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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News Network radio stations, in the areas identified.

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- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
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- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 729 AM
- **DARWIN**: 102.5 FM
Governor-General

His Excellency the Right Reverend Dr Peter Hollingworth, Companion of the Order of Australia, Officer of the Order of the British Empire

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg

Temporary Chairmen of Committees—Senators Hon. Nick Bolkus, George Henry Brandis, Hedley Grant Pearson Chapman, John Clifford Cherry, Jacinta Mary Ann Collins, Hon. Peter Francis Salmon Cook, Alan Baird Ferguson, Stephen Patrick Hutchins, Susan Christine Knowles, Philip Ross Lightfoot, John Alexander Lindsay (Sandy) Macdonald, Jan Elizabeth McLucas and John Odin Wentworth Watson

Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill
Deputy Leader of the Government in the Senate—Senator the Hon. Richard Kenneth Robert Alston
Leader of the Opposition—Senator the Hon. John Philip Faulkner
Deputy Leader of the Opposition—Senator Stephen Michael Conroy
Manager of Government Business in the Senate—Senator the Hon. Ian Gordon Campbell
Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Richard Kenneth Robert Alston
Leader of the National Party of Australia—Senator the Hon. Ronald Leslie Doyle Boswell
Leader of the Australian Labor Party—Senator the Hon. John Philip Faulkner
Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy
Leader of the Australian Democrats—Senator Andrew John Julian Bartlett

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\(^1\) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

\(^2\) Chosen by the Parliament of Queensland vice Warwick Raymond Parer, resigned.

\(^3\) Chosen by the Parliament of Queensland vice John Woodley, resigned.

\(^4\) Chosen by the Parliament of South Australia vice John Andrew Quirke, resigned.

\(^5\) Appointed by the Governor of Tasmania, vice Hon. Brian Francis Gibson AM, resigned

\(^6\) Chosen by the Parliament of Queensland vice John Joseph Herron, resigned

### PARTY ABBREVIATIONS

AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Liberal Party; Ind.—Independent; LP—Liberal Party of Australia; NP—National Party of Australia; PHON—Pauline Hanson’s One Nation

### Heads of Parliamentary Departments

- **Clerk of the Senate**—H. Evans
- **Clerk of the House of Representatives**—I. C. Harris
- **Departmental Secretary, Parliamentary Library**—J. W. Templeton
- **Departmental Secretary, Parliamentary Reporting Staff**—I. W. Templeton
- **Departmental Secretary, Joint House Department**—M. W. Bolton
HOWARD MINISTRY

Prime Minister
The Hon. John Winston Howard MP

Minister for Transport and Regional Services and Deputy Prime Minister
The Hon. John Duncan Anderson MP

Treasurer
The Hon. Peter Howard Costello MP

Minister for Trade
The Hon. Mark Anthony James Vaile MP

Minister for Foreign Affairs
The Hon. Alexander John Gosse Downer MP

Minister for Defence and Leader of the Government in the Senate
Senator the Hon. Robert Murray Hill

Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate
Senator the Hon. Richard Kenneth Robert Alston

Minister for Employment and Workplace Relations, Minister Assisting the Prime Minister for the Public Service and Leader of the House
The Hon. Anthony John Abbott MP

Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation
The Hon. Philip Maxwell Ruddock MP

Minister for the Environment and Heritage and Vice-President of the Executive Council
The Hon. Dr David Alistair Kemp MP

Attorney-General
The Hon. Daryl Robert Williams AM, QC, MP

Minister for Finance and Administration
Senator the Hon. Nicholas Hugh Minchin

Minister for Agriculture, Fisheries and Forestry
The Hon. Warren Errol Truss MP

Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women
Senator the Hon. Amanda Eloise Vanstone

Minister for Education, Science and Training
The Hon. Dr Brendan John Nelson MP

Minister for Health and Ageing
Senator the Hon. Kay Christine Lesley Patterson

Minister for Industry, Tourism and Resources
The Hon. Ian Elgin Macfarlane MP

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

Minister for Justice and Customs
Senator the Hon. Christopher Martin Ellison
Minister for Fisheries, Forestry and Conservation
Senator the Hon. Ian Douglas Macdonald
Minister for the Arts and Sport
Senator the Hon. Rod Kemp
Minister for Small Business and Tourism
The Hon. Joseph Benedict Hockey MP
Minister for Science and Deputy Leader of the House
The Hon. Peter John McGauran MP
Minister for Regional Services, Territories and Local Government
The Hon. Charles Wilson Tuckey MP
Minister for Children and Youth Affairs
The Hon. Lawrence James Anthony MP
Minister for Employment Services
The Hon. Malcolm Thomas Brough MP
Special Minister of State
Senator the Hon. Eric Abetz
Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
The Hon. Danna Sue Vale MP
Minister for Revenue and Assistant Treasurer
Senator the Hon. Helen Coonan
Minister for Ageing
The Hon. Kevin James Andrews MP
Minister for Citizenship and Multicultural Affairs
The Hon. Gary Douglas Hardgrave MP
Parliamentary Secretary to the Prime Minister
The Hon. Jacqueline Marie Kelly MP
Parliamentary Secretary to the Minister for Transport and Regional Services
Senator the Hon. Ronald Leslie Doyle Boswell
Parliamentary Secretary to the Treasurer and Manager of Government Business in the Senate
Senator the Hon. Ian Gordon Campbell
Parliamentary Secretary to the Minister for Foreign Affairs
The Hon. Christine Ann Gallus MP
Parliamentary Secretary to the Minister for Defence
The Hon. Frances Esther Bailey MP
Parliamentary Secretary to the Minister for the Environment and Heritage
The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Finance and Administration
The Hon. Peter Neil Slipper MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
Senator the Hon. Judith Mary Troeth
Parliamentary Secretary to the Minister for Family and Community Services
The Hon. Ross Alexander Cameron MP
Parliamentary Secretary to the Minister for Health and Ageing
The Hon. Patricia Mary Worth MP
Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Warren George Entsch MP
**SHADOW MINISTRY**

Leader of the Opposition  
The Hon. Simon Findlay Crean MP

Deputy Leader of the Opposition and Shadow Minister for Employment, Education, Training and Science  
Jenny Macklin MP

Leader of the Opposition in the Senate, Shadow Minister for Public Administration and Home Affairs  
Senator the Hon. John Philip Faulkner

Deputy Leader of the Opposition in the Senate and Shadow Minister for Finance, Small Business and Financial Services  
Senator Stephen Conroy

Shadow Treasurer and Shadow Minister for Finance and Small Business  
The Hon. Bob McMullan MP

Shadow Minister for Innovation, Industry and Trade  
Craig Emerson MP

Shadow Minister for Defence  
Senator Chris Evans

Shadow Minister for Regional Development, Transport, Infrastructure and Tourism  
Martin Ferguson MP

Shadow Minister for Population and Immigration  
Julia Gillard MP

Shadow Minister for Economic Ownership and Community Security and Shadow Minister for Urban Development and Housing  
Mark Latham MP

Shadow Minister for Reconciliation, Aboriginal and Torres Strait Islander Affairs, the Arts, and Status of Women  
The Hon. Dr Carmen Lawrence MP

Shadow Attorney-General and Shadow Minister for Workplace Relations  
Robert McClelland MP

Shadow Minister for Primary Industries and Resources  
Senator Kerry O’Brien

Shadow Minister for Foreign Affairs  
Kevin Rudd MP

Shadow Minister for Health and Ageing  
Stephen Smith MP

Shadow Minister for Family and Community Services and Manager of Opposition Business in the House  
Wayne Swan MP

Shadow Minister for Communications  
Lindsay Tanner MP

Shadow Minister for Environment and Heritage  
Kelvin Thomson MP
Shadow Ministry—continued

Shadow Minister for Science and Research Senator Kim Carr
Shadow Minister for Employment Services and Training Anthony Albanese MP
Shadow Minister for Justice and Customs Daryl Melham MP
Shadow Assistant Treasurer David Cox MP
Shadow Minister for Retirement Incomes and Savings, and Consumer Affairs Senator the Hon. Nick Sherry
Shadow Minister for Information Technology and Sport Senator Kate Lundy
Shadow Minister for Veterans’ Affairs Senator Mark Bishop
Shadow Minister for Regional Services, Territories, Local Government and Tourism Gavan O’Connor MP
Shadow Minister for Citizenship and Multicultural Affairs Laurie Ferguson MP
Shadow Minister for Resources Joel Fitzgibbon MP
Shadow Minister for Ageing and Seniors and Assisting the Shadow Minister for Family and Community Services on Disabilities Annette Ellis MP
Shadow Minister for Children and Youth Nicola Roxon MP

Parliamentary Secretaries

Parliamentary Secretary (Leader of the Opposition) and Parliamentary Secretary (Consumer Affairs and Banking Services) Alan Griffin MP
Parliamentary Secretary (Manufacturing Industry) Senator George Campbell
Parliamentary Secretary (Defence) The Hon. Graham Edwards MP
Parliamentary Secretary (Northern Australia and the Territories) The Hon. Warren Snowdon MP
Parliamentary Secretary (Attorney-General) and Manager of Opposition Business in the Senate Senator Joseph Ludwig
Parliamentary Secretary (Primary Industries and Resources) Sid Sidebottom MP
Parliamentary Secretary (Health and Ageing) John Murphy MP
Parliamentary Secretary (Family and Community Services) Senator Michael Forshaw
Parliamentary Secretary (Communications) Christian Zahra MP
Parliamentary Secretary (Environment and Heritage) Kirsten Livermore MP
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 a.m., and read prayers.

COMMITTEES
Finance and Public Administration References Committee
Meeting
Senator FORSHAW (New South Wales) (9.31 a.m.)—by leave—I move:
That the Finance and Public Administration References Committee be authorised to hold a public meeting during the sitting of the Senate today, Monday, 11 November 2002 from 10.15 a.m. to 12 p.m., to take evidence for the committee’s inquiry into recruitment and training in the APS.

Question agreed to.

PARLIAMENT HOUSE: SECURITY
The PRESIDENT (9.31 a.m.)—On 23 October I presented to the Senate a report on certain aspects of the administration of the parliament by the Parliamentary Service Commissioner, Mr Andrew Podger. The Speaker presented a copy to the House of Representatives at the same time. The report dealt in part with security at Parliament House, and I wish to outline to the Senate, as far as is appropriate given security considerations, the situation regarding security. Since the horrendous events of 11 September 2001, the Presiding Officers have been actively seeking to strengthen the security of Parliament House in light of the heightened level of threat. We are determined to safeguard the Australian democratic system of government, the institution of parliament, the occupants of Parliament House and the 1.2 million Australian and overseas visitors who visit Parliament House each year.

To this end, a number of operational security initiatives were implemented immediately after 11 September 2001, commensurate with the heightened threat assessment issued by the Protective Security Coordination Centre, to which the Parliamentary Security Controller had immediate access. These included the introduction of electronic pass verification for pass holders. Security screening was extended to include all persons entering the building and restrictions were placed on vehicle access to the ministerial entrance. Restrictions were also placed on the issue of visitor day passes and the delivery of unaccompanied goods. Procedures at the entrances and loading dock were also tightened and a number of electronic security enhancements were introduced.

The then President and the Speaker also agreed, in March 2002, to the establishment of an interim security management board to ensure the better coordination of the strategic, management and technical requirements of security at Parliament House. The board, which has met monthly since March, has provided a much improved and better coordinated focus on the full range of security requirements at Parliament House. It has been undertaking a comprehensive review of the security environment at Parliament House and implementing, with the approval of the Presiding Officers, further security measures. For example, we recently agreed to discontinue short-term parking at the Senate and House of Representatives entrances. We have also asked the board to hasten the planning process to restructure the entrances in both the Senate and House wings following the imminent relocation of the Synergic travel offices to the space previously occupied by Qantas. This will be done with the twofold aim of enhancing security and easing congestion at peak times.

Following receipt of the Podger report, the Speaker and I established the Security Management Board as a permanent body. The board is chaired by the Secretary, Joint House Department and consists of the Usher of the Black Rod, the Serjeant-at-Arms, the Parliamentary Security Controller and representatives from DPRS, the ministerial wing, the Protective Security Coordination Centre and the Australian Protective Service. We have also agreed, as recommended by Mr Podger, to centralise the security function in Joint House Department. We believe that the implementation of these changes will ensure that security at Parliament House is run in a centrally coordinated and professional manner commensurate with the security threat that we now face.
Included in the Podger report on security matters were the following issues. The physical design of the parliamentary precincts limits the ability to control vehicles from gaining close access to the premises and possibly endangering occupants if such a vehicle contained an explosive device. There are concerns about the adequacy of the current arrangements for the issue and administration of passes within the parliament, including the relatively broad level of access to private areas of the building provided by passes. There are better options for the deployment of Australian Protective Service staff in conjunction with Parliamentary Security Service staff to make the protective security of the building more effective.

All of these issues have been considered by the Security Management Board or the Parliamentary Security Controller. For obvious reasons, it is not appropriate to discuss publicly the details of the outcomes of those deliberations. However, I can advise the Senate that they either have been attended to, or are being attended to, in an expeditious manner. In addition, these matters will continue to be monitored and measures upgraded if the threat environment changes.

Some of these issues attracted media attention. In addition, various elements of the media have raised issues of the limited access to the Senate and House of Representatives car parks during sitting weeks. The use of security personnel in these locations is primarily a car park management rather than a security initiative. The advice we have received is that an explosion in those car parks is not seen as a significant risk in the current threat environment and would have a low impact on the structure of Parliament House. This is not to suggest that there is no risk, and the Security Management Board is looking at longer term measures to minimise that risk.

The Security Management Board, with the authority of the Presiding Officers, is continuing its review of security arrangements at Parliament House and is receiving high-quality intelligence from the full range of relevant Commonwealth authorities as well as other expert advice. Parliamentary security is being integrated with the rest of the Commonwealth in its continuing assessment of threat. As a result of the Security Management Board’s reviews, it is expected that further precautionary measures will be implemented to enhance the security of Parliament House.

Clearly, the tightening of security at Parliament House has an impact on building occupants and visitors. However, it is necessary that we ensure that any identified weaknesses in the existing security framework are addressed. This may include further aspects related to building access. We are aware that increased security measures may have an impact on the appropriations to parliament. As the Speaker and I said when we presented Mr Podger’s report on 23 October 2002, we will be considering these matters further at the end of this month, after seeking comment on the recommendations. We will be closely examining any potential impact on the appropriations. We are grateful for the cooperation shown by senators, members and all other occupants of, and visitors to, Parliament House in the wake of the introduction of heightened security measures. The Speaker and I will endeavour to ensure that new measures balance our obligations to the people in this building with the need to maintain, as far as possible, Australia’s Parliament House as an accessible and open public institution.

Senator ROBERT RAY (Victoria) (9.39 a.m.)—by leave—I move:

That the Senate take note of the statement.

I indicate that I also wish to move that the debate be adjourned until immediately after the noting of questions on Thursday, 14 November. The President has convened a meeting of the Appropriations and Staffing Committee on Wednesday, and I am sure honourable senators would rather make their comments in private at that stage. What I am doing is putting the debate on the President’s speech off until Thursday. If people then think it is necessary to comment publicly on it, they can digest the comments and make their comments then. It is also a period of an hour that is pretty much down time in the Senate, so it will not interfere with the government’s program. I seek leave to continue my remarks.
Leave granted.

Senator HARRADINE (Tasmania) (9.40 a.m.)—by leave—I want also to acknowledge the work that you, Mr President, the Speaker and the committee have done. But I want to ensure that at some stage the Senate itself will be able to debate the Podger report, particularly with regard to those aspects that may, in effect, limit the powers of the Senate and the ability of the Senate to exercise those powers. I do not want that part of that report just side-shoved so that action can be taken on that report. Rather, it ought to come into the house.

The PRESIDENT—I am advised that, once the Appropriations and Staffing Committee have given their assessment of that report, it can come to the Senate.

Debate (on motion by Senator Robert Ray) adjourned.

REPRESENTATION OF QUEENSLAND

The PRESIDENT—I have received, through the Governor-General, from the Governor of Queensland a facsimile copy of the certificate of the choice by the Queensland Parliament of Mr Santo Santoro to fill the vacancy caused by the resignation of Senator John Herron. I table the document.

SENATORS SWORN

Senator Santo Santoro made and subscribed the oath of allegiance.

PROHIBITION OF HUMAN CLONING BILL 2002

Second Reading

Debate resumed from 18 September, on motion by Senator Alston:

That this bill be now read a second time.

Senator CHRIS EVANS (Western Australia) (9.45 a.m.)—I rise to speak on the Prohibition of Human Cloning Bill 2002, which was passed in the House of Representatives on 29 August. In doing so, I speak on behalf of the Australian Labor Party and support the bill. The broad purpose of the bill is to ban human cloning and other reproductive practices that have been deemed unacceptable at this time by the Commonwealth government and each of the state and territory governments. I note this consensus amongst all the governments in Australia, not by way of a preliminary point before launching into the substantive arguments against unregulated scientific practices involving human reproduction, but because consensus amongst federal, state and territory governments on basic ethical issues about the use of human genetic material in science is rare. To my mind, and in the view of the Australian Labor Party, this rarity is not simply of statistical interest. The infrequent occurrence of the unanimous position on issues of bioethics strongly suggests that the position should be respected, particularly because in this case the result of rejecting this bill is not the achievement of one school of ethical thought over another or even the achievement of a particular policy outcome. The most significant consequence of rejecting this bill is to leave untouched the current fragmented and inconsistent regulatory approach to human cloning in Australia.

It is useful at this early point in the debate to recall the reasons the bill has been presented to the Senate for our consideration. On 5 April this year the Council of Australian Governments agreed to introduce nationally consistent legislation to, among other things, ban the cloning of human beings by any method. The impetus for the COAG decision was the indefensible fact that there are laws regulating human cloning practices in only a minority of Australian jurisdictions. Fundamental bioethical questions, such as whether asexual reproductive cloning should be allowed in Australia, are not issues on which Australians would expect or want piecemeal regulation that varies dramatically from state to state. The premiers and chief ministers acknowledge this and decided to avoid that frequently trodden path in the Commonwealth of Australia, whereby different regulations in the same area are chosen by the nine different parliaments as they see fit.

The common position reached after exhaustive discussion by the states and territories prior to the COAG meeting, a position that incorporates the findings of experts in medical research, assisted reproductive technology, ethics and law, is I believe fundamentally sound. Indeed, the COAG decision to ban any method of human cloning, a deci-
sion which is reflected in the provisions of this bill, is based on a panoply of arguments against reproductive cloning. These arguments are clearly supported by a majority of scientists in this country, as the Senate Community Affairs Legislation Committee inquiring into this bill was clearly told.

One of the most significant arguments in favour of prohibition on human cloning is the considerable uncertainty surrounding the long-term wellbeing of potential client subjects. Such uncertainty about how engineered genetic material might develop is a danger inherent in any type of experimental biology. However, this danger is completely unacceptable when the genetic material in question is human. In particular, the exposure of a cloned infant to the distinct possibilities of premature ageing, somatic mutation, cancer and a multitude of other defects that have been associated with cloning to this point is not something that I believe the Senate can countenance. I note with grave concern in this context that the most celebrated real-life product of cloning so far is Dolly the sheep. Dolly was created by somatic cell transfer only after hundreds of reconstructed eggs were developed and implanted in more than a dozen surrogate sheep. Despite the devoted expert reproductive exercise that resulted in Dolly’s birth, she has suffered in her short life from more serious ailments than most of us will ever experience. It is simply unacceptable to allow human cloning in Australia at this time when development of animal clones is in its infant stages yet already has produced concerning trends for disease propensity in cloned subjects.

So far I have mentioned the desirability of implementing the shared national vision for regulating this incipient branch of reproductive science, as well as the unacceptable dangers in the science for the clones themselves. However, there are many other arguments in favour of prohibiting cloning which, due to time limits, I must be selective about in my contribution today.

The third argument I wish to raise in expressing Labor’s support for the bill relates to the danger that unregulated human cloning will provide fertile ground for enthusiasts of selective breeding. Labor does not support the development of scientific techniques that enable a couple to pick and reject certain genes even before a child is conceived, particularly genes that do not carry any disease or physiological defect but are linked to some quality of mind or body desired by the parents. Some members of our society rightly take advantage of the techniques that science has developed to detect gross abnormalities in developing foetuses. However, eugenics of any type that involves cloning or the design of human beings prior to conception is not condoned by the ALP.

My fourth point in support of the bill is somewhat more pragmatic, or utilitarian. It is an argument about resource allocation. As we all know, the science of cloning is imprecise. One consequence of this imprecision, and the multiple attempts that must be made in order to derive just one cloned embryo, is that it is highly expensive. As I understand it, at the Roslin Institute in Scotland 430 eggs were extracted from 40 sheep, with only 29 embryos eventuating, to result in the birth of only one clone—Dolly—and this is the successful instance of bringing to birth stage a cloned animal embryo among many failed attempts. In Australia at the moment, spending on science is scarce enough. Serious questions would certainly have to be asked about resource efficiency and social equity if human cloning were ever to be put before the federal parliament for support in the future.

