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SITTING DAYS—2006

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>7, 8, 9, 13, 14, 15, 16, 27, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 2, 27, 28, 29, 30</td>
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<tr>
<td>May</td>
<td>9, 10, 11, 22, 23, 24, 25, 29, 30, 31</td>
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<tr>
<td>June</td>
<td>1, 13, 14, 15, 19, 20, 21, 22</td>
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<tr>
<td>August</td>
<td>8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>September</td>
<td>4, 5, 6, 7, 11, 12, 13, 14</td>
</tr>
<tr>
<td>October</td>
<td>9, 10, 11, 12, 16, 17, 18, 19, 30, 31</td>
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<tr>
<td>November</td>
<td>1, 2, 27, 28, 29, 30</td>
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<tr>
<td>December</td>
<td>4, 5, 6, 7</td>
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</table>

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- **GOSFORD**: 98.1 FM
- **BRISBANE**: 936 AM
- **GOLD COAST**: 95.7 FM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
- **NORTHERN TASMANIA**: 92.5 FM
- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

Governor-General
His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

House of Representatives Officeholders
Speaker—The Hon. David Peter Maxwell Hawker MP
Deputy Speaker—The Hon. Ian Raymond Causley MP
Second Deputy Speaker—Mr Henry Alfred Jenkins MP

Members of the Speaker’s Panel—The Hon. Dick Godfrey Harry Adams, Mr Phillip Anthony Barresi, the Hon. Bronwyn Kathleen Bishop, Mr Barry Wayne Haase, Mr Michael John Hatton, the Hon. Duncan James Colquhoun Kerr SC, Mr Peter John Lindsay, Mr Robert Francis McMullan, Mr Harry Vernon Quick, the Hon. Bruce Craig Scott, the Hon. Alexander Michael Somlyay, Mr Kim William Wilkie

Leader of the House—The Hon. Anthony John Abbott MP
Deputy Leader of the House—The Hon. Peter John McGauran MP
Manager of Opposition Business—Ms Julia Eileen Gillard MP
Deputy Manager of Opposition Business—Mr Anthony Norman Albanese MP

Party Leaders and Whips
Liberal Party of Australia
Leader—The Hon. John Winston Howard MP
Deputy Leader—The Hon. Peter Howard Costello MP
Chief Government Whip—Mr Kerry Joseph Bartlett MP
Government Whips—Mrs Joanna Gash MP and Mr Fergus Stewart McArthur MP

The Nationals
Leader—The Hon. Mark Anthony James Vaile MP
Deputy Leader—The Hon. Warren Errol Truss MP
Chief Whip—Mrs Kay Elizabeth Hull MP
Whip—Mr Paul Christopher Neville MP

Australian Labor Party
Leader—Mr Kevin Michael Rudd MP
Deputy Leader—Ms Julia Eileen Gillard MP
Chief Opposition Whip—The Hon. Leo Roger Spurway Price MP
Opposition Whips—Mr Michael David Danby MP and Ms Jill Griffiths Hall MP

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<table>
<thead>
<tr>
<th>Member</th>
<th>Division</th>
<th>Party</th>
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</thead>
<tbody>
<tr>
<td>Abbott, Hon. Anthony John</td>
<td>Warringah, NSW</td>
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<td>Adams, Hon. Dick Godfrey Harry</td>
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<td>Cunningham, NSW</td>
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<td>Mallee, Vic</td>
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<td>Hindmarsh, SA</td>
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<td>Kalgoorlie, WA</td>
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<td>Hall, Jill Griffiths</td>
<td>Shortland, NSW</td>
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<td>Moreton, Qld</td>
<td>LP</td>
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<td>Cowper, NSW</td>
<td>Nats</td>
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<td>Blaxland, NSW</td>
<td>ALP</td>
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<tr>
<td>Hawker, Hon. David Peter Maxwell</td>
<td>Wannon, Vic</td>
<td>LP</td>
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<td>Werriwa, NSW</td>
<td>ALP</td>
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<td>Henry, Stuart</td>
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<td>LP</td>
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<td>Charlton, NSW</td>
<td>ALP</td>
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<td>LP</td>
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<td>Bennelong, NSW</td>
<td>LP</td>
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<td>Riverina, NSW</td>
<td>Nats</td>
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<td>Hunt, Hon. Gregory Andrew</td>
<td>Flinders, Vic</td>
<td>LP</td>
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<td>Fowler, NSW</td>
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<td>Tangney, WA</td>
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<td>Johnson, Michael Andrew</td>
<td>Ryan, Qld</td>
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<td>Lindsay, NSW</td>
<td>LP</td>
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<td>Bowman, Qld</td>
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<td>LP</td>
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<td>Herbert, Qld</td>
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<td>Capricornia, Qld</td>
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<td>Robertson, NSW</td>
<td>LP</td>
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<td>Groom, Qld</td>
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<td>Jagajaga, Vic</td>
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<td>LP</td>
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<td>McClelland, Robert Bruce</td>
<td>Barton, NSW</td>
<td>ALP</td>
</tr>
</tbody>
</table>
### Members of the House of Representatives

<table>
<thead>
<tr>
<th>Member</th>
<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>McGauran, Hon. Peter John</td>
<td>Gippsland, Vic</td>
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<td>Fraser, ACT</td>
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<td>Banks, NSW</td>
<td>ALP</td>
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<td>Mirabella, Sophie</td>
<td>Indi, Vic</td>
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<td>Pearce, WA</td>
<td>LP</td>
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<td>ALP</td>
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<td>Eden-Monaro, NSW</td>
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<td>Bradfield, NSW</td>
<td>LP</td>
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<td>ALP</td>
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<td>Sydney, NSW</td>
<td>ALP</td>
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<td>Price, Hon. Leo Roger Spurway</td>
<td>Chifley, NSW</td>
<td>ALP</td>
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<td>Sturt, SA</td>
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<td>Berowra, NSW</td>
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</tbody>
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Members of the House of Representatives

<table>
<thead>
<tr>
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<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Wakelin, Barry Hugh</td>
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<td>Washer, Malcolm James</td>
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<td>Wilkie, Kim William</td>
<td>Swan, WA</td>
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<td>Windsor, Antony Harold Curties</td>
<td>New England, NSW</td>
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<td>Wood, Jason Peter</td>
<td>La Trobe, Vic</td>
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PARTY ABBREVIATIONS
ALP—Australian Labor Party; LP—Liberal Party of Australia; Nats—The Nationals; Ind—Independent; CLP—Country Liberal Party; AG—Australian Greens

Heads of Parliamentary Departments
Clerk of the Senate—H Evans
Clerk of the House of Representatives—I C Harris
Secretary, Department of Parliamentary Services—H R Penfold QC
HOWARD MINISTRY

Prime Minister
Minister for Transport and Regional Services and Deputy Prime Minister
The Hon. John Winston Howard MP
The Hon. Mark Anthony James Vaile MP
Treasurer
Minister for Trade
Minister for Defence
Minister for Foreign Affairs
Minister for Health and Ageing and Leader of the House
Attorney-General
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House
Minister for Immigration and Multicultural Affairs
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues
Minister for Families, Community Services and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs
Minister for Industry, Tourism and Resources
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate
Minister for the Environment and Heritage

(The above ministers constitute the cabinet)
HOWARD MINISTRY—continued

Minister for Justice and Customs and Manager of Government Business in the Senate
Senator the Hon. Christopher Martin Ellison

Minister for Fisheries, Forestry and Conservation
Senator the Hon. Eric Abetz

Minister for the Arts and Sport
Senator the Hon. Charles Roderick Kemp

Minister for Human Services and Minister Assisting the Minister for Workplace Relations
The Hon. Joseph Benedict Hockey MP

Minister for Community Services
The Hon. John Kenneth Cobb MP

Minister for Revenue and Assistant Treasurer
The Hon. Peter Craig Dutton MP

Special Minister of State
The Hon. Gary Roy Nairn MP

Minister for Vocational and Technical Education and Minister Assisting the Prime Minister
The Hon. Gary Douglas Hardgrave MP

Minister for Ageing
Senator the Hon. Santo Santoro

Minister for Small Business and Tourism
The Hon. Frances Esther Bailey MP

Minister for Local Government, Territories and Roads
The Hon. James Eric Lloyd MP

Minister for Veterans' Affairs and Minister Assisting the Minister for Defence
The Hon. Bruce Frederick Billson MP

Parliamentary Secretary to the Minister for Finance and Administration
The Hon. Dr Sharman Nancy Stone MP

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
Senator the Hon. Richard Mansell Colbeck

Parliamentary Secretary to the Minister for Health and Ageing
The Hon. Robert Charles Baldwin MP

Parliamentary Secretary to the Minister for Defence
The Hon. Christopher Maurice Pyne MP

Parliamentary Secretary to the Minister for Transport and Regional Services
Senator the Hon. John Alexander Lindsay (Sandy) Macdonald

Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs
The Hon. De-Anne Margaret Kelly MP

Parliamentary Secretary to the Prime Minister
The Hon. Andrew John Robb MP

Parliamentary Secretary to the Treasurer
The Hon. Malcolm Bligh Turnbull MP

Parliamentary Secretary to the Minister for Environment and Heritage
The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary (Foreign Affairs)
The Hon. Patrick Francis Farmer MP

Parliamentary Secretary to the Prime Minister
The Hon. Teresa Gambaro MP
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<th>Position</th>
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<td>Leader of the Opposition</td>
<td>Kevin Michael Rudd MP</td>
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<td>Deputy Leader of the Opposition and Shadow Minister for Health</td>
<td>Julia Eileen Gillard MP</td>
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<td>Shadow Minister for Education, Training, Science and Research</td>
<td>Jennifer Louise Macklin MP</td>
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<td>Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services</td>
<td>Senator Christopher Vaughan Evans</td>
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<td>Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology</td>
<td>Senator Stephen Michael Conroy</td>
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<td>Shadow Treasurer</td>
<td>Wayne Maxwell Swan MP</td>
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<td>Nicola Louise Roxon MP</td>
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<td>Shadow Minister for Industry, Infrastructure and Industrial Relations</td>
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<td>Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security</td>
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<td>Shadow Minister for Defence</td>
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<td>The Hon. Simon Findlay Crean MP</td>
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<td>Shadow Minister for Primary Industries, Resources, Forestry and Tourism</td>
<td>Martin John Ferguson MP</td>
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<td>Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House</td>
<td>Anthony Norman Albanese MP</td>
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<td>Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories</td>
<td>Senator Kim John Carr</td>
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<td>Shadow Minister for Public Accountability and Shadow Minister for Human Services</td>
<td>Kelvin John Thomson MP</td>
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<td>Shadow Minister for Finance</td>
<td>Lindsay James Tanner MP</td>
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<td>Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services</td>
<td>Senator the Hon. Nicholas John Sherry</td>
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<td>Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women</td>
<td>Tanya Joan Plibersek MP</td>
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<td>Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility</td>
<td>Senator Penelope Ying Yen Wong</td>
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(The above are shadow cabinet ministers)
SHADOW MINISTRY—continued

Shadow Minister for Consumer Affairs and
Shadow Minister for Population Health and
Health Regulation
Laurie Donald Thomas Ferguson MP

Shadow Minister for Agriculture and Fisheries
Gavan Michael O’Connor MP

Shadow Assistant Treasurer, Shadow Minister for
Revenue and Shadow Minister for Small
Business and Competition
Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

Shadow Minister for Homeland Security and
Shadow Minister for Aviation and Transport
Security
The Hon. Archibald Ronald Bevis MP

Shadow Minister for Veterans’ Affairs and
Shadow Special Minister of State
Alan Peter Griffin MP

Shadow Minister for Defence Industry,
Procurement and Personnel
Senator Thomas Mark Bishop

Shadow Minister for Immigration
Anthony Stephen Burke MP

Shadow Minister for Ageing, Disabilities and
Carers
Senator Jan Elizabeth McLucas

Shadow Minister for Justice and Customs and
Manager of Opposition Business in the Senate
Senator Joseph William Ludwig

Shadow Minister for Overseas Aid and Pacific
Island Affairs
Robert Charles Grant Sercombe MP

Shadow Minister for Citizenship and Multicultural
Affairs
Senator Annette Hurley

Shadow Parliamentary Secretary for
Reconciliation and the Arts
Peter Robert Garrett MP

Shadow Parliamentary Secretary to the Leader of
the Opposition
John Paul Murphy MP

Shadow Parliamentary Secretary for Defence and
Veterans’ Affairs
The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment
and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Industry,
Infrastructure and Industrial Relations
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and
Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern
Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
### CONTENTS

**TUESDAY, 5 DECEMBER**

**CHAMBER**

Royal Commissions Amendment (Records) Bill 2006—
- Second Reading................................................................................................................. 1
- Consideration in Detail....................................................................................................... 14
- Third Reading.................................................................................................................. 17

Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006—
- Second Reading................................................................................................................. 17

Questions Without Notice—
- Health ............................................................................................................................... 24
- Economy............................................................................................................................ 25

Distinguished Visitors......................................................................................................... 25

Questions Without Notice—
- Economy............................................................................................................................ 25
- Drought ............................................................................................................................... 26

Distinguished Visitors......................................................................................................... 27

Questions Without Notice—
- Economy............................................................................................................................ 27
- Fiji..................................................................................................................................... 27
- Health ................................................................................................................................. 29
- Superannuation.................................................................................................................. 29

Distinguished Visitors......................................................................................................... 30

Questions Without Notice—
- Medibank Private ............................................................................................................. 30
- Workplace Relations.......................................................................................................... 31
- Health................................................................................................................................. 32
- Medicare: Bulk-Billing....................................................................................................... 33
- Wheat Exports ................................................................................................................... 34
- Uranium Exports .............................................................................................................. 34
- Oil for Food Program ......................................................................................................... 35
- Families and Community Services .................................................................................... 36
- Workplace Relations.......................................................................................................... 37
- Family Relationship Centres ............................................................................................ 38
- Workplace Relations.......................................................................................................... 38
- Family Assistance............................................................................................................... 39

Auditor-General’s Reports—
- Report No. 13 of 2006-07................................................................................................. 40

Documents............................................................................................................................. 40

Business................................................................................................................................. 40

Matters of Public Importance—
- Economy............................................................................................................................ 40

Electoral and Referendum Legislation Amendment Bill 2006............................................. 54
Law and Justice Legislation Amendment (Marking of Plastic Explosives) Bill 2006—
- Referred to Main Committee............................................................................................. 54

Medibank Private Sale Bill 2006—
- Returned from the Senate................................................................................................. 54

Copyright Amendment Bill 2006—
- Consideration of Senate Message.................................................................................... 54
CONTENTS—continued

Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006—
Second Reading................................................................................................................. 66
Adjournment—
  Health Funding ........................................................................................................... 146
  Water ......................................................................................................................... 148
  Health Funding ........................................................................................................... 149
  Drugs ......................................................................................................................... 150
  Health Funding ........................................................................................................... 151
Notices ............................................................................................................................ 153
QUESTIONS IN WRITING
  Aviation Security Identification Card—(Question No. 3772) ....................................... 154
  Media Monitoring and Clipping Services—(Question No. 4429) ................................. 155
  Foreign Affairs and Trade: Office Space—(Question Nos 4585 and 4587) ................... 155
  Sydney (Kingsford Smith) Airport—(Question No. 4697) ........................................... 155
  Airport Security—(Question No. 4744) ...................................................................... 156
  Sydney (Kingsford Smith) Airport—(Question No. 4749) ........................................... 156
  Consultancy Services—(Question No. 4767) .............................................................. 157
  Consultancy Services—(Question No. 4768) .............................................................. 158
Tuesday, 5 December 2006

The SPEAKER (Hon. David Hawker) took the chair at 12.30 pm and read prayers.

ROYAL COMMISSIONS AMENDMENT (RECORDS) BILL 2006

Second Reading

Debate resumed from 30 November, on motion by Mr Turnbull:

That this bill be now read a second time.

Ms ROXON (Gellibrand) (12.31 pm)—The Royal Commissions Amendment (Records) Bill 2006 deals with amendments to the Royal Commissions Act. It will have a lasting impact on all royal commissions for the future and its terms apply also to all past commissions, although I note that we have assurances that the government does not intend to use these changes in any way other than for dealing with the oil-for-food commission matters.

The genesis of this bill was the tabling of the report of the Cole Inquiry into Certain Australian Companies in relation to the UN Oil-for-food Programme last Monday, but the bill is not in any way limited to this matter. I fear that the Royal Commissions Amendment (Records) Bill 2006 simply represents a hasty attempt by the government to address one of the recommendations of the Cole inquiry into the oil-for-food scandal. Having been stung by criticisms of its neglect and inaction in respect of the Australian Wheat Board in the past, it is clear that the government is now, finally, eager to at least look like it is doing something.

The government’s intention is that this bill will be pushed through both the House and the Senate before week’s end. In principle, Labor opposes this rushed law making. The bill is general and far-reaching in its terms and results in law by regulation: the initial bill tabled on Thursday allows for the regulations to specify whom documents can go to and for what purpose without any limitation. Whilst there may be an argument for speed in relation to AWB matters, the same cannot be said for the bill’s ongoing application and its much more significant breadth.

Unfortunately, it is far too little too late from this government. Having turned a blind eye to 35 separate warnings, over a number of years, of AWB’s $290 million in kickbacks to Saddam Hussein’s regime, this small step cannot redeem the government. After so much neglect, the government cannot push through a bad law on the pretence that it needs to do something urgent to handle AWB matters. At this point let me move Labor’s second reading amendment. I move:

That all words after “That” be omitted with a view to substituting the following words:

“whilst not declining to give the bill a second reading, the House notes:

(1) that the Opposition demanded action to prevent the abuse of legal professional privilege in the Inquiry into certain Australian companies in relation to the UN Oil-For-Food Program (the Cole Commission) in March;

(2) that the Attorney-General arrogantly rejected that demand at the time and incompetently waited almost three months, after a Federal Court case, before taking action with this Bill;

(3) that, while this Bill proposes a sensible, albeit late, change to the law, it will not solve the broader problem that the Cole Commission’s Terms of Reference are limited;

(4) that the current Terms of Reference do not allow the Cole Commission to make findings on whether or not Ministers, their offices and departments have discharged their duties under Australian administrative law and under international law (in particular UN Security Council Resolution 661);

(5) that the Cole Commission has provided written advice that a change to the current Terms of Reference which would allow the Cole Commission to make such determinations is
a matter that would be ‘significantly different to the existing Terms of Reference’ and is therefore a matter for the executive; and

(6) that if the Howard Government had nothing to hide in the $300 million wheat-for-weapons scandal, it would expand the Cole Commission’s Terms of Reference to allow Commissioner Cole to make such determinations’.

This bill will not get them around that problem. I am sure that other speakers—particularly my colleague the honourable member for Wills, Mr Kelvin Thomson, who is at the table—will wish to focus in detail on those issues today. Of course, Labor stands ready to assist with any changes that are needed to allow our law enforcement agencies to investigate possible crimes committed by AWB and staff. Labor—and our new leader—have, after all, been at the forefront of pursuing the oil-for-food scandal. If it had not been for Labor’s dogged persistence I very much doubt that the community would have understood the extent of AWB’s deceit, or the government’s neglect and apathy.

But, whilst we stand ready to assist in any way required on the AWB specific matters, we were not going to be railroaded into making an ill-considered law of lasting consequence under cover of that pressing need. Accordingly, when Labor was briefed late last week on this matter we urged the government to adopt a different approach—to focus the bill just on this particular inquiry and the way that records would be handled that came from this inquiry, as was done in the HIH matter. The second option we urged for consideration was limiting the ‘custodians’ in the bill and the purposes for which records could be handed to a custodian. I am pleased to say that the government has today agreed to that latter suggestion from Labor. We see this in amendments that have been provided to us—we thank the government for this—but that have not yet been moved by the government. That is a triumph of common sense, and we welcome that the government was prepared to take this advice and suggestion from us.

Let me turn in more detail to the bill before us and the flagged amendments to it, which vastly narrow, and thus improve, the bill to the extent that Labor will be able to support the amended bill. Among his extensive recommendations, Commissioner Cole proposed the establishment of a joint task force to consider possible prosecutions arising from the inquiry. The government argues that the Royal Commissions Amendment (Records) Bill 2006 will provide a framework for the orderly and speedy referral of records from the Cole inquiry to relevant law enforcement bodies. Unfortunately, as I have noted above, in its haste to look like it was finally dealing with the AWB scandal, the government botched the initial drafting of this bill.

The bill as introduced on Thursday would have inserted a regulation-making power into the Royal Commissions Act 1902 to enable regulations to be made to give custody or access to records of royal commissions to other persons and agencies and to allow them to be used for other purposes. The bill was extraordinarily open-ended; it would allow through regulations all records, held by any royal commission, past or future, to be passed on to any custodian for any purpose. I have noted elsewhere that, silly as it may seem, this would mean that records from a royal commission, no matter how sensitive or confidential, relating to security issues or whatever, could be passed on, for example, to FOX FM for the purposes of entertainment or to the Australian for the purposes of embarrassing someone, or to a range of inappropriate persons, with inappropriate consequences.
The government hastened to assure us that this was not its intention in introducing the bill on Thursday yet, as it stands, the bill allows this to be the case. Fortunately, as I have noted, after Labor raised objections to the breadth of the bill, the government has come to its senses and intends to introduce some rational amendments that specifically identify law enforcement agencies and limit the purposes to law enforcement as well. This is far more sensible and protects against any silly or extreme outcome that could have been contemplated by the bill. I would like to emphasise that this does rather make Labor’s point about the traps and risks of hastily making laws with broad and lasting impact. Given the lack of any thorough examination of the proposed changes, which I note have not even been moved in this House yet, we can only hope and trust that the government has now got it right.

We do seem to be in this place rather often for matters in my portfolio—and this is a matter that is obviously in the portfolio of the Prime Minister—and are constantly being asked to make laws that have been prepared in a rushed way. I indicate that some of the silly or extreme outcomes that we might use as examples actually do highlight how important it is for us to try to get the drafting right and to make sure that any changes to our laws, especially laws such as the Royal Commissions Act, which do have broad and lasting consequences, are appropriate for the future.

The bill amends the Royal Commissions Act to enable regulations to be made which deal with the handling of the records and documents of a royal commission. The regulation must identify which person or organisation is to be the custodian of the records and also the access and use to which those records can be put. The bill introduced on Thursday allowed for regulations to be made for specific royal commission records which may: provide for the custody in which some or all of the royal commission’s records, including copies of those records, are to be kept; specify purposes for which a custodian of royal commission records may use or must not use some or all of those documents; provide for the circumstances in which the custodian of royal commission records must or may give some or all of those records to another; provide for the circumstances in which the custodian of royal commission’s records must or may allow access to some or all of those records to others; and specify purposes for which persons or bodies to whom the custodian of royal commission records gives or gives access to those records may use or must not use some or all of those records.

It is these provisions, which are to be varied by the government’s amendments to be moved later today, that make perfectly clear in some detail that we are limiting this to law enforcement agencies for the purposes of administering and enforcing the law. In the amendments that we were provided this morning the government has sought, firstly, to address the breadth of purposes to which royal commission records may be provided to another and, secondly, to restrict and specify those persons or bodies which can be custodians of those records. I will reserve any other comment on those issues for when we are in the consideration in detail stage, if required, when the government has actually moved those amendments. We are particularly pleased that, in a number of ways, and with some quite detailed new definitions being added, law enforcement bodies in their broader sense will be included in this and that the documents will be handed over for those purposes only.

It is probably a bit of a ‘belt-and-braces approach’, as I think has been described by others, but I do not think there is any harm if we are making a law that makes sure all law
enforcement agencies, whatever their names may be in the future, will be covered by this regulation. Given that the purpose is also now clear, we do not foresee any problems. I do note that it is unlikely that those in the community who are interested, including the law enforcement agencies and others, would have been consulted in any way on this bill. I do hope that, if unforeseen problems are flagged with the government, amendments will be made at a future time.

My colleague the member for Denison, who I think will be speaking on this bill, has raised an issue in relation to the rights that the original owner of the documents might have if they required the documents for their business purposes—for example, perhaps for filing their tax returns or other things. There do not appear to be any provisions that ensure that a person can make a request of the custodian for an original to be returned, or perhaps for a copy to be made if they need an original, for their business purposes. I understand that the member for Denison may speak on that in a little more detail and I have had some informal discussions with the government about that. It may be that that sort of amendment could be picked up either in the House while the debate is on or potentially in the Senate, or perhaps even in the regulation making powers as we go further down the track. If the parliamentary secretary is able to take account of that one outstanding issue it would be helpful.

Ms ROXON—This is the issue in relation to requests from original owners of the documents and whether they are able to make such a request of the custodian. It may be that the departmental officials can advise whether that can be done via the regulations but, to my knowledge, it looks as though we may need to make some sort of technical amendment to do that. Given the rush of getting this matter through both the House and the Senate, I assume it would be desirable for that amendment to be moved in the House rather than having to have it moved in the Senate and returned. So I hope the government will take note of that.

The bill will also allow, but not require, such regulations to impose conditions to be complied with by the custodian of the records, or persons and bodies to whom the records are given or who are allowed access to the records. The bill makes it clear that the protection in section 6DD of the Royal Commissions Act against self-incrimination is maintained, which is contained in the proposed new section 9(12), and that legal professional privilege is not affected by any regulations that might be made under these amendments, which can be found in proposed section 9(13), although legal professional privilege is the subject of a separate recommendation by the commissioner and has in fact been referred by the government to the Australian Law Reform Commission.

The bill also specifies that regulations will apply in respect of records of any royal commission, including royal commissions which have reported before the commencement of the amendments. We are told that this is required as the oil for food commission is now technically also a past commission, having completed its work and reported to the government. As I noted earlier, we have been assured by the government, and I would like this to be on the record—again, perhaps the parliamentary secretary will be able to make some comments in his summing up to confirm what I have been advised—that there is no intention for this regulation making power to be used for any commissions further back in history.

The primary feature of the bill, therefore, is to provide a framework to allow royal commission records to be used, obviously
with the addition of the amendments the government has flagged it will move, for law enforcement purposes without needing additional legislation and without any prior need to notify or consult with persons who might be adversely affected by the release and use of the records.

As I stated earlier, the introduction of the Royal Commissions Amendment (Records) Bill 2006 has been triggered by the findings of the Report of the Inquiry into certain Australian companies in relation to the UN Oil-for-food Programme—commonly known as the Cole inquiry. Regulations made under this bill will apparently assist the task force that is being established—as recommended by the Cole commission to be set up—to investigate and consider possible prosecutions against those persons named who may have breached Australian laws. The Labor Party stands ready to assist and support, putting beyond doubt the handling of these documents to ensure that any task force can deal with the AWB matters expeditiously.

Before concluding, having described what the bill and the latest amendments will do, I want to make it absolutely clear to the House what this bill will not do. The bill will not uncover the whole truth about the government’s involvement in the wheat for weapons scandal. The bill will not reveal the extent of the government’s cover-up of this issue, nor will it uncover what Minister Downer or Minister Vaile actually knew about the AWB kickbacks to the Iraqi regime. The bill does not rectify the government’s shameful lack of commitment to a full, open and transparent inquiry into what really happened with this scandal and what knowledge the government had of it.

This bill may assist those now confronting the mammoth task of investigating whether any crimes have been committed or of preparing for prosecution, but it will do nothing to hold the government to account for this whole sorry episode. Despite the bill’s obvious limits and pending the assurances that have been given by the government that it will move the amendments that have been distributed to members this morning and that accept Labor’s request to limit this bill to law enforcement matters, Labor is prepared to offer its support for the urgent passage of this bill. We will confirm that, of course, when the government has moved its amendments formally in this place.

The SPEAKER—Is the amendment seconded?

Mr KELVIN THOMSON (Wills) (12.46 pm)—I second the amendment. The Royal Commissions Amendment (Records) Bill 2006 amends the Royal Commissions Act to enable regulations to facilitate the provision of custody and use of, and access to, records of royal commissions, including those of the Report of the Inquiry into certain Australian companies in relation to the UN Oil-for-food Programme, which we all know as the Cole inquiry. Commissioner Cole made findings in his report that certain breaches of the law might have occurred and recommended the referral of specified matters to the appropriate authority for consideration of whether proceedings should be commenced for breaches of the laws referred to. He recommended the establishment of a joint task force comprising the Australian Federal Police, Victoria Police and the Australian Securities and Investments Commission to consider possible prosecutions in consultation with Commonwealth and Victorian directors of public prosecution.

To remove any uncertainty about the extent to which the documents obtained by the Cole inquiry can be used for investigative and prosecutorial purposes by law enforcement agencies, the government has said that legislation similar in effect to that enacted in
relation to the HIH royal commission is desirable. In the case of the HIH royal commission, legislation was enacted to enable the transfer to ASIC of custody of certain records of the HIH royal commission, particularly documents and other evidence which had been produced to the commission to facilitate ASIC’s investigations.

The main reason for that legislation and, indeed, for the present bill is to remove any arguments surrounding the issue of procedural fairness. The government has said that it is prudent to legislate to allow royal commission records to be used for defined purposes without having to provide procedural fairness, and it is seeking to take the opportunity to provide a framework in relation to that.

The bill makes it clear that the protection against self-incrimination, as outlined in section 6DD of the Royal Commissions Act, is maintained and that legal professional privilege is not affected by any regulations that might be made under these amendments. The amendments are to commence on the day the bill receives royal assent. Finally, the explanatory memorandum says:

It is expected that regulations will be made in relation to the Cole Inquiry records, following passage of the bill, which will assist in expediting investigations of whether proceedings should be commenced in relation to the possible breaches of the law identified by the Cole Inquiry.

I want to place on record my hope and expectation that this will occur in an expeditious way. It is very important that there be no delays.

The Howard government frequently claims that it is the only government around the world taking action in response to the Volcker report. That is not true. There was a report in the Australian from their New York correspondent, David Nason, that people who rorted the oil for food program have been prosecuted or are being prosecuted in a range of countries around the world. In the United States, a New York court has found a South Korean businessman guilty of accepting bribes from Saddam Hussein’s regime. He is awaiting sentence and could reportedly serve five to 12 years. A co-conspirator, an Iraqi-American businessman, has also pleaded guilty to offences. Two Texas oil men have been charged by a federal grand jury in New York with manipulation of the UN program. In Paris, the No. 2 oil company Total was charged last month with paying illegal commissions to obtain favours for the oil group in Iraq, and a former senior Total executive has been charged with similar offences. Both are expected to go on trial next year. In India, the national Enforcement Directorate has asked six people, including India’s former foreign affairs minister, to show cause why they should not be charged over the scandal. Investigations by police and prosecutors are also underway in New Zealand and Switzerland.

But here in Australia things are moving at a snail’s pace. I am worried about this because the Attorney-General, when he released the Cole report, was in the business of softening us up and lowering expectations. He said:

I would like to add a word of caution. Although the government is moving quickly and decisively, it may take time for the independent agencies involved in the task force to thoroughly consider all of the relevant material before commencing any prosecution.

He went on to say:

This is appropriate. Government agencies should only take actions to investigate and prosecute citizens or companies when they have a proper basis for doing so. Thanks to Commissioner Cole’s inquiry, we now have a basis for making proper, informed decisions about whether persons or companies can and should be prosecuted for possible breaches of Australian law.
Since I read this, I have been concerned that it may be the government’s intention and desire to hold back and delay any charges and cases going to court arising from this scandal.

Why might the government want such a delay? What motivation could it have? The answer might be found in a report in the *Age* by Richard Baker and Dan Silkstone, which reads as follows:

AWB figures implicated in the Iraq wheat scandal have threatened to call Foreign Affairs Minister Alexander Downer as a witness if they face trial, with one vowing “my QC will rip him to shreds”.

With the Cole report yesterday recommending 11 former AWB executives be investigated for possible criminal offences but clearing Howard Government ministers and officials, several wheat board figures embroiled in the scandal hit out at the Coalition.

“The Government knew ... They knew everything,” said one AWB figure. “It’s like Breaker Morant all over again. If I go to trial, then Downer will be the first witness called, that’s a promise. My QC will rip him to shreds.”

The report also says:

The threats from the former AWB executives came as the lawyers representing them at the Cole inquiry criticised the conduct of the inquiry, with many claiming it was set up to protect the Government.

They certainly got that right. It was set up, and it was a set-up to protect the Government. If the government wants to emerge from this scandal with any shred of integrity, it will not try to hide these cases until after the election; it will deal with them expeditiously. The AWB executives who say that they will call Minister Downer as a witness may be bluffing, but, for the sake of this country’s reputation, this matter must be dealt with—and dealt with not by an inquiry with limited terms of reference but in a court where everyone has the opportunity to put their case.

The second reading amendment moved by the member for Gellibrand, the shadow Attorney-General, and seconded by me says, ‘This House condemns the government for seeking to avoid responsibility for the AWB scandal,’ and that is indeed the case. From day one, this government provided Commissioner Cole with deliberately narrow terms of reference which only allowed the inquiry to make findings about the Commonwealth’s knowledge to the extent that it sheds light on the criminality or otherwise of AWB. In his report, Commissioner Cole made it clear just how high the bar had been set for an adverse finding against the Commonwealth. He said that it did not matter that the government ought reasonably to have known or that it suspected that AWB was being misleading. He said that it is the actual knowledge that counts. He said:

It is immaterial that the Commonwealth may have had the means or ability to find out that the information was misleading, or that it ought reasonably to have known that the information was misleading. It is also immaterial that the Commonwealth, at the time it conferred the benefit or advantage, suspected but did not know that the information was misleading.

Indeed, Commissioner Cole makes it clear in his report that he stands by the letter which Kevin Rudd, now the Leader of the Opposition, received dated 13 March this year, which makes it clear that the commission did not have the power to determine whether Australia had breached its international obligations or a minister had breached obligations imposed upon him by Australian regulation. The report makes this question of the terms of reference clear. It said:

The law is clear that terms of reference contained in Letters Patent are not to be narrowly construed, but this does not mean that a ‘Commission can go off on a frolic of its own’.

And again, at paragraph 6.32, the report said:
It is not for a commissioner appointed to conduct such an inquiry to presume that he or she is ... authorised to determine the scope of any inquiry ...

So this question of the terms of reference was clearly a matter for the government, not a matter for Commissioner Cole.

But, notwithstanding the constraints placed on his ability to make adverse findings against ministers and their departments, Commissioner Cole found:

The critical fact that emerges is that DFAT—
the Department of Foreign Affairs and Trade—
did very little in relation to the allegations or other information it received that either specifically related to AWB, or related generally to Iraq’s manipulation of the Programme.

Again, the report states that the Department of Foreign Affairs and Trade:
... did not have in place any systems or procedures in relation to how its staff should proceed in response to allegations relating to the breach of sanctions. No specific officer was given responsibility for responding to or investigating such matters. It does not appear that there was in place any protocol, if DFAT was not itself proposing to investigate, for referring matters for investigation to other agencies such as the Australian Federal Police or that staff were given any instructions about how, if at all, they could investigate such allegations or what resources were available to them.

These are very damning findings, but the government’s response has been remarkable. The foreign affairs minister has been revealing in the fact that Commissioner Cole did not find that he was criminally culpable. He plans to do nothing about the incompetence and the negligence which the commission revealed.

This is a dangerous new low for public accountability. Not only has the foreign affairs minister refused to accept any ministerial responsibility for this scandal; he has now taken the extra step of clearing his department of any negligence. Presumably, society is to blame. The former leader of the Liberal Party, John Hewson, hit the nail on the head when he said:

I don’t understand how a government can put its hand over its heart and demand the highest levels of corporate responsibility, accountability and transparency while at the same time setting in place systems which ensure that ministerial responsibility is almost null and void.

What this government permitted through AWB is outrageous, and Minister Downer’s ‘je ne regrette rien’ response shows that he still does not get it.

Ms Roxon interjecting—

Mr KELVIN THOMSON—I will resist that temptation. It is therefore only a matter of time before this happens again. I also wish to comment on some of the commission’s findings in relation to this issue. While 10 AWB senior managers below the chief executive officer, Andrew Lindberg, have been recommended for consideration of criminal charges, as has the chairman above him, somehow the chief executive officer is cocooned in the middle ignorant of all this. It is a remarkable conclusion. People I have spoken to who have followed the proceedings are frankly astonished. Some of the evidence at the commission went along the lines that Mr Lindberg was shown a memo which bore his signature showing that the Iraqis wanted AWB to inflate the prices of one of the UN wheat contracts so that an old debt to a company called Tigris Petroleum could be paid. Mr Lindberg said he could not remember seeing the document, but the senior counsel, John Agius QC, said to him:

... there’s no doubt you’ve read it ... Your initials are on it.

Mr Agius made the point that such a plan, if implemented, would clearly have been a breach of the United Nations sanctions. Mr
Agius also asked Mr Lindberg at the inquiry to study an AWB report from February 2001 which openly discussed the transport fees and the fact that the money was going not to Alia but directly to Iraq. It said:

The trucking fee is now $25 ... We believe the increase in trucking fee and addition of the service charge is a mechanism of extracting more dollars from (the UN's oil-for-food account).

That is clear evidence in relation to kickbacks, and the significance of that report is that it was expressly prepared for Mr Lindberg. Given these matters, and the fact that Mr Lindberg was forced to say to the inquiry, ‘I don’t recall,’ on more than 250 occasions, it is quite remarkable that the Cole inquiry could reach a conclusion that all of those below Mr Lindberg should be recommended for consideration of criminal charges, as has been the chairman above him, but somehow Andrew Lindberg was cocooned in the middle blissfully ignorant of all those things.

I also make the observation that I do not believe that the Cole inquiry got to the bottom of the AWB scandal. I have mentioned in the House previously that two Austrade officials, Ramzi Maaytah and John Finnin, met with the al-Khawam family, who are the 51 per cent owners of Alia, to talk about wheat contracts. Do we know any detail of what they discussed? No. Do we know what they reported back to their minister about these discussions? No. The reason we do not know is that the Cole inquiry never called them as witnesses. It discounted Mr al-Absi’s evidence concerning the Austrade official Mr Ayyash, but at other stages in the report it uses Mr al-Absi’s evidence, treating it as accurate. The al-Khawam family were the 51 per cent owners of Alia and it was Saddam Hussein, as we know, who owned the other 49 per cent.

This conclusion is plain wrong. To reach it, the Cole inquiry completely overlooked the evidence of the Austrade meeting and it also ignored the evidence of Othman al-Absi, the Alia official, that Austrade knew all about the wheat deals. It discounted Mr al-Absi’s evidence concerning the Austrade official Mr Ayyash, but at other stages in the report it uses Mr al-Absi’s evidence, treating it as accurate. The al-Khawam family were the 51 per cent owners of Alia and it was Saddam Hussein, as we know, who owned the other 49 per cent.

The Cole report also fails to deal with other issues. It did not call the AusAID personnel who took over the AWB contract just before the outbreak of war. So we do not know just how the AusAID personnel were greeted when they contacted Alia to arrange delivery of the wheat, as documents before the Cole inquiry said they did. But we can imagine that not since Pauline Hanson’s ‘please explain’ would there have been such galloping incomprehension as that which Alia would have shown on receiving such inquiries. Alia, after all, delivered kickbacks; they did not deliver wheat. But did the Cole inquiry investigate these matters? No. AusAID personnel were not summoned as witnesses, so we do not know what AusAID found out about these contracts or what the government’s own aid agency reported back to the minister about them.

I also am surprised at the inquiry’s conclusion that there was no evidence that Norman Davidson-Kelly had any influence over the Howard government. Mr Davidson-Kelly was the mastermind of the Tigris deal, an extraordinary scheme to defraud the UN oil for food program. Yet we know that Mr Davidson-Kelly is a long-term friend of a former Leader of the Government in the Senate, Robert Hill, and dined with him regularly over a 10-year period. There cer-
tainly is evidence that he could have influenced the Howard government.

Sadly, the government have sought to avoid responsibility for the AWB scandal. They gave the Cole inquiry restricted terms of reference. They then hid behind that inquiry, refusing to answer questions in the Senate, refusing to answer questions in the House and refusing to respond to freedom of information requests. The Australian people are entitled to get to the bottom of this scandal and are entitled to a government with a greater sense of responsibility and accountability than this one.

Mr KERR (Denison) (1.06 pm)—It is understandable that the government has proposed legislation of this kind following the inquiry into the AWB scandal. Similar legislation, although much more narrowly constructed, occurred in the past when doubts were raised about the way in which documents might be capable of being used by prosecuting authorities following an investigation by a royal commission.

I might say at the start that this is probably belt-and-braces legislation. I am not persuaded, nor have I heard any argument, as to why the ordinary processes of applying for warrants and subpoenas would be unsatisfactory to obtain these documents, and I am not aware of any litigation that has suggested the process of obtaining documents through such means would be unduly prolonged by reasons of arguments relating to the implications of natural justice. In those law enforcement areas, traditionally the courts have respected the administrative necessities of prosecuting authorities and not intervened in that way, but, given the circumstances and the fact that the government would be extremely reluctant to be perceived as botching this matter once again, I do understand why the Royal Commissions Amendment (Records) Bill 2006 has been brought forward.

Whilst I suspect it is technically unnecessary, I understand it is politically necessary. If there were any unnecessary and protracted litigation as a result of deficiencies in the legal system—which I have not yet understood, but were they to be advanced—then the government would no doubt receive the blame and is anxious to avoid that circumstance.

I do want to raise one technical point that has not yet been fully explored and that I think needs to be balanced in this equation. When royal commissions obtain documents and hold them, it is rare perhaps that they take the only copy of a document. Many times there will be file copies that are retained by the person who has tendered the original documents or there may be circumstances where the commission does receive the only documents. In any case, instances will arise, if those documents are held for protracted periods of time, where the business efficacy of an organisation that has handed over large numbers of documents will simply be undone. Whilst in the present case of the AWB it is unlikely that any circumstance that I can conceptualise, and I do not understand it to be the immediate circumstance, will arise—for example, litigation is pending where the originals of contracts between Australia and the Iraqi wheat board are likely to be necessary to be produced for evidential reasons in a court where a commercial dispute is involved—it could nonetheless happen.

A conceivable example in the future would be a royal commission into the tax affairs of large corporations which are asserted to be underpaying tax or involved in some kind of criminal conspiracy or fraud and it becomes a matter of scandal. The government appoints a royal commission, that commission examines the matter over a period of time, this act as amended kicks in and the documents are passed over to prosecuto-
rial authorities. There may be a very long period of time when those documents are not available for the ordinary commercial business purposes—the legitimate purposes—of the organisations or persons from whom they have been obtained. This can be a significant legal matter, because in many instances it is the document itself upon which legal action can be taken. For example, a deed between parties is the evidence of the agreement and the production of the deed is the starting point for a legal action which stands or falls on the contents of the document. Similarly, a cheque can be sued on its face. There are many instances where those kinds of documents or records are passed over to a royal commission and the person who has passed them over does not have access to the originals, cannot restore their records and cannot use them for ordinary legitimate commercial purposes, in litigation and in its defence in pending actions—it may well be that prosecutorial actions against it are involved—and the whole fairness of the scheme comes into question.

There is actually an easy solution to this. Although the opposition has condemned as draconian and has objected to the Building and Construction Industry Improvement Act 2005, which was established to set up virtually a standing royal commission into conduct in the building and construction industry, nonetheless there is a very beneficial provision in that legislation. Section 55(2) of the Building and Construction Industry Improvement Act 2005 provides that, where a record is provided to the commission and then retained, the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy that is certified and that certified copy of the document can be used for all legal purposes as if it were the original of that document. The seal of the commission verifies it as a true copy of the document that has been supplied to the commission and then that document is allowed to be used in all legal proceedings. Courts must respect it, it can be sued upon or it can be used in all circumstances as if it were the original document. Certainly it could be used in proceedings in commercial causes and it could be used for the purpose of assembling a set of records which could then be tendered to show the course of conduct in defence of any proceedings that are brought against that person and the like. So an element of fairness has been built into that particular provision, recognising that when documents are handed over in these circumstances the person who hands them over loses the capacity to have their original records and to use them for proper legal purposes.

Given the amount of time that may be involved—commissions themselves operate over a protracted period and now we are extending the time over which documents may be held and utilised, allowing them to be retained for the whole of that period—I would strongly urge the government to contemplate and to put forward an amendment built on the structure of section 55(2) of the Building and Construction Industry Improvement Act to make certain an unfairness that would otherwise potentially exist is removed. This bill does not just apply to AWB; it applies to all past and future royal commissions. I understand that these gaps may emerge because the action is being taken in some haste. Nonetheless, when we are taking such action which has such sweeping consequences and which may enact considerable unfairness, I think it is very important that we pause and I would hope the government is capable of responding.

I note that the government advisers have suggested that the regulations may provide a solution, and they point to the provision in clause 9 about custody and use of the royal commissions, and regulations under pro-
posed subsection (2)(c) may provide for the circumstance in which the custodian of the royal commission records must or may give some of those records to other persons and bodies. There are difficulties because we have been drafting on the run, and the difficulties arise in two ways. The first is that the government has moved amendments which restrict the purposes for which such documents can be supplied for law enforcement purposes. It is very doubtful that regulations that go beyond those purposes would be valid. I believe that they would likely be held to be invalid and void and therefore the provisions of proposed subsection (2) could not extend to returning those documents in those circumstances. But even if I am incorrect in that view, I would say that there may be a conflict of interest. A person may have a legitimate desire for a document that they can use as an original and yet the prosecutors still want to retain it. It is perfectly proper for the prosecutor to hold a document that they can use as the original of that document. So there are two persons who—

Mr Turnbull—They have to make it available to the defence.

Mr Kerr—A copy of the document would have to be made available, certainly. But I make the point to the Parliamentary Secretary to the Prime Minister—and I thank him for his observation that in the prosecution a file must be made available, or a copy where all documents are to be relied upon—that that does not mean that it is available for all other purposes which the person from whom the document has been obtained may wish to use it. That obligation does not arise until such time as charges are laid, so there are potentially significant periods of time before even copies are made available—and then a copy will be made available which cannot be used as an original. There may be a very long and protracted period of time in which the legitimate interests that the prosecutorial authorities—the police investigators, the DPPs and the like—have in retaining the originals of the document conflict with the proper and legitimate interests of businesses and individuals who have passed those documents for evidential purposes to the royal commission to hold and retain documents that they can use as originals.

There is an easy solution. This problem obviously commended itself to the government as a problem in the Building and Construction Industry Improvement Act in 2005. Its drafters at that time anticipated the need to deal with that problem. It is not a difficult problem to deal with. It is just that in this instance, in the haste—understandable haste; I am not making any criticism of the government in relation to this—to deal with it, a problem that was identified in one context which had a simple and elegant solution has not been solved in this instance. Because it can be so elegantly and simply resolved, I would urge that the government do so.

I do not want to take up the time of the House at much greater length, because I am certain that the shadow minister has put forward this matter. If it can be dealt with today rather than requiring further processing in the Senate and then coming back to the House, it would solve difficulties. But, whatever mechanism is used, this is a serious practical problem. It is not a whimsy. It is something that the government, through its advisers, obviously contemplated as a genuine and real problem in other contexts. It does not go away because of the different context in which it appears now. It is a genuine and real problem and it should be sorted out in a sensible, straightforward way. There is no need to withhold from a person who has provided documents to a royal commission the capacity to pursue their ordinary legitimate business affairs using those documents as originals. Law enforcement does not require it. The purposes of the royal
commission do not require it. It can be built into this legislation very simply and straightforwardly. I am hopeful that the government may choose to move in that direction.

I am not raising this out of any pedantic sense of criticism. But at some certain point in the future this will pose a significant practical problem in the implementation of this legislation. It may be that the government says that we can deal with that when we come back next year. But that really is not the way to progress substantial legislation which, if enacted, will remain on the books. The attention of the government may not return to this matter. The parliamentary agenda may not facilitate it. When we are passing legislation that is designed to cover not merely a specific instance but also the generality of all royal commissions which have been held in the past and will be held into the future, it would be troubling if the problem was not dealt with now. I thank the House for that opportunity to raise an issue which I would hope can be dealt with quickly and simply.

Mr TURNBULL (Wentworth—Parliamentary Secretary to the Prime Minister) (1.20 pm)—in reply—I will sum up very briefly. I will deal with the amendment when I move it. I firstly thank honourable members for their contributions. In response to the member for Denison’s observations about access to records, the circumstances which he canvasses are ones that I struggle to see emerging in a practical context, to be honest. Normally when documents are obtained by royal commission the provider—the owner—of the documents will have kept a copy of them. The circumstances in which an original document would be needed would be ones where either the original was the only copy in existence, which is difficult to imagine in practical circumstances, or ones where the owner of the document had kept a copy of the document—which is the most likely circumstance—but for some reason or another needed an original copy.

Given that the focus of this legislation, particularly in light of the government amendments, is directed at making documentation available to law enforcement agencies, the circumstance in which the original is likely to be needed is in court proceedings—where it can either be subpoenaed in the usual course or, if it is a prosecution, be made available in the manner that the member and I are very familiar with.

I speak with some experience in royal commissions over the years, and it seems to me that it would be an unlikely set of circumstances where this would become an issue. Nonetheless, the government would expect a custodian to act reasonably in relation to any request from an owner of a record, and while there is a right for the custodian to retain possession under proposed section 9(10) in the amending bill, it is not mandatory and it is only for so long as the custodian considers it desirable for the purposes for which the custodian requires the record. Regulations are able to be made under proposed section 9(2)(c) and (d) under the amending bill, which states that the regulations:

(c) may provide for the circumstances in which the custodian of Royal Commission records must, or may, give some or all of those records to other persons or bodies; and

(d) may provide for the circumstances in which the custodian … must, or may, allow access to some or all of those records to other persons or bodies.

The government have carefully noted the concerns raised by the member for Denison. They do not strike me as being likely to arise in many cases, if any, and I believe they can be dealt with if circumstances arise where they would be material in the regulations created in respect of a particular royal commission.
The DEPUTY SPEAKER (Hon. IR Causley)—The original question was that this bill be now read a second time. To this the honourable member for Gellibrand has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The immediate question is that the words proposed to be omitted stand part of the question.

Question agreed to.
Original question agreed to.
Bill read a second time.

Consideration in Detail
Bill—by leave—taken as a whole.

Mr TURNBULL (Wentworth—Parliamentary Secretary to the Prime Minister) (1.25 pm)—by leave—I present a supplementary explanatory memorandum to the bill and move government amendments (1) to (6), as circulated, together:

(1) Schedule 1, item 2, page 3 (after line 17), after the definition of body in subsection 9(1), insert:

civil penalty proceeding means a proceeding for a civil penalty in relation to a contravention of a law of the Commonwealth, a State or a Territory.

confiscation proceeding means a proceeding under:
(a) the Proceeds of Crime Act 1987 or the Proceeds of Crime Act 2002; or
(b) a corresponding law within the meaning of either of those Acts; but does not include a criminal prosecution for an offence under either of those Acts or a corresponding law.

(2) Schedule 1, item 2, page 3 (after line 21), after the definition of custodian in subsection 9(1), insert:

disciplinary proceeding:
(a) means a proceeding of a disciplinary nature under a law of the Commonwealth, a State or a Territory; and
(b) includes action taken under Subdivision D of Division 5 of Part V of the Australian Federal Police Act 1979.

law enforcement purposes means the purposes of taking action to enforce a law of the Commonwealth, a State or a Territory and includes the following purposes:
(a) the purpose of bringing:
(i) a prosecution for an offence against a law of the Commonwealth, a State or a Territory; or
(ii) a civil penalty proceeding; or
(iii) a confiscation proceeding; or
(iv) a disciplinary proceeding;
(b) the purpose of investigating whether:
(i) an offence has been committed against a law of the Commonwealth, a State or a Territory; or
(ii) there has been a contravention of a law of the Commonwealth, a State or a Territory in relation to which civil penalty proceedings may be brought;
(c) the purpose of preparing the material necessary to prosecute a person for an offence against a law of the Commonwealth, a State or a Territory;
(d) the purpose of preparing the material necessary to bring civil penalty proceedings against a person for a contravention of a law of the Commonwealth, a State or a Territory;
(e) the purpose of preparing the material necessary to bring a confiscation proceeding;
(f) the purpose of preparing the material necessary to bring a disciplinary proceeding.

(3) Schedule 1, item 2, page 4 (line 14), after “may”, insert “, subject to subsection (3),”.

(4) Schedule 1, item 2, page 5 (lines 5 to 20), omit subsection 9(3), substitute:
(3) The persons and bodies who may be given custody of Royal Commission records by regulations made for the purposes of paragraph (2)(a) are the following:

(a) the Attorney-General of the Commonwealth, of a State, of the Australian Capital Territory or of the Northern Territory;
(b) the Director of Public Prosecutions;
(c) a Special Prosecutor appointed under the Special Prosecutors Act 1982;
(d) the Commissioner of the Australian Federal Police or of the Police Force of a State or of the Northern Territory;
(e) the Australian Securities and Investments Commission;
(f) the Australian Competition and Consumer Commission;
(g) the Australian Crime Commission;
(h) the Australian Commission for Law Enforcement Integrity;
(i) the Secretary of the Department of the Prime Minister and Cabinet;
(j) the National Archives of Australia;
(k) a body or person responsible for the administration or enforcement of a law of the Commonwealth, a State or a Territory.

