PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

25 March 2003

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By authority of the Victorian Government Printer

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wynne, Mr Richard William	Richmond	ALP

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TUESDAY, 25 MARCH 2003

Tuesday, 25 March 2003

The SPEAKER (Hon. Judy Maddigan) took the chair at 2.04 p.m. and read the prayer.

DISTINGUISHED VISITORS

The SPEAKER — Order! I would like to acknowledge in the house this afternoon two members from the Hellenic Parliament: Mr Nicholas Stratilatis, MP, and Mr George Salagounis, MP. They are joined by the Consul-General of Greece. Welcome. Today is Greece's national day.

BUSINESS OF THE HOUSE

Photographing of proceedings

The SPEAKER — Order! I advise the house that I have given approval for still photographs to be taken from the public gallery during question time today. No additional lighting will be used. The photographs will be used by the Parliament for educational and promotional purposes.

Chamber: lighting

The SPEAKER — Order! Some members have raised with me the level of lighting in the chamber. Adjustments are being made to the lighting, and it should be right by the next sitting week.

QUESTIONS WITHOUT NOTICE

Minister for Police and Emergency Services: conduct

Mr WELLS (Scoresby) — My question without notice is to the Minister for Police and Emergency Services. I refer the minister to the Ombudsman's report regarding the misuse of police information in the Parliament on 17 October 2002, and I ask: will the minister assure the house that neither he nor any ministerial staff had further access to confidential police information after 17 October?

Mr HAERMEYER (Minister for Police and Emergency Services) — The member has great difficulty understanding. I have said this time and again, and the Ombudsman made it very clear in his report, that a minister has an entitlement to seek information from the police in relation to matters pertaining to his ministerial duties. The Ombudsman indicated that that was the case on this occasion. I can indicate to this house than neither my office nor I have ever inappropriately sought from Victoria Police information to which we were not entitled.

Cultural Diversity Week

Mr LANGUILLER (Derrimut) — My question without notice is to the Minister for Multicultural Affairs. Will the minister inform the house of the success of last week's inaugural Cultural Diversity Week in Victoria?

Mr BRACKS (Minister for Multicultural Affairs) — I thank the member for Derrimut for his question. I thank him also for his involvement in the inaugural Cultural Diversity Week. He and many other members of Parliament from all sides were heavily involved in the proceedings of last week and the celebration of cultural diversity. This coincided with the United Nations International Day for the Elimination of Racism on 21 March.

Some of the highlights of the week included, for the first time ever, a multicultural media expo and media awards. They were an outstanding success, with some 500 individuals involved in the expo. The multicultural media and those communities were involved in particular in a display at Federation Square and the awards announced later that night. As we know, the multicultural media not only plays a reporting and recording role but is also heavily involved in the community in promoting diversity and the very things that make Victoria a great place to live and a great multicultural community. The multicultural media plays a role over and above its media role. That was a very successful and well-attended event. I thank members from all sides who attended and who were involved in those activities. Members from all sides were invited to attend.

The government also provided funding of some $235 000 to 70 different organisations — schools, councils and local community organisations — to help them celebrate Cultural Diversity Week and to help organisational matters in the celebrations in their communities.

Many excellent things occurred as a result of that funding and support which went to local communities. In particular I would like to highlight the students and staff of Glen Waverley Secondary College, who prepared a multicultural web page which will be of ongoing use to the state government. At the multicultural gala dinner the group presented and demonstrated their work. I congratulate that school and

the many other schools and organisations which were involved in the activities.

The culmination of the week was the gala dinner at the Melbourne Convention Centre, which was attended by over 1000 people — all our major multicultural groups. I thank members from all sides of the house for attending. In particular I mention the member for Sandringham, who represented the Leader of the Opposition and did a very good job on behalf of the Liberal Party; David Davis in the other place; the member for Derrimut, as I mentioned; the members for Dandenong, Oakleigh and Burwood; Jenny Mikakos and Kaye Darveniza in the other place; and many other members who were also involved. I feel I have left someone out.

Honourable members interjecting.

Mr BRACKS — Oh dear, the honourable member for Footscray! I knew there was someone I had left out, but of course the honourable member for Footscray, the Parliamentary Secretary for Premier and Cabinet, is so involved in so many activities that I take for granted that he would have attended that function.

The week also saw the opening of the Victorian head office of SBS, which I was happy to do in conjunction with Senator Richard Alston, the federal Minister for Communications, Information Technology and the Arts. Again, that coincided well with Cultural Diversity Week.

These are difficult times for many people in our community with the war on the regime of Saddam Hussein. It is important that we all get the message out in this place, this Parliament, that the war is against the dictatorial regime of Saddam Hussein, not the people of Iraq and not the many refugees who have moved here to Victoria, often to seek asylum from the very regime which has oppressed the population.

The message is that this week was important in saying that not only do we value what we have built up over many years, but we want to preserve it. We feel that the mature nature of Victoria's multiculturalism will see us through this difficult time and continue the success that we have had in the past.

Forests: firewood collection

Mr RYAN (Leader of the National Party) — My question is to the Minister for Environment. I refer to the fact that in July last year the then minister for the environment assured residents in Victoria's box-ironbark areas that there would be no shortage of firewood for the next two winters. I ask the Minister for Environment: given this assurance how does the Minister explain the government's 70 per cent cut in the volume of firewood allowed per household?

Mr THWAITES (Minister for Environment) — I thank the honourable member for his question. The government has been committed, as the Leader of the National Party indicates, to ensuring there is no shortage of firewood. The government is concerned, and there have been some recent issues raised in certain parts of the state where there may be some shortfalls. I will look into that.

Police: academy training centre

Ms MORAND (Mount Waverley) — My question without notice is to the Minister for Police and Emergency Services. The Premier announced to the house on 26 February that an FBI-style simulated training facility has been completed at the Victoria Police Academy in my community at Glen Waverley. Can the Minister provide further information to the house regarding the imminent opening of this facility?

Mr HAERMEYER (Minister for Police and Emergency Services) — On 26 February the Premier announced to the house the completion of the operational safety and tactics training unit for Victoria Police. This facility comes out of the police shootings that occurred in 1993 and 1994. There were no less than five independent reviews, including reviews by the Royal Canadian Mounted Police, the national policy research unit and the Federal Bureau of Investigation, all of which recommended the construction of this type of facility.

The reviews recommended the construction of a dedicated training facility that enables the police to emphasise operational strategies, risk assessment, emergency planning, conflict resolution and defensive tactics to enable the police to better protect themselves and the community. Previously the police had been operating across a number of makeshift sites in 10 different locations across Melbourne, including locations such as scout halls, community facilities and outdoor ranges, which were not conducive to realistic scenario training and enhancing community safety.

Despite the fact that this facility was no. 1 on the facilities list for Victoria Police for a number of years, the then government chose to do nothing about it. This government is making it happen. We have committed $8 million towards the construction of a state-of-the-art operational safety and tactics training facility at the Victoria Police Academy, which is located in the

honourable member's electorate, and it will be one of the best in the world.

It is appropriate that it is opened in this, the 150th year of Victoria Police. The facility contains two classrooms fitted with the most modern multimedia equipment; a large soft-fall area in which defensive tactics training for hand-to-hand combat will be conducted; two 10-lane shooting ranges, one with a fully automated targeting system; a watch-house and cell block for training in prisoner management and control; and a scenario village which includes a realistic retail shopping strip, service station and residential street with three domestic buildings including two houses and a two-storey block of flats. It also includes office facilities and a mess room.

This facility will be used by some 9000 police each year. Most of the police across the force will use it but particularly the force response unit, the special operations group, and the crime courses unit. It will enable police to have consistent training in a realistic environment and to deal with advanced critical incidents, and that is particularly important in these times where we are under an enhanced threat from terrorist activity.

The government is getting on with providing the best facilities for our police. Last week, along with the Premier, I officially opened the new water police search and rescue facilities at Williamstown. We are in the process of providing 1400 additional police to Victoria Police, as well as 138 police stations across the state at a cost of $280 million; and we have provided them with the best remuneration package of any police force in the country. So we are actually getting on with the job and making it happen for our police force, and I am pleased to advise the honourable member that the new police operational safety and tactics training facility will open on 28 March. I understand the Premier will be there, and I look forward to the honourable member joining us there as well.

Public sector: corporations

Mr CLARK (Box Hill) — My question is to the Treasurer. I refer the Treasurer to the recently released mid-year financial report and to the disclosure that Victoria's public financial corporations incurred losses totalling $537.2 million in the six months to 31 December last year and now have negative net assets of $214.6 million, and I ask: apart from the Victorian Workcover Authority, which other public financial corporations have incurred losses over that period and what actions, if any, does the government intend to take in response to those losses?

Mr BRUMBY (Treasurer) — The mid-year budget update to which the honourable member for Box Hill refers shows what could only be described as a very healthy budget position for the state of Victoria. It is fully consistent with the pre-election budget update and shows budget surpluses running forward at an average of around $500 million per annum.

It is worthy of note, and in relation to the member's question, that we have seen a significant and marked deterioration in both national and international equity markets over the last 18 months. The impact of that on the accrual-based system is that many business enterprises, and indeed superannuation funds, are required to mark to market and as a consequence in a declining market have to book the write-down in the market value of those assets. So if you look, for example, at the Victorian Workcover Authority, which the honourable member mentioned, it is in fact trading profitably on its operating statement — the effect on the corporation's accounts has been entirely due to the position of international stock markets.

Over the last 10 days we have seen stock markets recover in the United States of America by something like 8 percentage points, and obviously you cannot measure the final impact on financial markets until you get to June 30, but the budget bottom line is very strong and very sound. What we have seen — —

Mr Clark — On a point of order, Speaker, my question related specifically to public financial — —

The SPEAKER — Order! What is the point of order?

Mr Clark — As I am saying, the point — —

The SPEAKER — Order! No, do not just repeat the question. What are the grounds of the point of order?

Mr Clark — The point I was making was that the minister's answer to date has not been relevant to the question of the losses made by public financial corporations. The Treasurer now appears to be at the point where he is concluding his answer, and I ask you to direct him to make his remarks relevant to that question.

The SPEAKER — Order! I do not uphold the point of order raised by the member for Box Hill. I understood the Treasurer to be addressing the question.

Mr BRUMBY — As I said, the mid-year budget update shows a strong financial position going forward, and the impact on corporations, as it is on superannuation funds, is due to the changes in asset

values and share market values, which of course have been declining in Australia and around the world.

Rail: rolling stock manufacturers

Mr WILSON (Narre Warren South) — My question is to the Minister for Manufacturing and Export. Can the minister inform the house of the steps being taken by this government to support rail manufacturers in Melbourne's south-east?

Mr HOLDING (Minister for Manufacturing and Export) — I thank the member for Narre Warren South for his question, both as a member in this house and as a former councillor with the City of Greater Dandenong. I know he has had a great interest in the future and viability of the rolling stock manufacturers in our south-east and I am pleased to report to the house that enormous progress has been made in terms of promoting our rolling stock manufacturers.

We all recall the situation that confronted our rolling stock manufacturers and our communities in the south-east of Melbourne when the former Premier arrived in Dandenong and told them that if they voted for the coalition in 1999 Dandenong would become a premier city. What he did not tell those people of the south-east was that that government had just signed and overseen contracts with our rolling stock franchises and manufacturers that would have seen more than a billion dollars worth of rolling stock replacement investment drifting offshore to Europe, France and Germany, with no local content whatsoever.

That was the situation that the Victorian government faced when it came to office in 1999 — no local content for our rolling stock. We would have faced a situation where Victorians would have been travelling around on trains and trams constructed offshore with which there was no local content whatsoever. So the government acted quickly to ensure that there were opportunities for our rolling stock manufacturers and opportunities for local content. We acted quickly to ensure that, particularly in respect to the regional fast rail projects which are now in the process of being constructed, there would be genuine local content.

I am pleased to remind honourable members that Bombardier Transport, which is based in Dandenong South, in my electorate of Lyndhurst, will be constructing the diesel motor units for the regional fast rail projects. With 160 jobs generated in the local area — local employment and local investment — it will be a terrific boost for the local economy.

But the future of our rolling stock manufacturers lies not only in being able to generate work for our local Victorian rolling stock manufacturers and our local rail network here in Victoria but also relies on our being able to link firms and our manufacturers into global supply networks. That is where the future lies and where we will be concentrating our attention. I am pleased to inform the house that even as we speak there are rolling stock manufacturers attending, with the support of this government, the Rail Solutions Asia conference currently taking place in Hong Kong. They are meeting with KCR and the MTRC, which are the key rolling stock operators in Hong Kong.

Local firms are represented, firms that are based in the south-eastern suburbs of Melbourne: Davies and Baird; Innovonics; Parts Production; Southport Engineering, representing not only itself but Actco Pickering; and CP Engineering, which is based in Clayton South, in the electorate of the honourable member for Clayton. I am also pleased to say that Austbreck is also attending. It is based in Hallam, within the electorate of the honourable member for Narre Warren South. These are terrific firms doing great things.

I am pleased to also inform the house that as well as attending that conference in May I will be leading rolling stock delegations to attend the UITP conference between 4 and 6 May in Madrid. From there we will travel to France, to Germany, to Austria and to the United Kingdom to visit Siemens, Bombardier and Alstom, and to make sure that we are linking our local rolling stock manufacturers and our components producers with global supply networks so they can provide jobs for local people, and also provide local investment.

The government supports our rolling stock manufacturers and our local rolling stock production capacity. We will not desert them; we will support them in the south-east and we will support them in the other parts of Melbourne and Victoria. We will ensure that we provide not only local opportunities for our rolling stock manufacturers but also link them into global supply networks and provide export opportunities.

Financial services: credit cards

Mr KOTSIRAS (Bulleen) — My question is to the Minister for Financial Services Industry. I refer the minister to community concern about the impact on Victorian families of unsolicited increases to credit card limits, and I ask: what is the government doing to address this problem in Victoria?

The SPEAKER — Order! The Minister for Financial Services Industry, answering the question in so far as it related to government business.

Mr HOLDING (Minister for Financial Services Industry) — I thank the honourable member for Bulleen for his question. I understand that the member may be confused about the focus this government is generating in relation to our financial services industry in Victoria. I understand his confusion, because we know that when the former government was in office it did not have a minister for financial services industry, and in fact my attention is drawn to remarks made by the former Premier when he said that from a financial services industry perspective this government should vacate the field and instead be focused on becoming a back office economy for the financial services industry.

The other side has no real interest in our financial services industry. The question the member asked in fact related to the responsibilities of the federal government, which is responsible for the regulation of our financial services industry. We are responsible for making sure that we have in this state the critical mass for our financial services industry that is required to make sure that this state continues to be a key centre of focus for the financial services industry, not just in Australia but throughout the Asia–Pacific region.

Mr Perton — On a point of order, Speaker, on the question of relevance, assuming that the minister has not concluded his answer: the question was quite clear — it related to unsolicited increases in credit, and it is a matter that the minister and his party campaigned on. The question was will the government take action, and the minister in his response so far has given us a little bit of trite propaganda about the government's direction but has not answered the question. I ask you to bring the minister back to order.

The SPEAKER — Order! As I understand it the minister has concluded his answer and has indicated what the government intends to do. I cannot direct the minister to answer in exactly the way the honourable member for Doncaster would wish him to.

Bushfires: government assistance

Mr HELPER (Ripon) — My question is to the Minister for Community Services. Will the minister advise the house on how the government is supporting Victorian families in regional Victoria suffering from the recent bushfires?

Ms GARBUTT (Minister for Community Services) — I thank the honourable member for his question. Without doubt regional communities and families have suffered two very cruel natural disasters — the drought, which is of course ongoing, and the bushfires. They have put an enormous strain on regional and rural communities.

This government has taken a whole-of-government approach through the bushfire recovery ministerial task force chaired by the Treasurer, and looks to support those communities in both the short and long terms. I recently visited several of those communities in the north-east at Bright, Porepunkah, Mitta Mitta, Dartmouth, Omeo and Benambra, and I have to say I was struck by the resilience of those communities and families and by their determination and commitment to get on with life and get back to normal, but of course they do require assistance to do that. This government is committed to assisting those families to cope during these difficult times.

I can inform the house that to date we have allocated hardship grants totalling over $200 000 to more than 500 households in the north-east. They are emergency grants to give relief at this time of crisis to allow people to buy food and clothing and find emergency accommodation. We have also provided $733 000 to shires and agencies across the bushfire areas to allow them to employ counsellors to provide financial and personal counselling and other supports.

Local councils affected, particularly Alpine, Towong, Indigo and East Gippsland, have played a vital role in the social recovery of their communities via the establishment of municipal recovery committees, which are doing a great job. I want to pay tribute as well to the agencies involved, such as the Upper Murray family care, Upper Hume community health, Alpine health, Tallangatta health, the Upper Murray health and community services and the north-east division of general practice, which have played a critical role in delivering services. The government will continue to work with local government and those agencies in delivering services.

We have worked with local government to help children in schools to deal with the trauma of the fires. We have assessed the impact on the operation of preschools and provided extra funding — for example, for occasional child care — throughout the fire-affected areas. This will help in the short term but there is no doubt we are facing long-term problems as well. Many of the personal responses do not emerge for a year or even two years after the event. This government has been flexible in the way it has allocated and used resources to take account of that long-term need.

I want to stress that the Bracks government is working across all agencies and local government areas to ensure the long-term social recovery of the communities that have been hard hit by the fires.

Bushfires: fences

Mr WALSH (Swan Hill) — My question is to the Minister for Agriculture. I refer to the fact that Labor's election policy on agriculture describes the government as being 'in partnership with farmers and rural communities'. Given this statement, can the minister explain why his government is not covering half the cost of Crown land boundary fences destroyed by the recent bushfires?

Mr CAMERON (Minister for Agriculture) — You would think that before asking a question like this the member for Swan Hill would first ask himself: what is the law? I will tell you what the law is. The law is precisely the same as it was during the period of the Liberal and National Party government — that is, the fence — —

Honourable members interjecting.

Mr CAMERON — Yes, during the seven years of darkness, as you so rightly point out.

The law before was and the law after is that the fence belongs to the owner of the particular property, but what this government has been prepared to do is assist people with wild dog fencing by paying half of the cost of the materials. It has been prepared to clear the lines as part of a fencing package worth over $5.5 million. That is what this government has done.

Industrial relations: federal system

Ms McTAGGART (Evelyn) — My question is to the Minister for Industrial Relations. Can the minister inform the house of the Victorian government's proposed reforms to the federal industrial relations system, why they are necessary and how the government can work with other governments to implement these reforms?

Mr HULLS (Minister for Industrial Relations) — I thank the honourable member for Evelyn for her very important question. As I have previously advised the house, the current federal industrial relations system is fundamentally flawed and in dire need of reform.

The Bracks government has been listening to all the parties that are suffering under this system, and it has an agenda for change which is outlined in a 10-point plan I have already delivered to Tony Abbott, the federal Minister for Employment and Workplace Relations. The federal government and Tony Abbott have a unique opportunity to implement changes to the Workplace Relations Act to make it work better and to end the culture of strikes and lockouts created by this act.

Not only can Mr Abbott use the Bracks government's 10-point plan as an agent for change but the building industry royal commission report, which has been hidden by Mr Abbott since 24 February, will also be a test for the federal government. This $60 million inquiry will end up being nothing more than an obscene waste of taxpayers funds and a complete farce unless it recommends proposed reforms in line with our proposals to create a cultural change in workplace relations in this state.

Such recommendations and reforms must include: abolition of legislation that hamstrings the ability of the Australian Industrial Relations Commission to resolve disputes, including artificial and arbitrary limits on the commission's jurisdiction, such as limits on the rights of parties to have site agreements; the industrial relations commission being given the power to intervene in disputes to ensure that they are resolved quickly without the damaging strikes and lockouts that we all know harm businesses, the economy and employer-employee relationships — this includes giving the commission power to make good-faith bargaining orders; and agreements registered by the industrial relations commission having effective dispute resolution processes which enable the commission to assist in the resolution of disputes.

The royal commission report and Mr Abbott will be judged on whether they deliver on these much-needed reforms. If the commission fails in this regard an historic opportunity will have been wasted, at great cost to the taxpayers. Unfortunately Mr Abbott's conduct so far has been dismal in the extreme. As we all know, serious reform requires cooperation between the states and the federal government, and the federal government cannot continue to act unilaterally in this area.

The government is clearly of the view that there is no room for illegal practices, bullying and intimidation in any workplace in this state. Illegal activity should be reported to and dealt with by the police. Let us be clear about this: the Bracks government will carefully consider the recommendations of the commission's report, but it will not be party to a task force set up solely to operate as Tony Abbott's secret police.

The critical need for reforming the Workplace Relations Act in line with the Bracks government's

10-point plan will again be taken up with Mr Abbott at the workplace relations ministers conference in Adelaide on Friday. This issue is very important and we will take every opportunity to demand immediate and effective changes to federal legislation.

CRIMES (STALKING AND FAMILY VIOLENCE) BILL

Introduction and first reading

Mr HULLS (Attorney-General) introduced a bill to amend the Crimes Act 1958 with respect to the offence of stalking and the Crimes (Family Violence) Act 1987 with respect to consent orders and for other purposes.

Read first time.

MURRAY-DARLING BASIN (AMENDMENT) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) — I move:

> That I have leave to bring in a bill to amend the Murray-Darling Basin Act 1993 and for other purposes.

Mr PLOWMAN (Benambra) — I ask the minister to give a brief explanation of the bill.

Mr BATCHELOR (Minister for Transport) (*By leave*) — As the honourable member would know, this bill was introduced last year. It deals with water issues in the Murray-Darling Basin.

Motion agreed to.

Read first time.

PAPERS

Laid on table by Clerk:

> National Environment Protection Council — Report for the year 2001–02
>
> *Planning and Environment Act 1987* — Notices of approval of amendments to the following Planning Schemes:
>
> > Monash Planning Scheme — No. C28
> >
> > Warrnambool Planning Scheme — No. C3
>
> *Sports Event Ticketing (Fair Access) Act 2002* — Guidelines pursuant to s 17
>
> *Victorian Environmental Assessment Council Act 2001* — Amended request pursuant to s 16(1)
>
> *Wildlife Act 1975* — Wildlife (Control of Hunting) Notice No. 1/2003
>
> Youth Parole Board and Youth Residential Board — Report for the year 2001–02.

CONSTITUTION (PARLIAMENTARY REFORM) BILL

Clerk's amendment

The SPEAKER — Order! Pursuant to standing order 166, I have received a report from the Clerk that he has made the following correction in the Constitution (Parliamentary Reform Bill):

> Clause 16(2) of the circulation print inserts a new section 18(1B) into the Constitution Act 1975. In paragraph (a) of new subsection (1B), I have deleted '(1B)' and inserted '(1BA)' so that paragraph (a) now reads 'this sub-section or sub-section (1A), (1BA), (1C) or (3); or'.

Mr DOYLE (Leader of the Opposition) (*By leave)* — While opposition members certainly do not question the Clerk's interpretation of section 166, I put on record that we do not characterise this as a simple typographical error. This is not a spelling error or a misplaced comma that was normally meant to be caught by the slips rule as envisaged by standing order 166. This is a cross-referencing error, and it may be argued, as I am sure the Clerk has correctly done, that therefore it can fall within standing order 166. But this is not just another bill, it is fundamental law and proposes an alteration to our constitution. Not only that, it is not just another provision but an entrenching provision — —

Mr Brumby interjected.

Mr DOYLE — You are better when you know what you are talking about, you really are! And you are still not funny!

The SPEAKER — Order! Perhaps the Leader of the Opposition could address his remarks to the Chair, as opposed to the Treasurer.

Mr DOYLE — I would never address that to the Chair, whereas it may be universally applicable to the Treasurer.

This is not just another provision, this is an entrenching provision to put this particular section into our constitution so that it can only be altered by referendum. The only reason we had to do it was that, despite the fact that we were told this was a fundamental law, a change to our constitution, a mistake was made in doing that, so the government,

with less than 24 hours to go, introduced a set of amendments the night before we had to have the debate guillotined. It could not even correct its mistake, because when it introduced the amendments this further mistake was detected not by the government doing its proper work but by the opposition. It was flagged to the government at 5 minutes to midnight before the guillotine came down.

The point is that this could have, if not detected, enshrined in our constitution something which could only have been changed by referendum. We are expected to believe the government's rhetoric that it can get the big things right about our constitution, but it cannot even get something as small as this correct. As I say, I do not question at all the decision of the clerks to alter this under standing order 166, but I place on record that this is incompetence and amateurishness at its height; it is the government not being careful with legislation changing fundamental law; it is the government rushing in its own legislation; it is a mistake corrected on top of another mistake.

This is something that we will take up at greater length in the other place, but it needs to be put on the record here.

JOINT SITTING OF PARLIAMENT

Victorian Health Promotion Foundation

The SPEAKER — Order! I have received the following communication from the Minister for Health:

> The Victorian Health Promotion Foundation is established under section 16 of the Tobacco Act 1987 (the act) to promote good health and disease prevention in the community.
>
> Under section 21(1)(f) of the act, three members of the foundation are members of either the Legislative Assembly or Legislative Council and elected by both houses jointly.
>
> The positions of all previous members became vacant at the time of the prorogation of the 54th Parliament. The previously elected members were:

NAME	TERM EXPIRY DATE
The Honourable Ronald Best	14.12.2002
The Honourable Gerald Ashman	22.05.2005
Ms Jennifer Lindell	14.12.2002

> I would be grateful if you could place this matter on the agenda for a joint sitting of both houses in the autumn sitting of Parliament 2003. In order to maintain the membership of the foundation at the optimum number I would appreciate if this matter could be resolved quickly.
>
> I have forwarded a similar request to the President of the Legislative Council.

Mr BATCHELOR (Minister for Transport) — I move:

> That this house meets the Legislative Council for the purpose of sitting and voting together to elect three members of the Parliament to the Victorian Health Promotion Foundation and proposes that the place and time of such meeting be the Legislative Assembly chamber on Wednesday, 26 March 2003, at 6.15 p.m.

Motion agreed to.

Ordered that message be sent to Council acquainting them of resolution.

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

> That, pursuant to sessional order 6(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 27 March 2003:
>
> > Public Holidays and Shop Trading Reform Acts (Amendment) Bill
> >
> > Health Legislation (Research Involving Human Embryos and Prohibition of Human Cloning) Bill
> >
> > Commissioner for Environmental Sustainability Bill
> >
> > Outworkers (Improved Protection) Bill
> >
> > Federal Awards (Uniform System) Bill
> >
> > Pay-roll Tax (Maternity and Adoption Leave Exemption) Bill.

Mr PERTON (Doncaster) — The opposition does not oppose the government business program. In agreeing to the program, I note that today a substantial amount of time will be set aside for the Health Legislation (Research Involving Human Embryos and Prohibition of Human Cloning) Bill. This is an important debate. Both sides of the house are dealing with this as a matter of conscience or as a free vote. In my discussions with the Leader of Government Business my understanding is that most of today will be devoted to that.

We believe the remaining items on the government business program for the rest of the week will be accommodated. There is also an indication that we will try to deal with more of the address-in-reply debate, and that may be accommodated on Thursday afternoon or into Thursday evening. That is obviously important.

With those understandings in mind, we do not oppose the government business program.

Mr MAUGHAN (Rodney) — The National Party will not be opposing the government business program, but I simply make two points: firstly, I understand we might well be sitting late on Thursday afternoon and into Thursday evening, as we did last week. I want to record the fact that that is not acceptable to members of the National Party and Liberal members who have great distances to travel, like the honourable member for Benambra, who need to have 3 or 4 hours travelling time in order to get home on the Thursday evening. That was not possible last week. It is likely that we could have the same situation again this week. I put the house on notice that that is not acceptable to National Party members.

Secondly, with regard to the address-in-reply, the National Party is more than happy to accommodate the government in allowing newly elected members to make their inaugural speeches, but we also want some assurance that members on our side of the house who have not yet been able to contribute to the address-in-reply debate will have the opportunity to do so before that motion is removed from the notice paper.

We do not oppose the government business program, but I ask for some consideration in future about the needs of country members who have to get back to their electorates on the Thursday evening.

Motion agreed to.

MEMBERS STATEMENTS

Cultural Diversity Week

Ms BEATTIE (Yuroke) — I was proud and honoured to attend two wonderful local celebrations of Cultural Diversity Week last weekend.

Broadmeadows Secondary College celebrated a successful year of its Living in Harmony project, under which a cultural diversity project officer has been developing partnerships between teachers, parents and students aimed at negotiating differences, increasing understanding of each other and developing a sense of respect and empathy towards one another.

The highlights of the project have included students participating in the 2002 Arab Australian Youth Day; establishing a homework support club after consultation with Somali and Arab Australian students; and development of a four-week program on cultural diversity.

The Harmony Day celebration was a credit to the teachers and students and demonstrated their exceptional capacity to work together to produce a diverse and spectacular range of presentations, workshops and entertainment.

Thanks to Leula Alloush, Mohamad Abbouche and Alex Chaaban from Victorian Arabic Social Services also. I congratulate the principal, Ms Marlene Robinson, the project officer, Sharon Urquhart, and all the staff and students at Broadmeadows Secondary College for embracing Cultural Diversity Week.

The other event I attended was at the Calabria Club in Bulla, where I was proud to join many members of the Italian community in celebrating Harmony Day.

I thank and congratulate the president of the club, Mr Vince Daniel, and his great team and the local Italian community for what was a fantastic celebration — —

The SPEAKER — Order! I believe, regardless of the clock, the honourable member's time has expired. The clock will be reset before the contribution of the next honourable member.

Building industry: royal commission

Mr McINTOSH (Kew) — The Minister for Industrial Relations has released his much-vaunted but very thin 10-point plan dealing with industrial relations in the building and construction industry in Victoria. I query why the Victorian government did not make a formal submission to the Cole royal commission, but perhaps it is because of a degree of embarrassment.

Among some of the minister's more illustrious suggestions are allowing the Australian Industrial Relations Commission to order a union picnic day and having dispute-settling procedures that do not allow for freedom of choice or representation, and he is concerned that the commonwealth industrial inspectorate — I think he really means the interim task force — is adversely affecting Victorian employees and employers. Of course the Attorney-General could never blame the Construction, Forestry, Mining and Energy Union (CFMEU).

The government is providing employees and employers with virtually no information about workplace relations. I know the minister has been running around town saying he does not like being the Minister for Industrial Relations, but it begs the question of what he and the $12 million white elephant called Industrial Relations Victoria are actually doing? Perhaps he ought to suggest two principal points — firstly, that the rule of

law should be enforced on all building sites in Victoria; and secondly, that money the CFMEU has donated to the Australian Labor Party should go to charity.

