PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 9 October 2008

(Extract from book 13)

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By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Council committees

Legislation Committee — Mr Atkinson, Ms Broad, Mrs Coote, Mr Drum, Ms Mikakos, Ms Pennicuik and Ms Pulford.

Privileges Committee — Ms Darveniza, Mr D. Davis, Mr Drum, Mr Jennings, Ms Mikakos, Ms Pennicuik and Mr Rich-Phillips.

Select Committee on Public Land Development — Mr D. Davis, Mr Hall, Mr Kavanagh, Mr O'Donohue, Ms Pennicuik, Mr Tee and Mr Thornley.

Standing Committee on Finance and Public Administration — Mr Barber, Ms Broad, Mr Guy, Mr Hall, Mr Kavanagh, Mr Rich-Phillips and Mr Viney.

Standing Orders Committee — The President, Mr Dalla-Riva, Mr P. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney.

Joint committees

Dispute Resolution Committee — (*Council*): Mr P. Davis, Mr Hall, Mr Jennings, Mr Lenders and Ms Pennicuik. (*Assembly)*: Mr Batchelor, Mr Cameron, Mr Clark, Mr Holding, Mr McIntosh, Mr Robinson and Mr Walsh.

Drugs and Crime Prevention Committee — (*Council*): Mrs Coote, Mr Leane and Ms Mikakos. (*Assembly)*: Ms Beattie, Mr Delahunty, Mrs Maddigan and Mr Morris.

Economic Development and Infrastructure Committee — (*Council*) Mr Atkinson, Mr D. M. Davis, Mr Tee and Mr Thornley. (*Assembly*) Ms Campbell, Mr Crisp and Ms Thomson (Footscray)

Education and Training Committee — (*Council*): Mr Elasmar and Mr Hall. (*Assembly*): Mr Dixon, Dr Harkness, Mr Herbert, Mr Howard and Mr Kotsiras.

Electoral Matters Committee — (*Council*): Ms Broad, Mr P. Davis and Mr Somyurek. (*Assembly*): Ms Campbell, Mr O'Brien, Mr Scott and Mr Thompson.

Environment and Natural Resources Committee — (*Council*): Mrs Petrovich and Mr Viney. (*Assembly*): Ms Duncan, Mrs Fyffe, Mr Ingram, Ms Lobato, Mr Pandazopoulos and Mr Walsh.

Family and Community Development Committee — (*Council*): Mr Finn, Mr Scheffer and Mr Somyurek. (*Assembly*): Mr Noonan, Mr Perera, Mrs Powell and Ms Wooldridge.

House Committee — (*Council*): The President (*ex officio*), Mr Atkinson, Ms Darveniza, Mr Drum, Mr Eideh and Ms Hartland. (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Mr Delahunty, Mr Howard, Mr Kotsiras, Mr Scott and Mr K. Smith.

Law Reform Committee — (*Council*): Mrs Kronberg, Mr O'Donohue and Mr Scheffer. (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan and Mr Foley.

Outer Suburban/Interface Services and Development Committee — (*Council*): Mr Elasmar, Mr Guy and Ms Hartland. (*Assembly*): Ms Green, Mr Hodgett, Mr Nardella, Mr Seitz and Mr K. Smith.

Public Accounts and Estimates Committee — (*Council*): Mr Barber, Mr Dalla-Riva, Mr Pakula and Mr Rich-Phillips. (*Assembly*): Ms Munt, Mr Noonan, Mr Scott, Mr Stensholt, Dr Sykes and Mr Wells.

Road Safety Committee — (*Council*): Mr Koch and Mr Leane. (*Assembly*): Mr Eren, Mr Langdon, Mr Mulder, Mr Trezise and Mr Weller.

Rural and Regional Committee — (*Council*) Ms Darveniza, Mr Drum, Ms Lovell, Ms Tierney and Mr Vogels. (*Assembly*) Ms Marshall and Mr Northe.

Scrutiny of Acts and Regulations Committee — (*Council*): Mr Eideh, Mr O'Donohue, Mrs Peulich and Ms Pulford. (*Assembly*): Mr Brooks, Mr Carli, Mr Jasper, Mr Languiller and Mr R. Smith.

Heads of parliamentary departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

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Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
Mr DAVID DAVIS

Deputy Leader of the Opposition:
Mrs WENDY LOVELL

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lovell, Ms Wendy Ann	Northern Victoria	LP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Madden, Hon. Justin Mark	Western Metropolitan	ALP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	Pakula, Mr Martin Philip	Western Metropolitan	ALP
Davis, Mr David McLean	Southern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Davis, Mr Philip Rivers	Eastern Victoria	LP	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Eideh, Khalil M.	Western Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Guy, Mr Matthew Jason	Northern Metropolitan	LP	Smith, Hon. Robert Frederick	South Eastern Metropolitan	ALP
Hall, Mr Peter Ronald	Eastern Victoria	Nats	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Theophanous, Hon. Theo Charles	Northern Metropolitan	ALP
Kavanagh, Mr Peter Damian	Western Victoria	DLP	Thornley, Mr Evan William	Southern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP

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Thursday, 9 October 2008

The PRESIDENT (Hon. R. F. Smith) took the chair at 9.36 a.m. and read the prayer.

RESEARCH INVOLVING HUMAN EMBRYOS BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr JENNINGS (Minister for Environment and Climate Change).

PROHIBITION OF HUMAN CLONING FOR REPRODUCTION BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr JENNINGS (Minister for Environment and Climate Change).

PETITIONS

Following petitions presented to house:

Abortion: legislation

To the Legislative Council of Victoria:

The petition of the undersigned residents of Victoria draws the attention of the Council to proposed amendments to the Crimes Act which will ensure that no abortion can be criminal when performed by a legally qualified medical practitioner at the request of the woman concerned.

The implementation of this legislation will allow abortions to be legal in Victoria right up to birth. This will only increase the thousands of children who die needlessly each year through abortion and will add to the existing social problems in Victoria resulting from such a high abortion rate.

The petitioners therefore request that the Legislative Council of Victoria vote against amendments to the Crimes Act that will decriminalise abortion in the state of Victoria.

By Mr KAVANAGH (Western Victoria) (51 signatures)

Laid on table.

Abortion: legislation

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the Abortion Law Reform Bill 2008 which would allow abortion on demand in this state and oversee the deaths of thousands of Victorians before birth annually. Unborn babies are the most vulnerable and defenceless members of our society and, as such, need the full protection of Victorian law. Abortion kills unborn children and often permanently damages their mothers.

The Abortion Law Reform Bill 2008 will allow legalised abortion up to 40 weeks gestation and is a gross violation of the right to life of children before birth. The petitioners therefore request that the Legislative Council rejects the Abortion Law Reform Bill 2008.

By Mr FINN (Western Metropolitan) (1136 signatures)

Laid on table.

Victorian Environmental Assessment Council: river red gum forests investigation

To the Honourable the President and members of the Legislative Council assembled in Parliament:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council:

Your petitioners therefore request that the Victorian government decides not to adopt the recommendations as proposed by the Victorian Environmental Assessment Council, which would have a profound effect on the camping, fishing, boating and other like activities currently enjoyed by Victorian residents.

By Mr DRUM (Northern Victoria) (113 signatures)

Laid on table.

Water: north–south pipeline

To the Legislative Council of Victoria:

We call on the Legislative Council to stop Mr Brumby building the north–south pipeline which will steal water from country Victorian farmers and communities and the environment and pipe this water to Melbourne, because there are better alternatives to increase Melbourne's water supply such as recycled water and stormwater capture for industry, parks and gardens.

By Mr DRUM (Northern Victoria) (80 signatures)

Laid on table.

SUPREME COURT JUDGES

Report 2006–07

Hon. J. M. MADDEN (Minister for Planning) presented report by command of the Governor.

Laid on table.

INSPECTOR OF MUNICIPAL ADMINISTRATION

Ballarat City Council

Hon. J. M. MADDEN (Minister for Planning), by leave, presented report, September 2008.

Laid on table.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Report 2007–08

Mr PAKULA (Western Metropolitan) presented report.

Laid on table.

Ordered to be printed.

Mr PAKULA (Western Metropolitan) — I move:

That the Council take note of the report.

In so doing I indicate that I will be very brief, given what we have ahead of us today. I commend the annual report of the Public Accounts and Estimates Committee to the chamber and encourage members to read it. I should indicate a new feature in the report which I do not believe has been in it before, which is a tremendous group photograph of the members of the Public Accounts and Estimates Committee — you can see from that what a happy and cohesive group we are — as well as individual photos of all members looking appropriately serious.

Mr Lenders interjected.

Mr PAKULA — I take up the interjection by the Treasurer. The Treasurer has indicated that in his view we have too big a budget. In fact the committee has come in with an underspend of around $360 000 on its budget. While the committee has an appropriately large budget, it has been extremely frugal and has come in well under budget.

The highlights of the Public Accounts and Estimates Committee's year are principally outlined in the foreword by the chair, the member for Burwood in the Assembly, Bob Stensholt. Obviously the committee's primary work is the estimates process. The government's response to last year's budget estimates is contained in the report and indicates that the government has either accepted, accepted in part or accepted in principle approximately 80 per cent of the recommendations in report no. 73 on the 2007–08 budget estimates. The annual report also outlines all of the committee's other work over the last financial year, and I commend it to the house.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I also commend the report of the Public Accounts and Estimates Committee to the house. I take up Mr Pakula's comments with respect to the budget of the committee, and I note that, while an underspend has been recorded in this year's annual report, it was due to the inability of the committee to recruit necessary research staff in what has been a very tight employment market.

Clearly if it had been possible for parliamentary committees administration in the Legislative Assembly to recruit those staff in a timely manner, that underspend would not have occurred. I do not want the Treasurer to think the committee is not using the resources that are available to it. In the event that we able to recruit appropriate research staff, then those funds will be expended.

The document details the 11 separate reports the committee tabled this year and outlines the substantial work program undertaken by the Public Accounts and Estimates Committee over the last 12 months. I commend the report to the house, and I thank Valerie Cheong and her staff for the work they have done for the committee over the past 12 months.

Mr DALLA-RIVA (Eastern Metropolitan) — I join with my parliamentary colleagues, in particular Mr Rich-Phillips, in acknowledging the work that Valerie Cheong and the committee have undertaken in the preceding year. I note that Mr Pakula made reference to a photograph which appears on page 5 of the report and in which he has a very casual stance.

Mr Pakula — As directed.

Mr DALLA-RIVA — 'As directed', he says, and as opposed to some others in the photo who have a very *Homicide*-type stance. But jokes aside, the issue Mr Rich-Phillips raised is very important. It is important to understand that the then Premier, Steve Bracks, made a commitment to the previous committee that an additional $359 000 each year was to be provided for the committee to undertake the work it needs to undertake. The Public Accounts and Estimates Committee scrutinises the government and oversees the expenditure of something like $38 billion, and now there is squabbling over $359 000 because some other committees may have their noses out of joint.

My view is that it is important for the committee to have additional resources and be able to undertake its duties without interference or examination by external factors which in my view would impede the work the committee could undertake. There is much to do. The report mentions public hearings held over the past year — they are listed on page 28 of the report, including one about the fiasco of the myki ticketing system. On that day we heard about the sacking, as it were, of Mr Miners before he could give evidence. As I said at the time, there was a man who was a shell of a man after he had been chewed up and spat out by this government.

The Public Accounts and Estimates Committee is an important committee and needs the resources and funds to undertake an examination of what this government is doing. Having said that, I support the annual report.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Greyhound Racing Victoria — Report, 2007–08.

Members of Parliament (Register of Interests) Act 1978 — Summary of Returns, June 2008, Summary of Variations notified between 26 June 2008 and 8 October 2008 and Summary of Primary Return, July 2008.

Office of Police Integrity — Report, 2007–08.

PrimeSafe — Minister's report of receipt of 2007–08 report.

Public Record Office Victoria — Report, 2007–08.

ROAD SAFETY COMMITTEE

Safety at level crossings

Mr LENDERS (Treasurer) — By leave, I move:

That the resolution of the Council of 18 July 2007 and amended on 20 November 2007 requiring the Road Safety Committee to inquire into and report by 31 October 2008 on existing, new and developing technologies for implementation to improve safety at level crossings be further amended so as to now require the committee to present its report by 31 December 2008.

Motion agreed to.

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

Melbourne's future water supply

Mr LENDERS (Treasurer) — By leave, I move:

That the resolution of the Council of 19 September 2007 requiring the Environment and Natural Resources Committee to inquire into and report by 31 December 2008 on the relative merits of supplementing Melbourne's water supply be amended so as to now require the committee to present its report by 30 April 2009.

Motion agreed to.

MEMBERS STATEMENTS

Gippsland: regional sitting

Mr P. DAVIS (Eastern Victoria) — It is my pleasure to remind members that next week the Parliament will be visiting Gippsland. The Council will be visiting Lakes Entrance, and I would like to — —

Mr Lenders — A great Labor government initiative.

Mr P. DAVIS — Taking up the Treasurer's interjection, in actual fact, as I recall it, the first regional sitting was inspired by the then Liberal-dominated upper house. The President at the time was Bruce Chamberlain, a Liberal President, and a very fine President. It is a great regret that he died prematurely shortly after his retirement. But I make the point that that regional sitting was in Benalla — —

Mr Lenders — It was actually Ballarat, without being too churlish.

Mr P. DAVIS — I think we went to Benalla first. Maybe I will have to get my file out and report on it. But the point I wanted to make was that the Parliament has made the great effort to organise the regional sitting at Lakes Entrance, and I would like members to take the opportunity to inform themselves about the merits of that region before they get down there. If they need any information I am sure Mr Hall, Mr O'Donohue or I would be glad to provide some background. Importantly, it is a great opportunity to understand the importance of the economic drivers, the social challenges and the environmental challenges of the region and in particular to leave their money in Lakes Entrance after they have visited the town and help the tourism industry.

Your Water Your Say: legal costs

Mr HALL (Eastern Victoria) — I want to let the house know just how the Brumby government's bullyboy tactics are threatening democracy in Victoria. I use as an illustration the government's effective gagging of the Your Water Your Say action group (YWYS) — a community group that is protesting against the government's proposed desalination plant in Wonthaggi. As members would know, this group brought matters before the courts, lost the case and had costs awarded against it. Now the government is holding a gun against the head of this group and saying, 'If you continue to protest against our proposed desalination plant, we will bankrupt the lot of you'.

One of the group's spokespeople, Andrea Bolch, made the following media comment:

> As a result of the inability or unwillingness of the federal or state governments — Peter Garrett and Tim Holding respectively — to make a decision as to whether to pursue YWYS for court costs or not, YWYS is now unable to continue to trade or campaign against the desalination plant proposed for the Bass Coast.

That is how this government has effectively gagged this community group. I say that is a despicable action by the state government. Its jackboot tactics are reverberating right throughout country Victoria, and the government will surely feel the full wrath of country Victorians when it comes to the next election.

Ferntree Gully Arts Society

Mr TEE (Eastern Metropolitan) — Today I would like to congratulate Ferntree Gully Arts Society for its ongoing contribution to making Victoria the cultural heart of our country. The Ferntree Gully Arts Society is the second oldest arts society in the state, and it plays an important role in encouraging and promoting the local arts community. A focal point for local arts and culture, it gives light, colour and meaning to suburbs. Of course the drive, the backbone and the enthusiasm of these societies are the selfless community members who give freely of their time, energy and resources.

From time to time these societies need government help and support, and I was pleased that before the last election the Labor Party committed to spend some $220 000 on the restoration of the Ferntree Gully Arts Society Hut Gallery. The government has delivered on the election commitment, and if we get out of this chamber before this weekend I intend to visit the hut gallery to see the product of that Victorian government commitment, which is the opening of a completely restored and renovated facility.

The renovations include a refurbished workshop, a new security wire fence, new electrical work and works allowing for disability access. These renovations ensure that the gallery will continue to flourish in the years ahead, and I want to thank the hardworking members of the society for their efforts in making sure the renovations have been completed.

Australian Labor Party: north-eastern ring-road

Mr GUY (Northern Metropolitan) — For a good many years the Australian Labor Party has claimed it is the only party that can protect Melbourne's north-east from a freeway. These are not my words; these are Labor's words. Indeed the member for Ivanhoe in the Assembly, Mr Langdon, during the last state election campaign even threatened legal action against people who were stating that he favoured a ring-road extension through his own seat.

Whether you agree with the need to complete the ring-road or not is immaterial. What I grieve about, once again, is Labor's word, Labor's promises and ultimately Labor's lies. All of us now know it is not the Labor Party that will protect Melbourne's north-east from a freeway. It is the Labor Party that is now talking about putting a freeway right through it. In fact the same member for Ivanhoe in the Assembly who opposed a freeway through his electorate at the last state election, Mr Langdon, is now the chief spruiker for it — astonishing! It is like barracking for Carlton one day and Collingwood the next.

What about the Assembly member for Yan Yean, Danielle Green? She looks like an impotent fighter against a freeway, organising petitions against her own government's proposals — proposals she vowed would never happen under her watch. She has either misled her community or she is just hopeless. Then we come to the jovial but unproductive member for Eltham in the Assembly, Mr Steve Herbert, who is like Labor's version of Homer Simpson. Residents must be terrified and nervous about his ability to fight off the coming rumbling of construction machinery along Allendale Road.

The present collection of odd bods from the Labor Party who represent the north-east have proved either that they promise one thing and do another or that they are simply hopeless. At the next election Melbourne's north-east would be well served to vote Liberal and dump the lot of them.

Rail: Upfield line

Mr BARBER (Northern Metropolitan) — Yesterday a three-car train set was sent down the Upfield line instead of the usual six-car set, with the result that I got to know a whole lot of strangers much more intimately than I have for a very long time — since I was last in the front row at a Cosmic Psychos gig, anyway. A number of people were left behind. That is not good enough on a train service that runs every 20 minutes — to be left behind and have to wait another 20 minutes for a train.

I think part of the neglect of the Upfield line relates to the fact that nobody really knows where Upfield is. Williamstown, if anything, is worse, but at least people could take a stab at finding it on a map. What is interesting is the way all these passengers reacted in their difficulties. People were polite, they were cooperative, they maintained their sense of humour and they were certainly in problem-solving mode — in other words, the exact opposite to a meeting of the Brumby government cabinet.

The Greens have a plan to improve the Upfield line by extending it a few kilometres on an existing track to connect to the Craigieburn line to give that growth centre some new points of the compass along which people could reliably move by public transport and at the same time open up opportunities for people across the north to use public transport. People can read about this plan at www — —

The PRESIDENT — Order! Unfortunately the member's time has expired!

Skills training: Skill Up program

Mr EIDEH (Western Metropolitan) — One of the hardest things in life is when a person loses their job. It makes life difficult across so many areas. This government cares about helping retrenched workers to survive. It was my honour recently to accompany the Minister for Skills and Workforce Participation, Minister Allan, when she announced a major retraining package to assist almost 600 workers who have lost their jobs in Somerton due to South Pacific Tyres closing its site there in December. Called Skill Up, this is a new initiative that takes into consideration both the need for people to work and the state's need to have people trained in areas of need. This exciting new program will be delivered by one of the very best training providers in the entire nation, Kangan Batman TAFE. The workers themselves will not only have access to this service via the TAFE but they will also be able to visit the skills stores that this innovative government has created.

This government recognises that the future prosperity of this state demands strong industry, modern infrastructure and a vibrant economy. We are committed to training and skills acquisition. We are dedicated to helping our fellow Victorians work together for a more prosperous state. The Brumby Labor government has acted swiftly to ensure that Victorians can access a range of opportunities that could lead to a new and even brighter beginning.

I take this opportunity to congratulate the minister not only for her leadership in this area but also for her recognition of Kangan Batman TAFE as an exceptional centre of learning that will partner the government to deliver the very best possible outcomes for these workers.

West Gate Bridge: flags

Mr FINN (Western Metropolitan) — I rise this morning to salute the government on the marvellous gift it has given the western suburbs of Melbourne. I refer, of course, to the giant flags on the West Gate Bridge — a glorious sight. I am a great supporter of the Australian flag, as indeed I am of the constitutional monarchy that has made our country such a great nation on the face of the earth. Now the motorists travelling into the city from the western suburbs can enjoy seeing their flags as they sit in the traffic every morning in gridlock waiting — waiting, waiting — to get across the bridge. They can enjoy the flags fluttering in the breeze as they sit there wondering why the government has done nothing to fix the West Gate Freeway, why the government has done nothing to fix the West Gate Bridge and why the government continues to neglect the people of the western suburbs. They can think so many things whilst they are enjoying the sight of these magnificent flags atop the West Gate Bridge.

I am sure the people of the western suburbs are very grateful to the government for putting those flags up there, because they now know that the government has at least done something and that it occasionally thinks about people in the west. They are really hoping, though, that the government might actually fix the West Gate Freeway, fix the bridge and put another crossing across the Yarra.

Youth: alcohol abuse

Mr DRUM (Northern Victoria) — Recently a parliamentary intern, Katriona Chow, spent a day in Bendigo doing an investigation for her report into youth

drinking trends in regional Victoria. We visited the youth substance abuse service, the police station in Bendigo, a couple of retail outlets and Lead On at Bcentral as well as another couple of places. The most important aspect of the day turned out to be an anecdotal investigation into the effects of the alcopops tax that our frequent-flying Prime Minister, Mr Rudd, has introduced into Australia. While Mr Rudd may have the opinion that these ready-to-drink (RTD) beverages make it very easy for young girls and young guys to start drinking at a younger age, what is effectively happening — and we heard this throughout the whole day — is that whilst RTDs are in fact down in sales, the sales of 1-litre and 2-litre bottles of straight spirits are going up. The youth workers at the youth substance abuse service, the police and the youth we spoke to at Bcentral and Lead On as well as at the retail outlets were all very clear in telling us that what our younger people are doing as they enjoy their social activities is buying these straight spirits and mixing them themselves.

If the Prime Minister and the federal Minister for Health and Ageing, Ms Roxon, have the slightest interest in youth health, they very much need to investigate and review these alcopops, because what we have now is a whole group of inexperienced drinkers mixing their own drinks late into the night.

Donald: community events

Ms DARVENIZA (Northern Victoria) — I was very pleased recently to attend Donald for a couple of events. The first was to officially open the redesigned and refurbished town square. This fantastic project has created a new and improved infrastructure and will attract more tourists to Donald and to the 37 businesses along the main street. The redesign has opened pedestrian access to off-street parking areas, the river, walking trails, the parklands and the community information centre and a new toilet block. It is a fantastic new square.

On the same day I was also pleased to open the second annual Farming with Pipes Expo. It gives land-holders in the Wimmera–Mallee pipeline area information about the challenges and opportunities the pipeline provides for their farm businesses. It encourages farmers to ensure that they effectively connect to the piped water, plan for the use of water to improve their operations and consider using the extra water available for new enterprises that will result in diversified projects and new investments. The expo was very well attended, with many interesting displays and a terrific amount of information for the people who attended.

Anti-Poverty Week

Ms MIKAKOS (Northern Metropolitan) — I draw the house's attention to the fact that next week is Anti-Poverty Week, which builds on the United Nations international anti-poverty day, held on 17 October each year. It is a time to reflect on the fact that 500 million people around the world continue to live in extreme poverty. In the current financial crisis, I am concerned that poverty and hardship in Australia and around the world will only increase. Anti-Poverty Week is an opportunity for all of us to get involved and focus on helping those in need. Strengthening the public's understanding of poverty will only encourage the research and action needed to address this issue. It is an opportunity for all of us to attend numerous local activities run by charities, homelessness agencies and volunteer centres.

In the past members of Parliament have helped served a meal at St Mary's House of Welcome in Brunswick, a wonderful organisation I have spoken about before. I take this opportunity to thank Premier Brumby for providing St Mary's House of Welcome with $600 000 for the redevelopment of its building. Between 250 and 350 people access the centre each day, the majority of whom are suffering from personal crises generally caused by poverty, mental illness or relationship breakdown. It provides wonderful support and hope to the disadvantaged in our community.

Today being Yom Kippur, the Jewish Day of Atonement, I raise another example of community support — the social justice committee project set up by the Jewish Community Council of Victoria, which aims to further engage the community in aiding Jewish people who are living in financial or social distress. I congratulate the organisation on this initiative.

Whilst Australia is thought of as a lucky country, it has many people who are affected by poverty. I urge everyone to get involved in Anti-Poverty Week and make a lasting difference to the community.

Sport and recreation: Southern Metropolitan Region

Mr THORNLEY (Southern Metropolitan) — I rise to congratulate some organisations and members of the community I serve who are winners of the Brumby government's 2008 sport and recreation awards. The Glen Eira Junior Soccer Club received an amateur achievement award. The club has rebounded after a fire destroyed its clubrooms in 2004. It conducts an annual soccer game between wheelchair-bound soccer players and able-bodied players.

I also congratulate Kieran Stark, the Prahran East rowing coach, who was awarded the young person in sport award. Kieran has coached several rowing groups to success while battling brain cancer and completing a double degree in mathematics and aerospace engineering. He is an inspiration to us all.

Australian American Leadership Dialogue

Mr THORNLEY — I had the privilege of attending the Australian American Leadership Dialogue recently — in particular, the Pacific Basin foreign affairs and defence discussions with Admiral Keating and the leadership of the USA's Pacific command. It was an extremely valuable and important meeting, with a range of senior people in attendance: on the Australian side, Kim Beazley, Tony Abbott, Senator Marise Payne, Greg Sheridan and others; and on the American side, former United States congressman Ed Case and the leadership team of the East-West Center, as well as the US Pacific Command top brass. They raised a range of important issues, particularly around what I think are serious flashpoints in our region. They also raised concerns about the United States government's capacity to resource its positions in the region given recent events.

Mulwala: propellant manufacturing facility

Ms BROAD (Northern Victoria) — On 29 September I was privileged to represent the Premier, John Brumby, at a ceremony to mark the $345 million construction of the modernised Mulwala propellant manufacturing facility. The ceremony was conducted by Dr Mike Kelly, federal Parliamentary Secretary for Defence Support. It was well attended by defence representatives and partners in the project — Bovis Lend Lease Australia, Thales Australia, ATK and the Thales Australia and Bovis Lend Lease Australia workforces. It was also well attended by federal MPs invited by the Defence Materiel Organisation, although unfortunately the former defence minister was unable to attend.

The construction effort is expected to generate employment for a peak workforce of in excess of 250 people. This will bring substantial benefits to the Mulwala and Yarrawonga communities. Operations at the Mulwala plant will continue to provide employment for some 350 people for the projected 30-year operational life of the plant, which also supplies the munitions plant at Benalla.

The new propellant facility is a significant investment in Australia's security and reaffirms the Rudd Labor government's long-term intentions to maintain an indigenous munitions manufacturing capability.

I thank the organisers for their hospitality and the great care they exercised to ensure the safety of visitors like me who are unfamiliar with explosives.

Clearways: Melbourne

Mr D. DAVIS (Southern Metropolitan) — My 90-second statement today concerns the government's outrageous clearways policy — a policy that has been imposed on municipalities within 10 kilometres of the centre of Melbourne. I note the important campaign that is being waged by Moreland, Yarra, Boroondara and Stonnington municipalities, which focuses on trying to protect the municipalities from the impact of the state government's clearways policy, which it did not consult on.

The policy will not only have a huge impact on local traders who will see many of their prime retailing opportunities and times removed by fiat by John Brumby and his Minister for Roads and Ports, Tim Pallas, but will also start to destroy local communities. Many shopping centres are community hubs; they are important places where people can congregate in a social way. Many smaller shopping centres will now not have sufficient parking, and people will not be able to access them in the way they have done for many years. My concern is that this government's ill-thought-through policy will not achieve its objective to improve movement on the roads but will damage traders at a time when the economy and retail trading are facing real challenges. It is insensitive to hit traders at this time — to clobber small business people who are doing their best. In addition, this will damage communities. The member for Prahran in the Assembly is a prime suspect in this issue, and he should stand up and protect his local community.

Buses: Colac Otway shelters

Ms TIERNEY (Western Victoria) — On 29 September I had the pleasure of officially launching 10 new bus shelters in the Shire of Colac Otway, along with the mayor, Cr Chris Smith, and Crs Riches and Mercer.

On that day we were joined by local Colac residents Roberta Hay and Peggy Hose, who said the shelters were a fantastic improvement to the service. These new shelters replace the old concrete shelters along the bus routes in the shire, increasing comfort and safety for local public transport users while they wait for the bus.

The Brumby Labor government has provided $120 000 for these upgrades, displaying yet again the government's commitment to improving public transport infrastructure and services in regional Victoria. I was particularly pleased to launch this project, as earlier this year the local bus services in Colac were improved significantly. An additional route was added, and services were extended along Colac's two existing routes. Combine these improvements with the new bus shelters, and the people of Colac now have much more accessible and convenient public transport options.

This government is taking action to improve public transport links and has committed $510 million to deliver first-class public transport services to regional Victoria.

STATEMENTS ON REPORTS AND PAPERS

Rural and Regional Committee: rural and regional tourism

Mr P. DAVIS (Eastern Victoria) — It is a pleasure to speak on the report of the Rural and Regional Committee inquiry into rural and regional tourism tabled in July this year.

The report is like many parliamentary committee reports: it is substantive and contains a great deal of information and references to submissions and research information. It contains a number of observations and recommendations which are of use. I congratulate the committee on its fine effort. I know substantial efforts went into preparing the report, particularly the investigations that were required before writing the report.

I make the point that one does not necessarily always agree with the conclusions of reports, but I agree with some of the material that has been collected. I refer in particular to page 95, which contains an extract included from evidence by the representative of the Victorian Tourism Industry Council, Mr Wayne Kayler-Thomson, who states:

> We also want to mention nature-based tourism. Regional Victoria is blessed with a range of national parks and natural attractions of such diversity and quality that they are, without question, world class. And yet Victoria has the reputation nationally, and certainly globally, that we do not have nature-based experiences of quality. We have given up that competitive advantage to other states and territories. We need to invest in it. We need a strategy which encourages the type of investments that I mentioned before, the type of cooperative arrangements with tour operators and with the industry — attractions, accommodation and services — so that we can capitalise on the nature-based opportunity that is there. It has been talked about for a long time, it is time to accelerate the action and resourcing to ensure that we can actually develop a competitive advantage in what is actually a worldwide trend in tourism.

I read that particularly, because apart from it being self-evident to those of us representing regional Victoria it underscores a particular challenge which we have in sustaining economic and social viability in regional areas. Those of us who are familiar with what is colloquially described as 'the bush', and particularly those of us who are interested in aspects of rural engagement — which lead to a closer understanding of our natural resource base — find it perplexing that so few people from our own state and metropolitan Melbourne in particular have an understanding of the opportunities.

At page 103 the report finds:

> The popularity of cycling and walking holidays is likely to continue, and even grow, given the contemporary interest in health and wellbeing, and growing awareness of environmental issues such as climate change. Rail trails provide a safe environment for all participants, making this type of holiday attractive to families.

I absolutely agree with the finding in the report that there is a significant growth in interest in cycling and walking holidays, and particularly in rail trails. In the last sitting week I talked a little about rail trails and acknowledged the great work that was done during the era of the former Kennett government in getting rail trails established in Victoria. They are an important asset and can be further developed as an integrated aspect of ecotourism opportunities.

One of the recommendations in the report which is important to note is recommendation 14:

> That the state government continue to provide funding to extend and improve the existing network of cycle tracks, particularly rail trails and touring and walking tracks, in regional Victoria.

I urge the government to take up that opportunity. For those members who are travelling to Gippsland next week for the parliamentary sittings there, I remind them that there are many rail trails available for them in Gippsland, including the Great Southern Rail Trail, Bass Coast Rail Trail, Noojee Trestle Bridge Rail Trail, Moe–Yallourn Rail Trail, Walhalla Goldfields Rail Trail, Tyers Junction Rail Trail, Mirboo North–Boolarra Rail Trail, Gippsland Plains Rail Trail, East Gippsland Rail Trail and Gippsland Lakes Discovery Trail.

I urge all members to take the opportunity to inform themselves about the quality of Gippsland's rail trails.

Anti-Cancer Council of Victoria: report 2007

Mr EIDEH (Western Metropolitan) — All within this house know of the great work carried out on behalf of all Victorians by the Anti-Cancer Council of Victoria. Over the years it has fought the brave fight, often against us, to ensure that Victorians are healthier, stronger and more able to live fuller lives, free of the many cancers that plague modern society.

Since 1936 this great organisation with its dedicated staff and countless volunteers has striven to raise funds for research into cancer and to deliver a range of education programs against cancer, thus reducing the pain and suffering caused by cancer.

Today there would be an unknown number of people who are alive solely due to the great efforts of this amazing organisation and its heartfelt supporters. Yet the council advises in this latest report to Parliament that the number of Victorians suffering cancer is increasing at a rate of about 30 per cent every 10 years. This means some 70 Victorians are diagnosed with cancer each and every day.

This is frightening. That is why the council has targeted cancers from smoking, then included cancers from ultraviolet radiation, the worst now coming from a mass of suntan clinics that has grown across Melbourne. More recently, the health problems and cancers that come with a population that is amongst the most obese in the world — with more and more people eating fast foods, processed sugars and all types of chemicals, and eating less fruit and vegetables — were probably inevitable.

Not being a scientist, I must rely on some of my staff members who have a greater knowledge in this area than I do, on the brilliant staff of our parliamentary library and on reports such as this to give me a better idea or the true idea of the depth and harm caused by cancer in society.

In this report I have found an organisation that is at the cutting edge of research and information programs designed specifically to keep more of us healthy in a life free from the vast number of cancers that may curse a human body.

On the financial aspects of the report, I rely on the independent Auditor-General. He is satisfied that its accounts are true and accurate and that the Anti-Cancer Council of Victoria is working honestly with the funds it receives. One thing is clear from my examination of this well-written report: the menace of cancer is growing; if it is to be defeated, we must all work in partnership with the Anti-Cancer Council of Victoria.

We must think twice before smoking; we must think twice before going out unprotected in the sun; and we must think twice before eating junk foods from the multinational chain stores as their foods tend to be filled with a range of chemicals and preservatives.

The Brumby Labor government is acting in many areas to support the council and its battle with cancer through a range of funding programs, such as the additional $10.4 million budgeted to extend the successful Quitline program. I commend the government for its support of the council, and I commend the council for its support of Victorians.

Terrorism (Community Protection) Act: report 2007–08

Mr DALLA-RIVA (Eastern Metropolitan) — I am pleased to make a statement on reports and papers in respect of the Terrorism (Community Protection) Act 2003, a report under sections 13 and 13ZR of the act, 2007–08.

This is a long series of reports that I have been following over the years I have been a member of Parliament, since the act was proclaimed. The act was introduced with much fanfare in 2003. It is about trying to establish some form of protection for the community through a series of applications, that is through warrants, through telephone intercepts, through premises covertly entered, items seized as a result of that, arrests and so forth.

Since 9/11 there has been a substantial amount of concern about terrorism not only in the United States of America and the United Kingdom but also in Australia. The act was introduced to enable the public to undertake that process in such a way that they could achieve the outcomes they needed.

It is only a three-page report that has been tabled during this session, as has been the case over the past number of years. What is alarming in my view is that it amounts to a 'nil return' yet again. The report shows, for example, that the number of applications where warrants were issued by members of the force during the year was nil; the number of telephone applications during the year was nil; the number of applications by members of the force that were refused was nil — because they did not apply for any; the number of premises covertly entered was nil; the number of occasions on which items were seized was nil; the

number of occasions on which items were placed was nil.

The number of occasions on which electronic equipment was operated was nil; the number of applications for preventive detention orders was nil; the number of preventive detention orders made by the Supreme Court was nil; the number of persons taken into custody or detained under each order was nil; the duration of detention was nil; the number of persons the subject of a preventive detention order was nil; the particulars of complaints totalled nil; the number of applications for prohibited contact was nil — and the list goes on. This legislation was introduced by the government with great urgency, but nothing is now happening. It concerns me that we have a substantial piece of legislation that has not been adhered to.

I need to go back and look at the previous years. In 2006–07 all the outcomes I have outlined were nil. In the 2005–06 report the outcomes were nil. In 2004–05 the number of applications issued was 6, and the number of warrants issued was 6, but the remainder was nil. In the first report, in 2003–04, the number was nil.

Over the five-year period that the act has been in operation — the five years when I have been in this place to see each of the reports tabled — we have had in total six warrants applied for and granted. It makes one wonder what is happening with the police force in Victoria in that it has such substantial power that it appears not to be making applications to covertly search premises.

These are very extensive powers. In speeches I have made here about previous reports I have expressed concern that we seem to have a view that terrorism in Victoria, certainly under the Terrorism (Community Protection) Act, is of no importance whatsoever. This is typical of the government. We seem to have a police force that is more focused on other matters than it is on what it should be doing — that is, protecting the people of Victoria.

As a former serving member of the police force I am most concerned about the lack of an appropriate attitude among members of the police force and the force command in what they are trying to do to encourage resistance to and deterrence of the amount of terrorism that may exist in this state. This police force is more focused on touchy-feely stuff. The police are more interested in ensuring that people in the community are not upset. You will never hear anyone in police command talk about the police force: they always refer to the police service. However, the bottom line is that this report shows the government to be severely lacking.

Rural and Regional Committee: rural and regional tourism

Ms BROAD (Northern Victoria) — I rise to make some remarks about the report of the Rural and Regional Committee inquiry into rural and regional tourism. I commence by acknowledging all of the members of this house who are members of that committee and who made contributions to the report, which is substantial. Many people have contributed to the report, and I commend them for their work.

The chairman's foreword begins with the statement:

> Regional Victoria has everything a tourist from anywhere on the globe might want.

I would like to endorse that statement. As a member for Northern Victoria Region, a region that includes almost 50 per cent of Victoria and has almost every imaginable location and experience a tourist might wish to encounter in it, that is absolutely a statement I can endorse. Of course that is the reason the Brumby government has also worked very hard to ensure that this very important industry in rural and regional Victoria which employs a lot of people goes from strength to strength.

There are many recommendations in the report, I think 39 in total, and I do not have time to address all of them today. However, I wish to make some comments about a couple, and they are the recommendations on support for nature tourism and for reinvigorating the Jigsaw campaign concept of 'You'll love every piece of Victoria', a very successful campaign about which I will talk later in my contribution.

I was very pleased to attend the announcement made by the Minister for Tourism and Major Events about nature-based tourism areas, which is about the nature-based tourism strategy for 2008–12 to help develop the tourism potential of our natural attractions and to build on this advantage while protecting and managing the environmental importance of those areas which attract tourism in the first place. Nature-based tourism is one of the fastest growing tourism sectors, and it is certainly one that we want to invest in and foster into the future. Some 77 per cent of international visitors and 37 per cent of domestic visitors undertake at least one nature-based tourism activity during a trip to Victoria. Victoria's national parks attract the highest visitor numbers in Australia, with 28.6 million visitors to protected area parks in 2004–05. That very important

strategy was recently released by the tourism minister, Tim Holding.

In my own area I am pleased to say that one example, Mildura, recently received almost $150 000 to assist in attracting more tourists, including to the Mildura Country Music Festival over the next three years as well as support for the Mildura Wentworth Arts Festival. These are two very important examples of activities in Northern Victoria Region which attract tourism to northern Victoria.

The Jigsaw campaign is a very successful approach to marketing tourism in country and regional Victoria which has been supported by national bodies and is certainly continuing.

Sustainability and Environment: report 2006–07

Mr GUY (Northern Metropolitan) — May I say that I am thankful that Mr Finn is here to be my audience this morning. I rise to make a statement on the Department of Sustainability and Environment annual report 2006–07. I am not late; I am making a comment on this report because I understand the current year's report will be tabled in a few weeks time.

Mr Finn — We are all hanging out for that.

Mr GUY — A number of us are hanging out for it. I am, and I am interested in the similar statements relating to land supply which appeared on pages 37 and 40 of the 2006–07 report and make a number of references to land supply in rural and regional Victoria, particularly in the Macedon Ranges, which is an area that I, along with my colleagues Donna Petrovich and Wendy Lovell, am keen to ensure retains its charm and character as a unique part of regional Victoria.

It is also worth noting that the annual report talks about land supply and containment of urban sprawl. It is interesting that we talk about containment of urban sprawl. The government released 90 000 housing blocks around the city, so supposedly we are containing urban sprawl. Nevertheless, the report makes some references to rural and regional Victoria.

I want to talk predominantly about the Macedon Ranges, because something very important is happening there in relation to land supply, and it needs to be brought to the fore and addressed. I refer to the government's plans to scrap the Statement of Planning Policy No. 8. This planning policy was brought in in 1975 by the Hamer government, and it should be noted by the house that the Hamer government and its planning in many ways were talked up by former Premier Bracks. Indeed the idea of green wedges started with Mr Hamer, although the Bracks government's legislation expanded it tenfold. However, the green wedges policy certainly started under the Hamer government.

Statement of Planning Policy No. 8 is specific. It identifies the Macedon Ranges as a unique part of Victoria that has some places with a terrific village atmosphere, such as Woodend and Gisborne. More to the point, the policy defines places such as Hanging Rock and Mount Macedon as areas where future urban sprawl and development should not occur. The reason for limiting urban sprawl in those areas is principally because those parts of Victoria are unique. As we all know, Victoria does not have many of the natural assets that places like Queensland, Western Australia and, to an extent, New South Wales have, therefore we have to maximise what we have in this state. We only have 250 000 square kilometres, so Victoria is much smaller than most parts of the country.

The Macedon Ranges is an area worth protecting, and Statement of Planning Policy No. 8 does that. It ensures that the Macedon Ranges area retains its unique charm and character and that places like Hanging Rock and Mount Macedon remain free from high-density development, which is what the Macedon Ranges will see if Statement of Planning Policy No. 8 is removed. Judging from the annual report of the Department of Sustainability and Environment, land supply is becoming an even more critical area of government policy to examine.

This planning policy was brought in in 1975 for reasons that still apply today, and those reasons are certainly under threat by the removal of this statement from the local government's planning schedules. What we have seen is the government acting in a bullyboy manner towards the Macedon Ranges Shire Council to demand the removal of this statement from planning policy in the area to ensure that the government's new residential zones document, which is scheduled to be introduced later in the year, can be introduced into the Macedon Ranges, which undoubtedly will force high-density and inappropriate development for areas such as the Macedon Ranges and throughout that Bendigo corridor.

On this side of the house we have no problem whatsoever with decentralisation. It is quite astounding that the Brumby government is population statistics and projections are 50 per cent inaccurate. If you ran a business like that, you would be sacked — and hopefully these guys will be soon, too. We understand that a manner in which you can accommodate population growth is through decentralisation; population growth in existing centres with existing

infrastructure provisions which will make population accommodation much easier and much more accessible, rather than just opening up a new residential zones document to tear into the Macedon Ranges and threaten the character of that beautiful area of Victoria that has been protected by the Statement of Planning Policy no. 8 since 1975.

This one-size-fits-all planning policy of the government has got to stop, and the Macedon Ranges have to be protected. I simply say to the people of the Macedon Ranges that there are people in this Parliament building who are listening to them and who share their concerns for the new residential zones document. Those people are the Liberal Party and The Nationals, and we will ensure that the Statement of Planning Policy no. 8 remains.

Holmesglen Institute of TAFE: report 2007

Mr THORNLEY (Southern Metropolitan) — I rise to speak on the Holmesglen Institute of TAFE 2007 annual report. Holmesglen TAFE has three campuses, two of which are in Southern Metropolitan Region that I represent, at Moorabbin and Chadstone. Holmesglen is the largest provider of TAFE education in Victoria and is also the largest provider to international students.

As can be seen in the annual report, the breadth of its activities is really quite astonishing, but so also is the way it has organised the report. One sees a large section that talks about access — that is, about how Holmesglen reaches out and provides access to educational opportunity for people in an enormous range of fields that lead to them getting better jobs and being able to advance their careers, whether in design and art, business services, the building industry training centre, the centre for health, human and community services, through the language programs it undertakes, in the international centre or developing their careers in hospitality, horticulture and tourism or in a range of other areas.

The annual report is sectioned off. In the enterprise section is a range of business enterprises that not only add to people's career opportunities but because of the value that that education creates and the contribution that people are able to make towards the cost of that education, those parts of the operation also contribute to the total financial resources of the organisation in a net positive way, whether that is from safety work, the employment services, the conference centre and hotel or a number of the other industry short courses in training and development. This institute is achieving a great deal for the state and for many of the people I represent who are its students or former students or indeed its workforce.

TAFE education has always been a priority for the Brumby Labor government, with $1.1 billion going into the vocational education and training system and a further $20 million for the TAFE system having recently been announced. TAFE is crucial for the emerging and current skills challenges facing Victoria. Holmesglen is thriving, with high revenue and student contact hours on the rise. It has seen both of those metrics rise considerably.

Equally important is that its student satisfaction rates with their educational programs hover around the 90 per cent level. Having been on the council of the University of Melbourne and associated with a range of other educational institutions over the years, I suggest that is a pretty good number and shows an organisation that is pretty close to the people it is there to serve and close to its customers, to take the business analogy, and largely doing a good job. Obviously the average is less important than the individual ratings you get for particular courses or programs, and those that are dragging down the average need to be addressed; those that are exceeding that average really are doing a splendid job.

The vocational college provides vital links for middle secondary students through to vocational learning programs and employment. The vocational college is experiencing high enrolments, low dropout rates and positive student outcomes overall.

Finally, I want to comment, as one usually does when viewing an annual report, on the financial management of the institute and its financial statements. At least from everything I see here, it appears Holmesglen institute is being run very effectively at present. Its revenue is increasing substantially, at around $146 million in the subject year, and generating a net result from continuing operations of $21 million.

I know that sometimes when people see a significant net result of that nature for an educational institution they mistake, as they do in other parts of the public sector including our own government, that result as meaning that the not-for-profit organisation is squirrelling money away for its own purposes and somehow that money could have stayed in the hands of the people who contribute the revenue. The reality is that for all public sector organisations those retentions from the annual outcome, those operating results on the profit and loss account, go to the balance sheet. That is how the assets are funded and that is how the investment is funded, and if an institute like this or a

university or a state government is not generating those surpluses, then it will not have the funds it needs to continue asset investment on the capital account.

This institute appears to be well run. I am happy to see that the chair of the audit committee who signed off on these books is a predecessor of mine in this house, Mr Haddon Storey, so I have some confidence that the place is well run and will continue to be so for some time.

Dairy Food Safety Victoria: report 2007–08

Mr O'DONOHUE (Eastern Victoria) — I am pleased to rise to make a contribution on the minister's report on the receipt of the 2007–08 annual report of Dairy Food Safety Victoria, because safety in relation to dairy products is always an issue of public importance and particularly at the moment with the milk contamination discovered in China. That is a very unfortunate situation for the affected babies, several of whom have died, and for the company involved, and it demonstrates the globalised nature of food production and food products. We cannot be too vigilant when it comes to food safety, and this issue reinforces the importance of proper standards and strict controls through foreign borders. It demonstrates the need to work closely with other governments and other countries to which we export products.

The dairy industry is a very important industry for Victoria. Indeed it is the largest exporter through the port of Melbourne. In Eastern Victoria Region, the electorate I represent, the dairy industry is a critical one. Unfortunately it has suffered loss of land particularly in the corridor through the shire of Cardinia, the shire of Baw Baw and the shire of Bass Coast as result of urbanisation, the growth of hobby farms and lifestyle properties, and the conversion of some dairy farms to beef production.

This is an issue of concern to the dairy industry, and it means that milk production and the potential production of milk products such as cheese have to a degree been compromised. We should remember that Gippsland has more certain rainfall and better access to irrigation in comparison to other parts of Victoria. The drought that has afflicted Victoria for so long has put enormous pressure on dairying north of the Great Dividing Range, and we should do everything we can to preserve the productive farm and dairy land in Gippsland.

There was a time when dairy farms were widespread in the corridor from Pakenham through to Warragul, down south through Koo Wee Rup and on to Wonthaggi. There are now fewer than there used to be, and we must be vigilant in preserving our productive farmland and providing it with access to a reliable source of water.

In that context I am deeply concerned about one of the three proposals the government is considering to construct power lines from Tynong in the north through to near Wonthaggi in the south to provide power for the desalination plant. The productive land that will take in, if the proposal proceeds, will affect close to 200 farms. Many of those farms are highly productive dairy farms with sophisticated irrigation systems and modern dairies that require an enormous investment of capital.

That investment and the production that flows from it may be compromised if overhead powerlines are erected. If you put overhead powerlines through the middle of a productive farm, you limit the ability to irrigate that farm. In effect, through the creation of an easement — an easement the government is saying will be 40 metres wide — you compromise the ability for stock movement and you compromise the ability to develop your farm in an unfettered fashion. By definition, an easement limits what you can do with your farm. It may compromise the overhead irrigation systems that many of these farmers have spent hundreds of thousands of dollars in developing. It is of grave concern to the people of West Gippsland, South Gippsland and the Bass Coast that the government is even considering a proposal to erect overhead powerlines to power the desalination plant.

I conclude my remarks by saying that I am absolutely dismayed that the Minister for Agriculture has refused to conduct a proper analysis of the impact on agriculture of the construction of overhead powerlines. He must act immediately to properly analyse the impact these powerlines will have on our productive farmers in West Gippsland, South Gippsland and the Bass Coast.

Victorian Environmental Assessment Council: river red gum forests investigation

Ms LOVELL (Northern Victoria) — I wish to speak about the Victorian Environmental Assessment Council's (VEAC) final report on river red gum forests dated July 2008. This report will particularly affect my electorate of Northern Victoria Region because it covers an area from Wodonga through to Mildura and the South Australian border.

The report recommends five new and three expanded national parks along the Murray, Ovens and Goulburn rivers. These new parks and reserves will represent a substantial increase in the size of the parks and conservation reserve system from 5.7 per cent or

69 640 hectares to 14.2 per cent or 173 240 hectares. This is quite a substantial increase in the area of land that will be locked up as national park, and it will have a great effect on our region. As we know, the government does not fund national parks to the level to which they should be funded, and we see a lot of weeds and other problems in national park areas where the land is not being protected as it should be.

This report is predicated on environmental water being available to flood the Barmah forest in particular, and all of the river red gum area. We know that the water is just not there, and there will be a substantial impact on irrigators in northern Victoria if additional water is to be made available for environmental flows. The original draft report recommended 4000 gigalitres of water every five years. That means 800 gigalitres per year would have to be put aside, which is half of the allocations in the Goulburn-Murray irrigation district, and this cannot possibly be sustained.

Looking at where the government is planning on getting the water from now, this report talks about VEAC's approach dovetailing with announcements by the state government about water savings being diverted to the environment and the commonwealth government's $3 billion program to buy back water. The government is implying that water from the modernisation of the infrastructure in northern Victoria will be used for this, but of course there cannot be anywhere near the amount of water needed saved from that project if we are going to share those savings with Melbourne. The government needs to make up its mind whether it is going to provide northern Victoria water to Melbourne — water that northern Victoria cannot afford to spare — or whether it is going to invest that water in the Murray–Darling Basin and keep it in the region to ensure that irrigators get better allocations. As we know, irrigators on the Goulburn received only 9 per cent of their allocation this year and on the Murray, 13 per cent. Those on the Broken, Buloke, Campaspe and Loddon systems are still on 0 per cent, so water should go to them and to the environment, as recommended by VEAC, before it is brought to Melbourne because there is not enough water to share around the area.

The economic analysis of this project predicts that there will be $107 million a year in economic benefit, but that excludes the cost of the environmental water. Once that cost is added the environmental benefit will be significantly reduced, but as the report acknowledged, the environmental benefit will be largely to those outside the region while the cost will actually be borne by communities within the region. In particular we are looking at what is recommended for areas in the region that will reduce economic activity, and we see that the area for timber production is to be reduced by 77.5 per cent of the total area that is currently available. This will cost around 80 jobs in the timber industry and significantly reduce economic activity in many of our towns in northern Victoria.

The report also recommends a reduction in the zones for the collection of domestic firewood, and this will impact quite severely on some residents. In many areas, including Nathalia, which is right at the heart of this investigation, we do not have access to natural gas for heating, and the government is now going to reduce the amount of firewood available to residents to heat their homes.

The VEAC report also recommends the cessation of domestic stock grazing in the area, and this will destroy 150 years of heritage for families who previously grazed cattle in the Barmah forest. It will also reduce our ability to lessen fuel loads so that we do not have wildfires burning out of control in the forest.

At page 85 the original draft proposal that was put forward talked about the impact that these recommendations would have on the towns of Cohuna, Koondrook, Nathalia and Picola, which are the areas that are most sensitive to any job losses. The original draft proposal says:

> At an individual level there are also a range of potential impacts of the loss of employment for individuals and their families including poverty and financial hardship, reduced future work opportunities, reduced participation in mainstream community life, strains in family relationships, and intergenerational welfare dependency.

The ACTING PRESIDENT (Mr Somyurek) — Time!

ENERGY LEGISLATION AMENDMENT (RETAIL COMPETITION AND OTHER MATTERS) BILL

Statement of compatibility

For Mr THEOPHANOUS (Minister for Industry and Trade) Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

> In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Energy Legislation Amendment (Retail Competition and Other Matters) Bill 2008.
>
> In my opinion, the Energy Legislation Amendment (Retail Competition and Other Matters) Bill 2008, as introduced to

the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will support the government's commitment to ensuring an efficient and secure energy system, reliable and safe delivery of energy services, access to energy at affordable prices and environmental sustainability. The bill will also meet Victoria's commitments under the Australian Energy Market Agreement to phase out retail energy price regulation where effective retail competition can be demonstrated, and support the government's commitment to make household energy bills more informative over time and help households save energy.

More particularly, the bill will:

1. amend the energy consumer safety net provisions in the Electricity Industry Act 2000 and Gas Industry Act 2001, including phasing out oversight of retail tariffs and increasing the availability of information to enable customers to more confidently make choices in the competitive retail energy market;

2. amend the Electricity Industry Act 2000 to include a performance-based requirement for electricity bill benchmarking as an alternative to the current prescriptive requirement to publish greenhouse gas emission information on customer bills;

3. amend the provisions for the retail market rules under the Gas Industry Act 2001;

4. amend the Electricity Industry Act 2000 to enable orders in council to establish a more efficient mechanism for the recovery of costs for the rollout of advanced metering infrastructure in Victoria;

5. amend the National Electricity (Victoria) Amendment Act 2007 to clarify the appeal rights of distribution businesses under the regulatory framework for Victoria's advanced metering infrastructure rollout and improve the administration of the rollout;

6. amend the Gas Safety Act 1997 to better reflect a risk management approach in the definition of standard and complex gas installations;

7. enable regulations to be made to improve the electricity and gas safety regimes under both the Gas Safety Act 1997 and the Electricity Safety Act 1998;

8. repeal redundant provisions for the acceptance of electrical equipment by Energy Safe Victoria under the Gas Safety Act 1998;

9. repeal a redundant tariff order provision under the Gas Industry Act 2001; and

10. clarify the application of the Australian Energy Regulator's powers in relation to accounting and cost allocation information requirements for the economic regulation of gas distribution businesses under the National Gas (Victoria) Act 2008.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The bill does not engage any of the rights under the charter.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not engage any of the rights under the charter, it is not necessary to consider the application of section 7(2) of the charter.

Conclusion

For the reasons outlined above, I consider that the bill is compatible with the Charter of Human Rights and Responsibilities.

Hon. T. C. Theophanous, MLC
Minister for Industry and Trade

Second reading

Ordered that second-reading speech be incorporated on motion of Mr JENNINGS (Minister for Environment and Climate Change).

Mr JENNINGS (Minister for Environment and Climate Change) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill will amend the Electricity Industry Act 2000, Gas Industry Act 2001, Gas Safety Act 1997, Electricity Safety Act 1998, National Electricity (Victoria) Amendment Act 2007 and National Gas (Victoria) Act 2008.

The principal focus of the bill is to make amendments to the retail competition provisions in the Electricity Industry Act 2000 and the Gas Industry Act 2001 as a direct consequence of the review by the Australian Energy Market Commission that found that competition in the Victorian electricity and gas retail markets is effective.

These amendments are part of an ongoing program of energy market reforms at the national level and meet Victoria's commitments under the Australian Energy Market Agreement.

The combination of effectively competitive gas and electricity retail markets and Victoria's established consumer protection framework provides a sound basis for the amendments made by the bill.

The bill will continue on an ongoing basis the non-price energy consumer safety net provisions due to expire at the end of 2008. As per the framework of the current legislation, orders in council will specify the detail of the relevant customers, retailers and circumstances to which the consumer safety net will continue to apply.

Standing offers, defined in clauses 3 and 19 of the bill, are offers that retailers are obliged to provide to certain residential and small business customers. Market offers are offers that retailers develop for the competitive marketplace, and

typically contain more attractive tariffs and/or other features targeted at various customer groups.

The bill provides that the existing power to regulate 'standing offer' retail tariffs for gas and electricity will continue, but it may only be exercised in the event of the Australian Energy Market Commission:

finding that retail competition is not effective; and

recommending that price controls be retained or reintroduced.

To enable customers to more confidently make choices in Victoria's competitive retail energy market the bill also enhances the current arrangements for the disclosure of retail tariffs, terms and conditions applying to standing offers and market offers to small retail customers (referred to as relevant published offers in clauses 3 and 19 of the bill). The bill will:

require retailers to publish standing and relevant published offers on their internet sites in accordance with guidelines issued by the Essential Services Commission;

require retailers to publish, in a newspaper, a notice of variations to standing offers;

require retailers to advise, in writing, their customers of standing offers that have been varied; and

require the Essential Services Commission to publish standing and relevant published offers on its internet site.

In order to provide a degree of certainty for energy consumers whilst providing retailers with reasonable flexibility, the bill provides that variations to retail standing offer tariffs will not be able to be made within six months of any previous variation.

The Essential Services Commission will also be required to report annually on the tariffs, the terms and conditions on which electricity and gas is sold.

In addition to the amendments to reflect the Australian Energy Market Commission's assessment that the Victorian retail energy market is effectively competitive, clause 15 of the bill introduces a new division 5B into the Electricity Industry Act 2000 requiring that bills for residential customers include either:

(i) (as now) prescriptive information on greenhouse gas emissions; or

(ii) information that enables a residential customer to assess whether the electricity consumption of their household is above, equal or below the average consumption of a similar household. This is aimed at informing and motivating residential electricity consumers to better manage their energy use.

Clauses 17 and 18 of the bill amend the Electricity Industry Act 2000 to enable orders in council to establish a more efficient mechanism for the recovery of costs for the rollout of advanced metering infrastructure in Victoria.

Clause 29 of the bill repeals a redundant tariff order provision under the Gas Industry Act 2001.

Retail gas market rules are made under the Gas Industry Act 2001 for the operation of the competitive retail gas market. Clauses 31 to 38 of the bill make amendments to the Gas Industry Act 2001 to provide for the transfer of responsibility:

(a) from the Essential Services Commission to the Governor in Council for approval of rule changes; and

(b) from the Essential Services Commission to the Australian Energy Regulator for approval of fees charged to market participants.

These amendments will apply to the retail gas market rules developed by the Victorian Energy Networks Corporation and are consistent with those made to the market and system operation rules by the Energy Legislation Further Amendment Act 2007. These amendments will facilitate the transfer of the rules into the national framework as part of the transfer of functions from the Victorian Energy Networks Corporation to the new Australian Energy Market Operator.

