortions - the object of the Act is to protect the privacy of women having abortions; and, finally, to provide for the right of persons and bodies to refuse to participate in abortions, so that if somebody - a doctor, a nurse or whatever - is involved and a request is made that they participate, that ensures that they have the right not to participate, that they are entitled to their choice as well.

Mr Speaker, these are very sensible amendments that, most of all, set out how far the Bill can go. In other words, the Bill just cannot go any further than is set out in these amendments. Remember, Mr Speaker and members, that what we are looking for here, as far as I am concerned, is the least worst solution. We have got to this stage. It is now time to consider whether that is going to be the case. Mr Speaker, I believe that these objects adequately set out those issues.

**MR QUINLAN** (10.41): Mr Speaker, I would suggest that this amendment be amended by striking out paragraph (b), the second objective, because I believe that it does nothing to the legislation other than to add to the patronising impact of it overall. I so move it.

**MR SPEAKER**: The amendment will have to be in writing, Mr Quinlan.

**MR MOORE** (Minister for Health and Community Care) (10.42): While you are doing that, Mr Quinlan, I would ask you to consider carefully the ramifications of what you are doing, because the objects of the Act contain the legislation and, by removing any one of them, you actually open up the possibility of the legislation going broader. The reason for the objects of the Act, as far as I am concerned, is to contain what the legislation can do. That is why it is that I have put these objects of the Act. It seems to me that to remove any one of these objects is to risk opening the legislation to a more draconian approach.

**Mr Berry**: Tell us what paragraph (b) means.

**MR MOORE**: I have an interjection. Mr Berry asks me to tell him what it means. It means that object of this legislation is to go no further, that is what it implies, to ensure that a decision by a woman to proceed or not to proceed with an abortion is carefully considered.

**MR CORBELL** (10.43): Speaking to Mr Moore's amendment, as I read through the proposals that are listed here in paragraphs (a) to (f), on almost every one of them I think, "Why do we need these? Why do we need them?". Paragraph (a) reads:

> ensure that adequate and balanced medical advice and information are given to a women who is considering an abortion;

It probably should read, "are given to a woman who is considering an abortion", but that probably reflects the hurried nature of the amendment. Nevertheless, that aside, I ask myself, "Is it not a fairly sad state of affairs that we need to include that in the first place?". As I said and as others in this place said in speeches in the in-principle stage - those of us who are opposed to the Bill in principle and who believe amendments were a tactical mistake - in our view the advice provided by medical practitioners to women seeking a termination was already adequate and balanced, and the information given to a woman was adequate for her to make an informed decision. The only reason we have got to this absurd stage of considering the insertion of paragraphs (a) to (f) is that a majority of this Assembly has accepted that the existing level of information is not adequate.

If a stronger position had been taken in the in-principle debate, without flagging the fall-back position, perhaps we would not be at the absurd stage we are at now. I would much rather not have to see any of these changes being proposed. I make the point on paragraph (a) that I believe quite firmly that this level of provision of advice in an adequate and balanced way already occurs. In relation to paragraph (b), I support the foreshadowed amendment of my colleague Mr Quinlan, because all paragraph (b) does is perpetuate the attitude that has become the norm in this debate this evening, that is, that a decision by a woman to proceed or not to proceed with an abortion is something that we think women currently do not carefully consider. Indeed, it perpetuates that patronising view of how women make decisions in relation to terminations. Again, it is a sad state of affairs that it is there. I think Mr Quinlan's proposed amendment is an important one in that regard.

In relation to paragraph (c) - ensuring that abortions are only performed by appropriately qualified persons and in suitable premises - is anyone suggesting that that does not currently occur, or is anyone suggesting that under the Bill as proposed by Mr Osborne it would occur? I am not sure what the intention of paragraph (c) is. I do not understand what Mr Moore is attempting to achieve by outlining that. Perhaps he will take the opportunity later in the debate to clarify that for me, because I do not understand what he is trying to achieve by that. Paragraph (d) refers to providing statistical reports to government of the occurrences of abortions in the Territory. I do not see what the purpose of that is at all. I do not see what the point of that is at all. Why do we need to collect these statistics? Why do we need to do that? What is the point of that?

**Mr Berry**: You get them anyway. You get them off the Medicare records.

**MR CORBELL**: As my colleague Mr Berry quite rightly points out, it is already available through Medicare statistics. So, why on earth do we have that provision? I would say that we have that provision to enable those who are opposed to the provision of accessible terminations to say, "Look at how terrible the rate of terminations is in the Territory". Indeed Mr Smyth has been all day saying, "Look at all the unborn children", in his mind, "who have had their lives terminated". I do not see any reason for paragraph (d) at all.

Paragraph (e) refers to protecting the privacy of women having abortions. I can see some sense in this proposal. I can see that the Bill as proposed by Mr Osborne would grossly offend the privacy of women. Paragraph (f) provides for the right of persons and bodies to refuse to participate in abortions. I would certainly hope that that already occurs. I certainly do not see anything in Mr Osborne's Bill which prevents someone from exercising that right.

I must say that it is a confusing set of objects, half of which I think are probably in the light of how we see the provision of terminations currently occurring in the Territory proceeding, how they occur at the moment. I really do not understand the full weight of the others. So, I look forward to Mr Moore's comments in relation to that. But I think that highlights that, even at the very beginning of this debate in the detail stage, there is such a range of questions that need to be addressed that it is inappropriate to be considering the matter at this stage and we are progressing down a path, unfortunately, where we will make a bad law. Mr Speaker, that is something that I am not at all comfortable with. I should flag now that, regardless of the amendments that are moved and agreed to throughout the detail stage, I will be opposing the Bill as amended.

**MR QUINLAN** (10.50): Mr Speaker, I move the following amendment circulated in my name:

> Proposed new paragraph 2A(b), omit the proposed new paragraph.

Mr Speaker, I understand what Mr Moore is trying to do with his amendments and we can debate them and vote on them in toto. I just happened to read this object and consider it in the light of object 1, which ensures that certain information is given.

So, the woman in question has the information. Now we are going to go to the further stage of ensuring that the decision by the woman to proceed with an abortion is fully considered. Is there going to be an exam on this, or what? At best, it does smack of patronising that person beyond belief, having already given them the information. At worst, it implies some form of coercion to ensure that the woman in question carefully considers the information before she can proceed to the next phase of an already traumatic experience.

If you were trying to say, "And we will have a waiting time of three days", if you had said, "And ensure that the woman has sufficient time to consider the information, if she so desires", that would be fair enough. But I just do not like the way that it is written. I think it is very poorly structured. I think it is patronising at worst and does imply some form of coercion applied to the woman. I think it should be stricken out.

**MR WOOD** (10.52): Mr Speaker, I will be considering the amendments that are being moved on their merits in the debate we are now undergoing in the detail stage. That is not inconsistent with my speech and my vote earlier against Mr Osborne's Bill and my likely vote at the end of these proceedings, still against the Bill. But if these amendments tidy up the Bill, they will be voted on on their merits at this stage.

**MS TUCKER** (10.53): I am also interested in paragraph (b) of proposed new clause 2A. I support what Mr Quinlan has pointed out. Mr Moore has said that this amendment is necessary to keep the Bill within a controlled framework. I understand that that is why you have the objects of an Act in place. But he has not explained to my satisfaction why he thinks that paragraph (b) is necessary. I would appreciate it if he would explain what he means and give an example of what he means by "draconian interpretation of the Act". As far as I can see and as Mr Quinlan has pointed out, paragraph (a) asks that adequate and balanced medical advice and information be given to a woman. Ensuring that the woman has carefully considered it is a very interesting thing to put in the objects of this Act because, as Mr Quinlan pointed out, how do you do that?

Do you give the woman a test afterwards? Does the doctor, having read this Act, and do the courts, having to interpret this Act, look at this provision and say that there is a case? If the woman says, "Yes, I had information but I did not look at it", it would mean then that the doctor would be liable because he or she had not really pushed this issue. If that is what Mr Moore wants, he needs to say so. Is that what he wants doctors to understand to be their responsibility and courts to interpret this to mean? But he needs to say so really clearly, because it is possible that this discussion will be used by courts. It needs to be quite clear what is intended. At this point, I would not want to see that being in there, either.

**MR STANHOPE** (Leader of the Opposition) (10.55): I would like to make a few remarks about this issue as well, Mr Speaker. I support very strongly the point that my colleague Mr Quinlan is making about the unsatisfactory, patronising and, I think, demeaning connotations that we must draw from an object such as the one to ensure that a decision by a woman to proceed or not to proceed with an abortion is carefully considered. It is just so patronising. It is just awful. I also have broader concerns about the objects clause altogether. What is it that they are meant to achieve? In saying that,

I am mindful of the debate that we have had today about what it is that members think that this Bill is doing. I am mindful particularly of the contributions to the debate of Mr Stefaniak, Mr Smyth and others, that this really is just a piece of legislation to ensure that women have available to them some appropriate information before they decide whether or not to have an abortion. This seems to be the view of some of those supporting this legislation, that it is harmless, that it is nothing to be worried about, that we are just ensuring that women are appropriately informed.

Then we look at the objects and the objects do not go to just ensuring that women are appropriately informed. They go to those issues of whether or not a woman has thought seriously about whether or not she should have an abortion. For goodness sake, we are in the business now of ensuring that women that make what I am sure is one of the hardest, most traumatic and awful decisions have thought about it. It goes back to the point I made previously about the fact that we are a group of men, generally, making this decision and we are imposing our life experiences on women. We cannot understand the sorts of decisions they have to make as it is simply not possible for us to because of our life experiences. We have denied, through the denial of a committee inquiry, women the opportunity of coming before a committee to tell us what these sorts of provisions mean to them and will mean to them. Yet we are going ahead with that sort of provision with an object of this Act being to ensure that women have carefully considered the decision.

I am particularly interested in object (e) - to protect the privacy of women having abortions. I am particularly interested in that in the context of the advice received in the last week from the Discrimination Commissioner that this legislation almost certainly infringes UN conventions going primarily to privacy. Here we have a Bill with the stated object of protecting the privacy of women having abortions and, at the same time as we are considering whether to include that within this piece of legislation, we are completely ignoring advice from the ACT Discrimination Commissioner that the legislation, in her view, offends the Discrimination Act.

We have also ignored completely the scrutiny of Bills committee report - a committee, as I have pointed out, chaired by Mr Osborne - that raises the very same issue, that in order to seriously consider this legislation we need to take into account all those rights issues. We chose not to do that. It seems so incongruous to me that we are now debating a provision designed to protect the privacy of women having abortions when, on the very same day that we are debating this clause, we completely ignored advice from the ACT Discrimination Commissioner that the legislation almost certainly offends the ACT Discrimination Act. What a nonsense!

**Mr Moore**: That is what this amendment does. Can't you understand anything?

**MR STANHOPE**: It does not do it. The advice is there from the Discrimination Commissioner that this legislation potentially offends the Discrimination Act.

**Mr Moore**: This is not the legislation. This is an amendment to fix it.

**MR SPEAKER**: Order!

**Mr Moore**: For heaven's sake, Jon, understand what you're doing.

**MR STANHOPE**: I understand what I am doing. I understand perfectly well what I am doing. I am pointing out to you that this is flawed in its conception and we should not be proceeding with it. We are stuck with it, but I just took the opportunity to point out the incongruity of what we are doing here.

**Mr Moore**: But you are wrong.

**MR SPEAKER**: Order! Mr Moore, you will have the opportunity to speak in a moment.

**MR STANHOPE**: We know that you are sensitive, Mr Moore. We know that you are sensitive about the fact that this will go down in history as the Moore abortion Bill. We know that you are sensitive about that. Mr Moore is extremely sensitive about it. He has done it to himself by his strategic miscalculation on this issue and he has to live with that.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.00): The tactic being used by some members in this place does them little credit. I do not mind if members filibuster if they can dredge up a reasonably plausible sounding argument. But what I have heard tonight is: "What does the objects clause really mean? What does it actually do? Why are we saying that we should be ensuring that women have made a carefully considered decision?". Dear, oh dear! Even in the semi-somnolent state that many of us find ourselves in at the moment, it should not be too hard to work out what an objects clause is all about.

An objects clause is about defining what the general objectives of the legislation are so that, if a court in the future comes to interpret what another section of the Act should mean and they are not clear about it, they can refer back to the objects section to understand what the general objectives of the legislation are all about. It is a perfectly simple concept. You have seen it lots of times before. You do not have to pretend in this place that you are all puzzled about what this objects clause is all about, scratch your head, and say, "What is this all about?". Goodness me, Mr Speaker, let us find a better argument than that if we are going to be dragging ourselves through the wee small hours of the night.

For the information of members, to correct what Mr Berry had to say in an interjection before, the statistics collected by Medicare are not available to the ACT in any useful form. They do not cover procedures on public patients. They cannot be disaggregated by State. Item 6469 of the schedule does not cover all abortions, and that is the statistic that is generally extrapolated from figures available from South Australia, which is the only State to actually collect specific statistics about abortion, apparently. There are good reasons under this legislation why we should be collecting statistics. That is why paragraph (d) appears in the objects clause.

Mr Speaker, I might also make a point to you by way of a point of order while I am on my feet. Members have already made several points in the course of their remarks tonight about how we should not be proceeding with these amendments. I should think further reflections of that kind are, effectively, reflections on the earlier two votes of the Assembly on this question. I would ask members, as we have decided now twice to proceed with this debate, to comment on the issues, not on particular reflections they might care to make on earlier votes in the Assembly.

**MR QUINLAN** (11.03): Just to close off on this matter, Mr Speaker, from where I sit I know what - - -

**Mr Moore**: No, you actually do not close off in the detail stage. You are having a second run.

**MR QUINLAN**: I want to speak again, then. What I have said and what I will repeat is that I just believe that this particular object is badly written. It is symptomatic of the dog's breakfast that this legislation has fast become because of the disjointed processes of putting it together with the simple object of getting it out of the way. I commend my amendment.

**MR MOORE** (Minister for Health and Community Care) (11.03): In speaking to Mr Quinlan's amendment, Mr Speaker, I remind members that, in fact, these pieces of legislation were run past the Family Planning Association and others as part of the process that I used to get them - - -

**Ms Carnell**: The College of General Practitioners.

**MR MOORE**: Absolutely.

**Mr Quinlan**: How much time did they have?

**MR MOORE**: And they had quite a lot of time, particularly to look at these ones.

**Mr Stanhope**: But not those that are voting on it.

**MR MOORE**: I will make the point, Mr Stanhope, because I was in a lose-lose situation, that on the one hand you did not want me to flag what I was doing and on the other you wanted me to give everybody the amendments a long time ahead. That was the bind I was in, Mr Stanhope, and I tried to find a better way of doing it. Indeed, Mr Stanhope, I flagged them in the car park with Ms Tucker. It seems to me, Mr Speaker, that what we are talking about with this object is the second part of the Bill that I said I would seek to limit. There was the information and there was the cooling-off period. This is about the cooling-off period so that a woman has the time to make a carefully considered decision. I think that also answers the question that Ms Tucker raised.

We also had the point that Mr Stanhope raised about protecting the privacy of women having an abortion. He referred to the Discrimination Commissioner's concerns. This amendment addresses those concerns; that is what it is about. The Discrimination Commissioner said, "I am concerned about protecting the privacy of women having abortions", so we have put an amendment that the object of the Act is to protect the privacy of women. The very reason that it is there is to deal with that sort of concern. It was not a concern just of the Discrimination Commissioner. I expressed that concern in a press release as soon as this legislation was put down. One of the first things I said was that it attacks women's privacy.

Mr Speaker, I want to emphasise that I would prefer to have no piece of legislation in front of me. I would prefer to have no amendments at all. But it was clear - and we have seen it now that this legislation has been passed by the house - that, if I had taken the same attitude as the Labor Party, what would have happened is that the original legislation would have been pushed through, because that is where the numbers are. That is where the numbers are.

**Mr Corbell**: Rubbish!

**MR MOORE**: It is your opinion that that is rubbish and it is my opinion that it is not. That is why it is that this very sensible amendment is being put. It is there, as Ms Tucker says, to put the framework around the legislation to limit what it can do. Do not remove the limits. I understand what Mr Quinlan is trying to do and I genuinely believe that it is a genuine amendment. I do not for one minute think that it is being done as a filibuster. If he wanted to filibuster, he would have talked for much longer. But we must make sure that we limit the framework of this legislation. That is what I am trying to do.

Amendment (**Mr Quinlan's**) negatived.

Proposed new clause agreed to.

Clause 3

**MR CORBELL** (11.08): Mr Speaker, this clause and other references to the Crimes Act in this piece of legislation are the elements of this Bill with which I have the most concern. I am entitled to have that concern, Mr Speaker. I am entitled to have it because I fear - and the discussions that I have had with a range of people involved in Reproductive Healthcare Services have highlighted this to me - that references to the Crimes Act in this Bill will have every potential to invite a testing of this law in the courts.

**Mr Humphries**: Nonsense! Absolute nonsense!

**MR CORBELL**: Mr Humphries, you can respond when you have an opportunity later in the debate. Mr Speaker, I have a concern that this invites prosecutions to test the law and it brings into doubt the provision of legal terminations in the Territory. I think it is wrong to try to regulate this activity, terminations, on top of a framework which provides for abortions to be illegal. That is what we are doing here. That is most vividly demonstrated in clause 3. What happens if someone says, "This clause basically means that abortion is still illegal in the Territory and I am going to test that in the courts."?

What does that mean for the provision of termination services for women in Canberra? Does it mean that staff, for instance, at the Reproductive Healthcare Services clinic may feel that they have no option, however committed they are to their jobs, but to stop providing terminations for fear of prosecution? Does it mean that? I have a feeling that it does.

**Mr Humphries**: Simon, please! That argument is beneath you. You are more intelligent than that.

**MR CORBELL**: Mr Humphries continues to yell insults across the chamber. He will have an opportunity to respond later in the debate. If he feels so vehemently about it, I am sure that he will take it up. But, Mr Speaker, at the end of the day, is it appropriate to make reference to the Crimes Act in this legislation? The only reason I can see for having a reference to the Crimes Act in this legislation is to invite the opportunity to test this law in the courts and to invite the opportunity to test whether or not terminations are legal in the ACT, full stop. That, for me, as a layman but as a legislator, seems to be the only potential reason for the reference.