(5) Schedule 1, item 2, page 7 (lines 6 to 13), omit paragraph 9(11)(a), substitute:

(a) the custodian may, for law enforcement purposes:
   (i) use the records under subsection (6); and
   (ii) give the records to another person or body under regulations made for the purposes of paragraph (2)(c); and
   (iii) allow another person or body access to the records under regulations made for the purposes of paragraph (2)(d); and

The principal change is to limit the circumstances in which any procedural fairness requirements are removed to circumstances where records are provided or used for law enforcement purposes. The definition of ‘law enforcement purposes’ is a broad one. It encompasses criminal prosecutions, civil penalty proceedings, confiscation proceedings and disciplinary proceedings. The amendments address concerns that the range of purposes to which the records might be put without providing procedural fairness may be too broad.

The regulations will still be able to prescribe purposes and circumstances for the use, or giving of, or giving of access to records which are not limited to law enforcement purposes and circumstances. That is consistent with the existing capacity for records to be made available for other purposes. Under the bill as amended, provision of records for other purposes will continue to be subject to any procedural fairness obligations that presently exist.

The other change is that the range of persons or bodies to whom custody of royal commissions may be given under regulations will be more limited. In particular, the provision in the bill as introduced for prescription of any person or body to be a custodian has been removed. Custody will still be able to be given to any person or body responsible for administration or enforcement of a law, but for avoidance of doubt—I am looking now at amendment (4)—a number of specific persons and bodies are named, including law enforcement bodies and office holders.

Ms ROXON (Gellibrand) (1.27 pm)—I would like to speak briefly to indicate Labor’s support for these amendments and to thank the Parliamentary Secretary to the
Prime Minister and the departmental staff for their assistance, given the quick turnaround from the time that the bill was introduced to our debating it today. Labor is pleased that the government has been prepared to take up a suggestion of ours. Obviously the wording has been worked on by the departmental staff and the drafters, and we think this makes the bill a much more sensible one. It is much more targeted, it deals with the purposes for the law—which we all understand—and it does not leave it open-ended in some way so that we, sitting at the table today, may not be able to understand how it might be used in the future. Labor is much more confident that this is an appropriate measure to be taken, and we thank the government for making these amendments. We support them.

Mr Kerr (Denison) (1.28 pm)—I thank the Parliamentary Secretary to the Prime Minister for his response to my earlier remarks. I acknowledge his experience in royal commissions; I come to this place with experience in litigation also. It is difficult to properly pursue a number of legal proceedings without access to original documents. I gave two instances in my earlier comments: a deed—which, on its face, is the document upon which legal proceedings will be commenced or proceeded with—and a cheque. If those are the documents which are held in the custody of a commission and later in the custody of a custodian, the business efficacy of the organisation or persons that are provided with that document are much reduced. That has been recognised in the past by this government and dealt with in a very straightforward and fair way. I am merely asking that the same provision apply in this instance. It seems to be one of those extraordinary ironies of political life that the government has given greater protection to the business efficacy of trade unions under the Building and Construction Industry Improvement Act—legislation which we described as draconian—than it will to others who may be the subject of other proceedings.

Given the lengthy periods of time in which these documents may be held and the fact that organisations would be placed in difficulty in their litigation, it does seem quite an unnecessary burden. Indeed, there may be instances in which it is not merely litigation which is made more difficult when you cannot produce the original of a document. People may produce documents which they do not recognise the significance of, not retain originals and later have the significance of the documents become more apparent. It is not sufficient, with great respect to the parliamentary secretary, to say that, if a prosecution is actually brought, copies of documents are provided with the prosecution brief. It is potentially at an earlier point that those documents need to be reassembled as the business records or the historic records of a person or organisation so that they can defend themselves in public against, for example, allegations made in the media and the like.

So I do think there is a problem. I understand the government dealing with this in some haste, but I do not believe that the parliamentary secretary’s response really addressed the issue that may emerge and the reality that it is likely to emerge. Royal commissions are frequently held into circumstances which involve business dealings of persons. They are frequently held into circumstances in which a large amount of records are held for significant periods of time, and it is not always the case in law that the possession of a copy can be utilised with the same efficacy and ease as the original. I am not even certain how a worthy person who wished to use the original document for other legal proceedings could subpoena it in the face of this legislation. The parliamentary secretary said it would be available through subpoena. In the face of a Commonwealth
statute that gives the power to hold those
documents to third parties for certain pur-
poses, would a subpoena override that? I
must say that I do not think that is so and I
doubt it. If it did, it would probably under-
mine the purposes of the legislation. So I am
not persuaded by the arguments and, given
that it is so simple to fix, I am puzzled at the
reluctance.

Question agreed to.

Bill, as amended, agreed to.

Third Reading

Mr TURNBULL (Wentworth—
Parliamentary Secretary to the Prime Minis-
ter) (1.32 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

PROHIBITION OF HUMAN CLONING
FOR REPRODUCTION AND THE
REGULATION OF HUMAN EMBRYO
RESEARCH AMENDMENT BILL 2006

Second Reading

Debate resumed from 4 December, on mo-
tion by Dr Washer:

That this bill be now read a second time.

Ms CORCORAN (Isaacs) (1.33 pm)—In
2002, parliament passed two bills which to-
gether banned all forms of human cloning,
including cloning for therapeutic purposes,
and allowed researchers, under certain condi-
tions and restrictions, access to surplus hu-
man embryos. Those embryos were created
for parents on an IVF program but were no
longer wanted by those parents. Those em-
bryos would normally have been discarded,
but now, under the 2002 legislation, can be
donated by the parents for research. One of
the strengths of this legislation is that it ap-
plies to all embryonic stem cell research
conducted in Australia, regardless of how
that research is funded. I understand that in
the United States, for instance, national laws
only apply to publicly funded research, not
to research funded through private means,
leading to a bit of a hotchpotch of regulation.
But that is not so here. This whole-of-
Australia approach was achieved through a
spirit of cooperation between the Common-
wealth, state and territory governments.

At the time of passing the 2002 legisla-
tion, it was also decided that the situation
would be reviewed in three years time. That
decision was made because of the fast pace
of development in this sort of science. The
review committee, now known as the Lock-
hart committee, was established in 2005. It
was chaired by Justice Lockhart, and it re-
ported to the government in December 2005.
Justice Lockhart, as we all know, died not
long after that. The Lockhart report made a
number of recommendations, many of them
non-controversial and technical in nature. It
did make a couple of controversial recom-
men
dations, and the one that we are discuss-
ing here is that cloning be allowed for ther-
apeutic purposes—that is, for research, train-
ing and clinical application.

The Prohibition of Human Cloning for
Reproduction and the Regulation of Human
Embryo Research Amendment Bill 2006 puts
in place strict rules to regulate and control
how this cloning takes place. The rules will
govern who is allowed to undertake this re-
search and for what purpose. If this bill
passes, it will not be open slather for any
scientist to undertake this sort of work. This
bill will keep in place the prohibition of
cloning for the purpose of reproduction. That
is, it will remain illegal to clone an embryo
for the purpose of making a person. The
committee’s report has been available to the
government since December last year, and it
is disappointing to me that the government
has chosen not to act on these recommenda-
tions or to even bring them forward for de-
bate. The bill we are debating today is here
because of the actions of individuals, not because of the actions of the government, and I congratulate those individuals.

This bill, if passed, will enable the implementation of this controversial recommendation—that is, it will allow therapeutic cloning for research purposes. And I will be supporting this bill. Before I explain why I am supporting this bill, I want to thank all of those constituents in Isaacs who contacted me about this issue, some urging me to support the bill, others pleading with me to vote against it. Obviously, my decision will not please everyone. I have written to all my constituents who contacted me, to explain my position on this bill. Whilst there have been some sensational arguments put around by some people, I am convinced that the majority of those who contacted me are motivated by real concern for how our society behaves and operates and have strong and genuinely held views on this matter. I want all of my constituents to know that I have arrived at my decision after careful thought and after making sure that I have listened to the arguments from a range of people with a range of views. My decision was not made lightly. I want to thank the many people who gave me and other parliamentarians their time and patience in explaining the complexities and the science behind this issue, as well as those who discussed the moral arguments with us.

In coming to my decision I have deliberately not considered some of the arguments put forward in support of this bill. For instance, an argument I have ignored is that scientists in other countries are already doing this research and we are being left behind; therefore, we must pass this bill and get on with it. I am ignoring the argument that Australian scientists are leaving Australia in order to do this work overseas. I am also ignoring the argument that says that if we do not pass this bill and some Australian state governments do then we will lose the present conformity that exists across the country. Whilst all of these arguments have merit and are important, they are second-order arguments. They are irrelevant, in my mind, until the moral issue is dealt with.

I think it is useful at this point to set out just what we are talking about when we talk about therapeutic cloning. Therapeutic cloning is different from reproductive cloning. Reproductive cloning is cloning for the purpose of developing or making a human being. Reproductive cloning is prohibited by law and will remain prohibited under this bill. Therapeutic cloning, as defined by this bill, is the creation of an embryo through a mechanism called somatic cell nuclear transfer, or SCNT. SCNT is the transfer of a nucleus from one cell to another cell which has had its nucleus removed, thus giving that cell a new genetic imprint. An embryo created by SCNT consists of an egg, unfertilised, with its nucleus removed and replaced by a somatic cell—for example, a skin cell. This embryo is allowed to develop for up to 14 days before it is destroyed. This embryo consists of an unfertilised egg and a somatic cell; it does not involve sperm.

Because these embryos are created in an abnormal manner, it is considered by most scientists that they would not be able to grow into a viable foetus even if they were implanted into a woman’s uterus. I must quickly stress that implantation is forbidden under this legislation. This difference is critical to my decision to support this legislation. When we think of an embryo we normally think of one created by an egg and a sperm for the purpose of making a baby. An embryo created for research using not sperm but a somatic cell is an entirely different type of embryo.

In my mind, the moral argument is whether or not we allow the creation of an
embryo using SCNT—the purpose of that creation being to use the embryo for research which will destroy it. Given the difference between a normal embryo and one created in a different way for research, my decision to support this bill comes down to a balance between the benefits that that research might bring and a reluctance to embark on therapeutic cloning and the destruction of that embryo, although we are not sure of the potential of that embryo for life. To my way of thinking, the balance is that we should allow therapeutic cloning because of the benefits it might bring us. The results of the research are unknown but could be of enormous benefit to many people.

One of the arguments for not supporting this bill is that research involving embryonic stem cells has not produced anything useful at this stage. Research involving embryos has been legal in this country since 2002—just four years. We have only known about embryonic stem cells for eight years; we have known about adult stem cells for 50 years. Research can take many years before a breakthrough happens. It is far too early to make the judgement that embryonic stem cell research is not going anywhere. Let us not forget that penicillin took about 50 years to be developed.

Another argument put forward is that scientists are unable to guarantee results through this research. This is an interesting argument, because research, by its very nature, is an uncertain business. We do not know what research might throw up. In fact, that is the reason we should be undertaking this research. The sensible thing to do, given the potential of this research, as well as the research using adult stem cells, is to enable both avenues of research to be undertaken. This is what this bill will allow.

The embryo created for this purpose is not the same as an embryo created with an egg and sperm. The legislation strictly controls who may do the cloning and for what purpose. At the moment, research is allowed on excess embryos donated by parents on the IVF program. One question often asked, and one that I asked earlier on, is: why can scientists not simply continue using embryos donated from the IVF program, rather than clone them? Embryos from the IVF program, almost by definition, are healthy ones and carry the genes of both parents. They are not genetically matched to the donor, the patient. A therapeutically cloned embryo will carry the genes of the egg donor and the genes of the person who donates the somatic cell, including the disease or impairment under study. Tissue or matter from the cloned embryo is, by definition, matched to the donor.

A cloned embryo carries the genes of the disease or impairment under study. An embryo from the IVF program is a healthy one—it does not have the disease or impairment. The cloned embryo is genetically matched to the patient so that problems of rejection are avoided. An embryo from the IVF program is not genetically matched to the donor, and so the probability of rejection of that material by the patient’s body becomes an issue.

Finally, I want to make a point about how this debate, both here and in the community, has been and is being conducted. This issue is very difficult. We all have to weigh up carefully the issues involved. Some of my colleagues will make a different decision from the one I have made. My decision will please some of my constituents and displease others. In all of this, though, it is important to acknowledge and respect the right we all have, indeed the responsibility we all have, to make the best decision each of us can.

Some of the material, letters et cetera, that has been circulating uses words that suggest that those who are arguing against this bill
have some sort of superior claim on respect for life. For instance, one letter I have received is from a group calling itself the World Federation of Doctors Who Respect Human Life. I am not deliberately picking on that particular group, but it is a good example of what I am talking about.

It is offensive for anyone to suggest that others have a lesser regard for life. We will all have a variety of views about the best way of respecting and protecting lives and we will not, and do not, always agree. I am quite convinced that everyone involved in this debate today cares very much about life and works hard to protect it. To suggest that one group of people has more respect for human life than another group of people is offensive. This assertion does not add to the dignity of this debate. The issue is a difficult one. I have weighed up the moral issue and the scientific issues and have decided to support this bill for all the reasons I have just set out.

Mr GEORGIOU (Kooyong) (1.43 pm)—I wish to compliment the member for Isaacs on a very succinct and pointed speech. The Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 proposes amendments to the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002. These acts contained provisions requiring an independent review of their operations by 19 December 2005. This resulted in the establishment of a review committee made up of leading Australian experts in bioethics, health law and medical research, chaired by the late John Lockhart. The Lockhart committee’s 54 recommendations formed the basis of Senator Kay Patterson’s private member’s bill. This passed the Senate on 7 November 2006 and today is before us in a free vote.

I have listened with interest to my colleagues as they have debated this issue, and I respect the diverse range of views presented and the strength of moral feeling that has been expressed in this parliament, in my constituency and in the community at large. The most contentious part of this bill is that it allows research on stem cells derived from embryos created through somatic cell nuclear transfer. This process involves the removal of the nucleus from a human egg and its replacement with a nucleus derived from an adult somatic, or body, cell that comes from a human donor. If the nuclear transfer is successful, a process of cell division will begin. This will continue for four to seven days, at which time stem cells can be extracted. In allowing nuclear transfer for the purposes of deriving stem cells, this bill permits therapeutic cloning but, upholding the 2002 prohibition, it does not permit reproductive cloning.

To ensure that the embryos are not used for reproductive purposes, this bill prohibits their implantation into the body of a woman and does not allow their development beyond 14 days. Under the bill the penalty for these division 1 offences will be 15 years imprisonment. The cloned embryos will be created specifically for the purpose of furthering stem cell research. Research into stem cells derived from cloned embryos will complement the adult and IVF-derived embryonic stem cell research currently practised in Australia. It will open up a new avenue of stem cell research which may lead to very significant therapeutic applications.

Along with most other members on both sides of the House, I am not a scientist. But, through the Lockhart review and the four other committees that have considered this and related bills at length, we as members of parliament have been presented with extensive scientific expertise and judgement on stem cell research. Scientists are in general
agreement that research into stem cells offers potential benefits to humanity and should be pursued. The reality is that it cannot yet be known which area of stem cell research will lead to the biggest discoveries; however, the promise of stem cells is great. Scientists hope to be able to use therapies derived from stem cells to treat a large number of diseases characterised by tissue degeneration. These include Parkinson’s, Alzheimer’s, stroke, burns, heart disease, spinal cord injuries, type 1 diabetes, arthritis, liver diseases and muscular dystrophies. This bill will increase the chances of this future success by allowing research on stem cells created by nuclear transfer to proceed in Australia.

We have also received a consistent message from scientists that research into the various areas of stem cell technology is complementary and mutually beneficial. It may be that the knowledge we gain from studying adult stem cells, for example, will assist in the development of therapy that ultimately derives from embryonic stem cells or vice versa. The advances in this field are already significant, although it is important to bear in mind, as the member for Isaacs pointed out, that adult stem cell technology has a research history of 50 years and embryonic only eight.

Regenerated cells derived from adult stem cells are already being used to treat leukaemia, lymphoma and several inherited blood diseases. Treatments for diabetes and kidney cancer derived from adult stem cells have also been clinically demonstrated. These advances are very important in themselves; however, many scientists believe that the potential of adult stem cells will be eclipsed by that of embryonic stem cells. Stem cells are the pre-differentiated cells from which every specialised cell in the human body is derived. Under proper conditions it is possible to control the process of differentiation by which stem cells grow into specialised cells, tissues or organs.

Adult stem cells are believed to be generally limited to differentiation within the cell type from which a stem cell derives. Embryonic stem cells, on the other hand, are pluripotent—that is, they have the capacity to grow into any type of cell in the body. Many scientists believe that embryonic stem cells offer a potential that exceeds that of adult stem cells for this reason. There are, for example, vital organs in which adult stem cells have not yet been detected. It has been shown that adult stem cells do not have the ability to form heart muscles, and their capacity to replace neurones is in doubt.

Embryonic stem cells could potentially be used in areas of cell generation in which it may be difficult, or even impossible, to use adult stem cells. It was because we recognised the promise of embryonic stem cells that we decided in 2002 to allow surplus IVF embryos to be used for stem cell research. The current bill endorses that decision by allowing such research to continue. Stem cells derived from somatic cell nuclear transfer contain all the potential benefits of embryonic stem cells. They hold both the promise of pluripotency and endless divisibility, in which a major hope for regenerative cures lies. Moreover, as I have said, there are a number of potential therapeutic benefits that may come from stem cells derived from cloned embryos that could not come from other types of stem cell.

The first of these is their potential contribution to genetically matched cell therapy. A major problem with cell therapy of all kinds is that the new, regenerated cells grown from stem cells are often rejected by the body’s immune system. Potent immunosuppressant drugs are required to combat this. Embryos created through somatic cell nuclear transfer are not produced by the normal process of
fertilisation of the egg by sperm. Instead, through the replacement of the egg’s nucleus with that of a donor, the embryo is almost identical to the donor, since the empty egg carries very little genetic material of its own.

It is this genetic similarity that makes these stem cells so attractive for gene-specific cell therapy. Harvesting stem cells from cloned embryos would make it possible to produce new cells that perfectly match the somatic cell donor. These cells are much less likely to be rejected by that person’s immune system. This could one day provide a key to the treatment of a large number of diseases.

There is a second compelling reason to allow this research. The creation of stem cell lines from diseased cells, rather than from the healthy cells cultivated from surplus IVF embryos, offers researchers the opportunity to study the development of complex genetic disorders. These include diabetes and motor neurone, Huntington’s and Parkinson’s diseases. Studying genetically disordered stem cell lines may lead to improved diagnostic accuracy and to the testing of preventative drugs.

While allowing scientists to pursue avenues of research that may be of great benefit to humanity, this bill prohibits those areas of scientific endeavour that are abhorrent to the overwhelming majority of Australians. These include reproductive cloning, the creation of a chimeric embryo and the implantation of a human embryo into an animal. This bill extends the jail term for all division 1 offences from 10 to 15 years.

In conclusion, I reiterate that most of us are not scientists, but we should be prepared to trust what the majority of scientific and medical specialists in this area are telling us and what the unanimous advice of the Lockhart committee has revealed to us. Nobody knows which avenue will lead to success—stem cells derived from adult tissue, surplus IVF embryos or nuclear transfer. It is important to note that we are not being asked to prioritise or rank the various potentials of these different forms of stem cell research—only to allow them.

I believe that this bill strikes the right balance, as it prohibits practices that are abhorrent to the overwhelming majority of Australians and it allows research to proceed in an area that receives strong community support and which, it is hoped, may one day lead to advancements in our ability to combat diseases that currently cause a great deal of suffering to many Australians. I commend this bill to the House.

Ms ANNETTE ELLIS (Canberra) (1.54 pm)—In speaking to the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 I would, first of all, like to thank everyone from my community who has contacted me with their views on this issue. I can guarantee them that I have read all of the correspondence and the emails sent to me and I have seriously considered all of their views. In all fairness, I also need to say that I have not read all of the emails and correspondence received from other parts of the country. It has just not been possible. My work has been cut out dealing with those from my own community, and I apologise to those who will not be receiving a response from me. I have also attended several briefings on this issue—some providing objective information and others promoting a particular view for or against embryonic stem cell research. I have considered all of this information very seriously. This issue is a very complicated one, and my decision has not been taken lightly. I will be voting for this bill, and I would like to take this opportunity to outline my reasons for this decision.

First, I would like to outline what the bill is about because, unfortunately, throughout
this debate there has been some scaremongering—a little bit of it—and some misinformation thrown around by a few people. This bill is about allowing certain types of research on human embryos that have been created by somatic cell nuclear transfer, or SCNT, which is sometimes called therapeutic cloning. I will avoid the term ‘cloning’ in this debate, because it does, I think, give the wrong impression. SCNT is a better description of the process which involves extracting the nucleus from a somatic cell—for example, a mature cell such as skin cell that is neither an egg nor sperm—and placing it in an egg that has had its own nucleus removed. Although it is correct to call this new entity an embryo, it is very different to an embryo created by an egg and sperm. The Parliamentary Library background note states:

There is little if any potential to create normal human life from a cloned embryo as opposed to an embryo produced through IVF, because of inadequate reprogramming of the donor nucleus. Professor Trounson estimated recently that an SCNT embryo has less than a one per cent chance to develop into a full-term baby. In fact, the bill we are debating today retains existing prohibitions on creating a human embryo by human egg and human sperm for a purpose other than achieving a pregnancy in a woman.

This bill will allow SCNT embryos to develop only up to 14 days and no longer. There will be no circumstances under which an SCNT embryo will be allowed to develop beyond 14 days. I do not have the time here today to outline in detail other provisions of this bill, but they include provisions which strengthen the current regulatory regime on the use of embryos and human eggs and the import and export of a patient’s reproductive material. The bill also requires the minister to report to parliament within six months of the enactment of the bill on the establishment of a national stem cell centre and a national register of donated excess assisted reproductive technology embryos.

I would like to discuss in detail what this bill is not about and what it will not do—particularly because of the many myths that have been raised in this debate. This bill is not about cloning humans. The bill retains the following existing prohibitions: placing a human embryo clone in a human body or the body of an animal; and importing or exporting a human embryo clone. This bill will not allow the cloning of humans, and I would never support such a proposal—and no-one else in here would either. This bill is also not about creating a human-animal hybrid. This bill retains the following existing prohibitions: developing a hybrid embryo beyond 14 days; placing a human embryo in an animal, a human embryo into the body of a human other than into the female reproductive tract or an animal embryo in a human; and importing, exporting or placing in the body of a woman a prohibited embryo. There are very strict regulations around the use of animal-human hybrid embryos, and the development of embryos is not allowed beyond 14 days.

I would now like to discuss briefly how we got to this point and why we are now debating this bill. Currently, human cloning and research fall under two pieces of legislation: the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002. In 2005 the government announced the Lockhart review, which would provide a comprehensive review of those two acts. In December 2005 the minister tabled the report of the Lockhart review. The committee received 1,035 written submissions and heard presentations from 109 people throughout Australia. I can only imagine the passionate and heartfelt presentations that people made on these issues.
The SPEAKER—Order! It being 2 pm, the debate is interrupted in accordance with standing order 97. The debate may be resumed at a later hour and the member will have leave to continue speaking when the debate is resumed.

QUESTIONS WITHOUT NOTICE

Health

Mr Rudd (2.00 pm)—My question is to the Prime Minister and refers to the report of the House of Representatives Standing Committee on Health and Ageing I referred to yesterday, entitled The blame game: report on the inquiry into health funding. Is the Prime Minister aware that the report found that waste and duplication and a failure to invest in prevention costs the health system at least $1.5 billion, and up to $4 billion, every year? Prime Minister, after more than 10 years, why is the Prime Minister and why is the government still refusing to take responsibility for fundamental reform of this country’s health system?

Mr Howard—This country has a health system that essentially operates at three levels. There are those areas where, overwhelmingly, responsibility rests with the Commonwealth, and that is Medicare and the Pharmaceutical Benefits Scheme. It is fair to say that the best friend Medicare has ever had has been the Howard government. My colleague the Minister for Health and Ageing has just announced a major revamping of the Pharmaceutical Benefits Scheme that is going to save the taxpayer hundreds of millions of dollars over the years ahead. It is also going to mean that life-saving drugs are affordable and available. They are some of the areas where the Commonwealth has exclusive responsibility.

Another area is private health insurance. Labor is fundamentally opposed to private health insurance. The member for Lalor, who is still the spokesman on this matter, has made that very clear. It will be very interesting to see whether the dream team jettisons the commitment of the Labor Party against private health insurance. So they are areas where we have exclusive responsibility.

There are areas where the states have exclusive responsibility—for example, the operation of public hospitals. Although we provide about 43 per cent of the funding, the states run them. There are areas where the states and the Commonwealth need to cooperate. Over the last year the levels of cooperation between the Commonwealth and the states in some of these areas have even drawn critical comment from both sides of politics. I have been mildly upbraided by some of my colleagues in the states for being so cooperative with Labor premiers. Some of them have privately confessed to me that they have had a bit of stick from some of you on the front bench for being so cooperative with me. Premiers conferences, to quote the Premier of Queensland, seem to get better and better. The halcyon days of Commonwealth-state cooperation in these areas are the days of the last 12 months of the Howard government.

Let me say to the Leader of the Opposition, ‘Yes, you can always do better.’ We can all do better. But this government has gone out of its way to cooperate with the states. Yesterday I mentioned mental health, where the states are dragging the chain. They have not come up to the crease with their share. We put in $1.9 billion. I want the states to match every last dollar of that—that was the agreement. Queensland is only 50 per cent; the best performing state is Victoria, at 80 per cent; South Australia and Western Australia, ACT and Northern Territory, nothing extra. So let me say to those who sit opposite: talk to your state colleagues and get them to fully cooperate with us and we will have a much better health system.
**Economy**

**Dr JENSEN** (2.03 pm)—My question is addressed to the Treasurer. Would the Treasurer inform the House of the results of today’s balance of payments data release? What does this data indicate about Australia’s economic outlook?

**Mr COSTELLO**—I thank the honourable member for Tangney for his question. I can inform the House that the balance of payments figures for September 2006 were released today. They showed a narrowing of the current account deficit, which has fallen to around 4.9 per cent—possibly less—of GDP, which is significantly lower than forecast in the budget, at 6.25 per cent. The good news is that in current price terms exports increased 1.3 per cent in the quarter and in current price terms imports fell 2.5 per cent in the quarter. The improvement in the trade deficit more than offset the rise in the net income deficit, which was driven principally by the fact that foreign corporations are deemed to repatriate profits that they make in Australia, particularly mining companies.

Net foreign debt increased to $522 billion in the September quarter, but only a very small part of that is held by the Commonwealth government—5.1 per cent, compared to 17.2 per cent in the March quarter of 1996. The Commonwealth is not borrowing in net terms; it is issuing growth securities in Australia. Some of those securities would be bought by foreigners. That is the only way in which the Commonwealth would hold any foreign liabilities at all. Importantly, the debt servicing ratio is at 9.8 per cent in the September quarter, well below the peak of 20 per cent, in 1990.

One of the intriguing matters that has been going on over the last 24 hours is the ‘guess the shadow Treasurer’ competition. We still have not had an announcement. I think the member for Lilley still formally holds the post. Members would have seen footage of the member for Lilley at a dinner with fellow roosters last night—one of those dinners where there were more bottles of wine on the table than people sitting up for the meal. It looked like it was going to be a bad night in roosterville last night. There had been a coup in the coop—what they call a ‘coop d’état’. And the guessing game continues as to whether the ‘coop d’état’ will lead to the member for Melbourne or whether it will lead to the member for Lalor—

**Opposition members interjecting**—

The **SPEAKER**—Order! The Treasurer will resume his seat.

**DISTINGUISHED VISITORS**

The **SPEAKER** (2.07 pm)—I inform the House that we have present in the gallery this afternoon the Hon. John Fahey, a former cabinet minister. On behalf of all members, I extend to him a very warm welcome.

**Honourable members**—Hear, hear!

**QUESTIONS WITHOUT NOTICE**

**Economy**

**Mr RUDD** (2.07 pm)—My question is again to the Prime Minister and refers to the balance of payments figures released today which show net foreign liabilities climbing to a record of nearly 60 per cent of GDP, something that the Treasurer in his most recent answer appeared to greet with smug self-satisfaction.

**Government members interjecting**—

The **SPEAKER**—Order! Members on my right! The member for Sturt! The member for Aston!

**Mr RUDD**—Does the Prime Minister believe that Australia’s net foreign liabilities can continue to increase indefinitely at the rate they have in recent years?

**Mr HOWARD**—I thank the Leader of the Opposition for the question. It really goes to
the heart of an understanding of what the Australian economy is doing at the present time. I can do no better than to quote from the most recent report on the Australian economy by the International Monetary Fund, in which they say:

In conclusion, the sustained current account deficit reflects private sector choices rather than public sector developments. Moreover, high levels of investment are the main cause of Australia’s historical and recent current account deficits. The investment nature of the external deficit is a source of comfort for Australia, especially as indicators such as corporate profitability suggest that investments are generating solid returns.

The statistics released today show that Australia’s foreign debt was $522 billion in the September quarter 2006, and 98 per cent of that is attributable to the private sector. The reason that 98 per cent is attributable to the private sector is that we no longer run budget deficits in this country. We stopped doing that years ago. We inherited, dare I say, a ‘bucketload’ of debt when we faced that ‘fork in the road’ in March 1996 and we went down the path of debt retirement and the elimination of budget deficits. As a result, our foreign liabilities are 98 per cent accounted for by the private sector. It is all about the nature of the economy. It is all about the fact that, historically, this country has imported foreign capital. We are running a very strong investment economy and, as the IMF reports, that is a source of comfort for Australia, not a source of concern.

**Drought**

**Mrs HULL** (2.10 pm)—My question is to the Deputy Prime Minister and Minister for Transport and Regional Services. Would the Deputy Prime Minister inform the House how the government is helping regional communities, including irrigation communities, who are struggling with the drought, especially in my electorate of the Riverina? What is the government doing to help small businesses who are also affected by this drought?

**Mr VAILE**—I thank the member for Riverina for her question. I know how deeply she feels for her constituents who are suffering from arguably the worst drought that Australia has ever had. We are now aware that over 50 per cent of Australia’s agricultural land has been declared in drought exceptional circumstances and, therefore, the people who live in those areas are eligible for assistance from the Commonwealth government.

Importantly, we have not welshed on our responsibility to support farmers in need during this drought. Almost 95 per cent of the support given to the rural communities in those areas is coming from the federal coalition government. That spending could be up towards $7-odd million per week to assist those families to keep food on the table and with basic household support, and, just as importantly, with interest rate subsidies to ensure that their farming businesses get through the devastation of drought so that they are there to produce for the economy in the future. These are the two key elements that are part of our drought exceptional circumstances support and the package we announced early in the piece to give confidence to the rural sector.

Also, last month the government announced that it would extend exceptional circumstances support to small businesses in drought affected communities which derive over 70 per cent of their income from the agricultural community. That is relief for an estimated 5,000 businesses, which range from contract harvesters to feed producers and fertiliser suppliers. We have extended that support to the business community to ensure that the economic and social fabric in those rural communities, such as in the Riverina, are held together during this drought.
I mentioned that our government is providing about 95 per cent of the support going to rural communities during this drought. We should not let the state Labor governments off the hook in their responsibilities to assist their communities. Whilst the state governments across Australia continue to shift costs, we will continue to shift the blame onto them so that people will know about the responsibilities they are abrogating. We know what has been going on in New South Wales: it was made very public at the time of our announcement of our measures to support drought-stricken farmers that some of the assistance we were providing through interest rate support the New South Wales government were trying to claw back in water charges to irrigators in New South Wales, who were not receiving any of the water. The New South Wales government should hang their heads in shame for that, and they should do more to support the farming community in New South Wales.

We know what the Victorian government did during the 2002-03 drought, when they promised measures in the lead-up to the election in 2002: straight after the election, when they had been re-elected, they withdrew those measures. So we are watching the Bracks government very closely as to what they are doing about their announced measures and commitments to farmers suffering from drought in regional Victoria. Let there be no mistake about this: the public in Australia need to know that the state Labor governments are not currently doing their bit to help out the rural communities of Australia.

We are a wealthy nation that has prospered because of the good economic management from the federal coalition government. That has given us the ability to continue to support our regional communities in the way that we have. We are not going to stand by and let the state Labor governments not do their bit in their areas of responsibility or, in terms of the New South Wales government, try to claw back some of the financial assistance that we are providing to farmers in their hour of need.

DISTINGUISHED VISITORS

The SPEAKER (2.14 pm)—I inform the House that we have present in the gallery this afternoon members of the Parliamentary Portfolio Committee on Safety and Security from the Republic of South Africa. On behalf of all members, I extend to them a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Economy

Mr RUDD (2.15 pm)—My question again is to the Prime Minister. It refers to the Deputy Prime Minister’s answer to the previous question and to the Treasurer’s recent comments on the drought when he warned:

The June quarter national accounts showed that farm GDP fell 2.3 per cent. If we had a 2.3 per cent fall in GDP generally, that would be a very, very severe recession.

Prime Minister, given the fact that the June accounts also show a 2.4 per cent contraction in the manufacturing sector over the past year, including three consecutive quarters of negative growth, doesn’t this mean by that logic that there is a manufacturing recession in Australia as well?

Mr HOWARD—No. For the edification of the Leader of the Opposition, there will be some national accounts figures coming out tomorrow.

Mr Pyne interjecting—

The SPEAKER—The member for Sturt is warned!

Fiji

Mr GEORGIOU (2.16 pm)—My question is addressed to the Minister for Foreign Affairs. Would the minister update the House
on the latest developments in Fiji? How will the government respond?

Mr DOWNER—I thank the honourable member for Kooyong for his question and his interest. It is clear that there is what you might describe as a ‘creeping coup’ taking place in Fiji. Commodore Bainimarama is increasingly gaining control of Fiji. I can only say that we in the Australian government regard that as a tragedy. We strongly condemn the attempt to overthrow a democratically elected government—a government that was elected during the course of this year in a free and fair election, as observed by a number of members of this House.

Commodore Bainimarama has given many reasons for wanting to remove a democratically elected government. But I note with interest that one of his reasons—one of his demands—is the dropping of investigations into the commander of the Republic of Fiji military force, Commodore Bainimarama. There are investigations into Commodore Bainimarama himself and other senior officers in relation to the death of five army officers in November 2000. Commodore Bainimarama has continually demanded that the government terminate these investigations. These investigations are being conducted by the Fiji police. If the investigations come to a conclusion and it is then referred to the Director of Public Prosecutions, then that is a matter that should be considered by him. And if there is to be a prosecution, that is a matter that should be considered by a court. That is normal in any law abiding country. But Commodore Bainimarama is demanding—and it is one of his nine or so demands—that these investigations cease, and of course the Prime Minister has refused to do that.

Commodore Bainimarama might like to be reminded that the response from the international community to a coup will be swift and it will be sharp. There will be severe consequences for Fiji’s economy and for its standing internationally if this coup continues. We have made it very clear—as have the New Zealanders, very importantly, as well as the Americans, the British, the EU and others—that we will be taking measures against Fiji. The UN, the Commonwealth and the EU have all urged restraint, but it seems that Commodore Bainimarama is impervious to good advice.

If this coup proceeds and the Prime Minister and his government are forced to resign—and it increasingly looks as though that will be the case—then we will ban all travel to Australia by Commodore Bainimarama, his family and other supporting members of the Republic of Fiji military forces. We will ban all travel to Australia by people and their families who participate in an unconstitutional government that might be set up to replace the democratically elected government. We will also immediately suspend all aspects of our defence cooperation program with Fiji, and we will encourage other countries to impose similar penalties. I know that New Zealand, whose circumstances with Fiji are a little different from ours, will in effect do similar things.

The Secretary-General of the United Nations has warned of implications for the standing of Fiji military personnel in international peacekeeping. The Commonwealth Ministerial Action Group will meet to consider Fiji’s suspension from the Commonwealth during the course of next week. I note also that, in October this year, Fiji assumed the chairmanship of the Pacific Islands Forum. It is hard to see, if this coup continues, how Fiji could continue to chair an organisation which has called for the continuation of democratically elected governments. Also, we particularly condemn the activities of the President of Fiji, who appears to have thrown his support behind an illegal coup,
instead of upholding the constitution, the rule of law and the democratically elected government.

Finally, in relation to Australians in Suva, those who are concerned about their safety should consider leaving. We have Australian Defence Force personnel at the ready to assist with their departure if that proves to be necessary. At this stage, we do not expect there to be substantial outbreaks of violence which might affect Australians or that Australians will be targeted. But, having said that, we should not be complacent. We should make sure that we focus very much on ensuring that Australians are safe and that we have the assets ready to protect them and to evacuate them if that proves necessary.

**Health**

**Mr Rudd** (2.22 pm)—My question again is to the Prime Minister. It refers once again to this important parliamentary report entitled *The blame game: report into health funding*. Is the Prime Minister aware that the government chair of the committee, the member for Fairfax, gave the committee an example of his 80-year-old constituent, a Mrs Smith, who had waited five years for a hip replacement, and went on to explain that because of the blame game he was unable to help Mrs Smith? Isn’t the member for Fairfax right when he says, ‘This is just ridiculous’? Prime Minister, if your own federal backbench are telling you this after 10 long years in office, why has the Prime Minister refused to take responsibility for ending the blame game and fixing the federation in this fundamental area of national reform?

**Mr Howard**—I am absolutely certain that the member for Fairfax would mean anything he said, because he speaks for his Queensland constituents with great eloquence. But I would have thought that what the Leader of the Opposition said is a very significant indictment of the Queensland Labor government. It is as simple as that. In the time that we have been in office, we have dramatically increased our spending on health. Just over one-fifth of the federal budget is to be spent on health and ageing in 2006-07. That is more than double the figure 10 years ago. GP bulk-billing rates are up to 76.9 per cent. We have spent more than $4 billion over five years on ‘Strengthening Medicare’, including the payments for bulk-billing children and concessional patients, and the safety net now covers 80 per cent of out-of-pocket non-hospital costs above the threshold. The Labor Party is against the safety net.

**Ms Julie Bishop**—That’s right.

**Mr Howard**—The minister for education says, ‘That’s right.’ She confirms that Labor is against the safety net. The safety net has been a life raft to Middle Australian families because it means that, if you have an unexpected accident—if one of your children has a broken limb, you have to take them to consultations and you incur expenses over and above the normal—once you hit a very modest level of a few hundred dollars, you get back 80 per cent of everything you have had to outlay on that injury. Labor wants to abolish that. I cannot think of anything that would hurt the constituents of Fairfax more than the abolition of the safety net. Talking about the blame game: to abolish the safety net is to blame the patient for getting injured, and that basically is what Labor is all about. I suggest that, before the Leader of the Opposition asks further questions about health, he does a speed-reading course of his own party’s policy.

**Superannuation**

**Mr Broadbent** (2.25 pm)—My question is addressed to the Treasurer. Would the Treasurer outline to the House how proposed reforms to superannuation will help Austra-
lians lock in plans for their retirement years? Why is this so important for the future?

Mr COSTELLO—I thank the honourable member for McMillan for his question. I can tell him that the government’s simplified superannuation scheme is to take effect on 1 July next year, and the legislation will be introduced into this House this week. We are yet to hear from the Labor Party whether it actually supports simplified superannuation. The reforms will sweep away a host of complex tax provisions. They will improve incentives to save. They will increase retirement incomes, and they will strengthen incentives for older Australians.

In the vast majority of cases, for the 90 per cent of Australians in taxed superannuation schemes, there will only be one provision of the law that applies to them—the provision that says that, after 60 years of age, there will be no tax on their end benefits, no tax on their lump sums and no tax on their pensions. For an Australian who retires after 60 and whose superannuation is in a taxed fund—which 90 per cent of Australians are in—that is the end of their taxation liabilities. As the superannuation industry itself has noted, this is the biggest reform to superannuation in its history. This makes superannuation comprehensible, and it increases incentives to save.

In addition to that, there will be a 10 per cent tax offset for those who are in untaxed funds so as to give them near equivalent treatment to the abolition of taxes for those coming out of taxed funds. There will be a halving of the pensions assets taper test, from $3 to $1.50 per fortnight, which means that, for many Australians on the pension who are currently asset tested out of the pension or out of part of a pension, they will have the opportunity to continue under a much fairer assets test.

The reforms will provide extensive benefits for the self-employed—a 100 per cent tax deduction—so that those self-employed Australians who want to put away money for their retirement will have full equivalent taxation treatment, as they would have if they were employees and they could get a full tax deduction for their contributions.

It is important that these reforms go through the House with bipartisan support. Let me explain why. If these reforms are opposed by the Labor Party then people will not have confidence to lock away money—in some cases for 20, 30 or 40 years—because of the fear that Labor could get elected at any time in the next 20, 30 or 40 years and could change the taxation system adversely against them. We need to have a clear and unequivocal statement from the Labor Party that they will not interfere with this foresight, with this far-reaching reform to superannuation, so that Australians can have confidence to save. I call upon the new Leader of the Opposition to put aside the failures of the opposition up until now, to come out and make it clear, to state in unequivocal terms that these reforms will be kept in place under any future Labor government, because Australians need the certainty to invest in their superannuation.

Distinguished Visitors

The SPEAKER (2.30 pm)—I inform the House that we have present in the gallery this afternoon the Hon. Gary Punch, a former minister. On behalf of all members, I extend to him a very warm welcome.

Honourable members—Hear, hear!

Questions Without Notice

Medibank Private

Mr RUDD (2.30 pm)—I refer to the Senate’s passage of legislation today which will allow the Howard government to sell off Medibank Private. Why is the government
prepared to rush this legislation through but fails to act on the long-term problems identified in the *The blame game* report? Why doesn’t the government instead start to fix this critical area of the federation that demands fundamental reform?

**Mr HOWARD**—Let me say a couple of things about the sale of Medibank Private. It has been an enunciated and longstanding policy of the government and it is appropriate that the legislation go through. The government has explained its reasons. We believe that it will contribute to the strengthening of private health insurance. We believe in more competition. We believe in private health insurance. The Labor Party believes in neither.

In relation to *The blame game* report, in a federation where areas of responsibility are divided between the Commonwealth and state, the Commonwealth should properly fund its responsibilities and the states should properly fund their responsibilities and the two levels of government should cooperate in areas where joint service delivery is required. If you look at the policy and practice of this government, you see that that is what has occurred. Moreover, we have endorsed the states, through the GST, with unprecedented levels of revenue for them to spend according to their own discretionary judgement. The Leader of the Opposition talks about cooperative federalism. I am informed by the Chair of the Standing Committee on Health and Ageing, the member for Fairfax, that the Queensland government refused to cooperate in the compilation of that report.

**Workplace Relations**

**Mr HAASE** (2.32 pm)—My question is addressed to the Minister for Employment and Workplace Relations. Is the minister aware that the Australian Mines and Metals Association has estimated that abolishing Australian workplace agreements could result in Australia losing $9.8 billion in export revenue each year? What is the minister’s response?

**Mr ANDREWS**—I thank the member for Kalgoorlie for his question. In answering it, I note that the unemployment rate in the electorate of Kalgoorlie stands at 3.4 per cent—3.4 per cent in that vast electorate covering much of Western Australia. That is good news for tens of thousands of workers and the families in the electorate of Kalgoorlie.

The member for Kalgoorlie asked me about an estimate from the Australian Mines and Metals Association—the association which represents all major mining and resource operators in this country and therefore an association which is very much at the core of the economic success of Australia at the present time. AMMA has estimated that the resources sector alone in Australia would lose between $6.6 billion and $9.9 billion of export revenue annually if Australian workplace agreements were abolished—up to almost $10 billion annually in lost revenue by this policy to abolish Australian workplace agreements.

**Mr Tanner**—Let’s make it a cool trillion!

**The SPEAKER**—The member for Melbourne is warned!

**Mr ANDREWS**—We have a robust economy which has been created by good economic management, by dint of hard work of this government and the people of Australia, and that has led to these sorts of outcomes for the Australian economy and Australians. Yet at every turn the Leader of the Opposition, the Labor Party and the unions have opposed the reforms that have brought about this economic powerhouse in Australia. On the one hand we have the opposition opposing all the reforms that have brought about economic success to Australia and on the other hand we have the Howard government putting in place a framework of oppor-
tunity that has been to the benefit of Australian workers and their families.

For families this has meant improved wages; it has meant 165,000 new jobs created in the last eight months in Australia—not just the 3.4 per cent unemployment rate in the electorate of Kalgoorlie. We have seen people making use of expanded opportunities for themselves and being increasingly prepared to take risks in expanding their businesses—small businesses, microbusinesses, medium businesses and large businesses. If we want to continue to enjoy the fruits of this prosperity in Australia, we have to be prepared to allow people to succeed—to allow people to get out and have a go, as they have over the last 10 years. That is what Australians are doing increasingly because of the economic framework that has been put in place in this country. Yet the Leader of the Opposition has recommitted the Labor Party to abolishing Australian workplace agreements, which, in a single stroke, would wipe out up to $10 billion worth of export revenue from the resource sector of Australia.

Opposition members interjecting—

Mr ANDREWS—The reaction of members opposite paints a very stark picture. They are prepared to joke about and mock the mining industry in Australia—one which, on the other hand, they claim is the basis of our economic performance at the present time. Why would they abolish these agreements? We heard again yesterday—even before the new Leader of the Opposition had been selected by the Labor Party caucus—Sharan Burrow on the airwaves saying clearly, ‘There won’t be any change in the industrial relations policy.’ We have had John Robertson and Joe de Bruyn, all the heavies from the labour movement, saying, ‘Kevin Rudd, the Leader of the Opposition, will do what we tell him.’ This would be disastrous for Australia. Labor cannot be trusted to keep the Australian economy strong. The reality is that there may be a new leader but it is the same old Labor.

Health

Ms GILLARD (2.37 pm)—My question is to the Prime Minister. I refer the Prime Minister to the remarks of his Minister for Health and Ageing on 4 September 2005. He said:

… sooner or later the blame game has got to end and the only way that that will happen is if one level of government is in charge.

Of course he was referring to our health system. Prime Minister, why is your health minister wrong?

Mr HOWARD—I think the blame game should stop, and the blame game stops when each level of government properly funds and properly operates—

Mr Ripoll interjecting—

The SPEAKER—The member for Oxley is warned!

Mr HOWARD—the responsibilities given to it by the Australian Constitution. That is where you stop the blame game. Let me make it very clear. My colleague—my esteemed colleague, my valued colleague; a colleague for whom I have great affection—the Minister for Health and Ageing has said things about the Commonwealth taking over public hospitals. That is not my view. I believe state hospitals are best run by state governments, and if you are interested in cooperative federalism the last thing you do is give total responsibility to the Commonwealth government for fundamental areas like health.

Mr Hatton interjecting—

The SPEAKER—The member for Blaxland is warned!

Mr HOWARD—if you moved all of health and all of education to the federal government, you might as well wind up the
federation. Let us inject a little bit of reality. I have never disguised the fact that if we were starting this country again we would not have the system of government we have, with states and the Commonwealth, but we are not starting it again. We are charged with the pragmatic responsibility of making the thing work well. You make it work well, irrespective of the political composition of the governments in power at a state and federal level. You make it work well by the Commonwealth doing the things it is meant to do, and we are certainly doing that with Medicare.

Nobody knows that better than the member for Lalor. She has been pretty quiet on Medicare over the last couple of years. My colleague has done such a good job—with a lot of help from the Treasurer, who has written out quite a number of cheques for Medicare—that we are the best friend Medicare has. We are the only friend that private health insurance has. Private health insurance is an orphan as far as Labor is concerned. My advice to the member for Lalor, the putative spokesperson on industrial relations—I do not think she is going to do Treasury—is: if you want the federation to work better, stick to your last. Get the states to do better what they are meant to do. Follow what we are doing—get the states to better fund their responsibilities in areas like health and education—and we will all live happily ever after.

Medicare: Bulk-Billing

Mr SOMLYAY (2.41 pm)—Not surprisingly, my question is to the Minister for Health and Ageing. Would the minister update the House on the success of Strengthening Medicare’s initiatives, particularly bulk-billing in Queensland? Is the minister aware of any alternative policies?

Ms Owens interjecting—

The SPEAKER—The member for Parramatta is warned!

Mr ABBOTT—I thank the member for Fairfax for his question and I note the extremely thoughtful and intelligent report that his committee has produced. I also observe that the GP bulk-billing rate in his electorate has increased by almost 10 percentage points in the last year. So, whatever is going wrong with state public hospitals in the electorate of Fairfax, there is nothing wrong with federally run health programs in this area.

This government does not just talk about Medicare; it invests the money needed to make a good system even better—no less than $48 billion in health and ageing programs in the current financial year. Since Strengthening Medicare was introduced in December 2003, nationally the GP bulk-billing rate has gone up by more than 10 percentage points and overall bulk-billing rates are now significantly higher than they were in 1996. Since 2003, GP bulk-billing rates in Queensland have increased by almost 13 percentage points. All this seems to have escaped the new Leader of the Opposition, who earlier this year said that bulk-billing rates in his electorate continued to head in the wrong direction. In fact, since 2003 the GP bulk-billing rate in Griffith has increased by more than six percentage points; so I suggest that one fork in the road that the new Leader of the Opposition might be inclined to take is to tell the truth in health—or perhaps that is a bridge too far for him.

Yesterday the opposition leader promised that Labor would have some new health policy in the days ahead, and I want to congratulate him for this, because since Medicare Gold was ignominiously withdrawn Labor has officially been a health policy free zone, for more than 200 days. He could start, as the Prime Minister has said, by pledging support for the Howard government’s Medicare safety net, which last year helped nearly 12,000 people in his own electorate. I can understand why the new Leader of the Oppo-
sition is terrified of making the author of Medicare Gold his shadow Treasurer, but the member for Lalor should not be allowed to wimp out of this challenge. She should not be allowed to wimp out of the challenge of being the shadow Treasurer. She should be given the chance to shine in Treasury, just like she shone in health—and hasn’t she shone in health? I leave it to caucus members opposite to judge just how brilliant she has been.

Wheat Exports

Mr WINDSOR (2.44 pm)—My question is to the Deputy Prime Minister and relates to the future of the Australian wheat industry. Deputy Prime Minister, further to your commitment to a Victorian wheat rally earlier this year of a poll of all growers if changes were proposed to wheat export arrangements, and given your statements earlier today that ‘Wheat growers are the people that matter,’ and ‘A full consultative process with industry will take place, importantly with growers,’ will you guarantee that a properly constituted poll of all registered wheat growers be undertaken on the various options being considered in relation to the single desk before any cabinet decisions are taken?

Mr VAILE—I thank the member for his question. As the government has clearly indicated from the outset on this very important issue, as far as wheat growers are concerned, we are going to consult widely with the industry. We have the tried and true mechanisms for seeking the views of growers both directly and indirectly through their peak body organisations, many of whom have been working with the government over a period of time during the course of this year.

I can assure the member, all members of the House and particularly the wheat growers of Australia that the government is not going to take any decisions in terms of locking in future arrangements until we have drawn in the views of all players in the industry. I did say at the press conference that the views of growers are the most important thing, because it is the wheat growers of Australia whose product we are talking about and not the entities that manage it or market it; it is the growers and their families who are important here. In many parts of Australia they are currently facing extreme circumstances with the drought, and the government are certainly going to look after their interests with what we do as we move forward in this very challenging circumstance. So, of course, we will use all the mechanisms available to us to seek the views of growers, industry organisations and industry representatives.

Uranium Exports

Mr TOLLNER (2.46 pm)—My question is addressed to the Minister for Industry, Tourism and Resources. Would the minister advise the House of the progress of Australia’s uranium export industry? Is the minister aware of any barriers to its continued growth?

Mr IAN MACFARLANE—I thank the member for Solomon for his question and acknowledge his very strong support of the uranium industry in Australia and also the fact that 100 per cent of uranium exports in Australia are shipped through the port of Darwin.

Mr Martin Ferguson interjecting—

Mr IAN MACFARLANE—That is the Labor Party for you, isn’t it? It is no secret that uranium is emerging as one of Australia’s promising export industries.

Mr Martin Ferguson interjecting—

Mr IAN MACFARLANE—Martin, we know what you said. It is in the report and I am going to quote it in a minute. Australia’s
uranium exports have reached a record $573 million in 2005. Of course, Australia has bucketloads of uranium—some 40 per cent of the world’s known uranium reserves and the potential to take an even larger share of this export pie.

Despite all this potential, Australia’s future as a uranium exporter is by no means assured. A recent ABARE report identified 13 uranium projects in Western Australia, Queensland and South Australia that are stalled by state Labor laws and regulations, which are supported, of course, by the federal Labor Party. Without changes to these Labor policies, ABARE estimates that Australia’s share of the booming global market for uranium will fall to just 19 per cent by the year 2015. Clearly, reform is needed. As usual, when the Labor Party faces a policy challenge, it is divided. In one corner we have the member for Grayndler, who continues to cling to an outdated no new mines policy.

Mr Martin Ferguson interjecting—

Mr IAN MACFARLANE—Of course, in the other corner is the member for Batman, who yesterday, with his colleagues the member for Blaxland and the member for Lyons, backed the finding of the bipartisan report into Australia’s uranium industry. This report of the House of Representatives Standing Committee on Industry and Resources unanimously concluded:

... the current restrictions on uranium mining are illogical, inconsistent and anticompetitive.

The report goes on to say:
Restrictions have impeded investment in the industry, and have resulted in a loss of regional employment and wealth creation opportunities ... The only beneficiaries of restrictions are the three existing producers and foreign competitors. The report goes on to say:

... state policies that prevent development of new uranium mines should be lifted and legislative restrictions on uranium mining and exploration should be repealed.