John Mouy

Ms CAMPBELL (Pascoe Vale) — I rise today to wish John Mouy a happy 90th birthday. Mr Mouy lives in my electorate after moving there from the eastern suburbs. In the late 1920s and early 1930s, around the time of the Great Depression, he decided it was important to try for a permanent job. He sought employment with the Postmaster-General's (PMG) department, and his application was successful. He joined the union when he joined the work force.

During the Second World War he served with the Rats of Tobruk. He then returned to Australia and was sent to Papua New Guinea. He was later discharged from the army after suffering some disabilities. 'Luckily', he said, 'Veterans Affairs looked after me'. When he came out of the army he was trying to decide what work he should do. In discussions at the Australian General Hospital a doctor suggested to him that after his very traumatic war service he should consider some outdoor employment, so he again returned to the PMG, at a job in Belgrave.

I acknowledge his years of dedicated unionism in the work force, and I congratulate him on nearly 60 years of membership of the Australian Labor Party. We welcome his membership of the Victorian ALP's Pascoe Vale branch.

Victorian Concert Orchestra: funding

Mr JASPER (Murray Valley) — I bring to the attention of the house as I express again my concern for the continued operation of the Victorian Concert Orchestra. This is because of a lack of commitment by the Victorian government to provide funding and general support for the orchestra on a continuing basis.

The Victorian Concert Orchestra was formed in 1926 to provide musical entertainment for special occasions, in particular concerts in country Victoria. Successive governments and premiers supported the orchestra with appropriate funding levels. However, in recent years funding was progressively reduced to the point where it is now almost impossible for the concert orchestra to continue.

With about 60 instrument players, soloists and support staff the orchestra has in the past provided approximately 15 concerts per year in a range of country Victorian locations. It has received the highest praise for the excellence of the musical entertainment it provides. While $35 000 has been provided in recent years to assist the orchestra, it clearly requires $100 000 per year to support its continued successful operation. Importantly it is a source of cultural entertainment for country Victorians.

This is a matter on which a range of people, including a number of members of this Parliament, have made strong representations to the Victorian government and Arts Victoria, without any real success. Now is the time for the government to act, otherwise the Victorian Concert Orchestra will go out of existence.

Tourism: Yea and Kinglake

Mr HARDMAN (Seymour) — On the weekend I attended the Yea Autumn Festival. The idea of the festival is to showcase the fine food, wine, handcrafts and produce of the area. The event was successful, and I congratulate the organising committee on that.

At the event I launched the Yea and Kinglake district official touring map and guide, and putting it together was a fine example of what can be achieved by cooperation between the local council, the state government and local businesses. It was paid for by local businesses, and the Murrindindi Regional Tourism Association and Yea District Tourism assisted them through this. The shire gave them support, using Tourism Victoria's style guide to make it match up with other regions across the state. The Yea and Kinglake district includes areas such as Strath Creek, Flowerdale, Highlands and Glenburn — all beautiful parts of our countryside.

The focus is on the fine food and wine in and around the Yea area, as well as the great natural attractions in the Kinglake National Park to the south. Having constantly travelled around this area over the last nine years, and having worked in the Highlands as a head teacher and in Flowerdale as the principal, I know this is a beautiful area, and I never get tired of driving around. I recommend that everybody get hold of a copy of this map and do some touring. I congratulate Yea District Tourism and all those involved in bringing this together.

Scoresby freeway: delay

Mr WELLS (Scoresby) — My statement condemns the Bracks Labor government and the Minister for Transport not only for failing to commence the Scoresby freeway but also for delaying the project for at least another two years. To every single frustrated and angry user of the heavily congested and often grid-locked north-south transport routes in the east —

that is, Springvale and Stud roads — the delay in the commencement of Scoresby freeway is just another kick in the teeth from a Labor government which historically has treated the people of the outer east with contempt. People are sick and tired of hearing excuse after excuse from this state Labor government for its failure to start the freeway.

Will the Mitcham to Frankston freeway ever commence? Will the two-year delay be three, four our five years? We have been told it will start in May 2004 — but let me tell you, no-one believes it. The state government has provided not one dollar of funding or so far matched the commonwealth government's funding contribution of which $68 million has already been made available.

To make matters worse, the people of the Scoresby electorate, particularly those in Wheelers Hill and Rowville, will be severely affected by the government's decision to scrap interconnecting on-off ramps between the Monash and Mitcham–Frankston freeways. I call on the minister to provide an immediate assurance that the Mitcham to Frankston freeway will commence in May 2004, to advise exactly how the government will fund its contribution to the freeway project, and to reinstate all the originally planned interchanges with the Monash Freeway.

Hepburn Springs Swiss-Italian Festa

Mr HOWARD (Ballarat East) — I wish to speak on another exciting event soon to take place within my electorate, and that is the Hepburn Springs Swiss-Italian Festa. This is an 11-year-old event held annually in the Hepburn Springs area to celebrate the Swiss-Italian heritage of the region. The event will again be held this year, commencing on 28 April and running for the following week.

This year the festa committee will be facilitating a broad range of colourful events, which will involve many members of the Hepburn Springs and Daylesford communities as well as attracting hundreds of visitors to the region. This year's events will include the Melbourne International Comedy Festival Roadshow, and other stage offerings including Farinelli in concert, the Ball sisters and an event from the Melbourne City Opera Company. The festival will also include the usual events such as the grand parade, the kids festa and the film festival, and a range of other things.

In addition this year, because the Bracks Labor Government has given the Swiss-Italian Festa a grant of $10 000, the organisers will be holding an Italian medieval fair in Vincent Street, Daylesford, on Saturday, 3 May. Vincent Street will be renamed Via Vincenzo for the occasion. It will closed to traffic, and food and wine stalls will be held in the street. There will be a great range of activities, including story-tellers, singers, street performers, jugglers, fire-eaters — —

The SPEAKER — Order! The honourable member's time has expired.

Land tax: rate

Ms ASHER (Brighton) — I wish to condemn the rapacious land tax collection of the Bracks Labor government. I have one constituent, a self-funded retiree, who has three investment properties in Brighton. The land tax bill in 2002 was $5300, but in 2003 the bill is $8100. This is an increase of over 50 per cent, which is unacceptable. Another constituent received a land tax bill for $4300 in 2002, but in 2003 his business premises land tax bill has risen to $7100. In fact from 2001 to the estimated bill in 2004 this constituent's land tax bill will have gone up by 69 per cent, which is unacceptable.

Another constituent of mine, yet another self-funded retiree who has worked hard all his life, has land tax bills of such dimensions in properties in Brighton that he is forced to sell property to pay land tax. The Bracks Labor government should realise that by its failure to adjust the land tax scales it is crippling investors, including self-funded retirees and other people who have worked hard all their lives to be self-sufficient.

I call on the government to adjust the rates, as the Kennett government did previously, to be more equitable and fair to investors and self-funded retirees in our community.

Dick Garrard

Mr CRUTCHFIELD (South Barwon) — I would like to use my first contribution to members statements to pay tribute to a Geelong wrestling legend, Dick Garrard, who died on Saturday night, 1 March this year. He was 92 and is survived by his wife, Joan, and his son, Dick, Jr.

Dick grew up in the Torquay area where he was a founding member of the Torquay Surf Life Saving Club and one of the first to discover Bells Beach in the 1930s. His record in the sport of wrestling speaks for itself: a silver medal at the 1948 Olympics; three gold and a bronze at four Commonwealth Games; a record 13 Olympics as a competitor, official or guest; 11 world championships as a competitor or official; awarded an MBE in 1970, an OBE in 1977 and an Australian sports

medal in 2000. That was the same year that I was privileged to watch Dick light the cauldron in front of thousands of people on Eastern Beach at his beloved Geelong.

He was a dedicated community man and I am sure all in this place will want to pass on to his family our deepest sympathies. Dick Garrard: rest in peace — you were a great ambassador for Geelong.

Disability services: south-west Victoria

Dr NAPTHINE (South-West Coast) — I wish to raise the urgent need for improved services to assist children with hearing impairment and deafness in schools in south-west Victoria. There has been an ongoing problem with a lack of specialist visiting teachers over the past two or three years. A project was launched last year in partnership with the south-west Department of Education, South-West Hearing Support Group and Victorian Services for Deaf Children. It consulted widely with parents, schools and experts in the area of deaf education and produced an excellent report in December 2002.

The main recommendations of the report were for a new model of service delivery for the south-west, including the appointment of a statewide coordinator for deaf education, a regional leading consultant for deaf and hearing-impaired students and localised visiting consultants for the deaf and hearing-impaired to work with teachers, teachers aides, schools and families, as well as the students themselves.

The second major recommendation was the establishment of a system of scholarships to assist local teachers to become specialist teachers for the deaf. The new model or structure would cost about $220 000 per year and the scholarships would be a $40 000 one-off cost.

There are 40 school-age deaf children in south-west Victoria. They are suffering severely in their education from a lack of quality visiting teacher services in that specialist area. This report is a combined report from all the parties concerned. It is an excellent report and I urge the minister and the government to take it up.

Mount Evelyn Environment Protection and Progress Association

Ms McTAGGART (Evelyn) — I would like to acknowledge and congratulate the Mount Evelyn Environment Protection and Progress Association, also known as MEEPPA, for its wonderful work on Clean Up Australia Day.

My son Matthew and I attended a clean-up event organised by MEEPPA to clear a small area of land in Mount Evelyn that has been set aside to establish a sanctuary for a breeding pair of rare and magnificent powerful owls. This pair of owls had lived on land adjacent to the site for many years and raised several young. Due to residential development, these rare owls were in danger of not only losing many of the large trees in which they had made their home but also being scared by building noise and possibly being harmed by domestic pets.

After much lobbying from MEEPPA and local residents, the developer and the local shire saw fit to retain a small section of land in their habitat and place tight restrictions on the proposed housing development. This site also contains many native plant species.

Despite the miserable weather the attendance of MEEPPA members and local residents was fantastic, and huge amounts of litter, building rubble and car parts were removed from the site. It is now possible for MEEPPA to move ahead and develop walking tracks and place signage identifying significant flora throughout the owl land for all residents, both human and feathered. I congratulate its members on their ongoing commitment to Mount Evelyn in the environment and the community.

Am I Old Enough booklet

Mr COOPER (Mornington) — I support the outrage expressed by concerned parents of primary school students over the circulation to children of a booklet by Victoria Legal Aid which graphically describes all types of sexual activity.

This booklet is entitled *Am I Old Enough*, and on page 31 it provides advice to children in regard to sexual activity in three categories: those aged under 10 years, those aged between 10 and 15 years, and those aged 16 or 17 years. The advice includes a description of vaginal sex, anal sex and oral sex.

It is little wonder that I have received complaints from parents of primary school-age children that this publication has been distributed to their children. They take the view, and very properly in my opinion, that Victoria Legal Aid has no place and no authority to distribute such matter to their children.

These parents are even further outraged that this publication was produced with funding provided by the Attorney-General of Victoria, and they are demanding that there be an immediate halt to taxpayers' funds being provided for the publication of such material.

This particular matter is a further example, in my opinion, of the out-of-control social engineering by the Bracks government. Sex education of primary school-age children is not a role for the Attorney-General or Victoria Legal Aid. They should keep their noses out of such matters.

Cr Peter Stephenson and Cr Vince Fontana

Mr LEIGHTON (Preston) — I wish to place on the public record my congratulations to Cr Peter Stephenson on his election last night as mayor of Darebin for the next 12 months. Peter's election last night was a popular decision warmly welcomed by all eight of his fellow councillors.

Peter has a background in youth work, both in the field and, more recently, at an academic level. He also chairs the inner northern local learning and employment network. I believe as mayor he will put an emphasis on the education and employment of young people and is well placed to have educational institutions, employers and the broader community all working together collaboratively. I wish Peter the best for the next 12 months. I know he will bring the same level of commitment, enthusiasm and hard work to the mayoralty as he has to his role as a councillor.

I would also like to congratulate the outgoing mayor, Cr Vince Fontana, on a very successful year as mayor of Darebin. I am confident that I speak on behalf of all local members of Parliament in Darebin in saying that Vince won strong respect throughout Darebin for his leadership, integrity, the long hours he put in as mayor and the positive promotion of the City of Darebin.

Both Peter Stephenson and Vince Fontana are examples of a group of nine very fine councillors we have in Darebin, and I think it augurs well for the city for the coming 12 months.

Nathalia Primary School: maintenance

Mr MAUGHAN (Rodney) — I wish to bring to the attention of the house the failure of the government to provide sufficient funding to carry out urgent maintenance at the Nathalia Primary School.

Nathalia Primary School is an excellent school that has about 200 students. It had a major refurbishment program under the Liberal-National Party government some five or six years ago. The school community is excellent. The president, Alan Barnes, the school council, the principal, Tony Adison, and his staff, and the students have gone to great trouble to look after the physical resources of that school.

The difficulty is that a west-facing classroom requires urgent painting. The hot sun is making the paint flake off, and under the PRMS management system it has been rated as no. 1, which is the second most urgent level. The school has been waiting for quite some time now for funding to undertake that painting. Without that being done it is going to be a far more expensive job.

The school has $3500 per year that it can apply to all the PRMS management programs in the school. It is simply not enough money to do the job. The school urgently needs funding from the government to enable it to complete this urgent maintenance program and to stop the building deteriorating further and becoming a far more important and expensive job, as the window frames need to be replaced as well.

Knox: economic development unit

Mr LOCKWOOD (Bayswater) — I want to mention the economic development unit at Knox City Council. It does a great job in encouraging and assisting businesses set up in Knox and in helping existing businesses do better business.

It runs training courses for small business, invests in local infrastructure, consults with businesses large and small, supports local chambers of commerce and provides a directory of local business on a web site that allows businesses a free marketing portal called 'knoxbusinessdirect'. The team is managed by Angelo Kourambas. He leads Myf Browning and Grant Meyer. Their group manager is Steve Dunn.

The team implements council's economic development policy, a policy developed after a great deal of consultation with local business and the local community. It operates on the fairly obvious assumption that economic activity creates jobs and that the generation of wealth in the community is a benefit to the whole community. Having an active and successful business sector contributes to a better life for residents locally and also for those who commute into the area. Having a dedicated team of professionals is a tribute to the council and part of the role local councils should play in the economic development of the state. I pay tribute to this team and the council, which is obviously interested in leading a successful and prosperous community.

The most significant project in my electorate has been the Bayswater revitalisation. This combined the talents of many other council staff, such as Christine White, Ian Bell, Kathy Parton, Shane Hardingham, Richard Hill, Lindy Amos, Gene Chiron, Steve Jury and James

Dixon. There are some challenges facing them in the revitalisation of other centres, such as Ferntree Gully and Boronia.

The SPEAKER — Order! The honourable member's time has expired.

Mulgrave neighbourhood house: Skillsnet

Mr ANDREWS (Mulgrave) — On 11 March this year I was pleased to represent the Minister for Information and Communication Technology at the official launch of the Mulgrave neighbourhood house Skillsnet project. Mulgrave neighbourhood house has been provided with a $10 000 grant as part of the fourth round of the government's Skillsnet initiative. This funding will assist Mulgrave neighbourhood house in providing Internet access and training to many residents in my community. In fact, 120 local residents will benefit from this project over the next two years.

The program is targeted at low-income earners, the visually impaired and others in the local community who could not otherwise gain Internet access and training. In very real terms this project is assisting Victorians in bridging the digital divide, particularly in my area. To date more than 90 000 Victorians have been trained under the program at more than 400 locations across the state; importantly, locations in both the city and country areas.

I want to take this opportunity to put on record my appreciation and praise for Mulgrave neighbourhood house, especially coordinators Rose Thompson and Margaret Harris, the president of the committee of management, Frank Ahern, and his other committee of management members. The Mulgrave neighbourhood house is located only a couple of streets away from my home and it provides well-targeted services that make our neighbourhood a better place to live.

Sue Maynard

Mr HARKNESS (Frankston) — I wish to inform the house of the work of a terrific Frankston identity, Sue Maynard, who runs an organisation called Bears that Care. Sue collects teddy bears, cleans them and distributes them to hostels, legal aid, women's refuges, et cetera for children who do not have any such toys. She is a terrific local community person.

Anybody who knows Sue would know that she has significant mobility problems and is on a fixed income, yet she runs this organisation on the smell of an oily rag from a very small flat in Frankston. She is a great Frankston identity who works very long hours and has a great personal commitment to making a difference. I will be encouraging people in Frankston to contribute teddy bears to her organisation because she is a person who makes life easier for those who are facing difficult times. People like Sue make a real difference in any local community, and Frankston is no exception. Sue is a shining example of a grassroots community worker, and her work must be encouraged.

Cr Jenny Mulholland and Cr Greg Ryan

Mr LANGDON (Ivanhoe) — Last night I had the privilege of attending the mayoral elections for the City of Banyule, where Jenny Mulholland was elected unopposed as the first female mayor of the City of Banyule. Jenny Mulholland is an Independent councillor who has been on the council since 2000. Jenny has been an exceptional councillor. She has worked tirelessly for the community. I have come across her time and again at community events, and we work very well together. Jenny also reflects well on her electorate, Griffin ward, the most conservative area in the Banyule council.

I would also like to pay tribute to Greg Ryan, the outgoing mayor. Greg was elected after a tied mayoral vote and his name was pulled out of a hat. Greg has been an outstanding mayor and has won over everybody with his tireless work. He worked through the entire community and did an outstanding job, particularly given his work in the Victoria Police and the fact that he is the father of four children under the age of four. I do not know how he found the time, particularly as he announced last night that he is about to become a father for the fifth time. Clearly he has been an exceptionally hard worker at home and everywhere else.

As I said, Greg did an outstanding job. It was a tribute to him and his family. I wish Jenny and her family well in the next 12 months. I am sure she will do an outstanding job, equal to Greg Ryan's.

Rafaela Lopez

Mr LANGUILLER (Derrimut) — I place on the record my congratulations to Rafaela Lopez, the author of *Orígenes — The Presence and Contribution of Victorians of Spanish and Latin American Origins, 1901–2001*. Although Spanish speakers began arriving in Victoria and other Australian states in the early to mid-1800s, very little has been written from an historical perspective about the experiences and contributions of these migrants and refugees. In that sense this bilingual book has been a long time coming and fills a large gap.

Rafaela Lopez has written the history of Spanish speakers in a bilingual form. This is most important for a number of reasons: Australians in general will have access to a history that has not been told before in the written form; Australians who belong to second, third and fourth generations of Spanish immigrants will be given access to a history that connects them not only to their various origins but also to Australia's history; and those members of the first generation of Spanish and Latin American migrants and refugees whose English language skills are for a number of reasons not sufficiently developed to read the English version will be able to read about their own history in Spanish.

Lopez has used a methodology that includes a brief historical summary of every single country that makes up the Hispanic world and whose citizens have come, in one historic period or another — —

The SPEAKER — Order! The honourable member's time has expired.

Stonnington Primary School: community

Mr LUPTON (Prahran) — It was with great pleasure that on 7 March this year I attended Stonnington Primary School in Windsor for its school assembly and to present badges to the school captains and house captains. The two school captains for 2003 are Danielle Archer and Nicholas Van. The house captains are Melanie Power and Jake Greeley of Blue Gum house, Ellie Claringbold and Mehdi Aliyar of Peppercorn, Rachel Shaw and Vova Akhmetov of Waratah, and Jade Power and Peter Marinis of Wattle house. I congratulate them on their election. I am sure they are going to enjoy their responsibilities and carry them out with great distinction.

It was also my pleasure on 7 March to speak with the grade 4, 5 and 6 students who had been on a tour of Parliament House on the previous Monday. The students got a great deal out of their visit, and they asked a lot of very intelligent questions which showed a great amount of insight into political issues. The subjects of the questions included preferential voting, the work of parliamentarians in the house and outside, and the different roles of the two houses. Coming from primary school students these questions showed that the students had really given a lot of thought to the questions, had enjoyed their visit, and got a great amount out of it. The school principal, Gayle Yardley, the staff, students and their families are to be commended for providing such a wonderful learning environment at Stonnington Primary School.

Mitcham: outstanding achievers

Mr ROBINSON (Mitcham) — I place on the record my congratulations to a number of people associated with some outstanding achievements in the electorate of Mitcham.

The SPEAKER — Order! The honourable member's time has expired.

PUBLIC HOLIDAYS AND SHOP TRADING REFORM ACTS (AMENDMENT) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The purpose of the bill is to introduce into Victoria fairer and more nationally consistent public holiday and shop trading arrangements over the Easter period.

In particular, the bill makes Easter Saturday a public holiday and generally requires shops to close on Easter Sunday.

The changes implement a key election policy and demonstrate the government's commitment to promoting a more balanced approach between work and family life and ensuring a competitive and fair operating environment for small business.

The changes also bring Victoria's arrangements over Easter more closely into line with those in other states. Victorians will now enjoy the same number of public holidays as other Australians.

While shops will generally be required to close on Easter Sunday, they are free to open on Easter Saturday and Easter Monday. In fact, apart from three and a half days in the year, shops in Victoria can choose to open whenever they wish — that is, 24 hours a day, 7 days a week, 361.5 days per year.

As occurs on other non-trading days, many types of small businesses employing fewer than 20 employees are exempt from the general requirement to close. This means that it is business as usual for small retailers such as milk bars, petrol stations, grocery and liquor outlets, pharmacists, restaurants, cafes and pubs.

The government recognises that there are several special events that are traditionally held over the Easter period. It is not the intention of this legislation to adversely affect those events by preventing shops connected with the event from being open. Local

councils are able to submit an application to seek an exemption from the general requirement for shops to close where such an event is being held.

In determining whether an exemption will be made, the minister may have regard to a number of matters including the nature of the event, its history and tradition, the extent of community participation and the benefit that the event generates to the local community.

Before detailing the key elements of the bill, I wish to briefly outline the broader context within which the legislation has been developed.

In response to changing community attitudes and consumer trends, the regulation of shop trading hours in Victoria was progressively liberalised in an orderly manner during the 1980s and early 1990s. In contrast, the Kennett government introduced legislation in 1996 that deregulated shop trading hours overnight. There was no consultation with small businesses or affected employees and scant opportunity for the Parliament to debate the matter.

The impact of deregulation on small retailers has been enormous. Businesses such as small grocery stores and retailers operating in local shopping strips were particularly hard hit and many were forced to close. Many small businesses that remained in the industry were forced to work seven days a week in order to keep pace with their major competitors, placing enormous strains on their family life.

The Bracks government is committed to creating a balanced and fair environment for small business by minimising the regulatory impact of legislation on small business.

Further, the Bracks government recognises that many consumers enjoy flexible shopping hours. The bill does not represent a move back to re-regulating shop trading hours. However, it does introduce some limited targeted measures that bring Victoria more into line with other states and ensures that many more Victorians can spend time with their families during Easter, which takes place during the school holidays. Many small businesses will also benefit from a trading day when the major retailers are closed.

I now wish to turn to the details of the bill.

Part 2 of the bill amends the Public Holidays Act 1993 to appoint Easter Saturday as a public holiday, while part 3 amends the Shop Trading Reform Act 1996 to generally require that shops close on Easter Sunday.

Clause 6 of the bill introduces a new provision that enables the Governor in Council, on the recommendation of the minister, to make an order that exempts a specified shop, a specified class of shop or shops in a specified area from the requirement to be closed on Easter Sunday.

The bill also provides that the minister may issue guidelines setting out matters that may be considered by the minister in determining whether to recommend the making of an order.

The Governor in Council may grant an exemption subject to any conditions it thinks fit. A breach of such a condition may attract a penalty of up to $10 000.

In conclusion, this bill provides Victorians with a more balanced work environment and delivers greater national uniformity by aligning Victoria's public holidays and shop trading arrangements with those in other states.

I commend the bill to the house.

Debate adjourned on motion of Ms ASHER (Brighton).

Debate adjourned until next day.

TERRORISM (COMMONWEALTH POWERS) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Recent terrorist attacks in the United States and Bali demonstrate that terrorists can strike anywhere without warning. No-one is immune. This government is committed to taking all necessary action to protect Victorians against terrorist acts. Defeating terrorism, however, requires cooperation at all levels of government, state, national and international.

Leaders of the commonwealth, states and territories recently agreed to cooperate on a range of issues aimed at combating the terrorist threat. A key priority was to ensure that all Australians had the protection of effective national anti-terrorism laws. This bill represents Victoria's contribution to securing such laws.

Using its existing constitutional powers, the commonwealth introduced terrorism offences into the commonwealth criminal code in mid-2002. However, as the commonwealth does not have specific

law-making powers relating to terrorism or the criminal law generally, there exists a possibility that its terrorism laws may not fully cover all examples of relevant terrorist acts. Any gap in the coverage of these laws, however slight, is undesirable and could result in the prosecution of a terrorist suspect being frustrated on technical grounds.

Victoria and the other states have agreed to lend so much of their legislative authority to the commonwealth as is necessary to ensure that any constitutional gaps are filled and, as far as possible, any uncertainty about the national application of these laws is eliminated.

The bill does this by referring power to the commonwealth under section 51(xxxvii) of the commonwealth constitution. The bill also refers the power to amend those offences as required. Using the referred powers from the states, the commonwealth will re-enact its terrorism offences, which will apply comprehensively.

The referral of state legislative power to the commonwealth is a significant step which the government does not take lightly. The government believes that in the area of terrorist activity, the commonwealth has a legitimate interest in passing criminal laws that clearly protect all Australians. It is therefore appropriate to refer legislative power to ensure the seamless operation of those laws.

The bill provides for safeguards to protect Victoria's interests while fully supporting the Commonwealth in securing effective national terrorism offences. The bill provides for a referral of power that is limited to only that necessary to enact terrorism offences in the same form, or substantially the same form, as the present commonwealth terrorism offences and to amend them as required.

Victoria's overlapping criminal law has been preserved by express provisions in the proposed commonwealth legislation guaranteeing the concurrent operation of state criminal laws and commonwealth terrorism offences.

The commonwealth and the states have agreed that the commonwealth terrorism offences will not be amended except upon the agreement of a majority of the states and territories, including four states.

Victoria's interests are further protected by the power to terminate the reference, for any reason, by proclamation on three months notice.

The bill is short and uncomplicated. Clause 4 refers the ability to the commonwealth to enact and amend, as required, the terrorism offences set out in schedule 1 of the bill. The offences in schedule 1 reproduce the existing commonwealth terrorism offences. Clause 5 preserves Victoria's capacity to terminate the referral of power by proclamation should the need arise.

Clause 100.6 of schedule 1 provides, so far as is possible, for the concurrent operation of state criminal laws and commonwealth terrorism laws. Clause 100.8 of schedule 1 reflects the commonwealth's commitment to obtain the agreement of a majority of states and territories (including four states) to any amendment of its terrorism offences.

There is a continuing debate between the commonwealth and some states regarding the inclusion of a clause to the same effect as clause 100.8 in this bill or whether the consultation requirement is adequately expressed in an intergovernmental agreement. As the government has no wish to delay implementation of the national scheme, this bill conforms with the bills passed by the other states and does not include such a clause. Should agreement be reached between the states and the commonwealth in the future to incorporate such a provision, state legislation could be amended at that time.

The bill is part of a package of measures designed to ensure Victoria is equipped to meet the threat of terrorism. The bill demonstrates the Victorian government's continuing commitment to securing an effective national framework to combat terrorism.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until next day.

CRIMES (PROPERTY DAMAGE AND COMPUTER OFFENCES) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Victoria faces difficult challenges to ensure that the criminal law is adequately equipped to deal with new and emerging types of crime. The Crimes (Property Damage and Computer Offences) Bill will introduce a new range of criminal offences to help ensure that Victoria is prepared to meet these challenges.

The bill reflects the government's determination to provide a modern and effective Victorian criminal justice system. The government is committed to providing safe streets, homes and workplaces for the Victorian community.

The bill will introduce the following new offences into the Crimes Act 1958:

a bushfire offence directed at those individuals who intentionally or recklessly cause a fire and who are reckless as to the spread of the fire to vegetation on property belonging to another person;

computer offences directed at individuals who impair the security, integrity and reliability of computer data and electronic communications; and

sabotage offences directed at individuals who damage publicly or privately owned public facilities, with the intention of causing major disruption to government functions or public services or major economic loss.

The new offences are based on the model provisions contained in the Model Criminal Code Report entitled *Damage and Computer Offences*, which was published in January 2001.

The model offences establish the framework for a coordinated and uniform national approach to these serious crimes. There is national agreement to implement the model offences:

At the Standing Committee of Attorneys-General meeting in March 2002 all jurisdictions agreed to introduce the model bushfire offence.

At the leaders summit agreement on terrorism and multijurisdictional crime in April 2002, all jurisdictions agreed to introduce the model computer offences in 2002. Introducing the model sabotage offences is also consistent with this agreement.

This bill will implement Victoria's commitment to introduce the model offences and will ensure that there is a comprehensive and consistent response across Australia.

Bushfire offence

All Victorians are aware of the damage that bushfires can cause. This year we have seen devastation caused by fires in the north-east of the state, as well as terrible destruction, and loss of life, in other states and territories.

While Victoria already has a range of offences covering the destruction of property by fire and lighting fires, these offences do not deal with a person who recklessly creates the risk of a fire spreading uncontrollably to vegetation belonging to another. This bill recognises the danger that this behaviour can cause by introducing a new bushfire offence into the Crimes Act.

The new offence will focus on people who create the risk of the spread of fire, rather than the infliction of actual harm. The offence will target people who intentionally or recklessly cause a fire and who are reckless as to the spread of the fire to vegetation on property belonging to another person. The offence will provide a maximum penalty of 15 years imprisonment, which is equivalent to the existing offence of arson.

However, persons who create the risk of a fire, where there are legitimate reasons to do so, will not be liable. The bill specifies that a person will not be reckless as to the spread of fire where the person:

carries out fire prevention, fire suppression or other land management activity;

in accordance with a provision made by or under an act or by a code of practice approved under an act; and

they believe that their conduct in carrying out that activity was justified having regard to all of the circumstances.

While unfortunately it may not be possible to stop all bushfires from occurring, this offence is an important step towards preventing unnecessary fires that occur because of the intentional or reckless conduct of individuals. The bushfire offence will help to deter these avoidable fires by ensuring that the full force of the law will be brought to bear on these offenders.

The bill will also amend the Bail Act 1977 to include the offence of arson causing death in the list of show-cause offences in that act. This will require a court to refuse bail where an accused is charged with arson causing death, unless the person can show cause why bail should be granted.

Arson causing death is an extremely serious offence carrying a maximum penalty of 25 years imprisonment. A person should not be able to receive bail for such a serious offence unless they can show cause why it would be appropriate.

