

# LEGISLATIVE COUNCIL

Wednesday 20 June 2007

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**The President** (The Hon. Peter Thomas Primrose) took the chair at 11.00 a.m.

**The President** read the Prayers.

## CONSTITUTION AMENDMENT (SPEAKER) BILL 2007

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Tony Kelly, on behalf of the Hon. John Della Bosca.**

**Motion by the Hon. Tony Kelly agreed to:**

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

**Second reading set down as an order of the day for a later hour.**

## HOUSEHOLD WATER CONSUMPTION

**Motion by Dr John Kaye agreed to:**

That this House:

- (a) notes that average annual household water consumption in Sydney, the Blue Mountains and the Illawarra has reduced from 255 kilolitres in 2000-01 to 203 kilolitres this year, and
- (b) congratulates and thanks the residents of Sydney, the Blue Mountains and the Illawarra for their efforts in reducing water consumption, both by investment in more water efficiency appliances and by changing habits.

## SYDNEY WRITERS FESTIVAL

**Motion by Dr John Kaye, on behalf of Ms Sylvia Hale, agreed to:**

- 1. That this House notes the success of the 2007 Sydney Writers Festival attended by over 75,000 people and acknowledges the significant cultural, social and economic contribution of the festival to New South Wales.
- 2. That this House congratulates the Festival Director and staff as well as participating writers and audiences for their contribution to a successful event.

## BUDGET PAPERS 2007-08

### Production of Documents: Order

**Motion by the Hon. Greg Pearce agreed to:**

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents in the possession, custody or control of the Treasurer or NSW Treasury in relation to the 2007-2008 Budget:

- (a) any documents, excepting any budget papers tabled in Parliament, provided to individual members of Parliament outlining regional electorate capital works summaries, by electorate,
- (b) any documents, excepting any budget papers tabled in Parliament, which refer to capital expenses by electorate, by agency, funded by appropriations from Parliament as well as funds from asset sales and other sources,
- (c) any other documents, excepting any budget papers tabled in Parliament, which refer to capital and recurrent expenses by electorate, and
- (d) any document which records or refers to the production of documents as a result of this order of the House.

**MS SEKAI HOLLAND****Motion by Ms Lee Rhiannon agreed to:**

That this House:

- (a) congratulates Ms Sekai Holland, former Australian resident and opposition activist in Zimbabwe, for the outstanding work she has done to restore democracy in that country, and for her work to alert the people of Australia to human rights abuses in Zimbabwe,
- (b) condemns the Mugabe regime for the brutal attack on Ms Holland that resulted in her sustaining broken bones and extensive bruising, and for detaining her when she tried to fly out of Zimbabwe,
- (c) wishes Ms Holland a speedy recovery during her stay at a Sydney hospital, and
- (d) urges all Australians to support the work of Ms Holland and other opposition forces in Zimbabwe who are striving to rebuild civil and economic life in that country so it no longer has the lowest life expectancy of any country in the world, an inflation rate of 1,800 per cent, the highest in the world, and 80 per cent of its population out of work.

**PETITIONS****Killalea State Park**

Petition objecting to multiple parts of Killalea State Park being leased to private interests for 52 years to undertake a major accommodation development, received from **Ms Sylvia Hale**.

**BUSINESS OF THE HOUSE****Postponement of Business**

**Government Business Notice of Motion No. 1 postponed on motion by the Hon. Tony Kelly.**

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders: Order of Business**

**Ms LEE RHIANNON** [11.08 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 64 outside the Order of Precedence, relating to the Save Anvil Hill Bill, be called on forthwith.

It is a matter of urgency that the Save Anvil Hill Bill 2007 is debated today. It is urgent for this bill to be considered immediately as runaway climate change is having such a severe impact on our economy, the environment and our society. The negative impacts will only worsen if we do not stop expansion of the coal industry. This debate is urgent because this bill would stop the development of the Anvil Hill coalmine and so send a clear signal to the coal industry that it is time to put the community and the world environment before the quest for profits. Debate on this bill is urgent because we need to take a stand now in this Parliament to check runaway climate change. This bill needs to be given top priority for debate today as it would put the brakes on the mining of coal—the main climate change culprit. Coal is the main culprit, as the burning and mining of coal contribute 40 per cent of Australia's greenhouse gas emissions.

I urge members to support this urgency motion so we can start dealing with climate change in a meaningful way. This is a matter of urgency. The Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), Minister Assisting the Minister for Climate Change, Environment and Water (Environment), Ms Verity Firth, in September 2006 at a meeting of the City of Sydney council voted for a motion opposing the Anvil Hill coalmine. At various public forums in this year's election campaign she stated her opposition to the Anvil Hill mine going ahead. The people of New South Wales have a right to understand what commitments and promises on climate change this Government will honour. It is a matter of great urgency that New South Wales do all it can to ensure that the prediction that within 50 years there will be little snow and ice on the Himalayas is not realised. This is a matter of urgency, as the Anvil Hill coalmine would add more than 529 million tonnes of carbon dioxide to the earth's atmosphere over the next 21 years.

**The Hon. Tony Kelly:** Point of order: The Greens often use an urgency motion as a tactic to spend 10 minutes to get on record their attack on a particular company or person. That is exactly what they are doing

again now. The contribution of Ms Lee Rhiannon should be about urgency only and why the matter should be debated today and not in the normal course of events as it comes up through the chook lotto, or whatever it is called.

**The Hon. Melinda Pavey:** Members' draw.

**The Hon. Tony Kelly:** Members' draw, thank you. Mr President, I ask you to draw the member back to the matter or urgency, and require that she not make an attack on the company.

**The PRESIDENT:** Order! I uphold the point of order. Ms Lee Rhiannon may continue but only to advise why she believes this matter should be regarded as urgent.

**Ms LEE RHIANNON:** This is a matter of urgency as the economy of New South Wales is being damaged by runaway climate change, and the Labor Government, with the support of the Coalition parties, is failing to respond. This House has a responsibility to consider the impact that the loss of overseas renewable energy contracts is having on the State's economy. This cannot occur without phasing out the coal industry. That is why it is so important that a debate on Anvil Hill occur today. It is vital that this House consider the lost trade opportunities with China, a country that is bound by law to take 15 per cent of its energy from renewable energy sources by 2020 and that has committed to investing \$180 billion in renewable energy by then.

It is urgent that the Save Anvil Hill Bill, which directly addresses climate change, is debated today as the report by economist Sir Nicholas Stern argues that global warming could shrink the global economy by 20 per cent. New South Wales cannot afford that level of economic damage and that is why the bill should be brought on urgently. This is a matter of urgency as the total cost of all the carbon dioxide over the life of the Anvil Hill coalmine is \$54 billion. Those figures are based on the estimations of Sir Nicholas Stern and the Australian Greenhouse Office. Sir Nicholas Stern estimates the total cost of damage for each tonne of carbon dioxide at \$103.

**The Hon. Tony Kelly:** Point of order: Again, the member is going to the text of the debate and not really showing why it should be brought on today and not, perhaps, on a private members' day, let alone in front of all the other matters already listed for private members tomorrow. The member definitely has not given an argument as to why this matter is urgent.

**The PRESIDENT:** Order! Again I uphold the point of order. Ms Lee Rhiannon must confine her remarks to the reasons this matter should be considered urgent.

**Ms LEE RHIANNON:** I do point out that climate change is the most urgent issue facing the world and indeed the economy, the environment and all communities in New South Wales. I urge members to support the urgency motion.

**The Hon. TONY KELLY** (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [11.13 a.m.]: I will not grace this debate with anything other than to say that it is not urgent, as I have pointed out. This matter could come up in the normal course of events. The Government will vote against the motion.

**Dr JOHN KAYE** [11.13 a.m.]: I support the call for urgency, which rests on two key pieces of evidence: first, the overwhelming economic analysis that says very clearly that acting now on climate change, reducing greenhouse gas emissions, is essential if we are to contain costs in the long term. Waiting around for it to come out of a chook raffle or anything else is unacceptable.

**The Hon. Tony Kelly:** Point of order: Again, the member is using this opportunity for arguing purposes. Also, I would like you to ensure that the clock is working so that members have only five minutes to talk and waste our time.

**The PRESIDENT:** Order! The Clerks will ensure that members are given the correct amount of time to contribute to debate. Dr John Kaye may continue. However, I uphold the point of order and remind him that he must confine his remarks to advising the House why he believes the matter is urgent.

**Dr JOHN KAYE:** I will attempt to be brief. There are two pieces of evidence to which I will refer: first, the overwhelming evidence that this matter is urgent because delaying action on greenhouse gas emissions

will impose enormous costs in the long run. The Intergovernmental Panel on Climate Change, the Stern report, the Australian Greenhouse Office and every reliable independent international expert say the same thing: We have to act now: we cannot wait. Second, the coal industry will have a huge impact, particularly if Anvil Hill coalmine is allowed to go ahead. This matter is particularly urgent because approval has already been granted for the Anvil Hill coalmine.

It is only fair to the developers of Anvil Hill, Centennial Coal, that we act with all due haste to give certainty as to the future of the development. The longer this is left, the further the development goes, the greater the expense that will be incurred by Centennial Coal. No matter what one's views are on climate change and how one views the international scientific evidence, a debate on the future of Anvil Hill coalmine is clearly urgent. I commend the urgency proposal to the House.

**Ms SYLVIA HALE** [11.16 a.m.]: This matter is urgent because we must immediately act to prevent the Anvil Hill coalmine been brought on line and thereby speeding up the process of pumping yet more carbon emissions into the air. The Anvil Hill mine will generate major amounts of greenhouse pollution, the equivalent of the entire New South Wales transport sector. This motion is urgent because of the damage that the coal industry is doing not just to the future but also to us now. This motion is urgent because residents of the Hunter Valley are already suffering from the carcinogenic effects of coal dust, and their anxieties mount every day with the prospect of Anvil Hill and yet more mines coming into operation.

This motion is urgent because the residents of Singleton fear that they and their children are already paying a terrible price for the coal industry and they fear that price will rise in future. This matter is urgent because we are now increasingly aware of the risks that face us with global warming. This matter is urgent, we need to wait no longer before deciding to act, because as the Stern report stated:

Uncertainty should not be inflated and invoked as an alibi for inaction. We now have a theory that can describe how to act.

One of the first acts we should undertake as a matter of urgency is to move to prevent Anvil Hill being brought into production.

**Question—That the motion be agreed to—put.**

**The House divided.**

**Ayes, 4**

Mr Cohen  
Ms Rhiannon  
*Tellers,*  
Ms Hale  
Dr Kaye

**Noes, 29**

Mr Ajaka	Mr Khan	Ms Sharpe
Mr Brown	Mr Lynn	Mr Smith
Mr Catanzariti	Mr Macdonald	Mr Tsang
Mr Clarke	Mr Mason-Cox	Mr Veitch
Mr Colless	Reverend Dr Moyes	Ms Voltz
Mr Costa	Reverend Nile	Mr West
Ms Ficarra	Mr Obeid	Ms Westwood
Mr Gallacher	Ms Parker	<i>Tellers,</i>
Ms Griffin	Mrs Pavey	Mr Donnelly
Mr Kelly	Ms Robertson	Mr Harwin

**Question resolved in the negative.**

**Motion negatived.**

**CHILD PROTECTION (OFFENDERS REGISTRATION) AMENDMENT (SUSPENDED SENTENCES) BILL 2007**

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Tony Kelly, on behalf of the Hon. Eric Roozendaal.**

**Motion by the Hon. Tony Kelly agreed to:**

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

**Second reading set down as an order of the day for a later hour.**

**HUMAN CLONING AND OTHER PROHIBITED PRACTICES AMENDMENT BILL 2007**

**Second Reading**

**Debate resumed from 19 June 2007.**

**The Hon. MELINDA PAVEY** [11.28 a.m.]: I am a Christian who entered this debate with an open mind and an open conscience. I am one of the parliamentarians who attended briefings organised by those in support of the bill and those against the bill. I met with Katrina George and Dr Monique Baldwin from Hands Off Our Ovaries. I was impressed by their passion to protect women from mass egg harvesting and the effect that such activities could have on women's health worldwide. I have been both moved and at times offended by the lobbying efforts of some to have me accept their opinion. Ultimately, the decision that each of us makes must be respected. We draw on all our life experiences and the information before us to come to a sound and proper decision. This issue comes down to one of conscience and what, on the balance of all available information, would be the best outcome for society and, ultimately, the world in which our children will live.

Being a lover of history, with a passionate belief that we move forward only by respecting our past, helps me to make a decision in regard to this bill. History is full of scientific radicals who challenge the orthodoxy of their time. They were ridiculed and punished by their peers and by the church for pushing boundaries to reach positions that we now take for granted. In 1633 Galileo Galilei, the father of science, was forced to stand trial for heresy and was required to recant ideas that the earth revolved around the sun because his beliefs contradicted those of the Catholic Church and the interpretation of the *Bible* at that time. He was ordered into house arrest, which he remained in for the rest of his life, and died nine years later, in 1642. Louis Pasteur's discovery that airborne microbes were the cause of disease turned the scientific community on its head. The medical establishment at the time said, "The world into which you wish to take us is really too fantastic." Many forms of stem cell research are available to the community, but the new frontier of embryonic cells is the one that is causing most concern.

We have foetal, umbilical and adult stem cell and blood cell research available to us at this time. Each has its benefits and limitations. Scientists in the United Kingdom revealed in a recent study that 15 young patients with type 1 diabetes overcame their dependence on insulin after being treated with stem cells drawn from their own blood.

For many people opposed to embryonic stem cell research this debate raises the question of when a human is created from both a religious and a humanist viewpoint. I think many of the problems in this debate are caused by the mistaken belief that the research involves a human egg fertilised with human sperm that is allowed to grow outside the womb for 14 days. That is not the case. The bill continues the prohibition on the fertilisation of an egg outside the womb for research purposes. I have considered this issue closely and believe using a surplus egg outside the womb that has had its nucleus removed and that does not come into contact with sperm is not playing with human life. It is far better to have a strict regulatory framework for conducting stem cell research rather than driving it underground, creating the "mad scientist" scenario. That secure regulatory framework was developed through the Lockhart review and is presented to us now in the form of the legislation we are debating.

I must refer to concerns raised by my Federal colleague from The Nationals, Kay Hull, who raised some excellent issues in her speech in the House of Representatives. She talked about the fake footage showing the paralysed mouse moving after being injected with stem cells. She spoke of the Korean scientist Hwang Woo Suk and his fraudulent, unethical research using the donated eggs of his young researchers, and the lack of

licences being sought by scientists to conduct stem cell research. I share those concerns and agree that, given it is now five years since the passage of the original legislation allowing research into surplus embryos, the take-up of licences to undertake embryonic stem cell research has moved at a snail's pace. However, nine licences have been granted in Australia since the 2002 legislation was passed, and only one of those nine licences is for research into a particular disease: diabetes. Under that single licence 30 embryos have been used, with the successful creation of one embryonic stem cell line. One would suggest that that is success enough to continue the research.

One of the more outrageous claims being circulated by the opponents of embryonic stem cell research is that it will legalise the following barbaric practice. Opponents of the bill are claiming mischievously that it will allow immature eggs taken from aborted girls to be fertilised with adult male sperm thus creating a human embryo with an aborted girl as its genetic mother. This is scaremongering at its worst as it is biologically impossible to fertilise an immature egg. Aside from the science, it is impossible because the human tissues Act requires donor consent for experimentation to occur. An aborted foetus cannot consent to donating her eggs. This furphy is being peddled at the highest levels. This type of misinformation is ultimately the worst kind of propaganda and has caused the community to be frightened by the prospect of embryonic stem cell research. By its very name, the bill will prohibit "human cloning and other practices". The permitted research will not involve human cloning and women will be protected from pressure to sell their surplus eggs as the bill explicitly forbids the trading in human eggs, human sperm and human embryos.

Yes, members, it is a brave new world, but I do not think Aldous Huxley would be pleased that those hiding behind the fear of that world are using his book to peddle alarmist nonsense in their opposition to the bill. Almost a decade before the rise of Stalin and Adolf Hitler, Aldous Huxley wrote of the dangers of totalitarianism, tyranny and terror. He did not write about conscience votes or strict regulatory frameworks governing scientific endeavours to find cures for diabetes, spinal cord injury or motor neurone disease. In fact, members who cite *Brave New World* when making their arguments may be interested to know that Aldous's grandfather, Thomas Henry Huxley, was a great biologist who helped to develop the theory of evolution.

The legislation before us deals with embryonic stem cells. In good conscience I do not believe I can stand in the way of this new research. Yes, it is new. Yes, it is trailblazing. Yes, it may fail. Yes, it may succeed. Yes, it is challenging the scientific, legal and religious communities. Yes, it is giving people hope and it may end up being false hope for some—but what if it is not? By blocking the bill we will not be able to test whether that hope is false or real. That is the dilemma. Technology and research capabilities being what they are, the scientific community will continue to challenge many frontiers and comfort zones. Some regard this as a slippery slope; I regard it as scientific endeavour. According to the Catholic Church in the seventeenth century, the theory that the earth orbited the sun was a slippery slope. Let us give the history books the chance to record that embryonic stem cell research gave scientists the power to find a cure for motor neurone disease and diabetes and to repair hearts, livers and spinal cords. This is the best way to show our concern for human life and to display our humanity.

**The Hon. MARIE FICARRA** [11.35 a.m.]: The Human Cloning and Other Prohibited Practices Amendment Bill has been introduced in this place to expand human embryo research in New South Wales. The object of the bill is to amend current New South Wales legislation to mirror amendments made to corresponding Commonwealth legislation in late 2006. As a scientist, I understand that regenerative medicine is an exciting new field with the potential to repair damaged organs and body parts with human stem cells. Lots of money and research efforts are being invested in this scientific field. Patient advocacy groups have been quite articulate about the issues surrounding the legislation, and I believe they are most sincere in their motive to assist people with disabling medical conditions and diseases. We all share their desire to alleviate suffering and we support ethical, medical and pharmaceutical research directed towards such a goal.

However, with every technological development we should ask ourselves: Is it ethical? Where will the stem cells come from? Human life—and, yes, even embryonic human life—should never be sacrificed as a research tool. The bill will allow New South Wales licensed and approved scientists to create cloned human embryos for research by somatic cell nuclear transfer—the same technology involved in the development of Dolly the sheep in Scotland in 1997. Embryos cloned by this same technique and allowed to develop fully would be a genetic copy of another person from whom the nuclear material was obtained.

When New South Wales legislation regulating embryo research was considered in 2003 no cloning procedure of any kind was permitted. It was agreed just four years ago that human embryos should only ever be created for the sake of treating infertility. What has changed since then? As a scientist who has been deeply

involved in women's health issues for many years, I am concerned about the ethical and scientific misconceptions surrounding the cloning debate. From talking to some members of the public I have learned that they hold the central ethical misconception that cloned embryos are not human embryos and so creating them for research does not violate medical or research ethics. All embryos created naturally, by IVF or by cloning are living human beings capable of further development. We require truthful terminology and full information in plain English if we are to reach sound ethical and legislative positions.

In January 2006 the Sexton Marketing Group on behalf of the Southern Cross Bioethics Institute conducted public polling regarding human cloning through a national telephone poll of 1,200 people. It found that 51 per cent of respondents opposed the cloning of human embryos for stem cells. When it was explained that the embryos would be destroyed in the process of obtaining stem cells the opposition increased to 55 per cent; 43 per cent of respondents were previously unaware of this fact. The Swinburne University research conducted in 2004 concluded with the statement:

There is good evidence to conclude that the Australian public do not feel comfortable with scientists cloning human embryos for research purposes.

This was ignored by the Lockhart committee. Follow-up research by the same group last year, 2006, showed that only 31.5 per cent of Australians who had been given a full explanation of the procedure feel comfortable with therapeutic cloning. In contrast, the Morgan poll published in June 2006 has been used by the supporters of this bill, and it claimed that 80 per cent of Australians supported human cloning from embryonic stem cells. In fact, that Morgan poll gave limited information and phrased questions selectively; I quote the following:

Scientists can now make embryonic stem cells for medical research by merging an unfertilised egg with a skin cell. In this case, no fertilisation takes place and there is no merger of the egg and sperm.

Respondents were then asked:

Knowing this, do you favour or oppose embryonic stem cell research?

This was clever manipulation of a poll, I would say, to get the desired outcome. The Morgan poll omitted the words "clone" or "cloning". Many respondents would not have understood that the process would still create a living human embryo—another term that the poll avoided—which, if implanted in a woman's womb, would be born as a baby, but with this legislation would instead be destroyed by the extraction of its stem cells. Similar polls by AC Nielsen in September 2006 and Crosby Textor in November 2006 also gave inadequate and misleading information to their respondents. Opinion polls and statistics are only as good as the information given and the objective wording of the questions asked.

The National Health and Medical Research Council, via its licensing committee, has issued only nine licences for research using excess in-vitro fertilisation embryos—and only 30 per cent of the embryos that are the subject of those licences have been used or are to be used for stem cell extraction. The emotive use of speculative medical discoveries and breakthroughs is cruel and inaccurate. In the recent discredited South Korean research on the matter, young female researchers were unethically coerced into providing over 2,000 human eggs. The provision of human eggs is the biggest drawback in the supply chain, and this means vulnerable women are at risk of possible exploitation.

The supporters of this legislation argue that this technology is needed for the purpose of research including drug testing and the harvesting of rejection-proof stem cells for transplantation, hence the term therapeutic cloning, which is a sympathetic title. But we need to remember that cloning remains cloning! The genetic material from a person's body cell, be it skin or oral mucosa, is introduced into a woman's egg, which has had its own nucleus removed. Growth and cell division occurs to produce a human embryo. That human embryo will be a genetic copy of the person who provided the body cell to begin with, similar to an identical twin. The embryos would not be allowed to develop for longer than 14 days or be placed in the body of a woman, thus prohibiting human cloning for reproduction.

Under current legislation, the only human embryos that can be used and destroyed for research are excess assisted reproductive technology embryos, created originally to assist infertile couples. If more embryos are created than a couple need to have implanted and brought to birth, then the couple can donate their excess embryos for research. The big difference in this current legislation as distinct from past practices is that we would be allowing the creation and destruction of human embryos solely for the purpose of research.

My dilemma and that of many of my parliamentary colleagues is that human embryos are human beings at the very beginning of life—whether by fertilisation or by cloning, whether the genetic material required is conveyed via sperm or via a micropipette! In reality, these artificially produced human embryos have all the material to differentiate into human beings if given nutrition via a woman's womb and the time to develop into a foetus and then a child.

Human embryos should never be purposely manufactured so that they can be used and destroyed as a means to other people's ends, whether it is research orientated or not. The line has to be drawn somewhere. Bioethics should be important to legislators, scientists, medical practitioners and the general public. Doing evil for the sake of the greater good is flawed and should be rejected. At the core of the practice of medicine is that good medicine should not harm one person in order to heal another, let alone create a human embryo only to knowingly destroy it, for some perceived or possible benefit in the future. Using future medical advances as a lure to pass this milestone legislation is cruel to the persons suffering from debilitating diseases, along with giving false hope and not telling the full story regarding other means of research currently available and scientific breakthroughs that have come to light in recent weeks.

The principle of human dignity irrespective of age, size, location, stage of development or condition of dependency should be maintained by all legislators. This bill would result in two classes of human life: those embryos created to live and those created to be destroyed for research. The 14-day destruction time limit is arbitrary. Where to next if researchers discover that 28-day embryos are more stable and useful as stem cells? We have already opened the floodgates. Just try to stop so-called medical progress later! Human cloning will depend on the invasive harvesting of eggs from women. It will place women at risk of exploitation, possible illicit trade, and physical and mental harm. Where will it all end? Even now some are calling for the use of later-stage embryos with formed organs. When the possibility of abuse presents itself, we should expect that some would exploit this situation.

How do researchers get the bank of women's eggs or ova that will be needed if this bill is passed? Let us look at the process required. A woman injects herself daily with hormones for one to three weeks. These hormones stimulate the growth of ovarian follicles, suppress ovulation and promote egg maturation. When the eggs are ready, the woman is brought into the surgery, given intravenous sedation and a transvaginal probe is pushed into her ovary, where eggs are sucked out of each follicle one by one. Where healthy women usually produce one egg per month, a woman undergoing this procedure produces around 10 to 12 eggs for harvesting.

And what of the health risks associated with this egg extraction? They are vaginal, intra-abdominal and intestinal bleeding; 10 per cent of women will experience ovarian hyper-stimulation syndrome, mild to severe in nature, resulting in bloating, nausea, vomiting, shortness of breath, blood clots, renal failure, intra-uterine polyps, ovarian cysts, ovarian rupture and associated haemorrhage and possible infertility. These are all facts well known to researchers and medical practitioners involved in in-vitro fertilisation treatment. Long-term health risks are ovarian, breast, uterine and endometrial cancers. The mass harvesting of women's eggs raises serious issues about women's health, their status and their wellbeing. When women give informed consent, just how well informed are they of the health risks associated with egg extraction?

With cloning still in its infancy internationally, there are already indications that this research may only be practicable through the commercial sale of women's ova. In the United Kingdom extensive advertising campaigns have failed to recruit sperm and egg donors without a commercial payment. Are women willing to be so altruistic in the donation of their eggs? I do not think so. Health authorities in the United Kingdom have allowed commercial incentives to be offered for egg donation, dubbed "egg sharing". In fact the North East England Stem Cell Institute now offers women in-vitro fertilisation at a reduced cost in return for their surplus eggs for research. One can imagine that this would occur where donors are desperate to have a baby and are enticed to donate eggs by financial necessity because of the expense involved in in-vitro fertilisation.

Biotechnology companies are usually profit-making ventures, so commercial payment for their raw material—women's eggs—would be a logical outcome. There have been reports from the United Kingdom of underprivileged Eastern European women who have been physically damaged and, in some cases, rendered infertile after selling their ova to London fertility clinics. It is a well-known scientific fact that the healthiest eggs come from younger women. The potential existed for coercion of young women to donate eggs, whether due to social disadvantage, family or workplace pressures. As legislators we must ensure that the health and welfare of women is not compromised in the name of biomedical research. We currently have ample stem cells for research purposes from the tissues and organs of children and adults, placentas and umbilical cord blood. These cells have been successfully used therapeutically in more than 70 medical conditions including Parkinson's disease, spinal cord injury, blood diseases and heart damage.



Research reported in recent weeks in the reputable scientific journal *Nature* by three different international groups shows that normal skin cells can be reprogrammed to an embryonic state in mice. Further research is speeding ahead to apply this surprisingly straightforward procedure to human cells. If researchers succeed, it will make it relatively easy to produce cells that seem indistinguishable from embryonic stem cells and that are matched to individual patients. Why the rush with this legislation, which opens the door to unethical means of achieving the same outcome? Indeed, this scientific breakthrough has focused academic interest in earnest on this field of genetics, which is moving at a rapid pace. Pharmaceutical, government and institutional funds are being poured into research that will employ ethical means of achieving the therapeutic advances we need. This breakthrough has changed the way we see things in the scientific world. We no longer need to look to cloning a patient to get cellular material that will help us relieve the illness associated with that patient.

Moreover, this procedure is simpler than therapeutic cloning because neither eggs nor embryos are necessary. As reported in *Nature*, Professor Shinya Yamanaka from Kyoto University has worked with fibroblasts, a common type of connective tissue cell that is easily harvested from oocytes. Bear in mind that he has never worked with a woman's egg cells or oocytes. Professor Yamanaka discovered that four genes, which code for four proteins known as transcription factors, could be transferred into fibroblasts using retroviruses. The proteins triggered the expression of other genes that cause the cells to become pluripotent stem cells: that is they have the ability to become any one of the body's cells. What is more, in the most difficult test the cells were then allowed to divide and develop into live mice. The scientific world is very excited by this incredible breakthrough research. If we had more time to consider this bill, perhaps many of my colleagues who will vote for it would reconsider their vote.

Another research group, led by Dr Rudolph Jaenisch at the Whitehead Institute for Biomedical Research in Cambridge, Massachusetts, in a collaborative effort with Dr Konrad Hochedlinger of the Harvard Stem Cell Institute and Kathrin Plath of the University of California, some of the leading stem cell research centres in the world, used the same four genes and resultant proteins with strikingly similar results. Whereas human cloning is limited by the number of available women's eggs, and a tricky and expensive technique that takes months to master, Yamanaka's technique, which uses the most basic cells, is a simple, inexpensive laboratory procedure that is simple to learn.

If this technique works on human cells from patients with conditions such as Parkinson's disease or diabetes, scientists will be able to observe molecular changes in the cells as they develop, to have diseases in a dish, and to monitor how environmental factors contribute to particular debilitating conditions. They will be able to test the ability of targeted pharmaceuticals to check the progression of a disease. However, much more research is required to produce cellular transplant lines for, say, spinal cord injuries. But researchers around the world are racing with this technology because it is so easy and inexpensive. Major research will now be directed along this path.

One thing is certain: Change will come quickly in this exciting new field of biomedical science. There is plenty of research for our New South Wales scientists to be gainfully occupied for many years, and that is what we are talking about—decades of research will be required with any form of stem cells. There exists today, and will continue to be legally available, sources of embryonic stem cells from excess in-vitro fertilisation embryos. We should not encourage more unnecessary destruction of life. The Lockhart report found that embryonic stem cell research findings have not yet translated into clinical trials or treatments. Most of these trials have involved adult stem cells because, at this stage, embryonic stem cell research has not reached the stage needed to start clinical trials, that is, proof of principle of a safe and efficacious treatment in animal models.

However, it comes down to our choice as legislators. Do we allow the creation of human life outside a woman's womb for the purposes of scientific research and knowingly allow for the destruction of this human life? All honourable members would have had hundreds of representations, correspondence, emails, visits and lobbying on behalf of persons and organisations opposed to the legislation. The New South Wales Council of Churches, the Anglican Church, the Baptist Church and the Catholic Church are quite formidable in their combined objections to social and moral issues that confront us as legislators, as is their right. As legislators we must affirm the inherent value and the vulnerability of human life prior to birth.

I oppose the creation of human embryo clones for the purpose of destruction for research, training and/or clinical application. The bill fails to respect the dignity of human embryos. It is a departure from society's shared belief in the value of human procreation. The creation of human life outside a proper human context should always be vigorously opposed. Most Australians would support increased public and private funding,

and support channelled into biotechnology where women would not be exploited or harmed and where human embryos would not be wilfully created and destroyed. I oppose the bill.

**The Hon. LYNDIA VOLTZ** [11.57 a.m.]: Cardinal Pell is entitled to his opinion, but we have a choice to accept it or not. At the end of the day members of this House are elected to represent the best interests of the people of New South Wales. When it comes to the church and science, the church does not have a particularly good record. In 1511 Miguel Servetus was born in Aragon. He studied law at the University of Toulouse, France, where he first read the *Bible*, which was only newly available in printed form. Servetus studied medicine at the University of Paris. He practised medicine for 12 years in Vienna. He viewed Jesus as a man upon whom God had bestowed divine wisdom. He believed Jesus came forth as a prophet bearing God's precious gift, but that he was not part of God's immortality.

Servetus held Jesus in the highest praise, calling Him The Light of the World. He insisted that those who believed in the Trinity could not escape the logic that they denied the one true God. However, his views were too extreme for the Protestants and they cast him out. The Supreme Council of the Inquisition in Spain summoned him to return to Spain to answer a charge of heresy—a sure death sentence. However, he remained in Paris, where he met a young student, John Calvin, who, at one time, was himself forced to go into hiding. Servetus began a heated correspondence with Calvin on the Trinity. In 1553 Servetus published a book called the *Restitutio*, which included 30 of his letters to Calvin on the Trinity. In his work he actually described pulmonary circulation and how oxygen is transferred to the blood through the lungs. There is little doubt that Servetus was a great scientist and intellect of his time. However, he was arrested in Geneva while travelling to Italy. He was treated with extreme harshness: for weeks he was kept in a damp cell with irons on his feet and not given clothes or food.

This revolutionary thinker and independent scholar was left to languish in his cell, yet he continued to argue his theological position and continued to challenge John Calvin. On 26 October Servetus was sentenced by a majority vote to be burned alive by a slow fire. Here was a man who was perhaps one of the greatest scientific thinkers of his age in the Western World, and he was destroyed. Only three copies of *Restitutio* remain. Since it was a theological work that was condemned by most of the Christian factions of his time, the discovery of pulmonary circulation remained mostly unknown until the dissections by William Harvey in 1616. I should also credit Ibn Nafis in Damascus in 1242 with first discovering pulmonary circulation.

The history of the church on science is not great—from the heretical trials of Galileo to Darwin—science is the phantom of the church's imagination. The progress of science creates great hope for easing the pain and suffering of many. At the moment, in Australia every day one person dies from motor neurone disease, every day one person suffers a severe spinal cord injury. Over 140,000 Australian children and adults have type 1 diabetes, and more than 100,000 Australians have Parkinson's disease.

**Pursuant to sessional orders business interrupted and set down as an order of the day for a later hour.**

## QUESTIONS WITHOUT NOTICE

### TRANSIENT MANUFACTURING WORKERS TRAINING

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Minister for Education and Training, and Minister for Industrial Relations. Is he aware that WorkCover has been working against his commitment to implement a training program for transient workers, particularly those in the manufacturing sector, and that recently WorkCover announced it no longer considers it to be its role to look after such a training program? Does he recall his Government's response to the recommendations arising from the New South Wales Workplace Safety Summit identifying as a priority issue the need for training transient workers in occupational health and safety? What action has he taken in response to the concerns of the Manufacturing Workers Union to assist transient manufacturing workers? Has he met with the union to discuss its concerns?

**The Hon. JOHN DELLA BOSCA:** The answer to the last part of the question is, no, I have not met with the Manufacturing Workers Union in recent times, specifically not to discuss this matter. I am not aware of WorkCover working against my policy, to use the Leader of the Opposition's term, in respect to any matters. I will investigate the matters raised in his question and provide him and the House with a response as soon as is practicable. I assure him that WorkCover would not be working against any of the Government's policies.

### YOUNG STUDENTS LITERACY SKILLS

**The Hon. PENNY SHARPE:** My question is addressed to the Minister for Education and Training. Will he outline the latest initiative to improve literacy for our youngest students?

**The Hon. JOHN DELLA BOSCA:** Among the many excellent initiatives funded in the 2007-08 budget are additional reading recovery teachers to help year 1 students to improve their literacy skills. The additional teachers will be employed under the \$81 million Best Start Program to give intensive assistance to the youngest students in New South Wales public schools. This program will result in 200 extra reading recovery teachers over four years who will work with year 1 students who are experiencing difficulties. Under the Best Start Program we will also introduce a literacy and numeracy assessment for all kindergarten students in public schools.

Identifying on entry to school what each student knows and can do will help teachers to give each student the best possible start in literacy and numeracy learning. Families will welcome this practical initiative. It will alter the course of the lives of many young people. Using the data from kindergarten assessments, teachers will develop early learning plans to build on students' strengths and to give them vital learning confidence in the early years. The \$81 million program includes professional learning support for teachers in how to use the assessment tools, how to develop early learning plans and the use of new software by teachers. The assessment is currently being developed by the Department of Education and Training's learning and development area.

In 2008, 400 schools will be involved, with a further 600 schools becoming involved in 2009 and the remainder joining the program in 2010. Reading recovery teachers provide daily, intensive, individualised, high-quality instruction for 30 minutes over a period of 12 to 20 weeks. The lessons are individually tailored to provide explicit instruction for each student. The program aims to lift skill levels to class average in the minimum amount of time. Students who have successfully discontinued from reading recovery return to the classroom and are better equipped to benefit from the lessons provided by the classroom teacher and the experience of their peers.

On top of the 200 additional reading recovery teachers, the Best Start Program will ensure that over the next four years every primary school will have a teacher with highly specialised expertise in leading literacy and numeracy learning in the school. These leaders will support newly appointed teachers, implementation of school actions in the State Literacy and Numeracy Plans and the building of teacher capacity and expertise to diagnose student literacy and numeracy learning needs for the full range of early learners.

The most recent English language and literacy assessment [ELLA] results were the best ever achieved by New South Wales students. Not only did our years 7 and 8 students achieve excellent results overall, but also the number of students in the lowest performance band was at a record low. This follows on the OECD finding that the literacy of students in New South Wales is exceeded only by their counterparts in Finland. These are world-class results. Notwithstanding these record achievements, the Iemma Government is working to lift standards even further. With the new kindergarten assessment and additional reading recovery specialists, New South Wales is leading the way in best practice in early literacy and numeracy diagnostic assessment.

### ROADS PORTFOLIO BUDGET INFORMATION

**The Hon. GREG PEARCE:** My question is directed to the Minister for Roads, and Minister for Commerce. Is he aware that information provided as a matter of course in previous budgets in relation to agency programs, outcomes and outputs as well as average staffing measures has not been included in the budget papers for his portfolio released yesterday? Is he further aware that it is claimed in the budget papers that the Roads and Traffic Authority [RTA] cannot even provide a date for commencement of road projects? Does he support transparency and accountability? Will he assure the House that if the Roads and Traffic Authority cannot tell when projects start, it does at least know when they finish?

**The Hon. ERIC ROOZENDAAL:** I thank the Hon. Greg Pearce for drawing those issues to my attention. I am well aware of those issues and will treat them accordingly.

### KURNELL DESALINATION PLANT

**Dr JOHN KAYE:** My question is directed to the Minister for Primary Industries, representing the Minister for Water Utilities. At what point and for what reasons did the Kurnell desalination proposal change

from being an emergency supply option, which was to be constructed only if storage levels fall below 30 per cent, into being a long-term supply option? Will the Minister make available to the public the expert advice used to justify this decision? What are the total annual opportunity costs of building a desalination plant that would sit idle when cheaper water supplies are available from replenished storages? Under the Government's current strategy, at what storage level would the Government stop construction of the Kurnell plant? Will the Government continue if storage levels reach 50 per cent, 75 per cent or 100 per cent?

**The Hon. Marie Ficarra:** Why did you guys give them your preferences?

**Dr JOHN KAYE:** Because you guys are hopeless.

**The Hon. IAN MACDONALD:** I thank Dr John Kaye for his question. I will refer it to the appropriate Minister for a speedy reply.

### ELECTRICITY SUPPLY

**The Hon. KAYEE GRIFFIN:** My question is addressed to the Minister for Energy. What is the Government doing to ensure continued reliable electricity supplies for New South Wales families and businesses?

**The Hon. IAN MACDONALD:** I thank the Hon. Kayee Griffin for her very timely question. Electricity supplies are a vital issue to the people of this State. That is why the Iemma Government is taking strong action and in the budget is investing a huge \$2.9 billion toward electricity infrastructure. That represents a spending increase of 22 per cent on last year and it makes up more than 22.9 per cent of the State's entire infrastructure budget. The Government is investing a record \$6 million a day, or a quarter of a million dollars every hour, on the State's electricity infrastructure to ensure a secure power supply. Obviously, this comes at a time when demand for electricity is continuing to grow.