Even though we are considering amendments that are meant to strengthen the provision of terminations to women in Canberra over what would otherwise take effect through this Bill, I cannot abide a provision that could actually threaten the provision of those terminations. It is an issue that has been widely overlooked in this debate; nonetheless, I think it is one which is relevant and important. I would be interested in the comments of other members in relation to this clause, but I have a grave concern that it will invite those prosecutions.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.12): Mr Speaker, if Mr Corbell seriously believes what he has just said, I suppose he is entitled to form his views in whichever way he wants. But it is, I think, irresponsible to run around promoting that kind of claptrap when there are, in fact, very good reasons for those provisions appearing in the legislation in the way in which they do. Mr Speaker, let me take members back a little to some of the background to abortion law in the ACT. Under the Crimes Act, sections 40 to 45, there are quite specific offences spelt out in relation to crimes associated with procuring a miscarriage of a woman. Those provisions are, on the face of it, quite explicit or fairly unambiguous.

In fact, the common law of the ACT is thought to be that those provisions are modified, particularly as far as the word "lawfully" or "unlawfully" - I forget which it is; "unlawfully", I think it is - is concerned in those provisions, to create, in effect, the capacity for abortion to occur legally in a range of circumstances. The Menhennitt and Levine rulings in cases in Victoria and New South Wales give rise to common law which is assumed to apply in the ACT. There is no reason to suppose it does not apply in the ACT.

But, Mr Speaker, there is an important reason why one would turn to look at the provisions in the Crimes Act, and that is particularly as far as institutions - health institutions in particular - which have a policy of not administering services to do with abortion are concerned. In particular, I am referring here to Catholic hospitals

and health clinics. When a person goes to one of those institutions and says, "I would like you to conduct an abortion", or "I want you to give me advice on obtaining an abortion or on issues to do with an abortion", those institutions are able to turn to the provisions of the Crimes Act and say, "We cannot provide you with that information because those matters are illegal under the Crimes Act and to provide advice would be, in some way, to compromise the state of the law, would be to advise you on how to commission", in a theoretical sense at least, "a crime".

So, Mr Speaker, irrespective of what the common law might say, there is a very good reason why the statute law needs to remain in its present form for the protection of those institutions. Now, we might say at the end of the day that the statute law should change. Mr Berry has tabled today an exposure draft of a Bill which, I understand, does purport to want to change the statute law of the Territory. I am sure that, when the time comes, Mr Berry will explain to the community and to the Assembly how he proposes to deal with the problems faced by Catholic institutions in that scenario. I, for one, would be interested in that explanation. However, it is important in the interim - before that day arrives - to preserve the capacity of those sorts of institutions to turn to a provision like that in the Crimes Act at the moment. The danger of this legislation is that, without a provision like clause 3, the provisions which regulate the way in which an abortion will occur, in the sense of making the provision of information and a cooling-off period a prerequisite for conducting an abortion, might be thought to, in effect, overrule those other sections of the Crimes Act, sections 40 to 45, or some of those sections of the Crimes Act, and effectively make abortion a legal activity. It is not the intention of the mover of this Bill that that be the case.

**Mr Corbell**: So, it asserts the primacy of the Crimes Act?

**MR HUMPHRIES**: It retains whatever provision of the Crimes Act still applies. It does not affect the common law and it does not affect the terms of the Crimes Act, but it allows those provisions to stand there to one side to do what they have done and continue to do with respect to, in particular, those institutions that I have referred to. Mr Corbell may feel that these things need to come out. I would strongly urge the Assembly not to touch them, to leave them there. They are there on the advice of senior counsel and they are there to protect those institutions who choose not to be engaged in abortion services.

If you are of the view that no health institutions should be able to avoid providing advice about, or even the actual provision of, abortion services, you might want to take those provisions out; but that would be a grossly unfair thing to do to those institutions concerned, particularly to Catholic institutions in this very city who, in some way or another, depend on those provisions of the Crimes Act to conduct their task, their mission, in the way that they do. That is the reason that those provisions are there, not the sinister things which have been spoken about in today's debate and earlier than today. It is a perfectly simple and straightforward explanation. I would say to members: Do not interfere with that clause.

**Mr Quinlan:** What is section 13 of the Act about?

**MR HUMPHRIES**: There is no Act. It is a clause in a Bill, Mr Quinlan. It is not part of this debate, but I will take the interjection anyway. Clause 13 of the Bill is about regulating the way in which a person is able not to engage in the activity of an abortion, advice about an abortion or counselling in respect of an abortion.

**Mr Quinlan**: Isn't that sufficient?

**MR HUMPHRIES**: It is probably extra icing on the cake. It probably, to some degree, doubles - - -

**Mr Quinlan**: Belt and braces.

**MR HUMPHRIES**: Yes, it is belt and braces. Mr Speaker, I make no apology in this case for being extremely cautious about this. I do not want, in any way, to affect the work of some institutions in this city - - -

**Mr Berry**: You call yourself a law officer. No wonder you are in politics.

**MR SPEAKER**: Order!

**MR HUMPHRIES**: I do not know why they are so astonished over there, Mr Speaker. It is a perfectly simple explanation. I would say to members that having that provision there in that form is quite important. It was put there on the advice of senior counsel and I would strongly urge members of the Assembly not to interfere with it.

**MR BERRY** (11.20): Mr Speaker, that is the most extraordinary piece of footwork that I have seen for a while. Flim-flam is the best description. There is a specific provision in the legislation and the relationship to the Crimes Act is referred to as serving the same purpose and described as belts and braces. What it demonstrates is the need to accommodate a certain ideology in relation to the crime of abortion rather then anything practical as is prescribed by later provisions under clause 13. It shows the gutlessness of those who have been working on this legislation for some time to deal with the Crimes Act. When I first looked at this Bill and it became clear that we were going to get past the in-principle stage, I had it in mind to try to draw up some amendments in relation to that, but I did not think that it was appropriate to do so without looking at what could be the unforeseen and unintended consequences of the amendments in saying things such as: "An abortion conducted under this Act could be regarded as a lawful abortion".

I would want to be a little careful about that so that I fully understood some of the implications. The implication which Mr Humphries has just described is bizarre, given the specific provisions of the legislation later on. It is curious - I think "bizarre" is better - but it is nonetheless a - - -

**Mr Humphries**: It is based on legal advice, Wayne. You are making a fool of yourself.

**MR BERRY**: Responding to the interjection, it was a remarkable piece of footwork. I would like the chief law officer to get up, spare us any further commentary on the parallels with clause 13 of the Bill, and tell us why it cannot be excluded. I appeal to the chief law officer to tell us why we cannot delete clause 3. Will you get on your feet and tell us that? Give us another version. Spare us the parallel with clause 13.

**MR QUINLAN** (11.23): I will speak again for just 30 seconds, Mr Speaker, to repeat what I observed earlier, that is, that this mini-debate that we have had again emphasises the fact that this legislation has become, through haste, through recobbling and through the desire to ram it through, a dog's breakfast.

**MR MOORE** (Minister for Health and Community Care) (11.24): No, Mr Speaker, it is not a dog's breakfast at all. What clause 3 does is maintain the status quo; it is as simple as that. It maintains the status quo, which is the very thing that you are trying to achieve.

**Mr Berry**: That is different from the Crimes Act.

**MR MOORE**: No, it is not. I just said it in a more succinct way.

**MR BERRY** (11.25): This is just amazing. We have another version.

**Mr Humphries**: It is the same thing.

**MR BERRY**: No, you did not say anything about the status quo. What you said was that it was a belt and braces approach and that it provided for protection particularly for Catholic organisations who did not want to provide abortion services. That is what you said. Then it was drawn to your attention that clause 13 actually did that. You were very quick on your feet, saying, "No, this is belt and braces". Then Mr Moore gets to his feet and says, "No, no, no, this is status quo".

**Mr Humphries**: They are both the same thing, Wayne. If you cannot figure that out, you are up too late.

**Mr Moore**: It is all right. I will try to say it slower for you next time.

**MR BERRY**: Insults do not assist the cause much. Does status quo mean that this is needed to protect the Catholic institutions? I think they are protected by clause 13; so it would seemingly render this unnecessary. Or does status quo enshrine the effect of the Levine and Menhennitt rulings, which Mr Humphries says it is thought have application so far as the common law in the ACT is concerned? It strikes me that there is a little bit of confusion about this, that this has been put in there for some ideological reason rather than for any practical one. If it is superfluous to the Bill, why is it there? Why can it not be excluded? Will somebody tell me how it would undermine the legislation if it were taken out? Can somebody who knows about these things tell me that? Can a lawyer tell me that?

**MS CARNELL** (Chief Minister and Treasurer) (11.26): Mr Speaker, for the information of members, it might be appropriate, particularly for Mr Berry's purpose, to read into *Hansard* the legal opinion on this clause. The legal opinion is:

> This clause makes clear that a person who fails to comply with a requirement of the Bill in relation to the performance of an abortion can, nonetheless, perform the abortion lawfully for the purposes of the Crimes Act. Conversely, a person could comply with the requirements of the Bill but be found guilty of performing an unlawful abortion under the Crimes Act.

It goes on:

> It is useful to clarify the relationship of this legislation with the Crimes Act provisions.

Quite simply, that is the reason it is there.

Clause agreed to.

Clause 4

**MR MOORE** (Minister for Health and Community Care) (11.28): Mr Speaker, I move amendment No. 2 circulated in my name:

> Page 2, line 26, definition of "approved facility", omit "prescribed in the regulations for the purposes of this definition", substitute "approved under subsection 12(1)".

Mr Speaker, amendment No. 2 is actually consequential on amendment No. 20. Between them these amendments improve the way in which the concept of "approved facility" is handled. I will come back to it, Mr Speaker, in terms of amendment No. 20.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (11.28): I move amendment No. 3 circulated in my name:

> Page 2, line 31, paragraph (a) definition of "medical emergency", omit the words "and irreversible".

Mr Speaker, amendment No. 3, together with amendment No. 4, proposes the removal of an unnecessary restriction from the definition of "medical emergency". Limiting emergencies to medical situations involving irreversible harms would rule out some situations. What I have sought to do is remove the irreversible harms section, Mr Speaker, and open it somewhat.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (11.29): Mr Speaker, I move amendment No. 4 circulated in my name:

> Page 3, line 1, definition of "parent", omit the definition.

This amendment is consequential, but it brings on perhaps the most contentious issue that we will debate, and I think it is critical to understand that. It brings on the debate about the position of women who are under 18 years of age. The amendment deals with omitting the definition of "parent" and begins a process that I deal with in amendment No. 15. This amendment and amendment No. 15 set out the requirement that I propose to put in place. It is not good enough to require consent and apply procedural requirements. I propose this alternative. I am very keen to have members support it. Amendment No. 15 is the one that provides a comprehensive requirement for consent, rolling the information requirement and the cooling-off period concept into one. I would be very keen not to have it as a legal requirement at all, but I urge members to look at it in terms of the package. The most important part of that is that it begins the process of getting rid of the discrimination against people who are under 18 years.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (11.31): Mr Speaker, I move amendment No. 5 circulated in my name:

> Page 3, line 8, definition of "responsible officer", omit the definition.

Amendment No. 5 is also a consequential one. This amendment is merely a tidying up of other amendments. The term "responsible officer" was used in two places originally. Because of the way the amendments work it will need to be in only one place. Therefore, it does not need to be defined. It is really just about neatness.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (11.32): Mr Speaker, I move amendment No. 6 circulated in my name:

> Page 3, line 17, definition of "unrelated medical practitioner", omit the definition.

Amendment No. 6 is to do with the unrelated medical practitioner. This amendment is part of the process of implementing a new set of information requirements applying just to a single doctor. Members should refer to my amendment No. 11 in considering the amendment. Amendments Nos 12 and 13 will be consequential. My proposed amendments are simpler, less restrictive and do not interfere with the patient-doctor relationship. They allow continuity of care. In addition, the inappropriate sense of wrongfulness and insult to a doctor's integrity and reliability would be removed.

Amendment agreed to.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.33): Mr Speaker, I move amendment No. 1 circulated in my name:

> Page 3, line 17, insert the following definition:
>
> " 'unrelated medical practitioner' means a medical practitioner who -
>
> (a) is not employed by or engaged in the management of; and
>
> (b) does not have a direct or indirect financial interest in;
>
> an approved medical facility other than one prescribed for the purposes of this definition;".

We have just deleted the old definition of "unrelated medical practitioner" and my amendment puts in a new definition of "unrelated medical practitioner". I would like to explain simply what it does. The old provision which has just been deleted excluded the medical practitioner who was employed by or associated with an approved facility or was a partner of or a business associate of a person employed by or associated with an approved facility from being the practitioner who might provide advice to a woman about the consequences of, the risks of, and so on, an abortion, before she went to that particular approved facility to get an abortion conducted.

Mr Speaker, my amendment restores some of the notion of proximity between the abortion clinic and the practitioner providing advice about an abortion and allows another clause later in the legislation to make that kind of proximity inappropriate. I put it to the Assembly on this basis: In a whole series of situations we accept that certain people have conflicts of interest in providing information or services to other people in particular situations. For example, if Mr Moore and I went to a solicitor and said, "I want to buy Mr Moore's house and we would like you to act for both of us", that solicitor would be bound to refer both of us to independent legal advice to see whether it would be appropriate for the one solicitor with a potential conflict of interest to act for both of us.

That is an example of where ethical practice requires that there be a separation where a potential conflict of interest might arise. I put it to the Assembly that the situation where a medical practitioner who has a certain association with an abortion clinic is in the business of providing advice to women who come through the door which in turn would lead them to go to that abortion clinic to have an abortion is the kind of conflict of interest which normally this Assembly would frown upon, would argue against, and would work against in legislation of an analogous but different type.

What kind of relationship am I saying under this amendment ought there not to be between a medical practitioner and the approved facility concerned? What I am saying is that the medical practitioner concerned should not be employed by or engaged in the management of an approved medical facility, nor should he or she have a direct or indirect financial interest in that facility. So, what we have here is a situation where a doctor

who was employed, to take a specific case, by Reproductive Healthcare Services would not be able to provide independent advice under this legislation to a woman who came through the door and who was proposing to go to Reproductive Healthcare Services to get her abortion.

I say to members that that is a perfectly logical kind of barrier to inappropriate relationships and inappropriate perceptions of conflict of interest arising. It is an entirely appropriate state of affairs to guard against and a very appropriate reason why there ought to be some prevention of that kind of thing taking place.

Mr Speaker, this has been referred to by some as a provision which closes down the Family Planning Clinic that conducts abortions. That, Mr Speaker, I think is a gross exaggeration. What it does is says that the Family Planning Clinic needs to ensure that a doctor it has within its premises - if it wants to have a doctor within its premises, that is fine - to provide advice to women about an abortion, which is fine as well, should not be employed by Reproductive Healthcare Services Ltd, nor should he or she be engaged in the management of that organisation or a shareholder in or director of that organisation.

That, Mr Speaker, is not an inappropriate thing to ask for. In other settings, in analogous settings, the Assembly would demand at least that much separation between people with a potential conflict of interest. We would demand it in other settings. It should be no different merely because we are talking here about a person seeking an abortion. If we expect information to be provided objectively, then there is no reason why the information cannot be provided by a person who is even located physically within the walls of the Family Planning Clinic. But to expect that the person can be entirely independent and offer impartial advice to a woman when that practitioner, for example, is actually employed by the very clinic which is going to conduct the abortions is inappropriate. It is a leap of faith to expect that in all cases that practitioner will divorce himself or herself from the interest that they have in, or the obligation that they owe to, the abortion clinic when they are providing the advice to the woman who has come through the door.

Mr Speaker, I would say to members: Imagine that we are talking about something entirely different, some different kind of service. Members would not hesitate to say, "Yes, there should be an appropriate separation". It should not be any different merely because we are talking tonight about abortion. That separation should be there. It might be seen merely as a Chinese wall, but at least it preserves some modicum of separation between the person providing the advice and the organisation actually conducting the abortion. That is a fair and appropriate separation.

**MR MOORE** (Minister for Health and Community Care) (11.40): Mr Humphries spoke, I thought, very eloquently about conflict of interest, and I hope that I can speak almost as eloquently about continuity of care. What this amendment that Mr Humphries puts up interferes with is the doctor-patient relationship. This is about continuity of care. Let me give another example, rather than use the one that Mr Humphries gave. Rather than use the Family Planning Clinic, let us move to the hospital. Let us take somebody whom we have all heard speak, Professor Ellwood, who is a world authority on foetal abnormality.

Let us take a situation where Professor Ellwood has taken a woman through a most difficult situation, understanding that the foetus that she is carrying is abnormal in perhaps a very significant way. She, in turn, has made her decision to have that foetus terminated. Now Professor Ellwood has to say, "Sorry; I have been giving you the information. You will now have to go elsewhere. We are associated with the hospital, and you will have to go".

**Mr Humphries**: It does not do that.

**MR MOORE**: It does do that, Gary, and you know it. It seems to me, Mr Speaker, that, as Mr Humphries said, it also applies specifically to the Family Planning Clinic. I was very keen to remove the area that I did, because I thought it was unacceptable. I must say that in this case the new amendment that Mr Humphries puts up, although it is not quite as unacceptable, is still unacceptable. I think that what we have to do is ensure that the medical practitioner who is involved with the clinic does have the ability to deal with continuity of care.

Mr Speaker, there is something else that is implied in here - that is, direct or indirect financial interest. Of course, doctors are entitled to their return when they carry out a procedure. There is no question about that, and nobody should consider that a problem. But the Family Planning Clinic is not a hugely profitable organisation. Mr Berry would remember, from when he was Minister for Health and in fact established it, that large sums of money are used to support Family Planning in the whole range of work they do, including in this facility.

This is not a huge profit-making organisation where greedy doctors are taking advantage of women. Rather, Mr Speaker, this is a situation which people reluctantly go into to support women who have found themselves in very difficult situations. It is under those circumstances that the continuity of care becomes so important. That is what this is about. It is not about conflict of interest; it is about continuity of care. That is why we must reject this amendment put up by Mr Humphries.

**MR SMYTH** (Minister for Urban Services) (11.43): Mr Speaker, it is quite appropriate to get independent advice from an independent source. To go to an employee of the same company that is giving you one piece of advice, in the expectation that you may get differing advice, is not sensible. It is right for it to be separated. It is quite right for this to be included in this Bill.

**MS CARNELL** (Chief Minister and Treasurer) (11.44): Mr Speaker, I will be opposing this amendment. I will be opposing it on straight, practical grounds. I can understand what Mr Humphries is trying to do in this legislation, but I have to say that it is at odds with medical practice. Let us just think about how medicine works generally - say, at a health centre. To carry Mr Humphries' arguments all the way through, if you went to a GP at a health centre, then that GP would not be able to refer you to anyone else in that health centre - the dietitian, the physio or whatever - on the basis of conflict of interest. Obviously, if you did not trust that GP in that health centre to provide sensible medical advice, that GP potentially would have some benefit by referring you to someone else in their own clinic.