The offence of arson causing death will now be treated in the same way as other serious show-cause offences such as aggravated burglary, or stalking (where

violence is used or threatened against the person stalked).

Computer offences

Victorians are among the first to utilise new technology and this government has taken an active approach towards growing information and communication technologies and sharing the benefits of such technologies across the entire Victorian community. World-class information and communication technology companies have been developed and nurtured in Victoria.

However, as a result of this huge growth in the Internet population and in electronic commerce, the integrity and security of computer data and electronic communications has become increasingly important. Cyber crime activities, including hacking, virus propagation, and web site vandalism pose a significant threat to computer systems.

This bill recognises our growing reliance upon computers and as a result introduces seven new offences to ensure that the Victorian criminal laws are adequate to deal with the latest advances in computer technology. These laws will ensure that we can continue to nurture and share the benefit of technology within our state.

The main Victorian offence currently dealing with this type of conduct is section 9A of the Summary Offences Act 1966. Section 9A prohibits gaining access to or entering a computer system or part of a computer system without lawful authority. This offence is badly outdated and does not adequately cover new opportunities and avenues for the commission of computer crime.

Section 9A will therefore be repealed and replaced with the new computer offences which will be inserted into the Crimes Act. While section 9A is directed solely at unlawful access to a computer system, the new offences will cover a much wider range of conduct, including unauthorised modification or impairment of data.

The first new offence in the bill will prohibit a person from causing an unauthorised computer function. The person must know that the function is unauthorised and have the intention of committing a serious offence or facilitating the commission of a serious offence. This offence is particularly targeted at situations where the person takes action to prepare to commit another offence, such as obtaining property by deception, but the intended offence is not committed. This offence is punishable by the maximum penalty equal to the maximum penalty for the offence intended.

The second offence is directed at persons causing any unauthorised modification of data in a computer. The person must know that the modification is unauthorised and intend to impair access to, or the reliability, security or operation of, any data held in a computer or be reckless as to any such impairment. The offence will not require that data impairment actually occur and will cover a range of situations where:

a hacker obtains unauthorised access and modifies data to cause impairment; and

a person circulates a disk containing a computer virus that infects a computer.

The offence is punishable by a maximum penalty of 10 years imprisonment.

The third offence will prohibit causing an unauthorised impairment of electronic communications to or from a computer. The person must know that the impairment is unauthorised and intend to impair electronic communications or be reckless as to any such impairment. This offence is particularly designed to prohibit tactics such as denial-of-service attacks, where a web site is inundated with a large volume of unwanted messages thus crashing the computer server. The offence is punishable by a maximum penalty of 10 years imprisonment.

The fourth offence will prohibit possessing or controlling data with the intention of committing or facilitating the commission of a serious computer offence by that person or another person. This offence is akin to offences such as going equipped for stealing, although the offence will extend beyond cases where the data is in the physical possession of the offender to situations where the data is in the offender's control even though it is in the possession of another person. The offence is punishable by a maximum penalty of three years imprisonment.

The fifth offence will prohibit producing, supplying or obtaining data with the intention of committing or facilitating the commission of a serious computer offence. The offence is designed to prohibit devising, propagating or publishing computer programs which are intended for use in the commission of a serious computer offence. The offence is punishable by a maximum penalty of three years imprisonment.

The sixth offence will prohibit causing unauthorised access to, or modification of, restricted data held in a computer. The person must know that the access or

modification is unauthorised and intend to cause the access or modification. Restricted data is data that is protected by a password or other security feature. Since the offence is limited to restricted data, the offence will not apply to innocuous conduct such as using another's computer game without permission. This offence is punishable by a maximum penalty of two years imprisonment.

The final offence will prohibit causing any unauthorised impairment of the reliability, security or operation of any data held on a computer disk, credit card or other device used to store data by electronic means. The person must know that the impairment is unauthorised and intend to cause the impairment. The offence is a less serious version of the offence of unauthorised modification of data to cause impairment. The offence will apply to data stored electronically on disks, credit cards, tokens or tickets, while the more serious offence is confined to data held in a computer. This offence is also punishable by a maximum penalty of two years imprisonment.

All of these offences will be supported by extended extra-territorial jurisdiction in recognition of the reality that computer crime may often operate across state and territory borders. This means that the offences will apply not only to crimes committed wholly within Victoria but also in appropriate cases where either the conduct which comprises the offence or the target computer that is harmed is located outside Victoria.

The model offences adopted in the bill reflect the combined wisdom of computer experts, experts in criminal law and academics from around Australia. The bill has utilised the world's best experience in the formulation of such legislation and will position Victoria to keep ahead of the perpetrators of computer crime. The bill will also allow e-commerce to continue to flourish in Victoria so that people can transact their business confident that Victorian criminal law is up to the challenge.

Sabotage offences

Tragically as a result of the world we live in today the government has a responsibility to ensure that Victoria's criminal laws are properly equipped to respond to all forms of terrorist conduct. This is a responsibility that this government takes very seriously.

Victoria currently has a number of offences aimed at those who cause damage to property. However, these offences are ill equipped to deal with conduct which is directed at the government or the community at large and which has the potential to cause massive damage and disruption to public services and facilities.

This bill creates new offences of sabotage and threatening sabotage to fill this gap in Victorian law. The offences provide for more severe maximum penalties in recognition of the seriousness of the conduct involved.

The new sabotage offence is directed at individuals who damage a public facility by committing a property offence (such as destroying or damaging property) or by causing an unauthorised computer function, with the intention of causing:

major disruption to government functions;

major disruption to the use of services by the public; or

major economic loss.

The offence is punishable by a maximum penalty of 25 years imprisonment, which reflects the gravity of the offence involved. It will not be necessary to prove that the actual damage caused involved major disruption or economic loss.

The offence of threatening sabotage is punishable by a maximum penalty of 15 years imprisonment.

The government is committed to providing a modern and effective criminal justice system that meets the needs of the 21st century. The new offences in this bill will help to ensure that the Victorian criminal law effectively responds to those who start bushfires, carry out sabotage of public facilities and commit computer crimes.

I commend this bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until next day.

CONTROL OF WEAPONS AND FIREARMS ACTS (SEARCH POWERS) BILL

Second reading

Mr HAERMEYER (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

This bill aims to improve safety and the sense of safety in the Victorian community by providing our police with a greater capacity to search people for dangerous

weapons, some dangerous articles and firearms. Through this enhanced power, police will be better able to prevent crime by detecting weapons before such weapons are used in the commission of crimes. In addition, the increased likelihood of detection should act as a deterrent to the carriage of weapons and complement the government's weapons community education campaign, which seeks to discourage the carriage of weapons, particularly among young males.

Lowered search threshold

To achieve that end the bill lowers the standard of conviction required by a police member to justify a search without warrant for prohibited or controlled weapons and certain dangerous articles under the Control of Weapons Act 1990 and firearms under the Firearms Act 1996 from reasonable grounds for belief to reasonable grounds for suspicion that an offence is being or is about to be committed. The courts have held that 'reasonable grounds to believe' is usually taken to mean something more than 'reasonable grounds to suspect' in that 'belief' connotes a higher standard of conviction than 'suspicion'.

The exercise of such search powers impinges upon the integrity of individual persons and the possession of their property. For this reason, under both legislation and the common law such powers are generally limited to emergencies or dangerous situations. Therefore an important consideration in considering the lowering of the search threshold is whether the increased powers are justified in terms of the risk and gravity of the behaviour sought to be prevented. This involves striking an appropriate balance between individual rights and the interests of the larger community.

Weapons-related offences in Victoria have risen alarmingly in the past six years. A weapon was used, threatened and/or displayed in an average of 14.2 per cent of reported personal offences (including homicide, rape, robbery, assault and abduction) in 1996–97. This figure had risen to 20.4 per cent of such cases in 2000–01. This trend of increased weapon use and the proliferation of knives and other dangerous weapons in the community is disturbing. The government is determined to tackle this problem and considers that this trend justifies the need to increase the police's capacity to detect and remove weapons before any offence (other than carriage of the weapon itself) can be committed.

The increased carriage and use of non-firearms weapons has been the primary policy concern leading to the introduction of these amendments. However, the government considers that any reduction in the threshold for searches without warrant under the Control of Weapons Act 1990 must be accompanied by a like amendment to the Firearms Act 1996. The rationale for this extension is not only for the sake of consistency but more importantly due to the potential for a firearm to cause significantly more injury and death than a non-firearms weapon.

The proposed change to 'reasonable grounds for suspicion' will bring the threshold test in Victoria into line with that adopted in comparable legislation in the United Kingdom and most other Australian jurisdictions. It will also make the standard of conviction necessary to conduct a search for weapons, specified dangerous articles and firearms without warrant consistent with that applying to a search for drugs under Victoria's own Drugs Poisons and Controlled Substances Act 1981.

Dangerous articles

The Control of Weapons Act establishes a hierarchy of non-firearms weapons with a descending degree of regulation commensurate with the offensive nature of the weapon and the risk its use poses. The three categories of weapons in descending order are prohibited weapons, controlled weapons and dangerous articles.

A 'dangerous article' is defined to mean:

> an article which has been adapted or modified so as to be capable of being used as a weapon; or
>
> any other article which is carried with the intention of being used as a weapon.

When the bill was before the Legislative Assembly in the Spring 2002 sittings, a house amendment was made to include a 'dangerous article adapted for use as a weapon' as a legitimate object of a search.

This amendment has been retained in the bill before the house and is in keeping with the principal policy objective of the bill of crime prevention and community safety. It also ensures that the new safeguards for police searches apply to searches for dangerous articles adapted for use as a weapon.

Additional safeguards

Given the intrusive nature of a search, the increased search powers will also be accompanied by additional safeguards against the potential abuse of the increased powers at both an individual and organisational level.

A police member proposing to conduct a weapons search is currently required to:

inform the person of the grounds for his or her belief justifying the search; and

if requested, state, orally or in writing, his or her name, rank and place of duty.

In addition, the chief commissioner has issued detailed instructions under section 17 of the Police Regulation Act 1958 on the conduct of searches, including recording, authorisation and other procedural requirements, in Victoria Police's *Operating Procedures Manual*.

The bill supplements or revises these existing safeguards by:

making it mandatory for a police member to inform the person to be searched of his or her name, rank and place of duty in all cases regardless of whether or not the information is requested;

requiring the member, if not in uniform, to provide evidence that he or she is a police member;

requiring the member to make a record of the search as soon as practicable;

providing a right for a person searched to obtain without fee a copy of the police's record of the search; and

requiring the Chief Commissioner of Police to provide an annual report to the Minister on the details of searches without warrant.

Besides providing an accountability measure on the exercise of the increased search powers, the annual reporting obligation will assist the government to evaluate the effectiveness of these reform measures.

In addition to the safeguards proposed for the legislation, the bill amends both the Control of Weapons and Firearms Acts to enable regulations to be made prescribing:

the manner in which searches are to be conducted; and

record-keeping requirements upon the conduct of a search.

Examples of the procedural safeguards proposed under the expanded regulation-making power include limiting the power to direct the removal of items of clothing to coats, jackets, hats and gloves and requiring the presence of a nominated adult during the search of a student in a school.

Complementary measures

To complement the revised search threshold, the bill also amends the threshold for a police member to demand production of a firearms licence to 'reasonable ground for suspicion' that an offence against the Firearms Act has been or is about to be committed. It also introduces a new power under the Control of Weapons Act to enable police members to demand production of an approval to carry a prohibited weapon where the member has reasonable grounds to suspect the person is committing a prohibited weapons offence. Failure to comply with such a demand without reasonable excuse will be an offence with a maximum penalty of 30 penalty units, which is the same maximum penalty for the offence of failing to produce a firearms licence upon demand under the Firearms Act.

The bill introduces a new power for police members to demand production of an article suspected of being a firearm, a prohibited or controlled weapon, and in some cases a dangerous article, detected during a search without warrant under firearms and the weapons legislation respectively. The person being searched must be informed that it is an offence not to comply with the request. This new demand power is designed to assist in minimising the intrusiveness of a search and also protect the safety of the searching police member. Failure to comply with such a demand will be an offence attracting a maximum penalty of 30 penalty units.

The bill also amends both the Control of Weapons and Firearms Acts to make explicit that the presence of a person in a location with a high incidence of violent crime may be taken into account by a police member in determining whether he or she has reasonable grounds to suspect the person is carrying a weapon. However, it should be emphasised that, while this factor may be a relevant consideration in forming the necessary conviction to justify a search, it will not in and of itself be sufficient to form 'reasonable grounds for suspicion'.

Authorised Sustainability and Environment officers

The Firearms Act 1996 gives authorised Sustainability and Environment officers the power to search without warrant for firearms and demand production of a firearms licence in circumstances connected with their duties provided the necessary criteria are met. The bill amends the search and demand production of licence

powers for these officers in an identical manner to the amendments to the police search powers that I have previously outlined.

In addition, the bill creates a new offence of hindering or obstructing an authorised officer without reasonable excuse in the exercise of his or her search or demand production of a licence powers with a maximum penalty of 30 penalty units. This new offence is consistent with recommendation 45 in the Parliamentary Law Reform Committee's report on *The Powers of Entry, Search, Seizure and Questioning by Authorised Persons*. Such a specific offence is not necessary in relation to hindering or obstructing police members in exercising their search or demand licence production powers as the general offence of hindering or obstructing a police member in the performance of his or her duties under section 52 of the Summary Offences Act 1966 already applies.

Extension of the Control of Weapons Act search powers to non-government schools

Under the Control of Weapons Act 1990, searches without warrant can only be conducted in a public place as defined in the Summary Offences Act 1966. This does not include non-government schools. This creates the anomalous situation where searches can be conducted in government schools (where the principal authorised the police to enter), but not in non-government schools. To address this anomaly, a definition of 'non-government school' has been included in the bill. This allows for the police to exercise their increased search powers in a non-government school (once the principal has authorised their entry in line with current protocols), but does not undermine non-government schools' status as private places.

Metal detectors

This bill also complements Victoria Police's acquisition of 420 metal detectors for use in every police station and criminal investigation unit across the State.

One of the government's first term commitments was 'to ensure that Victoria's police officers are the best equipped serving officers throughout Australia'. Part of that commitment included the supply of metal detectors to search for knives. The government delivered on that commitment in the 2000–01 budget where it committed $12 million over five years for a package of personal issue and operational safety equipment, including the acquisition of these metal detectors.

Weapon searches conducted with metal detectors have two potentially significant advantages:

first, as they do not involve physical contact with a suspect, they are safer for the searching police officers; and

second, as no physical contact is made with the person being searched, this form of search is less invasive than an initial pat search or full search.

The passage of this bill with its increased search powers will facilitate the use of this new equipment across the state.

Conclusion

This bill is an important element in the government's strategy to tackle the prevalence of dangerous weapons in the community. Together with the provision of metal detectors and the recent launch of the weapons community education campaign, this legislation forms a comprehensive package of measures aimed at preventing weapons-related crime and improving community safety for all Victorians.

I commend the bill to the house.

Debate adjourned on motion of Mr WELLS (Scoresby).

Debate adjourned until next day.

HEALTH LEGISLATION (RESEARCH INVOLVING HUMAN EMBRYOS AND PROHIBITION OF HUMAN CLONING) BILL

Second reading

Debate resumed from 27 February; motion of Ms PIKE (Minister for Health).

Mrs SHARDEY (Caulfield) — I move:

That all words after 'That' be omitted with the view of inserting in place thereof the words 'this house refuses to read this bill a second time until consultation has taken place with expert and community groups on the desirability of submitting alternative legislation to Parliament under which provisions relating to research involving human embryos are dealt with separately from those concerned with the prohibition of human cloning.

The ACTING SPEAKER (Mr Kotsiras) — Order! I wish to remind members that they will be speaking on the bill and on the reasoned amendment from now on.

Mrs SHARDEY — Perhaps I can circumvent some of the anxiety being felt in the house at the moment and invite the government to support this opposition amendment. As many members on the government benches would fully appreciate, the acceptance of this reasoned amendment would give them the opportunity to vote freely on the bill as their consciences would direct. It is a great pity that members of the government do not have the opportunity to vote freely on the reasoned amendment itself so they can make known their displeasure or pleasure at having the opportunity to support the separation of this bill.

The consultation I have referred to in the amendment could be as short as the government wishes in order to achieve the desired effect. It is not the wish of opposition members that we in any way hold up the passing of this bill. We appreciate that it is important legislation, and we would like to see the bill proceed; however, we believe there are some important issues.

In the federal Parliament the splitting of the bills was achieved as a procedural motion, which in this place would normally occur as part of the committee stage of the bill; but there is no guarantee — and certainly no guarantee has been given to the opposition — that there will be a committee stage. The bill is more likely than not to be guillotined.

I will make some general points first. The bill makes fresh provisions in relation to regulating the use of human embryos and the prohibition of human cloning and other activities which are referred to in the Infertility Treatment Act. The main purpose is to reflect the agreement of the Council of Australian Governments in April 2002, whereby the states and the commonwealth agreed that it was necessary to introduce nationally consistent legislation to prohibit human reproductive cloning and to regulate assisted reproductive technology and related emerging human technology in the form of stem cell research. Victoria had already passed legislation to regulate assisted reproductive technology, known as ART, and embryo research in 1984 and again in 1995 through the Infertility Treatment Act.

I believe there are cogent reasons for splitting this bill into two portions — firstly, the part related to the banning of human cloning; and secondly, to regulate human embryonic research. The bill in its current form incorporates two distinct ideas — and, I suppose, two complementary but separate concepts — that warrant two separate streams of thought, argument and deliberation. I believe we should be endeavouring to accommodate all members, regardless of their views, to ensure that they can make independent determinations and choices with regard to the two major questions. To ask members to vote on a bill which encompasses two such different questions — firstly, opposition to human cloning, and secondly, support for human embryo research — is to subject some members to the need to make a compromise in their vote. This is not, I believe, consistent with the concept of a conscience vote.

While I admit that I am personally comfortable with supporting both questions and have little trouble with the bill as it stands — I do admit that — I am very acutely aware that while some members are happy to support legislation to ban human cloning they are not in all conscience happy to support assisted reproductive technology embryo research — that is, stem cell research. I appreciate that.

I know and understand that this is a very sensitive issue for a number of people. There will be members who, if forced to compromise on these issues, will vote against the bill because of their opposition to stem cell research — and this will be dictated by their beliefs — and who will thereby appear to be not supporting legislation banning human cloning. I do not believe we should put any member in that position. The other alternative is that many members will perhaps abstain from voting at all. On such a seminal piece of legislation most people will want to record their vote. This to my mind is not the way a conscience vote should be offered to members of this Parliament.

I shall quote from Leo McLeay, the federal member for Watson, who in his contribution in the House of Representatives on 22 August — I see someone having a giggle at this and seeing the irony in it but what he had to say was very pertinent — stated:

> Let us have the debate on two separate issues, if that is what people want, and let it rise or fall on its merits. To get involved in a little bit of procedural trickiness in something that is as important as this, is an unfair thing to do — give people a choice; that is what I say.

I would also like to quote Archbishop Hart's letter, which I am happy to table. Most honourable members will have received a letter from Archbishop Hart this morning. The first page of the letter makes mention of the fact that he feels that in Victoria there has not been adequate consultation on this bill; although we know that at the federal level there was a two-year period of consultation, he believes in Victoria in relation to the Victorian legislation there has not been adequate consultation. In relation to the issue of splitting the bill he states the following:

> It was precisely to allow parliamentarians to declare their unequivocal (and indeed unanimous) support of the prohibition of cloning and certain other abhorrent practices, while also presenting very different views on the appropriate treatment of so-called 'surplus' IVF embryos that the commonwealth and several states split their bills. It is alarming that the Victorian government has not, so far, afforded members of the Victorian Parliament the same opportunity.

He states in the paragraph above — and this sentence is in bold:

> Unless the bill is split no person of well-informed conscience and certainly no Catholic could vote in favour of the bill as a whole.

That was his view of the fact that this bill is not split into two parts, which is what I am asking to occur.

To be fair I also consulted the Jewish community in my electorate, and spoke to a Rabbi yesterday. The Rabbi said he supported strongly splitting of the bill but for different reasons. He agrees with me that the bill should be split to offer people the greatest opportunity to offer their free vote. He said that so far as he knew the Jewish community would probably support both questions because they believed stem cell research offers the opportunity for improving life more than anything else, and that that would be his view.

The splitting of the bill would overcome the dilemma some would face and the need for compromise on conflicting issues. It would allow people to exercise their vote clearly in accordance with their conscience and therefore maintain the integrity of the conscience vote in this Parliament. I therefore believe it should occur. It is my view that two separate bills can be constructed to carry forward the policies embodied in the one, or consolidated, bill. It would be consistent with Council of Australian Governments agreement and the bill negotiated by the COAG implementation group. In the case in Victoria it would mean a separate cloning bill, which would merely amend the existing Infertility Treatment Act. While we would have two separate bills in this house they would both be for the purpose of amending the same Infertility Treatment Act.

In relation to the code of agreement in the communiqué attachment, no specific reference was made to the bill or a number of bills. Kevin Andrews, the federal Minister for Ageing, in his contribution in the House of Representatives on 29 August made it extremely clear when he said, as appears at page 6139 of federal *Hansard*:

> I will put in the context that the bill arises out of the agreement that COAG reached in April, and there was a communiqué and an attachment flowing forth from that meeting. In that communiqué and attachment, there was reference to nationally consistent legislation. There was no specific reference to a bill, a number of bills or any particular form in which this might be done.

I understand the Premier has tried to maintain that to split the bills would be outside the meaning of the COAG agreement. The federal minister has made it clear that this is not the case.

The monitoring powers of the National Health and Medical Research Council and its inspectors would need to be replicated in both bills, and a clause in both bills to ensure the review of the operation of the law would need to be linked in the divided bills. Split bills would in every way be consistent with the COAG agreement and would mean that Victoria had fulfilled its obligation to enact complementary legislation. It would amount to a change in form rather than a change in substance.

Finally, advice from the National Health and Medical Research Council in relation to the federal splitting of the bill was that the consequential bills:

> … are not divergent from the spirit or the letter of the COAG agreement and the bill as negotiated by the COAG implementation group.

My view is that the Premier, in not agreeing to split the bill, is trying to corral his members into voting overwhelmingly for the bill as it stands. I believe he has placed his own members in a terrible position, and he should reconsider this issue.

In turning to the bill itself, in August 2001 the House of Representatives Standing Committee on Legal and Constitutional Affairs brought down its report entitled *Human Cloning — Ethical and Regulatory Aspects of Human Cloning and Stem Cell Research.* The committee noted that appropriate legislation in all states covering these areas was not adequate, which led to the Prime Minister and premiers — this was a first — on 5 April of last year to agree to a nationally consistent position on human cloning and stem cell research. I certainly congratulate the federal government and the committee on that position.

While there appears to be little opposition around Australia to banning human cloning there are, of course, a number of differing views on stem cell research; although I note that the federal member for Adelaide claims that some 70 per cent of people in this country are in support of embryonic stem cell research. Many commentators have drawn attention to the fact

that new and emerging medical research and practices have often drawn hostility and criticism. Of course we can cast our minds back to Louis Pasteur, who certainly had trouble convincing people about the bacterial nature of infection, and Edward Jenner, who also had trouble convincing people that inoculating people with cowpox would protect them from smallpox; and many people have grappled with the philosophical issues surrounding in-vitro fertilisation (IVF).

Australia, and particularly Victoria, have been leaders in the field of IVF and reproductive technology. Additionally, Victoria has worked very hard to ensure appropriate regulation of assisted reproductive technology, known has ART, and embryo research first through the 1984 act and again through the 1995 act, which I have already mentioned. It should be recognised that whenever couples seek IVF treatment it goes without saying that excess embryos will be created as it is unknown what the success of implantation of embryos into the uterus is likely to be. Additionally, in this country by and large a very small number of embryo implantations seem to be needed with a comparatively high success rate.

In Australia usually only two embryos need to be implanted to achieve a pregnancy, while overseas often up to six embryos need to be implanted for success. Because the number of embryos produced cannot be controlled and because the number required is also unknown, excess embryos are produced for possible future use. In Victoria such excess embryos are kept in storage until they are no longer required by the woman or her partner. The maximum period for embryos to be stored in Victoria is five years. On the expiry of this five-year period the woman can choose to donate her embryos to another woman or have them removed from storage and laid on the table to succumb. It is important to remember that embryos can be created only to treat women undergoing fertility treatment. That is the law in this state, and this bill will not allow the creation of embryos for any other purposes — for example, research.

The stem cell research element of the bill will offer the opportunity for embryos which would otherwise be removed from storage to succumb to be donated for destructive research. In other words, embryos which would otherwise be discarded will now be able to be used for embryonic stem cell research. However, this can be done only with the appropriate consent of all individuals who contributed to the creation of such embryos.

As part of the national agreement on embryonic stem cell research it was agreed that only embryos already existing at 5 April 2002 will be available for destructive research. This is a safeguard against embryos being formed purely for research purposes. This will not be able to be changed until there is a review of the legislation, which will be completed two years from the time the federal act received royal assent, which was just before Christmas last year.

I suppose this is the point at which many of us will be examining our consciences to determine whether we are able in all good conscience to approve embryos which would otherwise be destroyed being used in a research program which has the capacity, I believe, to benefit future generations. I will briefly examine the way in which stem cell research can make such a contribution.

The isolation of human embryo stem cells was first reported in 1998 by James Thompson at the University of Wisconsin. Stem cells are described as cells that can reproduce themselves into different specialised cells, and such cells can be adult stem cells or embryonic stem cells. Adult stem cells can of course be taken from adult tissue or umbilical core blood. Embryonic stem cells are taken from the inner mass of the embryo, which develops after four or five days and consists of a clump of cells. The specialised cells that the embryonic stem cells are can develop into brain cells and spinal cord, nerve, heart and insulin-producing cells, which therefore offers the potential for the medical treatment of degenerative diseases such as diabetes, spinal cord injury, Parkinson's disease and other conditions.

Treatment has the potential to be given in the form of cell-based therapeutics as opposed to drug-based treatment, thereby reversing these degenerative diseases in a way which is currently not possible. My view is that using embryos which could be destroyed anyway for such exciting developments would add greatly to our capacity to value human life.

This bill allows the use of embryonic stem cells for research projects only if there is a likelihood of a significant advance in knowledge or of improved treatment which cannot be achieved by other means, including adult stem cell research. Additionally the legislation provides significant safeguards through the regulation of research by the National Health and Medical Research Council's (NHMRC) embryo research licensing committee, with strict requirements, including an assessment by the Human Research and Ethics Committee.

One brief quote I want to put on the record in relation to stem cell research and the way in which it can assist human beings is from a report by the United Kingdom Parliament:

> There are morally weighty reasons for doing research that may lead to therapies for many serious and common diseases, and the concept of respect for persons can also be invoked on this side of the argument. A commitment to respect for persons is fundamental to many areas of life, not least the practice of medicine, in which help and assistance to those in need is a guiding principle. Here respect for persons may take the form of developing treatments for serious degenerative diseases, and there can be few causes more worth while than to relieve the suffering caused by these diseases.

I suppose the sentiments expressed in this quote, in focusing on the things we do in support of human life, are contrary to some of the reasons why some people could not support the bill, because they believe destroying an embryo in fact destroys human life. So members might like to consider that quote in terms of the way they look at this bill.

In talking about the safeguards and about the NHMRC licensing committee, I have also mentioned that there are strict safeguards, including the requirement that each research project be assessed by the Human Research and Ethics Committee. This means that infertility clinics will require a licence from the NHMRC to conduct embryonic stem cell research, as well as a separate licence from the Infertility Treatment Authority to conduct ART clinical practice. There are also detailed provisions covering monitoring inspectors.

I will briefly turn to the second element of this bill, which is a ban on human cloning. The Victorian Infertility Treatment Act already bans reproductive cloning, but it requires rewording, as we have been told, to be consistent with the new commonwealth legislation. I will refer to a description of cloning to give members an understanding of some of the reasons why cloning is seen to be inconsistent with the way we view research and therefore should be opposed. This is a quote from a speech given by Dr Southcott, the federal member for Boothby, in his contribution to the House of Representatives debate on 27 August. In reference to human embryo cloning he states:

> This technology is relatively new. In 1997 it was announced that Dolly the sheep was successfully cloned. However, only about 10 per cent of cloned embryos result in live births, and amongst the live births there is a high percentage of malformations and deformities. In fact, when you look at the process that was required to create Dolly the sheep, you can see that it took about 430 eggs, 40 donor sheep and 277 reconstructed eggs to develop 29 embryos. After using 13 surrogate mothers one clone was born: Dolly. Clearly this technology is dangerous, and it is unacceptable to experiment in this way with humans. Apart from these obvious technical problems Dolly appears to have cells that are just as old as the adult cell from which she is cloned. She already has arthritis.
>
> Some scientists in Italy, South Korea and the United States may have already cloned humans to a four-cell stage … This technology is dangerous: it raises the spectre of designer babies and could lead to the commodification of children. If pursued, it will distort families and relationships within them.

I believe that description of cloning makes very clear the reasons why we should not allow human cloning to take place and why we should therefore support this portion of the bill.

Other prohibited practices in this bill are obvious. The practices which will be banned include the somatic cell nuclear transfer, sometimes referred to as therapeutic cloning. This practice is banned under the provisions prohibiting the formation of embryos by a process other than the fertilisation of the human egg by human sperm.

I now turn to briefly address the last part of the bill, which is part 3, the offences part of the bill, to make clear the things that are not allowed. Firstly it should be noted that the offence of creating a human embryo clone will attract a prison sentence of some 15 years, which of course is a greater penalty than in the current Infertility Treatment Bill, but a large number of offences come under this part of the bill. For instance, it is an offence to place a human embryo clone in the human body or the body of an animal, it is an offence to import or export a human embryo clone, it is an offence to create a human embryo other than by fertilisation or by developing such an embryo, and it is an offence to create a human embryo for a purpose other than achieving pregnancy in a woman.

That is a very important element of this entire bill and goes to the very substance of the bill. It is an offence to create or develop a human embryo containing genetic material provided by more than two persons. It is an offence to develop the human embryo outside the body of a woman for more than 14 days. It is an offence to use precursor cells from a human embryo or a human foetus to create a human embryo or develop such an embryo.

A person commits an offence if the person alters the genome of a human cell in such a way that the alteration is heritable by descendants of the human whose cell was altered, it is an offence to collect a viable human embryo from a body of a woman, it is an offence to create a hybrid embryo, it is an offence to import or expert embryos, and it is an offence to conduct commercial trading in human eggs, human sperm or human embryos.