Clause 30 of the bill also clarifies the power to include dispute resolution processes in the retail gas market rules.

Divisions 1 and 2 of part 4 of the bill amend the definition of standard and complex gas installations under the Gas Safety Act 1997 to better reflect a risk management approach, and enable regulations to be made to improve the electricity and gas safety regimes under both the Gas Safety Act 1997 and the Electricity Safety Act 1998.

Division 3 of part 4 of the bill amends the National Electricity (Victoria) Amendment Act 2007 and National Gas (Victoria) Act 2008 to make further transitional provisions with respect to the transfer of economic regulation responsibility for electricity and gas distribution respectively from Victoria's energy regulator, the Essential Services Commission, to the national regulator, the Australian Energy Regulator. This will facilitate the implementation of the national energy market reform program.

I commend the bill to the house.

Debate adjourned for Mr HALL (Eastern Victoria) on motion of Ms Lovell.

Debate adjourned until Thursday, 16 October.

ABORTION LAW REFORM BILL

Second reading

Debate resumed from 8 October; motion of Mr JENNINGS (Minister for Environment and Climate Change).

Mr FINN (Western Metropolitan) — In rising to continue my contribution, I would like to thank very much the many thousands of my constituents and other people from right around the state who have contributed to this debate. I think it is a great thing for democracy when people feel they can let their MPs know what their views are on this issue.

As I think I said last night, certainly in my experience there has been no greater outpouring of concern about or opposition to any proposal than there has been to this particular legislation. That is not surprising at all, for many of the reasons I put to the house over the last few hours and will continue to put for a little while yet. I would particularly like to pay credit to one of my constituents, Mrs Rita Alp, who lives in the western suburbs and has been tireless in collecting signatures on petitions and campaigning against this legislation. She is a gem, and I pay due credit to her for her efforts in ensuring that the views of the people of the western suburbs of Melbourne have been brought before this Parliament, and of course I have been very happy to ensure that those views have been properly presented in the correct manner.

I made reference earlier to the abortion holocaust we have experienced over the past 30 years and to slavery, as well as the final solution, the Jewish Holocaust of last century. Since I made those comments I found some information that I thought this house may well find of very great interest. It concerns the case of *Gregson v. Gilbert* (KB 1783), ER, vol. 99, 3:233. It involves a situation where 225 years ago, in March 1783, the Lord Chief Justice, Lord Mansfield, stated that the deliberate killing of slaves by throwing them overboard in the middle of the ocean did not constitute murder but was the same as if horses had been thrown overboard. I think members can make their own comparisons at this point. The solicitor-general at the time, John Lee, declared that a master would drown slaves without 'a surmise of impropriety', saying:

> What is this claim that human people have been thrown overboard? This is a case of chattels or goods. Blacks are goods and property — —

Mr Atkinson — On a point of order, Acting President, I really must go to the question of relevance. The issue is that this speaker has been on his feet more than 4½ hours and has canvassed a wide range of issues in regard to this matter. What he is talking about now is totally irrelevant to the bill before the house, and I ask you to bring him back to the bill.

Mr FINN — On the point of order, Acting President, despite what Mr Atkinson may think, this is very relevant to the bill, because if he had been listening to my contribution last night, he would be aware that the comparison I am making between abortion and slavery and the final solution as proposed by Adolph Hitler last century is very much a part of the argument that I am proposing. And the argument I am putting forward is that in 2008 unborn children are being treated just as badly as blacks were treated during slavery 150 years ago. That is the argument I put to you, Acting President, in terms of relevance in this debate.

Mr Atkinson — Further on the point of order, Acting President, if that is the point, then the point has been made: it was made at great length last night. It is done. It is irrelevant to the legislation before the house, and I ask you to ask the speaker to move on.

The ACTING PRESIDENT (Mr Somyurek) — Order! I must clarify the fact that there are no time limits. Having said that, Mr Finn probably should stick to the principles of the bill, so I ask him to do that.

Mr FINN — I intend to do that, but could I ask, on a point of clarification, if the Acting President is ruling the point of order by my dear friend here in or out of order.

The ACTING PRESIDENT (Mr Somyurek) — Order! It is in fact in order. Mr Finn should return to the principles of the bill.

Mr FINN — Okay. I am happy to do that. So, Acting President, are you ruling that a comparison between abortion and slavery is irrelevant?

The ACTING PRESIDENT (Mr Somyurek) — Order! I simply ask Mr Finn to return to the principles of the bill.

Mr FINN — That does not answer my question, I'm afraid.

An honourable member interjected.

The ACTING PRESIDENT (Mr Somyurek) — Order! I am the Acting President, and I have been advised that it is not a central part of the bill, so I ask Mr Finn to get back to the fundamental principles of the bill.

Mr FINN — I merely make the point that under this legislation, unborn babies would be regarded as mere chattels to be disposed of at the will of doctors and others, and that we have had situations in the past, such as with slavery, where black people have been treated exactly the same.

I think it is important that we have a look at some jurisdictions other than our own. Obviously our neighbour New South Wales has some effect on what we should be, and indeed have been, thinking for a long time in this state. A legal position on the unborn child is put by the former New South Wales Director of Public Prosecutions, Greg Smith, SC. He is now the shadow Attorney-General in New South Wales, pending the

election when he will become Attorney-General there. Mr Smith says that in his opinion:

> The unborn child is not recognised as a human person until after birth, when it has been born and breathed. In New South Wales, section 20 of the Crimes Act 1900 declares:
>
> > … On the trial of a person for the murder of a child, such child shall be held to have been born alive if it has breathed, and has been wholly born into the world whether it has had an independent circulation or not.

I am sure members will forget the rather quaint terminology, but the reference is to the Crimes Act 1900. Mr Smith's opinion continues:

> While the science of embryology and foetology has developed to the stage where blood transfusions and surgical operations have been successfully performed on unborn children before they are viable, sometimes curing dangerous conditions, the law concerning unborn children has moved slowly.

It is worth noting that whilst it might have moved slowly in New South Wales, the bill we are currently debating is the most radical legislation I think anywhere in Australia and would be the exact opposite of the scenario across the border — of moving slowly, as Mr Smith refers to it. The opinion continues:

> This legal discrimination has existed throughout the common law world. In 1989, an English judge ruled in a case where a man was charged with incitement to murder an unborn child:
>
> > It is not murder to kill an unborn foetus as there is no human being …

That was in *Crown v. Tate* (1989). I have to say various courts have recognised the need to protect unborn children. Judges in cases concerning various issues have recognised that unborn children should be protected by law. For example, the judgement from the 1907 case says:

> It is certain that … an unborn child is protected by the law, and may even be a party to an action.

That was the decision back in 1907, 101 years ago. In 1938, to quote from criminal law:

> The law of this land has always held human life to be sacred, and the protection that the law gives to human life extends also to the unborn child in the womb.

In 1972 in relation to the law of negligence in *Watt v. Rama*, a landmark decision in the Full Court of the Supreme Court of Victoria, Justice Gillard said of a child injured in the womb:

> As its property real or personal is protected, so should its physical substance be similarly protected.

Clearly the legislation before this house will overrule the precedent set in that case in 1972. The precedent set by the law all the way back in 1972 is out the window if this legislation is passed by this house.

In a 1980 criminal and administrative law case Lord Denning, MR, in analysing whether nurses would commit a crime if they complied with a government directive concerning assistance in prostaglandin abortion procedures, said:

> Throughout the discussion I am going to speak of the unborn child. The old common lawyers spoke of a child en ventre sa mere. Doctors speak of it as the foetus. In simple English it is an unborn child within the mother's womb. Such a child was protected by the criminal law almost to the same extent as a new-born baby. If anyone terminated the pregnancy, and thus destroyed the unborn child, he or she was guilty of a felony and was liable to be kept in penal servitude for life (see the Offences Against the Persons Act 1861) unless it was done to save the life of the mother (see *R v. Bourne* (1938) 3 All ER 615; (1939) 1 KB 687).

Likewise anyone who assisted or participated in the abortion was guilty, including the mother herself.

There is a fair point here that has to be made, because those who are promoting this bill and the abortion industry for some time have hidden behind Latin to hide and to cover up what they are actually talking about. They talk about a foetus, and it is much easier to talk about disposing of a foetus than it is to talk about killing an unborn baby. That is where the abortion movement and the abortion industry have been playing games with the English language, just as they did with the word 'choice'.

As I said earlier, to use the word 'choice' in connection with the killing of a child is a great perversion of the English language. But in terms of the use of the word 'foetus', if they want to speak Latin, good luck to them; but as in the case of Lord Denning, I will be very happy to speak good old-fashioned English and refer to an unborn child as 'an unborn child' or indeed as 'an unborn baby'.

In a 1991 negligence law matter Justice Grove of the New South Wales Supreme Court stated:

> An injury to an infant suffered during the stages of its journey between conception and parturition (birth) is not an injury to a person devoid of personality other than that of the mother-to-be. Nicola's personality was identifiable and recognisable.

In a 1998 House of Lords decision involving the criminal law of homicide that dealt with the death of a child who was unborn at the time her mother was stabbed by the accused and who died after birth as a result of the injuries sustained in the assault on her

mother, Lord Mustill commented on the position of the foetus, saying it was not part of the mother:

> … the foetus … is a unique organism. To apply to such an organism the principles of a law evolved in relation to autonomous beings is bound to mislead.

In the same case Lord Hope of Craighead saw the issue as follows:

> The Court of Appeal held that a foetus before birth must be taken to be an integral part of the mother, in the same way as her arm or her leg. It was for this reason that they said that the requisite intent to be proved in the case of murder, if the child was subsequently born alive and then died, was an intention to kill or to cause really serious bodily injury to the mother. I am not satisfied that this is the correct approach. The creation of an embryo from which a foetus is developed requires the bringing together of genetic material from the father as well as from the mother. The science of human fertilisation and embryology has now been developed to the point where the embryo may be created outside the mother and then placed inside her as a live embryo. This practice, not now uncommon in cases of infertility, has already attracted the attention of Parliament: see the Human Fertilisation and Embryology Act 1990. It serves to remind us that an embryo is in reality a separate organism from the mother from the moment of its conception. This individuality is retained by it throughout its development until it achieves an independent existence on being born. So the foetus cannot be regarded as an integral part of the mother in the sense indicated by the Court of Appeal, notwithstanding its dependence upon the mother for its survival until birth. The problem which has arisen in this case is due to the fact, which is not disputed, that at the time of the stabbing the child had not yet been born alive.

I think the point made here by Lord Hope of Craighead in this particular case is an important part of the bill. The point he makes is that the slogans put forward by proponents of the bill are pure nonsense — biological, medical and scientific nonsense. The child is not a part of his or her mother's body. Certainly the child is in his or her mother's body, but the child is a separate living human being, and that brings us to the very basis of what the bill is about. If the bill allows the open-slather killing of unborn children up until birth — which it does allow — then according to this particular ruling we are allowing mass murder. We are allowing wholesale murder in this state.

That is what this bill is about, and I think we get the message loud and clear, certainly from this particular ruling, that those who tell us unborn babies are a part of women's bodies and all this sort of nonsense are one of two things: they are either grossly ignorant or grossly dishonest. It is one or the other. I think that is something that we all — every member of this house who is debating and voting on this bill — should take into consideration.

Mr Smith continues:

> Despite the admirable expressions of what should be, the law's protection of the unborn before birth has become negligible.
>
> Homicide laws have historically recognised that if a child is injured in the womb by a deliberate act of the assailant and dies after birth as a result of the injuries, then the assailant is guilty of homicide. In 1996, Justice Grove in the New South Wales Court of Criminal Appeal described the law as follows:
>
> > … the common law has long recognised that where an unborn child receives injuries, is born alive but dies of those antenatal injuries, the perpetrator may suffer criminal liability for homicide …
>
> He went on to decide that the same principle applied to death caused by the offence of dangerous driving, where at the time of the collision which caused injuries the child victim was unborn, was subsequently born alive after a caesarean section but then died soon after birth from the injuries sustained.

Mr Smith — who I hasten to point out to the house is an eminent lawyer in his own right and very much respected in his home state of New South Wales, and he will be an outstanding first lawmaker of that state, I am sure, at the first available opportunity — also points to Byron's case, which has attracted much publicity:

> Byron, a seven-month-old unborn baby, died in his mother's womb in November 2001 after his parent's car was rammed into a power pole by road rage driver Michael Harrigan on Henry Lawson Drive, Milperra.
>
> But Harrigan escaped a manslaughter charge over Byron's death because the law does not recognise a child as 'a person' until it has taken at least one breath outside the mother's womb —

an antiquated concept if ever there were one!

> Instead he was convicted of driving dangerously causing grievous bodily harm to Byron's mother, Renee Shields, as well as perverting the course of justice and sentenced to imprisonment totalling six years and three months, with a non-parole period expiring in November 2007. Renee Shields —

the child's mother —

> who was in her first pregnancy also had to have an emergency hysterectomy after Byron was stillborn. As a result she will not —

obviously —

> be able to have children. The case caused public outrage!

There was a review by retired Supreme Court judge Mervyn Finlay, QC. He was appointed to conduct a review of the criminal law with a view to recommending changes which would increase protection for unborn children. Despite the opposition from some militant pro-abortion groups, he recommended the enactment of a number of offences. I

ask the house to take note of this finding from Mervyn Finlay, QC, with regard to this matter. He suggested the following draft amendment:

> (1) If a woman is pregnant of a child capable of being born alive, a person, other than the woman, who:
>
> (a) by an act or omission, with intent to kill or inflict grievous bodily harm upon such child, and without lawful cause or excuse, causes such child to die before it has an existence independent of its mother,
>
> or
>
> (b) (i) by an unlawful and dangerous act carrying an appreciable risk of serious injury, or
>
> (ii) by an act or omission which so far falls short of the standard of care required by a reasonable person that it goes beyond a civil wrong and amounts to a crime,
>
> causes such child to die before it has an existence independent of its mother,
>
> shall be liable to imprisonment for X years.
>
> (2) For the purposes of this section, evidence that a woman had at any material time been pregnant for a period of 26 weeks or more shall be prima facie proof that she was at that time pregnant of a child capable of being born alive.

You have to remember that this is going back some years — a couple of years anyway — and medical technology has improved significantly in that time, so 'a child of 26 weeks … capable of being born alive' could in 2008 just as easily be read as applying to a child of 24 weeks, a child of 23 weeks or even a child of 22 weeks. Mr Finlay's draft amendment continues:

> (3) A person is not guilty of an offence under this section in procuring a lawful miscarriage …

Mr Finlay explained the proposal as follows:

> Subparagraph 1(a) of the above suggested draft amendment requires the Crown to prove that the relevant act or omission was performed or omitted 'with intent to kill or inflict grievous bodily harm upon such child and without lawful cause or excuse'. These fault elements mirror those for murder under section 18(1)(a) of the Crimes Act 1900 (NSW) whilst the requirement that the act or omission be 'without lawful cause or excuse' reflects the similar requirement in section 18(2)(a) in respect of a charge of murder.
>
> …
>
> Subparagraph (1)(b)(i) of the suggested draft amendment requires the Crown to prove 'an unlawful and dangerous act carrying an appreciable risk of serious injury'. The relevant law is well established that an act is dangerous if it is such that a reasonable person in the position of the accused would have realised that by that act the unborn child was being exposed to an appreciable risk of serious injury.
>
> Subparagraph (1)(b)(ii) of the suggested draft amendment is descriptive of 'criminal negligence'.
>
> 'Criminal negligence' is not defined by the Crimes Act 1900 (NSW). It is, however, an expression well known to the common law in charges of manslaughter, where its use encompasses the involuntary category of manslaughter by 'criminal negligence' which requires a direction to the jury to the following effect:
>
> > 'The conduct of (the accused) merits criminal punishment only if you are satisfied not only that the (act/omission) of (the accused) fell so far short of the standard of care which a reasonable person would have exercised in the circumstances involving such a high risk that death or really serious bodily injury would follow from that act or omission, but also that right-thinking members of the community would regard the degree of negligence involved in that conduct as so serious that it should be treated as criminal conduct'.

On the subject of amending the dangerous-driving laws, Mr Finlay said:

> I make the same suggestion for the amendments to sections 52A and 52B of the Crimes Act 1900 (NSW) referred to in paragraph 14.3 above.

He continued:

> A foetus is 'capable of being born alive' if it has reached a state of development where it is capable, if born, of living independently of its mother. This issue will usually be resolved on medical evidence.

Indeed it will. The overwhelming medical evidence as we stand here on 9 October 2008 is that babies of 24 weeks, 23 weeks, 22 weeks or even as young as 21 weeks are capable of living independently from their mother if they are in a situation where they are born at that particular age. It is important that we take these considerations into our thoughts when we are coming to views on this bill.

Mr Smith, to whom I referred earlier, went on to say that the then New South Wales Attorney-General, Bob Debus, joined Mr Finlay at a press conference when the Finlay report was released and indicated support for the recommendations. During question time on 6 June 2006, when concluding an answer to a question from Paul Gibson, a New South Wales MP, Mr Debus stated:

> I advise the house that next session I shall bring before the house legislation implementing the recommendations that Justice Finlay has made.

It is a fascinating prospect that what has happened in New South Wales is a very different scenario to what is happening in Victoria under this legislation. In New South Wales they are continually, obviously, reviewing this sort of legislation, but they at least accept that a

child before birth does have rights. This legislation, if passed, wipes away all rights of unborn children.

In this day and age that is obscene. It is as obscene as it is ludicrous to those of us who are supposedly learned in such matters — and if we are not learned in such matters, we should do a bit of research and get up to speed on these things before we vote on matters that will affect people's lives and indeed end a lot of people's lives. That is something that certainly concerns me enormously, and I have no doubt from the correspondence and the contact that I have had from people around the state and from around Australia that it concerns an enormous number of people around this nation.

I have to say that of all the legislation I have been called upon to vote on over the nine years I have been in Parliament, I have never known legislation to be as condemned by the legal fraternity by way of legal opinions and various other means as this particular legislation has been. There have been various opinions given by various prominent lawyers — various learned men and women of the law — with regard to this legislation.

If we are to take these legal opinions on board — and I hope the house will indeed take them on board — you would have to say that this legislation is a dog. It is a dud. This legislation is so bad that you can understand why the Attorney-General of this state, having instigated this review, this process and this law, actually voted against the bill when he had the chance. At the first opportunity he had, he voted against it.

A number of legal opinions that have come to my attention condemn this legislation, in some instances in pretty savage ways. One particular opinion is from Timothy Ginnane, SC, and Julian McMahon. It is obviously a joint opinion on the Abortion Law Reform Bill 2008. I will briefly refer to it. It says:

> We have been briefed to advise on certain operational elements of the Abortion Law Reform Bill 2008 ('the bill').
>
> Key provisions of the bill
>
> The bill seeks to abolish the existing provisions relating to abortion and the offence of child destruction in the Crimes Act 1958. It provides for conditions under which an abortion can be performed on a woman who is not more than 24 weeks pregnant (clause 4) and on a woman who is more than 24 weeks pregnant (clause 5). Under certain conditions, it requires health practitioners who have a conscientious objection to abortion to inform a woman of their objection and to refer the woman to another health practitioner whom the first health practitioner knows does not have a conscientious objection to abortion (clause 8(1)). It provides that despite any conscientious objection to abortion, a medical practitioner is under a duty to perform an abortion in an emergency where the abortion is necessary to preserve the life of the pregnant woman (clause 8(3)) and that in those circumstances a nurse, despite any conscientious objection, is under a duty to assist a medical practitioner in performing the abortion (clause 8(4)). Clause 10 amends the definition of 'serious injury' in the Crimes Act 1958 to include the destruction of a foetus other than in the course of a medical procedure under the bill.

The opinion is pretty clear about the conscientious objection that doctors have enjoyed up until this point in time. Of course we are not talking only about doctors; we are also talking about nurses and other medical professionals. They are now in a situation where they have to be complicit, in at least some way, in abortions. A doctor who would not perform an abortion might — I believe quite rightly — feel an accomplice to the crime of abortion if they refer a woman to a doctor who will allegedly perform or commit that abortion. This is not a tenable situation for anyone to be in. I cannot believe the government has put forward legislation that allows this to happen. I find it astonishing that it would present this so-called reform in this way. This is jackboot stuff. As I have been reminded by so many pieces of correspondence over recent days, this is the crushing of dissent within a democracy. Dr Sally Cockburn said in her article, 'If you do not like abortion, get out of the medical industry', and the government is in effect saying the same thing through this legislation.

I return to the joint opinion on the bill:

> The effect of clause 4 is that there are no restrictions on an abortion being performed on a woman who is no more than 24 weeks pregnant other than it must be performed by a registered medical practitioner. The effect of clause 6 is that there are no restrictions on the supply or administration of drugs to cause an abortion in a woman who is not more than 24 weeks pregnant other than that the drug must be administered by a registered pharmacist or a nurse who is authorised to do so under the Drugs, Poisons and Controlled Substances Act 1981.

The opinion continues:

> Clause 5 provides for abortions performed by a medical practitioner on a woman more than 24 weeks pregnant and clause 7 provides for the supply and administration of drugs to cause an abortion in a woman who is more than 24 weeks pregnant.

Clause 5 raises severe health concerns, because whilst it clearly states, as the opinion tells us, that abortions must be performed by a medical practitioner, that medical practitioner need not have any expertise in this area. As long as that person is a doctor, they can try to commit this abortion. Obviously that could cause some very real problems, particularly with late-term abortions, where the health implications for the mother could be horrendous. That is something that needs to be dealt

with for the protection of women. The proponents of the bill say that it is all about looking after women, but clause 5 goes exactly the opposite way — it puts women into a very dangerous position indeed.

On the issue of conditions applying to abortions performed on women who are more than 24 weeks pregnant, the opinion continues:

> Clause 5 of the bill is as follows:
>
> (1) A registered medical practitioner may perform an abortion on a woman who is more than 24 weeks pregnant only if the medical practitioner —
>
> (a) reasonably believes that the abortion is appropriate in all the circumstances; and
>
> (b) has consulted at least one other registered medical practitioner who also reasonably believes that the abortion is appropriate in all the circumstances.
>
> (2) In considering whether the abortion is appropriate in all the circumstances, a registered medical practitioner must have regard to —
>
> (a) all relevant medical circumstances; and
>
> (b) the woman's current and future physical, psychological and social circumstances.

I am particularly interested in the next part. I discussed it earlier and want to tell the house about what this opinion says about it. The opinion states:

> We have been asked to advise what is required in order to satisfy the test that an abortion is 'appropriate in all the circumstances' and as to the efficacy of clause 5. In the second-reading speech for the bill the Minister for Women's Affairs referred to the provisions in clause 5 as serving 'the important purpose of clarifying the circumstances in which a termination may be performed in the later stages of pregnancy'. Some members of Parliament who spoke in support of the bill referred to the 'safeguards' in the bill as being adequate or sufficient when a pregnancy has exceeded 24 weeks gestation.
>
> The bill recognises that it is appropriate to impose restrictions on the performance of an abortion on a woman who is more than 24 weeks pregnant.
>
> Our conclusion is that the test required by clause 5 as to the reasonable belief that an abortion is appropriate renders illusory any 'safeguard' that might be thought to be provided by the clause.
>
> We note that clause 5 provides that a medical practitioner proposing to perform an abortion on a woman more than 24 weeks pregnant must consult another practitioner who also reasonably believes the abortion is 'appropriate in all the circumstances' taking into account those which are prescribed by clause 5(2) and to which the practitioner must have regard. However, there is no requirement that either the first or the second practitioner have any obstetric or psychiatric or other relevant qualification or experience. Furthermore, one practitioner may be employed by the other or both may be partners in the same practice. The bill, by clause 5, permits an abortion with the concurrence of a second practitioner even if that second practitioner concurred after many other practitioners had been consulted and were unable to agree or refused to conclude or even strongly disagreed with the proposition that the abortion was 'appropriate in all the circumstances'.
>
> In any case, given the lack of real safeguards in clause 5, it is difficult to see how an assertion by a practitioner that he or she reasonably believed an abortion was 'appropriate in all the circumstances' could ever be challenged successfully.
>
> Once the medical practitioner, without saying more, simply asserts that he or she has a belief that the abortion was appropriate in all the circumstances having had regard to those circumstances prescribed by clause 5(2), that assertion would be very difficult to challenge. As there is nothing which requires the doctor to record the formation of the belief or provide evidence of it, those alleging a breach would find it virtually impossible to prove that the doctor did not in fact reasonably believe that the abortion was 'appropriate in all the circumstances'. Accordingly, any supposed safeguard within clause 5 is illusory.

In other words, it does not exist; it is not there. This bill is attempting to have a lend of us all. The opinion continues:

> We do not address the question of why the bill appears to lack sanctions applicable to a health practitioner who wilfully breaches the bill, in particular clause 5. Whether such a wilful breach of clause 5 contravenes the new 'serious injury' provision remains an open question.

This particular part of the opinion could be answered by those who have argued that this bill was largely put together by the abortion industry. It is about self-protection. That is why there are no sanctions in particular with regard to clause 5, because these people are out to protect themselves. They are looking after their own nests. They do not want to appear before the beak if they seriously injure a woman in the course of an abortion.

These people have their finger in the pie in a very, very big way. I think it is particularly disconcerting, as this opinion will tell us, that there are no sanctions applicable to a health practitioner who wilfully breaches the bill. What sort of legislation is it where you do not have any sanctions for breaking the law? That is very odd indeed. The opinion then turns to the requirement for a conscientious objector to make a referral:

> We are also asked to advise on the requirements of clause 8(1)(b) of the bill. Clause 8(1) provides:
>
> (1) If a woman requests a registered health practitioner to advise on a proposed abortion, or to perform, direct, authorise or supervise an abortion for that woman, and the practitioner has a conscientious objection to abortion, the practitioner must —

(a) inform the woman that the practitioner has a conscientious objection to abortion; and

(b) refer the woman to another registered health practitioner in the same regulated health profession who the practitioner knows does not have a conscientious objection to abortion.

We do not here consider whether or not clause 8(1)(b) complies with the Charter of Human Rights and Responsibilities Act 2006, the Equal Opportunity Act 1995 or international human rights instruments.

I suggest that is a very good thing because if they did, this opinion might go on for some time. I have no doubt that this legislation, if passed, will probably end up in the Supreme Court of Victoria, if not the High Court of Australia, with regard to this clause.

The opinion goes on:

Rather we consider how the clause would apply on the assumption that it becomes valid law. Particular situations are likely to give rise to real issues about the operation of clause 8(1)(b) such as a health practitioner who has a conscientious objection to abortion when a woman is at a particular stage of pregnancy, or when the foetus has particular disabilities or on grounds such as the gender of a foetus.

In relation to a health practitioner approached to provide advice about abortion, clause 8(1)(b) is open to be read in several different ways, for example —

(a) the clause could be read so that it requires the health practitioner to provide a referral to another practitioner only if the health practitioner has a conscientious objection to abortions under any and all circumstances.

(b) alternatively the clause could be read so that the health practitioner must provide a referral when a practitioner has a conscientious objection to abortion in some circumstances, even if not in other circumstances. (If this is the case, then only a practitioner who has no conscientious objection to an abortion in any circumstances is not obliged to refer the patient to another practitioner. Furthermore, referring practitioners could only refer women to doctors who have no conscientious objection to abortion under any circumstances.)

(c) another way of reading the clause is that a health practitioner is required to provide a referral only where the health practitioner has a conscientious objection to an abortion in the circumstances of the particular woman who is seeking an abortion or advice in relation to an abortion.

These different possible interpretations place health practitioners in a highly unsatisfactory situation because their rights and duties, and whether or not their conduct is in breach of the law, are dependent on the uncertain process of determining which of the many ways of reading the clause is correct.

Here we have a situation where the government will tell us that this legislation is about clarifying the law; it is about making it easy for doctors to know what they are or are not capable of doing. It is about providing a certainty to doctors to know exactly what they can do in committing abortions.

What this legal opinion tells us is exactly the opposite. It says that these possible interpretations of a clause place health practitioners in a highly unsatisfactory situation because their rights and duties, whether or not their conduct is in breach of the law, are dependent on the uncertain process of determining which of the many ways of reading the clause is correct. Really, what we are talking about is that their clinical decision making is based on who they get in any given circumstances in reading the law. Before a doctor can give some clinical judgement, he will have to get a legal opinion first.

This legislation, as I said earlier, is a dog; this clause alone proves that beyond all doubt. This clause goes way beyond anything we have seen up to this point. This clause clearly makes the position of medical practitioners extraordinarily difficult, if not untenable. I wish whoever had written this bill had thought about it a little and had put a bit of thought into the process before they put it on paper. Anybody can see that this is totally unsatisfactory, it is highly unsatisfactory and is quite untenable in terms of many, if not most, members of the medical profession.

Paragraph 16 states:

Of the possible meanings of clause 8(1), the most logical is the third possible interpretation we have listed in paragraph 15(c), namely, where a practitioner has a conscientious objection in the particular case concerned. However, the difficulty with this interpretation is that the clause does not refer to 'conscientious objection to the abortion', but to 'conscientious objection to abortion'.

Paragraph 17 states:

Both of the other interpretations we have listed in paragraphs 15(a) and (b) have unsatisfactory consequences. If the interpretation in paragraph 15(a) is correct, then a practitioner who had a conscientious objection in some circumstances — —

The PRESIDENT — Order! This is deja vu, Mr Finn. It seems to me that we were here at this time yesterday.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Stamp duty: revenue

Mr D. DAVIS (Southern Metropolitan) — My question is to the Treasurer. The Treasurer will be aware that the New South Wales Premier, Nathan Rees, is interrogating the New South Wales Treasury about its failure to warn the New South Wales government about a looming $1 billion revenue shortfall.

Has the Victorian Treasury recently provided the Treasurer with any advice about a Victorian revenue shortfall, and if so, is it of a comparable order of magnitude? If you have not received advice on revenue impacts, why not?

Mr LENDERS (Treasurer) — I thought I answered this comprehensively yesterday in my response to a question from Mr David Davis. I will reiterate a couple of things. Firstly, I have not heard the Leader of the Opposition say one positive word about the state of Victoria or its economy in his time as opposition leader. I have heard him and his leader try to trash the Members Equity Bank and destroy financial institutions. The only thing I will do that is different from yesterday is say it in a different way.

Mr David Davis is the anarchist in a crowded theatre crying fire. He wants to cause chaos, and I will not play his game. I said to him yesterday, we have — —

Mr D. Davis — On a point of order, President, the Treasurer is well aware that when answering questions he should not attack the opposition and should confine himself to the point of the question.

The PRESIDENT — Order! I understand Mr Davis's point of order. He is correct in saying that the Treasurer is not to overtly criticise individuals or the opposition. I do not believe the Treasurer's criticism to date reaches that standard of being overtly offensive.

Mrs Peulich interjected.

The PRESIDENT — Order! If Mrs Peulich has something to add to the point of order, she is free to do so. Taking a cheap shot at my ruling is not acceptable. If Mrs Peulich wishes to make a point of order, she should get on her feet and do it.

Mr LENDERS — In response to Mr Davis's question, one of the challenges that Premier Rees and Treasurer Roosendaal are facing in New South Wales — a state that is in a far more difficult economic circumstance than Victoria, as any objective commentator would say; a state that has not had the benefit of the stewardship of the last eight years in this state, which has built on infrastructure in the good years, built on service delivery and managed the books as Victoria has, which is a standout compared to anywhere in Australia and probably even the envy of the governor's conference in the United States of America in relation to how this state is taking advantage of where it is — is a lack of confidence in the economy of the state of New South Wales, a lack of business confidence and a lack of consumer confidence.

President, taking heed of your ruling, I say to Mr Davis that if there is one thing the opposition could do to assist working Victorians to stay in their jobs in this state today, to assist us in dealing with the difficult international contagion that has come to the state and to assist us in protecting jobs, it would be to stand up for the Victorian economy, to stand up for Victorian jobs, to show some confidence and to encourage the business community and consumers to have confidence to go forward, because every bit of confidence that is instilled in the state means jobs. A confident consumer who goes into a bank to borrow money for a home is creating construction jobs. A confident consumer who feels they have confidence and that the world is not falling around their heads like Mr David Davis wants, will go into a supermarket and buy products. A confident consumer will go to a restaurant, and a confident consumer will go to Mr Drum's electorate and support the tourism industry.

Talking down the state costs jobs. The best thing everybody in this house can do today is support the Victorian community to step through these difficult economic times. Trashing the reputation of the state does not create jobs.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — The Treasurer has again provided an answer that the community will consider inadequate. The best way to build confidence is through openness and honesty, therefore I ask: will the Treasurer provide this chamber with an assurance today that the government's stamp duty revenue projections for 2008–09 will be met in full?

Mr LENDERS (Treasurer) — I think the analogy of the anarchist in a crowded theatre crying fire is quite appropriate. If Mr David Davis bothers to read beyond the daily newspaper and jump to a conclusion and if he bothers to check the Financial Management Act of the state of Victoria — I am sure Mr Rich-Phillips knows what is in the Financial Management Act, and I can actually give Mr David Davis a copy — he will notice

that by 15 October I am required to table the annual financial report of the state of Victoria, one of the five times in a year I table accounts for the state.

He will notice, if he listened to me, that later this year I need to do a midyear budget update that will contain the financial estimates. What we do on this side is work with the business community, the finance sector, the national government, the central banks, the regulatory authorities and all these authorities to assist us in helping the economy.

It is interesting that today we got the labour force figures. The labour force figures, which are monthly figures, move around.

An honourable member interjected.

Mr LENDERS — The prophet of gloom is again trying to find some joy in anything that is negative. We are in a world environment in which the economies of every country on this planet are performing more poorly than was anticipated one year ago. I will not have anybody challenge that assertion. In that context we are seeing the fundamentals of this state slowing but holding up. Yesterday we saw consumer confidence figures that improved Victoria's position relative to the rest of Australia. There were not great figures anywhere in the country, but they showed that Victoria's performance improved against the rest of Australia.

Today we see labour force figures — and these go up and down — that show unemployment in this state at well under 5 per cent. That is no comfort for anyone in that 5 per cent, but if anyone wants to trash the reputation of this state and make unemployment go higher by talking down business and consumer confidence, then be it on the heads of those who are talking down the state and the economy. Be it on their heads for every person who loses a job in this state. If we do not work collaboratively to come up with the solutions to deal with the international issues and if we do not have a bit of faith in our employers and our employees to go forward, be it on the heads of the people who talk down the state; they will have on their heads the jobs lost in the state of Victoria.

Planning: sustainable housing

Mr SCHEFFER (Eastern Victoria) — My question is for the Minister for Planning, Justin Madden. Improving the sustainability of homes in Victoria will reduce the costs of energy and water bills on the family home, although it does create new challenges for the building industry. Can the minister advise the house of the measures the Brumby government is considering to broaden the 5-star sustainable building ratings tool and how the Brumby government is consulting with the housing industry to assist in the transition to more suitable residential housing?

Hon. J. M. MADDEN (Minister for Planning) — I thank Mr Scheffer for his question. I know how interested he is in this area. We know there is a great need to improve the efficiency of housing right across the board, particularly when it comes to sustainability. We are committed to that, and we will do that through a number of measures.

We have done it through the 5-star energy rating system, but we need to do more and we are doing more. Some of the efficiencies that have been gained are lost either through house size or the use of additional lighting throughout houses. We are committed to improvements in the 2010 Building Code of Australia when those standards are changed. In consultation with the building industry we are doing that by increasing the thermal efficiency of building fabric and introducing lighting efficiency standards. These things are all under consideration, and we are working through them with the industry. We are setting a low greenhouse emission standard for hot-water heaters as well as increasing water efficiency standards right across the board and managing the impacts of stormwater run-off.

We are committed to facing these challenges and working through round tables and consultation with the building industry. We are committed to working with the Housing Industry Association and other industry bodies, and the HIA is endorsing our position, which is very heartening. Our actions in consulting broadly and working with the community will enhance our reputation for making Victoria the best place to live, work and raise a family. This stands in stark contrast to the opposition, which we know is tied up in knots or doing gymnastics when it comes to belly flops in relation to these sustainability issues right across the board.

Infrastructure Australia: government submission

Mr BARBER (Northern Metropolitan) — My question is for the Treasurer. I would like the Treasurer to tell me whether the Victorian government has lodged its submission to Infrastructure Australia or whether that submission is still being completed?

Mr LENDERS (Treasurer) — I thank Mr Barber for his question. The Victorian government has certainly lodged its principal position to Infrastructure Australia. There is a series of processes for lodging

submissions with Infrastructure Australia involving the particular details of which submissions states put in on individual projects, the principles behind these and the basis on which the state does what it does, and we have communicated that to Infrastructure Australia. It is for the Minister for Roads and Ports or the Minister for Public Transport to determine what our submission is in that area, but we are aware that this is a once-in-a-generation opportunity to have collaboration and the commonwealth government is making a significant contribution — $20 billion — towards infrastructure.

Firstly, the commonwealth government is seeking advice from the states as to where that fits in and what projects are of national significance — clearly we have views on that — and later on there will be a process for individual projects. We are engaged in the first part of that process, and we will substantiate that with individual projects at a later stage.

The Prime Minister has called for Infrastructure Australia to present an interim report, so this can come forward three months from what otherwise would have been the case, or potentially so. We welcome the commonwealth's initiative, and we will work with the commonwealth because there are national issues that affect this state and the whole country. We welcome the approach from the commonwealth; it is a breath of fresh air in this federation.

Supplementary question

Mr BARBER (Northern Metropolitan) — Perhaps the Treasurer could release that submission if it has not already been released. In relation to this new time line that the Treasurer has just described, what deadline does that now set for the Victorian government to provide a secondary submission to Infrastructure Australia?

Mr LENDERS (Treasurer) — I thank Mr Barber for his supplementary question. Firstly, on the nature of the submission, I will not presume to speak for either of the transport ministers on making that document available to Mr Barber.

Honourable members interjecting.

Mr LENDERS — Members may groan, but it is not my document to make available. I will take on notice Mr Barber's request to them; it is a reasonable request, obviously, to ask what Victoria is putting in as a major issue to a national body. It is a reasonable request. I am not commenting on the request; I am making the statement that it is not my document to promise, but I will raise the issue with the transport ministers.

Regarding the second component, if Infrastructure Australia is seeking interim reports by the end of the year, clearly it is imperative for Victoria to lodge its projects more quickly than it otherwise would have. We want to give the commonwealth serious proposals on issues of national significance. Congestion in Melbourne is a significant issue there. Sir Rod Eddington certainly alerted us to some of his views on how to deal with urban congestion in these areas, and we will have a comprehensive Victorian transport plan responding to that which will neatly dovetail into our final submission to Infrastructure Australia.

Exports: performance

Ms DARVENIZA (Northern Victoria) — My question is for the Minister for Industry and Trade. In this time of global economic uncertainty, can the minister advise the house how the Brumby Labor government is taking action to secure Victoria's exports?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I thank the member for her question.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — I know the opposition does not like good news for the economy, and that is obvious every time we get up to give some good news. Victoria's goods exports were up by 3 per cent compared to this time last year according to the August 2008 Australian Bureau of Statistics figures.

Mr Guy interjected.

Hon. T. C. THEOPHANOUS — Up by 3 per cent, Mr Guy. Exports are growing despite increasing global competition and difficult economic circumstances. Victorian exporters are continuing to sell goods made in this state in markets all around the world, creating and securing jobs and contributing to Victoria's economic growth. In the eight years since 1998 Victoria's goods and services exports have increased by more than 34 per cent.

Economy: government bonds

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Treasurer. The Treasury Corporation of Victoria (TCV) has confirmed that the interest rate spread between Victorian government bonds and commonwealth government bonds is now at a 13-year high and equal to the spread with New South Wales Treasury Corporation bonds. Given the relative strength of the Victorian economy

and the New South Wales economy that the Treasurer referred to before, can the Treasurer explain why Victorian government paper is performing no better than that of New South Wales?

Mr LENDERS (Treasurer) — If there was ever a simple way to describe spreads in borrowing, it is that Victoria has a AAA credit rating, so agencies rate us at that. New South Wales has a AAA credit rating, so agencies rate it at that, and that is what it is priced at. It is priced on the rating of a jurisdiction. It is priced on the rating of a corporation. It is priced on those things. New South Wales is obviously under a AAA credit watch following the Barry O'Farrell economic vandalism act.

Victoria is priced on its rating, which is AAA, which is as high as a subnational government can go. It is priced at the rate of AAA for a subnational government, so that is the rating that we get. Maintaining that rating is critical to us, and I would say that if we adopted the spending policies of Mr Baillieu, the Leader of the Opposition, and Mr Ryan, the Leader of The Nationals, in the Assembly, our rating would go down and our costs would go up.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Given TCV's borrowing climate for 2008–09, what will be the impact of the widening spread on the budget sector financing cost?

Mr LENDERS (Treasurer) — Mr Rich-Phillips's question is far better than Mr David Davis's — clearly he has actually researched it — but my answer to Mr Rich-Phillips is essentially the same as my answer to Mr David Davis yesterday. He asked me what is the effect of spreads on the government sector. If he is asking what the effect of spreads is, the reality is spreads are changing. As I start speaking to Mr Rich-Phillips now, the spreads will be at a certain level, and we all know how volatile the markets are. By the time I conclude the answer to this question in about 2 minutes the spreads will probably be different, so for me to give him a quantifiable figure as to the effect on the Victorian budget sector from variations in spreads from Treasury Corporation Victoria is not possible. If I were to ask Treasury Corporation Victoria to stop trying to get the best deal for Victoria in a difficult economic time and start doing some on-the-minute reporting, I might get an answer, but it would be out of date as soon as I got it.

What I can say to Mr Rich-Phillips is that the entire world is on credit watch of sorts. Everybody is watching credit. The spreads are changing on a daily, hourly, minute-by-minute basis sometimes, so to give a quantifiable figure as to what it is right now is just not possible. That is why I will reiterate my point in answer to the earlier question. Five times a year we will report, so I think it is fair to say in response to Mr Rich-Phillips that, as with every other government on the planet, everybody who borrows is under some pressure. We are watching that. We have seen the spreads go up, down, up, down, up, down, up, down all year, and they will continue to do that. I would imagine that the action of the Reserve Bank of Australia in cutting the cash rate by 1 per cent on Tuesday will narrow those spread rates, which is a good news story for Victoria.

Council of Australian Governments: reforms

Mr SOMYUREK (South Eastern Metropolitan) — My question is also to the Treasurer. Can the Treasurer inform the house of the outcomes of the recent Council of Australian Governments meeting, particularly in relation to financial regulation and consumer protection?

Mr LENDERS (Treasurer) — I thank Mr Somyurek for his question and his ongoing interest in consumer affairs and financial markets. What was agreed to at the Council of Australian Governments (COAG) meeting was to bring forward, to accelerate, some of the reforms in financial regulations going forward to take absolute cognisance of the fact that in unsettled international times the obligation of all governments is to try to bring forward some of the reforms already on the table — historic ones — in some of the areas of financial regulation where there was a mismatch of eight state and territory jurisdictions, whether they dealt with responsibility for regulation of mortgages, mortgage broking, margin lending, payday lending, pawnbrokers, credit cards, store credit, investment and small business lending or personal loans, to name but a few. These are areas that have been under the different jurisdictions of eight states and territories. A process was started in March by the Council for the Australian Federation where all nine governments said, 'We can do this better, because it adds greater certainty for consumers and takes away costs for consumers and for business'.

Particularly in the current environment COAG has accelerated these areas, so we have greater certainty and confidence at a time when many financial institutions and products across the planet are under threat — as we have seen particularly in the USA where subprimes and others are under threat. This is an acceleration of a historical program that was started. We hope to bring legislation into all parliaments at the

start of next year to consolidate some of these things. It was a good outcome from COAG. It was one more thing that was being done to one ongoing reform which this government is a part of, but it also deals with some of the immediate issues that are in place to bring that reform forward. I thank Mr Somyurek for his question and welcome a speedy response from COAG.

BankWest: jobs

Mr DALLA-RIVA (Eastern Metropolitan) — My question without notice is to the Minister for Industry and Trade. I note the minister's answer to my question in this place on 10 September this year in which he said, 'It was because of my plan that 700 jobs have been created in just one area by BankWest'. Given the announcement today that the Commonwealth Bank is taking over BankWest, are these 700 jobs still coming to Victoria as promised?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I am pleased that the member has sought to highlight another successful investment in Victoria, and I am very pleased to again be able to talk about these investments. I talked about the 2000 jobs in Satyam yesterday, and today Mr Dalla-Riva has given me the opportunity to talk about BankWest's investment in Victoria.

BankWest has already opened a number of outlets; in fact, I was present at one of them in the city. It offers a different kind of service, which I think Victorians will take up. Whether the entire BankWest operation is taken over by the Commonwealth Bank or not is not a matter for me. That will be a matter for the Australian Competition and Consumer Commission and other regulatory bodies to make decisions on, as well as BankWest itself and the Commonwealth Bank, but I have certainly not received any advice that BankWest will not continue with its program, which will create up to 700 additional jobs in this state. We welcome it to Victoria.

Supplementary question

Mr DALLA-RIVA (Eastern Metropolitan) — I am somewhat concerned that the minister has not sought some reassurance in respect of the Commonwealth Bank's commitment to creating those 700 jobs. Given the importance of the situation in the financial services sector to Victoria, and the role of BankWest as the Commonwealth Bank in that sector, it gets back to when — on what date — is the minister going to release his financial services industry strategy, and is the strategy going to take into account some of these takeover issues that I have just mentioned?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — We have a financial services strategy. It is a strategy that has resulted in things like the investment by BankWest and a number of other investments as well. I have already indicated we will be putting out our Victorian industry manufacturing statement, and I can assure the member there will be a section in that statement that will be devoted to the financial services industry.

Australian Synchrotron: supercomputer

Mr PAKULA (Western Metropolitan) — My question is to the Minister for Innovation, and I ask the minister to inform the house how the Brumby Labor government is supporting new collaborations to deliver supercomputing capabilities to the Australian Synchrotron which will lead to exciting advances in biomedical knowledge and clinical application into the future.

Mr JENNINGS (Minister for Innovation) — I thank Mr Pakula for his question and the opportunity to talk about the great new supercomputing facility we will have at the Australian Synchrotron. Members in the chamber would be aware that the Premier and I in San Diego and the Minister for Information and Communication Technology in Victoria, in collaboration with Professor Glyn Davis of Melbourne University, announced a major life sciences supercomputer facility that will be one of the largest facilities in the world, to underpin our life sciences capability.

I took the opportunity at last week's eResearch Australasia 2008 conference to take the commitment of this government further by announcing a $1.2 million commitment by the Victorian government to add to a $3.66 million supercomputer facility that will be undertaken in collaboration with the Australian Synchrotron, CSIRO, Monash University and the Victorian Partnership for Advanced Computing. This supercomputer will have the real-time capability of analysing very important medical imaging research that is being undertaken in the imaging beamline that I have previously talked about in the chamber. It has very exciting capabilities. Three trillion computations will be able to be undertaken, and that is more words than I can put into a minute! That is a quite extraordinary capability. This will be undertaken at the synchrotron, and it is something that this community can be extremely proud of into the future.

Planning: Macedon Ranges

Mrs PETROVICH (Northern Victoria) — My question without notice is for the Minister for Planning. Prior to 2000, Macedon Ranges had included a statement of planning policy no. 8 in its local municipal strategic statement, which offered a level of protection to the Macedon Ranges. I ask Minister Madden whether he will undertake to finally give Macedon Ranges the same planning protection afforded to the Shire of Yarra Ranges and the Mornington Peninsula — protection which has been eroded by his government's one-size-fits-all planning scheme.

Hon. J. M. MADDEN (Minister for Planning) — I welcome the question from the back bench of the opposition, because I know members on the front bench of the opposition would be embarrassed about asking that question. I know why they would be embarrassed, because I have in my hand a press release from the Shire of Macedon Ranges mayor, Cr Noel Harvey, criticising the comments of the opposition. I will read some of it out.

Honourable members interjecting.

The PRESIDENT — Order! Mr Guy is warned. I am on my feet and I expect him to respect that. The house will come to order.

Hon. J. M. MADDEN — I will read the press release out because it is pretty accurate. I make the comment that in no way has the government had any input into this press release at all. I will read it out because Mr Guy has also made comments in relation to this.

An honourable member interjected.

Hon. J. M. MADDEN — I think at the moment I am the only one without glasses in this chamber.

Mr Atkinson — On a point of order, President, I draw your attention to the fact that the minister in using the material he is referring to at the moment is debating the question and is also seeking to overtly criticise the opposition rather than responding to the question.

The PRESIDENT — Order! Mr Atkinson is correct in his statements about overt criticism and debating. Unfortunately I was distracted whilst talking to the Clerk about another matter, but also the minister has form in this regard, and I ask him to be conscious of that and to continue his answer in the normal fashion.

Hon. J. M. MADDEN — That is about the only time there has been a comment about my having any form at all in my life, so I thank the President very much.

Before I go back to where I started, and without contradicting anything the President said, can I say that statement of planning policy no. 8, which the member referred to, was prepared in 1975 as a regional strategy. Mr Guy was still wearing shorts to school in 1975, but he wants to take us back there. I am not even sure Abba had released their hits in 1975.

Mr Jennings — *Waterloo* was out then.

Hon. J. M. MADDEN — That is right; *Waterloo* might have been. I could go on to list all of the Abba hits, but I will not. I will do justice to the question. I am trying to keep my answer concise.

What the opposition is asking for in this regard was developed in 1975, so basically what opposition members are asking us to do is to go back 30 years — and their form across those 30 years has not been that flash. We know that the Maclellanesque policies of old failed considerably. That was a regional statement, and during those 30 years councils were sacked, commissioners were appointed and councils were amalgamated. Now the strategies of the respective councils are more holistic and broader.

The key drivers of this are very much the strategies of local government, not necessarily a policy from 30 years ago. If the opposition wants to take the retrograde step of going back to policy of 30 years ago, good luck to them, because it might be the first bit of policy we get out of the opposition on anything other than a pipeline across Victoria.

Supplementary question

Mrs PETROVICH (Northern Victoria) — Minister Madden may not care about protecting the Macedon Ranges, but I do. Can the Minister for Planning explain to me whether under his government's state planning policies Macedon Ranges have a landscape character, like the Yarra Ranges, or are they more similar to metropolitan Melbourne?

Hon. J. M. MADDEN (Minister for Planning) — We have done more than any other government in the history of this state in relation to giving protection to rural and urban amenity. If members opposite understood planning policy and the mechanisms by which the planning system operates, they would understand that you do not just solve all the problems with one statement; you have to back it up with a whole lot of things, and I refer back to the press release I hold in my hand.

Strategic planning is important, but it is protected by significant overlays — vegetation protection overlays, significant landscape overlays, wildfire management overlays and consistent work in this area. That reflects the comments of the mayor, who is quoted in the press release as saying:

> Mr Guy is suggesting we should retain a planning policy that is 30 years old and is no longer strong enough to protect the sensitive environment that the council is committed to protecting.

Unprompted by the government, the council is making comments which reflect that our mechanism, our policy, our plan, will help protect those areas. We are committed to protecting the urban and the rural amenity of communities. We are committed to working with communities, but we know the record of the opposition over 30 years.

Let us go back 30 years to the Maclellanesque days of old. Let us call everything in and make ham-fisted decisions like the opposition did because it could not get policies or programs right in the first place. We know that the opposition would want to take us back there.

Gippsland Lakes: algal bloom

Mr HALL (Eastern Victoria) — My question without notice is directed to the Minister for Environment and Climate Change. I refer the minister to the algal blooms in the Gippsland Lakes that have had a severe impact on water quality and subsequently on tourism earlier this year. I raised this matter in this house, in this forum, on 5 February this year. Will the minister now advise the house what action he has taken since then to minimise the chance of further algal blooms this summer?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr Hall for his question and his ongoing concern about this matter. I know he raised it quite sincerely in the context of his concern about resource allocation, on which there had been significant undertakings by our government to provide support not only through the Gippsland Lakes coordinating council but also through other agencies such as the local catchment management authority to provide a variety of interventions and to support those in the Macalister Irrigation District to make sure we account for the nutrient flow into the Gippsland Lakes.

In my answer, as Mr Hall will well and truly remember, I talked about the cumulative efforts of management regimes within the lakes themselves and within the catchment. He acknowledged, I think, by his body language at the time, probably because he understands land management issues, that many of the works that need to be undertaken occur higher up the catchments to ensure that we do not have nutrient flows continuing within the lakes.

I have continued to work with the both the catchment management authority and the Gippsland Lakes coordinating council to try to ensure the ongoing effectiveness of those programs. It is my intention in the near future — it will probably not come as a great surprise to Mr Hall as to when — to engage with the local community on those matters and to work with the coordinating council on taking that work further.

We have talked about the business case to go forward in terms of ongoing works that may be required, and we are keen to continue the strategy that has been very successful, within the limitations that the natural environment has created for us — that is, the combination of fires and floods that have led to the nutrient load and the algal bloom — to mitigate those in the future.

Supplementary question

Mr HALL (Eastern Victoria) — The minister and I concur on the importance of nutrient management for the health of the Gippsland Lakes, so I ask: can the minister confirm that the state government funding for that nutrient management program expires early next year and that no further funding is committed? If this is so, I suggest to the minister that it would be entirely appropriate for him to commit to a new funding round when he arrives in Lakes Entrance next week.

Mr JENNINGS (Minister for Environment and Climate Change) — I note the suggestion Mr Hall has given me, and I thank him for it.

Sitting suspended 12.38 p.m. until 1.45 p.m.

ABORTION LAW REFORM BILL

Second reading

Debate resumed.

Mr FINN (Western Metropolitan) — Before question time and the luncheon adjournment I was referring to a legal opinion provided by Timothy Ginnane, SC, and Julian McMahon with reference to this bill. The part I was speaking about at the time of the interruption — if I can be so crass as to refer to it that way — was clause 8(1), and in particular the uncertainty it creates for medical practitioners. As I pointed out prior to the break, the problem is that the

medical profession says it needs certainty, and in some areas this bill does give certainty, but in other areas, according to this eminent legal opinion, the uncertainty is magnified by the bill — so it creates more problems than it solves.

The legal opinion goes on to say:

> Of the possible meanings of clause 8(1), the most logical is the third possible interpretation we have listed in paragraph 15(c), namely, where a practitioner has a conscientious objection in the particular case concerned. However, the difficulty with this interpretation is that the clause does not refer to 'conscientious objection to the abortion', but to 'conscientious objection to abortion'.

There is some significant difference there. I think you could keep a fleet of lawyers going for quite some time on the exact meaning of those terms.

It continues:

> Both of the other interpretations we have listed in paragraphs 15(a) and (b) have unsatisfactory consequences. If the interpretation in paragraph 15(a) is correct, then a practitioner who had a conscientious objection in some circumstances but not in other circumstances would not be obliged to refer, even if he or she had a conscientious objection in the circumstances of a particular pregnancy.
>
> On the other hand, if the interpretation in paragraph 15(b) is correct, a practitioner would be obliged to refer even if she or he did not have a conscientious objection in the case of the particular pregnancy.
>
> There is a further unsatisfactory consequence of the way clause 8(1)(b) operates regardless of which of the interpretations listed in paragraph 15 above is correct. When the obligation to refer is triggered, it applies even if the woman wishes to receive the advice of the initial practitioner despite having been told of that practitioner's conscientious objection. The bill leaves uncertain whether the practitioner is free to proceed to give advice to the woman and whether the mandatory referral limits what the initial practitioner may then advise.

So there we have further complication and further confusion with this legislation. You would have to say clause 8 of this bill is a total dog's breakfast. Nobody would quite know — certainly the doctors would have no idea — what they should and should not or can and cannot do, and the women themselves would be at a loss to know what to do. The opinion goes on to say:

> Difficulties also arise in relation to the identification of the responsibilities of the health practitioner to whom the woman must be referred. Clause 8(1)(b) could be read so that the health practitioner with a conscientious objection must refer the woman to a health practitioner who has no conscientious objection to abortion under any circumstances. Alternatively, it could be read so that the obligation is to refer the woman to a health practitioner who has no conscientious objection in the circumstances of the woman who is seeking advice about or the performance of abortion. If the latter is the case, the referring health practitioner will need to find out in relatively detailed terms the beliefs about abortion of each of the colleagues to whom the practitioner might wish to refer a woman. In practical terms, this would seem to be an unworkable outcome for many practitioners.

Again we go further and further into the mire that this legislation presents. It is worth repeating that last line: 'In practical terms this would seem to be an unworkable outcome for many practitioners'. How is the government going to make this work? That is the big question.

> A distinctive feature of the bill (to which we return in our discussion of 8(3)) seems to be the underlying assumption of its drafters that each registered medical practitioner is qualified to (and therefore can be compelled to) advise in relation to or perform or supervise an abortion. This means that the obligations to disclose a conscientious objection, and to refer a woman, arise even if the practitioner is a specialist not practising in areas relating to maternity or abortion, or even if the practitioner has made clear to women in advance that he or she does not provide advice or assistance in relation to abortions.

We therefore have a situation here where a doctor who has absolutely no experience or knowledge in this area at all could be forced into either committing an abortion or referring someone to have an abortion committed. That is something I find highly irregular, to say the very least. The opinion goes on:

> In this context we note that, read literally, a medical practitioner could fulfil his or her obligations under clause 8(1)(b) by referring the woman to another health professional who has no conscientious objection to abortion in any circumstances but who has no relevant training or experience.

If this is taken to the extreme, we could see a doctor getting themselves off the hook and clearing their conscience by passing a woman on to another health professional with absolutely no experience. This clearly would put the health and perhaps even the life of the pregnant woman — and certainly the life of the pregnant woman's child — at stake. Why, I have to ask, would this Parliament be considering putting legislation forward that would allow that to happen? This is — and I will say it again — very bad legislation.

The legal opinion returns to the operation of clauses 8(3) and 8(4) of the bill.

> Clauses 8(3) and (4) of the bill provide that:
>
> (3) Despite any conscientious objection to abortion, a registered medical practitioner is under a duty to perform an abortion in an emergency where the abortion is necessary to preserve the life of the pregnant woman.
>
> (4) Despite any conscientious objection to abortion, a registered nurse is under a duty to assist a

> registered medical practitioner in performing an abortion in an emergency where the abortion is necessary to preserve the life of the pregnant woman.
>
> We note that the approach taken in Victoria differs from that taken in other jurisdictions, which in general terms specify that nothing in the legislation dealing with abortion imposes a duty to participate in the performance of an abortion. That approach tends to avoid the difficulties created by the Victorian approach.

In other words, from this opinion it would seem that Victoria is the only state in Australia which compels doctors to either perform an abortion or refer for an abortion. Is that not a great thing to be proud of! If this legislation is passed, Victoria really will be the abortion state, because we will be the only state that compels a doctor to either perform an abortion or refer a patient on to someone who would perform an abortion, whether they be qualified to do so or not. The legal opinion says:

> The duty referred to in clause 8(3) seems to have the consequence of requiring a medical practitioner with a conscientious objection to perform an abortion even if he or she does not have the training or experience or ability to do so. This presumably is not the intention of the bill —

you hope not; you would hope it would not be in the intention of the bill —

> but it is difficult to read the clause in a way that avoids that conclusion. The preferable course is to leave the matter to the professional judgement of the medical practitioner, as is the usual course in medical practice.