To borrow a phrase, the Labor Party has reached a fork in the road. It has to choose between continuing with an ideology that is completely outdated and irrelevant or following what we on this side of the House believe in: allowing the uranium industry to expand and create exports, jobs and opportunities for Australians.

Oil for Food Program

Mr RUDD (2.50 pm)—My question is to the Prime Minister. Can the Prime Minister confirm that the coalition went to the last election with an ironclad commitment to maintain Australia’s single-desk marketing arrangements for wheat? Doesn’t the Prime Minister’s statement today that he has mixed views on the future of the single desk mean that this clear-cut election commitment may now be about to be ditched? Prime Minister, hasn’t the failure of the succession of National Party agriculture ministers to provide proper oversight of AWB’s use of this legislative monopoly, especially during the $300 million wheat for weapons scandal, thrown the whole future of the single desk and this industry into doubt?

Mr HOWARD—Let me say that I have had every confidence in the ministers responsible for agriculture who have served in my government. It is no accident that all of the agricultural areas of Australia and all of the great wheat-growing areas of Australia are represented by either members of the Liberal Party or members of the National Party. That says something about the attitude of the people who count.

I am aware of the policy that we took to the last election. I am also aware, as I have said repeatedly, of the need, especially in the wake of the Cole inquiry, to look again at our marketing arrangements. I am intrigued if implicit in the Leader of the Opposition’s
question is the idea that the status quo should be absolutely maintained without any change. That is a very, very interesting proposition. No doubt we will hear a little bit more.

But, as the Deputy Prime Minister and I announced this morning after the joint party meeting had approved the government’s proposals, there will be a period of very extensive consultation. All of the options will be on the table and, after we have consulted people, we will make a decision. In the meantime we are going to legislate—and I would assume that the Labor Party will support this legislation—to transfer the veto, which now is held by the AWB(I), for a period of six months to the minister. He will exercise that power, that discretion, as appropriate in consultation with senior ministers. This, in fact, is to put the government in a proper position to deal with the situation of Western Australian wheat growers and the concerns they have about current export arrangements.

I assume that the Labor Party will vote in favour of this change, because this change will facilitate a resolution of the issue which is of concern to Western Australian wheat growers but in a manner that is fair to other wheat growers in other parts of Australia who have delivered their bulk wheat into the pool under current arrangements. I am fascinated, because implied in that question from the Leader of the Opposition is his belief that we should not even look at the existing arrangements, even in the wake of the Cole inquiry. I am staggered that that should be the view of the Leader of the Opposition.

**Families and Community Services**

**Mr RICHARDSON** (2.54 pm)—My question is addressed to the Minister for Families, Community Services and Indigenous Affairs. What initiatives to assist pensioners, carers and other Australians will come into effect from 1 January 2007 ensuring families in my electorate of Kingston and right across the nation are able to share in the benefits of our strong economic performance?

**Mr BROUGH**—I thank the member for Kingston for his very strong and passionate advocacy for the families in his electorate of Kingston, in areas such as Seaford, Morphett Vale and Hallett Cove. He recognises that it is important that you have to do more than just speak about family values; you have to deliver for Australian families.

From 1 January, many of the families in his electorate, and many from around Australia, will benefit from a range of increases to payments, such as the 366,000 people who receive the carer allowance. They will receive an increase to $98.50 per fortnight for that caring responsibility. Recipients of Austudy will have an increase. This will assist some 29,000 students, while 274,000 students receiving a youth allowance will also receive an increase. Twenty-one thousand single people under the age of 21 receiving the disability support pension will also receive a fortnightly increase. There will be increases to the double orphan pension and the mobility allowance. All of these are very significant and important additional resources and assistance being provided to these families, and it is a practical way in which the Howard government can assist them.

Also from 1 January, legislation ensuring a fairer assets test to those living in rural and regional parts of Australia comes into effect. Commonly known as curtilage, this very practical measure will help aged pensioners, carer payment recipients and the veterans community to be able to stay on the properties that they have lived in for over 20 years, where they have a close affinity with that land, and not have more than two hectares
used towards the assets test. This measure alone will help some 10,000 people, who will benefit directly from being able to stay in the house that they have been a part of for such a long time, and not reduce their benefits through Centrelink.

Of course, as the member for Kingston knows, the Howard government now is delivering over $16 billion in family tax benefits, another $9.5 billion over the next four years in support for child care and a range of other very practical measures on the ground assisting families, strengthening them through things such as the Stronger Families and Communities program. Our tax system under the Howard government is unapologetically supportive of Australian families. I say to the opposition and I say to all Australians that the Howard government do not just talk about family values; we deliver in a very practical manner to Australian families, providing them with the opportunities to build a better future for their children.

**Workplace Relations**

Mr Rudd (2.57 pm)—My question is again to the Prime Minister. How does the Prime Minister reconcile his assertion that the Liberal Party is the party of family values with the fact that, under the government’s industrial relations legislation, Australian mums and dads can now be required to work more than the standard 38-hour week and not be paid overtime? Prime Minister, isn’t it the case that the government’s industrial relations legislation means that mums and dads cop it both ways: no compensation for longer working hours and less time with the family? Prime Minister, isn’t it the case that the government’s IR legislation is a further fundamental assault on Australian families?

Mr Howard—The short answer to the question is no. In fact, it is no, no, no. The slightly longer answer is that, if you look at the aggregate benefits of our industrial relations changes over the last 10½ years, they are manifestly pro family. I have never made the assertion that the only people in the community who are interested in happy and stable families are members of my two parties; family life is important to all Australians. I would not be so absurd as to make a claim to the contrary. But I do make the entirely reasonable claim that over the last 10½ years we have deliberately followed policies which have been designed to help Australian families.

One of the oddest claims that have been made over the past few days is that we have followed some kind of social Darwinism in our attack on Australian families. Indeed, the reverse is the case. I have occasionally read some commentators, who could loosely be called to be on the economic right of the debate in Australia, attack me for having been too generous to Australian families. They have attacked the family tax benefit system and they have attacked some of our childcare policies, but I welcome those attacks because they have been a reminder that the government I lead has governed very much for the great mainstream of Australian families. If you look at the way in which our family tax benefits have burgeoned, if you look at the extraordinary performance in the area of unemployment and if you look at the fundamental changes to Medicare which have been outlined by me and the health minister over the last few minutes—the boosting of bulk-billing, the introduction of the Medicare safety net and the funding of private health insurance—all of these measures, so far from undermining families, have been profoundly pro family.

I have said before, and I will repeat it again, that the proudest boast that I was able to make in the last election campaign was when I opened the Liberal Party’s campaign in Western Sydney and I said that under the government I led we had done more for the
workers of Australia than a Labor govern-
ment could ever have dreamt to have done. We had given them lower interest rates, we had given them and their children more jobs and we had boosted family support.

I welcome any debate on support for families because nothing has driven me more consistently over the last 10 years than a de-
sire to profoundly advantage the families of Middle Australia. It has meant more to me than anything else and it remains at the core of my political being. I welcome any debate on that particular ground.

Family Relationship Centres

Mr MICHAEL FERGUSON (3.01 pm)—My question today is addressed to the Attorney-General and it relates again to families. Attorney-General, would you in-
form the House of progress on the govern-
ment’s actions to help families in the various stages of their relationships?

Mr RUDDOCK—I thank the honourable member for Bass for his question because it gives me an opportunity to demonstrate that the government’s approach in relation to families is not one-dimensional. We have rolled out the first 15 of some 65 family relationship centres. I might say that they have been extremely well received. In the first four months of operations, those centres have received over 13,600 phone calls, had 3,700 people visit a centre, conducted more than 5,300 interviews and intake sessions and had more than 1,900 dispute resolution sessions. We are currently in the evaluation phase for tenders for the next 25 centres, including, I might say, the centre proposed for Launceston in the electorate of the member for Bass.

The government is delivering on its prom-
ise to provide important services to Austra-
lian families. Despite the rhetoric from the doomsayers on the other side, the next 25 family relationship centres are on track to open on time, just like the first 15. While others have focused on attacking the rollout of these valuable services, we have been working hard to ensure that they are avail-
able to as many people as possible. We have certainly seen the hard work of staff at the centres to ensure that that has happened, and that is to be commended. Notwithstanding Labor’s criticism of these centres from day one, experience has shown that they have been embraced by the community. The community has welcomed our vision and realised that we are the only ones willing to tackle the difficult issues relating to family law reform, keeping families together and, if that is not possible, resolving as amicably as possible issues that might be in contention. I urge all members, particularly those oppo-
site, to embrace the next round of tenders, which will see these valuable services available to even more Australians.

Workplace Relations

Mr RUDD (3.04 pm)—My question is again to the Prime Minister and refers to the question of the future of Australian families. Is the Prime Minister aware of a report re-
cently released by the Melbourne Institute which documents that more than one million Australian employees are working more than 50 hours a week and more than half of these workers are unhappy about it? How can the Prime Minister claim to support family val-
ues with this 24/7 industrial relations system, given that it places even more pressure on working parents and families?

Mr HOWARD—I am generally aware of that report. I am also generally aware of the fact that we have the lowest unemployment rate in 30 years. The Leader of the Opposi-
tion is inviting a debate on the relative posi-
tion of Australian families. He attacks our Work Choices legislation without acknowl-
edging in any way a number of fundamental
changes that have occurred in the Australian community over the last 10½ years. The fact is the foundation of economic security for any family is a secure job for the breadwinner. As Tony Blair rightly said, and it should pass into the federal political lexicon in this country, fairness in the workplace starts with the chance of a job.

On that measurement, there has been no fairer government to the families of Australia than the government I have led over the last 10½ years because the relative improvement in unemployment in this country has been more dramatic under this government than under any government, I believe, since the end of World War II. If you go beneath those figures we see other improvements. Long-term unemployment was the lowest on record in October of 2006. This is the hardcore unemployed. There are thousands of children living in families that still have two parents out of work. The long-term unemployment rate is the lowest on record and it is 117,000 lower than it was 10 years ago. In families with children under 15 years, joblessness has fallen from 18.9 per cent in 1993 to some 14.1 per cent now. We have seen dramatic increases in real wages.

May I remind those who sit opposite that, when they last had the responsibility for caring for Australian families, the real wages of those families fell by 0.2 per cent over a period of 13 years. What sort of justice did Labor deliver to the one million people who were thrown out of work with the recession we had to have? We have seen a rise of 16.4 per cent since March 1996 in the level of real wages in this country.

The great virtue of our industrial relations policy is that it has laid the groundwork for further prosperity into the future. It is the case that tomorrow’s prosperity can only be built off the back of today’s reforms. Those who would wind back our reforms are condemning us to a less prosperous future. We brought in Work Choices because we believed it would add to the strength and productivity of the Australian economy. The evidence to date bears that out—the number of additional jobs, the fall in strikes and the continued increase in real wages. Those who believe in a secure, prosperous future support Work Choices. Those who would take us back to a union dominated past oppose it. The Leader of the Opposition has made it perfectly clear that he falls into the latter category.

**Family Assistance**

*Mr HENRY* (3.08 pm)—My question is addressed to the Minister for Human Services. Would the minister inform the House how family assistance offices are delivering better services to the people of Australia, particularly in my electorate of Hasluck?

*Mr HOCKEY*—I would like to recognise the member for Hasluck as the best member for Hasluck ever.

*Mr Costello*—And you are the best Minister for Human Services ever!

*Mr HOCKEY*—That is a very good endorsement—thank you, Treasurer! The Howard government distributes over $50,000 a minute to Australian families, particularly through Centrelink and Medicare offices. That includes $15 billion in family tax benefit, $6 billion in parenting payments, $1.6 billion in childcare benefit and, of course, the $1 billion in the baby bonus—to 250,000 newborn Australians receiving $4,000 each.

*Mr Costello*—One for the country!

*Mr HOCKEY*—One for the country, and that is very important. That is children, not wives! That, of course, does not include carer payments, the Medicare safety net or the childcare tax rebate. They are all in addition to the $50,000 a minute that we distribute.

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**CHAMBER**
We want to make it more convenient for Australian families to access these sorts of services. That is why, over the last 16 months in Human Services, we have turned 238 Medicare offices into family assistance offices as well. In the 16 months since we introduced this initiative, 350,000 Australian families have accessed family services through Medicare offices. I might add that in the electorate of Hasluck, for example, there are two Centrelink offices—

Mr Albanese interjecting—

The SPEAKER—The member for Grayndler is warned!

Mr HOCKEY—in Gosnells and Midland, which are servicing 20,000 Centrelink customers in the electorate. The Medicare office in Midland shopping centre is servicing 168,000 customer visits a year. Now that Medicare office is distributing family payments to the benefit of the people of Hasluck. This again proves, at $50,000 a minute, that the Howard government is the most family-friendly government in Australian political history.

Mr Howard—Mr Speaker, I ask that further questions be placed on the Notice Paper.

AUDITOR-GENERAL’S REPORTS

Report No. 13 of 2006-07

The SPEAKER (3.12 pm)—I present the Auditor-General’s Audit report No. 13 of 2006-07 entitled Management of an IT outsourcing contract—follow-up audit—Department of Veterans’ Affairs.

Ordered that the report be made a parliamentary paper.

DOCUMENTS

Mr ABBOTT (Warringah—Leader of the House) (3.12 pm)—Documents are tabled as listed in the schedule circulated to honourable members. Details of the documents will be recorded in the Votes and Proceedings.

BUSINESS

Mr ABBOTT (Warringah—Leader of the House) (3.13 pm)—by leave—I move:

That, for the sitting on Wednesday, 6 December 2006, so much of the standing and sessional orders be suspended as would prevent questions without notice being called on at 2.30 p.m.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Economy

The SPEAKER—I have received a letter from the honourable member for Griffith proposing that a definite matter of public importance be submitted to the House for discussion, namely:

The federal government’s failure to take responsibility for building a strong economy while providing fairness for all, not just some, Australians.

I call upon those members who approve of the proposed discussion to rise in their places.

More than the number of members required by the standing orders having risen in their places—

Mr RUDD (Griffith—Leader of the Opposition) (3.14 pm)—Right now this country is engaged in a battle of ideas for Australia’s future. On the one side of this battle we have a vision for Australia’s future which says that, when it comes to economic prosperity, you cannot have economic prosperity and social justice—that these are incompatible. There is another view, another vision—and it is our vision—which says that this nation and this people are at their best when we are a people and a nation committed to building a prosperous nation while at the same time not jettisoning our vision for a fair Australia and a fair society. In an absolute nutshell, that is the divide between us—a view of the world which says it is about ‘me, myself and I’, and an alternative view which says that
we are about an Australia which, sure, recognises that individual hard work, achievement and success are to be encouraged and rewarded but which says at the same time that we cannot turn a blind eye to the interests of our fellow human beings who are not doing well. That has been the divide between us for a century and remains the divide between us today.

Ideas in politics are important. They in fact affect everything that we do. They shape our vision of what it is possible for the government to do for the nation. They shape the concrete dimensions of policies which are brought forth in this chamber. Ideas shape the content of legislation. They shape everything that is done in this place, and that is why on this occasion it is important to revisit what actually divides us. What are our different views of the role of government and society? What are our different views of what the state can do to help human beings? This divide between us is fundamental to the debate that we are going to have in the year ahead. It is a debate which also impacts fundamentally on the interests of Australian families.

But what are the values which the Liberals stand for? They talk about liberty, they talk about security and they also talk about opportunity, and all that is fair and fine—we do not have a problem with that. But what we add to this fabric of values is a view that you can do that and still have the parallel values of equity, of sustainability and of compassion. In fact, it is time to rehabilitate the word ‘compassion’ into our national vocabulary. Compassion is not a dirty word. Compassion is not a sign of weakness. In my view, compassion in politics and in public policy is in fact a hallmark of great strength. It is a hallmark of a society which has about it a decency which speaks for itself. For us in the Labor movement from which we proudly come and have come this last century, these values of security, liberty and opportunity are not incompatible with equity, with sustainability and with compassion, because that in our view is what the Australian people are about as well.

The Australian people are a decent bunch. When you talk to Australians around the world, they cannot help but be engaged in the interests of other people. Australians are not by their nature a selfish mob. The Australian people are deeply concerned about the wellbeing of others. What we have seen instead on the other side of politics is an attempt to corral that basic decency of Australians into an alternative vision for the country’s future—a vision which simply legitimises a doctrine of ‘me, myself and I’; a doctrine which says that we as a country can only be about the aggregation of personal greed. That is what it is about. They try to make you feel good about the fact that that is what you are on about. I think that is a great tragedy of the way in which this government has attempted to shape this country over the last decade.

The great danger that we face with the modern face of liberalism, this modern Liberal Party, is that it is not the Liberal Party of old. If you go back and read what Bob Menzies had to say about social responsibility and social justice, there is no way that Bob Menzies would fit into the world view that we are now being offered. You see, the member for Kooyong recently delivered a speech on Bob Menzies’ legacy within the Liberal Party on these questions of social responsibility. It is quite clear when you read that clearly that there has been an ocean of change between that Liberal Party and what it stood for, despite our criticisms of it and our disagreements with it at the time, and the market fundamentalism which has overtaken the current Liberal Party.
We have seen this complete right-wing takeover of modern liberalism, and it is an ugly spectacle to behold. It is in its essence about everything being an economic commodity. It is about everything being about the triumph of the markets. It even says that, when it comes to commodities, human beings are no more important than any other economic commodity. That is ultimately the view. If you want to go back to basic philosophical premises here, that is where we part company.

We as a movement for more than 100 years have said that human beings have about themselves an intrinsic dignity; it does not need to be explained. Because of that intrinsic dignity, humans are deserving of fundamental protections inside the workplace and beyond the workplace. Our opponents have come from a different view. When you strip their tradition back to its absolute philosophical core, it says that human beings are of no greater worth than any other economic commodity in the marketplace. You see that writ large in the pages of the industrial relations legislation that they have brought into this parliament.

Of course, it gets very practical and very meaty indeed when we see this visited on families, when we see this visited upon how families are supposed to have their life and being. I listened very carefully to what the Prime Minister had to say in response to questions yesterday and today about the impact of Work Choices on Australian family life. The Prime Minister is uncomfortable with these questions. He knows what they go to.

Mr Andrews interjecting—

Mr Rudd—And I do not think the minister at the table should laugh at this, because he comes from a tradition which is respectful of this—and that tradition says that human beings in families are such a basic social institution that they deserve special protections. When you instead have a set of laws which says that you can be told to work at any time of the day, at any place and for virtually whatever rate of pay, that your hours can include weekends or whatever and that you can have your shifts and rosters changed at a moment’s notice, just pause for a moment. Let us think through where that all goes in terms of the impact on working families.

Let us pretend for a moment that we are not in this place. Let us imagine ourselves in the suburbs of Brisbane, in Wagga, in Perth—out there in any place in the country right now—with our families, trying to plan our weekend ahead. Put yourself in that position. Can I predict now that I will be able take the kids to soccer on Saturday morning? Can I predict ahead even—if I am a church-goer—that we can go to church together on Sunday morning? Can I predict ahead that I can be at home on Saturday night for dinner with my family? Can I predict in any way anything that makes it possible for me to preserve my family life?

It is not an accident—and the minister at the table should reflect on this—that the Catholic Church has come out so strongly on this question. The Catholic Church does not come out and cheer for the Labor Party every day of the week; we know that. But, when you strip this back, it is about what happens to families. When you analyse it carefully, it is about a family’s ability to stay together and have time together. We all know, with our fractured lives in this place, how difficult it becomes when we as human beings cannot spend time with one another. However, the problem is that these industrial relations laws now set that disease in place right across the nation in every workplace, in every part of the country. What I fear most of all is the ultimate impact of this on the fabric of Australian family life. This country has been
made great through the solidity of our families for its more than two centuries of European settlement and the honour in which families were held in the period beyond European settlement.

When I ask questions today in this place about family values and the self-proclaimed party of family values, I am serious about it, because I believe that this party in government has lost its own origins on this question. Menzies would never have legislated this. Menzies would never have the gall to legislate this. Menzies would have recognised that there is such a great breach in the social contract involved in this legislation that he could never have done it.

We offer a different set of values for Australia’s future. The government, at its essentials, is ‘me, myself and I’. As for us, we believe that there is a central place for the market. The market is a wonderful, creative and innovative thing in the economy and it produces unprecedented wealth. But we have also come from a tradition that says the free market has its limitations. There are such things as market failure. There are such things as public goods, like education and like health. There are also fundamental protections for human beings and families, who should be protected from the market.

The bogus proposition, which has been put by those opposite for over a decade or so now, is that somehow we from the Centre Left of politics in this country and around the world have been disoriented by the fall of the Iron Curtain. Our movement for a century fought against Marxism, if you bother to read your history. We have had nothing to do with Marxism and madness. We have always seen our role as what we can do to civilise the market. That is where we come from as a tradition. Why do you think Keynes and the rest of them were called upon to try to save market capitalism from itself after the Great Depression? Because social democrats believed that you had to have constraints placed around the market, otherwise it becomes too destructive indeed.

So, when it comes to our Labor values of equity, sustainability and compassion, we do not just believe that these in themselves are self-evident and worthy of being pursued; we also hold that they are values necessary to enhance the market itself. If we do not take sustainability and climate change seriously, what will happen to the future of the market economy? Sustainability is a core Labor value. It is also one that goes amidships into the agenda of the global market economy. If we do not rescue this planet from itself in terms of the damage being done to it by un-restrained market capitalism, let me tell you: the entire market system ultimately will fragment. That is the tradition we have come from proudly for 100 years.

Labor’s message then is this: we believe in a strong economy; we believe also in a fair go for all, not just for some. That is Labor’s message in a nutshell. When it comes to fairness, a fair go, some people think that this just mysteriously grew out of the soil one day in Australia. Do you know that it did not? Our movement etched it into the Australian soul through the 19th century and the 20th century. If you read the history of 19th century Australia, you will not see much about a fair go; there is nothing about fairness. With our industrial movement—which has been so criticised by those opposite today—and with our political movement from the 1890s on, we took fairness and a sense of the fair go, we won political office, we obtained concessions in the workplace and we entrenched fairness in the statutes of the nation. We etched the fair go also into Australia’s consciousness, our political consciousness. It is our legacy to the nation—a legacy that the current government seeks to peel
We want a strong economy based on nation building. In the days ahead—and in the weeks and months ahead as well—we will outline new and additional proposals about how we can do that better. But we will also be advancing proposals about how we intend to build and entrench our notion of a fair society, because these things travel in tandem. Those opposite have asked why we have raised federalism and questions on health in this parliament. There is no greater touchstone for the whole debate about fairness than health and hospitals. In the days ahead, you are going to see much more on this—and in the weeks and months ahead as well—because we believe that this is essential to any effective policy of fairness for our country.

So the battlelines are drawn in this great battle of ideas between us. In the 10 days or so ahead, when we leave this place, I will be travelling the country, taking this message out. This is not just a battle for ideas; it is a battle on the ground as well. I say to those opposite: we intend to prevail in this battle of ideas, right through to the next election. We intend to prevail.

The member for Griffith raised the issue of our record, so let us talk about our record. In our view, fairness is about reducing the Australian government debt, which was $96 billion when we came into government. Today we have zero net debt. Average mortgage rates for the everyday Australian—there are no average Australians, but everyday Australians—averaged 12.75 per cent under Labor. Today they average 7.15 per cent under the coalition. Let us talk about small business lending rates—small business being the engine room of the Australian economy. There are nearly two million small businesses working hard every day to help to grow Australia’s output. The average small business lending rate under Labor was 14.25 per cent. Today it is 8.8 per cent.

Mr HOCKEY (North Sydney—Minister for Human Services and Minister Assisting the Minister for Workplace Relations) (3.30 pm)—May I take the opportunity to congratulate the member for Griffith, Mr Rudd, on his elevation to the position of Leader of the Opposition and also the member for Lalor on her elevation to the position of Deputy Leader of the Opposition. Perhaps that is where the niceties end. That was quite a dissertation invoking Keynes, Menzies and the fall of communism, but what the people of Australia really want to hear are some rock-solid commitments about how their lives would be improved should, in that dark hour, there be a change of government.

The matter of public importance put forward in this chamber today by the member for Griffith concerns ‘the federal government’s failure to take responsibility for building a strong economy while providing fairness for all, not just some, Australians’. Keynes and the fall of communism, obviously in the mind of the member for Griffith, have a significant role to play in that. Let us talk about fairness—fairness that starts with the opportunity for an individual to get a job; fairness that starts with the opportunity for an individual to take control of his life, to set it on a particular path and to deliver real and significant outcomes for his family. Fairness starts with a strong economy and a safe society. It cuts to the very fabric of what we are as Australians. We should ensure that our economy remains strong and that our society remains safe so that we can inoculate this generation and the generations that follow us from what could be very significant influences from outside that are often uncontrollable.

The member for Griffith raised the issue of our record, so let us talk about our record. In our view, fairness is about reducing the Australian government debt, which was $96 billion when we came into government. Today we have zero net debt. Average mortgage rates for the everyday Australian—there are no average Australians, but everyday Australians—averaged 12.75 per cent under Labor. Today they average 7.15 per cent under the coalition. Let us talk about small business lending rates—small business being the engine room of the Australian economy. There are nearly two million small businesses working hard every day to help to grow Australia’s output. The average small business lending rate under Labor was 14.25 per cent. Today it is 8.8 per cent.
We come to the crux of the issue: Australians at work. The unemployment rate under the Labor Party averaged 8.2 per cent. Today it is 4.6 per cent—the lowest level of unemployment in 30 years. I make the point that it does not matter who is in government—it does not matter whether you are a trade union leader or a trade union official; no government and no trade union can guarantee an individual a job. Only economic prosperity can guarantee jobs. When the Labor Party was in government, in 1992—they had control of the parliament and their union mates were all-powerful—with all the power of the legislature they could not stop nearly one million Australians from being unemployed. All the power of the Labor Party is not matched by the rhetoric. That is because they cannot deliver on their rhetoric. The delivery has to come in real and tangible benefits for the Australian people. The number of long-term unemployed averaged 197,000 under the Labor Party. Today that number averages 91,200, even after the population has grown. The average rate of inflation—the curse, the evil that cuts to the core; inflation is like a cancer on the economy—under Labor was 5.2 per cent. Under the coalition it is 2.5 per cent.

If you want to benchmark Australia against the rest of the world, against the OECD, the developed nations, in 1995 we were ranked 13th by the OECD in terms of quality of life; today we are ranked No. 8. Household wealth is one of the fundamental questions. Real net household wealth has more than doubled under the coalition since 1996. So today Australians are richer, they have greater opportunities for jobs and, importantly, they have greater choice. As a nation we are exporting more than ever—$164 billion a year compared to $99 billion when we came to government. At a micro level, what does that mean? It means that you have to have industrial change, workplace change, in order to deliver the reforms that will give you a strong economy, that will give you job security, that will help to increase your real net wealth and that will give families greater choice in the opportunities they seek for their children and for the generations beyond. If you were to cut to what it means at a local level, you need look no further than the first round of industrial relations changes, and the most controversial in the view of the Labor Party, which were the changes to the waterfront. Crane movements per hour in March 1996 were 16.9 cranes. After our reforms—this is as of today—they are 28 movements per hour, nearly double.

Mr Sawford—What is the cost of that?
Mr HOCKEY—The cost of that is minimal compared to the real benefit to Australian workers—
Mr Adams interjecting—
The DEPUTY SPEAKER—The member for Lyons!
Mr HOCKEY—and the real benefit to Australian families. Today in question time, when I stood up and pointed out that the Australian government, through Centrelink and Medicare, distributes $50,000 a minute, every minute of every hour of every day to Australian families, I did so bearing in mind that the record level of expenditure for Australian families is at a time when the unemployment rate is at its lowest level for 30 years.

Mr Adams interjecting—
The DEPUTY SPEAKER—Order! The member for Lyons is warned.
Mr HOCKEY—There are more Australians in work; the real net worth of Australians is at its highest level ever, almost double that under the Labor Party; and Australians have higher real net wages, which have grown by 16.4 per cent in the 10 years we
have been in government compared with going backwards under the 13 years of Labor. Real wages for workers went backwards under Labor. Under the coalition, over 10 years, a shorter period of time, real wages for workers have increased by 16.4 per cent. These are real net wages, not gross. So I say to the Labor Party that it does not matter what Keynes said, it does not even matter what our beloved Sir Robert Menzies said and it does not matter about the fall of Communism or the Berlin Wall. For Australians looking forward those things do not matter. What matters is the individuals and their capacity to choose how they can lead their lives.

The Liberal and National parties believe in choice. The Liberal and National parties believe that we should empower individuals so they can choose how to lead their lives and raise their children and so they can choose and shape their destinies without the central control of the parliament, of the executive, in their everyday lives. We believe that the parliament and the executive should provide a safety net, but that safety net should never become a cargo net from which Australian families can never escape.

We should never allow the so-called welfare safety net or the industrial relations safety net to close down the choices that individuals have. The member for Griffith in his address said that the new Work Choices legislation is somehow disenfranchising individuals, somehow taking away their basic rights and ‘removing fairness’ from their lives. Let me tell you what fairness is; let me tell you what choice is. These are real workers, the people I tend to speak to. In Port Macquarie 70 workers were able to negotiate an agreement that took the seasonal nature out of their work and provided them with permanent part-time work. Importantly, they were able to convert casual pay rates into their existing agreement. Do you know what that meant, Mr Deputy Speaker? That meant that, for the first time under our Work Choices legislation, those individuals were able to take a contract down to the bank and borrow some money so that they could buy a house for their families.

In Tamworth we met a truck driver who had signed up to an AWA. The agreement allowed him to spend more time with his 13-year-old daughter during the week. The truck driver pointed out that, for the first time, he was going to a school concert organised by his daughter. Why was he able to do that? He could do that because, under a new AWA, he had that choice.

In Cairns I met a sugar mill operator who has a worker who cuts the grass at the sugar mill. The mill operator said that the worker came up to him and said: ‘Can I have one of those AWAs, because I’m involved in the hospitality industry and my wife’s involved in the hospitality industry, and she starts work two days a week at 6 am. I would like to be able to spend more time with my family; can I start work at 6 am?’ Under the old agreement that worker would have been paid 1½ to two times more to start work at 6 o’clock. He would have been in breach of the agreement and, therefore, the sugar mill operator said: ‘I’m going to give you an AWA and you can work whenever you want. I know when the grass is cut.’ That is real choice for that family, delivered by Work Choices.

In Townsville I met an electrician who was able to spend a bit more time working on Saturdays, without the employer having to pay 1½ times or double time, and get home earlier during the week so that he could see his kids play sport. The fear of the employers had been that, whenever they negotiated these sorts of family flexible arrangements, they would end up having to pay 1½ or double time for overtime or week-
end work. Under the new Work Choices legislation, choice is in the hands of the workers. They are able to spend more time with their families.

I will continue. In Launceston the member for Deakin, the member for Bass and I came across these examples all the time. We went to an industrial manufacturing firm where the workers had all gone onto AWAs. The AWAs had increased their personal leave from 10 days to 15 days per annum, and it allowed employees working overtime to have it paid as wages after 12 weeks or have it put into their superannuation, or they could take it off as time in lieu. So, under the new arrangements—

Mr Hayes interjecting—

The DEPUTY SPEAKER (Hon. IR Causley)—Order! The member for Werriwa is out of his seat!

Mr HOCKEY—They do not like hearing these examples; these are real workers that they do not like hearing about, Mr Deputy Speaker. In Launceston these workers in an industrial manufacturing plant actually have the opportunity to do overtime, accrue it after 12 weeks and then have a longer annual holiday with their families or take days off to go to the school concert or pick up the kids after school or have a picnic with the family during the week during the school holidays. That is the flexibility that delivers real family friendly outcomes.

Giving people choice is fundamental to individuals and to what we in the Liberal and National parties believe in. They have no choice if they are unemployed. They have no choice if there is a weak economy. They have no choice if there is a ‘recession we have to have’. They get choice if we have a strong economy. They get choice if we have low unemployment. They get choice if there is funding for health, education and child care at record levels. The families of Australia have more choice than ever because the Howard government is the most family friendly government that Australia has ever had.

Ms GILLARD (Lalor) (3.44 pm)—Let me echo the words of the Leader of the Opposition: Australians want some very simple things from government and it is etched into our national consciousness—and that is the Australian ‘fair go’. Australians want fairness at work and fairness beyond. I agree wholeheartedly with the Prime Minister: fairness does start with getting a job and with having reasonable access to a job. But it does not end there. That is what this government does not understand.

Getting a job and having fair access to getting a job is of course crucial to our society. It is crucial to individual dignity, it is crucial to giving people choices about their lives and it is crucial to their social participation in our society. But fairness does not end there. It is also about how you are treated when you walk in the doors of your workplace. It is about whether you can walk in and know that you will be treated with simple dignity and respect by your employer, whether you will be treated as an equal and whether you will be able to look your employer in the eye, safe in the knowledge that the law provides you sufficient protections so that you do not need to be fearful. You do not need to be fearful about losing conditions that you have enjoyed in the past. You do not need to be fearful about what is going to be in your pay packet in the future. You do not need to be fearful about losing your job entirely and having no remedy once it is lost. You do not need to fear those things, because the law has put around you a safety net which means that fear does not have to rage through you. That is what the Howard government forgets. It says that fairness is about getting a job but it forgets about fairness
when you are in that job. It most particularly forgets about fairness beyond.

As I said, I do not think the wants and needs of Australians are all that complicated. Beyond fairness at work, they want to know that their kids go to a great school. They want to know that in a time of illness or crisis for them or for a family member there would be a hospital that they could rely on to meet their needs. They want to know that we live in a safe country and that they can move about it freely and without fear. The tragedy is that, after more than 10 years of this government, if we look at its track record against the simple wants and aspirations of Australians, it is a failure. This country is less safe than it was as a result of the Howard government. This country is less safe because of the government’s foreign policy; it is less safe because of the way the government has conducted itself on the world stage.

The schools in our society are now at a stage where people fear that they are not giving kids the best possible start in life. I am the product of a state school system. I went to state schools at every level and, courtesy of the Whitlam government, I then went to university and obtained two degrees. I fear that it is harder today for a girl from a working-class family to make that journey than when I was young. I fear that that is the case. It is an unbelievably dim thing to say about your nation that opportunities for boys and girls from working families have actually diminished in the time since I was young and at school, and they have substantially diminished during the life of the Howard government.

When it comes to a particular passion of mine over the last few years, the health system, things have certainly diminished in a way which is a cause for concern for all Australians. The real tragedy here is that things have happened not as a result of economic crises or as a need to tighten belts in a time of economic recession but in a time of prosperity. We have and currently continue to enjoy what the member for Lilley has described as the modern-day equivalent of a gold rush—that is what the resources boom is. It has brought us great wealth and great prosperity, as has the opening up of this economy through the reforms which were hard fought for in the Hawke and Keating years.

What this government has failed to realise for more than a decade is that it is in the most prosperous of times that you make the investments for the future. It is in the most prosperous of times that you do the reforms that will ensure that your society, its schools, its hospitals and its other institutions are robust enough to sustain the difficult times which inevitably, at some point in the future, will come. This government has squandered the opportunity to invest and reform. What we need now is a government that is prepared to do just that.

This is a government that has grown tired. This is a government that has grown stale. This is a government that has grown arrogant. Even its best friends would concede that it is a government whose best days are behind it, not in front of it. The road for the Howard government is inexorably downwards. For Labor, the road is inexorably upwards, because we will be contesting at the next election on the basis of who has the new energy, the new vision, the new ideas and the new style of leadership to make sure that the reforms that this country needs actually happen. In that contest of ideas, which the Leader of the Opposition has referred to, the Howard government cannot have a winning place because people will look at its track record and they will say: ‘If those reforms were going to be made, why haven’t they done it already? Where is the start? Where is the enthusiasm? Where is the passion?’
Where is the vision? What they will see is the same old faces looking more tired, looking older, looking more stale and certainly looking no longer to have a vision for this country.

When we look at our healthcare system as an example of the kind of reform that this government has failed to deal with, we see a system that is riddled with contradictions. On the one hand, we live in a nation where a scientist has invented the cervical cancer vaccine, a medical miracle that is going to be made available to women and girls that will mean that women in future generations who sit in this parliament will have 70 per cent lower cervical cancer rates than the women who sit in this parliament today; on the other hand, we have pensioners taking their teeth out with pliers after a couple of glasses of alcohol because they cannot get access to a public dental system—a contradiction writ large, and a contradiction that does not seem to trouble the conscience of the Howard government. Well, it troubles my conscience, and I think it troubles the consciences of most Australians. They would like to be barracking for this country and saying, ‘Isn’t it fabulous; we’ve got world-class scientists,’ but I think they would like to be barracking for this country too and saying, ‘Isn’t it fabulous that we treat our elderly Australians with the dignity and respect which means that, if they need something done to their teeth, they can get it done, and they don’t need to go home, get the pliers out of the hardware drawer and do it themselves.’

If we are going to achieve that health care system, it is not just about showing more care and concern, though that is certainly needed; it is about showing the political will to reform our federation to make sure that the changes that our healthcare system needs to be sustainable for the future are made—and made now. There is probably only one smart thing that the Minister for Health and Ageing, Tony Abbott, ever said, and I am going to recount it now to the House. It is not often you can say that about Tony. He said: ‘The truth is that sooner or later there is going to have to be one level of government in charge of health. In reality, it is almost certainly going to have to be the federal government.’ That is not the only road to health reform, but at least there was a moment when the minister for health was prepared to talk about health reform. But the moment has come and gone. He no longer talks about health reform because he has been slapped down by his Prime Minister.

We on this side of the House have the reform zeal and the new ideas to know that, if we are going to have a great health system in 10, 20 and 30 years, we need to be brave enough to reform it and to reform the federal-state arrangements around it. That is what the Leader of the Opposition means when he talks about federalism. That is what he means when he talks about a new agenda, and that is an agenda for Australians for the future. (Time expired)

Mr BAIRD (Cook) (3.54 pm)—I congratulate the new Leader of the Opposition and Deputy Leader of the Opposition. I hear from the Deputy Leader of the Opposition that the road for Labor is inexorably up, undoubtedly leading to the bridge too far. It is particularly interesting to listen to the rhetoric that we have from the two new leaders opposite. We have this whole rhetoric that we are all Adam Smith ideologues, that the Keynesians from the past have gone and that Adam Smith and Edmund Burke have taken off in terms of economic fundamentalism. But what is the reality of the situation? The Weekend Australian, in its editorial, had this to say:

Labor’s narrative to date has been that Mr Howard is a throwback to the 1950s, an ideologue who lacks social compassion and has cut deeply into welfare and Australia’s social institutions.
That is what we heard today from the members of the opposition. The editorial in the *Australian* said:

Nothing could be further from the truth. According to the National Centre for Social and Economic Modelling, Australians across the spectrum have prospered during the Howard years and middle-income earners have done substantially better than those at the top. NATSEM’s benchmark study of the Howard decade of income growth from wages, tax and welfare changes shows that, on average, Australians are earning 25 per cent more than they were 10 years ago. The federal Government’s doubling of its spending on family assistance to $28 billion has helped boost incomes and ensured that Australia is no less equal than it was a decade ago.

This is from the *Australian* editorial last weekend. It says:

According to Access Economics—always the natural economists of choice for those opposite—people are paying less in income tax than at any time in almost 25 years, and the average wealth of those aged 45 to 74 years doubled between 1986 and 2001.

It concludes that section by saying:

Unemployment at 4.6 per cent is half the level of when Labor left office, productivity has surged, there has been a boom in job creation and home mortgage rates now stand at 7.8 per cent, down from 10.5 per cent in 1996.

That is the *Australian* editorial. So much for the rhetoric: this is what an independent source says about how fair the Australian government has been, and this government has certainly shown that.

It is interesting, by the way, that you never find the members opposite talking about—and certainly today you did not hear the Leader of the Opposition or the Deputy Leader of the Opposition talk about—people who are out of work. They only talk about those who are in work, but the reality is that fairness starts with a job. Certainly I know that that is what the member for Deakin believes, as he says to other people in his electorate. With all the regulations that the Labor Party imposed when they were in government, there were over one million people out of jobs. Compare this to the situation that we have today, where we have a 16.4 per cent increase in the income and wages levels of average Australians—I emphasise 16.4 per cent—and we have a total of 1.9 million new jobs created under this government. We are talking about fairness. If fairness relates to creating new jobs, this government has certainly proven itself to be the fairest government we have seen in many decades. The reality is that 165,000 new jobs have been created just since we introduced the new Work Choices regulations and legislation. In comparison, the average is 50,000 jobs a year over the past 20 years. So we have a real comparison of what fairness is all about.

The opposition talks about the economy and how we have mismanaged it. The terms of the debate that we have today from the opposition are:

The Federal Government’s failure to take responsibility for building a strong economy while providing fairness for all, not just some, Australians.

What is the truth of the matter? Let us look at some of the key criteria, as you would judge an economy. The current government has restored Australia’s AAA credit rating—under Labor this rating was downgraded twice—and this is the hallmark of strong economic management. We have had 15 years of economic growth. If members opposite want to talk about economic fundamentalism, perhaps they would like to talk about Mr Keating’s move on privatising the Commonwealth Bank and Qantas, deregulating the banking sector economy and floating the dollar—they would call that economic fundamentalism, but those changes assisted growth. Under this government we have had
continued and strong economic growth. We have been through the worst drought in recorded history, the 2001 recession in the US and the 1997 Asian financial crisis, and still the economy remains strong. In contrast, what did Labor give us? The 1990s ‘recession we had to have’.

We have had nine surplus budgets compared with Labor’s nine deficits in 13 years, with $69 billion of deficits in the last five years. We have repaid $96 billion of the debt accumulated by the previous government. As I said, real wages have increased by 16.4 per cent. Under Labor, real wages fell by 0.2 per cent. Tax reform has been generous and the government has cut personal income tax to the tune of $83.8 billion. What was the situation under Labor? They promised us ‘l-a-w’ tax cuts. Instead, in 1983, Labor increased every rate of wholesale sales tax and increased petrol taxes. Talk about fairness! Is that fair? I do not think so. Talk about a fair go for average Australians: it fails on every test.

There have been 1.9 million jobs created since March 1996. Unemployment peaked at 10.9 per cent in 1992 under the previous government with over 900,000 Australians unemployed. We have delivered low inflation. Inflation is currently sitting at 3.9 per cent. Under Labor inflation peaked at a staggering 11.1 per cent and averaged 5.2 per cent.

Mortgage rates are currently 8.05 per cent and have averaged 7.18 per cent since the coalition was elected. This is down from 10.5 per cent when Labor left office. This represents a $1,000 interest saving on the average new mortgage compared with the average mortgage interest rates under Labor. As we know, under Labor interest rates peaked at 17 per cent and averaged 12.75 per cent. Was it a fair go for Australians when interest rates hit 17 per cent? I do not think so. Under this government, savings for the average household represent $1,000 on the average new mortgage.

Real household wealth has more than doubled since 1996, increasing by nine per cent each year. Australian households now have around $6 in assets for every $1 in debt. Under Labor, real net household wealth increased by only 2.9 per cent per annum. Was that fair? I do not think so.

Labor has opposed us at every step, at every reform that the government has introduced. The Leader of the Opposition claims that we are not providing for all Australians, but the evidence simply does not add up. We have the lowest unemployment rate for 30 years. We have created all these additional jobs. Wages have gone up by 16.4 per cent. Average disposable income for all Australians grew by 21 per cent. Yet the real income of lower income households grew by 22 per cent over this period compared to only 19 per cent for higher income households.

The facts are there for all to see. This government has managed the economy well and strongly. The result is that all Australians are the beneficiaries of this in income, low inflation, interest rates and growth in their own personal wealth. We have had an old throwback from dark Keynesian days that this is the way to go, claiming that we are part of some economic fundamentalism. In fact, this government is the only government to show real compassion. (Time expired)

Mr WINDSOR (New England) (4.04 pm)—The key words in this matter of public importance are ‘fairness for all, not just some’ and the need for ‘a strong economy’. Most of us would agree that in certain areas the government has worked well in terms of a strong economy. I would like to relate those words specifically to the wheat industry, particularly to a question I asked of the
Deputy Prime Minister today and more importantly to the answer that was given. At the heart of this matter, for the future of the wheat industry we require fairness for all and not just for some. Obviously, the wheat industry is a very important part of not only the agriculture sector but also our economy. Even though many people downplay the contribution that agriculture makes to the prosperity of this nation, it is still a very important ingredient in our national economy and is very important if we are to maintain a strong economy.

In relating the MPI to the wheat industry, I was extremely disappointed in the answer that the Deputy Prime Minister gave to the House today. He said this morning at a press conference that we must remember that the wheat growers themselves are the important ingredient—‘Let’s not forget the wheat growers’—and I agree with him on that particular issue. In March this year in Warracknabeal, Victoria, at a rally about the future of the single desk and the wheat industry, the Deputy Prime Minister gave a commitment to the wheat growers present—and I agreed with him on that particular issue. In March this year in Warracknabeal, Victoria, at a rally about the future of the single desk and the wheat industry, the Deputy Prime Minister gave a commitment to the wheat growers present—and I agreed with him on that particular issue. In March this year in Warracknabeal, Victoria, at a rally about the future of the single desk and the wheat industry, the Deputy Prime Minister gave a commitment to the wheat growers present—and I agreed with him on that particular issue.

Michael Thomson from the Land has been one of the few people pursuing that issue, and I congratulate him on it, because I think he has picked up on wheat growers wanting to be part of the process. The Deputy Prime Minister and the Prime Minister in their press conference before question time today highlighted the changes in the veto arrangements and, essentially, the transfer of control of the industry to the Minister for Agriculture, Fisheries and Forestry for a six-month period whilst the future of the Wheat Board and the single desk arrangement is determined. I think I heard the voice of Michael Thomson—that lone voice in the agricultural press—asking the question again about a poll of growers on the future of their industry. The Prime Minister virtually denounced the concept and said, ‘We don’t run the place by poll; we don’t take advice from people; we are a government that makes decisions for those people.’ I think that again goes to the point of fairness for all and not just for some. Who are all those people that the Prime Minister will be making those decisions for, when he has not in fact asked the growers what their views are on the various options?

There will be a number of options and there should be a number of options. I agreed with the Prime Minister in question time today when he said—and I do not want to verbal him—that people who believe there will not be any changes in the Australian Wheat Board are living in fairyland. Obviously there will be, but the people who should be privy to those changes and part of the decision-making process are the wheat growers.

The Deputy Prime Minister has gone off on a convoluted path by suggesting that he will consult with the peak bodies in the wheat industry—those that supposedly represent the wheat grower. I presume that those peak bodies that he and the government will take advice from will be the National Farmers Federation and the Grains Council of Australia. If you consider their track record of recent years and how they represent country people on particular issues then this should be of concern to their constituents. You have only to look at the contribution the former President of the National Farmers Federation, Peter Corish, made on Telstra when it was obvious that his constituent base was not in favour of the sale. When ethanol was being debated, the Grains Council of Australia were more concerned about the motorists of Australia having choice than about the constituents—the growers—that they were supposed to represent. As a
grower, I would be greatly concerned if those two organisations represented the industry that the government and the Deputy Prime Minister are going to listen to when making determinations.

I believe the suggestion that I made in question time today—and it does not remove the right of government to make decisions—increases the opportunity for the government to make the correct decision that puts in place a system that best represents the growers. When the various options from the industry groups and individuals—whether they be part of the growing sector or part of the marketing sector—are proposed to the government, those options should be sent in writing to each grower and those growers should be polled on their views on the future of their industry so that they can have a one-to-one contribution. Many of those people are not members of the National Farmers Federation or its constituent bodies, they have no relationship to the Grains Council of Australia and they are not going to be considered if the Deputy Prime Minister goes back on his word, as he gave it in Victoria, and says: ‘We will just listen to the industry groups. We will consult with industry groups.’ I think that is a massive cop-out and a quite pathetic backdown from the Deputy Prime Minister. Why shouldn’t the wheat growers have their say?

The New South Wales Farmers Association yesterday sent an open letter to all members of parliament. Jock Laurie, the president, said:

The Association has publicly welcomed recent comments by Deputy Prime Minister Mark Vaile that the grain industry will be consulted, and we encourage the Federal Government to include the grain producing public—the grain-producing public?—in its definition of the grain industry throughout this decision making process.

I suggest to Jock Laurie that he is halfway there. But if these people are representing the growers—the grain-producing public—I would say that, rather than encouraging the government, they should be demanding that government consult with the individual growers. The Wheat Marketing Act was constructed for the growers. In any changes that are contemplated—and, as I said, I would not remove the right of government to make a decision that is contrary to what growers are saying—I would suggest that government consult with those people about the future of their industry so that we do not get a situation developing where it is fairness for some and not for all. If the National Farmers Federation, the Grains Council of Australia and the New South Wales Farmers Association are to be seen as the arbiters of grower opinion, I think a much fairer way and a much more productive way would be for the parliament to obtain the view of growers so that the cabinet can make a decision based on what the wheat growers want for their future.

I urge the Deputy Prime Minister to show some spine on this issue—not to be big in the country when he is in Victoria and then, when he returns to Canberra, be just a puppet for the Liberal Party. Let us stand up for the people whom we as country members are supposed to be representing and let them have a true say in determining the future of their industry. (Time expired)

The DEPUTY SPEAKER (Hon. IR Causley)—Order! The discussion is concluded.
Mr BARTLETT (Macquarie) (4.14 pm)—by leave—I move:

That the bills be referred to the Main Committee for further consideration.

Question agreed to.

MEDIBANK PRIVATE SALE BILL 2006

Returned from the Senate

Message received from the Senate returning the bill without amendment or request.

COPYRIGHT AMENDMENT BILL 2006

Consideration of Senate Message

Consideration resumed from 4 December.

Senate’s amendments—

(1) Schedule 1, item 6, page 18 (line 17), omit “offences”, substitute “offence”.
(2) Schedule 1, item 6, page 18 (line 28) to page 19 (line 3), omit subsection 132AI(8).
(3) Schedule 1, item 6, page 19 (line 4), omit “Subsections (7) and (8) are offences”, substitute “Subsection (7) is an offence”.
(4) Schedule 1, item 6, page 23 (line 20), omit “offences”, substitute “offence”.
(5) Schedule 1, item 6, page 23 (line 29) to page 24 (line 3), omit subsection 132AL(9).
(6) Schedule 1, item 6, page 24 (line 4), omit “Subsections (8) and (9) are offences”, substitute “Subsection (8) is an offence”.
(7) Schedule 1, item 6, page 25 (lines 22 to 31), omit subsections 132AN(5) and (6).
(8) Schedule 1, item 6, page 27 (line 1), omit subparagraph 132AO(5)(a)(i).
(9) Schedule 1, item 8, page 36 (lines 20 to 23), omit subsection 133B(1), substitute:

(1) The regulations may make provision enabling a person who is alleged to have committed an offence of strict liability against this Division to do both of the following as an alternative to prosecution:

(a) pay a penalty to the Commonwealth;
(b) forfeit to the Commonwealth:

(i) each article (if any) that is alleged to be an infringing copy of a work or other subject-matter and that is alleged to have been involved in the commission of the offence; and
(ii) each device (if any) that is alleged to have been made to be used for making an infringing copy of a work or other subject-matter and that is alleged to have been involved in the commission of the offence.

Note: Regulations made for this purpose will make provision to the effect that a prosecution of an alleged offender will be avoided if the alleged offender both pays a penalty to the Commonwealth and forfeits to the Commonwealth all relevant articles and devices (if any).

(10) Schedule 1, item 33, page 48 (lines 4 to 12), omit subsections 248PA(5) and (6).
(11) Schedule 1, item 33, page 50 (line 22) to page 51 (line 1), omit subsections 248PC(5) and (6).
(12) Schedule 1, item 33, page 51 (line 3), omit “, (3) and (5)”, substitute “and (3)”.
(13) Schedule 1, item 33, page 52 (lines 3 to 12), omit subsections 248PD(5) and (6).
(14) Schedule 1, item 33, page 53 (line 23) to page 54 (line 5), omit subsections 248PE(6) and (7).
(15) Schedule 1, item 33, page 61 (line 8), omit “offences”, substitute “offence”.
(16) Schedule 1, item 33, page 61 (lines 16 to 23), omit subsection 248PJ(8).
(17) Schedule 1, item 33, page 61 (line 24), omit “Subsections (7) and (8) are offences”, substitute “Subsection (7) is an offence”.

(18) Schedule 1, item 33, page 63 (lines 13 to 15), omit “either for trade or to an extent that will affect prejudicially the financial interests of the performer in the performance”, substitute “for trade”.

(19) Schedule 1, item 33, page 67 (lines 21 to 32), omit subsections 248QB(6) and (7).

(20) Schedule 1, item 33, page 71 (line 27), omit “offences”, substitute “offence”.

(21) Schedule 1, item 33, page 72 (lines 2 to 10), omit subsection 248QE(8).

(22) Schedule 1, item 33, page 72 (line 11), omit “Subsections (7) and (8) are offences”, substitute “Subsection (7) is an offence”.

(23) Schedule 1, item 33, page 73 (lines 29 to 31), omit “either for trade or to an extent that will affect prejudicially the financial interests of the performer in the performance”, substitute “for trade”.

(24) Schedule 3, page 87 (after line 3), after item 8, insert:

8A Before subsection 54(1)

Insert:

(1A) In this Division:

copy means a disc, tape, paper or other device in which sounds are embodied.

(25) Schedule 6, page 94 (after line 6), before item 1, insert:

1A Subsection 10(1)

Insert:

private and domestic use means private and domestic use on or off domestic premises.