This is a very extensive and very large bill and, as I said, it is a very important bill. But the nub of the issue here is that members should be given the opportunity to exercise their conscience vote clearly and freely. To put these two very important but very different questions in relation to human cloning and stem cell research in the one bill means that members do not have a clear choice to exercise. It will mean that some members will abstain and it puts some members in the terrible position that if they vote against the bill because they cannot support stem cell research then it appears that they are supporting human cloning, which of course I cannot imagine any member in this house would wish to do.

This bill brings to finality in a sense Victoria's obligation in the agreement with the Prime Minister and other premiers to provide consistent legislation across Australia on these two issues. But if the states of Queensland and South Australia can separate into two bills the two elements of these questions, then I see no reason why it cannot be done in the state of Victoria.

It would not be a difficult issue to redraft this bill into two separate bills to effect an amendment to the Infertility Treatment Act 1995. Once again I call upon the Premier and the minister, because I believe that she has probably had a very strong role in the decision on this issue. When she has been asked about it in public she has merely said, 'We are just amending an existing act', and that is true, but not only are we amending an existing act, we are asking members to make decisions on two very separate and distinct issues of great importance. I call upon the Premier to reconsider the government's position, to support the amendment that I moved at the beginning and to offer his members the chance of a real choice.

Mr DELAHUNTY (Lowan) — Firstly I must condemn the government for its failure to follow the commonwealth government's initiative in splitting the legislation on embryonic stem cell research into two parts thereby enabling the debate to proceed on a proper basis, which many people have spoken about — that is, considering first the issue of cloning and then the merits of embryonic stem cell research.

In looking at the purpose of the bill, which I want to highlight this afternoon, one sees it is twofold:

> The purpose of this act is to amend the Infertility Treatment Act of 1995 so as to make fresh provision for —
>
> (a) the regulation of certain activities involving the use of human embryos; and
>
> (b) the prohibition of human cloning and certain other practices associated with reproductive technology.

The Leader of the National Party put a notice of motion earlier today, and the honourable member for Caulfield has moved an amendment which we in the National Party support, even though we are given a conscience vote on all other matters in relation to this bill. We support the amendment because what we are driving at is that this bill should be separated into two bills.

I am absolutely amazed that the Premier has not allowed this, because upfront I want to say that I am a very proud Catholic and a strong Christian, and it is difficult to debate these issues. I am not a scientist. At one stage in my former life I was referred to as a growth pathologist — in other words, whereas a pathologist is one who looks at things through a microscope, I was doing things through smell, feel and view. As I said, I am not a scientist.

This debate has been going on for many years. Upfront I want to say that I support a nationally consistent logistic framework which bans cloning and deals with stem cell research also. I respect the fact that members of all parties, as I was led to believe, were given a conscience vote on this matter, because this is very much a personal position, and if we can take the politics out of it it is good for this debate today.

As we all know, Victoria has led the way in in-vitro fertilisation (IVF) legislation with the introduction of the Infertility Treatment Act in 1995. With the development of that, we know there were many years of inquiries and consultation and a lot of work done by all politicians at that stage in dealing with scientists, ethics people and the like to come up with the Infertility Treatment Act of 1995.

Since then there have been some minor changes to that act. I led the debate for the National Party on one of those issues following the research done by the Honourable Ron Best stage, and also with input from the Honourable Jeanette Powell, who was in the upper house at that stage.

As we know, there was tripartite support for that IVF legislation that has gone through this place in the last couple of years. This bill, as we all know, is about a very complex issue, a major way that the future of humanity will proceed in years to come.

I also say upfront that I give strong support for the opportunity of giving the greatest gift of life — that is, for childless couples to have children. I have been

fortunate enough to have three children myself, and therefore I do not know how to explain it to those who are unable to have children. In meeting with many of those childless couples it is obvious the IVF legislation has been a great help to them, which is something I support strongly.

I am also very strongly supportive of medical research. Usually the problem with medical research is the lack of funding. As we know, the Department of Human Services budget and the health budget is like a piece of blotting paper — it does not matter how much money you put into it, there is not enough because there have been enormous advances in medical technology and medicines and drugs in the last few years.

I am fortunate enough to have a brother-in-law who is a surgeon, and have had discussions with him on things like knee operations, reconstructive surgery and the like. I have an older son who had reconstructive surgery about 10 years ago and was in pain for at least a week or 10 days. My younger son who had a similar operation just last year walked out of the hospital the next day without pain. So we can see the enormous advances that have been made in medical research which we have all benefited from.

In relation to the bill, I have read a lot and have attended a lot of forums on stem cell research. As we know, the stem cell debate has been going on now for nearly two years. On 4 April 2002, the Leader of the National Party offered to convene a forum on stem cell research so that members of Parliament could hear from the best available experts in the fields of both research and ethics before making a decision on whether to allow research into surplus, as they are commonly called, IVF embryos.

At that stage we in the National Party took a conservative view, to hasten slowly, as our federal leader, John Anderson, was proposing. We placed emphasis on the need for appropriate information, both medical and ethical, to be in the hands of the parliamentarians who are determining the relevant legislation.

On 5 April 2002 the Prime Minister gave the green light to stem cell research. This covered many things. Safeguards were put in to ban full cloning, there was a limitation on research, permission was to be required from donors before any research began and there was also a ban on the creation of embryos for research. That is to be reviewed in three years time.

A Council of Australian Governments meeting was held on 6 April, and it was agreed then that legislation would be introduced into federal Parliament. It was hoped at that stage that states would have similar legislation. It has not taken long — not a year later we have similar legislation, but unfortunately it comes in the form of one bill, not two bills, as happened in the federal Parliament.

On 29 May 2002 a stem cell forum was held here in Parliament House; I will come back to that a little bit later. However, the non-attendance by many of the 132 parliamentarians then in this place was disappointing.

On 25 June 2002 — before legislation was introduced into federal Parliament — paralysed actor Christopher Reeve wrote to the Prime Minister asking him to support embryonic stem cell research. I will come back to what Christopher Reeve did later. On 27 June legislation on embryonic stem cell research was introduced into the House of Representatives. It was the Research Involving Embryos and Prohibition of Human Cloning Bill. I am led to believe that a conscience vote was given to all members by all parties.

On 21 August 2002 Professor Alan Trounson showed federal MPs a video of a once-crippled rat which it was claimed had been cured by United States of America researchers using embryonic stem cells. It was later found that Professor Trounson's video was misleading as germ cells had been taken from a five to nine-week-old embryo, a practice that would be banned under the proposed Australian laws. On 29 August last year the House of Representatives agreed in committee to split the proposed legislation into two parts. On the same day the Prohibition of Cloning Bill was passed by the House of Representatives.

On 12 September 2002 the Labor government in Victoria, led by the Premier, introduced the Health Legislation (Research Involving Human Embryos and Prohibition of Human Cloning) Bill 2002, with there being the possibility of a conscience vote. That was before the prorogation of Parliament. On 25 September the Research Involving Embryos Bill was passed by the House of Representatives with amendments.

On 14 November 2002 the Prohibition of Human Cloning Bill was passed by the Senate, also with amendments. On 5 December the Research Involving Embryos Bill was passed by the Senate with amendments.

It is interesting that it was at this stage that Christopher Reeve was invited to a two-day spinal cord injury conference in Sydney. He believes that the harvesting of embryonic stem cells through therapeutic cloning

would soon lead to a cure. He continued to lobby the federal government to reverse its decision on human cloning.

On 27 February of this year the re-elected Bracks government introduced the Health Legislation (Research Involving Human Embryos and Prohibition of Human Cloning) Bill. We were led to believe that there would be a conscience vote. That is the background to the bill before us today.

Because of the intriguing and very complex nature of this issue I did some research to try to understand what stem cells are. Stem cells are special cells with unique growth characteristics. They can make identical copies of themselves as well as grow into more specialised cell types. For example, blood stem cells in bone marrow can generate both red cells to carry oxygen and white cells to fight infection. Blood stem cells in the body continue to supply blood cells for the life of a person.

That is a little bit about stem cells, but where do embryonic stem cells come from? Embryonic stem cells can be isolated from seven-day old embryos. At that stage the embryos are microscopic in size and consist of a ball of approximately 100 cells. Human embryonic stem cells can be isolated from embryos donated by in-vitro fertilisation patients at the end of their treatment — so-called IVF embryos. In researching this topic I asked the question: why are stem cells of such importance? The researchers and scientists believe that stem cells can revolutionise human medicine through their ability to make new cells to replace a patient's diseased or damaged cells. That is a little bit of background to the stem cell debate.

As I said earlier in my presentation, because of the complex nature of the bill and because it is a very emotive issue the Leader of the National Party wrote to all political parties and the Independents inviting them to a forum to be held in Parliament House. At that stage the National Party was seeking the support of everyone to advance knowledge on the debate about embryonic stem cell research. As we said at the time, this is a complex and ethically difficult matter, and therefore it was important that we as parliamentarians got as much information as we could in an appropriate forum where we could have presentations from experts in both the scientific and ethical fields. That way as legislators we would be more fully informed on the matters related to this bill.

That embryonic stem cell forum was held on Wednesday, 29 May, in the Legislative Council committee room. Supporting embryonic stem cell research was Professor Alan Trounson from the Monash Institute of Reproduction and Development in Clayton and Dr Peter Mountford from Stem Cell Sciences in Elsternwick. On the anti-embryonic stem cell research side was the Very Reverend Professor Anthony Fisher, OP, from the John Paul II Institute for Marriage and Family in East Melbourne and Dr Nicholas Tonti-Fillipini, a bioethicist consultant from Lower Templestowe. The speakers were each given 15 minutes and there were questions for about 90 minutes. It was a very valuable forum for those who attended. As I said, I was very disappointed that there were less than 20 members of Parliament — —

Mrs Powell interjected.

Mr DELAHUNTY — The member for Shepparton informs me that 11 members of Parliament attended out of a total of 132 members of Parliament. However, I will say that they were from all political parties, and I think a couple of Independents might have dropped in. I know it is always difficult to hold forums when Parliament is running, but the reality is that it was very disappointing that only 11 MPs out of 132 attended that forum.

There have been many press articles in relation to this topic. I am not a scientist and I have difficulty in expressing some of the feelings I have at times. I think I need to read some of these articles out. One that appeared in the *Sydney Morning Herald* of March last year was written by Kristine Kerscher Keneally. She observed that:

> Proponents of stem cell research on embryos often accuse critics of relying on religion and ethics to answer the question. What if we look to science?
>
> The human species is scientifically identified by its DNA, and each human is characterised by a unique DNA code. An embryo, like any collection of human cells, contains DNA. But an embryo's DNA is a new generic code. It has never been seen before and will not be seen again.
>
> The new DNA code found in an embryo signifies the beginning of a new human existence. It is complete and equal to any adult. Scientifically speaking, an embryo and an adult are exactly the same — each a distinct human being.

A lot of different views are held in relation to that. As I said, I am not a scientist, so I read much information, and I admit that it is a matter of people being for and against.

All honourable members would have received in the last couple of days a nine-page email from the Most Reverend Denis Hart, the Catholic Archbishop of Melbourne. It is a nine-page letter. It talks about the

lack of consultation, whether the bill should be split and the proposed prohibitions. It also talks about the proposed legislation of embryonic destruction and experimentation and says that until now it has been illegal in the state of Victoria to kill a human embryo for scientific purposes. It says that the campaign:

> … which has vastly overstated the potential of stem cells taken from human embryos has involved a gross omission of information about:
>
> …
>
> the exploitation of women and couples to obtain eggs and embryos; and
>
> alternative avenues of research which are much more promising, such as research into the use of 'adult stem cells'

The letter from Archbishop Hart continues by saying — and we would all agree — that all of us want to look at better ways of curing disease but that embryonic stem cell research kills:

> Embryonic stem-cell research requires killing human embryos.

These are powerful words:

> They are powerless, voiceless, unseen, abandoned in the laboratory freezer. But they are clearly human and alive.

I will not go on much more because of the hour, but the letter is very informative for people like me in reading up on this issue.

Last year many church leaders and other ethical people spoke of their concern about the bill that was before the federal Parliament. No doubt that will be mirrored in what happens here today. People such as the Anglican Archbishop of Sydney, Peter Jensen, and others spoke about the concern they have for this type of legislation. I want to read from a statement by Catholic Health Australia, which was quoted in an article in the *Canberra Times* of 4 April 2002:

> I think this is a tragic decision, it devalues life and I believe that unfortunately there's been a ruse by aspects of the scientific community and this isn't in the interests of the dignity of the human person …
>
> What this will create is that some life is going to be treated differently to other life.
>
> It's basically that in these circumstances it's OK to destroy human life.

We have read many press articles like that. I finish by saying that there are four main issues, the first being the change in current therapies. Many scientists do not agree with our heading down this track, and there is much division. I think that will be reflected in what happens in the house today. Secondly, why do we not put more effort into adult stem cell research? As we have already seen, over $100 million has been promised for embryonic stem cell research, and I am sure the people working on adult stem cell research would welcome this money. Thirdly, are we prepared for embryonic stem cell research and embryo farming? I am sure we are not. Fourthly, do we give appropriate regard to each human embryo? With this legislation I do not believe we do.

Taking all these matters into account — and as I say, this is a conscience vote; it is not a vote on behalf of the National Party — I cannot support the legislation. As I said right from the start, I support the intention of the government to ban cloning, and I do not think anyone would disagree with that. But my contribution is about saying that I cannot support the bill in its current form.

Mr BRACKS (Premier) — I am pleased to have the opportunity to speak on this important legislation. It mirrors the provisions of the legislation which went through the commonwealth Parliament and which has gone through some state Parliaments and will go through the New South Wales and other parliaments in the future. It arises from the agreement between the state and territory leaders and the Prime Minister at the Council of Australian Governments (COAG) meeting on 5 April 2002. It was an historic agreement of considerable goodwill between all governments in arriving at a position which provided proper and appropriate safeguards for stem cell research but which also took account of some of the ethical issues that will underpin the research in the future.

I will go to the current position in Victoria before I talk about the issue of splitting the bill. The current position is unsustainable and in a sense hypocritical. We have a system in place where stem cell research is undertaken using stem cell lines which are purchased from Singapore because under the Infertility Treatment Act stem cells cannot be procured from surplus embryos after in-vitro fertilisation (IVF). We allow that research to happen because we put our heads under the carpet and say it is okay for another country to have determined that those stem cell lines can be sold. Therefore that research can go on when we do not allow or permit it in our own state. It is an untenable situation which I think most members of the house would find difficult and not consistent with what we want to do as a sovereign state in having our own legislation to undertake the research ourselves and to have a free and appropriate vote in determining that.

What is also unsustainable is the current situation where we freeze and store surplus embryos from the IVF procedure for up to five years, and after five years they are taken out of cold storage and left on the bench to be destroyed. The debate really is about whether at that point you can use those embryos for research or allow them to be destroyed by being unfrozen. That is essentially what we are deciding here, and that is essentially what this legislation is determining.

I believe it is appropriate for the state to upgrade its legislation, the Infertility Treatment Act, which enlightened new scientific evidence says is no longer adequate to cover current research demands. This is therefore an important piece of legislation.

The debate today is an historic debate: it will be the first time in living memory that the Labor Party has had a conscience vote. That is appropriate and sensible and in keeping with what is effectively the policy of the party on certain matters concerning ethics — that there is no directed party vote, and that there is a conscience vote.

However, we do not have a conscience vote on whether the bill is to be split — —

Mr Perton — Why not?

Mr BRACKS — That is a matter which has been determined by the cabinet and the parliamentary party. I can go to that matter now, and I am happy to answer the question raised across the table by the member for Doncaster.

We do not believe it is appropriate or necessary to split the bill, for this reason: the Infertility Treatment Act already bans cloning. To split the bill would mean essentially to open up the legislation to allow cloning, which would be a ridiculous proposition. No member of this house would condone a situation where, by separating the bill, we allowed a change in the current legislation prohibiting cloning.

Mr Perton interjected.

Mr BRACKS — The member for Doncaster will have his chance to speak on this matter. Secondly, the provisions in this bill which go to prohibiting cloning go only to definitional and descriptive matters which have changed over the time the Infertility Treatment Act has been in place. For example, they go to penalty points for people contravening the act and thereby virtually allowing cloning to take place.

They do not go to the fundamental matter of whether we should or should not have cloning. We are already clear on that: the Infertility Treatment Act, unique to Victoria, prevents human cloning. It shows the great foresight of the previous administration that brought in a bill which anticipated that this might be an issue in the future. It is appropriate, therefore, that we reinforce that measure. We do not need to split the bill, because it is already enforcing the fact that human cloning is not allowed.

It is different in the case of Queensland and New South Wales. They do not have anything like an infertility treatment act. They do not have any legislation governing the use of surplus embryos or IVF research, whereas we have a deliberative act in place. Therefore it is a totally different situation for them in terms of how they deal with legislation and whether or not they split it. We will not be supporting a splitting of the bill, but members on this side will have a free conscience vote on the matter.

Why is it important to allow this measure to go ahead? It is important because enabling research to go ahead using embryos which are left over after IVF procedures could potentially mean significant advances in finding cures for conditions such as Parkinson's disease, diabetes, liver failure, a variety of cancers, spinal cord injuries and genetic conditions such as cystic fibrosis. Isolating a generation of cells and tissues for therapeutic purposes could mean cures for these and other conditions in the future.

We are talking about three to four-day-old embryos left over after IVF research which have been frozen and which therefore can be used again. Significant safeguards were built around these measures at the COAG meeting between the Prime Minister, the premiers and the territory leaders. One of the key safeguards was that, unless any future COAG meeting decided otherwise, we would not permit any surplus embryos from IVF procedures to be used if they were produced post 5 April 2002. That is the date of the COAG meeting. So it only applies to embryos which are stored already which means there is sufficient capacity already to undertake the amount of research required across the country to hopefully combat some of these diseases. That is the first safeguard, and it is retrospective: it is about existing embryos which are already stored.

The second safeguard is that permission is required by the donor, the woman, and her partner for excess IVF embryos to be used in any research capacity, so permission and authorisation are required as well. The third safeguard is the review mechanism, whereby we can re-examine this issue once ethicists and others have

advised us on how it has proceeded once legislation has been passed.

So the safeguards are considerable. They have been worked out in detail through the COAG process to ensure we are talking about using surplus embryos. We are not therefore referring to the matters the previous speaker was talking about, of effectively having an industry based on developing embryos for this purpose. As I said, we are talking about existing embryos which are in storage and which would otherwise be left on the table after five years and destroyed. It is about whether or not you use them. That is the question for this house — whether we are happy to permit research to happen or to let those embryos be destroyed. That is an important personal ethical question for each member of Parliament to decide.

It is entirely appropriate and correct for that to occur. It is always a matter of balancing the responsibilities we have as legislators with the appropriate scientific backing we have for the decisions we have made, and in this matter we have the great opportunity for significant research to be undertaken in Victoria and across Australia.

Victoria is probably the best place in Australia to capitalise on research using embryos to try and find cures for diseases. We already have the national stem cell research centre at Monash University, funded by the federal government, which made the decision to locate it here in Victoria — and it was supported with supplementary funding from the state government. That centre will lead to significant breakthroughs in the future and make us one of the leaders in the nation in stem cell research and the use of embryos for that research.

We have the ambition in this state to be in the top five regions for biotechnological activity by the year 2010. Obviously this bill is an important and strategic part of that plan; but even if you take the industry away, this is still an important bill which deserves our support.

Mr PERTON (Doncaster) — I will be voting in favour of this legislation.

My personal philosophy has always been inclined to the motto used by the late Senator Robert Kennedy:

> Some men see things as they are and say, 'Why?'. I dream things that never were and say, 'Why not?'.

The issues in this bill are about human progress, experimentation, innovation and limits to the advance of science. The issue that is contentious, as the Premier just said, is whether to permit the use of excess embryos for research which may benefit those who are suffering, or will suffer, or to destroy those same embryos for no benefit whatsoever.

I support the course set out in this legislation to allow scientists to obtain embryonic stem cells from embryos which are in excess of those required for in-vitro fertilisation and which that couple has decided to donate for the advance of sciences to cure disease and reduce human suffering. This course is one I believe to be philosophically, morally and ethically correct, and I believe it to be in the best interests of the Victorian community.

While public opinion polling suggests that Victorians and Australians in general are overwhelmingly in favour of this proposal, that is not the only test. There are deeply held opinions and well-informed people opposing this provision. The British Prime Minister, Tony Blair, said:

> People on whatever side of the argument are to realise that the people on the opposite side are not necessarily badly intentioned or badly motivated. They are just in an immensely difficult situation, taking a different perspective.

The President of the United States of America, in adopting the opposite conclusion to Mr Blair, said:

> At its core this issue forces us to confront fundamental questions about the beginnings of life and the ends of science. It lies at a difficult moral intersection, juxtaposing the need to protect life in all its phases with the prospect of saving and improving life in all its stages.

Like many of the members in this chamber, I have read the views of religious leaders on this legislation, including those who are opposed to it. Of course they are immensely better qualified in theology than I or the Premier or probably any member of this house. In his 1995 encyclical *The Gospel of Life*, Pope John Paul II wrote:

> Human embryos obtained in-vitro are human beings and are subjects with rights; their dignity and right to life must be respected from the first moment of their existence. It is immoral to produce human embryos destined to be exploited as disposable biological material.

Having been baptised a Catholic and educated in the Catholic school system, I strongly respect the opinion of the Pope and the Vatican on this matter, but I wholeheartedly agree with the conclusion of the Prime Minister, who said in the commonwealth Parliament:

> A key fact shaping my view was that at present surplus IVF embryos are disposed of after a set period of time in storage, in consultation normally with the donor where that is possible, and largely through exposure to room temperature.

The Prime Minister went on to conclude:

> I could not find a sufficiently compelling moral difference between allowing embryos to succumb in this way and destroying them through research that might advance life-saving and life-enhancing therapies. That is why, in the end, I came out in favour of allowing research involving excess IVF embryos'.

In fact, I always turn my mind to what answer Christ, Mohammed or the key figures of other religions would have arrived at had these precise issues existed in their time. My Christian education certainly reminds me that Christ himself healed the sick and the dying even against the religious laws of his time. My spiritual values are well satisfied as the purpose of this work and this research is to save lives and reduce human suffering.

What are the possibilities? This was put very well by the House of Lords Select Committee on Stem Cell Research in 2002. The committee said this:

> Because of their ability to reproduce themselves, and to differentiate into other cell types, stem cells offer the prospect of offering cell-based treatments, both to repair or replace tissues damaged by fractures, burns and other injuries and to treat a wide range of very common degenerative diseases such as Alzheimer's disease, cardiac failure, diabetes and Parkinson's disease. These are some of the most common serious disorders, which affect millions of people in the United Kingdom alone, and for which there is at present no effective cure. Stem cell treatments, unlike most conventional drug treatments, have the potential to become a lifelong cure …
>
> None of our witnesses seriously questioned the therapeutic potential of stem cells for a wide range of disorders. There were differences of view as to when such therapies might be realised. Most witnesses believed the introduction of effective stem cell-based therapies would be a gradual process over the next 5 to 20 years.

But in the gallery today is a man I met last night, a Mr Ollie Martin. Mr Martin suffered from Hodgkin's disease and was very likely to have died by this day. He was one of the early recipients in Victoria of a transplant of stem cells. After one and a half years the Hodgkin's disease has been totally resolved. Mr Martin is not just grateful for the treatment he has been given, he is now working with a range of researchers and doctors to establish a foundation to ensure that the private sector and the research community contribute to this ongoing research.

As the Premier rightly said, the federal government has funded the development of the centre for research here in Melbourne, headed by Alan Trounson, and rightly the state government has contributed to that. As the Premier said, Melbourne has been the leader in this field: we have researchers of such quality; we have ethical structures in place that are amongst the best in the world; and it has come from Liberal, Labor and National working together under respective governments and parliaments to make sure that our city and our community leads the world in finding these new resolutions to human suffering. The one thing that does concern me is probably the opposite of what concerns my friend who led the debate for the National Party.

My concern is whether this legislation is too restrictive. In the United States of America, for instance, whilst federal funding is deeply restrictive in terms of access to embryo stem cell lines, private sector research, funded immensely through foundations in the private sector, is not subject to those restrictions.

The British government, through its 2002 Human Fertilisation and Embryology (Research Purposes) Regulations 2001 allows its licensing body to licence research involving embryos for the purpose of increasing knowledge about the development of embryos, increasing knowledge about serious diseases and enabling any such knowledge to be applied in the development of treatment for serious disease. Those regulations condone the creation of embryos by somatic cell nuclear transfer, sometimes referred to as therapeutic cloning, a practice which is banned in Australia.

The British certainly believe that that will mean that for Britain there will be even faster and greater advances in this research, and in fact they talk about a reverse brain drain — of the return to Britain of English researchers who have gone to America and come to Australia to advance their studies and research.

This work and this legislation is for the benefit of mankind. I believe the work of these researchers will fundamentally change the way we live and reduce human suffering. I note that there will be a review that will commence in two years time and be completed in three years time. I am confident the study will show that this has been undoubtedly to the benefit of Victorians, Australians and the world community, and I trust it will not show that these limitations we have put in place will set back the work of Australians in this field.

I commend the legislation. The Premier has led the debate well for the government. Obviously on our side, just as on the other side, there will be mixed views, but in line with what the British Prime Minister, Mr Blair, and the American President have recently said, I am

going to have to respect each of the views that has been expressed in this house. They can be expressed for a wide range of ethical, moral, and religious beliefs, but in my case it leads me to conclude that I have to strongly support this legislation.

Mr ANDREWS (Mulgrave) — I am pleased to speak in support of the bill today. Can I say from the outset that I understand and appreciate very clearly that for each of us this bill and the associated science poses significant ethical and moral challenges. These are deeply personal matters for many members, and I think each of us brings our worldly experience and guiding values to this debate, whether in an organised way or simply through those things that guide us in our daily lives. I have great respect for the arguments advanced by those opposed to this bill, and to a certain extent for the vigour with which they put those views.

Nevertheless, for me this is a choice between research, the full potential of which is not yet known but at the same time is boundless, and simply allowing excess assisted reproductive technology (ART) embryos to cease to exist — that is, removing those embryos from frozen storage, placing them on a bench in some lab and simply allowing them to thaw. After carefully looking at these issues I choose the research and all the advancements that it may bring.

In supporting the bill I want to discuss the regulatory framework that is set out in it and examine some of the potential benefits of embryonic stem cell research. As members would be aware and other contributors to the debate have noted, this bill is basically a continuance of our obligations under the Council of Australian Governments (COAG) agreement signed on 5 April 2002. It provides a national framework for the regulation of this important research, which meets community expectations and which is obviously important. This national approach provides consistency where there might otherwise be loopholes and inconsistencies. It provides certainty, which is important.

The bill amends the Victorian Infertility Treatment Act 1995 to allow destructive research of excess assisted reproductive technology embryos and also strengthens the current ban on cloning and associated practices. I will return to the subject of cloning in a few moments.

It is important to note the main points of the regulatory framework. They are very important and are at the centre of community concern about these issues and this science as we move forward. The framework can be best summarised in the following terms: only embryos in existence before 5 April 2002 may be used for research. This prevents the creation of embryos expressly for research purposes and the notion of banks of embryos — —

Mr Wynne interjected.

Mr ANDREWS — Embryo harvesting, as my friend the honourable member for Richmond says.

Embryos must be deemed excess before they can become eligible for research, and importantly, the consent of the mother and her partner, if any, must be given before research can be conducted. It is also important to note that all persons involved in the creation of an embryo must give express permission before any research can take place. They are principally the couple undergoing in-vitro fertilisation (IVF) treatment. However, it may also include the donors of egg and sperm and their spouses, if any — that is, up to eight people.

Strict licensing arrangements in relation to research are also put in place by this bill and administered by the National Health and Medical Research Council, specifically the NHMRC licensing committee. Non-destructive research will continue to be regulated by the Victorian Infertility Treatment Authority, but following that the national body will have to approve any research before it can be undertaken.

The following factors will be taken into consideration: the number of embryos likely to be required to achieve the research goals, the likelihood of a significant advance in knowledge as a result of the research and whether any other means could be used to achieve those outcomes, any relevant guidelines issued by the NHMRC, the findings of the human research ethics committee, and other matters as prescribed from time to time by regulations. This is obviously important in that it provides a clear safeguard. We are talking about sanctioned research, projects that are looked at by experts and are approved within a very strict regulatory framework.

It also provides for regular reporting of any research to the commonwealth Parliament; the maintenance of a database available on the NHMRC web site listing all research involving embryonic stem cell lines; a series of strict penalties for unsanctioned research, as well as the creation of embryos purely for research purposes; the updating of the current ban on human cloning — that principally relates to processes that might otherwise be referred to as therapeutic cloning, and I will come back to that shortly; and the banning of other related practices. I think it is fair to say that this regime and the

restrictions at the centre of it provide certainty and security. It is a substantial framework in which we can have confidence.

It is also worth noting that under the COAG agreement and the commonwealth act a review of these arrangements will be conducted in two years time — that is, 19 December 2004. This review provides a very significant opportunity to assess the adequacy of the framework and also to measure advances in medical science at that point.

The points made by the Premier earlier on cloning are correct. Cloning has been banned in Victoria for eight years. The notion that cloning can somehow occur in any form is simply not true. Having said that, the fact that we need to update that ban also serves to illustrate that medical science and its potential in terms of this stem cell research is a moving feast. Eight years is a relatively short period of time, and the fact that we have to update our current ban, given that for instance the methods used to create Dolly the sheep would not be covered by the ban in the current Victorian Infertility Treatment Act, serves as a very clear example that we need to remain vigilant and the commonwealth review provides us with another opportunity to exercise that caution. The community demands that, and it is an important part of the overall framework of the bill.

Having said that, I want to talk about the benefits of embryonic stem cell research. The background to this issue is fairly clear, and others have made the case. Stem cell research using both embryonic and adult stem cells has the potential to generate many therapeutic benefits, the possibilities of which are boundless. This legislation is opening the door for this type of research, as the member for Lowan pointed out, and giving the Victorian scientific community a fantastic opportunity to continue its leadership in this field. Other speakers have noted that Victoria, and Melbourne in particular, is the centre for this research, and I agree that this is true. We have a natural competitive advantage, and we should be proud of our record in biotechnology and medical research. This bill provides another opportunity to continue that natural advantage.

It is fair to say that stem cell research is widely regarded as paving the way towards the treatment and curing of several diseases. Other speakers have mentioned Parkinson's, Alzheimer's, diabetes, cystic fibrosis, some types of cancer, spinal cord injuries and many more. I do not make any judgment about individuals suffering from those diseases. Despite suffering such conditions those people may not support research such as this. It is important to make that point.