I think these eminent legal minds have it pretty right. This bill has an extraordinary hold in allowing a medical practitioner who does not have, as this opinion says, the training, experience or ability to perform this particular operation to go ahead and do it anyway. Again, that is a gaping hole in the legislation and a big threat to the health of women. The opinion continues:

> Clause 8(3) fails to deal with the situation of a woman who, for her own conscientious reasons, does not wish the abortion to be performed even if it is necessary to save her life.

That is a very interesting one. I wonder if we could have this situation: a woman is taken to an emergency ward or a casualty or emergency section of a hospital; it is deemed that she needs an abortion to save her life; she is awake, she is conscious and she is aware of what is happening around her; and she is told that she needs an abortion to save her life — but she does not want one. She is the one who has the conscientious objection. In that circumstance I wonder where that would leave her, because according to this legal opinion, clause 8(3) fails to deal with that situation at all. It fails to deal with the situation of a woman who, for her own conscientious reasons, does not wish an abortion to be performed.

We could have a situation where the doctor is saying, 'I have to perform the abortion, or I'll be charged. The law says I have to perform the abortion', and the woman is saying, 'But I don't believe in abortion'. Would they have a stand-up blue in the middle of the casualty ward? What sort of legislation would allow this to happen? This is not about who is pro-life and who is pro-abortion; this is bad and shoddy legislation. It is bad law. The more I hear and the more I read about it, the more I understand why the Attorney-General voted against it.

The conclusion in this opinion is as follows:

> In summary, in our opinion the bill if enacted will cause a range of serious uncertainties for health practitioners, because:
>
> > whilst the bill recognises the importance of providing safeguards in the case of an abortion performed after 24 weeks pregnancy, the safeguards provided in the bill are so vague and procedurally empty of content that they are, for all practical purposes, illusory —

in other words, they do not exist. As I was saying yesterday, this bill is about abortion on demand up to birth. That is what this bill is about. The conclusion continues:

> > it is unclear whether clause 8(1) applies only when a practitioner has a conscientious objection to all abortions, or whether it also applies when the practitioner has an objection to some abortions — for example, where an abortion is sought because of the age, disability or gender of the foetus;
> >
> > it is unclear whether clause 8(1) requires a referral to a practitioner who has no conscientious objection to any abortions, or whether a referral can be given to a practitioner who has objections only to some abortions …

I suppose there would be some doctors who might understand what that means, but I would suggest far more doctors would not have a clue and would be as confused as the rest of us. It continues:

> > clause 8(3) on its face requires a practitioner to perform an abortion in a life-threatening emergency even if he or she does not have the training or experience or ability to do so. One cannot imagine other legislation requiring a doctor to, say, perform emergency heart surgery, just because that doctor was available, where the doctor had no training, ability or experience to do so …

We are actually putting people's lives at risk. I am not just talking about the baby here; I am talking about putting the mother's life at risk. In the case of an 'emergency abortion', we are forcing doctors to perform

an abortion even though they may never have performed an abortion; they might not have the faintest idea of what they are doing, and they may have no experience and no ability in this particular area. Here we have a law — a piece of legislation — which will force these doctors to commit an abortion even though they will not have a clue what they are doing. Is that madness? What sort of legislation are we dealing with here?

Finally, Timothy Ginnane and Julian McMahon sum up the bill by saying:

> The bill contains no requirement that the women give informed consent to the abortion. For instance, a woman may prefer not to have an abortion even when she thereby endangers her life.

You have got to wonder if this aspect of the bill goes along with the argument about choice at all, because as I explained a moment ago, you could have this situation where a doctor must perform an abortion to adhere to the law and a woman does not want to have an abortion, and the two obviously will not be coming together at any time in the foreseeable future. Who will win that argument? If the woman wins, will the doctor have broken the law and will he feel the ramifications of that?

This law is a very strange law. Even when you look at it away from the arguments — the pros and the cons about abortion — this is very bad law indeed. We find further evidence of bad law in another joint opinion of barristers Neil Young, QC, and Peter Willis. They have considered the Abortion Law Reform Bill, and they have made some interesting observations with regard to a matter that was raised with you, Mr President, by Mr Peter Kavanagh at the beginning of this debate yesterday with regard to the Victorian Charter of Human Rights and Responsibilities. Their opinion begins by saying:

> (1) It is appropriate to measure the bill against the Victorian Charter of Human Rights and Responsibilities, given the high principles which the Parliament espoused in enacting the charter and the fundamental importance of the human rights set out in the charter …
>
> (2) Section 48 of the charter (a savings provision at the time of the introduction of the charter, designed to preserve the status quo on abortion from being changed by judicial interpretation based on the charter) does not prevent the charter applying to the bill or to its provisions, if enacted …

That is very different to what the government has been telling us:

> (3) Clauses 7 and 8 of the bill potentially affect human rights in three areas: freedom of thought, conscience, religion and belief (section 14 of the charter); the right to hold an opinion without interference (section 15(1) of the charter); and freedom from forced or compulsory labour (section 11(2) of the charter) …
>
> (4) Clause 7 of the bill does not impose a statutory duty on a pharmacist or a nurse to comply with a doctor's direction. For that reason, clause 7 does not infringe human rights in the charter or international law …
>
> (5) However, clause 7 highlights a gap in the bill —

yet another gap in the bill.

> There is no express statement in clause 7 to the effect that a registered pharmacist or nurse may decline to carry out the direction of a registered medical practitioner to supply or administer an abortion-inducing drug where he or she has a conscientious objection to doing so. While clause 7 imposes no statutory obligation to comply with that direction, the absence of a statement of the right of conscientious objection may create a risk that a pharmacist or nurse who declines to carry out a doctor's direction will be confronted with allegations that they have breached their contract of employment or that they are liable to professional disciplinary action.

Can the house believe that? Here in Victoria in 2008 we are faced with legislation that will force people to do something they are fundamentally opposed to at their very core, under threat of breaching their contract of employment or some sort of disciplinary action. The opinion goes on:

> (6) The conscientious objection provision in clause 8 of the bill encompasses pharmacists and nurses, but it does not fill the gap. Clause 8 is directed to a different set of circumstances. It is doubtful whether clause 8 extends to a pharmacist or nurse who is directed to act under clause 7 …
>
> (7) Clause 8 of the bill may be unduly narrow in two ways. It only applies where the health practitioner is dealing with the patient, not with a fellow professional. It only applies where the health practitioner is providing advice about an abortion or performing or directing an abortion …
>
> (a) There may be parts of clinical practice involving abortion that fall outside clause 8(1). For instance, registered health practitioners may be involved indirectly under their contract of employment — a pharmacist or nurse employed by a hospital or another practitioner may be involved indirectly in supplying or administering drugs to the woman …
>
> (b) Nurses or other health practitioners might potentially be involved in aspects of an abortion procedure where they are not administering or supplying a drug or providing requested advice. Clause 8 does not recognise their right of conscientious objection in that case.

I know a number of nurses — obviously I would know a number of nurses because my wife is a nurse — who have expressed fury to me because they are being

wiped on this one. This clause wipes them altogether. The anger of the nursing profession towards this legislation knows no bounds. I cannot believe this government and those who put this legislation together could possibly hold the nursing profession in such contempt, but it is obvious from the bill that they do. If we support this legislation, if we vote for this bill, we too will be holding the nursing profession in total contempt. That is something I do not intend to do.

I go to point 8 of this opinion, which says:

> Compared to legislation in other jurisdictions, clause 8 is unusual —

there is an understatement! —

> in that it does not state a right of conscientious objection or define the extent of the right. Rather, clause 8 assumes the existence — —

Hon. T. C. Theophanous — On a point of order, President, I have been listening to the member on his feet for some time. He has been speaking for a considerable period of time. He is voting against the bill, as am I. He has a right to express his point of view — and I have listened to it — but he does not have the right to come into the house and simply read documents into *Hansard*. He has a series of documents, and he continues to get up and simply read somebody else's point of view or some other opinion of somebody else. This place is about telling people what you believe from the heart — —

The PRESIDENT — Order! The minister started talking about members' rights. The minister is entitled to raise a point of order, but he is not entitled to debate it. I ask him to get to his point of order quickly.

Hon. T. C. Theophanous — My point is that under standing orders members must give their own speech. They are not allowed to simply slavishly read opinions they have from someone else into *Hansard*.

Mr FINN — On the point of order, President, as I am sure you would be aware, I have been using expert opinion as a basis for my argument against this bill, but I have also been very careful to ensure that I inject my own view — my own commentary, if you will — into those opinions as we have gone along. I have done that on every occasion without fail, and on that basis I have been complying with the standing orders.

The PRESIDENT — Order! On both points of order, like Minister Theophanous I have listened intently over a long period of time to Mr Finn's impassioned contribution to the debate on this bill. Initially I felt he was in breach of the standing orders by reading verbatim from different notes and the like — in fact, early in Mr Finn's contribution yesterday I asked him to explain what he was referring to. However, being the experienced operator that he is, Mr Finn has been very — dare I say it — clever in how he has managed his copious notes and his referrals to other people's comments and opinions while adlibbing on a regular basis. His capacity to do that has convinced me that he is still in order. However, I think the point that has been made by Minister Theophanous is noteworthy. To date Mr Finn has been more than conscious of that issue and has handled his tactic well. I hope he continues to do so and does not force me to do something that might not be in the best interests of the debate.

Mr FINN — I assure you, President, that I will not be doing anything that might cast an unfavourable shadow on this debate. As you, President, and Minister Theophanous might be aware, when I am reading I will have my glasses off and when I am adlibbing I will have them on. That might help you to judge how I am going in this debate.

The opinion continues:

> (9) In this regard, the bill falls short of well-recognised interstate and international models … This shortcoming in the bill should be addressed for the following reasons:
>
> Conscientious objection is a fundamental human right —

I do not think anyone in this Parliament would disagree with that —

> It is a necessary and integral part of the right of freedom of thought, conscience, religion and belief.

Again I think that is a pretty fair summation.

Hon. T. C. Theophanous — You should have put your glasses on for that!

Mr FINN — Yes, I should have; I am sorry. The minister is spot on — he is on the ball, this bloke.

The opinion continues:

> It is universally acknowledged that there are persons who have a genuine objection to abortion, based on their conscience, religion or belief. The issue is not an abstract one.

Mr Leane — An ad lib is coming!

Mr FINN — Not yet, Mr Leane. I resume quoting from the opinion:

> The circumstances in which health practitioners may wish to take conscientious objection to their involvement in abortion procedures are potentially wider

> than the circumstances described by the introductory words of clause 8.

Mr Leane — Here it comes.

Mr FINN — Yes, here it comes. That pretty much sums up the area with conscientious objection. People do come from a wide range of areas and have a wide range of views on this matter. For the bill to proscribe conscientious objection as something that medical practitioners, nurses, health professionals — —

Honourable members interjecting.

The PRESIDENT — Order! I make the point I have noticed there is a tendency for an increased number of interjections, which causes me some concern but not grief. I will cause someone else some grief if they continue. I want the house to be respectful of this debate and understand, as I know members do, that interjections can get out of hand very quickly and cause some unhelpful problems in the chamber.

I can recall at least three occasions now when Mr Finn has given the chamber an explanation about conscientious objection. That, in my view, is teetering on tedious repetition. I do not know how many times he needs tell the house about conscientious objection, but I am quite sure members are more than aware of it. I ask him to consider the fact that he has already explained conscientious objection on numerous occasions.

Mrs Peulich — On a point of order, President, I have also been listening intently, and I do not wish to cast a reflection on the opinion you have just given, but I am keenly interested in this concept, my having been born under a Communist regime where there was no such thing as conscientious objection. I am particularly interested in the illumination.

The PRESIDENT — Order! There are rules about debating points of order. I refer to standing order 12.14, under the heading 'Irrelevance or tedious repetition':

> Any member may call attention to continued irrelevance or tedious repetition on the part of a member addressing the Chair, and the President or the Chair, as the case may be, may direct such member to discontinue his or her speech.

I am giving some leeway on this issue. I am simply reminding the member that he has on numerous occasions already raised the matter of conscience objection and explained his point clearly and succinctly. It is an important aspect of this debate, but the member has made that point.

Mr FINN — It is interesting to note, according to this legal opinion — and I think every member should take note of paragraph 9 of the opinion:

> Comparable legislation in the United Kingdom, New Zealand, the Australian Capital Territory, Western Australia, South Australia, Tasmania and the Northern Territory contains a clear statement of the right of conscientious objection.

The UK, New Zealand, the ACT, Western Australia, South Australia, Tasmania and the Northern Territory all say that conscientious objection is a right in law, but in Victoria, under this legislation, it just will not exist. Paragraph 10 of the opinion continues:

> It would be a simple step for the bill to recognise a general right of conscientious objection. This could be done, for instance, by including a provision modelled on section 4 of the Abortion Act 1967 of the United Kingdom to the following effect:
>
> 1 [Subject to this section] no person shall be under any duty, whether legal or contractual, to perform or participate in any act authorised by this Act to which the person has a conscientious objection.

That seems to me to be a perfectly reasonable thing — —

Hon. T. C. Theophanous — On a point of order, President — —

Mrs Peulich — This is ridiculous!

Hon. T. C. Theophanous — I am going to keep doing this!

Mr FINN — I will keep doing it!

Hon. T. C. Theophanous — That's fine.

The PRESIDENT — Order! If Mr Theophanous wants to have argy bargy across the chamber when I am on my feet, after he has raised a point of order, he may not be here to debate that point of order. Mr Finn may also be sat down as well. I will not allow this debate to get out of control.

Hon. T. C. Theophanous — On a point of order, President, the member is flouting your previous ruling in that he is continuing to debate the point on conscientious objection.

The PRESIDENT — Order! I am strongly of the view that I understand where the minister is going with his point of order. I am more than capable of deciding whether the member is flouting my previous ruling on the issue of conscientious objection. The fact that he is referring to conscientious objection is not my ruling. My ruling is his constant description of conscientious

objection. The member reading his notes is allowable as long as it is not a verbatim speech.

As I said earlier — I said 'clever' before and I almost said 'masterful', but I may be misleading the house — I am not uncomfortable with the way the member is handling the debate. I know the member has been going for quite some time and there may be some members who are feeling some pressure in that regard, but the debate is what it is and as long as the member maintains his current style, he is in order.

Mr FINN — To repeat that suggestion by these eminent legal minds, the section 4 provision in the United Kingdom Abortion Act states:

> [Subject to this section] no person shall be under any duty, whether legal or contractual, to perform or participate in any act authorised by this Act to which the person has a conscientious objection.

I think that is a pretty reasonable suggestion. I know Minister Theophanous is to put up a similar amendment on conscientious objection. That may be something the minister can take into consideration at the appropriate time.

The legal opinion continues in point 11:

> Clause 8(1)(a) appears to infringe the freedom of thought, conscience, religion and belief, contrary to article 18 (2) of the … [charter]. The UN Human Rights Committee has ruled that under this article "no-one can be compelled to reveal his thoughts or adherence to a religion or belief".

It would appear this bill is in contravention of the Charter of Human Rights and also in contravention of the United Nations Human Rights Committee. That is not something I usually get excited about.

It is worth pointing out that a body such as the United Nations may well take some interest in this bill if it were passed. I would hate to see a piece of Victorian legislation held up before the United Nations human rights commission for scrutiny.

In point 12 the opinion states:

> It is strongly arguable that the requirement to state a conscientious objection in the circumstances described in clause 8(1)(a) is a limitation on the rights of freedom of thought, conscience, religion and belief and the right to hold an opinion without interference as set out in sections 14 and 15 of the charter. (However, counsel ultimately conclude on balance that there is no limitation or that, if there is, it would be regarded as reasonable and justified under section 7(2) of the charter).

Paragraph 13 states:

> Clause 8(1)(b) cannot be interpreted or applied consistently with the human right set out in section 14 of the charter.

The reference to the charter might be getting a little tedious for some, but we must remember that this government holds the Charter of Human Rights and Responsibilities as something that is well nigh sacred. Those members who were in the chamber at the time might recall that in my maiden speech in this house, almost two years ago now, I was critical of the charter. Such was the reaction of the government that I thought the roof was going to cave in. It regards the Charter of Human Rights and Responsibilities as the holy of holies. It is very important that we see from this legal opinion how this legislation stacks up with the charter that the government regards as so important.

That point continues:

> The imposition of a mandatory statutory obligation to refer a woman to another health practitioner who does not have a conscientious objection to abortion interferes with the first practitioner's right to freedom of conscience.

That is clear — freedom of conscience. That is a contravention of the charter. The opinion continues:

> This is because it requires the objector to participate in a process to which he or she has a conscientious objection.

Paragraph 14 states:

> Compulsory referral is incompatible with section 14(2) of the charter.

As this clearly points out, we are talking about compulsory referral, a very important part of the bill, one which has upset large sections of the medical profession — it has certainly upset the Australian Medical Association (AMA) — has upset the Catholic Church and various other religious groups and, in fact, has threatened the existence of large sections of the Catholic health industry. Archbishop Denis Hart has threatened to curtail or even close hospitals if this compulsory referral section of the bill is carried through. Clearly this opinion backs it up where it says:

> Compulsory referral is incompatible with section 14(2) of the charter. The objector is being coerced in a way that limits his or her rights; it does so by requiring the health practitioner to provide a referral for purposes to which he or she conscientiously objects on religious or moral grounds.

Point 15 states:

> For the same reasons, compulsory referral breaches articles 18.1 and 18.2 of the International Covenant on Civil and Political Rights.

Point 16 states:

> Clause 8(1)(b) cannot be justified by recourse to section 7(2) of the charter.

Point 17 states:

> Clauses 8(3) and (4) override conscientious objection. No comparable legislation is expressed in these terms. Generally speaking, comparable legislation tends to use more nuanced and open terms when dealing with emergencies. For example, the UK Abortion Act 1967 provides in section 4(2) that 'nothing in subsection (1) —

the conscientious objection provision —

> shall affect any duty to participate in treatment which is necessary to save the life … of a pregnant woman'.

There we have once again the extreme nature of the legislation before the house. Many pieces of legislation interstate and overseas allow the medical practitioner and the health professional to have a conscientious - objection. It is very important, as I pointed out — as the President has heard — that this legislation does not allow that. It is a clear contravention, in my view, of not only a number of charters but also of human dignity itself.

Point 18 of the legal opinion states:

> The UK conscientious provision and comparable provisions in South Australia and Tasmania:
>
> a. leave for determination, by reference to the facts and circumstances of the individual case, the nature and extent of the practitioner's duty to the pregnant woman; and
>
> b. leave open the possibility that the practitioner can discharge his or her duty to the woman by other means, such as by finding another qualified person to deal with the emergency.

Point 19 states:

> Clauses 8(3) and (4) of the bill are a limitation on the freedom of thought, conscience, religion and belief in section 14 of the charter.

That is a particularly strong statement, that these eminent legal minds would say that two subclauses of the bill are a limitation on the freedom of thought, conscience, religion and belief in section 14 of the charter. I have to wonder what business the government, much less the house, has in limiting freedoms in these areas. The freedom of thought is a difficult one at the best of times, but when we get into placing limits on matters of conscience, religion and belief, what sort of a country are we living in? I have to ask the question: what sort of country are we living in when governments can dictate to individuals what they can believe in, what their religious beliefs might be, how they can think and what they can think? That is what we are talking about here.

The Young and Willis joint opinion continues:

> The essential reason is that subclauses (3) and (4) compel a medical practitioner or registered nurse, despite their conscientious objections, to perform an abortion in an emergency. They are thus compelled to undertake a course action which they would not voluntarily engage in and which is contrary to their religious beliefs.

Here we have government coming in over the top and telling nurses, doctors and health professionals what they have to do in a clinical situation. We have politicians and bureaucrats telling doctors at the coalface what they must do. Apart from anything else, it is clinically quite obscene for that situation to occur. Surely, as we have so often heard in this debate over many years, that contravenes the link between patient and doctor. Surely, if politicians and bureaucrats are telling doctors what they must do, does that contravene the doctor-patient relationship? I would have thought so, so this argument that has built up on this issue over such a very long period of time is shot down in one fell swoop with this legislation.

Paragraph 20 of that opinion states:

> Clauses 8(3) and (4) would be incompatible with the human right recognised in s 14 of the charter if s 7(2) of the charter is put to one side. There is scope for reasonable minds to differ about the application of s 7(2) of the charter to clauses 8(3) and (4) … (In counsels' opinion, on balance, to the extent that clauses 8(3) and (4) of the bill impose duties that are inconsistent with the human rights in the charter, they address a life-threatening emergency, and in that circumstance they can be justified on the ground that they impose reasonable limits within s 7(2) of the charter.)

There we have a fairly hefty couple of legal opinions as to why this bill should not be passed by this house and should never become law in the state of Victoria. As I have said, these arguments are not based on who is pro-life, who is pro-abortion or whether we believe life begins at conception or at 24 weeks. That just does not come into it.

This is about what is good law and what is bad law. This is something that lawyers make a living arguing about. If this legislation is passed, I have no doubt it will end up in the Supreme Court of Victoria or indeed ultimately the High Court of Australia. If we do not make laws properly, we are not doing our jobs properly. We are legislators and law-makers. If we have a piece of legislation before us that is not up to scratch, then we have got to fix it — and fix it now!

I think my opinion is obvious to anybody who has been listening to the debate — that is, that this law has more holes in it than Swiss cheese. It is legislative Swiss cheese, and surely it falls within the responsibility of this house to fix it. It was rushed through the other place, and here, in the Legislative Council as a house of review, we have a total obligation to fix this bill before it goes any further.

I have a number of other opinions that I could go through at some length, and I am tossing up in my mind whether I should do that. I can see from the look on your face, President, that perhaps I should not, so I will put them to one side. But I point out that the two opinions I have gone through at some length are not the only ones to show that this bill is as rotten as a chop left out in the sun during February. Apart from our views on abortion — let us leave them to one side — this bill is bad law. It is crook. Let me assure the house that there are other opinions, and if members would like me to do that, I would be happy to do so, but I see there might not be the joy that there once was for me to do that, so I will not.

I might begin to summarise my contribution in this particular debate by referring to somebody who might be held up in some regard by some members of this house, not necessarily myself, but certainly some members — that is, Hubert H. Humphrey. He was the Democrat vice-president of the United States of America to Lyndon Baines Johnson. Prior to being vice-president he was a senator for Minnesota. In 1968 he was the Democrat presidential candidate against Richard Nixon. He had a history of pushing for civil rights in the United States and said in a speech to the Democratic national convention in 1948:

> The time has arrived in America for the Democratic Party to get out of the shadow of states' rights and to walk forthrightly into the bright sunshine of human rights.

This civil rights activist also delivered a speech on 4 November 1977 at the dedication of the Hubert H. Humphrey building in Washington, DC. He said:

> It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped.

This year we have had introduced in this place a bill which proposed to euthanase the elderly, the sick and the needy — and let us not forget the handicapped! — and now we have a bill that allows for the abortion of children, especially if diagnostic tests suggest they are handicapped — and let's not get me going on that again! Collectively the euthanasia bill, which was defeated in the last sitting of Parliament, and the bill before us now fail every single limb of the civil rights movement's moral test of government.

It should also be pointed out that this is not just a Catholic issue. It is astonishing that people think, 'Only Catholics worry about that. It is just the Catholics; don't worry about it'. I recall speaking a few years back to a federal member of Parliament who is a friend about an issue related to abortion. He looked at me and said, 'Why would I listen to you? You are a Catholic' — what a great way of looking at life; I am sure he is looking forward to my memoirs coming out; but that is not the way I want people in this community to accept that these concerns are put forward.

Last Sunday I spoke to nigh on 10 000 people at the front of this building. There were members of the Baptists, the Assemblies of God, the Anglicans, the Uniting Church and all sorts of different traditions of Christianity — it was a variety — who had gathered at the front of this building to protest against this bill. I may have been the only Catholic there; I am not sure. I want to make the point that this is not just a Catholic issue. One does not have to be a candidate for the papacy to be opposed to killing babies. That is the bottom line. This is a human issue and a civil rights issue, not a Catholic issue.

I am sure every member of this house would be aware that every time we pass a piece of legislation in this house it sends a message that what we have approved as legislators is okay — that if the legislation has got through Parliament, then it is legal and must be all right. That is the underlying message. What we would be doing if we were to approve this particular bill would be to send a message to the Victorian community that we think abortion is okay.

Having listened to this debate over the course of the last couple of days, I do not think there are too many in this Parliament who think abortion is okay. Even those who are stridently in support of this bill are not of the view that abortion is okay, so why, I have to ask, would we pass a bill and send that message to the community? Why would we tell the rest of the Victorian community that abortion is okay if we really do not think abortion is okay?

That is as contradictory as some of the clauses in this bill. It makes absolutely no sense at all. It seems to me that this bill would put the light on abortion, if you like; no longer would it be in the shadows. For many it would become the first option, the first stop. When a problem pregnancy arose, abortion would be the first option. There is not the slightest doubt in my mind that

the passing of this legislation would increase the number of abortions in this state. I think if this bill is passed, it will only be a matter of time before I am proved right on that one.

Please let us not send the wrong message to the people of Victoria. Let us not increase the numbers of abortions in this state. Let us work together. I have a suggestion as to how we can work together. My view is that this is a great civil rights issue. My view that these children should have the same rights as the rest of us is very strong. I have a three-part plan to allow these children to have the same rights, to change the attitudes we currently have in our society. I put it down to three words: legislate, educate and support.

We need to legislate. I think it was Martin Luther King who said that legislation will not change the heart but it will restrain the heartless. That is absolutely spot-on. I have no doubt that if we passed a bill here today to ban abortion, abortion would not stop overnight, but it would restrain a lot of people. It would stop a lot of those so-called doctors from committing abortions. We need to legislate to protect people. Just as our lives are protected by legislation — I cannot kill anybody in this house, and it is a very good thing just at the minute that nobody in this house can kill me; by law we cannot do that — I want to see a law introduced to have that same protection for every child, born or unborn.

We need to educate. We need to tell people about the humanity of the unborn. We need to educate people about the humanity of the unborn. Over the years we have seen the Transport Accident Commission campaigns, the antismoking campaigns and a number of other campaigns, change attitudes in a way that we would not have thought possible. What is wrong with spending a bit of money on a campaign to tell people that the baby within them is real and is a human being? To run a campaign like that would be highly beneficial to our community.

Unfortunately we have a situation where quite often if private pro-life organisations try to get a television commercial on the air, it is either pulled the minute it gets to air or it is not allowed on the air to begin with. They are the jackboot tactics of the abortion industry yet again. As I said before, the last thing the abortion industry wants is for the truth to get out, and that in itself is very sad.

The last part of the program that we need to change attitudes towards this situation is support. It is obvious from the number of abortions that there are a lot of women who need help through their pregnancy. I believe we as a civilised society have an obligation to offer them that support. We as a civilised society have an obligation to offer anybody in trouble support and assistance but particularly women and children and particularly pregnant women in this situation.

It is my view that we need a system where these women will not feel any pressure or coercion at all to go down to the local abortion clinic and kill their baby. My view has long been that if the best we can offer a pregnant woman who is in trouble is a tram ticket to the abortion clinic, we can hardly call ourselves a civilised society. That is something we really have to do something about, and we have to work at it. It is going to take a bit of work, but my view has always been that the sooner you start on something, the sooner you finish — and that is something I hope we start on very soon indeed.

I was down at the shop this morning and I saw a packet of cigarettes. I do not touch those filthy things, of course — I have not for eight weeks on Friday. On the cigarette packets it had the slogan ‘Smoking harms unborn babies’. I thought, ‘Yes, it does; my word it does’. That slogan, by law, is on the cigarette packet. I looked at that packet of cigarettes, and for one of the first times I did not think about buying it. I just looked at it and thought to myself, ‘Yes, smoking does harm unborn babies, and that is bad’.

I agree with the federal and state governments that smoking is bad, because it harms unborn babies. But I know something else that harms unborn babies too, and do you know what? We are legislating for it today. You can go down to the local 7-Eleven, buy a packet of cigarettes and they will say, ‘Don’t smoke that; it’s bad for unborn babies’. However, come up here and you will get chapter and verse from any number of people about what a wonderful thing abortion is. Do we reckon abortion does not hurt unborn babies? If abortion does not hurt unborn babies, I do not know what does.

It is extraordinary what the human mind can rationalise. We can walk into hospitals and on one floor they are fighting determinedly to save the lives of 21 and 22-week-old babies, and on a floor above they are killing babies of 32 and 33 weeks gestation. We open a newspaper and we see double-page, beautiful colour photo spreads of babies in utero, courtesy of the 3-D ultrasound technology we have, and we wonder at the marvel of life before birth. We then turn the page and there is an editorial calling for abortion on demand. We are very, very strange creatures at times. We send boats overseas to watch the Japanese and try to get them to stop killing whales, but yet we pay to have baby humans killed here in Melbourne and in other cities throughout Australia.

A few weeks ago we celebrated Children's Week — a great week normally, I would have thought. How did we celebrate Children's Week here in the Victorian Parliament? We passed through the lower house this legislation to kill children. We human beings are very strange people sometimes.

This legislation will almost certainly legalise the killing of unborn babies here in Victoria at a time when the rest of the world is going the other way, at a time when *Roe v. Wade*, a ruling that opened the way for the wholesale slaughter of unborn babies in the United States, is on the verge of being overturned. Whilst that is happening, we in this Parliament in Victoria are talking about this legislation: we are talking about opening the floodgates to the killing of children before birth.

In Britain, where for many years they have had abortion on demand up to 20 weeks, they are talking about winding that back to 16 weeks. What are we talking about? No-questions-asked abortion up until 24 weeks. In effect this legislation, 'option C with a twist', as I have called it, opens the floodgates for abortion up until birth.

Why are we doing that? We hear the Premier and our Prime Minister in Canberra saying, 'We have got to be the first in the world'. We are running so far behind on this issue that it is just not funny. The rest of the world is waking up to what they have been doing. People are waking up to what they now must do to resolve the problems that have been created and are continuing, and we are diving headlong into even greater problems in this particular area.

Babies, to me, are very precious — and I can hear one somewhere around here. Babies' lives, to me, are very precious. I believe that for every baby's life that is lost, our society loses a giant chunk of itself. I would hope, beg, plead, whatever, with members of this house to have another look at this legislation, to realise what it does, to consider the babies that it will kill, to consider the mothers and the women it will hurt and to reject this legislation. When the time comes to vote, come over here. Vote against this bill!

If this bill is passed, the Parliament we sit in will forever live in infamy. If you are looking for immortality, vote for this bill; but it might not be the immortality that you are looking for — quite the opposite. Babies' lives are far too precious to be thrown away in the way this bill insists they will be.

Ms PULFORD (Western Victoria) — Finally my time has come to say a few words about the Abortion Law Reform Bill. I will resolutely vote for this bill and oppose all attempts to amend it. I do not intend to comment on amendments that I have not yet seen; it is my intention to confine my remarks to the bill and to the reasons that have given rise to it being in this place.

Induced abortion can be traced to ancient times. The first recorded evidence of induced abortion is from Egypt in 1550 BC, and Chinese folklore suggests the prescription of mercury was used to induce abortions 5000 years ago. Abortion continued despite bans in both the United Kingdom and United States throughout the 19th century, as disguised but otherwise open advertisement of services suggests. In the first half of the 20th century, the Soviet Union, Iceland and Sweden were among the first countries to legalise certain or all forms of abortion. In the latter part of the 20th century in Victoria we had two systems — one for the wealthy and well connected, and one far more dangerous option for everyone else. As with any act operating in the shadows of the law, corruption was rife. Here we are in Victoria in this place, this week, in 2008 — some 39 years after the Menhennitt ruling in the Supreme Court with its innovative interpretation of 'unlawful', which provided that in certain circumstances a woman in Victoria could have a lawful abortion — discussing the Abortion Law Reform Bill.

The bill satisfies the government's previously indicated objectives of providing modern and clear laws that reflect community standards and current clinical practice and, importantly, removes abortion from the Crimes Act. Part 1 of the bill states the purposes of the legislation we are debating and indicates that they are to reform the law relating to abortion and to regulate health practitioners, and to amend the Crimes Act to repeal the provisions that relate to abortion, to abolish the common-law offences relating to abortion, to make it an offence for an unqualified person to perform an abortion, and to amend the definition of 'serious injury' to include the destruction of a foetus other than in the course of an abortion.

The definitions in the bill are the same definitions as those used in the Health Professions Registration Act. This is to provide clarity and consistency for people interpreting these laws. 'Abortion' is defined, and 'woman' is defined as a female person of any age.

Part 2 of the bill is the part that will be in the new act. Clause 4 provides that a registered medical practitioner may perform an abortion on a woman who is less than 24 weeks pregnant, and clause 5 outlines the circumstances in which a pregnancy can be terminated after 24 weeks. This is a consequence of the government's objective to provide to the Parliament

legislation that captures in its essence community standards and current clinical practice. The conditions for an abortion after 24 weeks gestation are that a medical practitioner may perform an abortion if they reasonably believe the abortion is appropriate in all the circumstances and they have consulted one other registered medical practitioner who also believes the abortion is appropriate in the circumstances. The bill provides that the medical practitioner must have regard to all medical circumstances as well as the woman's current and future physical, psychological and social circumstances.

Clause 6 deals with the provision of a drug that can cause an abortion in a woman less than 24 weeks pregnant. This relates to the use of the morning-after pill, which, as members are no doubt aware, prevents the implantation of an embryo. The purpose of that clause is to provide legal certainty for health professionals, in particular pharmacists and nurses.

Clause 7 details the circumstances in which a pharmacist or nurse may assist in an abortion by providing drugs that will cause an abortion and specifies that it must be at the direction in writing of a registered medical practitioner in a hospital setting in a place where they are an employee.

Clause 8 has been the subject of much commentary and arises as a result of the Victorian Law Reform Commission's recommendations about circumstances where a medical practitioner has a conscientious objection to providing abortion services. In this respect the commission's report states in chapter 8.28:

> Evidence gathered in consultation suggests that significant geographic inequities exist in access to abortion by women living in rural and regional Victoria. The problem may be exacerbated by a practitioner's refusal if he or she is the only practitioner in an area, or if all or most practitioners in an area refuse to provide services. This inequity is further entrenched if major regional public facilities do not provide abortion, or if the practitioner refuses to make a referral.

In chapter 8.38 the commission says:

> Our terms of reference require us to ensure the maintenance of current clinical practice standards. If legislative provision is made for people who have a conscientious objection to providing abortion services, the content of any new law is best guided by the principles contained in the AMA code of ethics. That code requires medical practitioners to inform patients of their refusal. The code also requires practitioners to provide women with sufficient information so they may seek and find treatment elsewhere. This simple rule provides an appropriate balance between the needs of the practitioner and the patient.

Obviously, time is of the essence for a woman requiring an abortion, and the notion of an effective referral for the professional 30-something in East Melbourne is quite a different notion to the need for an effective referral for a 15-year-old in Dimboola or Timboon or any other small rural community in my electorate.

Part 3 of the bill makes amendments to the Crimes Act, and the successful passage of this legislation will mean it will cease to be an offence in the statutes for a woman to have an abortion or for a doctor to assist her. Clause 10 replaces the existing child destruction offences, and again the replacement provision is consistent with the wording recommended by the Victorian Law Reform Commission.

The final item in the bill I would like to comment on is clause 11, which replaces the existing sections 65 and 66 of the Crimes Act with new sections. Proposed new section 65 makes it an offence for an abortion to be performed by an unqualified person; and proposed new section 66 abolishes the common-law offences.

This bill was developed over 12 months. The Victorian Law Reform Commission received over 500 written submissions and met with 36 groups or individuals. It was ably assisted by an expert panel which was chaired by Dr Christine Tippett, the president of the Australian and New Zealand College of Obstetricians and Gynaecologists and comprised experts in relevant medical fields.

The report provides a comprehensive analysis of current clinical practice and makes recommendations on options for ways that the government could best decriminalise abortion. The report was made public at the end of May this year, and for a further two months public discussion revolved around which of the options proposed by the VLRC might be the basis for the legislation. In keeping with the government's defined parameters, model B was chosen as the basis for the legislation. In every respect with this bill the government seeks to implement the recommendations of the Victorian Law Reform Commission.

The Menhennitt ruling was made in 1969. This was five years before I and several other members of this chamber were born. Discussions with people my age, with my peers — indeed, women of reproductive age — have yielded some interesting comments, such as, 'Is it really in the Crimes Act? How did it get there in the first place? But if I can just have an abortion now if I need one, what is the point of all this?'. The point of all this is that the laws in Victoria are outdated and in no way reflect what Victorian women expect of their health system.

As a woman representing a large rural electorate, I must comment on the impact of the current legal regime on service provision in country Victoria. I have had the opportunity over the last year while we have been talking about abortion law reform to discuss this issue with many health service providers in my electorate, and these discussions have led me to the view that access to abortion services will be improved for people in rural and regional Victoria as a consequence of the passage of this legislation.

At one public hospital, when I asked the hypothetical question, 'Can I have an abortion here?', I was told there were two answers to the question; I was asked whether I wanted the official one or the unofficial one. The official answer was, 'No, we do not provide abortions here'. When I asked why, I was told, 'Because of the legal uncertainty'. I was told the unofficial answer is, 'Yes. You have to go back to your GP, get your GP to put you on the day procedure list and come back through that door rather than the front door'.

As a legislator it is an unacceptable smoke-and-mirrors exercise that a woman in the community where I was having this conversation must go through this rigmarole at this hospital when faced with what could only be the most difficult decision; this is completely unacceptable.

Women in rural Victoria have an additional challenge in accessing abortion services: the cost of accommodation and travel, time away from family and other responsibilities, including employment. In their correspondence to me in recent months many opponents of abortion make not too subtly the point that there will be a whole lot of children being murdered by their mothers if this law passes in this place. There is no evidence whatsoever to suggest that changing the legal status of abortion will result in more unplanned pregnancies.

The Victorian Law Reform Commission's report discusses the incidence of abortion and the likely impact of legislative change on abortion rates. It states:

> A 2007 study by the Guttmacher Institute New York and the World Health Organisation of worldwide estimates of the rate of induced abortions shows a decrease in recent years …
>
> The study notes that unintended pregnancy is the cause of abortion …

The report goes on:

> The rate of abortion cannot be predicted by the restrictiveness or otherwise of legislation governing it — the two do not correspond. The Guttmacher-World Health Organisation report found that:
>
> unrestrictive abortion laws do not predict a high incidence of abortion, and by the same token, highly restrictive abortion laws are not associated with low abortion incidence. Indeed, both the highest and lowest abortion rates (worldwide) were seen in regions where abortion is almost uniformly legal under a wide range of circumstances.
>
> Rather, the rate of abortion is related to the rate of unplanned pregnancy, and the availability and use of contraception. That is, as contraceptive use and effectiveness of use increase, abortion incidence declines. The factors that do correspond are unsafe and safe abortions with illegal and legal abortions respectively.

I do not expect that the successful passage of this legislation will lead to more unplanned pregnancies or more abortions. It will just mean that women living far from Melbourne do not have the additional imposition of time and cost compounding an already difficult decision. Further in answer to that question, 'So what is the point of all this?', I quote from section 65 of the Crimes Act:

> Whosoever being a woman with child with intent to procure her own miscarriage unlawfully administers to herself any poison or other noxious thing or unlawfully uses any instrument or other means, and whosoever with intent to procure the miscarriage of any woman whether she is or is not with child unlawfully administers to her or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means with the like intent, shall be guilty of an indictable offence, and shall be liable to level 5 imprisonment …

In 1969 Justice Menhennitt changed all that. He argued that necessity is the appropriate principle to apply to determining whether a therapeutic abortion is lawful or unlawful within the meaning of section 65. He concluded that an abortion could be legal if it was both necessary and proportionate. He summed up the law as follows:

> For the use of an instrument with intent to procure a miscarriage to be lawful the accused must have honestly believed on reasonable grounds that the act done by him was:
>
> (a) necessary to preserve the woman from a serious danger to her life or her physical or mental health (not being merely the normal dangers of pregnancy and childbirth) which the continuance of the pregnancy would entail; and
>
> (b) in the circumstances not out of proportion to the danger to be averted.

This no longer bears any relevance to community standards or to current clinical practice.

I am pleased to say that this bill is consistent with ALP policy and the platform Labor took to the 2006 state election. ALP policy is and has been as long as I can remember:

> Labor will amend section 65 of the Crimes Act to provide that no abortion will be criminal when performed by a legally qualified medical practitioner at the request of the woman concerned.

I would like to congratulate Ms Broad for introducing her private members bill last year and note that it was a catalyst that brought us to this point in the debate today. I am extremely proud to be part of a government that is prepared to take action on this long overdue issue, and on behalf of women and doctors in my electorate I would like to thank the Premier, John Brumby, and ministers Maxine Morand and Daniel Andrews for their leadership on this issue.

I pleased that my party affords a conscience vote to its members, and I hope the debate continues to be rational and respectful through the coming days. I note Mrs Coote's comment on a conscience vote, and I share her view that it is not my conscience alone that dictates my supporting this bill. I note the consistent surveys over a long period suggesting that about 80 per cent of people support decriminalisation of abortion. There is a very good reason that the decriminalisation of abortion has been Labor policy for so long. Importantly, as long as abortion remains in the Crimes Act the risk of prosecution remains. The risk may be small, but it remains. To me, this is completely unacceptable.

We are debating a very simple proposition — we are seeking to remove the threat of prosecution for Victorian women and their doctors. To not pass this bill, and to leave Victorian law as it currently stands, would be an implicit endorsement of the current situation — that the act of abortion remains in the Crimes Act. Those opposed to abortion would use a decision of that nature as the endorsement of their position, a position that is simply not relevant to contemporary Victorian society.

Our society is generally very accepting of a range of cultural, religious and social views. An essential feature of our society is respect for individual rights. Another is an acceptance of the rule of law, even if from time to time we may not agree with what that law provides. This bill will ensure that Victorian women are free to make a choice in a critical decision that affects their lives and their place in society.

There have been many distractions in this debate. Opponents of abortion have had many, many years to develop their arguments and tactics around this issue. I would urge my colleagues to be wary of amendments to this legislation being put by proponents who are implacably opposed to abortion in all circumstances. In the other house 41 amendments to the bill were proposed.

Interjections from gallery.

The PRESIDENT — Order! Unfortunately I have to interrupt Ms Pulford's contribution to remind members of the gallery, be they visitors or others, that it is inappropriate to make any comment or indication to any member, particularly a member on their feet.

Ms PULFORD — There were 41 amendments proposed to this bill in the other house. In many cases they were proposed by people who indicated publicly in the debate and through the media that they would never and could never support the bill, no matter how it might be amended. I expect we will see something similar here — amendments proposed by those who are opponents of abortion in all circumstances. Their tactic in my view will be to weaken the integrity of this legislation, to make it unclear and more complex and to pave the way for legal challenge to these new laws. We have all been around politics long enough to understand framing and campaigning tactics around complex issues. I urge my colleagues who might be considering supporting some of the amendments to think about the motives of those proposing them.

The many factors contributing to the decision of a woman considering having an abortion are really none of my business. The decision must be an incredibly difficult one, one not made lightly. Victorian women deserve the support of their government and their Parliament when they are making such a difficult decision.

Like previous speakers, I have received many letters from people throughout my electorate and from much further afield. They have spoken about their ultrasound experiences at 12 or 20 weeks — that powerful sound of their baby's heartbeat, heard for the first time — and the love they have for their own children. Some stories were about difficult decisions made to continue with difficult pregnancies. These are important personal tales, and I thank those people for writing and expressing their view. But I think a great many of these fundamentally miss the point of this legislation. These stories are about individual circumstances and experiences of parenthood and pregnancy. Each story is unique and reflects the views of that person. It is interesting that people think their own personal experience is somehow relevant to the experience of a woman contemplating having an abortion in circumstances only she can understand. These decisions are often taken in the context of factors like severe foetal abnormality, relationship breakdown, incest or contraceptive failure. A much-wanted child is not the same thing as an unplanned pregnancy.

I expect that some members will put the view that it is only God who gives or takes life, but what of the women in Victoria who do not have that kind relationship with their god or any other? Our laws need to suit all Victorians — people for whom their god's view is a very important factor in how they live their lives and for those for whom it is not a factor. Put simply, a woman's decision to terminate a pregnancy is just as valid as a woman's decision not to terminate a pregnancy. Our job here is to provide a legal framework where the decision to have an abortion or not can best meet the needs of the woman concerned. I believe this bill provides that framework.

In the occasional discussion I have had over recent months with opponents of this bill often the conversation has ended with the comment, 'Well, I could never have one. I suppose what other people do is really their business, but I certainly could never have one'. This is what the bill provides: choice. I urge members to support this bill and ensure that Victorian women are supported in their reproductive choices.

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — Given the people who are in the gallery at the moment, I would like to begin my contribution by acknowledging the struggle of many women to decriminalise abortion. I want to indicate that I respect that those choices should not be made with a question mark over the legality of abortions. This debate is emotional, but it should not be disrespectful. I deeply respect the views of men and women on both sides of this debate. I will not be using language which suggests that people on either side of the debate somehow have inappropriate motives. That is not for me to do. I think it is important, if we really believe in the right of people to have different points of view, that we should be respectful of those rights in the way that we conduct this debate.

I also want to acknowledge the difficult choices faced by doctors and health professionals in having to deal with what are always difficult circumstances and sometimes traumatic ones. Doctors do have to weigh up their personal views as well as their oath to help those needing medical assistance. Two and a half thousand years ago in ancient Greece, the Hippocratic oath was penned. It has been changed many times since and adapted to modern times. In the Nova translation of the original oath, the oath states:

> In purity and loneliness I will guard my … art.

It also states:

> I will neither give a deadly drug to anybody who asked for it, nor will I make a suggestion to this effect —
>
> and —
>
> I will not give to a woman an abortive remedy.

Much has changed, however, since the original oath was developed in ancient Greece. Much has changed in community standards and in our understanding of competing rights and in the ethical dilemmas we now face, which are very different from those faced by the ancient Greeks. As we saw in the euthanasia debate, those opposed will refer to the Hippocratic oath, while those in support will see it as out of touch, out of date and perhaps simplistic. This will also be the case in reference to the abortive remedy element of that particular oath.

I have thought long and deeply about this issue of abortion. I have tried to expose my ethical and religious views to scrutiny and self-reflection, and I have tried to take my own ego out of this debate. This debate is not about how long we can keep talking. It is not about factions and it is not about parties, and attempts to bring those into the debate are completely unhelpful. This debate is about our exercising our conscience and trying to do the right thing.

The ancient Greeks, particularly Plato, believed the good or the right could be rationally determined and it was simply a matter of following the good or the right once one understood it.

Modern moral theory is much more complex. We now talk about moral dilemmas, where two competing principles have to be somehow balanced and taken into account. The two principles in this debate are the woman's right to choose and the foetus's right to life — or perhaps the viable foetus's right to life. I have formed the judgement that on balance I cannot support the bill in its current form, and I can assure members that the amendments I will be moving are not based on seeking to do anything other than improve the bill; they will certainly not detract from the bill.

My decision to vote against the bill at the second-reading stage was not made because I do not believe that women have a right to choose in issues related to their own bodies and to their own bodies' uses. I believe women do have this right, and I believe it strongly. I also believe that a viable foetus has at least the right to due consideration about whether it should be given the chance to live or die outside the mother's womb.

Based on the best medical knowledge, viability for a foetus commences at about 20 weeks and its chances of survival increase dramatically with each week. The legislation introduces the requirement for a second

doctor's opinion at 24 weeks partly because greater consideration should be given not only to the difficult decision the woman must make but also to the rights of the, by then, viable foetus. Had this additional level of scrutiny and consideration of the rights of the woman and the viable foetus been required at 20 weeks, I would have had far fewer problems with this legislation and would probably have voted for it.

The legislation could have nominated any particular period. Twenty-four weeks was chosen partly because of a view about the viability of the foetus; otherwise we could just have a set of arrangements covering abortions from the point of a woman identifying that she is pregnant right through to very late abortions, without requiring a different process. There is a different process involving two doctors in the proposed legislation precisely because it is believed that at about 24 weeks there is a viable foetus. My argument is that that is probably too late.

I also understand the argument that sometimes even gross foetal abnormalities or complications with a woman's capacity to carry a baby do not become apparent until 24 weeks and sometimes even beyond 24 weeks. That is why, in the amendment I will move later proposing that the period be brought back to 20 weeks, I have limited that to apply to only those abortions that are proposed primarily because of the woman's own social or psychological circumstances, and not all abortions.

I have also proposed that for late-term abortions in those psychosocial circumstances a qualified social worker, psychologist or psychiatrist be added to the two doctors who will help the woman make a final decision. I say 'help the woman' because I honestly believe that a woman in these circumstances needs help — as much as she can get it. A second doctor's opinion and guidance from a qualified social worker could prove invaluable to the woman — it may even save her life.

All my amendment would do is mandate that help to that woman; it would not impinge on her right to choose. An understanding by the woman of the options she has before her is crucial. Doctors can describe the stage of development of the foetus and whether it is healthy or viable, while social workers and psychologists can describe the various social support mechanisms that exist, the option of early delivery and adoption, the option to proceed with an abortion which would end the foetus's life, and the probable emotional issues that the woman may face, whatever her decision. All these bits of advice can help the woman. They do not constrain her capacity to choose; they help her in making the choice.

I have not been able to understand why there should be resistance to providing that additional help to women, which is something that I think would actually strengthen this legislation. In a humane society we provide help and options for people in making choices in all sorts of ways. Many hospitals will, of course, provide such support, assistance and guidance to women, and they will do so not just through the treating doctor. Normally it would not be only the treating doctor who would advise a woman in the case of an abortion between 20 and 24 weeks; in most circumstances the woman would have access to a social worker, a psychologist, a psychiatrist or some other person — some other professional — who might provide assistance. Why not mandate that assistance in the legislation? Under this legislation that assistance does not have to be provided. I can envisage a circumstance where a single-doctor clinic would not provide that kind of assistance. If this legislation is about empowering women, then my amendments add to that empowerment; they do not detract from that empowerment.

This debate can be a debate about the rights of the viable foetus versus the rights of the woman. We can have that kind of debate. We can evoke great principles — great Kantian principles — about not treating people as a means to an end and argue endlessly about whether a viable foetus is a person. We can talk about the great struggles of women to gain rights, including rights over their own bodies, or we can look at this issue in terms of ensuring that women get all the help they need in making their decisions.

That help for decisions about late-term abortions, particularly those which are primarily based on the social or psychological circumstances of the woman, should include a social worker, a psychologist or a psychiatrist, particularly when the abortion is of a healthy and viable foetus.

I have referred in the past in this house to my deeply held Greek Orthodox faith. I have also referred to someone who I think expresses that faith in modern times better than most — Professor Christos Giannaras, a philosopher and theologian at Athens University, who describes orthodoxy as an existential religion which recognises our freedom under God. But that freedom should not be expressed egotistically; rather it should be guided by our respect for human life and sacrificial love as the ultimate expression of our freedom.

I do not envy doctors who have to help women make difficult decisions. I think it must be the most heart-wrenching decision for a woman and for doctors — and for that matter, for nurses and others

involved as well. It is an expression of my religious views and in the best traditions of the existentialism on which orthodoxy is based that we provide the maximum help and assistance to women in these desperate circumstances. We should not make the decision for them but provide them with adequate help, assistance and support in making their decision. A solitary doctor advising a woman carrying a healthy, viable 24-week foetus is simply not providing the necessary help, assistance and support that that woman needs at that time.

Many years ago a close family member decided to have an abortion. She was in difficult economic circumstances — the whole family was — trying to bring up other children and living in a working-class area with little support around her. She went to a backyarder to have the abortion. It was totally botched; she almost lost her life. I remember it very well. I do not want to identify the family member, but I can tell members that at the time it was one of the most heart-rending things I have ever been through. This woman needed ongoing surgery, which — thankfully — she received from the women's hospital, in order to recover. However, I saw the guilt that she carried for years. She made almost weekly visits to church to ask for forgiveness. I saw all those things. I wish that people had been around to help her at that time. I wish she had had access to social workers and doctors, but she did not. That support was not available then. There was no Medicare and no home care assistance, and abortion was illegal. This woman felt scared, alone and abandoned. She went through something which no woman should have to go through.

At various times in our lives we all face unfair and testing situations. In my life I have seen close family members struggle with these issues — not theoretically, but in reality. I have had to defend my own family and sometimes my own integrity when the things some people said about us — some of the personal attacks we endured — seemed most unfair and we felt helpless in the face of them. In those times it is your own family, your own beliefs — especially your religious beliefs — and the many friends who believe in you that help you get through. Often women face these issues without family support, without a partner and very much alone. We should help them.

I listened carefully to some of the heart-rending contributions to this debate. I was especially impressed by the contribution of my friend Andrea Coote, in which she described how she came to her decision to support the legislation. I assure her and other members that I, equally, took the time to think very carefully before I reached my conclusion, both about the way I would vote on the legislation and also about how I framed my amendments. I hope people in the chamber can look at the amendments dispassionately on their own — can consider them — because they would improve the legislation. In particular I ask all members who support the bill to consider carefully the amendments that are designed to help a woman to choose rather than to take away her right to choose. As I have said before, I do not oppose a woman's right to choose; I balance it with respect for a viable foetus, in particular, and its rights. I again say that women need help in making those decisions. I also intend to move some other amendments, which I will discuss during the committee stage of this bill.

I conclude by saying that I do not think it matters how long one speaks on the bill; what matters is that we respectfully put our points of view on the record, go through the process and vote. People will not judge us on whether we can stand here and speak for hours, forcing this house to sit on Friday, Saturday and Sunday — or however long it takes. They will not make the judgement that we are brave for doing that. That is not what this is about. This is about considering the issues and coming to a conclusion about what is the best form of arrangements that could be put in place to protect women.

I have put a point of view that I would like members to consider. I do not want it to be considered in the early hours of the morning, when people are very tired and have not thought about the importance and implications of the amendments I will move.

I do not want the distraction of people simply moving amendments purely for the purpose of delaying the legislation. That is not what this is all about. This is about us as lawmakers putting together the best possible piece of legislation to help women and families in what are always unfortunate circumstances.

I briefly mention the conscience issue which has been discussed at length by many people. I have tossed this around in my mind many times. I do think when a woman seeks an abortion, she should be empowered in some way. She should know about her legal rights. I also think that a person who does have a genuine conscientious objection to abortion also has some rights. I will be moving an amendment which I think captures both of those issues. The amendment I will seek to move is one where the woman must be notified by the practitioner that abortion is not illegal in the state of Victoria. The woman must be notified of that fact.

The practitioner must then notify her also, that the reason he is not going to help her, the reason he is not

prepared to help, is because of his own conscientious objection. Those two pieces of information, taken together, empower the woman and deal with the issue of conscientious objection that the individual medical practitioner has. They do both. The woman will know that it is not illegal; she is informed that it is not illegal.

It is obviously up to the woman to understand that she can go elsewhere to receive the support and help that she might want. It also means that we are not forcing a doctor who has a genuine conscientious objection to then refer the patient to another doctor who he knows will perform the abortion.

All of us in our reflective moments must at least accept the argument that if you are a conscientious objector, it is very hard to nominate someone else in your place. I know many people who were conscientious objectors during the Vietnam war. It would have been very difficult to have said to a conscientious objector of the Vietnam war, 'You can conscientiously object, but you should nominate someone else to go in your place to that war'. One conscientious objection leads to a second conscientious objection. On the other hand I also accept the right of the woman to be informed that she has some rights, that abortion is not illegal in the state of Victoria — if the legislation is passed.

What I am proposing with the amendment is that the woman is informed of both of these issues. That will empower the woman while at the same time protecting the rights of the conscientious objector.

I conclude my remarks by again calling on members to put their argument and to put it in a way which allows us to have a proper debate about the issues that we confront. I also call on all members to think about the amendments, because I assure them that the amendments I will move are not designed in any way to diminish but to improve the legislation.

I finish on what I have said throughout my speech: I do not oppose the woman's right to choose, but I want to balance that right to choose with respect for what is a viable foetus at a certain stage of development. I want to also balance the right to choose with a greater good, and the greater good is the need for women to be helped and assisted in making their decisions. I believe a woman, in order to make this kind of decision which she carries with her for her entire life, and the people around her who love her also carry for their entire life, needs every bit of help that she can get.

Again I say that a single, solitary doctor in some circumstances, advising a woman who is 24 weeks pregnant and taking a decision with her to have an abortion, is probably not enough help. She needs the further assistance of a social worker, a psychologist, a psychiatrist or some other professional that is able to tell her about her other rights, about the other issues that she may face to help her make her decision, not to take away her right to make that decision.

Debate interrupted.

DISTINGUISHED VISITOR

The ACTING PRESIDENT (Mrs Peulich) — Order! Before calling the next member, I note that the Honourable Joan Kirner, a former Premier and member for Williamstown, is again in the gallery, and I acknowledge her.

Debate resumed.

Mr KAVANAGH (Western Victoria) — I rise to speak about abortion and to address those members who may still have some doubts about this bill. I rise in an attempt to persuade those members that there are very good reasons why this bill should be opposed. It is not always possible, after repeated drumming-in of bogus slogans and false assertions over decades, to change the mind of a person. I direct my comments to those members who, if they can be shown that the facts, science and reason demand it, are prepared to change their minds. Minister Theophanous has asked members not to speak for too long and not to waste time. I intend to speak for a fairly long time, not as long as some other members have spoken, but there are many aspects to this legislation that warrant discussion and explanation. I also further believe that, whether this house sits until the early hours of the morning, will not be a result of the length of my speech but a decision by the government.

Human progress is never consistent. We may advance in some respects, and indeed we are advanced in many respects, while we regress in others. One respect in which our modern society is conspicuously lacking is the hostile indifference of many people to the unborn. In this particular respect, we live in a time, to borrow a Cambodian expression, when broken glass floats.

Millions of pro-life Australians spend a lot of time thinking and even talking about abortion. It is not because this is a pleasant subject, quite the opposite, this is the most unpleasant subject to discuss. More than that, talking about abortion, it is difficult to avoid giving the impression of self-righteousness or moral superiority. I have nothing to be morally self-righteous about. The truth is that every one of us is in need of forgiveness, and it achieves little to add to

condemnation for past events or deeds that are done and cannot be undone.

It is also true that achieving the best possible answers to the abortion question is a crucial challenge because it largely determines the happiness or misery of many women, and even more importantly for the unborn, of course, it is literally a matter of life and death. The way that a society treats the unborn also influences the way citizens treat all others. The way that the unborn are treated both reflects and partly determines the state of health of any society.

I note with regret that there is a deficiency of information about abortion in modern Australia. We cannot even be certain of the precise numbers of abortions carried out in Victoria. We are forced in many cases to rely for important information on a jurisdiction that is similar to Australia in many respects, the United States of America, for which much more information is available. We need that information from America to determine what actually goes on in practice in abortion clinics in Victoria.

This deficiency of information in and of itself is surely a very good reason to oppose this bill. Surely, before considering fundamental changes to Victoria's abortion laws, it would be necessary to determine the facts of abortion first — that is, to know precisely how many are performed; at what stage of gestation and for what reasons they are performed; and how often and in what circumstances pain relief is given to the foetus. Surely a thorough investigation is needed. The government has not even attempted to do this.

I intend today to first reflect on the question of abortion in general and then to consider the particulars of this extremist legislation. I will attempt to show why removing even in-principle legal support for the unborn would be a profound mistake, and I will propose alternatives to the present bill in responding to the challenge of abortion.