But this is probably more important, Mr Speaker. Let us say that you go to a cardiac specialist. The cardiac specialist says, "Ms Carnell, you are in big trouble here. Your arteries are blocking up. You are going to have to have an operation". On the basis of Mr Humphries' argument, you would have to go to another specialist, because that specialist, by suggesting an operation that he or she would then provide, would obviously have a conflict of interest and therefore could not actually do your surgery. Mr Speaker, that is quite absurd.

The other thing that concerns me, I suppose, at very much a grassroots level, is that the Family Planning Clinic itself is a very important clinic providing day-to-day GP services for many women in Canberra; that is, the clinic - not the abortion clinic; the actual Family Planning Clinic. It has GPs and other services available to women generally. The Family Planning Clinic itself, as I say, has many Canberra women as clients. What this would do is rule the Family Planning Clinic, as a GP clinic, out of the - - -

**Mr Humphries**: No.

**MS CARNELL**: Actually it would rule it out of the cycle, shall we say. The Family Planning Clinic is run by the Family Planning Association, which also owns or is the operator of the abortion clinic, and therefore would fall out under "not employed or engaged in the management" and so on, Mr Speaker. On that basis, we would have a stupid situation where somebody who was going to a GP at the Family Planning Clinic, who had gone to that GP for a long time and who now became pregnant, would be forced to go to another GP, who knew nothing about the background of the patient at all. In fact, he would probably have to ring the GP at the Family Planning Clinic to find out about the patient to provide some information.

**Mr Humphries**: What a load of baloney, Chief Minister.

**MS CARNELL**: It is absolutely true, Mr Humphries, and you know it. Mr Speaker, on the basis of those issues, I do not think any of us would want to upset the viability of the Family Planning Clinic or rule the Family Planning Clinic out of this whole patient care scenario - this continuity of care deal. You cannot argue that doctors that are giving advice on abortions are somehow less professional than GPs at health centres or cardiac specialists. That is what this says - that they cannot give balanced advice that we expect from every other doctor in our health system.

**MR OSBORNE** (11.48): I will be supporting Mr Humphries' amendment, Mr Speaker. I supported the deletion of what was in the original Bill, knowing that Mr Humphries was going to put up this modified version, mainly to cover, I thought, the issue of the hospital. I think that this issue is different from someone going to visit their cardiologist or any other doctor in relation to an operation. When the majority of people go to see a doctor of that nature they really have no choice. I find that debate interesting. There needs to be some sort of distance from the people making an income out of women who have an abortion. I think that Mr Humphries' amendment is quite sensible. I find it odd that someone should be going to a doctor for advice when there is a good chance that the doctor is going to make money if the client goes a certain way. I am not implying that there is anything wrong with that, but we would like there to be some distance in issues like this. Mr Humphries' amendment is a fair compromise.

The abortion clinic is a million dollar operation. I have some figures here. It is over $500 for the operation. If the figure of 2,000 abortions a year is correct, that is over $1m. We are talking about an industry that generates a lot of money. Because of the possibility of a conflict of interest, I will be supporting the amendment put up by Mr Humphries.

**MS TUCKER** (11.50): I will not be supporting Mr Humphries' amendment. I said this morning, but I will say it again, that I think it is a particularly paranoid and conspiracy-oriented approach that comes from Mr Osborne and Mr Humphries on this matter. It is just an astounding premise to say that doctors want to make women have abortions because they want the money; that women know nothing about what they are doing; that we have to make sure they understand absolutely everything; that we should test them if we can; and that we should get it into the legislation.

If this is about maternal health - and I believe that is what this Bill is called - how is it in the interests of the health of women to deny them access to the people who have expertise in this area in the ACT? That is exactly what this amendment would do, and it must be opposed.

**MR RUGENDYKE** (11.51): Mr Speaker, I also will not be supporting this amendment. In my mind, it implies a serious distrust of medical practitioners which I certainly do not subscribe to. I therefore will not support this amendment.

**MR BERRY** (11.52): I listened to Mr Humphries' speech in relation to this matter. First of all, Mr Moore was going to remove this provision and explained his reasons, then Mr Humphries explained how he was going to put it back. The chief law officer went to great lengths to put to us all of his reasons, but he did not once mention clause 7 of the Bill.

**Mr Humphries**: We are not voting on clause 7.

**MR BERRY**: You did not once mention it. I think Mr Moore was being very kind or confused when he described your contribution as eloquent. I would have called it deceitful. The first law officer really should be a little bit more open than that when he is describing laws of the Territory. This is one of those whacko hurdles that are put into place from an ideological position. I cannot believe that this would be tried on. The whole thing is bizarre. The way it is coming from the Government and everybody else opposite is quite bizarre. I think Mr Humphries' contribution was whacko.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.53): Mr Speaker, I am astonished by how trusting of doctors members of this place have suddenly become. After years of that side of the chamber telling us what charlatans doctors are and why we should not trust doctors as far as we can throw them, suddenly today they tell us that doctors will do the right thing when it comes to advising about abortion; that they will not break the rules; that they will be good guys and girls - - -

**Mr Quinlan**: That is the good old family doctor we are talking about now.

**MR HUMPHRIES**: That is right. Perhaps we can call Dr Bates up to give evidence before your committee.

**Mr Moore**: You are getting less eloquent, Gary.

**MR HUMPHRIES**: Am I? I think that there is a need for separation, and I commend my amendment to the Assembly.

Amendment negatived.

**MR STANHOPE** (Leader of the Opposition) (11.54): I want to raise just one issue. I will raise it by way of debate and hopefully elicit a response from the proponents of the Bill. It relates to the continuing concerns about the way we have done this, and what it all means, and debate about whether or not it is relevant to have included in the legislation references to the Crimes Act. I noticed just by chance that the new Bill, the Health Regulation (Maternal Health Information) Bill, contains a different definition of abortion from the one in the Crimes Act.

**Ms Carnell**: That is not too surprising.

**MR STANHOPE**: It is very surprising to me. It is the sort of issue that concerns me about this process we are engaged in. This is the great worry about proceeding down this path. We have in the Crimes Act a definition of abortion. We have in this health information Bill a different definition of abortion.

**Ms Carnell**: It is not too surprising.

**MR STANHOPE**: It is very surprising and it is very worrying. If legal action were taken, this is the sort of thing that would really excite the judiciary. All of a sudden there is a separate set of words. Minor as the difference may be, I wonder whether somebody could tell me why we should use different definitions of abortion in separate legislation and what the implications of that are.

**MR MOORE** (Minister for Health and Community Care) (11.56): Mr Speaker, I am happy to respond to that question, because I have been fortunate to have my senior adviser, Malcolm Baalman, assisting me on this Bill, doing work late into the night. We normally do not mention the names of our advisers, but in this case I want to because he has done so much fantastic work, very late at night and right across weekends, to make sure that this legislation is the least noxious, or obnoxious, legislation. That brings us to the very word that is the difference between the two pieces of legislation. As I understand it, the advice given to him by Parliamentary Counsel was that the difference in wording, as you say, Mr Stanhope, is minor. The word "noxious" was omitted because Parliamentary Counsel considered that the word was old-fashioned, that it was not necessary to keep the definitions exactly the same, and that it was more appropriate to draft the definition in modern language. The explanation is rather simple.

Clause, as amended, agreed to.

Clause 5

**MR MOORE** (Minister for Health and Community Care) (11.57): Mr Speaker, I move:

> Page 3, line 28, subclause (1), omit "Imprisonment for 5 years", substitute "50 penalty units".

This is amendment No. 7 circulated in my name, the penalties amendment. I propose that we omit "Imprisonment for 5 years" and substitute "50 penalty units", in other words $5,000, a penalty unit being $100. The reason for this amendment is that penalties ought to be set as penalties for procedure infringements, not as penalties for criminal behaviour. After all, this is health regulation legislation; it is not criminal law. Therefore, we must make sure that the penalty is appropriate. The notion of five years' imprisonment for breaching a health regulation is way over the top.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.58): Mr Speaker, in clause 5, subclause (1) refers to a person who is not a medical practitioner and subclause (2) refers to a person performing an abortion except in an approved facility. What kind of approach are we trying to identify? What kind of activity are we trying to outlaw or stigmatise with this particular provision? The best description I can use in respect of that kind of activity is that of a backyard abortionist, a person who conducts an abortion outside an approved facility when he or she is not a medical practitioner.

I do not know about other members of this place, but I think that backyard abortionists deserve at least five years' imprisonment. I think that people conducting activities in that unsafe way without proper qualifications pose a huge risk to the safety of the women concerned, and their activities should not be condoned in the slightest way by the lowering of the penalty that we impose in an area such as this. Mr Speaker, the penalty was chosen not especially because of a desire just to pluck a figure out of the air and put it in there but as the kind of penalty you might find in other provisions for an offence of similar gravity.

Why should a person without qualifications who conducts abortions in an unsafe or unapproved place be able to avoid the most serious penalties that the law can provide? Why should that person not receive a penalty of imprisonment for five years? Obviously, they will not get the maximum. Obviously, for a first offence someone would get something much more like six months or even less. I think it is quite appropriate to attach a severe penalty to this provision. We are talking about something which is extremely serious. I would be very surprised if any member of this place felt that we should send a signal that a $5,000 maximum fine for these sorts of activities is not all that bad. That is only for the most severe cases of repeat offenders. More likely, a person on a first offence would get a $500 fine for conducting a backyard abortion. That does not seem to me to be appropriate at all, Mr Speaker. I think the penalty provided in the Bill is appropriate.

**Thursday, 25 November 1998**

**MS CARNELL** (Chief Minister and Treasurer) (12.01 am): Mr Speaker, I think it would be very strange if we had in legislation a penalty for a non-doctor who conducts an abortion that is very different from the penalty for a non-doctor who does brain surgery. That is really what this is about. It is about bringing penalties into line. In other legislation, there are penalties for people who are not doctors performing medical procedures.

**Mr Humphries**: What are they?

**MS CARNELL**: The same as this. This amendment, I am advised, brings the penalty into line with the Medical Practitioners Act.

As Mr Humphries says, if a backyard abortionist in any way causes a health problem for the woman involved, then it will not be with an offence under this clause that that person is charged. It will be the offence of grievous bodily harm, an offence with a significantly higher penalty. If somebody not a medical practitioner conducts an abortion or brain surgery in an inappropriate facility, the least of their worries would be this legislation. There would be much higher penalties under other pieces of legislation.

This amendment, on my advice, brings this legislation into line with the Medical Practitioners Act, which provides for a penalty of 50 penalty units or six months' imprisonment, or both.

**MR OSBORNE** (12.03 am): Mr Speaker, I will be voting against this amendment. This is a very important issue, as Mr Humphries indicated. This is about people who are not doctors performing backyard abortions. If someone who is not a doctor performed brain surgery, they would probably be charged with murder. I think it is very important that we keep this penalty in the Bill. As I said, it does not relate to anyone other than an unqualified person who performs an abortion. I think Mr Humphries' argument was very sensible. I would encourage members to leave this penalty in the Bill, because I think it is very important.

**MR QUINLAN** (12.04 am): Mr Speaker, I find myself in strange territory agreeing with Mr Humphries, but I will not make a habit of it, I promise you. I rise to say that it is a great pity that we have to have a provision like this at all. If we have complete choice available to women, then this will become an obscure part of the law, I hope and trust. I cannot agree with the amendment.

**MR SMYTH** (Minister for Urban Services) (12.05 am): Mr Speaker, I confirm that I too will agree with Mr Quinlan. Therefore, we all find ourselves on somewhat strange ground. This clause is a clear signal to the community that a return to the backyard is not acceptable; that it will not happen. I think backyard abortion is a very serious crime, and we should make the punishment a very serious punishment. A fine of $5,000 is not a serious punishment. Five years in gaol sends a clear indication that this Assembly does not endorse a return to the backyard. I too will reject the amendment.

**MR BERRY** (12.05 am): Mr Speaker, this point sends an important signal to me. This tells us all the reasons why we do not need this legislation. It is covered in other places. This legislation is really superfluous. This brings me to a point that I was just reminded of. What about legislators who are not qualified? It strikes me that we do not have the qualifications to properly assess this legislation, as is demonstrated by the point that we do not need this provision, because it is covered elsewhere. That is the very point that we have been making all along about this legislation and the amendments.

**MR MOORE** (Minister for Health and Community Care) (12.06 am): Mr Speaker, the last part of Mr Berry's argument is the silliest one he has ever put up. You do have a qualification. Mr Berry, you have the best qualification of all. You were elected by the people of Canberra to consider legislation and to put it through. That is the qualification that we all have. That argument would apply to every single piece of legislation that we deal with. Having listened to Mr Humphries, I will not be worried greatly if I lose this amendment. Clearly the numbers are against me.

The reason for my amendment was just to keep the penalty consistent with the penalty in other health legislation and to allow the other forms of legislation to carry it, but I am quite happy. Members will note that the next amendment we deal with is almost identical but I will argue much more strongly for a different position from that sought by Mr Humphries. In this case none of us would like to see an unqualified backyard abortionist carrying out an abortion. I can easily see the sense of the argument.

**MR STEFANIAK** (Minister for Education) (12.07 am): Mr Speaker, I would support the original five years too. I think it is important to have a deterrent. I think Mr Humphries, Mr Smyth, Mr Osborne and Mr Quinlan are quite right in that regard.

Amendment negatived.

**MR MOORE** (Minister for Health and Community Care) (12.08 am): Mr Speaker, I seek leave to move amendment No. 8 circulated in my name.

Leave granted.

**MR MOORE:** I move:

> Page 3, line 31, subclause (2), omit "Imprisonment for 5 years", substitute "50 penalty units".

Mr Speaker, on the face of it, this amendment looks to be exactly the same as the previous one, but in this case we are talking about a provision that says, "A person shall not perform an abortion except in an approved facility". I want members to picture a terrible Health Minister - not a wonderful one like me, or Mr Berry had he been Minister for Health - who would not approve a facility. Of course such a decision would be subject to the Assembly's review, but let us just picture that situation. If a medical doctor performs an abortion other than in the approved facility, perhaps in a private hospital somewhere in appropriate conditions, he could wind up with a five-year gaol term.

I think that is an entirely inappropriate thing. For a medical practitioner who performs an abortion in a private hospital not aware that the facility has not yet been approved or does not have the appropriate rating, a five-year gaol sentence is entirely inappropriate. Therefore, I would encourage members to take a different view on this amendment from the view they took on the previous one.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (12.10 am): Mr Speaker, I would again press the Assembly to retain the provision that is in the Bill at the moment - five years. Mr Moore has described a breach of subclause (2) as being less serious. You can understand why one might regard it as being not especially serious if, in the rather unlikely situation, a Minister has not approved a place as an approved facility and a doctor goes ahead and performs an abortion there. In that situation you could well imagine why a particularly serious penalty should not apply. Of course, in those settings a particularly serious penalty would not apply, because the court, which would exercise the judgment here, would say, "In all the circumstances it is hardly a serious offence", and it would probably not impose any term of imprisonment at all.

But let us look at the other end of the spectrum. Let us look at where you have a person conducting abortions in entirely inappropriate settings - in his private home, for example, with unhygienic, unsterilised equipment - which pose a considerable threat to the health of the woman concerned. In those circumstances you want a capacity to impose a heavy penalty. Let us suppose for argument's sake that a doctor has decided to do some cheap abortions on the side for people who for various reasons perhaps do not qualify to have abortions under the legislation or because the doctor wants a bit of income on the side or whatever, and he conducts some abortions in his own home. In those circumstances there are good reasons why we should say that that is a serious offence and should be punished in an appropriately serious way, not with a maximum fine of $5,000. Mr Speaker, I would press members to consider what is in the Bill as it stands and to support that provision.

**MR QUINLAN** (12.12 am): Sweet release, Mr Speaker. I find myself disagreeing with Mr Humphries again. Unfortunately, that implies agreeing with Mr Moore. However, you cannot have it all ways. Having set the penalty in subclause 5(1), I think we can look at this particular circumstance in perspective. I do not believe that it needs to be five years' imprisonment. It is not a crime of the same magnitude. If a doctor is, at the same time, guilty of malpractice and improper procedure, et cetera, I am sure there are other penalties that would be very rapidly applied, so I cannot see the real necessity for such a heavy penalty in this particular circumstance.

**MR SPEAKER**: Do you wish to participate, or are you just having a bit of exercise there, Mr Berry?

**MR BERRY** (12.13 am): Mr Speaker, if I were you, I would stick with the Speaker's job. As a comedian, you would not make a bob. Again, this is an area which is probably dealt with in other legislation. I find it curious that we are trying to create the impression that backyard abortion is going to be a growth industry. I was listening to Mr Humphries telling us earlier how this law was not going to make any difference to the availability of abortion, yet there seems to be this intense view from Mr Humphries

and some of his supporters that you need to guard against backyard abortions as if they are going to be a growth industry. Under the current arrangements there is no evidence that backyard abortionists are operating in unapproved places or carrying out anything untoward. I am troubled by what you told us earlier, Mr Humphries. You said that this Bill was not going to mean anything to the provision of abortion services other than the requirement to provide information.

**Mr Humphries**: I did not say that. I do not know where you got that from. I did not say that.

**MR BERRY**: Okay. I think you said that it was not going to impair the operation of the abortion clinic.

**Mr Humphries**: In approved facilities; that is right.

**MR BERRY**: While ever that clinic has been there, there has never been any suggestion to me - indeed there was not any such suggestion before it was there - that people have been carrying out these services in unapproved facilities. When the only approved facilities were in public hospitals, people had to go elsewhere. Are you not being a little bit paranoid about this? It strikes me that it is covered elsewhere, and I just cannot understand why you are pursuing it. Why are you panicking about this?

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (12.15 am): Mr Speaker, I am extremely suspicious of the argument that because we have not seen any cases of backyard abortions before they are unlikely to take place in the future. The fact is that we do not know whether abortions have been conducted in inappropriate places in the past. If someone has an abortion in that way and manages to survive it, presumably they might have reasons for not wanting to disclose it to anybody else. I do not think we can draw any conclusions from the fact that, to the best of my knowledge, there have not been any prosecutions in recent years for conducting abortions in a particular way.

I am not aware of any other place where legislation like this would be covered. I ask members to look at that clause as it stands. If a person who is not a doctor conducts an abortion, then the penalty is five years' imprisonment, but if a person conducts an abortion in an entirely inappropriate place, without proper facilities, without proper sterilised equipment, without opportunities to provide emergency care to a woman should there be some emergency or some sudden relapse in her condition, then we are providing for a maximum penalty of $5,000. It seems to me grossly out of proportion. I would say to members that we should think about being consistent here. Even in other legislation that Mrs Carnell referred to, the penalty was actually $5,000 or six months' imprisonment. That was just for a doctor not being registered when conducting an operation. Mr Speaker, I think there is a case for preserving some seriousness, and I do not think $5,000 does it.