Furthermore, human cloning experimentation also has implications for public safety. Much innovation and investment would be needed before proper risk assessments of any reproductive cloning technology could be made. Indeed, the potential for therapeutic applications to arise from human cloning—this potential providing the only justification to my mind for even considering allowing cloning—cannot even be explored until the full negative effects of cloning in animals are known and techniques for reversing them are developed.

The final argument I wish to raise in explaining the Labor Party’s support for this bill relates to the threat it poses to notions of identity and individual autonomy, notions so fundamental to our society. One of the of-
fences this bill proposes is the intentional creation of an embryo that is a genetic copy of another human being, dead or alive, by whatever means. This blanket prohibition on cloning is very important because it rejects exceptionalism. The bill prohibits the copying of another human’s genes, whether or not the maker’s intention is to destroy the resultant embryo or to allow it to grow full term into a human baby. Prohibition of human cloning per se, rather than allowing a clone to be developed to a certain cellular stage, is important because of how we regard ourselves. To the extent that our sense of identity is predicated on individual uniqueness, this sense would be threatened whether a 32-cell clone of ourselves or a fully developed child clone existed.

Ever since the European Enlightenment, and arguably since the collapse of feudalism where a serf’s identity was officially subsumed within the corporate status of a landholding other, individualism has been accorded the highest value in western society. Australians would need to think very hard about the implications for their sense of self or their identity in ceding scientists the liberty to make even an embryo with two pronuclei that shares the genes of another human being.

In concluding, I make a brief comment about a provision of the bill that makes further debate on these issues possible at a later stage and that makes the Senate’s passing of this bill even more sensible. Clause 25 of the bill provides that the act must be reviewed two years after it receives royal assent. This means that the small minority of scientists and members of the public who support cloning through somatic cell transfer, because of the possibility that it may reveal how certain genetic diseases develop, will have an opportunity to again argue their case. If animal cloning proves to offer any of the benefits that Australians in favour of cloning hope that it does, the review will provide them with a forum where they can present this and argue their case. At this stage, however, any form of human cloning is viewed by the ALP as both premature in scientific terms and unacceptable in ethical terms. We believe that the Senate should pass the bill in its current form, thereby implementing a national vision that has been painstakingly developed by scientific and ethical experts alike.

Senator STOTT DESPOJA (South Australia) (9.55 a.m.)—As the Australian Democrats biotechnology spokesperson, I welcome this historic but somewhat overdue debate. As honourable senators would be aware, the Democrats have a longstanding interest in biotechnology issues and a specific interest in the issue of human reproductive cloning. We have called for comprehensive bans on human reproductive cloning since the announcement of Dolly the sheep. In fact, since 1997, as you will see by my contributions to this chamber, through the proposals for Senate select committees, notices of motion, adjournment speeches and press releases, we have made very clear our stance on this issue. We have sought to expand public debate on a raft of biotechnology issues ranging from the patenting of genes and gene sequences through to grappling with the issue of genetic discrimination. That underlines our commitment to this debate, and indeed the Australian Democrats, like other parties in this chamber, support the Prohibition of Human Cloning Bill 2002 before us today.

We believe that human reproductive cloning is unethical and unacceptable. It is a view that is virtually unanimously accepted throughout the community. In the recent Senate inquiry into this legislation, no-one put forward an argument to defend human reproductive cloning. Accordingly, the Democrats support the passage of this bill. The bill sets out to do more than just ban human reproductive cloning. I would like to make some comments shortly about the legislation but I begin with a few reflections on the Senate Community Affairs Legislation Committee process.

There was an inquiry into the provisions of the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 which, as we know, was subsequently split in the other place. I would like to acknowledge the work of Senator Sue Knowles, who chaired the committee. I certainly enjoyed being her deputy on that occasion. Some witnesses and senators, of course, have strong views about
the matters covered by the bills. Given that situation, I thought that the chair managed contentious material and tight time frames even-handedly and fairly. As the coalition and the opposition decided to grant their senators a conscience vote, it was agreed very early in the process of that committee that the chair’s report would not contain recommendations; rather, that it would aim to balance the major issues and arguments relating to the bill. Thus the intention all along was that other senators could submit supplementary reports if they chose to.

I think it should be understood by the Senate that, just three working days before the deadline for the providing of the reports to the secretariat for printing, a number of senators demanded a large number of changes to the chair’s report and the incorporation of additional material. That additional material substantially changed the tone of the report, the approach and the evidence contained in the chair’s report. I do acknowledge that, while some of those contributions were helpful and useful, the overall effect was to significantly alter the character and the balance of the chair’s report. I believe that the chair was quite generous in accommodating these views, and thus I can well understand the frustration that she expressed in her media statement on the release of the committee’s report.

I note that in his report Senator Harradine was critical of the fact that one day was allowed after finalisation of the chair’s report for dissenting reports to be prepared. I do take issue with that. Given the time frame, we all lost because of the initial agreement of the role of the chair’s report and the fact this was not respected by all. I do not doubt or question the sincerity or the intensity of some senators’ personal commitments to these matters. However, I do want to put on record my concern at the level of personal attacks, the badgering of witnesses, some misrepresentation of evidence and indeed attempts to impugn the motives of some witnesses demonstrated by some senators during the committee process and those hearings that took place. Most of the misrepresentations to which I allude actually relate to the other bill, the Research Involving Embryos Bill 2002.

Senator Harradine—I rise on a point of order, Mr Acting Deputy President. There has been a serious reflection by Senator Stott Despoja on honourable senators. I ask that that reflection on other honourable senators be withdrawn. If Senator Stott Despoja is referring to me, I particularly ask that it be withdrawn. All of my comments in the many, many years that I have been here, when Senator Stott Despoja was not here, and all of my attempts with regard to Senate committees have been to look upon those committees as providing opportunities for persons in the public to provide information to the Senate. I take strong exception to that reflection.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Harradine, with respect to your point of order, what Senator Stott Despoja has said seems to be a generic reference and not a particular reference. It does not appear to offend standing order 193. Although I understand what you are saying, Senator Harradine, I must rule that there is no point of order.

Senator STOTT DESPOJA—I am happy to withdraw remarks that Senator Harradine finds offensive but, as you have recognised in your ruling, I am, as a senator—admittedly of only seven years standing—able to comment on the processes and concerns that I have with that committee process. However, I am happy to withdraw any imputations that Senator Harradine finds offensive.

The ACTING DEPUTY PRESIDENT—I am sure the Senate accepts that withdrawal. Thank you, Senator Stott Despoja.

Senator STOTT DESPOJA—Thank you, Mr Acting Deputy President, but I make it very clear to you and to the chamber that, during the debates on this legislation, I intend to correct any misrepresentations of evidence presented to that committee and I intend to correct the public record if evidence provided by witnesses is used in misleading and mischievous ways.
I acknowledge that this is a complex debate and, through you, Mr Acting Deputy President, I acknowledge that Senator Harradine has been one of the few people to support me in my attempts to get some of these issues debated. He has long recognised the need for public debate on the raft of biotechnology issues with which we are grappling. That does not mean that we always agree on these issues, but nonetheless it is high time that we had this public, and indeed parliamentary, debate.

The Prohibition of Human Cloning Bill 2002 makes it an offence to do a number of things, including to create a human embryo clone, to place a human embryo clone in the body or the body of an animal, to import or export a human embryo clone, or to create or develop a human embryo other than by fertilisation. This bill bans somatic cell nuclear transfer, embryo splitting, parthenogenesis or any other technology that does not involve the fertilisation of ova by human sperm. The bill also prohibits creating a human embryo for a purpose other than achieving pregnancy—that is, it specifically bans creating embryos for research. It bans creating or developing a human embryo containing genetic material provided by more than two persons. This bans cytoplasmic transfer, which is a new ART technique that may assist some older women achieve pregnancy. The bill also bans other practices, including mixing human and animal cellular material in an embryo, and commercial trade in human eggs, sperm or embryos. I want to emphasise that last point because there has been some suggestion in the media today that the legislation allows Australian embryos to be exported. Let us be very clear about this: it is legal to export an ART embryo if a woman wishes to continue her treatment overseas. However, the implication that there could be wholesale export of prohibited embryos, including excess ART embryos, is not the case. Section 22 makes that quite clear. We need to be cognisant of that for this debate and for the debate to come.

It also needs to be understood that this legislation is relatively conservative by international standards. For example, this bill bans somatic cell nuclear transfer. That is permissible in the UK, Israel and non-national institutes of health funded research in the USA. It bans cytoplasmic transfer, which is permissible in Italy, the USA, Israel and Taiwan. It also bans germ line gene therapy, which may have considerable benefits in terms of overcoming heritable diseases such as spina bifida. Moreover, the Research Involving Embryos Bill 2002 applies a new level of regulation on some practices in IVF clinics that have been routinely carried out with no apparent abuse for up to 25 years in this country.

In the original bill, the National Health and Medical Research Council, NHMRC, is required to cause an independent review of the act. This is retained in the Research Involving Embryos Bill 2002. However, in the Prohibition of Human Cloning Bill 2002, it is the minister who causes an independent review. Section 47(2) of the Research Involving Embryos Bill 2002 requires the review to be undertaken by the same people, and concurrently with the minister’s review. The net effect is to ensure that the minister rather than the NHMRC nominates the people who will conduct the review. I note in the qualifying comments of Senators Heffernan, Hutchins, Barnett and others on page 134 of the committee report that they discuss this review. They cite the ACF Gene Ethics Network submission, which states:

... an in-house committee of the NHMRC is not open to public scrutiny, communication, or participation and cannot be therefore assured of acting in the public interest.

Oddly, the quote appears in the submission in relation to section 2, not the provisions containing the review. In fact, the Gene Ethics Network submission does not say anything about the review provisions at all. Unfortunately, by using this quote out of context, it may reflect adversely on the Gene Ethics Network in that someone could reasonably conclude that the network has misunderstood the bill on this matter. As it happens, both the original bill and the split bills require an independent review, not an in-house committee. I note that the Queensland government has requested that parliament reconsider the review provisions to return to
the original intent that the NHMRC cause an independent review. However, as the bill requires the independent review to be carried out by persons chosen with the agreement of each state—and I emphasise ‘agreement’ and ‘each state’—the Democrats do not consider the change to the minister causing an independent review to be of material significance. Accordingly, we see no compelling reason to amend the bills in relation to who carries out the review or who causes the review.

The constitutional issue has raised some discussion too. The heads of power in the legislation provide wide Commonwealth coverage of corporations’ commerce and trade. However, the Commonwealth’s power may not cover individuals. This opens the prospect of an individual challenging the constitutionality of the legislation should a prosecution be instigated. To cover this potential loophole, the states and territories agreed at COAG to introduce complementary legislation to ensure full coverage within six months of royal assent. According to the Attorney-General, the three states that already have legislation that seeks to ban cloning and research on excess ART embryos—that is, South Australia, Victoria and Western Australia—are currently in the process of amending their legislation. Accordingly, I do not accept the alarmist claims that there are serious doubts about the constitutionality of the legislation. The limits are well understood and there are no compelling grounds to believe a state or territory would act in bad faith by not honouring the COAG agreement, particularly given that each state and territory was party to that agreement.

Section 13 of the bill makes it an offence to create an embryo other than by fertilisation of human egg by human sperm. Currently, there are two technologies that can achieve this: embryo splitting, which also occurs naturally in the case, for example, of identical twins; and somatic cell nuclear transfer, in which a somatic cell from a child or adult is placed in an enucleated egg. Somatic cell nuclear transfer is the technology that produced Dolly and other animal clones. However, it can also be used to develop an embryo that is subsequently used to derive stem cells—with the theoretical advantage that these stem cells will be immunologically identical to the donor of the somatic cell. Their use is sometimes referred to as ‘therapeutic cloning’, and this term is in common usage around the world to distinguish such approaches from ‘reproductive cloning’, in which an embryo created by this technology is implanted in the mother to produce live offspring.

However, there is a strong argument that ‘therapeutic cloning’ is misleading as a term because it manifestly is not therapeutic for the particular embryo that is destroyed in the process of deriving stem cells. Moreover, as Dr Breen from the Australian Health Ethics Committee has stated, the term ‘therapeutic cloning’ collapses both therapeutic and non-therapeutic research on embryos and also the distinction between destructive and non-destructive research on embryos.

I think that the argument against therapeutic cloning as a term is actually quite well made and that there is a very good case for us to be quite distinct and very clear about the distinctions between ‘therapeutic’ and ‘non-therapeutic’, and ‘destructive’ and ‘non-destructive’. Certainly, more accurate nomenclature would be of considerable benefit in the public debate surrounding these issues. In one sense, this is not an issue, as both reproductive and so-called therapeutic cloning are banned in the legislation.

As I mentioned earlier, somatic cell nuclear transfer is allowed in some jurisdictions—notably in the UK and in United States research not funded by their National Institute of Health. I note that the comprehensive report on human cloning by the House of Representatives Standing Committee on Legal and Constitutional Affairs back in August 2001—the Andrews committee—recommended a three-year moratorium on somatic cell nuclear transfer rather than a ban. That is something that senators should be conscious of.

Section 16 of the bill prohibits developing a human embryo outside the body of a woman for more than 14 days. This means that human embryos created by ART must be implanted, stored or allowed to succumb if
they are unsuitable or excess, before the 14th day of their development. I understand that it is actually usual clinical practice for ART embryos to be implanted when they have reached between three and seven days of development. The meaning of 14 days was discussed at some length by a number of witnesses in the Senate inquiry. An argument could be advanced that an embryo is not fully a human being prior to the 14th day because of, firstly, the high natural rate of embryo loss—estimated to be between 50 per cent and 80 per cent—prior to full establishment of pregnancy; secondly, natural twinning through embryo splitting; and, thirdly, the development of the primitive streak—the first sign of the nervous system—at about 14 days. Up until then, it has been argued, there is no certainty that fertilisation has produced a morally identifiable human being.

This view is strongly challenged by those who see the 14-day marker as arbitrary in biological terms as well as ethical terms. The argument here is that fertilisation is the beginning of human life and that, indeed, the view hitherto held that some of the features of the embryo only existed from about the 14-day period is scientifically out of date. The Southern Cross Bioethics Institute, for instance, has pointed out that recent work in embryology has shown that the early embryo is not an undifferentiated blob of cells but that it demonstrates asymmetrical structure at a much earlier stage—as early as the single cell zygote stage. The key point is that development is a process beginning at fertilisation, and that selecting any given point along that developmental pathway is fundamentally arbitrary in terms of the moral status of the embryo.

I think the argument against seeing the 14-day stage as decisive in development is actually well made. And to be fair, there was no evidence provided to the Senate inquiry that argued that full fertilisation is not the beginning of human life. However, I think we have to separate two very distinct ideas concerning the 14 days in the bill. First, as I have already outlined, there is the issue of the status of the embryo from fertilisation. I am sure that this is going to be discussed at great length when we come to the Research Involving Embryos Bill 2002.

However, the NHMRC advised the Senate inquiry that the prohibition on maintaining an embryo in vitro for longer than 14 days is based on scientific evidence which indicates that, beyond 14 days development in vitro, an embryo is unlikely to have the capacity to implant in a woman’s uterus. Implantation is necessary to ensure the viability of the embryo and has normally completed by the end of the second week. That is why, for instance, ART guidelines require that embryos must be implanted, stored or allowed to succumb before the 14th day of their development. That is, quite independently of the question of the ethical status of the embryo, there are good grounds for the provisions that ban developing an embryo outside a woman’s body for more than 14 days.

In conclusion, I would like to reiterate the Democrats’ longstanding interest in these crucial questions. I believe that Australia has long lagged behind many other developed nations in establishing sound, consistent regulations on these issues—not just in relation to the prohibition of human reproductive cloning but more generally in relation to debates about biotechnology. As I have said earlier, whether it is the patenting of genes and gene sequences, the issue of genetic privacy or ensuring that we cannot be discriminated against on the basis of our genetic make-up, these are all issues that have been debated in many other parliaments around the world.

It is high time that we had comparable debates. This bill is an important start. This is a fundamentally important piece of legislation and, indeed—without meaning to pre-empt the debate that we will have later on the research bill—it is of course an important regulatory development for our nation in relation to the broader issues. We welcome this bill; the Democrats support this bill.

There are many issues that need to be addressed in relation to intellectual property, for example, and in our report, cosigned by me and by Senator Jan McLucas, we made very clear that we have foreshadowed some amendments that go to some of the issues, including intellectual property. We have also
advocated the establishment of a stem cell bank. Senator McLucas and I have indicated an interest in that issue, as evidenced by our questions in the committee stage of the bill as well as by our report on that legislation. I note that some latecomers to the debate have also picked up this idea and I look forward to their support in moving amendments that would guarantee such additions and improvements to the legislation. In the meantime, while recognising that there are many intense and strongly held views, and indeed, emotional ethical debates on this issue, I welcome this debate. The Australian Democrats will be supporting wholeheartedly the legislation before us.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (10.16 a.m.)—The object of the Prohibition of Human Cloning Bill 2002 is to address concerns, including ethical concerns, about scientific development in relation to human reproduction and the utilisation of human embryos, by prohibiting certain practices. Its major feature is section 9, which makes it an offence in Australian law to create a human embryo clone. The maximum penalty is 15 years imprisonment. The bill prohibits human cloning, and I suspect it will get everyone’s support in the Senate. In fact, no-one in their right mind would want to clone a human being. There are reports of such attempts from a few mad scientists overseas, and no-one takes them seriously. But perhaps we should.

If we consider cloning in a generic way, then Australian interests have impeccable credentials and experience with cloning processes and techniques. The bill only prohibits human cloning in Australia. There is no measure in place to prevent the export of Australian embryo products, such as stem cells and other derivatives, to places where cloning is allowed. Embryo stem cell lines may be exported and then manipulated for use in cloning. In effect, we are putting in place double standards. We will pass this bill, probably unanimously. We will be confident of our own decency and ethics. But we will be hypocrites if we stop cloning within our borders but send Australian embryo products offshore to be cloned or used in mixed human-animal experiments that are also prohibited in this bill.

The underwriters of this legislation, COAG, did not even consider exports or how to handle them. Hence there is nothing that prevents the export of embryo products. This is not a mere oversight or a loophole; it is a gaping chasm in public policy. Does our decency stop at our borders? Do our ethics see and hear no evil once Australian embryo products leave our shores? The world will be able to get their hands on ‘Made in Australia’ embryo goods. What started out in life—truly in ‘life’—as a manifestation of a couple’s hopes and dreams of children, will be destroyed, manipulated and sent to foreign labs. There the embryos will be worked on by people who are without our lofty ethics.

Some scientists will be overjoyed to see Australia with no barriers to the export of embryo products. The NHMRC confirmed to the Senate committee several times that exports are not covered by the bill. The reason they gave is that COAG never considered them. Of course, our exports will be of the very best quality and produced with the latest technology. As with other primary industries, we will produce far more than we can consume ourselves. There are reportedly some 70,000 excess ART embryos available. We will become the market leaders.

The world authority on stem cell lines is the United States Institute of Health, the NIH. They list 71 eligible cell lines, of which just 16 are available for distribution. Twenty-five per cent of all available lines in the US list are owned by ES Cell International, the commercial arm of the Trounson stem cell centre. It already has a distribution system up and running, because it has distributed embryo cell lines to 30 groups. It has set itself up as a commercial supplier of embryo products to the world, and Australia is on the verge of opening its gates to potentially 70,000 embryos.

But senators can rest easily in their beds. After all, we are doing the right thing with this bill and preventing human cloning in Australia! The Senate may recall that Professor Alan Trounson held 400,000 shares in the
company—even after he told the coalition party room publicly, and me personally, that he had divested himself of all shares. Trounson’s National Stem Cell Centre was approved in May for a huge grant of $46.5 million. There is nothing in the legislation that guarantees that the stem cell centre, via its Singapore arm, will not sell embryo product for cloning purposes overseas.

There is nothing in the legislation that stops a foreign company like ES Cell International from making pots of money from Australian embryo products. Not only that, but we are giving the stem cell centre $46.5 million to help them do it. Indeed, there is every probability that ES Cell International, the centre’s business arm, will engage in cloning embryos either themselves or by contracting to a lab somewhere in the world. Cloned embryo products would be of particular interest to drug companies.

Does anyone have plans to use what is left of our home-grown embryos by selling them to drug screening companies? What has that got to do with all the cures that we were promised? Nothing. It has nothing to do with the cures. Cures are only the bait. Now we are being reeled in by the vested interests of major drug companies. It is there in black and white in the Stem Cell Centre’s application for the $46.5 million grant. The application states:

The Centre will be developing pure populations of cells from its internal and external R&D activities and plans to be primarily a supplier to screening companies on a non-exclusive basis for drug screening of selected cell types on a fee for service or a licence basis.

There is in black and white. I do not think that Australians will be very happy about paying so much money to make others rich and about helping the big pharmaceutical companies. It shows once again that access to excess ART embryos is not about cures but about supplying embryo material to commercial companies.