There are several major reasons to oppose the legalisation of abortion. First, of course, abortion kills unborn human beings. Abortion also inevitably means the killing of those who are born following so-called failed abortions. Abortion is often painful to the foetus. Abortion severely harms many women physically and psychologically. Abortion is often used to cover up the sexual abuse of minors. Abortion is frequently performed without the genuine consent of women in Victoria. Legalising abortion would also damage our society and degrade the way we treat each other.

The speeches that were first made in this house a day or so ago in favour of abortion struck me as containing one particular feature: that was ignoring the fact that there are two people involved in an abortion. All of those speeches were about one of the parties to an abortion, and the 9 or 10 speakers who first spoke in favour of abortion hardly even mentioned the fact that there was another person involved.

Human life begins a long time before birth and a long time before the 24 weeks gestation point. In fact it begins 24 weeks before the 24-week gestation point. Scientific experts have concluded in testimony to the United States Congress — and these are leading experts in their field — that 'after fertilisation has taken place a new human being has come into being'. On the basis of ever-increasing scientific information it has been said of that that it is no longer 'a matter of taste or opinion'. That was evidence to the Senate Judiciary Committee of the United States of America. Another expert put it this way: 'It is scientifically correct to say that an individual human life begins at conception'. The moment of each person's creation is the moment of conception. Before that moment the individual, with her unique DNA, does not exist. From that moment she does exist.

It is not only pro-life people who know this. The owner of the largest abortion clinic in Oregon in the USA testified under oath to the US Congress 'of course human life begins at conception'.

I was referred to a leading writer in the United States, who is not well known in Australia, by a letter writer recently. The letter writer pointed out that this particular author is arguing in the USA that of course abortion kills a human being, but she says we should be honest about that.

The tiny and newly conceived human contains a staggering amount of genetic information, sufficient to control the individual's growth and development for the rest of her life. The cells of the new individual divide and multiply rapidly, resulting in phenomenal growth. There is growth because there is life. Already within a week of conception her gender can be determined by scientific means. By 14 days the child produces a hormone that suppresses the mother's menstrual period. Two more weeks later clearly human features become discernible. Another three weeks later and those features are obvious. Relatively young unborn people may not appear human to some of those who are used to judging by appearance — those who are used to judging by the standards of those they see walking around in the streets — nevertheless, in the objective scientific sense she is every bit as human as any older

child or adult. She looks precisely like a human being looks at her stage of development.

Eighteen days after conception, her heart is forming and her eyes start to develop. By 21 days her heart is pumping blood throughout her body. By 28 days the unborn has budding arms and legs. By 35 days she has a brain and has multiplied in size 10 000 times. By 35 days her mouth, ears and nose are taking shape. At 40 days the preborn child's brainwaves can be recorded and her heartbeat, which began three weeks earlier, can already be detected by an ultrasonic stethoscope. By 42 days her skeleton is formed and her brain is controlling the movement of muscles and organs. Even in the earliest days of gestation abortion takes a life.

A famous intra-uterine photographer in the 1960s — a long while ago — said of the unborn at 45 days after conception:

> Though the embryo now weighs only l/30 of an ounce, it has all the internal organs of the adult in various stages of development. It already has a little mouth with lips, an early tongue and buds for 20 milk teeth. Its sex and reproductive organs have begun to sprout.

Subsequent scientific discoveries made over the last 40 years as improved technologies have led to more information about the unborn have only confirmed and further emphasised the unborn person's humanity.

> By eight weeks hands and feet are almost perfectly formed. By nine weeks a child will bend fingers around an object placed in the palm. Fingernails are forming and the child is sucking his thumb. The nine-week baby has 'already perfected a somersault, backflip and scissor kick'.

I have a scientific reference for that.

> The unborn responds to stimulus and may already be capable of feeling pain —

I have scientific evidence for that —

> yet abortions on children at this stage are called 'early abortions'.
>
> By 10 weeks the child squints, swallows and frowns. By 11 weeks he urinates, makes a wide variety of facial expressions, and even smiles —

I have a reference for that.

> By 12 weeks the child is kicking, turning his feet, curling and fanning his toes, making a fist, moving thumbs, bending wrists and opening his mouth.

I have a scientific reference for that.

> All this happens in the first trimester, the first three months of life. In the remaining six months in the womb nothing new develops or begins functioning. The fully intact child only grows and matures — unless her life is lost by miscarriage or taken through abortion.

It is an indisputable scientific fact that a surgical abortion stops a beating heart and stops already measurable brainwaves. When there is a heartbeat and there are brainwaves, we recognise life. Every abortion causes death to a human being.

Abortion is inherently the killing of an unborn person, but in practice it also inevitably means the killing of babies who have been born alive after unsuccessful abortions. There have been two official investigations into the deaths of babies who have been born alive, after the attempts to kill them in the womb failed; and I have a reference for that.

What is an abortionist to do with a baby who is born alive after an attempted abortion? The two cases that have been officially reported and investigated in Australia — one in the Northern Territory and one in Sydney — show that abortionists do precisely what we expect they would do: they simply allow the babies to die. For each of the two recent reported cases in Australia, we can be confident, however, that many more occur. We can be confident of this because of the comments of the New South Wales deputy coroner and because there is no advocate for the unborn in an abortion.

Apart from the victim herself, all of those present at an abortion or attempted abortion are dedicated to one goal — the destruction of the unborn person. No-one but the baby born after an attempted abortion has any interest in reporting the birth and then the deliberate neglect to the point of death of a baby following an attempted abortion. It is very rare that such babies live.

An American woman and survivor of failed abortion, Gianna Jessen, who spoke in this building a few weeks ago, is one of the few exceptions. She credits her life to the fact that the abortionist was not present in the clinic when she was born alive after the attempted abortion on her, and a nurse therefore called an ambulance.

The Australian cases which involve babies discovered alive, crying after the abortionist had left the scene, also suggest that the temporary absence of the abortionist is a necessary but not sufficient condition for such cases to be reported.

Abortion is painful to the unborn. It is shocking that the vast majority of Australians have no idea about this. It is a sad reflection on our media, because this is a controversy that has been raging in the United States for quite some time; however, it is almost unknown to the Australian public.

Australia's National Health and Medical Research Council (NHMRC) requires painkillers to be given to animal foetuses used for experiments. Its ethical standard for unborn animals takes the cautious and compassionate approach: if there is any doubt at all, scientists are to assume that animals, including unborn animals, 'experience pain in a manner similar to humans'. Is it ethical, then, that the standard of assume-and-relieve pain that we apply with care to unborn animals should be taken to be an unnecessary burden when it comes to unborn humans, despite common sense and the medical evidence? Abortionists do not normally administer anaesthetics to the unborn. The NHMRC states:

> Animals at early stages in their development, that is in their embryonic, foetal and larval forms, can experience pain and distress …

I have references for all of these facts.

What the NHMRC concludes is true of animal development is evidence also of human development. The NHMRC says:

> Investigators must assume that foetuses have the same requirements for anaesthesia and analgesia as animal adults of the species, unless there is specific evidence to the contrary.

Ethically speaking, this standard should be applied at least equally to humans, too, so we need to review whether there is in fact the stark absence of medical evidence of foetal pain that must exist to justify such a difference between the standard of care for unborn animals and those for unborn humans. The NHMRC says:

> As a guide, when embryos, foetuses and larval forms have progressed beyond half the gestation or incubation period of the relevant species, or they become capable of independent feeding, the potential for the experience of pain or distress should be taken into account.

What do we find in the human species? As a starting point the NHMRC's midpoint of gestation is evidently reasonable. In humans, viability — the point at which our current technologies can help a baby survive — is now in the vicinity of the midpoint of gestation. As a preliminary position one might guess that a newborn baby, even premature, would be capable of feeling pain.

Kenya King, born prematurely way back in 1985, had been in utero only 19 weeks, or just a little more than four and a half months, when her life began. One might presume that a newly born baby, even as premature as Kenya King, might cry and might feel the cold or sharp edges. What does medical science reveal? What is needed to feel pain is, firstly, a sensory nerve to feel the pain and send a message to the thalamus, a part of the base of the brain, and motor nerves that send a message to that area. These are present eight weeks after gestation.

The pain impulse goes to the thalamus. It sends a signal down to the motor nerves to pull away from the hurt. The cortex is not needed to feel pain; the thalamus is needed, and it is functioning at eight weeks from conception. The unborn baby has receptors for pain. What is missing are the inhibitors that reduce pain for more mature people. Unborn children at 20 weeks development actually feel pain more intensely than adults. This is:

> … a uniquely vulnerable time, since the pain system is fully established, yet the higher level pain-modifying system has barely begun to develop.

That is according to neurologist Dr Ranalli of the University of Toronto and acting president of the de Veber Institute for Bioethics and Social Research. I have a reference for that.

At 20 weeks the foetal brain has the full complement of brain cells present in adulthood, ready and waiting to receive pain signals from the body, and their electrical activity can be recorded by standard electroencephalographs. In expert testimony provided to courts considering the partial-birth abortion ban in the United States, Dr Sunny Anand, director of the pain neurology laboratory at Arkansas Children's Hospital Research Institute, explains:

> The human foetus possesses the ability to experience pain from 20 weeks of gestation, if not earlier, and the pain perceived by a foetus is possibly more intense than that perceived by term newborns or older children.

Dr Anand further described before the court that the pain inhibitory mechanisms do not begin to develop until 32 to 34 weeks after gestation. Thus a foetus at 20 to 32 weeks of gestation would experience a much more intense pain than older infants or children or adults when these age groups are subjected to similar types of injury or handling.

The *Lancet* has reported that unborn babies exhibit a full range of pain responses ranging from vigorous body and breathing movements to a hormonal stress response to invasive procedures. Testimony led before New York's Judge Casey in 2004 revealed two things very clearly. He interviewed a lot of abortionists while he was inquiring into abortion during a case, and two things came out of that. Firstly, abortionists are quite well aware that many abortions involve terrible pain to an unborn person; and secondly, that those abortionists who testified mislead women seeking abortions about the likely pain that their unborn baby will suffer. Is

there any reason to believe this situation would be different in Victoria?

The great Australian Professor Graeme Clark also made it perfectly clear during a speech in Queen's Hall, the room next to this chamber, a few weeks ago that many foetuses feel pain as they are aborted. There is disagreement about when the unborn person can begin to feel pain, but there is no doubt that at least some unborn feel pain. There are films available to be seen on the internet which demonstrate this fact of pain to the foetus with nauseating clarity. Of those who deny the fact that a foetus feels pain from at least 20 weeks gestation, Professor Anand, whom I quoted earlier, says, 'There is none so blind as those who will not see'. The Victorian Law Reform Commission unfortunately is among those. It strikes me as outrageously cruel that the Assembly even opposed amendments to this bill that would have made it compulsory to administer pain relief to the foetus wherever possible during an abortion. The bill contains no requirement for pain relief to the foetus. That alone would be sufficient reason to reject this bill.

There are many other reasons. One of them is that abortion harms women. There is an assumption in many of the speeches we have heard so far that there is a dichotomy between the interests of women and the unborn. There is no such dichotomy. The interests of both mother and child in the overwhelming majority of cases is served by the healthy birth of a healthy baby to a woman. A woman's interests are not served by the destruction of the child.

It is ironic for many reasons that abortion is promoted in the name of women's rights. One of the reasons for irony is that abortion is so harmful to many women. Abortion kills the unborn, of course, but it also harms many women physically or psychologically, or both.

There are many failures in the Victorian Law Reform Commission's final report on abortion. One of the greatest failures is ignoring the overwhelming scientific evidence of the harm that abortion does to many women. I intend to detail quite a bit of that information. I feel the need to do so because a detailed account of evidence is required because of the VLRC's refusal to acknowledge the facts. The harm that abortion does to women also constitutes a major reason for opposing the legalisation of abortion.

On 20 August I placed a notice of motion on the notice paper, expressing deep concerns over the VLRC report. Inter alia, the notice of motion says:

> … the report either ignored or dismissed a large volume of cogent, valuable scientific evidence showing physical and mental health risks of abortion to women and took no adequate or appropriate steps to provide the Government with that information …

Information that is acutely relevant to the law of abortion was ignored by the VLRC. The following analysis of the expert evidence of the physical and mental health risks of abortion to women, all of which was provided in evidence to the VLRC, draws attention to some of the grave harm which could be done to women and our community if the present bill becomes law.

Firstly, the failure to ban partial-birth abortion is the last matter mentioned in the motion I referred to. It is a matter by which the Parliament can best gauge what humanity, if any, the VLRC had for the unborn. This lack of humanity was present in the VLRC's disregard for the interests of women also, which is shown in the way the VLRC ignored overwhelming evidence of the dangers of abortion to women. I will talk first about the psychological damage done to women through abortion, including depression and suicide.

The VLRC had abundant evidence that abortions can cause psychological damage, depression and even suicide. Among other evidence, the VLRC was referred to the 1996 Rawlinson report of the English House of Lords on abortion in England. This report indicated that a high proportion of women who have abortions suffer some adverse psychological consequences, including a significant number who suffer serious psychological problems requiring treatment. The VLRC was referred to the submission of Anne Lastman, a highly qualified psychologist in Victoria who I believe said on the steps of Parliament House last Sunday that in the last 12 years she has treated 1400 women for mental problems following abortions.

These problems include psychological damage and/or depression. These post-abortion problems are fully explained in detail in her book *Redeeming Grief*, a copy of which was provided to the VLRC. This book incisively analyses from her own extensive personal experience, mental health problems and post-abortion syndrome — PAS. Although Anne may well be one of the best persons in Australia to advise the VLRC on post-abortion problems, it made no attempt to contact her, and without questioning her further was very dismissive of her views and evidence.

The VLRC was referred to successful legal actions that have been brought in Australia and the USA on behalf of women who have suffered psychological damage as a result of abortions. In particular Charles Francis, QC, a Melbourne barrister, made a written submission and

personally consulted Professor Rees, the chairman of the VLRC, informing him of these court cases.

The first such case in which he acted is known as Ellen's case, full details of which were provided to Professor Rees. Ellen sued on the basis that she was not warned that the abortion could harm her mental health. For years following her abortion she was crippled by depression which prevented her from working. Her condition was so bad that her husband had to give up work to nurse her. Ellen's case was brought in the County Court of Victoria and was settled at mediation on 28 September 1998, for which I have a reference.

The second case in which Charles Francis gave evidence is known as Meg's case and was also heard in the County Court. Meg had an abortion in 1997. She was informed that after her abortion she might pass products of conception and went home believing she might pass some placenta or other identifiable human tissue. After she went home, to her horror, she passed an entire leg, to be followed by another leg of her unborn child. Thereafter she passed parts of the spinal column, the rib cage and chest area with bones, muscles and flesh. Then came her baby's heart and then a very clearly identifiable head with glassy eyes which appeared to be cold and staring. Meg developed a gross post-traumatic stress disorder, with severe depression. She sued in the County Court of Victoria on the basis that she was not warned that the abortion could cause her mental harm. In her claim she also alleged failure to warn of the abortion breast cancer link. Four years later, on 2 August 2001, when Meg's case was settled at mediation for a substantial sum, she was still in a dysfunctional state, depressed and unable to work.

Charles Francis orally advised Professor Rees of all the details of these two cases and provided him with printed material. At no time did Professor Rees, the chairman of the VLRC, question in any way the truth of the information given to him, nor did he question that both Ellen and Meg had suffered psychological damage as a result of abortion. Professor Rees was also informed by Charles Francis of other successful actions for damage to mental health, in some of which he had appeared as counsel for the plaintiff. He also assisted in a similar case in Pennsylvania.

The VLRC was also referred to the written submission of Melbourne barrister Michael Houlihan. Last night Mr Finn spent some time talking about the submission of Michael Houlihan, so I will not go into the detail of that beyond saying that Mr Houlihan has given evidence to the VLRC that many women have approached him seeking to pursue action on the basis of psychological damage following abortion about which they were not warned.

The VLRC was also referred to the research of Canadian professor Phillip Ney, a psychiatrist who for more than 20 years has treated patients psychologically damaged by abortions. He has done extensive research on this problem and written articles and books on the subject. The VLRC was told that he is possibly the leading expert in the world on this subject and was specifically referred to his book, *Deeply Damaged*, published in 1997.

The VLRC was also referred to the research and statistics of the prestigious Elliot Institute in Springfield, Illinois, USA. This institute collates medical material and statistical surveys of matters concerning abortion all over the world. The commission was provided with a number of research articles from the Elliot Institute and the results of a number of American statistical surveys published by it.

Amongst the articles provided were a list of the major psychological sequelae of abortion by Dr David Reardon. This article was very fully referenced and indicated that a major random study had found that a minimum of 19 per cent of post-abortion women suffer trauma. They suffer from diagnosable post-traumatic stress disorder. This article was thus very highly collaborative of the evidence provided by Anne Lastman, of which the VLRC report was so dismissive. Further articles included *Women at Risk of Post-Abortion Trauma*, which referred to British research in which 44 per cent of women who had abortions complained of nervous disorders and 11 per cent had prescribed psychotropic medicine treatment. The article also referred to Canadian research which found that 25 per cent of women who had abortions made visits to psychiatrists, compared to 3 per cent of the control group. Of the women who had abortions, 25 per cent made visits to psychiatrists, compared with 3 per cent of the general population, and I have a reference for that.

The VLRC was also referred to a letter published in the British *Times* on 27 October 2006. This letter was signed by 15 medical consultants, including professor of psychiatry, Patricia Casey, the past president of the Royal College of Psychiatrists, Andrew Simms, and emeritus professor of obstetrics and gynaecology, Gordon Stirrat. Inter alia, the letter says:

> … research … has shown that even women without past mental health problems are at risk of psychological ill effects after abortions … Women who had had abortions had twice the … risk of major depressive illness as those who had given birth or never been pregnant.

…

> Since women having abortions can no longer be said to have a low risk of suffering from psychiatric conditions such as depression, doctors have a duty to advise about long-term adverse psychological consequences of abortion.

This is supported by other evidence given to the VLRC, including the recent study in New Zealand from Professor David Fergusson and others, showing that women who have abortions are more prone to psychological problems. Professor Fergusson is pro-choice, but he considers women should be warned of the risk.

The VLRC was referred to the work of Silent No More in Canada, an organisation that warns women of the physical and psychological harm done by abortion. Along with its other work Silent No More provides counselling services similar to those provided by Anne Lastman. The commission was provided with a leaflet and a DVD about its work. It was also referred to information about the requirement in the legislation of many states in the USA for abortion providers to give women information about the risks of abortion, including the risks of depression and post-abortion syndrome. The commission was provided with the disclosure and consent form of an abortion clinic called The Women's Health Centre in San Antonio, Texas. The risks listed include, firstly, depression and, secondly, post-abortion syndrome. The VLRC was also provided with the confirmation and informed consent form of Planned Parenthood of Australia, which lists among the possible complications of abortion: post-abortion syndrome, depression or mood disturbance, and suicide. The commission was provided with a copy of this form.

The VLRC was also referred to a recent British study investigating abortion and post-traumatic stress disorder (PTSD), published by the psychiatry journal of Britain, which suggests that PTSD increases by 61 per cent after an abortion. The authors of this study called for more screening to be done on women prior to abortion in order to 'help identify women at risk of PTSD and provide follow-up care'. The VLRC was also referred to a recent statement by the British Royal College of Psychiatrists, which warned that no woman should abort her child without counselling about the possible effects, such as depression and even suicide. That was in the *Sunday Times* of 16 March this year. A considerable body of other material was provided to the VLRC in relation to the risk of psychological damage and depression. The above 13 matters constitute only some of the more important material which was provided to the VLRC and which supports the conclusion that there are considerable risks of mental problems resulting from abortion.

On the issue of suicide, the VLRC was given a body of evidence which demonstrated that one of the risks of abortion was the subsequent suicide of the post-abortion woman. Among other evidence of this was, firstly, a government-funded study in 1997 of maternal deaths in Finland, which showed that in the first year following an abortion, post-abortion women were 252 per cent more likely to die compared to women who had delivered their babies and that many of the extra deaths were due to suicide. Suicide rates within one year of pregnancy ended by induced abortion were 34.7 per 100 000, as compared with 5.9 per 100 000 within one year of the delivery of a child — so women who had aborted a baby in Finland in that year were about six to seven times more likely to commit suicide than women who had given birth. This rate is less than the annual rate for all women, which is 11.3 per one 100 000.

This is ironic. I think all of us who are old enough can probably remember back to the late 1960s and early 1970s, when the practice of abortion was often justified on the basis that mental problems could develop for women who did not want to have babies and who did not want to proceed with their pregnancies and give birth. But what the figures actually show is that the rate of suicide for women who have given birth is not only much lower than for women who have had abortions, but it is half that of women who have never been pregnant. It seems quite obvious from this that abortion does not help women avoid suicide: it actually endangers them. Giving birth does not cause suicide: it does quite the opposite. When we think about it, we can understand why: there is probably a biological mechanism to protect a woman and her baby by preventing her from committing suicide after she has had a baby. That does not protect just her — it also protects the baby.

Other evidence provided included a study of 173 000 low-income Californian women, which found that in the eight years following an abortion, women who had had an abortion had a 154 per cent higher risk of death from suicide than other women — and I have a reference for that.

Perhaps it is best explained by the story of talented artist Emma Beck, an English woman. Emma Beck had been pregnant with twins, whom she aborted. On 1 February this year, Emma Beck hanged herself. Her death was the subject of a news item. She left behind a suicide note which read:

> Living is hell for me. I should never have had an abortion. I see now I would have been a good mum. I told everyone I didn't want to do it, even at the hospital. I was frightened, now it is too late. I died when my babies died. I want to be with my babies — they need me, no-one else does.

All of this information was provided to the VLRC, which dismissed it. But even Emma Beck's death alone indicates there is a risk of women committing suicide as a result of abortion.

In light of all this information, how could the VLRC say, as it did in paragraph 8.55 on page 117 of its report, that there is a medical and scientific consensus that psychological damage, depression and suicide are not material risks? The determination of such risks should be based on medical evidence and medical science and from the results of properly conducted statistical surveys. The VLRC had more than abundant evidence corroborating these risks, but its reference to that evidence was minimal — absolutely minimal. We are now to vote on a bill recommended by a body which ignored scientific medical evidence. What faith are we to place in the recommendation of a body which has shown such blatant disregard for the facts?

I have talked about psychological harm to women as a result of abortion. However, it is not only psychological harm that is done; there is also physical harm. I will now talk about that, and I am talking about it because the VLRC would not. Physical harm to women includes the abortion-breast cancer (ABC) link. The VLRC was provided with information and evidence that abortion increases the risk of breast cancer. There has been a devastating increase in the incidence of breast cancer, especially among younger women. In Australia the incidence has risen from 1 in 11 to 1 in 8 women. The single most avoidable risk factor for breast cancer is induced or intentional abortion.

The VLRC was informed that a full-term pregnancy at an early age provides a woman with a protective effect against breast cancer. Young, childless pregnant women who have induced abortions of their first pregnancy will delay the age at which they have their first full-term delivery of a baby. It is generally accepted by breast cancer epidemiologists that each one-year increase of age at the first full-term delivery elevates a woman's lifetime risk of breast cancer. According to top Harvard epidemiologists, including Dr Brian MacMahon, each one-year delay in the first full-term pregnancy elevates the relative breast cancer risk by 3.5 per cent compounded. That is, a 5-year delay in the first birth boosts the relative breast cancer risk by 19 per cent, a 10-year delay by 41 per cent and a 20-year delay by 99 per cent. I have two scientific references for that proposition.

The VLRC was referred to the fact that in addition to leaving a woman with a higher risk of breast cancer by abrogating the protective effect of a full-term pregnancy, induced abortion is also an independent risk factor for breast cancer. Some 29 out of 38 worldwide epidemiological studies show increased risk of breast cancer associated with induced abortion. Of the 29 studies, 17 found a statistically significant risk increase.

The VLRC was informed that the biological explanation for abortion as an independent risk factor for breast cancer relates to the maturation of breast cells. Mr Finn spent some time talking about this last night, so I will not repeat it, but it amounts to the fact that more mature breast cells are much more resistant to breast cancer but induced abortion prevents breast cells from maturing. If a woman has an abortion, she is left with an increased number of immature lobules which are susceptible to cancer. This information was provided to the VLRC in the booklet entitled *Breast Cancer — Risks and Prevention*. There is no scientific study whatsoever which refutes this biological explanation of abortion as a cause of breast cancer.

The VLRC was informed of the results of a study in 1989 by Howe and others on women in New York State showing a risk. The methodology of this study was impeccable. The results revealed an increase in breast cancer risk of 90 per cent among women aged under 40 who had had abortions, as compared with the control group who had not had abortions. The VLRC was also informed of a study by Janet Darling and others of 1994. Darling found that every one of the women in this study who had had an abortion while under age 18 and had a family history of breast cancer developed breast cancer by the age of 45. Of those who had a predisposition for breast cancer and who had had an induced abortion, every single one developed breast cancer by the age of 45. Janet Darling is pro-choice but considers it very important that women should be informed of this risk. Of course there is nothing in the bill that will inform them of this risk.

The VLRC was also informed of a French study by Andriev in 1995 with a combined analysis of six case-controlled studies demonstrating a higher incidence of breast cancer among women who had had abortions. It also revealed for the first time a 1988 study in Australia by Rohan which showed that abortion was the greatest risk factor for breast cancer, a relative risk of 2.6. I have a reference for that.

The VLRC was also informed of another study by Howe in 2001 covering the period from 1987 to 1998. This study showed that the entire increased incidence of

cancer among women was due to breast cancer in women under 65 — that is, among the population of women who had come to maturity in the period of high abortion rates.

The VLRC was also informed of a study by Patrick Carroll, a British actuary, published in October 2007 in the *Journal of American Physicians and Surgeons* and an associated press release. It studied breast cancer rates in eight countries and basically found that where abortion is common, breast cancer is relatively common; where abortion is rare, breast cancer is also relatively rare.

The VLRC was provided with the Endeavour Forum paper entitled *What Every Woman in the World Has a Right to Know* that is distributed at United Nations conferences. It explains the protective effect of full-term pregnancy and the increased risk of breast cancer caused by abortion.

The VLRC was provided with the leaflet entitled *Why Aren't Women Being Told?* produced by the Coalition on Abortion/Breast Cancer.

The VLRC was provided with a DVD on the abortion-breast cancer link which included testimonies from women who had had abortions and developed breast cancer. Further submissions included an article by Dr Angela Lanfranchi, 'Abortion and breast cancer — the link that won't go away'. It noted that the incidence of breast cancer is increasing among young women and that the cancers associated with a history of induced abortion appear to be more aggressive.

There have been three cases in Australia where women have sued for both the failure to warn of the breast cancer link and the failure to warn of the risk of psychological harm, and these were settled at mediation. An even more significant case was brought in Portland, Oregon. A 15-year-old girl was not informed of the abortion-breast cancer link and she sued. When the case came on for hearing on 24 January 2005 the so-called All Women's Health Services Clinic admitted that there is a link and that the clinic had failed to warn of it. Judgement was entered against the clinic, and I have the legal reference for that case.

The VLRC was informed that the mandatory information legislation of a number of states in the USA requires a warning of the breast cancer risk. The disclosure and consent form of an abortion clinic, The Women's Health Centre, in San Antonio, Texas, lists as a risk a possible increased lifetime risk of breast cancer.

The VLRC stated at paragraph 3.34 in chapter 3, under 'Current clinical practice':

> Some submissions pointed to particular risks associated with abortion, such as … an increase in breast cancer risk. A recent UK parliamentary report on scientific developments relating to abortion … found no causal connection between abortion and the other risks raised.

The VLRC used that one study to dismiss all of the other evidence that there is a link. The VLRC did not reveal in its report that it had received all the information that I have referred to above; it merely made the above-quoted brief comment in dismissing all that information.

Unfortunately, breast cancer is not the only type of physical damage done to women through abortion. The VLRC was provided with information that showed abortion increases the risk of premature birth in subsequent pregnancies. Abortion can result in infections and damage to the cervix and uterus. Evidence was included that premature birth increases the risk of a range of complications, including cerebral palsy. These risks, including the onset of cerebral palsy, are to the subsequent children of women who have had abortions resulting in increased risk of preterm birth.

The damage to the uterus can also cause problems during the full-term delivery of subsequent births, which may also result in a child being born with cerebral palsy. Among other evidence referred to the VLRC was the identification of the risk by Dr Alexander in 2006 in the medical text of the very prestigious Institute of Medicine's *Preterm Birth: Causes, Consequences and Prevention*. That concluded that prior first trimester induced abortion is an immutable medical risk factor associated with preterm birth.

This is supported by overwhelming epidemiological evidence, including four studies to which the VLRC was referred. I will summarise them as Lumley of 1988, Rooney and Calhoun of 2003, Ancel and others of 2004, and Calhoun and others of 2007. This last study listed 58 previous studies that found a statistically significant increase in the risk of preterm birth from previous surgically induced abortions.

The book *Preterm Birth: Causes, Consequences and Prevention* also reveals that preterm birth constitutes a risk factor for many conditions and complications, including respiratory distress syndrome, chronic lung disease, injury to the intestines, a compromised immune system, cardiovascular disorders, hearing and vision problems, neurodevelopmental disabilities and cerebral palsy.

The 2003 Rooney and Calhoun study confirms that induced abortion elevates the future risk of preterm

delivery, which constitutes a risk factor for complications such as cerebral palsy. It concludes with a discussion of liability and informed consent. Abortion providers in Texas warn women about the prematurity risk for subsequent pregnancies of induced abortions.

A key point in this study also, which convinced the Texan authorities to require that warning to be given, was data from the 1998 Lumley study, which is based on a population study from Victoria which reveals an 800 per cent boost in relative risk of extremely preterm birth for women with more than three prior abortions. That Texas warning mentions this 800 per cent figure, which comes from Victoria.

The 2007 study by Calhoun and others found that induced abortion increases the early preterm delivery rate by 31.5 per cent. Neonatal care of premature babies is one of the most costly sectors of our health system. The VLRC was provided with a copy of a press release which accompanied publication of this study and which revealed that the short-term hospital costs in the US in 2002 for babies born under 32 weeks gestation whose preterm birth was attributable to their mothers' prior induced abortions was $1.2 billion, and there were 1096 excess cases of babies born under 32 weeks' gestation with cerebral palsy. This cost does not include long-term medical, social and economic costs.

The VLRC was informed of the case of *Bruce v. Kay*, heard in the New South Wales Supreme Court and decided in April 2004. In this case Dr Alan Kay was found not responsible for causing cerebral palsy in Kristy Bruce, who was born with this condition. Kristy had sued her mother's obstetrician, Dr Kay, on the basis that he had allowed pregnancy to go on beyond term. Justice Grove found that it was unlikely that her cerebral palsy was caused by Dr Kay's obstetric care but that the mother's uterus had ruptured, depriving Kristy of oxygen, due to a previous induced abortion her mother had had and of which she had not told the obstetrician. Justice Grove said it was only the obstetrician's skill that had saved both mother and baby.

The VLRC was informed of law reform in other jurisdictions to lessen the health effects of abortion. In the early 1970s, the Hungarian government rewrote its abortion laws, resulting in a reduction in abortions by 40 per cent between 1973 and 1974. This followed alarm at the striking increase in premature births to women with a record of induced abortion and concern also at the striking increase in physically and mentally handicapped babies born to such women. In 2003 the Russian government introduced sweeping legislation to enforce stringent criteria before an induced abortion could be approved. The health impact of abortion on women and their subsequent children was a major thrust behind this legislation, and I have an academic medical science reference for that also.

In the confirmation and consent form of Planned Parenthood of Australia, the possible complications of induced abortion are listed as: tearing in the cervix that may require stitching; perforation of the wall of the uterus that may require surgery; an incompetent cervix or stenosed cervix, which means the cervix is too tight or too loose, possibly impairing future fertility; and Asherman's syndrome, the cessation of periods and adhesions in uterus, possibly impairing future fertility.

The VLRC was referred to the fact that a number of states in the USA require warnings of these risks. The abortion clinic in San Antonio, Texas, lists the following risks: perforations or holes in the uterus; infection of female organs, uterus, tubes, ovaries; and an incompetent cervix.

The VLRC's report on abortion says in chapter 3 at paragraph 3.34 under the heading 'Current clinical practice':

> Some submissions pointed to particular risks associated with abortion, such as: increased risk of psychiatric illness, self-harm or suicide; greater likelihood of miscarriage of future pregnancies, or preterm birth; and an increase in breast cancer risk. A recent UK parliamentary report on scientific developments relating to abortion found there was conflicting literature on the increased risk of future miscarriage or preterm birth. A 'large well-designed 2006 study' showed no links, but other studies showed some links. The inquiry recommended no change to the current Royal College of Obstetricians and Gynaecologists guidelines, which state that abortion may be associated with 'a small increase' in the risk of these outcomes. The UK report found no causal connection between abortion and the other risks raised.

That is the statement given in the VLRC report on the risks of abortion. However, a large volume of evidence provided to the VLRC showed that the increase in the risk of preterm birth from an induced abortion is statistically significant. The consequences are devastating. Even one child's life being severely handicapped through complications is very serious. The VLRC relied on the UK inquiry's findings and the Royal College of Obstetricians and Gynaecologists guidelines stating that there was 'a small increase' in the risk of preterm birth. This is a misleading understatement and an unreasoned dismissal of the evidence of the impact of abortion on preterm birth risk.

An examination of the recent UK parliamentary report on which the VLRC relied to dismiss all this evidence and of the submissions to that committee's inquiry reveals that the 'large, well-designed 2006 study' — the only study to which the VLRC specifically refers in its

dismissal of the scientific evidence of preterm birth risk — is actually a Finnish study and not a UK study. Even if the Finnish study had been competently performed, it is absurd to imply that this single Finnish study is more important than the scores of statistically significant studies, including the 58 listed by Calhoun and others in 2007, which found a higher risk of preterm birth and/or low birth weight risk. The Finnish study did not address the critical question of whether prior abortions increased the risk of very early preterm births. Further, the Finnish study misrepresented a 2001 French study published in the *British Journal of Obstetrics and Gynaecology* as finding no risk of post-abortion premature birth. It also misreported a 1999 study by Zhou and others of Danish women, claiming it reported no post-abortion premature birth risk.

The VLRC had evidence that, independent of the difficulties in bearing children caused by damage to the cervix and uterus, abortion can cause infertility. Among the evidence the VLRC was referred to was the opinion of the Elliot Institute in Illinois that one possible outcome of abortion-related infections is infertility. Researchers have reported that 3 to 5 per cent of women having abortions are inadvertently left sterile; I have scientific evidence to support that.

The VLRC was referred to the fact that women who acquire post-abortion infections are five to eight times more likely to experience ectopic pregnancies. Between 1970 and 1983 the rate of ectopic pregnancies in the United States rose fourfold — it was four times higher at the end of that 13-year period — and that coincided with an increase in the abortion rate. Other countries which have legalised abortion have seen a similar dramatic increase in ectopic pregnancies; I have a reference for that scientific information.

The VLRC was referred to three further papers showing induced abortion to be a risk factor for female infertility — one by Ring-Cassidy from 2003, one by Heisterberg of 1987 and one by Frank of 1993. These articles assert that infertility research clearly shows abortion can lead to problems for women who later wish to conceive. Also, a number of states in the USA, in their mandatory information legislation, require warning to be given of the risk of subsequent infertility from abortion. An abortion clinic in San Antonio, Texas, lists among the risks 'sterility, or being incapable of bearing children'.

The abortion consent form of Planned Parenthood of Australia includes possible complications such as Asherman's syndrome, which is cessation of periods and adhesions in the uterus that may impair future fertility. Without citing any studies which refute all this evidence of the risk of uterine infertility, the VLRC report states at page 117:

> … the current medical and scientific consensus —

it uses the word 'consensus' —

> is that these are not material risks.

It says that despite all the evidence.

It has long seemed that some people are prepared to pay almost any price to see abortion legalised and to obtain vindication for those who have performed abortions. The VLRC was prepared to ignore overwhelming evidence to reach a conclusion that facilitates unrestricted abortion. The costs of ignoring the medical and scientific evidence of the dangers will be paid by others. The unborn babies will pay these costs through painful deaths. Women will also pay through damage done to their physical, mental and emotional health, and so will some of the subsequent children they have from pregnancies that follow their abortion. The VLRC wilfully overlooked important and overwhelming evidence of damage that women and children may later suffer following an abortion. This bill contains no requirement for warnings of those risks to be given to women.

There is no effective restriction on partial-birth abortion in the bill before us. Partial-birth abortion is usually carried out only in the third trimester and is designed to kill an already viable child. The baby is first turned around in the mother's womb so that she is born feet first. Before her head is completely extruded from the birth canal, a scissors-like instrument is inserted into the back of her head. The instrument is opened, creating an opening in the baby's skull, and her brains are then sucked out. After the skull collapses and she is dead, the birth process is completed. This happens late in the pregnancy — it is only done late in the pregnancy — and we know it is at a time when the baby's nervous system is completely developed. It is likely to be excruciatingly painful for the baby.

Foetal pain specialist Kanwaljeet Anand, whom I referred to before as Sunny Anand, stated in an article:

> 'The evidence is undeniable' … 'Even a 20-week foetus is likely to feel pain, and excruciating pain.'

He explained that unborn children have the ability to feel more intense pain, including pain during an abortion, than newborn babies, children or even adults. The article continues:

> 'This is because pain transmission pathways have developed in the foetus, but not the pain modulation pathways that are not effective until six weeks after birth', he explained.

A partial-birth abortion is even more dangerous to the mother than an ordinary birth and has no medical justification whatsoever. It is designed to take advantage of the archaic born-alive rule which prevents any charge of murder unless the child is actually born alive. This procedure is already carried out in Victoria at a clinic in Croydon, and it will become more common if the bill is passed because the bill contains no effective restrictions on it.

Despite *Roe v. Wade*, which virtually prohibits laws against abortion in the United States of America, in 2003 a substantial majority of the US Congress passed an act banning the procedure. In 2007 the Partial-Birth Abortion Ban Act was challenged in the US Supreme Court in the case of *Gonzales v. Carhart*, and a majority of the court upheld the act as legitimate law. A lot of medical evidence was placed before Congress, which came to the specific finding that partial-birth abortion is never medically necessary — yet it would become far more frequent under the legislation we are considering.

The VLRC was fully informed of what happens in partial-birth abortion by the World Federation of Doctors Who Respect Human Life and by others, but the commission still recommended model C as one option, which explicitly permits partial-birth abortion. It certainly would not be banned under models A or B, the alternative recommendations, one of which we are considering now. Victorians may consider the failure of the VLRC to recommend a ban on this cruel and horrific procedure to be an indictment on the commission. One may well ask what credibility the VLRC has in light of this failure.

Abortion covers up child abuse, and that is one reason why we have so many abortions in Victoria. The pregnancy of a girl of 16 years or younger — an under-age girl — provides strong reason to suspect that sexual abuse has occurred. In Victoria many abortions are carried out on girls of 16 years or under. I have searched for evidence of abortionists fulfilling their legal obligations to report suspected child abuse, but I am yet to find one example of this happening. It is possible that this has happened at some stage, but it is clear that abortionists are generally not fulfilling their legal obligation to report incidents of child abuse. The indications that abortion is used by men to avoid prosecution for child abuse are confirmed by those familiar with abortion clinics, who report that young girls are frequently visibly bullied by men who demonstrate an angry determination as they accompany the girls to the clinics.

The conclusions I had already drawn were played out in the narrative of Madeleine, who was also mentioned by Mr Finn last night. Madeleine gave a public talk last week describing her experiences of abortion. Madeleine said she was 15 at the time she had an abortion; her boyfriend was 25 at the time she became pregnant. He demanded that she abort their baby because he feared that genetic testing of the baby would conclusively prove that he was guilty of sexual penetration of a minor. Madeleine said she now realises the abortionist broke many rules in performing the abortion and associated actions. Mr Finn told us last night that he spoke to a man who strongly supported abortion. When he asked the man why he supported abortion so strongly, he replied, 'It has got me out of three charges of sexual penetration of a minor so far'. I am afraid that it is not surprising to me.

Consent to abortion is often not genuine. In recent weeks several women have come to my office to tell me of their abortion experience. I did not seek them out; they approached me. They told of similar circumstances of being bullied into abortion. Two recounted to me that they had told the abortionist in the surgery that they did not want an abortion. The young woman described above — Madeleine, who talked about having an abortion at 15 — talked of how her boyfriend had pressured her into having an abortion. The lives of these women have been ruined by abortion. That is why they came to me — because they wanted me to give the Parliament this message: 'Please do not legitimise this practice. It not only kills the babies but also harms us, the women who are also involved in this. Please do not let this happen to other women'. That is what they have told me.

There are no measures in the bill before us against coercion into abortion, even though it is absolutely clear that happens in many cases. Mr Atkinson made an excellent point in his contribution last night. He said that one thing we should be doing in Victoria is making it a criminal offence — and a very serious one — to coerce any woman into having an abortion. I fully support Mr Atkinson's sentiments in that respect.

I have recounted a very long list of information which shows that in addition to killing the child, abortion harms women. It also harms subsequent younger brothers and sisters of the babies who are aborted or half-brothers and sisters of the babies who are aborted. It increases the risk of preterm birth for them, and with preterm birth risks come high risks of other physical ailments which I have described.

The detrimental effects of abortion are not restricted to the woman, her baby or her subsequent children. The principle that all human life is of value and deserves legal protection and may be taken only in the defence of life was not established quickly or easily. It took centuries of inculcating, through the law and through other means, what were initially revolutionary concepts. The fact that this process took a long time and there was a struggle to establish it does not mean that its undoing would require a correspondingly long period or that the process would necessarily be as difficult or tortuous. Destruction is always much simpler, quicker and easier than construction. Passage of this bill would explicitly establish the principle that the legal system will not give even in-principle protection or support to the lives of certain people.

Actions that are inherently wrong, like those covered by this bill, result in regrettable reactions, only some of which are foreseeable. The consequences of the passage of this bill that can be foreseen include genuinely diminishing the value of human life, not only by the state but also by individuals.

Inculcating the principle that every person is valuable and deserves legal protection has contributed to a sense of awe that is felt over the taking of another person's life. That awe and the consequent inhibition and reluctance at taking another's life to which it contributes would be diminished if this bill were passed, because our law not only expresses our culture but also helps to inform and shape our culture. If the bill is passed, the restraint the law has traditionally contributed to imposing on people in situations where there is a temptation to take another person's life would be weakened. Indeed, it seems to me that the de facto legalisation of abortion has already contributed to a degradation of our society. This process is not conscious, deliberate or even considered; it is automatic. Both the principle that all human life deserves protection under law and the principle that will prevail if this bill is passed, this new principle that certain categories of people do not deserve even in-principle protection, contribute to the entire cosmology of every individual. It affects the way every person thinks about himself or herself and every other person in the world.

As I say, the law is shaped by and helps to shape our culture. We are seeing, almost before our eyes, an increasing number of premeditated, shocking, senseless, unprovoked attacks on innocent, defenceless people. We have all heard of the recent bashing with clubs of a former head of the Australian Medical Association and four other people in Melbourne. The press also recently reported on an attack by a group of young men from a passing car on a disabled woman waiting at a bus stop. We struggle to understand how these things happen. The first reaction of many people is to demand an increase in police numbers: they say, 'We need more police to stop these things happening'. It seems to me that as members of Parliament part of our response should be to reconsider what we tell people when we do not take what reasonable steps we can to defend the principle, through our legal system and through administrative actions, that all lives are valuable and worthy of legal protection. We should do what we can to reinforce and strengthen that principle.

The bill before us could not be more diametrically opposed to that course of action. Explicit repudiation by this Parliament of the principle of legal protection for all innocent people would further affect the way that every person regards the value of every other person. The effect would not be to the benefit of our society, and we would not deserve it to be. If our society, through us, this Parliament, deliberately excludes a class of humanity from even in-principle protection under law, what kind of justice can we demand or expect for ourselves or for anybody else? Indeed, if we strip the weakest, most defenceless and most vulnerable of the slim nominal protection that remains for them in our legal system, what kind of justice would we, our society, even deserve? What kind of justice do we deserve if we are prepared to do that to other people?

Abortion's victims are, most obviously, the unborn and those that pro-abortionists call the partially born — those who are dragged feet first from the womb with forceps and killed while the head remains in the birth canal. The victims are also that much smaller group of people, the survivors of attempted abortion, who are born alive but are left to die or are deliberately killed. The victims include many of the women who commit abortion themselves and who suffer disproportionately from depression and other psychological and physical ailments, such as breast cancer and self-harm. But everyone in our society is a victim of abortion, because just as the principle that all human life is worthy of protection protects us all, so damage to that principle endangers the protection for all that is offered by the law and by the social attitudes to which the law contributes.

I now turn my attention to some of the various arguments that are raised in support of legalised abortion. Some of these arguments are explicit, some of them are merely implied, all of them are misguided. It seems to me that the terrible state of disrespect for human life we are presently in, which this bill will compound if it is passed, seems to emanate from several sources. While rarely explicit, the unfounded

fear of excessive population seems to be one of the unstated justifications for abortion, and the reason for a general devaluing of human life in the modern world.

For hundreds of years the views of Thomas Malthus have continued to hold sway, even after they have been proven to be utterly mistaken. The Malthusion view that increasing population would inevitably lead to poverty, and indeed widespread starvation, could not have been more thoroughly discredited by the experiences of the world over the last two centuries. The current size of the world's population is often cited as reasons for alarm as it is implied that the world is about to be swamped with people, that we are about to drop into the ocean from population pressures because there are so many people. The fact, however, is that although the population of the world has increased rapidly over recent decades, it is now growing much more slowly. The population of the world has doubled in my lifetime but will never do so again. Within the lifetime of younger members here the population of the world will actually begin to shrink. Indeed many societies face serious threats from shrinking and ageing populations. Such countries include Japan, which is at the forefront of this challenge, but it is not only Japan. For example, it has been calculated that on present population trends the last Italian will die three centuries from now.

We are not all about to fall into the sea from population pressures. To illustrate that, the fact is that the entire population of the world, 6500 million people, if collected together in one place with the same density that people are often crowded into a tram, bus or train, or something like that, at 10 to the square metre, would fit into an area the size of Tasmania more than 100 times.

More explicitly, it is often claimed that it is better to abort than to bring 'into the world' a baby who is 'unwanted'. Actually, a person in the womb is already in the world even before birth. Furthermore, no baby in Victoria would be unwanted. There are aberrations, but we human beings are made to instinctively protect, nurture and love the young. It is part of our make-up to help children, babies and infants. Many thousands of Australian couples share the same one fervent wish from the depths of their souls — to have children. Many couples unable to conceive ache for the chance to adopt, to be parents to those conceived by others. Adoption and abortion statistics confirm what all of us already know: that many Australian couples, so desperate to love and care for a child, will not have the chance to be parents because the vast majority of children who would in the past have been available for adoption are now being aborted.

We often hear claims in support of abortion, that it is better to kill children in-vitro than let them be born unwanted; that is based on demonstrably false assumptions. For the 20 000 babies aborted in Victoria every year, on average 55 every day of the year have been killed in the womb in Victoria — that is, more than 100 since this debate began two days ago in this chamber. Every single one of those children is desperately wanted by couples who yearn for the opportunity to love and raise babies.

Mr Pakula, in his contribution, made two objections to present laws against abortion. Firstly, that they are ineffective; but secondly, that they force thousands of couples to raise children that they do not want. I do not know which is correct because they cannot both be correct.

Some imply that abortion is merely a form of late contraception, and even explain that abortion is justified because if the unborn person's parents had used effective contraception, then there would have been no need for abortion and the result would have been the same anyway. Precisely the same argument could be made by any person seeking to justify the killing of any other person. What killer could not say, 'If only his, the victim's, parents had used contraception, I would not have had to kill him'. Rather than saying anything about abortion, this so-called argument demonstrates only the human capacity to rationalise bad actions. Even more importantly, contraception and abortion are two separate and different things. Contraception prevents a person coming into existence, abortion kills an existing person.

A common claim is that the law should not or cannot impose morality. It is frequently screamed in support of legalising abortion, and it is usually screamed because if it were said it would be immediately rebutted by the obvious, so it is screamed in a way that does not invite rebuttal. But the fact that this claim is absurd is immediately apparent upon consideration of our laws against murder, rape and assault, all of which certainly are examples of immoral acts. Our criminal law prohibits many immoral acts. The point, however, is that it is not the immorality in itself that is justification for prohibition. These things are properly illegal because of the harm they do to other people. The harm done to another person by abortion is direct and severe and extreme. What greater harm could we do to others than to kill the youngest people, often in the most excruciatingly painful ways?

In her contribution last night Ms Mikakos considered in detail the question of morality and the law and the relationship between them. Mr Leane scolded

opponents of the bill and told them they wanted to tell people, 'Thou shalt not'. Mr Leane is correct; those people against abortion do want to tell people, 'Thou shalt not', as the criminal law does properly in many other cases, just as the law tells people they shall not rape, assault or commit arson, so the law should tell people they shall not commit abortion. That is precisely the purpose of the criminal law — to tell people what they should not and must not do.

In our culture the word 'right' is increasingly attached to any ability, object or situation that is deemed to be desirable. It is possible to hear people seriously assert a right to a credit card or the right of every person not to be criticised. In the abortion debate we hear of a 'right to choose', by which is meant the right to kill an unborn person. This so-called right to choose would take away every choice of the person against whom it is used. The subject of rights is a profound and complex one. Suffice it to say, however, for the present purposes of this debate that our legal rights, our freedoms and our liberties properly end and — are properly ended by — the law at the point where significant harm to another person begins. We do not have the right to harm others, and it is entirely the legitimate, proper and necessary function of the law to prevent us doing so. If the law does not exist to deter people from harming others, what is the reason for its existence? Why do we have a legal system at all if not to prevent us harming others and others harming us? A legal system exists for precisely that purpose — that is, to prevent us harming others and to protect us from harm by others. Yes, Mr Leane, the whole point of the law is to prevent people doing certain things — those things that harm other people. That is why we have a legal system. Indeed it involves telling people, 'You shall not harm others'.

It is routinely claimed in support of unrestricted abortion that women must 'control their bodies'. However, science and reason tell us that the unborn are not parts of their mothers' bodies. From the moment of conception the unborn person has her own, fully human, complete DNA. That DNA is taken from both her parents, but is also separate and different from both parents. It is the genetic foundation that will serve her throughout her entire life. What part of a human body has natural, complete human DNA that is different from the body itself? The answer is none. Parts of a body that have human DNA at all, have that body's DNA, not somebody else's. Complete sets of human DNA that are different from the host body's natural DNA are not parts of the host body. They are separate bodies — that is, they are separate people.

Of course the unborn baby may be male. Does the mother's body develop male sex organs during gestation? Of course not! Does the mother's body suddenly have four legs and arms and eyes? No. If she conceives twins, does her body have six arms, legs and eyes? Of course not!

An unborn person in the womb may have a blood type that is a different blood type from her mother's. Surely different parts of the body have the same blood type. Not only may the blood types be different, but they do not mix. Mother's and baby's blood come close in the placental membrane, but they do not mix because, if they were to mix, antigens in the mother's blood would recognise the baby as not being part of the mother's body and would attack the baby. So, literally, an antigen — which is a protein molecule — can recognise an unborn person as a separate body from the mother. If a molecule can do that, why cannot we?

A person's genes are taken from both mother and father. Genetically an unborn person is no more a part of her mother's body than she is a part of her father's body. Genetically the connection to the unborn is the same for the mother or father. Furthermore, the genetic connection that does exist does not change at birth. What would our reaction be to a 60-year-old man claiming justification for killing his 30-year-old daughter on the basis that she was part of his body? It would be an absurd claim, but in a genetic sense it would be every bit as valid — or rather every bit as invalid — as the claim that the unborn person is a part of her mother's body.

We all know that being inside something larger does not make a person a part of the larger thing. A passenger in an aeroplane is not an aircraft part because she is inside a jumbo jet. A passenger is not an automobile part because she is sitting in a car. Would we say that an office worker as she travels to her workplace is an elevator part? I think we know the answer to that.

If further evidence were needed that the unborn person and her mother are not parts of the same body, we might simply consider that it is possible in many cases for a woman to die and for the baby she is carrying, if removed from the womb, to live indefinitely. The woman may die, and yet the baby may live. Conversely the baby may die, and the woman may live. She may continue to live normally for many years. This would not be possible if both mother and baby were part of the one body. It would not be possible for mother and baby to live separately and independently in the event of the death of the other if they were both part of one body.

The unborn person is, of course, enclosed by and dependent upon her mother's body, but clearly she is not a part of her mother's body. It is true that the intimacy of the connection between an unborn person and her mother presents practical difficulties in the effective enforcement of our in-principle existing legal restraints on abortion. It is also true that the intimacy of the relationship means that the continuation of the life of the unborn can mean inconvenience and great difficulties for the mother. In practice our existing abortion laws allow abortion for practically any reason.

The letter of our existing law recognises the costs of continuing a pregnancy to the mother and allows the unborn person to be killed in extreme cases — that is, where the continued existence of the unborn person is a serious threat to the life of the mother. Victoria's existing abortion law is consistent with the logical self-defence consequences of the principle that innocent human life may be taken only in the individual or collective defence of human life.

On the subject of innocent human life, the point should be made that of all life in the world there could not be any life more innocent than the life that is taken through abortion. Even the best adults, or more mature people, are imperfect and flawed. It is the unborn, and only the unborn, who are without any fault whatsoever.

Regarding popular support, the number of people who support abortion seems to be partly the result of the large numbers of Australians who have personally contributed to an abortion. In every one of the 3.5 million or 4 million cases of people aborted in Australia since the late 1960s we can estimate that in addition to the woman and the abortionist an average two or three people were directly involved. Typically they might include the parents of the woman, usually her mother. In the experiences of the women who have come to me, two of them were bullied by their mother and one by her boyfriend. It is often the mother, but grandparents, boyfriends, husbands, sisters and friends have also often contributed to pressuring women into having an abortion. This means, even excluding double counting those involved in more than one abortion and those who have since died, there are still millions of adults in Australia who have had direct contribution to an abortion.

Many of these now deeply regret their actions, such as those women who have come to my office. They are passionate that effective action should be taken to prevent others making the same mistake. Others seek some form of vindication from the state for what they have done in the past. It is these people who most strongly oppose or most strongly support liberalised abortion.

The opinion poll argument is used by some proponents of abortion. On 6 September, in opposition to a much larger pro-life demonstration on the steps of Parliament House, a much smaller counter-demonstration was held on the other side of Spring Street. One young man among those in the counter demonstration was filmed by TV cameras. He was raging, almost hysterically. 'Eighty per cent of people agree with us!', he screamed over and over again. We are lucky to know where this line of argument came from. It was developed at the initiative of Dr Bernard Nathanson whom Mr Finn talked about last night. Dr Nathanson, in his article *Confessions of an Ex-Abortionist*, tells us that he invented the strategy of simply fabricating the claim that most Americans supported liberal abortion laws. Dr Nathanson says they knew such claims were nonsense, but they were extremely useful in building support for abortion on the basis that most people like to agree with what they think is the majority opinion. He says:

> Knowing that if a true poll were taken, we would be soundly defeated, we simply fabricated the results of fictional polls. We announced to the media that we had taken polls and that 60 per cent of Americans were in favour of permissive abortion.

This is the man who led NARAL, the main abortion action group in America and in the world at that time:

> This is the tactic of the self-fulfilling lie. Few people care to be in the minority.
>
> We aroused enough sympathy to sell our program of permissive abortion by fabricating the number of illegal abortions done annually in the US.

He concludes:

> Repeating the big lie often enough convinces the public.

He also says:

> I am personally responsible for 75 000 abortions. This legitimises my credentials to speak to you with some authority on this issue. I was one of the founders of the National Association for the Repeal of the Abortion Laws —

NARAL —

> in the US in 1968.

He describes how that tactic was used so successfully to get the United States Supreme Court to strike down most laws against abortion in all American states. Dr Nathanson admits to having personally performed thousands of abortions and led the US push for legalisation of abortion. He is now a staunch opponent

of abortion and deeply and shamefully regrets the part he played in promoting abortion and in performing abortions.

Opinion poll results are of course not a proper or appropriate means for a parliament or a commission to reach conclusions about public opinion. The results of surveys actually conducted, unlike those that Dr Nathanson was involved in, which were simply fabricated, will depend on how the question is put. Public opinion surveys show that the overwhelming majority of the public would prefer to see fewer abortions performed in Australia. What will this bill do to achieve that public desire? We know it will do nothing at all. It will not attempt to do anything at all. Even though the terms of reference given to the Victorian Law Reform Commission were to change the law consistent with public opinion, and public opinion clearly demonstrates a desire for fewer abortions, the VLRC did nothing whatsoever to recommend any measure to achieve that objective.

Opinion polls show that more people support abortion if the unborn person is disabled. This suggests profoundly disturbing things about attitudes to the disabled much more than it does about attitudes to abortion. However, the opinion polls were cited in the VLRC report and were also referred to by some members. From what I noticed, they all expressed the question in terms of the woman. If people were asked, 'Do you support a baby's right to life?', I am sure we would get vastly different results from those that were quoted. If they were asked, 'Do you support an unborn baby's right to life?', we would get vastly different results from those on which the VLRC sought to rely.

I believe most people, probably the majority, are basically indifferent and would prefer not to think too much about abortion one way or the other. Taking a cynical view, I would say that most people are not too concerned about other people in the general course of things. A very small minority are fanatically in favour of what they would call the right to choose. A much larger minority are passionate in their defence of the unborn. This assessment, that a majority of those who are passionate about the issue are opposed to abortion, is supported by the following facts: 80 per cent of the submissions to the Victorian Law Reform Commission were strongly against abortion, a fact that was only acknowledged very begrudgingly by the commissioner. I attended the press release at which the VLRC first reported. The question was put to Professor Rees about the proportion of submissions that were against abortion. He reluctantly acknowledged that more than 80 per cent of the submissions were against abortion.

On Monday there was a ninemsn poll on the internet. I have never seen such a large number of people answer any vote line on the internet — more than 100 000 people responded. This is a very significant vote because you cannot vote more than once unless you have more than one computer; each computer can only vote once. It is a much better indicator of public opinion than telephone vote lines. The result of the ninemsn poll on Monday, 6 October that asked the question, 'Should it be a crime to abort a foetus at 24 weeks?' was that 66 610 or 62 per cent of people answered 'Yes' and 41 437 or 38 per cent answered 'No'. There have been recent vote lines in Melbourne newspapers in which the number of callers have overwhelmingly been against abortion.

The number of people throughout Victoria attending pro-life demonstrations in recent weeks has vastly outnumbered those attending rallies and demonstrations in favour of abortion. As every other member who contributed to the debate has mentioned, the number of letters, faxes, emails and telephone messages that have been received has been greater on this issue than on any others that members remember, and that certainly is consistent with my experience over two years as a member of this Parliament. The vast majority of those communications were in favour of life and against abortion.

That position is also supported by the petitions that have been presented to this Parliament. Yesterday my electorate officer looked at the petitions presented to Parliament over the last 18 months or so and came up with a figure close to 40 000. Of those, more than 97 per cent were petitions in defence of the rights of the unborn. Fewer than 3 per cent were petitioning for so-called abortion rights.