New South Wales is open for business. The economy is expanding and the capital works budget of the State-owned electricity networks will ensure that all needs are met. Firstly, I will outline a few facts to enlighten some honourable members opposite. New South Wales has one of the most reliable electricity networks in the world. The State Plan commits us to boost reliability levels to 99.98 per cent by 2016. In 2007-08, EnergyAustralia is expected to spend \$892.7 million on infrastructure, including \$57 million to boost electricity supplied to the Sydney central business district, including the development of a major new zone substation, \$42 million on the development of a new integrated subtransmission zone substation at Argenton, \$23 million for a major upgrade of the Homebush subtransmission zone substation as well as refurbishment of the Auburn zone substation, and \$15 million on the development of the Morisset zone substation and feeders.

I am advised that Country Energy's 2007-08 capital budget of \$600 million includes expenditure on a range of network investment projects including a network upgrade project in Lismore; the construction of a new \$6.6 million zone substation, remote switching station and underground sections of sub-transmission lines; \$5.8 million to construct a new zone substation at Moonee, near Coffs Harbour; and \$5.7 million to upgrade the existing zone substation at Glenn Innes to improve power reliability and cater for future electricity demands.

Meanwhile, Integral Energy's forecast capital expenditure in the same period is \$447.9 million. Of this total capital expenditure, \$362.47 million is network capital. Major projects include \$126.4 million for capital refurbishment to help maintain customer service levels and improve the safety and environmental impact of the electricity system across Integral Energy's network. Other projects include \$18.5 million on the establishment of the Mungerie Park zone substation; \$16 million on the augmentation of 132-kilovolt feeders to meet existing and future demand at the Parklea, West Castle Hill and other new zone substations in the north-west sector.

But that is not all—the State-owned transmission company, TransGrid, will spend in 2007-08 \$432.8 million to expand the New South Wales high voltage electricity network. The work includes \$93 million for continued work on the western 500-kilovolt development, which includes new substations at Bayswater, Bannaby and Mount Piper, and \$32 million for transformer additions and replacements at Beaconsfield, Finley, Kempsey, Port Macquarie, Sydney West and Tomago. On the generation side, the three State-owned generators will invest close to half a billion dollars in 2007-08 with \$300.1 million by Delta Electricity, \$122.4 million by Macquarie Generation, and \$75.3 million by Eraring Energy.

Major projects and upgrades include: continued construction on the Central Coast of four open cycle gas turbines to be known as the Colongra gas turbine facility; continued installation of the fabric filter plant at

the Vales Point power station; and efficiency upgrades at Macquarie Generation's Bayswater and Liddell power stations, which, when complete, will save more than 700,000 tonnes of carbon dioxide annually. I am pleased also to report the newly created Department of Water and Energy will spend \$84.8 million in pensioner energy. *[Time expired.]*

#### OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS STAFFING

**The Hon. CHARLIE LYNN:** My question without notice is directed to the Attorney General, and Minister for Justice. With an extra 700 police generating more arrests and more prosecutions, should the Government increase the number of crown prosecutors and other lawyers in the Office of the Director of Public Prosecutions [DPP] rather than force staff cuts by cutting its budget by \$3.2 million?

**The Hon. JOHN HATZISTERGOS:** Unlike the Opposition, when the Government increases resources to the New South Wales Police Force we do factor in the impact that has on other agencies, including the Office of the Director of Public Prosecutions [DPP] and the courts. Therefore, it is erroneous to make the accusation that was implicit in the question. This year's budget, announced yesterday by the Treasurer, will see the budget for the Director of Public Prosecutions go to an estimated \$94.5 million. There has been some commentary that that represents a cut to the budget of the Office of the Director of Public Prosecutions. The simple answer is that there is no cut to the budget.

This is a matter of public record, and if members read the budget papers appropriately they will be informed about it. Last year an additional \$5.5 million was allocated for a pilot program called Criminal Case Conferencing, a program that aimed to reduce the number of cases going to trial. It was a pilot program and it was always intended that funding would cease at the end of 2006-07. The budget allocation for the Director of Public Prosecutions was to enable vigorous evaluation of the pilot program to determine whether it warranted implementation on a permanent and statutory basis, which is what the budget allocation for 2007-08 reflects. Leaving aside the pilot funding, the budget for the Office of the Director of Public Prosecutions has been increased by 2.4 per cent, which is broadly consistent with the projected consumer price index [CPI] increase.

#### HARRIS PARK CRIME

**Reverend the Hon. Dr GORDON MOYES:** I ask the Minister for Roads, representing the Minister for Police, a question without notice. Is the Minister aware of the concerns of Harris Park residents about crime in their suburb, the perceived inability of police to contain it, and moves for residents to patrol streets at night? Is the Minister aware of reported comments that police have advised residents to carry a fake wallet to give to robbers if accosted? Is the Minister aware that police have warned residents of serious legal consequences for those taking the law into their own hands? Will the Minister advise what specific measures have been employed to mitigate fears held by Harris Park residents about crime rates in their area?

**The Hon. ERIC ROOZENDAAL:** I will pass the question on to the Minister for Police for a response.

#### RURAL AND REGIONAL BUSINESS SUPPORT

**The Hon. TONY CATANZARITI:** My question is addressed to the Minister for Regional Development. Will the Minister provide the House with an update on what the 2007-08 budget means for the regional New South Wales economy and businesses?

**The Hon. TONY KELLY:** The Iemma Government strongly supports regional New South Wales and recognises the vital contribution that regional towns and rural communities make to the New South Wales economy. The Government is keeping its commitment to regional New South Wales by allocating \$38.5 million in this year's budget to create investment and jobs. Yesterday's budget builds on the Iemma Government's strong performance, driving investment and business growth across rural and regional New South Wales. From July 2005 until May 2007 the State Government helped secure more than \$1.9 billion of new regional investment, which has generated more than 7,300 jobs.

In line with the New South Wales State Plan we will continue to give priority to attracting new business investment and jobs to country areas, helping to grow new markets and working to boost regional economies. The 2007-08 budget will continue that commitment by funding a series of New South Wales Government programs and services for regional areas that operate at several levels—private enterprise,

community, industry and regional—and include delivery and monitoring the \$95 million payroll tax incentive scheme for new and expanding businesses in areas with higher than average State employment.

The Business Drought Assistance Program will continue to provide a range of measures to help establish regional non-farm businesses to survive the drought. The Regional Business Development Scheme will assist up to 100 firms each year in their efforts to establish and expand business operations in regional New South Wales. The Hunter Advantage Fund and the Illawarra Advantage Fund will provide regional specific assistance to companies with employment generating growth projects. The Regional Economic Transition Scheme will help regional communities adversely impacted by economic restructuring, by providing an important focus for those communities seeking to attract replacement businesses and jobs.

A range of community economic development programs, such as the Main Street/Small Towns program, will assist communities looking to harness economic growth prospects. In addition, a range of initiatives promoting regional New South Wales business opportunities will be conducted during the year. The Regional Food Tour, showcasing regional produce, and the Capital Raising Program, to help individual businesses through capital raising, will continue to receive funding. The fifth in the series Building Regional Towns Tours will be conducted to highlight property development opportunities in towns that are experiencing growth. That method of introducing developers and investors directly to country communities has resulted in more than \$24 million of regional investment to date, including developments worth \$10 million currently under negotiation in Nambucca on the mid North Coast.

**The Hon. Melinda Pavey:** A good area.

**The Hon. TONY KELLY:** It is a good area. Continued sponsorship for Country Week 2007 will help encourage skilled workers to relocate to country New South Wales. Other support includes Government backing of the statewide Community Economic Development Conference to be held in Moama in May 2008. That conference is an important event that brings together representatives from State and local governments, the community and business groups to explore new ways to promote sustainable economic development in regional communities.

The support does not stop there. The Department of State and Regional Development's 19 offices, located across main regional centres, will continue to provide assistance and access to a range of government services and programs aimed at helping businesses to grow and prosper in New South Wales. New South Wales is back in the black and open for business. The Iemma Government is providing widespread support to make sure that continues.

#### NATIONAL INVESTIGATION DATABASE

**Reverend the Hon. FRED NILE:** I ask the Minister for Transport, representing the Minister for Police, a question without notice. Are murderers, sex offenders and other criminals going free because the police do not have a uniform national database to track them down and arrest them? Has Mark Burgess of the Police Federation of Australia called for a national investigation database, which would include fingerprints, DNA and information about child sex offenders, et cetera? What action is the Government taking to ensure that this national database is introduced so that Federal and State police forces can communicate easily with one another?

**The Hon. ERIC ROOZENDAAL:** I will pass the honourable member's question on to the Minister for Police for his response.

#### INLAND RESTRICTED FISHERY

**The Hon. RICK COLLESS:** My question without notice is directed to the Minister for Primary Industries. Does the Minister recall his answer to my question on 5 June 2007 in which I asked how many restricted licensed fishermen could fish for carp and yabbies in the Murray-Darling electorate? Does the Minister also recall making an offer to the Deputy Leader of the Opposition that he would talk to the people affected and that the Deputy Leader of the Opposition should get them to give the Minister a ring? One of the people affected rang the Minister's office and, as of today, he informed the office of the Deputy Leader of the Opposition that no-one has rung him back at this point in time. When will the Minister return this fisherman's call and when will he talk to these people who either want to be allowed to fish or should be offered compensation?

**The Hon. IAN MACDONALD:** I thank the honourable member for his question.

**The Hon. Rick Colless:** You make these idle promises and you fail to deliver anything.

**The Hon. IAN MACDONALD:** I am very happy to meet with this fisherman.

**The Hon. Rick Colless:** When will you ring him back?

**The Hon. IAN MACDONALD:** The honourable member should calm down.

**The Hon. Rick Colless:** When will you ring him back?

**The Hon. IAN MACDONALD:** When will I ring him back? I am not sure whether or not he has rung me. I have not received a message that he has rung me but I will not dispute it. I have not seen any messages.

**The Hon. Charlie Lynn:** Why don't you check your messages?

**The Hon. IAN MACDONALD:** When I get a chance I will check my messages. As I said earlier, I am happy to meet with this person, whoever it is. After question time the Hon. Rick Colless might supply me with a name and phone number. If the matter is serious, I give the Hon. Rick Colless an undertaking that I will ring this person straight after question time. I make the honourable member that offer. If he gives me a name and number, I will certainly ring that person straight after question time.

**The Hon. Greg Pearce:** Will you go fishing with him?

**The Hon. IAN MACDONALD:** I am happy to go fishing with him. Whereabouts should we go fishing? If the member has a good little tinny, we can go out on the river. I will be in that. I look forward to the Hon. Greg Pearce arranging for me to go with him in a tinny out on the Murray. I am quite happy to do that. If the Hon. Charlie Lynn is able to get away from his duties relating to south Papua New Guinea, I will also take him. I would love to go fishing with him.

**The Hon. Charlie Lynn:** I will bring the tinny.

**The Hon. IAN MACDONALD:** The Hon. Charlie Lynn should make sure that he comes along as well.

### EDUCATION AND TRAINING BUDGET

**The Hon. MICHAEL VEITCH:** My question is addressed to the Minister for Education and Training. Can the Minister outline initiatives in the education budget that will benefit rural and regional New South Wales?

**The Hon. JOHN DELLA BOSCA:** I just happen to have some thoughts jotted down about that very thing. Public schools and TAFE colleges across rural and regional New South Wales are the major beneficiaries of spending in the 2007-08 budget. To his embarrassment, the Leader of The Nationals in the other place issued his pre-prepared news release, presumably without reading the budget, which was lazy and wrong. Schools and TAFEs in regional New South Wales have received \$4.5 billion in the Iemma Government's 2007-08 education and training budget. The rural and regional funding is part of a record \$11.2 billion New South Wales education budget—an increase of 4.9 per cent on the figures for the previous year.

According to reliable figures from the Australian Bureau of Statistics, [ABS], while under 40 per cent of New South Wales residents live in regional and rural New South Wales, the regions are receiving more than 40 per cent of the education and training resources. The Nationals' tired claim that this Government's funding is Sydney-centric simply is not true. Record spending in the budget demonstrates our commitment to quality education in rural and regional schools and TAFE colleges in New South Wales. The budget includes \$83 million in funding for new initiatives in rural and regional public schools, and an estimated \$116 million for maintenance programs in rural and regional schools and TAFE colleges.

Rural schools and TAFE colleges will particularly benefit from the new statewide technology initiative Connected Classrooms, with recurrent and capital funding of \$157.8 million over four years. An additional

\$81.6 million is also being provided over the next four years for the statewide Best Start Literacy initiative, which will introduce a consistent literacy and numeracy assessment to better guide the learning of all kindergarten students in public schools. To increase training opportunities for workers in regional areas, a network of New South Wales skill centres will be established at a cost of \$46.8 million over four years. This initiative builds on our network of trade schools, including schools in Tamworth, Wyong and Nambucca Heads funded in this budget.

Here are just a few of the rural and regional capital works projects: upgrading visual arts, staff facilities, sports courts and administration buildings at Bega High School; upgrading facilities at Floraville Public School; upgrading of library, agriculture, administration facilities, school frontage and car parking at Tweed River High School; facilities upgrades as part of the amalgamation of the primary and infant sites at Tumut Public School; refurbishing buildings C and E at Dubbo TAFE; Cambewarra Public School will receive four new classrooms as part of the demountable replacement program; and an upgrade of training facilities at Newcastle TAFE.

For the benefit of the Hon. Greg Pearce—I was told this morning by Illawarra ABC that this happens to be a point of some contention—he can find Helensburgh under "H" for Helensburgh on page 5, section 23 of Budget Paper No. 4, just after the upgrading of Guyra Central School and just above Holroyd gymnasium. The Opposition's scaremongering about this project does it no credit. An amount of \$400,000 has already been expended and, when completed in 2010, the major upgrade will have cost in the region of \$4 million. So the money is there and council approval is pending after some heritage issues have been resolved. Those heritage issues caused the delay about which the Hon. Greg Pearce continuously and foolishly interjects; the delay has nothing to do with the State Government's budget program. The Iemma Government's 2007-08 budget provides record spending on our students, teachers and school infrastructure right across the State. The budget concentrates specially in the regions and includes \$4.5 billion for regional and rural New South Wales.

#### **PUBLIC SECTOR WAGE INCREASES**

**Ms LEE RHIANNON:** I direct my question to the Minister for Education and Training, representing the Treasurer. Premier Iemma signed the pledge of the Public Service Association [PSA] on 15 March, which committed this Government to protect New South Wales public sector workers from WorkChoices. Further, the Australian Labor Party [ALP] election campaign material states, "Our rights at work—for us, our children and grandchildren—can't be put at risk". Therefore, is the Minister's decision to limit public sector wage increases to 2.5 per cent a rejection of the election commitments Labor made to public sector workers prior to the State election? In effectively cutting the wages of public sector workers and reducing their job security, has the Minister achieved some of the key objectives—to reduce wages and increase job security—of the WorkChoices legislation in New South Wales? Should the first point of the Public Service Association pledge be revised to read, "Protect the New South Wales industrial relations system from the Howard Government's WorkChoices laws and the Costa budget cuts to public sector wages?"

**The Hon. JOHN DELLA BOSCA:** I thought Ms Lee Rhiannon was referring to the concerted reputation that the Premier and I share in relation to a number of social matters, and suggesting that we sign the pledge of the National Woman's Christian Temperance Union of Australia. I confirm that neither the Premier nor I have signed that pledge. However, we signed the pledge relating to the New South Wales public sector workforce. With all due respect to the member, I think she has the bull by the horns in relation to a number of ideas canvassed in the media about so-called wages freezes. As I understand it, the term "wages freezes" is used by some elements of the media and perhaps by the Greens; it is not a term that is used by the Government.

There is no wages freeze and that is not the intention of the Government. It does not have anything to do with the budget that was brought down yesterday and nothing that occurred in the budget yesterday contravenes any of the commitments the Government made at the election. It is obvious from the narrative in the Treasurer's Budget Speech and the budget papers that were handed down yesterday that all the commitments made publicly by this Government are being fulfilled. In recent years public sector employees have experienced significant real wage increases across New South Wales. That means we have teachers, nurses, police, fire brigade employees and Crown employees—the full range of frontline public sector workers—at the leading edge of remuneration across the nation.

There is no doubt that in terms of work value, productivity and base salaries and wages New South Wales employees enjoy among the best, if not the best, conditions in Australia. We do not resile from that or believe it is a problem. We hold that view for two reasons. First, we know that the New South Wales labour



market—Sydney is a global city—stimulates expectations regarding wages and salaries, especially among skilled workers, in the public sector. Secondly, we believe in good public sector arrangements and an outstanding public sector. Simply put, we embrace the theory that if you want good value, you must pay for it. That is our attitude.

Most of the relevant awards and agreements, of which I think Ms Lee Rhiannon would be aware—as, sensibly, Labor members are—contain provisions for increases of about 4 per cent for the balance of this year. That is fully funded in the budget papers. If Ms Lee Rhiannon examines closely the estimates for next year, she will see that that is clear. Looking ahead—as it is customary and proper for any government to do—our policy is to maintain these wage levels in real terms. The Government will fund future increases in the forward budget estimates at 2.5 per cent. Additional increases will be available when workplace reforms achieve increases in excess of the cost of living. As I have said previously and as the Premier and the Treasurer have also made clear, industrial negotiations will continue. Sensible governments make provision for wage increases, and we have done that.

Agencies will work to develop reforms and appropriate means of making relevant savings so that any wage and salary negotiations can proceed expeditiously after the expiration of current agreements. The Public Employment Office, the Treasurer, other Ministers and I will obviously engage with the relevant workforce unions and discuss these matters as the arrangements expire. But Ms Lee Rhiannon can rest assured, as can the House and the entire public sector workforce, that the appropriate wage and salary increases are funded in the budget. There is an expectation that fair and sensible industrial negotiations will occur when those agreements expire.

**Ms LEE RHIANNON:** I ask a supplementary question. Will the 2.5 per cent pay rise apply to New South Wales members of Parliament or will the Government allow the Federal Remuneration Tribunal's 6.7 per cent pay increase to flow to the Minister and other members while public sector workers are underpaid?

**The Hon. Michael Veitch:** Point of order: That is not a supplementary question. Ms Lee Rhiannon is trying to get in another question that is out of order.

**The PRESIDENT:** Order! I uphold the point of order.

**Ms Lee Rhiannon:** To the point of order: Mr President, I urge you to allow the question, which clearly follows on from my earlier question. It will be a bad look if the Minister avoids answering it.

**The Hon. Tony Kelly:** Mr President—

**The PRESIDENT:** Order! I have heard enough on the point. My initial ruling was to uphold the point of order. I gave Ms Lee Rhiannon the opportunity to speak further in order that I should be apprised of all the argument on the point. I remind members that a supplementary question must seek to elucidate an answer; it must arise from the answer given by the Minister. There was nothing in the Minister's answer that would cause that question to be asked as a supplementary question. Accordingly, I uphold the point of order.

#### NOWRA COURTHOUSE

**The Hon. JOHN AJAKA:** My question is directed to the Attorney General. Given the original promise that Nowra courthouse would be completed by 2005 at an estimated cost of \$4.8 million and given that yesterday's budget papers show that there is a three-year delay, with a new completion date of 2008 and an estimated total cost of \$6.123 million—which is a blow-out of more than \$1.3 million—will the Attorney General admit that the Labor Government is unable to deliver projects on budget and on time?

**The Hon. JOHN HATZISTERGOS:** No.

#### TERRORIST MATERIAL CLASSIFICATION LAWS

**The Hon. IAN WEST:** My question is addressed to the Attorney General. Will the Attorney General advise the House of the latest information on proposals to amend classification laws to ban material that advocates terrorist acts?

**The Hon. JOHN HATZISTERGOS:** The scheme for the classification of films, publications and computer games across Australia is a nationally cooperative scheme. Recent changes to the national

classification code and guidelines were discussed at the April meeting of the Standing Committee of Attorneys-General. At this meeting the Federal Attorney-General presented a half-baked proposal to amend his own legislation to ban material that advocates terrorist acts. While I agree that we should condemn terrorist acts and material that advocates them, Mr Ruddock's proposal to the meeting was flawed in two ways. First, his proposal required Federal, State and Territory law enforcement officials to make decisions as to whether certain material advocated terrorist acts. In other words, police officers would be running around bookshops and reading material in order to ascertain whether it advocated a terrorist act—which I always understood was the job of the Classification Board.

The second problem with Mr Ruddock's proposal is that we already have a scheme to change classification laws through amendments to the code and guidelines. At the last Standing Committee of Attorneys-General meeting Mr Ruddock proposed duplicating this process through other avenues, thereby creating more red tape and uncertainty. For these reasons, at the last meeting of the Attorneys-General in April I proposed instead to strengthen the classification code and guidelines to ban material that advocates terrorist acts. The Federal Attorney-General agreed to my proposal, as did all other State and Territory Attorneys-General.

A discussion paper was subsequently released and 36 submissions were received from legal bodies, educational institutions, academics and religious organisations. The matter is now scheduled for discussion at the next meeting of the Standing Committee of Attorneys-General in July. However, in a stunning about-face the Federal Attorney-General has now indicated that he will introduce legislation into Federal Parliament as he had proposed originally, even though as late as yesterday in a letter to me he wrote:

I have a very strong preference for amending the Code and guidelines.

That is a stunning display of arrogance and contempt for the community, let alone State and Territory Attorneys-General, who went along with the process, and all the people who contributed to the consultation process. The Federal Attorney-General went through the motions of conducting community consultation and then ignored that process and proceeded unilaterally. This is despite Mr Ruddock's own admissions that his proposal is flawed. At the April meeting he said that he "had not seen any estimates as to how much additional policing would be required" for his proposal to be implemented.

Mr Ruddock also said he wanted to ensure that there was "a genuine attempt to deal with the gaps [in the law]". Yet he has displayed the kind of lack of genuineness that we have come to expect from his arrogant and cynical Government. Most importantly, Mr Ruddock said that he would "put off further unilateral action to allow that to happen". What a phoney commitment that was. First, the Federal Attorney-General backflipped on his April proposal to amend Federal legislation, agreed to public consultation and accepted that the matter should be reported back to Ministers in July 2007. But now he has backflipped on that idea and proposes instead to introduce a bill to amend his own legislation.

The real problem is that the Federal Attorney-General subverts the process for appointment to the Classification Board and the Classification Review Board. Honourable members will recall that most recently he appointed Donald McDonald, that great luminary, as the chair of the Classification Board despite the fact that two recruitment processes had already been undertaken at taxpayers' expense, including one conducted by an executive recruitment company, and Mr McDonald was not recommended by either process—indeed, he had not even applied for the job—and despite the fact that not one State or Territory Attorney-General supported the appointment. I remain of the view that in matters relating to terrorism, governments must remain vigilant and act to ensure— [*Time expired.*]

### GREY NURSE SHARK PROTECTION

**The Hon. ROBERT BROWN:** My question is directed to the Minister for Primary Industries. Following his answer to my question yesterday about grey nurse sharks in which he outlined current population estimates and made a welcome research commitment to breeding programs, will the Minister assure recreational fishers in New South Wales that the Department of Primary Industries will undertake further independent population research on grey nurse sharks, particularly if recreational fishing groups are prepared to cooperate by providing details about as yet unsurveyed locations of shark populations?

**The Hon. IAN MACDONALD:** That is a very good question. I have made clear to a number of groups, and to a former member of this place, the Hon. Jon Jenkins, that if evidence is presented to us of untapped populations of grey nurse sharks off the coast of New South Wales, we will certainly investigate them. If the honourable member can get the groups to present that evidence to us in a reasonable form, we will have it

investigated. As I advised the honourable member yesterday, there are no plans to alter the current regime in relation to grey nurse protection zones in the State.

### SCHOOL ZONE SAFETY

**The Hon. TREVOR KHAN:** My question without notice is directed to the Minister for Roads. Does the Minister recall his comments made recently in this Chamber that the Government is committed to school zone safety, and that the position of the Roads and Traffic Authority and the Government is to always look for ways to improve road safety around school zones? Can the Minister explain why it took more than a week to fix broken school zone flashing lights on the Kingsway at University Street in Miranda, outside Miranda Primary School and Port Hacking High School, during May? Is the Minister aware of any other reported school zone flashing light failures and the time it has taken to fix them?

**The Hon. ERIC ROOZENDAAL:** I am pleased the honourable member has asked me a question on the important issue of school zone safety. Unfortunately, the member does not understand the total approach to school zone safety in New South Wales. This has been a comprehensive approach. The flashing light technology to which the honourable member referred has been installed at more than 100 sites around New South Wales assessed by the Roads and Traffic Authority. A number of different designs put in place are being assessed by a panel, on which the NRMA is represented, to assess visibility, reliability and other relevant issues.

The honourable member may have seen some of the different styles of technology used. Some include flashing 40-kilometre-an-hour signage; some include flashing orange lights; and some quite prominent mastheads are being tested also. So we are testing a number of different technologies. Of course, there are a number of other aspects to school zone safety. I would like to recount to the House that only recently I was with Cherie Burton, the very hard-working member for Kogarah, when we opened a pedestrian overpass at Blakehurst Primary School—a fantastic, \$2.8 million project to build a pedestrian access over the highway. The young children put on a terrific display. They were very grateful, as was the principal in particular—

**The Hon. Lynda Voltz:** Point of order: It is very difficult to hear the Minister's answer because of the level of interjections.

**The PRESIDENT:** Order! I agree that it is very difficult to hear the answer, and I ask members to desist from interjecting.

**The Hon. ERIC ROOZENDAAL:** The principal was most grateful for that important pedestrian overpass—a \$2.8 million Government project to provide for the safety of children. A number of overpasses have been constructed at schools around New South Wales. But that is not the only way by which we are securing school zone safety. Pedestrian fencing has been erected at a number of schools in conjunction with overpasses. At some schools there are raised crossings, and at others there are light signals.

It is appropriate that the Government develop appropriate school zone safety measures to suit each school environment. Of course, schools have very different road environments. Some are on main and arterial roads that are extremely busy; others are on quiet back streets and therefore require different treatments to secure the safety of schoolchildren. It is also important to acknowledge as part of the Government's school zone safety package the hard work done by many pedestrian crossing supervisors, or so-called lollipop people. They work very hard, in adverse weather conditions such as we have today. They display stop signs and wear safety vests, to regulate the safety of schoolchildren. Many of them are retired and remain very much committed to the safety of schoolchildren round New South Wales. They do a fantastic job, in all weathers, to protect our schoolchildren. We are always on the lookout for more people to work as pedestrian crossing coordinators; there is always room for more of them. This is part of an overall package—

*[Interruption]*

The shadow Minister, the Hon. Melinda Pavey, may well in her next life be a pedestrian crossing co-ordinator. I note she is sitting where the Hon. Patricia Forsythe used to sit in this Chamber, and we know what happened to that member. I see the Hon. David Clarke nodding. Does he know something that the Hon. Melinda Pavey does not know? David, it is all right; we will keep it between us! We regard school zone safety as very important in this State, and we will continue to work to improve school zone safety and protect children at all schools in New South Wales.

## TRADE AND INVESTMENT

**The Hon. HELEN WESTWOOD:** My question is addressed to the Minister for State Development. Would the Minister update the House on the current status of New South Wales trade and investment?

**The Hon. IAN MACDONALD:** I thank the member for her question. All too often we hear tales of doom and gloom from those opposite about New South Wales and its competitiveness both interstate and overseas. Just last weekend we saw another negative story bagging Sydney as an expensive place to live. These complaints are often without foundation, as the 2007 New South Wales Competitiveness Report shows. The report reveals yet again that New South Wales competes effectively in the international investment environment and that it has the fundamentals for continued economic growth.

The Competitiveness Report is a flagship document—published annually by the Department of State and Regional Development—and details the strengths of New South Wales as a leading choice for business investment. The report brings together economic, trade and other data from a range of respected industry sources to compare selected business locations within Australia, the Asia Pacific, North America and Europe. And it provides plenty of compelling reasons why businesses should invest in our State.

First, I will give the House some facts. Australia has the fifteenth-largest economy in the world and is ranked twelfth out of 125 countries for medium- to longer-term growth potential. As the nation's dominant economy, New South Wales has one-third of Australia's population and one-third of the nation's gross domestic product. According to the report, in 2005-06, 34.3 per cent of national household spending occurred in New South Wales, totalling \$188 billion. Our economy is strong, stable and resilient, with triple-A credit ratings from Standard & Poor's and Moody's. The report states that more than 80 per cent of the State's industry income is derived from services, reflecting the strength of our knowledge-based and technical support industries. In fact, New South Wales exported goods and services worth \$44 billion in 2005-06, and the largest export industry in this State is services, accounting for 39 per cent of total exports last year.

The report notes New South Wales attracts the largest share of private business investment in Australia, with \$40 billion or 28 per cent of national business investment in 2005-06. As well as the highest levels of business investment, New South Wales has the highest level of research and development expenditure in Australia. Nearly half of the top 500 companies in Australasia are based in New South Wales; 17 of the top 20 global banks have operations here; and more than 600 multinational companies run their Asia Pacific operations from Sydney.

Sydney, Australia's global city, is the country's financial capital and an important regional financial hub. Sydney offers a low-cost business environment. It remains a more cost-effective office location than other major business centres, including Tokyo, London, Hong Kong, Seoul and Mumbai. The State remains the nation's premiere international tourist destination, as well as a centre for international learning and business. Sydney was named the best city "brand" in the world, according to the Anholt City Brands Index, beating London and New York to the top spot. And New South Wales residents enjoy an excellent quality of life, with access to key amenities and high levels of safety, health care and sanitation. Sydney shared ninth place in the 2006 Worldwide Quality of Living Survey, a report compiled by Mercer Human Research Consulting. And I will make sure we stay near the top, despite the efforts of the Coalition to drag the State down.

The New South Wales Competitiveness Report 2007 is a valuable resource for potential investors in Sydney and the State of New South Wales. It shows we are business friendly and innovative and offer a great lifestyle. It shows we are highly competitive and productive, secure and strong. It affirms that Australia is one of the most efficient places to start a business, and here in New South Wales we are making it even more so. We are open to people and open for business and there is no better location for people and business in the Asia Pacific than Sydney and New South Wales.

I will use the 26 seconds that I have available to me to talk about the Opposition. It is constantly bagging this State, and is constantly attacking Sydney at every level. Its members do nothing but try to undermine New South Wales as the State with the leading economy in this country. Absolute shame on them for their negative attitude—particularly the Hon. Charlie Lynn, who does nothing but knock business in this city. *[Time expired.]*

## SOUTHERN REGIONAL FOREST AGREEMENT REVIEW

**Mr IAN COHEN:** I address a question to the Minister for Primary Industries. Can the Minister tell the House when the promised Southern Regional Forest Agreement review will begin? Can he provide a date for the

start of this process? The Minister told the House on 29 May 2007 that "Occasionally, some reject timber is provided to that mill." What proportion of reject timber from compartment 3046 has so far been provided to the Eden woodchip mill? What did the Minister mean when he used the word "occasionally" in his response? Is the Minister aware that clause 52 of the Southern Regional Integrated Forestry Operations Approval states that "(State) Forests NSW must assess the extent and nature of regeneration following the cessation of logging operations ... no later than 31 December 2006"? How can the Minister ensure sustainability without these assessments being conducted?

**The Hon. IAN MACDONALD:** Once again, the Greens are on the warpath, trying to undermine our forest industry in New South Wales. The efforts of Mr Ian Cohen to undermine the forest industry are telling.

**Mr Ian Cohen:** Answer the question.

**The Hon. IAN MACDONALD:** I will answer it in the way I want, and I will give Mr Ian Cohen a couple of facts. New South Wales has six million hectares of forest in parks, reserves and estates. Forests NSW administers 2.3 million hectares, of which one million hectares is not available for forestry. In other words, that is about seven million hectares for a start. Forest assessments will be conducted in due course. We are currently in discussion with the Federal Government, and I will make appropriate announcements about them in the near future. Members should not think that forest assessments are a renegotiation under regional forest assessments. They are not. They are an assessment of the current situation in those forests. The assessments are being conducted to the highest level of environmental practice. New South Wales has more guidelines for forestry practice than just about any other place in the world. If the Greens try to reopen these issues to take up more forests, all they will succeed in doing is ensure that more rainforests in Malaysia, Indonesia and Brazil are chopped down without regard for environmental guidelines to meet the growing demand for forest products—that is, products that even the vast majority of Green voters in the State would buy for their homes. I know, because I have seen some of them purchasing these products.

### ILLAWARRA ROADS

**The Hon. DON HARWIN:** My question without notice is directed to the Minister for Roads. Is he aware that roads in the Illawarra such as the F6, the Princes Highway and Appin Road are in a state of disrepair because the Roads And Traffic Authority will not hire permanent staff to fix them? Will he tell the House why the Roads and Traffic Authority has not hired staff to operate machinery that is "sitting idle, rotting away in Bellambi", according to an Australian Workers Union official, while motorists in the Illawarra are forced to dodge potholes, cracks and ruts on local highways and freeways?

**The Hon. ERIC ROOZENDAAL:** I want to be clear about this and get my thoughts in order. The Hon. Don Harwin is now quoting a union official as the basis for his questions! I am pleased about his conversion to supporting the labour movement. It is an organised labour movement by the Hon. Don Harwin. Road spending in the Illawarra—

**The Hon. Melinda Pavey:** There are many union workers voting conservative.

**The Hon. ERIC ROOZENDAAL:** What happened at the last election? The Hon. Melinda Pavey should stay in the seat she is occupying at the moment! Road spending in the Illawarra has increased to \$174.2 million as part of the State's biggest ever Roads budget announced yesterday. Almost three-quarters of the Roads capital maintenance program budget will be spent outside the Sydney metropolitan area, with \$2.6 billion—72 per cent—committed. This is about meeting the commitments of the Iemma Labor Government to the Illawarra. This record budget allows a major project to move forward, such as the Oak Flats to Dunmore upgrade on the Princes Highway and the northern extension at Bulli.

[Interruption]

I do not have the private school upbringing of many of those sitting opposite. But if they want to make that class distinction, they can make it. I am proud of my public school upbringing. Some \$130.2 million has been allocated for road development in the Illawarra, \$7.2 million for traffic management and \$34.1 million for maintenance. Key projects in yesterday's budget for the Illawarra include \$45 million to continue—

[Interruption]

The Hon. Don Harwin asked the question; he should listen to the answer. Some \$45 million has been allocated to continue work on upgrading the highway to a dual carriageway between Oak Flats and Dunmore, \$30 million to continue the northern distributor extension from Tandys Lane to the highway at Bulli, \$20 million for the Nowra to Nerriga upgrade, \$114 million for the South Nowra to Jervis Bay road safety upgrades, \$7.5 million for the Princes Highway to Conjola Mountain realignment; \$8 million to start work on the Kiama ramps—

*[Interruption]*

I am glad I give the Opposition such amusement. Yesterday we had the best budget ever delivered by a Labor Government and the best those opposite can do is have a go at me. It makes me proud, and the Hon. Michael Costa is proud to have produced such a budget.

*[Interruption]*

The Leader of the Opposition should not worry, because the Hon. Greg Pearce will be occupying his seat in this Chamber before he knows it! Some \$3.4 million has been allocated to continue the route option investigation for the highway upgrade to Berry and Bomaderry, \$2.5 million for pavement reconstruction, and \$2 million on planning and reconstruction of the highway intersection at Lawrence Hargrave Drive. This has been a record Roads budget for New South Wales—\$3.6 billion. I compliment the Hon. Michael Costa, the Treasurer, and, of course, the Hon. Morris Iemma, the Premier, on their commitment to improving roads in and around New South Wales. Our commitment to road safety and reducing congestion is obvious for everyone to see. Unlike the Opposition, with its unfunded promises during the last election and its failure to produce a transport policy at all during the last election, we are getting on with the job of improving roads in New South Wales and ensuring that New South Wales is open for business.

#### **RURAL AND REGIONAL BUDGET**

**The Hon. GREG DONNELLY:** My question is addressed to the Minister for Rural Affairs. Will the Minister outline to the House what is in the 2007-08 budget for country people?

**The Hon. TONY KELLY:** I am only too happy to expand on what the budget means for rural and regional people in New South Wales. Hearing Mr Stoner desperately trying to run down the budget on radio this morning reminded me of the words of the English statesman Benjamin Disraeli, who once said of a political opponent, "The honourable gentleman has the perennial misfortune to be constantly mistaken." Here we are, a century and a half and 20,000 kilometres from Disraeli, and The Nationals once again have it wrong. If ever there were a budget that would give the lie to The Nationals' claim that this is a city-centric Government, this is it. By any benchmark, rural and regional New South Wales is getting its fair share, and then some. We set out to embark on the largest capital works program that has ever been undertaken in this State. Some 46 per cent of the capital works funding in the budget will be spent outside Sydney, which means money into schools, hospitals and roads. The State will spend \$50 billion over the next four years, an increase of some 56 per cent on the past four years.

Roads are very important for country communities, and in that regard I note that the Minister for Roads has made some comments. Some \$2.6 billion of the Roads and Traffic Authority's capital and maintenance program has been committed to rural and regional roads, which is 72 per cent of the total Roads budget—something The Nationals should applaud not criticise. I recall two elections ago when the National Party, as it then was, demanded that the Labor Government commit 60 per cent of the Roads budget to expenditure on rural and regional roads. Well, this budget commits 72 per cent of the Roads budget to rural and regional roads, which is much more than was asked for. The Nationals should sing our praises, not try to run us down. The Pacific Highway, the Princes Highway, the Newell Highway, the Silver City Highway and the Hume Highway are all about to have major funding injections.

**The Hon. Charlie Lynn:** What about Eric's "Princess"?

**The Hon. TONY KELLY:** For the benefit of the Minister for Roads, I am very proud to say that I was educated at a private school. In fact, I never went to any school other than a private school. We are lifting the funding assistance for councils across the State to \$146 million to help them with their regional roads, and there is plenty more. In Education, \$4.5 billion has been allocated to rural and regional New South Wales—\$83 million for initiatives in rural and regional public schools, \$116 million for maintenance programs in rural

and regional schools and TAFE colleges, nearly \$82 million for literacy and numeracy in rural and regional areas, upgrades at Bega High School, Tweed River High School, Tumut Public School, Dubbo TAFE, and funding for trade schools at Queanbeyan and that lovely place which was mentioned earlier, the Nambucca Heads High School.

In Health, there is a record investment of \$3.69 billion in rural and regional areas, which represents an increase of 6.5 per cent or \$225 million on last year. It means more beds, more clinicians, more elective surgery and better health benefits for regional New South Wales. The Government will also continue the redevelopment of Bathurst, Orange, Gosford, Wyong and Queanbeyan hospitals. From one end of the State to the other, we will redevelop, upgrade or begin the planning of hospitals and health facilities at Batlow, Berrigan, Bombala, Junee, Merriwa, Tingha, Walcha, Warrialda, Bingara, Dunedoo, Guyra, Tottenham, Tullamore, Narromine—we've been everywhere, man! [*Time expired.*]

#### **KILLALEA STATE PARK DEVELOPMENT**

**Ms SYLVIA HALE:** In addressing my question to the Minister for Lands I refer to his answer to my question yesterday relating to the proposed lease of the section of the Killalea State Park, which may deliver \$13 million over the life of the proposed 52-year lease. As the published reports of the proposed development indicate that approximately 200 residential resort units are planned for the site, is this not a return to the public purse of just \$24 per week for each unit? Has an independent assessment been made of what would constitute a proper commercial return for the lease of pristine coastal land to a private developer? Has an assessment been made of alternative mechanisms for raising funds for the upkeep of the park?