Cloning is a key part of the national debate on embryo research, because it is one of only two ways to put potential embryo cell therapy into practice on humans. Rejection problems of using foreign cells in a patient are of immense significance to the whole debate. Professor Michael Good, Director of the Queensland Institute of Medical Research, said—as did many others:

The only way feasible to overcome this problem is to create an extremely large bank of embryonic stem cells (in the order of 10 million for each major racial group) so that anyone who required tissue would have a good chance of finding a compatible match.

The only other way is via cloning, where the patient’s own cells are grown from a cloned embryo. So you either clone the patient or have a bank of millions of embryo cell lines to get a match. It would be impossible to compile a workable bank for Aboriginal people, because there simply are not enough of them. They already have great difficulties finding matching liver and kidney organs for transplant. A bank for white people is technically possible, but would be of huge cost and very demanding on women, with such invasive practices as superovulation required.

Hence, the remaining alternative is via cloning—that is if anyone manages to come up with some embryo stem cell therapy that will work. There is still no proof of the principle at the moment. But let us say that in 10 or 15 years someone gets through the animal stages, gets published and starts human trials. There will have to be either cloning or the bank to ever get past first base. On the one hand, we are asked to okay the release of 70,000 embryos—ostensibly for cures. On the other hand, we have this bill before us that will prevent the so-called cures from ever being able to be put into practice. The logic is invisible.

Yet cloning in Australia is just another COAG decision away. Last time, COAG forgot about exports. Last time, the Australian public was not allowed to know what information they based their decision on. The NHMRC told the Senate committee that the COAG information could only be obtained on a state by state basis using the FOI procedures. Why is it such a secret? Could it be that COAG made its decision based on the same information that was given to parliamentarians and later proven to be false, like the rat video, the quotes from unpublished papers and the commercial interests that were not declared?
COAG will review the ban on therapeutic cloning in two years from royal assent of this bill. To those who think cloning is a long way away in Australia, I say think again. Most of the embryo cell industry want it and have said so publicly. Is it just a dream, or some long-term plan, perhaps? Surely we are not that close to cloning embryos in Australia. Let us look at it.

Professor Trounson’s companies are a Noah’s Ark of cloning achievements. Two by two, they clone mice, rats, monkeys and cows. Melbourne IVF even has the distinction of funding bovine cloning. Copies of Professor Trounson’s paper on this are available from the Centre for Early Human Development at Monash. What is this connection between human reproduction and the cloning of cattle? Most of Professor Trounson’s research and business interests over recent years centred on cloning, as the CV he supplied to the Senate committee demonstrated. There was nothing to do with cell therapy cures—just cloning. In the CV, Professor Trounson listed the following as a primary research interests:

- Cellular dedifferentiation and cloning: nuclear reprogramming; gene expression in nuclear transfer embryos and during development; cloning of cattle; transgenesis in cattle using cloning techniques; cloning and transgenesis in rats; cloning for animal conservation—northern hairy-nosed wombats; sperm mediated transgenesis.

The professor also states that he has been successful in the ‘multiplication of cattle embryos to produce 500+ from a single embryo and large numbers of cloned calves’ and in the ‘cloning of cattle somatic cells and their successful use for producing transgenic pregnancies and calves’.

Professor Trounson has written numerous papers on cloning, such as ‘Nuclear transfer of adult and genetically modified foetal cells of the rat’, ‘The cloning cycle: from amphibia to mammals and back’, ‘Somatic cell cloning without micromanipulators’, ‘A comparison of gene transcription in cloned bovine embryos produced by different nuclear transfer techniques’, ‘Nuclear transfer in human medicine and animal breeding’ and many more, including one called ‘Technical advances: pitfalls in human cloning’. He obviously knows his subject well. He has also contributed editorials on the potential benefits of cloning for human medicine. He has addressed numerous conferences on cloning topics and has been the executive editor of Cloning: science and policy since 1998.

In 1999, Professor Trounson registered an international patent entitled Method of nuclear transfer directly relating to cloning.

Professor Trounson has made no secret of his support for therapeutic cloning in the past. He then appeared to back away from it but only to not frighten the horses. Australian Bioethics Information reported in July 2002:

Professor Alan Trounson has advised researchers not to rock the political boat by lobbying for therapeutic cloning. “Our advice is to take the present opportunity because if you complicate it you may lose the ability to make stem cells from the frozen available embryos,” he told a biotechnology gathering in Melbourne this week.

However, Trounson, according to Australian Biotechnology News, said that there was little point in arguing for the right to do therapeutic cloning because scientific literature did not support the need for it.

Obviously Trounson believes he will get stem cells now and cloning later. Australia is bending over backwards to throw millions of dollars and thousands of embryos at this, and there is nothing to stop Professor Trounson taking any of it out of the country and using it to clone Australian products somewhere else. The NHMRC, the supposed overseer of medical and research ethics, could not give me a guarantee that even the $46.5 million would stay in Australia. Australian taxpayer money could end up cloning Australian embryos overseas, with the intellectual property and the profits going to a majority foreign owned company. If such a proposition were put to the Australian people in a referendum, it would surely be defeated.

It is not just cloning that could be practised on our embryo products overseas; there have also been mixed human-animal experiments. It is a fact of life that they have happened. Not only that but an Australian company called Stem Cell Sciences, which used to fund and work with Trounson, have come
under fire for combining pig and human embryo material. This company had the cheek to deny to the Senate committee that they had patents on cloning. When faced with the truth, they then changed their mind. These people do not deserve our respect, money or legislative concurrence so that they can make money out of Australians and their embryonic offspring. This bill prohibits human cloning. Only cloning can make embryo cell therapy happen. Logically then, if you support embryo stem cell research, you should oppose this bill.

Senator HARRADINE (Tasmania) (10.32 a.m.)—I rise to speak to the Prohibition of Human Cloning Bill 2002. This week is a momentous week for this chamber. The last time that I rose to my feet to speak to a bill relating to experiments on human embryos was 20 years ago. It was a bill that I introduced into the parliament to prevent destructive experiments on human embryos. My colleagues were saying at the time, ‘Destructive experiments on human embryos are out of the question.’ But I knew what was being proposed by various science technologists at the time and that was why I introduced that legislation. Yesterday’s prospects are today’s reality. And what an ugly reality we have: the deliberate decision to destroy the tiniest members of our human family for commercial and other purposes.

This week will challenge our civilised society and the Senate. This Senate has a role as a house of review. We have the role to monitor executive government decisions. As long as I have been here—and of course for many years before then—we have had a particular responsibility to uphold the human rights of individuals. Human rights are based on the inherent dignity of individual humans. All human rights are based on that principle. We are here dealing with life and death issues; we are dealing with the tiniest member of the human family—a tiny human being. Clearly that has been established scientifically, and I quote from evidence provided to the Senate Community Affairs Legislation Committee:

From the moment that the first cell is formed, a human embryo is an individual organism oriented to development to human adulthood, normally requiring only nutrition and a favourable environment for that development to occur, and whose inherited nature is formed by the human genome which carries the inherent radical capacity for rationality that is distinctive of human beings.

That evidence was provided to us by Dr Nick Tonti-Filippini on the basis of scientific advice that was provided to him. There is no respected scientific advice otherwise that will challenge that.

We have heard from Senator Stott Despoja, who herself rejected the idea of the 14 days. We have heard about the 14 days, which is clearly arbitrary, but let me make it very clear. From conception, our unique genetic endowment organises and guides the expression of our particular nature in its species and individual character. I was once a human embryo—so were you, Mr Acting Deputy President Hutchins—needing nothing more or less to survive than we need today—that is, shelter and nourishment. Will we, as the Senate, uphold the rights of that human individual? Will we live up to our role and uphold the dignity of the tiniest and most vulnerable members of the human family? I come from a trade union background and it was always my view that the most vulnerable need our protection. I am glad to see, Mr Acting Deputy President, that you have taken that view as well in your report.

We are dealing today with a bill which is to ban human cloning. This bill is entitled the Prohibition of Human Cloning Bill 2002. It has a very laudable objective, an objective which would be supported, we thought, by all members of society. The prohibition of human cloning is supported by all—or is it supported by all? Is it just a stopgap measure to wait for what some science technologists have really wanted, and that is cloning? Enormous pressures have been placed upon us and others, by science technologists and indeed by certain bureaucrats, to permit cloning. The pressures have been openly stated, I might say. First of all, I ask: what is cloning? It is the Dolly technique: somatic cell nuclear transfer. That, also, was reported at point 2.38 of the committee’s report, which says:
This technique was used to create ‘Dolly’ the sheep, and may be a technique used in developing stem cell therapies. It involves removing the nucleus of an egg cell, which contains almost all of the genetic material in the cell, and replacing it with another cell nucleus. This second nucleus may be taken from any somatic cell, such as a skin cell or liver cell. In the case of Dolly, the cell was taken from the sheep’s mammary gland.

Some science technologists are saying, ‘We don’t want to develop cloning so that the cloned human embryo is then transferred into a woman.’ Most scientists are saying, ‘We don’t want to do that. We want to just do therapeutic cloning.’ Even the AHEC, the Australian Health Ethics Committee, of the National Health and Medical Research Council has virtually described the term ‘therapeutic’ as deceitful.

Cloning is cloning. It is precisely the same method and precisely the same process. The Academy of Science agreed that it is the same process. Cloning and this so-called reproductive cloning are one and the same thing, except that one embryo is transferred, allegedly, to the body of a woman and the other is to be used to harvest stem cells. Really, what they should be called is ‘non-survival human cloning’ and ‘survival human cloning’. Such human cloning requires the production of myriad eggs, really using women as egg farms. It is really an insult to women to even think about having any sort of cloning.

There are pressures. Dr Peter Mountford, an Australian scientist, is the Chief Executive of Stem Cell Sciences. On Monday, 1 April—a very interesting date—an article in the Australian said:

Dr Mountford has never produced a human embryo, but holds a patent on technology he believes will achieve this result by the end of 2002. He plans to commercialise the process within two years by supplying disease-carrying embryonic stem cells to pharmaceutical companies for drug screening.

That is where the money is going. I challenge those who would support the future bill to make sure that this does not occur, ever. In the evidence given to us, the Australian Academy of Science said that it supports human cloning—that is to say, so-called therapeutic cloning. Professor Jansen of sex selection fame, from Sydney IVF, supports so-called therapeutic cloning. Professor Trounson, in a fourth change of mind, supported this cloning but had another view later on. One of the reasons for that is that the minister for industry had told scientists on 20 August to keep their powder dry on this area and to wait until all this goes through. So there is pressure from the bureaucrats. I am sure that the minister did not mean that; some speech writer or other wrote it. Then there is Dr Barlow, within the bureaucracy. I will quote from page 197 of my supplementary statements to the report. Dr Thomas Barlow, Science Adviser to the Minister for Education, Science and Training, Dr Brendan Nelson, in a column in the UK Financial Times on 1 September 2001 said that he considers human reproductive cloning to be no more serious an issue than having sex. He said:

Not to beat about the bush, is there any honest reason why we should treat it more seriously, say, than having sex?

That is from the adviser to the minister. He has not repudiated that. You would have thought that he would repudiate that, but he has not. It is a great concern that there are those sorts of bureaucrats. Also, shortly after this particular bill banning all types of human cloning was passed by the House of Representatives, our representatives in New York in the recent discussions on cloning failed to support the resolution of the United States and Spain to ban all forms of human cloning; instead, they supported the Franco-German proposal, which dealt with only so-called reproductive cloning. So that action by the bureaucrats was contrary to the parliament’s view.

This bill to prohibit human cloning leaves the way open for cloning. Look at the review provisions of this legislation. This legislation was supposed to ban cloning, but it leaves the way open for the cloning to take place—because there is a review, and the review is to be done by the minister’s nominees. It is to be a private review—keep everything hushed up. The review will report to COAG—keep it all under wraps; do not make it public. The review really is undemocratic, because the people who ought to be
doing the review are the members of parliament who pass the legislation. We are the ones who ought to be doing the review, not some fix-up as is proposed by this particular legislation. The matters to be taken account of in the development are all technological, except for the last matter: community standards. What are they? That could be manipulated, and it will be manipulated—a public poll! It does not even suggest that certain other things be taken into account. It does not even specifically allow for the objects of the act to be taken into account.

There are ethical concerns about scientific developments in relation to human reproduction and the utilisation of human embryos by prohibiting certain circumstances. That is not specifically mentioned, let alone the important international principles that have been established for the protection of tiny human beings, such as principles for research on human subjects. The interests of the subject must always prevail over the interests of science in society. I will move amendments to this legislation so that this review will be conducted in the political area or at least will be conducted properly—that is, given proper terms of reference—rather than pandering clearly to the requirements of the vested interests of science technologists.

Senator BARNETT (Tasmania) (10.53 a.m.)—I rise to speak on the Prohibition of Human Cloning Bill 2002. Life is a journey between abrupt and finite boundaries—from fertilisation to death. It is deserving of respect and dignity throughout that period. Like postnatal human life, it is also deserving of the protection of the law, irrespective of the potential that its dismembered tissues can offer to the protection of others. Every living person was once an embryo—and embryos are now the targets, or the victims, of the corporate researcher. The human embryo, with its valuable parts, has no means of giving its consent or arguing a defence and does not have any right of reply. Good science necessarily requires good ethics. As the Anglican Archbishop of Sydney, Dr Peter Jensen, said recently:

We must not become scientific wizards and ethical cowboys.

A human embryo is not a commodity to be sold nor a resource for experimentation, exploitation or research. As a community, we should draw a line in the sand and say that protection of human life, at whatever age and in whatever form, is an absolute—no ifs, no buts.

I commend to the Senate those speakers who are prepared to stand up in this debate and put on record their views in support of this bill and in support of the prohibition of human cloning. I congratulate them because, at this stage, the recent report of the Senate Community Affairs Legislation Committee, of which I was a member—and the chair’s report in particular—did not address the reasons why human cloning is abhorrent. It did not address the ethical issues related to human cloning and the bill before us, and that indeed is a disappointment. That is why I am thankful that there are senators in this place who are prepared to stand up and put on the record why human cloning is an abhorrent act. Senator Brian Harradine correctly indicated that we need to understand what cloning is and why it is wrong, and I am pleased that we are able to put that on the record during this debate.

I believe that cloning is cloning is cloning. Others have put forward a different view that there is reproductive cloning and therapeutic cloning and that they are distinctly different. Indeed, the objectives are slightly different in each case, but the process to achieve the end is the same—that is, the cloning of a human being, no matter how small. I wish to draw the attention of this chamber to the report entitled Human cloning: scientific, ethical and regulatory aspects of human cloning and stem cell research, which was prepared by the House of Representatives Standing Committee on Legal and Constitutional Affairs in August 2001. The report highlighted a number of reasons why people oppose reproductive cloning. I want to mention them because I think they are consistent with the views I hold on this debate. The reasons cited in the report were:

- the lack of any medical need for cloning for reproductive purposes;
• cloning for reproductive purposes would constitute an infringement of human dignity—

I am going to comment further on human dignity shortly—
• cloning for reproductive purposes would have a negative effect on the family and personal relationships;
• cloning for reproductive purposes would undermine individuality and identity;
• it would be unsafe;
• cloning for reproductive purposes would potentially pose a threat to human diversity and run the risk of reintroducing notions of eugenics;
• it would raise the potential for coercion of women.

In respect of human dignity—the importance of the individual and the need to have respect and the absolute highest regard for each and every individual in this nation and in this world in which we live—I would like to quote Dr Pike of the Southern Cross Bioethics Institute in his submission to the inquiry of the House of Representatives Standing Committee on Legal and Constitutional Affairs. He stated:

Respect refers to the condition or state of being esteemed or honoured. It is to prize or to value, and furthermore it includes in its meaning to refrain from interfering with or to spare ... Dignity ... implies an inherence of value or quality which is intrinsic to, in this case, human beings ... It is the dignity attached to humanness per se ... It is this deep-seated inherent dignity which underscores the human rights documents and various codes of medical ethics which mark all human kind as worthy of the highest respect.

That really is the point. Dr Amin Abboud said in his submission:

... any research, procedure or investigation that affects the dignity of people which we have defended at length in society is to be discouraged. Cloning attacks fundamentally the dignity of the human person making him subservient to the needs of others.

Dr Eloise Piercy submitted:

The cloning of human beings, whether to bring about the birth of a baby or to be suppressed within early embryonic life ... is an affront to human dignity ... Clones are a means to an end and in being such, are treated with less dignity than other humans. Indeed, unconditional respect for human dignity, regardless of age, size, intellect or physical capacity is the cornerstone of civilised society. Human cloning contravenes this respect and violates the principles of equality and non-discrimination among human beings. It represents a line we should not cross.

That is such a key point—that here we are talking about the human embryo, the smallest of human beings.

Debate interrupted.

REMEMBRANCE DAY

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Order! It being 11 a.m., I invite honourable senators to observe a minute’s silence in memory of those who have fallen in defence of their country.

Honourable senators having stood in silence—

The ACTING DEPUTY PRESIDENT—I thank honourable senators.

PROHIBITION OF HUMAN CLONING BILL 2002

Second Reading

Debate resumed.

Senator BARNETT (Tasmania) (11.01 a.m.)—The point that I was making on the Prohibition of Human Cloning Bill 2002 was that the size or the functionality of a human being should not determine the level of respect or dignity or honour that we show to that human; that should not come into play. We talk about the importance of respecting those with disabilities. That is exactly the point: one’s functionality and one’s size should not determine the level of respect or dignity that we show to one another. The Social Responsibilities Committee of the Anglican Diocese of Melbourne, in their submission to this inquiry, said this:

... central ethical issue in cloning is the widely accepted moral principle that human beings may never be treated merely as a means to an end, but only as an end. Many of the suggested reasons for reproductive cloning that might be employed have a strongly instrumental character to them, for they contemplate bringing a person into existence for reasons outside the person themselves. Examples would be the replacement of a lost relative or the making available of compatible tissue for transplanting into another ...
The ends do not justify the means, and this is exactly the point for those that would support a view that cloning, whether it be therapeutic or reproductive—and as I have said, there is no difference—is appropriate. The Social Responsibilities Committee continued:

It is not the genetic identity but the human act of control that is the crucial point in this argument regarding the unacceptability of cloning. It is this act of deliberate control which makes us morally responsible for the decision which we have made ... It is the element of control which provides a fundamental ethical case against human cloning ... By definition, to clone is to exercise unprecedented control over the genetic dimension of another individual ...

The Catholic Archdiocese of Melbourne said in their submission that the key principle is:

... respect for the inherent dignity of every member of the human family from which their equal and inalienable rights are derived.

I have mentioned the importance of the effect of cloning on the family and personal relationships, and it is a key and important principle that the family is the key, bedrock unit of our society, that it should not be tampered with in any way and that our respect for the family and the priority that we place on the family should not be undervalued at any moment in our history. We as parliamentarians have a responsibility to protect that key unit and foundation of society. The Queensland Bioethics Centre said this in their submission:

To clone a human being is to bring into existence a new human being and at the same time deprive that human being of the normal relationships which characterise new members of the human family, namely genetic, gestational and social relationships, a web of relationships which we characterise as being a family ... In the process of cloning a human being this being is deprived through the choice of others of having parents. Even the person who supplies the genetic material is more an older sibling (a kind of twin) than a parent ...

The Caroline Chisholm Centre for Health Ethics said that cloning:

... would deprive the child of the genetic basis of father, mother and other family relationships which are very significant and important for every human individual since these pertain to the core of our personal identity in the general community ...

You might think we all support this view, but there are those, even those in the science academies of this country, that would say, ‘No, for the time being we support a moratorium or in the short term a ban on cloning, whether it be reproductive or therapeutic cloning. But let’s leave the door open to a consideration of the implementation of this procedure in the future because of the potential cures and benefits for society, whether they be for health benefits or for other reasons.’ I say no—we have a fundamental principle here and I hold dear to it and I hope that this parliament will hold dear to it and will put on the record the reasons why we do not support any form of cloning. Cloning is cloning is cloning—it does not matter. Going back to the point about families, Dr Nicholas Tonti-Filippini said:

... cloning fragments the interconnectedness of human beings, because it allows a human being to be created without direct connections with a family.

The Social Responsibilities Committee of the Anglican Diocese of Melbourne expressed similar concerns. They said:

Cloning appears to undermine this structure of the family. Cloning allows the separation of the sex act from the intimacy of the relationship, and brings a genetic difference from other humans who have genetic contribution from two parents. Only one partner would be necessary and this would undermine the basis of the genetic mixture that occurs naturally. Such a change has the potential to distort the relationship ...