How do we get to this situation of people believing otherwise? It seems to me that unfortunately our media has a major role to play in this process. On the basis of what I have seen over recent years in Victoria, I believe the press regularly misreports what goes on at pro-life rallies. They like to vilify pro-life people, but that is not supported by the evidence. For example, one year ago there was a rather small demonstration on the steps of this Parliament. There were estimated to be — 878, I think the number was — between 800 and 900 adults who marched for life and against abortion. They marched to the steps of Parliament House. They had several hundred children with them, so there were probably 1200 or 1300 individuals. When they arrived at the Parliament there were six pro-abortion people there with megaphones who spent the whole of the rally screaming and trying to drown out the message of the pro-life people. That night and the next day the media

reported that 100 people attended this demonstration. Another newspaper said there were more than 100 people. Every television station reported on what the six people with megaphones had said and did not report on what the 1300 or 1400 people at the rally had said.

On 6 September this year on the steps of this Parliament there was a rally by 3000 to 4000 people in favour of life. On the other side of Spring Street was a demonstration by about 100 people. The media report suggested that the numbers of demonstrators were about equal. On the basis that the pro-abortion people were trying to attack the pro-life people — to knock police out of the way so they could get at them and bash them up — it was reported that both groups had been violent towards each other, when any objective person looking at it would have seen that the pro-life people had no interest whatsoever in attacking the others. Furthermore, the pro-abortion group included mentally challenged people, and it was very disappointing to see that they would be used in that way for political purposes. On Sunday there was a rally of I think at least 5000 people on the steps of Parliament House that did not get the attention from the media that it deserved. I must admit there were no counter-demonstrations there, and I did not notice any bad behaviour by anybody else.

Some members have also referred to the behaviour of pro-life people. Mr Pakula complained, with a lot of justification I think, that someone had stupidly called him a Nazi. That is quite unacceptable behaviour, and no doubt that should not have happened. However, it is not all one way. In a letter I had someone calling me a P-I-G — pig in capital letters. I did not mind that. People are entitled to say things like that; they might even be right. But one thing I must say I found extremely objectionable was a person saying my mother should have aborted me before I was born. I object to that vehemently, not because of anything it says about me but because of what it says about my mother, who would not in her wildest dreams, under any circumstances, have thought for one second of doing that to anybody.

In any case, the question of public opinion and behaviour is largely irrelevant. If human life is the right of every person, and it is, then it cannot be properly taken away even if every other person in the entire universe is enthusiastic and demands that an individual's life be taken away. Human life is a matter of rights, and rights are not subject to public opinion. It seems to me that we are here to be leaders. We owe it to Victoria to be informed and to use our knowledge, our reason and our wisdom to benefit the people of Victoria. We are here to especially defend the weak and the defenceless. We should protect the weak and the defenceless; we should not facilitate their destruction. We should correct profound errors, not add to them.

It is often said, as Mr Pakula stated explicitly in his contribution, that laws against abortion cannot be enforced effectively, and therefore they should not exist. There is some truth in Mr Pakula's premise, but no truth in his conclusion. The truth is that murder, rape, assault, theft, vandalism and every other crime can never be stopped by a legal system. These things will continue despite laws against them. There are very good reasons, however, why the law should maintain in-principle support for the unborn, even though we know there will continue to be abortions in the foreseeable future.

That 'the unborn are not human' is an assertion often heard in support of abortion. Human history is full of examples of societies denying human status to some within its ranks. Infamous examples abound, some within living memory, of people excluded from the protection of law because of their race, ethnicity, religion or class. We in Victoria also are doing precisely this on the basis of the age of the victim. Those who are less than nine months old since conception are being deliberately killed in large numbers. Most proponents of this practice claim their victims are not human and proclaim the right to kill the unborn as the right to choose.

Some such proponents are vehement and certain that this right exists. Just as certain in their right to kill have been all those who have supported the right to kill others throughout history. The right of people to racial or religious purity has been fanatically believed in at particular times and in particular places. The right of certain races to own, buy and sell people of certain other races as property has been defended to the death. One of our members, Mr Thornley, has just returned from a tour of many battlefields where that right to own other people was defended to the death by hundreds of thousands of people. The right to eliminate people of certain classes in order to build a utopian society, free of class conflict, has been vehemently promoted by some kinds of politics. This theme goes on to the present day and the consideration by this Parliament of this bill.

Some such proponents through history, like some of those supporting abortion, have not lacked erudition or intelligence or even a certain degree of wisdom. In 1856 the Supreme Court of the United States handed down its decision in the case of *Dred Scott, Plaintiff in Error v. John F. A. Sanford*. Chief Justice Taney,

speaking for a very strong majority of the court, summarised the question before the court as follows:

> The question is simply this: can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guaranteed by that instrument to the citizen?

The court's answer? *Wikipedia* puts it this way:

> In effect, the court ruled that slaves had no claim to freedom; they were property and not citizens; they could not bring suit in federal court; and because slaves were private property, the federal government could not revoke a white slave owner's right to own a slave based on where he lived … Taney, speaking for the majority, also ruled that since Scott was an object of private property, he was subject to the Fifth Amendment of the United States Constitution which prohibits taking property from its owner 'without due process'.

In other words, negroes did not have rights. Not only in the case of slavery in America, but in every case of people being denied recognition of their status as human beings, truth ultimately prevails. We can be sure, then, that one day — perhaps not in our lifetime, but one day — *Roe v. Wade*, together with the Dred Scott case and some other decisions, will be seen not only as bad law but as horrendous and misguided attacks on human rights.

There is clear support for this proposition in the irony that Norma McCorvey, who was the actual plaintiff in *Roe v. Wade* — the actual Roe, the actual woman who sued to get abortion decriminalised — has now become a staunch and active opponent of abortion. She admits that following her involvement in the case of *Roe v. Wade* she went and worked in an abortion clinic for years. She admits that she would regularly go up to pro-life people outside abortion clinics and spit in their faces and do things like that. But like Dr Nathanson, she too now deeply regrets her role in promoting abortion. There are good reasons to believe advocating abortion will in the future be seen the way the former Roe now sees the advocacy of abortion — it will be seen in the future in a similar way to the way we now regard supporting slavery or some of the even more horrendous abuses of human rights that have occurred throughout history.

The argument that people become human at birth is used to justify abortion. But there are only four differences between a pre-born and a newborn. These differences are sometimes relied on as evidence that the unborn is not human, but that conclusion, based on these arguments or any others, is false.

The first difference is size. It is said that the foetus is too small to be human. The unborn can indeed be tiny compared with a full-grown adult, a child or even an infant. Does how big you are determine how human you are? Is your humanity dependent on size? As I have pointed out in this house before, the tall are not more deserving of legal protection than the short, the skinny not less worthy of protection than the obese. Size has nothing to do with our humanity or our right to legal protection.

Difference 2 is the level of development. Are the unborn unworthy of protection because they are undeveloped? Are 20-year-olds more human than 10-year-olds since they are smarter and stronger? Is a prepubescent child unworthy of legal protection because he or she does not demonstrate the obvious signs of physical development that occur with puberty? Of course not.

Not long ago members of this house passed a measure to increase the penalties under the law for the killing of a child — that is, a child who has been born. That was an appropriate bill and an appropriate measure based on the correct presumption that those in special need of legislative protection deserve special legislative protection. The protection offered should not be dependent on a certain level of development.

Environment or location — does being inside a particular place which encloses you make you more or less a person than another? Does being located in a mother's body rather than outside make a child less human? Of course it does not.

Four is the degree of dependency. Does dependence on another person determine humanity? Is someone on kidney dialysis less of person? Is an insulin-dependent diabetic less of a person than other people? A young baby of several months of age is far less developed and just as incapable of taking care of herself as an unborn person. Both are, however, equally and fully human. Humanity is not a function of independence either.

Cells — some people say the unborn are just a bunch of cells. As I have said before in this house, what are any of us physically except a bunch of cells? Isn't every one of us made up of cells? The conclusion is overwhelming and perfectly clear: human life does not spontaneously begin at birth. Birth is actually a less significant transformation than puberty, which significantly alters a human being in many profound respects. While birth undoubtedly changes the way that others see a baby, it does not change the inherent nature of the person. Physically the shock of birth causes the baby to briefly regress; it temporarily reverses the

growth process. A newborn baby loses weight for the first few days of life outside the womb.

Every argument in favour of legalised abortion is misguided. People are not about to drop into the sea from population pressures. Those being aborted are not unwanted. Abortion is not a form of retrospective contraception. There is no right to kill, and the unborn person is not a part of her mother's body. Although there are difficulties in enforcing anti-abortion laws, there are extremely compelling reasons for retaining them. Popular support for abortion is much less popular than is often suggested, and the degree of popular support is irrelevant in any case. While immorality alone is not a sufficient reason for retaining in-principle laws against abortion, the direct and severe harm that abortion does fully justifies our existing laws. More importantly, people are human, even if they are not visible, long before birth.

I would like to go on to the real reasons for our getting into the state that we are in. They are based on the relative anonymity of victims of this particular form of homicide, because although the reasons I have stated are intellectually bankrupt, there must be some cause of the present situation that we are in and a cause for the hostile indifference that many people feel to the unborn as well. The arguments for unrestricted abortion are intellectually bankrupt. How then has this position gained currency and come to be believed by many people? It seems to me after considering the question for decades that the answer lies in the nature of human intelligence and emotions.

Until recently, drivers between Melbourne and Geelong were met with lots of signs about the dangers of reckless driving on parts of the highway that were being repaired. The signs had pictures of roadworkers with their children. Underneath the pictures they said something like 'Careless driving — real risks, real people'. I think that was very intelligent public relations work by VicRoads, which was operating under the correct assumption that we human beings need to see potential victims. We need to have some sort of personal relationship with them in order for those victims to be real to us. We need to visualise potential victims in order to form some kind of personal bond and to be strongly motivated or persuaded. In an age when we can affect others in distant times and faraway places, our intellectual and emotional responses still seem designed for an era when the influence of human actions was largely limited to the present moment and the immediate vicinity.

Does not this limitation — this deficiency in our intelligence — actually explain the indifference of many people to the unborn? Is it not the fact that those who bear the price of apathy are anonymous — that they are rarely seen and almost never heard? Empathy is for the one we see and hear — in the case of abortion, the mother. It can be so strong that we can be blinded and we can be deaf to the invisible and the silent — the unborn person, who is the other person in the abortion scenario.

Is this not the real reason for indifference to the unborn? Is that apathy actually rational or does it merely reflect the limitations of the human capacity to empathise and to think? Does not lack of concern for the unborn in reality stem from this limitation on human intellect? The unborn victims of abortion are normally but not always invisible. Imaging technologies are making it perfectly clear that more mature foetuses look undeniably human. The younger unborn, who look less like the people we see around us every day, especially very young unborn people, look of course precisely as people look at their stage of human development. The potential and actual victims of abortion are visible on only some relatively rare occasions.

Gianna Jessen survived an abortion when she was seven and a half months old in the womb. She spoke in Queen's Hall a few weeks ago. Disappointingly, most members did not attend. Hers was perhaps the most powerful and moving presentation I have ever heard in my life. Gianna spoke about how she was born alive after being injected with saline solution while she was still in the womb. She said she is still alive today only because she was born in the early hours of the morning, before her abortionist had returned to the clinic. A nurse there called an ambulance.

Although Gianna somehow avoided blindness, she is left with cerebral palsy as a result of the abortion. I have since read on the internet that when she speaks Gianna feels a need to represent other survivors of abortion, including a two-year-old American girl who Gianna has met and who was not as fortunate as Gianna and was blinded by the abortion poison that was injected into her head while she was still in the womb.

It was of course in an attempt to graphically show the humanity of the unborn that in June I sent a copy of a photo of Samuel Armas, now an eight-year-old American boy, to members. The photo was taken when Sam was a 21-week-old foetus. It was taken at the end of surgery performed on Sam while he was still in the womb. Just after the surgery was completed, Sam reached out from the incision in his mother's abdomen and grasped his surgeon's finger. In this photo it even looks as though Sam is somehow thanking the doctor

for the extraordinary surgery just performed. Probably, though, Sam was merely expressing that extraordinarily human need for contact with another person. Sam was 21 weeks old when the photograph was taken. Under this bill, unborn people at Sam's age when the picture was taken may lawfully be killed in excruciating pain for any reason or for no reason.

Last night Mr Pakula talked about being sent copies of photos of children after abortions. I do not know whether he was referring to me or not in that comment, but I will say some things about that. Firstly, the photo I sent was of course not of an abortion. Secondly, I would not send a photo of an aborted person myself, because the point to me is that the unborn is human, and once any of us is dead, I think we are no longer human, including an unborn person who has been aborted. So it is counterproductive to send such a photo. Thirdly, I understand why people have sent such images; they want to impress upon people what they are actually doing if they vote for a bill like this. It is the reality of voting for a bill such as the one before us: you are inflicting that on people. While I would not do it myself, I can understand why others would.

Although we humans are amazingly clever at times, our intellects are fundamentally limited in at least one sense. We are more persuaded, more moved and more impassioned by what we hear and especially by what we see than we are by what we know. It is relatively easy for a person to press a button and knowingly drop a bomb or launch a missile to burn, maim and kill hundreds of thousands of innocent people, but it is much more costly to a person's psyche to slowly strangle the life out of one guilty individual as his suffering is seen and his groans are heard. We need images, sounds and personal stories to make the suffering of others real to us. Americans of the 19th century were more moved by stories of Uncle Tom and Simon Legree than they were by the facts of slavery. The same might be said about the personal narratives of Anne Frank or Ivan Denisovich, which personalised and therefore moved people around the world much more than was possible by mere intellectual knowledge of statistical data.

From time to time US courts consider whether to allow television broadcasting of executions. I have always thought that such executions should be broadcast and viewed by everyone. Those who allow this to happen to other people should know what they are allowing to happen to other people. There are many images on the web that show the reality of abortion in graphic detail. They show killings that are vastly more brutal than any execution. In my opinion every member considering a vote for this bill should look at some of those films to understand precisely what they are intending to support.

Australian society has developed a preoccupation with the word 'discrimination'. Disapproval of almost anything that is unattractive — any action, philosophy or point of view — is now often dismissed as being discriminatory. The legalisation of abortion manifests the most blatant, real, dangerous and genuine discrimination imaginable — the deliberate killing of members of a category of human beings as a so-called right, often involving pain beyond our comprehension, on the basis of the age or level of development of the victims.

Human progress is inevitable although not, as mentioned, consistent. We can therefore be sure that in the future the rights of the unborn will be recognised and respected and that those who are now lauded for promoting abortion will be seen in a similar way to others through the ages who have argued that certain categories of people should be denied recognition as human beings.

Those advocating abortion as a right often suggest that concern for the rights of the unborn is merely an idiosyncratic, religious-based view of the Catholic Church. This strategy was also adopted by Dr Nathanson, a former abortionist and leading advocate of abortion in the US who is now a leading staunch opponent of abortion — although he is very elderly now, and I do not think he is very active. Along with simply fabricating surveys and survey results showing popular support for abortion, Dr Nathanson and his small group devised a strategy of characterising opposition to abortion as a Catholic phenomenon.

Dr Nathanson says the following in his statement 'Confessions of an ex-abortionist', which is easily available on the internet and from other sources:

> The second key tactic was to play the Catholic card.
>
> We systematically vilified the Catholic Church and its 'socially backward ideas' and picked on the Catholic hierarchy as the villain in opposing abortion. This theme was played endlessly. We fed the media such lies as 'we all know that opposition to abortion comes from the hierarchy and not from most Catholics' and 'Polls prove time and again that most Catholics want abortion law reform'. And the media drumfired all this into the American people —

and you might say the Australian people as well —

> persuading them that anyone opposing permissive abortion must be under the influence of the Catholic hierarchy and that Catholics in favour of abortion are enlightened and forward looking. An inference of this tactic was that there were no non-Catholic groups opposing abortion. The fact that other Christian as well as non-Christian religions were …

> monolithically opposed to abortion was constantly suppressed, along with pro-life atheists' opinions.

I would like to note there as well that the case for abortion, in my opinion, is not based on religious arguments at all; it is based on the fact that abortion harms other people. A lot of the religious cards that are used by proponents of abortion are really just an attempt to muddy the water. The victims of abortion are real people — real human beings — and one does not have to have a moral repugnance of abortion to believe that it is properly illegal.

The truth is that recognition of the rights of the unborn is not confined to any one church, culture, time or place. The Hippocratic oath, by which physicians swear not to abort, was first sworn 2500 years ago, as was referred to by Mr Theophanous earlier. It was sworn on the island of Kos under the famous tree which meets visitors at the harbour — or which is said to have been there anyway. In the USA restrictions on abortion are strongest where Protestantism is also strongest. A nation that has been traditionally conspicuous in its legal defence of the unborn has been Thailand — a Buddhist country. Abortion is also strongly opposed in Islam. In 1959 the United Nations General Assembly adopted the Declaration of the Rights of the Child; I have a reference for that. This declaration was drafted by the United Nations Commission on Human Rights and adopted by the General Assembly of the United Nations on 20 November 1959. It is not legally binding, but it does express the view of the countries of the world at that time. The preamble states inter alia:

> … the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,

The United Nations said in 1959 that the child needs 'appropriate legal protection, before as well as after birth'. Do members think we are giving appropriate legal protection if we pass this bill? You know we are not.

I would like to consider the particular aspects of this bill before concluding. It is often claimed by those supporting legalised abortion that abortion would never be performed except as a last choice, as part of a terrible dilemma and so on, and that it is only a choice made with the greatest reluctance. That is probably true in many cases of abortion, but it is not true in every case of abortion. On a global level, abortion is frequently used as a means of sex selection of children. In practice this overwhelmingly means the destruction of females. In large parts of Asia abortion is clearly and undeniably being used to kill unborn babies who are considered undesirable because they are female.

Studies have concluded that the deliberate aborting of large numbers of the unborn because they are female is posing a dramatic threat to the future of many East Asian societies, especially but not only India and China. It is also a problem in many of the smaller nations of East Asia and some parts of Eastern Europe. According to the United Nations Population Fund, China's modern sex ratio is 94 women to every 100 men. Where have the other 6 women gone? It is probably more than 6, because normally there are more men. That can be compared with 103 women for every 100 men in the USA and 104 women for every 100 men in England. In India, as of 2007, 93 Indian girls were born for every 100 boys. In China the latest census reports there are 6 boys for every 5 girls. In the Caucusus gruesome imbalances exist now in Armenia, Georgia and Azerbaijan, and in India the state of Punjab tallies 126 little boys for every 100 girls. What happened to the other 26 or so girls? The United Nations says they were killed by a combination of abortion and infanticide, but mostly abortion.

According to the United Nations Population Fund 2005 report — which is already three years old — sex selection abortion together with infanticide is responsible for the loss of at least 60 million girls throughout the world. Sixty million girls! That is as of three years ago, so one can presume that the figure may be 70 million, 80 million or more now. Sixty million girls throughout the world are killed through abortion because they are girls.

There is conclusive evidence that this practice of destroying unborn people because they are female already occurs in the United States of America. Is there any reason to doubt, then, that this is also happening in Australia — indeed, in Victoria? It is ironic that some feminists are therefore fighting to facilitate a practice that kills people because they are female. The passage of the bill before us would allow abortion without any restriction up to 24 weeks for any or no reason. Beyond 24 weeks the restrictions in the bill are really window-dressing. The bill would give the imprimatur of the state of Victoria to the killing of unborn females — simply because they are female. Some members considered the possibility of amendments to the bill to prevent sex selection abortion, but the whole purpose of the bill is to allow abortion for any or no reason. The only way to prevent or even restrict this practice is to restrict abortion itself.

On the subject of reasons for abortion, a member of the Legislative Assembly told me that she had her hair done a couple of weeks ago, and the hairdresser discussed abortion with her. The hairdresser, a young woman, told the member that she used to use the

contraceptive pill but concluded after a while that taking the pill made her put on weight. For the last few years she has been off the pill and simply aborted babies when she found herself pregnant — which has happened twice, so far, in recent years. I think all of us are familiar with anecdotal evidence that suggests abortions are not only ever performed in dire circumstances. I am aware of evidence of that.

Members have raised socioeconomic reasons for abortion. When we hear of difficult economic circumstances we may be tempted to think, 'The reasons are strong; no wonder people do it'. I ask members to remember that we are talking about the killing of a person. Is poverty, loneliness or lack of support sufficient reason in principle to allow the killing of another person, as this bill would do?

I would like to bring up a topic that has been very much ignored in this debate — that is, men. Very few people in this debate have mentioned males. The unborn person is enclosed by and dependent upon his or her mother's body, but the genetic connection with his or her father is just as real and important. Where, then, is the choice of the father in this abortion bill? Where is the influence of the father, the right of the father to contribute? It is not there at all.

A lot of members might remember that in the days immediately following the press release launching the Victorian Law Reform Commission report, they received a lot of emails in support of model C. By the way, I believe those emails came from people in the abortion industry, including people working in government institutions. However, my point for the moment is that virtually all of those emails said, 'This choice is properly between a woman, her partner and the doctor'. Consider the point of view of the partner for the moment. It seems to me that that claim was a deliberate falsehood, that the recognition of the father was window-dressing — none of the people who wrote to us advocating model C had any interest in the father having a role in the decision about the fate of his child.

Under this bill there is no role for the man who is the father of the baby; he is allowed no say in whether his child is killed. This bill would leave the question of the life or death of the unborn entirely to the mother. What responsibility, then, would the father have for a child that the mother decides can live? Would logical consistency not suggest that the father, who has no rights under this bill, has no responsibilities either? If he has no choice, no say and no rights, why does he have the responsibility of paying for the child? He would certainly see it that way, anyway. It would still be possible to force them to pay, but it will be very difficult to persuade them that they should.

The Premier has repeatedly stated in the media that this bill does no more than encapsulate 'current clinical practice'. That is not true. It is not current clinical practice to force doctors to refer women to abortionists, nor is it current clinical practice to require physicians to perform abortions, even in emergencies, as stipulated by the bill. Current clinical practice requires the agreement of a medical panel to authorise a late-term abortion. Current clinical practice does not facilitate late-term abortions by requiring only that the abortionist say that the abortion is appropriate and get another abortionist friend to agree. It is not current clinical practice to substitute Parliament's medical judgement for that of a physician who is of the medical opinion that in a particular case abortion would be damaging to the woman involved, as well as destroying an unborn person. That is precisely what this bill does.

Passing this bill will tell a doctor, 'It does not matter that you have known this woman since she was born; it does not matter if you were the obstetrician when she was born; it does not matter that you have seen her every week for the last 30 years and you know that she is psychologically brittle and that an abortion would damage her psyche — that it would harm her mental health'. Passing this bill will say, 'That does not matter; we know better than you do, Doctor. Your medical opinion is irrelevant. You still need to refer that woman to an abortionist'. It is not only the ethical or conscientious objection of the doctor that is overcome by this bill: the bill overcomes his or her medical judgement. It substitutes our medical judgement for the doctor's.

The right of conscientious objection, which is separate from what I have been speaking about, is a fundamental indicator of a free society. It is one of the many rights that will be breached by the passage of this bill. In drafting this bill the government has ignored its own Charter of Human Rights and Responsibilities. It has abrogated its own charter, which prohibits overriding conscientious objection in legislation.

It is arguable that this bill contradicts rights guaranteed under the International Covenant on Civil and Political Rights to which Australia is a signatory. This bill is extremist legislation by any measure. I have argued that, in all but extreme circumstances, abortion is not a legitimate choice. This bill is not merely pro-choice, it is pro-abortion.

The Australian Medical Association is opposed to legislation that would force doctors to refer any patient

requesting a referral to an abortionist, even where the doctor's professional judgement is that this would harm the patient. One hundred doctors have said they will either take early retirement in Victoria if this bill is passed or they will leave the state. I have had confirmation of this in western Victoria where the shortage of doctors is already dire. It is very difficult for many people in parts of my electorate to see a doctor, and this bill will make it worse. The early retirement of even one doctor would seriously affect many people in western Victoria.

This bill will cause a lot more than one doctor to take early retirement in Victoria. That anecdotal evidence was confirmed to me today by another member for Northern Victoria Region, who said she also has been told that in that part of the state, individual doctors have said they will leave the state or take early retirement if this bill is passed. In addition, we have heard media reports of 100 doctors leaving the state or taking early retirement, and I think they have been named. In newspaper reports, individual doctors have confirmed this will happen.

Sitting suspended 6:32 p.m. until 8:04 p.m.

Mr KAVANAGH — To recap briefly, before the dinner break I was talking about the aspects of this bill that provide particular reasons why it should not be supported. It includes, for example, allowing abortion for any reason or no reason — something that will in practice allow abortion for reasons that the vast majority of the community would not regard as reasonable, including, for example, sex selection. This bill also excludes men entirely from any consideration of the fate of their children. They have no say in determining the fate of the child that they, together with the mother, have helped to create. I have said and shown, I think, that this bill does not conform to current clinical practice of abortion in Victoria for several reasons, the main one of which is that it abolishes a right to conscientious objection — which is a hallmark of a free and democratic society. I have argued that this bill ignores and overrides the government's own charter of rights and responsibilities and that it is possibly in breach of Australia's legal obligations under the International Covenant for Civil and Political Rights.

This is extremist legislation by any measure. I have argued that in all but extreme and rare cases abortion is not a legitimate choice and that this bill is not merely pro-choice, it is pro-abortion. The Australian Medical Association (AMA) is opposed to this legislation, which would force doctors to refer any patient requesting a referral to an abortionist, even where the doctor's professional judgement is that such a referral would harm the patient. It is not only doctors, either; this bill forces nurses and other health professionals to act against their consciences.

Judging from her speech, I believe Ms Mikakos does not understand the situation. Ms Mikakos alleged that under this bill nurses will not be required to participate in abortions; however, the following is taken from a letter from the office of Daniel Andrews, the Minister for Health. The letter states:

> Nurses who are employed, for example, in operating theatres in hospitals will not have a direct relationship with the woman in question —

that is, the one seeking an abortion —

> therefore the conscientious objection clause will not apply. If they do not wish to be involved with abortion procedures, they should inform their employer of this, but they will not be covered by clause 8.
>
> State equal opportunity legislation already protects such nurses from discrimination where they hold a conscientious objection based on religious belief.

It does not say that it protects them if their conscientious objection is based on something other than a religious belief.

> As a consequence, employers are already legally obliged to respect such beliefs —

meaning religious beliefs —

> so there is no need for this bill to make express provision to protect the employment status of those with a conscientious objection.

But the legal opinion obtained on that already is to the effect that such protection as is contained under the Equal Opportunity Act, on which this letter relies as the basis for respect of conscientious objection, is extremely weak and limited and unlikely to have any beneficial effect for most nurses who do not want to perform or participate in an abortion. I hope Ms Mikakos may change her mind on the bill on that basis alone, if not on others.

We might consider the point of conscientious objection or the removal of conscientious objection rights with an analogy. Imagine, for example, that we lived in one of the states of the United States in which there is legal execution of prisoners. We might consider what our reaction would be in the event of a person being asked by a state official, a doctor, to participate in the execution of a convicted felon. I think we would all be horrified. The situation is indeed analogous, except for one thing: it is much worse in Victoria, because we know the victim will be entirely innocent. There is nobody more innocent than an unborn person. In the

state in America where that might happen the victim would have to be convicted first of a very serious offence of taking other people's lives. This situation in Victoria is much worse than the one I suggest might be analogous in the United States, and it applies not only to physicians and medical practitioners but also to nurses, pharmacists and other health professionals.

This bill would allow even partial-birth abortions, a gruesome form of homicide that is illegal throughout the United States. The constitutionality of this law in America has recently been upheld in the United States Supreme Court, in spite of a general prohibition on laws against abortion, as determined in the infamous case of *Roe v. Wade*.

Partial-birth abortions are committed late in a pregnancy. They involve almost removing the baby from the mother with forceps, feet first. It is done this way, feet first, because if the baby were to be born in the normal way, head first, she would be born too quickly to kill her before she was fully born. While her head is still in the birth canal an instrument is inserted into her brain through her upper neck and her brains are vacuumed out through the incision. The baby is then fully removed from the mother's body, dead. Such a procedure, it has been declared by the United States Congress, is never medically necessary, but it is already being carried out in Victoria. Passage of this bill would increase the frequency of this practice and lend to it the authority of the state of Victoria.

This bill offers no protection to the woman or the unborn. There is no cooling-off period, no counselling, no warnings of the harm that is done, not only to the unborn, but often to the women as well and also to the babies they have later, after the abortion. There is no provision for pain relief for the unborn, though there is evidence that many of the unborn feel the pain of an abortion to an extent that we cannot understand because they develop the ability to feel pain before birth but do not develop the capacity to express pain until after birth.

There is no restriction in this bill on sex selection abortions, which the United Nations says, together with infanticide, have recently killed 60 million unborn girls because they were female. Most of them have been in East Asia and far eastern parts of Europe. However, it is also already happening in parts of the United States, and we can be confident that it is also happening in Australia, including in Victoria.

I would like to propose some alternatives to the present bill. In present circumstances a program of effectively implemented criminal sanctions against abortion would indeed face formidable obstacles. These include parts of the profits of the lucrative abortion industry which are being directed into political donations for the purpose of freeing its practitioners of restraints. Such obstacles would also include, above all, the profoundly misguided but vehement denials of the humanity of the unborn, contrary to all scientific evidence, and a belief by many that a right to life of the unborn is a matter of choice by others, even though the exercise of such a choice takes away every choice from somebody else.

Nevertheless, there are actions which the government can and should take to address this problem. The first is to retain in-principle legal protection for all people, including the unborn. Although by no means sufficient, it is necessary. Instituting a program of counselling and intervention by state agencies and support for non-government organisations would help women who need it to allow their children to stay alive. It would also be a very appropriate response to the problem.

We should consider clearly informing all women considering abortion of the option of open adoption, which exists in Victoria. This would allow them to give birth to their baby and allow other people to care for their baby most of the time, but also enable them to retain a relationship with that baby for the rest of their life. This is an attractive option that women who are considering an abortion should be told about.

Furthermore, we should consider a public education program which demonstrates the humanity of the unborn and which adequately warns of the dangers of abortion to women. A public education campaign that makes it clear that the unborn are human beings is also a necessary response to the present situation.

If you go into a government office in Victoria you will see posters about such campaigns for lots of people, such as the campaign asking us to see the person, not the disability. Why not have such a campaign for the unborn also? It would not require criminal prosecutions or putting people in jail, but it would be likely to have an effect. If such programs have no effect, why do we have the programs that exist already for other people?

Young women who have nowhere to go should be offered accommodation and help. We have programs already for women who are victims of domestic violence. Why not provide a similar sort of help for women who are in search of the help needed for them to keep their baby instead of aborting their baby? We should also ban partial-birth abortion.

In respect of this particular bill proponents might well claim that the situation is now so bad from the unborn's

point of view. They might ask: what is the point of opposing the legalisation of abortion? It is a reasonable question to which there are several answers. Firstly, passage of this bill will cause even more unborn people to be aborted. I hope Mr Hall, in particular, pays attention to these points, because he claimed that he was voting for the bill on the basis that it will not cause more abortions.

Existing laws, though frequently flouted, provide a last line of defence for those women attempting to resist pressure from their mothers, husbands, boyfriends or others to have an abortion. Our current laws allow such women the powerful defence of correctly asserting that abortion is illegal.

The VLRC was charged with recommending decriminalisation in a way that would not increase the number of abortions in Victoria. Its greatest failure is in recommending three options, all of which would remove the prohibition on abortion inherent in our current in-principle legal support for the unborn while doing nothing whatever to replace that deterrent effect of the authority of the letter of the law with anything else at all. Any attempt at balance aimed at not increasing the number of abortions in Victoria would surely include measures such as cooling-off periods, counselling and at least a prohibition on partial-birth abortion. Where are such balancing measures in the VLRC recommendations? They do not exist in those recommendations or in the bill that is before us.

The VLRC was asked to recommend laws consistent with public opinion. Public opinion overwhelmingly wants fewer abortions. What provision in this bill will mean fewer abortions?

Mr Drum — None.

Mr KAVANAGH — No provision whatsoever. This bill will encourage more abortions.

Interjections from gallery.

The ACTING PRESIDENT (Mrs Peulich) — Order! There will be no interjections from the gallery. It is disorderly.

Mr KAVANAGH — This really is extremist legislation. By any standard, by any measure, this is extremist legislation. I understand these provisions abolishing the right to conscientious objection appear almost nowhere else in what we might call the Western world. There were claims that such provisions abolishing the right to conscientious objection exist in Britain; however, research has indicated that that is not the case. In Britain there is actually a legislative right to conscientious objection. We have legislation explicitly taking away the right to conscientious objection in Victoria, and of course it is the bill before us.

The law does more than simply put people in jail or fine them. The law expresses principles, and those principles are important. One of the reasons they are important is that they have a deterrent effect, independent of legal punishments. Removing those legal principles, even if not supported by criminal consequences, will lead to more abortions than would otherwise happen.

It would be difficult to construct a plausible argument that support for this bill will not entail personal responsibility for the extra abortions that would result from its passage. Some members have suggested that legalisation allows regulation. There is nothing in the retention of the in-principle restrictions on abortion which exist under our present law that prevents effective regulation. This bill would legalise abortion for any reason or for no reason. It does not even seek to regulate abortion, only to facilitate abortion.

What effective regulation of abortion would follow if this bill is passed? Members know that the honest answer is none. Furthermore, retaining the in-principle support for the unborn under our existing law would not preclude effective regulation in any way, if that were desired by the Parliament. On the other hand, abandoning even in-principle protection for the unborn would make effective regulation even less likely. Other examples, such as the growth of the commercial sex industry, which has boomed in size since legalisation of prostitution in Victoria, also demonstrate that the claim that legalisation means effective regulation is false.

Ms Pulford said that the bill would not increase the number of unplanned pregnancies. I agree with that; it will not increase the number of pregnancies, it will only increase the number of pregnancies that end in abortion. They are two quite different things.

The bill offers no protection to the woman or to the unborn person. There is no cooling-off period, no counselling, no warnings of the great harm that is done not only to the baby but to the woman as well. There is no provision for pain relief and no restriction on sex selection abortion.

Over approximately the last 40 years, since the late 1960s when prosecutions for abortions virtually ceased, there have been close to 4 million abortions carried out in Australia, most with the financial support of the taxpayer, willing or unwilling. As a teacher I often looked at empty chairs in classrooms, and I looked out

over quiet corners of schoolyards, and I wondered how different Australia would be if not for this epidemic of abortion over the last 40 years.

The oldest of those who were aborted at the beginning of this process, about 40 years ago, would now be becoming grandparents for the first time. Their grandchildren, of course, do not exist and never will, nor will their children or any other descendants. In the film *Gladiator* the main character, Maximus, says, 'What we do in life echoes in eternity'. What echo will each one of us leave? Will it be life reverberating through the ages or will we vote for painful death wantonly inflicted on the youngest and the most vulnerable, bequeathing an echo of death, a legacy of silence resounding long after every one of us is dead?

It is ironic that this bill proposes to remove from the Crimes Act and put into the Health Act the facilitation of abortion. It is ironic because abortion is not consistent with health; abortion is destructive of health. Removing abortion from the Crimes Act is something that many members have already spoken about in an emotional way; they have said it is terrible that women have been subject to the Crimes Act. First of all there is no realistic risk of prosecution, and there has not been for four decades.

The passage of this bill, however, will make criminals of doctors who know as a matter of medical fact that the unborn are human beings. It would also make it a criminal offence for a doctor in some circumstances to refuse to refer his patient whom he believes will be harmed by a referral to an abortionist. Technically it will be an offence under this act not to send a woman to an abortionist even when the doctor knows that in his professional medical opinion it will harm the woman. That is, it makes it an offence for a doctor to exercise his medical judgement in the interest of his patient.

What advantages could this bill have? It seeks to advance medicine, but in my view medicine is about saving people's lives, extending their lives, improving their health. Simply because something is done in a clinical environment does not make it medical any more than is the execution of prisoners in the United States, which involves medical personnel and doctors checking that the executed person is dead. That is not a medical procedure, nor is taking the life of an unborn child. It does not make it medical to stab someone just because you use a scalpel rather than a switchblade.

What advantage would passage of this bill bring? No doubt some members will continue to talk, as some already have, about backyard abortion and its consequences, but that is certainly not what this debate is about. The alternative to the passage of this bill is not a return to backyard abortions and a regime of criminal prosecutions. The alternative to passage of this bill is the retention of in-principle legal protection for all people, including the unborn. It is a principle, as I said, which was hard won but could be easily destroyed. It is a principle that protects us all and which we abolish or diminish at the peril of every single Victorian.

The bill's proponents will see vindication if this bill becomes law. There may even be champagne and strawberries on the steps of this Parliament to celebrate that apparent vindication. Such a celebration, however, would be based on false assumptions. The passage of this bill will not mean that abortion is right, justified or properly legal. If this bill is passed, it will simply mean that a majority of members of this Parliament are profoundly misguided about abortion. The passage of this bill will not end the debate in Victoria about abortion any more than the case of *Roe v. Wade* ended the debate in the United States, which is much hotter than the debate in Australia. There will be no final solution to the question of abortion even if this bill is passed.

The government has proclaimed that this is a conscience vote for all ALP members. If that is true, then its members will vote according to the merits or otherwise of this bill. Members of Parliament from all sides share at least one characteristic — ambition. Ambition is not a bad thing at all when it spurs us on to do our best. Supporting the removal of in-principle legal protection for any category of person, however, cannot be best — not for the particular victims, the baby and the mother, not the best for our society generally and not for any member supporting such a measure.

Some members have already declared they will support this bill. I ask such members to change their minds. I know it is a difficult thing to do once you have stated in public that you will vote one way, but I ask them to consider the evidence again, to maybe look at it with fresh eyes and not be prejudiced by the fact that they have heard certain slogans over and over again.

There is a story that is apparently true about the sinking of the *Titanic*. Apparently as it sank some of the people jumping onto lifeboats looked up and saw some people standing up on the deck, not wanting to move. The people in the lifeboats said, 'Come on, jump into the lifeboats — the ship is sinking'. Some of the people on the deck said, 'No, this ship can't sink. We're all right'. The people in the boat said, 'The water is up to the bulkheads. There's 3 feet of water in the ballroom. Come on — the ship's going down'. Apparently one of

the people on the deck pulled out the brochure about the *Titanic* and said, 'This ship can't sink. See? It says "unsinkable!"'.

When people are told something over and over again, sometimes it is very difficult to change their minds, no matter what the evidence. I ask those members who said they will vote for this bill to reconsider and to look at the evidence — not to be like the people on the deck of the *Titanic*, believing something because they have heard it so many times that it must be true. I ask them to show courage, change their minds and vote against the bill.

I am certain this bill is a grave mistake; I know it. It represents a danger to all Victorians, particularly, but not only, the unborn. I ask all members to vote for the interests of women and especially for the lives of the most vulnerable and most defenceless — those who most need their protection. The victims of this bill will be real. Their pain will be real. These real victims are real people. I implore every member to vote against this bill.

Interjections from gallery.

The ACTING PRESIDENT (Mr Elasmar) — Order! Clear the gallery, please!

The DEPUTY PRESIDENT — Order! This is a debate in which everybody holds a very strong position. Mr Kavanagh has made a significant contribution to the debate, and that is acknowledged by all sides of the house. His was certainly a heartfelt contribution. The reality is that that display by the gallery was improper in terms of the procedures of the house. Whilst we understand the support that a number of people have for Mr Kavanagh's position, we must maintain the decorum of the house down here. Members of the public have been warned throughout the day that it is not acceptable for people in the gallery to engage in the debate, and that includes by way of applause or other participation in terms of members' contributions. My predecessor in the Chair rightly suggested that the gallery ought to be cleared on that basis. Mr Elasmar and I both take the view that we do not want to take that action. I suggest that people restrain themselves, listen to the debate and accept the fact that the contributions on the floor need to proceed without participation from members of the gallery.

Ms TIERNEY (Western Victoria) — I would like to start my contribution by thanking very much the many constituents of Western Victoria Region who have contacted me in relation to this bill. We have been inundated with letters, emails and telephone calls, and that in itself is testimony to our democracy. However, the health of our democracy lies in our understanding of differing views. It is about recognising areas of disagreement, engaging in debate and moving on.

I became acquainted with abortion reform some 30 years ago. Many of us are very familiar with these issues as they have been around for a long time, but media misrepresentations in the last few weeks have prompted me to speak in the second-reading debate and to lend my support to the bill. The fact is that the bill is not about abortion per se. It is about taking abortion out of the Crimes Act. Abortion is prohibited in the Crimes Act 1958. Various versions of sections 65 and 66 have been operational since 1864. Section 65 provides that an abortion is unlawful at any stage of pregnancy, while section 66 prohibits the supply of an instrument or substance knowing it will be used unlawfully to terminate a pregnancy.

The Menhennitt legal judgement of 1969 provided the circumstances in which abortion would be lawful: the term used was 'therapeutic abortion'. However, this legal judgement did not provide guidance as to what should be taken into account by a medical practitioner when determining risk and harm to the woman or how to determine whether an abortion was the appropriate or proportionate response to a woman's particular circumstances.

Legal jurisdictions interstate and overseas have grappled with these and other related issues ever since that time, so there has been a general recognition that clarity is required. Clarity is required for the women concerned; clarity is required for the medical practitioners involved and, I would argue, definitely for the community as a whole. This clarity has been needed for some time, and I was pleased that the government saw fit to refer the issue to the Victorian Law Reform Commission.

The government did so with clear terms of reference for the commission, which called for options which would remove abortion offences from the Crimes Act 1958, where performed by a medical practitioner, reflect current clinical practice and reflect community standards.

There was widespread consultation, and the law reform commission received over 500 written submissions. The report addresses the terms of reference the VLRC was set and provides factual information on current clinical practice and community attitudes. I take this opportunity to commend the report for its ability to distil the key issues and for the very focused dialogue it has with the terms of reference. It is a report that is very

accessible to the reader, and the arrival at the options crystallises and segments the pertinent issues, free from value-laden bias and emotive discussion. The commission found that 94.6 per cent of abortions occur before 13 weeks gestation and 4.7 per cent occur after 13 weeks but before 20 weeks. Less than 1 per cent are performed after 20 weeks gestation.

The bill is based on option B and reflects the two-stage approach based on 24 weeks gestation. This is current clinical practice. After 24 weeks gestation a registered medical practitioner may perform an abortion only if the medical practitioner reasonably believes the abortion is appropriate in all the circumstances and has also consulted at least one other medical practitioner who reasonably believes the abortion is appropriate in all the circumstances.

The report from the commission also recommended that any new abortion laws should not contain the following: a mandated information provision — recommendation 4, a requirement for mandatory counselling — recommendation 5, a compulsory delay or cooling-off period — recommendation 6, and restrictions on where abortion procedures may be performed — recommendation 7. The commission made these recommendations because it considered the current regulations to be sufficient in the stated areas. I raise these recommendations now to flag my support for them and my opposition to the proposed amendments that will be before the house later this evening or tomorrow.

It is not my intention to go through all the provisions of the bill. Prior contributions explaining the bill have already taken the house to the pertinent aspects of the legislation. In particular I would like to make specific mention of the very eloquent contribution made by Ms Broad, a member for Northern Victoria Region. I also want to say at this time that I concur with the comments made by Ms Pulford and Ms Broad about women in regional and rural Victoria and the specific issues that confront women who are pregnant — the advice, the access, the cost, the travel and everything they face, as well as a view that is not pro-choice that is quite prevalent in rural and regional Victoria. I was heartened to see that there was a significant amount of reportage of this in the VLRC's report. In particular I recommend that people read page 47 of the report.

As legislators, we can establish greater surety and greater clarity, and create an environment through legislation where an individual has the opportunity to make their own decisions and where other people's views cannot be imposed. This includes views owned by people in this chamber. In this case it is abortion, which is a women's health issue. As long as women have conceived, there has been abortion. As women, many of us directly or indirectly know of the experience. It is a very private issue. The decision to proceed with an abortion is never taken lightly and is an extremely difficult time in a woman's life. For me it is certainly an experience that automatically generates empathy and solidarity.

I also take this opportunity to acknowledge women, past, present and in the future, who have or will face a decision on whether or not to proceed with an abortion. Obviously many of those women will have very intense and intimate discussions with their partners, medical practitioners and trusted friends. But it is that very serious conversation within yourself as a woman, that inner conversation, that is the core of the matter. The capacity to make that decision must not be eroded. Regardless of what final decision a woman makes, it is the woman who knows the real meaning of the decision, and under all circumstances and in every sense this must be respected.

I concur with Minister Maxine Morand, the Minister for Children and Early Childhood Development in the Assembly: I believe this bill acknowledges and reflects community attitudes and current clinical practices that exist in relation to the care and management of women seeking an abortion. I take this opportunity to thank all the women and men who have been involved in bringing about abortion reform and who continue to be involved in making sure that we have access to safe and legal abortion and that women are afforded dignity, space and privacy in their deliberations. These are the very same people who want to see a reduction in abortion, greater provision of sex education and greater knowledge about reproductive health.

At the beginning of my contribution I mentioned recent media coverage on this issue which I believe has been misleading the Victorian public into believing the current practice is to allow abortion at 20 weeks and that this bill will extend the time to 24 weeks. There has been a lot of coverage in terms of radio interviews, straw polling and talkback radio, and clearly this perception is not correct. I was buoyed this morning when I read what I consider to be a balanced editorial in today's *Herald Sun* entitled 'Time for a decision', which says:

> While it is understandable that many Victorians oppose the bill, the move to decriminalise abortion is welcome, as the current legal situation is messy.
>
> It is banned under the Crimes Act 1958, yet thousands of abortions are carried out each year under a 1969 court ruling that allows 'therapeutic' terminations.

> The clause in the new bill forcing anti-abortion doctors to refer patients elsewhere has been hotly contested, especially by the Catholic Church.
>
> However, in the circumstances, the provision seems reasonable.
>
> Many MPs are rightly troubled that abortions will be easily available until 24 weeks. They should take comfort from the fact that the vast majority of terminations now occur before 13 weeks gestation.
>
> Passing the bill will unleash strong emotions on all sides, many of them negative.
>
> Nevertheless, on balance, the legislation is a practical response to the vexed subject of abortion and deserves to be passed.

I echo that last sentence:

> Nevertheless, on balance, the legislation is a practical response to the vexed subject of abortion and deserves to be passed.

I commend the bill to the house.

Mrs PETROVICH (Northern Victoria) — I rise to speak against the proposed changes to the health act in relation to abortion. I would like to start by thanking all of those who have made contributions through letters, emails and meetings with me to explain their support or opposition to the legislation — and I have met all who have requested a meeting. It has been very challenging for all members of Parliament, and I think electorate officers and staff should be acknowledged because they have had an increased workload as a result of the input from the community on this particularly passion-inspired issue. All the people who have made contributions have been passionate one way or another.

I would also like to say, as has been said on a number of occasions today, that this bill is not about whether abortions will be available in the state of Victoria. Regardless of what occurs today, they will still be available. Women in Victoria are not denied abortions currently, and I would not want women in traumatic or life-threatening situations to be denied safe abortions in the future, but I do not support abortion as a form of contraception. However, I know only too well it is the only choice for some individuals. I would not ever want women to have to go back to the circumstances where they died as a result of perforated uteruses or septicaemia through being forced to undergo unsafe, unclean and unprofessional abortions.

I know women do not lightly make the decision to have an abortion. In fact it is the most difficult decision that any woman could ever have to make. Whether or not this bill is passed today will not make any difference to the availability of abortions to women who need to pursue this procedure. My concern is that it may increase the number of abortions because the checks and balances that we currently have in place via a panel for late-term abortions will be no more. The one thing I do not want to happen today is for us to trivialise the importance of human life, and I do not want us to use the rights of some in the medical profession as a catalyst for dramatic change which imposes time frames and quantifies and condones the attitudes of disposable humanity.

As a member of the Liberal Party I am philosophically supportive of the rights of the individual, and it is therefore imperative that the rights of the individual are protected, particularly, in this case, the rights of the mother and the rights of the child. I am not sure whether this legislation provides that protection to the rights of the mother or the rights of the child. It seems a very long time ago now — and I have read it a number of times since — that I first read the Law Reform Commission's report detailing options A, B and C. Each recommendation seemed to me to be more extreme than the previous one. I have to say that after reading option C I felt physically ill. The glitch for me in that was the talk of abortions to full term.

We have heard today from Ms Pulford that these reforms were part of the Labor Party's platform in 2006 as it went into the state election and it was promised to the state of Victoria that, if it were elected, the Labor Party's agenda would be to reform the abortion laws. At this point I feel very sorry for Professor Neil Rees because of the brief he was given by the Victorian government in drafting this legislation. I hope both he and this government will not be remembered entirely for this legislation. I do not know the parameters within which he was operating and was set a task to do, but it seems to be a long-held agenda of a female group of left-wing members of the Labor Party, who have pushed this agenda of 'her body, her choice'. There are deep sighs around the room, but there is no hiding that fact: it is open, it is out there in the public domain. The situation was such that when the man who requested this report, the Attorney-General, Rob Hulls, actually got it he decided to vote against the bill.

I would like to say from the outset that I do not support the view of Emily's List, which in many ways to me seems quite old-fashioned. Surely women in our society can have it all — family, education, career; some of them can even become members of Parliament. Equality is the issue, but it is about a whole range of things rather than preventing the birth of a child to get what you want. Everything has its time and everything has its place. Education and contraception are not what they were in the 1960s, when many of the philosophies

of the debate before us today were formed: we have moved on.

I would be the last person to do anything to reduce the availability of health services to women. I think in fact we have to do much better. Unfortunately, in spite of the way this has been portrayed we are not providing additional health services for women. We are not protecting doctors and we are not assisting by making late-term abortions available to women who find that they are carrying a disabled child. While this bill does offer some benefits to some individuals it actually imposes other difficulties and takes away the rights of others in this community.

Whilst I am of the view that abortion should not be in the criminal code and would be better placed in the Health Act, I cannot support this legislation on the basis that 24 weeks is too late. I would have preferred the option of codification of the Menhennitt ruling. I think that would have been a better alternative. As we all know, laws and practice change with time, and the more prescriptive we are with this legislation, the more open to abuse and a progression to a place that should be unacceptable to any civilised society.

If we support this legislation, we are making abortions available at 24 weeks, a stage when babies are being born viable and healthy — babies who go on to live healthy and happy lives. I would like to make a point made by an old midwife friend of mine, who told me she thought the whole thing was a lot of claptrap — 24 weeks, she tells me, can very easily be 26 weeks. It is not uncommon to get dates wrong in a pregnancy.

I would like to use an analogy made by a senior barrister friend in explaining the intricacies of this bill to a young lawyer. My friend said by way of explanation that simultaneously in the labour ward of a hospital a baby born prematurely could be given care and medical assistance that would give that child every chance of survival and help it live while in the adjacent room an unwanted but otherwise viable baby or foetus could be being aborted through partial-birth abortion techniques and assisted to die. So the determinant as to whether it lives or dies is whether the baby is in the room — the r-o-o-m — or in the womb — the w-o-m-b. I do not articulate this to in any way trivialise it, but I hope it demonstrates my point.

It is important to understand that childbearing and parenthood do not exclude other roles in life. The view that has been put to a number of our male members of Parliament who spoke in the lower house was that because they opposed the bill and spoke with some pride as a parent or grandparent about their relationships with their wives, daughters and grandchildren, they wanted women to become nothing but baby factories. I would have to ask what sort of society are we to become if we send the message to our young women that in some way parenting is not desirable and that it is demeaning to be a parent or a mother. Parenting and motherhood are the most important roles I have performed in my life, and I would not change that for anything. I do not think as part of a political agenda we should be discouraging young women and causing them to take an avenue that is unredeemable. We obviously need to be supportive of those young women, to educate them and make sure that they have the means of prevention rather than those other options, which are too little too late.

As shadow parliamentary secretary for health services, I do not think this attempt is relative to most health professionals, and in most cases it actually takes away their rights. It does not deliver the best outcomes for a young woman and is a simplification of a complicated philosophical argument about when life begins.

The landmass of the region I share with a number of other members of this house is 48 per cent of the state, so it is obvious that it is impossible to speak to everybody in all the individual communities, but I have spoken with a large number of women who have borne children and those of childbearing age. I have had long discussions with pro-life and pro-abortion groups, and I have been as frank as possible with all about my views and have listened intently to theirs.

I have also spoken to men and boys who are partners, brothers and fathers who have expressed concerns to me and have been made to feel by some extreme members of the pro-abortion lobby that they are not part of this discussion. I think it is extraordinarily unfortunate, because many men, including male members of this Council, told me that they were told that this is a women's issue and to butt out.

That is a little bit unfortunate, because whilst the ultimate decision is with the woman about where she goes with her pregnancy, for men not to be included in that discussion is a great shame. How can we expect our husbands, partners and young men to feel equally included in parenting and to take responsibility for contraception and safe sex, let alone have an understanding of the issues that women face, if they are not permitted to participate in anything other than the act of sex? That is not to say that women cannot make their own choices; obviously we can. A woman is more than capable of making her own choices; that is not what concerns me.

I would like to be an advocate for the choice of a woman to keep her baby if that is what she desires. We currently have an attitude of scorn to these women. I talked to a lot of young women in rural communities who found themselves pregnant with unplanned pregnancies, and I was told by many of the young mums themselves that name-calling and shunning in communities are not uncommon. If a young woman chooses to keep her child, then support, encouragement, education and child care should be available to her, to her partner and to her family. That is what I need to articulate for the chamber today about being a mature community that has moved on from the 1960s.

I would much rather be having a conversation and debate about a holistic approach to contraception and sexuality based on what is actually happening in communities in this century. Clearly sex education in schools is not working. I have spoken in this chamber on a number of occasions about this issue. Along the Hume corridor in the Seymour electorate our young women are twice as likely to have a teenage pregnancy as their metropolitan cousins.

As we have seen in the Victorian Law Reform Commission report, unwanted pregnancies are a result — very clearly, very simply — of not having adequate contraception. It is a no-brainer, really. This is not the 1950s. We have available to us now a variety of contraceptives which offer protection from pregnancy. We have long-lasting protection such as implanon implants, which offer safe, reliable protection for up to three years.

Why then are the rates of termination so high? I believe that a woman does have the right to make her own choices, but unfortunately the pressure to have an abortion as a first option and the pressure that is applied to women often sees them making choices they regret. Coercion by other members of the family because of economics or a change in a relationship are unfortunately realities that women have to face.

We have heard lots of facts and figures about the number of abortions in Australia today. The current rate is over 90 000 abortions per year. This equates to 1 abortion every 2.8 births. There are a number of members of the community I have spoken to who are unaware that abortion is currently illegal. Those very same people cannot comprehend the possibility of abortion being allowed after 16 weeks, and all are appalled at the prospect of partial-birth abortion, not to mention the full-term abortions proposed in option C in relation to viable children.

I have spoken to many of these ordinary women personally and been quite shocked at the level of anger they have expressed about this proposal. These women are not in organised pro or anti groups. They are just mums or nannas who do not think the principle of this bill is right. The young women I have spoken to — or the women who have not had children — are also cognisant that 24 weeks is actually six months. Women who have carried babies to full term are appalled. At six months a baby is moving inside the mother and is fully developed.

One of the reasons I cannot support the bill is that having carried two children — and we have not heard a lot, maybe just a little, about pregnancies and personal issues — I know about the reality of pregnancy and carrying children. At a lot less than 24 weeks, my first child used to put her foot out for me to rub her heel. She would become quite active when a particular tune was played: she used to react with some enthusiasm to a particular type of music.

Mrs Peulich — Foot tapping!

Mrs PETROVICH — She was foot tapping, Mrs Peulich. As a more mature woman I remember my pregnancies with some pride and the birthing process as one of the most empowering events of my life. I also reminisce about the special times I have had mothering my babies and infants. As I said before, doing so was one of the most rewarding aspects of my life. We need to articulate that for young women. They need to know that they can have a pregnancy — whether it is an unplanned pregnancy or not — and then go on and do other things in their life. It is not prohibitive. I would hate to think that women are being coerced or threatened into termination, particularly at the late time of 24 weeks. Psychologically this is very damaging to women and something that I know they carry with them all of their lives.

I have spoken to many medical practitioners — at least 20 from my own electorate — and have been contacted by over 100 more who have expressed concern about late-term abortions. I had a lengthy and most interesting conversation with a local GP, who told me that he was comfortable with and able to secure local or metropolitan terminations for those women who wanted them. Confidentiality is always an issue, particularly in country areas, and some women choose to travel to metropolitan areas, because somebody always knows someone. Country hospitals are not always the best places to ensure privacy, and there are also those country areas where facilities just do not exist.

This GP clearly expressed to me that he and his colleagues were comfortable with terminations up until 16 weeks. At 20 to 24 weeks he and his colleagues were most uncomfortable with referrals and expressed to me that in most cases earlier terminations are available and would not be denied. These professionals would not be comfortable referring after 16 weeks. They have told me that they would find it difficult, particularly when the child had no disability and it was a healthy pregnancy. The premise of this bill — which is based on option B, not quite as radical as option C — is that to deny women this option will deny them the option to terminate if they discover that their child has a disability, and this strong premise has been sold very heavily.

Looking at the Victorian Law Reform Commission report, it seems to me that a very small percentage of pregnancies need to be terminated at this stage — 94.6 per cent of terminations occur before 13 weeks gestation, 4.7 per cent occur after 13 weeks but before 20 weeks, and 0.7 per cent occur after 20 weeks. It does not seem to be a good premise for having an open-ended regime or a bill that clearly suggests that we need to go to 24 weeks to make this work.

I am also concerned that the bill was not able to be evaluated by the Scrutiny of Acts and Regulations Committee on the basis that the child being aborted is a foetus until birth and is not considered a living being. Having carried two babies, I do not agree with this premise. It is because of this that children's rights have been breached in the worst possible way. I would have preferred SARC to have had the opportunity to refer the bill, but it was unable to put it to the test against the Charter of Human Rights and Responsibilities because the baby is not considered to be a baby — it is considered not to be a being but a foetus.

SARC also found that the obligation on doctors who have religious or philosophical objections to abortion to refer patients was a problem. From my discussions with doctors I have learnt that many of them feel compromised. Many of them are not Catholic, as has been alleged — I do not know why it needs to be an allegation, but it seems to be an excuse for a whole range of objections by people who are pro-choice. Most doctors I have spoken to think that 24 weeks is simply too late.

I will finish now because a large amount has already been said about the bill and there is a lot more to be said. I finish by saying every human life is different; every human being is a unique individual, just as every person's journey in life is unique. Life is not perfect — sometimes it is pretty damn hard — but as legislators we are here to make things better, not worse. On that basis we cannot legislate on the premise of change for change's sake. As legislators we should not erode the values of our community but strengthen and support those who need our help the most. On that basis I will not be supporting this bill.

Ms DARVENIZA (Northern Victoria) — I am very pleased to rise and make a contribution to the debate on the bill before the chamber. Like the previous speaker, I have two daughters and I loved being pregnant. I look back now at my experience of birth and my little babies — as they were then; they are now well and truly grown up — as being very joyful. I think if you had asked me at the time — when I was in the delivery room or getting up in the middle of the night to feed and rock my babies — I might not have thought it was quite so joyful. However, unlike many women who find themselves pregnant, I was in a very fortunate position. I had planned the pregnancy, and my husband and I were very keen to start a family. The pregnancy was viewed with a great deal of joy and anticipation, and our babies were very much wanted. Unfortunately many women do not find themselves in this position. Like Mrs Petrovich, I hate to think of a woman being threatened or coerced into having an abortion, but likewise I hate to think of a woman being coerced or cajoled into continuing with a pregnancy that she did not plan and did not want when she, in consultation with her doctor, had decided that the best thing for her to do — and what she wanted to do — was to have that pregnancy terminated.