In the time available to me I want to talk about one condition — that is, diabetes. I spent most of yesterday afternoon touring the Royal Melbourne Hospital. I spent some time in the renal failure unit, which is where those who need dialysis are treated. Diabetes is not one of those diseases that is given a great deal of press. Obviously spinal-cord injuries and other conditions get a lot more attention, but significant advances are being made in Spain and Great Britain as well as in the United States of America in using stem cell technology to find cures for diseases like diabetes, which afflicts 500 000 Victorians. We have estimates to show that there may be another 500 000 whose conditions go undiagnosed and untreated. For me it is very easy to decide that we need to provide every opportunity for cures to those debilitating diseases to be found. I will end with a quote from the journal *Science*, which noted that:

> … it (the regulation of stem cell research) should balance the promotion of scientific inquiry with public accountability, providing scientists with clear expectations and requirements for conducting stem cell research, while also establishing the transparency of the research for public review and oversight.

Mr CLARK (Box Hill) — This bill requires us to examine carefully our attitudes to human life and to answer some very profound questions. Why should one attach any moral significance to a small collection of cells that lack any sense of consciousness or pain? Why should the potential of such collections of cells to develop into a human child or adult be of any relevance? Why should using them for scientific research be of any concern when innumerable such collections die from natural causes in the womb?

We cannot avoid answering these or any other such questions by arguing that, as legislators, we are not or should not be applying ethical judgments in reaching our conclusions on this bill. We exercise ethical judgments for better or for worse every time we pass a law, because every law we pass gives effect to an ethical judgment about what people may or may not do, or should or should not do. Nor can we avoid these questions by treating the ethical principles that each of us adopts on this issue simply as matters of personal preference, like different flavours of ice-cream, neither requiring any further justification or being capable of refutation or debate.

We cannot do this because we know that the different sets of ethical principles that we adopt will produce vastly different societies and vastly different levels of happiness and fulfilment amongst their members. We also know that such outcomes are matters of objective reality, not of subjective belief, and we know further

that it is our duty as legislators to seek to enact laws based on principles which achieve the best possible outcomes for our community.

In addressing the questions I have posed we must at the outset affirm that embryos are human life just as babies, children and adults are. In one sense that affirmation ought to be sufficient to conclude the argument, but it can be conclusive in that way only if we accept it as self-evident that one should never intend the deliberate ending of innocent human life. However, many today do not accept that proposition as self-evident, so we must go one step further and ask ourselves why and when we should ever have laws to protect human life from deliberate destruction.

Why do we prohibit murder? Is it simply to ensure our self-interest in living in a society in which we ourselves are protected? Should we grant protection only when an individual has the capacity to feel pain or is capable of consciousness or of rational thought? If we justify our prohibition on killing on any of these bases, we leave some human beings outside the scope of moral and social protection. Experience over the course of human history shows that whenever societies treat some human life as disposable, those societies end up with a gross disregard for much human life.

In many respects humanity has come a long way in developing moral and ethical principles over the brief period of our recorded history. The standard of care we provide for the vast majority of people with disabilities has improved dramatically, as has our respect for their rights. We have seen the abolition of capital punishment in most jurisdictions. As current experience shows, we have strong community debate about the legitimacy of waging war and strong views about minimising casualties even in the wars we do wage.

However, societies can easily slip backwards. The Nazi horrors in apparently civilised Germany are the most frequently cited example of this, but we easily forget that the way for the Nazi horrors was cleared by the early 20th century eugenics and euthanasia movements in Europe and in North America, and that the phrase 'life not worth living' was brought to prominence by the respected professors Karl Binding and Alfred Hoche in a widely read book that was first published in 1920.

Now barely 50 years after Leo Alexander, the chief US medical consultant to the Nuremberg war crimes tribunal, published in the *New England Journal of Medicine* his famous account 'Medical science under dictatorship', and after world institutions adopted strict protocols to prevent any return to such practices, we have Australian euthanasia advocates using the language of 'life not worth living' to justify administrative tribunals authorising the deliberate bringing about of death by the dehydration of conscious patients.

We tolerate an estimated 100 000 or more abortions in Australia every year, including the unspeakable horror of the mutilation and killing of 28-week-old infants under partial birth and other late-term abortions. We are willing as a society to pass judgment on our predecessors for allowing a stolen generation, but we run the risk of being found guilty by our successors of condoning a murdered generation — or even more frighteningly, we run the risk of giving rise to a society in which our successors apply the doctrine of 'life not worth living' with rigour and with pride.

Each time we put some human life outside of the scope of society's protection we create disregard for the intrinsic value of any human life. This in turn leads to more and more human beings having their interests and rights disregarded. Once we become used to treating some life as not worthy of living or as an object to be used for the ends of others, we undermine the grounds for protecting any human life. With embryos we start off by saying, 'We should assist infertile couples have children, even though that means some embryos will never have the chance to grow to adulthood'. Now we propose to say that excess embryos can be experimented on. I know that some believe this is justified on the ground that these embryos will die anyway; however, the answer to that argument is not to create in the first place embryos that are likely to die unwanted.

If we now justify experimentation on so-called excess embryos, why should not experimentation be allowed on embryos created for that purpose; why should embryos not be cloned; why should they not be developed further and harvested for body parts; and how do we go about refuting Professor Singer's arguments that it is licit to kill unwanted newborn infants?

To avoid going down that path, we need to recognise the holistic nature of human life. Life is an integral whole from conception to death. We must not arbitrarily divide human life into that which is to be respected and protected and that which is not. We are not justified in deliberately destroying any innocent human life, however beneficial we consider that to be in terms of its consequences. That has been the ethical

judgment of many profound thinkers, both religious and secular, over many years.

In 1949, immediately post-World War II we had the Nuremberg code published. That was followed by the Declaration of Helsinki adopted in 1964 by the World Medical Association, a declaration that remains in force, being last amended in the year 2000. The Helsinki declaration in paragraph 1 makes clear that:

> Medical research involving human subjects includes research on identifiable human material or identifiable data.

The declaration goes on to state in paragraph 5 that:

> In medical research on human subjects, considerations relating to the wellbeing of the human subject should take precedence over the interests of science and society.

The declaration in paragraph 10 states:

> It is the duty of the physician in medical research to protect the life, health, privacy, and dignity of the human subject.

Many people would argue that the research on embryos contemplated by this bill is in violation of the Helsinki declaration. It is important that those researchers, doctors, medical and research students who hold that view or who have other objections to such research are not discriminated against or suffer any detriment in consequence. The Equal Opportunity Act prohibits discrimination on the grounds of political or religious belief or activity in employment, in education or in the provision of goods and services, so ultimately a person so discriminated against for refusing to be involved in such experimentation would be able to take legal action against such discrimination. However, one would trust that it would not come to that and that our universities, research centres, hospitals and other institutions would abhor such discrimination and will ensure that protocols are in place to make sure it does not happen.

For the reasons I have given, I oppose the legalisation of embryo experimentation and, if necessary, I oppose the bill as a whole. It is a further step in the wrong direction. I hope that in future we will see the errors and dangers of the direction we are taking and learn from our mistakes and experience, and that we will once again reaffirm the importance of proscribing the deliberate destruction of any innocent human life.

Mr THWAITES (Minister for Environment) — I rise to support the Health Legislation (Research Involving Human Embryos and Prohibition of Human Cloning) Bill because it will support research which provides the potential to save lives, to cure illness and to improve our understanding of cells and their role in human life.

I also support the bill because it is part of a nationally agreed scheme which will bring consistency to the regulation of embryonic stem cell research throughout the country. Currently we have different rules applying in different states, which not only impedes research but also cannot be justified in any moral sense.

The third reason I support the legislation is because it provides detailed and adequate safeguards to ensure that the ethical requirements are properly met while at the same time supporting research.

I shall start by talking a little about that research issue. Embryonic stem cells have the potential to give rise to all the 200 or more cell types that make up a mature animal. These stem cells are derived from the very earliest stages of embryonic development, about day four or day five. As we know, the embryos have been formed as part of the process of fertility, or infertility treatment. Currently under the legislation in Victoria and a number of other states there is strict regulation of that process, and that is carried out through the Infertility Treatment Authority which does an excellent job in overseeing and regulating that process. However, we have a situation where there are different rules in different states, which I will come to later.

The debate has sometimes focused also on adults themselves, but it is important to acknowledge that adult stem cells have different characteristics to those embryonic stem cells, and that they do not at this stage have the ability to replicate all the cells of the human being and therefore their use in research for therapeutic purposes is somewhat limited. However, there is very promising research being done in adult stem cells, and we should in no way think that this legislation undermines or limits that. All of us would want to encourage that research to the maximum degree, but in the meantime we should also not be limiting our ability to carry out research using those embryonic stem cells.

Studies of these embryonic stem cells are expected to improve our knowledge of human development. They can provide information on the correction of human conditions such as birth defects. They may also be useful in testing pharmaceuticals. Of course, one of the core ways in which we treat illness is through drugs, and embryonic stem cells may be very useful in testing the effect of drugs on the human body.

One of the greatest potential applications for embryonic stem cells is for therapeutic purposes. Research in this area may lead to the replacement of diseased or damaged tissue in a range of conditions, which may include diabetes, Parkinson's disease, liver and other

organ failure and, indeed, in a variety of cancers. We can see that embryonic stem cells have an enormous potential in their ability to assist the human condition, to make people well and cure disease.

Victoria already undertakes research using embryonic stem cells. Victoria is well known for its research, for example, through the Monash Institute of Reproduction and Development, and ES Cell International. The particular type of research that we carry out in Victoria focuses on determining what factors drive stem cells into particular cells of the body. These pathways have been determined already for nerve cells which are relevant to Parkinson's disease and spinal injury. There is also research undertaken in Victoria on issues of transplantation and inducing tolerance to different transplants.

Members can see that in Victoria we are already undertaking that research, but the problem is that we are doing so using embryonic stem cells that have been imported, in this case from Singapore. Those embryonic stem cell lines are being utilised, which is a positive thing, but researchers indicate that that particular group of stem cell lines is limited and that if we are to maximise our potential from research we need the ability to increase the number of stem cell lines.

From a moral and ethical point of view, I cannot see any justification for accepting and condoning, as we now do, research on stem cells that have been imported from overseas by comparison with accepting and condoning that same sort of research on embryonic stem cells that have been derived in this state. There can be no ethical consistency in that view. That relates to the first point I wanted to touch on, which was the research.

The next important point is that this is a national scheme. We are debating a bill which has been agreed nationally through the Council of Australian Governments (COAG) process. The commonwealth Parliament has passed similar legislation and other states are all passing legislation. Currently there are different rules in different states — for example, South Australia and West Australia have similar rules to Victoria whereas New South Wales does not currently have the limitation on embryonic stem cell research. It makes no ethical sense to have different approaches in different states, and it certainly would be very contrary to Victoria's interests as a research state and as a science state for it to have more restrictive rules in this area than other states.

My final point is that there are already adequate safeguards in this legislation. Embryos will continue to be able to be created for the treatment of women with infertility only; they cannot be created for research purposes. It is worth noting that already a large number of embryos which have been created for infertility purposes are now stored and, if no action is taken, they will end up dying. So already we have a situation where embryos are being created for infertility, and ethically we support that; and certainly in my view the added benefit for society in being able to carry out this research justifies utilising those embryos rather than allowing them to succumb.

The second key safeguard is that detailed consent provisions are required to be obtained prior to any embryos being used for research, which is critically important, and it is required that that consent be informed.

The final adequate safeguard is that destructive research will only be permitted on embryos that already exist as at 5 April 2002; therefore there can be no incentive to create embryos for the purpose of research because no new embryos can be utilised for research. All this legislation does is allow our research scientists to carry out that research on embryos which are stored and which would otherwise succumb and die. For all of those reasons I strongly support this legislation.

Mr DOYLE (Leader of the Opposition) — It is always a pleasure to follow the Deputy Premier and former Minister for Health in debates of this type. I am pleased to make a very brief contribution to debate on the Health Legislation (Research Involving Human Embryos and Prohibition of Human Cloning) Bill.

It is a great pity that many members of the public will not get the chance to hear, or indeed read, the speeches that are made today in this Parliament or in other state parliaments and the federal parliament. Were members of the public to do so they may well have a different view from the one they presently hold of politicians and the work of Parliament. The contribution of many members serves the institution of Parliament very well. In particular, if the members of the public were to read the contributions from both sides of the house in federal Parliament I think they would change the views they presently hold of politicians and their work.

From the first our party determined that this would involve a conscience vote and that therefore we would not have a recommendation either to our party room or to the shadow cabinet but that we would provide alternatives and mechanisms by which members could

inform themselves of the legislation and its provisions, as well as of the wider scientific, religious, ethical and social perspectives that this bill brings with it, because it has dimensions much more far reaching than just the legislation itself.

It is a strength of the responses of parliamentarians that there will be no unanimity of view either in this Parliament or in any of the parliaments around Australia. I have to say that I have a different point of view on this bill from that of some groups and some people for whom I have a great deal of respect, and that is appropriate in this case. I would certainly not try to impose my view on them, and I do not think that has been the case in this debate or in any of the debates in the other parliaments. I do not think that my free vote is better or stronger than anybody else's; it is exactly what it is. This is when members of Parliament inform their consciences and decide accordingly.

If I may speak personally, I never thought the provisions of this bill were an affront to ethics. I am comfortable with the provisions of the bill as they relate to research involving human embryos and as the Deputy Premier and former Minister for Health outlined them. It is a stark reality for us. If we have to choose between allowing embryos to 'succumb', to use the delightful euphemism of the authority, or using those embryos for research in a way that is carefully monitored and licensed, then my view is that I would support the latter. But equally I have never believed that stem cell research can guarantee miracle cures, and I do not think some parts of the argument have been well served by some of the more emotive claims that have been made.

This is not research that will lead to superman walking tomorrow in the public mind. This is not research that will immediately guarantee miracle cures. So from a personal point of view I have never seen this legislation or research as being either a Pandora's box or indeed a Golden Fleece. It is neither one of those two things.

To give a personal reason for supporting this legislation, I say that it offers hope, it offers possibility and it offers optimism; therefore, from the beginning, despite the fact that I talked to a number who put forward different views, I have been predisposed to this legislation.

There is no need to talk at great length about the prohibition of human cloning. I cannot imagine anybody would be speaking against the provisions of that, and I do not intend to speak about that much further. I will, however, say that during my discussions a conversation which struck me as elegant and persuasive was one I had with Professor Julian Savalescu, who is now the professor of medical ethics lecturing in the school of theology at Oxford University. If I have his title or that of the school slightly wrong I do apologise, but he has moved on to Oxford. He put to me during one of our conversations a very interesting proposition about considering the notion of life and what constitutes life.

Historically the medical profession would hold the mirror up to the mouth of a dying patient, and if the mirror did not fog up it was considered the patient had died because of the absence of breath. If there was no breath there was no life. Medicine moved beyond that, and it is probably true to say that following that there was the view that the cessation of the heartbeat meant that life was considered to have stopped. We have gone further still, and we now measure activities in the brain and say that when the cessation of brain activity occurs we can consider someone to have died; and I guess that is the most sophisticated measure we have available to us at the moment. That is a definition with which I personally agree. If you have to think what it is that makes you a person, what it is that makes you human, then it is the capacity to think. I am not talking about the argument cogito, ergo sum, but more the idea that this is what makes you a human being.

It is therefore interesting when we consider that none of us here would be against the harvesting of organs, for instance. I am sorry; I may be speaking out of turn. I personally am not against the harvesting of human organs. Why not? Because although the body is there, although the heart continues to beat, although the person can be kept alive, brain activity has ceased and so in a sense there is no person there. We are comfortable using human organs at the end of life.

If you take that continuum back the other way — this is a personal view, I must say — to wherever life may start, I do not think that any of us could say, despite our different views, that the embryos we are talking about are capable of thought in the same way that we talk about a body when we harvest organs at the other end of life. So for me that argument had some persuasive effect, and again it made me comfortable to deal with this bill in the way we are today, and that is why I will be voting for the bill but in fact voting for both parts of the bill. However, it is regrettable that the government has not split this bill.

The argument was made in the federal Parliament. I understand it was a decision of the entirety of the members of the Labor Party not to split this bill, but I

recommend that they read the contribution of the honourable member for Brisbane in the federal Parliament. It was a very elegant and very persuasive contribution and one members on the other side would do well to consider. The federal government certainly did, and the Prime Minister came back into the house to say that, despite the fact that both aspects of the bill were being presented as one, he would not oppose the splitting of the bill into two.

One of the things that concerns me is that members who may well be violently opposed to cloning may equally in their consciences be violently opposed to research involving human embryos. The regrettable part about leaving the two issues in this one bill is that you offer those people no choice in voting on the bill. They either have to take the best of two poor examples for them or abstain. I understand that some people in our Parliament will abstain from this vote. I respect them for that, but I consider it a great pity that they are not able to exercise their vote and accordingly vote for one issue and against the other. That is only because this bill cannot be split.

The argument that we already have cloning provisions and therefore the does not need to be split is entirely intellectually specious. If that were the case, why would we introduce these provisions? It is just not an argument and it cannot be dignified with rebuttal. Given the tenor of this debate and that it is a conscience vote, it is odd that those very people who are most affected by this and who feel most strongly about it will be disenfranchised because the bill will not be split. The Prime Minister himself said that splitting the bill federally still protects the Council of Australian Governments agreement, so it is capable of being done. It is capable of being brought back into this place so that members are offered the chance to vote, including those who feel very strongly against both cloning and research involving human embryos. As I said, members would do well to read the speech of the honourable member for Brisbane in the federal Parliament regarding the splitting of the bill.

I have brought to the Parliament a great deal of consideration for this. In the end my support for it is entirely based not on the probability, although I have hope, but on the possibility that we will do good with this bill, that our very fine researchers and scientists will in the future be able to add to the sum total of human happiness. That is a worthy aim for our scientists, it is a worthy aspiration for this Parliament, and for me makes the bill one entirely worthy of support.

Ms LINDELL (Carrum) — I rise to support the bill. In doing so I extend my thanks to the Leader of the National Party and to the National Party for organising their information session during the last session where they had eminent speakers on both sides of this debate. I attended the session and I am indebted to them for that organisation.

The bill arises from the Council of Australian Governments decision to implement nationally consistent legislation to prohibit human reproductive cloning and regulate destructive research on embryos. The bill ensures that the Victorian legislation will be consistent with the commonwealth acts. The 1995 Infertility Treatment Act prohibits cloning, and the changes made in this bill adopt the wording in the commonwealth legislation which provides more appropriate words given advances in technology.

The bill permits destructive research on excess assisted reproductive technology (ART) embryos — that is, human embryos that have been created by assisted reproductive technology that are no longer to be used to create a pregnancy will, with the consent of the woman or couple involved, be able to be used in research that will damage or destroy the embryo. To safeguard the community from the creation of embryos specifically for research, the bill stipulates that only embryos in existence at 5 April 2002 will be able to be used.

There is of course great medical and scientific debate regarding the potential of embryonic stem cell research. Much is made by its proponents of its potential to lead to advances in treatment for diseases such as Parkinson's disease, and for diabetes, liver failure and genetic conditions such as cystic fibrosis. However, opponents of embryonic stem cell research argue that adult stem cell research has the dual advantage of not involving the destruction of embryos and that tissues grown from adult stem cells will be immunologically compatible with the individual from whom the stem cells are taken, thus tissues grown from those stem cells can be transplanted into that individual without fear of rejection.

To me it seems that both embryonic and adult stem cell research have the potential to make great advances in the treatment of many debilitating and life-shortening diseases.

The moral question that this legislation presents has tested my fundamental belief in and respect for the intrinsic rights of all human beings. I find it ironic that this debate occurs at a time when Australians are part of an invasion force in Iraq, the Prime Minister arguing

that a war can be just and right, where the killing and maiming of some Iraqi citizens is outweighed by the potential of terrorism sanctioned or instigated by the Iraqi regime to kill and maim many in the Western World.

Today we debate whether the destruction of certain human embryos should be allowed so that stem cell research can be advanced with its potential benefits for the wider community. While I accept and respect the different ethical and moral views that this legislation brings forward, my support of this legislation stems from the simple premise that the embryos to be used for embryonic stem cell research are to be allowed to succumb and be discarded. For me to discard these embryos when the potential exists to advance the treatment of insidious degenerative diseases is the greater moral wrong.

There are considerable consent provisions in the legislation that require the consent of donor gamete providers and their spouses, if any, to be obtained before the excess ART embryos may be used for research. ART embryos were created with the intention of creating a pregnancy for a particular woman and her partner. Once these ART embryos are no longer required by that couple, it is entirely appropriate that the couple and those donors who have made the creation of the embryo possible should be able to consent to the embryo being used for embryonic stem cell research. I commend the legislation.

Mr SAVAGE (Mildura) — This is certainly a very complex bill. It is also in some ways very simple. I understand that we all use different standards of analysis and we all have different priorities, but my fundamental beliefs are that embryos are a pretty important part of the commencement of humanity. For that primary reason, I will not be supporting this legislation. I am disappointed that human cloning is part of the package because I would be happy to support that were it a separate issue.

An enormous amount of material has been made available to MPs and to the community, and there have been some very fundamentally opposed positions on it. If you ignore that the embryo is the start of life, I guess you could come up with a solution or a position on either side without too much difficulty of conscience.

It is very hard to wade through some of this medical expertise because some outrageous predictions have been made on whether embryonic stem cells will be able to cure a whole array of medical illnesses or accident imperatives.

I read today an article that I downloaded from the Web on some basics about stem cells from a Maureen Condic, who is an Assistant Professor of Neurobiology and Anatomy at the University of Utah working on the regeneration of adult embryonic neurons following spinal cord injury.

I noted a couple of points Maureen Condic made about embryonic stem cell research. She said:

> There are at least three compelling scientific arguments against the use of embryonic stem cells as a treatment for disease and injury. First and foremost, there are profound immunological issues associated with putting cells derived from one human being into the body of another. The same compromises and complications associated with organ transplant hold true for embryonic stem cells. The rejection of transplanted cells and tissues can be slowed to some extent by a good 'match' of the donor to the patient, but except in cases of identical twins … transplanted cells will eventually be targeted by the immune system for destruction …
>
> The proposed solutions to the problem of immune rejection are either scientifically dubious, socially unacceptable, or both. Scientists have proposed large-scale genetic engineering of embryonic stem cells to alter their immune characteristics and provide a better match for the patient.

There are two other arguments, but I will go to the final one. She says:

> The final argument against using human embryonic stem cells for research is based on sound scientific practice: we simply do not have sufficient evidence from animal studies to warrant a move to human experimentation. While there is considerable debate over the moral and legal status of early human embryos, this debate in no way constitutes a justification to step outside the normative practice of science and medicine that requires convincing and reproducible evidence from animal models prior to initiating experiments on (or, in this case, with) human beings.

There are other very compelling arguments put forward in the article. It is a very complex issue, and as a simple layperson I too found those particular arguments compelling.

Senator Ron Boswell made an interesting speech in the debate in the federal Parliament. This was a derivative of the famous video of a rat that was presented as having benefited from human embryo stem cells. Evidence was later produced that the benefit was actually gained from germ cells, which are unrelated to human stem cells.

When you have major experts in the area of stem cell research presenting false evidence, including a person who has very significant shareholdings in a Singapore company called ES Cell International, you have to wonder what is driving this debate. I am greatly concerned that some people are going to make large

amounts of money from stem cell research, and we will be a party to it. For instance, Monash University will be a minor shareholder in this, and it may, therefore, be a party to practices and research that are illegal in Australia.

Mr Perton — That is absolutely outrageous.

Mr SAVAGE — The honourable member for Doncaster comes into this house with a venomous approach. The antivenom he got for his spider bite is not working, because he is most unpleasant on most occasions. He sits there and all he wants to do is disrupt the debate.

Mr Perton interjected.

The ACTING SPEAKER (Mr Ingram) — Order! The honourable member should cease interjecting, and the honourable member for Mildura should — —

Mr Perton — It is outrageous.

Mr SAVAGE — The honourable member for Doncaster — —

Mr Perton — You stand up there in coward's castle all the time.

The ACTING SPEAKER (Mr Ingram) — Order! The honourable member for Doncaster should stop interjecting.

Mr Perton — He should stop slandering people; it is outrageous.

Mr SAVAGE — This debate is on the record, and if members wish to look at what Senator Ron Boswell said they will see there is corroborative evidence behind what I am saying. I did not make that up — I read it in federal *Hansard*.

These are questions that need to be answered. It is not a question of debate that the rat video was deceptive. It was deceptive: there is no argument about that. The honourable member for Doncaster is once again wrong.

The last thing that needs to be said in the time that presses us all is that adult stem cell research has a great future. There are many runs on the board for adult stem cells. As I understand it, it is a much more difficult area of research, but scientists have produced some very successful outcomes. A good example is that United States doctors have taken adult stem cells from the brain of a patient with Parkinson's disease and then reimplanted them, resulting in an 83 per cent improvement in the patient. There is an array of similar, very compelling arguments relating to this issue.

Why do scientists push embryonic stem cell research when the use of adult stem cells is both practical and ethical? The main reasons are that embryonic stem cells are easy to identify, isolate and harvest; there are more of them; they grow more quickly; they are easier to handle in a lab than adult stem cells; and they can be easily manipulated — in other words, they are more plastic. But no compelling evidence has been produced that says embryonic stem cells have actually produced a benefit that has clearly cured somebody of any disease. It is very speculative that they will be able to do so in the future.

I indicate my dissent and my opposition to this bill. I accept and understand that there are some very differing views in this house. I respect those views, and I am pleased that we will be given the opportunity for a conscience vote. I say that not for myself personally — I get a conscious vote every time in here — but because there are some who are tied by philosophy.

Mr COOPER (Mornington) — Firstly I want to state that I support the reasoned amendment moved by the member for Caulfield regarding the splitting of the bill. That would allow members to have a vote on the two major aspects of this legislation: the prohibition of human cloning and other unacceptable practices, and the research involving access to in-vitro fertilisation (IVF) embryos. Splitting the bill was the approach taken by the federal, Queensland and South Australian parliaments.

I do not accept the view put by the Premier earlier in this debate that because we have legislation that bans human cloning we do not need to split the bill. The clear fact is that clauses in this bill go further to the matter of human cloning, and by avoiding splitting the bill, and by being as intransigent as it is, the government is presenting some moral difficulties for a number of members. The member for Mildura has just pointed out that while he is in favour of the legislation with regard to cloning matters, he is opposed to the question of research on embryos; yet he and some other members are being forced to vote against the legislation as a whole. I do not think that is desirable.

The splitting of the bill has been strongly supported by the Archbishop of Melbourne. As I said, I regret that the government has rejected the approaches made by both the opposition and people outside this Parliament on that matter.

Notwithstanding all of that, I want to make it quite clear that I will be supporting both principal objectives of this bill. I do not propose in my very brief contribution to this debate to spend any time on the ban on human cloning, other than to say that I support those aspects of the bill. I want to spend the time available to me advising the house of my views on allowing research to take place on excess IVF embryos.

I think it is important that we understand that no embryo can be used for research unless specific permission is granted by the mother — and the father if he is known — of that particular embryo. That is a very important matter. It is one that should not be forgotten by members of this house as they contemplate their positions on this bill. The other important aspect is that destructive research will only be allowed on embryos existing as at 5 April 2002.

I think both of those conditions are highly desirable. The latter case — that is, the question of embryos existing as at 5 April 2002 — will prevent farming of embryos and the use of reproductive technology for the express purpose of creating an embryo for research.

That is a point which has been made by a number of members who have spoken on the bill — their concern about the question of the farming of embryos or the creation of embryos specifically for research. This legislation as it is in the federal Parliament and the other parliaments throughout the country will specifically exclude that possibility. It is very important that we bear that in mind.

I note that in a letter sent to all honourable members by email which arrived in my email box this morning Archbishop Hart has expressed very strong doubt about the strength of the limit of 5 April 2002 on available excess IVF embryos. If I read his letter correctly, Archbishop Hart has concerns that are valid and should be taken seriously. I for one would be aghast if there is any hidden agenda at either a federal or state or territory level to move those goalposts sometime in the future — in other words, to move the 5 April 2002 date out. It is not my view that that should occur. If the date or goalposts were moved at some time in the future I would regard that as a major breach of faith and I would certainly be strongly opposed to it.

I noted that the Premier stated in his contribution to the debate earlier that there are enough excess IVF embryos existing up to 5 April 2002 to give researchers more than enough scope to demonstrate that what they have said will be the outcome — that is, that they will advance the cause of research and science using those available embryos. That is what the Premier has said and it is what I believe to be true as well. As I said, that date of 5 April 2002 is very important as far as I am concerned and, as I said, I would be aghast if it was moved out.

Given all I have said and what I have heard, I support the bill in both its aspects. Of course I support the bill in its further prohibitions on cloning, but the key aspect of the legislation is, of course, the research on human embryos. I have spoken to a number of people about the legislation over many weeks. In particular, I have spoken to constituents who suffer debilitating disease and pain from conditions that hopefully will be addressed in some way in the future by the research that will be carried out under the provisions of the legislation.

When you think about conditions such as spina bifida, motor neurone disease, multiple sclerosis and accident-caused spinal damage, to name just a few, and you talk to the people who are suffering from those conditions, how can you say that you are going to be prepared to turn your back and say no to research on excess embryos, knowing full well that the embryos we are referring to will be allowed to be destroyed by being taken out of the freezer and allowed to thaw? It beggars my imagination that we would be able to turn our backs on such research in the way that it is proposed and in doing so turn our backs on the people suffering from these appalling conditions.

If stem cell research on those surplus embryos can assist to provide solutions to the relief of the pain and debilitation that I have referred to, it will certainly have my strong support. In that regard and having all those matters in mind, I support the legislation.

Ms CAMPBELL (Pascoe Vale) — I rise to oppose the legislation. I contend that the gravity of the ethical questions for parliamentarians and indeed society contained within the bill sits alongside some of our most momentous and long-term decisions: decisions such as the unilateral commitment of Australian troops to war, the removal of children of one culture from their parents to those of another to missions or orphanages, the abortion of foetuses because they carry or are reasonably believed to carry chromosomes which may or will deliver a person with a disability, or the de jure or de facto sanctioning of the removal of babies from single mothers to give them ‘good homes’ or ‘loving parents’.

For me each one of those historically recent decisions has been instituted by very well-meaning people but the

rationale for at least two of these decisions is now widely recognised as fundamentally flawed. Increasingly others are recognising more of those decisions as fundamentally flawed.

In time this legislation will go into the category of fundamentally flawed legislation. It is fundamentally flawed because at its foundation is the denial of the intrinsic nature of human life and the gamble — and it is a gigantic gamble — of the destructive experimentation on and, for some, the blatant commercialisation of, and indeed profiteering from, the omnipotent nature of the embryo. It is illogical not to recognise this as life when the very reason the embryos are sought is that each has a unique biological composition. It is that unique biological composition that makes it ideally suited for its experimental purpose as viewed by the scientists.