These are the reasons why we need to hold firmly to the institution of the family and give it support. As for identity and individuality, each person in this country, this nation and this world is unique. I am thankful for and awed by birth. I am the father of three children and it is such a miracle. I thank God for the wonderful act, the miracle, that occurs when a child is brought into the world. We are each individuals and we are unique. The Andrews report said this on page 86:

Related to the broader concern about the effect of cloning for reproductive purposes on human relationships were more specific concerns about the potential for cloning for reproductive purposes to be seen to diminish individuality and lead to problems of identity for cloned persons ...
Of course there are problems of identity. That is the whole point of cloning. It is a direct attack on the individuality and uniqueness of the individual. The Catholic Archdiocese of Melbourne said:

Reverence for the sacredness of human life and of the family counsel both inventiveness and caution in interventions involving human beings and especially in experimentation upon them. In particular, concerning human cloning, respect must be shown for the integrity of the person in his or her fundamental nature and unique identity, for the shared nature of diversity of the human family, for human life in its origins, and for human fertility and parenthood.

The issue of safety is of course very important. The Social Responsibilities Committee of the Anglican Diocese of Melbourne said:

There are sufficient unknowns about physical problems in pregnancy with cloned sheep and cattle to suggest that human cloning experiments would violate normal medical ethics. There is no experiment that could be done to prove the safety of human cloning without causing serious risk to humans created in the process.

Well, goodness me! Do we need to have arguments like that to support the prohibition of human cloning in this country? Let us not just assume and take it as a fact that human cloning is wrong. We must put on the record the reasons why and make it clear to society as a whole that each person is important and that each individual is to be honoured and respected.

I will now address some of the constitutional issues related to this bill. This seems to have slipped through to the keeper in many respects. It is set out in the Senate Community Affairs Legislation Committee report and in the chair’s report. I was a member of that committee. I have before me the Australian Government Solicitor’s advice, dated 13 February and 30 April 2002, on the constitutional powers relating to the bill, provided through the committee chairman, Senator Sue Knowles. I have a copy of that and it is actually on the public record. It was submitted to our committee. Without going into great detail, the NHMRC referred to the advice from the Australian Government Solicitor and stated this:

Under the Constitution, the Commonwealth Parliament has reasonably extensive powers in this area. However these powers would not support comprehensive legislation to regulate human cloning, assisted reproductive technology or the proposed unacceptable practices …

As a result of the Commonwealth’s lack of comprehensive legislative power in relation to this subject, it would, for example, be difficult for the Commonwealth to prohibit or control human cloning and related unacceptable practices carried on within a State by a natural person or persons, alone or in partnership. Other limits might include the prohibition or control of research and development related to human cloning and related unacceptable practices by private research institutes in the States.

We are relying on the corporations power, the trade and commerce power and the external affairs power under the Constitution. It has already been said that there are no specific treaties that we are relying upon in this regard, so that leaves the other two: the corporations power and the trade and commerce power. It is clearly not comprehensive. What are we going to do about it, and what needs to be done to make it comprehensive? The answer is set out in our report, and we all supported this view. It was put to our committee that we need corresponding laws in the states and territories around this country. We say on page 97 of our report:

In recognising the limitations of the Commonwealth’s constitutional powers, the Commonwealth legislation forms part of a national legislative scheme, which will include corresponding laws in each State and Territory. Once all jurisdictions have enacted corresponding State and Territory laws, the legislation will apply equally to all persons and all activities in Australia.

That is vitally important. Even the New South Wales government recognise it. They said in submission No. 891 to the committee:

As the Commonwealth does not have a constitutional power directly relating to this matter, it has primarily relied upon the corporations' power, the trade and commerce power and the external affairs power. However this does not provide complete coverage. The advantage of having corresponding State and Territory legislation is that it gives complete coverage of all people and activities relating to the subject matter of the Bills, thereby ensuring that a truly national scheme can be implemented.
The point I am making is that we have a long way to go in this debate in this country. This is a first step with regard to the prohibition of cloning. What is required is similar legislation in the states and territories around this country. We have a dilemma because the legislation is not comprehensive and it needs to be fixed. I foreshadow that, together with an understanding that, if there are areas that need to be tightened with this bill, then we should tighten them so that we send a clear message to the Australian people and to the parliament that this is not on in any shape or form and that one size or function should not be a determinant of the honour and respect that we show to one another.

Senator McLucas (Queensland) (11.14 a.m.)—The Prohibition of Human Cloning Bill 2002 is designed to deliver one part of a national regulatory system that will address issues surrounding human reproduction and the use of human embryos. It is designed to prohibit human cloning and other practices that are unacceptable to our society. The bill was referred to the Senate Community Affairs Legislation Committee, along with the Research Involving Embryos Bill 2002, in August. Both bills are the subject of issues with significant ethical and moral dimensions. As a result, many senators and most of the witnesses came to the committee with strongly held views which they wished to put. Given the issues, this was only to be expected, but I have to put on the record that I was disturbed at the way some of our colleagues treated some of the witnesses. This included some very personal attacks and unfair questioning of the motives of some of those who gave evidence. I am also concerned that there are references in some of the additional material to the chair’s report which does not accurately represent the intent of some of the witnesses to the committee.

It was made clear to the members of the committee that the chair’s report would not make recommendations to the Senate, following similar practice for other bills where a conscience vote was adopted. Rather, it was the intent of the report to ‘balance the major issues and arguments relating to the subject of the bill without attempting to formulate conclusions or recommendations’. Further, it was also made clear that senators were welcome to make additional commentary through supplementary reports to the chair’s report. That is why I was somewhat disappointed that, following the distribution of the chair’s draft report, a number of senators sought amendments which significantly changed the balance achieved in the original draft report. Some of the proposed amendments were useful additions and have been included, but the intent of many of the proposals was to skew the report’s balance towards one side of the debate. This, I believe, was unfortunate and I note the chair’s disappointment in her press release on the release of the report when she made reference to the fact ‘every effort had been made to accommodate much more of their views than would have been preferred’.

I wish to place on record my recognition of the efforts of the chair of the committee, Senator Sue Knowles. Senator Knowles managed the often divergent views impartially, both during the hearings and in the production of the final report. Additionally, I acknowledge the work of the committee secretariat for their professionalism as well as the long hours they put in during and following the hearings.

I was also disappointed to read Senator Harradine’s criticism of the inquiry process in his supplementary comments, given the initial understandings that I believe we all had. With these comments, however, I do commend the chair’s report and the supplementary report in favour of the legislation to the Senate.

I now return to the bill. It is important to remember that this bill has been drafted as a result of the decision of COAG of 5 April this year and as such has the support of all the states and territories. It should be noted that the statement of COAG, which is reflected in the two bills, is relatively, in an international sense, conservative. It explicitly and intentionally prohibits a number of practices that are currently legal overseas. This, I believe, is not well understood and it needs to be recognised more broadly in the community. The COAG communique specifically outlines the practices that are to be pro-
hibited. The bill before us faithfully delivers that intent. The COAG statement accurately reflects community opinion on the issue of human cloning for reproductive purposes. For nearly everyone the concept of human reproductive cloning is simply abhorrent. It raises issues of identity, autonomy and kinship. We have a fear of eugenics, the breeding out of specifically engineered inherited characteristics. And beyond the issues of our moral and ethical opposition to reproductive cloning, the science is simply not proven. For these reasons the bill should—and I believe will—be supported.

I do not intend to cover these issues but rather focus on a number of the provisions of the legislation that are of interest. The COAG communique also provides:
The prohibited practices will be comprehensively reviewed within three years of the nationally consistent legislation taking effect, taking into account changes in technology, the potential therapeutic uses for such technology and any changes in community standards.
The bill conveys that principle in clause 25.

Prior to the original bill being split the NHMRC was required to cause an independent review of the act. This was changed in the new bill requiring the minister, with the agreement of the states, to select the individuals to conduct the review. Given that the same people will conduct the review of both acts—as they will be, I hope, at that time—the change seems irrelevant. In part, the COAG statement recommending a review is in recognition of areas of research that are expressly prohibited by the legislation but for which there is some opinion that they will bring desirable health outcomes for certain individuals.

Clause 15 of the bill creates an offence for creating or developing a human embryo containing genetic material provided by two or more people. For most of us, the notion of an individual having more than two genetic parents is unreal, perhaps impossible and, more likely, offensive. However, as the explanatory memorandum explains, this technique will intentionally prohibit the very new ART technique of cytoplasmic transfer. Cytoplasmic transfer involves the addition of some or all of the cytoplasm from a healthy donor egg into the patient’s egg prior to fertilisation. The aim of such a procedure is to overcome certain problems that the patient has in achieving pregnancy, or to avoid some heritable disease. Due to the presence of mitochondria in the cytoplasm, which contain small amounts of DNA, the technique may introduce DNA from a third person. However, it needs to be stressed that the nucleus of the cell contains DNA from only two people. The mitochondrial DNA does not code for genes or have a bearing on the integrity of the embryo. This is not a technique that creates some form of genetic monster.

Professor Robert Jansen gave evidence to the Senate inquiry into the bills and suggested that cytoplasmic transfer may have potential benefits for infertile women or women carrying genetic material causing disease. In his evidence to the committee he said:

To me, it means that I will not to be able to investigate cytoplasmic transfer in the part it plays both in families that suffer from rare but unable to be treated in any other way mitochondrial genetic diseases and in why older women from about the age of 35 completely otherwise unexplained infertility begins to occur. By the early 40s, that affects the great majority of women—in other words, well before the menopause. IVF is making no inroads into that at the moment, whereas in every other cause of infertility spectacular inroads have been made. We cannot do so unless we understand which cytoplasmic factor is the limitation. We do not know whether that is the mitochondrial DNA itself or some other catalytic component of the cytoplasm of the egg that is missing. Until we can do that investigation, we will not be able to answer that question and advance the management of such unexplained infertility in women in their latter 30s.

Further, Professor Jansen suggested that there had not been community debate about the possible health benefits of the technique and as such the technique would be prohibited with a lack of community understanding. He advised the committee that at least 15 children have been born in the United States as a result of the procedure and that, whilst he advised that cytoplasmic transfer was not ready for clinical practice, it should be the subject for scientific and clinical investigation. It should be noted that cytoplasmic
transfer technology is permitted in a number of countries, including the United States, Italy, Israel and Taiwan. The NHMRC responded by saying that the technique of cytoplasmic transfer was relatively new and controversial and that the clinical safety and efficacy of the practice was not established. Their views are not totally in conflict. The review process established in clause 25 will allow for thorough examination of the technique’s ability to assist women who carry defective mitochondrial DNA.

With respect to the review that is required, I remind the Senate that the supplementary report in favour of the legislation—signed by Senator Webber, Senator Stott Despoja and me—recommends an additional term of reference be applied to the review to investigate the operations and applicability of the UK stem cell bank. The UK has established such a stem cell bank to ensure that researchers can access stem cell lines. It was suggested that such a facility might minimise the number of embryos required to develop new stem cell lines. Clause 13 of the bill makes it an offence to create or develop a human embryo other than by fertilisation. This clause specifically prohibits embryo splitting, parthenogenesis and, importantly, somatic cell nuclear transfer. Mainly because of its contentious nature, somatic cell nuclear transfer was an area of research that engaged the committee during the inquiry. The aim of the technique is to produce a cell transplant product that is immunologically identical to the donor of the adult cell thus avoiding rejection by creating a human embryo clone to derive stem cells that could be used for patient-specific cell therapies. BresaGen, a company involved in the therapeutic application of embryonic stem cell technology, advised the committee:

There are a large number of scientific hurdles to be overcome before this can be considered a feasible therapy, and using human eggs as the recipient cells is technically infeasible since about 50-100 eggs would be required for each successful reprogramming event.

The company further stated:

... about 10 women would have to donate eggs for each single patient product.

I agree with BresaGen’s conclusion that the creation of such a large number of eggs is ‘ethically unacceptable as well as impractical’. It was therefore concerning that a number of witnesses pursued the issue of hyperstimulation of women in order to produce large numbers of eggs. Ms Riordan, the Executive Director of the Respect Life Office of the Catholic Archdiocese of Melbourne, claimed that the legislation did not address the issue. This is simply not the case. Hyperstimulation is a dangerous and unacceptable practice and, whilst not explicitly banned in the bill, the incentives to hyperstimulate are prohibited. The bill expressly prohibits somatic cell nuclear transfer. It bans commercial trade in human eggs, sperm and embryos, and it bans the creation of embryonic stem cell lines from somatic cell donors. Professor Illingworth advised the committee that it was simply not possible in most patients to hyperstimulate, as for most women ‘the number of eggs is primarily dictated by the number of eggs already growing in the ovary at the time of starting treatment with fertility drugs’. The number of eggs cannot be altered.

For a small number of younger women, current practice provides that a lesser dose of the fertility drugs be used. Professor Illingworth advised the committee that to use the regular dose would put these patients at risk of serious medical conditions. This would be dangerous in itself, but it would also open up the potential for litigation against clinics for malpractice in the event of medical complications. Further, the Reproductive Technology Accreditation Committee guidelines prohibit such unethical and medically unsound practice as hyperstimulation. Professor Jansen advised the committee:

... it is not medically possible to vary the number of eggs that respond to stimulation upwards at all and it is not possible downwards without compromising the chance of success for the woman.

The clear message is that there are good medical reasons for the current number of ova that are utilised for IVF treatment. Hyperstimulation of women is unacceptable and the bill ensures that the practice will not be allowed. The issues surrounding both this and the Research Involving Embryos Bill
are, as I have said, contentious and value laden. During the hearings, much was made of the motivations of various witnesses. Whilst some of these assertions were misguided, the result is that members of the community are tentative about believing information that others say is motivated by other than worthy reasons.

I acknowledge the work of the NHMRC in presenting information that is accurate, but their motives too were questioned during the course of the inquiry. I believe that there is a need for better mechanisms to educate and involve the public in bioethical debates. We need to ensure that the public has access to information, that they are educated about the issues in language they understand and that they are able to make their voices heard on the issues.

For some years now, under Presidents Clinton and Bush, the United States has had a presidential commission on bioethics. It is a model that we could well adopt here. The US commission on bioethics provides a forum for national discussion and exploration of bioethical issues. It is charged with exploring the ethical and policy questions related to developments in biomedical science and technology, and assessing public concerns about these developments. The commission is guided by the need to articulate and present a variety of views rather than by the need to reach a single consensus opinion. Such an institution, properly constituted and, importantly, properly representative of the breadth of views existing in the debates, could help facilitate a greater understanding of bioethical issues and better public debates here in Australia. In conclusion, the Prohibition of Human Cloning Bill 2002 provides conservative and nationally consistent legislation that delivers on the COAG agreement of earlier this year and it should be supported.

Senator HOGG (Queensland) (11.30 a.m.)—I rise today to support the Prohibition of Human Cloning Bill 2002. My comments will not refer to the later bill, the Research Involving Embryos Bill 2002. I have another speech to make on the second reading of that legislation. However, I am pleased to see the Prohibition of Human Cloning Bill 2002 before the chamber in its current form because it brings before this chamber one of the most critical issues that this chamber will have to deal with—the issue of cloning. I believe that the bill achieves the purpose of banning any form of cloning. While there appears to be unanimous support for this bill throughout the Senate and throughout parliament, it would be wrong simply to allow the bill to pass without recording a few things in the debate in Hansard so that, when this issue undoubtedly arises again later on, as it inevitably will, there will be some statements in place, particularly regarding the concerns that I and others might express in the debate, that can be revisited and this will be an important record for us to address the concerns at that point in time.

Save that, the bill before us today will achieve the purpose of outlawing cloning. That outlaws reproductive cloning and the quite misnamed therapeutic cloning. I am not going to go into that debate. That debate was well handled in the report brought down by the Senate Community Affairs Legislation Committee. The bill outlaws all forms of cloning and, after all, cloning is cloning. There is no way that one can dress up therapeutic cloning decently or with any remote degree of respectability. From my perspective, cloning interferes with the natural processes of life and with nature itself. So long as it does that, it steps across an inviolable boundary which I think we, as the human race, do not have the right to cross.

If my concerns were not real, one might think that the bill would lock everything up for every day from here on in. However, I know what life is like and life moves on. Of course, there will be attempts at some stage down the track to address therapeutic cloning, and perhaps other forms of cloning hitherto not even thought of, by those who would advocate that that form of technology should have its way.

Cloning opens itself to the abuse of the most valued and valuable thing we have—human life itself. Human life has a special and unique dignity. Cloning transgresses normal and reasonably acceptable ethical and moral bounds. The ordinary people of our society today would say that any form of
cloning does transgress reasonably acceptable moral grounds. This is simply going to a reasonable argument about what people would accept as reasonable for the conduct of a proper society, for its benefit and sustenance and for the prolonging of society. There is no way that scientific changes, advances or discoveries can alter the abhorrence I feel for cloning. As I read the bill I asked myself whether it was tight enough to prevent the slippery slope that undoubtedly some people will try to set us on at some stage in the future. I do not have the answer to that, but one would hope that it is tight enough.

I want now to turn to some particular concerns that I have with the bill as it is currently constructed. I intend to raise these concerns in committee. Part 2 of the bill relates to prohibited practices. As I read through this section, I noticed the use of the word 'intentionally'. This point was covered by the Senate Community Affairs Legislation Committee inquiry. I understand that the NHMRC responded to a question that Senator McLucas put on notice. Part 2, section 9, states:

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

Section 10 states in part:

... if the person intentionally places a human embryo clone in the body of a human ...

Section 11 also includes the word 'intentionally.' For what it is worth, I just raise the value of the word 'intentionally' being there. Surely when it comes to establishing intent, that will be done in the courts of the land. There may well be reckless creation or negligent creation. I just wonder whether 'intentionally' detracts from the legislation as it stands. As I say, at some stage it will be determined in a court. However, I raise that for what it is worth.

Secondly, in respect of section 10 in part 2, I was puzzled by the fact that section 10 says:

A person commits an offence if the person intentionally places a human embryo clone in the body of a human or the body of an animal.

That is very good. But the issue that I raise is that it does nothing to the person—if it is a person—who receives the human clone. They may knowingly be a participant in the process of the reception of a human clone, and there is no penalty associated with that person's participation in the illegal act. Now I might be misreading that but, if it is the case, it seems to be something that is lacking and that should be there. If a person is knowingly and willingly—and I cannot see how they would not be—a participant in the reception of a human embryo clone, it seems to me that there needs to be some sort of ability to punish that person as well. Of course, again, it would ultimately be left to the courts to determine that particular matter.

Those are the two issues: the issue in respect of 'intentionally—and the word occurs not only there but elsewhere in the piece of legislation; and, of course, the comments that I have made in respect of the section 10 offence of placing a human embryo clone in the body of a human or an animal. The second area that I have some concerns with in part 2 goes to section 14, where it says:

Offence—creating a human embryo for a purpose other than achieving pregnancy in a woman.

Subclause (1) refers to a 'particular' woman. I am a little at odds to see how that word fits in precisely in that subclause. But, again, when we come to the committee stage I will pursue that question. The issue that does seem to go without any comment, though, in division 2 'Other prohibited practices' is surrogacy. It is my concern that the issue of surrogacy needs to be addressed in this particular piece of legislation. The other comment that I make is in respect of part 4. I think Senator Harradine foreshadowed that he has a proposal in respect of the review. If the review stands as it is in the legislation, then part 4, division 1 at section 25 (2) says that:

The review is to be undertaken by persons chosen by the Minister, with the agreement of each State.

As I read that, it means that if there is not agreement by each state the review is in jeopardy or, if I read it correctly, will not proceed. If one turns to the Research Involving Embryos Bill 2002 there is a similar matter for a review there, but I understand that the review in that case needs to be carried out by persons from only a majority of the states rather than from each state. So,
again, that is an issue that I will pursue when we get into the committee stage. I have not seen a Senator Harradine amendment circulated in this chamber on that review but, if it is successful, he may well have addressed that issue. The other thing that concerns me about part 4, section 25 (4) in particular, is that the criteria in (4) which are:

The persons undertaking the review must consider and report on the scope and operation of this Act taking into account the following:

(a) developments in technology in relation to assisted reproductive technology;
(b) developments in medical research and scientific research and the potential therapeutic applications of such research;
(c) community standards.

My concern is that the criteria in (4) seem to assume—or maybe even presume—that changed circumstances in some way will make cloning permissible or respectable. Now, of course, my view is not shared by everyone, but I have quite clearly stated that my view is that cloning is cloning and that, no matter how one may wish to dress it up and no matter with what sort of guise one might try to give a bit of respectability to it, it cannot be given that. It seems to me that there is a skew and a bias in the way in which that is constructed. Now that might not necessarily have been the intent, but that is the way it has come across to me. Those are some specific issues that, whilst I am supporting the bill, I think need to be raised now. They may need to be addressed, or they may be an overstatement of concern on my part—in which case, I am quite prepared to accept that. Nonetheless, it does raise in my mind some legitimate concerns.

But, of course, my underlying concern at the end of the day is that we do not end up on the slippery slope that takes us down the path of so-called ‘therapeutic cloning’—which, as people have already accepted in this debate, is a great misnomer indeed. I understand that 29 countries have joined forces to request a UN statement against all forms of human cloning. It is a Spanish initiative and, in particular, I believe they are seeking a prohibition on therapeutic cloning. It is worth while noting some of the statements they have made that I think would stand us in good stead in this nation as well. The Spanish memorandum says:

... contrary to what is often alleged [the practice] also implies experimentation with human embryos and is incompatible with legal and safe scientific research.