Amendment agreed to.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (12.17 am): Mr Speaker, in light of what the Chief Minister said before, I ask for leave to move an amendment to subclause 5(2).

Leave granted.

**MR HUMPHRIES**: I move:

> Page 3, line 31, add the words "or imprisonment for 6 months, or both".

Mr Speaker, this is to bring this provision into line with what the Chief Minister was talking about before - equivalent penalties in other legislation. I realise that the choice between five years' imprisonment and $5,000 is a very big gap. I am suggesting that we should compromise a little bit by having some sentence of imprisonment for a person who conducts an abortion in a grossly unsafe place. I will not speak at any further length. I think I have already made my case fairly clearly. I would ask members to consider whether it is appropriate to put in some kind of penalty which is more than just money. Let us face it. Doctors are generally able to meet those sorts of penalties reasonably comfortably. Therefore, we should provide for some other more severe deterrent against people conducting abortions in inappropriate places.

**MR QUINLAN** (12.19 am): I think I have to agree with Mr Humphries again. I think the point is well made that the $5,000 may be well within the reach of the MDs, so I will agree.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 6

**MR MOORE** (Minister for Health and Community Care) (12.20 am): Mr Speaker, I ask for leave to move amendments Nos 9 and 10, circulated in my name, together.

Leave granted.

**MR MOORE**: I move:

> Page 3, line 32, Heading, omit "**without certificate that**", substitute "**unless**".
>
> Page 3, line 34, subclause (1), omit the subclause, substitute the following subclause:

"**(1)** A person shall not perform an abortion on a woman unless -

(a) information has been provided to her in accordance with section 7; and

(b) a statement to that effect has been duly completed in accordance with section 8.

Penalty: 50 penalty units.".

These amendments provide for a new clause 6 redrafted to match my more moderate arrangements regarding required information and simplified documentation. This is the first of a set of interrelated and consistent amendments which would amend clauses 6, 7, 8 and 9 of the Bill to give moderation to the procedures and bring balance to the language used. A total of 14 amendments are involved in this set, but the key ones are 10, 11, 14, 15 and 26. The plan on page 6 of the explanatory memorandum will assist members to see the scheme of these amendments.

In considering these amendments to clause 6, members should refer in particular to my proposed section 7 in amendment 11 and my proposed section 8 in amendment 14 for their cross-references with the amendments we are now considering. I urge members to examine the clauses in the paste-up version which I have circulated. The paste-up version makes it very easy to read. I think you will find that we have drafted a simpler, more useable, less problematic set of words. I urge members to support all the amendments in this set.

My amendments 15 and 16 also relate to under-18s. If members are supporting Mr Osborne on those provisions, then some secondary amendments will be needed. My judgement - I hope I have it right - is that this Assembly will not support Mr Osborne's notion of the under-18s. If that is the case, it will not be a procedural problem for us.

Amendments agreed to.

**MR MOORE** (Minister for Health and Community Care) (12.22 am): I move:

> Page 4, line 1, subclause (2), omit "in the case of a medical emergency", substitute "where the person honestly believes that there is a case of medical emergency involving the woman".

This is amendment No. 10A circulated in my name. This amendment addresses one of the issues raised in the second letter of the Director of Public Prosecutions. He had two concerns that we had not addressed. This is one of them.

**Mr Berry**: Why do you say "honestly believes"?

**MR MOORE**: They are the exact words that Mr Refshauge, the Director of Public Prosecutions, suggested. He said that there could be debate about just saying "in the case of a medical emergency" and that it would be more effective to say "where the person honestly believes that there is a case of medical emergency involving the woman". I have taken the words directly from Mr Refshauge's letter.

Amendment agreed to.

Clause 6, as amended, agreed to.

Clause 7

**MR MOORE** (Minister for Health and Community Care) (12.24 am): Mr Speaker, I ask for leave to move amendments Nos 11, 12 and 13, circulated in my name, together.

Leave granted.

**MR MOORE**: I move:

> Page 4, line 3, subclause (1), omit all the words after "abortion", substitute the following:
>
> "a medical practitioner shall -
>
> (a) properly, appropriately and adequately provide the woman with advice about -
>
> (i) the medical risks of termination of pregnancy and of carrying a pregnancy to term;
>
> (ii) any particular medical risks specific to the woman concerned of termination of pregnancy and of carrying a pregnancy to term;
>
> (iii) any particular medical risks associated with the type of abortion procedure proposed to be used; and
>
> (iv) the probable gestational age of the foetus at the time the abortion will be performed;
>
> (b) offer the woman the opportunity of referral to appropriate and adequate counselling -
>
> (i) about her decision to terminate the pregnancy or to carry the pregnancy to term; and

(ii) after termination of pregnancy or during and after carrying the pregnancy to term;

(c) provide the woman with any information approved under subclause 15(3);

(d) provide the woman with any information approved under subclause 15(4); and

(e) provide the woman with any information approved under subclause 15(5).".

Page 4, line 17, subclause (2), omit the subclause.

Page 4, line 23, subclause (3), omit "pamphlets provided under subsection (2)", substitute "materials provided under paragraphs (1)(c), (1)(d) or (1)(e)".

Mr Speaker, these amendments catalogue new information requirements. Members will see that the information required is balanced and comprehensive and that the requirement is easy to comply with. It is a reasonable requirement for advice and information that removes the bias that is part and parcel of the Bill. It does not attempt to set any specifics for medical advice. I will be leaving that to the advisory panel to determine. I do not support inclusion of specific medical issues in legislation. I think that is inappropriate. I think that is one of the great weaknesses of the Bill. These amendments will allow the advisory panel to deal with what advice goes into the package that this legislation requires women to be given.

**MR OSBORNE** (12.25 am): I am reasonably comfortable with this compromise, for want of a better term. I need to put on record my belief in clause 7. I feel that it sets out information which is very relevant. I do not disagree with people on the advisory panel looking at the issues, but I am sure that, given the overwhelming evidence in relation to some of these things, they will certainly be identified in the future pamphlet in line with the High Court decision in relation to information that must be provided.

I will support these amendments. I look forward to hearing from the panel about the medical risks of "carrying a pregnancy to term". I would not imagine there would be many but I am reasonably happy about having these words in the clause. I am sure that the people involved in putting together the information will put together something that is balanced.

**MR HARGREAVES** (12.27 am): I rise to support Mr Moore's amendments. My problems with the Bill as it stands is that, in my opinion, it provides only 25 per cent of the argument. The other 75 per cent is missing. That gave me a great deal of concern, even though I did understand the sincere motives of Mr Osborne in bringing forward his Bill.

The amendments also remove the specifics and put the matter into the hands of the profession. My only word of caution on that is that we need to be careful that the panel considering it does not consist only of medical specialists, who in my experience tend to bring only a certain view to matters and often do not express it in written language that ordinary people can understand. Certainly it is often not written in such a form as to be useful to the people we are trying to protect. Those people who are intelligent enough and educated enough to read a lot of this information are not necessarily the ones we are trying to assist, although I would not say that we are not trying to assist them. I think it is reasonable to suggest that a lot of the women who are marginalised by the current processes are the ones who will benefit by a better approach.

Given the extent to which gender bias is loaded towards males, I have foreshadowed an amendment to try to redress that. So long as we have on the advisory panel the same balance as is evidenced in Mr Moore's amendments, I am very happy to go along with the amendments.

**MR QUINLAN** (12.29 am): Mr Speaker, given the stage that we have reached with this legislation, generally one can accept this particular clause. However, I do have objections to paragraph (d) as proposed by the first amendment. Those objections relate back to the original debate, when I talked about the guilt trip that is involved in confronting and graphic information. Instead of information about the welfare of the woman, the welfare of the foetus and the probable consequences of abortion, we are now talking about the provision of quite graphic and confronting drawings or pictures which I do not think would necessarily assist the woman involved in being any more informed but which might well be seen as a deterrent - if I could think of a better word, I would use it - to abortion. I think that we ought to reconsider such a provision in the legislation.

**MR STANHOPE** (Leader of the Opposition) (12.30 am): I support the comments which my colleague Mr Quinlan has just made and I move the following amendment to Mr Moore's amendment No. 11:

> Proposed new paragraph 7(1)(d), omit the proposed paragraph.

**Mr Moore**: That would affect the new subclause 15(4) I propose to insert, because the two are interrelated.

**MR STANHOPE**: That is correct. Quite honestly, I find the proposal that women seeking an abortion be required to peruse documentation relating to the development of a foetus at two-weekly intervals completely unacceptable. The suggestion that a woman presenting for an abortion should, as part of the process of approval, be required to look at pictures, drawings or photographs of a foetus at intervals of two weeks through its development from conception to birth I find grotesque.

For the legislation to demand that before any approval process can be advanced a woman facing a decision on whether or not to undergo an abortion be forced to sit down and look at drawings, photographs or pictures of foetuses at two-weekly intervals is just abhorrent.

Any suggestion that that sort of appalling process should be inflicted on women seeking abortion simply cannot be permitted to remain in this already extremely flawed legislation. The legislation is bad enough without reducing it to this level of total abhorrence. What word should I use?

**Mr Berry**: "Humiliation".

**MR STANHOPE**: That is the word I was searching for. It is absolutely humiliating to expect a woman seeking abortion to be subjected to that sort of treatment. How anybody here can countenance that sort of treatment of women is just beyond me.

I take the opportunity while I am on my feet to ask Mr Stefaniak and Mr Smyth whether or not, on the strength of these sorts of provisions and the discussion that we have had, they are prepared to repeat the assurances that they have given us throughout the day that this is just a Bill providing for the provision of appropriate information to women to allow them to make an informed choice. What utter nonsense your understanding of this legislation has been revealed to be!

**MR SMYTH** (Minister for Urban Services) (12.35 am): Mr Speaker, I believe that this paragraph must stay. At the core of Mr Osborne's Bill is the provision of reasonable information. I find it strange that some would say that simple information that shows foetal development is offensive. Roe, a party in the case of Roe v. Wade, later said that it was not until she saw an anatomical chart that showed foetal development that she truly understood that what we are talking about is not the removal of a lump of cells but in fact the destruction of a human life. This sort of simple information, placed in front of a woman, would confirm the fact that the aborted foetus is a human being. This is fundamental. This is the core of Mr Osborne's Bill and it must remain.

That people would say that this information is grotesque I find very strange, simply because this is the beginning of life, this is growth, this is normal, this is natural and this is something that none of us should be afraid of. This is reality. I refer members to the brochure I distributed that the New Zealand Government put together. In it the New Zealand Government quite ably puts the options open to women. It canvasses pregnancy, it canvasses abortion and it canvasses the damage that can be done to women. At the same time it provides information on foetal development.

Mr Speaker, this provision must remain. I will vote against Mr Stanhope's amendment because it is inappropriate. This is the heart of Mr Osborne's Bill.

**MR OSBORNE** (12.37 am): Mr Speaker, this paragraph is crucial to the legislation, and I certainly will not be supporting Mr Stanhope's amendment. Mr Moore and I have attempted to find some common ground, but there are issues we just refuse to compromise on, and this is one of them. The pictures must stay. New Zealand does it. Most people have seen the information from New Zealand which was put together with the assistance of Family Planning. I find it interesting that people are afraid of pictures. That is what it boils down to.

**MR CORBELL** (12.38 am): Mr Speaker, I will be supporting Mr Stanhope's amendment. Since I first saw the provisions for pictures and drawings in Mr Osborne's Bill, I have held a very strong view that it was purely an attempt to put into a legal framework material which is used by one side of the debate to justify their argument. I do not believe that it is in any way necessary. I believe it is patronising and a deliberate attempt to intimidate women into not having an abortion. The very fact that many of these pictures are used by people who are opposed to women procuring abortions and who protest outside abortion clinics, to me, speaks volumes about why this sort of material should not be included in the Bill. It is used to threaten women not to procure an abortion. I think it is an entirely inappropriate step.

**MS TUCKER** (12.39 am): I also support Mr Stanhope's amendment here. In my speeches earlier today I have already clearly expressed my total rejection of the concept. I will again point out that I believe it is incredibly insensitive and lacks compassion to enforce that kind of procedure onto a doctor-patient relationship. I gave the example of the doctor who sees a woman who desires to have a termination because she has a severely abnormal foetus. The doctor will now have to show that patient pictures of a normal foetus. One wonders how that is in the interests of the health of that particular patient. Once again, as it is with this whole Bill, it is a totally inappropriate and offensive intrusion into the doctor-patient relationship. This is a particularly odious and offensive part of it. I am quite happy to support this amendment, although obviously the numbers will not be with us.

**MS CARNELL** (Chief Minister and Treasurer) (12.40 am): Mr Speaker, there is nothing in any of this legislation that requires a doctor to run through any of this information with anyone. It does not require anybody to sit down and make somebody look at anything. It does not dictate to a woman that she must read and understand and have an exam. In fact, all that is required is a packet of information that has been approved by what will end up being a slightly larger group than was initially planned, but I am quite comfortable about that. Professionals in the area will put together an approved balanced and independent information package.

The legislation requires pictures or line drawings or descriptions of foetal development. As a woman, I find it amazing that people somehow perceive that a woman does not already know and that she is going to be horrified at the whole thought of abortion. If women are presented with a whole package of factual information, I have faith that they have the capacity to take it on board and make a balanced decision.

To suggest that we are being patronising, that women cannot cope with factual information and that it will cause huge guilt trips is to seriously underestimate women. I find it an absolute put-down. I cannot understand why information put together in a medical way by people who are experts in this area could be a problem. If the people putting these drawings or pictures together were chronically against abortion, I would have some problems, but that is not the case. The people who will decide what is in this brochure are the people set down in this legislation, subject to possible amendment.

What sorts of depictions do you think are going to be used? I would suggest the sorts of depictions that are in the New Zealand document. They will be medical; they will be factually correct. Again I come back to the core issue and the basis of my support for this legislation. The information provided to a woman when she is making a decision should be complete, should be factual, should be independent and should allow her to make a balanced decision. Why on earth would you leave out some of the information? I have no idea.

**MS TUCKER**: I seek leave to speak again.

Leave granted.

**MS TUCKER**: I am really concerned about what Mrs Carnell just said. Basically, what Mrs Carnell just said was that no-one is forcing anyone to look at anything.

**Ms Carnell**: No.

**MS TUCKER**: No. We had a discussion not very long ago about the objects of this Bill. The discussion we had was around proposed new paragraph 2A(b) which says:

> ensure that a decision by a woman to proceed or not to proceed with an abortion is carefully considered; ...

This is the framework for this Bill, as Mr Moore explained. That sounds to me very much like there is going to be an emphasis on doctors to ensure that patients do look at this. Anyone who reads this debate in the future and has to try to interpret what on earth this Assembly actually means and how this Act is to be interpreted is going to end up extremely confused. As we have said so many times today, that will be a result of the fact that these members have pushed this through in undue haste.

**MR BERRY** (12.45 am): Ms Tucker made a point a little while ago when she talked about a woman with an unviable foetus who would in the normal course of events want to carry the child to term. Faced with the decision for an abortion, she would have to go through the process of looking at these pictures which may be approved under the amended clause. I think that is grotesque. I cannot, for the life of me, see why you would want a package of that sort of information put near a woman in the normal course of events, let alone in those sorts of circumstances. It troubles me why people would want to do that other than to send women on a guilt trip and to make them feel guilty about the whole affair.

Let us not forget that not too many hours ago Mr Humphries was drawing a comparison between the guilt trip that we send cigarette smokers on when they look at the health message on a cigarette pack. He was saying that Labor supported that guilt trip so why do we not support a guilt trip as a result of the information which is contained in this Bill? That is the point I make, Chief Minister. Mr Humphries knows what it is about. It is about creating a guilt trip.

I have said from the outset that the genesis of this legislation is about the humiliation of women. You can laugh about it and try to pretend that something different is occurring, but that is what is occurring. The reason why the zealots are so enthusiastic about some of these aspects is that they are designed, in their minds anyway, to create barriers and to create difficulties for women who might be considering abortion. They have this wild idea that you can frighten women out of abortions. I am afraid that the end result of this will be that women who have an abortion might end up troubled as a result of the information that they are forced to endure. That is the truth of it.

I think it was said before by one of my colleagues, Mr Stanhope I think, that we males are not in a position to judge these things accurately, but we do our best to apply our imagination to these things in the context of our discussions with our families and other people that we meet in relation to these matters. I have developed a concept. It might be wrong but I will err on the side of safety in relation to this and support the amendment moved by Mr Stanhope. It is a sensible amendment. I think other members should err on the side of safety too. There are some circumstances where the provision of this information would be grotesque.

**MS CARNELL** (Chief Minister and Treasurer) (12.48 am): Mr Speaker, because Mr Berry made the point that he really did not know how women may feel in this situation, I think it is really important to realise that in just about every case - I cannot think of one where it would not be so, but there might be one - where a woman is carrying an abnormal foetus and decides to have an abortion, she will have had an ultrasound. She would have looked at her own baby on a screen. That is part of the deal, part of the process that women go through. They have an ultrasound at about six weeks, or maybe eight weeks. The screen is right there, Mr Speaker. You can have a look. If a woman is carrying an abnormal foetus she will have had a look already at what the problem is. It will have been explained to her what is wrong with the ultrasound, where you can find the problem, and so on. That is part of good medical practice. Mr Berry, I think, is being alarmist here. Coming through a situation like that is difficult. Let me guarantee to you that a woman who is carrying an abnormal foetus would be very well aware of what the problem is and would have looked at it.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (12.50 am): Mr Speaker, the pamphlet available from New Zealand is an example of what might be provided. The information obviously is not intended to be, or is not, in effect, gory or salacious or somehow meant to create some false impression of what is taking place inside a typical woman's body. The information in this case needs to be approved, in its presentation and format and accompanying information, by a panel of five or perhaps more specialists. I feel confident that that process is going to lead to a document which is balanced, reasonable and medically accurate, and designed to do what this whole Bill is about doing, which is providing accurate information to a woman about the total picture confronting her as she considers an abortion.

Members might say it is terribly confronting for the nub of the issue facing the woman, that is, what is happening inside her body, to be represented graphically to her in a pamphlet. If so, I think they demean and belittle women and their intelligence, and their capacity to consider this information and to make a decision. I think that is not necessary.

**Ms Tucker**: It should be their choice to consider it.

**MR HUMPHRIES**: Of course it is their choice, but why should they not have a choice based on all of the available evidence, and this is included in the evidence. It is included in the information.