We have been asked to support the bill to improve life. For me it is a monumental 'But at what cost?'. When I have pondered the costs I have tried to absolutely crystallise what for me is the cost.

For me it is the cost of Parliament, and thus the state, sanctioning the act of embryo experimentation. The very nature of that experimentation involves growing the embryo to enable the experiment, and the very nature of that experimentation causes its destruction. For me there is a really strong distinction between killing and letting something die. For some people that is not an issue; for me it is, and it is one of the reasons why I cannot support the bill.

Some people over the years have argued that the embryo is merely a group of cells. How many times have we heard people say, 'It is just a group of cells. Why are you worried about it? It is not human life'. Today in this Parliament there can be no confusion. What we are debating is human life — the very life that scientists require to experiment upon in order, it is claimed, to obtain cures for very serious illnesses.

So I repeat that for me there is a very strong distinction between killing and letting die; and there can be no confusion in our minds, given the discussions that we have heard already today, that it is life we are talking about. We will vote on the state sanctioning deliberate development in the human life cycle for experimental purposes, the nature of which will destroy that human life.

For me, what is different, in the 21st century in Australia or Victoria, between the growing of an embryo purely for experimentation and thus its destruction and the discredited argument put in the 20th century, which allowed certain life to continue in order for experiments to occur? I heard the honourable member for Box Hill talk about Nazi Germany. I had that in my speech also. My family rang up and wondered how the debate was going. I outlined what I would say, and they said. 'Oh! That is really strong stuff. I don't know that you really want to say that'. If we cannot say what we actually believe in this place there is no point in being here. I cannot see the difference between the experimentation on this early stage of life and that experimentation undertaken during the 20th century much further on in the life cycle.

The protagonists in favour of that experimentation in both the 20th and 21st centuries have argued that their research would benefit others. In the last century the lives experimented upon were destined for death in very unpalatable circumstances. In this century it is life outside the petri dish which will inevitably succumb. Life inevitably faces extinction, but for me it should never be further demeaned, for to experiment on it actually demeans its humanity.

I want to go to some of the points mentioned by earlier speakers. One speaker mentioned the fact that it was untenable to have research on overseas embryos. We cannot put our heads in the sand; we have embryos that will succumb given the five-year period where under Victorian law they will be removed and succumb. I go back to the point that for me it is about allowing some embryos to succumb, and if there is any dignity to succumbing in a petri dish that is infinitely better than the embryo being further developed and grown in order for an experiment to occur on it.

Significant cures are possible; that is what has been put to many of us. If you look at the alternatives to embryonic stem cell research, when you run down the list of advances that have been made they are absolutely far more convincing. I refer members to the report of the commonwealth Parliament's House of Representatives Standing Committee on Legal and Constitutional Affairs. The report was on human cloning and the scientific, ethical and regulatory aspects of human cloning and stem cell research. I will quickly run through arguments put to that committee and contained in its report in favour of experimenting on, if you like, adult stem cells over embryonic stem cells:

> Adult stem cell research is presently more advanced.
>
> Adult stem cells are preferable to embryonic stem cells as therapeutic models based on the use of stem cells from an adult source eliminate any risk of graft rejection by the recipient's immune system …

> Adult stem cells overcome problems with tumurogenesis when using embryonic stem cells.
>
> Adult stem cells are preferable to embryonic stem cells because the plasticity of embryonic stem cells is a disadvantage not an advantage.
>
> Umbilical cord blood stem cells and somatic or adult stem cells are good alternatives.

There are umpteen examples in that excellent report on why the experiments and the money that the state is investing in embryonic stem cell research would be better put into adult stem cell research.

To sum up, yes, Victoria has to be one of the world's top five leaders in research — I have family members whose very future depends on Victoria becoming one of the national and international leaders — but at what cost? It seems to me that we should look not only at the cost of this legislation but at the value of what we are doing here, and for me it is the value of human life that has to surface in this debate. We must value life.

Mr RYAN (Leader of the National Party) — It is my pleasure to join the debate on this absolutely crucial legislation. I start by saying that anybody with a view in this debate, irrespective of what it is, should read the contribution of the honourable member for Box Hill. It is compulsory reading, and I recommend that people examine it.

I might also say at the outset that there has been mention in previous contributions about the position adopted in Singapore and things that are done elsewhere. Quite frankly I do not give two damns about what is done in Singapore or practices adopted elsewhere. This debate, which is a non-partisan debate, is one in which the members of the Parliament of Victoria on the floor of this house have to come to a conclusion, express a point of view in relation to that conclusion and ultimately vote. Whatever might be the experience elsewhere I do not think it is instructive as to what we ought to do in our Parliament in representing the people who put us here.

This is a non-partisan debate, and I am conscious that all of us have a conscience vote, as it is termed. But for all that, the government's action in not splitting the bill is reprehensible. I say that because clearly those of us who have a concern about the bill and are opposed to embryonic stem cell research are in an untenable situation.

The minister's response, as I read it today, was to say that there is already legislation in Victoria which precludes cloning, and therefore the issue does not arise. Of course that is absolute nonsense, because if honourable members look at page 31 of the bill, part 3, under the heading 'Offences', they will see it sets out what is proposed to be the new section 38A of the principal act. The very words say in subsection 1:

> A person commits an offence if the person intentionally creates a human embryo clone.

There it is on the face of it — this legislation creates this offence, it specifically says it. Those of us who have a concern about cloning and are intent upon it being banned are placed in an impossible situation on any assessment because we are also faced with the fact of how we deal with what is the essential aspect of the legislation with regard to the permitting of embryonic stem research practices. So why the government has chosen to go down this path is beyond me.

I must say I have not heard all the contributions by other members. Someone may have explained it, but certainly to hear the Deputy Premier, with all due respect to him, talk about Victoria adopting a similar stand in this debate to that taken in other states is a bit hard to take. The fact is that for reasons best known to it, the government has determined that it will not follow the example provided at the commonwealth level, nor will it follow the example that has prevailed in other states around Australia. So Victoria is now left out on a limb, if you like, and those of us who have concerns about the fundamentals underpinning this legislation are faced with the terrible problem of how we ultimately vote in relation to it.

For my own part, having wrestled with it, I consider the more significant position among two absolutely critical positions is to oppose embryonic stem cell research. It is said that there are many benefits, and indeed in the general sense of the potential and capacity — —

The ACTING SPEAKER (Mr Ingram) — Order! The time has come to break for dinner.

Sitting suspended 6.28 p.m. until 8.01 p.m.

Mr RYAN — I was making the point before the break that all of us hope for miracle cures for the terrible problems which often fall to people to contend with in life, be it spinal cord injuries such as Christopher Reeve has suffered, Parkinson's disease, diabetes, Alzheimer's disease and a variety of other such terrible things. I lost my father to a disease when I was 17 years of age. You wonder every other day whether this would have made a difference. I know everybody here could bring that sort of experience to this debate.

The issue comes down to one fundamental core matter, and that is the question of how one views an embryo. Is it human life or is it not? It is an important issue, because if you do accept that an embryo is human life, it takes you down a particular path; and if you do not, it takes you down another path. I ask the house to have regard to the existing legislation on the matter, the Infertility Treatment Act. When the former Minister for Health, Marie Tehan, introduced that legislation on Thursday, 4 May 1995, she said:

> In lay terms, syngamy is the final stage of fertilisation in which there is fusion of the chromosomes from the ova and sperm. It usually occurs about 22 hours after fertilisation commences. The bill defines a human embryo as coming into being at syngamy and including all embryonic development after syngamy. The term 'embryo' does not include that development which occurs before syngamy.

In the Infertility Treatment Act, the definition of embryo is:

> … any stage of human embryonic development at and from syngamy …

I think it is absolutely inarguable that the embryo is life. Indeed at the forum conducted by the National Party last year, which has been referred to by other speakers, I do not think that was a contentious issue among those who were contenders for and against embryonic stem cell research. There was no dispute on this issue amongst those absolute gun experts.

Of course you have to see it in context. You can put 10 or a dozen of these on a pinhead, and every one of them has its own DNA, every one of them is unique, and every one will be its own self given enough time and the appropriate circumstance. None of them will ever be repeated, and that is why I believe that if you come to the conclusion that I have, that an embryo is life, that is a fundamental issue in this debate.

This is not a religious issue to me. I am a Catholic, and my faith is important to me. All of us are products to a greater and lesser degree of who we have been and are, where we have been and what we have done. But when you look at the totality of the material I have put here tonight, even in the brief time we have in this ridiculously truncated debate, it is absolutely beyond argument that an embryo is life. That is also reflected in the second-reading speech at page 4, where the minister says:

> Currently in Victoria only non-destructive research on embryos is permitted. The Infertility Treatment Authority regulates this research and can only approve research that does not harm the embryo.

That is the point of it. In my opinion, that notion is there — of non-destructive research not involving damage to the embryo — because the embryo is life. Therefore we have to look at the proposition being advanced regarding embryonic stem cell research in the same brutal terms that it does, because we are talking about whether we are prepared to kill what is the essence of human life for the purpose of setting out on a course which remains to this day completely unproven.

I make a clear distinction between that and adult stem cell research, from which there is enormous benefit to be had. In that instance the stem cells are drawn from the human body, from the placenta or from the foetus, and you do not have the problems of rejection that inevitably will come from embryonic stem cell research. It is a vastly different issue when you talk about adult stem cell research.

I have concluded that I am opposed to embryonic stem cell research, and I will vote accordingly. As I have said at the outset of this debate, I have been robbed of the opportunity by this government to vote against cloning because the government has seen fit to put both concepts in the one bill for reasons which still remain unexplained.

To conclude, I worry about the drive of science in relation to this. I worry about why we are having this sort of debate and where science wants to go with it. I make the point that this is a fundamentally different debate from the one about genetically modified organisms. If you accept the contention I have put tonight, we are talking about the issue of human life, and therefore this discussion is of a different ilk. I ask the house to recognise that on this day, at this time, we have something of the order of 70 000 embryos in storage around this nation. I wonder again about the part that science has played in enabling that to happen.

If the cause of adult stem cell research were to be advanced by the government's initiatives, I would be the first to put my hand up to support it. However, in the prevailing circumstances and in all conscience — and after all this is a debate of conscience — I cannot support what the government proposes in this legislation.

Finally, to have this debate properly as a matter of conscience, let us put aside issues of economic benefit and similar matters — and for me of all people to be saying that is a big call. That is why I believe this issue is far and away above those concepts.

Mr LEIGHTON (Preston) — I wish to state at the outset my strong and enthusiastic support for this bill. I

do not see it as the thin edge of the wedge. Instead I see that the law lags behind advances in technology and medicine. As legislators we have a responsibility to provide a legal framework and to do otherwise would be failing our responsibility.

One of my considerations in deciding at a very early stage to support the introduction of legislation was the requirement to protect our medical and health research industries. Unlike the Leader of the National Party, I have a very strong regard for the economic implications of protecting these industries.

Some years ago, as a member of the parliamentary Economic Development Committee, I was involved in an inquiry into medical and public health research in Victoria. The committee tabled its report in May 1997. It was an interesting experience for me because as a former health professional I had always approached issues from a health point of view and I considered medical and health research to be intrinsically good. I still believe that but it was an interesting exercise to try to measure the economic impact of our medical and health research industry. It quickly became clear that Victoria has the lion's share of funding from the National Health and Medical Research Council. Most of the premier research institutions in the country, including several of the largest private research companies, are located in Victoria and tens of millions of dollars are brought into the state from elsewhere.

As part of the committee's inquiry we attempted to measure the benefits of health research on both a health and economic basis. If you examine the issue economically, you can see that benefits obviously flow from creating extra employment and having that economic activity in the state, especially when you get to the stage where new medicines or treatments are patented. You can also argue that any advance in preventing or treating illness or disease has its own economic benefit to the individual's quality of life, savings to the state in not having to provide care and ultimately the increased productivity of the person concerned. It became clear early in that debate that if Victoria did not act it stood to lose some of its best scientists and research to interstate. Therefore in my view there is an economic imperative to act. Of course you would not do that without regard to the moral implications.

In a 10-minute contribution it is very difficult to do more than touch on a couple of the issues involved, but on a moral basis I have no difficulty with human embryo experimentation. It is my view that not to legalise it in Victoria would be hypocritical. In a sense I would find it repugnant if we shunned the issue and simply relied on importing cell lines from overseas. That would be a real cop-out. I have not heard too many people suggest that we abandon that practice. It is far more honest to provide a legislative basis to do that in this state, rather than through the back door by importing cell lines.

Philosophically, I do not accept that a collection of cells is a human being, or a person. It might be capable of human life, but it cannot be said to be a human being with its own personality. What do those who oppose this legislation and also research and experimentation suggest that we do with the surplus embryos? I know many of these people would say that they should not be created in the first place. In practice they go a lot further than they might in this debate and oppose infertility treatment. What would they suggest we do? If you follow through to its logical extension their argument that a collection of half a dozen cells is a human being, are they suggesting that in some way we should take action to give each of them a chance to be a life? Clearly that is not possible and is a nonsense.

I am satisfied that there are a range of safeguards in place. Importantly, you cannot create embryos simply for research; they can be created only to assist reproduction and their use for research purposes is a by-product of that. Safeguards are in place to provide for the consent of all parties.

There is a licensing system — and that places me at odds with a number of people who support this bill. I find the provision for 5 April 2002 — that is, that you can provide experimentation research only on embryos created before that date — to be an artificial distinction. People might remember that last year, after the Prime Minister had said he supported the legislation, he pulled this date from left field. In years to come the distinction between pre and post-April 2002 will be regarded as artificial.

A number of members have talked about the capacity to use adult stem cells. I reject that. The important distinction is that a foetal stem cell is capable of forming into any type of cell, whereas adult stem cells do not have that capacity, thus limiting research.

Like the Leader of the Opposition, I do not claim that overnight the research will enable Superman to fly or people to get out of their wheelchairs, but I do feel good about that research. It is going to lead to advances and developments perhaps in ways we cannot even envisage. I am sure it will be more incremental than some people have — —

Mr Perton interjected.

Mr LEIGHTON — Evolutionary or revolutionary? It will happen perhaps more gradually, but we would be an ignorant society not to go down that path.

Finally, I do not support the reasoned amendment. Unlike other states in the commonwealth, Victoria already has legislation in place which outlaws cloning. It has been suggested to us in this debate that a number of people will be placed in a difficult position if they are opposed to both research and cloning. I do not accept that. If any member decides to vote against the bill, I do not think any of us will for one moment claim they are also opposed to bans on cloning. That would be a ridiculous proposition and it is not in question.

As far as I am aware, every member of this house would be opposed to cloning human beings. The central issue is whether we are to provide a legislative basis for research on cells at a very early stage of their development, whether we are to be more honest in doing so rather than relying on imported cell lines and, certainly in my case, whether we are going to give protecting Victoria's medical and health research industry a high priority. For those reasons I support the bill.

Mr KOTSIRAS (Bulleen) — It is a pleasure to speak on this bill. To start with, I will quote from an article by Mr Stephen Luntz, entitled 'Adult stem cells gain momentum', which was published in *Australasian Science* in September 2002:

> While the public's imagination has been captured by promised cures for high-profile diseases like Parkinson's disease, Alzheimer's disease and diabetes, stem cell research has also attracted its fair share of controversy. Harvesting of stem cells from embryos necessarily involves the destruction of those embryos, raising right-to-life issues. Furthermore, promising results have come from experiments with stem cells derived from 'adult' tissue, such as bone marrow. But while the use of adult stem cells avoids the ethical issues associated with embryonic cells, many researchers doubt whether adult cells are as adaptable as embryonic cells.

This is my dilemma: whether to destroy an embryo in the hope of assisting another human being. I have to say that I received many phone calls and letters and I had numerous meetings with constituents in my area of Bulleen who had different views which ranged from one extreme to the other. I consider it a bit unfortunate that the government has decided not to split the bill because the first part of the bill relates to stem cell research and the second to cloning. While I have no issue with that, I am sure there are other members of the house who might be compromised. I will support the bill because of two safeguards which are fundamental and because of the potential for curing disease and illness.

My first reason for supporting the bill is the safeguard that it relates only to embryos produced before 5 April 2002. At the moment couples produce five to seven embryos and they might use only two or three of them. The rest are stored for five years and then, if they are not used, they are destroyed by allowing them to thaw.

The second reason is the safeguard that both the woman and her partner must agree to the surplus embryos being used for stem cell research.

The third reason is that there is the potential to cure human beings of a number of diseases and illnesses. Therefore I believe we can only support the bill.

To understand stem cell research one has to understand what stem cells are. A human being is made up of different organs, each of which has a different function to perform. Each organ is made up of different specialised tissue, and each of those specialised tissues are made up of specialised cells. When a cell is formed it is not a specialised cell, so you can imagine the potential or the hope if we could get that initial cell and transform it into a specialised cell and then into tissue which could be used to assist a human being. There is great potential and hope in doing that.

Stem cells are undifferentiated primitive cells that have the ability to multiply and become specific kinds of cells. Stem cells are able to be transformed into specialised cells or tissue which then may be used to treat injuries and diseases. Stem cells can be obtained in a number of ways. The best source is human foetal tissue, which develops four to five days after the egg is fertilised. However, harvesting the stem cells destroys the embryo and this leads to many ethical questions such as, 'Where does life begin?', 'Should we interfere with nature?', 'Is this murder?', 'Are we treating a human being as a commodity?'.

The other way to obtain stem cells is from human beings — for example, adult stem cells are obtained from the brain and from blood. The question then is: why not use adult stem cells and not embryonic stem cells, as either might hold a potential to treat and cure a variety of diseases and this will avoid destroying embryos?

Huge gains and progress have been made in using adult stem cells. In an article in *News Weekly* of 13 July 2002 entitled 'Tell the truth about adult stem cells' Dr David Van Gend states:

> Contrary to public illusion, stem cells from embryos have not achieved one single human therapy, and for serious technical reasons may never do so, while adult stem cells are rapidly being applied to a range of previously incurable afflictions.
>
> …
>
> In April, the American Society of Neurological Surgeons reported a Parkinson's patient symptom free three years after injection with his own adult stem cells.
>
> …
>
> … Newcastle University treated its first patient in April with adult muscle stem cells to repair advanced heart failure, after positive results in European trials last year.
>
> …
>
> … a woman in Canada with the same injury as Christopher Reeve is reported to have regained bladder control and toe movement using her own stem cells.
>
> And little Rhys Jones, cured of 'bubble boy' immune disease this year using his own stem cells …
>
> …
>
> These are real cures, not just the speculative hype of the embryo researchers.

If it is true that examples of conditions treated with adult stem cells are showing promising signs, why do we need to destroy embryos? There are a number of reasons for this. As I said earlier, embryonic stem cells are able to be turned into all types of human cells. They can be grown and manipulated safely, they can be grown in an undifferentiated state, and they can be grown in sufficient abundance, whereas adult stem cells cannot be differentiated into all cell types and they may retain genetic disease.

I believe both these methods work and complement each other. It is for these reasons that I will support this bill. But I understand and appreciate the different views held by many in the electorate and also in this chamber.

As the surplus embryos are to be destroyed after five years if they are not used, then why not, with the permission of a woman and her partner, use them to assist others? Others have taken this argument further. An article entitled 'Why human research cannot be locked in a cell' states:

> Every cell — every skin, heart, lung, liver cell — has the complete genetic code or blueprint … to produce a human being. There is no moral difference between a fertilised egg sitting in laboratory and a skin cell. Both could produce a baby if very advanced technology were applied to them.
>
> Since it is clearly acceptable to experiment on skin cells, liver cells or muscle cells, researchers should be able to experiment on embryos.

However, there are others who disagree. In his 1995 encyclical entitled *The Gospel of Life* Pope John Paul II wrote:

> Human embryos obtained in-vitro are human beings and are subjects with rights; their dignity and right to life must be respected from the first moment of their existence. It is immoral to produce human embryos destined to be exported as disposable biological material.

As I said earlier, this legislation is only for spare embryos: the ones which have been produced prior to 5 April 2002. They can be used only if couples who have been in the in-vitro fertilisation program agree to the embryos being used.

While I understand the ethical and moral reasons for opposing the legislation, I believe the possibility of helping other human beings who are suffering outweighs these concerns. Safeguards are in place and research will be monitored. I will be supporting the bill, but I make it clear that I will not support reproductive cloning or any future amendments to the bill to allow the extension of the 5 April 2002 deadline. I hope the scientific community does not abuse this power, and I for one will be looking closely at their work.

Mr ROBINSON (Mitcham) — In contributing to this very significant debate I am indebted to Mr Gary Allsop, a resident of North Blackburn, who speaks with some courage and authority on matters relating to the bill. Gary is a director of the Australasian Spinal Research Trust. It is not a position he ever wished for. Some 14 years ago while playing football in a local competition his spinal cord was severely damaged, and since that time he has been confined to a wheelchair as a paraplegic. Gary is one of 20 000 Australians with spinal cord injury. It is a credit to him that he is able to throw superhuman amounts of energy and enthusiasm into advocating the needs and aspirations of people afflicted with spinal cord injuries.

The legislation in my view is motivated by a desire to assist Victorians through new research opportunities that the bill would create as a consequence of a decision taken to allow stored embryos to succumb.

As members know, the embryos are created under the authority of existing Victorian legislation governing IVF treatment, and the nature of the IVF program is that some embryos have been created in the knowledge that some of them at least will be discarded at a future point in time. I have no doubt that Victorians overwhelmingly support the IVF program which has brought incredible joy into the lives of thousands of people.

Opportunities now arise to use emerging and innovative technologies to create new benefits based on the sorts of technologies that for almost 20 years have underpinned the IVF program in this state. Inevitably, the bill raises issues of morality and ethics: are we going too far and does this represent the start of a slippery slope? I do not believe so.

The primary decision behind any potential application of this bill is whether an embryo will be allowed to succumb. Only then would research become an option. The bill provides that embryos created after April 2002 cannot be used for that purpose. I fully anticipate that many Victorian couples will choose not to take up this option.

The issues in the bill rightly make many of us uncomfortable. I hope we never get to a stage where we blithely accept everything the scientific community throws at us or trivialise issues associated with the creation, maintenance or sanctity of life. But it is a discomfort that is far from new. We can go back 500 years or more and witness the public opprobrium about those significant Renaissance figures like Leonardo da Vinci, who stole corpses and dissected them to understand more about the mechanics of the human body, a practice which was eventually outlawed by the Pope. Yet no-one doubts that we understand a great deal more today about our human self as a consequence of those activities. Indeed, it is very much the case that we owe our current state of knowledge of self and universe in large measure to scientists who have pushed the boundaries of accepted orthodoxies over many centuries.

I have considered some of the arguments advanced by opponents of embryonic stem cell research. While I acknowledge these arguments, I do not accept them as sufficient reasons to vote against this bill. The most apparent of those arguments is that adult stem cells are a better alternative. That has triggered a raging debate across the world over the past couple of years, but it is a debate that, for me at least, was answered plainly in an article in the *Sunday Age* of 25 August last year. The article concentrated on the debate which is raging and it referred to prominent Belgian American scientist Dr Catherine Verfaillie and states:

> As director of the University of Minnesota institute that has made stunning discoveries about the capacities of adult stem cells, drawn from bone marrow, she objected to her work being misrepresented by Professor Prentice.

The article at an earlier point states:

> Professor Prentice put forward the view that new discoveries about the capacity of adult stem cells obviated the need for research that would destroy embryos.

Dr Verfaillie had to disagree, and the article states also:

> Crucially, Dr Verfaillie pointed out that despite her best efforts, adult stem cells seem to be resistant to growing hard muscle, blood or insulin-producing cells, meaning they may not have the capacity to help in as extensive a range of problems as the embryonic stem cells.

That has been the principal argument mounted by opponents of this legislation.

There has been an argument that the push for this legislation is coming from the mad scientific community. I met Professor Alan Trounson two years ago under circumstances not connected with this bill. He is a quirky character, there is no doubt about it, and I do question his judgment in managing the campaign for liberalisation of the legislation on research options. However, if I were to characterise him as having any personality deficiency it would be only that he suffers from the insatiable scientific curiosity that so distinguishes professionals in his field. I, for one, believe he is principally devoted to disproving a lot of people, like Gary Allsop.

There has also been an underlying antagonism in some of the criticisms of the legislation towards the in-vitro fertilisation (IVF) program and the very need to maintain embryos in storage. We are not debating the merits of the IVF program. If people want to take issue with that there are other forums available to them.

Although I do not accept those arguments against the legislation I do accept that the debate has given all of us some timely reminders. We should not attempt to allow this debate to become one of economic advantage through a sole focus on the commercialisation opportunities that further research will make available. The debate is simply too important to be subsumed into economics.

We should ensure that our health bureaucrats are fully accountable. This Parliament grants a number of them amazing discretion, but I am not convinced that they always exercise that discretion appropriately. We should also ensure that parliaments continue to support a wide range of research avenues in this field — not just adult stem cell research or embryonic stem cell research but a whole range of innovative therapeutic research. Finally, parliaments and governments must maintain a vigilant eye on this ongoing debate, because today does not mark the end of this debate but simply one chapter in it.

In conclusion, I support the bill. I do not pretend that to come to that decision has been an easy thing, but I appreciate the opportunity the Premier has extended to government MPs to exercise a conscience vote, which is a pretty rare thing in this chamber. My decision will no doubt please some people but it will also disappoint others. I have come to this decision because principally I believe in the power of hope. I hope that through the application of new therapies people like Gary Allsop might one day regain their mobility. I hope that in future children born into a world of silence, blindness or terminal disease might have a chance to overcome those disabilities.

Finally, I hope that Victorians who suffer a lifetime of disability will take heart that we are doing all we can within acceptable boundaries to ensure that future generations of Victorians do not have to endure hardship and suffering such as they endure.

Mr INGRAM (Gippsland East) — This is an interesting debate on both ethics and scientific facts, and we need to keep away from the emotional and other factors that keep being brought into it. I have been involved in the research since the legislation was first proposed at a federal level. Too often through that time the emotion has got in the way of the ethical and scientific considerations.

I was asked to give a speech on ethics and politics once, and it seems to be a bit of an oxymoron. Unfortunately there is a common belief in society that politicians do not have the capacity to make ethical decisions. That belief is probably misguided, because as politicians we consistently make very tough ethical decisions on a range of issues. Many things are not back or white; there is a big chunk of grey in the middle. We have to decide what is right and what is wrong within certain parameters.

This is a good debate to have. I have been listening with interest to some of the presentations, and I think the debate has been of a high standard. One of the things that distinguishes this debate from many others in this place is that it will require a conscience vote, and a lot has been said about that. We Independents always vote on conscience. That means that most members of Parliament vote without conscience on most issues, and perhaps it should be something that should be — —

Mr Perton interjected.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Doncaster!

Mr INGRAM — It would be interesting to ask if I threw a bone whether the member for Doncaster would leave.

Mr Perton interjected.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Doncaster!

Mr INGRAM — I thank the honourable member for Doncaster for his assistance!

This legislation takes into consideration the national position of the Council of Australian Governments agreement, and we are trying to get similar legislation enacted in all the states and in the commonwealth. There is a good reason for that: it protects the legal parameters in which we work.

When investigating this legislation I had the pleasure of sitting with a number of the scientists, including Professor Trounson, whom I met in the strangers corridor. We had a good discussion until it moved away from the scientific facts and the non-ethical decisions. When a discussion on science moves away from facts things become very blurry, and it was pretty obvious that if we had continued to go down that hard-sell line the waters would have become very muddied. I was not surprised when Professor Trounson got caught up in the debate federally and got himself into a bit of strife. The scientific facts behind what the scientists are doing sell themselves.

In trying to get to the bottom of all that I had to make one of the most difficult decisions I have had to make in this Parliament. As members of Parliament we are dealing with a range of things most parliamentarians do not come across — things such as gametes and embryos, and a whole range of questions such as where does life start and where does it stop — and in the end it comes down to a scientific decision or an ethical decision, and whether you agree with what is being done or you do not agree with what is being done.

I was disappointed with the emotional spin — for example, miracle cures — that came with this because it clouds the issues and does not do good service to the great medical and scientific research done in this state and deviates from the facts. The community loses faith with the ability of our scientific and medical researchers to judge the ethics of what they are doing — the rights and wrongs — when they deviate from those facts. It is up to the scientists and doctors to stay within those parameters.

One of the issues that has come forth during the debate is the question of where life starts. I will not use this as an example of what we are doing because it is at a much lower level, but before I came into this Parliament I was breeding native fish, and I am probably one of the few people in this place who has looked into a microscope and seen cells split, seen an egg that has been fertilised divide into two cells and into four cells. I have then seen it form a backbone and develop a heartbeat. To see that under a microscope is an extraordinary thing.

We are talking here about human life, which is a lot different from a fish, obviously because we place a higher ethical and personal value on that life form. However, the principle is still the same, and it is difficult to determine exactly when life does start and when it finishes. When we come down to the facts behind this debate, the embryos — eggs — will die and there are checks in place to restrict what we do and do not do with those embryos. The donating mothers and the donating fathers of those embryos have to approve what is done with them — whether they are going to be used for research or whether they can be donated to another couple who cannot produce their own; and if they do not approve those things those embryos are taken out of the cold store and destroyed.

So it is an ethical decision. We are basically killing life no matter what we do, and we are better off, in my view, using those embryos for some kind of decent scientific research. They may hold the secret to a number of things in the future. But I do not think this is going to provide the miracle cures that have been talked about.

We have to devote our attention to a whole range of other scientific and medical research issues, including using adult stem cells. This should not be seen as a panacea for all this world's ills, but it is something we have to try. Is it going to be any worse than the first step we took in IVF, because there was opposition to that? There are still sections of our community who are opposed to blood transfusions. Historically there was a big debate in some parliaments around the world about whether we should allow the transfusion of blood, which saves many millions of lives a year.

As politicians we make ethical decisions every day, and this is but one area of research that I think we should utilise. I know not everyone in this place and outside this place will agree with me, but it is a decision to which I have given a great deal of consideration. I have looked at what I believe are the facts. Personally I do not have an ethical problem with what we are doing. I believe the checks are there to keep a rein on the scientists, because I think they have a problem with deciding where the boundaries are and whether they should be restricted.

It is our job as members of Parliament representing the community to keep control of that while encouraging research and innovation. Hopefully there will be some benefit from it that will make the world a better and safer place for humanity.