**The Hon. TONY KELLY:** It is a bit rich to be lectured by the Greens on commercial development. The member can make her own assessment of that.

**The Hon. JOHN DELLA BOSCA:** I suggest that if members wish to ask further questions, they place them on notice.

#### **NABIAC ROAD SIGNAGE**

**The Hon. ERIC ROOZENDAAL:** Yesterday I was asked a question on the topic of signage in Nabiac as part of the newly opened Bundacree Creek to Possum Brush upgrade of the Pacific Highway. I am advised that the construction contractor, Balderstone Hornibrook, is in the process of erecting 18 new signs in the Nabiac interchange area to enhance and clarify signage. It is expected that extra signs will be installed over the next few weeks. Additional signs clarifying speed limits on local roads within the vicinity of the upgrade of the highway will also be installed.

**Questions without notice concluded.**

[*The President left the chair at 1.02 p.m. The House resumed at 2.30 p.m.*]

#### **STANDING COMMITTEE ON LAW AND JUSTICE**

**Report: Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth)**

**Debate resumed from 6 June 2007.**

**The Hon. GREG DONNELLY** [2.30 p.m.]: In my contribution to this take-note debate on Report No. 33 of the Standing Committee on Law and Justice, entitled "Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth)", I refer to the time taken to deliberate on this matter. Compared with the inquiries of other committees of which I have been a member, this inquiry received fairly short deliberation. Obviously, there was a desire by committee members to address the issues as required under the inquiry's terms of reference. With the very able assistance of the committee secretariat, committee members were able to work through the inquiry fairly quickly.

I will not go through the committee's terms of reference; however, it is important to understand that the committee considered the subject in a very significant context and framework. Virtually every member of this Chamber, directly in some instances, has been affected by the tragedy of divorce. Chapter 2 of the report, entitled "Background", gives some details of divorce in Australia and provides insight into the level of divorce.

It explains how society faces the reality of divorce. It challenges us to try to understand the consequences that flow from divorce, and how society can best manage the breakdown of marriages.

In that chapter we are directed to look at a report of the Commonwealth Parliament entitled "Every Picture Tells a Story". That significant report was released in December 2003. It gives specific and significant details of divorce in Australia with particular focus on child custody arrangements and connected matters. That report ultimately led to the Commonwealth Act, the Family Law Amendment (Shared Parental Responsibility) Act 2006, which is the subject matter of the Standing Committee on Law and Justice report that I am addressing.

Effectively, the report examined the implications of amendments to the Family Law Act as they affect New South Wales, and how the New South Wales Government should respond. I encourage honourable members who are interested in this area to read the Commonwealth report if they have not already done so. It contains a great deal of factual information: statistics, figures, graphs and numbers. Perhaps more profoundly, it underlines the real human tragedy of separating spouses and their children.

We need to look behind the dryness of the figures to understand the human reality of the figures. The upper House committee's report contains 14 recommendations, each of which is significant and important. The recommendations provide direction to the New South Wales Government on appropriate responses in State laws. Recommendation (2) is:

That the New South Wales Government work with the Commonwealth Government to ensure that staff at family relationship centres and accredited family dispute resolution practitioners are suitably trained and use appropriate screening tools in order to correctly identify cases involving family violence.

In this House, in both the previous Parliament and in this Parliament, we have heard in various debates, reports and comments about the incidence of family violence in today's society. The tragedy sadly plays out in so many households in this State every day. The State and Federal governments must work as cooperatively as they can to develop policy and law to reduce family violence in New South Wales.

Given that the purview of family law essentially is a Commonwealth matter, we need a cooperative and working relationship between the States and the Commonwealth when dealing with children and child welfare, and violent crime and crimes against women. I wish to comment briefly on the number and location of family relationship centres to be established in this State by the Commonwealth Government. Earlier contributors to debate on this matter spoke about the number of centres to be established in this State. There are practical difficulties with regard to the number of centres so I think it could be argued quite convincingly that there are not enough of them.

To the extent that there are centres in this State, the question that has to be asked is: How can we ensure ready access of people who wish to avail themselves of the services of those centres, in particular, women with children residing outside major metropolitan areas? As New South Wales is a vast State and we have only a limited number of centres, how do we facilitate people's access to these centres? The State Government must work with the Commonwealth Government to discuss further the location of these centres and, to the extent that agreement can be reached, the planning for and the building of more centres to help deal with divorce in New South Wales and, more broadly, in Australia. I commend this report to honourable members and encourage them, if they have not done so already, to familiarise themselves with it and its recommendations.

**The Hon. HELEN WESTWOOD** [2.42 p.m.]: I speak on the final report of the Standing Committee on Law and Justice entitled "Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth)." Although I was not a member of this House at the time—and I was certainly not a member of the committee—I am interested in this inquiry and its results. The committee's recommendations and summary are consistent with the views that I had already heard expressed in the community on this important issue. In some of the consultations that I had held in my previous occupations people in the community who work with victims of domestic violence, families and children expressed those concerns, so I believe it appropriate that the committee held this inquiry.

The committee was required to report on the impact of the Family Law Amendment (Shared Parental Responsibility) Act on women and children in New South Wales and on the operation of court orders that can prevent family members who were perpetrators of violence coming into contact with their families. The committee found that the amendments contained in the shared responsibility Act would have a significant impact on women and children in New South Wales. It is clear from the evidence heard by the committee that a number of areas of concern relate to the family dispute resolution process established by the Family Law Amendment (Shared Parental Responsibility) Act and the Commonwealth's associated family law reform agenda.



Of particular concern is the fact that family violence might go undetected if screening tools used at family relationship centres [FRCs] and by accredited family dispute resolution practitioners were inadequate. A number of submissions to the inquiry highlighted the power imbalance that might occur in dispute resolution and as a result of a failure to identify family violence. The committee therefore recommended:

... that the NSW Government work with the Commonwealth Government to ensure that staff at the family relationship centres and accredited family dispute resolution practitioners are suitably trained and use appropriate screening tools in order to correctly identify cases involving family violence.

In addition, given that a number of NSW Government agencies are expert in dealing with family violence issues, the Committee considers it would be appropriate for these agencies to establish links or consult with FRCs and accredited family dispute resolution practitioners in order to assist NSW families with family violence issues. The Committee recommends that the NSW Government work with the Commonwealth Government to establish protocols to enable appropriate NSW Government and non-government agencies to assist FRC staff and accredited family dispute resolution practitioners in dealing with cases involving family violence.

Given the serious implications of failing to identify and address family violence, the Committee considers that NSW Government agencies have a responsibility to assist women and children to meet the requirements to prove family violence in cases where it is known to exist. In particular, the Committee recommends that the NSW Government develop protocols for the involvement of the Department of Community Services to assist individuals within families in satisfying the requirements to prove family violence where it is known to exist.

Parties attending FRCs will not be legally represented, nor will staff at FRCs provide legal advice. The Committee believes that legal advice and possibly legal representation during the family dispute resolution process is important to safeguard the best interests of women and children. The Committee therefore considers that steps should be taken by the Commonwealth Government to offer NSW residents the alternative of lawyer assisted mediation. Further, the Committee notes that the alternative dispute resolution service provided by the NSW Legal Aid Commission is an appropriate mediation model. Consequently the Committee believes that the Commonwealth Government should take steps to adopt this model of FRCs in order to ensure satisfactory mediation outcomes for NSW women and children, and has made a recommendation to that effect.

The committee also considered the impact on Aboriginal women and children and had this to say:

It is clear from the evidence that Aboriginal women and children are likely to be particularly affected by the amendments, given the high incidence of family violence in Indigenous communities. As a consequence, Indigenous communities need access to services that are culturally sensitive.

I believe that to be an important recommendation. The report continues:

The Committee is concerned that the Commonwealth's provision of additional funding for Indigenous services at the Lismore FRC is insufficient to cater to the needs of the State's entire Indigenous population. The Committee therefore recommends that the NSW Government negotiate with the Commonwealth Government in order to secure additional funding for Indigenous services at all FRCs located in areas with significant Indigenous populations.

The committee also considered the number and location of family relationship centres. Its report states:

The Committee notes that there will be a maximum of just 11 FRCs in NSW once the requirements for compulsory dispute resolution take effect in mid 2007—

which is about now—

with a further ten FRCs to be provided in 2008-2009. The Committee considers this number is likely to be inadequate to service a population of over 6 million people. Further, the Committee has serious concerns that the small number of FRCs and their sparse distribution across the State will significantly disadvantage rural and regional populations. The committee is of the view that the Commonwealth Government should adequately resource the infrastructure so that everyone has easy access to FRCs. The Committee also recommends that the NSW Government discuss the appropriateness of the number and location of FRCs with the Commonwealth Government, and requests that future decisions about the location of FRCs be made in conjunction with relevant NSW government agencies to ensure that the decisions are based on accurately identified population and demographic needs.

The committee received evidence to the effect that a lack of community understanding regarding the implications of amendments to the Family Law Act was another area of concern. The committee was of the view that individuals within families in New South Wales might be seriously disadvantaged if they undertook mediation without a full appreciation of their rights and responsibilities under the Family Law Act 1975. The committee believes that a public education campaign must be undertaken in New South Wales to inform parties in divorce and separation proceedings about the impact of these amendments, and it makes recommendations to that effect.

I also support the further recommendations of the committee, and I am pleased that the Government is committed to acting on them. I note also the comments of the committee chair, the Hon. Christine Robertson, that, although she supports the Federal Government's aim of moving away from litigation in family matters, she

is concerned about the unintended effects of the latest amendments to the Family Law Act. She expressed particular concern that the amendments may result in harm to women and children in New South Wales. We should all be concerned about that. The community is aware of the impact of domestic violence on women and their children. Regrettably, many women and their children are injured—in extreme cases some are murdered—as a result of family violence. We must use all possible mechanisms to ensure that we protect those women and children in our community who are vulnerable to family violence.

As the Hon. Christine Robertson said, the possibility that these amendments may expose women to family violence and may subordinate the best interests of children to the interests of parents is the most concerning element of this inquiry. I commend the committee's recommendations to the New South Wales Government in attempting to address this area of grave concern. I support the committee's report.

**Debate adjourned on motion by the Hon. Ian West and set down as an order of the day for a future day.**

## **STANDING COMMITTEE ON LAW AND JUSTICE**

### **Report: Community Based Sentencing Options for Rural and Remote Areas and Disadvantaged Populations**

**Debate resumed from 6 June 2007.**

**The Hon. DAVID CLARKE** [2.51 p.m.]: As a member of the Standing Committee on Law and Justice I shall make some brief comments regarding the report entitled "Community Based Sentencing Options for Rural and Remote Areas and Disadvantaged Populations". I do not intend to traverse the contents of the report because it speaks for itself and its recommendations are clear and self-explanatory. However, I believe committee members and parliamentary staff who assisted in all aspects of the report's preparation and content can take great pride in the end result. The report deals with serious issues that often do not register on the radar screen of public perception. But they are important nevertheless.

Community-based sentencing in remote areas and for disadvantaged populations is an extremely complex and diverse area. Whilst there are no quick-fix solutions to all the problems, I believe the committee has produced recommendations that are sensible and achievable. These recommendations were made after extensive and considered investigation and research by the committee. I believe that, if acted upon, the recommendations will assist in bringing greater equality of access to options that are presently more readily available to those who reside in major urban areas. I hope that the Government will take the report's recommendations seriously and act upon them as expeditiously as circumstances allow.

It must be said that the report's quality is due in no small part to the good efforts of the committee's chair, the Hon. Christine Robertson. She acted as chair and motivator for the committee in its deliberations with great energy and goodwill. She especially put a great deal of effort into ensuring that the report is of such a high calibre, and she deserves much credit for its preparation and production. I commend the report to the House.

**The Hon. MICHAEL VEITCH** [2.53 p.m.]: I support the report of the Standing Committee on Law and Justice. I concur with the comments of the Hon. David Clarke and the Hon. Trevor Khan: it is an outstanding volume of work. I reflect in particular on the comments of the Hon. Trevor Khan on 6 June, when he said:

This committee has done tremendous work. I suspect that many people go through their entire parliamentary life wondering what they have achieved. I am sure the Hon. Christine Robertson will now recognise that the work that she and the other members of the committee have done in putting together this report is a true monument to their dedication, effort and commitment to the community.

No-one who has read the report would disagree with those comments. I know the Hon. Christine Robertson well—we are former Country Labor policy committee members—and I am sure that she appreciates honourable members' comments. I congratulate not just the chair but also all committee members on producing a fine report.

My main interest in this report lies in its recommendations regarding the treatment of people with disabilities—particularly recommendations Nos 9 and 38. Recommendation No. 9 calls on the Minister for Justice to examine the adequacy of knowledge within the Community Offender Service Division of the

Department of Corrective Services regarding the needs of disadvantaged offenders, particularly offenders with an intellectual disability. This recommendation points to a number of other whole-of-government approaches to the treatment of intellectual disability in the offender population. Recent research points out that people with disabilities—not just intellectual disabilities but acquired brain injury—constitute a disproportionate share of the prisoner population. I suggest that that should be the basis of several other reports. Recommendation No. 38 is in a similar vein. Those who work with people with disabilities must be adequately skilled to deliver the services they require. We must spend more time training those who work with people with disabilities.

I also draw members' attention to that part of the report that deals with home detention and its impact on reducing recidivism rates. The report states that home detention allows an adult offender to serve part or all of a sentence of imprisonment in the offender's home under supervision. This is important as it allows people to rehabilitate in a comfortable environment. The report goes on to reflect upon the fact that home detention reduces recidivism. It reveals that more than 50 per cent of prisoners return to custody within two years of their release but the return rate is more like 26 per cent for those who have had supervision in the community, including home detention orders and community-based orders. That is a significant improvement, and speaks volumes about the advantages of home detention. I commend the report to the House and I congratulate the committee on an outstanding job.

**Debate adjourned on motion by the Hon. Ian West and set down as an order of the day for a future day.**

## **HUMAN CLONING AND OTHER PROHIBITED PRACTICES AMENDMENT BILL 2007**

### **Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. LYNDIA VOLTZ** [2.58 p.m.]: More than 100,000 Australians have Parkinson's disease. Stem cell research holds hope for a cure for this condition and many others, and may provide the key to unlocking breakthroughs in treating other diseases and injuries. Only unfertilised eggs are used in this research; it is not reproductive cloning. The process involves creating embryonic stem cells using unfertilised eggs but not sperm. There has been much comment about embryos and fetuses. I am amazed that people are using those terms in this debate. Legislation similar to the Human Cloning and Other Prohibited Practices Amendment Bill was passed by two parliaments: the Federal Parliament and the Victorian Parliament. This bill, which has been the subject of extensive debate, imposes many restrictions upon stem cell research.

The bill maintains the prohibition on human cloning for reproduction. It maintains the prohibition on collecting of viable human embryos from the body of a woman. It maintains the prohibition on the sale or trade of sperm, eggs and embryos. It maintains the prohibition on the creation of human embryo by fertilisation of a human egg by a human sperm other than to achieve pregnancy in a particular woman. It maintains the prohibition on implanting into the womb of a woman embryos created by any other means other than fertilisation of a human egg by human sperm. And it maintains the prohibition on creating a chimeric embryo. In addition, scientists themselves receive extensive ethical training. We should not allow any current doctrine to get in the way of any scientific research or endeavours that are going or will go a long way to ease the pain and suffering of those afflicted by certain illnesses and diseases. I would urge the House to support the legislation.

**The Hon. DON HARWIN** [3.01 p.m.]: The Human Cloning and Other Prohibited Practices Act 2003 was a consequence of the Council of Australian Governments back in April 2002 deciding that the nation should have a nationally consistent legislative regime to regulate the use of excess embryos from in-vitro fertilisation, cloning and related issues. It had been preceded by legislation adopted by this Parliament back in 2003 dealing with research using excess human embryos and prohibiting certain research practices. I supported that legislation.

Because of the nature of our Australian Federal compact and our constitutional arrangements, our Parliament plays a role in promulgating further legislative changes to the national approach, principally directed in this bill towards permitting research that involves somatic cell nuclear transfer. There have been many excellent contributions to debate here and in the other place. I place on the record my particular regard for the thoughtful contributions from the members for Albury, Goulburn and Pittwater. Most members have concentrated on the ethical aspect. After all, there can be few issues of public policy more sensitive than the individual and equal dignity we accord human life from whatever point it begins. Regardless of the gravity of these issues, I think it is appropriate also to reflect briefly on the context.

Professor Greg Craven put it beautifully when he wrote, "Federalism is a close geographical cousin of the separation of powers." Despite the Council of Australian Governments agreement and the arrangements enacted by the Commonwealth Parliament, under our existing Federal arrangements as a sovereign State we could stand alone and remain outside the national approach to these matters if we chose to do so. I have been hoping an opponent of the bill would mount an argument why it is not necessary to have a uniform national approach to the regulation of these matters. I have not read or heard one.

I am a sceptic when it comes to federalism. I agree with the Business Council of Australia, which is urging Australian governments to adopt a new approach to fix endemic problems in Federal-State relations that are costing Australia billions in wasted government spending and lost economic opportunity. The council identifies education, transport, infrastructure, natural resources, business regulation and taxation as areas in which our Federal system of government is dysfunctional. To that list, I would most certainly add health care. Frankly, I also see very little need to have separate criminal codes in Australia's eight jurisdictions.

I question the need for individual States to depart from a national approach on a range of matters. It is therefore unsurprising that on such fundamental matters as those addressed in the bill, for me, there is a presumption that we should maintain national uniformity and therefore that this bill should be supported. I am very conscious of the fact that back in 2003 I voted for a bill that permits research using embryos that are excess to in-vitro fertilisation. I am not convinced that we are crossing the Rubicon with this bill. Once upon a time, allowing the transplant of human tissues crossed the Rubicon. Then it was in-vitro fertilisation. For me, crossing the Rubicon would be allowing reproductive cloning, something that is specifically prohibited by this bill.

Like the member for Albury, I found the presentation given by the then Primate of the Anglican Church, Archbishop Carnley, back in March 2002 most persuasive. The strength of this paper is that its starting point is the empirical data concerning the embryo which scientific research has given us. Science informs his analysis of the issue of when human life begins, a subject on which biblical scholars differ.

Somatic cell nuclear transfer is crucial because, as the member for Wentworth, Malcolm Turnbull, put in the debate in the Commonwealth Parliament, it is the only means of surmounting one profound challenge for our medical researchers. Embryonic stem cell therapy is essentially a transplant. Like any transplant, the cells can be rejected. With somatic cell nuclear transfer the same genetic material is used and the cells will not be rejected by the immune system of the patient. That is why it is important. That is why it is a source of so much hope. And that is why I support the bill.

**The Hon. GREG DONNELLY** [3.06 p.m.]: One of my duties as Government Whip is to look at ways and means of providing assistance to Government members, particularly with respect to their activities in the House. This, I suspect, would be most appreciated by those members when any ideas, thoughts, comments, suggestions or points of view that I have are put to them on the basis not of "I believe you should" or "I tell you", but, rather, "Have you considered," "I suggest," and "We need to do this because". This is not to say that there are not times when Government members will have to be told they have had to do something. But our own life experience tells us that people generally respond best when they are persuaded to consider and then they agree to a position.

When it came to advice to be given to new Government members on how to prepare for their inaugural speeches, I made the obvious suggestion that they have a look at what others have said in the House when they made their first speeches. I raised with them the experience that I had that the Parliamentary Library had provided me with great assistance in finding material for my inaugural speech. I said also that if I could be of any further assistance, to let me know. I left it at that. I suspect that other Whips in this House and in the other place provided similar advice to their new members.

Honourable members will, I think, generally agree that much can be learnt about new members by listening carefully to and understanding what they say about themselves in their inaugural speeches. The speeches, as we have all seen once again from new members over the past few weeks, have been made after careful research, thought and reflection. As we all will appreciate, you have only one inaugural speech. All new members invariably comment about the influences in their lives—those who have assisted them and encouraged them, their family history and so on.

I had cause the other day, after hearing one of our new members speak, to go back and look at what I had said in my inaugural speech a bit over two years ago. I, too, had followed the standard formula: I had traced my family history back to my great-great grandfather, Cornelius Donnelly, who had arrived here from Ireland in

1844 for what was, in my assessment, a minor breach of the seventh commandment. It was fascinating to have another look at the photocopy of the handwritten record I had got from the archives in Hobart to prepare my speech. It said, *inter alia*, he was 5 feet 5 inches tall, brown hair, blue eyes, small nose, scar on his upper lip, and he could read a little.

I thought, "How extraordinary, the direct, unbroken human link between myself and this man" who the record shows had lost part of his forefinger on his right hand. This thought was taken much further when I reflected on the comments made by the Hon. Lynda Voltz in her recent inaugural speech. In giving us some insight into her family history, she spoke with affection of her grandfather James "Ben" Walsh's mother, Ma Smith. I was not aware until then that the honourable member had Aboriginal ancestry. My mind went back to Ma Smith's mother, her mother and so on back through 60,000 years or more of Aboriginal ancestry—an unbroken chain between the honourable member and one of the oldest known links to our common humanity. Ultimately we are all members of the human family. No-one can deny that.

Honourable members who have been listening patiently may wonder where I am going. I will make the connection. As debate on cloning is genuinely one of those fork in the road debates when representatives of this State will decide to take the citizens of New South Wales down one path or another. Once you go down the path there is no going back. The line is crossed. It will not be returned to where it was. It is a fork in the road debate because we are considering the very heart of the fundamental question, "What is the truth about what is a human being?" This debate demands the most careful and considered reflection, and a decision by each one of us on this most fundamental question. Moreover, in searching our consciences and deciding whether we should support cloning in New South Wales, I say respectfully that the fact that the Premier, the Deputy Premier, the Minister for Health, the Minister for Science and Medical Research, other senior Ministers, the Leader of the Opposition in the other place and many others have supported the legislation should not be determinative in the debate. Nor should the clearly pro-cloning information sessions organised by the Government be determinative.

Although much of the information provided in the information sessions was useful, most members who were able to attend would agree that they have had limited time to digest the material and think carefully about it. That is especially the case for members in the other place who were informed about the bill on 29 May and required to vote on it on 7 June, a total of 10 days including the weekend. In my view insufficient thought was given to examining the ethical, moral and philosophical implications of the matters we are considering. I also say respectfully that the scientists involved in the briefings appeared to be overwhelmingly pro-cloning. Nor should the Council of Australian Governments [COAG] be determinative in the debate. That is not to say it is not important, but this is a sovereign Parliament and we can decide to take 6.7 million citizens of New South Wales down another path on cloning, if we so decide.

In the past two weeks I am sure all of us have read, and thought a great deal, about the issues raised in the bill. The science of cloning is complex. I do not think anyone would disagree with that. Many submissions made to the Federal Lockhart committee provided me with valuable background information. I also found very useful the New South Wales Parliamentary Library Research Service briefing paper No. 09/2002 entitled "Human Cloning and Stem Cell Research". Speeches made last year in the Commonwealth Parliament when its members considered cloning legislation were also instructive, as were contributions in the Victorian Parliament when its members considered cloning legislation earlier this year. Contributions from members in the other place and this House have also been informative. I also consulted a number of medical and embryology texts and journals.

Because I believe this is much more than a debate about the science of cloning, I endeavoured to read a number of books and journal articles that dealt with the morality, ethics and philosophy behind the science of cloning and biotechnology. I have had a number of valuable conversations with colleagues in this and other parliaments, as well as with people whom I consider expert and wise on issues dealt with in the legislation. However, I do not claim that I am some expert on all the issues associated with the bill, but I believe I am in a position to make considerable comments. The last time this Parliament dealt with cloning—June 2003—it did so with a particular focus on experimentation on embryos that were the so-called surplus to the needs of couples who were accessing IVF treatment. The outcome of the legislation was that scientists and the biotechnology industry were given a legal framework to conduct research and experimentation on embryos deemed surplus to the needs of those in IVF programs.

Cloning of embryos for research and experimentation was explicitly prohibited because it was felt that cloning an embryo and then destroying it for research purposes was wrong. Research and scientific work on an embryo leads to its demise and expiry. Withdrawing and manipulating the minute embryonic cells inside the

embryo lead to the death of the embryo. That is a matter of fact. It was argued that, given the surplus embryos would, in due course, be allowed to expire, it was better to use them as part of medical and scientific research than to let them expire by removing them from their frozen suspended state and allowing them to thaw. I do not accept this argument. In my view a greater wrong is done to the embryo that is nascent human life by experimenting on and destroying it for a utilitarian scientific purpose than allowing it to naturally expire by removing it from its suspended frozen state.

In my mind the intention behind the two human acts—experiment and kill versus permit to expire—are quite different. If I had been in Parliament at the time I would have voted against legislation that permits experimentation on surplus IVF embryos. As legislators we know the importance of language, not just its black letter meaning but how particular language conveys a message, emotion and perception. To say that an embryo created by the fusion of an egg and sperm is surplus to the needs of couples receiving IVF treatment is to deliberately suggest that the embryo is unnecessary or not needed. That is the intention of using the word "surplus". It conveys in the mind of the average person that the embryo is not needed. But I make the obvious point that if our parents had been on an IVF program and we were not fertilised eggs to be implanted in our mother and, therefore, deemed surplus and experimented on, we would not be in this Chamber today or yesterday listening and contributing to the debate.

I also make the point that scientists argued that this type of research on embryos was licit because it was for so-called therapeutic purposes. Once again, I note the use of the language. For the embryo experimentation is far from therapeutic. It is not a debating point. Experimentation kills the embryo. Be that as it may, in 2003, scientists, seeing that they were likely to secure access to surplus IVF embryos, pulled back from pressing their case for access to embryonic stem cells through cloning. Tactically it was decided that they would secure what they could get legislatively, consolidate their position and, in due course, go back to pursue the cloning issue. Let us fast forward to June 2007. Fewer than four years since this Parliament explicitly prohibited the cloning of embryos for research and experimentation, we are being asked to examine it again. This time scientists and the biotechnology industry are saying that experimentation on surplus IVF embryos is not enough. They want to conduct research and experimentation on specifically created embryos. The research and experimentation on the embryos will be done outside a woman's body. It is argued that the embryos will not be developed and cannot, by virtue of the proposed legislation, ever develop to a fully grown human being.

The proposed legislation prohibits embryos living beyond 14 days. However, such an embryo, if it was transplanted into a woman and allowed to gestate full term, would result in the birth of a live baby. Nobody knows what the little baby would look like, how she or he would function or what type of life she or he would have. The point is that we are talking about the very same scientific technique as that used to create Dolly the cloned sheep.

Most supporters of this bill in this Parliament seem reluctant to acknowledge this key factor, let alone participate in a thorough debate that examines the implications of going down the scientific path. Indeed, I respectfully submit that the debate on this bill has been seriously compromised by what has been up to this point a determined unwillingness to examine this key issue. It seems as though there are individuals and vested interests who do not want to debate this cornerstone aspect of the science, which is inherent in this bill.

The point is that the line keeps moving. If legislation is passed to facilitate the creation of embryos for the specific purpose of being killed off in the context of research and experimentation, a major line will have been crossed. Logically—and other contributors in this debate have made the point—there is no reason to stop at 14 days. What will we say when the scientists and the biotechnology industry submit, "We just need to be able to conduct research or experiment on embryos that are 20 or 28 days old"? The claim made could well and truly be, "With access to embryonic stem cells that are 20 or 28 days old, we can secure a treatment for this disease or that condition." How can one credibly refute or say no to that claim if we have stepped over the line and agreed to the deliberate creation of embryos for the purpose of destruction? Once the line has been breached, where does one logically stop?

As this legislation seeks to reflect what has been determined federally, it creates what is, in effect, a two-tier definition for embryos. By accepting this schema for classifying embryos, by definition one creates two classes of embryos: one class that is fertilised by a sperm is destined to be permitted to develop into a fully grown human being, whereas the other class of embryo is created with, in effect, the explicit intention that it will be used for scientific and research purposes and, as a result, will be destroyed in the process. The latter type of research was explicitly banned by the New South Wales Parliament as recently as 2003. During debate last

year in the Commonwealth Parliament, Dr Craig Emerson MHR made the following points in regard to embryos created for research purposes:

What significance are we to attach to the embryo so created? Those who argue in favour of this legislation effectively answer "not much"; it is not really very important. Those who argue against this legislation say that this embryo is important. Again we should look at what the Lockhart committee report says about this, because it needs to grapple with this new ethical issue. It says:

... the Committee found that, while it was difficult to logically define a moral difference between embryos formed by fertilisation and those formed by nuclear transfer or related methods, it appeared that embryos formed by fertilisation of eggs by sperm may have

And I emphasise the term "may have"—

—a different social or relational significance from embryos formed by nuclear transfer.

Those are the key words: "a different social or relational significance". This becomes the new ethical definition: if an embryo has a social or relational significance, we should respect it and protect it; if an embryo does not have a social or relational significance, we should not worry about its destruction. What a subjective judgement that is. Who is going to go around Australia and the world deciding whether a particular embryo has a social or relational significance? That is very worrying. It is very dangerous territory to have such subjective judgements made outside of this parliament by people who just determine on the basis of their own view of the world whether a particular embryo that has been created has a social or relational significance.

The point Dr Emerson is making is that while this point was under consideration by the Lockhart committee—whose members were examining the matter and ultimately compiled a report for the Federal Parliament to examine—its members were not elected representatives and had no electoral authority or responsibility, yet they defined, in effect, an embryo into one of two classes: one having some social relational significance, and the other not having social or relational significance. The point Dr Emerson makes about the seriousness of this issue—a departure from what in the past has been the way in which we have regarded an embryo—is very salient.

The same point was made by a number of members yesterday in debate in this Chamber. I completely agree with them. Honourable members, I respectfully argue that to ignore what science actually tells us and has told us for many decades about what an embryo is, and to seek to redefine it because it has a so-called different social or relational significance, is a major step in the wrong direction. We are being told that the bill is proposing only incremental change. This is plainly wrong and misleading. If we allow the bill to pass and accede to the principle that there are two classes of embryo, we will condemn forever some human embryos to the only purpose of their existence being for which will be research and experimentation.

One of the research procedures we are being asked to endorse by this legislation is so-called somatic cell nuclear transfer. This procedure is the same principle as the technique used to produce Dolly the cloned sheep in Scotland in 1997. As I commented earlier, I find it disturbing that none of the briefing material provided by the Government acknowledges this fundamental point. A cynic may conclude that this critical point is not being openly discussed by both the scientists and politicians who support this legislation because they know the issues raised would be very controversial.

To that I say, "Cloning is cloning." It is sophistry of the most misleading kind to contrive that there are two types of cloning going on when in effect an embryo created by somatic cell nuclear transfer type procedure could potentially develop into a fully grown human being but for the fact that it was created for a different purpose and has a predetermined maximum span of life prescribed by a law passed by a Parliament. No-one can escape from the truth of what is proposed by the bill. If we think so, I respectfully believe that we are only fooling ourselves.

Another aspect of the sophistry I find very troubling is that not only will embryos become subjected to an artificial man-made classification structure, but also those destined for experimentation purposes will be given a legal status only from the time of the first cell division. What about the first critical 24 to 48 hours? In a contribution to this bill in the other place an honourable member stated:

... it creates a hiatus whereby the entity from time zero to 24-48 hours falls outside legislative protection. This means that whereas persons can be said to be responsible for eggs and sperm and embryos—

so defined under the bill—

no-one is responsible for the entity during the hiatus time.

The honourable member made a major and significant point. I believe this provides a further reason why the bill should be opposed. Imagine for a moment the following scenario. Cognisant of the ethical and moral sensitivities of embryonic stem cell research, the New South Wales Government and one or more major organisations in this area of scientific endeavour decide to put X million dollars on the table to set out to make Sydney the international capital for adult stem cell research. That form of stem cell research is not controversial, as it does not involve creating and then destroying human embryos.

Today we hear so much about the virtues and benefits of ethical investments. Why can we not instil that thinking in the political will of the Government in relation to adult stem cell research, which does not involve the destruction of human embryos? What would be the result of bringing together that investment and political will? Far from dealing with what are just claims about a potential brain drain of scientists, Sydney would become an internationally recognised centre of excellence for adult stem cell research, which this city and State could use to leverage large additional investment and gain attention in the field of medical science.

To the best of my knowledge, and despite all the rhetoric, there have not been any medical breakthroughs secured by embryonic stem cell research in Australia or elsewhere. In contrast, real progress is being made in the field of adult stem cell research. Of note is the work done with respect to adult stem cell therapy using bone marrow, umbilical cord blood and nasal cells. There was further good news about research being conducted with adult stem cells reported in an article in the *Sydney Morning Herald* of Thursday 7 June 2007, entitled, "New way to make embryonic stem cells from skin". The article, which appears at page 4, states:

Scientists have found a way to turn skin cells into embryonic stem cells without the need to use an egg or destroy an embryo in the process.

If the breakthrough, achieved in mice, can be repeated using human tissue, it could make somatic cell nuclear transfer, or therapeutic cloning, unnecessary.

Embryonic stem cells that were perfectly matched to a patient could be created from a simple skin biopsy, avoiding any ethical concerns.

There is no reason in the world why, as a government, we could not support one or more world-class institutes or centres of excellence in this State that focus on perfecting and bringing to market therapies derived from stem cells obtained from bone marrow, umbilical cord blood or from elsewhere in the body. If the will and vision were there, it could become a reality. However, what does this bill contemplate? Not that, but a route that simply copies what Victoria is doing—just the same, no imagination, no lateral thinking, no consideration of other alternatives or possibilities. Let us be perfectly frank about the so-called prohibitions and protections built into the bill.

The bill is a legal framework that prohibits and controls what scientists and researchers in this area of biotechnology can do in New South Wales and, when read in conjunction with Commonwealth and other State legislation, elsewhere in Australia. That is true. However, the reality is that if a scientist in this area wanted to pursue research with minimal or almost no legislative obstruction on what one could do with human embryos, he or she would go overseas and work in other countries where, in some cases, just about anything can be done to a human embryo. One would look very seriously at conducting research in Shanghai or Singapore.

I, for one, and I am sure all members in this House, sincerely hope that New South Wales and Australia never go down that almost-everything-goes path to embryonic stem cell research. However, the very real question is: Once we cross the line at what point can we say no? Where can we say that there will be no more, or that we will go no further? The 14-day limit set in the bill we are considering is an arbitrary figure. If the line is crossed, there will be no going back. The boundary line will be forever moved out and destined to never return to its original place. Alternatively, we in New South Wales could carve out a new and significant adult stem cell research niche that would make this State world renowned in ethical biotechnology research and development. In my view, that is not just a vain hope; it could become a reality, as I said, if there was a will to do so.

I strongly object to the provision in the bill that will permit combining female human eggs with the cells of another species. In my view it is wrong in principle, notwithstanding the fact that the created entity would have a very short life, less than 48 hours. I could be wrong, but if I walked down Martin Place this afternoon and asked 100 people at random, female or male, what they thought of a proposed law that enables scientists to combine the cells of another species with an egg from a woman to conduct experiments, I suspect that at least 80 of the 100 people would say, "You have got to be kidding." But I am not kidding. As other members have commented in this debate so far, that is precisely what this bill will permit. If one is looking for some perverse irony, the bill recognises the status of those types of embryos from the point of the fusion of the



animal cells with a human egg. Unlike the human clones, there is no hiatus in terms of the legal recognition of those entities.

If there were not such a gaping hole in the proposed legislation, one might almost be tempted to say, "It sounds like a cruel and perverse joke." But sadly it is not. Nobody should think for a moment that we have reached a boundary in this bill with which scientists will be happy. Just last Sunday the British Academy of Medical Sciences expressly announced support for human-animal hybrid embryo research. Martin Bobrow, who chaired the panel making the academy's recommendation, said:

Provided good laboratory practice is rigorously followed, research involving cytoplasmic hybrids or other inter-species embryos offers no significant risks over and above regular cell culture research.

There we go! There was no discussion or debate about the ethics or morality of such research. We must ensure that we do not leave lying around any spare keys to the laboratory padlocks. I do not mean to be flippant but surely as legislators we must contest the grounds upon which these types of debates are held. I believe that we have not just a right but an obligation to challenge the science and the scientists who we are finding are making one claim after another. We must confront the issue of science for science's sake when it trespasses onto what I believe is the essence of our humanity. To those who say, "I agree with you in principle, but let's not yet draw the line", I say in response, "Where will you draw the line?"

[*Debate interrupted.*]

### DISTINGUISHED VISITORS

**DEPUTY-PRESIDENT (The Hon. Helen Westwood):** I welcome Judith Jakins, a former member of the Legislative Council, who is seated in the President's gallery.

### HUMAN CLONING AND OTHER PROHIBITED PRACTICES AMENDMENT BILL 2007

#### Second Reading

[*Debate resumed.*]

**The Hon. GREG DONNELLY:** I wish now to make a few comments about human eggs. Whilst this is an issue in relation to which women should make a major and significant contribution, I would not go so far as to say that it is exclusively a women's issue. In one way or another all men have women in their lives—mothers, wives, girlfriends, daughters, sisters, aunts, grandmothers, great-grandmothers, work colleagues and friends. In one way or another men can be, and often are, affected by issues that impact on women. My concerns about the commodification of human beings in general, and female eggs in particular, goes back some years.

Books like *The Human Body Shop—The Cloning, Engineering and Marketing of Life* by Andrew Kimbrell; *Redesigning Humans—Choosing our Children's Genes* by Gregory Stock; *Our Post-Human Future—Consequences of the Biotechnology Revolution* by Francis Fukuyama; *Life, Liberty and the Defense of Dignity—The Challenge for Bioethics* by Leon Cass; *Enough—Staying Human in an Engineered Age* by Bill McKibben; *Redesigning Life? The Worldwide Challenge to Genetic Engineering* edited by Brian Tokar; *The Ethical Imagination—Journeys of the Human Spirit* by Margaret Somerville; and *Reprogenetics—Law, Policy and Ethical Issues*, edited by Lori Knowles and Gregory Kaebnick, cover in some detail the broad set of moral, ethical, philosophical and economic issues associated with the cloning of human eggs.

The information provided to me, and I presume to other members of Parliament, by the organisation Hands Off Our Ovaries was both helpful and instructive. It covers a number of significant issues that are germane to this debate. I believe that the issues it raised should be of concern to all people voting on this bill. I believe that the bill does not contain adequate protections for women, primarily because, in my view, it takes us down the path towards the commodification and commercialisation of human tissue—in this case, female eggs. I believe that, despite the stated prohibitions in this bill, it is a step in that direction.