There are a lot of different circumstances, and as legislators or law-makers we have to provide the right environment, framework and laws in which women and the medical profession can deal with the issue of pregnancy and how a woman can best continue with that pregnancy or decide not to continue with that pregnancy. As I said, it is a matter between a woman and her doctor to determine what is best in her particular circumstances.

I will start by repeating some of the things that have already been said by those members in the chamber who, like me, support the bill. I will try hard not to be too repetitious, but I will be somewhat repetitious because there are some things that really need to be said and there are some things that I really want to say about the bill. I apologise for the repetition, but I really need and want to put some things on the record. The first thing I want to put on the record is that I congratulate the Premier and also Maxine Morand, the Minister for Women's Affairs, and Daniel Andrews, the Minister for Health, for having the determination to refer the matter of abortion law reform to the Victorian Law

Reform Commission and, as a result of that, bring this bill to the Parliament.

I also take this opportunity, as other speakers before me have done, to acknowledge and thank Ms Broad for her courage and determination — I know it took a lot of courage — to introduce a private member's bill. Ms Pulford said that really was a catalyst for the bill we are debating today.

I take this opportunity, as other speakers have done, to thank those people who took the time to make their views known to me. There were many of them, just as with other members of Parliament. People were very open and honest and shared many of their experiences and stories. Some of those stories were very sad and some were joyous. I could not help but be moved by the fact that people who both opposed and supported the bill were prepared to share so much with me. They wrote to me, they rang me, they rang the office and they came and visited the office.

Members of Parliament often get a lot of correspondence about contentious bills where there is debate in the community, as has happened with this bill. Members often get form letters and emails, but I do not think with all the correspondence I received on this issue I got two letters or emails that were the same. All the pieces of correspondence and emails were very thoughtful, and I thank people for taking the time to share their stories with me. I take this opportunity to say I am sorry I have not had the time to respond to all the correspondence. I have responded to a lot of the letters I have received but not all.

Last year the government asked the Victorian Law Reform Commission to provide advice and options to clarify the law relating to the termination of pregnancy and to remove abortion from the Crimes Act. In providing this advice the government said the commission should have regard to its commitment to have legislation that would provide clarity for women, health professionals and the community about the circumstances in which a termination of pregnancy can occur. The commission received more than 500 submissions and met with a broad range of individuals and organisations with views and options on abortion. Widespread consultation occurred with a whole range of individuals and organisations.

I will repeat information that is already on the record: the commission found that the majority of abortions occurred at an early stage of pregnancy. It found that 94.6 per cent of abortions occur up to 13 weeks of pregnancy, that 7.4 per cent occur after 13 weeks but before 20 weeks, and that only a small percentage, 1 per cent, occur after 24 weeks gestation, which is a common threshold and is not new. It is a common threshold for more complex cases. A great deal of information has been given about the complexity of those cases that would cause a woman and her doctor to consider a termination at that late stage. The 24 weeks gestation limit reflects current clinical practice in Victoria, Australia and overseas. This bill reflects a practice that is occurring in Australia and overseas.

The commission also found that there is a relationship between the rate of unplanned pregnancies and the availability of contraception. It also found that there was a desire to reduce the number of abortions that occur. That is not surprising to any of us. We understand there is a relationship between people having information about preventing a pregnancy and providing women with choices if they find themselves pregnant and do not necessarily want a termination. I am sure that is not surprising to anyone else in the chamber.

As I said, a wide range of individuals and groups have campaigned very strongly over a long period for abortion law reform. This bill acknowledges that women need to be supported in the choices they will make about their reproduction and their reproductive health. They deserve legal certainty when making some very difficult choices. This bill provides that legal certainty.

I also refer to something that is already on the record. The editorial in the *Herald Sun* today encapsulates many aspects of not only the views of the community but also what this bill is about. It said that the move to decriminalise abortion is welcome and talked about how messy the current legal situation is. I think that sums it up fairly well. The article said that abortions were banned under the Crimes Act in 1958 and even though it was banned at that time thousands of abortions have been carried out each year under the 1969 court ruling that allows therapeutic terminations.

Women do not make these choices lightly; they are very difficult choices for women to make; it is something that they put a lot of thought into. Sometimes when people talk about women making a decision to have a termination, they will be quite frivolous about it, saying that a woman will use termination as a form of birth control, that it basically means nothing to them and that at the drop of a hat a woman will trot off and have an abortion if she finds she has an unplanned pregnancy.

That has certainly never been my experience. I have never known anybody who has decided to have a termination simply because they could not be bothered

to practice birth control or has not given it very deep and serious consideration. We need to ensure that women have certainty when they are making this very difficult decision. We also need to ensure that medical and health practitioners who have strongly advocated for the need for legal certainty have that legal certainty around the circumstances in which an abortion is legal. The bill today gives that certainty.

The Abortion Law Reform Bill 2008 will remove abortion from the Crimes Act, which will, as I said earlier, provide Victorians with a modern legislative framework that reflects not only the community's attitude but also the clinical practice. By and large the community believes very strongly that a woman should have a choice to have a termination of pregnancy if she decides to do so, in consultation with her doctor.

The bill provides that termination of pregnancy will be regulated like any other medical procedure, up to 24 weeks. After 24 weeks a registered medical practitioner may perform an abortion on a woman only if the medical practitioner reasonably believes that the termination of a pregnancy is appropriate in all the circumstances and has consulted at least one other practitioner who also reasonably believes that termination is appropriate in all the circumstances. In considering all of those circumstances the registered medical practitioners must have regard to all the relevant medical circumstances, and the woman's current and future physical, psychological and social circumstances.

The bill certainly provides clarity for women, health practitioners and the community about the circumstances in which a termination of pregnancy can be performed, providing women and health practitioners with the certainty that has been missing for many years.

It is important to stress that this bill does not expand or extend the circumstances under which terminations will occur. It also will not restrict access to services. Some of the things we have been hearing in this debate, not only in this chamber but also more broadly, are that somehow what this bill does is tell women that it is okay to go out and have an abortion, that it is okay to use this as a first step and that if the bill is passed that is exactly what will happen. What we have been hearing from those people who oppose the bill is that if this bill is passed, then you are sending the wrong message. I do not believe that is the case. I believe the reverse is the case.

This sends a message that there is a legislative framework that clearly stipulates how a termination can occur, and it takes it out of the Crimes Act so that women and doctors do not have that threat of prosecution hanging over them. This bill removes that threat.

I want to speak briefly about clause 8. Other members have spoken in detail, and Ms Broad's contribution to the debate certainly went into quite a bit of detail on clause 8. I am not intending to labour the point, but I want to speak briefly about it.

Clause 8 imposes an obligation on registered health practitioners who have a conscientious objection to abortion. Before I was involved in politics I was a nurse, so I have worked closely with a whole range of medical professionals, doctors, nurses and allied health professionals, and I understand that conscientious objection. I was brought up a Catholic and understand how a person, an individual, can have an objection to an abortion, whether that be on religious grounds or some other grounds. I respect people having an opposing view to mine. I respect and understand where they are coming from.

The way the debate has been conducted in this chamber, and in the Parliament more generally, has shown that understanding and that respect for a very diverse range of views and attitudes towards this bill. However, I understand medical practitioners and health professionals can have conscientious objections to performing abortions, and that needs to be taken into consideration — which it is in clause 8.

Clause 3 of the bill defines the term 'registered health practitioner' as meaning medical practitioners, nurses, pharmacists and psychologists. Clause 8 recognises that some health practitioners may have a conscientious objection to performing or assisting with an abortion, and those who do have a conscientious objection should not be compelled to provide an abortion contrary to their beliefs. This clause provides that if such people have a conscientious objection and have been asked by a woman for advice on an abortion or to direct or supervise an abortion, then they are required to inform the woman of their conscientious objection and to refer her to another practitioner. This is what occurs now.

A woman may turn up to one of our Catholic hospitals in Melbourne, such as the Mercy or Cabrini, looking for a termination. I am sure such a woman would be made to feel very comfortable and would be seen by a medical practitioner and be spoken to with a great deal of care about what their options and choices might be. If that woman wanted a termination, then staff at the hospital would refer them to another facility, such as the Royal Women's Hospital and other hospitals and services where there are practitioners who would be

willing to discuss with them their circumstances and to consider a termination of the pregnancy. It is reasonable for them to do this.

I have just spied the editorial from the *Herald Sun* again. The editorial goes to this very issue and says:

> … in the circumstances, the provisions seem reasonable.

They are reasonable and represent what occurs now. I would be very surprised if a woman were to turn up to a medical practitioner or to one of our hospitals only to be told, 'We do not do them. Go away'.

As Ms Broad pointed out in her contribution, guidelines for medical practitioners are set out by various associations and colleges which provide that, if those medical practitioners have a conscientious objection, they refer patients on.

In conclusion, the bill provides certainty and clarity for women, health practitioners and the community. It acknowledges and reflects community attitudes as well as existing clinical practices. We have before us a very modern legislative framework that reflects our community's views and current practices in relation to a very important health issue for women. I commend the bill to the house.

Mr DALLA-RIVA (Eastern Metropolitan) — I am pleased to make a contribution on the Abortion Law Reform Bill 2008. At the outset I must say that whilst this is an important bill for many people, I would much prefer to be talking about the current state of the economy and to be debating bills about industry, infrastructure, roads and some of the concerns that people in the community share.

Having said that, I understand that many people in the community have genuine concerns about abortion and also that many of those people are passionate about supporting this legislation while many others are equally passionate about opposing it. I am neither; I am genuinely here as a person who has no preconceived ideas about whether to support or oppose the bill, and I put it in the following construct.

I say to the people who are opposing this legislation: it may be a secret, but it is a fact that abortions are being carried out every day in this state. On the other side of the ledger there is another fact: nobody is in the Victorian prison system or before the court for committing an abortion. On both sides of the ledger we have people saying abortion should be stopped. This is not that bill; this is a bill about extending the extent of abortion and codifying it. Equally, for those who oppose abortion, this is not an opportunity to limit people by charging them in the court system. There is nobody in the court system. As a person who has no preconceived ideas on this particular bill, I see two facts: firstly, abortions are occurring in this state every day; secondly, nobody is in the prison system as a result of performing those abortions. So who is right?

I have heard many people who are present in the chamber and I have listened intently to those who have presented their arguments, and I must say that many people have presented substantial arguments. Mr Finn spoke for 5 hours and 15 minutes. While some may feel aggrieved at the extent to which he spoke, he did raise a number of issues which I took on board. Equally, Ms Mikakos, who supported the bill, also spoke very eloquently about her concerns and went into a lot of depth.

The one thing I have not heard much about is the legislation and how the statute will apply to the Crimes Act, so I thought I would get something that people have not seen in this chamber during the debate. It is called the Crimes Act — the actual piece of legislation in this state which relates to abortion as a crime and to which case law is applied because it is clear. Is it? I do not know, and that is why I sit here genuinely concerned and confused about the directions in which people are moving.

I thank many people for their input into the debate. Many people have written to me and come to see me, and I understand their points of view. I have observed their passion for either side of the debate, either supporting the bill or opposing it.

Where should I go from here? As I have on previous bills where we have had a conscience vote, I have had to draw on being pragmatic, because pragmatism seems to work best for me when it comes to conscience bills. It is there where I am able to sit and lie straight after considering whether in all the circumstances I have made the right decision.

Yes, I bring up my background, as we all do. As I have indicated before, I have seen life and death in my career. I am very lucky that I have not seen childhood death. In my career as a police officer I saw many deaths, but I have not seen the death of a child. In one sense I have been very fortunate in that regard. But I have seen death, and I understand the concerns expressed by those who are opposed to this bill. They are opposed to a bill that relates to something that occurs every day. This is not a bill to stop abortion in Victoria, because it is occurring now. Equally, this bill is not going to result in our prisons being jammed with

those people who undertake abortions. Whether the bill passes or not, it is not going to stop abortion in Victoria.

The question I ask is the extent to which, if this bill proceeds and if I support it, it will result in a significant change to the way abortion is dealt with in this state. That is where I am at. Will it continue, or will it grow? I have heard debate on both sides, and I listened to the concerns expressed. I do not agree with the argument that we are going to see a Nazi-type approach to the way abortion is being undertaken. That is irrational, but equally I understand the concerns.

If the bill passes, we will not see a reduction in the number of abortions. In fact, I am leaning towards the possibility of there being an increase. I have heard the statistics from both sides. Some figures show that thousands of abortions are occurring in some areas; other figures show that only a few are occurring. What the bill may do is bring forward the issues that we are uncertain about.

I tried to take a pragmatic approach. If a woman has an abortion under the current system, there is a risk of prosecution under the Crimes Act, but if it is a medical procedure, the 1969 Menhennitt ruling is applied. In recent times I understand no person has been charged with such offences under the Crimes Act. The offence of child destruction is outlined in section 10 of the Crimes Act. Also listed under section 65 are the offences of attempting to procure an abortion and procuring an abortion, and under section 66 there is applying or procuring any thing to be employed in an abortion.

I note the legislation moves towards abolishing sections 10, 65 and 66 and replacing them with one section. Theoretically it should stop people going to jail, but will it? On one interpretation of the legislation you can still go to jail. But, hang on, I thought we were not going to allow women to go to jail. My pragmatic approach to the legislation is that you could still go to jail. I have heard a number of people say that there are some women who feel coerced into undertaking abortions. It is understandable that that would occur on occasion.

Under the current system, abortions which are medical procedures still risk prosecution, and applied to that is the Menhennitt ruling. There is still the risk of prosecution under this bill. You can still go to jail. We have two pieces of legislation which in my view appear on face value to be equal. The only area that appears to differ is in terms of some of the time periods. Section 10(2) of the current legislation provides prima facie that a woman who has been pregnant for a period of 28 weeks or more is pregnant with a child capable of being born alive.

It is not a detailed bill. Judging from the amount of emotion, interest and the number of emails and letters I have received, it is a long-winded and detailed bill. This is 10 pages long. The amount of interest in this bill is quite substantial. I must say for the record I am lucky and happy that I have never bought a BlackBerry. I am thankful for my electorate officer, Annemarie, who has had to absorb all the emails and letters I have received. I have, believe it or not, read as many as I can. That having been said, I do not get messages at 3.00 a.m. — thank God!

After listening to people talk about the legislation, as I see it clause 4 is the main point of contention. Just to remind members, clause 4 is under part 2 of the bill, which is headed 'Termination of pregnancy by registered medical practitioner at not more than 24 weeks'. It says:

> A registered medical practitioner may perform an abortion on a woman who is not more than 24 weeks pregnant.

I think it occurs now. In fact we know it occurs now. I sought advice as to why the period has been set at 24 weeks. Why not 20 weeks, as I have heard asked? My understanding is the issue of whether a child has a disability is more noticeable at the 24-week period than at the 20-week period. That makes sense logically. I have worked in a disability organisation, I listened to part of Mr Finn's contribution to the debate, and I have taken advice from others. The period has been extended to 24 weeks because if a child has a disability it is more noticeable; the pregnancy can then be terminated. I have to ask: is that correct? Is that what we are saying? Is that what I want to be supporting? I do not know. When you think about it that way you may agree or disagree, but if that is the argument, then I do not agree. If the argument is that we are making it 24 weeks because at 20 weeks we cannot determine whether a child has a disability, then that is wrong.

I turn to clause 5 which deals with abortions after 24 weeks. It makes sense, and I understand the issue about getting a second opinion. That is appropriate in the circumstances. The bill provides for an abortion to be carried out up to 24 weeks. It was put to me by a number of people, and I put it to those who are pro-choice: does that mean that a pregnancy could be terminated — I have not been pregnant for a long time! — up to the end of 40 weeks? Theoretically, under the legislation the answer is yes.

We should forget about the emotion and look at the legislation. If a judge or magistrate determined that an

abortion at 39 weeks complied with the legislation — in other words, a registered medical practitioner performed the abortion and he or she believed in all the circumstances it was appropriate; he or she had consulted at least one other registered medical practitioner who also reasonably believed that the abortion was appropriate in all the circumstances; and all the relevant medical circumstances, including the woman's current and future physical, psychological and social circumstances were taken into account — then there would be no offence. There is nothing to prevent that occurring.

People will say doctors would not do that, and they may not. But in black and white that is the way the legislation looks to me, so I have to question whether I want to support that.

I understand that some people are supporting the notion of the bill, and I understand that it gives certainty, but I have to look at it from the perspective of whether that is really where I want to be heading, because it enables abortion for whatever reason up to birth, having regard to 'all relevant medical circumstances' and 'the woman's current and future physical, psychological and social circumstances'.

It is difficult for me to look at this and objectively say where it is heading. I do not know, and I am still pondering it. I must say, because Mr Finn spoke for a long time, that in the period leading up to my contribution I was thinking about what I was going to say about the bill. Going through my mind was what I intended to say when on my feet in Parliament — 'Will I support it, will I oppose it? Is this the right thing? What happens if I support it, it goes through and then we find that there are late-term abortions but with no recourse?'. Under the legislation there is no recourse.

I thought, 'If I support it, will that be the case? If I oppose it, will that mean the current law will place women and practitioners in an awkward position?'. At this stage I am still unsure. I just do not know. I have tried to be fair to myself and what I believe is right for the people of Victoria — for women, the unborn and the fathers who are part of it as well.

Clause 6 talks about the administration of drugs, and clause 7 allows a medical practitioner to direct a registered pharmacist or registered nurse to administer or supply a drug to cause an abortion in women who are more than 24 weeks pregnant only if the conditions set out in clause 5 are complied with.

Clause 8 concerns the obligations of registered health practitioners. I spoke on the euthanasia, or dying with dignity, bill in this chamber. I have an issue with people who have a conscientious objection to a particular issue having to refer. I understand the concerns of those who are opposed to the bill. Equally I understand the concerns of those who support the bill.

A doctor in a country area, for example, may believe they cannot support abortion, so they will not refer a woman, but although the same rights exist in the metropolitan area, the woman can go to another doctor around the corner. I understand that this is not a clear-cut issue. Having said that, the dying with dignity bill had a clause that I vehemently opposed — that is, a penalty section. I cannot believe we should penalise somebody who has a conscientious objection to a particular issue. On the whole, clause 8 has its issues, but it is a fair clause in all the circumstances, given what I have heard, and I am not vehemently opposed to it.

I am going through the bill line by line, trying to break it into segments, because that makes it easier to understand. I do not know what I am trying to argue, but it helps me to come to a final decision. Clause 9 repeals subdivision (2) of division 1 of part 1 of the Crimes Act. What does that mean? It is essentially about child homicide but relates more to section 10 of the Crimes Act dealing with child destruction, which obviously makes sense. If you are creating a new offence of abortion, termination of pregnancy under clauses 4, 5 and 7, then those issues obviously do not apply.

I mentioned earlier that the two streams fail: where there is abortion, there is a medical procedure and a risk of prosecution. Clause 10, under the heading 'Offences against the person', inserts definitions into section 15 of the Crimes Act. The existing section 15 includes the definitions of 'child, 'female genital mutilation', 'injury', 'medical practitioner', 'midwife', 'prohibited female genital mutilation', 'registered medical practitioner', 'registered midwife' and 'serious injury'. Clause 10 of the bill inserts the following:

> "***abortion*** has the meaning given in the **Abortion Law Reform Act 2008** …

which means:

> … intentionally causing the termination of a woman's pregnancy by —
>
> … using an instrument; or
>
> … using a drug or a combination of drugs; or
>
> … any other means …

Further, claeuse 10 of the bill states:

> 'medical procedure', in relation to paragraph (b) of the definition of 'serious injury', means —
>
> (a) an abortion performed by a registered medical practitioner in accordance with the Abortion Law Reform Act 2008; or
>
> (b) the administration or supply of a drug or drugs by a registered pharmacist or registered nurse in accordance with the Abortion Law Reform Act 2008 to cause an abortion …

It then goes on to outline what a 'registered nurse' means, what a 'registered pharmacist' means, and that a woman means 'a female person of any age'.

Business interrupted pursuant to standing orders.

Sitting continued on motion of Mr LENDERS (Treasurer).

Mr DALLA-RIVA (Eastern Metropolitan) — We are about to move into family-friendly hours, so let us see how family friendly they end up. Bring on the coffee!

I will continue, because it is important that I be allowed to undertake this contribution, as I have given due respect to others. In respect of clause 10, which introduces offences against the person, as I said earlier, the current system has an abortion, which occurs; medical procedure, which occurs; a risk of prosecution, which there is; and the protection is the 1969 Menhennitt ruling. That is as it currently is. Abortions occur despite the anti-abortion people. The risk of imprisonment occurs, even though nobody is in jail. This bill goes into an abortion, which occurs; medical procedure, which will occur; a risk of prosecution, which I will talk about; and the legislation. It is that legislation that I will now get to. You have to ask whether in fact there is any difference and, in reading the legislation, whether it is applied.

In respect of sections 16 and 17 of the Crimes Act, I am probably one of the very few members in this chamber who have actually charged people with those particular offences. Section 16 of the Crimes Act, which refers to causing serious injury intentionally, states:

> A person who, without lawful excuse, intentionally causes serious injury to another person is guilty of an indictable offence.
>
> Penalty: Level 3 imprisonment (20 years maximum).

Most people assume that causing serious injury intentionally would be where a person might go to a nightclub and there is an altercation and somebody turns around and gives somebody an intentional whack to the face, the person falls down and cracks their skull. They do not die. They suffer severe brain injury, which they may recover from, but the perpetrator will be charged with causing serious injury intentionally. It often involves going to the County Court. How do I know? I have charged somebody with exactly that offence.

Equally, section 17 of the Crimes Act, which refers to causing serious injury recklessly, states:

> A person who, without lawful excuse, recklessly causes serious injury to another person is guilty of an indictable offence.

This may be where the intent is to undertake an assault of a person and, as a result of that, they break someone's finger. Again, I have had that exact case. That is recklessly causing serious injury, most likely dealt with summarily in the Magistrates Court because of the lesser charge. Notwithstanding that, the penalty for the offence in the Crimes Act is level 4 imprisonment, which is 15 years maximum.

In the new bill clause 10(2), which deals with section 15 of the Crimes Act 1958 and defines 'serious injury', will now read:

> "serious injury includes —
>
> (a) a combination of injuries —

as it was, and —

> (b) the destruction, other than in the course of a medical procedure, of the foetus of a pregnant woman whether or not the woman suffers any other harm;".

Serious injury now can include the destruction, other than in the course of a medical procedure, of a foetus. So if there is a medical procedure — we have heard one of the previous contributors to the debate talk about the potential of what may occur from an abortion, and I gather that those types of things may occur in childbirth as well — I guess there are many things happening during that process.

Clause 10(2) refers to a combination of injuries and to the destruction of a foetus of a pregnant woman, whether or not the woman suffers any other harm. You can be charged with the offence of causing serious injury intentionally or recklessly if you undertake an abortion — that is the way I am reading it — that involves a combination of injuries and the destruction of a foetus of a pregnant woman, whether or not the woman suffers any other harm other than in the course of a medical procedure. There is still an offence when that occurs. There is still an offence when a person undertakes an abortion without proper recourse to

medical procedures, and they can still be charged with an offence and go to jail.

However, in respect of the offence, new sections 65 and 66 are proposed to be substituted in clause 11 of the bill. Currently, sections 65 and 66 of the act deal with attempts to procure an abortion. I will not read this part of the legislation because it quite lengthy but the bottom line is that a woman who procures her own miscarriage unlawfully will be liable to 10 years imprisonment. Anyone who unlawfully supplies or procures any poison or instrument is liable to five years imprisonment; in other words it refers to the backyarders who are doing this and there is a risk to the woman.

Clause 11 inserts proposed section 65, which is headed 'Abortion performed by unqualified person'. Subsection (1) of this section says that a person who is not a qualified person must not perform an abortion on another person, the penalty being level 5 imprisonment with a maximum of 10 years. Subsection (2) states:

> A woman who consents to, or assists in, the performance of an abortion on herself is not guilty of an offence against this section.

I read again and again the words 'a woman who consents to' and I recall some people telling me that many women — not a huge number, but I understand there are some — may not necessarily feel they are consenting; they feel as though they are being coerced. I do not know whether that is true or not. The issue is: if a woman has not consented in the performance of an abortion on herself, is she guilty of an offence? I do not know. I am just putting it out there, and I will probably raise the issue in the committee stage.

What I am saying is that there was an issue that was debated in the house earlier. It concerned Senator Julian McGauran and it was about a woman who supposedly had an abortion, which brought up the whole issue. The woman was in such a state that she could not have consented to the abortion. I thought: if she did not consent and was not in a position to consent and an abortion was performed on her, is she, by default, found guilty of the performance of an abortion on herself? She did not consent to it, according to the definition in black and white in the legislation.

Again, I may be wrong but because this will be new law, we may end up with a situation where women have to give evidence in a court of law to justify that they gave consent. I recall reading parts of the Menhennitt ruling where there was much concern raised about women having to give evidence under duress in a court, because sections 65 and 66 of the current Crimes Act make it clear that women could be sentenced to a term of imprisonment. When I read this bill I say, 'Are there unintended consequences as a result of the drafting of this legislation that have not been thought of?'. Could a woman be put in a position where she may be charged because she is not a qualified person? It is possible. Those people are not to perform an abortion. I will raise this issue in the committee stage, but the clarity of the legislation concerns me.

I advise those who are not certain about this issue to read clauses 10 and 11 and refer to the offences against a person in sections 16 and 17 of the Crimes Act. If you join those provisions, you see what you come up with. The bottom line is that there is still, in my view, a risk of some form of prosecution.

The only prosecution I do not see that possibly applying to is the prosecution of a medical practitioner. As much as we like to think that medical practitioners are good and honest people — and most are — there are occasions when people may see an opportunity. Mr Atkinson raised the issue of some doctors of ill repute who might take an opportunity that was provided to them. I am not a pessimist regarding human nature, but I think if some people see the opportunity of making a quick buck, they will do it. I do not know whether the unintended consequences of this new bill will create that type of situation.

At the moment the way I see it is that the legislation gives no protection for doctors regarding the risk of their performance when undertaking abortions. I have evidence from a doctor who said he referred patients to another doctor; that second doctor understood that to be a referral to undertake an abortion. I listened to him and I thought, 'Okay, how do we then have protection?'. There is no protection.

I do not understand this issue of a cooling-off period. One of the speakers who is in favour of this bill said that this bill is not about buying cars. You do not have a cooling-off period where you walk in one day and then decide you will have three days of cooling off and go home and think about it. This is a deeply emotional issue.

I have also heard people talking about the provision of counselling. Again, I think it was Shaun Leane who said that people who require counselling in these particular circumstances are not going to undertake counselling unless they really want to. So forcing somebody to undertake counselling may not work. Mr Leane spoke in the chamber about his up-and-coming wedding. He met a priest and lied to

that priest just to tick the box, so to speak. I listened to his contribution to the debate with much interest because it struck home that this issue could lead to a situation where people just say what they need to say to get the job done.

I have also looked at other issues. I thought that was important, because there is an issue about partial-birth abortions. I looked on the internet to see what that is about. I steeled myself in preparation of seeing what that looks like. This bill does not stop those types of abortions. If they occur today, they will occur tomorrow if this bill goes through or not. If we want to stop partial-birth abortions, then there needs to be a bill introduced into this chamber to stop those types of things occurring.

As I said, I will get back to my original statement: I come here with both hats on. I genuinely feel for those who are supporting the bill. I understand the extent to which they wish to have this legislation passed through the house. I equally understand the concerns of those who are against the Abortion Law Reform Bill, but I also think they perhaps have extended this to a no-abortion position. However, I note from having spoken to a lot of those people that they are realistic and understand that abortions occur, and I think their concern has been about the extent to which this bill may increase the incidence of abortions.

At this point I am still undecided. I thought I would be able to stand up here now and make a decision, but I cannot. I will stand by to listen to further debate, to hear the arguments, and then reflect in a time that is available for me in an area where I do not feel as though I have to be pressured to make a decision that I may regret or reflect on later as being the wrong decision. If I support the bill, I need to be satisfied that I am doing the right thing in moving the legislation forward, understanding that the current system is not working. If I oppose the bill, I need to understand that perhaps I am putting at risk some opportunities for development into the future and leaving in existence some old legislation that may not serve the community into the future.

Putting that aside, I look forward to listening to the debate. I look forward to referring to *Hansard*, and I look forward to receiving more information as I do so. As I said, I thank the many people who are here who have provided me with information. I am sorry for those who do not feel as though I have given them a satisfactory answer. But, as I said, I would prefer to make that decision when the time is right, when the bells have rung, when I actually walk in and sit down on one or other side of this chamber, knowing full well that I have given due consideration and thought to a very complex, detailed and emotional issue that is before the chamber.

Mr THORNLEY (Southern Metropolitan) — Mr Dalla-Riva has given a very thoughtful discussion of the details of this bill. I thank him for that contribution, which I think has been of benefit to us all.

In speaking to the Abortion Law Reform Bill I want to start by thanking the thousands of constituents who have contacted me in my office and contributed their often passionate views on abortion and on this bill. I have taken all those representations very seriously, as I have the many one-on-one discussions I have had with doctors, community and faith leaders, from former Premier Joan Kirner and her colleagues in Emily's List through to my friend Rabbi Kluwgant, lawyer Julian McMahon, ethicist Nick Tonti-Filippini and many others. It would be obvious that my views cannot reflect those of everyone I have spoken to, given the diversity of their views.

All of these discussions have only reinforced to me the tragedy of unwanted pregnancies and the abortions that often follow. The more you contemplate it, the more an abortion, particularly a late-term abortion, is a horrifying thing: what happens to the unborn, the often difficult, sometimes dangerous impacts it can have on the mother and the impacts sometimes felt in her family and other relationships. There is nothing good about abortion. Many members have therefore spoken with deep difficulties in determining how to vote on this bill. I understand those difficulties, but I do not share them. I have always known how I will vote on this bill, and I have done so all my adult life. That said, I have many friends and colleagues with whom I have worked closely on other issues and in other forums who will be disappointed with my views in this debate. My respect for them and their beliefs is undiminished, and I hope that may be true of them for mine.

I believe you can decide your position on the issue of decriminalisation of abortion by answering one simple question: do you believe thousands of women and their doctors should be thrown in jail for undertaking an abortion? Do you believe their husbands, partners or other family members, or nurses or hospital workers or others who may have assisted should be thrown in jail? If your answer to those questions is yes, you are in favour of criminalisation of abortion. But if you believe throwing them in jail will achieve nothing positive and you are therefore not willing to publicly advocate such a position, the truth is that you are in favour of decriminalising abortion, no matter what you might say or how you might vote in this debate. I believe 95 per

cent or more of people in our community do not believe we should be jailing those thousands of people, and nor do I. That is why I will be voting to decriminalise abortion. It is as simple as that. What the vast majority of members of the community want, however, is not jails full of mothers and doctors, but a reduction in the number of abortions. And so do I.

This debate has gone on at length, discussing whether a woman does or does not, should or should not have the right to choose an abortion. That is a debate about principle, but it is answered by the facts. No matter what we decide, the fact is that women will choose whether they will have an abortion. They always have and they always will. No-one can, or at least no-one should, make a woman have an abortion who chooses not to have one. But, similarly, history has shown us that no-one and no law will convince a woman who believes she cannot continue with a pregnancy not to choose to have an abortion. Whether anyone in this chamber thinks she should or should not make a decision about abortion, I can assure the house, regardless of what we say or do, that women will make the choice on whether or not they have an abortion. So all we can do here is talk about what any government can or should do in response to that fact.

Yesterday Mr Finn told the heartbreaking story of a young woman who had an abortion that she later lived to regret, even with the subsequent blessing of having two later children with the same partner. It was a heartbreaking story, and I commend her courage for being willing to share it with us. What I do not understand is what possible good could now come from throwing her in jail. What good would that do to her or her children? What good would it do to throw thousands of other woman like her — though each woman and her own story and circumstances are different — in jail? It would achieve nothing.

Of course the reality is that no-one in this chamber has argued that thousands should be thrown in jail. In truth, virtually no-one is willing to argue for criminalisation of abortion. At most, people cop out and argue for the status quo, where the law is not enforced. If you do not believe we should throw them in jail but you still believe abortion should be listed as a serious crime, the only possible argument, then, would be that it is a symbolic law. I do not believe in symbolic law.

Is there any other crime about which we say, 'We do not really mean it. Do what you like, because we will not prosecute or enforce the law: it is only symbolic.'? I cannot think of any.

Mr Drum — I can.

Mr THORNLEY — Acting President, I sat in silence throughout Mr Drum's speech. I am happy to take up his interjections if we want to conduct the debate that way, but I would hope he would do likewise with mine.

Can you imagine the outrage from the law-and-order zealots if we treated any other crime as merely symbolic and unenforceable? They would be outraged, and they would be right. If you are a conservative and you believe in the rule of law, you must believe the law should be enforced. If you believe abortion is a crime, you must believe it should be prosecuted and those responsible punished. To say otherwise is a cop-out. To say, 'I believe abortion is a crime, but it should not be prosecuted and the perpetrators should not be punished' is a cop-out. You either believe it is a crime and therefore should be punished and you are willing to advocate that, or you do not. Anything else is just grandstanding.

Mr Drum — What about attempted suicide?

The ACTING PRESIDENT (Mr Vogels) — Order!

Mr THORNLEY — I do not believe that. I do not accept that we should be jailing thousands of women and their doctors. That is why I believe abortion should be decriminalised: because our current law says it should be. I have some concerns about some clauses in this bill. I will address those in committee, and I will be supporting the bill.

As a man who will never be pregnant, I will never have the responsibility of making a decision about an unwanted pregnancy. To date I have not and I pray I never will be called upon to give advice to a woman who does, although that day may well come. So in truth I cannot and do not have any real comprehension of the weight of responsibility she must feel in that situation, let alone all the attendant circumstances that surround each woman who has an unwanted pregnancy.

As a man I can only wonder at the courage required of a woman to make the decision to abort, to go through that process of talking to her doctor and perhaps her family or friends, to contemplate what she is doing, to prepare for the physical procedure, to go to the clinic or hospital — perhaps running the gauntlet of protesters — and to go through the procedure and deal with the physical, psychological and spiritual circumstances, many of which have been outlined in detail in this debate. We may believe that what she has done is wrong, or we may not, but I think no-one would argue that it has not required some large degree of

courage as she has confronted the responsibility of what to do with her unwanted pregnancy.

Similarly as a man I cannot put myself in the shoes of a woman who decides to keep her baby, despite the pregnancy being unwanted. As a father of three, and particularly as someone who grew up in a large, sole-parent family, I have at least the beginnings of comprehension of the magnitude of responsibility that she is undertaking, but her circumstances may well be very much more difficult than mine have ever been. Again, I think no-one in this chamber would say that a woman who chooses to proceed with an unwanted pregnancy and have and love that baby for the rest of her life is not demonstrating enormous courage in undertaking that responsibility.

I make these observations about the courage and responsibility that a woman with an unwanted pregnancy must have, no matter how she responds to her situation, in contrast with the position of some men who enter this equation. Let me ask: how much courage and responsibility does it take for a man to have unprotected sex with a woman with reckless indifference to the consequences? Whether that woman is his wife, his partner or someone he meets drunk in a bar, I think it is fair to say that a bloke who has unprotected sex with a woman without concern for the consequences exercises absolutely no courage or responsibility.

Mr Drum — On a point of order, Acting President, this speaker has effectively read every word of his speech. Absolutely every word of his speech has been read verbatim from a pre-written speech, which is against the sanctions of the law.

The ACTING PRESIDENT (Mr Vogels) — Order! There is no point of order.

Mrs Peulich interjected.

Mr THORNLEY — Mrs Peulich might not like what I say, but I can assure her I wrote it all.

I ask further: how much courage or responsibility does it take for a bloke to walk into this place and pronounce moral judgement on women in a situation that he will never find himself in? Answer: not much. Even if you agree with everything he says, you would be hard-pressed to say it took any great courage to do that, it involved any significant risk or it required him to take any more responsibility for that than what his words may do. Mr Finn, Mr Kavanagh and others have asked, 'Where are the men in this picture?'. I ask the same thing: where are the men? Where are the men who will demonstrate any courage or responsibility in this debate?

The thing that I find extraordinary about the debate so far is that there is one topic which is so central to this debate that it is unquestionably the key — probably the only key — to the possibility of a massive reduction in the number of abortions performed. Yet despite that fact, apparently because it is such a taboo subject, it has gone almost unmentioned in 15 hours of debate. That taboo subject, which dare not speak its name, is male responsibility for contraception.

It is as simple as it is obvious: if men took as much responsibility for contraception as women did, the number of unwanted pregnancies would drop like a stone. While no method of male contraception is foolproof — and indeed, nor are any female contraceptive methods — it is absolutely certain that if both partners take such responsibility, the chances of an unwanted pregnancy are minutely smaller than if only one partner does.

If the people of Victoria expect us not to have women and their doctors thrown in jail but rather to create public policy that leads to a dramatic reduction in the number of abortions, then it is patently obvious that the best way to achieve that is for men to also take responsibility for contraception. So when we ask 'Where are the men in this equation?, that is where I think the men should be — taking responsibility for contraception. If you walk into this chamber wanting to take some responsibility and wanting to show even the tiniest amount of courage compared to that which women must face when they have an unwanted pregnancy, then when you walk out of here you should take the lead in convincing men to take their share of responsibility for contraception. If you are serious about the unborn and if you are serious about reducing the number of abortions, then get out there with your videos and your horror stories, get out there with your moral righteousness and self-importance, and walk into the pubs and clubs, the footy clubs and the construction sites, the high school halls and the army barracks and tell the blokes to take responsibility for contraception.

If you do that, you will save thousands of unborn children from abortion. If you do not do that, you are not serious. If you do not do that, all you can do is parade around here in cowards castle excoriating women for making a decision that you will never ever have to make for whatever you perceive to be their moral shortcomings. If that is all you do, that is basically gutless and it risks being nothing more than political grandstanding and campaigning for votes.

I am up for it and I hope you are too, boys! It is time for men to show some leadership, to show just a tiny fraction of the courage that women have to have every day when they contemplate how to deal with an unwanted pregnancy. It is time for men to take responsibility for contraception and contribute to a massive reduction in the number of abortions and the suffering involved to the unborn, their mothers and their families. If you are not willing to do that, you are not serious. You can speak in here for the next 10 years, but you will not stop a single abortion. I commend the bill to the house.

Mr GUY (Northern Metropolitan) — Acting President, I thank you and your colleagues in that chair who have conducted yet another very difficult conscience debate in this chamber this week following the debate in the previous sitting week which many members spoke on. I am aware of the sensitivities of this issue and the fact that the bill we are debating, the Abortion Law Reform Bill, addresses what is in my view probably one of the most personally sensitive of all the issues we have faced, certainly in the short time I have been in this chamber. As I said, this bill is the second in as many sitting weeks in which we are debating what is a very important social issue. Most members in this chamber have in all sense and fairness been granted a conscience vote by their party or by their colleagues recognising and respecting the fact that they have very different and varying views on this issue.

If possible, before I begin my substantive remarks, I would like the tolerance of the house to indulge for a brief moment in talking about the issue debated in the Council in the last sitting week. I believe there are some parallels between this debate tonight and the conscience debate we had in the last sitting week. That was the issue of the private members bill on euthanasia, and I see parallels in some parts of this bill.

For family reasons I was unable to be in the Parliament for the last sitting week. I want now to reiterate the comments that were made on my behalf by my colleague Mr Finn, who placed on record my opposition to the euthanasia bill. It was and remains my view that that bill posed a direct threat to the ability of our health professionals to operate in a manner in which they could practise their trade according to the Hippocratic oath which they have taken, and further, that that bill directly threatened their right to conscientiously object to take part in procedures or not to refer patients to other medical practitioners who would conduct procedures to which they have a serious moral objection.

Doctors, nurses and other health professionals may work in one of the most important — what I think is arguably the most important — professions in our society, but that does not mean they should have to compromise the morals, ethics and values that have formed them and their families simply to participate in a field that focuses on care giving and health care. Indeed, as I said, some of the issues that gave me concern in that bill also give me grounds for concern in this bill we debate today, the Abortion Law Reform Bill.

For many people, abortion is not an easy topic to talk about. For many people, as has been mentioned by a number of speakers, it is seen as a taboo topic, not to be discussed and not to be mentioned. For many of us as politicians it is a topic that we have never paid a lot of attention to in a legislative sense. I think a few of us believe the laws that exist in the state today cause little obvious community division and do not arouse mainstream debate, but the government has decided to change this and place abortion at the centrepiece of debate in what some in the government and the media are terming the government's social agenda.

I acknowledge that the Premier has given his members a conscience vote on the issue. I note there was some debate last night as to whether all members in the chamber actually have one. Regardless, in my view it would be unfair and unreasonable for any of our parties to direct any member to support or oppose this bill despite any personal, religious, or family convictions that may place them in conflict with some of its parts or indeed all of it.

The leadership of the Liberal Party and The Nationals has certainly allowed all of our members to decide our point of view on the issue according to our own belief. This issue has been discussed in the Liberal and National parties in a respectful, sensible manner, and I would like to place on record my gratitude to my colleagues, who have all been fairly helpful and informative on this issue and with whom I have had a number of open and frank discussions without any angst, threats or intimidation.

This is one of the reasons I joined the Liberal Party — the fact that this party genuinely respects the meaning of a conscience vote. It has always respected the right of members to decide issues as personal as abortion on the view of the merits they form, and thus, as I said, I am proud of the manner in which my party has managed this issue internally.

I say again that abortion is an issue that I am sure many members will have much to say about. Indeed, as we

have seen over the last two and a bit days, many members have had much to talk about. People's views on this topic are formed by their individual senses, be they medical, ethical, moral or religious, and I know the debate will not be an easy one for many. In my view, abortion is a Pandora's box for legislators to start debating. Given the complexity and great variance of views on this issue, it is one that cannot and will not be debated in a short period of time.

I apologise in advance if I speak for some time tonight. I did not seek election to Parliament to open up this debate, and the fact that it has been opened up means it should be expected that it will be discussed by many members at length. Indeed members who feel passionately about this issue should not be disparaged for debating it at length. There are members who feel exceptionally personally and exceptionally deeply about this issue, be they for or against, and all members should have the chance to express their point of view without any sense of intimidation from anyone in this chamber or indeed any sense of pressure from any side of politics in this chamber for them to complete a speech they may feel passionately about.

The views I hold on this issue I have held for a lengthy period of time. I believe they are also consistent with my views on the death penalty, on embryonic stem cell research and on euthanasia. I am someone who believes in life. I am of the view that all of us are so grateful to be given the chance to experience life. As Mrs Petrovich said earlier, life is not always great. Most of the time it is hard, and it can be challenging, but we all have the chance to be here and we have the chance to experience it. In my view, this bill, specifying late-term abortion up to 24 weeks — which is six months gestation and indeed even later term abortion, up to full term, on the consent of two doctors — just goes too far.

I think we need to be very up-front when we are talking about this bill. This bill is not just about the decriminalisation of abortion. This bill is about the legislating of abortion on demand up to six months' gestation. If this bill were simply about taking abortion out of the Crimes Act, then we would be debating option A. That is an option I believe the overwhelming majority of Victorians probably would have felt was much more acceptable and much more in keeping with what some would say are community beliefs and community spirit.

Before I go on, I would like to make some points on the public debate that has surrounded this issue. Most of the feedback I have had on this bill, whether from my old school friends, from party friends and so on, has actually been from women. It has mostly been unsolicited advice, and most of it has been overwhelmingly to the effect that allowing abortion on demand up to 24 weeks is too extreme. That, I have found, has been a consistent view of certainly the people I have encountered — that the 24-week period is too extreme.

I would also add that the majority of people who have offered me advice agree with removing abortion from the Crimes Act; however, most believe that the legalisation of abortion on demand up to 24 weeks being attached to the decriminalisation aspect makes the bill unacceptable.

There have been some comments in the public domain that I too would regard as unfair and over the top. I refer to an article I saw in the *Herald Sun* recently by a very prominent doctor, Dr Sally Cockburn. She finished her article with the line:

> Maybe the doctors with the strong objections should consider a niche that won't challenge their moral views.

To me that typifies many of the comments that have been made towards people who do not agree with this point of view, and that is one of intolerance. What she is effectively saying is that anyone who does not agree with her point of view in health care should not be in health care. What she is saying is that anyone who disagrees with her point of view cannot possibly have the same feeling of care or attachment to a patient that she would, that anyone who has an objection on religious, family, personal, racial or professional grounds should get out of maternal health care. I believe it is strange that a prominent doctor such as Dr Sally Cockburn would refer to people who disagree with her as being intolerant because what she is expressing herself is gross intolerance. I do not believe abuse or intolerance that goes the other way is particularly helpful either.

I believe some references Mr Pakula made in his presentation last night to the abuse directed towards him are outrageous and unhelpful to the debate. For someone whose family went through such pain some decades ago to be referred to in the manner in which he has quoted is very, very wrong. Unfortunately, I have heard about a number of other incidents during this current debate that have also caused me concern. I am aware of a young man who was passionately opposed to this bill putting posters up in St Kilda a week and a half ago and being set upon and beaten, given a black eye and bruised by people who disagreed with his point of view. He was simply putting posters up in opposition to a bill in the state Parliament, and he was attacked.

I find it difficult to accept that people who claim they are tolerant — the most tolerant in society — would schedule rallies on the steps of Parliament on the same day as the people who opposed the bill, deliberately trying to disrupt their rally for no other reason than to cause division and cause a fight.

It is worth noting that abuse has also been directed towards members of the Legislative Assembly. One member in particular, whom I will not name, received a vile and offensive SMS from someone in the gallery after his speech, simply because he had stated that he felt he could not support the bill that was before the house.

Let me state again that violence and offensive conduct in this debate by any person — now, in the future or in the past — should not be tolerated. It is not the sign of a civilised society, and it is not the sign of where our society should be today. What we are debating is a personal issue and there are exceptionally powerful views on both sides. The only way to debate this is with rationality and respect.

I will briefly talk about the Victorian Law Reform Commission report that was presented to government. As we all know, there were three options presented to the government, and I would like to run through them and give some comment on them. Option A is the first of the three models, and it is described as:

> Codification of the current circumstances in which an abortion is lawful …
>
> …
>
> Under this model, the Menhennitt rules, or a variant of those rules, would continue to govern the circumstances in which an abortion is lawful. However, those rules would be included in legislation, and the consequences of failing to comply with those rules would change. This model would cause the Menhennitt rules, or a variant of them, to receive parliamentary endorsement almost 40 years after they were devised.
>
> While this model would not materially alter the circumstances in which an abortion is lawful, it would alter the sanctions that apply when a medical practitioner performs an abortion which is not authorised by law. Those sanctions would become professional rather than criminal.
>
> This model may be characterised as one in which a women's consent to an abortion is a necessary but not sufficient reason for an abortion to be lawful. Once consent is given a medical practitioner would have a restricted, discretionary power to determine whether it is lawful to perform an abortion.

I will make some comments on this after I finish the next paragraph. The report continues:

> An abortion would be lawful only when a doctor was satisfied that it was necessary because of the risk of harm to the woman if the pregnancy was not terminated. If not satisfied of this the doctor must refuse an abortion. Thus, while both a pregnant woman and her doctor would have roles in the decision-making process, the doctor would be the ultimate decision-maker.

I think there are many people in the community — in fact I have come across many of them — who believe this model is what the Parliament is debating today. The report goes on to say:

> An abortion would be lawful in the following circumstances:
>
> > A woman consents to the surgical or medical procedure which is used to terminate her pregnancy;
> >
> > A medical practitioner determines that the abortion is necessary because of the risk of harm to the woman if the pregnancy is not terminated;
> >
> > That medical practitioner performs, or supervises the performance of, the abortion.

Again, I think what we are talking about in this model is what many people in the community think we are debating in this chamber, but we are not. In fact what we are debating in this chamber is far different. What we are debating is model B. It is described in the report as:

> A two-staged approach to the regulation of abortion: a woman's decision during early pregnancy; medically determined risk of harm to the woman governs late abortion.

I stress the words 'early pregnancy'. I make the point that early pregnancy is deemed by this model as being up to six months gestation — six months of a nine-month pregnancy is determined to be early pregnancy. The report says that under model B, the model we are debating:

> … different legal rules govern the decision making about abortion during two distinct stages of a woman's pregnancy.

I note that the report says 'distinct stages'. The report continues:

> A line determined by gestational age would separate the two stages. The stages are referred to as 'early' and 'later' for the purposes of this model.

I think most of us would struggle to find much difference between an in-utero child at 23½ weeks and an in-utero child at 24½ weeks, but they are treated as very different beings under the bill. The report says that under model B:

> During the later stages of a pregnancy a medical practitioner would be the final decision-maker. An abortion would not be lawful unless a medical practitioner was satisfied that it was necessary because of the risk of harm to the woman —

involved in the pregnancy.

In the euthanasia debate I noted that many people talked in their speeches about doctor shopping. One of the concerns members expressed about the bill was that if someone wanted to obtain access to euthanasia there would be a network, if you like, of doctors who could help them out on the second stage. While there was a hurdle in terms of bureaucracy it would not be a hurdle — or not a properly regulated hurdle — at the second step. It is my concern that that would be the case with this as well.

The report describes model C as 'abortion governed by the same body of legal rules which regulate other medical procedures'. Thus under model C abortion would be considered just another medical procedure. This is something I find very hard to stomach. I quote the report:

> Under this model abortion would be governed by the same legal rules which regulate all other medical procedures. An abortion performed by a medical practitioner would be lawful at any stage of a pregnancy if the woman gives her consent and if the medical practitioner considered it ethically appropriate to perform that procedure.

I note that many people say that we should be debating model C, and that this would be a better model. However, many people — and I include myself — would argue that model B and model C are exceptionally similar. But who defines what the ethics are here? Who is the policeman, if you like, of those people who are deciding what is ethically correct? In this bill, and in the VLRC (Victorian Law Reform Commission) report, there is no notion of what would be the definition of ethics and how easy it would be to 'doctor shop' to find people to practise the procedure if it were needed. As I said, where there is concern, as I believe there is with many aspects of this bill but with the 24 weeks in particular, I do not believe either option B or option C in the VLRC report received any detailed analysis where those issues would be explained.

I want to have a quick look at some legal advice relating to this bill which appeared in the media and was quite easy to access last week. It was legal advice produced by DLA Phillips Fox. It argued that this bill should not be debated at all, principally because the procedures we as legislators have followed to get to this stage were not proper. I understand government members have come into the chamber and made a number of comments to clear the air and indicate that they have followed the proper procedures in order to have this bill debated. I am not sure that matter has been satisfied and those issues of concern properly dealt with.

The Phillips Fox advice states very clearly:

> Section 8 of the charter contains a number of different rights themed around equality and nondiscrimination. Most relevant in this context is section 8(3), which provides that:
>
> > [e]very person is equal before the law and is entitled to the equal protection of the law without discrimination.
>
> …
>
> There is therefore a strong argument that clause 8 of the bill —

the bill we are debating —

> infringes the rights in section 8(3) of the charter.
>
> As well as establishing free-standing rights, section 8 of the charter operates in conjunction other rights. For example, to require someone who holds a specific political or religious belief (such as opposition to abortion) to reveal that belief to a patient, where no other person is required to reveal their belief (for example, support of abortion), is a discriminatory breach of the right against unlawful or arbitrary interference with privacy, entailing a consequential breach of elements of the right to recognition and equality before the law.

In effect, we are saying that if you have a moral opposition to abortion, you must state it. If you have no moral opposition to abortion, you do not have to state it. If you have a religious point of view that may put you at odds with any procedure, it needs to be stated, but if you have no religious objection to anything you do in your profession, no moral or religious belief that may govern you to the contrary, you do not have to disclose that. I believe this advice has picked up a serious flaw in this bill — the fact that this bill is not compliant with the charter. The government still has not properly explained that.

I want to have a look at this issue of conscience. Who do we trust when we talk about issues of conscience and conscientious objection? This legal advice from Phillips Fox is referring to 'conscientious objection'. I have to say that in the euthanasia debate we had a few weeks ago in this chamber a number of people mentioned conscientious objection as a key reason for not supporting that bill. I respect that; that is their right. In this bill we are debating today, with conscientious objection clauses that apply in a similar way to those in a bill that was defeated for that reason, we are saying that this is all okay. I find that a little strange.

I received a letter, as no doubt did all members of the chamber, from a group called Doctors in Conscience Against Abortion. I know members have received a lot of correspondence and emails; in fact, over the last four or five days I have received about 2000 communications. All of us have had our fair share of snail mail and telephone calls, but one letter stood

out in its detail. The doctors who signed this letter mentioned as their key objection to the bill the anti-conscience clause, clause 8. It states:

> Clause 8 of the bill is unconscionable and unprecedented in this country.
>
> We believe it to be an attack on the basic human rights of health professionals which undermines their moral integrity and professionalism autonomy.

They are very strong words. It continues:

> Many doctors, nurses and pharmacists, with strong ethical, religious and cultural beliefs against abortion will have to consider whether to continue to practice in breach of the law or to discontinue working as health care professionals in this state.

That is quite astounding. There are doctors in Victoria, and I will read their names later, who are eminent doctors, very smart people, who are saying that they will take their business elsewhere if they do not have what we all have — a conscientious right to object to a procedure or to refer a procedure with which they have a serious problem. The letter further states:

> We believe the right to conscientiously object to participation in the process of abortion, either directly or through referral, should be respected for nurses, pharmacists and other health-care workers.

Of course, why shouldn't it? Why is it any different for a health-care professional to have a right to conscientiously object whether it is on abortion, whether it is on euthanasia or whether it is on a tonsillectomy? Whatever the procedure, anyone has a right to object to anything they find is against their moral, religious, racial or family beliefs — whatever their background. Everyone has a right to object. Why is it that a doctor, a nurse and a pharmacist, under this bill, have no right to object? The letter continues:

> The bill does not reflect current medical knowledge or clinical practice.
>
> …
>
> Late-term abortions are not medically necessary. Attempting a live birth is a safer option when a mother's health is at risk.

Again I remind the house that this is a letter from eminent doctors:

> This bill offers no support for women facing difficult or unexpected pregnancies.
>
> The bill endorses poor clinical practice and exposes pregnant women to unnecessary health risks.
>
> …
>
> An abortion can be performed by any 'registered medical practitioner' without the need for specialist training or proper accreditation.

That is what the bill will allow. The letter is signed by Professor Emeritus Graeme Clark, Dr Julie Quinlivan, Dr Mary Walsh, Associate Professor Rodney Peterson, Professor David Clarke, Dr John Neil and a range of other medical professionals. Professor Graeme Clark was the founder of the Bionic Ear Institute. He is a respected person of medicine, as are all of the people who signed the letter. What they are asking for is something simple: the right to object to a procedure, whatever the procedure. I do not think we should deny people that right.

I have heard claims that if the bill does not pass this chamber, we will be back to the dark ages of abortion in Victoria. Many claims have been made, either in the media or in a range of forums, that if the bill does not pass this chamber, we will be back to backyard abortions. We need to get some simple facts on the table right now. This bill is about expanding, not reducing, where we are at in relation to law on abortion.

Will the bill not passing here prevent anyone from not having an abortion? No. Will this bill not passing see anyone in this state charged with having an abortion? No. Will this bill not passing see abortion clinics in Victoria close and a mass exodus of people to other states to have abortions? No. Arguments of that kind are fantasy, because they are just not true.

There is one possibility that might eventuate if this bill passes this chamber: the Catholic Church may withdraw from maternity services across Victoria. The Catholic Church operates around 30 per cent of maternity services in the state. It operates maternity services at places like the Mercy Hospital, Cabrini Health and St Vincent's. Last year there were 70 000 live births in the state, and over 20 000 of them were in Catholic hospitals. People are questioning whether the Catholic Church has the right to withdraw from maternity services. I find that argument amazing. It is ridiculous for people to walk into this chamber or enter into this public debate and say they were somehow ignorant that the Catholic Church has a strong objection to this bill. I am not a Catholic, but I understand the Catholic Church has formally opposed abortion for 800 years, and before that you could say for 2008 years. It is not as if people in this state did not realise, did not know or did not understand that the operator of 30 per cent of maternity health services in the state of Victoria has a serious problem with the bill.

There are people with strong beliefs who are in favour of the bill, and the community respects their right to

have them. There are people, such as those in the Catholic Church, who have a huge moral objection to the bill, and what we have seen over the last number of weeks is a pillorying — a ridicule — of the Catholic Church for holding that point of view, and I find that astounding. You would have to have lived in the woods for decades not to realise that the Catholic Church has a problem with abortion, particularly with late-term abortion as prescribed in the bill.

I have heard people saying that the Catholic Church should return the subsidies it receives to operate hospitals and get out; that it is making money out of health services anyway and that it is cheap of the church to make these remarks and to have this point of view. But the reality is these people do not understand that faith does not have a monetary value. You cannot buy off someone who has faith. You cannot threaten them with a monetary loss and think that is going to change their point of view.

As I said, the church has been around for a very long time, and has had this point of view for an exceptionally long time. Its point of view is consistent. Its point of view is not just the point of view of the Catholic Church in Victoria; it is an international point of view. I find it outstanding that people are shocked and aggrieved that the church would make this kind of threat or statement.

Mr Finn — Promise.

Mr GUY — Promise. I simply say that in the knowledge that the Catholic Church will have an issue with this bill if it passes. That will threaten the operation of 30 per cent of maternity services in the state of Victoria where 20 000 babies are born in Catholic hospitals each year. Has anyone who supports this bill put any serious thought into how within 12 months Victoria will be able to cope with an extra 20 000 babies being born in the public and the remaining private health services?

It is not just the Catholic Church which opposes the bill. As I said, it is doctors, lawyers, mothers, housewives, university students and people from all walks of life. I have been contacted by many people who oppose the bill; people who believe that it goes way too far. In the last couple of days people have sent hundreds of emails to me, to other people and to other members of Parliament. They have expressed points of view on both sides of the argument.

As I said before, overwhelmingly the main view I have noticed from these emails relates to the 24-week issue. I find it amazing that babies are being born in hospitals all around Australia and Victoria at 24 weeks and younger. On one side of a hospital these babies are being born and referred to as babies. They are being treated with all the love, affection, care, services and support they need to help them start their life. And yet if this bill passes, in another part of the hospital — or maybe down the road at a clinic — they will be referred to as a foetus, a blob of protoplasm or whatever. It is a baby in one venue and something else in another. I find the inconsistency astounding. After 20 weeks a delivery is a birth, because it is not a foetus, it is a baby.

Over the last four weeks in particular I have had a lot to do with babies. I have been in maternity wards every single day for more than the last four weeks in two different cities. I have to confess it has not just been for research on this bill. In my own personal instance my wife is pregnant, and her waters broke interstate at 30 weeks. I left this sitting to be with her in the belief that our child was about to come prematurely at 30 weeks. Indeed we had to get ourselves used to the idea that our newborn baby would be born quite prematurely and that he or she would obviously have respiratory problems, as most do at 30½ weeks. The staff at the Royal Brisbane Hospital took us down to the neonatal intensive care unit. We went down there, and it was amazing.