**Ms Tucker**: No, it is not their choice. This Bill is about enforcement.

**MR HUMPHRIES**: You are not forcing them at all. The legislation is quite clear.

**Ms Tucker**: Well, why is that in the object?

**MR HUMPHRIES**: Let me come to the issue raised by Ms Tucker. The legislation will not be interpreted by courts to mean that doctors have to thrust each page of the pamphlet under the eyes of the woman and force her to look at the sections and say, "There, that's your foetus. Now, read this next sentence. Now, look at this next paragraph". That is not what the legislation is going to do.

**Ms Tucker**: Well, why have you got that in the objects then?

**MR HUMPHRIES**: The objects do not say that. Let me quote what the objects say. The objects say this:

> ... to ... ensure that a decision by a woman to proceed or not to proceed with an abortion is carefully considered; ...

That does not mean that the information has to be thrust in some kind of intrusive way - - -

**Ms Tucker**: Well, how do you define "carefully considered"? Okay? You had better define that for future people to interpret this Act.

**MR HUMPHRIES**: It is not up to me to define it for them. It is not my Bill. I am simply saying to members that it is not a reasonable interpretation to say that a court is going to require a doctor to pass through every page of a pamphlet which has been produced by somebody else and require the woman to examine each page in his presence and perhaps have her answer questions about what is on the page. That is simply an alarmist approach to what this legislation intends, and I can pretty well guarantee it is not the way the courts are going to view it. It is simply part of the total picture which is being put before the woman concerned. Members have a big problem with that. They think it is too much for a woman to deal with. I think they sell women short very badly.

**MR STANHOPE** (Leader of the Opposition) (12.53 am): I will respond very briefly. I genuinely believe that those who have spoken in favour of this misunderstand the point that is being made and misrepresent those of us who have objected to this. It goes very much to the points that Ms Tucker was making. It is just so insensitive. It is not a question of us not being able to confront the development of a foetus. It is just how insensitive it is to require a woman who has made the decision that it is in her best interests to seek an abortion to be forced to endure having to look at a series of

pictures of foetuses from two weeks of conception to 40 weeks. That is just so appallingly insensitive to a fellow human being. That is the point that is being made. It lacks any semblance of compassion for that woman. It seems to me you think that women will take this in their stride or that it belittles women. That is not the point at all. It seems to me that you completely misunderstand the state that a woman presenting at, say, 10 or 12 weeks for an abortion would be in. Women do not just waltz into clinics, carefree and light-hearted.

**Mr Humphries**: Here is a man lecturing a woman about what women feel about viewing foetuses. Talk about insensitive, Mr Stanhope.

**MR STANHOPE**: Are you suggesting to me that the Chief Minister would waltz in carefree? Is that what you are suggesting, Mr Humphries?

**Mr Humphries**: No. I am suggesting that it is a bit much to be lecturing her about what women would feel in those circumstances.

**MR STANHOPE**: I am not lecturing anybody. I am just interested in your assessment of how the Chief Minister would feel. In my imagination a woman facing this incredibly difficult decision and time in her life would not be all that well placed to have to deal with being required to look at a series of pictures of foetuses in various stages of development. I think you misunderstand the point that we are trying to make. I think you misunderstand that this proposal is incredibly insensitive. It lacks compassion. It intrudes on the nature of the relationship between a woman and her doctor, and I think it is offensive.

**MR SMYTH** (Minister for Urban Services) (12.56 am): Mr Speaker, this gets to the nub of the matter. This gets to the question that all those who claim to be pro-choice or pro-abortion today have not answered. This afternoon I asked those who say they are pro-choice or pro-abortion to convince me that life begins at a point other than conception. I think the provision of photographs clearly shows that what is growing in the womb is a human life.

I make no bones about my position on this. I am against abortion. What we seek to ask women to consider is that when they make a decision it affects another life. There are two lives involved. Nobody in this place today has denied that there are two lives involved in this. This is the hub of the pro-choice, pro-abortion people's case. They simply choose to ignore this as a fact. This is a fact. It is a reality. This is nature itself and it cannot be denied.

Mr Speaker, they say this proposal is insensitive. I would suggest that when the New Zealand Department of Health put this pamphlet together - this is freely available for distribution to all New Zealand women - that was taken into account, and the way it is put together is, I think, a reasonable summary of the case. It is neither for nor against. It is not judgmental. It puts a whole picture. I asked the Chief Minister whether she sold books in her pharmacy. I used to sell a lot of books in bookshops that I have run.

There were three best-selling books. One is called *Baby and Child* by Penelope Leach, there is another one by Sheila Kitzinger, and there is another one called *Everywoman: A gynaecological guide for life* by Derek Llewellyn-Jones which clearly outlines the wonder of this process, the development of another human life.

What Mr Osborne seeks to do with his Bill is simply to dispel this concept that what you abort is just a bundle of cells; it is something that you can do. What he is asking people to do, and what I would ask women to do, is to consider that it is a human life. These pictures clearly show that it is a developing human being. The pro-abortion lobby, the pro-choice people, will never concede that point. None of them have stood in this place today and said that it is not. None of them have offered an alternative time as to when life begins. They all hide behind the concept of choice when what we are talking about is a woman making a decision about another life. These pictures are essential if you wish to make an informed choice. They are the heart of Mr Osborne's Bill and I will be voting against these amendments.

**MR CORBELL** (1.00 am): Mr Speaker, Mr Smyth says that what Mr Osborne is endeavouring to do is ask women to consider that it is a human life. I would say to Mr Smyth and to other members of this place who support his contention that that is exactly what women do. They make that judgment when they decide whether or not to have a termination. That is exactly the judgment they make. If they believe that it is a human life then clearly they have the option of not proceeding with the termination. That is a choice that they make, and that is why the choice argument is fundamental. Women will seek to inform themselves fully on this issue because it is an important decision. They do not need this information foisted upon them in order to make that informed decision. That is what Mr Smyth and others who argue in favour of the provision of this information are doing and it is wrong.

**MS TUCKER**: I seek leave to speak again.

Leave granted.

**MS TUCKER**: I still want to follow on with how people in the future will interpret what is coming out of this debate now in terms of what are the obligations of medical practitioners. Patients also would find it very difficult to understand what their requirements are. The courts also are going to have real problems with this. What we see in the objects is: "Ensure that a decision by a women to proceed or not to proceed with an abortion is carefully considered". We are told tonight by members here that no information is to be forced on anyone. Then we go to clause 7 which is headed, "What information must be provided". Clause 7, if the amendment is accepted, will read:

> Where it is proposed to perform an abortion, a medical practitioner shall -
>
> (a) properly, appropriately and adequately provide the woman with advice about ...

I want a definition from Mr Osborne, if this is his Bill. What is the definition of "carefully considered"? What is the definition of "properly, appropriately and adequately provide the woman with advice about"?

**Ms Carnell**: It is not question time. Question time was earlier.

**MS TUCKER**: Mrs Carnell says this is not question time. I am glad she has a sense of humour, that is really nice, but this is a very serious issue because the intention of this Bill is so unclear. It is absolutely a scandal, how unclear it is. It is interesting if you look at the issue of counselling. There is not such an obligation for counselling. You offer the woman the opportunity of referral to appropriate and adequate counselling. Well, if there is no force in this Bill, why does it not say here under the information bit, "You offer the woman the opportunity of seeing the following information."? But no, it says, "You must provide this information", and it must be, as I said, "properly, appropriately and adequately provided". There are a lot of value judgments in interpreting that and I would like Mr Osborne and all the other supporters of this Bill to explain what they think it means.

**MR OSBORNE** (1.04 am): I understand the fear of people who are opposed to this Bill. I understand the fear of having pictures in the information, Mr Speaker, because, as I said, this is a fundamental part of what we are trying to achieve today. I am convinced that the photos will save some lives.

When life begins is no longer a matter of taste. With the advent of newer and newer technology we are able to see the growth and development of the baby. We can see, within hours of conception, life beginning, Mr Speaker. I am appalled at the attitude of those opposed to this Bill. They fear having photos, Mr Speaker. They fear the truth, Mr Speaker. That is what this is all about, and it is appalling.

I will be opposing Mr Stanhope's amendment. Anyone who wishes to support this Bill needs to understand very clearly that this process is fundamental to the Bill's success and to the main thrust of what we are trying to achieve, Mr Speaker. So I reject what Mr Stanhope and others have said and once again reiterate to those who want to support the Bill that this is very important.

**MR STANHOPE** (Leader of the Opposition): I seek leave to speak again.

Leave granted.

**MR STANHOPE**: I support the very perceptive concerns that Ms Tucker put about exactly what clause 7 means. I go back to that much discussed DPP, Mr Refshauge, and his second advising today. I think it is very relevant in the context of the discussion that we are currently having. Mr Refshauge, in his second advising, said this:

> If I am wrong and it is intended (and a court agrees) that the new subclause 6(a) refers to subclause 7(1)(a) and (b) as well, then I still have serious concerns.

"I still have serious concerns", said the Director of Public Prosecutions. I am impressed with Ms Tucker's forensic skills. The DPP continued:

> It seems to me that there is in the Bill no clear standard as to what information precisely (ie, if you will, the actual words to be used) is to be given. Further, the requirement -

this goes back to subclause 7(1)(a) and (b) -

> that it be "properly, appropriately and adequately" provided is not the kind of investigation that should be carried out by a criminal court. For example, if a practitioner in good faith advises that "it has been said that there is an increased risk of breast cancer from this procedure, but I have read the literature and I do not believe that is so and you (the patient) can safely ignore the risk, although you might like to seek a second opinion" it could still be possible that a court would hold that this does not comply with the section; one simply does not know - neither I, as prosecutor, nor the practitioner, nor the patient. A practitioner needs to know precisely what he or she has to say and what not to say.

The first law officer of the Territory was dismissive of Ms Tucker and her legal abilities, but those of you who say that Ms Tucker does not have a point and that this is all crystal clear are simply wrong. The second or third most senior law officer in the Territory agrees entirely and absolutely with Ms Tucker that this provision is flawed. The Director of Public Prosecutions, as late as 3.36 this afternoon, was still expressing serious concerns about how this provision is to be applied. The Director of Public Prosecutions thinks this provision is not workable.

**Ms Carnell**: He does not say that.

**MR STANHOPE**: He has the most serious concerns about it. He is the second or third most senior legal officer in the ACT and he has serious concerns about how this provision will work. We have a serious problem here and part of it can be addressed by the amendment that I propose, although I do not think it solves the DPP's concerns. It still leaves terrible doubts in my mind about this mishmash, this dog's breakfast, as I think my colleague Mr Quinlan calls it.

**MR MOORE** (Minister for Health and Community Care) (1.09 am): Mr Stanhope, I was unnerved in exactly the same way when I read the Director of Public Prosecutions concerns, but I read on. The Director of Public Prosecutions went on:

> The problem, under this construction, arises later, however, as new clause 15 does not require that the relevant bodies actually produce or approve any materials containing the relevant information; the clause is merely permissive or facilitative.

What occurs is not so much what is in this construction. It is this construction combined with clause 15 which it refers to. Clause 15 deals with putting the panel together in order to get the information. That is where the real concern of the DPP comes out. His concern is the way that my amendments have been constructed. It is actually "may" rather than "shall". As members would be aware, "shall" demands, "may" is facilitative. That is where the concern is. The Director of Public Prosecutions says:

> It is arguable that new subclause 6(a) would still be satisfied if no information is given where there is no such information because none had been approved. The matter is, however, not free from doubt ...

So, in fact, the Director of Public Prosecutions leads through a series of arguments and concludes that it is not free from doubt, which is a very different construction from the way he started. He does say very clearly that he has dealt with these matters quickly, which is a concern you have raised. He goes on to say:

> ... and it may be that if no such information had been approved (and then, what if only one - new subclause 15(3), but not (4) or (5)?) then subclause 6(a) could not be fulfilled and so no abortions could be carried out.

So he says there is some doubt. Mr Speaker, I think we have to read it in its context. Although there is some concern there, with every single piece of legislation that we pass in this house there is always some doubt about how it is going to be construed. I cannot recall a piece of legislation going through this Assembly that is totally free from doubt.

That having been said, Mr Speaker, the fundamental issue raised by Mr Stanhope is one that I find difficult. I believe a woman ought not have to go through these pictures. On the other hand, every woman I know is perfectly capable of looking at the sorts of pictures that would be approved by an advisory panel of the type that we have nominated. This is the compromise that I put up that I am most uneasy about, but I put it up as a compromise.

**MR HARGREAVES** (1.12 am): Mr Speaker, I take up the point that Mr Moore has just made on the presence of the word "may" instead of "shall". The reason I have sat quietly and listened to most of the people that have spoken so far is that I wanted to satisfy myself that the word "may" did actually apply.

The issue, as Mr Osborne says, is how much information is enough if we make somebody stop and think for just that one split second. If this panel is going to provide information and it does make somebody stop just for that one split second, it is really up to that panel to decide how much information it is going to provide in the package. This piece of legislation actually charges this panel with deciding on the things that we have been agonising over a lot. That is why, Mr Speaker, I have foreshadowed the amendment that I have.

I take the point from my colleagues on this side of the house that there is a danger that the presentation of the material can be patronising to women. There is a danger that it can be represented to reflect one side of the argument. I am not satisfied that the construction of the panel, as set out in the current piece of legislation, will be able, effectively, to prevent that. Later on, when we come to the amendments that I propose, I will seek to have a significant number of women on that panel. This is one of the reasons why I intend to propose that.

This issue has come up a little earlier than I thought it might. These women will be insisting that there is not one patronising thing in the material that is in there. They will be ensuring that it is not only medically accurate, but that it is also presented in a sensitive way which will enable people to make their decisions in an informed way and free of pressure from one side of the argument or the other, I would hope. That is why I will be proposing that we have a nurse on there skilled in hospital work and one skilled with community work, because the community work people often are the first point of referral for the girl who is 16½ and homeless, and they are not going to allow one side of the argument to be presented to this kid.

Mr Speaker, I do not see what is so wrong with having this stuff available in the package so long as that information assists in the completeness of the information that people get, so long as the word "may" is in the legislation, and so long as the information is vetted by a significant number of women who have the power of veto in that advisory panel.

**MR BERRY** (1.16 am): A short time ago Mr Moore was responding to some comments that Mr Stanhope made and he had a little bit of a slice and talked about how he had read on, but it appears from the document that he did not read on far enough. I will read from Mr Refshauge's advice, and I will read it all:

> The problem, under this construction, arises later, however, as new clause 15 does not require that the relevant bodies actually produce or approve any materials containing the relevant information; the clause is merely permissive or facilitative. Thus, there may not, at any particular time, be such information.

Then he goes on:

> It is arguable that new subclause 6(a) would still be satisfied if no information is given where there is no such information because none had been approved. The matter is, however, not free from doubt and it may be that if no such information had been approved (and then, what if only one - new subclause 15(3), but not (4) or (5)?) then subclause 6(a) could not be fulfilled and so no abortions could be carried out.
>
> If I am wrong and it is intended (and a court agrees) that the new clause 6(a) refers to subclause 7(1)(a) and (b) as well, then I still have serious concerns.

That is reading on. He continues:

> It seems to me that there is in the Bill no clear standard as to what information precisely (ie, if you will, the actual words to be used) is to be given. Further, the requirement that it be "properly, appropriately and adequately" provided is not the kind of investigation that should be carried out by a criminal court.

Should I read on? I think the point is made.

Amendment (**Mr Stanhope's**) to Mr Moore's amendments negatived.

Amendments (**Mr Moore's**) agreed to.

Clause 7, as amended, agreed to.

Clause 8

**MR MOORE** (Minister for Health and Community Care) (1.19 am): I move amendment No. 14 circulated in my name:

> Page 4, line 28, omit the clause, substitute the following clause:
>
> "**8. Declaration that information has been provided**
>
> **(1)** Where all the information, advice and referrals referred to in section 7 have been provided to or offered to the woman concerned in accordance with that section, the woman and the medical practitioner concerned may jointly make a declaration in writing to that effect.
>
> **(2)** A person shall not make a false declaration for the purposes of subclause (1).
>
> Penalty: 50 penalty units.".

Amendment No. 14, new clause 8, replaces the troubled certificate process in the original clause 8. It is simpler and, most importantly, it avoids potential privacy problems. The documents would form health records for the purposes of the Health Records (Privacy and Access) Act 1997. The documents would be available to the woman and the doctor should they need to demonstrate that they had complied with the requirements of the legislation. Remember, Mr Speaker, that part of the objects of the Act is to protect a woman's privacy.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (1.20 am): Mr Speaker, I move the amendment circulated in my name to Mr Moore's amendment No. 14:

> Proposed subclause 8(1), after "to that effect" insert ", stating the date and time".

The amendment inserts the requirement in the certificate that the declaration in writing should state the time and date. Obviously, it is important to do that in order to facilitate a comparison between the time and date of the first certificate and the time and date of the second certificate so that it is possible to calculate that 72 hours have indeed elapsed between the provision of the information and the completion of the second certificate.

**MR MOORE** (Minister for Health and Community Care) (1.21 am): Perhaps I could comment on that, Mr Speaker. In fact, Mr Humphries has taken those words out of another one of my amendments and it is just a drafting omission that he has corrected.

Amendment (**Mr Humphries'**) to Mr Moore's amendment agreed to.

Amendment (**Mr Moore's**), as amended, agreed to.

Clause, as amended, agreed to.

Clause 9

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (1.22 am): Mr Speaker, I move amendment No. 2 circulated in my name:

> Page 5, line 9, subclause (1), omit the subclause, substitute the following subclauses:
>
> "**(1)** A person shall not perform an abortion on a woman unless the consent of the woman has been obtained in writing, specifying the time and date of the consent.
>
> Penalty: 200 penalty units.
>
> **(1A)** Subject to this section, a woman who is a dependent minor shall not be regarded as having given her consent unless a custodial parent -
>
> (a) has been informed that an abortion is proposed; and
>
> (b) has been given the opportunity to participate in -
>
> (i) the discussion between the woman and the medical practitioner at which information is to be provided for the purposes of section 7; and

(ii) any counselling of the woman in relation to the proposed abortion resulting from the discussion.

**(1B)** A woman who is a dependent minor may apply to the Children's Court for an order that a custodial parent of the woman specified in the application should be excluded from the operation of subsection (2), and the court may, if satisfied that the application should be granted, make an order in those terms.

**(1C)** An order under subsection (2) has effect according to its terms and shall not be reviewed, quashed or amended in or by any court.