It is also worth noting that we are not getting the full picture from those promoting this legislation about what is happening to fertilised human eggs with respect to the research being conducted on them. My research shows that the National Health and Medical Research Council licensing committee issued a total of only nine licences for research using excess in-vitro fertilisation embryos since 2002. Only 30 per cent of the embryos that are the subject of these licences have been used or are being used for stem cell extraction. Therefore, the suggestion that access to human embryos is all about finding cures is thus far unsupported by the

evidence. My question to politicians and scientists and the pharmaceutical companies promoting this legislation is: When will you tell us what is being done with the other 70 per cent of embryos? The silence is deafening. The full story about the pharmaceutical industry's huge interest to get access to human tissue and, in particular, fresh human ova for the purpose of conducting clinical tests, is yet to be written.

I conclude by suggesting to honourable members that the idea of the commodification of eggs is not as far-fetched as it seems. It was reported earlier this year—this point was made earlier in debate today by the Hon. Marie Ficarra—that a research institute in the United Kingdom has been granted a licence that will enable it to offer price discounts on in-vitro fertilisation treatments for women if those women agree to make available spare ova. The female ova are not sold per se, but the women get a discount on their in-vitro fertilisation treatment if they let the doctors take a couple of spare ova. In my eyes that is commercialisation and it is about to get under way in the near future, barely 24 hours away, by Boeing 747.

Many years ago I read a book by Robert Oppenheimer, the title of which I have forgotten. Members will recall that Oppenheimer was the chief scientist who oversaw the Manhattan project—the atomic bomb project. Oppenheimer came to have grave concerns about what much of his life's work had contributed to creating—atomic weapons of mass destruction. Members should not misunderstand me; I am not drawing a strict comparison between the work of Oppenheimer and the scientists working on human cloning. Rather, I am making an analogy. As outlined earlier, somatic cell nuclear transfer, as permitted by this legislation, is the same technique that was used to create Dolly the cloned sheep. Once the scientific knowledge and technique is developed and refined, mankind has it. Once we know how to do something, we cannot wish it away or forget our knowledge of it.

This is the critical point: the more effort we put into somatic cell nuclear transfer cloning and the further we go down the track, the closer we are getting to a walking, talking and reproducing human being. We cannot escape that reality. Lest my position might be misunderstood, I am not arguing that what we are talking about is a science versus non-science zero-sum game. It is nothing of the sort. It is disingenuous and even dishonest for some in the scientific community to argue that opponents of embryonic stem cell research are in some way or other biotech Luddites.

It is a question of conducting science ethically. I say that because in the very public debate that has occurred in the past two or three weeks people may have concluded that unless they are competent in the fields of religion or science this is not a debate for them. Nothing could be further from the truth. Many argue against destructive experimentation on embryos not because they believe in God or the afterlife but because the idea offends basic human values. It seems to me that that is a perfectly reasonable and valid position.

As a member of the human family, I am concerned about disease, sickness, ailments, disability and suffering. I accept that it is impossible for a person like me to understand and comprehend fully what those who are sick, diseased or disabled and their loved ones, friends and carers endure every day. Governments clearly have a responsibility for the health of the citizens they govern. Accordingly, governments should pass laws that are just and in the interests of society's common good. In the area of medical research and its associated legal framework, the guiding principles should always be the ancient dictum: First, do no harm. Whilst I acknowledge the ends being pursued by those engaged in embryonic stem cell research to find cures for a range of medical ailments and conditions, the means involves destroying embryos.

I believe an embryo is human life—and so do many others. I believe human life by its very nature has an innate dignity and must be protected absolutely. It may seem trite to say so, but we were all embryos once. Such is the profound mystery of life. There is an unbroken continuum between my conception and my being here today to make this speech. We must respect human life. I believe that strongly: my position is not open to compromise. Therefore, I cannot assent to stem cell research that destroys embryos. I do not wish to come across as being somehow insensitive or uncaring towards those who carry the burden of sickness, disease or disability. In my view society has a particular duty of care to those people. As elected representatives, we must ensure that that responsibility is acted upon and that we do all we possibly can to assist and care for those individuals.

I have been, and continue to be, troubled by the language used by some embryonic stem cell research supporters. That language, I submit, is loaded and implicitly—and in some cases explicitly—raises hopes and expectations that are not being, and perhaps cannot be, met by the science. We must be careful about what we say and promise to some of the most vulnerable people in our community. I do not wish to be disrespectful, but many of those who have contributed to this debate—particularly in the other place—relied on the Lockhart

committee report as if it were the first and final word on embryonic stem cell research. That is not the case. A number of submissions made to the Senate committee that considered the Patterson bill expressed serious and significant concerns about the Lockhart report and its recommendations.

I draw the attention of honourable members to the submissions of James L. Sherley, Associate Professor of Biological Engineering at Massachusetts Institute of Technology in the United States, and T. J. Martin, Emeritus Professor of Medicine at the University of Melbourne. Those eminent figures in this field of medical science noted in their submissions *inter alia*—I will not detail all their points but draw on some significant ones—that, first, the cellular make-up of an embryo makes it an embryo, not its location. Second, adult stem cells are the only types of stem cells with which there are current clinical treatments. Third, any move towards the deliberate manufacture of human embryos for research purposes constitutes a major elevation in the ethical barrier, and the standard of proof required for a positive outcome from that research becomes even higher.

The Lockhart committee's decision was based largely on the benefits that it thought will accrue from embryonic stem cell research to sufferers of a number of chronic, serious diseases. There is no evidence from animal experimentation in Australia or elsewhere that animal embryonic stem cells can be used as treatment for any disease in a manner that is effective and safe in the long term. Fourth, proceeding through the major ethical barrier of destroying embryos undermines the defining principles of ethical behaviour in research and medicine under which we work. Both the Nuremberg code and the Declaration of Helsinki stipulate that any allowed experimentation involving human subjects should be capable of being supported by the relevant research literature and preceded by corresponding humane work with animals if necessary. The Declaration of Helsinki states:

... research involving human subjects includes research on identifiable human material ... medical research involving human subjects must conform to generally accepted scientific principles, be based on a thorough knowledge of the scientific literature, other relevant sources of information, and on adequate laboratory and, where appropriate, animal experimentation.

In the absence of any credible proposal that human embryonic stem cells could be used in any clinical trial with the hope of a positive outcome, it is argued that therapeutic cloning could be used to generate embryonic stem cells by taking nuclei from patients with certain diseases, transferring them to enucleated eggs and developing embryonic stem cell lines. This proposal was accepted by the Lockhart committee. This is open-ended, blue-sky research that would confront many obstacles but it could readily be tested by using appropriate animal experimentation. First, genetic instability is obviously relevant to any proposal to use embryonic stem cells to study disease and its persistence would invalidate such an approach completely.

Second, any research on embryos generated in this way for the study of disease would certainly require embryo development beyond 14 days. It is difficult to imagine how anything meaningful could be done without implanting that embryo into a uterus, as can be done in an experimental animal. Third, if this approach is used with diseases of late onset and variable development among different individuals, how could results be interpreted? What would they be compared with? All of these are matters that should have been considered by the Lockhart committee if it had set about a thorough scientific analysis.

The next point made is that, for success, any proposed approach to disease therapies for tissues in children and adults must be able to sustain the essential renewal process of adult tissues. Only adult stem cells can accomplish this feat. Embryonic stem cells cannot, because they lack the property of asymmetric self-renewal. In the culture dish, when they are forced to proliferate, they renew symmetrically, each division producing two embryonic stem cells. These symmetrical divisions are a form of cancer cell growth. When embryonic stem cells are converted to make worker cells they convert completely. They are unable to make worker cells and at the same time retain instructions for continuing to elaborate themselves. Therefore, embryonic stem cells can never be used to develop effective cellular therapies for mature tissues and organs. Moreover, mature cells produced from embryonic stem cells will also be ineffective, because they are short-lived and cannot continuously renew on their own.

The only possibility for development of new therapies based on embryonic stem cells would require that they first be converted into adult stem cells. However, the conversion process is formidable compared with the use of naturally occurring adult stem cells. So, why would any government decide to waste taxpayers' dollars on embryonic stem cell research that will not even get them to where they already are with adult stem cell research? In addition, even if adult stem cells could be developed from cloned embryonic stem cells, they would be ineffective because of the gene expression defects found in all cloned embryonic cells.

Whatever the origin of embryonic stem cells, animal or human, whenever they are transplanted into an animal, they have up to a 25 per cent incidence of growth of a particular type of cancer, what is called a teratoma. No substantial progress has been made towards resolving this problem of cancer development with embryonic stem cells. This problem is sufficient by itself to exclude any possibility of using embryonic stem cells in therapy for human disease, even if there were strong indications of its likely efficacy on other grounds. This problem is central to the issue of application of embryonic stem cells in human therapy. It obviously is of profound importance, but was glossed over in Lockhart and essentially ignored in the draft bill.

To the present time no-one has successfully developed human embryonic stem cell lines through therapeutic cloning. The Lockhart committee regarded as very influential the claim by a South Korean research group that was shown to be fraudulent at about the time—that is, December 2005—the committee's report was submitted to the Parliament. It is a pity that the Lockhart committee, in light of this dramatic development, did not submit an amended report. A serious criticism of the Lockhart committee report is that the committee referred to a 2006 Morgan poll as though it were the only community survey available. The Morgan poll published on 21 June 2006 told respondents:

Scientists can now make embryonic stem cells for medical research by merging an unfertilised egg with a skin cell. In this case, no fertilisation takes place and there is no merger of the egg and sperm.

Respondents were then asked:

Knowing this, do you favour or oppose embryonic stem cell research?

Eighty per cent responded that they favoured embryonic stem cell research. However, the information given to the respondents was, and is, false. No scientist has yet made a human embryonic stem cell. It also gives an entirely misleading description of cloning. Most lay people would not understand from this description that this process would still form a living human embryo that is then destroyed by the extraction of stem cells. The Lockhart review did not refer to either of the following surveys. Earlier research conducted by two researchers from Swinburne University that was published in 2004 was not referred to in the Lockhart review. It had found that:

Almost 30 per cent of the sample was not at all comfortable with using cloned embryos, and the majority of the sample (63.4 per cent) scored under the midpoint (ie. 5). Given this and that the mean score for cloning was well below five and the modal response was zero there was good evidence to conclude that the Australian public do not feel comfortable with scientists cloning human embryos for research purposes.

Recent research into public attitudes to human cloning was carried out by the Sexton Marketing Group for the Southern Cross Bioethics Institute in January 2006. It found that only 29 per cent of respondents supported the cloning of human embryos as a source of stem cells while 51 per cent opposed the cloning of human embryos for stem cells. This increased to 55 per cent when it was clarified with respondents that the embryos are destroyed in the process of obtaining stem cells from them. I draw these matters to the attention of honourable members because I believe it is important that we appreciate the whole picture, not just part of the picture, before we make our decision about this bill. These are not just debating points; they go to the very core of the science and the proposed procedures that we are debating.

New South Wales is a sovereign State in the federation and the fact of the matter is that in a number of areas there is not comity between our laws and those of other States and Territories and the Commonwealth. Indeed, in significant areas well known to those of us on this side of the House the Labor Government has gone down a very different route from that of the Commonwealth. By taking a different position to the Commonwealth on this particular matter New South Wales is not shirking its Council of Australian Governments responsibilities, nor is it seeking to recast its relationship with the Federal Government. As I have said before, this State, if it so chooses, can go down another path when it comes to stem cell research. It is a path that this Parliament can help to create.

As I am a member of the Legislative Council's Privileges Committee, I do not intend to make any specific observations about the recent comments of His Eminence Cardinal George Pell that are the subject matter of the current inquiry. I intend to fully participate in that inquiry and I do not wish to make any comments or statements in the present debate that may inhibit or prejudice my participation in any way. Instead, I will confine my comments to more general observations.

Cardinal Pell is the most senior Catholic leader in Australia. As such he is charged by the Catholic Church with the responsibility to faithfully teach and preach what the church holds to be true, not just to its

members in this country but universally. That is not an option for him; it is his duty. I make this point because in the debate in this Parliament, and indeed in the broader community, there seems to be a fundamental misunderstanding about "what" and "who" he represents when he speaks deliberately and intentionally to Catholics and to the wider community on important public matters.

Cardinal Pell is talking about the position of the Catholic Church. It is not a matter of personal preference, taste or nuance for him. It is what it is: the position of the Catholic Church. That is the case irrespective of whether a person, even one who calls himself or herself a Catholic, agrees with the position. As I have said, Cardinal Pell is the most senior Catholic leader in Australia, duly appointed to carry out the responsibilities with which he is charged to the best of his ability. The position of the Catholic Church on human embryonic research is absolutely clear. The following statements most clearly express that position. First, human life must be respected and protected absolutely from the moment of conception. Second, since the embryo must be treated from conception as a person it must be defended in its integrity, cared for and healed as far as possible like any other human being. Third, and this is critical to the debate, it is immoral to produce human embryos intended for exploitation as disposable biological material.

I have no doubt that Cardinal Pell not only believes these statements to be true but also fully supports them. However, this is not about the views or opinions of Cardinal Pell; we are talking about the teachings of the Catholic Church. Cardinal Pell has a responsibility to help guide and shape the consciences of the Catholic faithful in Australia. He does this through his teaching and preaching of what the Catholic Church holds to be true. But in the end individuals are responsible for their consciences. Nobody else can, or should, seek to assume that responsibility. If the Cardinal sees that an individual Catholic may be about to make a serious error of judgment with respect to a significant moral matter, for what may be a range of reasons, he is duty bound and obliged to speak up and clearly explain the position of the church.

All of us have been exposed to numerous presentations and comments from individuals and organisations expressing various views about whether the proposed laws are just or unjust. If there is no truth about humankind then there can be no truth about relations between us, no true measure of what is due to each of us. Debates such as the one we are having bring these fundamental questions of life into open discussion. It seems to me that if we believe in genuine religious freedom church leaders must be able to speak out on behalf of the faithful and the community in general on issues in the public domain. I turn now to the conscience vote. Odgers' *Australian Senate Practices* ninth edition notes the following with respect to conscience votes in the upper House of the Commonwealth Parliament:

Parties occasionally announce that certain votes in the Senate free votes, that is, the parties have made no decision as to how their members should vote on a particular issue. Examples in recent decades include the Parliamentary Allowances Bill 1959, Matrimonial Causes Bill 1959, Marriage Bill 1961, Death Penalty Abolition Bill 1973, Family Law Bill 1974 and 1983, site of the new Parliament House 1968, 1969, 1973 and 1974, Sex Discrimination Bill 1984 and Euthanasia Bill 1997. Prior to 1936 when many amendments were made to the tariff bills, votes on tariff questions were traditionally free votes. Votes on amendments to the standing orders and other procedural matters and on questions of privilege are traditionally free votes.

On the subject of free votes, *House of Representatives Practice* fifth edition states:

Most decisions of the House are determined on party lines, but occasionally questions before the House are decided by what is termed a "free vote". A free vote may occur when a party has no particular policy on a matter or when a party feels that Members should be permitted to exercise their responsibility in accordance with conscience. Within the committees of the House party lines are less rigid and questions are often decided by what is, in effect, a free vote.

I note that since 1986 19 free votes have been given to all parties in this House, excluding the Greens, who are not offered conscience votes. In 2002 a subcommittee of the Australian Labor Party [ALP] national executive examined in detail the use of the conscience vote within the Australian Labor Party. On 13 December 2002 the Australian Labor Party national executive received a report from the subcommittee. I do not intend to comment in detail on the report because I do not believe it would be appropriate. The report notes that free votes have been reserved for questions that are not easily resolved in the party room. Conscience votes provide a way in which divisions over contentious social or moral issues can carry over into the Parliament without adverse repercussions for those who differ from a majority view. The report highlights the examples of conscience votes in the Commonwealth Parliament as well as instances in the South Australian and New South Wales parliaments.

The cases examined confirm that for the Australian Labor Party conscience voting has been the exception to parliamentary practice rather than the rule. The report notes that biotechnology issues give rise to consideration of free votes. In conclusion, the national executive resolved that decisions on whether conscience votes should be allowed would be determined on a case-by-case basis. The bill is a case in point. Australian

Labor Party members have been given a conscience vote. Given the nature of the matters considered in the bill, that is appropriate. It is vital that political parties continue to respect the consciences of their members. I appreciate the nature and importance of party and caucus solidarity.

Discipline is necessary. However, the very essence of certain matters continues to demand that they be properly treated as conscience issues. To treat them otherwise, or to say or imply that a matter is a conscience matter but the Government wants the bill passed, puts the individual member in a difficult and conflicting situation. One can almost hear the hard heads say, "Is he kidding? Politics is politics. Governing means governing." I do not make this point lightly or naively. If a matter is deemed because of its nature to be a conscience matter, it should be treated accordingly in every respect. As I have expressed elsewhere in my contribution to this debate, I have serious reservations about what are termed hybrid embryos. Equally I have serious reservations about what could be termed hybrid conscience votes.

Let me illustrate the point I am trying to make. On the one hand we are told this is a conscience vote, and that point has been clearly made: a conscience vote for Cabinet members, a conscience vote for Parliamentary Secretaries and a conscience vote for backbenchers. On the other hand, though, there is not just an implied desire but an express desire by the Government to pass the bill. The media release issued with this bill stated, "NSW Legislation to Maintain Ban on Human Cloning". As I outlined earlier, cloning is cloning: that is a scientific fact. In my view, using the language of the scientists and those promoting embryonic stem cell research does not promote a balanced debate, nor does the third paragraph in the very same media release that states:

If this legislation does not pass NSW researchers will be forced to put down their microscopes and move to other states where similar legislation is passed.

I ask the rhetorical questions: What is the intention of this statement? How is it meant to make members in both Houses feel if they do not wish to support the legislation for what are sound and carefully considered conscience reasons?

What about the other briefing material distributed by the Government? Once the perfunctory statements that Australian Labor Party members will be allowed a conscience vote on the bill are read, I can see nothing but information and comment that steers one in the direction of supporting the legislation. The diagram attached to the briefing material does not even allow one to see the technical and procedural similarities between so-called therapeutic cloning and human cloning. And what about the attached statement of Pamela McCombe, a member of the Lockhart committee, titled "Why I Changed my Mind about Stem Cell Research". Need I tell members which way her mind changed? I could go on, but I will not do so now.

None of what I have said is meant to claim that members have been denied a conscience vote. What I am saying, though, is that with matters like the one that we are considering, it is not just a case of what we say and do; what is equally as important is what we do not say and what we do not do. It is in such circumstances that I believe members can have genuine dialogue among themselves, across factions and parties, and reflect upon or consider the issues at stake in depth, search their consciences and vote freely according to that decision. To deny our conscience or allow it to be interfered with strikes at the very heart of who we are. We must never allow this to happen.

Much time could be expended exploring and debating the influence of organised religion in society today. In the end it is an assessment or a judgement that all of us can and do make from time to time. However, as we all know, there is no consensus on the calculus to be used when trying to work out the answer with any precision. While the exploring and debating goes on—it always has and always will—as legislators we shall continue to be confronted with matters that demand careful consideration from an ethical point of view. With no consensus these days on what is accepted as the absolute truth about certain matters, how can we, assuming that we believe we should, bring an ethical framework to bear when considering difficult questions? I believe that is a very important question that is germane to this debate.

Very few if any members would accept the proposition that what science asks for, science should get. The question is: What are the parameters that we should set? Margaret Somerville is an Australian who currently is living in Montréal, Canada. She is the founding director of the Centre for Medicine, Ethics and Law at McGill University. She holds the Samuel Gale chair in the faculty of law and is a professor in the faculty of medicine. Recently Margaret Somerville was in Australia at the Sydney Writers Festival. She was invited to speak and provide some reflections on her recent book, *The Ethical Imagination—Journeys of the Human Spirit*. Unfortunately I was not able to hear her speak. A few years ago I read her book, *The Ethical Canary*. In that

book she proposed two foundational principles for a shared ethics: deep respect for all life, in particular human life, and a profound respect for the human spirit. On page 2 of *The Ethical Imagination—Journeys of the Human Spirit* she states:

In the present book, I'm putting forward two concepts that I believe can help us to implement those principles: recognizing and developing a sense of the sacred that we can all share—the secular sacred; and adopting a basic presumption in favour of the natural as the starting point for our decision-making about ethics. I believe that together these principles and concepts can help us to realize two closely linked goals: finding a shared ethics, and generating the hope - the oxygen of the human spirit - that is essential for our [common] humanity.

Somerville argues that although our Western societies no longer use religion as a direct basis for public policy, we still need access to a concept of the sacred. Using my words, not hers, if we do not have a "magnetic north" by which to orientate our consideration of matters, it all becomes a matter of personal preference and even taste, with those who have influence and power at a point in time securing the outcome they want and can get. Somerville argues that this is a most unsatisfactory direction in which to head and that it has the potential for some truly awful consequences for humanity, particularly as science moves us toward the convergence of artificial reproductive technology, genetics, nanotechnology and robotics.

Those who have read her book will agree that she is not alarmist or prone to exaggeration. Her comments are thoughtful and measured. However, she makes the point that there is evidence that we are being drawn inexorably down the path of accepting uncritically both the language and the rhetoric of science. She sees that as a development about which we, particularly legislators, should all be concerned. The author spent some time developing in her book the ideas of the secular sacred and the presumption in favour of the natural. She went on to apply her thinking to some concrete examples, including sex selection, human germ-line research and embryo cloning and experimentation. She states, and once again I quote her directly:

To regard activities such as the making of embryos for use as products—and in doing so, killing them—as ethical rests on an assumption that we own life and therefore can treat it as we wish; that we have a right to dominion over it. The contrasting view is that we are holding life on trust for present and future generations in ways no other humans ever have held it. If we believe this, then we must ask what such a belief requires that we not do with our new technoscience. We would do well to listen to the philosopher Jurgen Habermas in answering that question. Habermas says that respect for what he calls "pre-personal human life" is necessary to maintain our ethical understanding of what it means to be human, and that there is a long-established, widely shared, deep moral intuition that human embryos are not just things. Interestingly, recent research strongly supports the existence of this intuition. This research shows the personal way in which people relate to their stored IVF embryos and the great emotional difficulty they have in deciding what should happen to them. Creating embryos for research and therapeutic cloning necessarily means that we treat the transmission of life as a commodity manufacturing process, and embryos as objects. Doing so breaches the respect the moral intuition that embryos are not just things demands of us. We undertake such acts at our ethical peril.

In conclusion I place on record my thanks to the many citizens of New South Wales who have sent me emails and faxes expressing their heartfelt views on this matter. I thank my colleagues in this and the other place for the opportunity to discuss a range of issues with them. There have been a number of competing influences and considerations that all of us have had to take into account when considering this matter. In listening carefully to the contributions, the influences and considerations have been many and varied. That is no surprise. However, in the end the inescapable reality of supporting the bill is to sanction the destruction of human embryos.

I share the deep, moral intuition that human embryos are not just things. They are no less embryos, worthy of our respect, just because they were created outside a human body. They are no less embryos, worthy of our respect, just because they became animated by a method other than fertilisation by a sperm. This debate provides each one of us with the opportunity to express our respect for embryos—human life. I invite members to join with me in opposing the bill and to work together towards promoting and developing stem cell signs that does not involve research and experimentation on human embryos.

**Mr IAN COHEN** [4.33 p.m.]: I have listened to various aspects of the debate on the Human Cloning and Other Prohibited Practices Amendment Bill 2007 with interest over the past few days. It is certainly a welcome change in the pace of the House to see that major political parties have allowed a conscience vote on this bill; that gives an opportunity for all members to express themselves in a heartfelt manner. There is no doubt that we have many strongly held views and it is always warming to hear those views expressed in a way that is not fettered by a party line.

It has been mentioned that the Greens do not allow conscious votes. We have worked out a great number of these issues within our own relatively small organisation. By the time we contribute to a debate on any matter we have already worked out our stance quite effectively. For example, with the euthanasia debate, in a bill that I introduced to the House during the last Parliament, there was quite a degree of debate within our

organisation. I had the opportunity of getting that bill through with a majority, but I put that off in order to be able to visit all the New South Wales branches of our organisation to get a consensus view.

Similarly with this issue, we have not been dragged into any party line but have spent a great deal of time and effort, and some patience, in discussing all the issues. Three Greens members have already spoken in this debate, and I am the last Green to speak. I am certainly very pleased to support the bill. I have heard much about the sanctity of life and will briefly touch on the quality of life, as I see it. Many members of this House would be affected by various heartfelt religious convictions and I certainly respect that. I respect also the statements by the head of the Catholic Church in this State. He has a right to express himself, although I may strongly disagree with his statements. I was heartened to see the reaction by so many people and so many Catholic members of the lower House who made a very strong and fair assessment of the Cardinal's utterances.

Having said that, clearly it is important that we have this type of debate and that we remain open to this type of debate on such a sensitive topic. The bill maintains the ban on human reproductive cloning and will bring New South Wales into line with Commonwealth laws, creating a nationally consistent legislative framework governing therapeutic stem cell research. The bill will allow the creation of stem cells using somatic cell nuclear transfer [SCNT], or therapeutic cloning. That was a key recommendation of the Lockhart review of 2005. The Commonwealth passed legislation to allow therapeutic stem cell research in December 2006 and Victoria followed in April 2007 with mirror legislation. The Victorian bill passed quite easily, but in New South Wales there has been very heated debate in the other place and in the media.

This research has the potential to provide treatment and perhaps one day to provide cures for debilitating illnesses such as heart disease, Parkinson's disease, Alzheimer's, motor neurone disease, spinal injuries and diabetes, among others. I have received many impassioned letters and emails from people who see this research as a beacon of hope for themselves or for family members. I have received also many representations urging me to vote against the bill, mostly on religious or pro-life grounds. Of course, I acknowledge and respect their position but quite frankly I do not agree with them. I certainly will not go over the many issues that have been canvassed in depth so far. However, a Roy Morgan poll held last year found that 82 per cent of Australians supported embryonic stem cell research.

I acknowledge the earlier comments by the Hon. Marie Ficarra, who clearly indicated that there were biases or inaccuracies in the use of the word "cloning" in the poll. That made me stop and think; but this goes beyond the number of people who would support the bill, whether it was an accurate or inaccurate 82 per cent, and whether the result would be far less if they knew more about it. There has been much debate in the House about how many in the community would support the bill if they knew some of the finer details. Certainly that is something that as members of Parliament we need to trouble ourselves about, and look into. Quite frankly, that is what we are elected for. It is important that we not be swayed by figures taken in the community.

Certainly we use pro and con statistics in debates to support arguments. Nevertheless in this House we make representations on what we believe in and hopefully that is represented by a fair number of people in the community. From my perspective, the figures that have been quoted during this debate so far are not relevant. We are speaking about issues that we have a belief in; we are elected to represent people and we do that to the best of our ability.

I do not agree with many of the religious perspectives relating to the commencement of life and at this point I will not go into those aspects of the debate. I respect the views of those members who placed a priority on these issues, but there are other significant and relevant perspectives. I understand the Judeo-Christian background and the concepts behind the importance of the sanctity of life, procreation and population growth. In the social environment of biblical times it could have been referred to as "populate or perish". At that time there was a need to increase populations to protect particular social or religious groups. That geopolitical reality has been translated into current day philosophy, which is not necessarily as relevant as it was then.

We must move beyond philosophical positions that might have been accurate and helpful at that time for the maintenance of tribes in hostile environments—tribes that needed to populate or perish. Modern day society has laid the groundwork for those philosophical traditions. However, I believe that conditions can change; therefore we must look again at the basic moral structures of our society and how we make decisions. This type of treatment and medical activity has the potential to provide hope for those in society who are doing it tough—people who have debilitating diseases and who are in need of hope. This stem cell debate and the potential implications of medical research will give these people hope.



One member of my family suffers from severe motor neurone disease. I hope that the scientific development that might occur as a result of this process benefits him and other people who are suffering so greatly. I met and befriended Suzanne Bertini when the euthanasia issue was being debated. Today I rang her and asked whether I could mention her name in this debate. Suzanne, who has been using motorised apparatus for many years, has severe spinal injuries. At the time I discussed the question of euthanasia with a colleague of mine, Dr Brian Pezzutti, a former member of this House. Dr Pezzutti, who comes from a Catholic background, said that stem cell development and scientific endeavour would give those sorts of people hope so that they do not attempt to end their lives at any time in the future.

With the unfolding of these scientific opportunities people like Suzanne now have the opportunity to live better lives. I am sure that many members viewed the controversial program on *60 Minutes* last Sunday night, which portrayed the inappropriate nature of scientific activities. However, many people have a great deal of hope in proper scientific development that will support humanity. When I asked Suzanne that question she said to me, "It is very easy to say no to something that you do not need." Many people in society are in great need of the support that stem cell research might give them. Suzanne said to me, "No-one chooses to be disabled; it can happen to any one of us—our friends, our family, or our loved ones."

Many people in society who are disabled endure a great deal of pain that could be avoided. We should focus on that area rather than debate issues such as when life begins. I am compelled to support the bill on those grounds. I draw the attention of honourable members to a debate that was held in this House over 20 years ago. As I understand it, a former member of this House, Jim Cameron, was the only member to vote against the human tissues bill, which would have permitted heart transplants. After his heart attack he was forced to revise his position and to accept a heart transplant. This debate involves a number of similar issues. Jim Cameron voted against a piece of legislation but he then underwent a lifesaving process that gave to him many years of quality life.

If I had been a member of this House when he was a member I might have disagreed with his point of view. It is worth noting that his life was saved as a result of cutting edge technology and he gained many years of productive life. The debate in this House has been passionate and well considered. Each member who spoke on this issue did so with great conviction and compassion, guided by their own sense of right and wrong. I note the comments of Verity Firth, who observed:

... although proponents and opponents may seem diametrically opposed, the motivations behind members' views are often closer than they appear. Those who vote against the bill are motivated by what they regard as the ultimate protection and dignity of human life in all its forms. Parliamentarians who support the bill are motivated by a similar compassion for human life and a desire to relieve human suffering where we find it. Both these positions are moral positions and they both deserve respect.

The Greens understand that the question of research involving human embryos is a complex and difficult one. We understand the depth of emotion in the community surrounding stem cell research. Like other members of this House, the Greens have worked through the ethical dilemmas surrounding the beginning and end of human life in their consideration of this bill. We note the considerable support in the community for balanced and measured legislation that allows medical researchers to improve their understanding of human diseases and pursue the development of treatment and therapies for many currently untreatable illnesses.

I was not surprised to see the results of research undertaken last year by the Roy Morgan group. I have already discussed that report and its pitfalls. It shows that many people in the community are in favour of embryonic stem cell research. It is important to note that the embryos we are considering in this bill are not fertilised. They represent the potential for human life and, if fertilised and implanted into a woman's womb, they may develop into a human being. But as it stands, for the purpose of research under this bill, embryonic stem cells do not constitute a human being. For that reason I fundamentally disagree with the comments that have been made that the Parliament is being asked to sanction the creation of life to destroy it. I do not agree with that statement.

I understand other members' position in relation to that issue, but I do not believe that to be the case. The Parliament is being asked to ensure ethical safeguards and to enable research to relieve suffering, treat diseases and improve human dignity. I agree with my fellow Greens that it is unethical to deny potential benefits to so many people currently suffering diseases such as type 1 diabetes that could benefit from this research. However, our support assumes there is a framework of safeguards and scrutiny and that cells are not allowed to propagate beyond 14 days or be implanted in a woman's uterus.

I recognise that the bill provokes moral and ethical dilemmas for many people in the community. However, I have weighed the issues and I believe the public interest is better served by passing the bill than by

opposing it. I believe Justice Lockhart and his committee properly considered the science and the ethics involved in the debate. The bill before the House reflects this, and so I support it.

**The Hon. RICK COLLESS** [4.49 p.m.]: The Human Cloning and Other Prohibited Practices Amendment Bill has occupied my thoughts for probably more time than any other legislation I have considered in this place. As other honourable members have said, there are some extremely intense issues at play in the bill. The potential for medical advancement is enormous, some very serious ethical and moral issues are involved and the future financial implications are yet to be resolved. This debate has a number of similarities with the debate on genetic engineering in the plant and crop industries as we are discussing removing and replacing genetic material from cells with the end result of producing cells and organisms with altered genetic material.

When the original bill passed through the House in 2003 I pointed out that the real challenge with these questions lies not in their scientific and technical aspects but in the moral and ethical issues regarding the use of human embryos in research and the potential medical benefits that may result. I supported the passage of the 2003 bill. The Human Cloning and Other Prohibited Practices Act 2003 prohibits the production of a human embryo outside the body of a woman for any purpose other than attempting to achieve pregnancy in a woman. The production of such an embryo for other purposes carries a penalty of 15 years imprisonment. This bill will change that. It asks us to approve the production of human embryos to permit the creation of stem cells for medical research. This is a far more difficult decision than the one I made in 2003.

The 2007 bill will permit the production of embryos by somatic cell nuclear transfer, which involves removing the genetic material, or DNA, from a female egg cell and replacing it with genetic material from a somatic cell, effectively fertilising the female egg cell, which then has the potential—and I stress this point—should it be implanted in a woman's uterus to grow into a foetus and be born as a living being. Such a being would be an exact replica of the donor of the somatic cell: a clone. The bill prohibits allowing these fertilised cells to be implanted in a woman's uterus. The process has been called "therapeutic cloning", with some supporters claiming that the cells are not fertilised and therefore are not living humans. I cannot agree with that view. The cells are fertilised.

During a briefing session on the bill I asked a doctor from the Prince of Wales Medical Research Institute what would happen if such an embryo was implanted in a woman's uterus. Would it grow into a foetus? Would it grow into a baby, who would ultimately be born? He answered very quickly and very emphatically that it would. In fact, that is exactly how Dolly the sheep was cloned and born. There are many unknown factors involved in this process, including the quality of life of such clones. Most members will recall that Dolly the sheep died at a very young age. One unknown that creates a great deal of uncertainty is whether when DNA is implanted and a clone is born the DNA is the same age as the original donor. For example, if I were to donate a somatic skin cell and a clone of me were created, would that clone be 55 years old on the day of its birth? That is one of the unknowns.

Those who attempt to draw a difference between embryos fertilised with a male sperm cell and those fertilised with a somatic cell cannot dispute the fact that they are both human embryos. The explanatory note to the 2007 bill states that it "enables somatic cell nuclear transfer and other practices involving the creation of human embryos"—I emphasise that point—"other than by the fertilisation of human eggs by human sperm".

That is a clear indicator that these embryos are human. They are the very start of life, and their creation and destruction involve the intense ethical and moral ramifications that I mentioned earlier. I will explore in more detail the point at which a female egg constitutes life, as this is the crux of the moral and ethical debate. The bill proposes to change the definition of "human embryo". The *Concise Oxford Dictionary* defines an "embryo" as "human offspring in the first eight weeks from conception". Conception is of course when the sperm cell pierces the wall of the oocyte and the genetic material from both cells merges to become a single embryonic nucleus.

The *Atlas of Human Embryology* states "fertilisation is the beginning of the pregnancy and can be considered the start of new life". It goes on to state that within 24 to 48 hours of fertilisation the early pregnancy factor can be detected in the maternal serum. Life has certainly commenced, as the mother prepares for the next nine months of pregnancy. Section 4 of the 2003 Act defines "human embryo" as a live embryo that has a human genome or an altered human genome that has been developing for fewer than eight weeks since the appearance of the two pro-nuclei. A "human embryo clone" is defined as a human embryo that is a genetic copy

of another living or dead human but does not include a human embryo created by the fertilisation of a human egg by a human sperm. The 2007 bill defines a "human embryo" as:

... a discrete entity that has arisen from any process that initiates organised development of a biological entity with a human nuclear genome or altered human nuclear genome that has the potential to develop up to or beyond the stage at which the primitive streak appears.

It is difficult to find a clear definition of the "primitive streak" in embryology, but I understand that it is the stage at which the embryonic cells begin to arrange themselves and the process of cell differentiation begins. The appearance of the primitive streak marks the beginning of the foetal stage and the embryo is generally considered to be a foetus after eight weeks.

I turn now to some of the practices prohibited in the bill and to some of the moral and ethical ramifications when and if these practices are carried out illegally. Division 1 of the bill outlines practices that are prohibited under any circumstances. The fact that these prohibited practices are enunciated so clearly is testament to the fact that they are technically possible. It is an offence to place a human embryo clone in the body of a human or an animal. Is it possible to place a human embryo in an animal's body? Because it is prohibited in the bill obviously it is. It is an offence to create an embryo that contains genetic material from more than two persons. Is that possible? Is it possible for an embryo to have three, four or more parents? Obviously it is.

It is an offence to develop a human embryo outside the body of a woman for more than 14 days. Will this change in another four years? Will another amending bill come before Parliament that seeks to extend this period to 28 days and beyond for the purpose of further science and medical research? That is very likely. It is an offence to alter the genome of a human cell in such a way that the alteration will be passed on to future generations that descend from the human whose genome was altered. Exactly the same process is known as genetic engineering in the plant industries. The debates we have had in this Chamber about genetically engineered canola and other crops have caused many members concern. Although it is prohibited under this bill, it is technically possible to achieve, and that is the concerning aspect of this science.

It is an offence to create a chimeric or a hybrid embryo, and it concerned me greatly that the Minister when presenting this bill glossed very quickly over the production of chimeric embryos. I did not understand the term "chimeric", so I did some simple research and discovered that a chimera is a mythological Greek animal with a lion's head, a goat's body and a serpent's tail. In other words, a chimeric embryo contains DNA from multiple animals. And the more I researched this aspect, the more concerned I became about the potential for this technology to be abused or misused should it fall into the hands of evil forces.

Many people would have seen the photo of the mouse with a human ear growing out of its back. That mouse is a chimeric mouse—it has the DNA of a human in its genetic material. Scientists have already created a human-sheep chimera, with the body of a sheep and human organs, containing 85 per cent ovine cells and 15 per cent human cells. In March 2005, the London *Telegraph* reported an extremely controversial scientific project where a group of university students were preparing to create a mouse whose brain would be composed entirely of human cells.

That proposal followed a successful program of breeding mice with brains that contained 1 per cent human cells. That research has already been done. The university's ethics committee approved the research on the condition that if the mouse started to exhibit human-like behaviours, the program would stop. I ask members, is this the direction in which we want our research to head? To suggest that research will not be involved in chimeric activities is to put one's head in the sand. The University of Nebraska Medical Centre has a form on its website titled "Generation of Chimeric Mouse Form", which requires the applicant to identify the embryonic stem cell clones to be included in research.

Under the bill it is an offence to commercially trade in human eggs, sperm or embryos, but consider the case of people in Third World countries who at times will go to extraordinary lengths to make enough money to keep their families alive. Is it not a fact that Third World countries are known for the willingness of their people to sell their organs, such as a kidney, simply to survive? While trade in human eggs, sperm or embryos may be illegal in this country, will the demand for eggs cause this trade to happen in countries less fortunate than ours? The prohibited activities carry a penalty of 15 years imprisonment if breached. The 2003 Act carried a penalty of 15 years imprisonment for the production of what is now being called therapeutic cloning—a quantum shift from a serious criminal offence to a legal activity by stroke of legislative amendment over a four-year period.