(26) Schedule 6, item 1, page 94 (lines 10 to 15), omit subsection 111(1), substitute:

(1) This section applies if a person makes a cinematograph film or sound recording of a broadcast solely for private and domestic use by watching or listening to the material broadcast at a time more convenient than the time when the broadcast is made.

Note: Subsection 10(1) defines broadcast as a communication to the public delivered by a broadcasting service within the meaning of the Broadcasting Services Act 1992.

(27) Schedule 6, item 1, page 94 (line 29), at the end of subsection 111(3), add:

; or (e) used for causing the film or recording to be seen or heard in public; or

(f) used for broadcasting the film or recording.

(28) Schedule 6, item 8, page 100 (line 1) to page 101 (line 23), omit section 109A, substitute:

109A Copying sound recordings for private and domestic use

(1) This section applies if:

(a) the owner of a copy (the earlier copy) of a sound recording makes another copy (the later copy) of the sound recording using the earlier copy; and

(b) the sole purpose of making the later copy is the owner’s private and domestic use of the later copy with a device that:

(i) is a device that can be used to cause sound recordings to be heard; and

(ii) he or she owns; and

(c) the earlier copy was not made by downloading over the Internet a digital recording of a radio broadcast or similar program; and

(d) the earlier copy is not an infringing copy of the sound recording, a broadcast or a literary, dramatic or musical work included in the sound recording.

(2) The making of the later copy does not infringe copyright in the sound recording, or in a literary, dramatic or
musical work or other subject-matter included in the sound recording.

(3) Subsection (2) is taken never to have applied if the earlier copy or the later copy is:
(a) sold; or
(b) let for hire; or
(c) by way of trade offered or exposed for sale or hire; or
(d) distributed for the purpose of trade or otherwise; or
(e) used for causing the sound recording to be heard in public; or
(f) used for broadcasting the sound recording.

Note: If the earlier or later copy is dealt with as described in sub-section (3), then copyright may be infringed not only by the making of the later copy but also by a dealing with the later copy.

(4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the earlier copy or the later copy by the lender to a member of the lender’s family or household for the member’s private and domestic use.

(29) Schedule 6, Part 2, page 103 (after line 6), at the end of the Part, add:

9AA Review of new sections 47J and 110AA

(1) The Minister must cause to be carried out by the end of 31 March 2008 a review of the operation of sections 47J and 110AA of the Copyright Act 1968.

Note: Those sections are inserted in that Act by this Part.

(2) The Minister must cause a copy of the report of the review to be laid before each House of the Parliament within 15 sitting days of that House after the report is completed.

(30) Schedule 6, page 104 (after line 4), before item 10, insert:

9A After section 41
Insert:

41A Fair dealing for purpose of parody or satire

A fair dealing with a literary, dramatic, musical or artistic work, or with an adaptation of a literary, dramatic or musical work, does not constitute an infringement of the copyright in the work if it is for the purpose of parody or satire.

9B After section 103A
Insert:

103AA Fair dealing for purpose of parody or satire

A fair dealing with an audio-visual item does not constitute an infringement of the copyright in the item or in any work or other audio-visual item included in the item if it is for the purpose of parody or satire.

(31) Schedule 6, item 10, page 104 (line 13), omit “, (4) or (5)”, substitute “or (4)”.

(32) Schedule 6, item 10, page 104 (lines 17 and 18), omit “or a person licensed by the owner of the copyright”.

(33) Schedule 6, item 10, page 104 (line 28), at the end of paragraph 200AB(2)(c), add “or profit”.

(34) Schedule 6, item 10, page 105 (line 3), at the end of paragraph 200AB(3)(c), add “or profit”.

(35) Schedule 6, item 10, page 105 (line 16), at the end of paragraph 200AB(4)(c), add “or profit”.

(36) Schedule 6, item 10, page 105 (lines 17 and 18), omit subsection 200AB(5).

(37) Schedule 6, item 10, page 105 (after line 37), after subsection 200AB(6), insert:

Cost recovery not commercial advantage or profit

(6A) The use does not fail to meet the condition in paragraph (2)(c), (3)(c) or (4)(c) merely because of the charging of a fee that:
(a) is connected with the use; and
(b) does not exceed the costs of the use
to the charger of the fee.

(38) Schedule 6, item 11, page 107 (lines 14 to
36), omit subsection 40(5), substitute:

(5) Despite subsection (2), a reproduction,
for the purpose of research or study, of
not more than a reasonable portion of a
work or adaptation that is described in
an item of the table and is not con-
tained in an article in a periodical pub-
lication is taken to be a fair dealing
with the work or adaptation for the
purpose of research or study. For this
purpose, reasonable portion means the
amount described in the item.

<table>
<thead>
<tr>
<th>Item</th>
<th>Work or adaptation</th>
<th>Amount that is reasonable portion</th>
</tr>
</thead>
</table>
| 1    | A literary, dramatic or musical work (except a computer program), or an adapta-
|      | tion of such a work, that is contained in a published edition of at least 10 pages| (a) 10% of the number of pages in the edition; or                                                 |
|      |                                                                                  | (b) if the work or adaptation is divided into chapters—a single chapter                          |
| 2    | A published literary work in electronic form (except a computer program or an
electronic compilation, such as a data-
base), a published dramatic work in elec-
tronic form or an adaptation published in
electronic form of such a literary or dra-
matic work                                      | (a) 10% of the number of words in the work or adaptation; or                                      |
|      |                                                                                  | (b) if the work or adaptation is divided into chapters—a single chapter                          |

(6) Subsection (5) applies to a reproduc-
tion of a work or adaptation described
in both items of the table in that sub-
section even if the amount of the work
or adaptation reproduced is not more
than a reasonable portion (as defined in
that subsection) on the basis of only
one of those items.

(7) If:
(a) a person makes a reproduction of a
part of a published literary or dra-
matic work or published adaptation of a
literary or dramatic work; and
(b) the reproduction is of not more than
a reasonable portion (as defined in
subsection (5)) of the work or adap-
tation;
subsection (5) does not apply in rela-
tion to any subsequent reproduction
made by the person of any other part
of the same work or adaptation.

(8) Subsections 10(2), (2A), (2B) and (2C)
do not affect subsection (5), (6) or (7)
of this section.

(39) Schedule 6, item 26, page 111 (lines 24 and
25), omit the heading to section 51B, substit-
ute:

51B Making preservation copies of sig-
nificant works in key cultural institutions’
collections

(40) Schedule 6, item 26, page 111 (lines 28 to
30), omit paragraph 51B(1)(a), substitute:

(a) the body administering the library or
archives:
(i) has, under a law of the Com-
monwealth or a State or Territory,
the function of developing and
maintaining the collection; or
(ii) is prescribed by the regulations
for the purposes of this subpara-
graph; and

(41) Schedule 6, item 26, page 112 (lines 4 and
5), omit “a single reproduction of the work
from the manuscript”, substitute “up to 3 re-
productions of the work from the manuscript
for the purpose of preserving it against loss
or deterioration”.

CHAMBER
(42) Schedule 6, item 26, page 112 (lines 9 and 10), omit “a comprehensive photographic reproduction of the work from the original artistic work”, substitute “up to 3 comprehensive photographic reproductions of the work from the original artistic work for the purpose of preserving it against loss or deterioration”.

(43) Schedule 6, item 26, page 112 (lines 17 and 18), omit “a single reproduction of the work from the copy held in the collection”, substitute “up to 3 reproductions of the work from the copy held in the collection, for the purpose of preserving the work against loss or deterioration.”.

(44) Schedule 6, item 27, page 113 (lines 6 and 7), omit the heading to section 110BA, substitute:

110BA Making preservation copies of significant recordings and films in key cultural institutions’ collections

(45) Schedule 6, item 27, page 113 (lines 10 to 12), omit paragraph 110BA(1)(a), substitute:

(a) the body administering the library or archives:
   (i) has, under a law of the Commonwealth or a State or Territory, the function of developing and maintaining the collection; or
   (ii) is prescribed by the regulations for the purposes of this subparagraph; and

(46) Schedule 6, item 27, page 113 (line 20), omit “a single copy of the recording from the record”, substitute “up to 3 copies of the recording from the record for the purpose of preserving the recording against loss or deterioration”.

(47) Schedule 6, item 27, page 113 (lines 24 and 25), omit “a single copy of the recording from the published record”, substitute “up to 3 copies of the recording from the published record for the purpose of preserving the recording against loss or deterioration”.

(48) Schedule 6, item 27, page 113 (lines 31 and 32), omit “a single copy of the film from the first copy or unpublished copy”, substitute “up to 3 copies of the film from the first copy or unpublished copy for the purpose of preserving the film against loss or deterioration”.

(49) Schedule 6, item 27, page 114 (lines 4 and 5), omit “a single copy of the film from the published copy held in the collection”, substitute “up to 3 copies of the film from the published copy held in the collection, for the purpose of preserving the film against loss or deterioration.”.

(50) Schedule 6, item 29, page 114 (lines 28 and 29), omit the heading to section 112AA, substitute:

112AA Making preservation copies of significant published editions in key cultural institutions’ collections

(51) Schedule 6, item 29, page 115 (lines 1 to 3), omit paragraph 112AA(1)(a), substitute:

(a) the body administering the library or archives:
   (i) has, under a law of the Commonwealth or a State or Territory, the function of developing and maintaining the collection; or
   (ii) is prescribed by the regulations for the purposes of this subparagraph; and

(52) Schedule 6, item 29, page 115 (lines 9 and 10), omit “a single facsimile copy of the edition from the copy held in the collection”, substitute “up to 3 facsimile copies of the edition from the copy held in the collection, for the purpose of preserving the edition against loss or deterioration.”.

(53) Schedule 8, item 1, page 117 (lines 7 to 33), omit the item, substitute:

1 Subsection 28(2)
Omit “the last preceding subsection”, substitute “this section”.

1A Subsection 28(3)
Omit “subsection (1)”, substitute “this section”.

1B At the end of section 28
Add:
(5) A communication of a literary, dramatic or musical work, a sound recording or a cinematograph film is taken for the purposes of this Act not to be a communication to the public if the communication is made merely to facilitate:

(a) a performance of the work that, because of this section, is not a performance in public; or

(b) an act of causing sounds forming part of the recording to be heard that, because of this section, is not an act of causing the sound recording to be heard in public; or

(c) an act of causing visual images or sounds forming part of the cinematograph film to be seen or heard that, because of this section, is not an act of causing the film to be seen or heard in public.

(6) A communication of a television broadcast or sound broadcast is taken for the purposes of this Act not to be a communication of the broadcast, or of a work or other subject-matter included in the broadcast, to the public if:

(a) the communication is made merely to facilitate the television broadcast being seen and heard, or the sound broadcast being heard, in class or otherwise in the presence of an audience, in the course of educational instruction that:

(i) is given by a teacher; and

(ii) is not given for profit; and

(b) the audience is limited to persons who are taking part in the instruction or are otherwise directly connected with the place where the instruction is given.

Note: The heading to section 28 is altered by inserting “and communication” after “Performance”.

(54) Schedule 8, item 10, page 122 (lines 6 to 27), omit section 200AAA, substitute:

200AAA Proxy web caching by educational institutions

(1) This section applies if:

(a) a computer system is operated by or on behalf of a body administering an educational institution; and

(b) the system is operated primarily to enable staff and students of the institution to use the system to gain online access for educational purposes to works and other subject-matter (whether they are made available online using the Internet or merely the system); and

(c) the system automatically makes:

(i) temporary electronic reproductions of works made available online through the system to users of the system in response to action by the users; and

(ii) temporary electronic copies of other subject-matter made available online through the system to users of the system in response to action by the users; and

(d) those reproductions and copies are made by the system merely to facilitate efficient later access to the works and other subject-matter by users of the system.
(2) Copyright in a work or other subject-matter reproduced or copied by the system as described in paragraphs (1)(c) and (d) is not infringed by:

(a) that reproduction or copying; or

(b) the later communication of the work or other subject-matter, using that reproduction or copy, to a user of the system.

(3) This section does not limit section 28, 43A, 43B, 111A or 111B.

(4) Disregard this section in determining whether copyright in a work or other subject-matter is infringed by an act that:

(a) involves a system like one described in subsection (1) except that the system is not operated as described in paragraphs (1)(a) and (b); and

(b) corresponds to an act described in paragraph (2)(a) or (b).

(5) In this section:

system includes network.

(55) Schedule 9, item 1, page 123 (line 15), omit the definition of broadcaster in section 135AL, substitute:

broadcaster means a person licensed under the Broadcasting Services Act 1992 to provide a broadcasting service (as defined in that Act) by which an encoded broadcast is delivered.

(56) Schedule 11, item 2, page 157 (lines 14 to 19), omit the definition of licensor, substitute:

licensor means a body corporate for which both the following conditions are met:

(a) the body is incorporated under a law in force in a State or Territory relating to companies;

(b) the body’s constitution:

(i) entitles any owner of copyright, or any owner of copyright of a specified kind, to become a member of the body; and

(ii) requires the body to protect the interests of its members connected with copyright; and

(iii) provides that the main business of the body is granting licences; and

(iv) requires the body to distribute to its members the proceeds (after deduction of the body’s administrative expenses) from payments to the body for licences; and

(v) prevents the body from paying dividends.

(57) Schedule 11, item 27, page 163 (lines 19 to 23), omit section 157A, substitute:

157A Tribunal must have regard to ACCC guidelines on request

(1) In making a decision on a reference or application under this Subdivision, the Tribunal must, if requested by a party to the reference or application, have regard to relevant guidelines (if any) made by the Australian Competition and Consumer Commission.

(2) To avoid doubt, subsection (1) does not prevent the Tribunal from having regard to other relevant matters in making a decision on a reference or application under this Subdivision.

(58) Schedule 11, item 28, page 164 (line 15), at the end of subsection 135SA(2), add “, but does not affect a distribution started before the order was made”.

(59) Schedule 11, item 29, page 164 (line 27), at the end of subsection 135ZZEA(2), add “, but does not affect a distribution started before the order was made”.

(60) Schedule 11, item 30, page 165 (line 10), at the end of subsection 135ZZWA(2), add “, but does not affect a distribution started before the order was made”.

(61) Schedule 11, item 35, page 169 (line 4), at the end of subsection 183F(2), add “, but does not affect a distribution started before the order was made”.

(62) Schedule 11, Part 4, page 171 (line 2) to page 174 (line 28), omit the Part, substitute:
Part 4—Records notices
Copyright Act 1968

39 After subsection 135K(2)
Insert:

(2A) A matter that:
(a) relates to an activity required by paragraph (1)(b), (c) or (d); and
(b) needs, or is convenient, to be determined; and
(c) is not determined by subsection (1) or (2) or regulations made for the purposes of paragraph (1)(b), (c) or (d) or (2)(a) or (b);

is to be determined by agreement between the administering body and the collecting society or, failing such agreement, the Copyright Tribunal on the application of either of them.

(2B) Sections 135E and 135F do not apply to a copy of a broadcast, or a communication of a copy of a broadcast, made by or on behalf of the administering body during a period in which:
(a) an agreement, or an order of the Copyright Tribunal, determining a matter described in subsection (2A) is in force; and
(b) the body does not comply with the agreement or order.

Note 1: The following heading to subsection 135K(1) is inserted “If records notice is given”.

Note 2: The following heading to subsection 135K(3) is inserted “If sampling notice is given”.

40 Application

(1) The amendment of section 135K of the Copyright Act 1968 made by this Part applies in relation to a records notice given on or after the commencement of the amendment.

(2) The amendment also applies in relation to a records notice given by or on behalf of an administering body before that commencement, if the body and the collecting society make an agreement determining a matter described in subsection 135K(2A) of the Copyright Act 1968. In that case, the amendment applies at and after the time the agreement comes into force.

Note: While the amendment does not apply, section 135K of the Copyright Act 1968, as in force before the commencement of the amendment, applies.

(3) In this item:
administering body has the meaning given by section 135A of the Copyright Act 1968.
collecting society has the meaning given by section 135A of the Copyright Act 1968.
records notice has the meaning given by section 135A of the Copyright Act 1968.

41 After subsection 135ZX(2)
Insert:

(2A) A matter that:
(a) relates to an activity required by paragraph (1)(b), (c) or (d); and
(b) needs, or is convenient, to be determined; and
(c) is not determined by subsection (1) or (2) or regulations made for the purposes of paragraph (1)(b), (c) or (d) or (2)(a) or (b);

is to be determined by agreement between the administering body and the collecting society or, failing such agreement, the Copyright Tribunal on the application of either of them.

(2B) Sections 135ZJ, 135ZK, 135ZL, 135ZMC, 135ZMD, 135ZMDA, 135ZP and 135ZS do not apply to a reproduction or copy of a work or other subject-matter made in hardcopy form or analog form by or on behalf of the administering body during a period in which:
(a) an agreement, or an order of the Copyright Tribunal, determining a matter described in subsection (2A) is in force; and
(b) the body does not comply with the agreement or order.

Note 1: The following heading to subsection 135ZX(1) is inserted “If records notice is given”.

Note 2: The following heading to subsection 135ZX(3) is inserted “If sampling notice is given”.

Note 3: The following heading to subsection 135ZX(4) is inserted “Regulations relevant to records notices and sampling notices”.

42 Application
(1) The amendment of section 135ZX of the Copyright Act 1968 made by this Part applies in relation to a records notice given on or after the commencement of the amendment.

(2) The amendment also applies in relation to a records notice given by or on behalf of an administering body before that commencement, if the body and the relevant collecting society make an agreement determining a matter described in subsection 135ZX(2A) of the Copyright Act 1968. In that case, the amendment applies at and after the time the agreement comes into force.

Note: While the amendment does not apply, section 135ZX of the Copyright Act 1968, as in force before the commencement of the amendment, applies.

(3) In this item:
administering body has the meaning given by section 135ZB of the Copyright Act 1968.

records notice has the meaning given by section 135ZB of the Copyright Act 1968.

relevant collecting society has the meaning given by section 135ZB of the Copyright Act 1968.

43 After section 153BA
Insert:

153BAA Application to the Tribunal under subsection 135K(2A)
(1) The parties to an application to the Tribunal under subsection 135K(2A) for the determination of a matter are the collecting society and the administering body concerned.

(2) If an application is made to the Tribunal under subsection 135K(2A) for the determination of a matter, the Tribunal must consider the application and, after giving the parties to the application an opportunity of presenting their cases, must make an order determining the matter.

(3) In determining a matter described in subsection 135K(2A), the Tribunal must have regard to such matters (if any) as are prescribed.

(4) In this section:
administering body has the same meaning as in Part VA.
collecting society has the same meaning as in Part VA.

44 After section 153DA
Insert:

153DB Application to the Tribunal under subsection 135ZX(2A)
(1) The parties to an application to the Tribunal under subsection 135ZX(2A) for the determination of a matter are the relevant collecting society and the administering body concerned.

(2) If an application is made to the Tribunal under subsection 135ZX(2A) for the determination of a matter, the Tribunal must consider the application and, after giving the parties to the application an opportunity of presenting their cases, must make an order determining the matter.
(3) In determining a matter described in subsection 135ZX(2A), the Tribunal must have regard to such matters (if any) as are prescribed.

(4) In this section:

administering body has the same meaning as in Part VB.

relevant collecting society has the same meaning as in Part VB.

(63) Schedule 12, item 9, page 188 (after line 16), after subparagraph 116AN(3)(b)(ii), insert:

(iia) relates to elements of the original program that will not be readily available to the person when the circumvention occurs; and

(64) Schedule 12, item 9, page 188 (line 20), omit “; and”, substitute “.”.

(65) Schedule 12, item 9, page 188 (lines 21 and 22), omit paragraph 116AN(3)(c).

(66) Schedule 12, item 9, page 192 (after line 23), after subparagraph 116AO(3)(b)(ii), insert:

(ii) relates to elements of the original program that will not be readily available to the person doing the act when the circumvention occurs; and

(67) Schedule 12, item 9, page 192 (line 27), omit “; and”, substitute “.”.

(68) Schedule 12, item 9, page 192 (lines 28 and 29), omit paragraph 116AO(3)(c).

(69) Schedule 12, item 9, page 195 (after line 16), after subparagraph 116AP(3)(b)(ii), insert:

(ii) relates to elements of the original program that will not be readily available to the person doing the act when the circumvention occurs; and

(70) Schedule 12, item 9, page 195 (line 20), omit “; and”, substitute “.”.

(71) Schedule 12, item 9, page 195 (lines 21 and 22), omit paragraph 116AP(3)(c).

(72) Schedule 12, item 11, page 199 (after line 17), after subparagraph 132APC(3)(b)(ii), insert:

(ii) relates to elements of the original program that will not be readily available to the person when the circumvention occurs; and

(73) Schedule 12, item 11, page 199 (line 21), omit “; and”, substitute “.”.

(74) Schedule 12, item 11, page 199 (lines 22 and 23), omit paragraph 132APC(3)(c).

(75) Schedule 12, item 11, page 203 (after line 32), after subparagraph 132APD(3)(b)(ii), insert:

(ii) relates to elements of the original program that will not be readily available to the person doing the act when the circumvention occurs; and

(76) Schedule 12, item 11, page 203 (line 36), omit “; and”, substitute “.”.

(77) Schedule 12, item 11, page 204 (lines 1 and 2), omit paragraph 132APD(3)(c).

(78) Schedule 12, item 11, page 207 (after line 16), after subparagraph 132APE(3)(b)(ii), insert:

(ii) relates to elements of the original program that will not be readily available to the person doing the act when the circumvention occurs; and

(79) Schedule 12, item 11, page 207 (line 20), omit “; and”, substitute “.”.

(80) Schedule 12, item 11, page 207 (lines 21 and 22), omit paragraph 132APE(3)(c).

Mr RUDDOCK (Berowra—Attorney-General) (4.15 pm)—by leave—I move:

That the amendments be agreed to.

The Copyright Amendment Bill 2006 makes wide-ranging and innovative reforms to the Copyright Act 1968, demonstrating the government’s ongoing commitment to effective, world-class and up-to-date copyright laws. The major reforms will make it legal for people to record TV or radio programs and
play them on devices at another time in or outside the home. It will legalise format shifting of materials such as music, newspapers and books, meaning that people can put their CD collection on iPods or MP3 players. It will provide new exceptions allowing schools, universities, libraries and other cultural institutions to use copyright material for non-commercial purposes. It will provide new exemptions for people with a disability. It will allow for the use of copyright material for parody or satire as fair dealing. It will facilitate the availability of more films, music and software online and a more up-to-date and practical technological protection measures regime. It will provide new enforcement measures, including on-the-spot fines and proceeds of crime remedies to tackle copyright piracy.

These amendments to the bill strengthen the certainty and effectiveness of the reforms and demonstrate that we the government have listened to the Senate committee and the stakeholders and have ensured that the bill meets our stated policy objectives. In particular, the amendments to private copyright exceptions make it clearer what consumers can legally do. The removal of some of the strict liability offences to ensure that enforcement measures are focused on activities that commercially harm copyright owners is evidence of my statement in the House on 19 October that the government would listen and respond to the issues raised. The process has resulted in a better set of reforms. Copyright law is an exercise in balancing of rights in the public interest, and the government believes that the bill, together with the amendments, has got the balance right for copyright owners and users. I thank members for their support for these measures in the debate that we have seen.

I am pleased and, in the spirit of goodwill, acknowledge that Labor will support the government on the passage of the bill. But I have to say that it is taking it a bridge too far to suggest that the government listened to Labor on copyright. The government did not accept one amendment from the opposition; in fact, we did not receive one workable amendment from the opposition. We received a flawed proposal to remove all the strict liability provisions. But, in the collegiate approach that we take to these matters, we pointed out the problems with Labor’s approach outside the parliament, and they did not push their amendments. The only amendments that Labor pushed were changes to the technological protection measures, which were driven by one of my Senate colleagues who has an ideological anti-American approach. The government rejected these changes.

We formed a considered approach after talking to all the stakeholders, an approach which will deliver more content for Australian consumers and allow them to continue to use their multiregional DVD players. The government put out an exposure draft to get people’s views. We listened to their views. We listened to the majority of the Senate. But let me say again in the spirit of goodwill that we welcome Labor’s support for the amended bill.

Ms ROXON (Gellibrand) (4.18 pm)—It is heartbreaking to come into the House thinking that there might be some graciousness shown by the Attorney for our work on what was a particularly difficult set of amendments of laws. I noted that earlier in his speech the Attorney was determined not to provide Labor with any credit for the changes. But, whoever it is that the government wants to attribute the changes to, we are delighted that the government has made very significant changes following the Senate committee report and following very intense lobbying from a number of people from different advocacy, consumer and in-
dustry groups who were expressing concern with a number of provisions in the bill.

We are more than happy for the Attorney to indicate that it is his view and the government’s view that the balance is right in this legislation. We have some reservations about the overall approach that has been taken, but we agree with the Attorney that the difficulty with copyright is always the balancing act. How do you make sure that consumers are going to be adequately protected? How do you make sure that we support our creative industries? How do you make sure that the new technologies in the industries around that are supported? The process and the significant change that has been accepted by the government show that it is a difficult area. Ultimately, the government is the government, and it is up to them to take the policy decisions that they do. But we were in particular worried about the strict liability provisions. The regime that is now in place will be a much more sensible one.

As we indicated in the Senate, we are still concerned about some of the changes to the technological protection measures. We moved amendments that the government did not accept, despite the recommendations of both the House of Representatives Standing Committee on Legal and Constitutional Affairs and the Senate Standing Committee on Legal and Constitutional Affairs. It is a little unfair to say that this is some ideological view. It is actually something that members of the coalition unanimously supported in both of those committees. If there is an ideological view here, it is a determined one of the Attorney’s not to take that approach. Nevertheless, ultimately—as I said—it is for the government to make those decisions and we are very pleased and prepared to be quite gracious about those changes.

I would like to thank the Attorney’s office, because there has been a lot of toing and froing, making sure everyone knows what changes mean, and arguments over drafting—all those sorts of things, which can be very difficult for our staff. Thank you for the support that was given. Even though this is a little bit unusual, I would particularly like to thank two of my colleagues in the Senate, Senator Ludwig and Senator Lundy. They spent a lot of time and energy on these provisions. All of us know a lot more about copyright and are even more convinced that we do not want to be copyright lawyers if we ever end up not being in this place.

I also want to record my thanks to the very many advocates in industry, organisations and consumer groups who put in a lot of time and effort to get very quick responses when we were talking about a range of different amendments as the process went through. Labor is concerned that, with changing technology, changing international standards and a range of other things that are changing in our environment, our copyright laws are going to continue to come under significant pressure. We do think that there will be a time when it will be much better for us to step back and talk about the particular range of often competing interests that we want Australian copyright laws to be able to protect or support—not when we are debating just a particular set of changes.

We feel we have been able to make the changes a bit better and the exceptions a bit clearer, and some of the amendments about time shifting and format shifting have been improved; but the very big questions about how to balance the public interests when there are often a number of public interests competing with each other are very difficult to deal with in a forum where we are looking at specific changes to the legislation. That may be something that we will have a chance to look at in the future. Labor would certainly support that sort of approach—as well as making sure that consumers are protected,
that educational interests are protected and that we still provide sufficient incentives for our creative industries and the technologies that are growing around them. It is a big ask to balance all of those things, but I think that this law is far better than the one that we were debating in the House previously. I thank the government for accepting the changes. Whether or not they are prepared to accept that they came from us or elsewhere, it is nevertheless a better bill because of the Senate process and Labor’s involvement.

Question agreed to.

PROHIBITION OF HUMAN CLONING FOR REPRODUCTION AND THE REGULATION OF HUMAN EMBRYO RESEARCH AMENDMENT BILL 2006

Second Reading

Debate resumed.

Ms ANNETTE ELLIS (Canberra) (4.23 pm)—Just prior to question time, I was talking about the Lockhart committee’s media release dated 19 December. It states:

On the contentious issue of somatic cell nuclear transfer (SCNT), sometimes known as therapeutic cloning, the Committee has given its support for SCNT and the creation and the use in research of certain other types of experimental embryos in the very early stage of their development and under strict ethical and scientific regulation.

The Committee agreed that the existing prohibitions in place to prevent reproductive cloning and the placement of prohibited embryos in the body of a woman should be maintained.

In October 2006, the Senate Standing Committee on Community Affairs was asked to examine the recommendations of the Lockhart review. The committee received almost 500 submissions from the scientific community and from the community at large. In the majority report, the committee concluded:

It is the opinion of the majority of this committee that the overwhelming weight of evidence presented before us must lead to the acceptance of the recommendations of the Lockhart Committee. I know that it was a difficult process for the Senate committee, just as it has been a difficult process for me and for most others in this place. I would like to highlight the main issues that convinced me to vote for this bill.

Embryonic stem cell lines produced through the method I discussed earlier have the potential to provide a cure for or to improve the health status of people suffering from a whole range of diseases, including diabetes, osteoporosis, heart disease, cystic fibrosis, Parkinson’s disease, Alzheimer’s disease, multiple sclerosis, motor neurone disease, spinal cord and brain damage, muscular dystrophy and stroke. Of course, that list is not exclusive. This may seem like just a lot of words, but for people suffering from these diseases and for their families and carers these words mean a great deal of pain and suffering. I would like to share with the House a couple of examples of people from within my own community.

One young man in his late 30s has a damaged retina and has been told that, at any time, he may lose sight in his eye. Another constituent of mine—a man in his early 40s with two very young children—has cardiomyopathy. I do not have a medical background but, as I understand it, this means that part of his heart tissue has died. He has been told that currently it cannot be cured. He is now unable to work, and his wife is trying to look after the family both financially and in the home. I understand that the family has cut into their retirement savings to ensure that the family can spend some quality time together while it is still possible. My constituent tells me that research undertaken overseas using stem cells shows potential use of stem cells for regenerating heart tissue. I can only begin to imagine the impact this would have on my constituent, his wife and their two very young children.
I am sure that we all have a very long list of examples and stories to tell, be they personal or be they on behalf of people we have met. How could I possibly tell these people that I would vote against legislation which would allow research into possible cures for the diseases that they suffer from—and that people in the future may continue to suffer from? How could I possibly look into the eyes of young children with type 2 diabetes and tell them there can be no hope of ever finding a cure or that we will prolong the search for one by voting against this bill?

Other benefits of stem cell therapy include the hope that it will reduce the need for whole organ transplantation, with all the complications resulting from immune system rejection that comes with that. These are just some of the potential benefits. It is also important to note that many countries regulate stem cell research, including the United States, Sweden, Belgium, China, Israel, the United Kingdom, Singapore, South Korea, Japan and Spain.

The scientific community has argued strongly that, if Australia does not participate in stem cell research, we will continue to lose some of our best scientists. Australia is at the forefront of stem cell research; therefore, we are in a position to expand medical research in this vital area. It is impossible not to note that all of us in this country should be and are extremely proud of how clever we have been in the past, and are currently, in medical and scientific research. I think the phrase is ‘punching above our weight’. We are very good at this sort of thing, and I would like to think that we can continue to have that ability shine.

I would now like to briefly address some of the arguments against stem cells research, many of which have featured in correspondence to me. Many argue that embryonic stem cell research is unnecessary because we can use adult stem cells for the same purposes. However, embryonic stem cell lines are more easily managed than adult stem cells because they can be reproduced on a larger scale. The mass production of adult stem cells for research is problematic. Also, bone marrow has few adult stem cells, so retrieving them is difficult. Another reason for the need for embryonic stem cells is that they are pluripotent, which means that they can differentiate into many different types of tissues. On the other hand, adult stem cells are multipotent, which means that they can only be differentiated into a narrow range of tissues. So, although adult stem cell research holds promise for therapies, it clearly has its limitations.

Another argument against embryonic stem cell research is that it may not result in any therapies down the track or, at best, that the therapies will not be available for many years ahead. I do not believe that this is a good enough reason to prevent us from trying, from opening that door. In the 1950s and 1960s, we did not know whether or not we could send people to the moon and bring them back safely. If we had not tried it, we would never have succeeded. If we had not tried to find a vaccine for cervical cancer, we would never have discovered it. Now it will be made available to young Australian women, potentially saving thousands of lives. We cannot prevent research just because we do not know what the outcome will be medically. It is a part of human nature to learn, to achieve and to beat the odds.

It is obvious that I am not a scientist. I alone cannot make the decision as to whether or not this research is valid or worth undertaking. All I can do as a member of this House is to listen to the experts and follow my conscience, and I have done that with the experts—as they call themselves—on both sides of this particular argument. If there is any possibility that we can prevent pain and
suffering in fellow humans then I can only support any moves to achieve this goal. I wholeheartedly agree with the view of Alzheimer’s Australia, as stated in their policy position of October 2006:

Alzheimer’s Australia recognises the potential for stem cell research to assist in further understanding Alzheimer’s disease and other forms of dementia, and its potential to assist in developing new therapeutic strategies. While in the short term, stem cell based therapies may be more likely to benefit other neurodegenerative disorders, such as Parkinson’s disease, Alzheimer’s Australia believes that stem cell research is a valuable research area that holds great promise to yield insight into many neurological disorders.

Motor Neurone Disease Research Association of Australia, or MND Australia, made a similar realistic statement in its letter to me:

MND Australia is wary of providing false hope for people living with MND and understands that therapeutic cloning will not provide a cure for people living with MND today. We are unprepared, however, to shut the door on the potential long term benefits of this research and hope for a future without MND.

Another strong argument against embryonic stem cell research is ethical and moral objection. While I respect the views of people who hold those views, I cannot vote against legislation which may alleviate the pain and suffering that I have been referring to. Furthermore, I cannot vote against this legislation knowing that we currently allow research to be undertaken on human embryos which are created with a human sperm and a human egg. I have difficulty understanding how some people who have participated in this debate in here and elsewhere can support the creation of human embryos for research and IVF treatment, yet they oppose research on embryos created through somatic cell nuclear transfer.

Another concern raised is that of the potential misuse or unethical use of research methods in relation to embryonic stem cells. I would argue that this legislation provides for very strict regulations, and I believe those safeguards are sufficient. For example, this bill allows the issuance of a warrant to enter premises where it is suspected that unlicensed embryonic stem cell and cloning research is being conducted. I also note that Senators Webber and Stott Despoja moved several amendments, which were passed in the Senate, which provide further safeguards. For example, the penalty for failure to observe the research regulations will increase from 10 years imprisonment to 15 years.

I raise one further issue which concerns me—that is, the possible exploitation of women, a subject that has been brought into this debate. Embryonic stem cell research will require the donation of human eggs, and there is legitimate concern that women will be exploited to ensure the supply of eggs. However, this legislation states that the commercial trade in human eggs is banned. I believe that women are able to make these decisions rationally, and that in fact they already do in relation to artificial reproductive technology. I support this legislation which will allow embryonic stem cell research under a very strict regulatory regime. I believe it is important for Australia to undertake research with both adult stem cells and embryonic stem cells. Whilst such research causes ethical dilemmas for many, I strongly believe that we cannot reject the possibility of scientific research which may lead to discoveries and treatments once never imagined and probably never even dreamed of.

In this debate many people have made the point in objecting to this legislation that it is almost immoral for proponents or supporters of the legislation to build artificial hope in the hearts and minds of those out in the community who find themselves in a medical situation in which they are looking for cures and for change of treatment. I want to say very clearly that I do not believe for one
moment that supporting this legislation is creating artificial hope. I remember very clearly, as many members in this place will, the day very recently when we had juvenile diabetes sufferers visit the House. That is an annual event and one that I treasure. It is the most wonderful opportunity to meet these young people.

I recall very clearly young Jack, from my constituency, who met me in my electorate office and came to the day here. He is a 7½- to eight-year-old, and a strong Swans supporter. From memory he contracted juvenile diabetes at the age of just over two. At the lunch here in the House on that day, as I was leaving the hall where the lunch was being held, his father and the parents of two or three other children sitting at the table where I was called me back. Each one of them individually said: ‘Please, please, on our behalf, think not only of our children but of the children in the future. It may not affect our children, but it possibly will those in the future. Please think of us when you vote on this particular bill.’ When I asked them to elaborate, they made it very clear that they believe so strongly that, if there is any possibility of further scientific research which could help those sorts of kids into the future, they would be so pleased to see it pass in this place.

I am also aware of many people, whom I have already referred to, who have personal stories to tell. I could talk about my personal stories in relation to this bill. I will not, except to say that we all come into this place with our own personal stories and our own personal influences that we build throughout our lives. We also, more importantly, bring to this place the stories from our communities. Whilst I have received a number of communications saying that on moral and ethical grounds people object to this bill, overwhelmingly my view is that my community believes very strongly that, without actually understanding the reality of the potential of this type of scientific research right now, they are very anxious that we go down this path and that their real concern, if any, is that the regulatory regimes around it are safe enough and strong enough to allow this science to occur. It is on all of those grounds, plus my own personal experiences, that I simply must and am very happy to endorse this bill.

Mr SECKER (Barker) (4.37 pm)—Unlike on other bills that have dealt with abortion and embryo stem cell research, where I had made up my mind on those issues probably 30 years ago, on this one I tried to have an open mind. The reason I did that was that it was a new sort of idea. Even though every member of this parliament voted against it four years ago, I thought it was important that I looked into the whole philosophical and medical debate about cloning.

I rise to speak on this bill that seeks to allow somatic cell nuclear transfer, commonly called cloning or therapeutic cloning. I would suggest that the term ‘therapeutic cloning’ has been conjured up in an Orwellian attempt at doublespeak and it seems to have succeeded. Further, it was found that people out there in the community still were not happy with the term ‘therapeutic cloning’, so the procedure took on the more scientific name of somatic cell nuclear transfer, which does not conjure up any idea of cloning. In fact, the bill is called the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006, which, again, is a bit Orwellian because it is not about prohibition, although that is part of it; it is actually all about allowing the cloning of human cells.

‘Therapeutic’ of course gives the idea that it is somehow good for you. Many of the speeches have taken that attitude, because
much of the promotion for therapeutic cloning suggests that it holds great hope for scientists to use somatic cell transfer for miracle cures in the future. This could be said to be a utilitarian approach: the greatest good for the greatest number. In some ways, the utilitarian approach can be a reasonable proposition, provided it does not cross some ethical line. You could argue that in the time of slavery those who were not slaves, those who owned slaves—who were greater in number—could come in under that philosophy. But I do not think anyone in this parliament could support the ethical boundary in relation to slavery.

I remember that, four years ago, when every member of this House and the other place voted against any form of cloning, this same reason—the therapeutic aspect and the possible miracle cures—was used to argue for embryo stem cell research. I rejected that. It is interesting to note that the same argument is being used again for this cloning. In that period, I am reliably informed, there have been about 76 breakthroughs using adult stem cells. I do not believe there is any ethical problem with that. But, in the same period, there have been zero breakthroughs from embryo stem cell research. I am not a scientist, but as a layman I would suggest that is a fairly good indication that there are some very good things being achieved through adult stem cell research, which, as I said, has no problems when it comes to ethics.

Four years ago we all voted against cloning. Every member of the Labor Party, every member of the Democrats, every member of the Greens, every Independent, every Liberal and every National Party member voted against cloning. What, may I ask, has changed in four years? Very little, except the minds of some people, I might unkindly suggest. What we have here is a classic example of people using the hopeful end to justify the means of getting to that end. The end being promoted is medical breakthroughs, and for that we could use cloning as the means, even though that end is, at this stage, not much more than hope. Indeed, that hope was how one member expressed his reason for supporting this bill to allow cloning. Unfortunately, I think that might be false hope.

Even if the hope were more real, the end still would not justify the use of cloning. Four years ago, the bill to allow embryo stem cell research was deliberately split to have a vote on embryo stem cell research and a vote on cloning. I remember that very clearly. I also remember the vote. It was 99 for embryo stem cell research and 33 against—very easy numbers to remember because it is three to one. I was one of those 33 and quite proudly so. But the vote against cloning was unanimous.

If this bill passes it will allow cloned cells to be destroyed up to the age of 14 days. What happens if in the future the scientists come back to us and say that 14 days really is not enough and they want to try 28 days? I suspect that those who support cloning to age 14 days will say yes to 28 days—after all, it is only a matter of time, isn’t it? What if the scientists come back later and say that 28 days is not enough and that we need three months? Again, it is only a matter of time, isn’t it? If you think this is unlikely then be aware that US teams announced in February 2005 that they had cloned monkey embryos up to one month in age and that they believed that that age could be lengthened by reprogramming. The only safe ethical time is zero days—that is, no cloning.

Do members also realise that there is nothing in this legislation to stop harvesting from aborted female foetuses? Do those members who support this bill realise that they are not stopping this from happening? The least they could do would be to support
an amendment which makes the practice of harvesting from aborted female foetuses totally illegal. Or do they think that the argument used by supporters of the destruction of embryonic stem cells through research is okay because they were going in the rubbish bin anyway? The argument that the end justifies the means cannot be supported by me in this conscience vote, just as we could not support fascism because it made the trains run on time, just as we could not support eugenics in Hitler’s Germany to justify the Aryan ideal of purity of race. We cannot support cloning for the same reasons; the end does not justify the means. Indeed this could be a very good reason why Germany is taking a very conservative view on cloning. I suspect that most of this research will be for cosmetics rather than medical breakthroughs, in any case.

What I utterly reject is the view that I am holding back future cures by rejecting this legislation, because even the most positive view of cloning by objective scientists tells us that we are more likely to find cures for diabetes, quadriplegia or many of the other problems mentioned by other speakers through other research that is far less controversial and far more ethical. What is far more important is the ethical boundary, long recognised in medical research codes, that would be crossed in legislating to allow the creation of cloned human life exclusively for the purpose of it being destroyed or killed in the pursuit of knowledge. Are we to allow the exploitation of women to gain access to more human eggs? Will we ever get to the situation where women are paid to supply eggs? What about the health risks to women? Four years ago I voted against cloning, like every other member of this parliament, and nothing has changed my mind to make me vote otherwise.

Ms HALL (Shortland) (4.47 pm)—The Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 was introduced into the Senate by Senator Kay Patterson, debated and subsequently passed in its current form. The bill was then introduced into this House by the member for Moore, and that is the bill we are debating today. The legislation seeks to implement the recommendations of the Lockhart legislative review committee.

Before I go into the composition of the Lockhart review committee, I will state at the outset that my contribution is based on fact backed up by accountability and transparency, and in no way am I seeking to use scare tactics. It is interesting that, in the previous member’s contribution, he did not concentrate on the facts. He did not look to the actual details of what was involved in this legislation; rather, his contribution was emotive. In saying that, I do recognise that this is a very emotive issue. I do recognise that each member of this House comes to this debate with a very different perspective. I do recognise that, in relation to this piece of legislation, members all form their opinions based on their own belief systems and their own value systems.

I think when looking at this legislation and the recommendations of the Lockhart committee it is important to note who those committee members were. The committee was headed by the late Justice John Lockhart AO, a most distinguished jurist and eminent Australian. There were five other members of the committee: two outstanding Australian scientists in the Australian 2005 Nobel Prize winner for medicine, Professor Barry Marshall, and Professor Peter Schofield, a leading Australian neurologist; Associate Professor Pam McCombe; and two of Australia’s leading experts in the fields of ethics and law in Professor Loane Skene, a renowned lawyer and ethicist and an academic who is Pro Vice-Chancellor and a professor of law at the...
University of Melbourne, and Associate Professor Ian Kerridge, a highly regarded expert in the field of health ethics who is a professor in bioethics and the director of the Centre for Values, Ethics and Law in Medicine at the University of Sydney.

I believe that those members of the committee are people who took into account all the issues. It is important to note the qualifications, background and expertise of those individuals. All members of this House would have to expect that, based on fact and fact alone, the recommendations of the committee are sound. The reason this parliament is debating the legislation does not relate to whether the recommendations are flawed or not; rather, the issue of this debate goes to the moral, personal, philosophical and religious beliefs held by the members of this House. It is for that reason that all members on both sides of this parliament have been given a conscience vote.

I think it is important to highlight the matters that are covered in this piece of legislation and to include details of what embryonic stem cells are. It is important to note that these are cells derived from a five- to six-day-old, immature embryo, more correctly known as a blastocyst. Blastocysts consist of around 150 cells. Embryonic stem cells are considered to be pluripotent: able to create any cell type of the body. At this stage the embryonic stem cells are uncommitted—in other words, they have not yet begun to develop into various tissue organ cells of the body.

With somatic cell nuclear transfer, or therapeutic cloning, a somatic cell is taken from a person. It can be a number of different cell types—possibly a skin cell or a liver cell, for example. The nucleus of this cell is then removed and placed inside an enucleated egg cell. The egg cell has the ability to reprogram the somatic cell nucleus to create a blastocyst. The blastocyst created from this process is not a typical embryo created from a sperm and an egg. It is known as a nuclear transferred embryo.

From a nuclear transferred embryo, embryonic stem cells can be isolated. These embryonic stem cells are an immunological match to the person. Therefore, the person's body would not reject these cells as foreign. The cells are also known as disease specific cell lines. The primary reasons that scientists want to do somatic cell nuclear transfers are to get around the issue of rejection and to look at developing cures for particular diseases. The bank of cells exhibits the person’s disease and can be used for the study of the genesis of the disease in the early stage of embryonic development. The cells could be used to test new drugs and treatments and, ultimately, may be used to repair or replace the diseased cells of people suffering from specific diseases. The process is often referred to as therapeutic cloning, but in reality it is somatic cell nuclear transfer.

This bill is not only about stem cells and therapeutic cloning; it is also about strengthening and improving current legislative regulatory regimes and improving the methods for achieving pregnancy through assisted reproductive technology. So this legislation covers a number of areas. It continues the absolute ban on reproductive cloning to make a whole new human being. So this is not the stuff of science fiction; rather, it is the stuff of scientific research. This is about creating cures for diseases. This bill has in it provisions relating to clinical practice and scientific research involving assisted reproduction and the production of human embryos for research purposes. This should continue, subject to the national legislation. In other words, it is very important that this be legislated on at a national level—not state by state. The bill also continues the ban on the trade and commodification of human
eggs, sperms and embryos. I think that is very important. Without this ban there could be exploitation and some of the other practices that are seen in other areas.

The Lockhart review found that an inadvertent effect of the 2002 legislation was to prevent research into improved methods for achieving pregnancy in ART clinics. The review also found that it was inadvertently impeding training and quality assurance activities in these clinics. I have visited some of these clinics and I know the valuable work that they do. I also know that the intent of the 2002 legislation was not to prevent research or to impede training and quality assurance. I believe it is very important that this bill be allowed to pass through the parliament so that those issues can be addressed.

There are a number of provisions in this legislation that relate to licensing arrangements—for example, to ensure that vacancies on the National Health and Medical Research Council licensing committee are promptly filled, and I think that is very important. There are also significant criminal penalties included in the legislation—up to 15 years imprisonment for breaking the law. The bill also requires the minister to report to parliament on the establishment of a national cell bank and a national register of donated ART embryos. This bill will bring into force the most stringent licensing conditions possible, which I think is very important.

This bill will allow two new activities. One is the use of so-called fresh embryos. They are embryos generated in the process of IVF that have been found unsuitable to transplant because of genetic flaws. I believe that research in relation to these embryos should be allowed, because that is where you can come up with cures for diseases. It is very important for the future of many people in Australia who are suffering from diseases that this activity be allowed to move forward. The second new activity is the use of human embryos created by somatic cell nuclear transfer, which I spoke about earlier. That activity is allowed in some countries—for example, the UK, Sweden, Japan and Singapore—and in private clinics in the US.

I think it is important to look at the reasons for going down the path of looking at this type of research. Many people in this place have argued that we should rely wholly and solely on adult stem cells—that adult stem cells are the way of the future—and that there has been no breakthrough so far, so therefore this is bad science. I make the point that science is not something that happens today or will happen tomorrow; rather, there is a process—a research process. It is my understanding that it took 50 years to develop the vaccine to eradicate polio. It has taken 15 years to develop the new vaccine for cervical cancer. We have been trying for many years to find the cure for cancer, but no cure has yet been found. So the fact that there have been no significant outcomes in relation to stem cells since the introduction of the first piece of legislation some three years ago is not an argument for not continuing with stem cell research and it is not an argument for not looking at therapeutic cloning.

To close the door and say these things cannot happen is to remove hope from the lives of many people. It is also putting on hold research within Australia. It is making the treatments that will become available through this research, which will take place overseas, available only to people who have the money to travel overseas. It would also lead to our best and brightest scientists moving from Australia and conducting their research overseas. I see an ethical issue here in depriving our nation of the research that can be done, people having to travel overseas and only those people with money being able
to access the treatments and cures that are
developed through this research.

Many members who have the opposite
view to me, which I respect, argue that this is
a slippery slope. I would argue very strongly
that the simple fact that this is so open and
transparent—that there is so much account-
ability built into legislation—will ensure that
this does not lead to a slippery slope. That is
where I very much disagree with the contri-
bution of the previous speaker.

Like other members of this parliament, I
have received considerable correspondence
from constituents and different groups. I, like
the member for Canberra, attended the
luncheon in the Great Hall for young people
with type 1 diabetes. I asked the parent of
one of the young people sitting next to me
how they thought I should vote on this legis-
lation. They implored me to vote for the leg-
islation. They saw this as hope for the future
of their child.

Prior to becoming a member of parliament
I worked as a rehabilitation counsellor. I was
on a spinal team, working with people who
were high-level quadriplegics and paraple-
gics. I know that the one thing that kept them
going was the hope that maybe one day a
cure would be found—that maybe one day
they would walk again. I cannot turn my
back on them.

Alzheimer’s Australia have circulated a
policy position statement to all members of
the parliament. In it they recognise the po-
tential for stem cell research to assist in the
understanding of Alzheimer’s disease. They
implore us to support the recommendations
of the Lockhart review. In particular, they
support: maintaining the strong national
regulatory framework governing the use of
stem cells and embryos in research, which
this bill does deliver; continuing to allow the
use of ART embryos in research; and main-
taining the prohibition on reproductive clon-
ing. I think that is where the confusion
arises. This bill is not about reproductive
cloning; this is about therapeutic cloning. It
is a very different thing. Alzheimer’s Austra-
lia also support allowing somatic cell nuclear
transfer to be used for further research, es-
tablishing a national stem cell bank and en-
couraging public education. This legislation
delivers all those things.

I would like to refer to some correspon-
dence that I have received from Dr Paul
Brock. His mother and his brother, who is a
pastor, live in the electorate of Shortland. He
is a sufferer of motor neurone disease. He is
a highly educated man who made a submis-
sion to the inquiry into this bill by the Senate
Standing Committee on Community Affairs.
He is the Director of Learning and Develop-
ment Research in the New South Wales De-
partment of Education and Training and
holds a number of professorial positions. He
says that he is a strong advocate of embry-
onic stem cell research. He is very suppor-
tive of the scientific arguments and the reas-
surances about the imposition of protocols
and the really crucial factors included in this
legislation. He spent a considerable time ob-
taining a religious education. He has six
years of formal study in philosophy, theology
and ethics as a member of a religious order
of the Catholic Church—the Marist Brothers.
So he is a committed Christian and a person
who has considered a number of the issues
that have been raised in this debate. But he is
also a person who has had his life changed
dramatically by motor neurone disease. In
his submission he quotes Dr Dominic Rowe,
who said:

If you were to design the worst possible disease
that you could imagine, it would be Motor Neu-
rone Disease. It is a disease that slowly robs you
of mobility and function but keeps your other
senses, sensation and intellect intact.

Dr Brock makes the point that at any one
time 1,400 people are afflicted with motor
neurone disease in Australia and that one person dies of it every day. He believes that the legislation we are debating in the parliament today offers him hope and offers hope to many other people in his position. In conclusion, I would like to say I believe this legislation sets a framework that enables research with the appropriate checks and balances. I support this legislation and will vote for it. (Time expired)

Mr SCHULTZ (Hume) (5.07 pm)—While I am grateful for the opportunity to speak on the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006, I am aware that the time allocated to contribute to this important debate is restricted to accommodate all who wish to speak on this important issue. At the outset I want to reinforce the stand I took when parliament debated the same issue in 2002.

In 2002, intense debate resulted in the parliament unanimously approving legislation which permitted research on excess embryos created by assisted reproductive technology techniques. The outcome of that legislation was that parliament made the judgement that research on excess embryos already created for IVF and associated processes was balanced and in the public interest. The legislation in 2002 permitted research practices under licence and for the use of excess human embryos from the IVF program to obtain pluripotent stem cells. It is believed that this procedure could one day lead to the treatment of a range of medical conditions.

As I said in the debate then, stem cell research has enormous potential for good in the community. The ethical question is not about whether or not to use the stem cells; it is about the source from which the stem cells are extracted. The debate was then, as it is now, centred on regenerative medicine—an exciting field of medicine applying different techniques to assist in the repair of damaged organs and tissues. Stem cell therapy is part of this new and exciting field of regenerative medicine, which may—and I stress the word may—in years to come benefit many conditions, including Alzheimer’s disease, Parkinson’s disease, diabetes, spinal cord injuries, cardiovascular disease and cancer.

It is estimated that in Australia there are currently over 80 therapies and approximately 300 clinical trials underway using adult stem cells. It is an undeniable fact that adult stem cells have been shown to help 70 medical conditions, including Parkinson’s disease, spinal cord injury, blood diseases and heart damage. In stark contrast to these developments, there are no current successful therapeutic uses of embryonic stem cells in human patients because of tumour formation.