It goes on to say:

... it is not possible to control the efficacy of the prohibition of human cloning for reproductive ends if cloning for therapeutic ends is not also prohibited.

Further, it says:

Given practical experience, the results obtained in experiments of animal cloning reinforce the need to prohibit all types of human cloning [as] the accumulated experience in the cloning of animals has manifested a very reduced efficiency of the techniques used and considerable risks of malformation and deformation of the embryo.

And last but not least the memorandum states:

... to oppose human cloning is not equivalent to denying the progress of science and genetic research.

If that Spanish initiative has any legs—and I understand that it does—and can get a statement out of the United Nations which bans all forms of cloning, then that indeed is a worthwhile initiative, to say the least. I believe the concept of human cloning, no matter what purpose people might claim for it, is complete anathema for many of us in the community. I concede that there are others who have a different view but I still think that, whilst they are entitled to their view and I am entitled to my view, at the end of the day there have to be basic ethical and moral bounds which one does not cross.

Life is, after all, unique. Individuals are unique. The dignity of the individual must be protected at all costs. Cloning cannot be tolerated under any circumstances. Having said all of this on a very serious note, one needs to also take a look at the lighter side of life. If we had cloning and had two Senator Eric Abetzs—

Senator Abetz—Wouldn’t we be fortunate!

Senator HOGG—Others would say otherwise. If we had three Senator John Hoggs, there would be an outcry in our society. If we
had four Senator Browns or five Senator Sherrys, then the case would cause all sorts of problems in our society. Whilst that is said in a moment of jest, nonetheless it is a real concern that this is the sort of thing that could await us at the long end of the slippery road. Whilst we are all in support of this bill today, it does pose some real problems that we as individuals, as participants in our society, must come to grips with. Under those circumstances I would hate to see cloning—no matter how it was dressed up—given any legs. The consequences of some of the things that I have mentioned are horrifying for some, although they may be pleasant for others.

Senator ABETZ (Tasmania—Special Minister of State) (11.49 a.m.)—The Prohibition of Human Cloning Bill 2002 is intended to prohibit human cloning and other unacceptable practices associated with reproductive technology. That we need this legislation is an indictment of the scientific community, because it is quite clear that, given the scientific developments, there would unfortunately have been elements who would have engaged in what are described in an understated way in this bill as ‘unacceptable practices’. I personally would use stronger language to express my complete abhorrence of the practices detailed in the legislation—legislation which I have just said is most regrettably necessary because, if it were not enacted, these practices would be undertaken.

The legislation at section 3 talks of the utilisation of human embryos as though they were some type of commodity. When we start talking about human life in these terms we demean the true, unique and special value of this sacred gift. One of the dilemmas I face is that the legislation talks in these terms of utilisation as though the human embryo were a commodity. Yet it asserts in the next breath that there are unacceptable practices which need to be outlawed. I happen to agree that the practices to be outlawed should be outlawed. But why, unless you actually do believe that the human embryo is not just a commodity but has a unique and intrinsic value?

The simple fact is that we are dealing with human life. If we are not dealing with human life, why is cloning an ‘unacceptable practice’—to quote the legislation? It is because, I suggest, we are dealing with human life. And that is why the following bill, the Research Involving Embryos Bill 2002, dealing with destructive research on human embryos, should not be allowed. The argument appears to be that you cannot clone because you are dealing with humanity, yet you can destroy an embryo because it is not a human. There is a fundamental inconsistency in the thinking underlying these two bills. The issues we need to grapple with in this bill are momentous and grave. We are dealing with the essence of humanity and of when life commences—and I will have more to say on that when we discuss the other bill.

Apart from the ethical considerations, I have real reservations with this legislation and its drafting. Throughout the clauses dealing with prohibited practices we see the word ‘intentionally’. I simply ask: how could one unintentionally create a human clone or how could one accidentally implant a human embryo clone? Quite frankly it defies my mind. The very actions to be outlawed would require deliberate intention. Making the prosecution prove intention in these cases, as opposed to making the accused or defendant prove some lack of knowledge as to what he was undertaking, seems highly inappropriate. What happens if someone deliberately keeps themselves ignorant of certain matters that are highly likely—that is, they are reckless? This important distinction is made and recognised in clause 22. Why it is not recognised in the previous clauses will require an explanation.

There also appears to be an omission of grave proportions, in that it is not an offence to be in possession of a human clone. You cannot create, export or import a human clone or, indeed, place a human clone in a human body, but there is nothing stopping a person from being in possession of a prohibited embryo. Surely that in itself ought to be an offence as well. Unless I can be convinced otherwise, I will be moving an amendment to that effect during the committee stage. In many aspects of the law,
mere possession is a crime. It seems to me quite astounding that a mad professor, to use that example, could create and implant a clone but, when the person is found implanted with the clone, she could exercise her right to remain silent and she would not be guilty of a crime, because the person who undertook the work would not necessarily be identified or identifiable. There could also be a very realistic situation where a laboratory technician may deliberately keep a frozen human clone and can look at the legislation and say, 'I didn’t import it. I didn’t create it. Therefore, I can keep it in safe custody without breaching the law,’ thereby being part and parcel of this quite inhumane suggestion and process of human cloning.

Be it drugs, housebreaking equipment or forged money, mere possession is a crime. You do not have to be charged with having grown, made, imported or exported the substance. The mere fact that you are in possession of it is a crime. Everybody in this place would note my absolute abhorrence of the drug scene and how many humans it kills in this country each year. If it is good enough for mere possession of drugs to be a crime, then surely mere possession of a human clone should also be a crime. I would urge all honourable senators who may have the opportunity to be listening to this debate to give serious consideration to my suggestion.

I would also be interested in a full explanation to clause 14(2) and its impact. I think I understand the explanatory memorandum, but I would like to know whether this means that the defendant does not need to prove his intention to achieve pregnancy in a particular woman. How would the Crown be able to prove their case? The drafting appears to provide a simple escape route for a defendant. I have other concerns with the legislation. For example, clause 14(1) talks of ‘a particular woman’, and I agree with this wording. Yet in the definition clause, clause 8, reference is only made to ‘a woman’ as distinct from ‘a particular woman’. The omission is important but, might I suggest, easy to rectify. I would be pleased if that suggestion could also be given consideration.

Clause 16 highlights another dilemma for me. Why do we have this arbitrary cut-off period of 14 days? Under the legislation, it is an offence to develop ‘a human embryo outside the body of a woman for a period of more than 14 days’. After fertilisation takes place, the process of development has begun. No stage of development is to be given any greater importance than any other. Every stage of development is part of a continuous process, yet the 14-day cut-off period has been arbitrarily grasped in a cynical attempt to allay public anxiety. It will not allay my anxiety. I simply ask: why 14 days? What happens in that split second when the human embryo becomes 14 days and one second old? What has been the intrinsic change that causes further development, at 14 days and one second, to no longer be an acceptable practice? It seems that supporters and drafters of the bill know that they are dealing with human life, but become too uncomfortable after 14 days. But no logic is offered as to why there is this arbitrary cut-off point. I will be interested to hear the explanation. The indisputable fact is that the fertilised ovum has life and is genetically human. The genetic individuality or identity of the adult is practically the same as that of the embryo.

Let me at this stage dispose of the false assertion that embryonic stem cell research which destroys the embryo is no different to allowing the so-called excess embryos to succumb. The difference between natural death and killing is obvious to all. All of us will face physical death. That of itself should never allow life destroying experimentation on us, nor should it be allowed on embryos. Even worse, in the case of this destructive research, the embryo would actually be grown and developed further prior to its killing. At the time the embryo is removed from the freezer and thawed for normal IVF, the embryo is not at the stage of having the cells that are needed for stem cell research. In a macabre way, these scientists will deliberately grow these embryos and allow them to develop further so that they can kill them to gain access to the stem cells. Ethically, that is even worse than killing the embryo moments before the embryo might succumb naturally.

Clause 19 makes it an offence if a person ‘removes a viable human embryo from the
body of a woman, intending to collect a viable human embryo. I just observe in passing that it is not an offence if you intentionally seek to kill the viable human embryo. Our so-called ethics and morality as a society are two-faced and duplicitous. For the next generation, it informs them that this society sees human life at various stages as dispensable and then we ask: ‘Why is there a high suicide rate amongst our young?’ If we do not value human life, why should they?

I assume that the law of aiding and abetting will apply in relation to these offences, and that should be clarified in particular to those people in charge of research facilities who should be keeping the appropriate watchful eye on scientific projects so that they simply cannot try to divest themselves of any responsibility by saying, ‘That was Joe Bloggs in the laboratory doing that.’ If they, knowingly, are in charge of these research laboratories, they should have a very strict liability to ensure that they keep a watchful eye on such projects.

The bill has its deficiencies. It will be of no surprise to honourable senators that I, of course, will be supporting the bill. But I suggest to my colleagues all around this chamber that this bill can be enhanced and strengthened by making the changes that I have proposed, especially in relation to widening the bill’s scope to deal with those found to be in possession of a prohibited embryo. I urge colleagues to give serious consideration to these proposals. The prospect of this parliament, through inattention or a sense of competing priorities, allowing this bill to proceed without careful consideration would be an abrogation of our responsibilities. To fail to firmly denounce, repudiate and outlaw any involvement in human cloning would be a failure of devastating proportions by this parliament.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.03 p.m.)—The Prohibition of Human Cloning Bill 2002 outlaws human cloning. As previous speakers have said, there seems to be no disagreement that this bill should pass and that human cloning should be outlawed. A number of points have been made by those who have spoken, including the pertinent issues raised by Senators Hogg and Abetz and particularly the issue of possession as outlined by Senator Abetz. He used the analogy of drug laws where it is an offence not only to manufacture an illicit drug but also to possess an illicit drug. So, if you manufacture heroin or an amphetamine, you are guilty; if you possess it, you are guilty. If there is that flaw in this bill—and I am certainly attracted to the argument put by Senator Abetz—it should be addressed. I think in the committee stage senators should look closely at the points raised by Senators Hogg and Abetz.

We all support this bill, of course, because it outlaws human cloning, but we should endeavour to make sure that we get the detail right and that we cover those offences. I think that aiding and abetting would normally be covered under the criminal laws applicable to the Commonwealth, but that is an issue which could also be clarified in the committee stage. I join with other senators in supporting this bill, which will outlaw human cloning, which I think all Australians agree is a revulsion and one which flies in the face of respect for life. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

RESEARCH INVOLVING EMBRYOS BILL 2002
Second Reading

Debate resumed from 15 October, on motion by Senator Abetz:

That this bill be now read a second time.

Senator CHRIS EVANS (Western Australia) (12.05 p.m.)—I rise today to speak on the Research Involving Embryos Bill 2002, which was debated and passed in the House of Representatives on 25 September. In doing so, I present the position of the federal parliamentary Labor Party, which is to support the use of excess or surplus embryos for the purposes of stem cell research. Fortuitously, a search of my own conscience on these issues that this bill raises has led me to the same view that has been adopted by the Labor Party—that is, despite excess human embryos obtained originally for IVF treatment obviously having some moral status,
their status does not trump the compelling interests that the bill seeks to advance.

The bill regulates research that has as a noble aim the development of cell therapies. This research aims to develop therapies that may one day either save the lives or greatly improve the lives of Australians who suffer from debilitating diseases and severe injuries. The bill establishes very strict conditions under which certain surplus embryos that would otherwise be destroyed can, with the donor’s consent, be used for specific types of research.

I have noted the concurrence of my personal views with that of the Labor Party on the benefits of a national regulated stem cell research regime. However, in doing so, I do not intend to detract from the right and indeed the responsibility of all members and senators to search their own consciences on the issue of what use should be made, if any, of excess human embryos. This search of conscience can lead—and in the case of some members and senators whose views are already publicly known has led—people to different conclusions about the balance of interests inherent in this bill. The difference of views is not only appropriate; it is a sign of the strength of our democracy, not of a weakness or division. On issues that traverse such complex ethical terrain as this bill, robust dissent is heartening.

Indeed, the different views on this bill are an inevitable corollary of the judgment—made first by the Leader of the Opposition, Simon Crean, and followed later by the Prime Minister—that members and senators of their parties should be allowed the freedom to vote according to their consciences on bills such as this one, which presuppose at one level answers to difficult questions such as: when does human life start? A few such bills, which ignite debate on philosophical questions such as when life starts or cognate questions including when life should be allowed to end—something the euthanasia bill raised a few years ago—have come before the Senate in recent years.

However, each such bill that I have had to contemplate since commencing as a senator in 1993 I have always tried to consider on levels additional to the purely philosophical. This is because I believe it is important to try and understand the impulses in Australian society that coalesce around the legislation before us. In other words, it is important to consider the balance of the impulses or interests contained in the bill, because consensus, as we all know, on an absolute philosophical position in a pluralist society like ours is not only rare but probably impossible.

This consideration is a practical exercise, an attempt to assess whether the balance of interests incorporated in an ethically complex bill is acceptable. The impulses of the pluralist society we live in that are reflected in this particular bill can be expressed quite simply. They include the modern scientific and humanitarian aspiration to improve our understanding of cellular behaviour. They also include the strong countervailing impulse of Australians to resist possibilities for improving understanding of the human body that come at the expense of human life or human dignity.

In other words, the bill allows biochemical knowledge to increase. It thus increases the chance that therapies for Australians suffering from certain chronic illnesses and injuries may be developed in the future. However, the strict conditions prescribed in this bill for the derivation of stem cells reflect the strong countervailing expectations of Australians that life’s sanctity should be preserved, whatever the possible utilitarian advantage in an individual embryo’s destruction. These strict conditions are imposed upon scientists in the form of criminal offences for any experimentation on human embryos that is not licensed. Applicants for a licence can only use a very narrow range of excess human embryos and only for the purposes of research on therapeutic applications of stem cell behaviour. Owners of the genetic material must first consent to the use of the excess embryos, of course.

In my view and the view of the Australian Labor Party, the strict regulatory regime contained in this bill preserves human life and dignity. It also expresses the hope of those Australians whose deficient cells have led them naturally to wonder how better scientific understanding of cell behaviour could improve their lives. However, it is important
that I explain what led me to this view. Like most senators, I started off with a series of questions. Why is the bill before us? What regulatory gap do its proponents seek to cover? What is the downside to passing the bill? Who suffers as a result of passing or failing to pass the legislation? If there is a downside, are the interests that will suffer more important than those that the bill advances or protects?

In setting out questions like these about the bill, I do not seek to deny the social profundity or ethical nature of the issues it raises. This simply represents an attempt to produce hard-headed clarity as to what the bill actually does or how it changes the status quo of scientific experimentation permitted in this country. This is a useful way to acknowledge that the bill regulates emotional subjects but it does not actually expand in any significant way the parameters of science that give rise to such emotion.

Let us be clear about what this bill does and does not do. The bill does not allow research on stem cells derived from surplus human embryos to occur in Australia for the first time. Such research is already occurring, albeit in some states and the territories without legal restrictions. The bill introduces nationally consistent, nationally applicable regulation of scientific research. Yet the bill does not expand the circumstances in which research on stem cells, which already occurs in Australia, can happen. Indeed, in respect of the states that currently do not regulate the use of stem cells from excess human embryos at all, it puts in place hurdles that currently do not exist. It puts in place hurdles such as: the requirement for any technician who wishes to conduct research on excess assisted reproductive technology embryos that would otherwise be destroyed to apply for a licence; the requirement to apply for this licence to a body composed of experts that each state as well as the federal health minister must approve; and the requirement on applicants to declare the nature of the research project involving excess ART embryos, as well as the number of excess embryos being used, which will be exposed for public scrutiny in a national database.

I think it is important in the context of discussing what the bill clearly does and does not do to discuss also the consequences of the bill failing to be approved by the federal parliament. Some of these consequences were traversed in the main report of the Community Affairs Legislation Committee, as well as in the supplementary report by senators on the committee who supported the bill. I commend all senators for their contribution to that report and the interest they took in the issues.

The first consequence to note is that the bill will not affect the number of ART embryos that are created in the first place or the rate of their destruction. That is, this bill does not increase the number of human embryos that will be destroyed, nor does it have any effect whatsoever on the creation of embryos. Technicians who assist couples who undergo in-vitro fertilisation treatment to produce embryos for the purpose of pregnancy are prohibited under the bill from creating a greater number than are calculated necessary for use in inducing pregnancy. Indeed, the creation of a human embryo outside the body of a woman—unless the creation is intended to attempt to achieve pregnancy in a woman—is a new offence, punishable by jail.

The second implication of the bill failing to gain our support—lest senators be misled as to the practical consequences of this unfortunate scenario—is that embryonic stem cell research will continue. Embryonic stem cell research will continue to be conducted by all those who do it currently as well as by any who wish to join the emerging biomedical enterprise. They will be unimpeded in most Australian jurisdictions and simply continue using existing stem cell lines or import new lines.

The bill ensures that the types of embryos and the circumstances in which they can be used by scientists are narrowed—narrower than they are now, indeed, in some states and territories. The third point that I want to raise about the consequences of the bill not passing in this chamber is that there will be no central responsible body created for collecting data on stem cell research. This is research that will, it must be recalled, proceed
pace in certain Australian states regardless of any legislative failure by the Commonwealth.

This central database, which the bill obliges the expert NHMRC Licensing Committee to maintain, will be comprehensive and publicly available. It must contain information on all those licensed to undertake stem cell research, the number of excess ART embryos used in each researcher’s work and the nature of the work, among other things. Regardless of whether senators are supportive of or opposed to embryonic stem cell research, this database is of unmitigated public value. There should be no argument against the value of collecting and disseminating data on a subject of such high interest to members of the public. Nor should there be any argument against the merits of subjecting scientists to licensing requirements, which by definition will require them to subject their proposals to close scrutiny by ethicists and to possible refusal.

Let us be clear: voting against this bill will mean that the public is deprived of basic information on ongoing embryonic stem cell research—including which, and how many, scientists are conducting it in Australia. That information is critical to assessing what positive results, if any, the research is reaping; the relationship between academic researchers and the companies interested in any results, and I know that is an issue of concern to some senators; and the number and rate of excess embryos used. All these topics were raised in evidence given to the Senate committee inquiring into the bill, and yet there was not enough factual information to provide even a basis for discussion on the substantive issues of some topics. Statistical information and basic factual information on the amount and result of embryonic stem cell research is at least relevant to the arguments about its appropriate regulation.

The Labor Party supports this bill for the additional reason that Australians need accurate and transparent data—data that is not contentious in itself—to provide a sound basis for scrutiny of the scale, nature and results of the embryonic stem cell research that will proceed whether or not this bill is passed. As I indicated, the Labor Party supports the bill but has allowed its members a conscience vote on the use of embryonic stem cells. That will be reflected in the committee stage of the bill.

I think it will be the first time that we have had a debate where, from the Labor side, we have adopted a position as a party but have also allowed a conscience vote. I think it will be an interesting question, not only for the debate of the issues at stake but also for the management of the chamber, as many senators come to grips with a very different regime in what I am sure, having heard some of the second reading contributions to the earlier bill, will be a long, tortuous and demanding committee stage, one to which I look forward with relish. It is a very important subject that is engaging the Australian public—as I found out at a barbeque yesterday afternoon—and is encouraging strong opinions. I think that is very useful. It is a sign of the strength of the Australian democracy that the public has engaged in the debate so strongly. As I said, I have outlined today the Australian Labor Party’s view. That view will be argued in the committee stage of the bill, but it will also reflect our decision to allow senators a conscience vote.

Senator STOTT DESPOJA (South Australia) (12.18 p.m.)—Hopefully the committee stage will not be too tortuous. It is a pleasure to follow on from the considered remarks made by Senator Evans on behalf of the Labor Party, many of which remarks I agree with wholeheartedly. As I said in my earlier contribution to the legislation that bans human reproductive cloning, this is a debate that I welcome. I speak today as the biotechnology spokesperson for the Democrats. As you would be aware, all matters of legislation are a conscience vote for the Australian Democrats, but all my colleagues have informed me that they support the legislation before us and they will be voting in support of the Research Involving Embryos Bill 2002.

The bill establishes a consistent national framework for the regulation of excess assisted reproductive technology embryos that would otherwise be allowed to succumb. It establishes a national licensing committee of the NHMRC that will assess applications for
licences to conduct research, train in ART techniques, maintain quality assurance in ART and examine the effectiveness of new culture media in ART. It also provides for a centralised, publicly available database of information about all licences, the number of research projects involving excess ART embryos, the nature of those projects, and the number of excess embryos that have been used. An important feature of this legislation is that it seeks to treat all users of excess ART embryos evenhandedly—for example, whether it is for the testing of new culture media in ART or for the derivation of embryonic stem cells.