One of the concerns I have is that although science is developed for all the right reasons, and this science is no different, it is a sad fact of humanity that science developed for all the right reasons is very often used for all the wrong reasons should it fall into the hands of those with evil and unethical intentions. Let me give cases in point. Imagine the case of a crazed world leader whose intent it is to breed a super race of people. Such a crazed leader would certainly use technology such as this in order to promulgate his evil ideals. The second example is not evil, but tragic. Imagine the case of a couple that have lost a young child. Those who have not experienced it cannot imagine the trauma these people go through, and at the height of their distress they could go to any lengths to replace the child. Would the production of a clone of their lost child seem a realistic option in their time of grief? And, although it may be illegal in this country, the black market in such technology may well come into play. Everything has its price.

The National Health and Medical Research Council licensing committee has issued only nine licences for research using excess in-vitro fertilisation embryos, and since the 2003 Act only about 30 per cent of the available embryos have been used for research. I understand that stem cells have not yet been extracted from any cloned human embryos anywhere in the world, and that the claims by Korean researchers, which other members have spoken about, that they had achieved this goal were subsequently proved to be fraudulent. This same research program used young female researchers as the source for some 2,000 eggs they required—eggs that were unethically collected.

On the other hand, there have been tremendous advances in medical science over the last 40 years, with the use of adult stem cells, without any potential for those cells to develop into embryos of any description, therefore avoiding all the ethical and moral issues associated with therapeutic cloning and chimeric research. Adult stem cells are undifferentiated cells found among differentiated cells in the tissues and organs of the body. They can renew themselves, and they can differentiate to yield the major specialised cell types of the tissue or organ. The primary roles of adult stem cells in a living organism are to maintain and repair the tissue in which they are found. Some scientists now use the term somatic stem cell instead of adult stem cell.

A number of experiments have suggested that certain adult stem cell types are pluripotent, which is the ability of a single stem cell to give rise to all of the various cell types that make up the body. This ability to differentiate into multiple cell types is called plasticity or transdifferentiation. The following list offers examples of adult stem cell plasticity that have been reported upon over the past couple of years. The first example is of what are called hematopoietic stem cells—which are stem cells from bone marrow. Hematopoietic stem cells may differentiate into three major types of brain cells—into skeletal muscle cells, into cardiac muscle cells, and into liver cells. Secondly, bone marrow stromal cells—a different type of bone marrow stem cell—may differentiate into cardiac muscle cells and skeletal muscle cells. Thirdly, brain stem cells may differentiate into blood cells and skeletal muscle cells. It is that sort of research that needs to be further developed, because it avoids the problems associated with embryonic stem cell research.

The latest research on stem cells is known as "induced pluripotent stem cells", research that has been mentioned by others who have spoken in this debate. The leading researcher is Shinya Yamanaka, from Kyoto University. He has developed a process using mouse skin cells with a simple process that triggers those cells to become pluripotent, hence the name induced pluripotent stem cells. Those cells cannot form into an embryo, and cannot create any chimeric characteristics. As such they bypass all the moral and ethical issues surrounding the use of embryonic stem cells. Continuing research that is taking place as this debate is occurring is overcoming the technical difficulties that arise from developing the human application of the process. There are absolutely no moral or ethical difficulties with the development of adult or somatic stem cells, or with induced pluripotent stem cells, and it is my belief that the research effort needs to be focused on these processes rather than the highly questionable therapeutic cloning process.

As I alluded to earlier, much of the international work that is occurring with embryonic stem cell research is very similar in nature to the genetic engineering work that is occurring within the plant industries. Within plant industries there is a massive push for the adoption of genetically engineered crops, with the major push coming from the large multinational companies looking to monopolise the production of seed supplies and eventually control the world's food supplies, as is well indicated by the "terminator technology" to prevent second generation seeds from germinating. Thankfully this technology has been outlawed at this stage, although I anticipate that the multinationals involved in its development will continue to lobby for its release.

I am concerned that similar multinational companies will headhunt researchers in the field of human biotechnology and eventually control the commercial research, development and application of therapeutic cloning processes. Furthermore, such companies, when driven by excessive potential profits, will lobby

governments all over the globe to review their prohibited practices as they develop potentially profitable processes that are currently prohibited. If this bill is passed today, it must be amended to prevent such technology from being patented and from being controlled by commercial interests. I have been contacted by many members of the public about the bill, as I am sure have most other members. The overwhelming majority of those contacts have pleaded with me to vote against the bill. I will vote against the bill, and in so doing I emphasise the need to increase research into adult stem cells and induced pluripotent stem cells to hasten the process in order that those in need of these results will gain a benefit as soon as possible.

**Reverend the Hon. FRED NILE** [5.10 p.m.]: I totally oppose the Human Cloning and Other Prohibited Practices Amendment Bill 2007, which should more realistically be called the human embryo stem cell research bill. However, I totally support adult stem cell research, which, I believe, will provide life-saving and pain-saving cures for many diseases and physical injuries, such as diabetes, cancer, Parkinson's disease and spinal cord injuries. I urge the Government to re-examine its budget allocation and transfer funds it has set aside for embryonic stem cell research to adult stem cell research, which will provide far more benefits to all those who need support. A considerable amount of time could be spent examining the wording of the bill, as I have done. The object of the bill is to amend the Human Cloning and Other Prohibited Practices Act 2003 to mirror amendments made to corresponding Commonwealth legislation by the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006. Similar amendments have been enacted in Victoria by the Infertility Treatment Amendment Act 2007.

The Commonwealth amending Act, the Victorian amending Act and this bill are in line with recommendations made in December 2005 by the Legislation Review Committee of the Federal Government, also known as the Lockhart committee, which was appointed to review the Commonwealth's Prohibition of Human Cloning Act 2002 and Research Involving Human Embryos Act 2002. A great deal could be said about the membership of the Lockhart committee, which, from my observation, seemed to include people in favour of human embryo research who did not give sufficient consideration to adult stem cell research. In my view the bill contains doublespeak or double negatives. For example, the bill states that it will prohibit human embryos developing outside the body of a woman for more than 14 days. But, clearly interpreted, the bill will in fact allow the development of a human embryo outside the body of a woman for up to 14 days.

The bill refers to prohibiting the creation or development of human embryo by fertilisation of a human egg by a human sperm outside the body of a woman for any purpose other than the assisted reproductive technology treatment of a particular woman. But in fact, given the precise meaning of those words, the bill will support the creation or development of human embryo by fertilisation of a human egg by a human sperm outside the body of a woman for assisted reproductive technology treatment of a particular woman. The bill refers to prohibiting somatic cell nuclear transfer, also known as therapeutic cloning, and other practices involving the creation of human embryos other than by the fertilisation of human eggs by human sperm, but then refers to such technology being permitted under licence for research purposes and not for reproductive purposes. The so-called prohibitions in the bill are not in reality prohibitions; they are not black and white.

Proposed section 13 provides that a person commits an offence if the person intentionally develops a hybrid embryo for a period of more than 14 days. On a strict interpretation of the words of that proposed section, it provides that a person does not commit an offence if the person intentionally develops a hybrid embryo for a period of less than 14 days. In fact, proposed section 13 legalises rather than prohibits the intentional development of a hybrid embryo for a period of less than 14 days. Each proposed section prohibiting the creation or development of a human embryo by a process other than the fertilisation of a human egg by human sperm is subject to the wording "without the authorisation of a licence issued by the Embryo Research Licensing Committee". Therefore, it follows that such creation or development can be carried out under a licence issued by the Embryo Research Licensing Committee.

Further, proposed section 18 prohibits the creation of a human embryo by a process other than by fertilisation of a human egg by human sperm where the embryo contains a genetic material provided by more than two persons, again without the authorisation of a licence issued by the Embryo Research Licensing Committee. Proposed section 18A prohibits the use of precursor cells taken from a human embryo or a human foetus to create or develop an embryo, again without the authorisation of a licence issued by the Embryo Research Licensing Committee. We are debating the passage of a bill that prohibits certain actions, unless a licence is issued that provides the legal machinery to carry out such prohibited acts.

Who are the members of the Embryo Research Licensing Committee? Are they the scientists driving the research? Is there any association between the Embryo Research Licensing Committee and the scientific

industry, the medical industry, the corporate world or big business, all of which will benefit from this research? Even the members who have stated they will vote for the bill have expressed serious concerns about the shadow of big business and the corporate world that is pushing this issue behind the scenes. I believe that people have already set up companies to make huge profits from the process. Are those people driving the debate? Are they pushing for the legislation?

Other members have referred to adult stem cell research, and I will not omit it from my contribution. When we say we favour adult stem cell research, we are not talking about some pie-in-the-sky type research. Significant new evidence is becoming available, even while we are debating this bill. For example, two journals, *Nature* and *Stem Cells*, published recent discoveries on 7 June and it should be noted that this debate is taking place on 20 June. In other words, scientific developments have been revealed after the bill has been introduced. Obviously, that new evidence could not have been considered by the Government.

For that reason I and other members believe that debate on this bill should be adjourned and not proceeded with. I would prefer the bill to be defeated, but at the very least it should be withdrawn to allow further consideration of its provisions. On 7 June *Nature* and *Stem Cells* published three papers describing a simple method of turning mouse skin cells into genuine pluripotent stem cells, and they are the functional equivalent of embryonic stem cells. These stem cells are the Holy Grail of embryonic research yet they are being obtained without any creation and destruction of cloned embryos. In short, this breakthrough promises all the hoped-for benefits without any ethical concerns whatsoever and points to a way around the social and moral harm of cloning. The commentary in *Nature*, entitled "Simple switch turns cells embryonic", states:

The race is now on to apply this surprisingly straightforward procedure to human cells.

It's unbelievable, just amazing," says Hans Schöler (a stem-cell specialist at the Max Planck Institute for Molecular Biomedicine in Münster who is not involved with any of the three articles). "For me it's like Dolly [the first cloned mammal]. It's that type of accomplishment."

In a comment that sweeps away the whole ethical nightmare of cloning and all the concerns about commercialising women's eggs, Shinya Yamanaka of Kyoto University, who pioneered this new technique, says "Neither eggs nor embryos are necessary. I've never worked with either."

The commentary in *Nature* makes the classic understatement:

The method is inviting. Whereas cloning with humans was limited by the number of available eggs and by a tricky technique that takes some six months to master, Yamanaka's method can use the most basic cells and can be accomplished with simple lab techniques.

When this new reality settles into the consciousness of any fair-minded legislator, the question becomes: what possible justification is left for legalising cloning?

Cloning has always been promoted as the only way to get embryonic stem cells that exactly match a patient—an exact match because the cloned embryo is the patient's identical twin. But if that goal of patient-specific pluripotent stem cells is now achieved by Yamanaka's ethically uncomplicated method, what is left for cloning?

There are only two other stated purposes for cloning—both inhuman and frightening, and both proposed in the prestigious *Journal of Medical Ethics* by Australian academics.

The first is 'cloned-fetus farming'—the serious proposal to growing cloned human embryos to the advanced fetal stage to use their organs for transplant, as has now been achieved using cloned animals.

Melbourne's Professor Julian Savulescu, now Oxford Professor of Practical Ethics but closely involved in the Australian planning debate, writes "it is not merely morally permissible but morally required that we employ cloning to produce embryos or fetuses for the sake of providing cells, tissues or even organs for therapy, followed by abortion of the embryo or fetus." (*Journal of Medical Ethics* in 1999 ...)

The second remaining purpose is to bring cloned embryos to birth, to help certain couples with infertility. Melbourne academic Daniel Elsner writes in last October's *Journal of Medical Ethics*, "people wishing to reproduce by cloning should be able to do so, provided that there is no reasonable alternative."

Neither of these inhuman developments were envisaged by our politicians as a justification for cloning, and yet those are arguably the only remaining uses for cloning.

Our politicians should consider that since June 7<sup>th</sup> the science has changed, and the essential justification for cloning has gone.

I wonder whether the views of the various academics I have been citing would be views held by the all-powerful body that will be supervising the operation of this legislation, the Embryo Research Licensing Committee. Does

that committee reflect any of the views which are held by those highly qualified medical experts? I do not agree with this committee, but it is certainly very influential in the debate that is taking place in Australia.

There has been a new development by Dr James Sherley, who is a stem cell specialist, in the whole issue regarding the use of adult stem cells. Dr Sherley is a 49-year-old Massachusetts Institute of Technology [MIT] associate professor who earned MD and PhD degrees from the Johns Hopkins University. He formed his scientific view after many years of studying cancer and cell division and thinks that embryonic stem cells, to be useful, first would have to be turned into adult stem cells. He asserts that in that case there is no need to rush into research on embryonic cells. Which type of stem cells to use in research is a question steeped in politics. For example, President Bush announced in 2001 that federal funds would not be used for human embryonic stem cell research except for a few stem cell lines created prior to the announcement. By the end of the financial year to September 2007 the National Institute of Health in the United States expects to spend approximately \$200 million on human adult and foetal stem cells while human embryonic stem cells will be allocated \$37 million. That shows the priorities that apply in the United States.

It appears that here in New South Wales the priorities are reversed, judging by the allocation of funds in the recent budget announced by the Treasurer, the Hon. Michael Costa. Dr Sherley does not buy the proposition that the more versatile embryonic stem cells would be easier to use in treatment than adult stem cells are. He says that the transformation of an embryonic stem cell is a one-way street. He says that once one of the cells turns into a pancreatic cell it cannot go back. That is different from adult stem cells, which typically divide into two—one differentiated cell, with a specific function, and another stem cell. In that way, adult stem cells keep their own numbers steady, even as they regenerate the organ they belong to. Dr Sherley aims to crack the problem of growing cells in culture and find ways to make adults stem cells proliferate in a Petri dish, just as embryonic cells do. His efforts have brought about great progress and have been published in the journal *Biotechnology and Bioengineering*.

Adult stem cell research is not pie in the sky but a reality. When considering the bill before the House and while following the wider debate I have found it very disappointing that some supporters of the human cloning bill, particularly those outside this House, have tried to label its opponents, of which obviously I am one but there are others who have spoken in opposition to the bill, as uncaring or lacking in compassion. That is obviously a travesty of the truth. The fact is that I and others like me care and have compassion for every person, especially for those who suffer from terminal diseases, cruel spinal injuries, cancer, Parkinson's disease, motor neurone disease, diabetes and other serious illnesses. But we must have compassion and care for the whole human race. It is a question of weighing up our priorities.

We must have compassion and care for the future of the human race. Proponents of the bill reject the thin end of the wedge or slippery slope arguments. However, I believe that the debate we are having now proves the very point of those arguments, as others already have noted. In 2003 this issue was debated and both houses of the Parliament soundly defeated the proposition we are now being asked to support. Suddenly all the wisdom applied in 2003 has to be overthrown and replaced by some sort of new insight.

That is a perfect example of what we call the slippery slope, or the thin end of the wedge. The scientific community, those pushing this bill, have put forward the prohibitions in an attempt to soften some politicians who they suspect may vote against it. If the bill is passed, in a few years time amendments may be introduced that will be strongly supported with logic and scientific arguments. It may be said that there was some lack of insight in the drafting of this bill and the restrictions about 14 days, 28 days and 48 hours will be seen as barriers to progress. A further amending bill may be introduced with extended times, or perhaps with no time limits, by a process of small stages to change the very basis, the foundation on which we stand, to bring about a certain objective. If those changes were put up initially in black and white they would be soundly rejected by the House, as occurred in 2003.

I congratulate the Hon. Greg Donnelly on his presentation and on his outline of the conscience vote. I had intended to cover similar material, and will now not do so in detail. I commend the Labor Party and the Liberal-Nationals Coalition for allowing their members a conscience vote on this bill. As has been stated, this bill is perceived as a Government bill and that has put some Government members in a dilemma. They may wish to exercise their conscience and vote against the bill but they also want to be loyal to the Labor Party, the Labor Government and the Premier. The Premier is a practising Catholic, and has said that he supports the bill. In the 26 years that I have been a member of this House I have noted that members are strongly influenced by the leader of their party, and that is to be expected. Members of a party elect their leader and feel an almost moral obligation to support the position taken by their leader.

I sympathise with the members of the Labor Party who are placed in that difficult and sensitive heart-searching position. Government members are expected to vote for a Government bill. But, as we are to have a conscience vote on this bill, members have an opportunity to vote against it. I note that in the Federal Parliament the leaders of Australia's two main political parties voted against a similar bill. The Hon. John Howard, the Prime Minister, the Leader of the Liberal Party, and leader of the Liberal-Nationals Coalition, voted against the Commonwealth bill. The Hon. Kevin Rudd, the Leader of the Opposition, and leader of the Australian Labor Party, voted against the Commonwealth bill. They both exercised their conscience vote and are to be commended for that.

The whole purpose of a conscience vote is to allow members to follow their conscience: they can vote for or against a bill. I take that further and say that the purpose of a conscience vote is to provide a member with an opportunity to vote against a bill. If members were to follow a party vote they would have no option—especially members of the Labor Party, who would be expected to vote for this Labor Government bill. Members have the opportunity to vote against this bill, to maintain the status quo at this time in our social development in New South Wales, and in Australia. I will not debate further the issues of conscience votes that have been allowed on other issues.

It is important for members to examine their conscience, and to acknowledge that they are permitted to vote against the bill without any penalty in following their conscience. This is a unique opportunity for members of all parties, but particularly members of the Labor Party, to vote against the bill and not to be forced to vote for it. I acknowledge that many members have felt stressed while debating this bill, but they need to come to a decision on which way to vote. They need to accept that they can follow their conscience and vote against the bill and uphold the status quo. As controversial bills, particularly this current human cloning bill, usually involve moral and ethical issues it is not surprising that members should seek guidance from those who are responsible for moral and ethical issues.

Some members were critical of church leaders—whether Catholic cardinals, Anglican archbishops, Baptist presidents, Lutheran presidents or others—entering into this debate and providing guidance by issuing statements. I was surprised at that, because the role of leaders in the Christian Church, especially in Australia, is to give advice and guidance on moral and ethical issues. In fact, we should look to those leaders for advice. With all the advice that has been given—and I cannot think of any exception—we have never had such a united stand by all church leaders, from all denominations, in opposing a bill. There has been a total, united opposition. That should influence the thinking of members of this House but, sadly, it does not appear to be having the impact that it should.

We should not criticise any church leader for giving moral or ethical advice, because we are dealing with moral and ethical issues. Church leaders would be failing in their responsibility if they did not give such advice. In an interview I said that if some church leaders were silent for fear of criticism—whether a cardinal or an archbishop—they would have to answer to Almighty God. Some members of Parliament may say that those leaders should be charged with contempt of Parliament, but they would face a charge of contempt by the creator, by Almighty God, for failing in the responsibility that they have been given as leaders of the various branches that make up the Christian church in this State.

I know there is a difference of opinion in this House, but I believe Australia is a Christian nation by its heritage, its culture and by the creation and adoption of the Commonwealth Constitution. However, the Constitution lays down that there be no established religion. That specifically means no established Church of England, as there is in the United Kingdom. In the 1800s denominations that now work in harmony and cooperation were each regarded as a separate religion. There was the Catholic religion, the Anglican religion and the Baptist religion. Now they are regarded as branches of the Christian church. That is why the Commonwealth Constitution says that the Commonwealth has no power to establish a religion—it cannot establish the Church of England as the established church of Australia, as it was previously.

As Australia is a Christian nation it is right and proper that in discussing legislation we should take advice from the leaders of Christian churches on interpreting our Judeo-Christian moral code. The new citizenship examination that is being prepared states that Australia is based on the Judeo-Christian ethic or moral code. It is important that people do not perceive Australia as an atheistic nation with no moral basis—we do have that Judeo-Christian moral code.

We should not ignore the sincere advice that has been given to us by our church leaders. We should listen to them rather than to the scientists who may have no moral or ethical considerations. They are interested



only in short-term results. Earlier I gave examples of scientists who were quite happy to play God. Scientists who do not believe in God would be quite happy to experiment with the creation of life in a test tube. Christians of all denominations believe in the creation of life, which comes from Almighty God, the creator. Our Commonwealth Constitution refers to the words "humbly relying upon the blessings of Almighty God", which refers specifically to the God who is recognised by Christian denominations.

Almighty God is the creator of life, which was confirmed in recent days in the debate about intelligent design. Scientists are studying the make-up of human beings. As they study our genetics, cells, DNA and every other aspect they are finding that our existence has been planned, that we could not have been created by evolution. Some force that has been described as intelligent design—I would say it is Almighty God—planned and created us. The cells and chromosomes that go into making us human beings did not occur by accident; it was a definite plan by Almighty God. That is why Christians have negative reactions to this type of legislation. Christians have strong feelings about human cloning. We are moving into an unknown zone, and one that we should treat with great suspicion.

There has been some debate about whether politicians who are Christians or who hold religious views are somehow second-rate citizens and should be treated with scorn. When Christians examine their consciences they do not do so in a vacuum. The first creed of the early church was that Jesus Christ is Lord. It is essential for Christians who are following their consciences to seek the will of God or, as is stated in Philippians chapter 2, "to have the mind of Christ". Christians have to ensure that they have the mind of Christ and that they are interpreting the will of God. It is the responsibility of every Christian—by that I mean every Catholic, Anglican, Baptist and everyone who claims to be a Christian—to ensure that he or she has the mind of Christ. That is the meaning of the Christian faith.

Atheists or people from other religions who do not have any moral or social policies are not obliged to ensure that they seek the will of God, but it is essential for Christians to do so. That is what church leaders were referring to when they told members of Parliament to examine their consciences and to vote against this legislation. Cardinal Pell said, not in any judgmental way, that when Catholics and all those who call themselves Christians examined their consciences they had an obligation to God, to Jesus Christ and to the church when taking Holy Communion. In I Corinthians 11:26 the Apostle Paul refers to the requirements for anyone taking part in Holy Communion. Verse 26 states:

For as often as ye eat this bread, and drink this cup, ye do shew the Lord's death till he come.

Verse 27 contains this important warning:

Wherefore whosoever shall eat this bread, and drink this cup of the Lord, unworthily, shall be guilty of the body and blood of the Lord.

I Corinthians 11 continues:

28. But let a man examine himself and so let him eat of that bread, and drink of that cup.

29. For he that eateth and drinketh unworthily, eateth and drinketh damnation to himself, nor discerning the Lord's body.

30. For this cause many are weak and sickly among you, and many sleep.

Apostle Paul was saying that people who did something wrong would not be prohibited from taking part in Holy Communion or mass but before they did so they would be required to examine their consciences. If they believed that they had done something wrong—whether it was voting for this bill, making another decision, or taking any other action—that would not prevent them from taking part in Holy Communion. They would have to ask God to forgive them if they made a mistake, which is what Cardinal Pell was saying. Ultimately, all Christians and atheists have to face the judgment seat of God. Atheists might not think that they will be affected but they too have to face the judgment seat of God.

It is important for Christians to examine their consciences, to follow the will of God and to be guided by church leaders who have more knowledge and experience in morals and ethics. We expect our church leaders to give us guidance and direction. All the church leaders in New South Wales, in particular in Sydney, are totally opposed to the legislation. It appears from the numbers that this bill will be passed: the views of all leaders of Christian churches in New South Wales may have no impact on a vote in this House, which is a serious matter. I am sure that all honourable members received copies of a letter dated 4 June written with the authority of Archbishop Peter Jensen from the Anglican Church Diocese of Sydney. That letter states:

We respectfully ask you to seriously consider this bill and its schedules, and urge you not to vote for the passage of this bill through the New South Wales Parliament.

Various reasons are then given for the position taken by the Anglican Church. The letter goes on to state:

We urge you to consider this piece of legislation carefully and to vote against it.

There are no ifs or buts. The Catholic Archbishop of Sydney, Cardinal George Pell, as a cardinal and as an archbishop, issued a statement on behalf of the bishops of the 10 New South Wales dioceses, which is unusual. Cardinal Pell issues many statements and he makes many comments, but this one comes with the full support of all Catholic churches in New South Wales. Catholic leaders in other States have made similar statements, in particular Archbishop Hickey in Perth, Western Australia. So the cardinal is really expressing the view of Catholic churches throughout Australia. In a statement issued on 4 June Cardinal Pell said:

A matter of much dramatic ethical and social import should not be rushed through Parliament in a week ... The general public and our parliamentary representatives have been given little or no information or warning about the legislation. We should not blindly follow the lead of other parliaments in passing such unethical legislation. We can do better in New South Wales.

I agree with Cardinal Pell's statement. He and the 10 bishops called upon all members of the New South Wales Parliament to reject the cloning of human embryos for experimentation and destruction. He then went on to state:

The Catholic Church in NSW, through grants and through its hospitals and research institutes, is a promoter of ethical stem-cell research on adult and umbilical cord stem cells.

Some members accused the bill's opponents of wanting to return to the Middle Ages, referencing criticisms of scientific breakthroughs from those times. No church today, including the Catholic Church, is in the Dark Ages. Contemporary churches are involved totally in our society and offer caring ministries to those who suffer from disease and terminal illnesses. I seek leave to incorporate in *Hansard* the statement by Cardinal George Pell.

**Leave granted.**

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MEDIA STATEMENT

MONDAY 4 JUNE 2007

**No Catholic could in good conscience vote for Cloning Bill—NSW Bishops**

The Catholic Archbishop of Sydney, Cardinal George Pell, on behalf of the Bishops of the 10 New South Wales dioceses, today called upon all Members of the NSW Parliament to reject the cloning of human embryos for experimentation and destruction.

"A matter of such dramatic ethical and social import should not be rushed through Parliament in a week," Cardinal Pell said. "The general public and our parliamentary representatives have been given little or no information or warning about this legislation. We should not blindly follow the lead of other parliaments in passing such unethical legislation. We can do better in New South Wales.

"All of us wish to find cures and treatments for disease or genetic conditions. Many Australians are afflicted by terrible suffering and we share their hope for effective treatments.

"The Catholic Church in NSW, through grants and through its hospitals and research institutes, is a promoter of ethical stem-cell research on adult and umbilical cord stem cells.

"But allowing scientists open slather on human embryos for unethical research is not the best way forward."

The bishops are advised that tomorrow there will be a truncated debate and a 'conscience vote' in the NSW Legislative Assembly on a bill introduced only last week to mimic similar Federal and Victorian legislation.

It will legalise the following practices:

- Human embryo cloning (so-called 'somatic cell nuclear transfer' or 'therapeutic cloning')—which makes a human embryo with only one genetic parent
- Mixing the genetic material of more than two persons—which makes a human embryo with three or more genetic parents
- Fertilizing immature eggs taken from aborted girls with adult male sperm—which makes a human embryo with an aborted baby girl as its genetic 'mother'
- Creating human-animal hybrids as a test for sperm quality—which makes an embryo with a human and an animal genetic parent.

All these practices are currently illegal in NSW. Under this bill they would be permitted in NSW under licence provided that the embryos are killed in experiments within 14 days of their manufacture.

It would be forbidden to do anything to 'save' these embryos such as placing them in the body of a woman.

"We were all embryos once. That is how we started and from there we developed. The human embryo cannot develop as anything other than a human being. Therefore, it has intrinsic human dignity and should be afforded that most basic of human rights—the right to live, to grow, to prosper.

"This Bill would result in there being two classes of human embryos: those created to live and those manufactured to be eliminated in research. To produce a human embryo with the express purpose of destroying it for research—as if it were a lab rat—is a perverse new direction for human experimentation.

"This Bill proposes that the NSW Parliament join the Federal and Victorian parliaments in demonstrating a new disregard for life by creating embryos purely for destruction, thereby further dehumanising the human embryo. Rather than repeating the mistakes of other jurisdictions, New South Wales should be giving the ethical lead," Cardinal Pell said.

"After allowing 'a little bit' of destructive human embryo research in national and state legislation in 2002/3—on the older 'left-over' embryos from IVF—and then allowing some of these limits to lapse in 2005, governments are now being asked to allow 'a little bit' of cloning and hybrids for stem-cell research. Who is naive enough to believe that the few remaining limits will last?

"We are now well down the slippery slope. What is there to stop further slippage?"

"To prevent a further slide in ethical and legislative standards, a complete ban on all forms of human cloning—even that labelled 'therapeutic', 'SCNT' or with any other deceptive label—must be maintained".

"No Catholic politician—indeed, no Christian or person with respect for human life—who has properly informed his conscience about the facts and ethics in this area should vote in favour of this immoral legislation".

"If this bill is passed, the enemies of human life will soon be back with further proposals, disguised with sweet words and promises of cures, to roll back the few remaining barriers to the regular destruction of early human life."

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**Reverend the Hon. FRED NILE:** I am a member of the Privileges Committee so, as was pointed out earlier, I am probably skating on thin ice by raising this issue. But Ms Lee Rhiannon, who called for Cardinal Pell to be referred to the Privileges Committee, raised the matter in her speech. She defended her actions and said that she was a little surprised that the Archbishop had been critical of her. She does not seem to understand the seriousness of her actions in seeking to bring a Catholic Cardinal before the Privileges Committee of this place. Ms Lee Rhiannon said that she did not know why she had been singled out for criticism when other members had said worse things. The Cardinal is upset about the referral to the Privileges Committee, and I believe all members in this place should share his concern.

The New South Wales Council of Churches, which represents all non-Catholic churches, issued a statement outlining its unqualified opposition to the bill. Its media release of 5 June states:

The President of the NSW Council of Churches, Mr David Crawford, today supported fresh calls by the Anglican and Catholic churches urging all NSW Parliamentary representatives not to vote in favour of a bill to amend current legislation on human cloning.

The New South Wales Council of Churches gives several reasons for its opposition to the bill. On 4 June the Baptist Union of Australia issued a press release, which states:

The President of the Baptist Union, the Rev Dr Ross Clifford, today supported fresh calls by the Anglican and Catholic Churches urging all NSW Parliamentary representatives not to vote in favour of a bill to amend current legislation on human cloning.

It goes on to quote Dr Clifford as saying:

The preparation of any human embryo for research that necessarily leads to its destruction should be resisted.

Dr Clifford then called on Baptists and their church leaders in New South Wales to ensure that their concerns were heard by their elected representatives. He went on to make the point that others have made in this debate when he said:

I also question whether the Western world can continue with such costly, high-tech and ethically questionable research while the majority of the world's citizens do not have access to basic medical services and medications.

On 6 June the President of the Baptist Union of New South Wales, Mr John Taylor, issued a similar statement, urging all members not to support a bill to amend current legislation that makes it unlawful to clone human embryos. On 14 June I received a letter from the President of the Lutheran Church of Australia, New South Wales District, in which he says:

I write to you in my capacity as President of the NSW District of the Lutheran Church of Australia and as a concerned NSW citizen.

As this Bill has been passed by the NSW Legislative Assembly and will come before you shortly, I wish to express my firm belief that this Bill is both ethically wrong and scientifically unnecessary.

He concludes:

I urge you to vote against this Bill and thank you for your consideration.

Yours sincerely,  
Rev Neville Otto  
President Lutheran Church of Australia, NSW District

Other organisations, including the Australian Christian Lobby, the Christian Democratic Party, the Australian Festival of Light and the Australian Family Association, have issued similar statements. The letter from the Australian Family Association states:

A vote to amend the *Human Cloning and Other Prohibited Practices Act 2003* to permit cloning and human embryo stem cell research will deal a cruel blow to disabled people by raising their hopes for a cure where NO HOPE exists.

There is no doubt at all, that cloning and embryo stem cells will *never* produce the cures that advocates say they will—the science simply does not stack up.

Real cures can only come from adult stem cells and here in lies the REAL HOPE for the relief of human suffering.

Please save yourself the ethical dilemma.

**Vote NO.**

I have received an overwhelming number of statements from many church and community organisations but also from medical groups. The Medicine With Morality group sent me a letter containing the names of 120 doctors. So the bill is opposed not only by those with a Christian view of the issues but also by those who are active in the medical field. In a letter to me of 16 June Medicine With Morality states:

The key question has already been answered—many times and very well.  
An SCNT human clone *is* human life.

This conclusion has nothing to do with moral law or religious principles.

It continues:

The Lockhart Committee acknowledged this and every high school biology student knows it. The SCNT with 46 human chromosomes is as capable of an independent existence if given the same chance as any IVF/ART embryo. Dolly the sheep is the non-human equivalent and we have all seen her photo.

Any MP who denies this is flying in the face of biological fact.

There are three questions that follow on from this that all MPs must answer before making a decision on the cloning bill:

*Does this early human life have intrinsic value because it is human?  
If it does not have value now, when does it and why?  
In the field of medical science should we ever sacrifice one life for another?*

The doctors of *Medicine with Morality* want to state very clearly that we should never create human life for the purpose of destruction, whether for research or for stem cells or for organ transfer ...

The doctors of *Medicine with Morality* want to state very clearly that in the field of *medical science* we should never sacrifice one human life for another ...

The doctors of *Medicine With Morality* want to state very clearly that sacrificing human embryos to get stem cells is not necessary. There is proven success of non-embryonic stem cells and these are also showing they can behave as embryonic cells.

We cannot afford to devalue human life at any point and we plead with you not to give legal approval for such devaluation.

The letter is signed by Dr Lachlan Dunje on behalf of Medicine with Morality. I think I have indicated sufficiently my opposition to the bill and the basis for it. The doctors connected with Medicine with Morality and several other organisations have asked me to move some amendments to the bill in Committee. I hope the bill will be defeated before then, but in case the worst happens I have drafted some amendments that I foreshadow I will move in Committee, which are available now from the Clerks. The amendments address several important issues and have accompanying explanatory notes. I oppose the bill but respect those in this place who have differing views about this issue.

**The Hon. DAVID CLARKE** [6.00 p.m.]: I oppose the Human Cloning and Other Prohibited Practices Amendment Bill 2007. I oppose it because of a whole array of scientific, ethical and moral considerations. As a matter of principle I will never support legislation that permits the destruction of human life for the purpose of medical experimentation. Regrettably, in 2003 this Parliament passed legislation that authorised the destruction of thousands of human embryos for medical research provided they were embryos created prior to 5 April 2002. We were assured by a vocal and well organised lobby representing a portion of the scientific and medical community that stem cells extracted from human embryos, and thereby resulting in the destruction of those embryos, would open the door to finding cures for a whole range of diseases, illnesses and physical afflictions.

Up until that time the only advances in the search for such cures had come from research using adult stem cells—cells which, unlike those extracted from human embryos, did not involve the destruction of human life. However, this vocal lobby assured us that within two or three years we would start seeing significant advances in the search for cures as a result of embryonic stem cell research. Well, here we four years later, and where are the significant breakthroughs we were promised? The answer is that there have been no significant breakthroughs, not in Australia, not anywhere. The only advances continue to come from research using adult stem cells—research that is scientific, research that is ethical, research that does not involve the destruction of early human life. So much for the promises of those who proselytised for the passage of that legislation back in 2003!

And now the same discredited lobby is back—agitating to push the scientifically dubious and unethical legislation of 2003 to even more scientifically dubious and unethical boundaries. The bill before us will allow human embryo cloning, known as somatic cell nuclear transfer, thus resulting in a human embryo with only one genetic parent. Pursuant to schedule 1 [8], which inserts proposed section 18, the bill empowers the Embryo Research Licensing Committee to approve the mixing of the genetic material of more than two persons, thus legalising the creation of human embryos with three or more genetic parents. It will allow approval to be given to the fertilising of immature eggs taken from aborted girls with adult male sperm, thus resulting in a human embryo with an aborted baby girl as its genetic mother.

And while at first sight the bill appears to prohibit intentionally creating a hybrid embryo, in practice, under section 18B, it provides for licensing by the Embryo Research Licensing Committee to allow the creation of human-animal hybrids as a test for sperm quality, thereby making an embryo with a human and animal genetic parent. Do not believe those who assure you that this will not happen. You just have to read the legislation to know that it will.

This is the type of grotesque experimentation that one thought only existed in fictional works such as *The Island of Dr Moreau* and *Frankenstein*, but soon horror fiction will become the reality in present-day New South Wales if this legislation is passed. How far we have sunk. How corrupted medical science has become. How unbelievable it is that in just four years we have moved from being a Parliament that overwhelmingly banned human cloning to now being a Parliament which, if this bill is passed, will not only legalise human cloning but will legalise mixed human and animal cloning as well. So much for the promise of Premier Morris Iemma when he recently stated:

The strict ban on human cloning will remain in place now and forever in New South Wales under a Labor Government.

As the bill currently stands, any human embryos created from the grotesque experimentation now sanctioned by this bill must be destroyed within 14 days of their manufacture, and any mixed animal-human embryos may only be authorised up to, but not including, the first cell division. However, at some time in the future we may well be presented by this State Government with amendments extending—and substantially extending—the period of life before such embryos must be destroyed. After all, nothing should come as a surprise from a Government capable of perpetrating such an about-face in such a short period of time—in 2003 legislating for a cloning ban and then in 2007 legislating for its legalisation! And what morality is there, what ethical standards remain, when we are presented with a bill that authorises the creation of life through cloning and then mandates that such human life must subsequently be destroyed?

Those who have sponsored this bill, and those in the scientific community who have lobbied for this legislation, promise that we stand on the threshold of great advances in embryonic stem cell research. They tell us that cures are coming for blindness, and for spinal paralysis, and for Parkinson's disease, and for a whole host of illnesses and medical afflictions. They tell us that through embryonic stem cell research these cures are surely coming, that cures that previously did not seem feasible are now distinctly possible. But where is the evidence? Where is the proof? Where are the facts to substantiate those assertions?

Now it is true that there are hopeful signs, encouraging signs, substantial signs that breakthroughs are being achieved. But the truth is that these breakthroughs are being achieved almost exclusively through advances in adult stem cell research—and they are being achieved without the destruction of human embryonic life! What a wonderful thing it is that stem cell research may mean that at some time in the future the blind may see, and the paralysed may walk, and those who suffer Parkinson's disease may gain restored health and full lives. But that hope comes through the success being achieved with adult stem cells, and not through the continuing failure being experienced with embryonic stem cell research.

I understand the motivation of members of this House who have indicated support for this bill because they have family members, or friends, or acquaintances or others, or who know of others, who suffer from illness, or disease or physical affliction for which the research sanctioned by this bill offers hope—hope of relief, hope of recovery, hope of a permanent cure. But the truth of the matter is that it is not the research sanctioned by this bill that offers realistic hope; it is not research with embryonic stem cells that offers hope for the future. Overwhelmingly, the evidence concludes that embryonic stem cells are failing to provide assistance in the search for the cures that are so fervently hoped for.

All the evidence that is accumulating, all the research that is gathering, all the experimentation that has so far been conducted with stem cells establishes that successes are being achieved but that they are being achieved with adult stem cells—and with adult stem cells only. On the other hand, much of the research produced by those who proselytise for cloning and embryonic stem cell research is of very dubious and questionable value. Many will recall an incident involving Alan Trounson, one of the leading campaigners for the legalisation of embryo stem cell research. He was the Chief Executive Officer of Australia's Centre for Stem Cells and Tissue Repair, a consortium of 12 research groups, all cashed up with \$43 million in government grants.

In August 2002 he showed a video to a group of parliamentarians based on the work of Johns Hopkins Medical School neurologist Dr Doug Kerr which depicted a rat crippled by a sindbis virus. Dr Trounson presented the parliamentarians with before and after video footage showing a rat with hind-leg paralysis being able to walk again, claiming that the rat had been treated with "embryonic stem-cell lines registered by the US Administration". Subsequently however he was forced to concede that the cells used were not embryonic cells but were taken from an aborted human foetus.