So what is it that has changed since the lengthy and significant debate in 2002 in this place, when parliament passed the Research Involving Embryos and Prohibition of Human Cloning Bill 2002? The political strategy to redefine the cloning of an embryo by describing it as an SCNT—a somatic cell nuclear transfer—is certainly something which has changed. This change has occurred because certain medical scientists believe it was easier to confuse and mislead people into thinking that cloning and SCNT were different scientifically and ethically. The general thrust of scientists appealing to the theological virtue of hope for support in developing and killing human embryos to obtain embryonic stem cells is the same as it was in 2002, so that has not changed.

So why change? Why not have more money put into adult stem cell research, which has a proven track record and where there is no rejection of the person’s own cells? We need to shore up the good work being done with adult stem cells before we
allow scientists to venture off into the delicate and sensitive field of embryonic cells. We should assist and encourage an area that has already assisted many, and we should not be peddling false hope. I believe that many politicians, both in this place and in the Senate, have certainly compromised their principles and integrity by doing a complete about-face on this very important issue. They will have to live with the reasons why their very definite and strong contributions to the previous debate in 2002 have now been compromised.

I speak for the majority of Hume constituents who have contacted me. By far the majority were in favour of adult stem cell research continuing but were fearful of embryonic research. Many asked, ‘Where is the evidence that embryonic stem cells can provide more?’ While this is a conscience vote, we should consider the views of our constituents whom we represent in this place. Using the Lockhart review recommendations as a reason for a change of mind is not something that I will be doing. I will not be supporting legislation that allows scientists to create human embryos using precursor cells from a human embryo or a human foetus.

The Prohibition of Human Cloning Act 2002 was passed just four years ago without a single dissenting vote in either the House of Representatives or the Senate. Section 9 of that act provides:

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

Many politicians, including those who supported legislation to allow research using excess human embryos created as part of the IVF program, spoke strongly in favour of the Prohibition of Human Cloning Act 2002. On 19 December 2005 the legislative review committee, chaired by the Hon. Justice John Lockhart, handed its report to the Hon. Julie Bishop, then Minister for Ageing, and to the Council of Australian Governments. On page 172, the report recommended the following key changes to the Prohibition of Human Cloning Act 2002. Recommendation 23 said:

Human somatic cell nuclear transfer should be permitted, under licence, to create and use human embryo clones for research, training and clinical application, including the production of human embryonic stem cells, as long as the activity satisfies all the criteria outlined in the amended Act and these embryos are not implanted into the body of a woman or allowed to develop for more than 14 days.

Recommendation 24 said:

In order to reduce the need for human oocytes, transfer of human somatic cell nuclei into animal oocytes should be allowed, under licence, for the creation and use of human embryo clones for research, training and clinical application, including the production of human embryonic stem cells, as long as the activity satisfies all the criteria outlined in the amended Act and these embryos are not implanted into the body of a woman or allowed to develop for more than 14 days.

The review was required by its terms of reference to consider the operation of the Prohibition of Human Cloning Act 2002 and the need for any amendments to that act due to developments in medical and scientific research and the potential therapeutic applications of such research and community standards.

In relation to the science of human cloning, the report cites the work of Hwang Woo Suk as the most promising development, and the only research on human cloning ever published in a peer reviewed journal. The Lockhart report, on page 58, states:

The first report of human embryo cloning to appear in a peer-reviewed scientific journal was in 2004 (Hwang et al 2004). South Korean scientists cloned human embryos until the blastocyst stage to create ES cells. In 2005, the same group of researchers applied these nuclear transfer methods to clone human embryos using somatic cell nuclei from patients who have various diseases or
injuries, to derive ‘tailormade’ stem cell lines (Hwang et al 2005).

The committee cited this development as justification for allowing this research in Australia. Page 170 of the Lockhart report states:

The Committee heard that research using human cloning to generate embryonic stem cells is proceeding in several other countries where these technologies are legislatively permitted (eg United Kingdom, South Korea, Singapore) or where no national legislative regulations are in place (eg United States). Therefore, many respondents to the reviews argued that the prohibition of human cloning to generate patient-matched stem cells should be lifted in Australia to allow Australian researchers to continue to contribute to the intellectual and biotechnological developments in this field.

Unfortunately for the usefulness of this report, the most promising research in human cloning—in fact, the only research claiming to have produced a human clone that has ever been published in a peer reviewed journal and the only research claiming to have successfully derived human embryonic stem cells from a human clone—has now been shown to be comprehensively fraudulent. On 15 December 2005, a colleague of Hwang claimed that his research was faked. On 19 December 2005, Justice Lockhart handed over the report, which cited Hwang’s work as justification for allowing human cloning for research in Australia. On 23 December 2005, academic panels concluded that Hwang’s research, which claimed to have derived patient-specific stem cells from human embryo clones, was faked. On 10 January 2006, academic panels concluded that Hwang had, in fact, never even produced a human embryo clone. Contrary to the Lockhart report, and relying on the peer reviewed literature, no scientist anywhere in the world has derived human embryonic stem cells from a human embryo clone. No scientist anywhere in the world has created a human embryo clone. The science of human cloning has not significantly changed since 2002 and there is no scientific development which justifies revising the Prohibition of Human Cloning Act 2002. The review was required to report on any change in ‘community standards’ in relation to the matters covered by the Prohibition of Human Cloning Act 2002.

According to Frank Brennan SJ, the review adopted a novel approach to community standards which was at odds with the established approach of the High Court of Australia to ascertain community standards when required to do so by legislation. Rather than considering any overall change to community standards, the review came up with the novel view that there is no single Australian community, but instead many communities:

... and therefore any scientific exploration should be permitted provided there were not strong arguments against it from all groups, including those who discounted the moral significance of the life of the human embryo.

Research conducted by Swinburne University of Technology has found:

Almost 30% of the sample was not at all comfortable with using cloned embryos, and the majority of the sample (63.4%) scored under the mid point ... 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.

Although this research was published in 2004, it is not referred to at all in the Lockhart review. 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. The information given to respondents is false. No scientist has yet made an embryonic stem cell. It also gives a misleading description of cloning. Many laypeople would not understand from this description that this process would still form a living human embryo which is then destroyed by the extraction of stem cells. As I said before, I will not be supporting legislation that allows scientists to create human embryos. Once again, morals, ethics and truth have been thrown out of the window and the deception that we saw perpetrated on the Australian people in 2002 is once again being imposed on them in the worst possible way.

In closing my input into this very important debate, I wish to quote from a presentation to the members of parliament by Father Frank Brennan on 17 October 2006:

There is still the prospect that embryonic stem cells could be produced without the need first to produce a human embryo and then destroy it. … Community standards and the near universal condemnation of SCNT by our elected politicians just four years ago point to the need for Australians to wait until conscientious scientists have exhausted all efforts to find ethical sources of pluripotent stem cells for research and therapies available to all. The ethical dilemmas cannot be solved by redefining the product of SCNT as anything but a human embryo. In what circumstances would reasonable members of the Australian community think it proper to create human or hybrid embryos by somatic cell nuclear transfer with the primary intention of experimenting upon them such that their destruction was an inevitable consequence? The situation is unchanged from 2001 when the Standing Committee on Legal and Constitutional Affairs … stated: “Currently there is no therapeutic purpose to be served by the creation of such embryos as research has identified no specific opportunities that require the deliberate formation of embryos.” There has not been sufficient change in the state of scientific knowledge nor in community acceptance of deliberate creation of human life for destructive experimentation to warrant a revisiting of the Australian Parliament’s unanimous 2002 condemnation of all forms of human cloning for biomedical research, regardless of whether the eggs used are human or animal.

Father Brennan has highlighted the fraud perpetrated on the Australian people through the current process driven by the suspect and highly questionable recommendations of the Lockhart report. I will not be supporting this bill because there is an ethical boundary long recognised in medical research codes that would be crossed in legislating to allow the creation of cloned human life exclusively for the purpose of that cloned human life being destroyed in the pursuit of suspect scientific knowledge.

I also note in closing that a number of scientists who gave evidence to the Senate committee failed to disclose that they held patents in areas directly related to their research as well as having significant shareholdings in biotech companies directly involved in embryonic stem cell research. So much for the great fraud once again perpetrated on the Australian people. I thank the House for the opportunity to make this contribution.

Ms VAMYAKINO (Calwell) (5.22 pm)—The Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 seeks to amend the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002 in line with recommendations made by the Lockhart committee in its report released on 19 December 2005. The Lockhart committee, chaired by the late Hon. John Lockhart, whose dedication to the task at hand remained faultless, was established in accordance with provisions originally set out in

These provisions called for both pieces of legislation to be independently reviewed within three years of their being passed. After extensive consultations, the report prepared by the Lockhart committee made 54 recommendations in total. Some of these recommendations were designed to further clarify already existing regulations contained in the 2002 acts, whilst others serve to reinforce the current prohibition against human cloning for reproductive purposes contained in the 2002 acts.

A number of recommendations, however, also proposed amending the 2002 acts in line with recent developments in the expanding field of embryonic stem cell research. As expected, these latter recommendations and their inclusion in the amendment bill before the House have generated intense public debate and often deep divisions over the ethical and moral implications of this bill.

My own approach, like that of my colleagues, has been to carefully consider the different arguments put forward both by those who support this bill as well as by those who remain firmly opposed to it and to judge each on their scientific and ethical merit as best as I can. To this end, I would like to thank at the outset the many individuals and organisations I had an opportunity to speak with about this bill as well as the many others who took the time to write to me. I found their contributions both helpful and valuable.

In particular, I would like to thank Professor Loane Skene, deputy chair of the Lockhart committee, who patiently explained the Lockhart committee’s recommendations to me in great detail when we met. As well I would like to thank Professor James Sherley, Associate Professor of Biological Engineering at Massachusetts Institute of Technology, who further explained some of the science behind embryonic stem cell research and presented a useful summary of the arguments against this research when we met. I would also like to thank my own parish priest for his useful advice and guidance.

Before I address those aspects of the bill which have elicited most controversy, I would like to briefly mention certain provisions that have generally received less attention in the public domain but which nevertheless remain pertinent to debates over the ethical and moral merits of the 2006 amendment bill. In accordance with recommendations made in the Lockhart report, and in keeping with the 2002 acts, the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 continues to outlaw any form of cloning for the purposes of human reproduction, meaning that it will remain a crime punishable by imprisonment to clone a human being. In addition, all research on embryos must be approved by the National Health and Medical Research Council licensing committee and by an institution’s ethics committee.

The creation of human embryos by fertilisation will still be restricted to assisted reproductive technologies, or ART, treatment for the purposes of achieving pregnancy only, and original prohibitions against developing and implanting embryos provided for in the 2002 acts will also remain. These prohibitions outlaw any attempt to place a human embryo clone into a woman’s body or into the body of an animal. In addition, a ban on trade in human gametes or embryos will also remain firmly in place. These provisions are important for they remain key components in the strict regulatory regime which currently exists in this country when it comes to stem cell research.
A national and effective system of licensing and monitoring for stem cell research was introduced in Australia with the passing of the 2002 acts, and it is important that we continue to take steps to safeguard and further strengthen this regulatory regime. The bill before the House attempts to do just this by both reaffirming Australia’s already existing regulatory framework and extending this framework to include the new technologies being developed today.

It is this conscious attempt to consolidate and further extend Australia’s regulatory framework in the area of stem cell research that would prove an important factor in influencing my own position on this bill. Given the rapid speed at which this sort of science moves, our responsibility in this place is to keep pace and to make sure that the proper legislative frameworks are in place to guarantee that scientific research, and the new technologies that may follow, are properly regulated and not manipulated for harmful purposes.

Of course, this bill also makes it possible for Australian scientists to pursue new avenues of research otherwise prohibited under the 2002 acts. By far the most controversial aspect of this legislation remains the contentious issue of somatic cell nuclear transfer, otherwise known as therapeutic cloning. The science behind therapeutic cloning is complex. In essence, therapeutic cloning names a form of research involving embryonic stem cells. Each human cell is made up of three essential parts—namely, the nucleus, the cytoplasm and the cell surface membrane. The nucleus is the densest part of the cell and contains a person’s DNA.

In the case of embryonic stem cell research, a group of somatic cells, usually skin cells, are taken from a patient suffering a degenerative disease so that the nucleus of each cell can then be removed. Once extracted, the nucleus from a somatic cell containing the patient’s DNA is transplanted into a donor egg cell that has also had its nucleus removed in a process that is known as nuclear transfer. Once done, this combination of a donor egg cell transplanted with a somatic cell nucleus creates a new cell that is a clone of the patient’s cells. This new cell is then stimulated to divide, and it is by watching this cell division that scientists hope to better understand otherwise intractable diseases like type 1 diabetes, leukaemia, Parkinson’s disease, cystic fibrosis and so on.

The most likely source of donor egg cells are those egg cells left over from IVF treatments. Current legislation already allows for research to be conducted on donor egg cells for the purposes of progressing IVF technology. The bill before us also makes it possible for research to be conducted on abnormal donor eggs that would otherwise be discarded in IVF treatments. The donor egg cells used in therapeutic cloning will not yet have been fertilised by male sperm. In normal circumstances, reproduction occurs when a female egg and male sperm combine to create a complete set of chromosomes. This fertilised egg then divides into cells until it reaches a point where these cells begin to develop the specialised characteristics of skin, bone, muscle, heart cells and so on.

A female egg fertilised by male sperm is commonly defined as an embryo after two cell divisions. When major organs and nerve structures begin to develop—usually around eight weeks after fertilisation—this embryo becomes a foetus. In the case of embryonic stem cell research, the donor egg cell becomes an embryo when it starts to divide after the transplantation of a somatic cell nucleus rather than through the normal processes of fertilisation via male sperm. In a nutshell, this is what therapeutic cloning entails.
The bill currently before the House sets a 14-day limit on research involving embryonic stem cells. That is, these cells will not be allowed to develop beyond 14 days. It also outlaws the transplantation of an embryo clone produced by stem cell technology into either a human or an animal body. Much of the opposition generated by this bill centres on questions over the moral status of embryonic stem cell research and, in particular, over the creation and destruction of modified embryos for the purposes of research.

Many opponents of the bill believe that embryonic stem cell research crosses the fundamental threshold of the basic right to life. Their opposition is based on an absolute moral claim. From the conversations I have had and from the correspondence I have received, my understanding is that such opponents of the bill not only attribute full human personhood, dignity and moral status to the embryo from the moment of its fertilisation on but also endow the same rights to an unfertilised human donor egg, given its potential to be a human life. Both are seen to be endowed with the same rights as any other person.

Some have argued that this technology will lead to animal-human hybrids. This is an argument which I believe has only weakened the overall case put forward by opponents of therapeutic cloning. The 2006 amendment bill does allow for a somatic cell nucleus to be transplanted into an animal egg, but, again, the time frame for such research is strictly limited to 14 days. The use of animal eggs is intended to limit an overdependence on human eggs. It should also be noted that animal eggs are already used to test sperm quality in the process of creating embryos through ART technology.

Others still have argued that adult stem cell research provides a more than adequate alternative to embryonic stem cell research and that the significant achievements already made in the field of adult stem cell research show more potential than those made in the field of embryonic stem cell research. It is true that significant advances have been made in the area of adult stem cell research, and we should continue to pursue this line of research. But it is also true that adult stem cell research has been going on now for the last 50 years or so, whereas embryonic stem cell research still remains in its infancy. One of the key benefits that scientists point to with embryonic stem cells is that they divide or differentiate much more rapidly than adult stem cells and are thus more likely to lead to positive scientific breakthroughs.

Still other opponents of embryonic stem cell research have pointed to the health risks of egg donation as well as the possibility that women could one day be exploited. I share this concern, which is why I think it is important that the ban on trade in human embryos, as provided for in the 2002 acts and the 2006 amendment bill, remain firmly in place and stringently policed. The issue of how best to police this ban remains an ongoing question—one that I believe needs to be given more detailed consideration. As a cautionary note, I will say that arguments about the possible exploitation of women should not be made at the expense of dismissing the ability of women to make reasoned and informed choices.

Those who support this bill point to the many potential benefits that follow from embryonic stem cell research. Such research is already underway in the United Kingdom, the United States and Singapore, and, to date, the early signs look positive. Embryonic stem cell research promises to speed up and refine our current research into and understanding of those diseases for which there is currently no cure—diseases that affect and often cripple the lives of millions. It is worth
noting that members of the Lockhart committee have cautioned against overexaggerating the future benefits of this type of technology. I believe that theirs has been a responsible approach. Their consistent message has been to say that, whilst embryonic stem cell research shows many positive early signs, there are no guarantees that a miracle cure for degenerative diseases will be found, and any treatments resulting from this type of research will more likely benefit our grandchildren rather than the present generation.

Finding a cure for otherwise intractable diseases like Parkinson’s disease, leukaemia, type 1 diabetes and motor neurone disease remains as much an ethical priority as the moral debates that have surrounded this piece of legislation. In Australia alone, over 500,000 people live with debilitating diseases. Over 140,000 Australian adults and children suffer from type 1 diabetes, and more than 100,000 Australians suffer from Parkinson’s disease. And according to CAMRA, the Coalition for the Advancement of Medical Research Australia, one person dies each day from motor neurone disease in Australia.

Embryonic stem cell research enables a person with Parkinson’s, type 1 diabetes or leukaemia to donate a cell and for the DNA in that cell to be reproduced for the purposes of better studying the disease. It also allows scientists to produce a cell line for people with such diseases, thus avoiding the complications of immune system rejection. Many experts across a number of medical and scientific fields, both here and abroad, have expressed their strong support for embryonic stem cell research. And many, like the Australian Academy of Science, believe that the early findings of embryonic stem cell research merit this technology being pursued in the hope of one day finding cures or at least better understanding certain diseases. I agree with them.

In talking about cloning in the context of embryonic stem cell research, we are talking about copying cells that carry a particular disease in order to better study that disease—not about cloning a new human being—and about research undertaken with the aim of alleviating human suffering. My overriding concern is that any future therapies arising from embryonic stem cell research remain available to all and do not become the exclusive privilege of those who can afford them, nor simply a lucrative profit-making venture for the biotech companies that patent this technology. I share the concerns of those who want to see the potential benefits of this technology remain in the public domain. Equitable access to therapies derived from embryonic stem cell research must be guaranteed by making them available to all Australians, via our public health system.

What I do not support is a system of privatisation and commercialisation regarding this technology whose foundations are squarely rooted in commercial profiteering rather than in the spirit of helping others less fortunate than ourselves. Towards this end, I support the establishment of a national stem cell bank. I believe that in this area the UK provides us with a strong model to follow.

Like all other members of the House, I have been asked to make a conscience vote on this piece of legislation. For me, the potential benefits that embryonic stem cell research could herald—as long as the science remains tightly controlled within the current regulatory framework and subject to further review in six years time—outweigh any potential for harm that may result from this research. It is for this reason that I support the bill.

I will end by placing on public record the debt I owe to the late Dr Panos Ioannou. Un-
til his untimely death in April last year, Dr Ioannou was head of the Cell and Gene Therapy Research Group at the Murdoch Children’s Research Institute at the Royal Children’s Hospital, an associate professor in the Department of Paediatrics of the University of Melbourne and an honorary senior scientist at the Cyprus Institute of Neurology and Genetics. Dr Ioannou was of tremendous assistance to me during the last stem cell debate some four years ago. I am certain that, if he were still alive today, his counsel would have been as helpful to me now as it was then.

Dr Ioannou was a brilliant scientist. He dedicated his life to finding a cure for thalassaemia, a debilitating condition that afflicts millions of people not only from southern European countries but also from across Asia and in particular China. Dr Ioannou established the first molecular genetics laboratories in Cyprus before he came to Australia to pursue research dedicated to the development of genomic therapies using the latest knowledge and resources created in the course of the human genome project at the Murdoch Children’s Research Institute. He was a man of great passion for his work; he was also passionate about his family, whom he saw as an integral part of his life’s work.

Panos was full of hope that one day he and his colleagues would find a cure for thalassaemia. In the days leading up to his death, Panos wrote a letter to his friends, in which he wrote of his disappointment at missing the next stage of his research. Although he was confident that others would continue his work, he felt that ‘this cancer has robbed me of the most exciting and satisfying part of our research’. Dr Ioannou was one of those many scientists who saw the potential for new technology to be used in a way that helped humanity. His extraordinary courage, intelligence, sound moral character and love for humanity not only made it a privilege for me to have known him; they also reaffirm in my mind that we should have faith in the values and ethical rigour that are brought to their work by our most gifted scientists, whose efforts are intended to benefit humanity and not to cross moral thresholds. This bill is very much about helping to foster medical and scientific knowledge—and, to quote Panos, ‘Knowledge turns dreams into reality.’

Mrs VALE (Hughes) (5.41 pm)—In addressing the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006, I acknowledge that there is a wide range of opinions that are genuinely held by my colleagues on both sides of the House. I have read many of their speeches and I am aware of their various points of view. However, nothing I have heard has persuaded me from voting against this bill, and I welcome this opportunity to state my point of view to the people of Australia—and most especially to my constituents.

The proponents of this bill tell us that it will help scientists to find cures for many serious illnesses, like Parkinson’s or diabetes, despite the fact that to date there is absolutely no scientific evidence to suggest that embryonic stem cells can provide the miracle that many seek. However, on reading the bill, it is clear to me that the core issue of this legislation is far more serious. The defining issue in this bill is how our society will value human life in the future.

As many Australians are aware, a human embryo is a developing human being at its very earliest stages of life. During the embryonic phase, brainwave activity begins, along with the development of a heartbeat and other major organs. The embryo’s unique DNA is present: the three billion detailed instructions needed to build the embryo into a unique person are all present in
his or her DNA molecule at the very instant of conception. Whether begun by fertilisation of the ovum by sperm or by somatic cell nuclear transfer—which was the process used to produce Dolly the sheep—the single cell human embryo has all the necessary genetic information to direct its own development as a living human being. The genetic information in the DNA molecule is the most densely packed set of information known in the universe. Science cannot say where this amazingly complex set of three billion instructions came from, but we can say this: if scientists in the 30-year-old search for extraterrestrial life program detected such a complex string of information in radio signals from outer space, they would be convinced that there is intelligent life elsewhere in the universe.

When this legislation was first brought before the House in 2002, all members unanimously voted to reject any suggestion that human embryos could be created for scientific experimentation and then destroyed. My first question is: what has changed in the intervening four years to convince Senator Patterson and other proponents of this amendment that it is necessary and desirable to bring this amendment before the House once again? In the debate of 2002, while the House agreed to allow the use of those frozen embryos that were surplus to the requirements of the IVF program, many members were clear in their opposition to the deliberate creation of human embryos for the purpose of scientific experimentation and subsequent destruction. Even Senator Patterson stated:

I believe strongly that it is wrong to create human embryos solely for research. It is not morally permissible to develop an embryo with the intent of truncating it at an early stage for the benefit of another human being.

I agreed with Senator Patterson’s words on that occasion—and I still do. So what has changed in the intervening four years for the senator to change her mind so diametrically to bring on this amendment in her name? When parliament unanimously decided that all cloning of human embryos would continue to be banned in 2002, this position reflected that of many other countries as well as the United Nations Declaration on Human Cloning, which Australia supports.

Since 2002 there has been no significant scientific advance with human cloning. There has not been a single confirmed case of an effective cure for any disease anywhere in the world through the use of embryonic stem cells. The one allegedly scientific advance that the Lockhart committee used to justify its recommendation to overturn the parliamentary ban of 2002 was the Korean experiment under Professor Hwang, which turned out to be a monumental fraud and a hoax on the scientific community. This failure is also an unethical and cruel deception for those who suffer from illnesses and disease.

The revelation of this fraud must be an embarrassment for those on the Lockhart committee. It certainly presents a fatal difficulty for any logical acceptance of the committee’s report. Parliament cannot be expected to take this report seriously when it is known to be based on fraudulent claims and misrepresentations of fact. As the report is based on bad research, its recommendations must now be regarded as scientifically indefensible. However, the bill is before this House and, while it raises complex issues of an ethical, scientific, societal, medical, philosophic, spiritual and religious nature, I still come to the unavoidable conclusion that this amendment raises a singular defining issue—that is, the value this parliament now places on a human life.

I note that many other issues have been raised and considered by other members in
this debate. These issues include the breach of ethical scientific behaviour in holding out false hope to the sick and infirm, the lack of scientific evidence that embryonic stem cells can actually deliver what has been promoted, the practical problems and repellent facts of securing a sufficient harvest in the supply of human eggs, as pointed out by Katrina George of Women’s Forum Australia, and worse, the repugnant provision for human-animal hybrids ‘for the testing of sperm quality’.

This bill presents these difficulties despite the recognition that adult stem cells have been scientifically proven to be the only repair cells upon which we can really rely, as explained by Professor James Sherley of the Massachusetts Institute of Technology in Boston.

Other members have already ably argued these and other issues, but I want to address what I see as the core of this debate—that is, how we as a society, as a parliament, as a modern, educated, industrial, self-indulgent, consumer-driven Western society of the 21st century, value human life. For if this legislation is passed, we will have crossed over into another world—a world which devalues human life while at the same time allowing the de facto cloning of human beings to become a distinct possibility. We would be naive to think for one moment that there will never be a scientist somewhere who will be able to resist the temptation to produce Australia’s first cloned baby.

Until this legislation, human life was valued simply because it was just that—a human life. Some refer to the sanctity of human life, because, as we are told in the good book, we are made in the likeness of God. Even if such explanation is not accepted by some, none will deny that each human life is a distinct entity, a being unique in the universe, individuated by its own DNA, singularly vibrant with varying talents, attributes and proclivities, resonant with feeling, brimming with hope and dreams. All together, human life embraces the good, the bad, the ugly and the beautiful.

In 2002, this House duly and rightfully concluded that it was desirable and appropriate that this unique creation be spared the indignity of being reduced to disposable, experimental laboratory material. So, besides the flawed Lockhart report, I again ask: what has changed? I also note that the Lockhart report would have this parliament provide the nation with a statutory definition of when life begins, and they decided that 14 days was a lovely number. At 14 days, under this amendment, the embryo is to be destroyed, as if, for those first 14 days, it wasn’t human at all, but just some kind of property available to be used. So this unscientific report recommends that, after 14 days, the created human embryo is now a life, 14 days after it began.

Of course, there has been quite some debate about when life actually begins, but how can human life begin other than at the time it is conceived—that is, at conception? Human life cannot start without conception, so that must be the time at which life begins. It is certainly the time when the three billion design instructions for making this unique individual come into existence in the embryo’s DNA. Yet this amendment will provide a statutory definition of the beginning of human life at 14 days. So what is it up to that time if it is not human? I have no doubt that it is human.

It is interesting to note that there is also no doubt about its human nature amongst some of the proponents of the objectives of this bill—that, at its very earliest, the embryo is the tiniest member of the human family. In an interview on Lateline on 14 August 2002, Tony Jones was interviewing Professor Alan...
Trounson, CEO of the National Stem Cell Centre, and Dr David van Gend, spokesman for Do No Harm, an association supporting stem cell research but opposing embryo destruction. During this interview, Dr van Gend said:

The fundamental issue is that, if the embryo matters, there are certain things we cannot do. We cannot define this littlest member of the human family as mere meat for the consumption of science. That is the line we cannot cross.

Tony Jones then asked Alan Trounson: ‘Is it the smallest member of the human family, the embryo?’ Alan Trounson answered: ‘It’s clearly human. We treat it with respect, but we have laws that say we have to destroy it.’ Tony Jones then asked him: ‘Taking the points David van Gend has raised, does that actually bother you ethically if this is a human being?’ Alan Trounson replied: ‘No, it doesn’t bother me at all.’ Dr van Gend went on to say:

... it’s a greater evil to say we will now define a subgroup of the human family as laboratory material. We will say specifically in our laws that now a member of the human race, a genetic member of our family, will be material for science to consume.

That interview was held in 2002. It is now 2006 and we are debating the value which our society places upon human life. Forget the slippery slope. We are now in a headlong dive towards a new world where human life will need to be brave indeed because it will now be seen in terms of its varying utility. This legislation provides for the destruction of human life and the thrust of this bill is that such destruction might one day, despite the absence of any evidence, be of some benefit to somebody else. To reproduce human life in a depersonalised way, in a laboratory, for the purpose of experimentation and then to kill that life is to reduce it to property to be used. This bill is bad because it is clearly about exploitation, and that can never, ever be justified in a civilised society.

Professor Father Frank Brennan of the Australian Catholic University rightly takes issue with the committee’s attempt to differentiate those human embryos created by nuclear transfer as having ‘a different social or relational significance’, and thus could be experimented upon, from those created by fertilisation of eggs by sperm. This is a seismic shift. No longer is the essential humanity of the embryo the test for this committee. For them the new consideration is whether or not the embryo has any social or relational significance. What would be the test and who would decide? Father Frank goes on to point out:

Once we cross the moral contour prohibiting creation of human life only for experimentation and destruction there is no other coherent dividing line to draw.

I understand this to mean that we are then in a moral wilderness—no more ethical principles to guide us; our compasses would be all awry. Indeed, there are many lonely people in the world today who may find themselves without social or relational significance, but in a Lockhart future such people would be seen for the utility they may provide. Thus they are expendable.

From a spiritual point of view I have never put much store in the concept of utilitarianism when dealing with human beings and, as this is a conscious vote, I should really explain why to my constituents. Ironicaly, the Lockhart committee did note:

... there are certain moral values that are held in common by all communities, such as a commitment to social justice and equity, and to the care of vulnerable members of society.

I say ‘ironically’ because this amendment is set to change those very certain moral values by crossing Father Frank’s moral contour and seeing human beings only on the basis of
their utility as disposable laboratory material. Why? Because those moral values identified by the committee are the fruits of the beliefs, faith and values of our fathers and grandfathers from many preceding generations whose beliefs, faith and values were rooted in the teachings of a uniquely love based Christian faith. Such Christian ethics in turn informed our sense of human justice, freedom and equality and thus the establishment of our democratic institutions.

It is from the principles and ethics of the Christian faith that we derive our awe, respect and wonder for human life, simply because it is a human life made in the image of God. Christians do not value human life on the basis of contribution to society or productive capacity or, in other words, on its utility. No doubt there are many in this place and in contemporary Australian society who will sneer at this suggestion. But if they would observe history for a while they might understand how religious beliefs are a key driver in forming the kind of society in which we live. As a person thinks and believes, so that person will act. As governments think and believe, so they will enact laws. As author and thinker Richard Eason has pointed out in his book entitled Playing God:

We all base our reasoning on presuppositions, many of which are beliefs that are non-testable and therefore religious, even if non-theistic. So everyone has a world view based on religious presuppositions even if we cannot consciously identify it.

According to Mr Eason:

... history reveals that some world views provide a sound basis for reasoning to conclusions that match the created reality, while some other beliefs do not. For example, those few nations that have based their legal and constitutional systems on biblical Christianity (the root) can be seen to enjoy a freedom, justice, peace and prosperity (the fruit) that is unique in all of history.

In an age of the globalisation of capital and of pressure for unrestricted movements of goods and people, we neglect the civilising influence of Christian beliefs and values at our peril. We should never forget that it took 16 centuries of suffering and sacrifice for courageous Christians to shackle the power of big government, big religion and big money.

One religion that has produced very bitter fruit is that of secular humanism. It unleashed the French Revolution and has underpinned most other revolutions ever since. And, being a product of modernism, it unduly idolises science. Humanism has also convinced many intelligent people in Australia and in other Western democracies of the fiction that religion and government can be separated. No society has ever been able to separate government and religion. The greatest jurist of the 20th century, Lord Denning, put it this way:

Without religion there can be no morality, and without morality there can be no law.

Another way of putting it is that government is the process of putting someone’s religious beliefs into law. In this context it is therefore time to say that government and religion are inseparable. Hence the most important question facing any nation is to decide which beliefs will ensure that its laws produce justice, freedom, peace and prosperity for its citizens. When the nation changes its values and belief system, its laws and governance will also change.

We in Australia are in grave danger of losing sight of the impact of our Christian heritage on our institutions of governance. We can observe it in this bill. The objective of this bill—the deliberate creation and killing of human embryos—deliberately walks away from the Christian values that informed Australia’s justice, democracy, freedom, peace and prosperity. This bill is distinctly un-
Christian. We proceed at our peril into the valley of utilitarianism. If the demands of utilitarianism are henceforth to be the ruling ethic of our future society then all human life and dignity will no longer be protected by the values of the uniquely love based Christian world view.

In a Lockhart future, human beings will be valued according to their usefulness. We will be valued on our economic contribution and on how much we can produce, but when we can no longer be useful, when we are no longer producers—when we become simply consumers and polluters—what then? What then of the aged and the infirm? What then of our commitment to social justice and equity and to the care of vulnerable members of society? We will have changed the ground rules back in December 2006, we will have cut ourselves off from the roots of our Christian based civilisation and we will be left with the bitter fruit of the utility value of humanity.

That is the way it works; if you do not believe me, take a hard look at those societies in the world that cannot claim a history of Christian faith and values. Do you really want to live there? Do they have the same respect for human life as that to which we aspire? Do they share ‘certain moral values ... such as a commitment to social justice and equity, and to the care of vulnerable members of society’? This is the moral vacuum into which we are heading. This is the Rubicon we are about to cross with this ill-conceived legislation. And, as Father Brennan said, there will be ‘no other coherent dividing line to draw’.

The principle of this bill is based on bad ethics. This bill tries to dress up bad science with garlands of empty promises and unfounded hope. No good comes from bad ethics, no good comes from bad science and no good comes from bad legislation. This bill is a try-on. The case for change has not been made. I oppose this bill and reject it for the shibboleth that it is and for the moral bankruptcy that drives it. My family, friends and constituents can look and see my name recorded thus in the Hansard on this day in December 2006.

**Ms PLIBERSEK** (Sydney) (5.59 pm)—I rise today to speak on the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006, which allows human embryo clones to be created for research for up to 14 days. It allows the import and export of human embryonic stem cell lines, subject to quarantine laws, which have come from research practices consistent with Australian legislation, and it allows the creation of and research on embryos other than those created by traditional fertilisation methods. I congratulate Senator Patterson and Senators Stott Despoja and Webber for working together to advance the research in this area.

We have heard in the last few days many very moving speeches in the parliament, including those from Fran Bailey, the member for McEwen, and Teresa Gambaro, the member for Petrie. The member for Petrie spoke of her father’s Parkinson’s disease and the member for McEwen talked about her daughter’s medical condition. These decisions are never easy and I think it is very brave of members of parliament to share their personal experiences of illnesses and debilitating medical conditions, both their own and those of their families, in order to explain their decision making in this area.

The member for Hughes asked what had changed since the last time we debated research in this area. Originally we were not going to allow embryos created by somatic cell nuclear transfer, only excess embryos from IVF, to be used for research. The answer to the question of what has changed is
that every single day our body of scientific knowledge expands. We cannot imagine today what we will know in a year's time or five years time or 10 years time. To make decisions in this place and imagine that they are decisions made once and for all and that they will never be subject to change, particularly in areas like scientific research where there is such vast change, is unrealistic.

It has been a very difficult and emotive topic for many people in this place and many people in the community. There are strong views on either side about whether expanding this line of research is a good idea, and I have been contacted by many people from both sides of the argument stating their case. I appreciate those contacts, even from the people whom I have disagreed with. I think it is incredibly important when making such decisions to have the best available information in a scientific sense but also to have a good view of what my constituents and people around the country believe is the right thing for us to do in this parliament. Decisions like the one that we are making over the next few days require us to examine our consciences, and I have certainly appreciated the information and the views that I have received from people around the country aimed at helping me to make a decision and to examine my conscience.

Incidentally, I have not appreciated one or two letters that I have received from people threatening to organise against me politically if I did not vote the way they wanted me to. We live in a democracy and when people lose faith in their representatives they should vote against them. Indeed, I believe they should organise against them. What they should not do is expect representatives, having examined their own consciences and made a decision, to ignore the decision that they have made in good faith and good conscience because of threats made to them by organisations outside the parliament. I will always make up my mind based on the arguments before me and based on what my conscience tells me to do—never on the basis of threats from groups or individuals. Edmund Burke in the 1700s said:

Your representative owes you not his industry only but his judgement, and he betrays instead of serving you if he sacrifices it to your opinion.

I am not going to go into the technical details of what happens in somatic cell nuclear transfer—many members of parliament have done that and I do not propose to go over it again—but I do want to take issue with some of the arguments that have been put. The member for Hughes a moment ago said that government and religion are inseparable. First I need to take issue with that. I think it is important and wonderful for members of parliament to have religious beliefs, but I do not believe that we can run the country based on the religious beliefs of some members of parliament. I respect the views of the member for Hughes and she has every right to them, but I do not believe that government can be run according to the religious beliefs of some people. If we follow that path we will end up with a theocracy like Iran or, in a Christian sense, with the Spanish Inquisition. We have to accept that not everyone in the Australian community shares the religious views of the member for Hughes and we cannot make laws based on her religious views, even if they do represent a significant stream in the Australian community.

She also said that without religion there is no morality, and I also have to take issue with that. I know many very moral people whose moral framework is based not on a fear of being punished in the afterlife but on a belief that every single day we have a responsibility to do the right thing by other human beings to the best our ability.

I also take issue with the idea that this type of research is killing human life and the
statement that some people have made that this is taking a life to save a life. The embryos that we are considering in this bill are unfertilised. They certainly represent the potential for human life and should be valued as representing the potential for human life. If they were fertilised and implanted into a womb they might develop into a human being, but without those two conditions being met they cannot develop into a person. The bill strictly forbids the implantation of such an embryo into a womb and basic biology tells us that outside the womb the embryo will not develop into a person.

In normal life, a vast number of fertilised embryos never make it to blastocyst stage or to foetus stage. They do not attach to the womb and they do not develop. I think everyone in this chamber will understand that when a woman is trying to become pregnant, each time she menstruates and realises that a fertilised egg has not lodged in the womb and will not develop into a baby, there is a mourning that goes with that. But the way we respond to that is quite different to the way we respond to the miscarriage of a foetus at seven months or a still-birth, or the death of a child or the death or disease of an adult. To say that we make no intellectual or moral difference in the stages of human development underestimates the human capacity for sophisticated thought.

I understand that some people believe that an unfertilised embryo has the same moral weight as an adult human and I respect that view, but it is a view of some people; it is not a fact that this parliament must support with legislation. I would expect that people who have that view would not donate eggs for research. I would expect that they would not donate embryos that were created for IVF but were surplus. I would expect that they would not do that, but I do not think that their decision not to do it constrains or constrains our ability as a nation—for people who do not have the same moral beliefs—to make a decision to put a higher value on the research potential of these procedures to develop cures for illnesses, diseases and conditions. I do not think that we can constrain people who are prepared to make that decision and donate their eggs or embryos and tell them that they are not allowed to do that.

The member for Hughes also talked about the false hope inherent in this research. Look, I do not know whether this research will do what its supporters claim it will. I cannot guarantee that we will find a cure for motor neurone disease. I cannot guarantee that we will find a cure for Parkinson’s. I cannot guarantee that people who have been made quadriplegic by some tragic accident will regain use of their limbs. I cannot guarantee any of these things, but to say that we must not try because we offer false hope is, I think, incredibly unfair on these people. I do not see why we say we must not try because there is a danger of false hope, when the alternative is no hope.

Dr Gabriela Cezar, a researcher at the University of Wisconsin, when talking about the potential for an egg to be human life, said:

A fertilised frozen egg as is cannot turn into a human life in the absence of being transferred into a woman so while I certainly recognise the potential for life, I also think that it’s a higher and more sound moral decision to use these discarded fertilised eggs for research and perhaps benefit millions in the future.

She is talking about the surplus IVF eggs. I think the same applies in the instance that we are talking about with somatic cell nuclear transfer: that those eggs that will not make it past the first 14 days have the potential to change the way we treat some incredibly serious and debilitating medical conditions.

The research is conducted before the eggs develop what is known as the primitive streak, before the cells start to become dis-
cernibly nerve cells, skin cells or organ cells. They are at a very early stage. I think one of the confusions for people is that they actually imagine that we are talking about foetuses. We are talking about embryos whose cells have not yet started to differentiate themselves.

There is another myth that this will lead to the cloning of whole human beings. I am not even going to go there; I mean, it is just nonsense. There is another myth that there is no community support for stem cell research. It seems the opposite is true. A Roy Morgan poll from June indicated that approximately 80 per cent of Australians support embryonic stem cell research with stem cells made by merging an unfertilised egg with a skin cell where no fertilisation takes place. We have got significant support around the world: the British House of Lords, a majority of the US Senate; the American and Canadian medical associations; 80 Nobel laureates; the Australian Academy of Science and past and present Australians of the Year. There is pretty broad support for this. There is another myth that it will lead to human-animal hybrids. Again, that is nonsense. It is not anyone’s intention, but it is a very good way of whipping up hysteria in the community.

There is also an argument that embryonic stem cells are not needed when adult stem cells can be used for research. I do not think that there is any reason to say that we need to pursue one line of science or another line of science. I think these two lines of research are complementary. It is worth noting that, while there certainly is a role for adult stem cell research, these cells have certain restrictive characteristics, so they can only be used in certain circumstances. Embryonic stem cells are more adaptive and have the capacity to turn into different cell types within the human body. Stem cells from human embryos have attracted additional interest because they provide an opportunity to obtain an embryonic stem cell that is a precise match for the person who will potentially be treated. They will have their own matched cells, which can prevent immune rejection problems.

There is also the issue that, while existing laws already allow research on excess embryos intended for but not used in IVF, research using these normal embryos does not allow as easily for the study of some diseases in ways that an abnormal embryo or a specific disease model would do. I think that that is a very important point.

One of the concerns expressed is that eggs will be extracted from women in a way that is exploitative. Of course I am very concerned to ensure that women would not be pressured into donating eggs and I am absolutely opposed to the idea that women would be able to sell eggs for such research. But I think it is pretty insulting to imagine that it is impossible for women to make an informed decision to donate eggs or surplus embryos with their full consent. We need to ensure that that consent is informed and freely given, but I do not think a complete ban on therapeutic cloning is necessary to protect women from exploitation.

So the reason I will be voting in favour of this legislation is that I believe that this research, with appropriate safeguards, has the potential to develop life-saving and life-changing cures for a number of debilitating illnesses and injuries. The Motor Neurone Disease Association of Australia recently wrote to parliamentarians and pointed out that, in Australia, ‘one person dies from motor neurone disease every day. One person suffers a severe spinal cord injury every day. Over 140,000 Australians have type 1 diabetes and more than 100,000 Australians have Parkinson’s disease.’ As I said, I do not know that this research will cure any one of those things, but I believe that it is wrong for me to
refuse to even examine the potential of any science that may make life better for the people we are talking about. I believe that they and their families deserve to believe that we as a society are doing all that we can to help them live with their conditions in the short term and find a cure eventually.

I think everyone in the House was very moved by the public case that people like Christopher Reeve and Michael J Fox made for this type of research. But I was even more moved by the personal experiences of and personal contact I have had with some of the 500,000 Australians living with debilitating diseases and conditions who believe they may benefit from this research—people like Robert and Kirsty, who have multiple sclerosis; Byron and Izzy, who have diabetes; and, perhaps most of all, Holly from Balmain. Holly first visited me in parliament three years ago, when Kids in the House, the program for young people with juvenile diabetes, made its first trip to Canberra. Holly was a very young and shy little girl then, and I saw her again this year. She is a more confident young woman in her early teens, but she still suffers from juvenile diabetes. She is still injecting herself every day, still having to wake in the middle of the night for the injections and still fearing the long-term consequences of juvenile diabetes. I value human life and I cannot in good conscience deny Holly and people like her the possibility of a cure, perhaps in her lifetime. I also respect the right of others to disagree with me, but I am confident in my decision and I will be supporting Kay Patterson’s legislation.

Mr BARTLETT (Macquarie) (6.18 pm)—I rise to place on record my opposition to the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006. I do not do this lightly; nor, I suspect, have any of my colleagues on either side of this debate reached their positions without careful and even painful consideration. Like everyone in this place, I would desperately like to see successful research that would provide a cure for so many of those diseases that plague humanity. As a close member of my family suffers from Parkinson’s disease—one of those often mentioned in the context of this debate—I would be thrilled to see stem cell research provide a breakthrough that would reverse his illness. Yet I am convinced that human cloning is not the way to achieve this breakthrough.

I remain fundamentally opposed to the creation of life for the purpose of its destruction in the process of research, no matter how honourable the aims of that research or how potentially beneficial its achievements. Scientific and medical research cannot be driven by a utilitarian, pragmatic approach. Our decisions cannot be made solely on the basis of what is attractive, what is achievable or what is possible. They must be made within an ethical and moral framework. I acknowledge that this framework varies from person to person and I do not seek to criticise others with opposing views. However, for me the fundamental issue is the sanctity of human life, regardless of its stage of development. I simply cannot accept that a human embryo is merely a piece of tissue or property created for the purpose of experimental research and which will be destroyed in that process.

When we as a society step over the line which upholds the sanctity of life, we step into dangerous territory. With the removal of that absolute, everything becomes relative and subjective. Any new line is far more difficult to draw and far harder to sustain. The experience of the last four years should cause some concern in this regard. When we last debated this matter, parliament overwhelmingly—and, I think, from the point of view of those who expressed their views, unani-
mously—rejected human cloning. During that debate, a number of people, including me, spoke of the slippery slide if we accepted embryonic stem cell research. Despite the rejection of those concerns by many speakers, that is exactly what has happened over the past four years.

Here we are, so soon reconsidering this issue, and the speeches to date would indicate that parliament will support this bill—something we rejected overwhelmingly just four short years ago. Members and senators who four years ago stated strong opposition to cloning are now supporting the legislation. Already that line has moved—and I am left wondering where the next line will be and how long before it moves again, and again. For instance, the Lockhart review, in recommendation 17 on page 168, advocates research involving ‘the fertilisation of animal gametes by human gametes’ of up to, but not including, the first cell division. Again, how long until this line is crossed if utilitarianism prevails, given Lockhart’s first stated reason for advocating such research is ‘because of potential benefits’. My concern is that what is deemed as acceptable is driven by what is possible, rather than the possible being evaluated in the light of ethical acceptability. Again, once we reject the imperative to respect the sanctity of human life we move into uncharted and dangerous territory.

I want to turn briefly to one other aspect of this debate, and that is the record of success of embryonic stem cell research compared to adult stem cell research. The point was made in this debate four years ago, by me and a number of other speakers, that early indications were that adult stem cell research seemed to offer far greater potential. Nothing has changed in the past four years. In fact, recent evidence reinforces those early indications. There are currently an estimated 80 therapies and 300 clinical trials under way using adult stem cells across a range of more than 70 medical conditions. In stark contrast, there are no therapeutic uses of embryonic stem cells in human treatments—and those are not likely to come for some time. In fact, holding out this expectation to sufferers and their families is misleading and unfair. A number of leaders in this field have indicated that effective therapies from this research would most likely be several decades away.

The point is this: the record to date shows adult stem cell research has far better prospects than cloning and embryonic stem cell research. That is where the focus of research funding needs to be. Further, it carries fewer risks, eliminating the 25 per cent rate of malignant teratomas in embryonic stem cell implants. Thirdly, and significantly, it carries none of the profound ethical issues involved in human cloning. Even if stem cell research using cloned human embryos yielded similar potential to research on adult stem cells, it would not justify the creation of life for the intent purpose of its destruction in research. With a much less promising record, its case must be even weaker.

Let me conclude where I began. We would all like to see cures for Alzheimer’s disease, Parkinson’s disease, motor neurone disease, diabetes and a range of other diseases listed as potential beneficiaries of this research. But crossing the threshold which allows the creation of life for destruction in the process of research is not the way to do it. The implications involved in that approach, in the rejection of the absolute sanctity of life and in the domination of utilitarianism are far too profound. For these reasons I oppose this bill.

Mr FITZGIBBON (Hunter) (6.25 pm)—Unlike the member for Macquarie and, I suspect, the member for Paterson, I will be supporting the bill sponsored by Senator Paterson. I intend to be quite brief—and that is not to be interpreted as me not placing a
great deal of importance on this bill, the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006. It is a very important issue indeed, but I do not see the point in giving an overview of the bill and its effects again, given that so many speakers before me have done that in both the House and the Senate and have put most of the fine technical arguments before both places. Having said that I will be disagreeing with the member for Paterson and the member for Macquarie, I would like to acknowledge, as many others have done, the contributions of those who have spoken against the bill and to extend to them my respect for their opinions and views on these issues. I am sure they are all heartfelt and, just as importantly, well informed. I know these are matters on which conclusions can be very difficult.

This is the fourth time in my almost 11 years in this parliament that I have had an opportunity to participate in a debate on which the major parties have determined that a conscience vote will be permitted. Can I say what a welcome thing I always find that to be. I suspect we all feel constrained from time to time by the party system and the disciplines that are attached to it. What I really welcome when we have these debates are the newfound allegiances or alliances we see across the major and minor political parties and even the new friendships and bonds that are formed as people who have a common view and are of a common mind come together to prosecute their various cases and to discuss with one another the various arguments.

The first time I was given that opportunity was on the issue of euthanasia. I recall very vividly that at the time many people believed I opposed the bill to overrule the Northern Territory law to allow euthanasia because of my Catholic faith. That is not actually true. I supported that bill on that occasion because while the proponents of the legislation in the Northern Territory were saying euthanasia was about giving people a choice, I actually took the opposite view and was concerned that once you prescribe euthanasia—which in effect happens on a daily basis anyway—in legislation then people will be denied a choice. In other words, pressure will be borne upon them to access that capacity. We all know how family members can be in matters financial; that gives one good example of how someone might be pressured to use that opportunity. The second occasion when I took part in a debate where a conscience vote was permitted was on the legislation on stem cell research. Again, for me that bill was about choice—that is, the choice to live or to access modern medical technology for one’s own benefit. On that occasion I took that choice—that is, the opportunity to do so.

The third occasion was in the debate on RU486, the abortion drug. Again, for me that was a question of choice. It was not a question about termination per se; it was a question about the choices a woman and her doctor would have once she had taken the decision, often for very sad but, in many cases, justifiable reasons. It is a difficult choice for a woman to make but, once made, given that that procedure is sanctioned by state law and is not a matter for this parliament, I took the view that that woman and her practitioner should have a choice. I also believe that this bill is about extending choice.

I have to decide what is more important: to back the cause of medical research into the cures for some of the most debilitating forms of disease and their personal, social and economic costs; or, on the other hand, to err on the side of caution by concluding that the process that this bill seeks to sanction constitutes the destruction of human life, as so many have argued. Unsurprisingly given my record on these issues, my choice is the former. I am backing hope and opportunity
over what is effectively a faith based view, and what is a scientifically unconvincing view, about the status of the marriage of an egg—importantly, an egg which has had its DNA removed—and a body cell. If the time comes when the literature is able to convince me that that combination constitutes human life then my position may be somewhat different. But having studied the literature and sought advice from various experts and the sponsors of this bill, I am unconvinced of that fact. On that basis, I will be supporting the bill and extending that hope and opportunity to so many people already living and to so many people who will live in the future with those debilitating diseases who may not need to if medical research can deliver the hope that we are looking for.

Mr BALDWIN (Paterson—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (6.31 pm)—I rise tonight to speak against the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006. This bill seeks to permit certain types of research involving embryos. Those embryos may be developed for up to 14 days. It follows from the Lockhart review, which examined the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002. The amendments in this bill are based on the 54 recommendations of that review, which was tabled in December last year.

I wonder what proponents of this bill think of the saying ‘underpromise and over-deliver’. Unfortunately, when it comes to embryonic research, there are some proponents who have falsely built the hopes of thousands facing the challenge of living with a disease and the hopes of those who are caring for loved ones with a disease. There is not a person in this parliament, or indeed the world, who does not want to cure all the diseases in the world. Opponents and proponents of this bill both want an end to the suffering of millions of people across the world who suffer or die from disease. This bill is not about whether either side of this debate is more caring or compassionate than the other.

We all face struggles and challenges in life. I have personally lived through the difficulties of watching my mother and father die of lung and heart disease, My younger brother Bill struggles with diabetes. His eyesight is deteriorating, his kidneys no longer function and last week he suffered the second partial amputation of his leg at Westmead Hospital after gangrene set in. It is a hard life when every second day it is dialysis, changing the dressings or injections of insulin, but what steely determination he has. I am so proud of him. What a terrible predicament for a young man, a man who would not pull through if it was not for his wonderful tower of strength, his wife Kim. I know all too well the lengths that we would all go to to protect our families from harm. I also recognise the outstanding efforts of the spouses, families and carers who help and more importantly stand by those who suffer from serious health conditions. They are the towers of strength.

I would give anything to make my brother well again; to cure his disease. My brother has had more than a rough trot. In fact, I feel somewhat guilty in being the relatively healthy one of the two of us. If it were possible to donate a kidney for transplant to him, I would without hesitation, but golden staph infections preclude that. But I can do that: I can make the choice to use my body for the benefit of another. But the created embryo cannot speak for itself; it cannot give consent. But does that lessen the value of that created life?

What this bill is asking us to do is condone the creation of a human life so it can
then be destroyed for research. In the debate in 2002, I said:

We need to go to the very beginning to understand where life actually begins. Life begins when a living sperm fertilises a living ovum—they are not dead sperm; they are not dead ova. To believe there is a point in time some five days later when life begins is quite wrong. And that is the textbook version: all of the embryology textbooks confirm that, in fact, all human life begins at fertilisation. The formation of that individual human being is when the DNA is typecast, and at that point in time it is a real human life. Destruction of that human life for whatever reason should never, ever be considered. At that point, as I said, the DNA is formed, and with DNA we have a distinct human structure with a set gene pattern—herein, a life. To purposely try to destroy that life is really to conduct tests on human beings. There is no other way of applying our conscience to it.