I had never appreciated the extent of the love and the effort that the people in those neonatal intensive care units put into the babies in those wards. You think you understand it, but you do not. I did not, and I confess I did not, but I certainly do now. It was an eye-opening experience. But for me the standout issue was when I said to one of the doctors who was showing us around, 'There are 14 babies here. What are their ages? How old are they?', and he said quite casually, 'Well, if your bub's born, it will be the third eldest here'.

My wife and I both had the belief that ours would have been the youngest there; indeed it would have been the third eldest. I said to him, 'What is the youngest?', and casually he said, 'Twenty-four weeks'. I said, 'Can I see the bub at 24 weeks?'. He said, 'All right, but you can't go too close'. We put on the gowns, as you do when you are being shown around, and we looked from maybe 2 metres or so away, and there he was, a little boy — a little human; a little baby — at 24 weeks.

It crystallised the issue for me and indeed for my wife. We both said to each other, 'I wish every politician in the Victorian upper house could stand here right now'. I wish every person could have stood there and looked and tried to say to each other, 'That is not a baby'. I respect the fact and understand that people have completely different views to me, but it crystallised the

point entirely for both of us that what we are talking about is a little human. Those babies were kicking. There was a 26-weeker just across the way; it was kicking and moving — it looked like it was doing star jumps. It was fine; it was healthy. They were all going to live. There was no question about survivability.

When we went back to the main desk the nursing staff gave us a photo album of the bubs they had had there over the last six months, and we flicked through them. I confess I was nearly in tears, because one of them was 23 weeks. He has gone home.

He is probably living with his parents in Indooroopilly and will grow up to be a surfer or whatever, a Queenslander. He was born at 23 weeks. I understand that people have a different point of view to me, but I defy anyone standing there looking at those pictures to say, 'That was not a baby'. It was, and it was born at 23 weeks.

I will not take too long. I know I have taken 40 minutes, but I want to share with the chamber what I have been looking at over the last couple of months during my wife's pregnancy. Each week we have been getting an update from www.babycentre.com.au so we can see, as that site says, 'How your baby's growing'. I think Mr Finn said something similar yesterday and picked up on the same point. I noticed straight away that the word 'baby' was used: 'How your baby's growing'.

At 18 weeks pregnant, the site says:

> This week, you officially began your fifth month of pregnancy. Your baby may have reached 15 centimetres from crown to rump by now, and he —

or she —

> can both feel and hear.

It can feel and hear. It is not a foetus; it is not a blob of protoplasm. It is an 18-week baby. At 19 weeks, the site says:

> Congratulations — you've made it to the halfway mark. This is a crucial time for your baby's sensory development which takes place in specialised areas of the brain. If your baby is a girl, she has 6 million eggs in her ovaries … they'll dwindle to 1 million by the time she's born.

Little girls.

At 21 weeks:

> How your baby's growing
>
> Your baby could measure about 27 centimetres from crown to heel. Her eyebrows and eyelids are fully developed and her fingernails now cover her fingertips. Watch what you say from now on because she will probably hear you. You can communicate by talking, singing … or why not try reading aloud?

This is to an in-utero baby at 21 weeks.

At 22 weeks — this is not from the Catholic Church, and it is not from Right to Life. It is not from any group that people might criticise or about which people might say, 'You'd think they would say that'. It is from www.babycentre.com.au:

> How your baby's growing
>
> Your baby now looks like a miniature newborn.

That is because it is.

> His lips are becoming more distinct and his eyes have developed; though the iris still lacks pigment, his eyebrows and eyelids are in place. His pancreas, essential for hormone production, is developing steadily and the first signs of teeth are showing beneath his gum line. Before you know it, your baby —

in the womb —

> will be smiling at you.

This is the last one I will read. At 24 weeks:

> Your baby's growing steadily, gaining about 99 grams since last week. His skin is thin and fragile but his body is filling out and taking up more room in your uterus. He may also be developing a weakness for sweets. Taste buds are now forming, and, believe it or not, acquiring a sweet tooth is all part of it.

I do not believe anyone would take lightly a decision to have any abortion — let alone an abortion at 24 weeks — but for anyone who thinks the bill goes way too far I simply say, 'Please listen to what I have just read'.

I remember having our first scan — I think the first scan is at 12 or 13 weeks — and I remember the obstetrician saying, 'This is an interesting one; this one will not keep still, won't sit still'. A couple of weeks later we had the second scan and got the same comment: 'This one won't keep still; it's hyperactive'. And indeed it will not stop kicking. I keep getting told, 'This thing's doing gymnastics in here; it won't stop!'. Not every baby is like that; not every baby in the womb is like that. It has a personality. It does not have a personality when it takes its first breath and comes out; it has got a personality from the very start.

I do not want to accentuate the point, but I have found some newspaper articles. As I get older I find myself thinking about kids a little more than usual and how unique they are. I looked at an article which appeared in

the *Age* of 21 February 2007. It is about a little girl in Miami called Amillia, and states:

> The fight to save IVF 'miracle baby', Amillia Taylor, born at just 21 weeks in a Miami hospital, is over, but her struggle to assume a normal life begins.

At 21 weeks!

> At birth, baby Amillia Taylor was barely longer than a ballpoint pen.
>
> Born at 21 weeks and six days' gestation and barely bothering the scales at 280 grams, Amillia is believed to be the world's most premature baby to survive.
>
> The doctors who spent the past four months trying to keep her 24-centimetre figure alive at the Baptist Children's Hospital in Miami describe her as a 'miracle baby'.

They did not call her a miracle foetus; they called her a 'miracle baby'.

I have another article from the *Herald Sun*. I never noticed these articles before all of this, but I will have to look out for them more often. The article headed 'It's OK mate, big brother's watching', appeared on Wednesday, 2 May 2007, and states:

> Lying alongside one another, these beautiful babies look like they have been born weeks or even a month apart. In fact, they are twin boys just 1 minute apart.
>
> Weighing in at a tiny 1.54 kg, Byron Ryman was almost twice as heavy as his brother, Lincoln, who was only 530 grams when they were delivered …

A tub of butter weighs about 530 grams. The article also states:

> For their proud parents, Nicole and Todd, it's the best outcome imaginable.
>
> Dr Parag, who monitored Mrs Ryman's pregnancy until she was induced at just 29 weeks, said that he had been forced to prepare her for the worst.

But indeed out came two beautiful babies.

I have one more article, headed 'One year on … baby battlers reunited'. Again, it is a *Herald Sun* article, this time from 20 September 2008. There are five babies in the photo captioned 'A year to remember'. They are Ben Alexander, born at 24 weeks; Tova Sibony, born at 24 weeks; Jordan Alexander, Ben's twin; Callum Murphy, born at 27 weeks; and Kody Saunders, born at 28 weeks. Babies can survive at 24 weeks and even younger than 24 weeks.

It is not just an issue in Australia. I also found some information from the United Kingdom. An article in the English newspaper, the *Telegraph*, of 11 February states:

> A study at one of Britain's top neonatal units found that one-third of babies born between 22 and 25 weeks gestation survived in the early 1980s but this had risen to 71 per cent by the late 1990s.
>
> The biggest improvements were among the 24 and 25-week babies.

An article from the *Herald Sun* of Monday, 3 March, headed 'Baby's miracle birth' states:

> Months before she was even born, Millie Brazil's life had already been saved by a modern medical wonder.

This is an interesting story, because it talks how an operation was conducted on this baby in the womb 20 weeks, and the baby went on to survive. She was delivered at 40 weeks, and now her mother and father are the proud parents of a bouncing little baby girl.

The last article I will refer to is headed 'Baby, look at me now' and the subheading is 'Elora was born not much bigger than an orange, but now she's charging ahead'. It states:

> If all had gone to plan, Elora De Bondi would have celebrated her first birthday days ago.
>
> Instead the gutsy Melbourne toddler — born almost four months premature and weighing only 319g — reached that milestone in January.
>
> Ever since doctors told mother Adele her only child had 'no chance of being born alive', Elora has been a medical marvel.
>
> Australia's smallest surviving baby now tips the scales at 6.5kg and is charging ahead.

I want to say in conclusion that I am not anti-woman and I am not a mysogynist. I do not think women need to be treated as anything less than equals, and I am under orders from my wife to say this. The fact that I have to say it, though, is distressing, because it means that during this debate there has been a push by some to imply that not backing this bill implies that the opposite must be true — and I believe that is unfair.

I care for the women involved in this issue. We all care for the women involved in this issue. I care that women and their partners have an option in pregnancy that also includes two things long forgotten: one called contraception, as Mr Thornley said, and the other called counselling.

I care that women who undergo abortions and who have complications during the procedure have these complications reported so they do not happen to other women. I care that our state government does not treat this procedure as something unremarkable or commonplace, that there is respect for the fact that it is obviously a distressing procedure that can have

after-effects upon the woman, both mental and physical.

As someone who believes in life, I also care for the unborn child. I do not need a scientist to tell me when life begins. I do not need a social commentator, a politician or a doctor to tell me that a baby in utero at 24 weeks is a blob of protoplasm, because in my view it is undeniably a little human. We have rights, and it has rights. It may not have taken its first little breath outside of the wonderful miracle home that it is in, called a womb, but it has a personality, it has moods and it has a beating heart.

It is my strongest view that this bill goes way too far. While I do not agree politically with everyone in this chamber, I would implore all members to think about babies at 24 weeks. All members know — we all know — that a 24-week in-utero baby can and will survive outside of the womb. Not passing the bill will not deny abortion to women in Victoria, but not passing the bill may protect an unborn baby who will be denied the chance of a full life if this bill does pass.

Mr LENDERS (Treasurer) — I rise to speak on the Abortion Law Reform Bill. We have all been engaged by our communities on the bill; it is an issue of grave concern to many of our citizens. It is a very difficult bill.

In my mind it is not a difficult bill. I know how I will vote, and I imagine I knew how I would have voted on this bill when I entered public life — that is, against it. But I do so acknowledging that this is an extraordinarily difficult bill because there are two powerful passions and arguments — the right to life and the right to choose — and they collide in this piece of legislation in how we as a society deal with them. I have the utmost respect for the advocates on both sides of this debate, because they are strong and passionate causes that people debate. However, the role of the legislator here is to come to a conclusion on what is an appropriate law and an appropriate piece of legislation.

It is worth noting we have had a law on abortion in Victoria since 1969 when Justice Menhennitt came down with his ruling. His was a ruling probably of Solomon-style wisdom. This is a difficult law, and I do not think any of us — I certainly would not — would have relished the opportunity of being the judge to make the law. He looked at the law and said the state of Victoria said that abortion was illegal, it was in the Crimes Act and it was something that was not approved of. But he also acknowledged the right to choose — if a woman's life or her physical or emotional wellbeing was endangered, there was a defence to a charge of abortion. Justice Menhennitt, without any legislative imprimatur, made a wise ruling. The dilemma for us as a society has been that since his original ruling the scope of what is an appropriate termination of a pregnancy has spread considerably.

One of the things that has become evident in the discussions I have had with electors, citizens and others on this issue is their surprise. The proposal here — this piece of legislation — actually reflects current practice. What the Labor Party has had over a number of years is a proposal to decriminalise and reflect current practice, and the bill faithfully does this. What the community, though, is surprised at is where current practice has gone to, what has incrementally changed since the original Menhennitt ruling and where it has broadened its scope.

I do not have the answers. If we were asked here today, 'When is an appropriate time for abortions to be triggered?' — whether it is under the original Menhennitt ruling or later — I would not have an answer. I share with Mr Guy a view that life is precious; it is something that we need to defend, and I also accept the woman's right to choose in those circumstances that were originally set out by Justice Menhennitt and have been extended over time. I do not have the wisdom of Solomon, but I do have very strong views on where we should go in this process.

I accept that the bill codifies the current practice. I do not dispute that it does what it seeks to do. There is some argument about the issue of the obligation on practitioners to refer. I certainly note Mr Theophanous's proposed amendment on that. While this reflects current practice, there is certainly a very strong community view that 24 weeks is too much. I do not have the answer as to what an appropriate time is, but I do accept that the current codified practice goes further than something I could vote for.

It is also worth noting that no government since 1969 of whatever political persuasion has had the courage to bring this issue into Parliament and deal with it. In the federal jurisdiction we had from both sides of the spectrum the Lamb-McKenzie amendments in 1973 and the Lusher amendment some years later, which from different perspectives tried in a legislative sense to deal with the law of abortion. But in all those 39 years no government has had the courage to bring this forward to the state Parliament for a vote; to come to the community and say, 'Here is an issue that citizens of all persuasions have strong views on'. Governments have been too gutless to bring this into the Parliament, where major issues should be debated. These issues should be debated in parliaments; they should not be

dealt with by judge-made law. They are big issues of our time.

While I am not supporting the bill, and in my convictions believe it is the right decision given what I said, I am uncomfortable only to the extent that it is a codification, and the codification I have no issue with in principle: I just think what we are codifying has gone too far.

Also I accept there are strong arguments that we should codify, and if we had been asked to codify it 15 or 20 years ago, I might have had a different view, but I think we have moved far too far on this particular issue. There has been a long and strong debate about what my colleagues the Minister for Women's Affairs, the Minister for Health and the government on the whole have sought to do: they have sought to codify the law, and I congratulate them on that, but, as I said, I have issues about supporting what was being codified.

I will not go into a lot of the other issues; they have been very adequately canvassed with great respect and great conviction by members on both sides of the house. I note that under the existing rules, no-one has gone to jail in Victoria since 1969 over this matter. Some of the debate has referred to abortion being in the Criminal Code and people going to jail, but no-one who has sought an abortion under the current code has been denied nor has anyone gone to jail for having an abortion or for performing an abortion. So some of the debate about whether this is in or out of the Criminal Code does not have great strength.

I have a very strong view that the number of abortions in this state is far too high. We as a society have had an interesting debate here as to how we address that issue. It is one of the most terrible issues society faces today. Mr Thornley raised the issue of contraception, and Mr Theophanous raised the issue of counselling in a range of other areas.

While we are on the issue of contraception, as a practising Catholic I will make the obvious statement: if the greatest scourge in the 21st century is abortions, then my own church and other churches and other faiths also need to come to terms with how we deal with contraception. Contraception is a way of stopping unwanted pregnancies, and legislators have a role in what we do, but also our community leaders need to be supporting this.

If abortion is something that is far too prevalent, obviously counselling is available; there is legislation in place, but the views of society on contraception also have to be taken into account, whether they are as Mr Thornley said or whether they are what is spoken of in churches, temples, mosques and synagogues. There is a holistic package here, and one size does not fit all. If we want to bring down the number of abortions, we have to find multifaceted solutions to it.

I do not have the answers as to where the correct balance lies. In one sense, as a legislator, I feel disappointed I do not have the answers, but I have a view that codifying the existing practice goes too far. We are codifying the existing practice, so any debate that says this bill is seeking to impose abortions on this state or change the balance is unfair.

In concluding I address the amendments. I am sympathetic to the two amendments to be proposed by my colleague Mr Theophanous. They relate to the requirement for a medical practitioner with a conscientious objection to refer patients to another doctor and to a reduction of the proposed 24-week limit to 20 weeks. My dilemma is this: even if these amendments were passed, I would still have great difficulty voting for the bill. As a legislator I have a strong view — and all members have their own views — that if you are not prepared to support the amended bill, then you should not try to amend the bill. If I were to support the amendments proposed by Mr Theophanous, then I would face the dilemma of voting against the third reading of the bill.

In fairness to those who have proposed the bill, it is a complete bill and I think you either are prepared to vote for the bill if it is amended or you do not seek to amend it. That is my personal view. For that reason I will vote against the second reading and I will vote against the third reading, but I will absent myself from the chamber on all the amendments because I think that is difficult. It bothers me to an extent, because I would like to support the two amendments proposed by Mr Theophanous, but I think it would be hypocritical on my part to seek to amend the bill and then vote against it.

For those reasons, I will not be supporting the bill, but I have extraordinary respect for both sides of this argument. It is a difficult argument. I put on the record that what the government is seeking to do is to codify the existing law. This bill essentially discharges that, but I cannot support it because I do not support the existing arrangements.

Mrs PEULICH (South Eastern Metropolitan) — First of all, I congratulate the Treasurer on having the courage of his convictions and for not being the last to speak on his side. It is important that people find the courage of their convictions to vote on these life and

death issues. When we were in government, I did. In actual fact a lot of people would have found Jeff Kennett very formidable. Let me say quite proudly that I probably was one of only a few people who had the courage of their convictions and actually called for a secret ballot in the party room to vote on issues that mattered, on issues of conscience — —

Mr Finn — Who was the other one?

Mrs PEULICH — Yes, Mr Finn was one of the others. I could never belong to a party that did not allow me to exercise my free will and a conscience vote on those important life and death issues. The reason for that has a lot to do with my history. It is a blood-spattered history, as I have mentioned before on many occasions. Both sides of my family have suffered under communism and fascism, and have been murdered and brutalised. During ethnic wars women are often the victims of rape. Pregnant women are subjected to all sorts of gory punishments and brutalisation, including forced abortions.

Coming from that sort of background, I can honestly say that I am for life — I will not say pro-life because I have not ever belonged to an organisation of that nature. But I am for life. I am against capital punishment and I am against euthanasia — I was very pleased to see this chamber defeat what was a very poor bill on that issue. Life is precious, and as a government we should not be putting in place regimes that callously and routinely take away the right to life and the right to fulfil what life may offer to people. But because of that blood-splattered history where women, often routinely, have been brutalised, I have never been a staunch opponent of abortion because of the commonplace experience of rape in my culture and in my country of birth.

I have never been that way, and for that reason I thought the Menhennitt ruling served this community well. That is not to say that I share the view of those who are advocating the completely pro-choice position. I agree that life pre birth is life, and I would like to commend the contributions of Mr Kavanagh and Mr Finn. It is embryonic human life. It is part of a continuum and part of development. You cannot have life miraculously only beginning at the point of birth.

I find this legislation most disturbing, and one of the most disturbing things is that it was introduced by the minister for children without a statement of compatibility in relation to the Charter of Human Rights and Responsibilities Act 2006, which this government introduced and requires every single piece of legislation to have. It has trumpeted it, it is spending a lot of money training various instrumentalities and government departments in how to implement it and it will probably impose it on a whole range of other instrumentalities in the community at huge expense. Let me say quite clearly that when you do not prepare a compatibility statement because you know full well that your bill is going to be in breach of it, then you do not have the courage of your convictions and all you say is basically one big lie. The contribution by Mr Lenders has shown it to be a lie, and the information that was presented by the *Law of Abortion* document prepared by the Victorian Law Reform Commission shows it to be a lie.

The claim made by Mr Thornley was that anyone who opposes the bill basically wants to retain abortion as a criminal act. The fact that no-one has been charged for a number of decades, either for performing or receiving an abortion, shows this claim to be a lie.

There are a number of other things that I have found disturbing in the campaigns that have been waged on both sides, let me say. I sympathise with the pro-choice side and with the Catholic Church, which I believe are routinely and callously vilified for having a position which of course they are entitled to have. One of the most important principles in a democratic society is the freedom to believe and to worship — the freedom of religious expression — and I believe anyone who denies that to others but insists that they have it themselves is a hypocrite.

The other lie is that this bill reflects current practice. It would be unparliamentary to refer to anyone in the gallery, but I spoke with a woman who has been following this debate very closely, and she said, 'Tell me, what is the formula for current practice?'. Current practice is a concept that is set in a context of time; it changes over time. What was current practice in the 1950s and 1960s is different from what predicates and seems to inspire the pro-choice people who are behind this bill — the Emily's List campaigners who are exerting an undue and coercive influence on the Socialist Left wing of a particular party. In actual fact that is a contempt of this Parliament, because they are denying their members of Parliament the freedom to vote according to their consciences. Anyone who has issued threats of denial of preselection to any person on that side of the house ought to hang their head in shame, because they do not have the courage of their convictions. They expect the tolerance, the understanding and — —

An honourable member interjected.

Mrs PEULICH — No, it does not happen in the Liberal Party, and I am proof of this. I am proof of this because — —

Ms Mikakos interjected.

Mrs PEULICH — That is absolute rubbish. I am absolute proof of this. I have crossed the floor. I have called secret ballots. I have spoken against the leadership of my party on numerous occasions and yet I have been given a second chance of being preselected and returned to Parliament. Do not tell me that you have some insight into my party, because I am living proof that in actual fact those rights exist. I would never belong to a party that did not protect those rights for members of Parliament.

I am very sad and very disturbed that in fact there are members on the other side who want to vote against this bill according to their conscience but their preselection has been threatened. Those people ought to hang their heads in shame. I commend the Treasurer, a very important person in a very important position, for having the courage of his conviction to vote against this bill, despite what obviously must be enormous pressure to do otherwise.

This is an emotional bill. I am grossly offended when I see literature that has coathangers as a border. I refer to the propaganda that has been put forward by the pro-choice lobby. How long ago have coathangers been used? It was the 1950s and 1960s. I know this because my aunt died as a result of a backyard abortion. It was not in Australia but she died at the age of 27. To suggest that coathangers are still being used to commit abortions now is a lie, and they know it. It is offensive to perpetuate that lie. Those battles were fought and won by our mothers and our aunts. This is a new generation, so those certain members should stop perpetuating the lie.

It is obviously a very emotional issue, and I am obviously not being helped by the fact that I am being overwhelmed. The emotional issue of this legislation is in many ways irreconcilable. I cannot see that some of the amendments that are going to be put forward can satisfactorily address the key issues of concern in this bill. The terms of reference that were given to the Victorian Law Reform Commission in themselves have not been achieved by the recommendations this report has brought down.

The Victorian Law Reform Commission's terms of reference were with regard to existing clinical practice. Again my question is: what is it? What was it yesterday and what will it be tomorrow? How does this bill sit in that context? We know full well that babies of 24 weeks gestation can survive. In 5 or 10 years time I would not be surprised if babies of 18 or 20 weeks survived, with improvements in medical know-how and medical technology. Many years ago babies born at a much later time struggled to survive.

Another term of reference was to be cognisant of existing legal principles, obviously Menhennitt being one. Mr Kavanagh pointed out that the legislation ignores things like the Declaration of the Rights of the Child. He quoted from that document, which certainly makes mention of the need to protect an unborn child. This bill absolutely ignores the rights of the unborn child. It is in conflict with a number of state and federal government programs and positions. It was pointed out that there is a requirement to advertise on cigarette packets the fact that smoking harms an unborn child. A foetus is not just a thing: it is a human form, it is an embryonic form of life. It is developing towards a fuller potential. It is not just a lump of cells. The Declaration of the Rights of the Child says:

> Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth …

And it goes on to develop that. Clearly this report brought down by the Victorian Law Reform Commission has failed to consider all of those jurisdictions and all of those legal principles.

Another one was the government's commitment to modernise and clarify the law so that it reflects community standards without altering current clinical practice, and it has come down to this 24 weeks where you can have routine abortions without any reason, without any excuse, up to 24 weeks. Somehow this is supposed to reflect current practice. If you have a look at the figures they provide, later on we find that most of the abortions that are performed every year are performed before 13 weeks. Only approximately 5.4 per cent are performed at 13 weeks, so where did the 24 weeks come from? How does this reflect current practice? It certainly does not, and that again is the big lie.

This paper goes on to talk about the fact — and it is very informative in some regards — that no-one has been charged with abortion in Victoria since 1987. I note that the Treasurer mentioned that he believes no-one has been charged since the 1960s. Clearly, that is a very long time. The argument mounted by Mr Thornley — that if we do not decriminalise abortion, somehow we are going to be throwing pregnant women in jail — is another big lie, and this entire campaign has been based on a number of very

big lies. Be up front; stand up for what you believe in and do not perpetuate this lie any further. Have the courage of your convictions and be up front!

The current clinical practice has been well elaborated in this paper. It breaks down the figures — 94.6 per cent of abortions are performed pre 13 weeks, 4.7 per cent are performed at between 13 and 20 weeks; and 0.7 per cent at post 20 weeks, so quite clearly, this bill does not reflect current practice. In relation to post 24 weeks, what is required is merely a second opinion; not necessarily a consulting one, just a second opinion. So we will have a one-stop shop, and that will be fairly routine. There is really very little difference between model C, which the campaign initially focused on, and model B, which the government claims this is. I think there is very little difference in the way it has been implemented, especially with the denial of the conscientious objection rights to health and medical practitioners, in particular as it applies to referrals.

The procedures involved in partial-birth abortions are just horrific; they are inhuman. I am not sure that we would allow animals to be treated in the same way, and in my view they ought to be banned. There are a number of very disturbing aspects to this bill, but for me, those four are probably the most significant. For that reason — if there was any doubt in anyone's mind — I will not be voting for the bill.

A viable life requires a civilised society to put in some thought, some effort and a legislative framework to give it some protection from being routinely and callously ended.

This bill fails on many fronts. In summary, our society and community is of the view that abortion at 24 weeks is just too late. Yes, the polls have established that people believe women should have access to abortion, but when you talk about 24 weeks, irrespective of the age of the person who is providing the opinion, people are horrified about that. Whether it is a young person aged 18 years or an old nurse of 75, they all think the government has not got the balance right. It is much too late. Six months is a very advanced stage of pregnancy, and I was delighted to see the pro-life campaigners use the idea of parading pregnant women on the steps of Parliament House to show that pregnancy in life is beautiful and six months is a very advanced pregnancy which should not be callously and routinely terminated without good cause. The provision for performing late-term abortions is best handled by an expert panel.

Abnormalities and deformities occur. Some conditions threaten the welfare of the mother. Those things have been handled well, apparently, by our major hospitals, and the Monash Medical Centre is one of them. I believe medical panels, which are expert panels, are best placed to make those decisions where required regarding the small handful of late-term abortions — I think it is about 5 per cent — that occur.

In closing, the concept that this issue somehow reflects medical practice is clearly not the case. Current medical practice is undoubtedly going to change over time. Labor argues that this bill seeks to update the law in accordance with current clinical and medical practice. The formula is no doubt going to change with medical practice, which we all now must acknowledge has changed rapidly over time and will continue to do so.

If this bill seeks to do what Premier Brumby said he would do, which is to codify the Menhennitt ruling and merely place it in the Health Act, I believe more members would have voted for it. There would have been less division in this particular debate in the Parliament. However, Premier Brumby seems to be hell-bent on pursuing a divisive course of action. This has been demonstrated in a range of ways, not just in regard to this bill. Legislation that has been debated in the other chamber will come to this house. He may believe it is now time for payback. It is now almost two years away from the next election. This may somehow be a comfortable time for him to pay back debts which are owed. He may believe that, by introducing this legislation, somehow the division the Liberal Party will suffer will set its members back and give him some political advantage. Irrespective of which of those motives applies, they are the wrong motives and this is the wrong legislation.

This bill goes much further than was initially the Premier's intent when giving the reference to the Victorian Law Reform Commission. I find the core elements of this bill to be gruesome. There is a denial that embryonic life has an intrinsic value. The bill fails to strike the correct balance in the community which believes abortion should be accessible but that the lives of unborn babies, which are viable, deserve much more enlightened protection by the community — a community that is prepared to obviously commit vast health funds to sustain little premature babies and is increasingly calling for stronger support for mothers.

I agree with those calls for the stronger support of mothers that includes a range of things like maternity leave. I do not believe this bill does anything much to support mothers, particularly in terms of the complete oversight of the need to provide counselling. Counselling does not mean that you get browbeaten; it means that a professional lays out the options for you so that you can actually make an informed decision. That

is clearly not being required here, and it is a major oversight. I believe the bill has not struck the right balance. Quite simply it goes much too far. That is a view shared by most people. Some of the recent *Herald Sun* polling on the internet shows that something like two-thirds versus one-third of people believe 24 weeks is much too late.

To me this bill smacks more of settling old scores in the battle of the sexes, which as I mentioned my mother's generation fought and won and from which obviously Labor and Emily's List still derive much inspiration for a strong social engineering agenda — an agenda which I have no doubt will ultimately be rejected at the next election.

For me, the defining issue is the 24 weeks. That is much too late, when most abortions are happening before 13 weeks. An abortion performed up to nine months is much too late without an expert panel. Counselling ought to be included. For conscientious objectors, it is the absolute linchpin of our democratic society. Without that, all there is is just another authoritarian regime. Partial-birth abortion should plainly be outlawed. With those few words, I will oppose the bill.

Mr EIDEH (Western Metropolitan) — I wish to contribute to the debate on the Abortion Law Reform Bill, and in doing so I thank all members of the chamber for the way they have presented their views on this emotive and complex issue. I do not want to go into great detail on this bill, because previous speakers have already spoken at length on it.

I am not in favour of abortion, and I wish it did not happen except in cases of emergencies or difficult circumstances. The majority of people with whom I have discussed the bill share this view — people with families and people with strong ethical and moral faith, but also people who understand that making people into criminals should be the farthest thing from our minds.

This debate and the bill before us are not about abortion as much as they are about decriminalising something that already occurs in most of our major public hospitals. They are about removing the legal threat that hangs over dedicated doctors and nurses who sincerely care about the welfare of their patients. The bill has arisen from the Victorian Law Reform Commission's extensive review of the medical, social and legal aspects of abortion. The bill will not change the medical assessment process, and we would be pleased to see improved education and health promotion in this regard.

I wish to thank all my constituents who have written to me and sent me material on this matter, as well as those whom I have met personally to discuss this bill. I have given much thought to the issue, and I have not arrived at my decision lightly. It is not a simple decision: it is a controversial and hard one. But I was elected as a representative of the most economically depressed and disadvantaged electorate in the state — the one with the highest unemployment, lowest income and greatest hardship, and a community where this issue is felt very deeply. This has weighed heavily on my mind. This is not an easy debate, and it was never going to be, but we as legislators have a moral and legal obligation to ensure that we pass good laws which protect the community and serve their best interests. Any law that is framed to ensure the health and safety of women in our society must be regarded as a good law, and that is why I am supporting the bill.

A law which gives women a choice about their own bodies when faced with one of the hardest decisions they most probably will ever make is a good law in my view. Decriminalisation is in the best interests of the entire community, just as the removal of the awful stain of illegitimacy from birth certificates was many years ago. That was a situation where, until Parliament acted responsibly, the innocent were judged harshly. I support women's freedom, their choice and their decisions. Therefore I commend the bill to the house.

Sitting suspended 11.58 p.m. until 12.37 a.m. (Friday).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — We have heard through the course of this debate that last year more than 20 000 babies were aborted in Victoria. Everyone would believe that is too many, and as a society we are clearly failing to provide the type of support that those women required to ensure the number of abortions carried out in this state was less. As a society we must do more.

I particularly noted the comments of the Treasurer in respect of the issue of contraception and the inherent contradiction between those who strongly oppose abortion while at the same time strongly opposing contraception. I think the message from the Treasurer about the importance of contraception in this debate is a very significant one.

Throughout the 19th and 20th centuries governments and parliaments throughout the world legislated to restrict and prohibit access to abortion. Of course that did not end access to abortion; it pushed it underground. Not only did babies die, but women died or were horribly injured through botched procedures. It led to

the growth of the web of corruption that surrounded the backyard abortions industry. We should ensure that we never return to those days.

As regrettable and undesirable as abortion is, in some circumstances access to safe abortion is necessary, but it is not my view that that access should be unfettered. It should not be available as a form of contraception. In Victoria the Crimes Act sets out the current legislative framework that surrounds abortion. Section 5 of the Crimes Act is the key provision with relation to abortion. This section has been raised a number of times in debate, but section 5 of the Crimes Act does not prohibit abortion; it does not make it illegal for a woman to seek an abortion. It makes it illegal to unlawfully procure an abortion. When the legislators in this Parliament inserted that section in the Crimes Act they did so with a degree of wisdom, because by inserting the reference to unlawfully procuring an abortion — to paraphrase the legislation — they drew a distinction between a lawful and an unlawful abortion.

It was the judgement of Justice Menhennitt in *R v. Davidson* that interpreted how that reference to unlawful termination should be considered. In his judgement, Justice Menhennitt found that the use of the word 'unlawfully' introduced two elements to a test. One was the element of necessity and the other was the element of proportion. Was the abortion necessary, and were the circumstances sufficiently grave that they required that abortion to take place?

When the section was inserted into the Crimes Act, Parliament did not provide a blanket prohibition on abortion. It provided a test between lawful and unlawful which was subsequently interpreted by Justice Menhennitt. His ruling went on to state in relation to abortion:

> … it appears to me in principle that it should not be confined to danger to life but should apply equally to danger to physical or mental health provided it is a serious danger not being merely the normal dangers of pregnancy and childbirth.

It is my view that open-slather access to abortion is not okay. It should only be available in certain serious circumstances because it is not just an issue of the rights of the woman concerned, it is also an issue of the rights of the child she is carrying.

It is my view that the provisions in the Crimes Act as interpreted by Justice Menhennitt provide an appropriate framework under which abortion is currently made available in Victoria. There has been considerable criticism of the fact that these provisions are in the Crimes Act. One of the issues has been a view put forward on behalf of the medical fraternity regarding concern at the possibility of prosecution under this provision of the Crimes Act. My view on this is that the Menhennitt judgement is quite clear. There are threshold tests that are to apply before a practitioner provides an abortion. They relate to the mental and physical wellbeing of the patient and the severity of the circumstances as clearly laid out in the Menhennitt judgement. Frankly, any practitioner who is providing an abortion should be conscious of those threshold tests prior to providing that procedure. In my view, notwithstanding that provision being in the Crimes Act, the way in which that provision operates is appropriate.

If the government had come forward with a model that said, 'We will take these provisions as they stand from the Menhennitt judgement and from the Crimes Act and put them elsewhere', that would have been acceptable. But that is not what this legislation does. This is not merely codifying the current law. It may, as the Treasurer said, be codifying the current practice, but it is not codifying the current law. As such, it is not acceptable to me.

One of the issues that arises through this bill is the unfettered access to abortion up to 24 weeks. Questions have been raised as to whether 24 weeks is an appropriate cut-off. The Treasurer in his contribution suggested quite appropriately that he did not know what an appropriate cut-off period is. That is probably the case for all of us. It is in that regard that the beauty of the Menhennitt judgement comes to the fore. Justice Menhennitt did not seek to impose a statutory figure as to when abortion was appropriate or not appropriate. He laid down a set of circumstances relating to the physical and mental wellbeing of the mother that would dictate whether the abortion was appropriate for that particular woman. That is the beauty of that judgement. It does not set hard and fast criteria as to periods of gestation or any other criteria; it applies a set of tests that can be applied to any particular circumstance. That is why I support that being the model by which abortion is available in this state. I do not support this bill, which imposes an arbitrary 24-week time period.

The other key issue which has been raised in relation to the bill is that of conscientious objection by a medical practitioner who is asked to perform an abortion. An argument has been put forward by those supporting the legislation that the professional obligations put on certain medical practitioners by their colleges, their associations and their ethical guidelines require them, where they have a conscientious objection, to refer a patient to another practitioner who will perform the abortion the patient is seeking. I believe there is a significant distinction between an obligation put on a practitioner by virtue of their membership to a

professional college under ethical guidelines and the requirement put on a practitioner under statute law. To say that these requirements are already in the guidelines for practitioners through their colleges does not provide a reason to transfer those into statute law. As with the provision in Ms Hartland's physician-assisted dying bill, which I found unacceptable with respect to its conscientious objection provisions, I also find those provisions in the legislation unacceptable.

In my view the bill clearly goes beyond codifying what is the current law in Victoria surrounding abortion, and for that reason I find it unacceptable and cannot support it.

Mr BARBER (Northern Metropolitan) — Amongst the various speeches we have heard on this bill, I listened quite closely to as much as I could of Mr Finn's 5-hour-plus contribution. While some people are a bit annoyed that he went on for so long, I believe it was quite a valuable contribution. In that 5 hours — I do not know that we would have got that much more if he had had 10 hours, but certainly 5 hours was enough — he laid out what appeared to be the great breadth and more or less complete substance of the anti-abortion case. I was very interested to hear that, because I have been sent a lot of material and I have heard a lot of arguments over the years, but to hear it all again in one go and in one place, put by someone who is certainly skilled in presenting it, was to my mind very valuable. It will be of value to anybody who wants to study this issue as it was alive at this time.

However, far from being as Mr Finn called it, the 'inconvenient truth', his presentation was a classic example of a fixed, predetermined, unshakeable position, along with a process of filtering information that might support the case and rejecting everything that did not. I am not saying it is just that side of the debate that does that, nor is it only on this issue that we have heard that sort of thing, but I know it when I hear it. Maybe it is training, maybe it is something I seem to have an ear for, but I know it when people are picking up the relevant statistics they think are buttressing their case and going nowhere near the rest.

I know when they are quoting selectively. I know when they are putting two statements together that do not relate to each other and have no connection but seem to say another thing when the two things are put together. I know when people pick a particular piece of scientific or medical research and squeeze it for all it is worth, while ignoring the vast body that is out there. That is very revealing.

It has also been interesting interacting with people through this case. We have all received a lot of emails. I was sending a standard reply to all those emails. I am not sure if everybody else was, because some of the people seemed to be quite surprised to be getting a response. Some of those people came back for a second line of argument, and I got into one or two exchanges with them. What struck me more than anything else was how easy it was to convince some of the people who had written to me stating that they were stridently anti-abortion in all cases that there were some grey areas in that argument.

There is no doubt that Mr Finn is never going to change his position. We could hang him up by his thumbs and it would not change anything, but to a certain extent he is part of a broader movement that involves many people less close to its centre who get on board the cause because of a feeling — it could be about justice or compassion or whatever — in relation to these babies we keep talking about, and they have not necessarily been presented with a lot of alternative viewpoints, alternative world views, but just the kind of alternative evidence that is out there in the world.

At the end of Mr Finn's contribution I was left wondering one thing: what would have been his position on the bombing of Baghdad? I know that back in 1991 a group of Harvard postgraduate students, some with expertise in public health, went to Iraq, visited a number of cities across the country, met with their counterparts — doctors and so forth — and collected evidence.

They observed epidemics of typhoid, various forms of malnutrition, the quite clear — to those who know what it is — signs of cholera which are still present in Iraq today, by the way. They photographed health records, in some cases copied hospital documents, and of course met many doctors. One of the immediate effects was that the electricity plants and the power stations were bombed. That caused the water treatment plants to stop working, caused sewage to overflow into rivers and, within a very short period of time, young people were dying. The stated purpose of their trip was to study the effects of that particular campaign and the sanctions on children under the age of five.

The PRESIDENT — Order! I remind Mr Barber of the issue of relevance to the bill.

Mr BARBER — Thank you, President. I believe that much argument is based in analogy, and there is an analogy between the declaration of war against another country and the bill we are dealing with right now —

that is, that both those matters are about who lives and dies, under what criteria and who gets to decide that?

The students estimated that, as a result of that policy decision by an alliance of which the Australian polity and various parliamentarians — governments — were part, 50 000 to 70 000 children under the age of five died in the eight months following the Gulf War despite what we were watching on TV, which was mostly footage of so-called surgical bombing — —

The PRESIDENT — Order! Mr Barber may well think this is relevant to the bill, but I have already given him enough licence to make his reasonable point. It is not, in my view, relevant to the bill. I ask him to think about what I am saying.

Mr BARBER — Thank you, President. In one of the cases I have been referring to we will have a parliamentary vote, with individual parliamentarians making a decision according to their conscience and in the process dealing with some very serious life issues. In the other case there will be no parliamentary debate, and if there were to be such a vote, it would not be a matter of conscience. From my point of view the question about the bill is not about when life begins, when humans become humans or when the full set of human rights accord to a particular being, but — if we are going to sit here and make legislation — about who decides. This is not about whether you are for or against abortion, as I think a number of previous speakers have said; it is actually about who decides.

My understanding is that classic liberalism tries to keep government as small as possible and discourage it from interfering in the daily lives of individuals, let alone their reproductive and, as I see it, personal sexual behaviour in the bedroom. I have heard members of the Liberal Party go from liberal to conservative in the same sentence or thought before, but I was surprised at the contribution of Mr Atkinson, who I thought was a classic liberal. His conclusion was that there was too much talk about rights and not enough about responsibilities, whereas I thought the purpose of liberalism was to stop government intruding in such a way that it would destroy both rights and responsibilities.

We deal with a whole range of matters here, and to my mind each of them is a life-and-death issue. It is not only in this abortion debate that we are dealing with the question of who lives, who dies and who decides. When I see a budget presented before this house I look at every line and see issues such as housing, health, policing, disability standards and intervention services to protect women from violent husbands and to look after children. Whenever we pass a budget we in effect make a decision about who will be assisted and who will not, and there is a bunch of inevitabilities that goes with that. Personally, my pro-life policy is to reduce speed limits, because research shows — and some of it was commissioned by this government — that dropping speed limits an average of 10 kilometres an hour across the city area will save many lives.

We make all these decisions, and for the most part they are about what is the greatest good for the greatest number. However, at times such as now a whole set of other concerns are brought to bear, and they are all about absolute, inalienable, irremovable individual rights.

Let us face it — we all walk both sides of the street. All political parties in Australia will pick and choose when they make their policies. Sometimes they make decisions about the greatest good for the greatest number, including matters of life and death, and at other times they bring in a human rights charter or a universal declaration and wave it around and say it is an absolute. I guess I am for both, but what I am not for is regulating people's personal and individual behaviour. I am certainly not for a state-controlled takeover of a woman's uterus to deliver a particular outcome.

You know what? If we go a little bit soft on this and give out a few concessions this time, we will not get the fundamentalists off our backs. We will not get rid of them by giving them a little bit of what they want, because they want everything. The textbook definition of a fundamentalist is someone who wants to ban abortion, ban the morning-after pill and control who can have sex with whom, and they have no-fault divorce on their list. They are talking about banning *Playboy*, and then it will be about banning Harry Potter books for promoting Satanism in schools. Apparently it is that fundamentalism that allows us, over in Iraq, to destroy the village to save the village and ironically to save it from fundamentalism.

Slavery has been brought up a few times. I think the purpose of bringing slavery into the debate was to say that things that everyone once thought were all right proved not to be right and we got rid of them. I am not for reintroducing slavery by controlling women's reproductive behaviour. It was not a quiet and polite debate like the one we are having that got rid of slavery in the United States; it was a civil war.

One example of that view that I got in an email stuck out particularly. It showed me what the basis of that view was. The person said to me that if some women took some interest in knowing how their bodies work

instead of being so naive, they could in most cases stop themselves from becoming pregnant in the first place. The moment of levity was when they said the Billings method was a proven, easy-to-use and natural planning system. From that point of view there is no real reason for women to get pregnant. If they do get pregnant, there is no real reason to have an abortion. If they do feel they need an abortion, we can give them counselling and support, and there is a whole chain of events that rolls out of this. They say, 'This is how it should be' — it is always 'should', 'should', 'should' — right up to the point where someone can say, 'I want abortions banned'. My only response to this debate is to say that the world does not work like that. The world is not always a great place. I do not like the way the world is, and I am going to try to work off the reality that we face.

My original approach to this, as many people probably know, was that we should support model C; that we should simply get government out of this business; that we should then leave it to all those systems that we have in place that govern all sorts of other invasive and difficult, and in some cases ethically difficult, medical procedures; and that this should not be treated especially.

A lot of people talked about the information they had received. They received a large number of emails and representations. Material was circulated by various groups with various agendas. Mrs Petrovich spoke quite vehemently about how she had formed the particular views that she had formed. Exactly how vehement her tone of voice was will probably not come through in *Hansard*, but she made it quite clear to us that it was not that she misunderstood the issue or that she was not strongly committed to a particular view. She detailed at great length for us the amount of representation she had received and the amount of information she had gathered. So far as I heard, and I would hate to do her a disservice, she did not mention that she had spoken to any women who had had late-term abortions. Someone can correct me, but I do not think any speaker has actually said, 'I spoke to a woman once who had had a late-term abortion'.

I am one up on you on that one. I know a person, a friend of mine, who has had a late-term abortion. I am not prepared to use her particular case history and describe what happened for various reasons; it is still personal to her, but Ms Pennicuik will talk more objectively, I suppose, about some of the medical evidence, the medical procedures and the medical situations and how late-term abortions come to be performed. Suffice it to say that when you bring it down to an academic level it relates only to those most serious pregnancy issues. In the vast majority of cases it is women who have gone on with what is to all intents and purposes a natural, steadily progressing pregnancy.

I recently became a father. A woman goes for the initial scan, when they tell you, 'Yes, it is definitely a baby'. A range of tests are held, which results start to tell you about certain conditions that could arise. They put you in a high-risk or low-risk pregnancy category at that point. Then the woman goes for her 20-week scan, and that is when they can see things. There is no doubt about it. It is in the medical literature.

The 20-week scan is not so that you get a much better picture to put on your fridge — the one that really looks like a baby. It is to examine whether there are particular problems, and they tell you what it is they are looking for. That is the purpose of the 20-week scan. Members should think about that when they start thinking about arbitrary dates or arguing that some dates are more arbitrary than others. I cannot speak for everybody, but when the woman goes along for the 20-week scan, she is already starting to think about the sorts of issues that have to be dealt with when we get right into the issues of late-term abortion.

So far we have talked about the general philosophy. Only one amendment has been presented, and I thank Mr Theophanous for circulating his amendments early and providing some material with them. So far as I know, those will be the only amendments, but it will be with those amendments that we really start to grapple with the issues that most of us at the moment have just given overviews of.

There has also been talk here of viability limits. I am not a medical expert, but my view is that while we are getting better and better at keeping babies alive when they are born prematurely, there will be some hard limits on viability, and probably we will not make many improvements below those limits. Aside from marshalling all the scientific evidence about that, my observation from bringing up my child is that every stage of her development seems to come on like a Swiss watch; it is as if it was all pre-programmed. I know there are some variations, but it is clear there is some inbuilt clock that is telling the baby when certain things will start to happen.

A baby born with insufficient lungs to keep it alive is not going to be able to survive. While we are getting better and better at diagnosing problems — at the moment it is around the 20-week mark — we are not necessarily going to be able to overcome nature.

In my view Mr Theophanous's amendments are the most crucial for us to be addressing. Mr Theophanous is very good at what he does. He is a good parliamentarian and a very experienced politician. He will not mind me saying this: he does not look like much — I should have said he does not try to make himself look impressive — and yet he is an incredibly impressive politician.

Here we have a bill in which the government decided to start off by splitting hairs. It said it would split the first hair and say that under 24 weeks, women can decide all by themselves with their one doctor — the decision is made by a woman plus her doctor. Post 24 weeks, which is the magic date, there is a magic transformation; it now has to be woman plus two doctors. It was not the model the Greens supported; we supported model C.

Minister Theophanous is not introducing an amendment saying there need to be 15 doctors or a whole range of requirements; he is splitting the hair again. He is saying that for one type of abortion it is a social decision. I know a lot of people are thinking that the woman who is having an abortion for social reasons is basically doing it for selfish reasons, so we are going to raise the bar a little bit and make them see a social worker. For women who are seeking an abortion for psychological reasons, we are going to make them sit down with a shrink.

Nobody should be confused into thinking that has anything to do with making sure women have enough counselling, because this session that will have to occur between a psychiatrist, psychologist and the woman is not a counselling service in the general sense of, 'We want to help you make the right decision so that as you go forward you will feel better about it, and it is the right decision for you'. This is an interview or an assessment. You are being examined to determine if that psychiatrist, psychologist or social worker agrees that you can have an abortion, because the way that amendment is clearly written is that it requires now the agreement of that person.

Mr Dalla-Riva explained it well. It is the capacity of being able to tell that person what they want to hear simply because you know what you need to tell them, or you think you know. They have to tick off on your abortion. That works in the opposite direction to the well-meant sentiments and wishes that women would have more counselling, that counselling and any type of support that is available should be made available. These are two totally different things.

I reject this approach because, going back to that idea of the 'chain of shoulds', there should be more counselling for women, there should be more housing, there should be more support and there should not be so much stigma associated with single mothers. Those are not the things we are legislating for, are they? That is certainly not the case with the proposed amendments. We are not legislating to make sure there is ample public housing so that women on low incomes with children will never have to worry about whether they will be on the street. We are not legislating to increase the single mother's pension. We are not legislating to tip the balance in the Family Law Act so that a child is always going to be totally looked after — the man will not have a choice about it, he will have to contribute and there will be no coercion on the mother in that relationship. And we are certainly not legislating here to provide massive new funding streams for children with disabilities, or adults with disabilities for that matter. We are starting right there at that point where a woman needs permission for an abortion, and we are micro-managing that relationship between her and her doctor.

The argument raised — certainly we heard a lot of it in the lower house — is that the woman is in a terrible situation at this point. We are asked to put ourselves in her shoes, which is impossible — at least for the men. Then we are told to imagine how distraught she will be and imagine how lonely she will be. We are told she will be under enormous pressure — in other words, she will not be quite rational. That is the argument that is being made here. So we are going to micro-manage that relationship and we are going to make sure that all the appropriate boxes are ticked off to protect her baby from her.

But, according to the reasoning of this amendment, that is not enough. We do not just rely on that. We actually say we might have to protect her from her doctor. And to put in another trip-wire, another hurdle and another hoop to be jumped through, we will put in another doctor and another doctor, and we will require certain qualifications and we will specify that he must say this, and this must be offered in this way from this person. Or it might be like the analogy that was used in the lower house; the words 'consumer protection' were used, as if we were regulating the relationship between someone buying a car and a dodgy used-car salesman. If it has got so bad that women do not trust their doctors to assist them properly in making the right decision, then they need to change doctors and we need to go for a dramatic overhaul.

I have received quite a few emails from women who said they had had abortions and they now regret it. I

have also received a number from people who said they knew people who had been in that situation. Of course we have all heard stories. Members will bring stories in here and they will bring case histories in here to suit both sides of the argument. What I never got from those women who told me their case histories was the sense that they were saying, 'Yes, I really regretted having that abortion back then, and I wish someone had taken a Supreme Court injunction to stop me from doing it' or 'I really wish my doctor had talked me out of it' — as if it were some kindly, grey-haired doctor, like Terence from *A Country Practice*, sitting there, making the woman feel calm and better by saying, 'You'll be all right. Trust me. Go this way'. Once you move away from the approach of women making decisions in conjunction with a doctor they have chosen, a doctor whom they trust, that is what you are doing. You are in effect going down a road towards some sort of larger panel, some sort of quasi-judicial body or bureaucrat — the Minister for Health, a court, whatever it is — making that decision.

It would be great if there were a lot less stigma associated with being a single mother and a lot more support available, but there is not. There is not enough, and I will provide the house with one piece of proof. In the lower house yesterday, in relation to another piece of legislation, members voted on whether IVF (in-vitro fertilisation) should be made available to single mothers and lesbians, and not one member of the Liberal Party voted for that bill. In other words, what they are saying is that it would be better that a child were not born at all than that it be born to a single mother, because, as the Leader of the Liberal Party said, 'A child must start life with a mother and a father. We think that is the best thing'.

To their minds it is impossible to allow a single mother to go ahead with an IVF pregnancy because it is just not viable in this society. Yet the same group of people are going to come in here and argue that a single mother who does not want to go ahead with a pregnancy should in some ways — this is the carrot and stick argument — be pushed down that road. I find that an utter contradiction.

I have given a lot more thought to the issue of whether medical professionals involved in and around terminations and similar procedures should have the ability to exercise their conscience and not participate, and to what extent, than I have perhaps to other issues. I did quite a bit of homework on this issue. I talked to a considerable number of people, read the relevant codes of practice — the general one for the Australian Medical Association and the specific one for people working in gynaecology — and looked at where this is going in the sense of public policy.

There were two things that caused me to make up my mind. The first is that in many jurisdictions in the USA a whole range of medical professionals, right down to pharmacists, all asked in effect for a legal regime to give them a conscience vote on whether to participate. That cuts both ways. At one level we are putting into statute their right to exercise their conscience in this matter in certain ways, and at another level we are constraining it. I think it would have been better if this had not been in the bill — that is, what I am proposing should have been dealt with through the general regulation that occurs across all medical activities. It is obviously a very regulated area.

The second thing that assisted me was an email I received from someone working in the area of obstetrics, who stated that they were completely opposed to abortion at all stages. That is the sort of thing that concerns me. It worries me that people are working in a particular field where they are faced with complications associated with pregnancies and it is often the case that abortion is the solution, yet they basically have a fixed position against it. I replied to this person and asked him what he thought about clause 8 of the bill. He said, 'It sounds about right'. Good on him! That gave me some comfort that people within the profession are professionals and understand that, along with their particular personal consciences, they have signed up for another set of responsibilities — that is, to look after the patients and not abandon them and leave them in the lurch.

When it comes to the matters that we deal with here in the Parliament, whether it be the declaration of war against another nation or the sorts of more mundane but no less life-and-death matters such as funding, I think conscience should be exercised in all cases. As it stands we can unleash hell on another country, leading to tens of thousands of deaths of children under the age of five — not foetuses, not fertilised embryos the size of a pinhead and not even babies of 20 weeks or 24 weeks but small children running around laughing and fighting and loving.

It was interesting to note that a few parliamentarians in this place did speak out in relation to the Gulf War — on this matter of conscience, as Ms Mikakos described it at the time. She said it was the responsibility of all parliamentarians to speak out, and there were a number of other members in this place who spoke out against war. I certainly admire former senator Brian Harradine, who held a very consistent line. He was against abortion, he was against euthanasia, he was against the

death penalty and he was against the deployment of nuclear weapons, which was the issue on which I had occasion to meet with him. It is in that consistency that legislators find their own confidence and for that matter gain and hold the confidence of their electors. In this matter I would hate to see any member, for reasons of momentary pragmatism or fear, step out from their well-understood and well-articulated personal ideological framework and make a decision that was one of convenience when we know amongst ourselves, knowing each other as we do, that there are people in this place who can be relied upon to make those considered and consistent decisions. For that reason I will be voting for the bill should it be unamended at the end of this process.

Mr SOMYUREK (South Eastern Metropolitan) — All the indications are that this bill will pass this chamber this morning. The bill has been extensively debated in both houses of this Parliament, with some very long and detailed contributions. The bill has also had considerable media coverage in recent weeks, so I do not intend take up too much of the time of the house with detail. Instead my contribution today will focus on an attempt to debunk a misleading characterisation of this bill.

This bill is not about being pro-choice or pro-life. This is a false dichotomy which has insidiously permeated this debate, for it is possible to be both pro-choice and to oppose the bill as well. The two are not mutually exclusive. This bill is not just about the right of females to take control of their reproductive systems; it is more than that. It is about the excess of identity politics. Identity politics can be a very positive mechanism for a social group — be it ethnic, cultural, racial, religious or gender based — in its battle against oppression in society. For example, the feminist struggle against patriarchal oppression in society has improved our society enormously.

However, the excesses of identity politics, especially when it turns into zealotry, can be very nasty and irrational. When it reaches this stage the value of human life becomes secondary to that of the rights of the social group concerned. Those of us who were born in countries that have had bloody sectarian conflict can identify with the point I am making. Mrs Peulich earlier in the night was quite eloquent in recounting her family's experience with sectarian conflict in former Yugoslavia.

The bill gives total control to the female of her reproductive system, but at what cost? At the cost of the life of the unborn child. The bill therefore erodes the value of human life, in exchange for the empowerment of the female over her reproductive system. Is that a good or bad thing for society? That is the threshold question in this debate, and not whether abortion should be decriminalised or not.

I appeal to my colleagues who will be voting on this bill later on and who have a predetermined position on the abortion issue not to automatically support this bill because they associate the abortion debate with a commitment they have made to being pro-choice. I ask them to treat this bill on its merits.

You do not have to be pro-life to oppose this bill. If you are pro-choice you will not be compromising your values, you will not be confining yourself to the political corner of the Sarah Palins of this world. This is a radical piece of legislation that will create uncertainty, anxiety and confusion. Whilst I concede that the majority of the population — depending on how the question is framed — are pro-decriminalisation of abortion, I believe most people would assume that abortion is not part of the Crimes Act since it is so readily available.

However, based on anecdotal evidence — that is, evidence based on the conversations I have had with people who are pro-decriminalisation of abortion — the radical approach of this bill has very little support. People are horrified when they hear this bill in effect allows abortion to be performed at six months on demand without the woman having to undergo at least some form of process such as consultations, counselling or even a cooling-off period. Even purchasing a car allows people to have a cooling-off period. People are sickened at the concept of partial birth, and I will not go into the details of partial birth. There is also a great deal of apprehension in the community about the liberalisation of late-term abortions — post-24-week abortions.

Compelling doctors to refer patients to other doctors who do abortions is causing a great deal of anxiety in the medical profession. As parliamentarians it is a bit rich of us to have a conscience debate tonight but then deny other people a conscience on this issue. Doctors are at the coalface of the abortion debate, so it is hypocrisy of the highest level for us to have a conscience vote on this issue but not allow the same conscience to doctors.

This really is a radical bill. Unfortunately there is no other way of describing it. In that respect this bill is opportunistic because it leverages off the support that the decriminalisation of abortion has in the community. Under the veil of this support it implements something very radical — a radicalism grounded in dogma. To my

pragmatic pro-choice colleagues I say: say no to radicalism and dogma; let a more moderate pro-choice bill come forward, a bill that will not polarise, confuse and create anxiety. To my pro-choice Labor colleagues I say: we have attained, retained and earnt the respect of the electorate through sensible pragmatic policies. We have successfully distanced ourselves from an earlier era of excess. Let us not destroy our brand by this type of indulgence.

The incremental model of change is something that has worked well for Labor in the Bracks and Brumby Labor governments since 1999, not the radical conflict model of change that is intrinsic in this bill. To my Labor colleagues again I say: for the good of the Brumby government say no to dogma and say no to this bill. I do not support this bill.

Mr KOCH (Western Victoria) — I propose to make a short contribution this evening. I really did not intend to speak, but I think it is incumbent upon me to do so. My intentions are pretty well known; I am an in-principle supporter of the bill before the house. In saying that, I really respect the personal positions of all members. I have been drawn by many of the contributions to the debate on this bill so far. I would like to mention those of my colleagues Wendy Lovell, Andrea Coote and members on the other side, being principally Martin Pakula, Jaala Pulford and Mr Theophanous — someone whom I have not made a habit of following in my time in Parliament. I have to say I would never have thought he would make the contribution he did today, and I certainly appreciated what he put together. A couple of my colleagues who will follow me will make pretty good contributions too, and I look forward to those. I have to say I applaud all those in the gallery on both sides of this debate who have given their time. Their concerns are much appreciated, and I certainly acknowledge their presence, even late this evening and tonight. Personally their presence attests to their concern as to where this bill may take us.

I openly say that I have had in excess of 5000 pieces of correspondence come into my office, both by mail and electronically. Regrettably much of it was orchestrated, and that concerns me to quite a degree. But having said that, there were also many personal notes that reflected people's personal concerns, and I very much appreciate the endeavours of those people. My biggest day in the office saw 370 emails and 173 letters arrive at the one time. Of the pieces of correspondence received, fewer than 40 were from my electorate of Western Victoria Region. I am sure everyone will appreciate the extent of the correspondence received not only by my office but by all members across the house.