More recently, in February 2004 we had the well publicised scandal involving South Korean scientist Woo-Suk Hwang, who announced that he had successfully created an embryonic stem cell with the somatic cell nuclear transfer method. In May 2005 he published a claim that he had successfully created 11 human embryonic stem cells using 185 eggs, which was then claimed by a section of the scientific community to be a major breakthrough in biotechnology. Hwang made further headlines in May 2005 when he criticised United States President George W. Bush's opposition to embryonic stem cell research. At that time he had just been named by *Time* magazine as one of its "People who Mattered" in 2004 for "having proved that human cloning is no longer science fiction, but a fact of life".

Subsequent investigation of Woo-Suk Hwang's claims by Seoul National University established that they were a massive fraud and that he had intentionally fabricated his stem cell research. This is of particular significance because the Lockhart report, which provides the impetus for the bill, relies on Hwang's findings as evidence that science is able to produce human embryo stem cells. Given that the founding premise of the Lockhart report has been shaken, its conclusions are significantly undermined. The premise of the bill is that its passage will allow scientists to embark on a path that it is said will lead to medical cures. Yet the frauds and misrepresentation I have just outlined by two of the most vocal embryo stem cell cloning scientists engender a high degree of scepticism to claims that are made about the potential benefits of research using embryos.

However, the story with adult stem cells is a very different one. Non-embryonic stem cells are proving effective in tissue repair after strokes. They are assisting in treating spinal cord injury, diabetes, heart damage, Parkinson's disease, various cancers and autoimmune diseases. Recently the *Journal of Clinical Oncology*

reported that more than 45,000 people around the world now receive non-embryonic stem cell transplants each year, and the number is growing rapidly. A follow-up study of blood cancer patients who were recipients of adult stem cells found that 10 years later they are virtually as healthy as their peers. These are just some of the working results that are flowing from adult stem cell research. We must remember that research with adult stem cells never involves the destruction of human life, whereas research with embryonic stem cells always results in the destruction of the human embryo from which the stem cells are extracted.

Why is it that the State Government, which so vehemently opposed human cloning four years ago, is now so intent on legalising the experimentation it vowed never to allow? Why is it doing it with such haste? Why is it doing it without public consultation and debate? There is widespread opposition to the bill in the scientific and medical community. There is widespread opposition to the bill from women's organisations that believe it poses a threat to women and to their health and safety. There is widespread opposition from most of the churches to which the great majority of people in this State claim allegiance. The Baptist Union of New South Wales has expressed its opposition. The Lutheran Church opposes the bill. Archbishop Jensen and the Anglican Church have taken a forthright stand against the bill and all that it represents. The New South Wales bishops of the Catholic Church, each and every one of them, have declared:

No Catholic politician, indeed no Christian or person with respect for human life, who has properly informed his conscience about the facts and ethics in this area should vote in favour of this immoral legislation.

If this bill is passed the enemies of human life will soon be back with further proposals disguised with sweet words and promises of cures to roll back the few remaining barriers to the regular destruction of early human life.

I refer briefly to the feigned outrage expressed by some in the community, including a few politicians, about the very clear stand taken by His Eminence Cardinal Pell when he stated unequivocally the view of the Catholic Church on the issues raised by the bill. It is not just his view. It is the Pope's view. It is the view of all the bishops of the church, not only in Australia but throughout the world. It is the unchangeable doctrine of the church in defence of the sanctity of human life. It is not only his right, it is his duty to make it clear to all of those who claim to be Catholic the stand of the church on this issue. A few politicians who claim to be Catholic or who say they were baptised Catholic have been very keen to tell all and sundry that they feel intimidated by Cardinal Pell, they feel pressured by Cardinal Pell, they believe that he has overstepped the mark, that he should butt out, that he is interfering and that he should just keep quiet.

But it is his business. It is Cardinal Pell's business to make it clear to those who say they are Catholic what the Church teaches and what the church expects of those who seek to be in conformity and accord with the church and its teachings. There may be a few around who claim to be Catholic who think they know what the inalienable doctrine of the church is, or should be, better than the bishops, better than the Cardinal, better than the Pope himself. They may think they know, but they do not. As a Catholic I accept the teachings of my church. I do not pick what I like and reject what I do not like. I do not want to be a cafeteria Catholic. It is up to Catholics who have a different view to that of the church to resolve their dilemma with the church. But do not whinge, whine and carp because Cardinal Pell announced the stand of the church and what they need to consider to remain in harmony with the church and what they need to consider when they put themselves in opposition to the doctrine of the church of which they claim to be a part.

I will vote against the bill because nothing has changed from four years ago when members of this House, and I was one of them, rejected human cloning. I will vote against the bill because it poses a danger to the health of many women. I will vote against the bill because a major section of the scientific community believes that its passage will divert scarce resources away from the more fruitful and promising field of adult stem cell research. I will vote against the bill because I do not believe in creating life with the intention of subsequently destroying it. And I will vote against the bill because it is against the evidence of modern science, against the code of ethical medicine and against the moral code by which the majority of people in this nation live.

**The Hon. CHARLIE LYNN** [6.16 p.m.]: I preface my comments by stating that I am not qualified to fully understand the ramifications and complexities of the bill. Therefore I have had to rely on research conducted by committees, the contributions of my political colleagues, submissions I have received, of which there have been many, and the moral guidance provided by Christian scholars and church leaders who have involved themselves in the ethical and moral aspects of the bill to provide us with a moral compass. Two contributions by members in the other place have influenced my position. One is from a Minister in the Labor Government and the other is from a shadow Minister in the Liberal Opposition. It is great that we can have a conscience vote on such an important bill. I acknowledge the significant contributions in this House from my

colleagues the Hon. Michael Gallacher, the Leader of the Opposition, the Hon. Matthew Mason-Cox, the Hon. Marie Ficarra, the Hon. David Clarke and the Hon. Rick Colless, and the Hon. Tony Kelly. I also acknowledge the excellent contribution by the Hon. Greg Donnelly.

It is fair to acknowledge that honourable members have diverse views on bills such as this, which impact profoundly on the moral foundations of our society. The legal, scientific and ethical ramifications of this issue are difficult for laymen, like me, to comprehend. As I said, I therefore have to rely on greater minds with expertise in these areas to assist me in deciding whether to support the bill. The legal ramifications of the bill were addressed in detail by the shadow Attorney General, Greg Smith, in the other place. I also acknowledge the contribution of the Minister for Ageing, and Minister for Disability Services, Kristina Keneally.

In 2003 members of this House debated a bill on embryonic stem cell research, to which reference has been made. It was a rigorous debate and the House was divided. However, there was no division on cloning and the House made cloning an offence under the provisions of the Human Cloning and Other Prohibited Practices Act 2003. The Act states that it is an offence for a person to intentionally create a human embryo clone. Such offence carries a maximum penalty of imprisonment for 15 years. It is a serious offence. Today we are not debating embryonic stem cell research. We have had that debate. Today we are debating cloning. We are debating amendments to the Human Cloning Act, which, as the shadow Attorney General reminded us, was deemed to be evil in 2003 but will be acceptable in 2007 if the bill is passed. This raises the question: What will we be debating in 2011? According to the shadow Attorney General:

The Australian Parliament first considered legislation on cloning and embryos experimentation in 2002 on a conscience vote ... When those bills came before us, no parliamentarian spoke in favour of creating embryos for the purpose of research and experimentation ... The very fact that we are debating still proves the veracity of the slippery slope argument ... It was claimed [the 2002 legislation] went as far as we should go and needed to go on this issue. Yet here we are, barely four years later, debating another bill to remove restrictions contained in the early legislation. I say the slippery slope case is proved. How long before we will be back here again in the name of science removing the very limited protections claimed to exist in this bill?

Once Parliament decides to make certain behaviour a crime as it did in 2003, it normally remains a crime unless a very good reason exists for repealing the appropriate law as the Government is now seeking to do. The bill before us seeks to remove the legal prohibition against cloning a human embryo for the purpose of destructive experimentation. Whether an embryo is created by traditional means through an act of sexual intercourse when a sperm fertilises an ovum or egg or in vitro in a Petri dish using sperm and an ovum or by somatic cell transfer, it is human and, therefore, it is entitled to the respect accorded to human life. I am opposed to cloning of human embryos for destructive research for a number of reasons. First, the human embryo is a human life in its early stages. It should be protected and respected as such. Destructive experimentation on human embryos treats them as property, as if they had no moral worth.

Second, so-called adults themselves provide a source of stem cells that may be experimented on without causing moral, legal or ethical concerns. Each month the successful use of adult stem cells in research is reported. In these circumstances governments should prohibit destructive embryonic stem cells experimentation. Third, some scientists taking part in destructive embryonic stem cell research appear to be driven by profit motives. Fourth, despite claims by scientists that stem cell research is aimed at finding cures to previously incurable diseases or conditions, much of the research involves testing pharmaceutical drugs in lieu of other methods of testing, such as using animals. Fifth, the continued allowance of access to embryonic stem cells has increased the momentum of the campaign to allow human cloning for both reproductive and experimental purposes.

Respect for human life and dignity lies at the very heart of our legal and moral code. Equality is the basis of our democracy. With this bill we will be setting in place a regime that does not respect a somatic cell nuclear transfer embryo in the same way that we respect an egg-sperm embryo, nor will we consider it equal. The principle that all people are created equal is an intrinsic one. The strong inference in this legislation is that embryos that are created through cloning technology are different in value from other embryos.

The status of a somatic cell nuclear transfer embryo was touched upon in the Lockhart report, which stated that "embryos formed by fertilisation of eggs by sperm may have a different social or relational significance from embryos formed by nuclear transfer". The matter was also specifically touched on, albeit briefly, in the majority report of the Senate committee that inquired into the legislation. The report quite specifically stated at paragraph 3.31 that embryos created through cloning have a lower intrinsic value than an embryo produced by egg and sperm.

The bill will allow scientists to create human embryos for research by human embryonic cloning using somatic cell nuclear transfer, by mixing the genetic material of more than two persons, and by fertilising immature eggs from aborted female fetuses with adult male sperm. This has the consequence of making an aborted baby girl the mother of an embryo that will then be destroyed in research. It would also permit hybrid embryos to be created by fertilising animal eggs with human sperm as a test for sperm quality. Currently these practices are illegal in New South Wales. But under this bill they would be permitted under licence provided the embryos are not allowed to develop for longer than 14 days or placed in the body of a woman.



Under current legislation the only human embryos that can be used and destroyed in research are excess embryos that are created by assisted reproductive technology for infertile couples. If more embryos are created than a couple wishes to have implanted and brought to birth, a couple can decide to donate their excess embryos for research. The bill goes a step further. It will allow the creation of human embryos specifically for research purposes. The question we must grapple with is: Will this bill allow human cloning?

Cloning involves a process called somatic cell nuclear transfer. This is the same technology that was used to create Dolly the sheep, which has been referred to by a number of previous speakers. The genetic material or nucleus from a person's body cell is introduced into a woman's egg which has had its own nucleus removed, and then it is triggered to grow and develop as a human embryo. This embryo will be a genetic copy of the person who provided the body cell—similar to an identical twin. The bill will remove the current ban on human cloning. It will allow the creation of cloned human embryos and their subsequent destruction in research, drug testing or efforts to obtain rejection-proof stem cells for transplantation. This is sometimes referred to as therapeutic cloning.

The science of embryonic stem cell research is complex and difficult for a layman like me to fully understand. However, my research has revealed that a great deal of controversy exists between eminent scientists. Some are highly critical of the science methodology and ethical paradigms employed by the Lockhart committee, to which I referred earlier. This debate is not about the science of embryonic cloning. It is about community standards and the dignity of legislation. As legislators we have to be sure that we are prepared to make the quantum leap of creating embryos for the scientific purpose of research and then destroying them—only four years after we comprehensively rejected this type of research and made it illegal.

Some commentators have portrayed this issue as being about the search for cures for debilitating diseases. This is partly true, but it should be noted that the evidence before the Lockhart committee suggested that such cures are an unlikely outcome from cloning. As I stated earlier, cloning raises complex scientific, medical and ethical issues that need to be addressed. During a Senate inquiry into the issue, it was reported that this type of research crosses a scientific and ethical boundary that should not be crossed. Once it is crossed, we can never return because politicians will not be able to withstand the next demand and later ongoing demands that will come before the Parliament.

Is this bill necessary? According to the reports I have examined, there are other ways of obtaining stem cells for research and cell replacement therapy than by cloning and destroying human embryos. Stem cells from the tissues and organs of children and adults, placentas and umbilical cord blood show similar, if not greater, potential for the development of cell-based therapies than embryonic stem cells. Often referred to as adult stem cells, these ethical stem cells have already been shown to help more than 70 medical conditions, including Parkinson's disease, spinal cord injury, blood disease and heart damage. However, no therapies in humans have ever been successfully carried out using embryonic stem cells, cloned or otherwise. Rejection of this bill will not force our scientists to move interstate to undertake advance medical research.

But once we countenance the destruction of human embryos for research, albeit restricted to a specific class, we countenance the deliberate destruction of human embryos. It is a big call to consider legalising the deliberate creation of human embryos only to destroy them in the name of science and in the hope of some unknown miracle cure. I am not convinced that the proposed safeguards are adequate. Indeed, I do not believe they will have any weight in preventing further inevitable research into human cloning. If it is right to destroy an embryo up to 14 days old, why not when it is 14 days and one second old, or 14 days and one minute old, or for that matter, 15 days old or indeed 20 days old? What is the moral and ethical difference? There is none, other than that the embryo would simply be even further developed. Once the destruction of human embryos that have been deliberately created for destruction is justified the 14-day limit will be seen as simply irrelevant and will be extended in the name of so-called scientific progress.

After listening to the contributions of members with similar values to those to which I subscribe I have reached the conclusion that this bill is not ethical. Human embryos are human beings at the very beginning of life. Whether beginning by fertilisation or by cloning, the single-cell human embryo has all the genetic material and internal power to direct its own growth and differentiation as a living human being. Once formed, nothing other than nutrition, good health, the nurture of a woman's womb and time is needed for a human embryo to become a foetus, an infant, a child, and eventually an adult human being.

Human beings, from the embryonic stage to adulthood, are always ends in themselves and must never be treated as mere means to other people's ends. They should never be deliberately exploited or harmed for the

sake of research. Even if human embryo cloning and research were to lead to future medical advances, the utilitarian idea that we can justify doing a little evil for the sake of a greater good should be firmly rejected. The norm that should control our scientific ethics and our law is the principle of the inherent dignity of every human being, irrespective of age, size, location, stage of development, or condition of dependency.

The bill will result in two classes of human beings: those created to live and those created to be killed in research. As well as representing a decline in ethical standards, the bill opens the floodgates to further abuse. The bill employs a 14-day distinction, which is entirely arbitrary. If researchers later discover that 28-day embryos provide more stable and useful stem cells it will be difficult to justify why embryos can develop outside the body of a woman for only 14 days. The bill both fails to respect human embryos and denies the universal dignity of all human beings. It also represents a radical departure from shared understandings of the value of human procreation by further endorsing the creation of human life outside a proper human context and blurring the boundary between human and animal reproduction.

Because human cloning depends upon the invasive harvesting of eggs from women, it also places women at risk of instrumentalisation and exploitation. It has been proven that legislation alone will not prevent human cloning. What was illegal just four years ago will now be legal. Human cloning is now illegal. Who can say, with any certainty, that that will be the case in four years time? Although I do not fully understand the science involved in embryonic research, I have learned that there is sufficient controversy to establish grave doubts about the benefits, the dangers and the safeguards inherent in this bill. I am also guided by eminent theological scholars and church leaders who are universally opposed to this bill on moral and ethical grounds. For those reasons I will not support the bill.

*[Deputy-President (The Hon. Kayee Griffin) left the chair at 6.32 p.m. The House resumed at 8.00 p.m.]*

**The Hon. CATHERINE CUSACK** [8.00 p.m.]: The Human Cloning and Other Prohibited Practices Bill 2007 mirrors legislation passed last year by the Commonwealth. It retains the existing prohibitions on, amongst other practices, human reproductive cloning, developing a human embryo outside the body of a woman for more than 14 days, collecting a viable human embryo from the body of a woman, creating or developing a human embryo by fertilisation of a human egg by a human sperm outside the body of a woman for any purpose other than the assisted reproductive technology treatment of a particular woman, placing in the body of a woman any embryo other than a human embryo created by the fertilisation of a human egg by a human sperm, and commercial trading in human eggs, human sperm or human embryos.

The bill enables somatic cell nuclear transfer, also known as therapeutic cloning, and other practices involving the creation of human embryos other than by the fertilisation of human eggs by human sperm, but only under licence for research purposes and not for reproductive purposes. This bill also makes a number of amendments to the Research Involving Human Embryos (New South Wales) Act 2003. The Act applies the Commonwealth Research Involving Human Embryos Act 2002 as a law of this State. Accordingly, amendments made to that Act by the Commonwealth amending Act are applied in this State.

In essence, the bill allows the creation of embryonic stem cells that are tailor-made for a specific person, that is, the cells have the same genes as the recipient. As such, the recipient cannot reject them because the cells are not recognised as foreign by the person's immune system. The process of making such cells, called therapeutic cloning or, more accurately, nuclear transfer, requires the fusion of an unfertilised egg from which the nucleus containing genetic material has been removed, with the cell obtained from the recipient, for example, a skin cell. This bill is the result of work by the Lockhart committee, which had a most eminent and distinguished membership led by Justice John Lockhart AO, a most distinguished, accomplished and respected juror whose passing last year was a great loss to Australia.

His committee comprised Professor Barry Marshall, Australia's 2005 Nobel Prize winner for medicine; Professor Peter Schofield, a leading Australian neurologist; Associate Professor Pamela McCombe; Professor Loane Skene, a renowned lawyer, ethicist and academic who is Vice-Chancellor and Professor of Law at the University of Melbourne; and Associate Professor Ian Kerridge, Professor of Bioethics and Director of the Centre for Values, Ethics and Law in Medicine at the University of Sydney and a highly respected expert in the field of health ethics. The committee was established because our scientists and medical researchers reached a point in their studies where they sought guidance from the community as to the ethics of their work and the need to open up new opportunities in the search for cures for some of the most cruel and debilitating injuries and illnesses affecting humankind.

The Lockhart committee, scientists and the advocates for this bill have never claimed that this research will deliver results—only that it holds great promise and that we ought to try it because the potential benefits quite simply are dazzling. I have no problem with the noble ambitions that are driving this bill. The opponents of the legislation do themselves no credit in denigrating those who are advocating and praying for its safe passage through this Chamber. I have journeyed through this bill, asked questions, followed up community representations, and read as widely as time has permitted me to do so. I have examined my conscience and assure this House that zealotry and dogma played no part in my decision, which is to support this legislation.

A stem cell has two main properties: the ability to differentiate into cell types, and the ability to proliferate into an undifferentiated state. Stem cells obtained from embryos have the capacity to differentiate into a greater number of cell types than stem cells obtained from non-embryonic sources. The oft-repeated claim that adult stem cell research is more promising for the new lines of scientific inquiry is quite simply incorrect in relation to science. It is a religious assertion, not a scientific fact, and the two different types of propositions should not be confused in this debate. An adult stem cell is loosely referred to as a stem cell derived from non-embryonic sources, which can include adult cord blood or even a foetus. Examples of sources of stem cells in the adult are the nose, which requires a biopsy to be performed surgically; bone marrow, in other words, the middle of the bones; and peripheral blood, which is blood collected from a vein.

It has been claimed several times in this debate that adult stem cell research has produced 65 proven cures. This claim originated from a discredited source back in 2002 and again in 2005, in particular when Senator Santoro and Senator Bennett used it in a joint paper. Unfortunately, it is not true. At this time only 9 out of a supposed 65 cures have been listed for Food and Drug Administration approval in the United States. The apparent origin of these claims is a list created by David A. Prentice, an employee of the Family Research Council, who advises the extremely right-wing United States Senator Sam Brownback and other opponents of embryonic stem cell research. Bernie Tuch, Director of the New South Wales Stem Cell Network, had this to say about the differing prospects between adult and embryonic stem cells:

It is true that human embryonic stem cells have yet to provide a therapy for any disorder though a company called Geron is soon to begin a clinical trial with cells derived from human embryonic stem cells for treatment of spinal cord injuries. Please bear in mind that the first human embryonic stem cells were isolated only in 1998. In the history of medicine, several decades are usually required for the usefulness of a therapy to be understood and applied. Thus in insulin-dependent diabetes, the first reversal of diabetes in a mouse was in the mid 1970s, but it was not until 1990 that the first diabetic human came off insulin injections. Moreover, it took another 10 years of research before the success rate globally improved.

Adult human stem cells (derived from bone marrow) have been around for almost 50 years. Their main use is in the treatment of blood disorders, such as leukaemia, with 700 people each year in Australia treated with these cells or cord blood stem cells. However, the application of adult stem cells to other disorders is in its infancy. Thus, for example, with insulin-dependent diabetes there is no as yet proven therapy with these cells. Again, it is just too soon to know whether adult stem cells will be of benefit.

Further experimentation is required with these cells, as with embryonic stem cells, to establish which is better able to achieve the end target, that is, getting youngsters off insulin injections.

It is clear to me that we must support both adult and embryonic stem cell research. They are two different lines of research, and adult stem cell research cannot be regarded as a substitute for embryonic research.

A major issue of real concern to me is the sourcing of human eggs for research purposes. Members opposed to the bill have explained the procedure many times, and it is without doubt very unpleasant. Having said that, when I learned of the shortage and the potential value of this research I made inquiries as to whether I could be a donor. I have all my children safely in the world and the experience of giving birth is quite a revelation about the miracle of life.

In addition, some years ago my son Joshua and I had spent considerable time in neurology wards at the Children's Hospital when he was a baby and a toddler due to his severe asthma. The experience of sharing a ward with children suffering chronic illnesses and multiple disabilities was life altering: it made me appreciate the health of my children. We knew that Josh would recover and that we would leave, but the other children had so many problems and suffered so much pain. Some had never in their entire lives had a peaceful night's sleep and, of course, neither had their parents, who spent the majority of the year sleeping on hospital chairs beside their children. One day an 11-year-old boy arrived in the ward. His story had been on the news the previous night. He had fallen from a tractor that his dad was driving and was run over. The boy's family was waiting for him to awaken from his induced coma, not knowing how to tell him that he was a paraplegic. I cannot describe the situation in that ward—the suffering, the bravery, the injustice and the care. You need to have been there to understand what it was like.

I assure members that, no matter how challenging the procedure, there will be women who are willing to help with this type of research. However, as I discovered, I cannot be one of them because I am over 30 years of age; I am way too old. My concern was that women like me would not be interested in donating until after we had completed our families. With the age of women who give birth increasing, this would disqualify many potential donors. So where will all the eggs come from and how can we be sure that women will not be exploited? The response that I received from Minister Verity Firth augments the replies that I have received on the subject. The summary states:

The Lockhart Committee and the Commonwealth and State legislation anticipated these concerns and put in place prohibitions to ensure that they do not occur. That is:

- You cannot buy or sell or offer to buy or sell a human egg, human sperm or human embryo regardless of whether the sources in Australia or overseas.
- You cannot receive a discount or free ART service in exchange for donating eggs or sperm or embryos.
- You can only import or export stem cell lines derived from embryos using practices consistent with Australian legislation. That is, it must be created by a process that is allowed under the Australian licensing system and consistent with guidelines that the Australian legislation refers to (e.g. consent requirements).

NSW researchers have not raised the supply of eggs as an issue, and expect that the most likely sources of eggs will be from the sources outlined above, the most likely being women who have completed their ART treatment; and women who are having their ovaries removed for other medical reasons. Irrespective of the situation, researchers must work within the confines set out in law. The Lockhart consultation process indicated that the restraining community accepted the use of eggs for research into infertility and serious diseases but did not want eggs to be treated as commodities to be bought and sold. Any breach attracts a 15-year term of imprisonment.

So I am satisfied that eggs will be obtained ethically and that no women will be exploited. Every donor will know the purpose of the donation and be required to provide consent. I am also satisfied that Australia's laws against trafficking in human body parts have been very effective—in fact, there is no evidence that these laws have been breached, even by trafficking in organs that are in very short supply in this country—and that women in Australia and overseas will not be exploited as a result of the bill.

The third question I asked is: What exactly is a human embryo? The use of this term is loose because the definition includes any egg with human material, such as a skin cell implanted for the purpose of cloning that cell. The bill gives special status and protection to human egg, human sperm embryos. Under the bill a sperm-egg embryo could be used only for the purposes of fertilisation or improving techniques to achieve this goal. That is a most welcome initiative. With the passage of the bill human egg, human sperm embryos will have far greater protection than they have at present. The bill's opponents argue that it creates two classes of human embryos. I have no problem with this. In fact, I believe the bill creates five classes. The embryos that should have the greatest protection are the sperm-egg embryos, and the bill achieves that. My key concerns regarding the bill have been satisfied, and I am very pleased to support it.

Preparing my remarks on the bill has taken me on a journey into science and ethics but also, unexpectedly, into a significant personal religious issue. The issue presented itself when Cardinal Pell warned me and other Catholic members of Parliament that voting for the bill would have consequences for my life in the church. Cardinal Pell's contribution to the debate is most welcome and necessary in order to determine the community standard that decides this ethical framework for medical science. It is essential that he participate in that debate. But his messages to us via the media went further than that and, while there is an effort to reinvent the history of the issue, I want to spell out what actually occurred because it has impacted fairly dramatically on this debate.

Others have spent considerable time denigrating our colleagues who are Catholics and who support the bill. I have taken the trouble to delve into the issue and will give the House a different perspective on the matter. I place on record the initial communication received by some members by email at 5.33 p.m. on 4 June 2007 from Valentina Markovina. It read:

Subject: No Catholic could in good conscience vote for cloning bill—NSW Bishops

Message: The Catholic Archbishop of Sydney, Cardinal George Pell, on behalf of the Bishops of the 10 dioceses of New South Wales, today called upon all Members of New South Wales Parliament to reject the cloning of human embryos for experimentation and destruction.

Please find the complete media statement attached.

With kind regards  
Valentina Markovina  
Catholic Communications

I seek leave to have Cardinal Pell's press release incorporated in *Hansard* as it has been the subject of so much debate.

**Leave granted.**

MEDIA STATEMENT

MONDAY 4 JUNE 2007

**No Catholic could in good conscience vote for Cloning Bill—NSW Bishops**

The Catholic Archbishop of Sydney, Cardinal George Pell, on behalf of the Bishops of the 10 New South Wales dioceses, today called upon all Members of the NSW Parliament to reject the cloning of human embryos for experimentation and destruction.

"A matter of such dramatic ethical and social import should not be rushed through Parliament in a week," Cardinal Pell said. "The general public and our parliamentary representatives have been given little or no information or warning about this legislation. We should not blindly follow the lead of other parliaments in passing such unethical legislation. We can do better in New South Wales.

"All of us wish to find cures and treatments for disease or genetic conditions. Many Australians are afflicted by terrible suffering and we share their hope for effective treatments.

"The Catholic Church in NSW, through grants and through its hospitals and research institutes, is a promoter of ethical stem-cell research on adult and umbilical cord stem cells.

"But allowing scientists open slather on human embryos for unethical research is not the best way forward."

The bishops are advised that tomorrow there will be a truncated debate and a 'conscience vote' in the NSW Legislative Assembly on a bill introduced only last week to mimic similar Federal and Victorian legislation.

It will legalise the following practices:

- Human embryo cloning (so-called 'somatic cell nuclear transfer' or 'therapeutic cloning')—which makes a human embryo with only one genetic parent
- Mixing the genetic material of more than two persons—which makes a human embryo with three or more genetic parents
- Fertilizing immature eggs taken from aborted girls with adult male sperm—which makes a human embryo with an aborted baby girl as its genetic 'mother'
- Creating human-animal hybrids as a test for sperm quality—which makes an embryo with a human and an animal genetic parent.

All these practices are currently illegal in NSW. Under this bill they would be permitted in NSW under licence provided that the embryos are killed in experiments within 14 days of their manufacture.

It would be forbidden to do anything to 'save' these embryos such as placing them in the body of a woman.

"We were all embryos once. That is how we started and from there we developed. The human embryo cannot develop as anything other than a human being. Therefore, it has intrinsic human dignity and should be afforded that most basic of human rights—the right to live, to grow, to prosper.

"This Bill would result in there being two classes of human embryos: those created to live and those manufactured to be eliminated in research. To produce a human embryo with the express purpose of destroying it for research—as if it were a lab rat—is a perverse new direction for human experimentation.

"This Bill proposes that the NSW Parliament join the Federal and Victorian parliaments in demonstrating a new disregard for life by creating embryos purely for destruction, thereby further dehumanising the human embryo. Rather than repeating the mistakes of other jurisdictions, New South Wales should be giving the ethical lead," Cardinal Pell said.

"After allowing 'a little bit' of destructive human embryo research in national and state legislation in 2002/3—on the older 'left-over' embryos from IVF—and then allowing some of these limits to lapse in 2005, governments are now being asked to allow 'a little bit' of cloning and hybrids for stem-cell research. Who is naive enough to believe that the few remaining limits will last?

"We are now well down the slippery slope. What is there to stop further slippage?"

"To prevent a further slide in ethical and legislative standards, a complete ban on all forms of human cloning—even that labelled 'therapeutic', 'SCNT' or with any other deceptive label- must be maintained".

"No Catholic politician—indeed, no Christian or person with respect for human life—who has properly informed his conscience about the facts and ethics in this area should vote in favour of this immoral legislation".

"If this bill is passed, the enemies of human life will soon be back with further proposals, disguised with sweet words and promises of cures, to roll back the few remaining barriers to the regular destruction of early human life."

**The Hon. CATHERINE CUSACK:** I would like to clarify that as I live in the Northern Rivers region Cardinal Pell is not my bishop. The Bishop for Lismore is Bishop Geoffrey Jarrett, and the media release indicated that the communication was issued on behalf of Bishop Jarrett as one of the other bishops. The statement dealing with primacy of conscience is:

No Catholic politician—indeed no Christian or person with respect for human life—who has properly informed his conscience about the fact and ethics in this area should vote in favour of this immoral legislation.

At a media conference the next day Cardinal Pell said that there would be "consequences for your place in the life of the church" for Catholic members who voted for the bill. It is no exaggeration to say that the news of the cardinal's media release and media conference on this issue surged through Parliament like volts of electricity. Certainly I felt a sense of shock, and I believe others who spoke out immediately may have been affected by the immediacy of their reactions to this news. His Eminence's position was clarified further in an opinion piece published on page 1 of the *Sydney Morning Herald* on 8 June 2007, in which he wrote:

... all of us who wish to remain Catholics have to be measured against Catholic teaching. To be a disciple of Christ means accepting discipline because the Catholic Church has never followed today's fashionable notion of the primacy of conscience, which is of course, secular relativism with a religious face.

In a pluralist democracy Bishops are free to explain Catholic doctrines and discipline, while all legislators are free to accept or reject what has been proposed. But actions have consequences, some of which follow naturally, some of which are imposed and just as members of a political party who cross the floor on critical issues don't expect to be rewarded and might be penalised, so it is in the Church.

On Thursday 7 June the Legislative Assembly passed the bill with a 65 to 26 vote. Cardinal Pell, in his regular *Sunday Telegraph* column on 10 June, wrote:

The debate raised interesting questions about what it means to be a Catholic follower of Jesus Christ. A few politicians trumpeted their catholicity as they publicly rejected catholic teachings: this is not good logic. The Catholic Church is not a duty-free assembly of free thinkers. Neither is it a group of people who loyally follow their conscience. Every person has to do that. A Catholic is someone who believes Christ is the Son of God, accepts His teachings and lives a life of worship, service and duty to the community ...

All Catholics who continue to reject Church teachings—even in areas such as sexuality, family, marriage, abortion, euthanasia, cloning where 'liberals' claim the primacy of conscience rules—should expect to be confronted—gently and consistently rather than comforted and encouraged in their wrongdoing. Certainly, every Catholic politician who voted for this Bill should think twice and examine his or her conscience before next receiving communion.

I regret that Cardinal Pell's communications with us as a small group of Catholics regarding our place in the church has been conducted through the mass media. It has not assisted the debate and has caused a number of misunderstandings, and I believe even unfair criticisms of the church. It has had the potential to seriously damage the standing of every Catholic member of Parliament who swears an oath to serve the entire community—and our commitment to that oath should not be undermined. Had the bill been defeated, Catholics would have been blamed, and the perception that the decision resulted from the intervention of a religious figure could have caused a crisis of confidence in our commitment to our oath to serve the entire community. Our party members could rightly point out that the word next to our names on the ballot paper was "Liberal" and that there was no mention of "Catholic".

I was confused by Cardinal Pell's tactics. Had we all dutifully followed his instructions, there would have been an uproar and doubts as to the legitimacy of an important parliamentary vote. I also found it confusing that on 4 June Cardinal Pell urged us to vote against the bill on the basis of a "properly informed conscience", then on 8 June explicitly rejected the primacy of conscience as "secular relativism with a religious face". But then on 10 June he urged members who voted against the bill to "examine his or her conscience before next receiving communion". I am confused by Cardinal Pell's warnings that Catholic members must conform to the church's discipline on the floor of the Parliament or risk punishment by the church. At the same time the Cardinal cherishes his own secular freedoms when he argues, "In a plurist democracy Bishops are free to explain Catholic doctrines and discipline".

It seems ironic to me that the democratic freedoms he claims for himself are the very same ones he refuses to extend to Catholic members of Parliament. Cardinal Pell's remarks seem to have given licence to a number of my colleagues in both Chambers and members of the public who have seen fit to piously lecture

other Catholics about what it means to be a Catholic and what Catholics must do. Those who fail to comply with the Cardinal's directives are said to be "not real" Catholics. I find this deeply offensive. It is ironic that those who say they are opposed to two classes of embryo seem to be creating two classes of Catholic—"real" and "not real". That is certainly elitist. The Catholic Church is a powerful body. Cardinal Pell says it does not exist for an elite, but it is undeniable that, like any hierarchical organisation where an emphasis is being placed on discipline, there is an elite interpreting and determining the mandates the church exercises over its congregation. In my first speech to Parliament I quoted these words of John Stuart Mill:

Society can and does execute its own mandates; and if it issues wrong mandates instead of right, or any mandates at all in things with which it ought not to meddle, it practises a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself.

This is the type of power that the church potentially has over its own members, including me and, indeed, my entire family as Catholics. We are seventh generation Australian Catholics. That does not make us better than anyone else, but I will not accept from any member of this place the offensive statement that I am not a "real" Catholic. I do not accept from Cardinal Pell that I or any other member here "trumpets" my or their catholicity. It was Cardinal Pell who created the public predicament by talking to us through the media and raising the spectre of a sectarian vote on a matter of such high public interest. That is why Catholic members are speaking out.

I do not know why Cardinal Pell is communicating through the press rather than contacting us like virtually every other citizen seeking to have an input to the bill. He said in the *Daily Telegraph* that Catholics who act contrary to the church should be "confronted—gently and consistently". The extensive use of media to communicate with a relatively small number of people is not gentle, consistent confrontation. Indeed, I felt more as though someone had jumped out of the shadows and waved a gun in my face. In such a situation I would be taken aback and would ask the person, "Why are you doing this?" Is the media the appropriate means for Cardinal Pell to offer leadership and spiritual guidance to Catholic politicians?

It makes me question whether we are the intended audience at all. Are we being used as props in a message being sent to another audience altogether? If so, I question the wisdom and compassion of that approach. It is actually a not very nice thing to do. Being bullied by the boss is bad enough, but the thought it could be for another audience is especially demoralising. I note that due to the Cardinal's extensive use of media the controversy has achieved coverage in international publications such as the *Economist* *ZENIT*, a Vatican newsletter, where an analysis that is very favourable to him has been published. When the Senate passed the original legislation last year this is what was published on the front page of the 19 November edition of the *Catholic Weekly*:

Vote for Cloning a vital 'mistake'... and these are the senators who made it.

And there are 34 colour photographs of the senators who voted for the bill. The 32 senators who voted against it have their photos inside the paper. I could not help feeling chilled by the obvious message that the church will put the photos of dissenters on page 1 to publicise their errors to the faithful. This did seem punitive, and sent a message to members in the House of Assembly that when the bill came their way the church again would put photographs of its supporters on page 1. I have to accept that that may well be the fate of members of this House who support the bill. That is unpleasant for anyone, but particularly for those of us who are Catholics. I do not believe these efforts to discipline Catholic members and force compliance with alleged church teachings that are issued in thundering terms via the media are "gentle", as is claimed by Cardinal Pell.

I have reflected deeply on the primacy of conscience. A young friend assisted me greatly by drawing my attention to a sermon delivered by Fr Emert Costello, who is a Jesuit priest. I make it very clear that the guidance offered did not relate to this issue and I draw on his words for the sole purpose of arguing that Catholic politicians are entitled to form and act upon our own view of this legislation. Father Costello says:

This doctrine of the primacy of the adequately informed conscience has been part of the church's moral teaching for centuries. The Second Vatican Council made an important distinction between infallible and non-infallible teachings.

"A Catholic who feels compelled to dissent ... from infallible teaching ... has no option but to sever his connection with the church. On the other hand, when the question at issue is the obligatory force of non-infallible teaching ... then Catholics may dissent from such teaching for serious conscientious reasons and still consider themselves to be in full communion with the church."

This teaching that personal conscience is the ultimate guide in all our moral activity was clearly taught by St Thomas Aquinas, probably the greatest Catholic theologian, in the 13th century. Aquinas held that an erroneous conscience was morally binding and that one is without moral fault in following it provided one has already made every reasonable effort to form a right moral judgment. The eminent English Jesuit theologian, John Mahoney, comments:

"Aquinas has also taught that the conscience was the medium through which a human being received God's directive. He had therefore placed the dictate of conscience above any directive given by a human authority—which meant even an ecclesiastical one ..."

Hogan, Jesuit moral theologian, concludes his lucid exposition of conscience thus:

The council's teaching on religious freedom and on conscience helps to re-establish Aquinas' position on the primacy of conscience. Because of this, there can be no dilemma in regard to the relation of conscience to the magisterium [church teaching] since this official teaching authority should be understood as a faithful and welcome helper in decision making, while our response should be one of free and responsible discipleship. It is an affront to humanity if others try to take over our consciences. The best teaching is that which respects not only the doctrine taught but also and especially the dignity and autonomy of the learner.

Hogan quotes the Anglican Archbishop Temple:

If your image of God is wrong, you would be better off being an atheist.

Because you may be led to do very wrong things in the name of such a God. Hogan writes:

How true. We have only to think of the Crusades, the Inquisition, the religious wars in Europe, the 'troubles' in Northern Ireland not to mention the modern phenomenon of ethnic cleansing where religion and not race seems to be the dividing line.

He concludes:

An impoverished notion of God leads to a predominantly legalistic approach to morality; such a view of morality in turn reinforces that impoverished image of God.