**(1D)** Subsection (2) does not apply -

(a) in the case of a medical emergency; or

(b) where the effect of an order or orders under subsection (3) is that there is no custodial parent in relation to whom subsection (2) can operate.

**(1E)** In this section -

'dependent minor' means a person who is -

(a) under the age of 16 years; and

(b) is being supported by a custodial parent; and

'parent' includes guardian.".

There are two possible amendments to clause 9. Obviously, there is the amendment which I have just moved. Mr Moore has an amendment which, I assume, he will be able to speak to at least, if not move.

**Mr Moore**: I can foreshadow it.

**MR HUMPHRIES**: He can foreshadow it at least and we can consider it. Mr Speaker, it deals with the very vexing question of what to do about a person under the age of 18 who seeks an abortion. The present Bill, in effect, requires, very simply, that a person of that kind should have to get the consent of a parent for the obtaining of that abortion or, in certain circumstances, the permission of the Director of Family Services. Mr Speaker, I gather that it is the view of members that that is an unsatisfactory restriction on the capacity of a person under the age of 18 to get an abortion and I am proposing an alternative form of words which address the issue in a different way.

Mr Speaker, my amendment is based essentially on the legislation which has been passed in Western Australia, which was something of a compromise for the Western Australian Parliament and which provides some capacity for involvement by a custodial parent in a decision by a person under the age of 16 to be involved in an abortion. Just by way of background, Mr Speaker, it troubles me enormously that it should be possible under the present arrangements for a girl of, in theory, virtually any age to be able to go to an abortion clinic in this Territory and obtain an abortion. It troubles me deeply that that is the case. I sincerely hope that this Assembly will not pass legislation tonight which contains, in effect, no restriction on obtaining abortions in those circumstances. I do not know about you, Mr Speaker, but it troubles me that a 14-, 13- or 12-year-old or younger might, under this legislation, be able to obtain an abortion simply by giving her consent to that happening.

What my amendment does is propose that a woman who is a dependent minor, that is, the person who is under the age of 16 and is being supported by a custodial parent, shall not be regarded as having given her consent to an abortion unless a custodial parent has been informed that an abortion is proposed and has been given the opportunity to participate in the discussion between the woman and the medical practitioner - where the proposed section 7 information we have just been debating is provided - and any counselling of the woman in relation to the proposed abortion resulting from that discussion. However, there is also a let-out provision. If the woman concerned does not for some reason wish to involve a custodial parent in those discussions - we are not talking about consent; we are talking about involvement in discussions - the dependent minor, the child, the woman, if you like, is able to go back to the court, in this case the Children's Court, and obtain an order that allows her not to have to obtain the involvement of any custodial parent.

Mr Speaker, I do not pretend to this house that these provisions present a terribly serious bar to children obtaining abortions. I have to say to the house that I would be much more comfortable if there were a somewhat more serious bar; not necessarily an absolute bar, but a provision which allowed for some involvement by a parent in this important decision. Mr Speaker, I do not have any daughters, but, if I had, I would be horrified by the thought that they would be in the position of approaching the question of an abortion without my involvement, without hopefully my supportive assistance in understanding the problem that they are facing.

**Mr Moore**: You earn that.

**MR HUMPHRIES**: Mr Moore says that you earn that, and perhaps he is right. Perhaps a parent does earn that right to be a confidante of their child in such circumstances. Of course, I recognise that very often people will not take their parents into their confidence in those circumstances. Mr Speaker, I for one think that the legislation ought to provide some default mechanism to allow parental involvement in those circumstances. I am not suggesting that the involvement should be absolutely an entitlement of a parent. Under the provisions that I have put forward, it is possible for a child to avoid the involvement of the parent if certain procedures are undertaken, that is, if the Children's Court is applied to for a waiver of that requirement.

But, Mr Speaker, I do not make any apologies for saying to this place that I do not think that it is appropriate for abortion clinics in this Territory to provide abortion services to young women, to children - we are talking about children here - with no involvement whatsoever by their parents. I think that in other settings we would expect parents to be involved in decisions of this kind. It would normally be the case, for example - not necessarily inevitably - that where a child were to undertake some other medical or surgical procedure the consent of the parent would be sought. I understand that it is not strictly necessary in all cases, that it is possible for children to be able to consent in certain circumstances to procedures without parental consent, but in a matter such as this I would hope that the law would encourage - not necessarily require absolutely - the involvement of a parent in such a process. Mr Speaker, that is the reason for the amendment I have put before the house.

**MR SPEAKER**: Mr Moore, you cannot move your amendment, but you can foreshadow it. It might be easier to do so and open up the debate.

**MR MOORE** (Minister for Health and Community Care) (1.29 am): I think, Mr Speaker, that it would be useful if I foreshadowed my amendment. If Mr Humphries' amendment loses, I foreshadow that I will move amendment No. 15 circulated in my name, which reads:

> Page 5, line 9, subclause (1), omit the subclause, substitute the following subclause:
>
> "**(1)** A person shall not perform an abortion on a woman unless her consent has been obtained in writing, stating the date and time, at a time not less than 72 hours after making a declaration under section 8.
>
> Penalty: 50 penalty units.".

This amendment provides for a comprehensive requirement, rolling the requirement for consent, the information requirements and the cooling-off period concept into one. Mr Speaker, as much as I would wish that the legal requirement not become law, if we are going to do it this way I think it is better to do it like that, rather than the way Mr Humphries has proposed. Mr Speaker, I would like to share with members the first time I recall as an adult going into court. In fact, it was in the Supreme Court in Canberra over a planning matter. I have to say that even though I was a very well educated person, I had read the legislation very carefully, it was a daunting experience.

It is daunting for anybody who goes into court, even the people who went into those planning tribunals that were all about playing down the power. The daunting experience that we would put somebody through by following Mr Humphries' or the Western Australian model is simply unacceptable. The last thing somebody who is pregnant and who is in those circumstances needs is to go through an even more traumatic process. The court process, even for somebody who goes in there willingly to deal with a matter - for me it was not a personal matter; it was a planning matter -

is a traumatic experience. I must say that I can understand why somebody like Mr Humphries would not find it that way because, having practised law and been in and out of a court each day, it all seems fine, it all seems normal and so on. But, Mr Speaker, I think we need to keep that in mind when we are looking at this unacceptable amendment that Mr Humphries has put up.

Another interesting thing to me, since the legislation that we are dealing with is mostly being decided by men, is what happens when young women, under 18 years of age, go into court and say, "I want to have an abortion and the reason I am here is that I do not want to discuss it with the family". If they want to be sure that the judge is going to say yes, what is the most obvious excuse for them to use as to why they do not want to go and talk to their father and why they want to go to the court?

**Mr Humphries**: Why do they need an excuse?

**MR MOORE**: Mr Humphries said that they will not need an excuse, and I think that is fine. But people, when they ask for something, are used to giving reasons; it is a normal thing. The reason they might give is: "I just don't want to tell my dad because he's a nice guy and he wouldn't want me to be here and he wouldn't want to know that I was pregnant". They may use that reason, Mr Speaker. I suppose that would be one of them; but I think there are other possibilities for making sure that you get the answer you want, and I think members should keep that in mind as well.

**MR RUGENDYKE** (1.33 am): Mr Speaker, the law recognises that children are able to make their own decisions where they know and understand the consequences. That is one of the reasons why I find fault with the provision in the original Bill for the treatment of children under the age of 18 in relation to abortion. For a start, the definition of parent is far too broad, in my opinion. What about the disgruntled, separated parent who might want to give consent on behalf of a child simply to upset the other parent? It includes guardians. Does that include me as a foster carer? I certainly do not want to be in that position, and nor should I be.

Look at the case of what happens to a child in care under a residential order. The Bill mentions residential orders for I know not what reason. It does not mention wardships; it does not mention other kinds of care orders. Look at the task the Director of Children's Services is charged with. In the case of a child, the director must give consent. The primary objective of the Director of Children's Services is to ensure that the best interests of the child are paramount. Which child takes precedence here - the mother or the baby? What a ludicrous situation for the Director of Children's Services to be put in!

Mr Speaker, we have an attempt here to put an alternative view, based on the Western Australian legislation. To my mind, Mr Speaker, it is just as appalling. A child might have to go to court to seek consent or to get what she is looking for. What child is able to go before a court under those circumstances? This is ludicrous. This piece of legislation defines "parent" as a guardian. That could include nearly anyone, Mr Speaker.

Mr Speaker, I support Mr Moore's foreshadowed amendment. I am unable to support the provisions for children in the original Bill and I am unable to support Mr Humphries' amendment, supposedly substituting the original part. So, that comes down to leaving it as Mr Moore's foreshadowed amendment.

**MR OSBORNE** (1.38 am): I have to register my disappointment at the attitude of my colleague Mr Rugendyke on this subject, Mr Speaker. I cannot believe that a man - and I mean this in the nicest possible way - who has devoted his life to caring for foster children should be so nervous about being involved in a very serious decision. He is quite happy to accept responsibility for all the other things that happen to these children in their lives; but, when it comes to this issue, I have to say that his attitude has been very disappointing for a man that has spent so long - - -

**Ms Tucker**: Maybe he respects their rights, Mr Osborne.

**MR OSBORNE**: Mr Speaker, if members of this Assembly think that a 13-year-old is old enough to make a decision on abortion, I am stunned. I am stunned, Mr Speaker.

**Mr Rugendyke**: Well, a 13-year-old is not going to go to you.

**MR OSBORNE**: Keep talking, Mr Rugendyke, because every time you open your mouth you give me more ammunition. I am starting to run out of stuff, so keep talking.

Mr Speaker, we have put a compromise. We accepted that people were not comfortable with the provision for those under 18 years of age. We grudgingly accepted that. So, we looked at the Western Australian version. Most members will know that Western Australia had a very public fight a number of months ago in relation to abortion. It is the State that has the most liberal abortion laws in the country. So, we thought we would do the sensible thing, although our laws are not as liberal as Western Australia's, of adopting their policy on consent. Mr Speaker, I am dismayed that members are too frightened to support that piece of legislation. Once again I have to register my disappointment at Mr Rugendyke's attitude on this matter. It is just too hard for him.

Mr Speaker, I do not think it is acceptable to say that a 14-year-old or a 15-year-old is mature enough to make a decision regarding life and death. I will be supporting Mr Humphries' amendment. It is a sensible compromise. It is in line with the Western Australian model. Mr Speaker, I look forward to hearing from other members on this issue. I look forward to hearing what they think is a sensible way for 13-year-olds, 14-year-olds and 15-year-olds to handle pregnancy. I ask them to explain to me how they are mature enough to make a decision.

Mr Speaker, I say once again that I am disappointed. I will be supporting Mr Humphries' amendment. I hope the majority of members will do the same. As I said, we have moved a little bit of ground, which has been the way with most of this Bill. It is not exactly what we wanted. Compromises have been put up, Mr Speaker. I remind members that it is the legislation from Western Australia. It has been in place for a long time, Mr Speaker. We have received no reports of the courts hearing of any accusations against fathers, which was intimated by Mr Moore when he spoke. There have been no reports of them being in place, Mr Speaker.

**Mr Humphries**: I think Labor supported the measure, too.

**MR OSBORNE**: I think that they did, Mr Humphries. I am sure that the Labor Party did. But there is the Labor Party and there is the Canberra Labor Party, Mr Humphries; you should know that now.

**Mr Moore**: There is a conscience vote.

**MR OSBORNE**: There is a conscience vote. Oh, yes, we have seen that tonight! Mr Speaker, this is a fair compromise. It is not what we wanted; but, Mr Speaker, I cannot accept that young children are mature enough to get across the issues without some input by some adult, somebody who cares about the child, about both of them. It is regrettable and disappointing that we have had some of the excuses I have heard from my colleague Mr Rugendyke and others on this subject. We will accept the will of the Assembly on it, Mr Speaker, grudgingly. I hope that enough members will support what Mr Humphries has put up because, as I said, it is a piece of legislation supported by pro-abortion people in Western Australia.

**MR RUGENDYKE**: I seek leave to make a statement at this point under standing order 46.

**MR SPEAKER**: Proceed.

**MR RUGENDYKE**: Mr Speaker, I will read the *Hansard* tomorrow, but I think I may have said in relation to a foster child that I do not want to be in the position of having to give consent. If that is the case, what I ought to have said was that I do not feel that I would have the right under any circumstances to grant that consent. It would not simply be up to me to be that intrusive with the life of that child. For that reason, I found the definition of parent, as described in the original Bill, to be unreasonable.

**MR STANHOPE** (Leader of the Opposition) (1.44 am): In response to the contributions that have been made to the debate, I would like to suggest that there are other views - quite legitimate views; views, once again, provided to us by officers of the Attorney-General's portfolio. It has been quite intriguing today to learn the extent to which the Attorney-General is out of step with senior officials within his portfolio.

**Mr Osborne**: He is not out of step with Meg Wallace.

**MR STANHOPE**: It is probably relevant, Mr Osborne, that not everybody shares your "John Howard picket fence" view of the world. The world is just not like that. I think it is a view of life seen through rose-coloured glasses. I would like to share the thoughts of the Community Advocate on the subject. As everybody knows, the Community Advocate is charged with some responsibility for the care of young people in the Canberra community. The Community Advocate advised us yesterday - and she is referring to the original Bill, the one we are ostensibly debating:

> As Community Advocate, I wish to draw to your attention, concerns I have about the requirement in the proposed Health Regulation Bill, for consent to be obtained from a parent of a young female under 18 seeking an abortion.
>
> There are legal authorities coming out of case law which would call into question the efficacy of this proposal. For example, in a decision called Gillick's Case it was ruled that a child who is intelligent and mature enough to fully understand the nature and consequences of a treatment or procedure can give a valid consent.
>
> The High Court in Marion's Case endorsed the Gillick decision and agreed that the power or role of parents to consent to medical treatment on behalf of a child diminished gradually as the child's capacities and maturity grow.
>
> There are many risks involved in forcing a young person to seek parental consent for an abortion. These include the risk of increasing the incidence of young female suicide.
>
> There are many families where, for religious or cultural reasons, a pregnant child would be harshly condemned, punished, or rendered homeless. It cannot be assumed that families would be supportive and accepting of the child's predicament.
>
> There can be no assumptions about the nature of relationships between young people and their parents. There will be some situations where requiring a young person to have contact with a parent, when they are already facing a personal crisis, will result in increased trauma for the young person.
>
> If young females are not able to choose abortion as an option, there is an added consequence for the State in that there is likely to be an increase in the need to take children ... into care. There are very strong links between the incidence of child abuse and child death, and young, single parents.

That is the advice of our Community Advocate on the initial proposal in the Bill and it applies, of course, equally as relevantly to Mr Humphries' amendment. It is interesting that the Community Advocate is a senior statutory officer responsible to the Attorney-General, who is sponsoring this amendment which contradicts absolutely and completely the advice of the Community Advocate - a statutory officer charged with responsibility for the care of young people in our community. It speaks volumes for what is going on here tonight.

**MR STEFANIAK** (Minister for Education) (1.48 am): Mr Speaker, I wonder whether Mr Stanhope is really quite correct there. He quite correctly says that the Community Advocate referred to Mr Osborne's original proposal, which relates to children under the age of 18. But Mr Humphries' Western Australian amendment is very different.

In subclause 1B it provides for a young person - who, of course, is under the age of 16 rather than under the age of 18, anyway - to apply to the court for an order. So, a parent in that situation who would not be sympathetic - and that would probably be for very good reason, Mr Stanhope - would, in fact, be excluded. I think it is very different there if you are looking at what the Community Advocate states.

Mr Rugendyke mentioned certain things in relation to the age of understanding for young people. There are a number of things for consideration in relation to young people. Certainly, in terms of the criminal law, if you are under eight years of age you do not have the mens rea, that is, the state of mind, to be able to commit a criminal act. Between the ages of eight and, I think, 14, it depends on whether the young person understands that what they are doing is wrong. Over the age of 14 you are deemed to have that understanding. In family law, children from about the age of 12 onwards are listened to very carefully by the courts in custody and access matters. Indeed, by the time a child is 14, in family law, the child's views tend to be pretty well paramount. But, at the age of 12, that is still not the case. My understanding is that in civil cases parents still sue on behalf of their children under the age of 18. Mr Humphries' amendment refers to a dependent minor under the age of 16; so we are, effectively, talking about 13-, 14- and 15-year-olds. He has also put in this amendment that, basically, the parent only has to be given the opportunity to participate in a discussion. It is not the parent's consent that is absolutely essential. The amendment is very much a watered down version of what Mr Osborne originally had. Mr Humphries has indicated that there are some very real concerns in relation to that, but at least it enables the parent or the guardian to be given the opportunity to participate in the discussion and it gives the dependent minor the opportunity, if there is some valid reason that that person should not participate, the option and the ability to go to court and seek to have that person excluded.

The fact that it was included in the Western Australian legislation is very important in considering legislation of this sort because there is not a lot of it around the country. The fact that there is a Western Australian precedent and that we are adopting legislation that is in effect, that is working legislation, is a very important point as well.

**MS TUCKER** (1.51 am): I will not be supporting Mr Humphries' amendment here. I was interested to hear how Mr Osborne, Mr Stefaniak and Mr Humphries were so proud to announce that this provision has come from the WA legislation. I have only had today to consider this matter, probably just this afternoon, so that I have not had the opportunity to do any real research on it. However, in that short time I have already been told by one person that, in fact, there are quite serious problems in WA as a result of this provision, that there are young people who are not prepared to speak to their parents, who are not prepared to go to court and who are therefore ending up in quite dire circumstances.

If the members proposing this amendment are going to persuade us that this is a good model and that the precedent is a good precedent, they need to give us a lot more information than: "Isn't it great. They did this in WA". We would like to have had more time today to evaluate how it has been working in Western Australia, as it appears that it is causing problems for young people. The rights of the child are certainly at issue here.

I would like to examine this issue much more carefully in regards to that convention. I understand that young people can make their own decisions about their health care at 15 years of age, although it may be 14. I am not sure; I have not been able to clarify that.

Mr Stanhope mentioned the ruling in the Gillick case that a young person can be shown to be competent to make decisions at quite a young age. Mr Humphries said that he would hope to give his child supportive assistance. That is fine; no-one is stopping that happening. If his child has a good relationship with him, she will probably go to him and accept that supportive assistance. That would be the child's life decision to go to the parent. But to impose that on a young person is not respectful of their right to make their own decisions and it does not take into account the varied circumstances that families find themselves in and the complexity of relationships within families.

It is a joke to say that the average young person under 16 years of age is going to be easily able to access a court. Even if they were able to access it, as other members have pointed out, it is an extremely traumatic process to have to go through at, obviously, a very traumatic time for that young person. Once again, this is something that has been put together too quickly. We have not had time to evaluate the proposal. In the short time I have had to look at it, there is no way I could support it.