Mr MULDER (Polwarth) — I have somewhat mixed feelings in contributing to the debate on the Health Legislation (Research Involving Human Embryos and Prohibition of Human Cloning) Bill. As much as I appreciate the opportunity to exercise a conscience vote — and I certainly do not seek to influence any other members of the Parliament in relation to what I have to say on the legislation — over the last four or five months since this legislation was introduced I have been very heavily canvassed, as no doubt all of us have been, by various religious orders, by members of the public and, certainly in my electorate, by people who are suffering from and who are looking for a cure for their illnesses.

Some may think that the position I am going to take on this bill means that I am not understanding of their position. However, I have been very fortunate in the last 12 months to have had a family from south-western Victoria living with me and sharing my apartment in Melbourne, during which time a member of that family has gone through a bone marrow transplant. I have shared all of those days and nights with the family, including all of the highs and the lows. I must say that I marvel at the science behind the bone marrow transplant process, and I know and understand that these advances in medical science can only be achieved by pushing the boundaries and looking to help those around us who need assistance and help and by supporting medical research in a manner that provides what these people are looking for.

I must say that when I came to this place I felt that some issues in life were above parliamentary tactics, and it therefore saddens me to hear of a process that effectively gags members from truly registering their position on this bill. Entrapment of the worst kind is the only way I can describe the debate on this bill, with the contributions dealing with issues surrounding personal beliefs and faiths of different members in this place. I must say I question the Minister for Health and the Bracks government for the manner in which they have chosen to introduce this legislation into Parliament, because it is effectively gagging members speaking on

matters affecting a conscience vote — and I do not support that in any way, shape or form.

There are many members who wish to support the sections of the bill which relate to strengthening the legislation on human cloning while exercising their conscience vote by either agreeing to or opposing the provisions of the bill which support the use of destructive research on excess IVF embryos.

I am a practising Catholic, and I am torn between the issue of destructive research and providing hope for many sufferers of disease and disability. It is a very tough issue for us. The debate surrounding the timing at which an embryo becomes a living human being and therefore deserving of the protection given to a living human being will go on long after I leave this place. As much as I have come under pressure from all sides of the debate, I am still unsure, as I am sure many others are, on that particular question.

I spoke on the entrapment surrounding the introduction of this legislation and the divisions it has caused throughout the community and among various members of this place. I cannot help relating the rotten politics surrounding the manner in which this bill was introduced to the clauses in the legislation which allow for the destructive research on embryos existing prior to 5 April 2002.

We often hear of lawyers speaking of closing doors on their tactics in the courtroom. We also hear them speak of issues such as intent. I ask all members present whether it was the intent of the women or the couples involved in the creation of embryos prior to 5 April 2002 that any excess embryos would be used for destructive research. Was it their intent at the time they entered the program that that is what would happen to excess embryos? The answer to that is clearly no. Did those who were involved in the creation of excess embryos prior to 5 April 2002 expect to come under such pressure as this legislation exerts to provide those excess embryos for destructive research? The answer again is clearly no.

When they entered the IVF program they did so for a specific reason. At no stage did they ever expect that they would be subjected to this legislation, which holds a gun at their heads regarding excess embryos.

Freedom of choice after the event does not deal with the issue of original intent. Their original intent was never that we would find ourselves in the position we do today. It is for that reason that I cannot support this legislation. I honestly do not believe that most of the people who entered that process would ever have expected to find themselves in the position they are in today.

There has been a total lack of appropriate public consultation. This legislation deals with the entrapment of members of Parliament and is part of a process which sets out to divide their personal as well as their religious beliefs. It is about the entrapment and manipulation of embryo donors who entered the program in good faith, believing that their embryos would be used in the manner they were supposed to be used and not for destructive research. I therefore oppose the legislation.

Mr BRUMBY (Treasurer) — I say at the outset that I rise to support this legislation. I support it personally since we have the right to exercise a conscience vote on this legislation, but I want to say too that I also support it strongly in my capacity as Minister for Innovation and Minister for State and Regional Development, being the minister who is responsible for the science, technology and innovation programs of the state, including the biotechnology strategic plan and our innovation agenda.

I want to make the point that many speakers have made in this debate, that stem cell research, from embryonic stem cells right through to adult stem cells, holds enormous promise for our society and for the world generally in the development of cures for many of the diseases which afflict our society. Many of them have been mentioned in debate — for example, cancer, diabetes, Parkinson's disease and stroke — and all of us, I think, whether it involves our family, our relatives, our friends or our work mates, know people who have been afflicted by these diseases. This bill will enable further research which, as I said, holds great promise for cures for these diseases.

Australia, and particularly Victoria, has world-leading groups working on many areas of stem cell research, including Monash University, the Peter MacCallum Cancer Institute, the Royal Children's Hospital and the Walter and Eliza Hall Institute of Medical Research. As such I believe there is an enormous opportunity, a huge opportunity, for Australia and Victoria to take the lead in this exciting field, which can unquestionably improve the quality of human life.

To extract the greatest public benefit from stem cell research we have to ensure that the research is ethical, in accordance with community feeling and transparent. It is certainly my view that this legislation gives effect to those aspirations: it is ethical, it is transparent and it is in accord with majority community feeling. With the

right legislative parameters Victoria stands to continue world-leading research that I believe can result in major medical breakthroughs and a strong biotechnology sector in the state of Victoria.

I stress that in this legislation we are taking an ethical approach. Victoria supports a constructive and responsible approach to the development of cell therapies using cells from a range of sources, including excess in-vitro fertilisation (IVF) embryos. Victoria has taken the lead by releasing for public comment a draft ethical code of practice for the propagation and use of human stem cell lines.

Having heard the comments of the member for Polwarth before me, let us be clear about it: this bill bans the cloning of a human being; it identifies prohibited practices in relation to cloning and research on human embryos; it establishes the National Health and Medical Research Council as the licensing body for any and all research on excess embryos donated for research; and most importantly, it also limits destructive research on excess embryos to those in storage as at 5 April 2002 and requires the express consent of the donors, with the ability to specify restrictions on research. That is what the bill does.

The member for Polwarth complained that he has not been given the option to vote in two parts on this legislation. I respond to him by saying that there is no need for that action in relation to this bill. There are two reasons for that. Firstly, under the Council of Australian Governments (COAG) agreement, which was signed up to by Victoria and all of the other states, Victoria has agreed to introduce legislation consistent with the commonwealth's legislation. The commonwealth legislation bans cloning but it supports research on excess assisted reproductive technology embryos. That is exactly what the bill before the house enables.

Secondly, the argument has been put by some, including the member for Polwarth, that they want to vote against cloning but for research and so the bill should be split. However, when you think through the logic of this it is also unnecessary, as cloning was banned in Victoria eight years ago and nothing changes that situation in our law. The only reason we would split the bill would be if someone wanted to support cloning but ban research. To my knowledge and the knowledge of the Minister for Health no-one has suggested that that is what they want.

The intent of this legislation is fully consistent with what the commonwealth government and all of the states believe to be an ethical framework that provides researchers with clear instructions as to what is acceptable and legal conduct. There is always a debate about whether science is moving ahead of morality or ethics. I can remember reading at school a book entitled *Science and Government* by C. P. Snow — if my memory is correct — about ethics, about science always pushing ahead at the frontiers and about how we ensure there is a proper ethical and moral framework in place. I believe that that balance has been struck in this legislation. I believe it is the balance that was struck at COAG.

To ensure that every member of Parliament has the opportunity, if they feel differently, to express a view, we are enabling a conscience vote in this house. I do not think we could have a fairer and more open debate. I do not think we could have a more ethical and balanced framework.

I also want to say that this is a consistent approach. What we are doing here in Victoria is consistent with COAG and it is consistent with the view taken by the commonwealth. If members look back at the run-up to the COAG meeting last year they will find that our Premier strongly supported changes to this legislation to enable embryonic cell research. When COAG agreed with that, when the Prime Minister agreed with that, the government welcomed that agreement.

The Victorian government understands that stem cell researchers, including those at the National Stem Cell Centre, intend to study a range of stem cell types, including both adult and embryonic stem cells. It is too early to tell at this stage which cell type will be the most promising. It is important that these legitimate avenues of research are not blocked and that Victoria maximises its potential in science, in biomedicine and in biotechnology in a framework where safety and ethical considerations are intrinsic to that development.

In the last 2 minutes I want to stress the importance of this legislation to Victoria. The debate about stem cell research is especially important to Victoria because we are the home of stem cell research in Australia. We are globally recognised for our leadership in this field. We have a long history of generating groundbreaking research and development. Many of our great researchers have received international acclaim for their scientific and medical work, including several Nobel prizes. We have a proven record as the no. 1 state for biotechnology. We boast more dedicated biotech companies than any other Australian state. Our reputation has led several global biotech companies to choose Victoria as their base — CSL Ltd,

Bristol-Myers Squibb, Glaxosmithkline, Aventis and Nufarm.

Victoria is also the hub of national biomedical research. We have the largest concentration of research institutes and the highest spending on medical research and development. We are currently recognised internationally as a centre of excellence in medical research. We are home to 22 non-profit medical research institutes, 7 major teaching hospitals and 9 universities. Exciting new projects like the new $400 million biomedical and research precinct — Bio21 — build on Victoria's strong and competitive research base; as does our $157 million commitment to the national synchrotron at Monash University, which will look at the structure of cells and the analysis of protons.

We have also been named as the site for the national $43 million biotech centre of excellence, which will look at stem cell research. It is certainly my view that without this legislative framework the work of that national stem cell centre would be at risk. This legislation secures the future of Melbourne as the stem cell research centre of Australia.

Finally, this is important legislation. I support it personally. I support it as the minister responsible for science and innovation. I believe it holds great promise in terms of health improvements, quality of life and economic opportunity.

Mr MAUGHAN (Rodney) — This is a very important debate. There are all too few opportunities in this house to discuss these very important moral and ethical issues. In this particular case what could be more important than discussing life itself. I want to say that I have enjoyed listening to the contributions of members on both sides of the house, who have made an enormous contribution to this debate. It has been very interesting.

I think it is regrettable that the bill was not split into two separate parts so that members could express a separate view on cloning. I would expect that nobody in this house would support cloning; I think there would be a universal rejection of the notion of human cloning. However, there is a wide divergence of views on whether we should be involved in research using human embryos. It is a pity that those two are tied together and that we do not have separate bills and are not having separate debates on those two issues.

I also welcome the conscience vote that all parties have on this legislation. I think it is great that on these very important issues we are able to express our moral, religious and ethical views and vote according to our own consciences. I am pleased to be able to participate in the debate for that reason as well.

In this debate we need to be able to confront the very important question of when human life begins. We all have different views on that: some would say it starts at the point of conception, some would say it is the embryo, others would say it is the development of the spinal streak, others would say it is at 10 days or 28 days or whatever it might be. At the other extreme some would argue that life does not start until the child is actually born. All of those views are sincerely held, and we all come to different decisions.

I have confronted these questions previously because I was privileged to be a member of an all-party committee that looked at the in-vitro fertilisation (IVF) legislation, surrogacy and all those sorts of issues. The all-party committee heard a wide range of religious and ethical views, and all members on that committee probably had their views changed in one way or another and have a better understanding in confronting those issues and facing up to the question of when life begins and what life is all about.

I also have another reason for being interested: for seven or eight years in my previous life I was a member of the Australian Pig Industry Research Council, as it was then known — —

Mr Delahunty — Oink! Oink!

Mr MAUGHAN — Exactly! That body spent a lot of money on genetic engineering research at the Queen Elizabeth Hospital in Adelaide, and while the research was done on pig embryos exactly the same sorts of principles apply to human embryos. Like the member for Gippsland East I have viewed embryos under the microscope and seen them at that early stage when they are dividing. In that sense I have looked at where life actually begins. The debate that we are having tonight is an extension of some of those principles.

The National Party played a useful role in this debate by organising the embryonic stem cell forum which was held in this Parliament on 29 May last year with eminent speakers from both sides of the debate. All members who either attended the forum or who have since read the papers were better informed as a result. In some cases it probably confirmed their previous beliefs; in other cases it probably created some additional thinking and maybe changed some views. The forum provided a useful opportunity for people to gain some further information and to clarify their views on the issue.

I acknowledge that stem cell research has the potential to improve the lives of people suffering a range of disabilities. I put it no higher than that; I do not want to beat up the possibilities. I say that there is the potential that stem cell research is able to improve the lives of thousands of people in Australia and around the world who are suffering from a range of disabilities: Parkinson's disease, diabetes, cancers of various sorts, organ failures, genetic conditions and spinal cord injury. I have great hope that research might be able to overcome some of those difficulties. There are no guarantees, but I think it is fair to say that the research is promising. It is also fair to say, as the Treasurer pointed out, that Victoria has led the world in much of this research.

I applaud the fact that both the commonwealth and Victorian governments have seen fit to invest in this world-leading research. I hope that we can continue to be at the cutting edge of this very important research, in which Professor Alan Trounson at Monash University is one of the leaders.

I am strongly opposed to human cloning. I do not condone that we should contemplate human cloning under any circumstances; however, I acknowledge that it does have a place in animal research. The cloning of animals is an entirely different story and does have a role as an important research tool.

I support research on embryos under strictly controlled conditions as spelt out in the legislation before the house: embryos that are already in existence, are surplus to the IVF program and were produced prior to 5 April 2002. These embryos are already in existence, and in my view it is better to use those embryos in an effort to try to improve the lot of mankind rather than to enable them to succumb — the term we are now using which in essence means being disposed of. Rather than wasting them I think we should be using those embryos to the possible advantage of mankind. They are surplus to the IVF program and are already in existence. There is also the safeguard that the donors of those embryos must give their consent. So we have a second safeguard, and otherwise the embryos would be allowed to succumb.

Right now it is possible to utilise embryos that are produced outside Australia for this research. It seems to me morally indefensible that we are prepared to use embryos from other parts of the world but are not prepared to use embryos that are already in existence here in Australia.

I support the legislation, firstly, because there is the potential to cure illness and to overcome disabilities, and at the very least to enhance the quality of life of thousands of people, to save lives and to reduce human suffering. Secondly, I support the legislation because of the Council of Australian Governments agreement. With all states and the commonwealth setting up a national framework it is inconceivable that we should have different legislation in different states. We have signed off on that national framework, and I support it. Thirdly, I believe there are adequate safeguards. We cannot create embryos for research — that is forbidden by this legislation — and whether the donor be simply the woman or the couple involved consent of the donor or donors must be given for the use of the embryos for research.

It must be given also because the National Health and Medical Research Council is overseeing this whole process. So I do believe there are adequate safeguards. I have great respect for the views of members of this Parliament, even though they may be different from mine. It is important that we confront these very important moral and ethical issues.

I was involved in the preparation of the dying with dignity legislation and the discussion of its application so I have a great respect for the moral, religious and ethical views of others that may be different from mine. I believe there is considerable potential to improve the lives of thousands of people in Australia and around the world.

This has been a very good debate but I come down on the side of utilising our God-given gifts for the benefit of mankind. I support the amendment that splits the bill into those two component parts that I spoke about earlier. If that amendment is defeated, as I expect it will be, then I will be supporting the bill before the house.

Mr MERLINO (Monbulk) — One week before the election last year I was approached by a constituent who was distraught about her 18-year-old brother who had been involved in a freak accident on his mountain bike, which left him a quadriplegic. It is a tragic story and I cannot imagine the trauma and heartbreak for the young man involved and his family as they come to terms with the reality of his profound disability. Over the last few months staff from my office and I have done everything we can to make the transition from hospital care to care at home as painless as possible. The family, as is natural and understandable, will grasp at every possibility in the hope that one day their son will walk again.

One of the more unfortunate outcomes in the recent debate on human embryo research is that those who oppose the destruction of embryos in such research are characterised as opposing research into finding cures for cancer, Alzheimer's disease, and spinal injuries, amongst others. This is not the case. Along with everyone here I am in total support of such research and I will come to the issue of such research later.

I understand, however, that in the eyes of the family I mentioned my opposition to the bill will be viewed as closing the door on this young man. It is not easy, particularly given that this is my first speech on a bill, to publicly oppose what looks to be the majority view of my colleagues. It is also not easy to knowingly disappoint this family and my electorate.

However, I speak against the bill because I come to this place with the belief that life, at whatever stage of development, is sacred. I do not agree with the concept that the value of human life is variable depending on what stage of life he or she is at.

I want to deal with a couple of the more common arguments first. One is that, given that excess embryos are going to die anyway, why not use them for research? This is an argument of convenience rather than of merit. There is a great difference between allowing life to succumb and ending life for research. Society does now allow the killing of comatose patients in hospitals for their organs; it does not allow research on the elderly. They will die soon and that research may be beneficial for others, yet we do not allow it.

Another comment I have heard is that they are only cells, that they are so tiny that many will fit on the head of a pin. This is a glib and offensive comment to me. Follow the logic: the implication is that this life is so insignificant and irrelevant that it does not deserve to be treated the same as you or I or a newborn baby.

Now take the implication of that comment to its logical conclusion: it is an acceptance that the value that we place on the lives of others can be calculated to be less than our own. In this case it is a calculation of how small and how young that life is.

I turn now to the issue of results and potential in stem cell research. The runs are on the board with research on adult stem cells. The benefits in the future are most likely to come out of research on adult stem cells. Proponents of stem cell research claim that the versatility of embryonic stem cells is far more than of adult stem cells and therefore they have greater potential for developing cures for a variety of serious illnesses. Being embryonic stem cells, of course they are more flexible — but they are also far less predictable. Furthermore, studies have shown that the versatility of adult stem cells is far greater than previously thought.

The contrast in the results is stark. Embryonic research has not led to one human patient improving their condition. Adult stem cell research, on the other hand, has led directly to improvements in a whole range of illnesses and conditions, from multiple sclerosis and stroke patients to people suffering from cancer and heart conditions.

The best example is the use of haematopoietic blood stem cells. They are taken from the bone marrow of a compatible donor or directly from the patient themselves. Those blood stem cells are reproduced and put back into the bloodstream to cure illnesses such as blood cancer or leukaemia. This is now considered to be ordinary therapy and is a direct result of adult stem cell research.

Just recently there were articles in the press regarding new spinal research. Professor Graeme Clark, the inventor of the bionic ear, announced that he will, in conjunction with the University of Wollongong, research the possibility of using smart plastic and adult stem cells taken from the nose of patients and inserted into the severed part of the spine to reconnect movement messages from the brain.

I quote from an article in the *Canberra Times* of 22 February:

> Funding was essential and he made a special plea to government to support the project.
>
> 'When I started with the bionic ear research it was pie in the sky, severely criticised — and we now know it works wonderfully well', he said.
>
> 'With the spinal cord it's an equally great challenge but there are strong indicators now that it will work'.

Research using adult stem cells is producing results. They are superior to embryonic stem cells because the rejection of the stem cell is not an issue. The use of embryonic stem cells is problematic because it inserts foreign matter into a patient whereas with adult stem cells a patient's own cells are used. The results are there and they continue to build every month. If the ethically uncontentious research is getting results, why are we looking elsewhere?

Which leads me to my final point: this debate is known as the stem cell debate. The bill is often referred to as the stem cell bill, yet that is not the case. The bill does not restrict research to stem cell research only. The bill

allows the possibility of any research on human embryos. A word search for 'stem cell' brought up only one reference — the applicability of establishing a national stem cell bank as part of the review. That is it. The bill allows the possibility of other research which can include things such as drug and cosmetic testing and toxicology testing. These other uses should have been part of the wider debate but they were not.

It is much easier to convince people of the need for embryonic stem cell research for the purposes of finding a cure for cancer than it is to convince people of the need for embryonic stem cell research for improvements to medication on the shelf of your local pharmacy.

I put on record that I fully support the inclusion of the prohibited uses contained in the bill but cannot in all conscience support the bill. I cannot support the destruction of life that this bill allows. I thank the Premier and parties for allowing a conscience vote on the bill. My opposition to this bill is my personal opinion and I do not urge members to vote yes or no but I urge members to take the opportunity that is being given to you and to vote according to your conscience.

Mr HUDSON (Bentleigh) — This is one of the most significant bills to come before Parliament. It deals with the sanctity of life and the respect and dignity that we accord to every human being. It brings into potential conflict two fundamental principles at the heart of our society: first and foremost is respect for human life, and the second is the importance of using advances in science to prevent and alleviate human suffering.

At the heart of this debate is the value we should attach to human life and the potential life present in every embryo that is produced — in this case embryos are produced for the purposes of infertility treatment.

From the outset I want to say that I have the utmost respect for the views that have been expressed by those members of Parliament who have been prepared to speak on the bill, whether I agree with their final position or not. I know that many of them have wrestled with their consciences on this matter.

I was brought up in a Christian family and I have not come to my own position lightly. I have finally decided to vote for this bill because whilst I know that for many of those who will vote against it human life and personhood start from the moment of conception, I accept the view that an embryo less than five days old which exists outside the womb has the potential to become a person but is not yet one.

I think that the safeguards in this bill are sufficient to ensure that the only embryos that will be used for research are those which would otherwise die because they would not be used for assisted reproduction. These safeguards include, firstly, that only those embryos which will not be used for assisted reproductive technology purposes and which existed on or prior to 5 April 2002 will be available for research; secondly, that the consent of all individuals who contributed to the creation of the embryo and the woman or couple from whom the embryo has been produced must be obtained before an excess embryo may be used for research; thirdly, that there would be a rigorous licensing regime through the National Health and Medical Research Council (NHMRC) to assess research proposals and issue licences to research bodies; and finally that embryos can only be created to treat a woman undergoing infertility treatment and cannot be created for research purposes.

In those circumstances I think the potential benefits to be obtained from stem cell research on embryos that would otherwise be allowed to die in the laboratory outweigh my concerns that passing this bill would place insufficient value on potential human life, however primitive.

However, I want to place on the record my concerns about the application of assisted reproductive technology and the number of excess embryos that are produced as part of the process. There are currently about 18 000 embryos in storage in Victoria that are available to be used for assisted reproductive purposes. However, I think the community has a right to know whether each and every one of these embryos is necessary for infertility treatment. I believe this is something the community is concerned about, and it is an area where science is ahead of public opinion.

We know that women are often super-ovulated in order to produce a number of embryos for implantation, many of which are not needed to achieve a successful pregnancy. Whilst I am aware that the success rate of implantation has improved and that there are severe penalties for producing embryos that are not for use in the treatment procedure, I believe a lot more can be done by our treating doctors and scientists to limit the number of embryos produced for assisted reproduction purposes. This is an area that I believe needs to be monitored and further reported on by the NHMRC and the Infertility Treatment Authority here in Victoria.

I would also have grave concerns about any pressure being put on couples to donate their excess embryos to other couples for implantation. I believe that in the past

legislation approved by the Parliament on the donation of gametes from individuals and couples to others paid insufficient attention to the social consequences for the offspring or the biological and adoptive parents.

Critical to the development of every child is that they know their genetic inheritance. I think children need to know much earlier than 18 that they are donor offspring. We know from the experience of adoption that children who know their biological history and are dealt with in a truthful manner are much more likely to grow up as well-adjusted adults. Their family relationships are much more likely to be based on honesty and trust. It is simply not good enough that these young adults can find out their biological history once they turn 18 only if they happen to know that they are donor offspring and happen to make a request for information.

The first and most important guiding principle in the Infertility Treatment Act is that the welfare and interests of any person born or to be born as the result of a treatment procedure are paramount. There are three other principles, the fourth and final one being that infertile couples should be assisted in fulfilling their desire to have children.

The act points out that these principles are listed in descending order of importance and must be applied in that order. The weight given to these principles needs to be affirmed. The intention of the first principle in relation to the welfare and interests of children produced through assisted reproductive technology needs to be clearer. We need to ask ourselves questions such as what welfare and interest tests are legislated in other jurisdictions and how these goals are achieved. We need to ask what we can learn from research on children and adults born as a result of assisted conception compared with other groups in the community, and we need to ask what the community thinks. Such research will help us make future decisions in these very difficult areas of law, social policy and ethical values. I hope the government will support future research into these areas, where legislation and regulation will continue to be required.

To conclude, I believe the potential benefits of stem cell research, while yet to be fully realised, are sufficient for me to support the legislation and the conditions under which it is being presented. On balance stem cell research has the potential to treat Parkinson's disease, diabetes and heart disease. This means we ought to support this legislation and use excess embryos for research rather than have them destroyed in the laboratory.

Mr JASPER (Murray Valley) — The legislation before the Parliament is most important, and I have listened with interest to the contributions that have been made by members on both sides of the house.

I listened with a great deal of interest to the member for Lowan's contribution on behalf of the National Party, in particular his personal point of view. I also support his comments that we are not scientifically trained and so cannot look at it on the basis of the scientific side of this legislation but must try to analyse the import of it across Australia. I support the national approach that has been taken by the federal government — it has certainly been discussed extensively at a federal level — and I also support the fact that there has been a separation of the legislation, whereby the cloning aspects have been taken out of it.

I support the reasoned amendment brought forward by the member for Caulfield — that there should be two bills and that there should be a separation of this legislation — and believe it should be accepted by this Parliament. But the government is not prepared to move along that line and accept that amendment, as I understand it.

I was fortunate to be one of the members who attended the meeting arranged by the National Party at Parliament House last year when a range of eminent speakers presented information on embryo research. Professor Trounson certainly impressed me with his presentation on the work that is being done and still needs to be done in stem cell research. I also listened to the other speakers with a great deal of interest, and they presented a very strong case.

I am of the view that there are adequate protections within this legislation to allow appropriate research to be undertaken. The legislation we are looking at now is to a large extent similar to that which has been presented at a federal level and will be presented in other states throughout Australia. The research that is being undertaken is certainly revolutionary, but Professor Trounson's comments made it clear to me that important advances in research on a range of major illnesses in Australia and the world can become possible with the use of embryos.

Some of the earlier speakers tonight outlined the protections that are being provided in that the embryos being used are those that are in storage now and were in storage prior to 5 April 2002. I also note that the consent and approval of those people who have ownership of the embryos would be needed for them to

be used. There are also other protections in respect of the handling of those embryos.

There is no doubt that significant research can be undertaken if embryos can be used. I was also interested in Professor Trounson's comment on the use of adult stem cells. He indicated clearly that there is a difficulty in being able to use adult stem cells for appropriate investigation and scientific research as compared with using the stem cells that are currently in storage as a result of the in-vitro fertilisation (IVF) program.

To summarise, whilst I have been reticent about coming to a decision, I will be supporting the amendment put by the member for Caulfield that the bill be separated to make it clear that cloning would not be acceptable. As far as I am concerned it is certainly not acceptable that we should support any human cloning, but I think great advances can be made in scientific research by being able to use stem cells presently in storage under the IVF program. I also believe that the legislation contains appropriate protections to enable the research to go forward within Victoria.

I have noted and concur with the Treasurer's comments that Victoria leads research programs in many areas through universities and other organisations, and that this would be a major step forward in providing opportunities for research. I also recognise that the Council of Australian Governments has supported the move ahead in this area of legislation.

Mr SEITZ (Keilor) — I put on record that I oppose the proposed amendment and support the bill as it stands.

In my adult and political life three major decisions on social questions have come before Parliament. The first was when the Labor Party introduced legislation on abortion, which I supported. The second was when we allowed a fertility program to be established in Victoria, which was a major decision. The third is the use of the embryos left over from the IVF program for stem cell research.

It has taken 20 years in politics for me to have the opportunity to take part in a conscience vote, and I will be voting for the bill as it stands. I would appreciate that fact being put on the record. It has been very difficult as a man of faith to come to the conclusions I have and make my decision. However, today a war is going on in a country where the various religions condone the killing of human beings. I have seen religious leaders many times bless soldiers before they have gone out to kill each other.

In this case, from what I have seen and read, this can help save people and support the future of mankind. One sees the agony and anguish of parents with children who need medical treatment that can come only from certain difficult sources which it is hoped will be provided by further research on stem cells with adequate controls. Scientists are always ahead of the community's thinking and development, and I only hope that the rest of the community will catch up with that thinking because adequate safeguards have been built into the legislation.

We in Victoria and Australia are fortunate that our ethics committees and scientists are so strongly committed to respecting society and abiding by the law. If this were another country I would have some hesitation about this because it would be a matter of the next thing you knew people would be buying and selling embryos for research, as is being done with human body parts in other countries. We are fortunate to be in a position where we have eminent scientists who are taking this issue seriously and looking at the social and ethical questions very carefully. Not only is the consent of parents and other people required, but we also have ethics committees that look at each situation and ensure it complies with the law, as well as the regulations that will be developed from the legislation.

It is a serious piece of legislation. A lot of people do not get emotional or excited about it — they get more excited when it comes to a money bill or something like that — but we are talking about our society. When preparing for the higher school certificate, like me many members in this chamber would have had to read many books such as *For Whom the Bell Tolls* and *Nineteen Eighty-Four*, in which we read about how Big Brother is watching us. The sorts of books that were on the syllabus in the 1950s talked about those issues. The year 1984 is long gone, and now we are at the forefront of a more scientific world. I hope the bill has a speedy passage through the house.

Ms DUNCAN (Macedon) — I am also pleased to speak on this bill tonight and to take part in what I understand is one of the first conscience votes in the Victorian Parliament. A number of speakers before me from both sides of the chamber have spoken about the interest they have in the debate. I suspect that part of this is to do with the fact that because we are speaking for a maximum of only 10 minutes we are not repeating ourselves.

I have given this bill a great deal of thought. For me the critical issue is the origin and end result of these embryos if they are not to be used for research. It is not as if those embryos are being created for the purposes of research — quite the opposite is the case. There are strict regulations about which embryos can be used and how they must be used. I am satisfied that there are safeguards and that these embryos would otherwise not survive, so I find it difficult to talk about taking away a life. These embryos would never, ever reach viability. On balance it seems to me that given the enormous research benefit they could create, this is an excellent way for humanity to proceed. We are all aware of some of the hideous diseases that currently exist and the people who will benefit in the long term from the research that is going to be promoted or allowed under this bill.

In terms of safeguards, the consent of the people who have produced these embryos for IVF is required before they can be used for stem cell research. That is very straightforward. I am confident that with the various safeguards we can be confident that the research allowed under this bill will be strictly controlled, will require licences and will be part of a commonwealth approach. I support this bill and I wish it a speedy passage.

Mr WYNNE (Richmond) — I rise to support this bill. The terrific level of tolerance and the way people are trying to hear and be respectful of the variety of points of view that have been expressed are hallmarks of the way this piece of legislation has been debated in the house right through this afternoon and this evening. No doubt they are all heartfelt views.

All of us in the chamber would share the view that human cloning is morally and ethically repugnant. I do not think anybody in this chamber would possibly seek to argue a case for that. Those who seek to split the bill miss the point of what the bill is about — that is, providing access to embryonic stem cells under very tightly controlled conditions for scientific research purposes. In every respect we should be concentrating on the main aspect of this bill — that is, the question of access.