To conclude, Pope John Paul II, in his recent message for World Peace on January 1st, 1999, stressed the primacy of the conscience: 'People are obliged to follow their conscience in all circumstances and cannot be forced to act against it.'

Following Cardinal Pell's statements Father Frank Brennan affirmed the view that on this specific issue Catholic politicians must act according to their conscience. Father Brennan recently published a book entitled *Acting on Conscience*. Although time has not permitted me to read it, I have borrowed it from the library and I look forward to considering this issue more deeply. I greatly regret Cardinal Pell's tactics in the debate. I do not for a moment say that he should not have a view. To the contrary, our task today is to determine community standards and the church must play a role in that. Although Cardinal Pell refers repeatedly to the teachings of the church, he has not informed us as to what those teachings are. I have spent a great deal of time searching for that information. The media release of 4 June 2007 was not insightful. The final paragraph reads:

If this bill is passed, the enemies of human life will soon be back with further proposals, disguised as sweet words and promises of cures, to roll back the few remaining barriers to the regular destruction of early human life.

The description of Australia's medical researchers and thousands of desperately ill and dying Australians, and their families who are advocating for the bill as being the "enemies of life", is astounding. Dr Paul Brock is tragically afflicted by motor neurone disease, and he says of himself:

I am now almost completely paralysed. I can still speak and think but apart from being able to lift two fingers I can do nothing else without assistance. I am frightened of what lies in front of me and my family. Unable to speak and swallow; fed by a tube into my stomach; breathing with a respirator; having a fully alert mind with a vegetative body capable only of eyelash blinking.

Dr Brock spent 15 years as a Marist Brother, including six years of studying a Masters in Theology. He is adamant about the primacy of one's informed conscience. He is adamant that embryonic stem cell research is essential because of the hope it offers to others who, in future, will suffer as he suffers today. He knows the research will not assist him. Dr Brock has displayed remarkable courage, energy and compassion in what has nevertheless been a most considered contribution to the debate. I am greatly moved with sadness by the burden he bears and the greater burden that he faces. I am in awe of his humanity and faith. To describe Dr Paul Brock and those who care for him as being the "enemies of life" is simply incredible. Such a statement in a media release by Cardinal Pell is not a measured contribution, and I do not regard it as binding church teaching.

Everyone says we are well aware of church teaching, but I am not aware, beyond the blunt statement that the church wants us to vote down the bill, that we may face reprisals if we do not and that people who support the bill are enemies of life. Other statements in the media release are factually incorrect. As I said, I have spent time trying to discover what these teachings are. The bishops and Cardinal Pell made submissions



to the Lockhart inquiry, which are available on the Internet, along with other Catholic organisations that are all opposed to embryonic stem cell research. Cardinal Pell, in his submission, said:

Science confirms that human embryos are complete, though immature, human beings.

But this statement does not explain what he means by human embryos. Does he mean hybrid embryos made of human material, such as skin cells? If everything containing human material is to be regarded as a human being then it is not at all clear that science has confirmed that these cells are immature human beings. The submission by the Australian Catholic Bishops Conference sought to deal more fully with this issue. On page 5 it is argued:

Some people will claim that an embryo is not human. But the onus is on such people to prove such a claim. At what point does an unborn child become human? Some will argue that an unborn child is only human from the time that he or she is viable outside the womb. But if such is the criterion then one's humanity is determined merely by advances in technology.

The bishops make a very valid point and their submission is persuasive. However, it does not distinguish between human egg and human sperm embryos, and those that are called human simply because they contain human material but not sex cells. The process of injecting cells, such as skin cells, in a human egg with the nuclei removed, then stimulating cell reproduction with volts of electricity hardly fits with my understanding of conception. The microscopic straw-coloured cells cannot be considered to be human beings. I have heard no argument explaining that they are human beings, just generalised, sweeping statements that all embryos are the same and we cannot have different classes of embryos. This argument ducks key issues and is based on the notion of absolute truth. I do not subscribe to absolute truth in this context. Although I cannot and will not criticise the beliefs of those who do, I ask them to refrain from accusing those of us who see the world as being a little more complex of being rudderless and immoral. The search for understanding is natural and noble. Dr Paul Brock comments:

Among all five members of the Lockhart Review who unanimously recommended legalising human cloning were two prominent Catholics: 2005 Noble Laureate for Medicine Professor Barry Marshall and neurologist Associate Professor Pamela McCombe. Dr McCombe later made a submission to the Senate Inquiry that investigated the Lockhart Report in which she said that in view of the evidence studied by the review she had changed her mind from opposing to supporting therapeutic cloning.

There have been a number of unfortunate and adverse reflections on the Catholic church in recent weeks, including the suggestion that the church is somehow pitted against science. I draw the attention of the House to a media release sent to me by the Vatican. I admit I am a subscriber to the daily newsletter of the Vatican called *ZENIT*. The media release issued by the Vatican on 11 June 2007 reads:

Benedict XVI Says Church Encourages Science

Observatory Summer School Students Visit Vatican

The Church promotes scientific research, Benedict XVI told participants in the 11th Vatican Observatory Summer School.

The Pope said this today when he received the Observatory students in an audience:

Since its establishment in 1891, the Vatican Observatory has sought to demonstrate the Church's desire to embrace, encourage and promotes scientific study, on the basis of her conviction that "faith and reason are like two wings on which the human spirit rises to the contemplation of truth," the Holy Father explained, quoting Pope John Paul II's encyclical "Fides et Ratio".

I note that the Vatican Observatory is staffed by Jesuits and is one of the world's oldest observatories. I agree that the church has had spectacular moments reconciling dogma and science, and history may show that this debate may be one of those moments. However, to allege that the church is incapable of coming to grips with science and technology is to blot out a very proud history of Catholics who, thanks to their Catholic education and at times with the financial assistance of the church, have contributed to humanity's growing knowledge of our universe and the world around us.

I thank all those who have assisted me during the journey the bill has created, particularly Verity Firth, Minister for Science and Medical Research; the shadow Minister for Health, Jillian Skinner; Joanna Knott; Bernie Tuch, Director, NSW Stem Cell Network and Director, Diabetes Transplant Unit, Prince of Wales Hospital/University of New South Wales; my Liberal friends in the country north province whom I have consulted extensively and my friends in the church whom I will not name but who know how appreciative I am of their support, and the hundreds of citizens who have contacted me with their views. I have corresponded with many people on both sides of this debate and have admiration, respect and appreciation for their willingness to participate in this democratic process.

I am also very grateful for my Catholic family and education and the strong emphasis they have impressed upon me about social justice, compassion and concern for our fellow human beings. My values have

been shaped by my Catholic upbringing. They compel me to support the legislation. I thank the church for teaching me care and compassion, for teaching me to be curious, and for giving me the capacity and the fortitude to examine my own conscience and support the bill. The more I have learned about this legislation, the more I support it. I am in absolutely no doubt that that is the right thing to do.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [8.39 p.m.]: Like many members who preceded me, I am pleased to contribute to this debate. Given that the major parties have decided to accord their members a conscience vote, I believe my contribution is of significant importance because it provides the people we represent with an understanding of where all of us stand and how we vote on this issue. I have heard a range of views from members of this House and in the other place. Some were passionate, some were persuasive, and others resonated with emotional impulses. We may disagree with some views but we can still respect them as the genuinely held convictions of those members. I think we have all given a great deal of thought to the bill and have wrestled with our consciences on how to vote.

Many members have preceded me in this debate so I will not deal with all the detailed scientific aspects of the debate. Instead, I will limit my remarks to my philosophical approach to the bill. Some members may be aware that I was raised as a Catholic even though my parents were not of that faith. After we fled the mainland and became refugees in Hong Kong, I found myself, by luck more than anything else, attending the local Catholic primary and Jesuit secondary school with the support of the local priest, Father D'ayala, who spent all of the 60 years of his missionary life in Hong Kong. Many years later both my sons attended St Aloysius College. I mention this because the church's teaching influenced my decision. My Jesuit education has taught me the value of compassion and caring for the community as well as the value of learning and innovation.

But my heritage is also steeped in Eastern philosophy from my parents and the culture of my birthplace and upbringing. This debate has been somewhat limited to the Christian view of philosophy, even from the contribution of non-practising Christians and non-believers. Therefore, I believe it is important that we consider other perspectives of this debate on behalf of the significant part of the community whose system of belief is not based on Christianity. As someone of Asian background, I can state that Buddhism, Taoism and Confucianism provide the framework to the Eastern values system and way of life. What Christians in general view as the meaning of life and death are not necessarily shared by other faiths.

We all value the importance of respect for life and compassion for our fellow human beings, but this respect does not mean agreement on all detailed aspects of life and humanity. Buddhism generally agrees with the Christian faith in terms of love and compassion, although it does not explore the details of life, such as its beginning and the right to kill, as Christians do. One glaring example is the support of some Christians for capital punishment. Is that not inconsistent with the Christian belief of doing no harm? The Commandment tells us, "Thou shalt not kill", yet some Christians support the death penalty.

One of the objections of opponents of this bill is that it allows for research in cloning technology—embryonic research—using the building blocks of life. Opponents of the bill say that it is playing with life itself. Life and death in Eastern philosophies have different conceptions and meanings. In Buddhism, for example, which is widely practised throughout Asia from its origins in India and these days is increasingly widespread throughout the world, life does not stop. It continues through the process of reincarnation. That is why Buddhists treat life as so sacred and important. Lord Buddha would not want to hurt an ant, as that would mean the destruction of a living being. My understanding of Buddhism is that when someone passes on, they are waiting for the opportunity to be reincarnated.

While the Christian faith talks about love of our neighbour, Buddhism practices compassion for our fellow human beings in many possible ways. Compassion compels me to support any action that is designed to reduce suffering and pain. In Taoist principles life and better health are important factors. A healthy body and a healthy mind and spirit are states to be aimed for by Taoist followers. Taoism constantly searches for ways and means of achieving a healthier life—eternal life—so the Taoist founder, Lao Tzu, would certainly support this bill to allow research. This is where the ying and the yang, the balance in nature, fit in. Traditional Chinese medicine is based on Taoist principles of the ying and the yang in pursuing a healthier balance in body, mind and soul.

These beliefs all have one thing in common: They are about the sanctity of life. I believe this bill is not about killing or even creating life. It is about improving, potentially, the quality of life of many sick and injured people. It does no harm. As the Premier mentioned in the debate in the other place, this bill is about providing the legal framework for groundbreaking research not only into diseases such as diabetes, Parkinson's disease and

spinal injuries but also into fertility and reproduction conditions. This legislation has been introduced to ensure national consistency in this field of research. Without it, research that is allowed in other parts of the country would be stopped here.

The bill replicates legislation that has already been passed in other jurisdictions throughout Australia. This is what the Council of Australian Governments [COAG] agreed to do. New South Wales is playing its part by bringing New South Wales legislation in line with equivalent Commonwealth and Victorian legislation. Without this legislation, we will effectively close down important research in this State, research that may find therapies or cures for myriad debilitating conditions. If this bill is not passed, the research will go on elsewhere, interstate and overseas, and we will have abandoned a nationally consistent framework, for reasons with which the vast majority of Australians disagree.

Quite a lot has been mentioned about the Lockhart review, which was discussed in debate in the Commonwealth Parliament. I am grateful that two of the members of the review took part in briefings on the bill and shared their knowledge and experience with members of this Parliament. The Lockhart review identified strong community support in favour of medical research to alleviate suffering from debilitating and incurable conditions. Published opinion polls reflect that. I acknowledge that some people fear the consequences of this research. As we have heard in this place, opinion is divided. Many members have expressed their concerns and disagreement, but I do not believe that the therapeutic cloning or somatic cell nuclear transfer will allow the horrifying scenarios that I have heard mentioned in this and other places to occur.

Confucian philosophy can be regarded as the practice of a system of order in government or a system of law and order for people to follow. In this respect we must have faith in our own system of government. By passing this bill, we will ensure that limitations will apply to stem cell research that our society and researchers will be obliged to follow. The bill will not allow human cloning. That ban will remain in place forever, as it should. It will not allow the production of egg and sperm embryos to be created for research purposes. It will not allow the sale of human eggs or embryos. The bill will not allow manifestation of the worst fears expressed by the community in correspondence with our offices.

Opponents of this bill have made the point that a human embryo is an early stage of existence with an inherent capacity to form a life within a uterus. I do not disagree with that view, but what it fails to acknowledge is the leap of logic, or perhaps faith, in defining the one-cell embryonic stage, or the early building blocks of life, as life per se. A Protestant friend of mine used the old Methodist—or is it Baptist—joke to make his point. He put it this way: Banning this type of research based on the consideration of early embryonic cells as life is similar to banning dancing because we all know what it might lead to.

Another aspect of the debate that has troubled me is the view that the destruction of an embryo is tantamount to murder. I do not accept that; it is a moral stance taken by a minority. Why should their views prevail if they were not widely supported? If one looks at it carefully, that would impact on access to unused embryos from in-vitro fertilisation programs. And I do not believe that a moral distinction can be made between the destruction of embryos for research purposes and for reproductive purposes.

Many members have spoken about the hope that the bill will provide to the community, including their own family members and friends. Some members have argued that certain types of research should not be allowed as, in their opinion, it stands no chance of success and would, therefore, provide false hope to countless sufferers. I am no such expert. I do not believe that it is up to us to decide what type of research may or may not succeed, or which may or may not provide a cure to various illnesses. It is for us to provide the legal and ethical framework that will allow research to be undertaken by people who know much more about its potential than we do. I say that with the greatest respect.

We should aim to create a legal environment within which potential medical advances can be made that can help fight and even offer the hope of cures for countless diseases. We should not stand in the way of such potential advances. If this bill is passed it will reassure people with concerns about its practical implications. I am reminded of the reaction of Professor Pamela McCombe, a conservative scientist and a member of the Lockhart review. Last year she explained that she changed her mind on stem cell research after that review was conducted. In addition to early ethical and moral objections she had not considered stem cell transplantation as a useful way of treating neurological diseases.

But as the review progressed and she talked to many people involved in the research, and explored the ethical and moral dilemmas that troubled her, she came to reject the arguments against the research. Professor

McCombe found the researchers to be well meaning and good people. As she stated, the main point of disagreement was the level of protection which laboratory-produced embryos should be given. As her reasoning was thorough and has been mentioned already, I will quote only a small part of her paper. In her conclusion she stated:

... those people who think that there is no moral problem with embryo research should be allowed to carry out this research, and should not be prevented from doing so by the power of the law. Those people who think this research is wrong should be allowed to say so, and to protest against what they believe to be wrong, and those who do not wish to participate in treatments that arise from stem cell research should be allowed to avoid such treatments.

That is a fair conclusion. I will support the bill. The bill is presented with ethical and moral considerations covered, and stands to contribute to important endeavours in our society: the alleviation of human suffering. We do not know if that will be achieved, but indications from existing medical and scientific research suggest that it can. Neither do we know when it can be achieved, but again indications are that the research allowed in the bill will lead to that much sooner. We owe it to the people who currently stand to gain from this research, and to those who will benefit from the alleviation of their illnesses in the future, to support the bill. I commend the bill to the House.

**The Hon. JENNIFER GARDINER** [8.53 p.m.]: I will speak briefly on the provisions of the Human Cloning and Other Prohibited Practices Amendment Bill 2007, on which there has been very extensive debate in both places. I thank the many hundreds of constituents who have been in touch with me and other members to offer their views on the pros and cons of the bill. I acknowledge that the passage of the bill has many moral, social and ethical issues embedded in it, as well as potential legal issues. The bill amends the Human Cloning and Other Prohibited Practices Act 2003 and mirrors amendments made to corresponding Commonwealth legislation by the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006.

The bill is in line with recommendations made 18 months ago by the Lockhart Committee, which reviewed the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002 of the Commonwealth. The bill retains the existing prohibitions on a number of practices, namely, human reproductive cloning and the developing of a human embryo outside the body of a woman for more than 14 days, the collection of a viable human embryo from a woman's body and creating or developing a human embryo by fertilisation of a human egg by a human sperm outside the body of a woman for any purpose other than the assisted reproductive technology treatment of a particular woman, and the placing in the body of a woman any embryo other than a human embryo created by the fertilisation of a human egg by a human sperm. The bill also prohibits commercial trading in human eggs, human sperm or human embryos.

The bill enables somatic cell nuclear transfer, more commonly known as therapeutic cloning, and other practices involving the creation of human embryos other than by the fertilisation of human eggs by human sperm, but only under licence for research purposes and not for reproductive purposes. Physically this is a small amending bill, but one that for many people has great implications. Indeed, it may turn out to have great implications for humankind. Many people have expressed the hope that research that can proceed if the bill passes this House, having already passed the other place, may lead to treatments and even cures for relatively common diseases such as Parkinson's disease, Alzheimer's disease, diabetes—which is increasingly the scourge of many Australians—and treatments for spinal cord injury and motor neurone disease.

It may turn out that no such treatments or cures for such diseases will eventuate as a result of the passage of this bill and the research that would flow from it. However, the New South Wales Parliament needs to ensure that there is national consistency in the legislative framework for such research to proceed in a heavily regulated environment. The bill's place in the development of such laws in the Australian federation has been well stated throughout the debate. Suffice it to say that the Australian and Victorian Parliaments have passed equivalent legislation in keeping with the Council of Australian Governments' decision that there should be a nationally consistent approach to regulate assisted reproductive technology and related technology.

The bill maintains the strict ban on human cloning and some penalties for offences under the Act will be toughened up. As I often do when seeking inspiration, I have turned to the words of John F. Kennedy, many of which echo down the years. On the question of church and State, which has permeated the debate on this and equivalent bills in various Houses of Parliament, he said:

I am not the Catholic candidate for President. I am the Democratic Party's candidate for President, who happens also to be a Catholic.

But he also said:

Let both sides invoke the wonders of science instead of its terrors. Together, let us explore the stars, conquer the deserts, eradicate disease . . .

On balance, I have decided to support the bill.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [8.58 p.m.]: Only Hansard and I will know that the hieroglyphics on the piece of paper in front of me are my writing, and not the writing of some staffer who prepared notes for my contribution from documents prepared by someone else. We have had a long debate on the Human Cloning and Other Prohibited Practices Amendment Bill 2007 in both the Legislative Assembly and the Legislative Council. My contribution will be short because most of the issues and the new and exciting events have been covered in not only the Legislative Assembly or the Legislative Council, but also the House of Representatives and the Senate. I suspect that there is nothing that has not been canvassed by one member or another. A lot has been said about the comments of Archbishop Pell. Were his comments too strong? It is hard to say. Perhaps he was half a step too far.

**The Hon. John Della Bosca:** Was he playing cricket?

**The Hon. DUNCAN GAY:** Perhaps leg before. He is a great Aussie Rules player. Coming from where he does, I do not think his contribution was too strong. I quite like the bloke. I respect him because he stands for something and he believes in it. However, I did not necessarily agree with what he did; I thought he was wrong at the time. I agreed even less with those who damned him. The people who damned him went several steps too far. I thought their comments were outrageous, in particular, the Greens, who stand for nothing. At least Archbishop Pell stands for something.

**Ms Sylvia Hale:** That is outrageous!

**The Hon. DUNCAN GAY:** The Greens accuse me of being outrageous, but I wear it as badge of honour. As the leader of a party I waited before making my contribution to debate on this bill. Earlier today Reverend the Hon. Fred Nile said quite appropriately that this is a conscience vote; it is not one that should be dictated by the leaders of any party. I carefully waited until all members of The Nationals in the Legislative Council had put their point of view on the record before I had my say. What should a Christian, middle-aged, conservative country male do in a situation such as this? I have to make a decision; it is not my intention to avoid doing that. Many members said that this is not an easy task, that it is an issue that must be weighed carefully. I compliment all honourable members for the way in which they weighed up their decisions and placed their thoughts in *Hansard*.

In order to come to a decision I attended meetings, read material and consulted the community. I consulted members of my family. I spoke to my mother, who is in her eighties. I spoke to my wife and to my children, but I did not speak to my grandchildren as I did not believe they would be a lot of help in this matter. The decision to which I have come was not made because I do or do not have a sick relative. In 2003, before I voted on legislation that was before the House, I spoke to my father, who was in his late nineties. He was a man with a great mind. Many members would know that my father, a Presbyterian, was an old-fashioned family farming man. In fact, he and my grandfather donated a block of land on our farm to the Presbyterian Church and that is where the church is now located.

My father was a Christian in the proper sense. My grandfather, who lived into his nineties, my father and I worked together on the farm for many years. Before I voted on the legislation in 2003 my father's advice was, "Son, you should vote for that," which I did. On this occasion I will vote in favour of the bill. Frankly, I do not believe that I have any other choice. I will vote for the bill because I believe I am doing it for all the right reasons, that is, to help people. People in this Parliament do not need any other reason to vote for the bill. I am sure that some people will make different decisions, but I hope that they make them for all the right reasons. Christians have to make hard decisions based on their beliefs; it is not right for them to make decisions based on someone else's beliefs. I support the bill.

**The Hon. JOHN DELLA BOSCA** (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [9.05 p.m.]: The Deputy Leader of the Government and I chose to speak late in debate on the bill. Special responsibilities go with being Leader of the Government in a debate in which clearly the Government has a strong point of view. The Government is pressing for the passage of this legislation and I understand there are very good reasons why it is

before the House. The background to this legislation has been discussed at length, so I do not propose to go into the details or the circumstances of the Lockhart report or the changes to the Commonwealth arrangements.

Apart from anything else, the changes to the Commonwealth arrangements will lead to the implementation of changes made by Lockhart. The free vote that the Commonwealth Parliament had after the intervention of Senator Patterson and her colleagues fundamentally changed the practical outcomes relating to this debate. I wish to make a couple of quick contributions. I will not labour various points that I think have been well made on both sides of the argument; I simply want to summarise my reasons for voting against the bill. Many members have canvassed this issue and it has been interesting to listen to the detail to which people have gone in this debate.

Throughout history the modern world has been driven by two great impulses to knowledge. The first impulse is to understand by testing and falsifying theories about our material world. Those theories and the revelation we get from those about our material world and all the knowledge derived from it are what we call science. A tremendous ideological and economic edifice has been developed around scientific knowledge that we know as science and technology. The other great impulse is to speculate about, embrace and throw ourselves in various ways into the increasingly intangible mysteries of what we call faith and religion.

I want to make a few points about the practicalities of this debate. In deciding on the unique circumstances of a free vote in this Chamber one might come to a landing where one has to draw a line or take a position. It is clear to me that science cannot tell me—it may be able to tell other people but it cannot tell me—what is either right or wrong. It can give us a very useful map about the world and it can give us indications of where right and wrong might be. Religion cannot be expected to tell us what is materially true and not true. I do not think anyone, sincerely or insincerely, believes that he or she can derive that kind of knowledge from religious truth.

It is important for people to understand—I would like people to understand when I speak in this Chamber—that I am not really interested in or concerned about what external authorities might be brought to bear on members' views. I found some of the debate about the intervention of Archbishop Pell and various other church leaders a curiosity and a distraction from the fundamentals of this debate. I seek the indulgence of the House to read onto the record a quote from the catechism of the Catholic Church. Article 6 of the catechism, which is entitled "Moral conscience", reads as follows:

Deep within their conscience men and women discover a law which they have not laid upon themselves, but which they must obey. Its voice, ever calling them to love, and to do what is right and avoid what is wrong, tells them inwardly at the right moment: do this, shun that. For people have within their hearts a law inscribed by God. Their dignity lies in observing this law, and by it they will be judged. The conscience is the individual's most secret core and sanctuary. There each person is alone with God, whose voice echoes in his or her depths.

What I have heard leads me to conclude that those members in this Chamber whose contributions I have listened to exercised their conscience in their own way. It is apparent to me that many of those who propose to support the bill do so in good and clear conscience, which is to be applauded. It is my strong view—in my case it is true and it seems to me to be true of those members to whom I have listened—that they made a conscientious decision the other way, irrespective of any advice or authority that might have been brought to bear on them. I suppose that my starting point in this debate is the quote by Billy Hughes, who, when speaking in another context about political parties, said, "You have to draw the line somewhere."

**The Hon. Duncan Gay:** That's unfair. I know that quote.

**The Hon. JOHN DELLA BOSCA:** I acknowledge the interjection by the Deputy Leader of the Opposition. I realise the contexts are different, but we have to draw the line somewhere. No-one in this House who intends to vote for the bill embraces an extreme position on either side of the debate. In other words, no-one believes there should be no regulation of what we allow scientists to do when experimenting on human tissue, whether it is embryonic tissue, a foetus or life that was created for the purposes of research. Individuals will draw different lines in the sand according to their conscience.

Of course, our conscience is not formed by some personal act but is the product of our education, culture, belief systems, religions, family members and other decisions.

I feel great discomfort that on this matter I disagree somewhat with my sons, both of whom have had an excellent education and understand a lot more about human biology than I. They are sincerely interested in

the ethical issues involved in the debate. On several occasions I suffered the great discomfort of disagreeing violently about this issue with my mentor in politics and our former Premier and leader, Bob Carr, who has very strong views about it. My position is that you must draw the line somewhere, and there are reasons why I have drawn it here. Several members have explored the science involved and I do not propose to repeat their comments. I simply highlight the claim that stem cell research will lead to medical cures and other developments that will enhance medical capacity. I do not believe that case has been made convincingly. I have conducted extensive research in this area—I will not belabour the point by detailing it—and I remain convinced that the claim is not necessarily true. In any event, we cannot allow an unfettered attitude to prevail; it is about where you draw the line.

It is unfair—this is the one point about which I disagree with advocates of the yes vote—to suggest that people can take it or leave it. It is argued that scientists should be allowed to get on with the research and, if people do not like the cures, they do not have to take them up, give them to their kids or recommend them to other family members. But the relationship between scientific discovery, medical discovery and the development of knowledge does not work like that. I would be quite comfortable taking advantage—and urging relatives and friends to do the same—of many scientific advances and medical cures that were derived from fundamentally evil acts committed, for example, during time of war. Cosmetic surgery, nuclear medicine and a range of technologies have evolved from fundamentally unethical or immoral acts. Yet the motivation to harness that knowledge differently has led to very different outcomes. We do not address the ethical concerns raised by this bill in a balanced or sensible manner if we simply say, "You can take it or leave it". As a society, we must make a decision about what we will and will not allow.

The Catholic Archbishop of Sydney said in his often-quoted press release that we were all embryos once. Some have taken that as an ironic statement, some have disregarded it and others have embraced it earnestly. The question of where life begins centres on the issue of complexity. The debate becomes serious when we start speculating about whether that complexity exists and human life begins at 14, 28, 75, 92 or whatever number of days. A scientist cannot tell people when human life begins; individuals must make that decision. A key concern that follows on from complexity is consciousness. There is no doubt that an embryo has no consciousness. No consciousness has been discovered even well into the cell reproduction stage. But if we draw the line there, we face an unfortunate ethical problem with regard to consciousness. We cannot say because embryos or subsequent later cellular developments at whatever stage do not have apparent consciousness or the characteristics of thought of developed adult humans that that must be the point at which we draw the line.

The Hon. Catherine Cusack mentioned Thomas Aquinas. The Hon. Lynda Voltz and others gave interesting illustrations of the tensions that have existed at various times between religious teachings and scientific issues. The fact of the matter is that if Thomas Aquinas were transported here through a time tunnel, he would no doubt be a strong and absolutely resolute supporter of the bill. Thomas Aquinas took the view and taught formally in a number of his theological and philosophical works—

**The Hon. Ian Macdonald:** Why aren't you voting for it then?

**The Hon. JOHN DELLA BOSCA:** I will answer the interjection in a moment. Thomas Aquinas believed in the scientific theory that was relevant in his time, which was very long ago. He believed that what we now think of as an embryo and a foetus came to life at the point of quickening. According to his science, that occurred at about three months after conception. So Thomas Aquinas, like most people of his century and of the centuries thereafter, believed human life did not begin until three months after conception. That is an interesting conundrum for those who believe in the significance of classical theology as a divination and a pointer to making decisions about modern moral questions. But it is important to understand that, ironically, scientific advances increase our knowledge of these matters and, therefore, increase the complexity of the dilemmas that we face.

This is where I have drawn my line. I speak with no great authority on this subject; I cannot say that other members have drawn their line in the wrong place. As I said, I have heard not a single contribution during this debate that did not fill me full of confidence. Members talked about humanism and Christianity. I do not think there is a conflict between humanism and Christianity—certainly history shows there is none. I shall conclude by remarks by quoting not a modern Australian religious leader but a visiting leader of a completely different religion and culture who left our shores a short time ago. The Dalai Lama, when asked about stem cell research, said words to the effect that what matters is the motivation. What matters is why we do things. Whether we are scientists, lawmakers or Parliaments, it is our motivation that is important.

The Government, both Houses of this Parliament and the Commonwealth Parliament have shown a great deal of maturity in deciding as lawmakers what our motivations should be in terms of the various interests that we must serve. The oath or affirmation of office that we take in this place is our fundamental obligation, and we must discharge it to the best of our abilities. I have drawn my line here. I could go into great detail about exactly why it is here. It is important to me and it is a line that is fundamentally defensible. It may be that other members will choose other lines, but they must draw a line somewhere. We must continue to consider the conflicts involved with the ethics of scientific research, whether it involves human cellular matter or human entities. People use different terms. Part of the problem in this debate is that the terminology is so value laden that we run the risk of prescribing the debate. It is important that we continue to review the line and where it should be drawn.

On behalf of the Government, I thank members for their contributions to the debate. On my own behalf, I thank all members for their enlightening contributions, and I congratulate them on making what I think are outstanding decisions. We ought to be very careful, even though we know that science has given us a great many gifts, to consider motivation. We need to understand what is the motivation for research, and what is the motivation for laws. As I have said, the Dalai Lama put it very well.

I conclude by saying that I still remain optimistic. I do not think there is a slippery slope. I think there is a growing knowledge about these things and that as we come to understand them the balance between science and ethics will become clearer and there will be greater consensus. The toleration that members have shown one another in the conduct of this debate makes me very optimistic about the future of this place and those we represent, and I am optimistic that people right around the world will come to the right conclusions on this issue. Even if I might happen to think on this particular night, or tomorrow or the next time we debate this point the line is not where I would like it to be, my belief is that the line needs to be drawn, and all members should be aware of that. We need to keep that issue constantly in our focus whenever we discuss such issues.

**The Hon. JOHN AJAKA** [9.21 p.m.]: As members know, I am newly elected to this honourable House. The Human Cloning and Other Prohibited Practices Amendment Bill 2007 presents the first conscience vote that I will face. It would have been much easier for me to not speak on the bill, and to merely vote or, even easier, to abstain from voting. I must say that that thought occurred to me on numerous occasions, but that is not why I was elected to this Chamber. A duty clearly exists and must be performed. That is the reason I feel compelled to speak on the bill.

I have been asked countless times, "How will you vote?" Or, more specifically, I have been told "You have to vote yes" or "You have to vote no." In the short time that I have been here I have received more mail, emails, faxes and telephone calls on this one sensitive issue than I have on all the other issues that have come before me. Of course, some of the correspondence and telephone calls were very sad and related tragic circumstances. The last call I received, from a loving mother who merely wanted to help her very ill child, remains clearest in my mind. She said to me, "Please vote yes. This is the only chance for my child; our last hope for her."

Of the hundreds of letters I received, it was difficult to determine whether the majority were pressing for a yes vote or a no vote. However, in the last few days the overwhelming majority of submissions were clearly for a no vote. Yet it is fair to say that our community is evenly divided on this issue. It is, of course, open to me today to carefully summarise all of the submissions sent to me, including all the scientific, religious, ethical and moral submissions. It is also open to me to stand in this place and quote various passages from material produced by leading authors, whether religious, political, scientific or others. To do so, of course, would mean I would be speaking for several hours.

As a large number of members have spoken before me—I believe I am one of the few remaining speakers—I could not avoid repeating much of what they have already said. Accordingly, I do not propose to repeat each of the various scientific opinions or findings that various specialist authors raised in their submissions. Each of the experts present substantial back-up, or corroborative evidence, to support their arguments, findings and submissions. Again for every yes argument submitted, a counter no argument was put forward by the experts. Then there were the numerous submissions from differing denominations of the religious clergy. As previously stated by me in this honourable House, I am a Melkite Catholic, a practising Christian. Interestingly, some of the clergy were seeking a no vote, while others were seeking a yes vote.

At this time I would like to deviate briefly to mention one particular point. I may not personally agree with the way His Eminence Cardinal Pell expressed his views. However, it is his clear right and entitlement to



express his view in the way he expressed it, not only as a religious leader of the Catholic community within our State but, more importantly, as a citizen of this State. I must say that I was both astonished and shocked to hear that a member of this House, Ms Lee Rhiannon, of the Greens Party, considered it necessary to refer the conduct of Cardinal Pell to the Legislative Council Privileges Committee because of the opinion expressed by him.

Any action by taken this Chamber in relation to Cardinal Pell expressing his view would be in my opinion unwarranted. The whole purpose of allowing members to vote in accordance with their conscience is exactly that: the freedom to vote according to one's free will and free conscience. Surely, members of the public that we represent, including Cardinal Pell, have the same right to express their views in the way they wish to express them, even if their views are against the personal views of one or more of our honourable members.

I reiterate that I have chosen not to stand here and repeat the specific arguments that have been raised by so many in the community and by my colleagues. Their differing arguments prompted us to consider and come to conclusions on a number of questions, which I now summarise. Is an embryonic stem cell a life? Is it not a life? Should the existing prohibition on developing a human embryo outside the body of a woman remain at 14 days, or should it be extended to 28 days? Will the legislation permit cloning? Will it not permit cloning? Is this research proven? Is it not proven? Is this research a breakthrough in the scientific search for cures for illnesses and diseases, or is it not a scientific breakthrough?

I intend to express my own personal views after extensive reflection on all the submissions received and considered and to express those views in a simple and concise way. I am raised as a Christian. I am trained as a lawyer. I am swayed by faith. I am swayed by evidence—proof. Some believe that the two, faith and proof, cannot co-exist, that it can only be one or the other. I do not agree with that proposition. The two not only co-exist, but, in my humble view, must co-exist. I am, therefore, left with this view. As a lawyer, I am trained to live by the maxim that for a person to be found guilty of any offence a jury must be satisfied beyond reasonable doubt and that it is not sufficient to be merely satisfied on the balance of probabilities. This is the golden rule and a fundamental cornerstone of our justice system. As a Christian I accept on faith the laws of my God and, therefore, I accept that all life is sacred and that no person has the right to take any life in any form, for any reason whatsoever.

Put simply, I must be satisfied beyond reasonable doubt that, one, there is no possibility of any life being wrongfully taken or destroyed and, two, that there is valid argument for the need and success of the proposed scientific programs to which the legislation relates. I am not so satisfied. I am not satisfied beyond reasonable doubt. I therefore propose to oppose the bill.

**The Hon. HELEN WESTWOOD** [9.28 p.m.]: The New South Wales Human Cloning and Other Prohibited Practices Amendment Bill 2007 is a very significant bill. That is reflected in the contributions that honourable members have made in the debate on the bill in this House and in the other place. It is also reflected in the volume of representations that I have received from citizens of New South Wales, and I thank them for taking the time to inform me of their thoughts and views on the substance of the bill. I want to say at the outset that I am respectful of the range of views that exist both within the community and amongst honourable members on the issue. I am aware how deeply those views are held and that they are a reflection of individuals' morals, ethics, beliefs and values, as is my own position on the bill.

Although I am respectful of the contributions made during debate in this Chamber, a number of claims must be clarified, and I will attempt to do that. The New South Wales Human Cloning and Other Prohibited Practices Amendment Bill 2007 will maintain the ban on human reproductive cloning and create nationally consistent laws governing therapeutic stem cell research. The passing of the bill will bring New South Wales into line with Commonwealth laws that were passed in December last year. Victoria has also passed similar legislation. It is important to note that the proposed legislation is mirror legislation. If it fails in New South Wales, national consistency will be impossible. It will also mean that New South Wales faces the very real risk of losing scientists and medical researchers to other States. It was the Commonwealth Lockhart report that gave rise to the amendments contained in the bill. The Lockhart report was the result of extensive public consultation.

The New South Wales Government has committed on four occasions to supporting a nationally consistent framework. Following changes to the Commonwealth legislation and subsequently the Victorian legislation, New South Wales must pass legislation to achieve this national framework. The bill will allow scientists in New South Wales to take part in groundbreaking research to discover cures for diseases such as Alzheimer's, diabetes and spinal injuries. It will also help aid our understanding and treatment of infertility. The Lockhart report found that the majority of the community held an embryo created by fertilisation of a human

egg and human sperm in special regard. It is important to understand that the new legislation will not allow egg and sperm embryos to be created for research. The Lockhart report also found that many of the people who objected to using a human egg fertilised by human sperm would support using unfertilised embryos for research that could aid people with diseases or infertility problems.

The findings of the Lockhart report on Australia's attitude to embryonic stem cell research are consistent with the latest polls of community attitudes. A recent online poll found that 74 per cent of people support stem cell research on excess embryos from in-vitro fertilisation treatment and 57 per cent support therapeutic cloning for health and medical research. This concurs with nationwide surveys. The proposed changes to New South Wales legislation are in line with the Lockhart findings, and do not allow egg and sperm embryos to be created for research. It allows the new practices for research purposes only and on condition that such research has the potential to add to knowledge that can help to understand and treat disease or infertility. The bill will allow a number of previously prohibited practices to be undertaken for research.

If the bill is passed, practices that will be allowed include somatic nuclear cell transfer, which is also known as therapeutic cloning; parthenogenesis, which is creating an embryo-like structure by causing an ovum to divide; creation of an unfertilised embryo using genetic material from more than two persons; mixing animal and human cells, but only for the purposes of testing sperm quality and only up to the first cell division, which is fewer than 48 hours; and use of embryos not considered suitable for implantation. All of those practices that are related to developing an unfertilised embryo are also subject to a strict licensing regime; restrictions on the time the embryo is allowed to develop, which is up to 14 days; and prohibitions on implantation. The bill will not allow human cloning for reproduction, the collection of a viable human embryo from the body of a woman, the sale or trade of sperm, eggs or embryos, the creation of a human embryo by fertilisation of a human egg by human sperm other than to achieve pregnancy in a particular woman, the implanting into the womb of a woman's embryos created by any means other than fertilisation of a human egg by human sperm, or the creation of a chimeric embryo.

Penalties for offences against these prohibited practices have been increased from 10 to 15 years and the Commonwealth licensing committee's powers have been expanded and strengthened. This is an important point. The bill provides strong protection against coercion and commercialisation, and provides for heavy punitive sanctions. The question has been raised as to why we need somatic cell nuclear transfer when we can derive embryonic stem cells from surplus in-vitro fertilisation embryos. Somatic cell nuclear transfer is important not only because it gives an additional option for creating and building stem cell lines. Animal studies show that these would be different from the lines produced by surplus in-vitro fertilisation embryos because using somatic cell nuclear transfer scientists hopefully could produce cell lines with particular qualities. For example, they may be disease specific. If a person is known to have a certain genetic disease, one of their cells could be used to create an embryonic cell line using somatic cell nuclear transfer so that the particular disease could be studied in detail by multiple laboratories. Disease-specific cells could be used to create or test treatments. Often these genetic diseases become apparent only later in life, which means that stem cells from surplus in-vitro fertilisation embryos would not be as useful for this particular area of research.