Since I said that in 2002, my resolve has strengthened, not weakened. Some proponents argue that the creation of this human embryo for research is not the same as the conception of a human through an egg and a sperm within a woman’s body. And I agree that they are a different method of creating life. However, the proponents’ argument is shot down by all the parents of IVF and other assisted conception children. They too were created outside a woman’s body but no parent would deny that their much-loved child was a miracle of life, a treasured gift and not something created to be destroyed in the name of scientific research.

I believe in the sanctity of human life. My faith and values are not for sale—not for my personal benefit, not for my family and not, indeed, for anyone else. I do not believe in creating a life so that it can be experimented on and then destroyed, all in the name of science. As I have stated in this House many times, I am a Christian with a faith so strong that it is not negotiable.

I am not convinced that there is sufficient scientific evidence to support human embryonic stem cell research. As Senator Alan Eggleston pointed out in his very convincing speech on this matter:

… it is apparent that no-one has discovered how to reliably trigger stem cells to grow into specific organs such as heart, brain or pancreatic cells.

He went on to say:

… cancer formation in stem cell implants is a problem. It has been confirmed that embryonic stem cells have a propensity to form a highly malignant tumour called a teratoma in 25 per cent of implants.

We need to understand that research with adult cells has made significant inroads since the debate on cloning in 2002, and they already have runs on the board. Bone marrow transplants have been performed for years. As Queensland scientist Dr Peter Silburn said:

If you have a galloping horse like adult stem cells, why not pursue that? … cloning is not necessary.

Professor Bob Williamson, from the Australian Academy of Science, told the Senate inquiry:

It is probable that such (adult) stem cell lines as these will render therapeutic cloning irrelevant and impractical.

Adult stem cells are unspecialised cells that can self-renew, repair tissue in their locality, and divide to generate specialised mature cells. Adult stem cells in bone marrow include blood-forming stem cells from which red and white blood cells develop. Mesenchymal stem cells are a type of adult stem cell that can produce cartilage, bone, tendon, fat, teeth, muscle and nerve cells and may come from bone marrow.

The first reported case using adult stem therapy for lung ailments was reported in January this year. Scientists from the Samsung Medical Centre implanted mesenchymal stem cells, taken from animal umbilical cords, in test animals with damaged lungs,
and the stem cells repaired parts of the lungs. Professor Alan Mackay from Griffith University found in 2005 that human nasal adult stem cells could differentiate into new brain, liver, heart, kidney and muscle cells when transplanted into a chick embryo. The cells were easy to grow and did not form tumours. A trial using animal models of Parkinson’s disease is currently underway.

Scientists from Britain have grown human cartilage from patients’ own adult stem cells. This has potential for treating osteoarthritis. In the Hunter region, a patient at the John Hunter Hospital was treated with his own adult marrow cells, which were injected into his heart to help regenerate heart muscle. It was the first procedure of its type in Australia in 2002. These examples of the use of adult stem cells highlight that clinical trials for therapies using embryonic stem cells are years away. In fact, a former Australian of the Year, Professor Ian Frazer, has said that therapies involving embryonic stem cells could not be expected to be available to treat patients for at least 75 years. Adult stem cells already have a proven and promising record, without the ethical problems. Importantly, adult stem cells are donated with the permission of the person whose cells they are.

The feedback I have received in my community concerning this bill argues overwhelmingly against the legislation. I will read into the record some of the comments I have received from people in my community.

A biomedical researcher wrote to me and said:

As a senior biomedical researcher, I am perhaps more aware than most of the potential clinical benefits of such research. However, I see it as unethical and damaging to human society to legislate for the creation of a human individual solely for the purposes of benefiting another human individual. To my mind, the ends, no matter how apparently worthwhile, do not justify the process involved, inherent in which is an insidious and alarming denial of basic human rights to cloned individuals. I am also opposed to human-animal hybrid research but supportive of adult stem cell research.

Another constituent raised the concern that has been aired many times in this debate, and that is the effect on women who may provide eggs for money. He wrote:

I am writing to ask you to NOT allow therapeutic cloning to proceed. I believe this move could only have detrimental effects on the health of women, particularly those from poorer regions.

The need for the vast quantities of eggs required for cloning can only be produced by administering powerful hormones to women to hyper-stimulate their egg production. The long-term effects of this procedure are unknown.

Is it really worth risking the lives of these women, who will be coerced into this procedure for money? The end does not justify the means.

I also received a letter from a local doctor, who said:

I implore you as a human being of reason and compassion to please stop and consider the importance of the decision you are to make when voting on the bill to legalise cloning. A cloned embryo, even though it would not be conceived in the usual way, would still be an embryo. It would have the potential to become a fetus, a baby, a child and an adult human being, only needing nutrition and the right environment to do so. If this Bill is allowed to pass, it will lead to the production for the first time in Australian history of two classes of human being. One created for the intention of living and one for the intention of being killed. The law specifies that the embryos must be destroyed within fourteen days. Furthermore, this Bill does allow immature cells from aborted fetuses to be matured and then fertilized by human sperm to provide embryos for experimentation. It is a horrifying dimension of the Bill that needs to be fully understood. Do not be fooled. These embryos would not be cloned embryos.

Please do not be responsible for creating a class of Australians which by law must be destroyed.
within fourteen days of creation. Please reject this Bill.

In conclusion, I have researched this bill and I understand what is wanted and what is at stake, but as I said about the previous bill in 2002:

In light of all these arguments both for and against, I make my decision on this bill based on my ethical beliefs driven by a strong commitment to my God. I refer you to Psalm 139:13-16, which, in summary, says that the unborn are known and loved by God.

Colleagues, I ask you to join me in rejecting this bill in its totality.

Mr BEVIS (Brisbane) (6.44 pm)—In considering this very important private member’s bill, the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006, I looked again at some of the debate and my own comments on the 2002 bill that established the current regime for embryonic stem cell research. A number of the issues that were central to that 2002 debate remain very relevant to the 2006 bill before us. For example, the question of when a life is created is central to both debates. The potential benefits of both embryonic and adult stem cell research are central to both debates. I said in 2002 that, for some people, the use of embryonic stem cells represents the death or murder of a living being, an unborn child. I do not share that view, but I appreciate that it is genuinely and deeply held by some in our community.

I also said that if embryonic stem cell research is morally wrong then surely the use of remedies from that research is equally wrong. Otherwise, we would be saying that it is morally wrong to use embryonic stem cell research here in Australia, but it is fine to avail ourselves of the new cures of that morally offensive activity that is conducted somewhere else in the world. If we are to make this research illegal, surely we would also have to outlaw the medical procedures and cures it produces. Even if new cures were not outlawed, consistency would surely require those who oppose this bill to refuse treatments for themselves and their children and loved ones which might come from this research. I still hold those views.

To oppose this research on genuine, deeply held moral grounds—and I concede many do—but to then use the remedies produced by it seems to me to apply a clear double standard. Whilst I have met a number of people who oppose this bill, I know only a few who apply that standard consistently, including refusing to avail themselves and their loved ones of any new treatments or cures that the research might produce. I respect very sincerely the deeply held beliefs of those who object to this bill. I particularly respect those whom I have met, including a couple of my constituents recently, who shun any remedies or cures created by a process they regard as deeply immoral and offensive. However, I do not believe I should legislate to apply their beliefs on all Australians.

The essence of much, if not all, opposition to this bill is the question: at what point is a human life that our laws should protect created? For some in this debate, it is at the point of fertilisation, even if that fertilisation is outside the human body. For those who hold this view, even the existence of the IVF program must be wrong, for it involves the disposal of many embryos that are not needed in that IVF program. For these people, that disposal of an embryo must represent the death of a life. That is not a view I share. Moreover, I do not believe it is a view shared by the vast majority of Australians.

Of course, there has been one important development since 2002, and that is the investigation and report of the Lockhart review. The Senate Standing Committee on Community Affairs report on the Lockhart
review and the private member’s bill has provided a very valuable resource, not only for this parliament but for all who have an interest in this issue. Like the wider Australian community, the scientists on the review and the senators on the committee did not all agree. That is not surprising on an issue of this kind in a pluralist democracy such as ours.

Some commentary on the Lockhart review has misrepresented what it said, though. For example, contrary to the views I have heard from some, the review in fact recommended that implantation into the reproductive tract of a woman of a human embryo created by any means other than fertilisation of an egg by a sperm should continue to be prohibited. It also recommended that development of a human embryo created by any means beyond 14 days of gestation in any external culture or device should continue to be prohibited, as it is now. The bill does not change those things. Under this bill, creating a cloned human being remains illegal. In fact, in 2002, I think the unanimous vote to ban human cloning was seen to be a ban on exactly that. No one wanted to see a living, breathing, walking human created through cloning, and I think that is still the case. The bill, in my mind, does not allow that to occur.

I am indebted to the excellent work of the Senate committee for the very useful analysis that they have provided of this bill. I think it is useful to have a brief explanation of the terms that are so often bandied around in some discussions, particularly amongst some who make representations on these things, but which appear to me not to be so well understood. Stem cells are unspecialised cells that have the unique potential to develop into specialised cell types in the body—for example, blood cells, muscle cells and nerve cells. They occur at all stages of human development, from embryo to adult, but their versatility and numbers tend to decrease with age. Given the right conditions in the body or the laboratory, stem cells—unlike muscle cells, nerve cells or blood cells—can replicate themselves many times over. When a stem cell replicates, the resulting cells can either remain as stem cells or they can become specialised cells.

Stem cells are further defined by their potential: as totipotent, pluripotent or multipotent. Totipotent cells are those stem cells which have the capacity to become any cell of the body as well as the capacity to form a whole being. These are only found in the first days of embryo development, before the differentiation process begins. Pluripotent cells have the potential to become any cell in the body, but have no capacity to form a whole being. Under the current legislation, human embryonic stem cells may only be obtained from donated surplus IVF embryos, and then only under special licence. They are what is commonly referred to as embryonic stem cells.

Multipotent stem cells are those that have entered a more specialised stage, and can only develop into a certain range of cell types. Human adult stem cells generally fall into that category. There is another source of human embryonic stem cells, called somatic cell nuclear transfer, SCNT. This is a process commonly known as cloning. It is important to remember that the word ‘cloning’ is used to describe replication of single cells as well as whole beings. We often think of cloning in the context of Dolly the cloned sheep, but cloning also involves the cloning of one single individual cell.

The SCNT process is where the nucleus of an egg is removed and is replaced by one taken from a donor adult cell—for example, a skin cell. This is then stimulated, and it behaves like an embryo produced by a sperm and an egg. As the majority of the Senate committee noted, while the basic SCNT
technique is the same as that used to clone whole animals, this cannot happen in humans for a number of reasons. Firstly, there has been and shall remain, if this bill is passed, a strict prohibition on SCNT embryos being implanted in the body of an animal or a human—that is, it will remain illegal to put any cloned embryo into any human or into any animal. Secondly, the bill prohibits the development of an embryo beyond 14 days anyway. Attempting to do either of these things, whether you are doing it with intent or simply accidentally, will attract a penalty of 15 years imprisonment for the person who tried to do it. There is a serious deterrent to anyone seeking to breach those provisions.

The current regulatory framework is inconsistent. It allows embryos that are created for assisted reproductive technology, ART, to be used for stem cell research but it prohibits cloned embryos from being created for the same purpose. The Senate report notes that because cloning techniques, SCNT techniques, involve the cloning of donated adult cells we would also have the opportunity to seek donations of cells from people with specific identified diseases. This would allow the additional benefit of research into particular diseases. Currently, there is no alternative to the generation of disease-specific embryonic stem cell lines other than through this method.

The Australian of the Year in 2000, Sir Gustav Nossal, a former President of the Australian Academy of Science and undoubtedly one of Australia’s most acclaimed scientists, expressed his support for the lifting of the prohibition on SCNT. He wrote this to the Senate committee:

> Embryonic stem cell research is rich in promise. It has already demonstrated its potential in the study of disease causation, in development of new diagnostic methods and in basic research. In the longer term, the possibility of new therapies for serious diseases is real, though this will be the work of decades rather than of years.

... ... ...

Stem cell science has advanced to the point where it is pushing against the boundaries of current legislation. It is time for the next step.

That is the point the parliament is now at.

Adult stem cell research is important. I made that point in 2002 and I repeat it today. We should support the work of scientists involved in this field. It holds much promise and avoids the concerns held by those who oppose embryonic stem cell research. However, adult stem cell research has its limitations. Professor Bob Williamson, from the Australian Academy of Science, said in a submission to the Senate committee inquiry:

> ... why do I as an adult stem cell scientist believe that somatic cell nuclear transfer—

that is, cloning—

and embryonic stem cell research is important? Embryonic stem cells have two very important properties ... One is that they can differentiate; they can give any cell type in the body. Adult stem cells cannot transdifferentiate in general and, as you get older, they become less and less likely to transdifferentiate. So, although it is possible to get liver cells from an adult to form more liver cells, and bone marrow cells to form bone marrow cells, we cannot get those cells to form heart muscle, neurones and so on. Only embryonic stem cells can do that.

That is from Professor Bob Williamson, who works in the field of adult stem cell, not embryonic stem cell, research. He too supports these changes.

There are clearly significantly greater opportunities for medical breakthroughs with embryonic stem cell research. That is perhaps why somatic cell nuclear transfer is currently legal in Belgium, China, Japan, Mexico, New Zealand, South Korea, Singapore, South Africa, Sweden, Thailand, the United Kingdom and a number of states in the United States of America. They offer
great hope. The 19 October edition of the publication Nature Biotechnology includes a report from researchers at a California based company, Novocell, that says:

We have developed a differentiation process that converts human embryonic stem ... cells to endocrine cells capable of synthesizing the pancreatic hormones insulin, glucagon, somatostatin, pancreatic polypeptide and ghrelin.

They are essential developments in providing a long-term, permanent cure for sugar diabetes.

Not long ago, many members of parliament were involved in receiving and talking to children from around the country who suffer from type 1 diabetes and who had come to this parliament to participate in the Kids in the House program. I have had the great privilege over recent years of meeting on a regular basis with a couple of my constituents who have participated in that program. I have watched them grow up. I have listened to their trials and tribulations. I have read the letters they have written to me. I have spoken to their parents. I have some small understanding of the life they confront. They come to me and talk about the hope they have for their long-term cure, the hope they have for embryonic stem cell research to provide them with a normal life as they grow up. I read the reports such as the one I have just mentioned, where research firms in California are now reporting progress in these fields. I see that as a point of great hope for those children and an opportunity that they would not otherwise have to live a normal life that many of us take for granted.

That said, the core question remains, as it was in 2002: when does human life exist? At what point is that human spirit we hold unique to humans created? The Lockhart review noted that even the point at which fertilisation occurs is open to debate. Fertilisation is a process which occurs over time. It is not a discrete event. I have thought about this fundamental question for much of my life. I have listened to the views expressed in the last month by colleagues, scientists, constituents and the rather long list of interest groups who are always prepared to share their views with all of us in this place. Those who answer this question by saying that life begins with fertilisation have the great benefit of certainty and simplicity. They do, however, have to reconcile that view with the existence of an IVF program which, as I have already mentioned, involves the destruction of those very embryos—which must, by that definition, be the destruction of life.

I think IVF programs are widely supported in the Australian community. They bring great joy to the lives of many Australians. That is not something that we seek in this parliament to overturn. I agree with the Lockhart review comment, and the findings of a majority of the Senate committee, that the production and destruction of cloned embryos is not dissimilar to the production and destruction of excess ART embryos—that is, the embryos created in the IVF program. That creation and destruction of IVF embryos is permitted by the law, and it is widely accepted in our society. To permit one, that is, the production and destruction of ART embryos, but not the other—that is, the production and destruction of cloned embryos—is inconsistent. It attaches more importance to the treatment of infertility than to the treatment of other serious diseases and conditions.

I do not believe that inconsistency can be easily dismissed. If a human life exists with an embryo, the destruction of that embryo is wrong, irrespective of whether it is a surplus IVF embryo or whether it is an embryo created through cloning for research. So, those who have a fundamental moral problem with this bill must surely also seek to end the IVF
program, for I can see no other way in which that dilemma can be reconciled.

In the last few weeks, I have again searched my thoughts and beliefs on this very important issue. I was moved by the very sincere objections that some of my constituents presented to me—I know they hold them deeply and genuinely and with as much sincerity as any human being can muster. I have also listened to the concerns of people like those involved with the diabetes program, Kids in the House. I have to say again that, after searching my beliefs and my conscience, I cannot agree that a new human life exists with fertilisation.

I cannot say that I know exactly when a human life begins, with its own spirit and identity, as an independent life. But I am clear in my own mind that it is certainly well after the maximum 14 days following fertilisation provided for in this bill. An embryo at 14 days is not, in my mind, a separate human entity. I will be voting in favour of this bill. More than that, I encourage the government to provide financial support to this research so that the hope that it provides for significant improvements in human health and medical breakthroughs is able to be realised.

All of us in this parliament have taken the responsibility of a conscience vote on this matter, as we should and as the public would expect us to, and we do so knowing that, no matter how we vote, there is going to be a fair slice of the population unhappy with what we have done.

In constituencies where we represent 80,000 to 90,000 voters, and perhaps 130,000 to 150,000 people, I do not think it is possible to pretend that any of us can know what those 90,000 people really believe about these matters. I said in 2002—and I feel it again today—that I cannot pretend to represent the conscience of 90,000 people in my electorate; I can only truly represent my own conscience. In exploring the issues and listening to the evidence, I know I have done that to the best of my ability. I am supporting the bill, I encourage other members to do the same and I encourage the government to fund the research.

Mr HUNT (Flinders—Parliamentary Secretary to the Minister for the Environment and Heritage) (7.04 pm)—I am pleased to speak and to address the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006. I want to start by expressing my respect for the views expressed not only within this House on both sides of the debate but, in particular, from within my electorate, where I have had approaches from constituents who have supported the legislation or opposed the legislation with good faith. I recognise that I cannot do justice to all of the views within my electorate because there is a polarity of views. It is simply impossible to satisfy all. So I approach my task with the responsibility based on the notion of my conscience and my responsibility to future generations.

I do, however, want to pay particular tribute to those of each side in this argument who have presented their views thoughtfully, cogently and with energy. I thank them for their input. I note that I have listened to and tried to take the best of the advice from each of those people within my electorate and beyond who have approached me. I also want to note briefly, in relation to this parliament and this debate, that a debate such as this, carried on the basis of conscience, is an example of the parliament at its best. The arguments on both sides of the debate and both sides of the chamber have been well made. There have been outstanding speeches from both sides of the debate and from both sides of the chamber.
Against that background, I want to proceed to make my case on the basis of three principles. They are: firstly, to outline the process as best as I can for somatic cell nuclear transfer; secondly, to explain its potential for the assistance of human life; and, thirdly, to address the philosophical question of whether or not this is an appropriate process for the potential benefits which it may ultimately bring. And my conclusion, using those three principles, will be to support this bill on the basis that I believe it ultimately offers the potential—but not the guarantee—for benefits to human life and research in areas such as juvenile diabetes, motor neurone disease and spinal cell damage. None of these are guarantees. None of them should be presented as absolutes, for that would be a false hope. But all of them are potential. There is profound potential.

I will now address the philosophical issue. Let me turn first to the question of process. This bill has two key components. Firstly, it reinforces the ban on human cloning for reproductive purposes. I think that that is important at this point in history, as it clearly separates what is acceptable from what is not. Secondly, on the counter side, it creates opportunities within strictly regulated parameters to undertake embryonic stem cell research through somatic cell nuclear transfer—or the cloning of individual cells.

I will explain briefly how somatic cell nuclear transfer works. It is essentially a three-stage process. Firstly, the nucleus of an empty egg obtained from excess embryos donated for assisted reproductive therapy or otherwise donated is removed. So the nucleus is hollowed out. Secondly, in its place, DNA from another source is injected into the nucleus, with the intention of creating cells with the same genetic make-up as the injected DNA. Thirdly, the stem cells are then isolated from the embryonic unit, with the potential for use in research on a wide range of debilitating diseases. That is the process.

Significantly, an empty egg injected in this way with DNA from another source is not the same as a human embryo created by fertilisation of a human egg by human sperm. This, to me, is an important distinction. Indeed, it is not a viable human life in any way without implantation into a womb. At this stage of the cloning of cells it falls short—not of life, for it is by definition life—of human life. I think that that is the real distinction to be made, not whether it is life or otherwise. Clearly, by scientific analysis, it is a form of life. It is a group of cells that can reproduce. That is life, but it is not human life and it is not capable of leading to human life as we know it, unless it is implanted into a womb. On the best available advice that I have, under any normal circumstances, even if that were done, it would not be capable of producing a normal human life. Importantly, on that basis, implantation is absolutely and comprehensively prohibited under this bill.

Somatic cell nuclear transfer offers research potential not currently available using other techniques. There will be debate about this, so I will present my best understanding on the balance of evidence. Adult stem cells and cord blood cells are an incredibly important part of stem cell research. I supported that activity before, and four years ago I supported the transfer of embryonic stem cells that were the additional by-product of the IVF process. I recognise the role of both adult stem cells and cord blood cells, but I believe that research using adult stem cells and cord blood cells and embryonic stem cells from surplus IVF cells should be pursued together with embryonic stem cell research, as is proposed in this bill. I believe that, as a society progresses, with the compassion for those who suffer the pain and agony of so many debilitating diseases, we
do have a duty to explore all reasonable avenues which may lessen human suffering, as long as those avenues are morally justifiable and ethically valid. I will deal with those elements shortly.

The bill contains strong safeguards. It retains the existing prohibitions on reproductive cloning. It prohibits all implantation of embryos created under somatic cell nuclear transfer technology and it prohibits the development of a human embryo created by any means in any external device or culture beyond 14 days gestation.

The second key argument for me is about the potential of this research that I have talked about. What is it that is offered here? Stem cell research in this form offers enormous potential, in time, to reduce human suffering. That is ultimately the equation at which we are looking. Research using embryonic stem cells can contribute to research that will help our scientists better understand cell damage and cell loss, and there is a range of different illnesses or conditions that can potentially be treated on that basis. Parkinson’s disease, motor neurone disease, diabetes, Alzheimer’s, spinal cord injuries and stroke all have the potential to be the subject of research which may offer benefits, hope and opportunity for those who suffer from them.

Throughout human history—and here is a core, philosophical point about scientific research—an openness to new avenues of such research has been essential to most of our major medical advances, and millions of lives have been saved. Without such research we would not have had Ian Frazer’s cervical cancer vaccine and we would not have the anti-retroviral drugs that have kept millions of AIDS sufferers alive—and not just alive but with a much higher quality of life. In that respect, I wish to turn to a letter from one of my constituents. Mrs Lynette Howell of Rosebud West wrote about her husband, Mr Robert Howell, who suffers from a rapidly progressive motor neurone disease. She writes:

Dear Mr Hunt,

On behalf of my husband Robert, who has rapidly progressive motor neurone disease, and our family, I ask you to please consider the recommendations from the Lockhart Review and support them in Parliament.

We need for stem cell research to be pursued as one of the avenues available to find cause, treatment and cure for MND.

Somatic cell nuclear transfer creates opportunities for research that adult and embryonic stem cells do not offer.

The letter continues:

We need to find a cure for this insidious, rotten disease so that in future families will not have to live with MND. We would not wish this past year on anyone.

I cannot present the case for research more strongly than the letter from Mrs Howell about her husband and the father of her children, Robert Howell. So to the Howells and to the numerous other people and families throughout Australia who suffer conditions of pain and angst and illness I say that I will be supporting this bill. But I also say that we must be realistic about the potential of this research. It will not cure ailments overnight. It will not cure everything. It may not cure anything. But it does offer the greatest hope we have for sufferers of motor neurone disease, Parkinson’s, diabetes and a whole range of other serious ailments. It is not within my heart to deny the potential for cure and improvement for those people.

Against this background—and this is the last point I want to make—is philosophy. The questions involved in this bill are ultimately ethical ones and, with such questions, there are two principles that must be weighed: the good that can be done on the one hand against any potential costs on the
other. There are two key arguments that we need to look at in this: what system of ethics should we apply and what is the status of the embryos or the clone cells created through this process?

What is the system of ethics we should use? Utilitarianism is often used to justify good outcomes derived through dubious means. I do not accept as a fundamental principle that the ends justifies the means—the utilitarian argument. Instead, I adopt a position of moral realism. It is one I have worked on with my good friend the Rev. Dr Rufus Black. It is that essentially both the ends and the means must be entirely justifiable in their own right. On that front I say that by expanding the opportunities for embryonic stem cell research through these processes the intention is to care for those suffering from debilitating diseases and the outcome is to advance research.

But we also have to ask: what of the process? What is the nature of a 14-day-old somatic cell nuclear transfer set of cells or even embryo? I believe fundamentally that it is a form of life. It is more than tissue, but it is less than a body and less than a mind or soul. It is not human. It is the distinction between life and humanity which I draw here. This is not an absolute; it is a judgment for each individual and it changes over time.

Indeed, the Catholic tradition itself has changed over time. As I noted four years ago, St Thomas Aquinas argued that a fertilised egg was not a person in the human sense until the quickening of the foetus, which demonstrated mental activity. This was Catholic doctrine until changed by Pope Leo XIII in 1887. So these things change over time. There is no right; there is no wrong—there is only individual judgment. In the words which grace the entrance to the Victorian parliament: ‘In the multitude of counsellors there is wisdom.’ We have to rely on the multitude of counsellors in this place to apply their collective wisdom in making that judgment.

My judgment and mine alone is that a 14-day-old somatic cell nuclear transfer set of cells is more than just tissue but, as with Aquinas, that it is body alone and not a person comprising an indissoluble balance of body and mind. I give my judgment and my reasons. In that situation, ultimately, given the nature of the egg, given the intention for its use and the human pain that it can relieve, I conclude that, for me, embryonic stem cell research using the techniques available and described in this bill is a morally justifiable and ethically valid means to achieve an end of enormous potential benefit to many thousands of people. I am delighted to support the bill for those reasons.

Ms GEORGE (Throsby) (7.18 pm)—Almost four years ago this parliament by way of a conscience vote carried legislation which banned human reproductive cloning but permitted embryonic stem cell research on excess IVF embryos. That legislation mandated an independent review within a three-year period to assess the developments in technology and medical and scientific research and the potential therapeutic application of such research and also to examine community standards about these very important matters. That independent committee, chaired by late Federal Court Judge John Lockhart, made substantial recommendations, the majority of which are reflected in the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 that comes before us, having had passage in the Senate.

The first point I think that needs to be clearly made in this debate is that the ban on reproductive cloning continues, for this is an abhorrent idea. As we know, human cloning
is banned in many countries across the globe for obvious and very substantive reasons. Human cloning and the processes that might give rise to it are still outlawed in Australia, and any breach faces heavy penalties of imprisonment. This is quite clearly in accordance with the moral attitudes of Australian society.

The core issue before us in this bill is to determine whether or not we will support somatic cell nuclear transfer, or what is often referred to as therapeutic cloning, and, if we do support therapeutic cloning, to make sure that it is conducted within a legislative and regulatory framework that is tight enough to address the vigorous ethical standards expected by the Australian community. As others have described, therapeutic cloning involves taking the nucleus of a cell from a patient, transferring it into an egg from which the nucleus has been removed, growing the resultant embryo in the laboratory and then extracting the embryonic stem cells, which are exact copies of the patient’s DNA. Embryos produced by SCNT will be destroyed as a result of the extraction of embryonic stem cells from them, and it is not intended that these embryos should survive beyond 14 days.

Since this process involves the deliberate production of an embryo for research purposes, SCNT does move the ethical barriers to a much higher level. We are all being asked as politicians to consider whether it is acceptable to create such embryos, knowing that they will be subsequently destroyed, and to consider this technology in terms of the potential benefits that one day might save the lives or ease the suffering of others.

Having considered these issues I have come down in support of therapeutic cloning, but only under very strict regulatory and legislative requirements. I do so for the following reasons: very importantly, reproductive or human cloning remains outlawed; embryos, no matter whether they are surplus IVF embryos or ones created without sperm through SCNT, will not be permitted to develop beyond 14 days; cloned embryos cannot be implanted into a human or an animal; and penalties of imprisonment of up to 15 years are foreshadowed in this bill. I want to mention the views that I have come across of leading researchers in this field indicate that there is little, if any, potential to create normal human life from a cloned embryo, as opposed to an embryo produced by IVF, because of inadequate reprogramming of the donor nucleus. As the Lockhart report points out, the question of intent is a relevant consideration when making moral judgments about the process. It is not the intention, as I understand it, of SCNT to create a human being but rather to create a collection of cells that are identical to, and thereby an extension of, the tissue of the donor. I want to quote the words contained in the Lockhart report. They suggest the following:

The moral significance of cloned embryos that are not implanted is more linked to their potential for research into treatments for serious diseases and not to their potential as human lives. The creation of human embryos designed for destruction—and this has been a major argument by those who oppose the bill—is in fact already enshrined in the practice of creating excess embryos for IVF purposes and, more recently, for stem cell research purposes. The committee viewed as inconsistent the position of accepting one destructive use and then denying another when both uses aim to alleviate a medical condition, be it infertility or a host of serious diseases.

The Senate has rejected the proposal for hybrid embryos, which caused me great concern, and rightly so. In my view, a view expressed to my colleagues, it was a step far
too far and not consistent with community views. I do believe that therapeutic cloning holds the potential of ending the suffering of Australians who are struck down with spinal cord injuries, motor neurone disease, diabetes, Alzheimer’s, Parkinson’s and other devastating conditions for which treatments are yet to be found. One of our most eminent scientists, Sir Gustav Nossal, said in his submission to the Senate review committee:

Embryonic stem cell research is rich in promise. It has already demonstrated its potential in the study of disease causation, in development of new diagnostic methods and in basic research. In the longer run—

and I stress ‘longer run’—

the possibility of new therapies for serious diseases is real, though this will be the work of decades rather than of years.

The potential of this research to provide new understanding and new treatments for diseases and injuries that blight the lives of so many of our fellow citizens leads me to support this bill.

I believe that standing in someone else’s shoes gives you perspective. We have all been touched by loved ones with terminal illnesses or debilitating diseases. Imagine yourself in the shoes of a motor neurone sufferer or being confined in a wheelchair after a car accident or having to rely on someone else for 24-hour care to assist you with the most basic of functions. My fundamental human instincts say that I do not have the right to rob these individuals and their families of hope now and into the future. It would not be morally defensible, in my view, to prevent the exploration of the potential of this research, a point made forcibly to me by a number of constituents—most graphically by Maureen, whose husband is a quadriplegic, and Amanda, whose son experienced kidney failure at 17 and who endures lengthy dialysis while waiting for a kidney transplant.

The SCNT embryo is not going to be created for the purposes of reproduction. It is for the purpose of deriving stem cell lines which offer the possibility of being used for the treatment of disease. I am disappointed that the bill before us does not recommend the immediate creation of a national stem cell bank, although I note the minister is to report back on this issue within six months. As we know, transnational biotechnology companies dominate the stem cell research field, which generates massive profits for the biotech industry. The privatisation and commercialisation of this research is of concern, as the Lockhart committee noted. It said:

People are concerned that these benefits and profits remain in the public domain, through public ownership, and that therapies remain available within the public health system.

It appears that we could learn a lot from the United Kingdom which, based on my reading, seems to be at the forefront of developments that have a public interest focus.

I am also deeply concerned at the possibility of exploitation of women in the process of embryonic stem cell research. Cloning embryos for their stem cells depends on a large supply of ova. I note that forcing women to give up their eggs or paying them for their eggs is illegal under the current legislation and in the bill before us, with penalties of up to 10 years in prison. I agree with these penalties as women will need protection from exploitation and harm in the application of science.

As we know, high doses of ovulation-stimulating drugs do have known side effects, but little is known by way of longitudinal studies on the long-term health effects on women. This is an important area that needs the urgent attention of the government. It is important to note that, despite extensive publicity campaigns in Britain, they have failed to obtain sufficient supplies of eggs.
without commercial incentives. For example, one clinic that I read about offers infertile couples cut-price IVF in return for the harvesting of extra eggs for research. The South Korean cloning scandal involved more than 2,000 ova obtained by paying and pressuring women, some of them in subordinate positions within the research laboratory. While the bill contains serious penalties for forcing women to give up their eggs or paying for them, international experience increasingly shows that paying women for ova is the only way to guarantee sufficient supply. I urge extreme vigilance and caution.

In conclusion, I would like to refer to a comment made to me in a letter from a constituent. She said:

My generation has seen the first heart transplant and organ transplant. Infectious diseases have almost been controlled in children. Now this stem cell therapy is the next step. It may be controversial but so were preceding discoveries.

She urged:

Please absorb all the knowledge you can and vote with wisdom.

I trust that I have done so. I believe I have tried to get across all the issues that have been germane to the conclusion I have reached. I thank all those in my electorate who wrote to me outlining their concerns, both for and against the bill, including some of my local churches. I have carefully read and considered their arguments and they have helped me to reach a conclusion. That conclusion is that I will be exercising my conscience vote in support of this bill. I note that the weight of opinion in the scientific and medical community is also in favour of this bill proceeding. I would, however, add that I do not support unfettered scientific interference with the nature of ourselves as distinct human beings. Let us move forward in the hope that we will better humanity, but let our humanity guide us along the path.

Mr Michael Ferguson (Bass) (7.31 pm)—I rise tonight to add my remarks to this debate on the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006. I thank all members who have made contributions on this subject. It is a difficult area. It is one which exercises our intellect, our wisdom and our conscience. I appreciate the warmth and generosity of all members when they say, disagree as we will, that we respect each other’s opinion. I fore- shadow amendments to prevent the creation of a human embryo using eggs from an aborted female foetus.

This bill has already succeeded in its passage through the Senate—it is a reverse bill in that sense—although I note that the original bill has been amended to take out the prospect of human-animal hybrid embryos being created. The bill was sponsored in that place by Senator Patterson and her original intent to allow human-animal hybrid embryos has now been prevented. Nonetheless, I believe that the successful passage of this bill through the House of Representatives will be our shared shame. I indicate that I have grave reservations about the moral direction of this bill and I cannot vote for it. This bill goes against what I believe about human life and what my constituents have been consistently telling me. It is against my conscience and I firmly believe that no good can come of it.

There is nothing wrong with research and there is absolutely nothing wrong with science. Indeed, I come to this place with a scientific background as a science graduate and, in a former profession, a teacher of science. It is highly commendable that anyone would want to pursue an agenda which they believe will find better medical understanding, treatment or even a cure for disease. It is commendable because relieving the suffering of fellow human beings is something that we
do well. It is a noble human quality to seek to bring relief and a better life for others. Because research is a speculative exercise, scientists will naturally want to push the boundaries of what is ethically permissible, but at what cost?

There is no scientific inquiry which does not run the risk of ethical concerns. Many in this place have in the past expressed outrage at the scientific research by Japanese scientists on whales. No-one can call into question the validity of the science, but we all know that the science is ethically very questionable. Many in this place express outrage at animal testing. It is perfectly valid science with perfectly valid scientific outcomes in terms of, for example, understanding chemical toxicity on humans, but scientific inquiry is not the only test. As we know, good science must be matched by good ethics to be acceptable to a reasonable person.

I have heard many claims about the potential benefits of the research that we are debating. My colleagues have forecast cures for a range of diseases. I too have a heart’s desire to see a cure for disease, particularly cystic fibrosis. It is a disease affecting one in 2,500 people and is the most common life-threatening genetic illness affecting Australian children. It is a killer of young people. I have a young friend who lives with the condition and I ask myself often, ‘What would I be prepared to do to fight for her life?’ We can do walks, raise money, pray, lobby for medicines and still, like others in this place, I too feel totally inadequate at my own inability and powerlessness.

We as lawmakers have a responsibility to do all that we can to support the reasonable expectations of families all around Australia to help researchers with the tools that they need to find cures if, indeed, those cures exist at all. We should not lose sight of our additional responsibility to uphold ethics which value all human life and respect the dignity of even seemingly insignificant embryos, which, of course, all of us once were. As human beings, we need boundaries to declare what is acceptable and what is not. Within the bounds of acceptability, we say to our researchers: ‘Go for it. Research to your heart’s content.’ Then there is a line, and we say, ‘Do not cross.’ Even this bill, as much as I disagree with it, has clear boundaries within it. That boundary seems to be constantly on the move. Where that line should now be is the point that we are debating today.

There is a long list of genetic diseases for which we all long for a cure. I do not want to hear any more of the nonsense that I heard last night from a person who said that those who do not support this bill care less about curing diseases and, additionally, that they ought not to be entitled to the benefit of any medical breakthroughs which might result from this research. I would put such statements in the same category as those of the minister in the Senate who said that ‘no religion has the right to seek to have its views legislated’. I could say that atheism has no right to have its views legislated, but that is a fairly unhelpful statement. The fact is that these are unbalanced and unhelpful views and I am alarmed to hear such statements being made at all.

But it is interesting, isn’t it, that the very people who denigrate a conservative position on this awful bill and attempt to prejudice those who live by faith are the very same ones who are in fact being the most extreme and, if I may say, fundamentalist in their own positions. For example, nothing could persuade the proponents of this bill to even take out the provisions which allow a scientist to extract the ova from the ovaries of an aborted female child for the subsequent creation of a living human embryo which will, in turn, be destroyed by a deliberate act. All of
these quiet conversations, reasoned debates and even proposed amendments have been met with solid and arrogant resistance.

The title of this bill is totally misleading and disingenuous. The bill is wrongly titled ‘prohibition of human cloning for reproduction’. Human cloning for reproduction is already prohibited under Australian law. In fact, the bill that we are debating today does not prohibit anything. The bill allows research which is presently not allowed. To be honest, the bill ought to have been titled: ‘A bill to allow human cloning and the creation of human embryos for research’. So from the outset it is clear that these are weasel words even in the title—the first line—of this bill. Cloning was prohibited as recently as 2002 following agreement at the Council of Australian Governments and the unanimous votes of both this House and the Senate resulting in the Prohibition of Human Cloning Act 2002. Also, the Research Involving Human Embryos Act 2002, introduced during the same debates, resulted in the prohibition of any activity which resulted in the creation of an embryo—a human life—for anything other than achieving a pregnancy in a woman.

Isn’t it interesting that the then minister for health who moved both of those bills, Senator Patterson, is the same proponent today for a bill to allow human cloning as well as, I might point out, the creation of embryos for purposes other than for achieving a pregnancy but, indeed, for destructive research. It is the same proponent. I remind the House of Senator Patterson’s own reassuring and, at that time, persuasive words during her second reading speech in 2002, when she said:

I believe strongly that it is wrong to create human embryos solely for research. It is not morally permissible—

Her impassioned and persuasive voice of 2002 echoes still and condemns the bill before us now.

I say again that the most appalling aspect of this bill is the proposition that licences may be issued to authorise the creation of a human embryo using precursor cells from an embryo or foetus. This technical term ‘precursor cell’ is defined in the existing legislation as a cell that has the potential to develop into a human egg or human sperm. In plain terms, the proposal is that a human embryo could be made using eggs taken from an aborted female unborn child. I say again: the proposal before us tonight is that a human embryo could be made using the eggs taken from an aborted female unborn child. I do not think that that sits comfortably with people in the community.

Research on this technique was described by Israeli scientists in 2003. They took a slice of ovarian tissue from each of seven aborted baby girls and conducted successful experiments in maturing eggs from this tissue. The baby girls had been aborted at between 22 weeks and 33 weeks gestation. It is generally anticipated that eggs could only be derived from baby girls aborted late term in pregnancy. The method of abortion would also have to result in the foetal body being delivered intact and as near to alive as possible in order to harvest the ovarian tissue while it was still fresh.
The Lockhart review in its report produced no scientific rationale for its recommendation 26, which advanced this proposition. Nor could the members of the committee supply any reasons for it in answer to questions during the Senate inquiry. Indeed, it seems to have been included in the recommendations and, indeed, now in this bill as an afterthought—and, may I say, a very ill-considered one. The Senate rightly removed from this bill the abhorrent provision that human-animal hybrids could be created using animal eggs and human DNA. Irrespective of the view on the general principles underlying this bill of my colleagues, friends and fellow members of this House, we ought at least to be able to find a consensus on removing this provision which I have described tonight.

During the committee stage of this bill, perhaps tomorrow or the next day—whenever it occurs—I will be moving an amendment that will give the House the opportunity to remove the even more abhorrent provision that I have described. If left as it stands, this provision would allow a human embryo to be created as a deliberate act of will by a scientist from the eggs of a second or third trimester aborted baby girl. I challenge each and every one of my colleagues from all parties to consider the prospect of returning home to their electorates next week to say that they did not take the opportunity to remove this worst aspect of an already flawed private member’s bill. To me, this amendment is a no-brainer and ought to be supported by every member. I do sincerely hope that that eventuates.

It has to be said to everyone listening to this debate that this bill will allow, under the sanction of Australian law for the very first time, the deliberate creation of human life in the laboratory for the express purpose of destroying that human life. The bill says that human life can be created by any means possible, including by the joining of a sperm and an ova and, worse, by a method of cloning which would create an embryo which could just as easily be implanted into a woman and grow into an exact copy of you or me. For anyone, cloning is a bridge too far. It ought to be a bridge too far for both the Christian and the atheist. It is something which was not countenanced as possible as little as four years ago. Even the proponent of the prohibition bill in that year indicated that it was not appropriate, that it was not moral. Yet that same person is promoting this bill today, and many people who predate my time in this place, having once voted in solidarity unanimously across both chambers of this great parliament to ban human cloning of all kinds—both therapeutic and reproductive—today are revisiting this question. We ask ourselves time and time again: what has changed? The science has not changed; the attitudes of individuals have changed—and for that only the individual can give account.

In closing, creating life in the knowledge that it will be destroyed is always wrong. It can never be made right, no matter what hope is being promised by scientists and politicians. So I am aware of my duty. My conscience is clear. I oppose this bill and I hope that it fails; I pray that it fails—not for a lack of compassion or a shared desperation for those who want better treatments and a better hope for the future for people who are doing it tough. I oppose this bill with all of my heart because I know that there is no reconciliation between the false hope being offered and the unprecedented abuse of the scientific power to give life and to take it away. I thank the House.

Mr SWAN (Lilley) (7.46 pm)—I welcome the opportunity to contribute to the debate on this important bill. I have taken the opportunity to talk about the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research
Amendment Bill 2006 with a range of people, including many of my constituents, medical researchers and religious leaders. It has not been easy to resolve the competing scientific and ethical issues raised by this bill. The issues are difficult, and I do have the deepest respect for the views of those who have urged me to vote differently. It is fair to say I have felt somewhat torn. But I am a great believer in the power of scientific research to improve our lives. Equally, I believe our central purpose in public life must be to defend and to promote human dignity.

Everyone in this debate starts from the same proposition or the same belief that life is precious and we must do everything we can to value and protect human life. However, the two sides to the stem cell debate take that proposition in very different directions. On one side, they say if you block this research you are shutting off what might be the quickest route to saving many lives. On the other side they say if you promote this research you are toying with the foundations of life. The truth is there is truth in both propositions.

Nobody ever wants to confront a situation where a member of their family is diagnosed with a illness that will threaten their life or their quality of life. Worse still, given such a situation, nobody ever wants to be presented with medical advice that nothing can be done or that the only option is a major medical intervention that carries very big risks or side effects. Having talked to medical researchers, I am optimistic about the significant medical advances that could flow from stem cell research. Professor Ian Frazer recently wrote to members of parliament identifying some of the recent results of stem cell research. With stem cells, scientists can generate insulin-producing cells with the potential to treat diabetes, cardiac cells which could be used to repair a damaged heart and so on. His words crystallised the responsibility that we face. He asked:

Will our children look back in 25 years and say “Our parliamentarians made the right decision, that gave us access to cures for diabetes, heart disease and neurological disorders,” ...

Also in coming to this decision I looked at my own personal experience. I reflected upon my own personal situation. In 2001, I was diagnosed with prostate cancer. While treatments are gradually improving for prostate cancer, the only treatment adequate for my case was a radical prostatectomy. Despite the diagnosis and the major surgery I endured, I consider myself very lucky—lucky to be alive and lucky to have a condition which was discovered early. But, sadly, for many men that early detection does not occur, as is the case for many women with breast cancer. We all know that early detection is the best protection.

We have to really put the scientific research in that context, because many people do die from many of these diseases too early. If we had further scientific advances, many lives would be saved. I am encouraged that Australian researchers have made prostate tissue from embryonic stem cells. It has already happened. This means that they are able to study the development of diseases like prostate cancer in much more detail. I would recommend to those who are interested in the use of embryonic stem cells to improve our knowledge of prostate cancer to read a very interesting interview on the Health Report on 3 April this year, where Professor Gail Risbridger outlined the importance of the research that is being done and the advances that will be made and the potential for life-saving cures.

Of course, there are many ethical issues, and they were addressed by the member who preceded me in this debate. They are not new to this parliament, and I personally take them
very seriously. In 2002, the parliament undertook an intense debate about the regulation of embryonic stem cell research and SCNT, otherwise known as therapeutic cloning and reproductive cloning. I supported that legislation, which regulated the use of embryos created through assisted reproductive technology, ART, which are created by combining a human egg with sperm in research. That legislation outlawed both therapeutic and reproductive cloning. That legislation also stipulated that an independent review be undertaken.

The 54 recommendations which emerged from the 2005 Lockhart review formed the basis of the bill now being debated. The central issue at stake is whether to allow the creation of human embryos other than by a human egg and sperm for the purposes of research under very strict conditions. This bill includes amendments permitting research, training and clinical applications, and it is worth spelling out what that means. SCNT is the process by which a cell of the body is converted into a primitive stem cell known as an embryonic stem cell. The process involves removing the nucleus of a human egg and replacing it with the nucleus of another cell. I note that the proposed amendments will be subject to existing provisions that prohibit—and this is very important—the development of human embryos created by any means beyond 14 days outside a woman’s body, which is an absolutely essential protection, and they prohibit the implantation into the reproductive tract of a woman of a human embryo created by any means other than the fertilisation of an egg by a sperm.

The scientific argument in favour of SCNT is that it may allow scientists to understand the causes of some of the most complex and, as yet, untreatable diseases that exist. It may enable them to develop earlier tests for diagnosis or new drug treatments to prevent, retard or cure diseases. Since primitive embryonic stem cells may also be directed to form unlimited numbers of any cell in the body, these techniques may enable researchers to repair damaged or degenerating organs. That is the scientific case.

Of course, it should be emphasised that these are potential benefits. There are no guarantees that such research will always realise all of its potential. But, as we have heard already in this debate, this is not just a scientific argument but also a moral and ethical debate. There are also practical considerations to address, and I would like to work through those one by one.

There is an argument that embryos should not be created solely for the purposes of research. First is the argument that embryos should not be created for any other purpose than to assist reproduction. Specifically, embryos should not be created solely for the purposes of research. This, I admit, I initially found to be a compelling reason for opposing SCNT—that is, until I came to understand that this process does not result in the creation of an ‘embryo’, as the word is commonly understood. The process does not involve the combination of a human egg and sperm but involves replacing the nucleus of an egg with the nucleus of a cell. The removal of stem cells from an embryo destroys the capacity of the embryo to continue to grow and prosper. Such embryos are created for the purposes not of reproduction but of seeking to understand and better treat disease.

The other argument is that these changes would place us on a slippery slope towards reproductive cloning. Others argue that these changes would move us in that direction—and they continue, in my mind, to distort the outcome. This argument rests on the notion that permitting therapeutic cloning puts us one step closer to reproductive cloning. A
related argument is that, as people get used to therapeutic cloning, they will become more open to reproductive cloning. This bill does not propose any change to the prohibition of reproductive cloning. If it did, I would not support it.

There is also an argument that there have been no developments in embryonic stem cell research since 2002 that would justify changing the legislation. As I have said before, we have already heard from Professor Ian Frazer on that point. There are developments and there is a case scientifically for embryonic stem cell research. That has been put forward in the Lockhart review and it has been put forward in terms of the research from Monash University, which I referred to before. There are also arguments that advances in adult stem cell research have made embryonic stem cell research redundant. From speaking widely to the scientific community, I am convinced that is not the case.

So I support this bill. I believe that the essential protections in this bill will prevent the abuses contained in the dire warnings that come from those opposing the bill. On the other hand, the life-saving cures possible through this research could well in time save the life of someone we love.

Mr CIOBO (Moncrieff) (7.56 pm)—Each of us who holds the relatively unique privilege of serving in this place as a representative of the Australian people is entrusted with the most significant gift the Australian people can bestow: the responsibility of shaping our future. The decisions taken today mould our tomorrows, just as yesterday’s decisions delivered us today. This responsibility is no doubt recognised by all of us. Some in this place, though, are more burdened by it than are others. Indeed, some feel the strain more on some days.

For me, the load is particularly heavy in regard to this legislation, the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006, as it was on previous conscience votes such as RU486 and the original debate on embryonic stem cell research. Standing in the here and now and cast oneself forward, projecting the circumstances, trade-offs and pressures of the future, is a very inexact science. How can any of us possibly know what our tomorrow will be like on the basis of our today? But therein is the responsibility. Absolutely, our task is not easy. Considered judgement is required. Ultimately, however, each of us must shoulder that, as each day passes, the shape of our surrounds will be a reflection of the decisions we have taken.

How fundamental, therefore, must be the principles, the philosophy and the framework we use to guide us on this blind journey into the future? In politics, in building and shaping our nation, it is a complete disservice to this institution and to the Australian people to meander through each of the issues with neither an eye to the past nor an eye to the future. This bill dealing, as it does, with some of the most fundamental concerns for every single human being is as significant a decision, I suspect, as I am to make.

In researching and preparing for this debate, I have reviewed much material, heard many speakers, read hundreds and hundreds of emails and letters and taken numerous phone calls. What struck me most fundamentally—this was somewhat into my consideration of the bill—was that my eyes were opened to the fact that we examined the central tenet of this whole matter back in 2002. My comments in that debate of 2002 absolutely and completely hold for this debate. At the risk of seeming stupid, self-indulgent or some combination of both, I will quote substantially from my previous remarks:

Fundamentally there can be no greater responsibility placed upon the people’s representatives
than to determine the parameters of decency and sanctity with respect to humanity. To me it is a moral absolute that each and every individual is a most precious life, a life to be respected. Life, however, remains a terrific enigma.

In approaching this bill I was initially envious of those who professed from day one to know this bill to be right or to be wrong. I was hopeful that I might have the same insight, the same clarity and the same absoluteness. Since then, however, my view has changed. As I delved into the issues, both technical and ethical, I realised this to be a complex issue beyond any I have faced previously, and beyond any I hope to address in the near future. To innately know this issue to be right or wrong, to have formed an immediate opinion without considering the weighty issues that exist on both sides of the argument is, in my humble opinion, intellectually and morally elitist.

The principal struggle for me, the exhausting wrestle with conscience, is that I find both sides have the moral imperative. Indeed, throughout this debate I have teetered from one side to the other. Some may quickly judge this to be a weakness of spirit. That is wrong. It is a reflection of the merit that exists on both sides of this debate. In seeking to tip my judgment, I concerned myself with the science—the embryonic stem cell versus the adult stem cell fight. Ostensibly, this has been a fight punctuated by newspaper headlines launching the claims and counterclaims. Unlike most in the community, I have had the unique opportunity of having a parade of this country’s and other countries’ eminent scientists and ethicists, comprising those in favour and against, to whom I could pose my questions and from whom I could reap the benefit of decades of collective knowledge. For the record, it is my view that there is a strong scientific basis supporting embryonic stem cell research. I directly questioned those scientists opposed to embryonic stem cell research and asked them to put aside their ethical considerations and to answer purely on the basis of science whether the possibilities espoused by embryonic stem cell advocates were bad science. Resoundingly, the answer was no. Embryonic stem cell research does present possibilities that adult stem cell research does not. This was an important discovery for me. I wanted to be satisfied that there existed a sound, scientific basis for researchers to even ask for the ability to conduct this research before I tackled the ethical considerations of the debate. I sought the technical views of those whose life work has been adult stem cell research, as well as those who work with embryonic stem cells.

However, the fact that there is a scientific benefit to this research does not of course clear the path of all uncertainty. It does not signify a green light for any or all experiments involving human embryos. For me, however, it does serve to reduce this debate to the deliberation of the morality of embryonic stem cell research. In resolving this issue, I would turn to the actual object of the bill.

Bear in mind that this is with respect to the 2002 bill. I then said:

There are two principal limbs to this bill. The first is an absolute prohibition on human cloning. This is a prohibition I have no difficulty supporting and, further, I believe no person in this chamber has difficulty supporting. In the world today, I am always mindful of the rapid advances taking place, advances that only a couple of years ago we would never have envisaged, advances that have completely eradicated some diseases and that present the potential to continue to improve the physical quality and duration of life. There are, however, always those who, in their quest for the scientific breakthrough, pierce community standards of acceptability—standards that my colleagues and I are elected to promote, to fight for and, ultimately, to enforce. Human reproductive cloning falls outside of these standards.

Having reread my contribution to the Research Involving Embryos and Prohibition of Human Cloning Bill, I am struck by how far all of us in this parliament have travelled in four short years. Human cloning was repugnant to the members of this parliament in 2002. Now, it would seem, it is not. And what is the basis for this change? Why now do so many who previously voted to ban human cloning now seem likely to support it, as indeed did the Senate? The justification used is summarised in the Lockhart review.
In responding to the central issue of this debate, the report summary says:

A further argument was that it is wrong to create human embryos to destroy them and extract stem cells. Human embryo clones are human embryos and, given the right environment for development, could develop into a human being. Furthermore, if such an embryo were implanted in the uterus of a woman to achieve a pregnancy, the individual so formed would certainly have the same status and rights as any other human being. However, a human embryo clone created to extract stem cells is not intended to be implanted, but is created as a cellular extension of the original subject. The Committee therefore agreed with the many respondents who thought that the moral significance of such a cloned embryo is linked more closely to its potential for research to develop treatments for serious medical conditions, than to its potential as a human life.