As was indicated by the Treasurer in his contribution, this state is the centre of biotech excellence in Australia. We should be justifiably proud of what has been achieved in our capacity to bring back to Victoria some of the best brains and best researchers, who in the past have fled internationally to pursue their careers.

Not 100 metres from this Parliament is one of our most distinguished stem cell research facilities, albeit for adult stem cell research. The Peter MacCallum Cancer Institute enjoys extraordinary support and prestige in this community for the work it has done. I know from discussions with its researchers that they earnestly believe that having access to embryonic stem cells — as opposed to adult stem cells, which have limited capacity — will open up an incredibly broad field for them and offer real and tangible opportunities to attack in a systemic way that most vicious of diseases, cancer.

For me any form of technology that opens up the possibility to address the terrible scourge of cancer in our community is something we must support. Those researchers have indicated that there is no doubt that embryonic stem cell research offers that opportunity. From my perspective at least, we must free up scientists and, under the very tight controls indicated in this bill, allow them to open up those rich opportunities not only for their benefit but ultimately for the benefit of society generally.

I applaud this bill. We are not talking about harvesting stem cells. There are extraordinary checks and balances in this bill, which is part of a Council of Australian Governments agreement reached by the state premiers and the Prime Minister. We must have legislation which is compatible across Australia. I very much commend this bill to the house.

Mr LANGUILLER (Derrimut) — I rise to support the Health Legislation (Research Involving Human Embryos and Prohibition of Human Cloning) Bill. After giving consideration to the bill, on balance I support it. I indicate from the outset that the government is allowing a conscience vote, an opportunity I welcome and appreciate. By agreeing to a conscience vote the government is showing its direct recognition of the diversity of opinions and views on this bill and that their expression is not only accepted but profoundly respected.

The bill is about providing an opportunity to explore the potential benefits of advanced research using embryos that would otherwise be destroyed. It also ensures that the application of this research strictly prohibits human cloning and other unacceptable practices. That is an important point to place on the record in order to dispel confusion.

Victoria has been a leader in the field of regulation of assisted reproductive technology and the related field of embryo research, with the passage of the Infertility (Medical Procedures) Act 1984, followed by the

Infertility Treatment Act 1995. These are important pieces of legislation.

I come to the point of what are stem cells. Many useful definitions have been provided in this place, but broadly speaking there is agreement that stem cells are unique types of cells that can renew themselves in order to give rise to specialised cell types. Unlike many cells of the body, such as skin, heart and blood cells, stem cells are uncommitted — that is, they have not yet received a signal directing them to develop into specialised cells. Stem cells can be found in the early embryo, the foetus, the placenta, and certain other tissues of the human body, as will be later demonstrated.

Why the controversy? Stem cell research is not purely a matter of science. At the heart of the debate are moral and ethical questions that have gained significant attention from interest groups world wide. There are many opinions in the community, and one has to place them on the record and recognise them. The individual view of where life begins is important. Many opponents of embryonic stem cell research believe that human life and personhood start from the moment of the fertilisation of the ovum. Others have a more gradualist approach, where respect for the embryo grows as it develops. Some regard the development of the primitive streak as crucial. This streak first appears approximately 14 days after fertilisation and is the beginning of the central nervous system.

I conclude my remarks by indicating that I support the bill. It will go a long way in scientific terms to assist in the overcoming of diseases, such as cancer and others that have been mentioned in this chamber. I am confident that in due course it will be a turning point in giving life to those who may not be able to keep or maintain it. I wish the bill a speedy passage.

Mr PERERA (Cranbourne) — I would like to support the bill and dedicate my speech to my father, who is suffering from Alzheimer's disease. He was a social worker, and as a ward councillor in local government he made a tremendous contribution to his local community.

Spinal trauma confines the much-loved actor Christopher Reeve to a wheelchair. Famous Australian Fred Hollows gave thousands of people around the world their eyesight back. Fred Hollows helped set up the first Aboriginal medical service, which has now grown to 60 across Australia. Fred Hollows died of cancer at the age of 64 — too young to die. It is a great loss to mankind when we lose such people who have made a significant contribution to the welfare of our society.

There are many people who do not reach their full potential because of illnesses for which there is no cure. Stem cell research is all about finding potential cures for illnesses and conditions such as spinal cord injuries, Parkinson's disease, Alzheimer's disease, a variety of cancers, motor neurone disease, diabetes and liver and other organ failures — and the list goes on. This is only the beginning. Embryonic stems cells could be the master key to regenerating cells, tissues and possibly whole organs damaged by untreatable genetically based diseases or injuries.

What is the legal status of the early embryo? Should it be treated as a potential person? At the earliest stage of its development the embryo is no more than a collection of undifferentiated or blank cells, and it warrants little more recognition than any other isolated human cell or tissue. At day 14 the embryo is a collection of about 2000 cells that are still smaller than the full stop at the end of a sentence. The first vestige of humanity does not reveal itself until day 14, with the appearance of a primitive streak, a rash of cells that somehow knows up from down and right from left, and from which the central nervous system eventually develops. Embryonic stem cells are derived from one of the earliest stages of the development of the embryo, called blastocyst. This is a hollow sphere of cells that develops about four or five days after an egg is fertilised.

If the excess embryos from in-vitro fertilisation treatment are not used within five years, or after an extension gained from the donor, they are destroyed. Using these embryos for research for the benefit of mankind is much better than taking them out of the liquid nitrogen and throwing them in the bin. As has been stated, frozen embryos under consideration for research are not a person — they do not have an interest in life, nor do they have consciousness. On the other hand, we are talking about alleviating suffering and prolonging the lives of human beings who have an interest in life, who can love and cherish, and who have an interest in avoiding suffering.

Without this type of research, diseases like the disease my father has will continue to strike down our loved ones. If you had ever had to watch a loved one waste away from an incurable disease you would surely support this research.

Ms PIKE (Minister for Health) — I now have the pleasure of summing up the contributions to the bill. Firstly, I would like to thank all members on both sides

of the house who spoke for their very thoughtful consideration of this debate. It has indeed been one of those rare opportunities where people have been able to flesh out their thoughts and ideas and contribute. That has been very helpful.

It has not only been the debate here in Parliament that has been important; this has been an important debate in the Australian community. People in Victoria and throughout Australia have thought long and hard about this matter, so we are reflecting the diversity of views that exist in the Australian community.

I also put on the record my thanks to people from the Department of Human Services who are with us this evening, Rosemary Lester and her staff, who have provided much of the guidance and certainly lots of useful information and insights to people of all political persuasions.

We often hear that people voting against the use of embryos for research do so because they hold deep religious or ethical convictions. Somehow the assumption can be that people who vote for the use of embryos in research do not have an ethical position or have not really thought through these matters, particularly from a theological perspective.

The essence of any faith is a great affirmation of life, and most theological traditions affirm life in one way or another. Most theological traditions have a God who is creator and is continually creating. The Christian tradition talks about the Christ who comes to give abundant life. We hear about messiahs in many religious traditions who are life forces and life creators. We even read in the Old Testament about how the Israelites came out of persecution into new life in the promised land.

Life is very precious, but it is much more than just breathing in and breathing out. A full and abundant life is a life that is free of oppression, a life that is moving beyond pain and suffering, a life that in a sense provides the opportunity for every individual to realise their fullest potential as a human being. All sorts of scriptures are full of condemnation of people who do everything to deny that full and abundant life — people who because of their own behaviour make it hard for themselves to have a full life that realise their potential or people who deal with oppression, who oppress others.

However, this journey to the fullness of life, to creativity, is not without great cost. The biblical traditions remind us that the notion of a full and abundant life often brings with it great hardship, even death and sacrifice. From the Christian tradition we know that Jesus Christ himself was sacrificed — indeed, he chose sacrifice to give abundant life or creativity to others, so there is a strong metaphor around dying and sacrifice so that others may be reborn.

When it comes to the complexity of the so-called destruction of life so that others may live, the quest to rid people of suffering and pain and to continue research so that people can have their lives affirmed is consistent with many theological traditions. In the complexity of life and death the overriding principle is to affirm those things that create life, and that is the cycle of creation.

For those reasons and for many others that have been articulated I now commend this bill to the house.

House divided on omission (members in favour vote no):

Ayes, 62

Allan, Ms
Andrews, Mr
Barker, Ms
Batchelor, Mr
Beard, Ms
Beattie, Ms
Bracks, Mr
Brumby, Mr
Buchanan, Ms
Cameron, Mr
Campbell, Ms
Carli, Mr
Crutchfield, Mr (*Teller*)
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Garbutt, Ms
Gillett, Ms
Green, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Mr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Ingram, Mr
Jenkins, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Languiller, Mr
Leighton, Mr
Lim, Mr
Lindell, Ms
Lobato, Ms
Lockwood, Mr
Loney, Mr
Lupton, Mr (*Teller*)
McTaggart, Ms
Marshall, Ms
Maxfield, Mr
Merlino, Mr
Mildenhall, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Overington, Ms
Pandazopoulos, Mr
Perera, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 25

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr (*Teller*)
Doyle, Mr
Napthine, Dr
Perton, Mr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Savage, Mr (*Teller*)
Shardey, Mrs

Honeywood, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr (*Teller*)
Mulder, Mr
Smith, Mr
Sykes, Dr
Thompson, Mr
Walsh, Mr
Wells, Mr

Amendment negatived.

The SPEAKER — Order! The time has now arrived to interrupt the business of the house.

Sitting continued on motion of Mr BATCHELOR (Minister for Transport).

House divided on motion:

Ayes, 75

Allan, Ms
Andrews, Mr
Asher, Ms
Baillieu, Mr
Barker, Ms
Batchelor, Mr
Beard, Ms
Beattie, Ms
Bracks, Mr
Brumby, Mr
Buchanan, Ms
Cameron, Mr
Carli, Mr
Cooper, Mr
Crutchfield, Mr (*Teller*)
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Doyle, Mr
Duncan, Ms
Eckstein, Ms
Garbutt, Ms
Gillett, Ms
Green, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Mr
Helper, Mr
Herbert, Mr
Holding, Mr
Honeywood, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Ingram, Mr
Jasper, Mr
Jenkins, Mr
Kosky, Ms
Kotsiras, Mr
Langdon, Mr (*Teller*)
Languiller, Mr
Leighton, Mr
Lim, Mr
Lindell, Ms
Lockwood, Mr
Loney, Mr
Lupton, Mr (*Teller*)
McIntosh, Mr
McTaggart, Ms
Marshall, Ms
Maughan, Mr
Mildenhall, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Overington, Ms
Pandazopoulos, Mr
Perera, Mr
Perton, Mr
Pike, Ms
Plowman, Mr
Powell, Mrs
Robinson, Mr
Seitz, Mr
Shardey, Mrs
Smith, Mr
Stensholt, Mr
Sykes, Dr
Thompson, Mr
Thwaites, Mr
Trezise, Mr
Wells, Mr
Wilson, Mr
Wynne, Mr

Noes, 10

Campbell, Ms
Clark, Mr
Delahunty, Mr (*Teller*)
Lobato, Ms
Maxfield, Mr
Merlino, Mr (*Teller*)
Mulder, Mr
Ryan, Mr
Savage, Mr (*Teller*)
Walsh, Mr

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Remaining business postponed on motion of Mr BATCHELOR (Minister for Transport).

ADJOURNMENT

Mr BATCHELOR (Minister for Transport) — I move:

That the house do now adjourn.

Human Services: complaint process

Mr BAILLIEU (Hawthorn) — I raise a matter for the Minister for Health that has to do with a longstanding and outstanding complaint about the medical treatment of Mrs Virginia Halloran. I ask on behalf of her husband, John, and her son, Dan, that the minister arrange for an independent investigation to bring about a definitive and appropriate resolution of this matter to the satisfaction of Mrs Halloran's family.

This is a sad and complex story. Mrs Halloran died in June last year. She had been diagnosed with a mental illness as early as 1980, and from 1990, I believe, was under a community treatment order. She was diagnosed with breast cancer in August 1995 and had a mastectomy in December 1995. However, she had had breast lumps diagnosed in August 1992, and mammograms had been taken at that time.

Essentially her family's complaint is that they believe Mrs Halloran was not adequately monitored by the Department of Human Services when she was under the community treatment order and that she had inadequate therapy. The family believe they have been denied access to the records of the early diagnosis, mammograms and medical examinations. They further believe that government members have been instructed not to respond to Mr Halloran's inquiries and complaints and that a conciliation of the complaint never occurred despite it being deemed by the previous Minister for Health to have been unsuccessful.

Mr Halloran wrote to the Minister for Health on 24 January this year. He had previously written many letters to the Health Services Commissioner, the previous Minister for Health, the Medical Practitioners Board, the Ombudsman and most members of this house. Sadly it would seem that those letters have generated a circular response in which incorrect information has been repeated, to the point where

Mr Halloran and the family believe his complaint has not been adequately pursued and the system has let the family and Mrs Halloran down.

I am in no position to judge this matter. I have corresponded with the minister and Mr Halloran, as, I believe, have a number of other members, but Mr Halloran in his words says he 'will not give in until he knows' and the system is changed. I urge the Minister for Health to act to investigate and bring this matter to a speedy resolution.

Rail: Ballarat–Ararat service

Mr HELPER (Ripon) — I direct my concern to the Minister for Transport. The action I seek from the minister is that he give some reassurance to my community, the communities of Ararat and Beaufort in particular, and those communities further west of my electorate that the return of the passenger rail service to Beaufort and Ararat is indeed proceeding on track.

An Honourable Member — When does it open?

Mr HELPER — The proposed time line the government has committed itself to is that we will see the return of trains to Ararat and Beaufort in the middle of this year.

Ararat, Beaufort and western Victoria were robbed of this vital service by the Kennett government, and I can conjure up an image of the black hand of the previous government ripping out that vital service. The communities in my electorate were robbed of a sense of connection; indeed they were robbed of a sense of social togetherness. It is not drawing too long a bow to argue that they were robbed of a sense of pride.

During its first term the Bracks government met that challenge and committed to the return of passenger rail services to Ararat. The government achieved a great deal during that time — for example, the extension of the Ararat railway station platform, the initial clearing work on the track between Ballarat and Ararat, a comprehensive assessment of the work required to reinstate the service and the track, and negotiations with other stakeholders to facilitate the interface of the Ballarat–Ararat rail service with those other stakeholders. The government has also let a tender for the major works.

It is the letting of that tender that gives me a great deal of confidence that the time line of returning the passenger service by the middle of this year will be met. Another major step that has recently been taken is the commencement of community consultation on timetabling for that service.

It has been an enormous effort by the minister, the Department of Infrastructure, local communities and other stakeholders. I thank them enormously for their contribution to the return of this service. However, scepticism persists as a consequence of the harsh deal dished out to those communities by the previous government. Therefore I seek from the Minister for Transport reassurance for the communities in my electorate and further west that the return of passenger rail is proceeding.

Sustainability and Environment: fire control lines

Dr SYKES (Benalla) — I address to the Minister for Environment my concern about the failure of the Department of Sustainability and Environment (DSE) to rehabilitate fire control lines and to address the other damage it caused to private property while combating the fires in the north-east and in Gippsland.

Overall hundreds of kilometres of fire control lines were constructed to contain the devastating fires which burnt more than 1.2 million hectares. The lines were constructed on both Crown and private land. My particular concern relates to the damage to private property in the Ovens and Kiewa valleys, where around 50 kilometres of fire control lines were constructed. The damage caused to private property was extensive. It includes control lines up to 8 metres wide and 800 millimetres deep being bulldozed through people's paddocks and internal and boundary fences being destroyed by construction of the fire control lines and back-burning, as well as by the fire itself.

The consequences of this damage include an inability to graze stock in a number of paddocks. This exacerbates the effects of the current drought. In addition there are potentially serious environmental concerns about the diversion of small creeks and the potential for serious erosion when the rain comes.

The DSE's current policy is to restore the damage to Crown land and to restore the damage to private land where a commitment was made prior to the construction of the works or where it is convenient to do so — for example, where the fire control lines meander in and out of Crown and private land. The DSE has no commitment to rehabilitating the damage done to private land outside the above circumstances. This policy is unjust and unacceptable to the many land-holders who cooperated unquestioningly with the DSE to allow construction of the control lines and the back-burning to protect community assets. It is even more unjust when the construction commenced without the knowledge or approval of the land-holders.

I wrote to the Premier on 28 February and requested immediate action to restore the damage; I have not yet received a reply. This is in spite of repeated phone calls by me, in spite of the matter being raised in Parliament and in spite of angry and frustrated farmers raising it in the media and directly with staff. I again ask the government, through the Minister for Environment, to immediately rehabilitate the damage done to private property in combating the fires. Put simply, the DSE made the mess, and the DSE should clean it up immediately.

Diamond Creek Road–Civic Drive–Greensborough bypass: traffic lights

Ms GREEN (Yan Yean) — I rise to raise a pressing traffic management issue in my electorate.

The DEPUTY SPEAKER — Order! To which minister is the honourable member addressing the matter?

Ms GREEN — It is the Minister for Transport and concerns the roundabout at the intersection of Diamond Creek Road, Civic Drive and the Greensborough bypass.

The action I seek from the Minister for Transport is the provision of a time line for the implementation of the minister's welcome announcements of the installation of metered traffic signals at the Civic Drive roundabout in Greensborough.

The minister will no doubt be aware of the solutions sought to this protracted traffic problem by communities in my electorate of Yan Yean, being residents of Greensborough, Plenty, Diamond Creek, Wattle Glen and Hurstbridge; and the communities in the neighbouring electorate of Eltham, being Briar Hill, North Eltham and St Helena. The minister will also be aware of representations made on behalf of these communities by me; my colleague the member for Eltham; and the local government authorities, being the affected shires of Nillumbik and Banyule.

The congestion at this intersection is significant and affects many groups in the community, including parents, staff and students attending Apollo Parkways Primary School, the Diamond Valley Special Developmental School and the Northern Metropolitan Institute of TAFE campus; ratepayers attending the Nillumbik shire offices and the Yarra Plenty library; sportspeople attending the Diamond Valley sports centre; employees at all these places; commuters to the city from adjoining suburbs and towns who are trying to access the city from both the Greensborough Highway and the Metropolitan Ring Road; and last but not least, the long-suffering local residents of Apollo Parkways.

I commend the minister and Vicroads for opening an additional lane at this roundabout, which has provided some relief for westbound traffic. I also commend the minister for the environmental clearance works being undertaken in order to facilitate the construction of an additional lane on the Plenty Bridge, which will ensure for the first time that bicycle users will also be able to use the bridge.

I remind the house that the Liberal Party has never cared about the northern suburbs; that if it had been in power in the 1980s we would not have a bridge at all over the Plenty River and that main east-west access for commuter traffic would be along Grimshaw Street in Greensborough.

I commend the minister for the new buses in the area between Greensborough and South Morang and the route that is soon to be introduced between Diamond Creek, Eltham and St Helena. The communities of Yan Yean and Eltham look forward with anticipation to the day.

Gunnamatta: sewage outfall

Mr DIXON (Nepean) — I wish to raise a matter with the Minister for Environment regarding the sewage outfall at Gunnamatta ocean beach. I ask the minister to tell the community whether the 2-kilometre extension to the outfall will go ahead.

Forty-two per cent of Melbourne's sewage is treated at the eastern treatment plant at Carrum. It then flows through a pipeline and is deposited into Bass Strait on the beach at Gunnamatta. That is about 400 million litres of treated sewage a day. The sewage is only treated to a secondary level and so there are limited opportunities for recycling it. The Environment Protection Authority (EPA) has given approval for Melbourne Water to upgrade the treatment plant to a tertiary level. That is going to cost $170 million. Everyone is quite happy about that because a better standard of treated water has wider applications in a range of fields. That will also reduce the quantity of water going out because more of it would be recycled, and what goes out will be of better quality.

However, Melbourne Water also wants to extend the outfall by 2 kilometres. Nobody wants that. Nobody has suggested it, and I suspect that even Melbourne Water has never really pushed it as an option but somehow the EPA has plucked it out of the air and said, 'This is what

is going to happen'. All it will do is spread the problem over a wider area — if it is a further 2 kilometres out to sea it will be picked up by the currents and taken down to Cape Schanck or down through the heads into Port Phillip Bay, right through the marine park.

There is also the problem that it will be out of sight and out of mind — if it is not there on the beach it will not be a problem any more. Sixty million dollars is needed to extend the pipeline by 2 kilometres, and that could be far better spent on other water re-use projects or even on further upgrading the treatment plant. There are also construction problems. If the pipeline is constructed hectares of environmentally sensitive sand dunes and areas of Aboriginal middens would have to be flattened and paved to allow for the construction site, and piers and derricks would be needed for 2 kilometres out into Bass Strait.

The current outfall has killed an area of the sea floor and extending the pipeline a further 2 kilometres will destroy another area of our seabed. Thirty years ago Melbourne Water tried to construct a longer outfall but gave up because of the weather conditions. It was just too difficult. I do not see how another 2-kilometre extension is going to help at all.

It is criminal for this sort of thing to be happening when we have such a water shortage because of the drought.

Grace McKellar Centre: upgrade

Mr TREZISE (Geelong) — I raise a matter for action for the Minister for Aged Care in another place. The issue I raise relates to the Grace McKellar Centre in my electorate of Geelong, which comes under the auspices of Barwon Health and is a health institution that is truly an icon within the community of Geelong.

Over the past two terms of its life the Bracks government has committed $75 million to the upgrade of the Grace McKellar Centre, which under the Kennett regime was allowed to fall into disrepair and was earmarked for sale to the highest bidder. I am pleased to report that work commenced on the Grace McKellar Centre in October or November 2002.

The action I seek from the minister is to investigate and advise on the progress of the current works which are so important to the future delivery capacity of the Grace McKellar Centre. As I said, the Bracks government has committed $75 million to the upgrade of the Grace McKellar Centre for the benefit of Geelong and the surrounding communities.

The centre, once rebuilt, will provide a wider service to the community than Grace McKellar was originally built for, being aged care. Once the centre is refurbished it will provide not only aged care but also palliative care and rehabilitation services to the community of Geelong.

This is in complete contrast to the former Kennett government, which had allowed the once proud Grace McKellar to fall into a shameful and total state of disrepair, to the detriment of the community. Make no mistake: the Kennett government had earmarked Grace McKellar for privatisation. It is an icon of Geelong and it was to be sold off to the highest bidder, to the detriment of the Geelong community.

But with the election of the Bracks government in 1999 and the support of the Geelong community and especially the Friends of Grace McKellar the centre has been retained in government hands under Barwon Health, and we will now be seeing the complete refurbishment over the coming years. Therefore I look forward to the minister's advice on this important matter to the Geelong community.

Consumer affairs: Towerlife Australia

Mr COOPER (Mornington) — I raise a matter for the attention of the Minister for Consumer Affairs in another place. I request that the Minister for Manufacturing and Export, who is at the table, convey it to him. It concerns a constituent of mine, Mr Wayne Daryle Simmonds. On 9 January 2002 Mr Simmonds's brother died, and as Mr Simmonds was the only living relative he needed to find $3200 to pay for the funeral expenses.

He sought the approval of the Australian Prudential Regulation Authority to access that amount from his superannuation policies on compassionate grounds. APRA granted his request, and Mr Simmonds forwarded their letter and his request for $3200 to the insurance company Towerlife Australia. He was dismayed to receive a cheque from the company for only $1700, and the accompanying advice that $1400 had been deducted from the payment as surrender value. Mr Simmonds had to borrow the remainder of the money in order to pay for his brother's funeral expenses.

At the time Mr Simmonds was unemployed, and he was hard pressed to meet his normal living costs. He simply could not afford to lose $1400 of his money to Towerlife and then have to borrow that sum to pay the amount he had incurred for the expenses of his brother's funeral.

On his behalf I wrote to Towerlife. It wrote back and basically gave me the flick, saying, 'Bad luck. We aren't going to do anything. However if Mr Simmonds wants to pursue the matter he can go and complain to the Superannuation Complaints Tribunal'.

Mr Simmonds duly did that and received a letter from the Superannuation Complaints Tribunal saying that it was not empowered to deal with the matter because it related to the management of the fund as a whole. It said it was not forming any view on the reasonableness or fairness of the decision but simply was conveying to him its inability to proceed with his complaint. That was the letter to him. I am sure Mr Joe Dowse, the manager, complaints resolution, Towerlife Australia, knew that when he wrote back to me and basically pushed the matter aside.

It seems that the only body left that can pursue some justice for Mr Simmonds will be the Victorian government through the Minister for Consumer Affairs. It is grossly unfair and unconscionable of this insurance company to do what it has done to him. To take away $1400 from a total amount claimed of $3200 is simply disgraceful. Towerlife insurance needs to be brought to account on this matter and I am asking the Minister for Consumer Affairs to pursue this matter on behalf of my constituent.

Open Telecommunications: employee entitlements

Mr ROBINSON (Mitcham) — I raise an issue for the attention of the Minister for Industrial Relations. I am seeking an investigation by his department into the circumstances of a Vermont constituent of mine, who was retrenched in the middle of last year. He is seeking a better deal on his entitlements.

As well as having his department investigate this matter, I am hoping the minister may be able to take up the matter directly with the federal government, and particularly with the federal Minister for Employment and Workplace Relations, given that there is now an atmosphere of brotherly love and goodwill between these two characters.

Seriously, though, the constituent was employed by Open Telecommunications, a Sydney-based company which was founded in 1992. That company briefly became a stock market darling. It was listed in late 1999. Its founder and chairman, Wayne Passlow, briefly became a billionaire in 2000 when the share price hit $3.50. Sadly, as often seems to have been the case in that particular sector, the share price struck trouble and the shares collapsed in price to about 10 cents in the middle of last year. As a consequence, a large number of staff were sacked, including the constituent of mine.

Towards the end of last year a deed of company arrangement was entered into, but I understand that deed does not make allowance for the federal government's employee entitlements and redundancy scheme, otherwise known as GEERS.

The constituent has some $19 000 of outstanding entitlements and an estimated $10 000 in redundancy payments owed to him but he has not been paid a cent, and significantly the deed of company arrangement does not require the company to start making any payments to creditors until the middle of this year and then over a period of some two years. Whether it does or not is, of course, another question. It will be allowed to recommence trading its shares on the Australian Stock Exchange in the middle of this year.

The federal government, through its Minister Abbott, makes a number of grand statements from time to time about the virtue of GEERS and what it is doing to look after displaced workers, but when Victorian workers such as my constituent are in need of that support the scheme seems to vanish.

I am seeking the minister's investigation of this urgent matter, and hope he is able to persuade the federal government to have its scheme of redundancy payments apply in the deed of company arrangement that has been entered into by Open Telecommunications.

Police: Sandringham station

Mr THOMPSON (Sandringham) — I raise a matter for the attention of the Minister for Police and Emergency Services. It concerns an undertaking and election promise by the Labor Party in 1988 whereby it promised that if it were re-elected in 1988 it would build a new police station in Abbott Street, Sandringham.

To date that promise has not been fulfilled. It has led to a number of difficulties both in the immediacy of a strong policing presence in the precinct and in the fact of high levels of vandalism in the Sandringham urban village shopping precinct. In addition, there is a block of land, which has been vacant essentially for more than 10 years, and it would be important for the strategic development of the Sandringham shopping precinct if some good use could be made of the land.

It is important that the minister's staff have the opportunity to consider the police station site in the

overall context of local priority policing. I understand that the site had been recommended for the development of a new police station in recent times, but to date that plan has not come to fruition.

The question about the site has been asked, when it was recommended under the local priority policing plan, which has been in the last two or three years, as I understand it. For that reason there is good scope for there to be further action.

I seek from the minister the opportunity to lead a deputation of Sandringham Village traders — people such as Ian Armstrong and Wayne Pickering, who are local business people, and delegates from the newly elected Bayside council — which should include the local ward councillor Cr Chris Carroll, relevant officers from the City of Bayside and the mayor of the city — so that there can be a sensible discussion as to what will happen with the Abbott Street land.

It is important that the impetus to develop an energy-efficient urban village with access to public transport, shopping and good residential amenity can also be accompanied by a police station that will serve the wider area of Bayside under local priority policing.

Torquay Primary School: surf carnival program

Mr CRUTCHFIELD (South Barwon) — The issue I raise is for the Minister for Education Services. I ask the minister to investigate support for the expansion of Torquay Primary School's surf carnival program. I was privileged to watch the Torquay Primary School's third intraschool surf carnival on 20 February 2003, and I presented two of the medals to the winning two nippers in the Iron Nipper events. Torquay Primary School is very proactive, being the first school in Victoria to hold this type of event. I want to acknowledge the teacher who initiated the program, Josh Symes, with support from the school principal, Pam Kinsman, and just as importantly by the Torquay community. A number of parents officiated at the carnival, both in and out of the water — and it was not too warm an evening — and the Torquay and Jan Juc surf life saving clubs lent equipment to the children. It is indicative of the type of support generated by the Torquay community.

The school has been a beneficiary of the largesse of this government in terms of a $5 million school in Torquay, one of the most modern primary schools in the region, and certainly the community has built on the resources that the government has provided, not only in terms of the programs it has initiated but also in the development of the school site. I congratulate Torquay Primary School in that respect. I was lucky enough to meet the executive officer of the State Primary School Sports Association, Lorraine Morgan, who made it very clear that she was aiming to expand this program statewide. I certainly encourage the minister to look at that closely.

On 2 March I was fortunate enough to open the Victorian Nippers state titles on Torquay beach where I met the president of the Torquay Surf Life Saving Association, Michael Martin. He told me about the Nippers program at Torquay Primary School, and I would like to acknowledge John Penny and Daniel Hayden who worked for four months at Torquay Life Saving Club in preparation for the Victorian Nippers carnival. It was the most successful ever held and it fits in very well with the program the Torquay school is running at present. Clearly there are health benefits aside from the water awareness benefits and I encourage the minister to support the program.

Responses

The DEPUTY SPEAKER — Order! Ten matters having been raised on the adjournment, so that concludes the time allocated for the adjournment debate.

I call the Minister for Manufacturing and Export responding to matters raised for the Minister for Health by the member for Hawthorn; the Minister for Transport by the members for Ripon and Yan Yean; the Minister for Environment by the members for Benalla and Nepean; the Minister for Aged Care in another place by the member for Geelong; the Minister for Consumer Affairs in another place by the member for Mornington; the Minister for Industrial Relations by the member for Mitcham; the Minister for Police and Emergency Services by the member for Sandringham and the Minister for Education Services by the member for South Barwon.

Mr HOLDING (Minister for Manufacturing and Export) — I will take those matters and refer them to the relevant ministers so they can respond to the members directly.

Motion agreed to.

House adjourned 10.42 p.m.