The legislation is controversial—no doubt about that—and it is so because it covers the issue of the destruction of embryos. The Australian Democrats recognise and respect the wide range of sincerely held and, in some cases, irreconcilable beliefs. We do not believe that any particular group—be they scientists, politicians, ethicists, church leaders et cetera—has special, privileged access to wisdom in such matters. Thus, it is essential that the community engage in informed debate on this issue. Indeed, the Democrats see this as an essential feature of a pluralist democracy. We certainly concur with the remarks of Senator Evans—and hence the importance of the Senate community affairs debate and the House of Representatives debate on broader issues. This certainly goes to the heart of what the Democrats and I, on behalf of the Democrats, have been trying to do over the past six to seven years in broaching debates on these matters, and also in calling for Senate committees and Senate select inquiries into the issue of reproductive cloning, therapeutic cloning—you name it.

There are many ethical questions which confront us. The central ethical question posed by this legislation is whether people believe destructive research on excess ART embryos that have been donated with consent and which would otherwise be allowed to succumb is acceptable or not. That seems to be at the heart of the ethical dilemmas with which we are confronted. We believe that for any one person the answer to that question ultimately relies, obviously, on their personal commitments. In the Senate inquiry, I think the issue was well put by Dr Best—representing Dr Jensen, the Anglican Archbishop of Sydney—when she pointed out:

The moral status of an embryo is not a fact but a value. We will each decide that which is valuable to us on the basis of our own world views. But we live in a multicultural democracy and world views abound.

The extent to which people will choose to weigh the various ethical dimensions to this debate is a personal choice. Potential donors of embryos, for instance, face a rather different set of ethical issues than that of non-donors, and these do include considerations of autonomy and choice. It has been claimed: ... the radically utilitarian public policy which supports this legislation creates a significantly dangerous, if not chilling, precedent.

The Democrats do not accept that assertion. There is nothing inevitable about what choices people might make in the future. As a community, we do not currently accept an absolutist determination on the moral status of an embryo or hold to the 'uniform protection of all human life'. This does not mean, though, that the embryo is of no account. I am concerned, therefore, that in considering the ethical debate, it should not be constructed as a choice between the high moral ground that rejects destructive research on embryos or a morally bankrupt utilitarianism that permits it. Conversely, it is neither fair nor helpful to caricature the debate in simplistic terms of science versus religion.

I think it is clear there is no prospect of consensus or the acceptability of an absolute position in a pluralistic society on the key ethical question the legislation poses. I think Senator Chris Evans made it very clear that the fact that we are debating this issue is a very healthy aspect of our democracy. For my own part, I do not resile from believing that there are good ethical grounds to encourage research that may alleviate disease, that there is intrinsic value to understanding biological processes, such as cell differentiation independently of whether that yields applications, and that a sound, nationally consistent regulatory framework is necessary to provide publicly accountable oversight of prudent research on genuinely excess ART
embryos that have been donated with full and informed consent.

What are the consequences if this legislation fails? I think it is important to understand what will occur if the Research Involving Embryos Bill 2002 is not passed. Failure of the bill will have no impact on the rate of production and disposal of ART embryos. Embryonic stem cell research will continue on existing stem cell lines, although these are not acceptable for clinical purposes and are limited to research as they were created using mouse feeder cells. As most jurisdictions do not ban or regulate destruction of embryos for research, then the retention of the status quo will mean such activities are permissible in all jurisdictions apart from Victoria, South Australia and Western Australia, where there is legislation on a state level.

The states and territories can determine their own approach and, given the public comments of several state premiers, this may result in more liberal regimes than this Commonwealth legislation permits. There is an irony there in that people who are opposing this legislation may find that, if it is left to some states, there may be a more liberal regime than the one being proposed in the relatively conservative legislation that is before us.

Another consequence of the bill not being passed is that there will be no central agency to provide oversight, informed monitoring or review. There will be no central data collection agency. In addition, defeat of this legislation sends a strong negative message about Australian science policy, both domestically and internationally. Uncertainty and inconsistency may lead to a loss of scientists—in an area where Australia has long been recognised as a world leader—to more liberal or consistent regulatory regimes. You only have to look at legislation in places like the UK, the US, Singapore, Taiwan and Israel for examples of these more liberal regimes.

I appreciate that some people would consider this an essentially negative argument for passing the legislation. I do not rely on negative arguments in relation to this bill because I think there are many positive reasons for passing the legislation, particularly in terms of providing a consistent national approach to regulating embryonic stem cell research, which is long overdue. I might add that the Democrats have consistently raised this issue in the chamber in an attempt to not only debate these issues but also see a regulatory system that suits the needs of all states and territories, but I have always thought it should be the responsibility of the Commonwealth to initiate that debate.

Stem cell science is a fast-moving field with new insights and research results appearing in scientific literature with great rapidity. It is also a scientific field very much in its infancy. Human embryonic stem cells were first isolated and characterised in 1998 and adult stem cell research followed shortly after. While some results in adult stem cell research and therapies and mouse embryonic stem cell research appear well confirmed, many results—including, for instance, Professor Verfaillie’s recently published work identifying and culturing a rare adult stem cell—have not been confirmed or replicated in other laboratories.

The characteristics of stem cells and basic biological questions concerning the factors that contribute to cell differentiation, specialisation and regeneration are not well understood. This constitutes a fundamental and significant ongoing research challenge for stem cell science. Consequently, I believe it is premature and unreasonable to expect definitive answers to many of the questions that arise from stem cell science. We see unpredictability and uncertainty as intrinsic characteristics of science, particularly at the forefront of a new and complex field. Whether scientists will fully or partially address the myriad challenges and questions in the short, medium or long term is simply not known.

Embryonic stem cells have two very significant properties. Firstly, they give rise to all tissue types—that is, pluripotency. Secondly, they can be placed in a culture medium, replicate and remain undifferentiated indefinitely. To date, there have been no treatments developed from human embryonic stem cell research. Moreover, there are problems to be overcome if embryonic stem cells will have therapeutic application for tissue transplantation because of immuno-
logical rejection and insufficient knowledge on how to control differentiation.

These problems are fully acknowledged by all proponents of stem cell research, and I put that recognition on record. In the Senate inquiry, the committee was advised of a variety of research projects seeking to overcome them. BreaGen, for instance, described its current work exploring methodologies to ‘reprogram’ adult stem cells from a patient by fusing them with an embryonic stem cell to avoid immunological differences. This work has had qualified success with mouse models but, to date, is neither successfully established nor practical. At Monash University, scientists are conducting work to ‘tolerise’ tissue.

It is not possible to predict whether such work will be successful in overcoming immunological rejection of ES cells in some or all transplantation therapies. That is an empirical question that cannot be decided at this stage. As a consequence, proponents of ES research advise that transplantation therapies may be five, 10 or 15 years away, if they are possible at all. However, having considered the evidence closely, the Democrats conclude that ES cell research may lead to successful therapeutic applications in the future. It is not certain what form therapies may take—drugs or transplants—nor is it certain which diseases may be amenable to ES therapies. In view of the potential of embryonic stem cell research, we believe that it is premature to unnecessarily constrain or indeed prohibit research.

The bill has no impact on research into and the clinical use of adult stem cells. Nevertheless, it is worth acknowledging that adult stem cells have been successfully used to treat a range of diseases, including cancer and damaged heart tissue. As exciting as the progress with adult stem cells undeniably is, it must be noted that they are difficult to isolate—we have heard a lot about this through the committee stage—and are not easy to grow or remain undifferentiated in culture. In addition, adult stem cells have not demonstrated the capacity to meet all needs for cell therapy. A number of submissions to the Senate inquiry argued that the recent developments in adult stem cell research and therapies made embryonic stem cell research redundant. This notion was firmly rejected by embryonic and adult stem cell scientists.

Senator McGauran—But answer the question: is the embryo life or not?

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order!

Senator STOTT DESPOJA—Thank you, Mr Acting Deputy President. Senator McGauran will have his turn. It is notable that Professor Catherine Verfaillie, who is widely acknowledged as one of the leading adult stem cell scientists in the world, recently stated on the ABC:

I think my message has always been, even though we’re excited about the adult cells, that it’s too early to say that they will replace embryonic stem cells to the point that our institution, the Stem Cell Institute, we actually recruited and investigated who has extensive experience in human embryonic stem cell work, so we’re now in a position to do ... parallel research and comparing and contrasting the two cell types.

This is quite significant, because there are a number of researchers who may be working in one or either field and who are still proponents of both fields; they see work in those two areas as being quite complementary, quite compatible. There is a clear message, in looking at the scientific evidence, that there is synergy between research into adult stem cells and research into embryonic stem cells. I think that is incredibly important and hence another reason why we should not seek to prohibit or restrict embryonic stem cell research. Professor Bob Williamson from the Murdoch Children’s Research Institute, who is a professor of Medical Genetics at the University of Melbourne and an adult stem cell researcher, has stated:

What I believe to be absolutely certain is that there are real benefits in allowing adult and embryonic stem cell research to proceed side by side in the same laboratories, so the experiments cross-refer and so that lessons can be learnt by comparing the two systems.

The Democrats conclude that it is a false dichotomy to consider the issue in terms of embryonic stem cells versus adult stem cells. We believe that a very strong case has been made to encourage research into both with a view to understanding the relative merits and
disadvantages. Moreover, there is a very good case to be made for encouraging productive cross-fertilisation of ideas and methodologies. While not relevant to this bill, we note that this synergy between adult and embryonic stem cell research is a central feature of the national stem cell centre.

Many issues associated with this legislation will be discussed in detail in the committee stage, including the AHEC guidelines, the scope of the legislation, the negative impact on IVF clinics caused by the additional level of compliance, the need for additional stem cell lines and the nature of the evidence. Today, depending on the time left to me, I will touch on a couple of issues. One thing that it is important to place on the record is the number of embryos available. It is widely stated that there are around 70,000 excess ART embryos. My understanding is that this is not correct. There are, in fact, about 70,000 embryos in storage because the couples for whom they have been created still want them, have not decided if they are no longer required or, if the embryos are excess, have not determined what they want to do with them. It is not known how many of these are excess in any given year or how many would be available for research. Westmead Hospital, for instance, advised that more than 60 per cent of their frozen embryos are used each year in IVF treatment cycles. According to the South Australian Council on Reproductive Technology, in 2001 only 137 embryos were donated for research in that state. At Westmead Hospital only three out of 150 couples who responded to a letter from the hospital seeking advice on their excess embryos chose to donate their excess embryos for research. While the number of excess embryos is not known, it is safe to say that the number available for research and stored prior to 5 April 2002—the key date in the legislation—is likely to be quite small.

The bill allows for the Commonwealth, to the extent of its constitutional powers, to override existing legislation in Victoria, South Australia and Western Australia. It has been argued that allowing the Commonwealth to override state laws is not consistent with COAG, nor is it democratic. I think this argument is seriously flawed. It ignores the fact that the states and territories are parties to the COAG communique; thus the states rights rhetoric is misconceived in this case. We believe that one of the real strengths of the COAG agreement is that it unequivocally intends nationally consistent regulation. Therefore we will be opposing any amendments that seek to break the integrity of this approach.

On a final note, an issue that was raised frequently during the course of the inquiry was concern about intellectual property rights over embryos, stem cell lines and the products of those stem cell lines. Patents and intellectual property are not covered by this legislation, and the licensing committee will not include the commercial interests of an applicant in their determination on licence applications. Many would know of my longstanding interest in patent and intellectual property rights in relation to biotechnology and many know that, for example, I have a private member’s bill that opposes the patenting of genes and gene sequences. I would like to see a more considered approach. I would like to see that legislation passed. I would like to see an approach that is well grounded in the challenges that genetic sciences pose to law-makers seeking to balance the interest of inventors and the community. I sensed during the committee stage that there was a lot of support for prohibiting the patenting of genes, for example, and I hope that those senators who indicated their concerns about patents and intellectual property will perhaps reconsider their views on the private member’s bill, as I think there are some inconsistencies.

The Australian Law Reform Commission, the ALRC, and AHEC are currently doing a very comprehensive review of issues relating to the protection of genetic information, prompted by work over the last few years. I also have a private member’s bill from 1988 outlawing discrimination on the basis of genetic information, as well as guaranteeing genetic privacy. I am glad that these issues are being looked into. I hope that there will be a comprehensive review of some of these issues. I want to foreshadow amendments that will go to that when we consider the bill
in the committee stage—not amendments to this legislation specifically relating to patients, but I do believe it is appropriate that AHEC and the ALRC are given another reference to consider issues of patenting, intellectual property and stem cell science, and that this reference should feed directly into the independent review of this legislation.

This also brings up the issue of stem cell banks—something that Senator McLucas and I both indicated in our report that we are interested in. I note that today that issue has been raised by another senator who was not involved in any of the committee deliberations on this legislation. I hope that he will support any amendments that come from me and Senator McLucas, who has had a long-standing issue in a stem cell bank proposal. In conclusion, the Democrats will support this legislation. I will be moving amendments to this bill on behalf of my party.

Senator CARR (Victoria) (12.39 p.m.)—I rise to support the Research Involving Embryos Bill 2002. As I am the shadow minister for science, you would not expect it any other way. I am a bit disappointed that the Minister for Science was not able to support the bill. I support the bill because I think stem cell research is potentially life-giving research rather than the contrary view that is put, which is that it is life taking. In doing so, I support the position advocated by a number of senior Australian scientists back in August of this year. The scientists were effectively in a unique position to make the statements that they did. None of them were directly involved in embryonic stem cell research. However, a number of them are in a position to know what the potential of this research is—namely, it has the potential to cure and successfully treat many serious life-threatening diseases. These are diseases that seriously affect or take the lives of our children: muscular dystrophy, cystic fibrosis, type 1 diabetes, spina bifida and leukaemia. These are the diseases that also end the lives of adults: heart failure, spinal injury and quite a range of cancers.

It is said that a lot of the claims made in support of this research have been overblown, and I accept that point. Nonetheless, the potential for lifesaving techniques to evolve from this research is all too obvious and it ought to be given a chance to proceed. The advice from these scientists was effectively controlled and it was considered. Their position was that we should not be advocating a laissez-faire regime for scientific research in this country. They went on to say that there is a realistic view of the possibility of benefits arising from stem cell research. These scientists believe it to be both the right and the responsibility of scientists in Australia. Their public statement said:

We wish to express our support for stem cell research and for the concept that adult and embryonic stem cell research should proceed in Australia under appropriate regulation.

This bill does that. In support of the case, they advanced three propositions that they believe are supported by the majority of the scientific community in this country. The first was that stem cell research holds great potential for the treating of a range of human diseases. The second was that it is not clear whether stem cells from embryos or adults would be more valuable for therapy and that some diseases may respond to one type of cells whereas other diseases may respond to another. However, it is important that research into both continues side by side. Finally, while respecting the considered views of those opposed to the use of embryos in research, they reject this position. They note that the embryonic stem cells proposed for use in Australia would otherwise be destroyed and that, with parental consent, the social and therapeutic value of their use is greater than their destruction.

The scientific and moral issues surrounding this are extremely complex. As legislators it is our responsibility to make the effort to understand these matters as best we are able. While respecting the views of those who have different opinions to my own, I would caution against any temptation to paint as of a matter of black-and-white reasoning the plethora of complex issues that confront us. That, of course, does not mean the issue of justice itself. It is worth going into some of the complexities of this bill. For example, we need to understand that embryonic stem cells were only discovered in 1998. This means that the potential, in scien-
scientific terms, is far from being understood in 2002. We simply do not know what can be done to save lives or improve the health of many sick people.

Many people have moral scruples about this sort of research. I share those values and the belief that human life must be respected, but I also know that moral judgments are, more often than not, matters that require sophisticated, honest, thinking responses. We should weigh up the various claims and considerations in this respect. In this instance, I am told by scientists involved in research into human disease that, in the future, it is highly likely that embryonic stem cells will not be used for a wide range of purposes, but for now embryonic stem cells are crucial because of their potential to multiply and to turn themselves into every type of tissue. As one scientist put it to me, ‘We need embryonic stem cells to learn how to use adult stem cells in the future.’ Perhaps in another world we would not have to use the unwanted embryos in research. On the other hand, for many people, including those who have generated excess embryos during IVF procedures, there is a belief that it is far better for their additional unwanted embryos to be used in a socially useful way in research rather than flushed away as valueless. I happen to agree with that view.

Over the past decade, the issues of stem cell research and other sorts of research have been matters of considerable debate in the Senate. I think, however, that we have to acknowledge that when it comes specifically to stem cells we face a dynamic situation in which research is evolving rapidly. One of the weaknesses of this bill is that it seeks to address a dynamic situation with a static regulatory regime. Unfortunately, that is a fact and I do not think there is much that can be done about it. However, we do acknowledge that new opportunities will arise and it is certain that in both scientific and medical knowledge the values of the community at large will change and develop—and may in fact develop very rapidly. It is not just a simple matter of the pros and cons of embryonic stem cell research at this point. The debate—if we look at the historical context—goes to much broader issues about the relationship between society and science. Throughout the last 600 years a range of views has been expressed about the values of science. We have a continuing responsibility to appreciate this debate. There are scientists who have acknowledged the responsibilities that they have to civic society. That ongoing dialogue is one that this parliament should be participating in.

Definitions of the role and importance of both science and religion have changed over time. There are many individuals who take a religious view on this issue of stem cell research. It is important to bear in mind that similar debates have marked the evolving delineation in the complex relationship between science and religion throughout the last 600 years. I am drawn to the example of Galileo, who was forced to recant because he believed that the earth revolved around the sun—a position that was at odds with the prevailing orthodoxy at the time. This particular science, as we now understand it, was in its infancy, and it needs to be appreciated that there are opportunities for scientists to advance human knowledge and understanding, which has in the past been inhibited by the attempt to impose a state based religious concept which has undermined the pursuit of knowledge and, in my judgment, the advancement of humanity.

As a pioneer of scientific method, Galileo’s experience marks a defining point in the delineation of the responsibilities and obligations of scientists in societies that have moved from being virtual theocracies to having a secular, and ultimately democratic, condition. Galileo’s experience formed the basis of a play by Bertolt Brecht, which many of us will be familiar with. At the climax of the play Galileo debates his predicament with his former student, Andrea. He says:

Truth is born of the times, not of authority. Our ignorance is limitless: let us lop one cubic millimeter off it.

He goes on:

One of the main reasons why the sciences are so poor is that they imagine they are so rich. It isn’t their job to throw open the door to infinite wisdom but to put a limit to infinite error.
What I take from Bertolt Brecht’s play is, firstly, that morality is not solely the preserve of religion and, secondly, that science should not be uncritically endorsed but should be pursued vigorously within the constraints of a civic consensus. That requires us as defenders of science to engage in that public debate. This is not a sectarian observation—all religious persuasions have a valid point of view and a right to put it, but I argue that the reverse is also the case. People who have a secular view about the development of society have an obligation to pursue their case. It is at once unnecessary and regressive to seek to vilify protagonists for stem cell research.

In passing, I would add that religion has no mortgage on morality, nor does a single religious consensus on this issue exist. Among the ranks of ministers and others engaged in organised religion there are to be found both supporters and opponents of stem cell research. I make this point because it has been suggested in some quarters that the great liberal values of humanism and rationalism have run their course and are bereft of new ideas or initiatives. This is clearly a position I reject. Bertolt Brecht, in his play Galileo, evinces a clear sense of the limits, the uses and the values of science. We should not denigrate the pursuit of knowledge through science, nor should we turn science itself into a religion.

In supporting stem cell research, I have my eye fixed firmly on the potential practical outcomes of this type of research. I do not regard either scientists or religious figures as infallible. No human being is infallible. Embryonic stem cell research should be constrained within a framework of rational debate and democratically created structures. It should be constrained by the national priorities for research that we ourselves as a nation determine. Those priorities depend on the potentially demonstrable practical outcomes of that research—and nothing can have a higher priority than the prevention and cure of life-threatening disease and disabilities.

Support for embryonic stem cell research because of its potential to reduce human suffering and alleviate the misery of many is both a rational and a moral act. It is not, as some more rabid opponents have suggested, the result of a suspension of credulity or a capitulation to snake oil merchants and scientific charlatans. That is a view I do not support. Secondly—and here I return to the basic sentiment of the leading Australian scientists that I mentioned earlier—society needs to debate the nature and extent of the constraints that we impose on research in this country. Research of any sort cannot be conducted in a vacuum or in the absence of a moral framework. That is acknowledged by supporters of stem cell legislation, and the need for such a mechanism is beyond dispute. Such a mechanism is provided for in this bill, and it will need to be kept under close review to ensure its continuing effectiveness.

The President of the British Royal Society, Sir Robert May, gave an extremely thought-provoking speech at the centenary dinner of the Royal Academy in Britain in July of this year. Among his remarks were several that I believe are relevant to today’s debate and which went to the issue of science and research in Australia. Sir Robert warned how easily the circumstances for intellectual creativity and discovery can be wrecked by dogma. For example, the question of the science of genetics in Russia was wiped out by the fundamentalist dogma of Lysenko right up until the 1950s, until the death of Stalin. Of course, we saw the Nazis snuff out Germany’s scientific base for chemistry and physics in just a few short years of the fascist regime. Sir Robert also commented on the ever present distrust of the so-called ‘new’, and stated:… whether it was the disturbing notion that our planet is not at the centre of the universe … or the fear that fast trains in tunnels might asphyxiate travellers.