I cannot possibly support this fractured logic. I do not know when life begins. I do not know if it begins at the point of conception, some hours or days later or weeks after that. For this very reason, I cannot possibly support a shallow and, in my view, morally repugnant argument that claims that it must not occur within the first 14 days and, furthermore, even if it does, it does not matter because what we are talking about is a cloned human intended to be used for research for the extraction of stem cells.

Surely this intellectually deficient argument can be exposed as the pathetic excuse it is by simply posing the following questions: what if research were to demonstrate that even greater scientific breakthroughs could be reached if only the embryo were left to develop to 28 days, to 36 days or to 72 days? Would supporters of this bill be comfortable with that threshold? Where does this magic number of 14 days come from? And what of the intention argument put forth by the Lockhart committee? The test as outlined by Lockhart is that a human embryo clone created to extract stem cells is not intended to be implanted but is created as a cellular extension of the original subject. But what if an embryo is created with the intention of extracting organs and with the intention of being implanted but not of being born? Am I to assume that, if science could demonstrate potential breakthroughs from implanting the embryo, it would therefore be ethical to harvest that embryo basically up until the point of birth?

I desperately, dearly want to hold out to all of those who are sick and to those inflicted with disability and disease the promise of potential cures and medical advances, but I cannot with good conscience support the development of this research on the basis contained in this bill. The goal of proponents I absolutely share, but I cannot support the means to secure it in the way that this bill does. Embryos created through ART for IVF are clearly created with the intention of fulfilling the life of the embryo to as great an extent as possible. Embryos that are created by a sperm and an egg are done so with the knowledge that the life created at some point in that cycle is to hopefully be realised through IVF. In fact, the committee is so sensitive to this point that a prohibition exists on the creation of an embryo by a sperm and an egg for any purpose other than artificial reproductive technology. And yet the committee seriously says to this parliament—a line that has been adopted by other members of this chamber—that an embryo created through therapeutic cloning, which would have exactly the same outcome if implanted in a woman, is somehow morally different and to be treated differently.

It is remarkable that this parliament should accept therapeutic cloning, on the basis of scientific breakthrough, as being in some way morally defensible when four short years ago we were united in saying it was morally repugnant. I question what this parliament would do when, in four years
from now, the scientific community comes back to this parliament and says, ‘Please grant us the opportunity to grow these embryos for 72 days or for 140 days because we could have some terrific scientific breakthroughs then.’ Embryos that would be created under this bill would be created with the intention of being destroyed for research. Some arbitrary 14-day threshold and intellectually deficient argument do not even come close to justifying this massive shift from the position adopted by the parliament only four years ago. It is my sincere hope that this bill fails.

Mr BRENDAN O’CONNOR (Gorton) (8.10 pm)—I rise to express my views on the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006. I listened to the member for Moncrieff, who clearly indicated, as many members in this House have done in the process of this debate, that it is not an easy matter to deal with. There are some very significant questions that have to be asked by each member and it is not easy to reach an unequivocal conclusion about the best way to deal with this particular matter. I say from the outset that I respect the views of others, provided there is not a sense of righteousness about one’s view over another and provided members accept that these are fundamental questions and that therefore the divergent views expressed in this place are to be respected. The issues of human life—birth, reproduction and death—are the issues that exercise the minds of parliamentarians most strenuously and are the issues on which we diverge from each other most violently. Human intervention in the creation and the ending of life presents us as legislators with a terrible array of scientific, moral and ethical concerns. Advances in scientific research keep altering the shape of the arguments and we find even the safest of our convictions tested.

There are many features of this bill which even opponents of its most controversial aspects should accept. For instance, the bill continues the current ban on the trade of human eggs, sperm and embryos. It also alleviates some of the unintended consequences of the original bill. The Lockhart review, for example, found that the 2002 legislation in practice prevented research into improved methods for achieving pregnancy in ART clinics and that that was impeding training and quality assurance activities at these clinics. This bill allows procedures to test human eggs for maturity and to test egg and sperm viability—procedures which were permitted prior to the 2002 legislation. The bill also improves current licensing arrangements, ensuring vacancies on the National Health and Medical Research Council licensing committee are filled. It provides for the inspection of non-licensed facilities, ensuring laws and guidelines are complied with. It imposes significant crime penalties for breaking the law.

The bill allows two new activities not previously allowable but recommended by the Lockhart review under very strict conditions. The first is the use of embryos generated during the process of IVF that are unsuitable for transplantation, usually because of genetic flaws. If not used for research purposes, they would be destroyed. The second procedure not previously permitted, but recommended by the Lockhart review, is the use of human embryos created by somatic cell nuclear transfer and other techniques that do not involve the fertilisation of a human egg with a human sperm. Such embryos are to be created only for the development of specific embryonic stem cell lines, as is currently legally permitted in countries including the United Kingdom, Sweden, Japan and Singapore.

This, of course, is the most contentious part of the new legislation, and some mem-
bers consider it necessary to reject the whole bill on this point. I believe the most fundamental issue at stake here boils down to the question of whether the embryo is a person; in other words, it is about the moral status of what is being created or destroyed. We therefore need to be particularly clear about what is meant by the term ‘embryo’. Indeed, this bill goes some way to providing further clarification on this important point.

Somatic cell nuclear transfer is the scientifically appropriate term for the procedure under dispute. Briefly, it involves removing the nucleus, which contains almost all of the genetic material, from the egg cell and replacing it with a nucleus from a somatic cell. The egg and its new nucleus are then induced to fuse and to develop into an embryo. Therefore, the egg is not fertilised in the usual sense. Because the nucleus contains most of the DNA, the embryo is genetically identical to the person from whom the somatic cell was taken; hence, the term ‘clone’.

An embryo for the purpose of this legislation is an entity created by a sperm fertilising an egg. Such embryos cannot be created for anything other than IVF purposes. Under the licence, the surplus embryos can be used for stem cell research. In that regard, nothing in this bill changes the current law. The term ‘embryo’ has been clarified, though many still have difficulty with the association of the word ‘human’ when applied to therapeutic cloning. After much consideration, I think many of the objections to therapeutic cloning for the production of stem cells fall into the trap of anthropomorphism—that is, they ascribe the characteristics of human beings to things that are not.

When we use the expression ‘human being’ we refer to something that is like us. What we mean when we use the expression is coloured and informed by our experience—that is, our experience of being human adds up to our concept of what the word means. We are simply not capable of disentangling this sense of ourselves from our concept of the word, and we often project this experience onto other things that seem like us—for example, animals. In this way, we often fall into the trap of supposing that other living things think and feel in the same way that we do, which is not the case.

In the same way, if we give a multicell cloned human embryo all of the conceptual and sentimental associations of a human person, then we are projecting adult sentiment on to something to which it does not belong. An embryo is a member of the human family, but Harvard Professor DW Brock notes: ... this is not sufficient to give it the same moral status as humans who are incontestably persons. That is because the moral status of human persons does not derive simply from their species membership. Rather, it must be some properties of humans that endow them with personhood and in particular make it seriously wrong to kill them.

Why, for instance, do some people make no distinction between an adult human being and a multicell embryo, affording it all the rights of the adult person when they do not afford those rights to, say, an unborn animal of much greater maturity? That is indeed a controversial point but, for me, the underlying distinction between those two living things, as made by opponents of therapeutic human cloning, is fundamentally faith based. It is personal religious conviction. The right of people to draw conclusions on the basis of faith should be respected and honoured, but the issue then is whether that decision, derived from a particular faith, should apply to all other citizens in this country.

The reason I say it is a faith based instead of reason based to draw that distinction—that is, the distinction between a multicell human embryo and a multicell animal embryo—is that the former is made in God’s image and the latter is not. That is a signifi-
cant difference. While I sincerely respect the religious convictions of other individuals, I do not think those convictions should be the basis upon which a responsible government or a society as a whole should act. This danger can be illustrated with a pertinent question: whose vision of the sanctity of human life should we accept—the one that dictates that full human personhood begins at conception, or the views held by certain Christian denominations, Jews, Muslims and others of the gradual evolution of personhood over time?

If one were to study the history of Catholicism—I, myself, being Catholic—or if one were to study the way in which the debates about human life entered the discussions of the theologians of the time, including the famous St Thomas Aquinas, who did not agree that human life began at conception, one could see that there has been a long history of debate about these matters. In the modern context there are new matters that confront us but, essentially, the issue that has been forever debated has been about when life commences. Indeed, there are a multitude of views not only amongst non-Christian faiths but amongst Christian denominations.

This shows that we should not simply accept without question the position that condemns the use of therapeutic cloning on the grounds that it is the deliberate killing of another human person. Even among religious people, whose views are often cited in this debate and characterised as unambiguous, opinions may differ greatly. I refer to the member for Lalor’s comments in her contribution to this debate. I think we need to recognise with great courtesy and respect that there are those who cannot support this legislation; in turn, they must acknowledge that in this pluralist society there are many views on these issues and that ethics is not the purview of any one group.

Australia has an excellent national legislative regime in this area that covers all assisted reproduction therapy and research activities in Australia. The enactment of this bill will see this regime backed up with strong oversight and penalties. The regime is also backed up with a series of guidelines addressing issues of informed consent, institutional ethics and the ethics of working with human subjects. The amendments to this bill in the Senate will mean that there will be an opportunity to examine the current state and territory laws governing donation of human tissue for use in research.

Finally, because this is an area of policy where the terms and concepts, not to mention public opinion, are changing all the time, the bill allows for another review to report to the Council of Australian Governments and to parliament within four years. The promise of the science is too great. I listened intently to a number of speakers who in providing their contribution to this debate made comment about family members and friends who are ill and who could be assisted by the enactment of this legislation. In that sense it is a very emotional matter to be debating for all people, whatever their views.

But as I say, the promise of the science is too great and the ethical difficulties too ill-defined—for me, at least—or too narrowly held for us to condemn out of hand the use of therapeutic cloning for the production of embryonic stem cells. In truth, too many lives can be saved or dramatically improved by the use of this revolutionary branch of health sciences for me as a legislator to stand in the way of its development on the grounds that it offends some religious convictions.

Ms LEY (Farrer—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (8.23 pm)—I speak today in support of the Prohibition of Human Cloning for Reproduction and the Regulation of Hu-
human Embryo Research Amendment Bill 2006. This is not a bill about embryos being created from a human egg and fertilised with human sperm in order to carry out scientific experiments. This is not a bill about embryos being created artificially from human genetic material and implanted inside either a human or animal womb. This is not a bill that would allow human versions of Dolly the sheep or cloned individuals, whatever you understand the term cloning to mean. I would not support it if it were any of these things. This is a bill about careful and considered changes to existing legislated research involving human embryos. It bans human cloning and imposes heavy penalties for going outside the strict guidelines for research.

Research regarding human embryos is an emerging and promising area of study. Scientists have been able to develop continuously multiplying cell lines from such embryos, known as embryonic stem cell lines. The enormous potential of embryonic stem cells is that they possess the capacity to develop into virtually any tissue of the body, given the right conditions. They can give rise to pancreatic insulin-secreting cells, heart muscle cells, cells making neurotransmitters or— perhaps most remarkably—cells that can regenerate the immune system. This technology offers hope that one day we may be able to use embryonic stem cells to treat diabetes, heart attacks, acute spinal cord injuries, Parkinson's disease and immunodeficiencies.

Previous legislation passed in 2002 concerning research involving human embryos required that it be reviewed by an independent committee by December 2005. That review was carried out by the six-member Lockhart committee, which in its report in 2005 noted that it had consulted the community extensively through written submissions, face-to-face interviews, focus groups, telephone surveys and site visits. The committee made 54 recommendations and in so doing reflected on the diverse communities with varying perspectives that make up the Australian community as a whole. The committee did note that certain moral values are held by all communities, such as commitment to justice and equity and the care of the vulnerable, evidence of which can be found in our support for medical research aimed at preventing disease.

The committee noted that where there is widespread and deeply held community objection to something, prevention through the legal system is warranted. Recognising that there are strongly held opposing points of view on this matter, the Lockhart committee recommended a continuation of national legislation prohibiting human reproductive cloning and also the continuation, with strict control and monitoring, under licence, of human embryo research.

It is important to consider the current bill in the context of the Lockhart committee's recommendations; I do not automatically endorse them as a matter of course, but nor would I easily overlook the close and careful deliberations of these six experts. The drawback of embryonic stem cells, versatile though they are, is that they are limited in use because they are genetically different from the recipient. This is why I consider the central recommendation from the Lockhart review is the one that proposes that we allow a previously banned procedure known as somatic cell nuclear transfer, or SCNT, which would permit individual-specific embryonic stem cells to be generated. This would overcome the issue of tissue rejection and create a unique treatment for a person's disease, tailored specifically for the individual affected by the disease.

We are talking about an unfertilised egg, its nucleus removed and replaced with tissue from an intended patient. This tiny cluster of cells is so small it can barely be seen under a
microscope, and it has not come into contact with any sperm. The question at the heart of this debate is quite simply: is this a human being? Supporters of SNCT say it is human cellular material but it will never be implanted into a uterus and can never develop into a human being. Notwithstanding, this legislation does not allow this group of cells to be developed past 14 days.

I do not believe that the possibility of this group of cells having a contingent potential for human life in any way outweighs the probability that it has the potential to save human life. If you take a stand against SCNT, you must by definition take a stand against IVF and its associated surplus embryos; you must take a stand against contraception, even for women who risk their health by having children.

I do not accept that on the one hand you have science and on the other hand you have religion. You do not. The talents given to our scientists to preserve human life and better the human condition through medical research are surely gifts from God, whatever god you may happen to believe in.

May I say something about conscience votes generally and the difficulties we have as members of this House when facing a conflict between what we believe in and what our constituents want and expect from us. It is not easy when, as their representative in federal parliament, you take a stand which is contrary to the one they want you to take. I have received a petition with 445 signatures from Albury; I have received numerous letters, emails and phone calls from constituents who have asked, even pleaded, with me to vote against this legislation. To those electors of Farrer opposed to this bill who have identified themselves, and to those who have not, I say I regret that I do not agree with your position, although I would not dream of trying to persuade you to my way of thinking. I respect your strong conviction on these matters and ask that you respect mine.

As a plea to all who would reject the dictates of another’s conscience, I can think of no better words than those written by Siegfried Sassoon, poet and author from the Great War. The last words in his three-volume autobiography were:

It is only from the inmost silences of the heart that we know the world for what it is and ourselves for what the world has made us.

Of course, real hurdles will need to be overcome before we can realise gains from human embryo research or any part of any gain. So far there have been no magic breakthroughs; unfortunately, that rarely happens in fields of scientific discovery. There remains much work to be done. I believe that this legislation will give the scientific community the opportunity and the resources to work constructively and advantageously in these fields, with real prospects for an outcome.

At the periphery of this debate there has been criticism of organisations involved in the commercialisation of stem cell technology. For example, there has been criticism of pharmaceutical companies seeking commercial opportunities, as if this makes the whole business rather grubby and tainted by the profit motive. I totally reject such assertions. Money from investors and governments is necessary; the need to earn a return on such an investment drives the most efficient outcome from the use of the funds in terms of medical research outputs. Yes, profits will be made and multinational as well as Australian companies will benefit but, with the right licensing provisions in place, with the right ethical oversight, we will have the best possible chance of finding cures for disease and better understanding and prevention of medical disorders.
This is the outcome that society demands and deserves. I would like to quote Arthur Schopenhauer to those who have penned hate mail, sent abusive correspondence and insisted to me that they are right and I am wrong: ‘Everyone takes the limits of his own vision for the limits of the world.’ This is worth bearing in mind when faced with a moral dilemma, where we may be uncertain about whether the process of therapeutic cloning destroys human life or potential human life. The limits of our understanding are not the limits of the world and we should not expect to be able to work out the answer—not logically in our minds, nor emotionally in our hearts. We do not know what we do not know except that there is much that we cannot understand.

This is why I believe that the long and complex road of scientific endeavour that we have travelled to get to this point has a reason, a purpose, energy, momentum and, yes, a spiritual dimension. Now is not the time to hold up the research effort due to excessive and unnecessary caution; now is the time to make a sensible—and, for some, brave—judgement call that we are obliged to use the skills, talents and intelligence we possess to make a commitment to ease the pain and suffering of others.

With the expertise of members of the Lockhart committee leading us to this point, at least three of whom declared themselves either Anglican or Catholic, with the wisdom of the various other ethical committees that will remain in place and with oversight from the people of Australia, as represented in this parliament, I trust that the right decision will be made in the best interests of us all, including those not yet born. This is not about religious business, scientific business or ethical business, this is about the business of being human, and the business of being human is essentially about compassion. I urge my colleagues to support the bill.

Mr STEPHEN SMITH (Perth) (8.33 pm)—On the previous occasion that this House considered the question of stem cell research, I supported that legislation. That legislation had a requirement for a review—the Lockhardt review—on which the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 is based. That legislation authorised medical and scientific research—stem cell research—on spare and excess embryos created for the purposes of in vitro fertilisation for artificial reproductive purposes. That legislation also prohibited therapeutic cloning, or somatic cell nuclear transfer, and reproductive cloning.

We all agreed that a conscience vote was appropriate for that legislation, just as a conscience vote is appropriate for this legislation. I supported that legislation because I believed there was a clear and easy rationale for supporting it—the legislation was a logical and, to some extent, a necessary consequence of our nation-state years ago, through its state parliaments, authorising in vitro fertilisation. If we allow in vitro fertilisation, we necessarily allow the creation of spare and excess embryos and we necessarily allow their destruction. It seems to me to be compelling, if those spare and excess embryos were to be destroyed, to take the opportunity to utilise them for scientific and medical research before that destruction occurred. So I had no difficulty with that rationale and no difficulty supporting that legislation.

No similar rationale exists for this piece of legislation. On the conscience votes that have come before this House while I have been a member, I found myself not having any great difficulty in very quickly coming to a threshold decision about supporting or opposing a particular piece of legislation—whether it was RU486, euthanasia or the first stem cell legislation—and quickly stating
that rationale and my support or opposition, as the case may be.

On this occasion I have found it much more difficult, and I acknowledge that I have been troubled by this piece of legislation and have had to put in some careful thought and some time before coming to a conclusion. On a number of occasions I said to people that I wanted to examine the bill itself, which on one occasion elicited a wry, cynical smile on the basis that, frankly, it is not too often that we in this chamber look carefully and closely at the detail of legislation that we consider. I must say that I was buttressed in my reading of the bill by the fact that the former health minister, Kay Patterson, for whom I have a high regard, had instructed the drafting of the bill, and I think it is well-known that she received the assistance of the Department of Health and Ageing on technical matters to ensure that it met its intended purpose.

The legislation authorises somatic cell nuclear transfer or therapeutic cloning and prohibits reproductive cloning. Having examined the legislation I am satisfied that there is a sufficient regulatory regime proposed for the legislation, and I think the Senate amendments improve the legislation. There is still the threshold question to be met. Some of the factors that go to meeting the threshold question are as follows. We are not dealing here with embryos created by human egg and human sperm; we are dealing here with the removal of the nucleus of the human egg and replacing that with the nucleus of another cell. We are not dealing here with human embryos created for the purposes of reproduction.

Like very many members I have considered carefully the various materials—the bill, the explanatory memorandum, speeches that colleagues have given—and read carefully any number of short or lengthy emails that have been fired at me. I have given careful thought to two particular representations made to me. One was from a senior staff member when I asked: ‘What might be the rationale for supporting this piece of legislation?’ The response was: ‘I am an insulin-dependent diabetic.’ The second representation was on one of those occasions that members would be familiar with. I was at a public place, at Brisbane airport, and I was approached by a member of the public who was a serving serviceman. He said to me: ‘Stephen, I’ve been watching you for the last half an hour, carefully weighing up in my own mind whether I should approach you.’ I often have the experience—and other members might have found this too—that when people preface their approach to you with that comment, that they have been agonising about whether they should approach you or not, you invariably have an uplifting conversation. The thrust of that representation and conversation was that the serviceman’s daughter suffered from a debilitating illness and disease and was very keen for me and my colleagues to support the legislation.

Rather unusually, I found myself on this occasion ultimately being persuaded by the second reading speech on the bill as presented to the House. On 30 November the member for Moore, Dr Washer, presented the explanatory memorandum to the House and made his second reading speech—a speech which of course has some effect in law when it comes to the interpretation of the legislation. As a fellow Western Australian I have a very high regard for Mal Washer and I want to take the liberty of quoting at some length from the second reading speech he made when he presented the bill to the House:

The main issue of contention in the Lockhart review is SCNT—that is, somatic cell nuclear transfer. He went on:
SCNT is where the nucleus of a patient’s cell—for example, a skin cell—is removed and put into an unfertilised ovum that has had its nucleus removed. This egg now containing the patient’s DNA, the blueprint for life, is chemically and electrically stimulated causing it to divide and form...a ball of cells. Within this ball of cells there are a number of unique embryonic stem cells that are capable of forming all the tissues of the human body. These cells are harvested and then put into a culture medium and molecularly stimulated into a lineage to create patient specific tissue. This tissue is then used for the purpose of research for the development of novel drugs to be used in therapy against the patient’s disease, or the tissue can be used for implantation, for example pancreatic insulin secreting tissue in people who are insulin dependent diabetics. This tissue, being patient specific, does not require immunosuppressive drugs that may cause a much higher risk of cancer and infection.

Dr Washer also said:

Egg donation will be voluntary. These eggs are not fertilised by sperm. The eggs could be sourced by donation from IVF unfertilised eggs...

And he went on to say:

Opponents of this legislation seem to base their opposition on the destruction of SCNT embryos which is necessary to harvest the patient specific ES—embryonic stem—cells even though there has been no sperm involvement. There is no possibility of forming life without intra uterine implantation, which is totally illegal with severe jail penalties. The hollow ball of insensate cells the size of the grain of sand, containing the DNA of a patient with an intractable disease is designed only for the purpose of cellular culture therapy.

After much deliberation I have come to the conclusion in my own conscience that this legislation is worthy of support and is in the public good on the basis of the medical and scientific research that may well see the alleviation of illness, pain, disease and suffering from our fellow citizens. I commend the bill to the House.
deem some embryos less equal to others, some human life less equal to other human life, where does it stop? Why will we not, in time, find ourselves justifying experimentation on those in a vegetative state or the dying?

In 2002, when this federal parliament debated whether to allow experimentation on excess IVF embryos, all politicians opposed the creation of human embryos for the express purpose of research and destruction. Yet, just over three years later, a bill proposing precisely that has passed the Senate and is before us in the House. It simply highlights how quickly we can become conditioned to accepting something previously deemed highly inappropriate once we cross an ethical divide.

To create human life for the sole purpose of experimenting upon it and then destroying it challenges our respect for the dignity of human life; it challenges our respect for our own humanity. As such, this bill goes to serious ethical questions surrounding human life. In this context, suggestions that opposition to the bill is based on ignorance, religious superstition and insensitivity to the plight of those with debilitating diseases is deeply offensive.

The seven years during which I had the privilege of observing, at close quarters, the wonders of medical science as a board member of the foundation of the Garvan Institute of Medical Research only served to reinforce my belief in the sanctity of human life. It confirmed my view that the dignity of human life must be respected from conception until death—whether that conception is a result of being cloned with nuclear somatic transfer or as one who was conceived naturally. I believe that life begins at the beginning—at conception—not after 14 days, not only if created from the union of an ova and sperm and not only if those who created the embryo did not intend that it be researched and destroyed.

The Lockhart review, which reviewed the 2002 law and on whose recommendations this bill is based, did not seek to dissemble or dispute that the human embryos created through so-called therapeutic cloning could develop into a human. In fact, these scientists acknowledged that therapeutic cloning is the same science which produced Dolly the sheep. It was because they saw these embryos as equivalent to one involving sperm, with the potential to develop into a person, that the Lockhart committee recommended destruction of the human embryo after 14 days and the banning of the placing of any of these human embryos, or human-animal hybrid or chimeric embryos, into the reproductive tracts of women.

However, the Lockhart committee sought to overcome the ethical dilemma by claiming that the moral significance of a human embryo is defined, is determined, by the intention for which it is created. In other words, the review claimed that a cloned human embryo, because it is intended to be destroyed before it is implanted, should be viewed ‘as a cellular extension of the original subject’, and therefore the committee concluded:

... the moral significance of such a cloned human embryo is linked more closely to its potential for research to develop treatments for serious medical conditions than its potential as a human life.

The Lockhart review considered that the moral significance of an individual human embryo was not related to its status as a human life but rather the intention for which the human embryo was created. In my view, these conclusions confirm that the Lockhart review, on which this bill is based, deemed some human embryos less equal to others, some human life less equal to other human life, despite finding cloned human embryos
scientifically equivalent to those involving sperm.

In essence, the Lockhart review, and this bill, finds that some human life is expendable, and in doing so redefines the value we accord to human life. I find this morally wrong. As well, I consider this a very dangerous path to go down. Once we cross an ethical divide, where and how does it stop? I cannot support a proposition to create human life, by cloning or otherwise, for the express purpose of research and destruction. I will oppose this legislation.

Mr McMULLAN (Fraser) (8.52 pm)—I welcome the opportunity to participate in this conscience vote on the private member’s bill presented by the member for Moore, the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006. It is not possible for every matter that comes before the parliament to be considered as a conscience vote.

Some people in the community think it would be a good idea; I think there are all sorts of reasons of good governance why it could not possibly work. Just the time and the arrangements that would need to be made for such a thing to occur make it absolutely impossible, but it is very appropriate here. I welcome the fact that, as on other occasions when we have had such debates, overall the quality of the debate has been very high. It is important that we all recognise that there are people of goodwill on both sides giving serious consideration to important ethical and scientific issues and seeking to get the balance in the national interest right.

I have had the opportunity to be in the chair, as you have Mr Deputy Speaker Scott, on several occasions during this debate. I have heard a number of people make speeches with which I have profoundly disagreed, but they have spoken very well. I recall, for example, the member for Prospect and the member for Rankin, both of whom made high-quality speeches diametrically opposed to my point of view. Last night the member for Gwydir, drawing very heavily on the speech of the member for Rankin, also spoke against this bill. I disagreed even more fundamentally with his view, but it was clearly a considered view, a passionately held view, a principled stand based on his beliefs, and I was impressed with the speech that he made.

I have received in the course of this debate, as everybody has of course, representations from dozens of constituents. It is a very small minority of my electorate of 175,000 people—100,000 voters—but nevertheless, there were dozens of considered, thoughtful representations. I have responded to all of them—almost entirely by e-mail; one or two letters—who have been identifiably from my electorate indicating my intention to vote for this legislation. Of course that has not pleased most of the people making representations who have had an alternative view, but I have been very pleased to note the extent to which, overwhelmingly, they have appreciated getting a thoughtful reply. It does not mean they now agree with me—they do not—but it has been a useful exchange and it is a healthy part of the democratic process.

There have been several references to the fact that we had this legislation before us in 2002, and now it is back again. In one sense that is not surprising, because in 2002 we set a research and review task and that certainly always created the possibility that the research and review process generated by that legislation would lead to recommendations for further action. I strongly supported that previous legislation and made it clear that, if the legislation introduced then had been a stronger bill, I would have voted for that too. Therefore I am comfortable supporting this bill. Its essential character is to allow scien-
tists options within a rigorous, ethical framework. In my view, looking at the potential of the research, you need a case not to do it; you need a profound argument against doing.

I know some people have religious beliefs that lead them to that strong case for not doing it. I do not share those beliefs, but I respect them. But if you do not come from that perspective then I have difficulty seeing what the case against the legislation is—the case of closing off the option. A number of people speaking against the legislation have said in the course of this debate, and I think they are right, that it is very cruel to overstate the potential benefits of this legislation. And some people have overstated it. I am not sure they have done so in this debate in this chamber, but in the public debate some people have overstated it, and I do not agree with that. But I also think it is wrong to deny that there is potential and to overstate it in the negative—that is, to pretend that, because some people who make claims for this potential embryonic stem cell research are perhaps exaggerating, the conclusion should be that there is no potential.

I was influenced by an article by Ian Kerridge, Peter Schofield and Loane Skene where they talked about five myths of therapeutic cloning and sought to challenge some of those myths. I will not read the whole article; in my view a number of bits of it are not relevant to the legislation, although they are intellectually interesting arguments. They say:

There have been great advances since 2002 and good evidence exists in animal models to warrant the pursuit of both embryonic and adult stem-cell research... The House of Lords, a majority of the US Senate, the American and Canadian medical associations, 80 Nobel laureates, the Australian Academy of Science and past and present Australians of the year have all supported the potential of embryonic stem-cell research and therapeutic cloning.

In particular, they refer to its potential for ‘development of patient-specific therapies that may repair or regenerate diseased tissue’. The key sentence there is:

These require therapeutic cloning.

Adult stem cell research can do important things, embryonic stem cell research can do important work and we should not close the door to either.

The professors talk about the slippery slope argument that gets run every now and then. It is a sort of metaphorical equivalent of the thin end of the wedge argument. I find neither argument very persuasive. They say:

This is not evidence of a “slippery slope”, however, but of considered reflection on the consequences of existing law and on the scientific, moral and social issues raised...

I was particularly influenced by the argument they made about the areas of research that are only capable of being pursued through therapeutic cloning. The article is worth reading for anybody interested in the discussion, but I do not want to take the time to refer to those parts of it that I think are not as directly relevant to the decision-making process with regard to this bill. Like many, if not all, of my colleagues, I have read a large number of articles and have been influenced by them; I have had my views questioned by some and reinforced by others.

The only other document to which I wish to refer is the letter from the Australian Academy of Science. It is signed by Professor Sue Serjeantson, the Chief Executive of the academy and a very distinguished person in her own right, on behalf of Professor Lambeck, the President, and other professors who are significant executive holders in the Australian Academy of Science, which is the peak scientific body in Australia. I will not
read the whole letter—it would take too long—but they argue, in part:

We have consistently supported the view that it is possible to find a way forward with regard to stem cell research that will allow Australia to participate effectively in the international effort for medical advance, while adhering to strict ethical principles.

There have been many major advances in stem cell research (using both adult and embryonic stem cells) during the period since 2002. New data have been generated that show the value of both embryonic and adult stem cells, and somatic cell nuclear transfer, in informing endeavours to improve the health of Australians.

The Academy agrees, on the basis of the expert advice of its Fellows, that both adult and embryonic stem cell research offer great potential in medical research. Adult stem cells from a patient have the great advantages of proven safety and the absence of immune rejection. Embryonic stem cells, and their relatives made by somatic cell nuclear transfer ... have the great advantages of being able to make every kind of cell in the body and to multiply indefinitely. The recommendations of the Lockhart Committee will allow both adult and embryonic stem cell research to proceed in parallel to maximise the opportunity of developing medical applications from this research.

There are a number of things that the academy refers to particularly in a lengthy articulation, but I want to refer to one other only. It says the academy:

Supports the conduct of laboratory research using somatic cell nuclear transfer and other procedures for deriving stem cells to assist in the development of better treatment for serious disorders such as type one diabetes, motor neuron disease and Parkinson disease. The Academy sees such research as offering promise in the generation of knowledge and remedy for multifactorial disorders that are not due to a single gene mutation, where the disease causes cell death, and where accurate animal models are not available. Somatic cell nuclear transfer may also provide data on how to prevent the problems of immune rejection of donated cells or tissues, and a model for understanding how humans may avoid possible risks, like cancer, that may be associated with embryonic stem cell therapy.

There are books written on this subject and we could all speak at greater length and delve into the relative merits, but like most colleagues I have chosen the two representations that I found most assisted me in coming to my conclusion, which is to support this legislation in the hope that it will open up possibilities within an ethical framework. I congratulate Senator Patterson and the member for Moore, Dr Washer, on their initiative in bringing forward this private member's bill and I support the bill.

Mr TURNBULL (Wentworth—Parliamentary Secretary to the Prime Minister) (9.03 pm)—The Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 is the result of the review of the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002. The review was conducted by a committee of expert medical scientists and ethicists, and chaired by Justice John Lockhart. I record my appreciation here for the life and work of John Lockhart, whom I have known for nearly 30 years. He was a generous mentor when I was a young lawyer, and he and his wife, Juliet, who is here in the House today, were our friends and, indeed, my constituents.

John was possessed of a keen, clear and cool intellect. I cannot think of any lawyer more naturally gifted with a judicial instinct for objective analysis. Tragically, he died shortly after the report was completed, his life lost to a particularly rapid cancer. John Lockhart realised, as do honourable members, that this matter raises difficult ethical issues, with sincerely and strongly held views on either side. His report was a characteristically careful and lucid appraisal of a complex issue. I thank all of my constituents
who contacted me about this legislation. Many have expressed strong views against it and many others have been equally strong in their support. I have taken all of their opinions to heart, weighing them very carefully in my consideration.

My starting point is at a bedside. It could be anywhere or at any time. Someone is suffering. They are in pain; they are dying. It could be our friend, our mother, our father or, God forbid, our own child. Few of us cannot recall moments like this; none of us can forget them. We reach out to the sufferer. Our very being yearns to make them well, but how helpless do we feel in the face of suffering we cannot relieve and diseases we cannot cure? What do we pray for? We pray, as we have always done, for a cure. Is there any higher duty or any nobler cause than the relief of human suffering and the curing of disease?

One of the strongest advocates of this bill is Professor Ian Frazer, the 2006 Australian of the Year. It was his work that led to the production of the cervical cancer vaccine, now on the PBS in the form of Gardasil. In time, his research will save the lives of thousands of Australian women and may come near to eradicating this type of lethal cancer in a country like Australia. Another advocate, and a member of the Lockhart committee, is Dr Barry Marshall, a Nobel Prize winner for his research which revolutionised the treatment of gastritis and eased the suffering of many people. These scientists and many others have a gift of healing. They support this bill because they believe its passage will enable scientists like them to make further discoveries in the cause of healing.

Much of this bill is uncontroversial. It continues the prohibition of reproductive or human cloning and it continues to prohibit the creation of a human embryo by the fertilisation of a human egg with human sperm for any purpose other than achieving pregnancy. As my allotted time is short, I will not canvass the whole of the statute but rather focus on what I understand is the key ethical issue, relating, as it does, to SCNT. The 2002 acts imposed a moratorium on SCNT which was to be the subject of the review. The Lockhart committee recommended that, subject to stringent safeguards, this practice be permitted.

The process of SCNT involves placing the nucleus of a somatic cell—this could be a skin cell—inside a female’s egg, an oocyte, that has had its own nucleus removed. The embryo is then stimulated to develop in vitro to the blastocyst stage, which occurs about five days after fertilisation. Within the blastocyst is a cluster of 50 to 250 cells known as the inner cell mass, which consists of embryonic stem cells. These embryonic stem cells would then be harvested for research and the creation of stem cell lines. The embryo, or blastocyst, as it is called at this point, is only visible under a microscope. It has no nervous system and it is best described as having only a highly theoretical potential for full development.

By saying the blastocyst has ‘potential’, I draw a distinction. The reason I draw this distinction is as follows: simply starting a human egg on a particular path, through either fertilisation or cloning, is a necessary condition for developing a human being, but it simply is not a sufficient one. A range of conditions must also be present. These conditions include successful implantation in the womb—and it should be noted that at least 40 per cent of embryos produced naturally within the womb do not implant.

Some people worry that this early embryo generated from SCNT may—and I emphasise ‘may’—have potential for life, but this has never been tested in humans after somatic cell nuclear transfer, and it never will
be in Australia. The bill makes it an offence punishable by 15 years imprisonment to allow an SCNT embryo to develop for more than 14 days or to implant such an embryo in a woman’s womb.

But why do scientists want to create embryos by SCNT? Scientists have made extraordinary progress in preclinical research with embryonic stem cells. There are numerous examples now where embryonic stem cells have been used to treat illness in animal models of human diseases. The promising results in these preclinical tests are the first step prior to testing embryonic stem cell therapies in people with illnesses. For the first time in the history of humanity, we face the hope of treating a number of diseases that have previously been regarded as incurable. There will be hurdles and there will be challenges, but Australia society is endowed with great scientists who will work to overcome them.

However, there is one profound challenge that can only be surmounted by SCNT. An embryonic stem cell therapy is essentially a transplant and, like any transplant, the embryonic stem cells could be rejected. SCNT provides the hope of making embryonic stem cells that will be genetically identical to the person who is being treated. This has potential to overcome the risk that the embryonic stem cells will be rejected by the immune system, because SCNT ensures the embryonic stem cells will be genetically identical to the recipient. We therefore stand on the brink of a revolution in medicine—an offer of hope to those currently living; an offer of hope to people suffering from devastating disease for which there is currently no hope.

The ethical argument against SCNT runs like this: human life begins at conception—the fertilisation of the egg. There are no degrees of humanness, and from conception to death, from the tiniest embryo through to the end of life, there is no ethical distinction in the respect due to the human being. Accordingly, the destruction of the earliest embryo is equivalent to the destruction of any one of us. Against this, many would argue that, prior to the development of the nervous system, it is highly theoretical to contend that a tiny collection of cells perceptible only through a powerful microscope, lacking a nervous system—lacking, indeed, any differentiated cells—is a complete human being. Put another way: while these human cells are alive, can they be regarded as a human person?

It seems to me that our society has already reached a conclusion to the effect that an embryo at this very early stage is more in the nature of a potential than an actual human being and that the rights of this microscopic bundle of cells are not equal to those of a foetus, let alone a newborn baby. Our society supports, in every respect, the practice of IVF. What better example of science serving life than in enabling an infertile couple to conceive and bear a child of their own? Given that couples undertaking IVF therapy routinely create many more embryos than they could possibly use, the consequence of IVF is that many thousands of embryos become surplus and, if not used for research purposes, as was expressly authorised in the 2002 legislation, or donated, are allowed to die. IVF is now so widely used that three per cent of Australian children born this year will be the result of IVF. So how can we justify IVF but at the same time condemn somatic cell nuclear transfer? Of course, some people—perhaps they are the most consistent—condemn both practices. But the vast majority do not.

Recognising this inconsistency, some opponents of SCNT contend that, while IVF may be justified on a utilitarian basis—the good end of enabling the infertile to bear children overcoming the bad means of allow-
ing many embryos to die—there is insufficient evidence that SCNT will deliver the promised research benefits and hence, unlike IVF, SCNT is a case where the bad means cannot be shown to lead to a good end. I find these essentially utilitarian arguments against SCNT unpersuasive. First, they fail to recognise the nature of scientific research. There are no guarantees as to what therapies research of any kind will deliver—except for this very certain guarantee: if you do not undertake the research then you are guaranteed that you will not advance medical knowledge at all. Secondly, there is progress being made with embryonic stem cells. As Professor Ian Frazer wrote to us recently:

It has been claimed that there have not been enough advances in embryonic stem cell research and SCNT to justify legislative changes. Recent results using stem cells include the generation of insulin-producing cells with the potential to treat diabetes, of cardiac cells which could be used to repair a damaged heart, of dopamine-producing cells to treat Parkinson’s disease, and of retinal cells and spinal cord cells to repair a damaged nervous system.

Third—and this is perhaps the most significant objection—it is implied that we should wait until valuable therapies are developed in other countries, like the United Kingdom, the USA, Israel, Singapore, Belgium and others, where SCNT is permitted. This amounts to a free option. We can prohibit SCNT in Australia but nonetheless enjoy the benefit of any therapies which that research may produce. I recognise and respect the assurance of several members and senators who have said they would never accept a drug or a therapy derived from SCNT. However—and I say this without any hint of criticism—that is a position which few people will take when a loved one becomes ill or their own life is threatened and the only available therapy is one derived from scientific research of this kind.

In many societies around the world there are few rights accorded to the living. We must resist and challenge the way basic human rights are denied to so many of our fellow inhabitants of this fragile globe. We might fight for people with AIDS in Africa just as we must fight for people in Australia, where the AIDS infection rates in some parts of Sydney, including parts of my own electorate, are rapidly rising. The fight for human rights is waged with many weapons, but foremost in the armoury is medical science and the research that makes it possible.

The legislation and the debate which we have heard is a great example of how a civilised and progressive society carefully addresses these important issues. I thank all the members and senators who have spoken on this bill, both for and against. I have learned an enormous amount from the words of all my colleagues. I particularly thank Dr Mal Washer, who pressed so hard for a conscience vote, and of course Senator Kay Patterson, who introduced this bill into the Senate.

In closing, may I remind honourable members of Gary Nairn’s very moving speech in support of this bill. Gary described how after his wife died from cancer last year—an ordeal both Kerrie and Gary bore with the greatest courage—he asked her oncologist what the parliament could do to continue the fight against cancer. The oncologist replied, ‘Put the resources into general research that ultimately can apply to a whole series, in the case of cancer, of different cancers.’ Gary saw this bill as enabling that kind of research, and so do I. I will support the bill.

Ms BIRD (Cunningham) (9.17 pm)—I rise this evening to take the opportunity to place on the record of this House my support for the Prohibition of Human Cloning for Reproduction and the Regulation of Human
Embryo Research Amendment Bill 2006. I am using this opportunity to outline for the information of those for whom this is a particularly important debate how and why I have reached my position and not, as is usual in this place, to attempt to persuade others. I actually am of the view that there will not be one member of this House voting on this bill who has not applied both their judgement and their conscience most seriously to the questions before us in this bill over the last few months, so I would not seek to persuade anybody. I just want to take the opportunity to indicate why it is that I have reached the decision that I have reached.

I note that this amendment bill is the result of the Lockhart report, which was an outcome of the 2002 bill. While not wanting to go through all the ins and outs of the process by which we have reached the debate today, I do want to acknowledge that many people have said, ‘What has changed since 2002?’ One of the realities of a democracy is that some of the people making the decision have changed. I was not here in 2002 when the original bill was enacted. So for me it is a case that, over time, as the people who represent the broader community in this place change, the application of our judgement and conscience may well reach different decisions. So I think it is important and useful that we all take the time to put on the record what we were thinking at the time, because it can be informative for those who come after us who may confront similar decisions. Certainly I have taken the opportunity to look at some of the comments that were made in regard to the decision that was reached in 2002.

Before I start on the explanation of my own thinking, I also want to acknowledge the fact that many people have been lobbying us from my own electorate, across the nation and, indeed, internationally, presenting their concerns and their views in relation to their preference for how I should vote in the debate. By and large, as I believe the member for Canberra said, I have taken the opportunity to respond to all of the individuals within my own electorate who have written to me, and I have read the contributions of those from outside my electorate. I ask them to forgive me for not directly responding, but I am sure they would understand that, with the amount of contact that we have, it is simply not realistic to achieve that. However, I made sure I responded to all those within my electorate, including senior representatives of the various church denominations in my electorate.

By and large, I found that all of those people presented their views, their beliefs and their wishes in a particularly considered and, I have to say, civil manner, and I responded to them in the same way. To be quite honest, it would be quite out of character for me not to do so, but I did. Those who were unhappy with my response and continued the conversation with me did continue it in a civil way. I think that is an important and valuable thing that we should not lose through these difficult decisions that we make. They are the most difficult decisions, and the reason why they end up as conscience votes is because they do not simply encapsulate policy; they encapsulate personal, ethical frameworks. For some of us, those frameworks are constructed from a belief in a supreme being, reflected in a particular religious adherence—in some cases, a subdenomination of a particular religious adherence. I do not hold such a belief. That does not mean, as I said in the RU486 debate, that I lack morality or that I lack a moral framework. I certainly brought to bear in this consideration the moral framework that guides my life.

Complex issues are associated with these types of debates, particularly when they relate to science, so we bring our judgement to
them. So few of us have a well-developed scientific background; however, we do our best in our most earnest endeavours to attend the briefings that are provided to us here and, indeed, in other places. We also look at the literature and the debates that have gone before us. Tonight I want to address the conflicts that I had to resolve within myself in order to assess how I would vote on this particular bill.

The first conflict is one that occurs with any scientific issue: the reality that science consistently challenges us as a society, as a community, about what we think is appropriate. Being a high school history teacher in a former life, I well remember students of mine particularly enjoying the Middle Ages and our discussions about the fact that for many decades the Middle Eastern countries had far more advanced medical practices than the European countries had. The main reason for that was that we held a moral abhorrence of scientific or medical experimentation on cadavers. The dead body was seen as sacrosanct and people were not supposed to carry out any sort of medical experimentation on it. So we remained largely ignorant of the internal workings of the body. Of course, that changed over time. But there has been a consistent conflict between science and morality in our society. Indeed, in this century many similar issues have confronted us.

Obviously, abortion, with its various processes and the limitations and controls we want on those processes, consistently confronts us. Indeed, the development of contraception in its various forms confronted us with a similar dilemma and we had to work through that. IVF, as many other speakers have mentioned, again confronted us with the fact that scientific advances were pushing us to question the framework of our society and what we saw as acceptable and not acceptable.

I do not believe that we have become a soulless community as a result of our struggles since the Middle Ages to 2006 to answer these questions and to come to resolutions that have enabled science to serve humanity. I think what is important is that each time this happens we do struggle, with sincerity and serious application, to come to a view that enables our society to remain a civil and humane one. At the end of the day, for me, they are the tests.

The other conflicting issue that I have looked at, which has been raised in this debate—and I have to say that I did not find it quite so difficult to resolve—is the one put about that this is embryonic versus adult stem cell research: that, indeed, adult stem cell research has delivered and that there has been no identifiable delivery from embryonic stem cell research. I think the Parliamentary Secretary to the Prime Minister, who is at the table and who spoke before me, dealt with this issue very well.

The reality is that adult stem cell research has been going on, I understand, for over two decades now and embryonic stem cell research has been going on for about four years. So I agree entirely with the assessment that other speakers in this debate have made: it is inappropriate to make claims about embryonic stem cell research that we cannot justify by evidence, but it is equally inappropriate to deny the possibilities of embryonic stem cell research without the evidence. That issue has been resolved for me in that manner.

That leads to what has been called the ‘provision of false hope’ to people with serious debilitating diseases or injuries that have had a traumatic effect on their lives. For me, with scientific development and the discussion around potential breakthroughs, there is always this dilemma. We have just dealt with a much more mundane but just as difficult
process regarding funding for a vaccine for cervical cancer, which was developed by Professor Frazer. We deal with these things all the time, and I think we can certainly deal with them in that way in this debate.

The next issue that I had to resolve was: is this destroying a life to potentially save or improve a life? I cannot conclude that an embryo of up to 14 days—the time proposed during which it will be used—is a life. I agree that it has the potential for life. But I am one of those human beings that discard eggs every month and I do not particularly agonise about that. Such eggs are potential lives. I think each individual has to make an assessment about where that line is, from within their own framework—and I am attempting to explain how I arrive at my assessment. For me, the proposed stem cell source that is the subject of this bill—a woman’s egg with the nucleus removed and replaced by, for example, skin cells, in order to regenerate an appropriate match for a particular person with a particular illness—is not the same as a fertilised egg in my body or in any other woman’s body. Indeed, in that respect, I have to say that I am quite comfortable with the position of this bill.

I acknowledge in this place that each time we might be confronted with a proposed extension or amendment of that definition—and people talk about the slippery slope—I would again have to apply, as we are doing now four years after the original bill, a rigorous assessment of what was proposed, how it was to be implemented and how I felt about that. I do know that in cloning I have a line that I am not happy crossing.

Mr Slipper—What is that?

Ms Bird—Would the member for Fisher let me finish. I have appreciated that people have dealt with this debate in a civil manner and I am honestly attempting to explain my position. I sat here and listened to others I disagreed with without interjecting and I think that is an appropriate way to conduct the debate.

I will struggle within my moral framework with each of these decisions, and each of them confronts each of us in different ways. As I said at the beginning of my speech, every single member of this House has diligently applied their judgement and their conscience on this.

Finally, I want to comment on the argument that has been put that the harvesting of such eggs is exploitation of women. I profoundly disagree with that assessment. Why do I disagree with it? Because I think that in this country we do not allow, under any circumstances, women to be exploited in a process, whether it be medical, legal or any other. To insinuate, with the sorts of protections we have in this nation, that women cannot give informed consent to the harvesting of their eggs I think is wrong. I struggle with the belief that, while there are countries where that sort of exploitation may occur, therapies developed from such a process would be refused in Australia. Again, I think the Parliamentary Secretary to the Prime Minister also dealt with this issue.

I am sure there are some people who would refuse, but I cannot imagine that the vast majority of people would say no, faced with an ill or injured family member or close friend and told, ‘Here is the bottle of pills that will fix their problem, cure their disease or repair their damage.’ I cannot believe that the vast majority of people would reject that. I would rather see that bottle of pills or that vaccine developed by a country that ensures by its regulation and its laws that it has been arrived at ethically, as opposed to the exploitation of women that may occur in Third World countries.

I will conclude by saying to all of those who took the opportunity to engage with me
in this debate—and, indeed, to the member for Fisher, whom I was a bit short with and to whom I apologise for that—that I absolutely believe that each and every one of them believes that when they vote on this bill they will have arrived at an ethical, moral and intellectual assessment through the best and most earnest effort they have been able to put in. I respect that. I know it is not an easy process. It has not been an easy process since the Middle Ages to match science with morality. It will always challenge us. I appreciate the fact that I live in a country where we struggle with these things in earnest and try to find results that are not about the exploitation of potential or existing life.

I recognise that at the end of this debate there will be a vote and people will and will not be pleased with the outcome. I simply say to all of those in my electorate who are interested in this debate that I hope we continue to engage in the civil processes that we currently see and I look forward to continuing to talk with them as we deal with these very difficult issues before us.

Mr SLIPPER (Fisher) (9.34 pm)—At the outset I want to say that regrettably I will not have the opportunity to vote on the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 as I have leave for the time during which the vote is going to take place. However, I strongly oppose the bill introduced by Senator Patterson and I want to stand up in the national parliament tonight and say I believe that, while this is an emotive topic, it is very important that members on both sides of the House should have the opportunity, which we have, of expressing our conscience view on this very important issue of human cloning.

As was the case in the debate over RU486, the parliament now finds itself debating a very difficult, ethical topic. I have to say, though, that I think the Australian community feels satisfied that increasingly over these issues involving moral values the parliament does have the opportunity, on both sides, of casting a conscience vote. My own position is that life begins at conception. I do not believe that life should be manipulated following conception and I do not believe that life should be killed in therapeutic causes. While I respect the proponents of this bill in the sense that they believe, for whatever reason, successful medical outcomes could result from the implementation of this bill, I have a major problem with human cloning and a major problem with the manipulation of humans in this way. That is why I find myself standing in the parliament tonight to oppose this bill.

I suspect that if I did a survey of members of my own family they might well disagree with me on this issue. And I suspect, Mr Deputy Speaker Jenkins, that were you to do a survey of members of your family you might find the same broad spectrum of views concerning the bill before the House. We all, as members of the Australian parliament, have a privilege and I think we are to a certain extent helping to restore faith in the Australian parliament by standing on issues such as this. I hope that our constituents, whether or not they agree with the position we take, at least respect that we have thought through the issues and that those honourable members who have had the courage to speak on this debate have at least been prepared to stand up in the national parliament and express their own views.

The debate over human cloning might well be influenced by highly emotive elements. The process itself is very important because it is the way that we determine what is going to be the national law of Australia. This conscience vote means that the parliament is working as it was originally intended to work and, when the ultimate division oc-
curs, you will find that members on both sides of the House will cross every which way to indicate to the Australian people where their conscience stands on the issue of human cloning.

Human cloning is a very important issue. It is a sacred issue because it deals with what we all consider to be the most sacred element of life—that is, human life—and consequently various members will stand up, influenced by differing ethical and moral viewpoints. In its most basic form human cloning involves images of humans being created in test tubes by scientists in a laboratory—a crude and possibly inaccurate picture of the science of today. However, whichever way you look at it, human cloning does create human life. The creation of human life for it to be destroyed, in whatever positive medical sense, is something that I personally cannot accept.

There are others who might have different religious views to me, who might stand in the parliament and who might articulate the possibility of positive medical outcomes as a result of this legislation. Not being a medical person, I am not in a situation to advise the parliament of whether or not that is correct, but I do respect the honest and reasonable views that proponents of that point of view might put forward. However, no matter what positive medical outcomes could be achieved as a result of human cloning for whatever purpose, if the purpose of that human cloning is to destroy life—and for that matter even the creation of human cloning—I believe that is unacceptable; it is immoral. As a community we ought not to pay the price of destroying life, even if it prolongs or saves life.

Again, not being a medical person, I am not really competent to say whether adult stem cell research is as good as embryonic stem cell research. However, the advice that I have is that one can achieve very positive outcomes from adult stem cell research, so I hope that it is possible to move beyond the issue of human cloning and to achieve the outcomes that the proponents of this legislation would like to see us achieve through other means of research.

The bill we are debating today—the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006—is a mouthful and seeks to amend the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002. This legislation simply does not convince me that I ought to vote to change the law as it is today. We have certain protections in place. Human life is sacred. Human life begins at the point of conception, and I believe that all human life, no matter how vulnerable, ought to be protected. The law of Australia ought not to permit human cloning for medical, experimental or whatever purposes. Therefore, I find myself in the situation of opposing a large number of honourable members whose views and integrity I respect. I spoke to the honourable member for Moore at great length. He is a person for whom I have the greatest admiration. I oppose his view on this bill; I respect his integrity. I think that as a parliament we are enriched by this debate because we are all able to stand up and say what we think. To be honest, I suspect the governments of the country might be better if we had more opportunities to do exactly that. I oppose the bill currently before the chamber.