**MS CARNELL** (Chief Minister and Treasurer) (1.55 am): Mr Speaker, I will not be supporting it, either. I will not be supporting it for a couple of reasons. One of the reasons is a very personal one. Having worked for many years behind the counter in a pharmacy and helped quite a number of young women, particularly before terminations were available in Canberra, to go to Sydney and supported them through that, I know that in many circumstances girls simply will not go to their parents - for all sorts of reasons that we cannot even think about right now. I just do not believe it is an appropriate way to go. It is also, of course, legally unnecessary, as the law is quite clear right now that mature adolescents, adolescents that are capable of making a decision, are able to give consent.

Consent is required for abortions right this minute. If girls are not old enough to be able to understand what is happening, they have to get a parent's consent right now. So, right now, the 13-year-olds that Mr Osborne is talking about will more than likely need parental consent simply because they would not qualify as mature adolescents under common law. More than likely, it would not be possible for them to show that they were mature and understood the whole circumstance and, therefore, they would not qualify right now. I think we have a situation where it is unnecessary and destructive to go down the path of requiring parental involvement. I have to say from a personal involvement with girls requiring terminations that it really could cause some very significant damage to a number of young girls.

**MR HIRD** (1.57 am): Mr Speaker, I reluctantly joined the debate at a late time. In my 24 years in and out either an advisory body or this place prior to self-government and since self-government, this issue has been on the agenda on many occasions, as you would know, Mr Speaker. I will not be supporting Mr Humphries on the occasion of this amendment. I will be supporting Mr Moore, for the very reasons that the Chief Minister indicated.

I know the hour is late, but I do feel that I have an obligation, as an elected member, to state the reasons why I will be supporting Mr Moore's amendment. I am also persuaded by our colleague Mr Rugendyke in his firm stand, one that I admire him for and one that he has had first-hand knowledge of. As someone who, representing an electorate, has had a number of dealings with women in a difficult predicament at a young age, I know that they certainly grow up very quickly when it comes to making a decision. As I said, I share the sentiments and argument put forward by the Chief Minister.

Question put:

That the amendment (**Mr Humphries'**) be agreed to.

The Assembly voted -

| *AYES, 5* | *NOES, 12* |
|---|---|
| Mr Humphries | Mr Berry |
| Mr Kaine | Ms Carnell |
| Mr Osborne | Mr Corbell |
| Mr Smyth | Mr Cornwell |
| Mr Stefaniak | Mr Hargreaves |
| | Mr Hird |
| | Mr Moore |
| | Mr Quinlan |
| | Mr Rugendyke |
| | Mr Stanhope |
| | Ms Tucker |
| | Mr Wood |

Question so resolved in the negative.

**MR MOORE** (Minister for Health and Community Care) (2.01 am): I move amendment No. 15 circulated in my name:

> Page 5, line 9, subclause (1), omit the subclause, substitute the following subclause:
>
> "**(1)** A person shall not perform an abortion on a woman unless her consent has been obtained in writing, stating the date and time, at a time not less than 72 hours after making a declaration under section 8.
>
> Penalty: 50 penalty units.".

I have explained to members that this amendment provides a comprehensive requirement for consent, information and the cooling-off period of 72 hours within the system that was put up before. I do urge members to support it, although it is one of the things that I consider to be a significant compromise. I must say to members that, when I discussed the issue with Family Planning and other people, they indicated very clearly to me that

the vast majority of people who come to them do, in fact, have a cooling-off period of this time, but they also indicated to me that this may cause some inconvenience for people from beyond the ACT. The system certainly does not exclude people from beyond the ACT, but that is the compromise.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (2.03 am): Mr Speaker, I move amendment No. 16 circulated in my name:

> Page 5, line 20, subclause (2) omit the subclause.

This is a strange amendment in that both Mr Humphries and I thought it was a good idea to remove the subclause, and that worries me a little, Mr Speaker; in fact, a lot, actually. Mr Speaker, this amendment is consequential upon amendment No. 15. It would have a reason to exist only if there were a special clause about children.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 10

Motion (by **Mr Berry**) put:

> That the debate be adjourned.

The Assembly voted -

| *AYES, 7* | *NOES, 10* |
|---|---|
| Mr Berry | Ms Carnell |
| Mr Corbell | Mr Cornwell |
| Mr Hargreaves | Mr Hird |
| Mr Quinlan | Mr Humphries |
| Mr Stanhope | Mr Kaine |
| Ms Tucker | Mr Moore |
| Mr Wood | Mr Osborne |
| | Mr Rugendyke |
| | Mr Smyth |
| | Mr Stefaniak |

Question so resolved in the negative.

**MR MOORE** (Minister for Health and Community Care) (2.07 am): Mr Speaker, I will be opposing this clause as a consequence of the acceptance of amendment No. 15. The same applies to the next clause, Mr Speaker.

Clause negatived.

Clause 11

**MR MOORE** (Minister for Health and Community Care) (2.08 am): Exactly the same thing applies, Mr Speaker; it is consequential.

Clause negatived.

Clause 12

**MR MOORE** (Minister for Health and Community Care) (2.08 am): Mr Speaker, I will be opposing this clause. This clause is a little different. It is not a consequential one; it is just atrocious. It is atrocious because of the breach of privacy. Private matters of an individual's health will be reported to the Government and potentially exposed to the public. It serves no purpose necessary for the main aim of the Bill and, besides that, we have introduced a series of other systems to ensure appropriate reporting with protection of privacy. Members, particularly pro-life supporters, seem to believe that the clinic cannot be trusted and will abuse the concept of medical emergency to evade the main requirements of the legislation. Mr Speaker, those requirements simply are not necessary.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (2.09 am): Mr Speaker, I am not going to actively vote in favour of retaining this clause, but I will sound a note of warning. Again, I repeat what I have said before. In the past, members have been very suspicious about the way doctors have behaved in some cases and have also been very suspicious about the way in which some doctors have been treated by their peers. I can recall cases where people have been critical of apparently lenient decisions by a medical board and very critical that harsher penalties were not imposed on doctors who engaged in certain abuses of process. The famous case of the doctor X-raying his dog in the Woden Valley Hospital was one case in point.

Mr Speaker, I just indicate that if, for argument's sake, we start to see people in breach of this legislation being given a tap on the wrist by disciplinary processes, I will certainly want to bring this concept back to the Assembly for further consideration; but, for the time being, I am prepared to accept that suspension may not be an appropriate avenue in the absence of any evidence that medical practitioners will be engaged in large-scale abuse of the provisions of the Act and that, in turn, the medical boards or medical profession bodies will not be acting appropriately in those circumstances.

**MR BERRY** (2.11 am): I do not know why you people cannot get these things sorted out before you bring in this legislation. This is an obvious area where there is no need for legislation. It is as plain as the nose on your face. It is double jeopardy as well. This should have been seen much earlier. Mr Humphries goes on about the suspicion we hold doctors in and that sort of stuff, but we accept that it is the role of professional boards to deal with medical practitioners for a whole range of other medical procedures. For the life of me, I cannot understand why this procedure, so far as the medico is concerned, is any different from the rest. I just cannot understand how it found its way into legislation. Who drafted this provision? Whose idea was it?

**MR MOORE** (Minister for Health and Community Care) (2.12 am): Mr Speaker, in speaking to that, I must say that I misread my notes and I was speaking to clause 11, which we went through quickly, and explained why it is that clause 11, which we had already removed, was removed. Arguments have already been put here by Mr Berry and others as to why this one should be removed as well.

**MR OSBORNE** (2.12 am): Mr Speaker, this is one of the issues that we negotiated. I reiterate what Mr Humphries said. We will monitor the situation and if someone is repeatedly brought before the relevant authorities and given a tap on the wrist, we will need to address it again, and Mr Moore has agreed. So, I will support this compromise on that issue.

Clause negatived.

Proposed new clause 12A

**MR MOORE** (Minister for Health and Community Care) (2.13 am): Mr Speaker, I move amendment No. 20 circulated in my name, which inserts a new clause 12A:

> Page 6, line 18, Part III:
>
> "**12A. Approval of Facilities**
>
> **(1)** Where a facility is suitable on medical grounds for the performance of abortions, the Minister may, by instrument in writing, approve that facility or an appropriate part of that facility.
>
> **(2)** The Minister shall not unreasonably refuse or delay a request by a medical facility for approval under subsection (1).".

This amendment sets up a better basis for the accreditation of facilities for the purposes of this legislation. In addition, I propose to address one of the most sensitive issues in the Bill by ensuring that political rejection of certain facilities, particularly the clinic, could not take place under the legislation. Members will acknowledge the intense sensitivity of the clinic. The main aims of the Bill as set out in the objectives are not harmed by this proposal. Indeed, the credibility of the legislation as health regulation is enhanced by this amendment. I refer particularly to clause 2 when I talk about the sensitivity.

Proposed new clause agreed to.

Clause 13 agreed to.

Clause 14

**MR MOORE** (Minister for Health and Community Care) (2.15 am): Mr Speaker, I move amendment No. 20A circulated in my name:

> Page 7, line 9, subclause (3), definition of "report", add "or any other publication".

This amendment is a response to Mr Refshauge's concern that the publications may not include professional journals and things like that. We have added to the definition "or any other publication" to make sure that there is absolutely no doubt about it. I must say, having dealt with these issues on many occasions before, that I do not think we have gone to quite this extent, as I recall, but we were certainly keen to make sure that the comments of the Director of Public Prosecutions were taken into account.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 15

**MR MOORE** (Minister for Health and Community Care) (2.16 am): Mr Speaker, I move:

> Page 7, line 11, subclause (1), omit the subclause.

Mr Speaker, this amendment, No. 21, is consequential upon my amendment No. 26, which provides for new structural provisions for the information requirements. It is important to note that my proposal was designed to cope with the problem of anticipated materials not being approved by the time the Act commences. In such circumstances, I think it is important to be clear that the requirement would not kick in until the materials were ready. This actually addresses another of the concerns raised by Mr Refshauge. This principle would apply separately to each requirement, of course. If this Bill must become law, then I think we have an interest in making sure that it is done smoothly, efficiently and credibly, and that is what this amendment is about.

Amendment agreed to.

**MR HARGREAVES** (2.17 am): Mr Speaker, I move:

> Page 7, line 15, subclause (2), omit "5", substitute "7".

Mr Speaker, I will not speak for very long. This amendment is consequential upon amendments that I will move a little later, to add an extra two people to the advisory panel. Those extra two people are nurses. If those amendments are successful, it will require the number to go from five to seven.

**MR SPEAKER**: The question is: That Mr Hargreaves' amendment be agreed to.

**MR BERRY** (2.19 am): Hang on a minute.

**MR SPEAKER**: This is amendment No. 1, Mr Berry.

**Mr Moore**: It is just changing the number from five to seven, but it is consequential.

**MR BERRY**: I know what it is. I just think the whole section is a joke.

**Mr Osborne**: We think you are a joke, but we put up with you, Wayne. It is late. Come on; sit down.

**MR BERRY**: Ossie, the fact of the matter is that this continues the pretence that appropriate advice is not provided at this point, and it sets out to establish an unbalanced board - I can see what my colleague is up to in relation to the matter - to try to make that pretence into truth. The fact of the matter is that the counselling standards and the counselling information that is given at the existing facility are quite adequate. This is just a farcical development, which is designed to create the impression that something is wrong, when there is not anything wrong. There has not been any evidence presented to this place that there is. There have been some pamphlets and pieces of paper waved around about the place, but no reference to what actually goes on in the place. You do not know what you are talking about when you say that it is not done correctly. This is just part of a large grab of emotional clap-trap, which is not relevant to the real situation. What you are doing is creating work for people who do not even need to be involved in the process, and most of them will not even want to be.

**MR OSBORNE** (2.21 am): Mr Speaker, I will try not to be repetitive, but I will remind Mr Berry that this Bill does conform with what the High Court has said in relation to information - - -

**Mr Berry**: The High Court never said that you had to have a panel.

**MR OSBORNE**: What the High Court did say, Mr Speaker, was that information is paramount. We have set up a process so that women can be supplied with adequate information, in line with Rogers v. Whitaker from 1992. If Mr Berry would like me to go over that case again, I am more than happy to; Mr Speaker, I mentioned Rogers v. Whitaker a number of times when I tabled this original Bill. So, if Mr Berry could get his hands on a copy of *Hansard*, that would probably be the quickest way to deal with it. We all want to go home, Mr Speaker.

**MS TUCKER** (2.22 am): Mr Speaker, I just want to have on the record my comments regarding the composition of this panel. I do not think it is a balanced panel. I could be corrected, but I think in our community about 30 per cent of people are religious, and a smaller percentage of them who Catholic. Catholics do have a very particular view on this issue, obviously, but I wonder why we have three out of seven people representing a Catholic institution. In our society, I think that actually shows that this is a contrivance by the members who have put this legislation up. They have purposely done that.

I have looked at the mission and values of Calvary Hospital. Calvary Hospital has every right to talk about the doctors and staff dedicating themselves to "continuing the healing ministry of Jesus". They have every right to "initiate a process whereby we critically analyse, appraise and develop an action plan for the ongoing integration of the mission and values of the Little Company of Mary into our everyday life and work". Incidentally, this mission and values program was launched in March 1998. All areas of the hospital were encouraged to participate in discussing the mission and values of the Little Company of Mary.

It is still unclear to me. I hear some people say, as I think the Chief Minister said, that this would have no impact at all on the position that doctors took. But then I am told that, when they work at Calvary and if they are wearing the Calvary hat they do, in fact, represent the values of that hospital.

**Mr Berry**: They have got to sign on.

**MS TUCKER**: Mr Berry says that they have to sign. I am concerned to see this. I do not think we should be having as large a proportion of people on this panel who are wearing the hat of a Catholic institution.

**MR OSBORNE** (2.24 am): Mr Speaker, I never thought that Ms Tucker was a bigot; but, having just listened to her, I think perhaps she is, because she obviously has problems with Catholics.

**Ms Tucker**: No, I don't. I just want a balance, Mr Osborne. You like balance. This isn't balanced.

**MR OSBORNE**: Mr Speaker, the make-up of this panel has been all about balance. Mr Moore has agreed to the make-up of this board, as has Mr Hargreaves. Mr Moore has addressed the chairmen of both boards and asked them to make sure that, for the sake of everybody, given that there is the right of veto on the information, we have people on there who are prepared to work together and compromise and come up with something sooner rather than later. So, the fact that half the board is made up of Catholics just highlights your prejudice against them, Ms Tucker.

**Ms Tucker**: Mr Speaker, is it unparliamentary for Mr Osborne to call me a bigot or is it okay? I would like him to withdraw it.

**MR SPEAKER**: Well, if you take offence - - -

**Ms Tucker**: I think I took offence.

**MR SPEAKER**: You do?

**Ms Tucker**: Yes.

**MR SPEAKER**: Very well.

**Mr Humphries**: He called you "a digit", did you say?

**Ms Tucker**: A bigot. And he had no argument to support it.

**MR SPEAKER**: The word is not unparliamentary at the moment.

**MR OSBORNE**: Mr Speaker, I am accused of being a zealot. I accuse Ms Tucker of being a bigot, and she asks me to withdraw it. I copped "zealot" and she will not cop "bigot".

**Ms Tucker**: That is your choice. You do not have to cop "zealot".

**MR SPEAKER**: It is not a matter of what you want. If you are not concerned about being called a zealot, it is all right. But Ms Tucker is offended by "bigot", and it is almost 2.30 on Thursday morning.

**Mr Wood**: We are all bigots here.

**MR OSBORNE**: I hear my Protestant colleague Mr Wood saying that we are all bigots; but I am not a bigot. I am Roman Catholic. Mr Speaker, as I said, we have been accused of being zealots through this whole debate, and Ms Tucker is being a bit precious, I would have thought.

**MR SPEAKER**: Ms Tucker is offended by being called "a bigot".

**MR OSBORNE**: She is making the point that she is concerned that this panel will be appointed by a Catholic hospital. I would argue that that in some way indicates that she is a bigot, because she does not trust Catholics, Mr Speaker.

**Ms Tucker**: That is not what I said.

**Mr Berry**: Mr Speaker, I do not think Ms Tucker has got a point of order either. I thought that was mock indignation and that she was trying to find a soft spot with Ossie. It will not work. He has not got a soft spot. It is all pretence. Just wear it like a badge of honour.

**MR SPEAKER**: It is entirely up to you, Ms Tucker.

**Ms Tucker**: I would like him to withdraw it. He did not support it with an argument at all.

**MR SPEAKER**: Thank you. Would you mind, please.

**MR OSBORNE**: As long as she withdraws the accusation that I am a zealot, Mr Speaker.

**MR SPEAKER**: I do not think she made the allegation. Somebody else did. Would you mind withdrawing, please, for Ms Tucker.

**MR OSBORNE**: I think it, Mr Speaker, but I will withdraw it.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (2.28 am): Mr Speaker, I seek leave to move together amendments Nos 22 to 25, circulated in my name.

Leave granted.

**MR MOORE**: Mr Speaker, I move:

> Page 7, line 16, paragraph (2)(a), omit "Board of Canberra Hospital", substitute "ACT Health and Community Care Services Board".
>
> Page 7, line 18, paragraph (2)(b), omit "paediatric", substitute "neonatal".
>
> Page 7, line 18, paragraph (2)(b), omit "Board of Canberra Hospital", substitute "ACT Health and Community Care Services Board".
>
> Page 7, line 22, paragraph (2)(d), omit "paediatric", substitute "neonatal".

These amendments relate to the correction of references.

**MR BERRY** (2.30 am): Mr Speaker - - -

**Ms Carnell**: How could you argue with this one?

**MR BERRY**: I just want to make the point that - - -

**Ms Carnell**: They should never have changed the name of the hospital.

**MR BERRY**: No; I think we are talking about Calvary Hospital as well, are we not, in amongst those amendments?

**Mr Moore**: Sorry; no, I am not.

**MR BERRY**: I will wait.

**MR SPEAKER**: That is a good idea.

Amendments agreed to.

**MR HARGREAVES** (2.31 am): Mr Speaker, I move:

> Page 7, line 25, subclause (2), add the following new paragraphs:
>
> "(f) a registered clinical nurse consultant, currently specialising in women's health issues, nominated by the ACT Health and Community Care Services Board; and
>
> (g) a registered clinical nurse consultant, currently specialising in neo-natal medicine, nominated by the ACT Health and Community Care Services Board.".