Sir Robert May called for ‘a clear understanding of the scientific facts and uncertainties which frame the debate’. Of course, I fully endorse that proposition. He said that we need to be aware of those protagonists in the discussion: … who may in reality be bringing different agendas to the debate, like actors appearing on stage in disguise. This can turn what should be a discussion about openly acknowledged value-driven decisions … into something more like the adversarial games of the courtroom, with the science
deliberately coloured, selectively presented, or even misrepresented in pursuit of some larger (but unacknowledged) ideological crusade.

Sir Robert continued:

At the heart of all this is the need to understand how to conduct such debates, how to make the choices in an open way, and how to organise the formation of democratic consensus ...

He said that this is where the arts, humanities and social sciences are crucial to our understanding and to finding a way forward.

Research and innovation in Australia suffers from a low profile in Australia. Matters of public importance and debate—such as the one that is currently before the Senate—seldom receive the attention that they deserve. When they do, they are often seen as being of the gee-whiz variety or as being of the most sensationalist forms. As a consequence, the public do not have access to the range of views and the depth of knowledge that they ought to have. The media, frankly, is not interested in pursuing these sorts of policy debates in anything other than the most sensationalist forms.

If researchers—be they scientists, road trauma analysts or Asian linguists—are to achieve a greater profile, then they must be able to engage the public directly in that debate. They must also be more successful in arguing their position with both supporters and opponents and developing, I would argue, a means by which the public is genuinely engaged in this discussion.

I support this legislation. I think it is an advance on the present circumstances that this country finds itself in. It offers the prospect of hope for those who now despair. I think that this research ought to be defended and supported because it offers a real chance to assist people who are suffering. It offers the potential to address some of the most horrendous aspects of acute disease and, of course, the afflictions that go with that. Taken together, adult stem cell and embryonic stem cell research represent a complementary and critical research base from which we can address and attack those social problems. I also support the proposition that there has to be greater public debate on matters of science and research and on the place of science within our society.

As a nation, we are entering a period in which knowledge, information and innovation will be the currencies of prosperity, but they will not materialise from thin air. They will only develop if there is a genuine public debate about the importance of these matters and if there is genuine support from the Commonwealth. That will enable scientists to provide opportunities for the community at large within a proper democratic consensus which regulates the research. I would argue that not only do we as a nation urgently require an effective national research strategy but also we need a vibrant public debate on both the social priorities of research and the ethical framework within which research is conducted.

**Senator HUTCHINS** (New South Wales) (12.57 p.m.)—I wish to speak today in opposition to the Research Involving Embryos Bill 2002. I was one of the members of the committee that had the opportunity over many hours to hear expert opinion put before us in support of and against the development of embryonic stem cell research. I take issue with what I heard earlier from Senator Stott Despoja, Senator McLucas and Senator Knowles that they believe that the proponents of this stem cell research were treated poorly or wrongly at the committee stage. As far as I saw it, these proponents—who were overwhelmingly men and overwhelmingly businessmen—came before our committee to argue a case, in most cases on behalf of the companies or the organisations they represented.

The people who opposed the embryonic stem cell research were, by and large, men and women who were from the academic, medical and scientific field as well as the moral and religious field who had no commercial interests at all in the development of either embryonic or adult stem cell research. One of the opponents of stem cell research, Dr Peter McCullagh, when asked by one of the senators why we did not hear a lot more about adult stem cell research, said of those men and women who are undoubtedly involved in it that they suffer from the gene of humility. You certainly could not allege this with respect to the public relations campaign
in support of this legislation that people in this country have been subjected to.

The decision we need to make in relation to a value judgment on this bill is this: do the potential scientific and therapeutic benefits of embryonic stem cell research outweigh the ethical concerns surrounding the killing of living or potentially human embryos? We have had a lot of evidence and we have had an opportunity to hear many specialists argue their case. I hope I will have an opportunity to reply to some of the things that Senator Carr said. But I had the opportunity to hear those specialists and I came down with my ethical concerns about where this bill is going. The fact that the bill banning human cloning will almost certainly be passed unanimously by the Senate demonstrates that there are considerable concerns regarding the development of medical technology. The embryonic stem cell research goes too far by allowing the use of potential human beings in developing technology. Hundreds of my constituents have expressed a similar view and they have outnumbered those in favour of the legislation by about 10 to one.

Apart from my ethical concerns, there are a number of practical issues which make the bill unacceptable in its current form. There are two ethical issues involved in this bill. The first is when life begins and the second is the difference between allowing life to succumb and wilfully ending that life. The bill before us does not allow the use of embryos which are older than 14 days. The use of the 14-day rule was proposed by the Warnock committee in England, which noted:

There is no one single indefinable stage in the development of the embryo beyond which the in vitro embryo should not be kept alive.

This would suggest that the basis for the proposed Australian 14-day rule has little foundation in either logic or science. There appears to be little or no scientific evidence to suggest that this point represents the beginning of life. A witness before the Senate committee, Dr Best, provided evidence that physical human characteristics can be seen from fertilisation. I cannot recall how many scientific and medical degrees Dr Best had and the letters after her name. She spoke on behalf of the Anglican Church, Sydney Dio-

cese, and she said there was evidence that life exists as of fertilisation. Dr Tonti-Filippini gave evidence that suggested there is a significant ethical difference between allowing an embryo to succumb and wilfully harvesting stem cells from an embryo with its death as a direct result.

Madam Acting Deputy President Collins, I have listened to the debate and I have heard a lot of expressions, as you did as a member of the committee, that I am unfamiliar with. My background is not scientific or medical and I was not sure when I listened to all those men and women giving expert evidence. But I am sure that the motives were always questioned, not just by Senator Harradine or Senator Boswell, but by honourable men and women in the medical and scientific field. There was a very good submission put to us by Dr van Gend towards the end of our hearings. He represented a group called Do No Harm, which is the English translation of the Hippocratic oath in Latin. He posed this question to us: why is there no scientific consensus about the need for human embryonic experimentation? The advocates of this bill may get up and answer that.

Why is there no scientific consensus on this bill? It is because many other eminent scientists and medical people say that there is enough development in the adult stem cell area not to warrant the amount of money and the amount of research that, if this bill is passed, will be directed from adult stem cell research to embryonic stem cell research. I do question the motives, as did all those honourable men and women who opposed embryonic stem cell research. They said that these people—as I said, they were overwhelmingly men—had admitted to commercial interests involved in the development at this stage and they said it willingly. I am sure Senator Boswell will deal with the situation regarding Professor Trounson.

If we are to have an informed debate on this issue so that we can at least advise the Australian community how and why we voted the way we did in the Senate, I would invite people to look at a number of the submissions and evidence that we received in Hansard. All the medical people that came before our committee, many of whom were
in public service, argued quite forcefully that there were many question marks about embryonic stem cell research. A number of the terms that came up in relation to it included ‘deep reservations’, ‘false scientific premises’, ‘hoaxes of omissions’, ‘proof of concept wasn’t there’, ‘talk of treatments premature’ and ‘basic research yet to be done’. They also argued that there has been no proof of concept done in animals yet. That has not occurred—no successful process has been done in animals.

In fact, Professor Michael Good said that, where they have been implanting these embryonic stem cells into animals, either one in five of these animals develops cancer or 100 per cent of them develop cancer—I cannot remember which. Another doctor, Dr Silburn, said similar things and so did Professor Peter Rowe. So this is not the great magic wand that the Australian people have been led to believe it is by the massive publicity campaign that they have been subjected to. Indeed, I do not know whether people—perhaps like yourself, Madam Acting Deputy President—thought that we had already made up our minds about this. I did not have the opportunity, which it seems Senator Carr and maybe other proponents of this bill did, to have scientists come and sit down and tell me why they thought embryonic stem cell research should proceed. I was not given that; they never came and saw me and so I do not know.

But I do know that all these honourable fellows who came before us, proven and tested medical technologists, said that adult stem cell research is the way to go. They said it is the way to go and that if we divert our research funds from that to embryonic stem cell research we will be doing a great disservice. Not only is it not offering the great hope that Senator Carr said it is—it is not doing that at all, and I will come to that in a moment—but it would be wasteful of the funds it would require, because, as I said earlier, the people involved in the development of embryonic stem cell research are in fact people who are more interested in the commercialisation of public health and the public health system.

There have been quite a number of significant developments in the area of adult stem cell research. You may hear later in this debate statements about Professor Catherine Verfaillie from the University of Minnesota. She has demonstrated the presence of adult pluripotent stem cells in adult human bone marrow. That research was referred to by Dr Simmons. So the argument is out there that this is the way to go. Professor Michael Good, Professor Peter Rowe, Dr Peter Silburn and Dr Megan Best all say that to divert our money from the current level of investment in adult stem cell research into embryonic stem cell research would be the wrong thing to do in terms of public policy. It would be a waste of money and would not ensure the success that they say it will. Even Professor John Hearn, who is one of the proponents of it, says:

... we do not know what products will come to market. Embryonic stem cell applications would be hugely expensive and may never come to market.

So the situation with the adult stem cell research—and I am sure my colleagues will go into a bit more depth later—is that it appears to be the proper way to go. As I said, not only is there a question mark about what they call the hoaxes involved in this situation but people are also saying that there is not the proven scientific evidence required to go down this path. I have read out to you a number of quotes that I pulled out of the Hansard in relation to queries by these people who say that it is not a tested, scientific method with which to proceed. I have attempted to show you that that is the case. As I said earlier, the development of tumours in mice and rats with the use of embryonic stem cells has been one of the effects that they have seen. As Dr van Gend has said, there are a lot more human successes with adult stem cells—there is no tumour rejection and no rejection problems in humans.

I have had a long think about how this should proceed, Madam Acting Deputy President Collins. I, like you, have had a number of people with chronic illnesses contact me and say that they believe that this is, in effect, one of their only hopes to cure those illnesses. A number of those illnesses
have been caused by genetics or by accident. Like you, I have been moved by the distress that those people and their families are in. But, equally, I feel it is quite distressing—as has been said by any number of the people I have quoted—to offer a false hope in relation to what embryonic stem cell research may do.

I heard people before us, from neurologists to people in the institute of research to the Children’s Medical Research Institute at Westmead, say that it is wrong to offer people this sort of hope because, even if embryonic stem cell research proceeded, it would be anywhere between 10 and 15 years before anything came out of it. I quoted Professor Hearn as saying that he believed that it would be very expensive and might not be open to everybody and that it might not even come onto the market. It is terrible that people who have had problems—because of genetics or by accident—have been misled about what the advantages of embryonic stem cell research might be. Dr Peter Silburn, who is from Parkinson’s Australia and who is a clinical neurologist, took a swipe at BresaGen. Given the opportunity today, I would also like to look at some of the other claims in the submissions, particularly—not singling people out—BresaGen. I note that it says:

ES cell therapy, likely order of uses: simple single-cell therapies.

As I have just said, you cannot consider treating Parkinson’s with a single cell. It does not happen like that. There are nine other neurotransmitters or chemicals in the brain that are lost. It says:

Matching not needed.

That is nonsense as well, because the brain is a site that when you place things in it things are still rejected.

Professor Rowe, from the Children’s Medical Research Institute at Westmead said:

I would like to readdress one more question, again with regard to diseases. Diabetes is not going to be cured by putting in a cell which makes insulin or a pancreatic cell. Diabetes is a multigenic disease, particularly juvenile onset diabetes. All of you know children who have got juvenile onset diabetes. I have got two grandchildren with it. They get all sorts of complications, some worse than others. Some are virtually dead by the time they are 25. They are blind with kidney disease, peripheral neuropathy and God knows what else.

I asked him further questions and he said that he had a friend who had been diagnosed with diabetes, and he continued:

But the real point is that it is a multigenic disorder. There are whole patterns of genes within this that control the various complications that kill you from diabetes. It is not the sugar that kills you; it is the complications that kill you. I made the point earlier with regard to Parkinson’s disease. A close colleague of mine works on Parkinson’s disease, which is a long, slow progressive onset disorder. The process is continuous. If you start putting cells in there, what is going to happen to them? They will be destroyed by exactly the same process that was there before. So, let’s not be simplistic about it. The Christopher Reeve stories are a farce. I can understand his desire to give hope to others. It is the most appalling condition, quadriplegia. But it is not likely to be solved by the use of these sorts of technologies in the near future. If you are going to do it, for God’s sake go the adult route which gives you at least some hope of being able to look after your own tissues in the way they are supposed to be looked after—not foreign ones.

I am sure there will be a lot more debate on this, but I am very comfortable with the decision I have made to oppose this legislation. I think we have been sold a bit of a pup by some snake oil salesmen who believe that they have done a good PR job on the Australian community. The adult stem cell research is the way to go; we have been assured of this by some of the most eminent men and women in this country. As I say, I am comfortable that this is the proper course, for which I will vote.

Senator VANSTONE (South Australia— Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (1.17 p.m.)—I thank the Senate for the opportunity to contribute to this debate on the Research Involving Embryos Bill 2002. I would like to briefly refer first to a few remarks made by my colleague Senator Hutchins when he referred to hoaxes and other ruses that he alleged were devised by proponents of this bill to mislead the community. As I say, I am comfortable that this is the proper course, for which I will vote.
ness with some of the things that have been said by some opponents of the bill. I am not going to go down that track; I would simply ask Senator Hutchins to consider that what is important to the merit of a case is not the unsatisfactory arguments that some people on either side might ever have put but the substance of it, and we should go to that.

The second point I want to raise with Senator Hutchins is in relation to the point he made about Christopher Reeve. Senator Hutchins said that quadriplegia is a dreadful situation to be in and that it is not likely to be solved in the near future by embryonic stem cell research; it might take 10 to 15 years and be very expensive. To which I say yes, but is that the reason not to start now? I would have thought that the longer these things will take would be a reason to start as quickly as you can. In any event, let me come to my first proposition, which I allege is commonsense—it does not mean that much that I allege it; a lot of people allege things as being commonsense that in fact are not, so let me elaborate on the point. We have some stem cells in the freezer and in this bill we are talking about what we are going to do with them. Some will not be needed for their intended use—that is, some will be used and some parents will be very happy because the greatest desire of their lives will have been produced: they will have children, and they will not need the remaining stem cells. The question we are faced with is what to do with the surplus stem cells, the surplus fertilised eggs, that are there. We have a simple choice: either we can put them to good use or we can put them in the rubbish bin. You can dress up ‘putting in the rubbish bin’ in any fancy terminology you like, but that is in fact what happens. We can put to good use these fertilised eggs that are not needed or wanted, or we can put them in the bin.

In both situations what comes out of the freezer is denied the chance of any further development. If it is used for embryonic stem cell research, it is obviously not going to proceed down another path; if it is thrown in the bin, it is not going to proceed down another path. So my proposition holds irrespective of your view, Senator Hutchins, as to the nature of what is in the freezer. Whatever is in the freezer, whatever is coming out of the freezer at about five days, faces either the microscope, for greater good, or the rubbish bin. They are the two simple choices you have, and I see a fundamental difference between the two: if it goes in the rubbish bin, it is the absolute end—a complete and utter waste; if on the other hand it is used for the betterment of mankind, however long it takes for the results of that research to come to fruition, then surely by any moral standard that is the better path to take.

I know that many in the community oppose the continuation of this research—that is, many by way of number but I do not think by way of percentage—and a mix of reasons has been given. As best I can see, the views of the opposition to this bill depend on the particular view of just what it is that comes out of the freezer. There has been some debate about that and I would like to share my views on this issue as well. I think a proper, fair and practical description of what comes out of the freezer is a five-day-old ball of about 150 cells, and of that the researchers will want to use about 30. What comes out of the freezer is undeniably human tissue but it is not human. That ball of cells has no hope whatsoever of becoming a human being without further intervention. We should not confuse the existence of a chance of becoming a human being with actually being human. The tissue, I think, can be likened to organs taken from a recently deceased person for transplant. Neither the organ nor the tissue is dead; it is human tissue but it is not human. One might say the same of sperm, for example. You could say, ‘Let’s protect every sperm that is available because it might, under circumstances where other things have to happen, become a human.’ That is pretty much the same concept. What has to happen there is that the sperm has to meet with an egg to fertilise that egg, which then has to be looked after. What has to happen with a five-day-old ball of cells in which the egg and sperm have already met is that it then has to be implanted in a woman and stay there for nine months. In both cases nothing is going to happen unless other things are brought into play. So my very strong view is that we are not talking about a human; we are talking about human tissue
that will with the intervention of others, and only with the intervention of others, have the chance of becoming human.

I completely support a parent’s right to demand that any of these untouched fertilised eggs be left untouched for later use or not be used for research. However, I have confidence that very few, if any, parents who have had the advantage of the IVF program would refuse the opportunity for spare fertilised eggs to be used. They themselves turned to the wonders of science to give them what apparently nature was otherwise going to deny them, and I think those who through the wonders of science have had what must have been their greatest dream realised would certainly not deny the chance for science to produce better things for others. After all, how many fertilised eggs at varying stages of development were used in the IVF programs to get to the point where we could have a successful IVF program? I am confident that those people who participated in that program, who took the benefit of other people’s fertilised eggs that were not going to be used and so were used for science, would not deny future generations the opportunity to continue to benefit from that science.

Some opponents of allowing the research to proceed have seized upon various publications. One publication in particular is from the University of Minnesota—which I noticed you, Mr Acting Deputy President Hutchins, raised. The recent material, however, offers little support to the claim that we can now or will soon be able to leave embryonic stem cells alone and use adult stem cells. In fact, it points to a very long time period for that to be useful. The principal researcher, when her opinion was sought on the matter, made it very clear that she did not see her work as being something that should be offered in substitution for using embryonic stem cells—quite the opposite: it should be used in parallel with it. The plain facts are that embryonic stem cells are much more plastic or flexible. We can produce a much greater number of cells from embryonic stem cells and move them into different types with greater ease. They are much more useful than adult stem cells. I am not opposed to adult stem cells research either. Science is presenting us with an opportunity, and we cannot say no to it until we know the outcome from that science having taken place.

Senator Hutchins outlined very clearly—at although I might have a few points of difference—where we are now with respect to the science. Some supporters of this bill, including me, do not deny where we are now with the science. We simply want science to have the opportunity to take us to further and better places. You cannot say, ‘There is no practical application of this now, so let’s not do the research.’ That is the equivalent of saying to a child, ‘You are not allowed to swim in the pool until you have learned to swim.’ How can we possibly refuse to do research on the basis that we do not have the researchers’ outcomes? You will not get those outcomes until you proceed with the research. So, again, I am very much in favour of our proceeding with this research.

It might be worth raising a few examples of where politicians and the public generally have not been able to see in advance where pure or basic research would take us. I am told that an English mathematician named Hardy specialised in number theory—which, unless you are a mathematician, is not terribly interesting. He was apparently happy to boast about his fascination with number theory, its uselessness and what an expert he was on it. Of course, today, in the digital age, we all understand the need for encryption, and we all understand how much e-commerce would be limited if we did not have good encryption technology. Hardy is probably not with us today, but, if he were, perhaps he would be unhappy to find that what he thought was pure or basic research has been put to extremely practical use.

Even when basic research produces a result that allows practical application, humans are not always imaginative or entrepreneurial. I am told that IBM in its early stages was roundly abused and laughed at by a number of people when it took a huge gamble and bought the patent on the first mechanical computer. It had a number of very successful decades of being the one who laughed last. Another example is that of laser beams. It took industry years to see the po-
potential of lasers. In my lifetime, people regarded laser beams as silly little red lights that scientists sent from one side of the room to the other, and now we see them in day-to-day, practical application across the whole sphere of industry in Australia and elsewhere. I would ask opponents of this bill to think in their mind: ‘Which was the fourth country in the world to launch satellites?’ It was Australia. I am embarrassed to admit that we came after the Soviet Union, the United States and France. We stopped the satellite research because we thought they were just boxes that geeky scientists sent up in the air to send beep-beeps back. That is why our space industry is not as advanced as it should be.

The plain facts are that the politicians of the time and the community at the time could not see where that research would take us. Time and time again mankind learns that you have to do the research and find out what the answers are before you can possibly postulate where it will take you. In an industrial sense, I would say that we in Australia need to play to our strengths. We are well regarded internationally in a number of research areas, including astronomy, agriculture and medicine. Now is certainly not the time to put limits on emerging biotechnology, an area where we are well regarded internationally.

Let me turn to some of the objections which have their basis in a religious view held by their proponents. My own position is this: if you lead a good life, any god worth knowing will accept you into his or her heaven. I do not think—since I went to an Anglican school I will use St Peter as an example—that there will be any St Peter at some set of pearly gates dispatching infidels to another place, smirking behind his hand that this sucker made the mistake of going to a Roman Catholic, an Anglican or a Baptist church or of being a Jew, a Hindu or a Muslim. If in fact the basis for getting into heaven is that you pick the right church now, then frankly I am not terribly interested in getting there; it could be a very boring place.