Ms KING (Ballarat) (9.42 pm)—In speaking on the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 I want to thank those constituents both for and against this bill who have contacted me to express their views. I also want to thank those people whom I have sought out,
again both for and against the bill, who were so generous in providing me counsel on what for me, someone who has been brought up as a Catholic, has been a very difficult matter.

The bill before us today addresses a majority of recommendations of the Lockhart review. The Lockhart review was established by the government under the provisions of the previous Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002 to consider the scope and operations of these acts in light of developments in assisted reproductive technology and in scientific and medical research, in light of the potential applications of any research and in light of community standards. Having conducted the review, the independent committee, chaired by Lockhart, recommended a number of measures that are largely reflected in the contents of the bill before us today.

Initially I want to say a few things about what the bill does contain as well as what it does not contain. The bill changes the definition of a human embryo in two ways. Firstly, it recognises that fertilisation is a process and that an embryo does not arise until this process is complete. Secondly, it includes in the definition of ‘human embryo’ entities that are created other than by a human egg and sperm. This includes embryos that are created using a human egg, removing its nucleus and replacing it with the nucleus of a somatic cell—a skin cell, for example. This process is referred to as somatic cell nuclear transfer. The purpose of including somatic cell nuclear transfer is to recognise that, while the embryo is not created by the process that most of us understand an embryo to be created from—that is, a human egg and human sperm—the entity created by somatic cell nuclear transfer is uniquely different to other cells, as it has some albeit limited capacity to develop into a human.

Somatic cell nuclear transfer technology was used to create and clone Dolly the sheep. Scientists will argue that it is SCNT where the most exciting advances in stem cell research will be found. Under current legislation, researchers can apply under licence to use excess embryos from IVF for stem cell research. Embryonic stem cells are unique in that they are immature master cells that can give rise to all of the cell types and tissues in the body. Somatic cell nuclear transfer is where, science argues, the true potential of embryonic stem cell research lies—that, in using this technique, it may be possible to have stem cells that have the same genetic make-up as a particular individual. This may one day allow for patient-specific therapies, including the replacement of damaged tissues and cells in the body to potentially treat a range of conditions such as spinal injuries, heart failure, diabetes and Parkinson’s disease. By having the same genetic material, the cells will not be rejected by the immune system of the patient.

Again, the science is very immature. Whilst the claims being made are broad in scope, the reality is that we just do not know at this stage where embryonic stem cell research will take us. We have seen some potential in the short time it has been conducted in Australia but, again, it is a very new area of research. Opponents of this bill have pointed to advances in adult stem cell research, which does not require the creation or destruction of a human embryo. It is true that adult stem cell research has much potential. The scientists would argue, however, that adult stem cell research is limited in where it can go, as there is a limit to the type of cells that adult stem cells can develop into, and they are extremely difficult to harvest.

After some 30 years of adult stem cell research there are only nine therapies available to date, all of them being related to bone...
marrow. Under strict licensing conditions, this bill allows for research: that uses IVF excess embryos and IVF embryos deemed not suitable for transplantation; that creates and uses human embryos, using methods other than fertilisation of a human egg by a human sperm; that creates and uses human embryos by a process other than by fertilisation of a human egg by human sperm containing genetic material provided by more than two persons; that creates and uses human embryos using precursor cells from a human embryo or a human foetus; and, that involves the fertilisation of a human egg up to but not including the first mitotic cell division outside the body of a woman for the specific purposes of research and training.

The use of human embryos that may be authorised for licence are only authorised for development up to 14 days. The bill continues to prohibit, among other things: placing of a human embryo clone in the human body or the body of an animal; importing or exporting a human embryo clone; creating a human embryo by fertilisation of a human egg by a human sperm for a purpose other than achieving pregnancy in a woman; creating or developing a human embryo by fertilisation of a human egg by human sperm which contains the genetic material provided by more than two persons; developing a human embryo outside the body of a woman for more than 13 days; making alterations to the human genome which can be inherited by future generations; collecting a viable human embryo from the body of a woman; and commercial trading in human eggs.

There are a number of complex issues involved in this bill. For me they essentially boil down to four questions. Firstly, is the entity created by the process of somatic cell nuclear transfer actually a human embryo? Secondly, if yes, is it morally correct, through the process of research, to in essence destroy this human embryo? Thirdly, is it morally correct to allow the creation of a human embryo by somatic cell nuclear transfer for research purposes? Fourthly—and weighted against those questions—is it morally correct to deny the prevention of human suffering that may—and I stress may—result from research utilising entities created from somatic cell nuclear transfer? These are in essence the four issues we have had to grapple with in this legislation, and they are not easy ones. On the first question—whether the entity created by the processes of somatic cell nuclear transfer is actually a human embryo—many people in the community, me included until I started researching this, would have had the common understanding that a human embryo is created by the fertilisation of the human egg and a human sperm.

That is what I learned in biology at school and would reflect the common understanding within the community. However, the Lockhart review has expressly recommended that the definition of ‘human embryo’ be expanded to include entities created by processes such as somatic cell nuclear transfer. Father Frank Brennan, someone who I greatly respect, expressly argues that somatic cell nuclear transfer does create a human embryo. Whilst I do not agree with the conclusions that this takes him to, I do agree that for all intents and purposes somatic cell nuclear transfer does create a human embryo.

The second question is whether it is morally correct, through the processes of research, to destroy a human embryo. Many religious groups would argue most strongly that it is not. Many of these groups consider that embryos are divine creations in that they are the beginning of human life. These groups generally also oppose abortion and IVF as it leads to the destruction of excess embryos. These groups have very specific views about when life begins and the sanctity of such life. Others argue from an ethical view point that as embryos will develop into
persons they warrant the same moral respect and dignity that personhood warrants. To some extent, as someone who is pro choice and who voted to allow stem cell research on excess IVF embryos set to be destroyed, I have already declared my hand on this issue. By supporting the destruction of an embryo through the right of women to choose whether or not to continue with a pregnancy, and by supporting the previous stem cell research, it would be somewhat inconsistent for me to now to raise an objection on the grounds that research destroys an embryo.

The third question then is whether it is morally acceptable to create a human embryo purely for research purposes. This is an extremely difficult question to answer, and the one that I have found the most difficult. I believe that most people, when asked this question, would have concerns—and I do have concerns—about the creation of human embryos purely for research purposes. It concerns me greatly that it could lead to human embryos being treated as yet another commodity. It seems to me a step well beyond the previous legislation that allowed research on excess IVF embryos that would eventually be destroyed. However, it is impossible to see this question in isolation from the final question: is it morally correct to deny the prevention of human suffering that may—I again stress may—result from research utilising entities created from technology such as somatic cell nuclear transfer. Some argue that this boils down to whether you believe the means—that is, the creation and then destruction of a human embryo—justify the ends of potentially alleviating human suffering. I frankly think that this simplifies what is a far more complex and emotional question, a question all too easily answered if you are not experiencing such suffering yourself or having to watch someone you love grapple with a disease such as Parkinson’s. In essence, the argument for me in this bill is: do I have the right to allow my moral objection to the creation of human embryos purely for stem cell research to stand in the way of the potential alleviation of suffering for people with debilitating medical conditions? The answer for me has to be no. I do not believe in all conscience, despite my concerns, that I can stand in the way of potential scientific developments that could in the future help alleviate such pain and suffering.

So whilst I do have concerns about this bill I have to ask myself: if I was faced with my own child suffering from a debilitating medical condition, would I deny them the use of technology developed using embryonic stem cells derived from somatic cell nuclear transfer? And the answer is, of course, no, I would not. I will therefore be supporting this bill.

I have no doubt that those that disagree with me will pick holes in the arguments I have tried to put forward to explain why I have come to the decision I have. Many will I am sure be more expert than me in matters of morality and ethics, but I again ask, as I have on previous bills that confront such difficult moral questions, that you respect that I have not come to this decision lightly. I have genuinely, despite some claims to the contrary, agonised over this decision. I respect that there will be those who do not agree with the position that I have taken but equally I ask that you respect that, in weighing up this most difficult matter of conscience I have, after all, only one that I can exercise: my own. I support the bill.

Dr Jensen (Tangney) (9.54 pm)—I will start off by speaking about something that may seem to be somewhat unrelated to this issue. There is a quote:

A splendid light has dawned on me about the absorption and emission of radiation ...
This was Albert Einstein, in a letter to Michele Angelo Besso in November 1916, regarding the stimulated emission of radiation. This led to the invention of the laser. The laser was in fact the application of stimulated emission theory. The laser was first made by Theodore Maiman in 1960. It was a ruby laser. This was 44 years after the discovery by Albert Einstein of stimulated emission, but even at the time of the invention of the laser it was seen to be an invention looking for an application. Now, of course, 46 years after that, the laser is ubiquitous. The point I am trying to put here is that the argument about the lack of breakthroughs in the short period of time that there has been embryonic stem cell research does not really hold water in terms of scientific research. Scientific research is something that takes time and something where you are not guaranteed an outcome.

In 2002 this House debated the merits of the Prohibition of Human Cloning Bill. The object of the bill was to address concerns, including ethical concerns, about scientific developments in relation to reproduction and the utilisation of human embryos by prohibiting certain practices. Part 4 provides for an independent review of that act after the second anniversary of the day the act received royal assent. The Lockhart committee was established to carry out that review. The committee was chaired by the eminent Hon. John Lockhart AO QC, a former Justice in the Federal Court who sadly passed away in January this year.

We were extremely fortunate to have such high calibre committee members in Professor Ian Kerridge, Professor Pamela McCome, Professor Peter Schofield, Professor Loane Skene and, from Western Australia, Professor Barry Marshall, who in 2005, along with his colleague Dr Robin Warren, won the Nobel Prize in Physiology or Medicine. Professor Marshall risked his own health to develop a cure for stomach ulcers. Is this an example of the questionable ethics of scientists involved in health research that some here are suggesting?

The committee’s terms of reference required it to consider a large number of issues and to consult widely. The committee consulted the community extensively. It received in excess of 1,000 submissions and facilitated stakeholder discussion forums, and both public and private hearings were held. The committee noted:

… despite the divergent views … both proponents and opponents of embryo research agreed that the current system of legislation is valuable.

Something that needs to be stated about the review is that it extensively canvassed the issue, evaluating not only the scientific but also the ethical and moral aspects relating to the issue.

Like many members of this place, I have received representations from people with incredibly strong views on both sides of the argument. An interesting point is that, for me, the more ethically and morally questionable issue was decided upon almost 30 years ago, when embryos created so that infertile couples could have children were created in excess to what were strictly required for the IVF program. Many have stated that their objection is the creation of embryos that will ultimately be destroyed. However, that is exactly what has been happening for almost 30 years with the IVF program, sometimes naturally, as in miscarriage. Until 2002, these excess embryos were destroyed. The 2002 review allowed these embryos to be used for research.

It should also be added that a significant proportion of naturally fertilised eggs never achieve implantation, never mind being carried to term. Additionally, the one overwhelming argument that has been raised by the bill’s opponents is that the result of so-
omatic cell nuclear transfer will give rise to an embryo which could result in a human clone if implanted in the uterus. A somatic cell is any cell of the body other than a germ or reproductive cell. Examples of these are blood cells, heart cells, liver cells et cetera. A human egg from which the nucleus has been removed then has the nucleus of a skin, liver or blood cell from a person placed into it. So, for example, the nucleus of a liver cell is transferred into an empty egg cell. The empty egg plus the transferred nucleus is stimulated by an electric shock and grows in a test tube. After about five days, when it is approximately the size of a pinhead, the cell can then be taken from it. These cells resemble embryonic stem cells.

Notwithstanding the legal definition, an embryo has been defined in medical textbooks as an ‘embryo’ only from the time of implantation. In fact, it is interesting that under the United Kingdom’s Human Fertility Act experiments on embryos were allowed. With the advent of SCNT, this meant these entities could be created for research purposes, too—in other words, if they fall within the definition of embryo. The ProLife Alliance went to the High Court, challenging the definition of the embryo as including SCNT. So it seems that the definition of an embryo varies. In Australia the definition is decided by us. It should be noted that artificial skin, such as that used by Australian of the Year Fiona Wood for burns victims, is the result of cloning of cells. It is all about definitions and how you interpret them. People’s personal interpretations vary and should be respected.

One unique property of SCNT derived embryonic stem cells is that, by using the somatic cells from a person with a particular disease, potentially scientists can create disease specific stem cell lines, enabling them to better understand disease process and test therapies for a variety of conditions. This cannot be achieved using excess IVF embryos because these diseases often only emerge as someone ages.

From a personal perspective, I had three second cousins in my family: two boys and a girl. The two boys both had cystic fibrosis. One died at approximately age 39 and the other died in his mid-30s. It is quite ironic that my parents sent me an email today showing me photographs of my remaining female second cousin, who recently got her PhD in anthropology. The point here is that people who have not seen the effects of diseases such as cystic fibrosis are not aware that not only does it shorten life but the quality of life that they have is not particularly good. I remember hearing both of my second cousins struggling for breath even at a young age, before the effects got worse and worse as they aged.

What drives scientists to research cures for these debilitating and often fatal diseases? I believe their drive is predicated on bringing hope to those of us who are unfortunate in that they do not enjoy full health as many of us do. I do not believe that our scientists are people who should be looked upon as rogues who wish to play around with the very foundations of life for the purpose of experimenting with human embryos, as has been suggested. As a scientist by training, I take exception to this.

This bill does not allow for the experimentation of human reproduction cloning. It is expressly forbidden. It prescribes strong penalties for doing so. That is what this legislation is seeking to do. It is not seeking to move to human reproductive cloning or manipulation between species. In all, the Lockhart review made 54 recommendations. Many were to continue the prohibition of certain acts. This bill addresses those concerns through a number of new clauses including and not limited to clauses 9, 14, 16...
and 20. Clause 20 prescribes a maximum penalty of 15 years imprisonment. I was interested to hear a researcher explain that in academic circles this was regarded as a tough measure, given that the usual penalty is often the risk of losing their research grant.

We are discussing the possibility for scientists to have the opportunity to research under strict licence the outcomes of this process in assisting people who have diseases to live better lives. There are important safeguards in the legislation, with strong checks and balances in place to enable research to go forward. A further amendment, the section 25A amendment, sets out a further review of the act, which will be required after the third anniversary of the day the amending act receives royal assent. This will ensure that the parliament has a continuous role in the operation of the act and that the very strict measures and penalties remain in place.

I have one final thought: there has been a lot of argument about issues that are subsidiary to the core of this bill, such as the issue of where the ova will be sourced. In my view the safeguards in this bill adequately address these issues.

Mr GARRETT (Kingsford Smith) (10.06 pm)—I value and very much appreciate the opportunity of joining with parliamentary colleagues on both sides of the chamber in considering the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006, which the House has been considering over the past day and will continue to consider. It is a bill about legalising the specific act of cloning human cells for research purposes, and one which I have a number of reservations about. But as many speakers have observed, most recently the member for Tangney, there are a number of very serious questions that emerge for members to consider, in particular where they have personal experience in their family or community of people who suffer diseases which the technology identified in the bill, it is argued, has some prospects of treating and curing in the longer term.

In the most general sense, these issues are difficult because profound questions arise concerning our use of technology, the capacity that technology has to modify the basic building blocks of life and the effect that that modification is having on the intellectual, religious and political foundations of our culture. Our individual values are challenged by this technology; and as our individual values are challenged so is our democracy, which is made up by those individual values when we organise together. Given the extraordinary onward march of technology and the issues that continue to be thrown up when the force of technology intersects with these values, I do not think this will be the last occasion when we consider matters of such complexity as these.

Four years ago the parliament specifically rejected the proposals that are before us today. Under the 2002 legislation, embryonic stem cell research was only permissible as a consequence of the availability of surplus eggs produced for the purposes of ART which otherwise would have perished. Had I been a member of this House then, I would have supported that legislation. But we are now being asked to agree to embryonic stem cell research which involves the creation of clones for the purposes of medical research for a period of up to 14 days where the embryos, once the stem cells are harvested, are destroyed. Whilst the proposed legislative framework surrounding these activities can and should be sufficiently rigorous to prevent abuses, as other members have noted, Australian scientists’ ethical rigour and research abilities are both acknowledged and I think confirmed by their current practice—
although I must say, by way of parenthesis, that I am alarmed at some suggestions that have come to us that evidence given by scientists to the Senate previously may not have seen them disclose their commercial interests in that matter. That notwithstanding, I think it is the legislators’ task not only to satisfy ourselves that adequate guidelines and proposed regulations are put in place—and this bill does address those matters to some extent—but also to consider much more clearly what the implications and consequences of passing a bill of this kind might be.

I am mindful of those examples of human behaviour where pushing the line or going past the legal threshold over which an activity such as one defined and identified by the parliament should not take place actually does occur. In this case it is clear that the bill proposes such a line, and that is the period of some 14 days, beyond which such research would not be permitted. But, as has been raised by a number of speakers, it is a matter of some concern to those of us who have borne witness to the way in which the lines, the boundaries, the legislative or guideline barriers that have been established in the past in matters similar to this are constantly being pushed at and on some occasions are being deliberately breached.

When we consider the history of technological advances we have to recognise how much has been done to improve the lot of people, their health and their wellbeing over the centuries. It is impossible in this instance not to marvel at scientific progress. But at the same time we have to recognise that there is ample evidence that the original purpose of technologies is often times usurped, sometimes by the military, at other times because of the drive for a profit imperative, and is often times put to use in ways that fall well outside the realms contemplated by the originators of the technology. Whilst there are many examples, the one that comes to mind most clearly for me is the research that originated the splitting of the atom, with the consequent development of nuclear weapons. There is a vast expanse of literature, and I am pretty confident, Mr Deputy Speaker Jenkins, you are aware of some of it, which goes into some detail analysing the moral arguments that were considered by scientists at the time, including the great Albert Einstein. But—notwithstanding that brief excursion—I do think it is inevitable in the instances we are looking at in relation to the bill before the House that pressure to move those lines I identified will eventually be brought to bear if it is considered that, by moving those lines, there will be better scientific results. This alone is not necessarily reason enough to oppose embryonic stem cell research, but it is a factor for the parliament to consider in a debate of this kind where the technology is capable of creating something which previously could only be created by the union of a sperm with an egg—namely, in this instance, life. It is true that that situation has obtained for some time but, nevertheless, the power of this technology is remarkable and profound.

It is worth noting, from the recommendations of the Lockhart committee report, that the committee took as a starting point the identification of a community of diverse interests which makes up the Australian community. I was pleased in some ways to see that recognition of the diversity of the Australian community and, in part, it is reflected by the diversity of opinions that have been expressed in this debate. I do acknowledge the arguments that have been made by those who support the bill and the pleas that have been made by those who wish to see further experimentation and development of therapies to treat loved ones who have debilitating diseases. I do not think anyone is immune to the pleas. No-one is not mindful of the impact that suffering has both on loved ones
and on their families. Indeed, suffering of the sort that has been mentioned in the debate will befall some of us, regrettably, in this chamber. But I do not believe the issue before us can be resolved only on those grounds. It is a complex matter we are debating, where reflections of religious belief and of values concerning how we view life inform the debate. I have to report to the House that I have received a number of representations from people, including from those who practise stem cell research, expressing their desire for this bill to pass. But it is the case that the majority of representations to me, including a number from members of the medical profession, have been opposed to the bill and have urged my opposition to the bill.

I also think it is the case that, notwithstanding the moderate amount of media coverage on these issues and the presence of some available information, there still is not widespread public awareness and knowledge of the complexities of the matters contained in the bill. I consider this a great deficiency. With the parliament being called on to make a deliberation about something of great moment of this kind and being given the opportunity to do it by way of a conscience vote, I would have much preferred a more comprehensive public discussion ensuing over a substantial period of time before the parliament addressed the legislation. Just as we do have a conscience vote here, it seems to me that there are very good arguments for a whole-of-community conscience consideration of matters of this kind. It is, I suppose, an inevitable fact of life that in this House we tend to hear from those people who, legitimately, have very strong but immediate interests in the outcome of legislation. We do not often get to hear as much from the broader and general public, who certainly have interests as well.

I also note that the legislation does not come to us from the government, which chose not to bring legislation forward, but comes by way of a private member's bill, following the Prohibition of Human Cloning Act 2002, the Research Involving Human Embryos Act 2002 and the Lockhart committee review. As this bill involves essentially regulating the activity of research where human embryos are created by methods other than by fertilisation of a human egg by human sperm—that is, a clone created by somatic cell nuclear transfer, which can be used for research but will be destroyed in the course of the research—it takes us to a different place in our deliberations from where the parliament has been before.

The basis that I referred to on which the Lockhart committee put forward its recommendations—that being a recognition of the plural nature of Australia—was expressed in terms of the questions that the parliament had to satisfy and identify: that the social and moral values that some communities attach to the human embryo need to be balanced against the social and moral value that other communities attach to the treatment of disease. The Lockhart committee identified that as being the junction point upon which we would be called on to make a decision.

In the case of the treatment that it refers to and the research that leads to that treatment—research, it has to be said, which is aimed at discovering therapies for diseases like diabetes—the debate here has not extended out to a discussion of what other factors and imperatives are driving the push to extend embryonic stem cell research: whether there are other economic imperatives at play. Nor has the question of research directions generally been substantially debated at this point in time.

The arguments in favour of the bill are that there is a greater potential benefit in re-
search using embryonic stem cell research that overrides the moral status that attaches to the embryo. It is said that the potential benefit will not be realised until the process is permitted—that science would be prevented from bringing cures to diseases to people who so desperately need them—and that the guidelines and regulatory framework of the proposed legislation are sufficient to guard against unethical behaviour. Of course, finally, it is said that the 14-day limit for experimentation provided for in the bill provides a clear time line and a boundary beyond which no experimentation should occur.

There are additional claims, although I have to say some are speculative, made as to the limitless potential of embryonic stem cell therapy in the here and now. Notwithstanding that, it is little wonder that scientists, those who suffer terrible diseases, their families and many others in the community hopefully anticipate what potential cures such therapies might offer. But ‘might’ is the operative word as we consider this, and it leads to some of the arguments from those who have opposed the bill—in particular, the lack of success or research which validates the claims made by those who are supporting the bill. While this has been a contested point in the debate, it is the case that very few concrete advances have been made through embryonic stem cell research up to this point, whilst at the same time adult stem cell research is showing positive results—for example, in relation to type 2 diabetes—and it is not burdened with the ethical consequences and issues of embryonic stem cell research.

I want to make brief mention of the issue of the supply of eggs, the longer term consequences of the likely desire of researchers to seek to access a larger supply of eggs for their research and the impact on the health of women in those circumstances, which has been raised not only in the debate in the parliament but also in the community. It is here that I find the arguments of those who served on the Lockhart committee least convincing. Why is that? Because the research and economic imperative to access a large number of eggs for cloning will in my view inevitably lead to calls to amend legislation and guidelines to facilitate and encourage a greater supply. If in its initial phase there is a requirement for a number of eggs, numbering many hundreds towards thousands, necessary to create a single living clone then there is a calculation here which for me lacks proportion.

Up to now the act of intentionally creating a life which does involve the production of a variable number of eggs had at its core the intention of the creation of a life. But here in this bill, where clones are created, a large but variable number of eggs are required merely for the purposes of research and the entity is destroyed. In the case of the existing laws, whereby surplus eggs from IVF or ART which would otherwise perish are used, the purpose of creation and its potential after-effects are consistent at least with the existing reason for having eggs in the first place. But cloning introduces an entirely new basis which, whilst understandable, does not in my view justify the matters that are identified in the proposed legislation by way of research.

I also have in mind that the passage of the laws would bring subsequent pressure for further changes, both to extend the development of the human embryo clone past 14 days and later still to consider the implantation of a human embryo clone into a woman. Of course, arguments then would be made that the success rate of the existing program was proving to be poor and a period of review had been identified but that possible advantage could be gained if there were to be an extension and there were sufficient, in the
Lockhart committee’s words, ‘communities of interests’ to call for such a change.

But, even if those objections and issues that I have identified can be allowed for, it seems to me that there is another sticking point in the bill before us that some members, including the member for Rankin, have identified. That is where the Lockhart committee identified what it described as a different social or relational significance that an embryo formed by fertilisation of an egg with a sperm has compared to an embryo formed by nuclear transfer.

But of course this raises the question: why is it determined that it is on the 14th day that a cloned embryo attains such significance and not before? Apparently the answer is that this is when there is a likelihood that the organism might be hurt, but this is really an arbitrary line that has been identified for the present on available scientific information and opinion. If this relational significance is a critical factor in determining the moral status of the organism then what place is there to have a dividing line where it suddenly kicks in and for what purpose? If the answer is that of course the cloned embryo does not have such significance, notwithstanding some line drawn in the sand to protect it, then the line will simply be redrawn again and again. I find the argument a harder one to sustain.

If the loss of life of the embryo is counted as having a moral status because of its potential to be human—which most seem to agree is the reason, although we give different weights to this potentiality—then surely it is the loss, not the fact of a border or a line and on which side the loss does or does not happen, that is the important matter to be considered. And, in this case, if there is something substantially worthy in the creation of a human life—and I believe there is—then to allow its destruction seems to me to deny its worth. Once that step is taken, it is impossible to retreat.

Whilst it is the case that it can be argued that stem cell embryos do not warrant as much respect and protection as more fully formed embryos—and I note and respect the views of those who have argued in this way—I take it that, as the beginning point of the embryo is the beginning of a possible human life, it should not be treated as merely a means to an end, no matter how beneficial, as it is the very purpose of creation that intends life, and, in this case—with a technology that has uncertain consequences and whose result is the destruction of that life—there needs to be a compelling and moral good that allows for that destruction to take place.

As a consequence, an embryo created by therapeutic cloning has a legal barrier to it becoming a life, but the fact remains that it can become a life. And the fact that it will be destroyed in the present, in the course of its creation, and that it has fewer rights as a consequence of that destruction seems to me to be a very deep philosophical and rational hole that we have dug ourselves into. As a consequence, I oppose the bill.

Debate (on motion by Mr Cadman) adjourned.

ADJOURNMENT

Mr Turnbull (Wentworth—Parliamentary Secretary to the Prime Minister) (10.26 pm)—I move:

That the House do now adjourn.

Health Funding

Ms Hall (Shortland) (10.26 pm)—Yesterday the House of Representatives Standing Committee on Health and Ageing tabled its report on health funding, which was aptly named The blame game. It was a report which was supported by all of the
members of the committee and which identified problems in our health system.

It is a system that is not broken, but one that is seriously fractured—it has fractures the Howard government has ignored for 10 long years. Instead of showing leadership, the Prime Minister has chosen to play the blame game. We saw in question time today how he has already thumbed his nose at the report and is continuing to play the blame game. He is blaming the states for problems with mental health, blaming the states for problems in hospitals, blaming the states for everything he can rather than showing leadership and moving to solve the problems. The Prime Minister’s response is blame, blame, blame. It is not good enough; the Australian people deserve better.

There is no area in our federation that has suffered more through the division of Commonwealth and state responsibilities than the area of health. The House of Reps committee report, *The blame game*, identified clearly and succinctly the problems faced by Australians using the health system. It seems that there is barely an Australian who has not been frustrated or hurt by the division of responsibility in our health care system. Australians are rightly sick of the finger-pointing and want a government prepared to take responsibility for our health system. The division of responsibility in health has caused inefficiency in the system and gaps that sick Australians fall through, missing out on the care they deserve.

Elderly, frail and aged Australians are left in acute hospital beds rather than being transferred to aged care facilities. This is largely because there is little incentive for the federal government to provide aged care beds, given that the state governments are forking out for expensive acute hospital beds. Currently 60 per cent of Australians with mental illness completely miss out on care because they fall through the gaps. There are 650,000 Australians on public dental health waiting lists because the government fails to accept any responsibility. Inefficiencies within the health system have cost at least $2 billion a year.

The committee considered four models. It was presented with models by experts in the area of health reform. There were models where the state took full responsibility, models where the Commonwealth took full responsibility, models where there was a pooling of Commonwealth-state funds and models where there was managed competition—the Scotland model. It is also important to share with the House that Andrew Podger, who was appointed by the Prime Minister to head a task force to look into health within Australia, gave evidence to the committee. It was pretty obvious from his response that he believed that the Commonwealth should take full responsibility for health.

Let us look at a timeline of the Howard government’s failure to do anything to bring about health reform. Back in February 2003, the then Minister for Health and Ageing, Kay Patterson, boycotted talks with the states and territories. In April 2003, the Prime Minister announced that the 2003-08 health care agreements would not include reform measures. In August 2003, state premiers walked out of COAG over the Howard government’s refusal to address health reform. The health minister at the time issued a media release saying that once the states and territories signed the health care agreements would not include reform measures. In August 2003, state premiers walked out of COAG over the Howard government’s refusal to address health reform. The health minister at the time issued a media release saying that once the states and territories signed the health care agreements, all parties could all then move on to addressing the reform agenda, but no reform agenda appeared. The Prime Minister provided an outline paper on the process of health reform. In 2004, the health minister challenged the states to stop complaining, and the then premier of New South Wales agreed to hand over the hospitals to the Commonwealth, but the government refused. The health minister
said, ‘The sooner the states are not involved in the health field the better,’ but, on the other hand, he refused to embrace health reform.

Each and every day that John Howard plays the blame game and fails to take up the challenge of health reform, it is the Australian people who suffer. It is time for the Prime Minister to do what the committee report says he should: adopt a health reform agenda focused on prevention, early intervention and primary care. Such a system would save health costs down the track, maximise the productivity of the workforce and deliver to the Australian people. *(Time expired)*

**Water**

Mr CADMAN (Mitchell) *(10.31 pm)*—Tonight I wish to raise the issue of water and in particular a case that has been brought to my attention by an orange grower in the Narromine district in central western New South Wales. Some of the nation’s finest oranges are produced along the banks of the Macquarie River and the Narromine district—particularly the property ‘Buddha’, formerly owned by the McKillop family, and other nearby properties—produces oranges of exceptional quality. The Commonwealth has taken exceptional measures to try to bring the states into a cohesive, comprehensive and comprehensible program of water conservation to ensure there is sustainability in water supply, particularly where primary production is involved.

Daryl Schofield has 300 hectares of citrus—it is a large property—and employs 10 people on the property, as well as many locals on a casual basis. He has a juice processing plant on the property. It is a substantial business valued, I would suspect, at some millions of dollars. The Schofield family has built this business over a number of years and I know the property well. This property has adopted all of the modern agricultural techniques, including trickle irrigation under the trees to minimise transpiration loss and to make maximum use of the water supply. All of the water he uses is groundwater; he does not use surface water or water from the Macquarie River as some properties in the district do. The provisions and the $100 million supplied by the Commonwealth to deal with these issues are basically administered by the states. The bureaucrats who are operating this water supply are nice enough chaps, I suppose, but they know very little about the practicalities of farming and the fact that a tree or a permanent crop, such as citrus, must be watered on a regular basis or the trees will die. It is not like a crop of oats, wheat or even lucerne, which are seasonal and do not require water all year round. With an annual crop, if there is no crop, no water is required.

When the rules applying to the use of groundwater were released, it was a shock to growers in that district to find that they had their reserve supply of water halved and an unreserved amount was then reduced by something over 10 per cent. After five years, they will have no reserve water whatsoever—that will cut out—and only a small amount of unreserved water. This is an absolute financial disaster for these farmers because they cannot revert to dry farming of citrus. They have outlaid hundreds of thousands of dollars on effective watering schemes. But the sad part of the application of this process is that farmers growing annual crops are being treated in the same way. Those that require a constant supply of water in order to maintain their livelihood, their employees and production for the fulfilment of contracts for juice supply will be treated just as if they were growing an annual crop of wheat, oats or something of that nature. It does not matter that they have trickle irrigation; they are treated the same way as people...
who have flood irrigation, which is the most expensive way of using water.

I am really concerned about the future of these farmers. It appears to me that the writing is on the wall for them, but it is death by a thousand paper cuts which has been prepared by the bureaucrats in the New South Wales government and their resources department. I am sure there is a far more practical answer than the one presented, and there must be consideration of the individual cases and the capital investment that will suffer due to the destruction of their livelihood by, firstly, the rationing of water and, secondly, the complete withdrawal of their water supply.

Health Funding

Mrs ELLIOT (Richmond) (10.36 pm)—With the release this week of the report of the Standing Committee on Health and Ageing into health funding, entitled The blame game, we have seen firsthand how this government has failed the families of Australia. The Howard government has failed to take up the challenge of health reform and has failed to provide national leadership on an issue crucial to the lives of all Australians: access to affordable health care. Let us look at the report in detail and see how this blame game plays out.

The very first recommendation of the report deals with the roles and responsibilities of the levels of government and the need to specify the structures and service delivery arrangements. The division of responsibilities in health has caused inefficiencies in the system, resulting in gaps that sick Australians fall through, missing out on care. Inefficiencies within the health system have been estimated to cost at least $2 billion a year.

This issue urgently needs to be addressed. Yet, when health issues arise, we often hear the Howard government’s standard response of: ‘That’s up to the states,’ or, ‘It’s not our responsibility.’ It seems that they are very good at blaming but not good at fixing. As the federal government, they have a responsibility to set a national agenda and to actually show leadership on vital issues such as health, but all we get from them is: ‘It’s not my fault.’ They just blame someone else. That is not good enough. What we need is a national strategy to fix this problem. We need to have national leadership to overcome this issue of the blame game and define those roles and responsibilities so we can adequately address all of the health concerns for all Australians.

An area where the Howard government constantly plays the blame game is in dental care. In the report The blame game, recommendation 3 states:

The Australian Government should supplement state and territory funding for public dental services so that reasonable access standards for appropriate services are maintained, particularly for disadvantaged groups.

This is what the federal Labor Party—indeed, the community—has been saying for years. Since the Howard government scrapped the $100 million a year Commonwealth dental health scheme, so many people have had to wait many years to get their teeth fixed. It really is an outrageous situation. I am constantly approached by elderly people who cannot access affordable dental care. They are often in extreme pain and often cannot eat. It causes them vast amounts of distress. Some of these locals have been telling me that in some cases they have had to wait for up to two years to have essential dental work performed.

This situation is just not good enough, and it really is shameful that our elderly are in such a dire predicament. It is the seniors of our country who built this nation, and it is shameful how this government treats them. In my electorate of Richmond, 20 per cent of the population is aged over 65 years, and
they have been deserted by this government. The matter of dental care is a huge concern in my electorate, so much so that over 4,000 people signed a petition for the Commonwealth to restore federal funding for dental care. It is an issue that people constantly raise with me and one that I have raised in this House on many occasions. Not being able to access timely and affordable dental care can also lead to a whole range of other medical conditions, and this in turn places a much greater burden upon our health system.

The recommendation in the report in relation to dental care is a recognition of the failings of the Howard government. What we need is a federally funded dental health scheme. This is what our nation needs and what Australians deserve. I note further the very important recommendations in the report in respect of producing adequate numbers of health profession graduates to meet the projected demands. This is a need that must be urgently addressed because we have such a shortage of doctors and health professionals right across the country. It is another issue on which the Howard government have failed to provide leadership. Instead they have just played the blame game. That is all we have seen. The government also need to be looking at the future health needs of our ageing population. It is an issue that must be resolved right now. They cannot just keep playing the blame game.

The government also needs to look at developing standards for better delivery of health services in regional, rural and remote areas—another recommendation within the report. We need a national system that ensures that people in regional areas have access to affordable health care. This report is titled The blame game because this government does nothing but blame everyone else, particularly when it comes to health care. It is an issue that people raise all the time, and they are sick of it. They are sick of this blame game. National leadership is not about blaming; it is about fixing. It is about having a national agenda and national leadership to fix issues, such as the ones I have raised tonight: dental care, better health services—

(Time expired)

Drugs

Mr CADMAN (Mitchell) (10.41 pm)—I want to raise the issue of drug control and drug management, particularly the government’s commitment to its Tough on Drugs program. Over the period that this program has been in place—almost the entire life of the government—there has been a substantial improvement in the way the community has reacted to the program. It is a multifaceted program, first of all based on intervention and the prevention of drugs entering Australia. The total program comprises around $1 billion, but something like $80 million has been put into the intervention program to prevent drugs from arriving in Australia. A significant amount has been put into education programs in schools, informing young people, who are targets for drug dealers, of the dangers of drugs. Separate expenditure has been put into remediation and assisting those who have suffered the tragedy of becoming addicted. The number of people who have died from the use of heroin has diminished greatly over the period of the Tough on Drugs program. That is an excellent thing. I am delighted that the program has been so successful.

One area where there has been a rather relaxed attitude in our community is in the detection of the use of the drug marijuana. Evidence taken by the House of Representatives Standing Committee on Family and Community Services, of which I was a member—as was Minister Dutton, who is at the table—established that it was indeed an extremely addictive drug which produces strange and psychotic results in many instances and is
treated with gay abandon by many users. There was a general attitude in the bureaucracy and in some sections of the health community, particularly in Sydney—for instance, Dr Wodak and others of this type—where people were very relaxed about the use of marijuana. In fact, they adopted what was called a 'harm minimisation program'. That was a program that sought to treat people who had become addicted rather than preventing people from taking up this dreadful, addictive and destructive habit.

The committee’s findings in relation to marijuana indicated that the Victorian government, which was conducting road tests for the use of drugs, was starting to produce some good results. It was very pleasing that the Victorian government was doing that.

I think the test for the Labor Party now is to define where they stand. They have a new leader—a man who claims to have values. I have observed the expression of those values in his behaviour generally. Sometimes in the House he strays a little, but I think we all do that. I have to say that the test for him will be to make a commitment to be tough on drugs. Is it going to be a harm minimisation program, which has been the traditional avenue taken by the Australian Labor Party, or is it going to be a tough on drugs program?

It would be a wonderful thing if we could go out, against many of the states of Australia, and say that a tough on drugs program is the best thing for Australian youth. Much of the Commonwealth’s effort with regard to being tough on drugs has been diminished by an attitude within state governments—particularly in New South Wales, with shooting galleries and other concessions to drug users—that really seeks to water down and take away the value of a tough on drugs program from a Commonwealth level. Our program has proved to be successful. The Commonwealth’s commitment to keeping people off drugs, to interdiction and to education has been successful, and it has been successful overseas where adopted. I appeal to the Australian Labor Party and the new Leader of the Opposition that it would be a great thing for them to join with the government and have a bipartisan approach to a tough on drugs program that spreads right down to the grassroots of Australian society and, in that way, to gain some great results for our young people who are addicted to these horrible products.

Health Funding

Mr GEORGANAS (Hindmarsh) (10.46 pm)—There is no area of public responsibility that has its stated outcomes compromised by politicking and cross-jurisdictional sniping as much as Australia’s health sector. There is no area of joint federal and state government funding that is more prone to public dissatisfaction, public frustration and hurtful consequences to private lives than the health system. As if by design, the national health system has all the characteristics of being purpose built for providing the Commonwealth and state governments a court over which to volley accusations of underfunding, irresponsibility and public failure—all for purely political points. This is the blame game.

Yesterday we had introduced in this place a substantial, highly responsible, forward-looking document resulting from many months of activity, investigations and analysis by members of the House of Representatives Standing Committee on Health and Ageing. The document was the report on the inquiry into health funding entitled The blame game. We heard last night members of both the government and the opposition speaking in full support of the content of the report, including its 29 recommendations aimed at improving the accountability of players within the national health system and
both the cost-effectiveness and the outcomes of that system—a national health system that consumed $85.3 billion in 2004-05. It is expected to double in cost as a proportion of GDP over the next 40 years.

Everyone who listened to and read the submissions supports the recommendations as tabled. Everyone who interviewed the people actually delivering health care in this country supports the recommendations as tabled. Every one of the six Liberal government and four Labor opposition members on the committee supports the recommendations that identified the financial and administrative necessity for the national health system to be cleaned up. This report is about nothing less than the future utility and sustainability of our world’s best practice national health system, which is charged with serving an ageing population.

The committee chair has stated that 24 per cent of the people in his electorate are over 60 years of age. In my electorate of Hindmarsh, the proportion of people aged 65 or over—and this is according to the 2001 ABS figures—is over 25 per cent. So we are clearly in total agreement that, if a person like Mrs Mazzone, of whom I spoke last night, needs dental care, she should be treated. We are in agreement that the Prime Minister, just 24 hours after the report was tabled, discounted our recommendations and continued to play the blame game. How can any responsible, socially minded person—in public office of all places—not see that a person waiting for dental treatment for 2½ years just to be diagnosed with gum disease and put on another two-year waiting list is an avoidable failure of the overall system?

There are now 650,000 Australians just like my constituent Mrs Mazzone on the public waiting list for dental care. There are also far too many elderly Australians throughout the nation stuck in public hospital beds, unable to access nursing home accommodation and delaying treatment for those requiring hospital care—elderly Australians living the life of people in far worse conditions but cared for by the state governments in public hospitals because the federal government clearly has not put sufficient funds towards organising necessary nursing home accommodation.

Whether we focus on local government, state government or federal government, Australians must expect of our representatives a fundamental desire to contribute towards outcomes in the public interest, in the alleviation of suffering and in the promotion of human dignity and life. All parliamentary representatives must look for opportunities to improve the system of government at any and all levels, to maximise the benefits for Mrs Mazzone and the 650,000 people who need dental care or for people like those within the electorate of Hindmarsh who get stuck at the Royal Adelaide Hospital or Flinders hospital for lack of suitable Commonwealth investment in aged care beds and aged facilities.

That report, which was tabled yesterday, was titled *The blame game*. It stated that state and federal levels of government have a vested interest in maintaining the current system, which sees as much as five per cent of total health expenditure wasted by inefficiencies, duplication and overservicing within an industry so complicated that either level of government, with seeming impunity, can blame the other for unsatisfactory outcomes. It stands to reason that a determined federal government is best positioned to align interested parties, including state governments, in pursuit of a better way of doing things. Clearly, it is much easier for the major shareholder—at 45.6 per cent of annual funding, compared with 22.6 per cent from the states—*(Time expired)*
Question agreed to.

House adjourned at 10.51 pm

NOTICES

The following notices were given:

Mr Billson to present a bill for an act to amend the law relating to veterans’ entitlements and military rehabilitation and compensation, and for other purposes. (Veterans’ Affairs Legislation Amendment (Statements of Principles and Other Measures) Bill 2006)

Mrs De-Anne Kelly to present a bill for an act to amend the Protection of the Sea (Prevention of Pollution from Ships) Act 1983, and for other purposes. (Maritime Legislation Amendment (Prevention of Air Pollution from Ships) Bill 2006)
Mr Murphy asked the Minister for Transport and Regional Services, in writing, on 22 June 2006:

(1) Has he read the news article in the Daily Telegraph of 10 April 2006 titled “Airport loophole lunacy”?

(2) Does the article report that aviation workers convicted of a crime can work undetected in top security areas for up to two years?

(3) Does the article further report the comments made by Qantas Security Head Mr Geoff Askew, that “the current system (of employment security clearance) is hard because unless the person comes forward and tells us (of the criminal history) we can wait two years for the Government to tell us”.

(4) What is the current law regarding the employment of aviation workers convicted of a crime or otherwise holding adverse character histories?

(5) What steps is he taking to close this reported loophole; if no action is being taken to close this loophole, why not?

Mr Vaile—The answer to the honourable member’s question is as follows:

(1) Yes

(2) Yes

(3) Yes

(4) An individual must not be issued with an ASIC if he or she is deemed to have an adverse criminal record. A person has an adverse criminal record if:

(a) he or she has been convicted of an aviation security relevant offence and sentenced to imprisonment; or

(b) in the case of a person who has been convicted twice or more of an aviation security relevant offence or offences, but no sentence of imprisonment was imposed – one of those convictions occurred within the previous 12 months.

(5) On 6 March 2006 the Australian Government introduced strengthened disqualifying criteria to assess the eligibility of all new ASIC applicants. Further regulation amendments were made on 8 May 2006 to allow for the reassessment of all existing ASIC holders who were issued an ASIC prior to 6 March 2006 against the strengthened criteria.

In addition the new legislation allows for an individual to be deemed as having a qualified criminal record and thereby may qualify for an ASIC that is to be issued subject to a condition. In particular, a condition may be that background checking of the holder is carried out more frequently than required by the Regulations.

If:

(a) an applicant for an ASIC has been convicted twice or more of aviation security relevant offences; and

(b) no sentence of imprisonment was imposed for any of those convictions; and

(c) none of those convictions occurred within the 12 months ending when the relevant background check was carried out;
any ASIC issued to him or her is to be subject to the condition that he or she must have a further background check carried out within 12 months.

**Media Monitoring and Clipping Services**

*(Question No. 4429)*

Mr Kelvin Thomson asked the Minister for Veterans’ Affairs, in writing, on 14 September 2006:

For each financial year since 1 July 2000, what was the total cost of all Media Monitoring services for the Minister’s department and agencies.

Mr Billson—The answer to the honourable member’s question is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000–01</td>
<td>$29,383</td>
</tr>
<tr>
<td>2001–02</td>
<td>$35,621</td>
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<tr>
<td>2002-03</td>
<td>$19,363</td>
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<tr>
<td>2003–04</td>
<td>$51,521</td>
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<tr>
<td>2004–05</td>
<td>$57,617</td>
</tr>
<tr>
<td>2005–06</td>
<td>$34,438</td>
</tr>
</tbody>
</table>

**Foreign Affairs and Trade: Office Space**

*(Question Nos 4585 and 4587)*

Mr Kelvin Thomson asked the Minister for Foreign Affairs and the Minister for Trade, in writing, on 14 September 2006:

(1) At 12 September 2006, what office space rented by the Minister’s department was vacant.

(2) In respect of vacant office space identified in Part (1), (a) from what date has it been vacant, (b) how long will it remain vacant; (c) what is the monthly rental cost and (d) how long will the department continue to pay rental.

Mr Downer—On behalf of the Minister for Trade and myself, the answer to the honourable member’s question is as follows:

(1) At 12 September 2006, vacant office space rented by my department comprised the former chancery premises in Harare, measuring 889.75 square metres. The Mission has been relocated for security reasons to a new, Australian Government owned premises.

(2) (a) to (d)

This property was vacated on 28 August 2006. The term of the lease for this vacant property runs to 30 November 2008. The monthly rental is US$30,101 (AUD 40,732). My department is in negotiation with interested parties to arrange a sub-lease on the premises until the end of its term.

**Sydney (Kingsford Smith) Airport**

*(Question No. 4697)*

Mrs Irwin asked the Minister for Transport and Regional Services, in writing, on 9 October 2006:

Is he aware of the Productivity Commission report that recommends that landing slots at Sydney Airport currently reserved for regional airlines on weekday mornings be replaced with flights from international or domestic airlines; if so, (a) would the exclusion of regional airline flights from Sydney Airport lead to an increase in the number of scheduled regional flights into Bankstown Airport, (b) will he, or his department, be making submissions in response to the report and (c) will he rule out any proposals to divert scheduled regional flights from Sydney Airport to Bankstown Airport.
Mr Vaile—The answer to the honourable member’s question is as follows:

Yes, I am aware of the Productivity Commission’s report. However, the Productivity Commission’s Draft Report “Review of Price Regulation of Airport Services” makes no recommendations in regard to regional airline landing slots at Sydney Airport.

(a) The Government will not exclude regional airlines from Sydney Airport. Any regional airline flights at Bankstown Airport would be a result of commercial decisions agreed between regional airline operators and Bankstown Airport consistent with that airport’s approved master plan.

(b) No.

(c) Yes. The Government has repeatedly committed that regional airlines will continue to be guaranteed access to Sydney Airport through the Slot Management Scheme and that regional airlines will not be forced to move from Sydney Airport.

Airport Security
(Question No. 4744)

Mr Bevis asked the Minister for Transport and Regional Services, in writing, on 10 October 2006:

Regarding air freight at Australian airports, in each year since 2001 and at each Australian airport, what percentage of (a) international and (b) domestic air-freight is (i) x-rayed and (ii) swabbed for explosives.

Mr Vaile—The answer to the honourable member’s question is as follows:

Australia, as a member state of the International Civil Aviation Organisation (ICAO), has in place measures to ensure the security of air cargo which meet or exceed the requirements under Annex 17 of the International Convention on Civil Aviation (the Chicago Convention).

It is not a requirement of ICAO or the Australian Government to collect the data requested in this question. However, Government policy is to continue to strengthen Australia’s air cargo security regime. To this end, in 2005-06 the Government funded the purchase of explosive trace detection equipment for use at all international cargo terminal operations and is extending this regime to domestic terminal operations in 2006-07. The use of this equipment is being supported by regulatory changes which will mandate its use.

My Department is also currently evaluating the effectiveness of a variety of technologies in the examination of air cargo and working with international agencies and governments to assess the effectiveness and practicality of further security measures.

Coupled with the use of technology in the examination of air cargo, there have been measures developed to ensure that security is effectively applied down the air cargo supply chain. The audit and compliance regime for the regulated air cargo agent scheme has been strengthened and regulated air cargo agents are now required to develop individual security risk assessments and have in place approved transport security programs relevant to their business.

My Department is continuing to assess the air cargo environment for potential vulnerabilities and the practicality and effectiveness of measures to address those vulnerabilities.

Sydney (Kingsford Smith) Airport
(Question No. 4749)

Mr Albanese asked the Minister for Transport and Regional Services, in writing, on 11 October 2006:

(1) Can he provide information regarding provisions that allow aircraft to drop fuel when taking off or landing at Kingsford Smith Airport.
(2) Can he provide a list of the instances, from 1 January to 30 September 2006, when fuel drops have occurred.

(3) In respect of the aircraft identified in Part (2), can he indicate the flight paths of these aircraft and whether they were taking off or landing.

(4) Can he explain an increase in instances of residents under the flight path experiencing the strong smell of aviation fuel and of finding fuel residue on their property.

(5) Can he outline what, if any, provisions are available for home owners who are subject to the effects of aviation fuel drops.

Mr Vaile—The answer to the honourable member’s question is as follows:

(1) Under the Air Navigation (Fuel Spillage) Regulations 1999 (the Regulations), the operator of an aircraft within the Commonwealth’s jurisdiction must ensure that fuel is not released from an aircraft during flight unless fuel is released:

• in an emergency over areas where it does not create a hazard to a person or property on the ground; or

• according to a direction issued by the Civil Aviation Safety Authority under 150(2)(a) of the Civil Aviation Regulations 1988.

• according to a permission given by a person performing duty in Air Traffic Control.

In the latter cases, aircraft should maintain a minimum height of 6,000 feet above ground level to ensure maximum vaporising of the fuel.

Airport operators have responsibility under the Airports (Environmental Protection) Regulations 1997 for spills and other environmental issues occurring on airport property.

(2) Yes. Permission was given by Air Traffic Control in the Sydney region for 4 aircraft to release fuel from 1 January to 30 September 2006. Instances occurred on 23 January, 9 April, 31 May and 4 July.

(3) In all instances aircraft were directed to an area and altitude where the release of fuel would not create a hazard to a person or property on the ground. 3 of the 4 instances were over water with the incident on 9 April occurring in a military training area no closer than 20 nautical miles north west of Sydney Airport.

(4) No.

(5) There are no provisions for home owners subject to the effects of fuel releases under the Air Navigation (Fuel Spillage) Regulations 1999. If fuel is released in contravention of the Regulations the Department has the power to inspect and ground an aircraft.

Consultancy Services
(Question No. 4767)

Mr Bowen asked the Minister for Trade, in writing, on 16 October 2006:

Further to his response to question No. 3908 (Hansard, 11 October 2006, page 154):

(1) For the financial year (a) 2004-05 and (b) 2005-06, on how many occasions did (i) his office, (ii) his department or (iii) an agency within his portfolio, engage a consultant to assist in the preparation of a ministerial speech; and

(2) For each occasion identified in Part (1), what was the (a) company name and (b) postal address of the consultant, and (c) the cost of each speech prepared.

Mr Truss—The answer to the honourable member’s question is as follows:

None.
Consultancy Services
(Question No. 4768)

Mr Bowen asked the Minister for Foreign Affairs, in writing, on 16 October 2006:
Further to his response to question No. 3910 (Hansard, 11 October 2006, page 154):

(1) For the financial year (a) 2004-05 and (b) 2005-06, on how many occasions did (i) his office, (ii) his department or (iii) an agency within his portfolio, engage a consultant to assist in the preparation of a ministerial speech; and

(2) For each occasion identified in Part (1), what was the (a) company name and (b) postal address of the consultant, and (c) the cost of each speech prepared.

Mr Downer—The answer to the honourable member’s question is as follows:

DFAT engaged a consultant four times in 2004-05 and three times in 2005-06 to assist in the preparation of ministerial speeches. The company was Spherion Recruitment Solutions Pty Ltd (now known as Verossity), GPO Box 2212, Sydney, NSW, 2001. The cost of the consultant’s input to each speech was $3900; $1354; nil; $780; $4550; $780; and nil.

AusAID engaged a consultant twice in 2004-05 to assist in the preparation of ministerial speeches. The company was Doust Business Consultants, Goldsbrough House, Level 7, 172-174 North Terrace, Adelaide SA 5000. The cost of the consultant’s input to each speech was $374; and $275.

The Minister’s office and other agencies within the portfolio did not engage a consultant for speechwriting during 2004-05 and 2005-06.