There are two reasons why I have put this amendment forward. I believe that we need to have balance on the panel. The proposed panel comprises medical specialists. It has been my experience in the Department of Health, in both the community sector and the hospital sector, that nurses are every bit as well placed to be able to contribute to the development of this information as are medical specialists or, in fact, the chairs of the medical disciplines. I believe that in most cases these nurses are more closely in touch with what women's needs are than these, often remote, medical specialists.

I would also like to see some female representation on this panel. I note that the nursing profession is predominantly women. Paragraph (f) talks about women's health issues. I had in mind that the expertise this person would bring to the panel would be from the community sector. With women's health services, often that is the first point of referral for young girls of 16 or 17, that sort of age. I believe that the sensitivities these people have and their expertise in dealing with these sorts of people would be particularly advantageous to the panel. Paragraph (g) talks about a nurse from one of the hospitals. I do not really mind where the nurses come from. I do not have any objection to changes in that sense, as long as they have expertise at the community end and expertise at the neonatal end.

**MR OSBORNE** (2.33 am): Mr Speaker, I seek leave to move together my two amendments.

Leave granted.

**MR OSBORNE**: Mr Speaker, I move:

> Proposed paragraph (2)(f), omit all words after "registered", substitute "nurse, currently specialising in women's health issues, nominated by the Calvary Hospital Board; and".
>
> Proposed paragraph (2)(g), omit "clinical nurse consultant", substitute "nurse".

This is a position that Mr Hargreaves, Mr Moore and I have come to on this issue. I must admit to being a little bit nervous about this panel getting bigger and bigger, because at the end of the day I think we all want a speedy outcome so that information can be out there. I take on board the concerns of Mr Hargreaves and I will be supporting his amendments in relation to the nurses, Mr Speaker.

Once again for the sake of balance, one of the amendments is to have one of the nurses come from Calvary. We had initially intended to have the neonatal nurse come from Calvary; but we consulted the Minister and Mrs Carnell, and it would appear that they do not have any. So we came up with this compromise, which has been agreed to by the Minister and Mr Hargreaves. I will be supporting Mr Hargreaves' amendment, with the two slight changes that I propose here, Mr Speaker.

**MR BERRY** (2.35 am): Why do we go through this pretence? Why do we persist in placing into these sorts of positions people who have signed on to the Calvary Hospital? You can listen to the tom-toms and you can listen to the public position of Calvary Hospital. They do not do abortions there. They might do a few diagnostic curettes and diathermies. There might be a few of those happening.

**Mr Moore**: Remember that we changed it to have information leading to full term as well.

**Mr Humphries**: It is not just about abortion.

**MR BERRY**: It strikes me that the inclusion of people from Calvary Hospital does not enhance that. All it merely does is include people on a panel who, if their public position is worth anything, know nothing about abortion because they do not do it. Mind you, I would not mind counting the diagnostic curettes and diathermies that are done up there; but they do not do abortions.

**MR SPEAKER**: Pardon me, but where exactly is this philosophical discussion leading? Are you looking for an answer, Mr Berry?

**MR BERRY**: Mr Speaker, if you want to come down here and enter into the debate, you should trot down here and not try doing it up there.

**MR SPEAKER**: Are you asking a question of somebody, or not?

**Mr Stanhope**: They are rhetorical questions.

**MR BERRY**: Mr Speaker, I just think the involvement of Calvary people is quite at odds with the information they are trying to provide. Somebody said, "This is because we need somebody from Calvary to talk about full term". Other people know about that, too. They have got a bit of an idea. There are lots of babies born out at the public hospital and at the other private hospitals. The Calvary philosophical position has got nothing to do with the provision of abortion. I do not know why we insist that they have to be involved in it. If their public position is any guide, they would not want to be. So why do we persist with it? Do they want to be involved in it? I suspect not. I cannot understand why they would want to be involved in it.

**Mr Humphries**: Because they are involved in providing women with support for going to full-term pregnancy.

**MR BERRY**: Mr Humphries suggests that only the people from Calvary would know anything about a full-term pregnancy. That is a joke.

**Mr Humphries**: No; but they would know about that.

**MR BERRY**: It is a joke. There are many of us who are committed to full-term pregnancies. Why is it that we think that people from Calvary are the only people that ever talk about it? Doesn't anybody else ever support a full-term pregnancy? It is just nonsense; it is silly. Have they said that they would like to be involved in this? It is just nonsense.

**MR STANHOPE** (Leader of the Opposition) (2.38 am): I want to make just a brief comment, Mr Speaker. I think, among all of the provisions in the legislation, this is the one that for me highlights the inherent weaknesses of this legislation and this approach, to the extent that we are singling out abortion as a procedure that requires these extraordinary steps. It does raise the issue that we are going to this enormous trouble of establishing a large board, or advisory panel, to advise on a whole range of issues relating to termination of pregnancy, or abortion. It is, of course, relevant that we are singling out abortion; but there are so many other procedures carried out by hospitals, by doctors, and so many other medical procedures where I think there are just as valid, if not more valid, reasons for insisting that the process of consent or approval be made as explicit as we are insisting it be made in relation to abortion.

It seems to me that this provision, more than any, highlights the absurdity of this whole approach, of this whole Bill. It is this provision which highlights the nonsense of what we are doing today. This is such a flawed process. For me the nonsense is these provisions around the establishment of this enormous advisory panel - seven people, five specialists, getting together to provide this great range of information. I do think that there is so much more valuable work that they could be doing. There are so many other procedures that they could perhaps be attending to and so much more valuable work that they could be doing. It does highlight the inherent flaws in what we are doing.

**Mr Berry**: Lawns to mow or something.

**MR STANHOPE**: Yes. There are just so many other more appropriate things, so many less invasive things, so many less insulting things, for them to be involved in. This provision really highlights it. It brings it home that we are establishing this brains trust to draw pictures for us of foetuses. It is just appalling.

**Mr Berry**: Can somebody answer that question? Did the board of Calvary want to facilitate the provision of information for abortions? I want to know. Did we ask them?

**MR MOORE** (Minister for Health and Community Care) (2.41 am): Mr Speaker, perhaps I can answer Mr Berry's question. I imagine that they are not particularly happy about it at all, Mr Berry. The law will be the law, and my observation of the boards is that they will abide by the law.

**Mr Berry**: What if they say, "No, we don't want to be in it."?

**MR MOORE**: I must say that this is not something that I am particularly comfortable with either. But I think what I can achieve is to address some of the concerns that Mr Stanhope raises about the amount of time for which these people would be involved.

Certainly, administratively, it will be my intention to ask somebody to actually draft the thing and have it ready for them in an initial form so that these specialists can look at it and say, "Yes, this is fine. No, you will need to change that. Yes, it is fine", and have perhaps a consultant or somebody from the department to do that, to try to make sure that we take up the least possible time of people with this kind of specialty. That would be the sort of approach that I would be seeking. But, having met a number of specialists of this sort within the hospitals, I am sure that they will be very happy to change anything that they disagree with and come to those compromises. I am saying that it is a small thing, administratively, that they will be able to do. But I see it as a compromise that I am prepared to wear.

**Mr Berry**: But you did not answer my question. Has somebody asked the board whether they agree - - -

**MR MOORE**: I did. I said that they will all obey the law. That is my answer: They will obey the law.

**Mr Stanhope**: You have to purchase the services of these people.

**MR MOORE**: I am just saying to you that they will obey the law.

**Mr Stanhope**: If you pay them.

**MR MOORE**: The boards will obey the law.

**Mr Berry**: What have we got to pay for this? It strikes me as curious. So the boards are telling you that they do not want to be in this?

**MR MOORE**: No, they have not told me that.

**MR QUINLAN** (2.44 am): Mr Speaker, I am curious as to what particular qualifications working at Calvary Hospital confers upon a particular nominee to this panel. What are we looking for? Are we looking for the best people to provide information? I would have thought we would have been looking for the best people. If they happen to be associated with Calvary, well and good. It should not in any way preclude people from being involved; but I would be interested to know what is the real bias towards this limitation, when there might be far better people working for a private hospital, the Canberra Hospital or whatever.

Amendments (**Mr Osborne's**) to Mr Hargreaves' amendment agreed to.

Amendment (**Mr Hargreaves**'), as amended, agreed to.

**MR MOORE** (Minister for Health and Community Care) (2.45 am): Mr Speaker, I move:

Page 7, line 26, after subclause (2), add the following new subclauses:

"**(3)** The Advisory Panel appointed under subsection (2) may, for the purposes of paragraph 7(1)(c), approve materials containing information on the medical risks of termination of pregnancy and of carrying a pregnancy to term.

**(4)** The Advisory Panel appointed under subsection (2) may, for the purposes of paragraph 7(1)(d), approve materials which present pictures or drawings and descriptions of the anatomical and physiological characteristics of a foetus at regular intervals.

**(5)** The Minister may, for the purposes of paragraph 7(1)(e), approve materials containing information on -

(a) agencies operating in the Territory which provide assistance to women through pregnancy;

(b) agencies operating in the Territory that make arrangements for the adoption of children; and

(c) agencies operating in the Territory that provide assistance with family planning.".

This amendment provides new structural provisions for the information requirements. It is important to note here that my proposal is designed to cope with the problem of the anticipated materials not being approved by the time the Act commences, although I will work hard to make sure that they are. In such circumstances, I think it is important to be clear that the requirements would not kick in until the materials are ready. This principle would apply separately to each requirement, of course. If this Bill must become law, then I think we have to do it as smoothly as possible.

**MR HARGREAVES** (2.46 am): Mr Speaker, I move:

After proposed new subclause (3) insert the following new subclause:

"**(3A)** An Advisory Panel appointed under subsection (2) shall comprise at least 3 women among its membership.".

Mr Speaker, the reason why I moved this amendment was to have a guaranteed minimum of female representation on the advisory panel. I have previously sought to amend it to have two nurses on it. I am not saying, for example, that the most appropriate nurse in neonatal medicine may not be a male. It may be. If that is so, that would, in my view,

end up with an imbalance. Mr Speaker, it is my preference that the predominance of the membership of the advisory panel be women, to bring that woman's perspective. However, being pragmatic, I recognise that that may be unpalatable to some of the people here.

It has been a feature of this debate that we have been accused of being 15 men making decisions about women's lives. I think it is only fair, therefore, that we make sure that the legislation embodies the imperative that a significant number of women participate in the development of the information to be distributed to members of their own sex. I would hope that this amendment would pass without reduction. In fact, I would welcome an amendment to increase it.

**MR OSBORNE** (2.49 am): Mr Speaker, I have no problems with that. I would not mind if there were seven women on the panel. I would leave that up to the board. The only issue that I think is of some concern is that perhaps there needs to be some sort of deal between the two boards - they may want to appoint only three - as to who is going to appoint two and who is going to appoint one. Maybe that is something that the Minister can facilitate. If they decide that they want to amend it, one of them is going to have to appoint two and the other is going to have to appoint one, but I think the Minister said that he does not feel that that is going to be a problem. I will be supporting Mr Hargreaves.

Amendment (**Mr Hargreaves'**) to Mr Moore's amendment, agreed to.

**MR OSBORNE** (2.50 am): Mr Speaker, I move:

> Proposed new subclause (4), omit "regular intervals", substitute "weeks 2, 4, 6, 12, 18 and 22".

I believe that this is an agreed amendment to the issue of the regular intervals for the pictures which we spoke about earlier. In negotiations, I came up with the spacing. In the original Bill, we initially wanted pictures and photos every two weeks, which would have made it like a novel, I suppose. So we have come up with the timeframe of pictures at two weeks, four weeks, eight weeks, 12 weeks, 18 weeks and 22 weeks, which I do not think is too onerous, Mr Speaker. The amendment is in line with what I said earlier, that the pictures and the information are crucial to this piece of legislation.

**MR STANHOPE** (Leader of the Opposition) (2.51 am): I would just like to say that I do not support the amendment, Mr Speaker.

**MS TUCKER** (2.51 am): I would like to say as well that I do not support it. It is so offensive that I cannot bear to think about it.

**MR BERRY** (2.51 am): I can still bear to think about it, because it drives me nuts. To see those patronising efforts under way again just appals me. You run out of adjectives to describe the madness of some of these ideas. It is bad enough if it has got "regular intervals". It is a mad piece of legislation in any event. But we are trying to

delete “regular intervals” and have it at weeks 2, 4, 8, 12, 18 and 22. Is this supposed to apply to a person who might only be into the eighth week of her term? Does she still have to be shown weeks 12, 18 and 22 as well? It is just bizarre. What are you trying to do?

**Mr Osborne**: Provide them with information.

**MR BERRY**: Tell them what?

**Mr Osborne**: The High Court - - -

**MR BERRY**: Oh, this is to tell them what a foetus might have looked like.

**Ms Tucker**: I am surprised that they do not have one of a full-grown child running around.

**MR BERRY**: Yes, why not? Why not have a doll to nurse or something like that? This is just bizarre. It is the sort of stuff you imagine in movies. Why is it that you have to go to such lengths? You have lost the race. Give up. Women are now choosing to have abortions. Somebody here said, “The caravan has moved on”, according to the story that was given to me. It really has. This sort of nonsense only serves to scar people. It does not assist in the process at all. Why do you want to scar people? Is it just to make an ideological point of your own? That is fine, but keep it to yourself if you want to worry about these things. It is all very well to worry about it and try to convince people that they should not seek terminations; but, after you have lost the race, to try to scar people with that sort of an embarrassment is just appalling. Again, I am lost for adjectives to describe those sorts of moves. This cannot possibly be supported.

**MR MOORE** (Minister for Health and Community Care) (2.55 am): Mr Berry, you are quite right about that. The term that I used was “regular intervals”. In fact, that was a modification from the original legislation, which you will remember was “fortnightly”.

**Mr Berry**: That is appalling enough.

**MR MOORE**: I do not disagree with that. It is appalling enough. But the decision, of course, will be made by the advisory panel as to what the appropriate regularity would be. Heaven knows, we have made enough effort to have an advisory panel that is 50 per cent appointed by the board of Calvary Hospital. I think they can manage the intervals at an appropriate level, based on reasonable help from within their profession.

**MR QUINLAN** (2.55 am): I would just back that up. Mr Speaker, if we go to the trouble of appointing a panel of experts because we want appropriate information, then we should allow them to decide on that appropriate information. It is prescriptive enough to say “regular”. Two, four, six, eight is unnecessary.

**MS CARNELL** (Chief Minister and Treasurer) (2.56 am): Mr Speaker, I agree with him.

**MR SPEAKER**: Which one?

**Mr Moore**: With Ted Quinlan?

**MS CARNELL**: Yes.

Amendment (**Mr Osborne's**) to Mr Moore's amendment, as amended, negatived.

Amendment (**Mr Moore's**), as amended, agreed to.

Clause, as amended, agreed to.

Clause 16

**MR MOORE** (Minister for Health and Community Care) (2.57 am): Mr Speaker, I move:

> Page 7, line 26, heading, omit "**Annual**", substitute "**Quarterly**".

In the interests of thorough and useful reporting, to avoid criticism regarding the possible abuse of the medical emergency exemption, I am willing to propose that the facilities report on a quarterly basis. That is only a minor additional task for the facilities. Members will realise that the clinic and the Canberra Hospital will be the main facilities in Canberra, with the hospital likely to have the great majority of emergency cases. The Bill allows for the manner of reports to be prescribed. I suggest that what we adopt is a simple, standard form of reporting, but remembering that privacy is protected in the way reporting is done.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (2.58 am): Mr Speaker, I move:

> Page 7, line 27, subclause (1), insert at the beginning of the subclause "Subject to subsection (2)".

This is a minor improvement to the drafting.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (2.58 am): Mr Speaker, I move:

> Page 7, line 27, omit "responsible officer", substitute "person or persons responsible for the management".

This amendment is similar. It is a drafting tidy-up related to amendment No. 5, which we debated earlier.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (2.59 am): Mr Speaker, I move:

> Page 7, line 28, omit "financial year", substitute "calendar quarter".

This amendment is cognate with amendment No. 27.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (2.59 am): Mr Speaker, I seek leave to move together amendments Nos 31 and 32.

Leave granted.

**MR MOORE**: I move:

> Page 7, line 33, paragraph (1)(d), omit "and".
>
> Page 7, line 36, subclause (1), add the following new paragraphs:
>
> "(f) the number of abortions performed at the facility which did not comply with the requirements of section 7 on the grounds of medical emergency; and
>
> (g) if any details are reported under paragraph (f) - the kinds of emergencies that caused the requirements of section 7 not to be complied with.".

These are new requirements to provide for emergency cases to be reported by the facilities. That is what we have really been dealing with in the previous few amendments, which were effectively consequential on this.

Amendments agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

**MR SPEAKER**: The question is: That the Bill, as amended, be agreed to.

**MR OSBORNE**: Mr Speaker, I seek leave to address the Assembly.

Leave granted.

**MR OSBORNE**: I thank members for their support in relation to this Bill. It has certainly been a long process. I thank especially those members who have had real problems with this whole issue for the last couple of months, in particular Mr Hargreaves and Mr Rugendyke, and lately Mr Moore and Mrs Carnell in relation to the attitude that they have had in regard to the final product here. Mr Speaker, I must admit that the approach made by Mr Moore on Thursday or Friday of last week certainly came out of the blue; but I have to admit that I think it was a very noble gesture on his part, to try to come up with some sort of compromise on the issues of this Bill. I thank him and I thank his staffer, Malcolm Baalman, for all the work that they have put into this Bill. I thank my staff and the hangers-on up there for their support, especially in the last couple of days.

Mr Speaker, the end result is that I do not have exactly what I wanted at the start; but it is certainly better than the alternative. I would argue that Mr Moore has achieved pretty much the same as I have. I do not want to put words into his mouth. He too does not have what he wanted; but it could have been worse. So, Mr Speaker, I thank him. I thank the members who are going to support this Bill. The debate has been long. I am pleased that it is over. That is all. I thank members for their support in this matter.

Question put:

That this Bill, as amended, be agreed to.

The Assembly voted -

| *AYES, 11* | *NOES, 6* |
|---|---|
| Ms Carnell | Mr Berry |
| Mr Cornwell | Mr Corbell |
| Mr Hargreaves | Mr Quinlan |
| Mr Hird | Mr Stanhope |
| Mr Humphries | Ms Tucker |
| Mr Kaine | Mr Wood |
| Mr Moore | |
| Mr Osborne | |
| Mr Rugendyke | |
| Mr Smyth | |
| Mr Stefaniak | |

Question so resolved in the affirmative.

Bill, as amended, agreed to.

## ADJOURNMENT

Motion (by **Mr Humphries**) agreed to:

That the Assembly do now adjourn.

**Assembly adjourned at 3.07 am (Thursday)**