I have responded to all of my constituents who made the considerable effort of reaching me, and I have returned phone calls to those who have sought them. I have also met with all Western Victoria Region constituents who have requested my presence. I know this is not necessarily a position that has captivated my colleagues, but I have elected to offer this opportunity irrespective of where constituents may be across the Western Victoria Region. I must admit I have appreciated very much that other people have elected to drive for many hours to reach me in Hamilton and meet with me at my office to put their positions. That extraordinary effort should be noted. I certainly appreciate the trouble that some people have gone to in relation to putting their position on this bill. I admit that I have had threats both by mail and personally as to my future in this place, which I have to say has been somewhat disappointing, but that is something I must accept, acknowledge and manage to the best of my ability.

There will be a conscience vote on this bill, which by its nature brings its own difficulties, and I am sure that people have managed that from a personal point of view. Matters raised with me personally have certainly made me far more aware of what has been going on around me, especially over the last 30 or 40 years. I was not aware of it, and I congratulate those people who have put in front of me what is taking place in relation to what we have been discussing here this evening. I must admit that those personal discussions that have been raised with me will remain with me. I will not be sharing those with the Parliament this evening. I have given many people that confidence as I have discussed their personal concerns.

Unfortunately much of the debate in this place has alluded to the procedure of abortion and not, in my opinion, where this legislation proposes to go. I strongly believe that this procedure should be decriminalised and that our girls and ladies in the community should be in charge of their own bodies and their own destiny. Many circumstances unfortunately leave our daughters and ladies in a situation never envisaged and not necessarily of their own making. On their behalf we all should look at every situation on its merits and in a fair and reasonable manner. The movement of abortion away from the criminal code across to the Department of Human Services is a more worthy position and offers greater support in seeking this procedure.

One of my major concerns with this debate is that, irrespective of this bill's outcome, the number of abortions in the state of Victoria is unlikely to increase or decrease. I believe it will remain at a similar level. In

saying that, it has been put to me that allegedly there are 20 000 abortions taking place in Victoria on an annual basis. Unfortunately no-one has the capacity to actually demonstrate that is the case. I do not know whether it is 17 000 or 27 000. I do know it is too many. I do not think anyone under the current circumstances has the capacity to put a number on it.

In saying what I have, I also have some misgivings. My first misgiving is the arbitrary time of 24 weeks prior to the intervention of this procedure. Second, I am concerned that the opportunity for some counselling of an independent nature is not available as a compulsory basis for the younger members of our community. I have to say to the house very openly that I am not a great supporter of mandating and red tape. It is something I struggle with. Although many seek to shelter themselves behind legislation, that is something I do not necessarily seek. Listening to the arguments put by Mr Theophanous and the amendments he proposes, I think they have some merit. I would like to hear those amendments put to this house.

My wife, like some members of this house, has a vast background in nursing and the health industry. Nursing is a familiar career in my family. My grandmothers on both sides, my mother and my mother-in-law all chose nursing as their career. I am the father of three fabulous, very worldly and well-educated daughters, of whom Georgina, our second daughter, has chosen a successful career in nursing, and I know how important it is to me for them to have their independence in every way, especially in the management of their own bodies. This is important to me as they travel through life.

Our having been fortunate enough to have our girls join us last weekend out of the blue — nothing was prearranged, they just happened to arrive; and they are very familiar with what is going on in the Parliament and are certainly aware of this bill and the challenge it affords us — I have to say I was left in little doubt as to where they see this bill should go. They are what I would call wise, mainstream young ladies. They are independent, very engaged and representative of our society, and I think that is something we should all be very aware of with respect to the coming generations.

I do not believe anyone who has the responsibility we have as legislators will take this debate lightly — and I can assure members I will not. Unlike my colleagues Mr Atkinson and Mr Theophanous, my position is to support the spirit of the bill, but I am inclined to support amendments, especially in relation to timing and the cancelling of opportunities if this legislation gains the support of the majority of members of this house.

Although in some ways I would consider opposing the bill, and this might seem sensible and acceptable, not knowing the outcome of the vote in the house at the completion of this debate I will be supporting the second reading of the bill in order to participate in the debate on the amendments foreshadowed by Mr Theophanous this afternoon. I appreciate that other amendments may be forthcoming, but in the two particular areas I speak of I very much wish to be involved in the debate, and I reserve my rights in that area. It is through this process that I see that my best-case scenario may succeed.

I consider the issues of the time at which a procedure may be required and the provision of counselling for younger women on a mandatory basis as very important, and we should all give further consideration to this opportunity we have. I look forward to doing that. If I am unsuccessful in arriving at a position I would prefer, I put it to the house that I will be supporting the bill in its current form on its third reading.

Mr ELASMAR (Northern Metropolitan) — In February 2008 I addressed this chamber and contributed to the debate on the Child Homicide Bill 2007. It grieved me deeply as a parent to speak about that issue, and my heart feels just as heavy now as I rise to speak in the debate on the Abortion Law Reform Bill. I have listened to every member who has spoken on this bill, and I have thought long and hard about what I want to say on this important issue. Like many other members, I have received hundreds of letters and emails, and I too have talked with constituents and health professionals, all of whom have strong views one way or the other, and I thank them all. But I have to say from my heart that while I respect the fact that any woman has the right to choose what she wants for her own body, it is not the woman's body we are talking about. We are talking about life. We are talking about the unborn children who have no-one to speak for them.

I do not want to deliver a sermon to this house, but I have to say there is a good reason why the parliamentary Labor Party and others have allowed a conscience vote on this issue. It is because the matter of legalising abortion is not a simple unemotional clerical matter. I was raised to believe that life is sacred and that only God gives life and only God takes it away. I do not want to preach morality. I know that contraception is readily available to both men and women. It is hurtful to think that thoughtlessness and carelessness results in an innocent life being snuffed out as though it meant nothing. It is against everything I personally believe in. I know that abortions have been occurring for hundreds of years. I used to read about backyard abortionists who

maimed and sometimes killed women while performing their botched operations. But I believe this bill goes too far in liberalising abortion. I am not happy with abortion on demand.

This is a controversial issue and it has divided the community and all of us, but my conscience is not divided. I have to say no to this bill. People ask me, 'Why do we not have a cure for cancer yet? Medical scientists have been working on it for more than 70 years'. Perhaps amongst all the innocent babies that have been disposed of in the last 70 years there may have been a medical genius who never got the chance to breathe, much less to save the rest of humanity. I could speak about this issue for hours, but I think everyone in this chamber has covered all the aspects. I need to make my decision. I do not support the bill.

Ms PENNICUIK (Southern Metropolitan) — My colleague Ms Hartland dedicated her contribution to this debate to the thousands of women who have died or have been maimed as a result of botched backyard abortions. It also immensely saddens me to think of those women and their families.

I would like to start by thanking the individuals and groups who have contacted me in support of abortion law reform and have assisted me with advice and information about current clinical practice and other issues. I would like to pay tribute to the women and men who have campaigned over many decades for safe and legal abortions, to the medical practitioners who have helped thousands of women who have wanted or needed to end a pregnancy and to the women and men who campaigned in the Parliament for 30 years for abortion law reform. As Joan Kirner said, it was only after women started to enter Parliament in numbers in the 1970s that the push for abortion law reform really took hold. I also thank Candy Broad for introducing her private members bill into this house last year which led to the Victorian Law Reform Commission inquiry and report on which this bill is based. It has taken a long time.

This bill is not complicated. Its purposes are to reform the law relating to abortion, to regulate health professions performing abortions and to remove abortion and child destruction from the Crimes Act. This is historic. As Mr Atkinson has said, it is landmark legislation. It is a testament to the people I have just mentioned.

We have before us a historic opportunity for this Parliament to repeal a law that is 50 years old this year and is based on an old English statute that is 100 years older than that. We must take this opportunity. It is not difficult for me to support the removal of abortion from the Crimes Act. It should never have been there, and it should not remain there.

It is worth noting that in 1958 there were no women in the Parliament of Victoria. There had been three women elected to the Parliament before that year: Millie Peacock, 1933–35; Ivy Weber, 1937–43; and Fanny Brownbill, 1938–48. Then there was a gap of 19 years before Dorothy Goble was elected to the Legislative Assembly in 1967. The Parliament of 1958, comprised entirely of men, passed a law that made criminals of women who had an abortion or tried to self-abort, and made criminals of the health practitioners who helped the women who wanted or needed abortions. I cannot say whether those men knew women who had had or needed an abortion, but I can say that none of them was a woman.

There has been a long history of society exerting control over women's bodies and sexuality and their reproductive decisions. Generations of women have struggled for the right to control their own reproductive choices. I cherish that right dearly, as do most women. Some speakers have stated this bill is not and should not be about women's rights. I say this debate is totally about women's rights to make their own decisions about whether or not to continue with a pregnancy, or whether or not to have children, or, if they do have children, when they will have those children and how many.

A lot of the rhetoric we hear about helping and counselling women is really code for controlling them. Some members have spoken about the need to involve various others in decisions about whether or not a woman is to have an abortion at different stages of pregnancy. The implication is that a woman is not capable or cannot be trusted to make the right decision for herself about her own health and welfare. The passing of the law in 1958 effectively entrenched the system of backyard abortions that took the lives and health of thousands of mainly poor women and allowed a lot of unscrupulous and corrupt backyard abortionists to continue to operate, although there were some brave and committed doctors and nurses who did care about women and provided relatively — for that period — safe abortions. I am sure the Parliament of 1958 knew this but chose to ignore it. That situation had existed before 1958, and the law allowed it to continue.

It was only after the Menhennitt ruling in 1969, as Ms Hartland said in her contribution, that the incidence of septic abortions began to fall. I can only infer that the judge, when faced by a doctor whom he adduced had acted in good faith to help the woman who had come to

him, thought to himself that the situation was not good enough and so made his historic ruling in 1969. The fact that abortion has been a crime has caused untold grief, misery and physical and mental harm to women and their families. It has been and continues to be a sword hanging over the heads of medical practitioners to this day. This is not acceptable. It is anachronistic. It does not reflect community standards or expectations. As Ms Pulford said, many people do not know that abortion is in the Crimes Act and the majority are astonished and appalled to hear that it is. I have had this experience too.

It is the job of this Parliament to repeal laws that are outdated and inappropriate. Mr Hall said leaving abortion in the Crimes Act would not assist in understanding the issues, getting a better handle on how we might help people, or acting in a responsible way. Mr Leane said he could not see any benefit to his community in leaving abortion in the Crimes Act. Mr O'Donohue gave a very thoughtful speech, although I cannot agree with his assessment that the issue is currently settled. That is not how health practitioners see it, and neither is it how many women, who still feel a stigma attached to an act that is illegal, see it. I would urge Mr O'Donohue to reconsider that view. Mr Drum said he understood the Crimes Act is probably not the right place to regulate abortion, but he had other issues with the bill.

When I left the Parliament in the early hours of the last sitting week, when this bill was being debated in the lower house, the taxidriver, a lovely Greek man who was in his 60s, asked me why Parliament was sitting so late. When I explained he said, 'You can't stop women from having abortions'. I said, 'That is why they must be safe and legal'. 'That is right', he said.

Look around. One in three women you see in the street, in the supermarket, in the cinema, some with children and some without, has had an abortion. Are these women all criminals? Of course not. That is why abortion should be removed from the Crimes Act and regulated by other statutes. Mr Rich-Phillips says he feels the current provisions of abortion in the Crimes Act, with a common-law interpretation to take away absolute illegality, is the way it should remain. I am not sure he would accept that for any other law.

For me, the bottom line is that the decision to have or not have an abortion should be the woman's decision. She may choose to discuss the matter with others — a partner if she has one, a sibling, parent, best friend, a doctor or counsellor. She may choose not to discuss it with anyone for any number of reasons and come to a decision by herself as to what is best for her in current circumstances. That is her right. As Ms Tierney said, privacy and space are important. Sometimes that is a very difficult decision; sometimes it is a straightforward decision. Greens policy reflects that: the decriminalisation of abortion with access to counselling, but not mandatory counselling. In any case, women, including young women, have the right and the capacity to decide themselves whether they want or are able to continue with their pregnancy.

The Victorian Law Reform Commission produced a comprehensive report on which this bill is based. However, the commission produced three alternative models, a strategy which I am not sure was entirely helpful, given the recommendations of the report. Only one model, model C, was needed. Model C would have achieved the aims of removing abortion from the Crimes Act, reflecting community standards and clinical practice. I would have preferred to see model C implemented. However, although it is not perfect I will support the bill, and I will not be supporting the amendments circulated by Mr Theophanous or any other members that would in any way further dilute the autonomy of women in deciding whether or not to have an abortion.

As have all members, I have received many hundreds of emails and letters regarding this bill. Some have been supportive; some have not. I have responded to a great many, but as Mr Hall said, the sheer volume of late has made the task insurmountable. It has also been a great burden on our staff, and some of it has been quite distressing to staff members. I will not guarantee that I will be able to respond to all letters and emails I have received, and I trust those who have contacted me will attend to this debate and so hear what I have to say. I will also say that I have no intention of responding to those correspondents who, while espousing to defend embryos and the foetuses, take it upon themselves to send rude, offensive, abusive, intimidating and threatening mail.

While the majority of correspondents, particularly in the last couple of weeks, have been opposed to the bill, public surveys confirm that they do not represent the majority of Victorians or Australians. I understand that a minority of Victorians passionately oppose abortion. I do not agree with them, and I reject the notion that they should prevent women from having abortions. A woman has a right to choose not to have an abortion, but she should not impose that belief on another woman.

I respect the approaches taken by Ms Lovell and Ms Mikakos, that although they do not support abortion for themselves, they do not wish to impose their view

on others. As Ms Lovell said, many people who have contacted us appear to be misinformed about the bill and about abortion in general. I hope they have been following the debate to ensure that they understand what this legislation is about.

Many members have raised the issue of the need to reduce the number of unplanned pregnancies. I agree. However, many of the most vociferous opponents of abortion are also strident opponents of frank and open discussion about sex, especially with young people, of comprehensive sex education and of widespread access to contraception and good information about how to use it — especially for young people. The position of the Catholic Church and other churches in this regard is totally irresponsible. It says women cannot have abortions and cannot use contraception, and young people cannot learn about sex let alone engage in it, which of course they do.

However, sex education is also ad hoc in our schools and far too many students in Victorian certificate of education years do not fully understand basic things like the menstrual cycle or how conception occurs or can be prevented. It is well known and researched, and the evidence base is that better sex education and access to contraception reduces the number of abortions. However, it will not eliminate them. There will always be accidents, failures and other, more tragic reasons why women will need to have abortions.

Mr Thornley also mentioned that men need to take more responsibility for contraception. I think this has improved in recent years, but it is safe to say that many men still do not see it as their role to use contraception, and some are totally irresponsible in this regard.

I would like to make some brief remarks about issues that have been raised in the debate and seem to cause the most concern. Clause 5 concerns abortion post 24 weeks gestation. In my view, it would have been preferable that there be no prescriptive figure in the bill. The Menhennitt ruling contained no designated cut-off, and I feel that by choosing to implement model B, the government has created a lightning rod for opposition that has focused so much attention on this aspect of the bill, when in fact so few abortions are performed at or beyond 24 weeks — and those are invariably for complex, catastrophic and tragic reasons.

In my view, wherever a line is drawn, it is somewhat arbitrary. There are only 2 days that separate 23 weeks and 6 days from 24 weeks and one day, and in any case there can be miscalculations and errors about the gestation period in any particular pregnancy. However, 24 weeks has been chosen as the designated cut-off where a decision by a woman to have an abortion must involve two doctors. I think this is unnecessary. By definition, in the second and third trimesters such a decision will always involve health professionals. In current practice there are multidisciplinary teams at the Royal Women's Hospital at 23 weeks, and at Monash Medical Centre at 24 weeks.

However, there are reasons for choosing 24 weeks if we must have a cut-off as opposed to any other number. Twenty-four weeks is the cut-off period used in the UK where there are clear abortion laws. The House of Commons Science and Technology Committee found there was no evidence that survival rates before 24 weeks had significantly improved since 1990. The Victorian Law Reform Commission report found the medical profession recognised that viability of foetuses in the 24 to 26-week period is a grey area.

Second trimester ultrasounds are conducted at 18 to 20 weeks, sometimes later. These can identify heart defects and other catastrophic abnormalities. The Victorian Law Reform Commission also found that in the public system women do not obtain abnormality testing until 18 to 22 weeks. That is later than what is available in the private system if you can pay. Lowering that limit would disadvantage poorer women.

The existence and significance of some abnormalities is only apparent at later gestation. This can include severe hydrocephalus and other conditions which will mean the pregnancy is not viable. This is why 24 weeks should be supported and not the 20 weeks as proposed in Mr Theophanous's amendment.

Many members, in speaking about abortions past 24 weeks, spoke of viable healthy foetuses being aborted. This is a false impression and is disingenuous. Post-24-week abortions are rare and exceptional. In 2005 there were 309 post-20-week abortions in Victoria; 129 were for foetal abnormality. There were 105 abortions between 20 and 22 weeks, 23 between 23 and 27 weeks, and one post 28 weeks. All of these abortions would have involved complex reasons and in my view are best left to the women and health practitioners involved at whatever stage of gestation they may occur.

Clause 8 of the bill provides that a health practitioner who has a conscientious objection to performing or assisting in an abortion must advise a woman of that objection and must refer that woman to another practitioner who does not have such an objection. It may be debatable whether this provision should be in statute rather than in codes of ethics and professional conduct, which it currently is. Nevertheless, my point

of view is that while a health practitioner has a right to a conscientious objection, they also have — by way of their position and profession — a duty of care to their patient to provide an effective referral. Other speakers have spoken of occasions where health practitioners have not done so, and where the health practitioner has put their own view before their duty to their patient, causing them grief, stress and even putting their health at risk. I believe this is unconscionable. The right of the health practitioner to a conscientious objection is not absolute. It exists along with a duty of care and responsibility to the patient.

Some speakers have spoken in graphic detail about so-called 'partial abortions'. The correct term is dilation and extraction, and it is used in rare circumstances where a misoprostol induction of a non-viable pregnancy is likely to fail or is contraindicated and would be dangerous to the woman. Any woman in this predicament is facing the non-viability of a wanted pregnancy and will most likely wish to become pregnant again. Therefore it is imperative that the most appropriate medical procedure is employed, and that is best left to the woman and her clinical practitioners, not us, to decide. I am advised the descriptions of so-called 'partial abortions' are false, and I feel it is unfortunate in the extreme that some members have chosen to use such descriptions in this debate.

I want to address the issue of some terms people have used, including terms such as the abortion industry. There is no such thing. There are women who have abortions and there are medical practitioners who perform abortions, just as there are women and men who have other medical procedures and medical practitioners who carry them out.

Many speakers have spoken about the dangers of abortion, but abortion is a safe procedure and is far less hazardous than childbirth. Others have spoken about threats to mental health, and I refer to the American Psychological Association Task Force on Mental Health and Abortion, which reached a decision last year that:

> There is no credible evidence that a single elective abortion of an unwanted pregnancy in and of itself causes mental health problems for adult women …

I know many women who have had abortions and I do not know any of them to have had mental health problems as a result.

I am very concerned that during this debate some speakers chose to attack members of the public who are involved in the provision of abortions or the provision of abortion advice and advocacy. That does not reflect well on those people.

I also want to talk briefly about speaking times. The Legislative Council decided early last year to remove limits on speaking times. That was done in good faith. There was a lot of discussion about it, and I believe it has worked very well and settled down, and we have been able to get through general business and government business in a cooperative way. However, I take the opportunity now to say that it has been disappointing to me that some speakers have chosen to abuse that. I cannot see why anyone would want to speak for the length of time that some people have spoken for on this bill, no matter how passionately they may feel about it. You can make your point in a lot less time than that. I wanted to make that point. I think there has been an abuse of the sessional orders.

In conclusion, I think most members have spoken eloquently on this bill and everyone has added something valuable to the debate. In essence, today we have the opportunity to remove abortion from the Crimes Act where it does not belong, and to improve the law that governs abortion in Victoria. We should not waste this opportunity.

Mr P. DAVIS (Eastern Victoria) — Before joining the debate on the bill before the house, I thought I should respond immediately to the previous speaker's concluding comments about the opportunity afforded to members of this place to make a speech, and make a speech of a duration that they believe is appropriate. For those who have not been here for an extended period — and while I have not been here as long as some previous members, I have now been in this place for 16 years — I recall, in my first term in particular, speeches that were renowned for going for lengthy periods. I think a minister of the present government has a reputation for holding the house — that is the only way I could describe it — for more than 24 hours. So let us not get too precious about how long we speak for. I think members are entitled to make their case and to do so without criticism, because it is this chamber that ultimately will decide the outcome of this legislation. If a member believes that to persuade their colleagues they need to make a substantive speech, they should feel free to do that without being criticised.

Before I go further I indicate that I want to recast the nature of the debate so that I can explain how I have come to the position I have concluded. Through the course of the last few days some people have persisted in asking me what my position would ultimately be. Some will think I have played a game, and I have not. Whilst we all would have come into this debate with some prejudices and some formed views, clearly it is appropriate to listen to the people who are making representations to us.

In my case — I cannot speak for others — I have received of the order of 6000 individual submissions from members of the public, from peak organisations, from lobby groups, from professional associations, from academic institutions, from professional people who work in the area, from professional people who do not want to work in the area and from people who have very strong and passionate views driven by whatever perspective of the debate they come from. Their starting point may be a faith perspective or their starting point may be a very strong, longstanding view about feminist issues. I respect all of those views.

All those individuals who have made submissions to me have to be given credit for endeavouring to make their case to me as a member of Parliament and as one of 40 people in this place who will have to ultimately make a decision. I have to say the nature of those submissions has been interesting to me. Primarily — in fact overwhelmingly — the majority of submissions I have received have been inspired by what I would broadly describe as the faith community. That is as it probably must be, because on the other side of the argument the people who support the principle behind the bill before the house probably do not think they need to advocate their case, as it is blindingly obvious to them. Because the government has introduced legislation to deal with it, why would they think they needed to make their case so passionately? Those opposed to the government's bill, in contrast, clearly believe they need to make a strong case, and they have organised a way to do that, and I congratulate those who made those efforts.

For the record, however, I have to say I am deeply and personally offended not by the nature of that general campaign but by the way in which some individuals engaged in it have made representations both to colleagues I have spoken to and to me. I have found the nature and tone of some of the bellicose and belligerent representations most unfortunate and in fact prejudicial to carrying the argument.

I will come to the arguments in a moment, but I inform the house that my hesitation in declaring my position is absolutely as a result of the representations I have received over what is in fact one year — because this issue began with the bill introduced by Candy Broad more than a year ago. Frankly there has been continual communication on the subject. There has been a lot of discussion leading up to this week and during the course of this week. I have listened to the debate and the views of my colleagues in this place, all of whom are expressing their own personal view — and as I said in an earlier debate on the dying with dignity legislation, I feel intimidated by the prospect of having to deal with this.

It is sort of like being in the paras, jumping out of an aircraft to go into battle. Suddenly you look up and see you have not got a parachute on — but you have fallen out of the aircraft. Frankly, when you have the support of a party infrastructure and a clear cohort of party opinion behind you, it is easy to get up here and argue a case. As a former shadow minister and Leader of the Opposition, I was quite comfortable doing that on behalf of the opposition, but I find it daunting to be working without a net.

Having said all of that, what I thought I would try to do is bring this back to what is for me the essence. People have necessarily talked about abortion, because that is what the bill technically deals with, but in fact the subject is sexual reproduction. It is not asexual reproduction; it is sexual reproduction. To my knowledge there has only ever been one immaculate conception, and the rest of mankind's progress has been through sexual reproduction. I am very comfortable talking about sexual reproduction, because for three decades it was my business. That is — and I am often in trouble for using agricultural analogies, but I am going to fearlessly do so on this occasion — for three decades I was in the business of livestock production.

There is no mystery to sexual reproduction. There may be for some people, but for people who are familiar with it — either through practice in medicine, work in the livestock industries or small animal breeding — there is no mystery. However, there is no doubt in my mind that sexual reproduction is a miracle. Whether you believe there is a supreme being — whatever your faith happens to be, or not be if you are an atheist or agnostic — does not matter. How we as a species and all animal species reproduce must be seen as almost unfathomable, perhaps explainable, but certainly a great miracle.

Having said that, what we need to do is understand that there are a number of primary drivers behind the continuation of any animal species — and we regard the human animal as being the most superior of those species or at the top of the food chain. One of those drivers is the need to breathe. We have this reflex — we breathe; we need air. Once we have oxygen and blood is circulating we need food to sustain us — to keep the motor turning over. The next primary driver is, frankly, the continuation of the species, and that involves sexual reproduction. The drivers for that are profoundly important in forming the way our society behaves. There is an enormous focus on and amount of energy devoted to sexual reproduction, and it starts at a

very young age. I have observed in very young children the behaviours which more mature so-called adults display — behaviours that represent a mating relationship. We have to deal with that reality. That is the nature of the human animal: we are driven to reproduce. There are all sorts of pressures. We explain them in terms of hormones bubbling around. We explain teenage behaviour in particular by saying, 'It is the hormones causing the trouble'. That is what we now need to deal with in this debate. Since human beings have been on the earth it has been that way, and it will always be that way.

What we now have to do is consider, in the current context, how we should deal with the bill before us. As I said a moment ago, working without a net is daunting. What I need to say is that I am given comfort every time I walk through the vestibule of this Parliament by being reminded of Proverbs 11:14:

> Where no counsel is, the people fall; but in the multitude of counsellors there is safety.

Irrespective of this chamber's decision this evening in respect of the bill before us, I will be comfortable with the outcome. I will be certain it is correct because it will be the collective decision of this house.

I turn to our role as members of Parliament and how we form our views. I am part of a faith community. I do not intend to personalise my views in terms of my faith, my family and my personal experience, as some have done, because I think my obligation as a legislator in this place is to make a case that is a secular argument. This is a parliament. Were the decisions to be made by faith communities, that could be done in another sphere. It can be done by guidance within those faith communities about values for the people who wish to subscribe to the ethos of those communities. As a legislator I have to take into account the views of the people who have made representations to me, to balance those views against what is proper and good public policy and to protect the interests of the community as a whole.

What I have observed in this debate is that everybody has come to us with a slightly different perspective on what it is we are considering. Every contribution shows a different perspective that is valid in its own way. It is analogous to the expression, 'Is the glass half full or is the glass half empty?'. You can make a case that, as the Leader of the Government said in effect — and I paraphrase him — the bill before the house faithfully translates the current common law and practice into statute law. On the other hand there are those who have argued against that and suggested that the bill goes too far — that the Victorian Law Reform Commission report's model A should have been the one that was adopted.

We all need to take a step back and consider what it is we are fundamentally trying to do with this bill. To come to a conclusion about that we have to ask this question of ourselves: which of us is competent to say when life begins? There are those who are informed by their faith that life begins at conception. There are others who would argue that from conception for some period we are simply dealing with tissue — there are all sorts of descriptions for this, but 'tissue' is the word I will use. Somewhere between conception and 40 weeks — that is, birth — that tissue becomes an infant who is born. I am not going to try to make a judgement about that arbitrarily. What I can say is that it is clear that as part of the biological process of sexual reproduction we have conception and we have birth, and then we have the nurturing of the infant. I believe the most precious task that we have as adult human beings is to protect children.

I want to take a slight step back. In correspondence received from the Archbishop of Melbourne, Denis Hart, there is a sentence which I will quote because I think it is relevant to what I next need to say:

> The church's position, which it has held ever since the first century, is clear. The procurement of and complicity in abortion in every circumstance is a moral evil.

For people of a faith community who believe that — and I make no judgement about whether or not people should believe it — it is a view that they are entitled to hold, and clearly I would argue that 2000 years ago it was probably relevant in a different circumstance than it is today. Two thousand years ago we did not have the medical and scientific knowledge we have to be able to care for people in a doctor-patient relationship with the support that is available for them today, and abortion 2000 years ago, or indeed 100 years ago — or can I say 40 years ago — was a pretty risky business for women. So if the church's teaching is that abortion is reprehensible and, in the words of Denis Hart, 'a moral evil', then I would certainly concur that 2000 years ago it would have been, because the risks to women would have been profound. Of course there were other risks in terms of the difficulties of dealing with childbirth and child rearing in the environment as it was then.

But I cannot agree that there are never circumstances where a woman should not have access to abortion. I cannot agree therefore that it is a moral evil in all circumstances. To me it is entirely illogical that we would say to women in the 21st century, 'Irrespective of the threat to your physical and mental wellbeing, in every circumstance the view of the faith community

should prevail over your health'. With great respect to those in the various faith communities who believe it, I cannot accept that that is a valid position.

In representations to me from the Uniting Church, indeed from the chair of the Committee on Bioethics, Synod of Victoria, there is a relevant sentence that I will quote:

> We reject the two extreme positions in regard to abortion: one, that abortion should never be an option; the other, that abortion should always be available on request.

It seems to me that the position enunciated by the Uniting Church, which is not my faith community, best sums up my place in this debate — that clearly there are times when abortion is an appropriate treatment.

In that context I really want to say something about the values about why we are here. It is not often that I quote from political philosophy. Most members who listen to the speeches I give groan when I start talking about another natural resource or land management issue because these days that tends to be where I spend a great deal of my time and interest. But I will quote from somebody who most of us, even those on my left, will be familiar with, and that is John Stuart Mill. In his book *On Liberty* in the chapter headed 'Of the limits to the authority of society over the individual' Mill says:

> What, then, is the rightful limit to the sovereignty of the individual over himself? Where does the authority of society begin? How much of human life should be assigned to individuality, and how much to society?

That is the question we are debating here. For the answer members will have to read *On Liberty* which was published in 1859. A decade later Mill wrote another essay, *On the Subjection of Women*; I think today we would call it the subjugation of women. I find it informative, and I think it is particularly relevant for me to read this passage:

> Let any man call to mind what he himself felt on emerging from boyhood — from the tutelage and control of even loved and affectionate elders — and entering upon the responsibilities of manhood. Was it not like the physical effect of taking off a heavy weight, or releasing him from obstructive, even if not otherwise painful, bonds? Did he not feel twice as much alive, twice as much a human being, as before? And does he imagine that women have none of these feelings?

It seems to me that as a man in this place — indeed as the third male member of my family to have served in this house — and as one who is among men who make judgements about women in a legislative sense on a regular basis, I feel great discomfort in making judgements in regard to a matter that is as personal to women as abortion is. However, I have no escape; I have no net. Whether or not I want to make that decision, I am obliged to make it. I say that the interests of women should not be predominant over all other interests, but they must be considered as being primary to our deliberations on this bill, because abortion does not affect men directly in the way it affects women; it cannot. We cannot substitute ourselves to feel the impact that the consequences of sexual reproduction have for women. There is no possibility for us to even imagine as men what it is to be a woman or what it is to live from puberty with a continual process of potential reproduction. Candidly, men have a pretty easy time, even if we are new age guys — SNAGS, or sensitive new age guys. I am probably not one of those; I do not think many people have ever described me in that way.

Those who know me will know that I am influenced by some fairly powerful women. I have not discussed this in detail with them at all, but I know how difficult this aspect of life is for the women I love. Like others I have concluded, in effect, that I cannot consider my mother, my sisters, my wife, my daughters or my niece to be criminals. Should they ever have been, or be, in a position where they needed for their own health to choose to seek an abortion, my view is that that is their decision and I would support them.

Therefore, in the case of this legislation, there is no question in my mind as a matter of principle that the Parliament would be abrogating its responsibility to leave things as they lie. If the Parliament does not adopt this bill and remove abortion from the Crimes Act, then we will have failed all women in our community. I urge the Parliament to support the bill that is before the house and, frankly, not dally and not waste time on a long committee process but to deal with the bill as a matter of urgency.

Mr D. DAVIS (Southern Metropolitan) — I will make a short contribution to the Abortion Law Reform Bill 2008. In doing so I take up where my colleague Philip Davis left off and indicate that the issue of agency for women, the issue of control of their body, the issue of the unique position that women face in this situation, which Mr Davis has described as sexual reproduction, is the suitable starting point for this debate. It is true that there needs to be balance in rights and responsibilities, but Mr Davis has made a very clear case. I want to pick up on the central issue — that women ought to have control of their own bodies and be able to make decisions in their own interests and in the interests of whatever progeny may be involved.

This is a difficult bill in some respects, but in other respects it is not difficult at all. As has been pointed out by many speakers, there have been literally thousands

of representations to our respective offices, and I want to place on the record my respect for the overwhelming number of those people who have made contact with me either by email, telephone, personally or by formal letter. I will not say that I have read every single letter, but I have gone very close as they still continue to flood in. The representations have been informative, not all well argued, but many make thoughtful and sensible points. Clearly many from faith communities have put a case, and I understand how that case is formed and I understand the logic that is behind it and I am respectful of that.

There have been cases put in this chamber today — indeed longer than today I should say — on a whole range of aspects of the bill, both about its genesis and also about key clauses. I want to say something about the genesis of the bill. This is a government bill. It has been brought forward after a process by the Victorian Law Reform Commission. I am respectful of that process, although I place on the record my view that the law reform commission is not always the perfect vehicle to deal with issues of this nature. Whilst in a technical sense it may well deal with the debate and the issues in a certain formal way, it does not always deal with the political issues that are involved in the way they need to be dealt with politically. Equally my criticism of the law reform commission is it is too close to the government; it is in fact a creature of government. For that reason, whatever the quality of an individual piece of work, there is always a perception that the law reform commission will not provide the level of contribution and impartiality that may be provided by a parliamentary committee, for example.

I also want to put on record my thanks to those who have provided me with detailed background information as opposed to the general submissions that people have made. A number of people have spent lengthy periods of time talking these issues through with me, and I am grateful for the detail and the thoughtful way in which people from various sides of this debate have willingly provided of their time and expertise.

I also am cognisant of the position of health-care practitioners. Having been one myself and having associated for many decades of my life with health-care practitioners, I am conscious of the registered health-care practitioners who have a role in providing the services that surround the bill, both in a sense the procedural services but also the support and counselling services. They face a whole range of individual challenges, and obviously those with particular faiths face challenges that involve their individual ethical and religious frameworks. It is in that context the conscientious objection clause has created some concern. I make the point with respect to that clause that it reflects what would be good clinical practice and it is important to ensure that the conscientious objection clause is seen in the light of sensible and reasonable clinical practice. Had I framed the legislation, I probably would have framed it a little differently. But that is by the by. We are confronted with and need to make decisions around the bill as it is.

I also want to say something about the requirement in the bill for additional medical opinion, whether it be at 20 or 24 weeks. Let us think carefully back to the Menhennitt ruling, the Crimes Act 1958 and its predecessor pieces of statute and about the way Justice Menhennitt and other judges arrived at their decisions in what is in a sense a piece of judge-made law. Justice Menhennitt looked at the cases — for example, the Levine judgement in New South Wales — and made decisions about what is reasonable, what is sensible practice and what is the balance of responsibilities. Those decisions were revolutionary for their time in many respects and provided a great support for women and practitioners undertaking these procedures. The idea that this offence will now be lifted formally out of the criminal code is an important and timely further step. It is wrong in my view that straightforward procedures that are conducted for legitimate reasons are criminalised. It is for that reason essentially that I will support this bill.

Ms Pennicuik eloquently made the argument about the different options put forward by the Victorian Law Reform Commission — options A, B and C, as they were nominated. There are strong arguments for model C. Model A was a simple replication of the mix of statute law and common law that we have in place at the moment. The government for its own reasons opted for option B, and that is the legislation that we confront today. It is a significant improvement on the current situation. For that reason in my view it is worthy of support.

The simple act of moving these procedures from the criminal law, thereby decriminalising a procedure that is performed perhaps 20 000 times in Victoria each year, simply makes sense to me. Somebody — I am trying to remember who — earlier in the debate asked how you can have proper education in these matters. I think it was Mr Hall earlier in the debate who asked how you can properly expect to lower the number of abortions when a procedure is in fact technically criminal.

The confounding occasions where you have a strange intermix of statute and judge-made law are significant.

We have seen cases where women and medical practitioners have faced significant legal occurrences that have not in a sense been of their making but have been of the making of the complex and confused legal position that exists currently in the land. It is fair that those legal imbroglios are dealt with, and they will be dealt with successfully with this piece of legislation.

Many have talked about the point at which life begins. This is a very difficult philosophical point. There has been debate, both religious and philosophical, and in a sense the chamber has been forced to look at practical approaches beyond a deep philosophy. Mr Philip Davis said it well — there are faith and religious views which are legitimate and which play a significant role in our world, and I in no way wish to diminish those, but as legislators we have to step beyond those views and look at practical approaches that will work for the whole of the Victorian community. This bill does that.

As I said before, there was the discussion about the point at which additional controls for pregnancies at 24 weeks would be inserted in the bill. This is an arbitrary figure. If I were framing the legislation, I would do so somewhat differently. But we are faced with a piece of legislation that inserts additional requirements for doctors to authorise a procedure if they believe it is medically necessary at 24 weeks. In the circumstances I will support the maintenance of that provision, although, as I said, I probably would have framed it rather differently if I were the one drafting the legislation from base.

Many have suggested and debated the idea of panels. In Western Australia they have not worked well. In my view additional layers of regulation are not only unnecessary but also unhelpful. They mean greater restriction and control on the choice of women and greater costs and rigidities in the system that make it difficult for people to access services.

I return to the conscientious objection point and the debate that has occurred here and in the community around that clause. In a sense the conscientious objection clause seeks to strengthen the idea of a certain good clinical practice. There is justification for some encouragement of practitioners to make the proper referrals and decisions that are in the interests of the patients in the first circumstance and reflect best clinical practice.

I also make the point that the debate in this chamber has been a long and detailed debate. It has been a debate in which people have poured their hearts out in many cases. In other cases we have heard very long and technical debates. The strength of the chamber is the breadth of its members. The strength is also that in this chamber we do not have the restrictions and strictures of the Legislative Assembly. It is a strength of this chamber that the debate over the last few days and tomorrow as we move towards the committee stage has occurred in a way that has not restricted the capacity of members to make contributions. It is an important democratic institution that ensures that laws that are made in this state are given the strongest democratic airing and that no views are unheard or curtailed in any unreasonable way. As I said, I greatly appreciate some of the contributions.

There is also in a sense a parallel debate occurring at a federal level where the financial support for many abortion procedures will be debated. Some would seek to remove financial support for women seeking abortions. It would concern me greatly if that financial support were removed. It is not sufficient to look at legislation that allows things to occur; it needs to be drafted in such a way that things are enabled to occur. I pay tribute to my colleague and friend Senator Judith Troeth for her advocacy on behalf of Victoria's and Australia's women in that matter. I also thank a number of my colleagues in this chamber, but I am not going to name them. A number of them have put very thoughtful and cogent cases to me and others as the interchange has occurred not only at a formal level in the chamber but as people have talked through many of the issues. I am appreciative of the comments that many of them have made to me and the discussions and debates that I have had with them.

I look forward to the committee debate to follow. I indicate that I consider the bill to be in a form that should not be overly tampered with, because it needs to pass in a version that will ensure its essential character remains. That character is in essence to enable women, to give them greater choice and to give them the right and the opportunity to control their own destiny. Philip Davis used some very generous quotes from John Stuart Mill, and I endorse that choice of quotes. That is in essence what this bill is about.

Debate adjourned on motion of Mr SCHEFFER (Eastern Victoria).

Debate adjourned until next day.

LOCAL GOVERNMENT AMENDMENT (COUNCILLOR CONDUCT AND OTHER MATTERS) BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. J. M. MADDEN (Minister for Planning) on motion of Mr Lenders.

POLICE REGULATION AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. J. M. MADDEN (Minister for Planning) on motion of Mr Lenders.

ASSISTED REPRODUCTIVE TREATMENT BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr JENNINGS (Minister for Environment and Climate Change).

MAJOR CRIME (INVESTIGATIVE POWERS) AND OTHER ACTS AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. J. M. MADDEN (Minister for Planning) on motion of Mr Lenders.

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning), Mr Lenders tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Major Crime (Investigative Powers) and Other Acts Amendment Bill 2008.

In my opinion, the Major Crime (Investigative Powers) and Other Acts Amendment Bill 2008, as introduced to the Legislative Council, is compatible with human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The purpose of the bill is to amend

1. the Major Crime (Investigative Powers) Act 2004

   (a) to extend the operation of s 49 (Contempt of Chief Examiner) and 50 (No double jeopardy) to 1 January 2012

2. the Police Integrity Act 2008

   (a) to allow the Office of Police Integrity to undertake prosecutions and ensure that 'protected persons' are competent to give evidence

3. the Police Regulation Act 2008

   (a) in relation to the protection of the director and staff of the Office of Police Integrity

4. the Whistleblowers Protection Act 2001

   (b) to re-enact provisions relating to contempt of the director, police integrity that have expired.

Human rights issues

Major Crime (Investigative Powers) Act 2004

Clause 3 of the bill extends the operation of sections 49 and 50 of the Major Crime (Investigative Powers) Act 2004, which would otherwise cease on 31 December 2008.

Section 50 protects the right against double jeopardy in s 26 of the charter by ensuring that while a person may be able to be proceeded against in respect of an offence under the act and a contempt of the chief examiner, but is not liable to be punished more than once for the same act or mission.

Section 49 prescribes the circumstances in which a person attending the chief examiner in answer to a witness summons is guilty of contempt and sets out the procedure by which a person may be charged and detained. The provision engages the liberty rights in s 21 of the charter as well as the criminal procedure rights in s 25.

Liberty rights

Although s 49 enables detention of persons, that detention is compatible with the liberty rights in s 21 of the charter. Detention occurs in prescribed circumstances and in accordance with clear procedures and cannot be regarded as arbitrary. The right to be brought promptly before a court is given effect to through the procedures set out in subsections (3) to (9).

Criminal procedure rights

Although there are questions raised in other jurisdictions as to whether and when contempt proceedings amount to a criminal charge so as to engage the criminal procedure rights in s 25 of the charter, the provisions in the act are compatible with those rights.

Section 49(2) requires the chief examiner to issue a written certificate charging the person with contempt and setting out or attaching details of the alleged contempt. This would satisfy the right to be informed of the nature and reason for the charge in s 25(2)(a) of the charter. Although s 49 does not expressly require provision of the charge to the arrested person, police officers are public authorities and would therefore be required to act compatibly with the charter and ensure this occurs.

Section 49(11) provides that a certificate of charge is evidence of the matters set out in or attached to it. This provision engages the right to examine, or have examined, witnesses against him or her, unless otherwise provided for by law. However, I consider the right is not limited by this evidentiary provision as it does not prevent the chief examiner from being called to give evidence and be cross-examined in the event the matters set out in or attached to the charge are disputed.

Section 49(1) provides that a person is guilty of contempt if the person fails without reasonable excuse to: produce a document or other thing; or refuse or fail to answer certain questions. This provision imposes an evidential burden only on an accused to raise the possibility of a reasonable excuse. Ultimately, the burden remains on the prosecution to prove the offence beyond reasonable doubt. Accordingly, I consider that the provision does not limit the right to be presumed innocent in s 25(1) of the charter.

Whistleblowers Protection Act 2001

Clause 13 of the bill replaces s 61J of the Whistleblowers Protection Act with new sections 61H to 61J. These provisions are essentially in the same terms as the contempt provisions of the Major Crimes Act. For the same reasons as set out above, I consider the provisions are compatible with the rights in the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because:

to the extent that some provisions do raise human rights issues, these provisions do not limit human rights; or

to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Hon. Justin Madden, MP
Minister for Planning

Second reading

Ordered that second-reading speech, except for statement under section 85(5) of the Constitution Act, be incorporated on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill introduces a number of amendments to the:

Police Integrity Act 2008;

Major Crime (Investigative Powers) Act 2004;

Whistleblowers Protection Act 2001; and

Police Regulation Act 1958.

I will now deal with the detail of the bill.

Major crime amendments

The bill includes a minor technical amendment to the Major Crime (Investigative Powers) Act 2004, and extends the duration of the operation of contempt powers currently available to the chief examiner where a person fails without reasonable excuse to answer questions, produce documents, be sworn or make an affirmation, or otherwise behave in a manner that would constitute contempt of the Supreme Court.

This implements a recommendation made by the Special Investigations Monitor, in his report pursuant to section 62 of the Major Crime (Investigative Powers) Act 2004, tabled in June 2008.

Police integrity and Police Regulation Act 1958 amendments

The amendments will enable the director, police integrity to continue to combat police corruption and to retain powers necessary in the fight against organised crime.

Since his appointment, the new director, police integrity, has examined his authorising legislation and recommended that three amendments be made to clarify certain provisions governing the work of the Office of Police Integrity (OPI).

These changes are being made to provisions that have been in the Police Regulation Act 1958 since the establishment of the OPI in 2004. The Police Integrity Act 2008 re-enacted these provisions and therefore there are flow-on amendments to that act also.

Power to commence criminal proceedings

The bill provides that staff of the Office of Police Integrity have the power to institute criminal proceedings on behalf of the Crown. OPI officers have traditionally asked Victoria Police to commence criminal proceedings arising from OPI investigations, or they have done so themselves in their individual capacity under the common law.

The proposed amendment will provide a clear statutory basis to enable the OPI to commence proceedings in its own right. The power will be comparable to that currently held under state legislation by employees of other government agencies including:

RSPCA officers;

litter enforcement officers employed by municipal councils; and

registered medical practitioners.

The power to commence criminal proceedings will further enhance the OPI's independent investigatory responsibilities.

'Protected persons'

The proposed amendments clarify that 'protected persons' under the Police Regulation Act 1958 include past and present OPI officers. Currently, this definition of 'protected persons' refers to the director and OPI officers. While there is an argument that former officers are included in the definition by inference, we seek to put this beyond doubt. It was never the intention that a former director or other OPI officer could be required to give evidence outside the provisions of section 86KJ(6) of the Police Regulation Act 1958. Past and present OPI officers can only be called to give evidence in court by agreement with the OPI.

This amendment will remove any possible uncertainty about who is afforded the various protections under the Police Regulation Act 1958 and the Police Integrity Act 2008. The amendment is consistent with other provisions designed to protect sensitive OPI information.

The proposed amendments make clear that OPI officers and former OPI officers are competent witnesses to give evidence in prosecutions. A reading of the wider provisions in both the Police Integrity Act 2008 and the Police Regulation Act 1958 indicate a clear intention for OPI officers to be able to give evidence in prosecutions arising from their work. Since the introduction of the 2004 amendments to the Police Regulation Act 1958, the OPI has been provided with extensive powers of investigation and examination and powers of entry, search and seizure. It is clear from an assessment of the powers and functions of the OPI and the director that in the performance of their functions they will obtain evidence that may be relevant to the prosecution of criminal offences. Some of the evidence will be in documentary form obtained under warrant and by surveillance and some evidence will be gathered from witnesses in the course of an examination. As part of criminal proceedings and disciplinary hearings arising out of the OPI's work, OPI officers will need to give evidence as to the provenance of documents or surveillance material or the circumstances in which the evidence was given. All these matters evince Parliament's clear intention that OPI officers are competent but not compellable witnesses.

Nevertheless, the director, police integrity has raised concerns about potential legal argument being made that the 2004 provisions may prevent OPI officers from being called to give evidence. The director, police integrity, seeks amendments to clarify beyond doubt that OPI officers may be called to give evidence.

To put the matter beyond doubt, we are amending the legislation to ensure it is interpreted in the way Parliament originally intended. While this clarifies the law in relation to proceedings arising out of OPI investigations, it may also be in the public interest for the protected person to give evidence during proceedings that are not the result of an OPI investigation. In these instances, it is intended that the director, police integrity, have the power to issue a certificate requiring that person to testify.

Section 85 of the Constitution Act

Mr LENDERS — While the amendment to the definition of 'protected person' will clarify the current law, it will alter or vary section 85 of the Constitution Act 1975. Accordingly, I wish to make a statement under section 85 of the Constitution Act 1975 of the reasons for altering or varying that section pursuant to the Police Regulation Act 1958.

Clause 12 of the bill will insert a new section 129A(6) in the Police Regulation Act 1958. It will provide that it is the intention of section 86KJ of the Police Regulation Act 1958 as it applies on and after the commencement of clause 9 of the bill to alter or vary section 85 of the Constitution Act 1975.

Clause 9 of the bill will amend the definition of 'protected person' in section 86KE of the Police Regulation Act 1958. Section 86KE currently defines a 'protected person' in the present tense as someone falling into a category listed in subsections (a) to (e). The bill will amend section 86KE to confirm that the definition of 'protected person' includes someone who previously fell into one of the listed categories.

This amendment will widen the scope of section 86KJ, which currently provides that proceedings against a 'protected person' are limited to acts done in bad faith. The amendment to section 86KE will ensure that a former protected person is entitled to protection under the Police Regulation Act 1958. In this way, the amended definition of a 'protected person' will expand the class of persons to whom the section 86KJ protection applies.

I also wish to make a statement under section 85 of the Constitution Act 1975 of the reasons for altering or varying that section pursuant to the Police Integrity Act 2008.

Clause 7 of the bill will insert a new section 130(2) in the Police Integrity Act 2008. It will provide that it is the intention of section 109 of the Police Integrity Act 2008 as it applies on and after the commencement of clause 5 of the bill to alter or vary section 85 of the Constitution Act 1975.

Sections 104 and 109 of the Police Integrity Act 2008 replicate the provisions of sections 86KE and 86KJ of the Police Regulation Act 1958. These sections ensure that the protection afforded to the director and his staff operates prior to the commencement of sections 104 and 109 of the Police Integrity Act 2008.

The bill will amend the definition of a 'protected person' in section 104 to mirror the amended definition of 'protected person' in section 86KE of the Police Regulation Act 1958. The amended section 104 will widen the scope of section 109 in the same way section 86KE expands the class of persons to whom the section 86KJ protection applies.

Both section 86KJ of the Police Regulation Act 1958 and section 109 of the Police Integrity Act 2008 provide the protection necessary for the director and staff of the OPI to perform their significant public functions properly. To protect OPI investigations, confidential information, and the safety of informers, it is important to clarify beyond doubt that former OPI officers are 'protected persons' under the acts.

It is important that these amendments be made to clarify provisions of the Police Regulation Act 1958 and the Police Integrity Act 2008. Upon enactment the proposed bill will assist the director, police integrity, to carry out the functions of the OPI more effectively and ensure that the OPI can continue to perform its functions of detecting, investigating and preventing police corruption and misconduct.

Incorporated speech continues:

Whistleblowers Protection Act amendments

The bill also includes an amendment to retain the operation of equivalent contempt powers in the Whistleblowers Protection Act 2001 (the WP act). That act gives the director, police integrity, extensive powers to investigate disclosures under the WP act concerning the Chief Commissioner of Police or members of the police force. The power to punish any person who refuses to answer a question, produce a document or behaves in a contemptuous manner is necessary to prevent the director's investigations being frustrated. A power to punish a person for contempt in these circumstances will be reinstated into the act.

The measures in this bill will support police integrity, assist in maintaining community confidence in our police, and support police in professionally carrying out their duties and functions.

I commend the bill to the house.

Debate adjourned for Mr DALLA-RIVA (Eastern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 16 October.

ADJOURNMENT

Mr LENDERS (Treasurer) — I move:

That the house do now adjourn.

Sewerage: Lindenow and Lindenow South

Mr P. DAVIS (Eastern Victoria) — I direct a matter to the attention of the Minister for Water concerning the lack of sewerage services in part of the East Gippsland township of Lindenow and the whole of the nearby township of Lindenow South. Residents who have approached me on this believe the situation is inequitable and want the settled areas of both townships to be fully sewered for the general benefit of the community and for environmental reasons. I am advised there is a particular problem at Lindenow South where property owners have been refused development permits because of problems with septic tanks that overflow during wet periods.

The state government established the country towns water supply and sewerage program some years ago with $21 million funding for water and sewerage services and a further $12 million for towns in the Gippsland Lakes region. Another $20 million was allocated in the 2007–08 budget to be spent over four years on the small towns water quality fund, which includes a component to address the sewerage backlog in regional Victoria. At face value it appears these programs are intended to resolve precisely the nature of problems that are being experienced at Lindenow, which is not fully sewered, and at Lindenow South, where there is no sewerage scheme.

I understand regional water authorities are currently determining priorities for wastewater management schemes under the government's new funding program. There are compelling arguments for a scheme to be implemented for these two townships. They are in the Mitchell River catchment, which feeds into the Gippsland Lakes — a priority for government action. The Lindenow district is economically important to East Gippsland and Victoria as a prime vegetable producing region.

Infrastructure development in the two townships has largely been neglected — a factor which, if it were to be remedied, would foster development in an area offering outstanding lifestyle attractions and proximity to Bairnsdale as the major service centre. While the government would rely to some extent on the advice of the regional authority, in this case East Gippsland Water, it does have a policy to provide water and wastewater services to smaller rural centres, particularly those in the vicinity of the Gippsland Lakes.

For these reasons I ask that the minister act to list a sewerage scheme for Lindenow and Lindenow South in the program of projects to be undertaken with the newly allocated fund.

Geelong Hospital: funding

Mr KOCH (Western Victoria) — My matter is for the Minister for Health and concerns the failure of the Brumby government to adequately fund Geelong Hospital. Across the state Victorians are waiting longer for elective surgery and to obtain treatment in

emergency departments. The latest report on Victorian hospitals reveals a system under intense strain. It shows that more than 37 000 patients are waiting for elective surgery and proves that the Brumby government has failed five out of nine of its own performance benchmark standards. This scathing report card on Victoria's health points to a health system in crisis.

Hospitals have failed to meet most of their targets, and the number of patients waiting for urgent treatment has doubled. More patients each year are not getting treated on time, and hospitals are struggling to move patients out of emergency departments. Geelong Hospital failed four out of eight government benchmarks. It has 128 more patients on the waiting list than at the same time last year. There was an increase from 2006–07 to 2007–08 of more than 930 patients waiting for more than 8 hours on an emergency department trolley. From 2006–07 to 2007–08 there was an increase of more than 900 patients waiting for more than 4 hours before being treated, and there was a 53 per cent increase from 2006–07 to 2007–08 in patients waiting more than a year for elective surgery.

Statewide statistics show that Victoria has the lowest per capita hospital funding of any state and that there are more than 363 000 patients missing out on clinically appropriate care. Victoria has the worst performance on treating category 2 emergency patients, with more than one in five patients missing out on urgent care in less than 10 minutes.

This shocking report card also shows that Victorian hospitals have the worse performance on treating category 3 emergency patients, with more than 3 in 10 patients missing out on care within 30 minutes, and the worst performance on treating category 2 elective surgery patients with 3 in 10 patients missing out on much-needed elective surgery within 90 days.

Victorian hospitals, doctors, nurses and patients are all suffering under the enormous pressure of over eight years of inadequate funding. The Brumby Labor government cannot be trusted to deliver timely health care and to do what is best for hospitals and patients. My request is that the minister address the lengthening waiting times, particularly at the Geelong Hospital, by providing the necessary resources, so that patients have timely access to hospital beds.

Police: numbers

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Police and Emergency Services. I must point out that it is not very often I am in the city on a Saturday night, and after a recent experience I have to say that I am very pleased about that.

I was at a function in the city last Saturday evening, and upon leaving that function I walked into total mayhem on the streets of Melbourne. This was at 11.30 at night. There were people literally falling over in the street, and I am not just talking about on the footpath, I am talking about on the road. People were rolling around and falling over each other. As I said, it was a scene of total mayhem and something that actually shocked me because I have not seen anything like this before. I have heard the stories, but I did not realise it was quite that bad.

The thing that really distressed me more than anything else, apart from the scenes that greeted me, was the fact that there was not a police officer in sight. There was an urgent need for police officers to protect those of us who were going about our business on a Saturday evening, but also to protect those people who were clearly in a state of disrepair, if I could use that term, and a danger to themselves; but, as I said, there was not a police officer in sight.

We have seen over recent months and I suppose years, meetings and councils of war involving governments, the Melbourne City Council and the business community discussing the problems that have been created on Melbourne's streets, but it is clear that we need more police on our streets. That would be an excellent start to provide the sort of solution we are looking for. In fact what we need on the streets of Melbourne is a surge of police in much the same way as we have seen in places like Honolulu, where you can walk around at any time of the night and day and be perfectly safe because they have a policeman on every corner. It is a very good way to do things.

I ask the Minister for Police and Emergency Services to provide Victoria Police with the resources to employ the numbers of police necessary to make Melbourne safe after dark. It is long overdue, and I sincerely hope the minister will give this request his urgent consideration and action.

The DEPUTY PRESIDENT — Order! At the outset I thought the member was describing a Richmond home game! I am concerned to some extent about that item being too general just to ask the Minister for Police and Emergency Services to provide the resources to resolve the safety issue in the city of Melbourne of an evening. I am not sure that that is a specific enough request, frankly, in the context of the adjournment. I ask the member to sharpen up that item in terms of a request to the minister.

Mr FINN — I have asked for the minister to provide Victoria Police with the resources necessary to employ enough police to ensure that the streets of Melbourne are safe. We are asking for the extra police necessary to enable this program of protection after dark in Melbourne to go ahead.

The DEPUTY PRESIDENT — Order! That is a general request, and I am not sure that it is necessarily helpful on the adjournment.

Ambulance services: Ararat and Stawell

Mr VOGELS (Western Victoria) — I rise tonight to raise an issue for the attention of the Minister for Health regarding a broken Brumby government commitment to provide ten extra paramedics for Ararat and Stawell — five for each community. In May the government announced that 100 additional paramedics would be employed by Rural Ambulance Victoria. This was a long-overdue recognition of the shortage of ambulance officers in rural Victoria. Of the 100 additional paramedics, 11 were to be employed in the Grampians ambulance region, including an officer for Horsham, five officers to be based at Stawell and five to be based at Ararat. There were a further five paramedics within the total of 100 who were not allocated to a region.

Since May the government has amalgamated Rural Ambulance Victoria into one statewide, Melbourne-based agency, which seems to be centralising ambulance services in major regional cities at the expense of smaller rural towns. The community has been told that the five paramedics who were to be allocated to Ararat will now be based over an hour away at Wendouree in Ballarat and the five paramedics for Stawell will now be based an hour away in Horsham.

Last week the government announced the appointment of phantom paramedics in Stawell and Ararat. The community was told that one Ararat and one Stawell paramedic position had been filled but the new staff would be based at Ballarat and Horsham respectively. The government says in one breath that these appointments are for country towns, but the officers will be based in the big cities. Ararat and Stawell ambulance stations are in need of these additional officers to help relieve the existing paramedics who are already stretched and working long hours on call.

The action I seek from the minister is to ensure that the additional five paramedics promised for Ararat and the five for Stawell are permanently based in those towns and the positions are not shifted to Ballarat and Horsham which, as I said before, are an hour away from Ararat and Stawell respectively.

I noticed that the Victorian Ambulance Service has claimed that Stawell is now being serviced by one extra paramedic based in Horsham; however, the Stawell paramedics inform me that they have not sighted this extra paramedic in Stawell — ever.

Responses

Mr JENNINGS (Minister for Environment and Climate Change) — I have one written response to an adjournment matter raised by Ms Lovell on 10 September 2008.

Beyond that, the matters for this evening that I will refer to my colleagues are as follows. Philip Davis raised a matter for the attention of the Minister for Water dealing with sewerage in Lindenow South.

David Koch raised a matter for the attention of the Minister for Health, seeking additional resources for the Geelong Hospital.

Bernie Finn, in relatively good voice, asked the Minister for Police and Emergency Services to find additional resources to enhance safety on Melbourne streets.

John Vogels raised a matter for the attention of the Minister for Health, seeking the specific location of paramedics in both Stawell and Ararat.

House adjourned 3.23 a.m. (Friday).