During this debate various members have made impassioned arguments about the potential for women to be exploited, their eggs harvested against their will and intense pressure placed on them to donate. In response I again remind honourable members that the bill absolutely prohibits commercial trading in human eggs, sperm or embryos. It is an offence punishable by 15 years imprisonment to give or offer payment, or to receive or seek payment for human eggs, sperm or embryos. Let me make absolutely clear what is and what is not permissible in the bill. You cannot buy or sell, or offer to buy or sell a human egg, human sperm or embryo regardless of whether the source is in Australia or overseas. You cannot receive a discount or free assisted reproductive treatment service in exchange for donating eggs, sperm or embryos. You can only import and export stem cell lines derived using practices consistent with Australian legislation. That is, it must be created by a process that is allowed under the Australian licensing system and consistent with guidelines to which the Australian legislation refers, for example the consent requirements I have already outlined.

There are expected to be three main sources of donated eggs. The first is women who are undergoing assisted reproductive treatment through an accredited assistant reproductive treatment service provider. It is expected that the majority of eggs will come from this source either because the woman might choose to have only a few eggs fertilised and may be willing to donate the remainder for research or because the eggs are deemed unsuitable for implantation and the choice may be made to donate them to research. Women who have their ovaries removed for medical reasons, for example because of cancer, may be another source of donated eggs. A recent Sydney survey found that the majority of women who were undergoing such procedures are in

favour of donating their eggs and allowing them to be used for research involving nuclear transfer. The third source are altruistic donors, such as women who want to donate to relatives, who are not in a treatment program and who wish to donate eggs specifically for research.

Egg donation is a relatively safe procedure, but as with all procedures it is not entirely without risk. The National Health and Medical Research Council has developed consent guidelines for donation of eggs for research as part of the updated draft on ethical guidelines on the use of assisted reproductive technology in clinical practice and research. The draft guidelines provide new guidance for somatic cell nuclear transfer and egg donation to protect the rights and safety of donors, and provide guidance to researchers and clinicians for ethical assisted reproductive technology practice. Public comment on the updated guidelines was sought, and submissions closed on 11 May this year. These guidelines are in the process of being finalised. When it comes to hyperstimulation women who are undergoing assisted reproductive technology—and let us not forget that it is from these women that the majority of the eggs are expected to come—have already gone through this process as part of their fertility treatment.

When it comes to the second main group of donors—those who have their ovaries removed for medical reasons—hyperstimulation is completely unnecessary. Irrespective of how eggs will be donated, researchers must work within the confines of the law. The Lockhart consultation process indicated that the Australian community accepts the use of eggs for research into infertility and serious diseases, but did not want eggs to be treated as commodities that could be bought and sold. Any breach of the law can attract a 15-year term of imprisonment.

Besides the fact that it is illegal, I find the idea that women would be pressured to act against their own self-interest and donate eggs to be quite bizarre. The argument is that the only solution to the risk of exploitation is to ban the technology altogether. This totally ignores, firstly, the strict regime in place to prevent exploitation from happening and, secondly, a woman's ability to make an informed decision about her own body. I have already outlined the way in which it is expected that most eggs will be received. When it comes to altruistic donations, women already voluntarily donate eggs. In 2003, 196 Victorian women gave their eggs to women they knew, and a small number of women donated eggs to strangers.

How would any woman feel if she were told that she could not donate an egg to a sister who was suffering from infertility, or to a stem cell research project attempting to cure a disease from which she or her close relatives suffer? If a woman thinks that egg donation is too risky, she has the right to say no, but no-one should have the right to prevent others from making decisions for themselves. The issue is no different from someone giving permission to be a live kidney donor. It is an insult to women to imply that they are not capable of making a decision about their eggs. The bill is very specific in the way in which it approaches this issue and it mirrors the Lockhart recommendations. I would argue that, given a person can choose to participate in other research trials or donate other tissue, as long as the risks and benefits have been properly assessed and informed consent has been given, free from coercion, a woman has the same right to donate eggs for research if she chooses.

During this debate members such as the Hon. Matthew Mason-Cox and the Leader of the Opposition repeated Cardinal Pell's claims that the legislation would legalise, among other practices, "fertilising immature eggs taken from aborted girls with adult male sperm, which makes a human embryo with an aborted baby girl as its genetic mother". With all due respect, this claim is part of a scare campaign that those who oppose the bill are using to portray terrifying scenarios that not only are legally prohibited but also are biologically impossible. It is biologically impossible to fertilise immature eggs. It is possible to take an immature egg from a mature woman, mature it outside her body, and then use that mature egg to seek to create a pregnancy. That practice is allowed under current legislation—this bill in no way varies that—and the practice plays an important role in assisted reproductive technology by enabling women to have children.

However, it has never been reported that anyone has successfully taken an immature egg from a human foetus and matured it. Immature eggs require a maximum of six months to develop, and they need to grow to almost 100 times their original size. Even if it were possible to achieve that at some time in the future, it would be against the law. Let us suppose for a moment that that occurs in the future and that the grotesque scenario proposed by the cardinal is attempted. The legislation covers that because, if the egg were mature, its combination with a male sperm would be prohibited unless that was done to create a pregnancy. The publication *Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research* by the National Health and Medical Research Council indicates that the consent of the donor of the egg is required—a condition that cannot be satisfied in Cardinal Pell's scenario. The bill does not alter that position.

The spectre of the bad scientist has loomed large during this debate. Dr Hwang, a Korean scientist who has been absolutely discredited and disgraced, has been cited as a prime example of what can go horribly wrong. First of all I respectfully ask members to have more faith in Australian scientists, who, as a whole, have a long record of responsible and ethical behaviour. I also ask members to have more faith in the regulatory regime that has been put in place to prevent a Dr Hwang scenario from happening here. Currently research conducted in this area takes place within a rigorous regulatory framework. There have been no known breaches under the current scheme. If this bill is passed, monitoring and licensing provisions will be enhanced, and penalties will be increased.

This regime has been established as part of a national legislative framework that was put in place in 2002. It is overseen by the National Health and Medical Research Council's Embryo Licensing Committee. Obtaining a licence is not a simple matter; only 10 have been issued to date. Among other things, an applicant needs proper consent, protocols to ensure that any restrictions on the research are adhered to, and scientific and ethics approval from a human research ethics committee. This bill not only increases penalties but also provides strict licensing conditions and empowers officers to inspect premises, whether the premises are licensed or unlicensed. This means that, should there be any concerns about whether a scientific facility of any kind is complying with the law, inspectors are empowered to inspect.

I also suggest that if the worst-case scenario is used to justify blocking all scientific advances, then it is doubtful that we would have many of the cures and treatments we have today, such as penicillin, heart transplants, polio vaccine or the cervical cancer vaccine. Some of the most important developments in human history also would have been prevented. Should we stop all space exploration because of the potential for it to go wrong? Should we stop producing agricultural fertilisers because terrorists can use these products to make bombs? Should we stop building jumbo jets because terrorists use them to crash into buildings? To my mind, the answer to all those questions is no.

The truth is that the overwhelming majority of scientists in Australia are ethical professionals whose life's work is about improving the quality of life for their fellow human beings. Their work gives hope to many who are living with painful and debilitating diseases and conditions. Of course, it is imperative for us to ensure that the benefits to humanity are greater than the costs or risks of research. I believe that in this case they are. It is important that we do not allow fear to prevent us from taking steps that would give others hope. I support the bill.

**The Hon. MICHAEL VEITCH** [9.47 p.m.]: I have been present in this Chamber to observe and listen to most of the speeches delivered on this important business before the House, and I have been immensely impressed by the research and intellectual contributions by all members. I have also observed the great stress and tension that this conscience vote has placed upon many members, and that is an obvious reflection of the serious nature of the bill before the House. I publicly state my appreciation for the contribution of all members to the debate. Additionally, I extend my gratitude to all members for the manner in which the debate has been conducted. Regardless of the outcome of the vote, that brings great credit to us all.

Most if not all aspects of this bill have been recorded in *Hansard* from proceedings in this Chamber and in the other place. My time will be spent in dealing with matters that in my opinion are either incorrect or in need of a degree of clarification. I extend my appreciation to the Minister for Women, Minister for Science and Medical Research, and Minister Assisting the Minister for Health (Cancer), Verity Firth, and her chief of staff, John Graham, for their in-depth explanation of the bill and the detailed arrangements that are contained within the bill.

There is some history to the Human Cloning and Other Prohibited Practices Amendment Bill and its clear purpose. The bill is the New South Wales component of a nationally consistent scheme that prohibits human reproductive cloning and provides for certain types of research to occur. The chronology of events leading to the introduction of the bill to this House is that New South Wales committed to a nationally consistent scheme on 5 April 2002. In May 2002 the Commonwealth Government introduced legislation that is consistent with this agreement. The Council of Australian Governments signed an intergovernmental agreement in 2004 committing all States and Territories to introducing and maintaining nationally consistent legislation to ban human cloning and establish a national regulatory regime for the use of excess assisted reproductive technology embryos in research.

The New South Wales Human Cloning and Other Prohibited Practices Act 2003 and the Research Involving Human Embryos Act 2003 were assented to on 7 July 2003. The Commonwealth was required to

complete and table a review of the legislation within three years of assent. New South Wales was also required to conduct a review and was able to do that either independently or as part of the Commonwealth process. The New South Wales Government participated in the Commonwealth review process and the review report on the New South Wales legislation was tabled in Parliament on 30 May 2007.

The Commonwealth review has become known as the Lockhart report and has been quoted extensively during this debate. I am not a scientist nor am I a medical person. I have sought advice and assistance in the medical perspective from the member for Macquarie Fields, Dr Andrew McDonald, and others on the process known as somatic cell nuclear transfer. It has been said that if this bill does not pass then New South Wales will lag behind the Commonwealth, Victoria and nations including the United Kingdom, the United States of America, South Korea, Israel and Singapore where somatic cell nuclear transfer is permitted. In my view this is not a facet for consideration. We, as legislators, must always ensure that we consider what is best for New South Wales and its residents. However, I am concerned that we may restrict the competitiveness of the New South Wales biomedical research sector technically and economically, as well as reduce improvements in health care and the number of lives saved.

One of the elements of the bill that has exercised my mind is the maintenance of the existing strict prohibition of certain practices. The Human Cloning and Other Prohibited Practices Amendment Bill 2007 will allow new research to be conducted within a very strict regulatory framework. These include: human reproductive cloning; developing an embryo outside the body of a woman for more than 14 days; collecting a viable human embryo from the body of a woman; creating a chimeric embryo; and commercial trading in human eggs, sperm or embryos.

I have been heartened to see that significant protections are provided by the bill. The bill strengthens and increases the penalties for breaches of the law. As has already been stated many times during this debate, the penalties for the most serious offences have been increased from 10 years imprisonment to 15 years. I am also advised, and reassured, that the national regulatory scheme has worked well. The bill represents the contribution by New South Wales to the retention of that scheme. A consistent national approach avoids scientific tourism, and will ensure that the significant number of scientists working in this field continue to operate in New South Wales. This, I believe, is essential to satisfying one of my concerns about this bill; that is, ensuring a strict regulatory system is in place to prevent theft of intellectual property and to prevent the unscrupulous actions of entrepreneurs who disgracefully trade on the unfortunate circumstances of many people suffering from an illness or disability.

During the debate I have heard many personal accounts from honourable members of the ailments and disabilities of many of their family members and friends. I too have a number of family and friends who live in hope that one day there will be a cure for their predicament. I cannot in any way prevent or restrict any possibility of finding a cure for any number of these ailments or disabilities. I would not be able to look my friends in the eye and advise them that I had been party to a decision that denied them their hope and opportunity. Much has been said and varying conclusions have been drawn from the experience of Dr Hwang during this debate. I agree with all of the comments of the Hon. Helen Westwood on this matter.

Reverend the Hon. Dr Gordon Moyes told this House in his speech that news of a scientific breakthrough, published in the scientific peer review journal *Nature*, undermined the need for this bill to be considered at all. The article reported that separate teams of United States and Japanese experts have been able to turn normal mouse tissue cells into fully functioning embryonic stem cells without the use of eggs or embryos. Reverend the Hon. Dr Gordon Moyes claimed therefore that members advocating the passage of this bill are already out of date. Such a simplification of an important issue does not do justice to this debate, nor does it do justice to the honourable member.

I welcome the news of this breakthrough, as I would welcome all scientific breakthroughs that may take us closer to understanding and treating debilitating diseases that affect so many. I have been advised that Reverend the Hon. Dr Gordon Moyes was misleading, and possibly selective, in what he chose to tell the House. Knowing Reverend the Hon. Dr Gordon Moyes as I do, I hope that was unintentional. I would like to set the record straight. First, there is no guarantee that this breakthrough will be able to be replicated in human cells. The technique still has to be modified to work in human cells, and there are several challenges to doing that. Those challenges are clearly outlined in the article from which Reverend the Hon. Dr Gordon Moyes quoted. They include the fact that the viruses used to reprogram the mice cells cause cancer.

Second, Rudolf Jaenisch, the scientist who led the American team in producing these results, also went on to say in the article that research into embryonic stem cells made by cloning remained "absolutely essential". *Science Daily*, another respected publication, also reported the encouraging results. It quotes George Daley, a stem cell researcher at the Children's Hospital, Boston, who agrees that the results are very exciting but says that the new technique does not negate the need to pursue other embryonic stem cell research. He said:

I think it's going to be seized upon by opponents of embryonic stem cell research to say we don't need to go forward with work already under way. That would be a real mistake.

Daley argued that it could take some time to figure out how to apply this technique to human cells and get it to the current state of embryonic stem cell research. He also made the point that there are lots of phenomena that can be studied with embryonic stem cells to understand development, birth defects or chromosomal abnormalities that cannot be done with cells generated by the new technique. On a more broad level, arguing that because there have been advances in one type of research another type of research is unnecessary shows a fundamental misunderstanding of the way the world of science works. Some members have compared the discoveries that have been made using adult stem cells, a field of scientific endeavour that has been explored for more than 30 years, to those achieved by embryonic stem cell research—an area of science that has been pursued for less than a decade.

In response I say that most scientists agree that research involving both embryonic and adult stem cells is necessary and that the secrets unlocked by this complementary research are likely to lead to insights in both areas. Embryonic stem cell research is a young science. But it is a science that should at the very least be given a chance. I know that this is a complex decision. I know that for many this is a difficult decision. We have all walked different paths to come to a decision on this bill. I urge all honourable members to join me in supporting the bill.

**The Hon. IAN MACDONALD** (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [9.56 p.m.], in reply: I thank honourable members for their extensive and well thought out contributions to the debate on the Human Cloning and Other Prohibited Practices Amendment Bill 2007.

**Debate adjourned on motion by the Hon. Ian Macdonald and set down as an order of the day for a future day.**

#### **DRUG SUMMIT LEGISLATIVE RESPONSE AMENDMENT (TRIAL PERIOD EXTENSION) BILL 2007**

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Ian Macdonald.**

#### **Motion by the Hon. Ian Macdonald agreed to:**

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

**Second reading set down as an order of the day for a future day.**

#### **IRON COVE BRIDGE**

##### **Production of Documents: Return to Order**

**The Clerk** tabled, pursuant to the resolution of 6 June 2007, documents relating to the Iron Cove Bridge received on 20 June 2007 from the Director General of the Department of the Premier and Cabinet, together with an indexed list of the documents.

##### **Production of Documents: Claim of Privilege**

**The Clerk** tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

## ADJOURNMENT

**The Hon. IAN MACDONALD** (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [9.59 p.m.]: I move:

That this House do now adjourn.

## FILIPINO INDEPENDENCE DAY 109TH ANNIVERSARY CELEBRATION

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [9.59 p.m.]: Tonight I refer to the recent commemoration of the 109th anniversary of Filipino independence. I congratulate the organisers of the highly successful Independence Day celebration that was held on Saturday 16 June 2007 at the Mayfield Ex-Services Club. The Federal member for Newcastle and I were invited to speak to those attending a function organised by the Filipino Community of the Hunter Region Inc., known locally as FILCOHRI.

The Federal member for Newcastle and I thoroughly enjoyed the evening and it gave me an opportunity to reflect on 300 years of colonial rule by both Spain and America and the loss of countless Filipino lives in the fight for self-governance. Such a struggle would have taken its toll and defeated any lesser people, but it simply fortified the resolve of the Filipino people to obtain independence. Nowhere is their spirit more exemplified than in the written words of the Filipino Declaration of Independence, which states:

And imbued with firm confidence in Divine Providence, we hereby mutually bind ourselves to support this declaration with our lives, our fortunes and with our most sacred possession, our Honour.

It was evident from the presentations at Saturday night's celebration that 109 years later this belief is alive and well. Thankfully, the Filipino people no longer have to lay down their lives to protect and preserve their hard-fought independence. It was clear to all who attended the function that the love and commitment espoused in the declaration applied also to Australia and, in particular, to the Hunter Valley. I congratulate Ms Virginia Hudson, President of FILCOHRI, Evangeline Jansen, known locally as Vangie, Vice-President of FILCOHRI, and other members of the executive and committee. The night was spent enjoying wonderful images of the Philippines, coupled with traditional dance displays performed by the Maharlika youth group. The Newcastle Filipino choir also sang traditional songs.

The highlight of the evening was a presentation by a visiting Kawilihan dance group from the Kempsey region, which was accompanied by Mr Dean Saul, Chairman of Kempsey Shire Council arts and culture group. The delegation from the North Coast was warmly welcomed for travelling down to the Hunter in harsh weather conditions and for the professional manner in which it performed. In the past Filipino-born sailors from the many coal ships that anchor off the coast of Newcastle have been made welcome and invited into the homes of the Filipino community in Newcastle. Unfortunately, on this occasion they were unable to disembark because of harsh weather. I am sure they would have enjoyed being given shore leave on that occasion. Mr Doug Booth, editor of the *Macleay Argus*, also accompanied the visiting group from Kempsey.

Despite the obvious pride that was evident on the evening, the event was tinged with some disappointment and embarrassment when the main guest speaker, the newly elected State member for Newcastle, Jodi McKay, failed to notify organisers that she would be unable to attend. Her absence provided an opportunity for a further dance presentation from the Kawilihan dance group and the night proved to be a great success, in true Filipino style.

## PRISONER POPULATION

**Ms SYLVIA HALE** [10.04 p.m.]: The last Commonwealth annual prisoner census, on 30 June 2006, showed that although New South Wales has only 33 per cent of Australia's population it has 38 per cent of its prisoners—a total of more than 9,800 people. This represents a 50 per cent increase in the number of people in prison in the 10 years since Labor came to office. At 8 per cent, New South Wales has the highest proportion of female prisoners of all Australian States, with 740 female prisoners. The imprisonment rate in Victoria is 98 prisoners per 100,000 adults. Australia-wide, it is 160 prisoners per 100,000 adults, and in New South Wales it is 173. The imprisonment rate for indigenous people in New South Wales is 2,316 prisoners per 100,000 of population, nearly 14 times the rate for the rest of the population.

The New South Wales Labor Government seems to take pride in locking up more people than any other State. A few months ago Attorney General John Hatzistergos took credit for the recent increase in the State's

prison population, citing longer sentences and tougher bail laws. The Government is in the process of opening a new prison at Wellington as well as adding facilities at South Nowra and expanding facilities at Lithgow and Cessnock. Clearly, this Government believes in locking up people at an increasing rate. But is this in the long-term interests of the community, or are there other ways of dealing with some forms of criminal behaviour that ought to be considered?

The Government shows no commitment to the serious consideration of alternatives. For example, in New South Wales the number of periodic detainees, that is, detainees who are in custody for a portion of each week and are thus able to continue employment and maintain family and community contacts, has decreased by 15 per cent—from 855 in 2005 to 724 in 2006. Similarly, programs aimed at reducing recidivism are poorly funded or ignored. The 2006-07 State budget saw the community grants program for inmates' after care and support suffer a real decrease of 2.37 per cent after inflation. In the same budget the Department of Corrective Services was given funding for an additional 1,000 prison beds by the year 2010 and an extra \$1.8 million to upgrade its dog kennel complex.

This trend has continued in the 2007-08 budget. These sorts of distorted budget priorities illustrate what happens when the Government's justice policy is driven by a tabloid media agenda rather than by good policy and community interest. Tuesday's budget shows that expenditure on corrective services next year will exceed \$800 million. That money could be used to build schools and hospitals. Prisons expenditure will undoubtedly increase in future years as more and more people are sent to prison, requiring a growing proportion of the State budget to be diverted from community services to prisons. Recidivism is a major contributor to the increase in the population. In New South Wales the majority of prisoners observed a sentence in an adult prison prior to their current confinement. In New South Wales 47 per cent of prisoners returned to some form of corrective service within two years of being released, with 44 per cent subjected to a further term of imprisonment.

Many prisoners have poor education and employment histories, experience greater rates of mental illness and bad physical health, and have a history of drug and alcohol misuse. Programs aimed at addressing these issues could help to reduce re-offending. The Attorney General said that the Government is well prepared to cope with an increased number of prisoners. It would, however, be far more beneficial to the State, in both social and economic terms, to consider ways of putting fewer citizens into prison. The money spent on new and expanded prisons could be far better spent on alternative options—programs such as community service rehabilitation and community-based support for recently released prisoners.

In the vast majority of cases, rehabilitation of prisoners is possible. With the necessary resources and political will recidivism rates can be lowered, thus reducing the crime rate and the prison population. Sixteen years ago the Aboriginal deaths in custody royal commission recommended that "alternative custodial options to detention should be developed urgently in order to ensure that detention in an institutional setting is truly a punishment of last resort". What has been our response to that recommendation? Over the 10 years to 2002 the increase in the proportion of indigenous prisoners in New South Wales rose from 9 per cent to 17 per cent. That figure has continued to increase. Nationally, the figure now stands at over 24 per cent. That is a shocking failure of public policy. The Government's goal should be to reduce the State's prison population through investment in alternative sentencing, rehabilitation and support programs. Building more and more prisons to lock away increasing numbers of our citizens—*[Time expired.]*

## WOMEN'S BOXING

**The Hon. LYNDIA VOLTZ** [10.09 p.m.]: Tonight I refer to women's boxing, which is currently banned in New South Wales. Women's boxing has been allowed in Victoria for over 30 years and it is also legal in Queensland. Women's boxing is also legal in America, England, Ireland, Switzerland and Brazil, but it is not legal in New South Wales. Women in this State are either competing interstate or competing in sports that are not classified under boxing legislation, such as martial arts demonstrations. Women's boxing has been around since the nineteenth century. It first appeared in 1904 as a demonstration bout in the Olympic Games. The American Olympic boxing committee attempted to get it back into the 2008 Olympic Games, but that approach was rejected. It is trying again for the 2012 Olympic Games.

I have heard many arguments about women's boxing but they all seem to coalesce around the same theme: boxing is a dangerous sport. Yes, it is dangerous—for men and for women. Apparently it is more dangerous than Muay Thai, mixed martial arts and extreme fighting, all of which are unregulated and in which women can compete in this country. Women were told they could not play rugby union because it is a dangerous sport—but, again, somehow dangerous only for women. But in all my time playing rugby union,



women's injury rates were far less than those in the men's game. I cannot recall a back or spinal injury—which was the big concern—occurring in a women's game. The rules were modified, as they can be, for the women's game. For example, the rules of the under-19s game were applied to women's tournaments to ensure that the scrum could not be pushed more than one metre.

**The Hon. Rick Colless:** What position did you play?

**The Hon. LYNDIA VOLTZ:** On the open side; we have been through this before. There are not hordes of women out there who want to box but a small group of women wish to do so. I resent, as I am sure they do, the fact that a roomful of blokes can tell me that I cannot do something that they can simply because I am a woman. Try telling Laila Ali that she cannot fight! I do not know why we live in a society that thinks only men are capable of making choices. I have gathered some quotes from women boxers, who are allowed to compete in other States. One said:

I enjoy every aspect of boxing. People have no idea the physical and emotional demands on an athlete. I love my training, the challenge of getting fitter, faster and stronger, the rounds in the ring and the support and respect I receive from all around me and the public.

Another young girl said:

It runs in the family, my brother is a boxer.

All my life I had to stand on the sidelines watching my brothers play competitive rugby union. All I got to do was play rugby with them in the backyard. I was 30 before I was able to compete for the first time in a women's rugby tournament in Sydney, which was the first such competition for women. The women involved in boxing often box for the same reason: they follow their fathers and brothers into the ring. I understand how they feel. There is nothing more frustrating than having to stand on the sidelines watching the blokes do what you would dearly love to do.

Women have increasingly come to boxing as gyms have started to hold boxing classes as cardiovascular workouts. Women have found that boxing not only increases stamina and cardiovascular fitness but builds confidence. Those who enjoy it want to get more involved in the sport. The arguments against women boxing do nothing but marginalise women and maintain social controls on the gym culture as a "male" culture. No regulations currently apply to extreme fighting, where the worst behaviour is on display. Regulation of the sport, which falls outside the current legislation, would at least stop serious injuries from occurring. At the moment the police have no authority to stop matches. When women's soccer took off in 1977 it was a male space. Women were the fringe dwellers and were ostracised. Women now constitute one-quarter of the 220,000 outdoor soccer players in New South Wales. Women's soccer is now a world force and the competition to hold a women's soccer world cup is always fierce. I hope that Australia, particularly Sydney, will have the opportunity to host it one day.

Not only does the legislation need to change to allow women to box in New South Wales but the Boxing Authority of New South Wales must be brought into the twenty-first century. If boxing wants to be taken seriously as a modern sport, it can no longer be run by a government board made up of only blokes. There is no excuse for it. The New South Wales Government has made a commitment to get more women on boards, and I believe the Boxing Authority is a good place to start. It is time the legislation was changed to allow women to box in New South Wales. Women are quite capable of making choices for themselves about whether they wish to participate in the sport.

### **NRMA VEHICLE INSPECTION SERVICE**

**The Hon. CATHERINE CUSACK** [10.13 p.m.]: Members will be well aware of the recent embarrassment caused to this House when Ms Lee Rhiannon referred the head of the Catholic Church in Australia to the Legislative Council Privileges Committee. However, members may not be aware of a speech that Ms Lee Rhiannon gave on 5 June, when she used this Chamber shamelessly to defame the reputations of all members of the NRMA board and the Motor Traders Association. The allegations made by Ms Lee Rhiannon are really quite shocking. If they were not so damaging, I would dismiss them as failed plotlines for a Robert Ludlum thriller. While I was incredulous, I have nevertheless made further inquiries in my capacity as shadow Minister for Fair Trading. I thank the Motor Traders Association and the NRMA for their cooperation in helping me to get to the truth of the matter.

Ms Lee Rhiannon began by claiming that the closure of the NRMA's Vehicle Inspection Service on 20 April occurred with no warning. In fact, the closure was announced by the NRMA on 7 February and widely reported. Ms Lee Rhiannon asserted that the decision conflicted with the NRMA's constitution but this is untrue. She said that the NRMA should have ignored the fact that the service was losing \$1 million per annum as it had made a profit in the past. The fact is that the service was wound down after an eight-year steady decline in demand. According to Ms Lee Rhiannon, NRMA directors are making a "feast of fees" as directors of loss-making businesses. In fact, these businesses are not loss making; they are profitable.

The green guns were then trained on the Motor Traders Association, which Ms Lee Rhiannon accused of financing candidates at NRMA elections, including the 2005 election, and of giving electoral support for majority board members all the way back to Nick Whitlam's team. She alleged that the Motor Traders Association placed a levy on members to raise money for the Whitlam team, which included Michael Tynan OAM. This is all false. The executive director of the Motor Traders Association advises that there has never been financial aid for candidates, much less a levy on its members.

We then got to the meat of the matter. Ms Lee Rhiannon alleged that a secret meeting took place between the Motor Traders Association and the NRMA in September 2006 to implement a secret agenda to axe the NRMA Vehicle Inspection Service. She said that the Motor Traders Association regarded the service as an expensive nuisance for used car dealers and that the axing of the service was a "pay-off" by NRMA directors for Motor Traders Association electoral support. What Ms Lee Rhiannon does not realise is that car dealers were the biggest users of the NRMA Vehicle Inspection Service. Many adopted the practice of obtaining and displaying an NRMA certificate to help with the resale of a vehicle. Her allegations are wrong and nonsensical.

I have been advised of the details of the meeting and have no intention of divulging them to the House except to say that Ms Lee Rhiannon could not be further from the mark. Not a word of the allegations is true—not a single word. Why would anyone leap to the microphone and spray such malicious venom around the House? It is well known that Mr Richard Talbot's membership of the NRMA board was terminated last year after he failed to disclose a significant conflict of interest and that 90 per cent of members voted to remove him. It appears that he may be the source of this new thrilling piece of fiction. Certainly Ms Lee Rhiannon leapt to the microphone without checking a word of the allegations with either the NRMA or the Motor Traders Association.

A most unfortunate aspect of Ms Lee Rhiannon's remarks was the naming of Michael Tynan OAM, a most respected businessman from Sutherland who has been an NRMA board member since 2003 and deputy president since 2005. He is a distinguished member of the Motor Traders Association and, through his business, is a significant sponsor and patron of the Hazelhurst Regional Gallery and Arts Centre, Sharks Rugby League, the Cancer Council and Jannali Rotary Club's Walk for Life, the Royal Blind Society, the Leader Sports Star Awards, the Sutherland Shire Netball Association, the Cronulla Ocean Festival, and, at a lesser level, the Oyster Bay Public School Art and Craft Festival, Gymea Bay North Public School, Star of the Sea Primary School in Miranda and St Patrick's High School at Sutherland. Michael Tynan is a former mayor of the Sutherland shire. He serves on the board of Calvary Health Care Services and is chairman of the National Planning and Development Committee. Mr Tynan is president of the Calvary Kogarah Foundation and a member of the Honda Foundation.

Michael Tynan is an outstanding Australian. I do not know him personally but my parents do, and they speak of him and his family with great admiration and respect. We should revere the small number of people like Michael Tynan, whose success delivers benefits that extend far beyond the numerous families whose breadwinners are employed in his business. Mr Tynan gives back to his community generously. It is an embarrassment to us all that he should be smeared in such a shameful and ignorant way by a member of this House who was basically acting on the advice of a discredited and vexatious complainant. The NRMA board and the Motor Traders Association are understandably upset by this abuse of privilege and concerned for their good name. I am also concerned for the good name of the Legislative Council. All I can do is say on behalf of the Liberal and National parties—and potentially other parties in this place—that I deplore those statements and greatly regret that they have sullied this Chamber.

#### **REDEEMER BAPTIST COLLEGE**

**Dr JOHN KAYE** [10.17 p.m.]: Redeemer Baptist College in North Parramatta is a registered and accredited private school. An analysis of the publicly available evidence reveals an extraordinary tax sham and welfare fraud that is costing the Federal Government up to \$910,000 each year. The elders of the Redeemer

Baptist Church have amassed an enormous property portfolio at the public's expense and continue to do so while both State and Federal governments refuse to investigate the scam adequately and put a stop to it. At the heart of the arrangements put in place by the elders lies a set of bizarre and deceptive employment arrangements. All educational, managerial and other services are delivered by members of the Ministry Order of the Redeemer Baptist Church. The school does not pay these members of the church. The church instead supplies them with a small stipend, which in the case of the teachers is about 20 per cent of the normal teacher wage. However, the school provides each person who works there with a wide range of benefits for them and their families, including free housing, motor vehicles, mobile telephones, education for their children, pre-schooling, child care, furniture, private health insurance and travel.

The school neither declares nor pays tax on those fringe benefits. The school claims to have no employees, only volunteers, and thus no fringe benefits tax liability. However, in the opinion of N. Panos and Associates, accredited taxation law specialists, these arrangements satisfy the requirements of section 136 (1) of the Fringe Benefits Tax Assessment Act 1986 and thus those fringe benefits should have been declared and tax paid. We estimate that annually the school is avoiding more than \$670,000 in fringe benefits tax.

The school also fails to declare the "reportable fringe benefits amount" for each person who works at the school, who is consequently able to maximise his or her family tax benefits under part A and part B. We estimate that more than \$240,000 is thus dishonestly obtained from Centrelink. For example, Russell Bailey is the school bursar and has 23 years teaching experience. In 2005 his stipend was only \$13,434 and his wife received a stipend of \$1,600. Because they did not declare the fringe benefits, they were entitled to Centrelink payments of \$20,115 in respect of their four children.

Further, the Baileys enjoyed without any payment access to schooling for their three children, a house, a mobile phone, a car, a \$5,000 vacation, \$5,000 worth of entertainment and \$10,000 worth of clothing. Fringe benefits were paid on none of those expenditures. Mr Bailey's total effective income was \$228,000, but tax was paid on only \$13,434. We estimate that the welfare and roting in respect of Russell Bailey and his family cost the public purse more than \$116,000 in just one year.

A similar story, but with different amounts, is repeated across at least 29 members of the missionary order. In total, \$910,000 was lost to public revenue in that year. Further, the school does not pay workers compensation premiums in respect of the reportable fringe benefits tax. In fact, we understand that the school does not even have a workers compensation policy. At the same time, the school continues to receive massive amounts of public funding. In 2004 the State provided subsidies of up to \$348,000 and the Commonwealth \$1.5 million. By exploiting members of the ministry order and by careful tax, welfare and workers compensation fraud, the elders of the Redeemer Baptist Church have been able to amass a spectacular property portfolio, estimated to be worth more than \$50 million.

At the pinnacle of this appalling mess sit the elders of the Redeemer Baptist Church, who are also the directors of the school. They included Mr Noel Cannon, his son-in-law Mr Phillip Bailey, his sons Ian and Jonathon Cannon and Maxwell Shaw. It is time for the State and Federal governments to conduct thorough and open investigations into the arrangements of the Redeemer Baptist Church and school. To date, both levels of government have failed to even interview former teachers of the school to collect statements, despite numerous complaints that have been made to various agencies. It is time to lift the lid on the Redeemer Baptist Church and the Redeemer Baptist School and for the guilty to be brought to account.

#### **EDNA RYAN AWARDS**

**The Hon. HELEN WESTWOOD** [10.22 p.m.]: Each year the women's electoral lobby, known as WEL, celebrates the life and work of Edna Ryan through the presentation of the "Ednas". When Edna Ryan died in 1997 at the age of 92, she left a rich legacy. During her life Edna was known as a feminist social reformer, political activist and author. Amongst her many achievements Edna was elected to Fairfield Council in 1956 and was the first female deputy mayor in New South Wales in 1958, was the first women president of the largest branch of the Municipal Employees Union, was a founding member of the Women's Electoral Lobby, is credited with achieving equal pay for women, campaigned for maternity leave and work-based child care for women workers, and was an advocate of women's reproductive rights.

On the evening of 11 May this year I was delighted to be part of the crowd to see Edna Ryan's daughter Lyndall present the awards that commemorate her mother's life and acknowledge the contributions of others in the areas she cared about. In this, the tenth year of the awards, 11 women were acknowledged in the areas of

community activism, mentoring, education, media/communication and battling. I would like to share with the House the stories of some of the award recipients.

Rosemary Kariuki migrated to Australia in 1999. She has worked tirelessly for the wellbeing of migrant African women. In addition to her work as an ethnic community liaison officer, she is a member of the African Communities Council and is a part of the Domestic Violence Team at Flemington Police Command. She is committed to addressing the needs of migrant women and their children and runs information sessions and organises various community events for African women and the broader community. She has a deep desire to empower African migrant women and to combat cultural isolation. Rosemary has encouraged and supported countless African women who have settled in Australia.

Denele Crozier, another award recipient, worked for nine years as a women's health worker at the Liverpool Women's Health Centre. She has played a significant role for working women in the Australian Services Union. She now has a leadership role in the New South Wales women's health sector resourcing and encouraging the workers of the 24 women's health centres throughout the State. Denele is well regarded for her faith in women's abilities, her belief in women's experiences, her respect for women's decisions and her promotion of women's rights.

The father of Muyesser Durur, another award recipient, did not believe in educating his two daughters. It was a progressive female teacher who built Muyesser's confidence and determination, and this enabled Muyesser to complete her elementary education. She has worked as a fitter and turner and kitchen hand, right through to holding senior positions in equal employment opportunities and human resources at the University of New England and TAFE. Muyesser is now a Master of Business Administration, and this year has submitted her PhD thesis. Her journey from Turkey to Germany and then to Australia is a story of struggle in the face of deep cultural and social prejudices, poverty, isolation and the barriers created by language and fear of difference. She is an example to immigrant women and an inspiration to all women who hear her story.

Libby Silva, also an award recipient, has been a committed feminist since the mid-1970s. In her youth, she was actively involved in women's health, and in 1982 took over The Feminist Bookshop with her two sisters, and has worked tirelessly to turn it into the valuable resource it is today. The feminist bookshop specialises in issues such as domestic violence and child abuse. Many women have sought information and support there.

Emily Maguire is a freelance journalist and author whose body of work has raised in the public arena issues surrounding sexual mores and sexual morality in a factual, enlightening way which makes feminism appealing to young women. In particular, her recent article "One violent crime and the female victim: considered guilty until proven innocent", published in the *Herald*, provides a succinct, forceful, uncompromising and reasoned expose of the issues surrounding rape. Rosalind Helyard is a TAFE teacher who entices young women into trades with a program called Holly Hardhat, and started a program for Babes with Babes to allow very young mothers to continue studying. The Edna Awards are a lasting testimony to the life and work of Edna Ryan.

### SESQUICENTENARY OF RESPONSIBLE GOVERNMENT

**The Hon. DON HARWIN** [10.27 p.m.]: I will necessarily be brief in noting that one of the more admirable things this State has done is to establish last year the History Project Committee for the Sesquicentenary of Responsible Government. That project obviously has come to a close, but its legacy will live on for a very long time. Almost two dozen works now grace the libraries of New South Wales. As Premier Carr, who got the original grant to establish the committee and to commemorate the sesquicentenary in a very fine way, intended, we now have a permanent record of the sesquicentenary in the nature of books—not in bread and circuses, as I think has been the approach in some other States.

I conclude by saying that just last week we heard an announcement about the Prime Minister's History Award nominees. One of the sesquicentenary books has been shortlisted for a Prime Minister's award, and the committee received a special commendation for all the work it has done. Barry O'Farrell and I served on that bipartisan committee along with Mr Rodney Cavalier and the Hon. Michael Egan. A lot of very good people, such as Dr David Clune, Mr Ken Turner, Mr Michael Hogan, Professor James Hagan, Ms Carol Liston and Mr Graham Freudenberg, also served on the committee. It was a wonderful experience and an appropriate memorial to the sesquicentenary of responsible government.

*[Time for debate expired.]*

**Question—That this House do now adjourn—put and resolved in the affirmative.**

**Motion agreed to.**

**The House adjourned at 10.29 p.m. until Thursday 21 June 2007 at 11.00 a.m.**

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