I think that living by a decent set of values is far more important than defending the dogma of one church over another. I am confident that if you lead a good life and if there is a kingdom of heaven you will be welcome. Your religion is your business and no-one else’s. My personal view is that, when you make your religion an issue, you drag it into the political domain and you tarnish it. It follows that I attach very little importance or interest to arguments over religious dogma. Equally, I do not turn to the state to legislate for one religious view over another. Surely, we can clearly see the risks of adopting a view that your religion is the right one and the rest of the world must be converted.

I can recommend a great little book—unfortunately, someone who does not want to live by a good set of values has borrowed mine and not returned it—entitled The Godless Constitution which sets out very clearly the determined and successful efforts of a number of very committed and very conservative Christians to keep any hint of religion out of the United States constitution. In fact, I think the only aspect of it you will find referring to religion is where it names the date and refers to ‘the year of our Lord’. My view has always been that God, such as he or she may be, is after converts, not conscripts. I refer briefly to the United States Supreme Court case of Wallace v. Jaffree, which highlights this point. It said:

... the individual’s freedom to choose his own creed is the counterpart of his right to refrain from accepting the creed established by the majority ... religious beliefs worthy of respect are the product of free and voluntary choice by the faithful ...

Even better perhaps for this audience are the following words of the famous Clarence Darrow in the State v. Scopes, often referred to as the ‘Monkey Trial’:

The realm of religion ... is where knowledge leaves off, and where faith begins, and it never has needed the arm of the State for support, and wherever it has received it, it has harmed both the public and the religion it would pretend to serve. I raise these issues in relation to religion because there is a diversity of views amongst the churches, and within some of the churches, as to when life begins. So who are we to say we are going to adopt one point or another? We only have to look at the diversity of views within Australia and within the
Roman Catholic and Anglican churches to see the hazards of trying to legislate to any one position. Within and between different churches there are different views, for example, on what is described as ‘ensoulment’—when a human becomes a human as opposed to just another animal—takes place. For example, the Muslim religion believes that at 120 days ‘then the angel is sent and he breathes the soul into it’. Others believe this takes place at a stage much earlier than 120 days—some at 14 days.

My point is quite simple: each to his own religion. If you say to me that doing something is against God’s will, then I will respond by assuring you that, if God is annoyed, God will punish whomever has done that thing. The state should never be used as God’s enforcer. Over the years, as I have been approaching 50, I can assure you that I have every confidence in God’s ability to settle accounts. It has not been my experience that he or she is usually waits until you are dead. Many people who have done the wrong thing have met their maker in a practical sense while they were still alive.

In summary, I put these propositions again. We are talking about fertilised eggs that are in the freezer. They have not the slightest chance of becoming human unless they are accepted by the mother to be carried for nine months. We are talking about fertilised eggs where that is not the case. The consequence is that they are either going in the bin or going to be used for the betterment of mankind. My other proposition is that we cannot now say whether the science is good or bad. We do not know where the science is going to take us. Science of itself is not intrinsically good or bad; it is what we do with it that will make that case. I understand that the benefits of this research may take years to come. That only makes me say: start more quickly. I simply ask those who, because of their religious beliefs, have a very genuine concern about this bill to accept that they are entitled to follow their religious beliefs; they are not entitled to demand by legislation that everybody else does the same.

**Senator MARK BISHOP (Western Australia) (1.37 p.m.)—**I take part today in this debate on the Research Involving Embryos Bill 2002 not to repeat many of the arguments already discussed in the House and certainly to be addressed by the large number of individuals on the speakers list. I will first address in passing some issues that have guided my deliberations concerning this bill: the significance of the conscience vote and some of the issues discussed in the second reading debate on this bill in the House. Finally, I will outline my approach to this bill in light of the Senate Community Affairs Legislation Committee inquiry and how I have come to the conclusion that the bill, on balance, lacks sufficient merit to warrant passage in its current form.

Turning to the issue of the conscience vote, it is a rare thing within the Australia Labor Party and the broader labour movement to be allowed a conscience vote on any issue. The reasons for that lie in time, experience and history. I have a nodding acquaintance—no more—with the history of conscience voting within the ALP—or the lack of it—lie back in the formative stages of the various labour parties that operated from 1870 through the first 20 years of the 20th century. In those days, there was a fairly homogenous cultural instinct in Australia whose roots probably transcended class divisions and reflected societal roots in another Anglo-Celtic country. Put another way, our immigrant roots lay in Britain, Scotland, Wales and Ireland. Those immigrants to this country brought with them a particular set of cultural and social attitudes which, particularly in working-class and less well-off parts of Australia, became dominant and really did not start to change until the 1970s.

Within this milieu developed a strong instinct for social advancement and social change. If one reads a lot of the early debates of the Australian Workers Union, the various state trades and labour councils and the then emerging labour parties, one cannot but note the strong and dominant push for solidarity and unity. Both of these features of the early labour movements became supreme. The
desire for social advancement, social change, was to be met via institutional change, and the mechanisms of that change were solidarity and unity. This, of course, was readily acceptable to the community of the day and remained so for almost 100 years without challenge, because cultural and social values were, in the main, received and almost fixed in expression. Put another way, there was little dissent from the received view because it was the dominant social or cultural expression of the overwhelming mass of those groups that supported the then forming labour parties and the labour movement. Dissent or differentiation was rarely heard, because there was little challenge to the status quo.

Moving forward to current times, matters of differentiation or difference of opinion on social and cultural issues are not in dispute between parties. None of the major parties—or, indeed, the minor parties—have a unified, cohesive or consistent view on a range of topical issues. Dispute is more likely to occur intraparty, because views are honestly formed and deeply held. So debates like those on abortion, euthanasia and the value to be attached to human embryos—which in some respects are categorised as life and death issues—are simply precursors to other debates on a range of issues which are current in today’s community. Even stepping aside from social or cultural issues, there are significantly different views held intraparty on issues associated, for example, with the Middle East, Iraq, the role of the United Nations and the role of the US in international affairs. Within both government and opposition parties there are strongly held divergent views, and there is no unanimity within one party.

Similarly, in at least three states—South Australia, New South Wales and Victoria—there is a widespread and longstanding practice within the Australian Labor Party at state caucus level of permitting conscience votes on a range of social legislation. An example of this is the debate in South Australia on gambling, hotel drinking hours and, to a lesser extent, shop trading hours which at the turn of the 20th century reflected a culmination of viewpoints on social issues and which remained a strong feature of the operations of the South Australian Labor Party parliamentary caucus. Conscience votes are rare in the federal parties. They may well spread as parliamentarians come to accept a diversity and plurality of views within their own parties. Conduct of debate in conscience votes imposes a different set of obligations on individual members of parliament to listen to alternative views, to engage in debate upon an informed basis and to participate more fully in debate than perhaps is the norm.

Turning to the debate in the House, I have found on reviewing the transcript that a significant number of honourable members were confused about the intent of the bill. Certainly members of the House did not have the advantage of the findings of the Senate Community Affairs Legislation Committee inquiry. A number of members arguing in support of the bill failed to characterise this bill for what it really is. This is not a bill about stem cell research; nor is it about all of those Australians who are suffering from debilitating illnesses and disabilities and their prospects for a cure. This bill is about permitting the destruction of human embryos that have been created for the purposes of assisted reproductive technology procedures. Without this bill, embryonic stem cell research will continue. Already scientists have adequate stem cell lines to continue with existing and foreseeable research in this field of endeavour. Stem cell research will continue for many years without any need for new or additional stem cell lines. In this time, considerably more clarity will develop on the possibility of therapies for humans and the need for embryos to be destroyed in advancing that knowledge.

Unfortunately, it seems that a number of members have confused the separate issues of destroying embryos and stem cell research. As I said, this bill is not about stem cell research. Many members of the House, including the Prime Minister, have taken the approach that they do not have any ethical opposition to the use of excess ART embryos in research, given that the research holds hope for cures of various diseases and disabilities. To my mind, there are two problems with this argument. I accept that many
members do not have any ethical opposition to the destruction of human embryos. However, like many other Australians, I believe that a human embryo is a human life.

The proponents of the bill say they do not believe that this is human life we are destroying; rather, it is only potentially human life or, alternatively, it is only tissue. They believe there is a greater good—namely, that of finding therapies to treat those who suffer every day with disability and disease. The possibility of stem cell research holding a cure for any disability or disease, however, is remote and fails to take account of problems of immune rejection and tumourogenic problems associated with embryonic stem cells. So, given this simplistic view and the grossly overstated benefit, what is the purpose served by this bill? Are the current processes not adequate? If not, why not? Why does the matter need to be brought before the parliament at all? What is the motive? Why are people with disabilities being used as pawns in this debate? The answer is that this is a game in which biotechnology companies are seeking access to these human embryos, ultimately to further their own financial gain.

A number of speeches to the House of Representatives overstate the prospects of therapies resulting from stem cells. The experts indicate that these therapies, as nebulous as they might be, are still at least 20 to 30 years away. Arguments in support of human embryonic stem cell research were used time and again in the House to justify this bill. However, as I have already stated, the bill is not about stem cell research—that will continue irrespective of the passage of this bill. Rather, it is about allowing a particular group of scientists with ulterior motives to pursue personal and commercial advantage. Many speeches of members, including the Prime Minister’s second reading speech, stated that they were happy for the destruction of human embryos for research purposes to proceed under a strict regulatory regime as a sop to the concerns that I and many others have expressed. The regime is given to the National Health and Medical Research Council, but how effective is that? They are scientists of a kind, too, and they simply do not represent the diversity of views within the community or, indeed, within the scientific community.

I would like to turn now to the Senate Community Affairs Legislation Committee inquiry into this bill. Submissions to and witnesses before the inquiry raised a number of serious concerns with the bill. These were considered in the qualifying comments signed by me and seven other senators who were involved in the inquiry. The inquiry considered the detail of the bill—unfortunately, after full debate in the House. I think a number of members might have reconsidered their speeches with the hindsight of the evidence to the Senate committee. I have a few criticisms about the conduct of the inquiry that I would like to put on the record. In my view, there has been undue haste in the process. The period in which submissions could be made was very short, yet over 1,800 submissions were received. In spite of the clear community interest in the process, public hearings were held only in Canberra on sitting days. This is not typical of Senate inquiries. Time was regularly an issue for witnesses and senators alike. This bill raises issues of considerable interest among senators and there were seemingly unnecessary time restrictions imposed. In my view, those time restrictions were not imposed out of malevolence or in an attempt to restrict comment or debate. In making these comments I pass no criticism of the chair’s conduct. I simply note that the procedure was irregular for Senate inquiries into major pieces of legislation. Having adopted that particular procedure or that particular time limitation, naturally these sorts of criticisms would flow. I ask the question: why the urgency? Why are some governments trying to stifle debate on this issue?

As I mentioned earlier, I joined with a number of other senators in signing qualifying comments to the chair’s report. The purpose of those comments was not to discuss in detail the moral and ethical issues, as they are fairly well understood and most people will have a feeling one way or another on those issues. That, of course, is their democratic right. Aside from the moral and ethical questions that the bill raises, analysis of the flaws in the bill and its provisions is neces-
The questions must then be asked: are the flaws minor or major, and will they detract from the operation of the bill and the accomplishment of its purposes? Based on the evidence before the Senate committee, I have reached the conclusion that the flaws in the bill are so extensive that passing the bill in its current form is not warranted. A range of amendments will be proposed during the committee stage of the bill that will mitigate the worst of those flaws. The amendments that will be moved have been drafted in the spirit of attempting to remedy the major deficiencies that emerged during the bill inquiry. If those amendments are passed, it will prove that there is room for compromise and it will demonstrate that compromise in legislative action can address intractable moral and ethical dilemmas. My primary concern is that there has been a failure to justify the need for the legislation and a failure to make the case for the ethically questionable destruction of human embryos.

The qualifying comments include comments on a number of flaws in the bill. Those include the possible dubious motivations of those supporting the bill, raised by evidence about extensive but still largely unexamined commercial considerations of the bill’s supporters, and the misrepresentation of the relevant science to senators. Also, there was a range of concerns about the consequences of the passage of the bill and the drafting of its provisions and about the breadth of the destructive human embryo research that would be allowed. The bill does not simply permit the destruction of human embryos for the purposes of potentially curing debilitating diseases. Rather, it permits any research that the NHMRC licensing committee will agree to. There are concerns with the utilitarian approach adopted in the bill and the precedent-setting nature of the bill. And there is a range of concerns relating to various provisions of the bill and their regulatory adequacy. Fuller details on those may be found in the qualifying comments. Another justification for this bill is that it is based on the COAG agreement. However, it is questionable whether the bill is broader than the COAG agreement. For the justification to have any weight, the provisions of the bill would need to be restricted to the terms of the COAG agreement. It is clear, however, that the terms that COAG agreed to were considerably more confined and restricted than the provisions in this bill.

As for the arguments of supporters of the bill that the legislation is critical as it offers the hope of a cure to sufferers of a range of disabilities by allowing embryonic stem cell research to continue, this is already possible. Research on embryonic stem cells is at a very basic stage, and there is no evidence that embryonic stem cell research offers any hope of a cure to sufferers of various diseases. Many witnesses before the committee agreed that existing stem cell lines are adequate for present research purposes. Even if embryonic stem cells did hold the promise of treatments for human patients, the number of human embryos to which this bill grants possible access would be completely insufficient for the creation of therapies for human patients. Other evidence presented to the inquiry indicated that present science suggests embryonic stem cell research offers inferior outcomes to alternative areas of research that do not pose the same ethical dilemmas and do not require the destruction of human embryos.

I have some serious doubts about this bill. I went to the Senate inquiry with an open mind about the bill and discovered, based on the concerns with the bill that were raised in the Senate committee process, that I had more than ethical objections to the bill. I would ask senators who have not been involved in the Senate inquiry to take a careful look at the provisions of the bill and ask themselves why this bill is so important and who it is important to. One thing the inquiry demonstrated is that there is no present need to destroy human embryos for research. I acknowledge that there are various opinions on the ethical issues held by senators. However, I think most senators would agree that it is important for us to address identified issues with the drafting of the bill. At the very least, we should ensure that the bill properly reflects the framework agreed by COAG. I will, for these reasons and for the reasons outlined in the qualifying comments to the Senate inquiry’s report, oppose this bill if it comes to us in its current form and
seek to address the more pervasive flaws in this bill.

**Senator ABETZ (Tasmania—Special Minister of State) (1.54 p.m.)—**The Research Involving Embryos Bill 2002, if passed, will trumpet to the world at large that the Australian parliament believes human life is a thing or commodity that can be used, as opposed to a sacred, unique, inherently precious being worthy of support and protection from its very beginning. The long title of the bill tells us that this bill seeks to ‘regulate certain activities involving the use of human embryos’. It could just as well read ‘the use of human life’.

It disappoints me greatly to think that as a society we are prepared to so demean human life as to turn it into a commodity. Human life is to be nurtured, protected and revered, not used—and, more importantly, not used when the use to which it is put is in fact its very destruction. As soon as we make an exception the rationale or so-called ‘logic’ can always be stretched and expanded. We now have so-called ‘ethicists’ publicly urging infanticide for certain types of children. That is a direct result of our society failing to live up to its obligation to cater for the needs and protection of the unborn and their mothers. If we sanction destructive experimentation on embryos, why not foetuses—or, indeed, children or us or those about to die from natural causes anyway? Where does it stop? Indeed, why should it stop? I say it should never start. For those who want to argue a commencement point for destruction of human life, let them say exactly where that point is. I have not heard anybody in this debate put a cogent, sensible argument as to exactly where that point is, other than those who said it commences at the time the ovum is fertilised.

Some most unfortunate forays into the debate have occurred. Dr Trounson’s gross misrepresentations, and later attempted explanations, make him quite unfit to be advising on this matter. His patronising and quite dishonest advocacy should lead to him vacating the field and not discussing these issues. If the benefits of embryonic stem cell research are so overwhelming, as claimed, there is no need for those gross misrepresentations. Indeed, it is interesting to go back to the 1986 Senate select committee. On pages 108 and 109 of the report of that committee there was a very interesting exchange between the distinguished then Senator Shirley Walters and Dr Trounson. Senator Walters asked, ‘Why 13 or 14 days?’ Dr Trounson agreed it was a completely arbitrary line and that life was in fact a continuum. The then Senator Walters asked, ‘How far would you go? You say 28. If it solved every disease on the Earth, how far would you go?’ Dr Trounson replied, ‘I would do anything to cure disease.’ Sure, he dresses it up on the basis of curing disease, but the reality is that some of these scientists will not stop at anything in relation to this very important matter.

The New South Wales Premier has similarly been guilty of raising false expectations. To run the false hope that a cure is just around the corner for a variety of diseases is quite unconscionable. Even if all the experimentation did lead to positive results, the best advice is that cures would not be available for decades; yet we have the New South Wales Premier blandly asserting that embryonic stem cell research will lead to cures. This is false and it places the debate on a false premise. There has been no successful research in relation to embryonic stem cells, but of course there has been in relation to adult stem cells. I did not know my speech was so great that all my fellow colleagues would walk in to listen to it. I look forward to their similarly filling the chamber when I continue my remarks after question time.

Debate interrupted.

**QUESTIONS WITHOUT NOTICE**

**Telstra**

**Senator FAULKNER (2.00 p.m.)—**My question is directed to Senator Alston, the Minister for Communications, Information Technology and the Arts. Can the minister confirm that, when asked to explain his telephone calls about the COT cases to Neil Jepson, the solicitor for the major fraud group of Victoria Police, he first denied on the Sunday program that he made any such calls; then claimed on the same program that he made the calls to ensure ‘matters were properly
investigated'; then claimed in a media release that he made the calls to ensure that any action he took 'did not compromise any investigation'; and then said on AM and on the 7.30 Report that he had made the calls on behalf of Mrs Ann Garms, which she vigorously denies? Minister, which of these four differing explanations is the correct one, if any?

Senator ALSTON—The starting point is the first question I was asked on the program in relation to this matter, which was:

You've even made phone calls for the investigating officers, correct?

My answer was:

No, not true.

I have no reason to think that is anything other than an accurate statement. It was then said that I had made two phone calls to Neil Jepson, the major fraud group’s investigating solicitor. It is worth interpolating that there was no context attached to that question. Since the matters had been settled some 3½ years ago, I had had no reason to turn my mind to any matters relating to this particular issue and of course the whole purpose of the interview was supposedly to do with matters relating to the implications for freedom of information as a result of privatisation.

Opposition senators interjecting—

Senator ALSTON—You do not have to take my word for it, because two letters came in from the Channel 9 program: Sunday intends to broadcast a story on 20 October on the potential impact on the consumer of the privatisation of Telstra, firstly, and, secondly, in relation to FOI. That is the context in which I expressed a desire to know when it was alleged that I had made those phone calls to Mr Jepson. Following the program, I put out a release to which Senator Faulkner referred, in which I said:

My considered recollection is that, following a request to do so on behalf of the CoT cases by Senator Boswell, I contacted Mr Jepson in order to satisfy myself that any direct action I might take in regard to Telstra did not compromise any investigation which might be undertaken by the Victoria Police.

Essentially, I repeated that statement in subsequent interviews. In other words, I made it plain at all times that I had not received a direct request from Mrs Garms or, indeed, from other CoT case members, but I had received a request from Senator Boswell, who had, on behalf of Mrs Garms and others, over a period of many years been making consistent representations to me. I proceeded on the basis that Senator Boswell was similarly making those representations. I think that makes it clear that at no time did I suggest that Mrs Garms had asked me to call, but that Senator Boswell had done so. I reject any claims that I sought to interfere in any way with any police investigation. The Victoria Police have put out two separate statements on the matter, one of which says:

At no time has any outside party attempted to pressure, influence, coerce or intervene in this matter and we reiterate that Victoria Police have investigated this matter fully and impartially. I have no reason to think that there were any other phone calls made by me to anyone other than Mr Jepson and that, as I understand it from advice received by my office from the Victoria Police government liaison officer, is the understanding of the police on the matter as well. As I say, I am aware also of claims that the Victoria Police investigation stalled and that that was in some way related to my phone calls. This is again not so and is not confirmed by the facts. The facts are that not only did police press releases make it clear that the investigation was at an initial stage whilst Mr Jepson was attached to it but it was subsequently upgraded to an investigation. That was also the understanding of Mr Graham Schorer, who described himself as the spokesperson for the CoT cases in a letter of 17 June 1999, when he said that, on the 22nd, the Victoria Police had advised—(Time expired)

Senator FAULKNER—Mr President, I ask a supplementary question. Minister, on how many occasions did you ring Mr Jepson? Can you indicate clearly to the Senate how many occasions you did ring Mr Jepson? Secondly, can you indicate to the Senate if you rang anyone else in the major fraud group? In particular, did you speak to Detective Sergeant Rod Keuris?

Senator ALSTON—In the first instance, of course, my recollection of these events
was vague in the extreme for the obvious reason that I had had no reason to turn my mind to them since I understood the matter to have been settled. However, I have since had discussions with Senator Boswell and his office, which have thrown some further light on the matters. It seems now that on 15 March I rang Mr Jepson on two occasions. There is nothing to suggest that I rang any other person, so that of course rules—

Senator Conroy—Twice.

Senator ALSTON—Yes, twice within a short period of time, as I understand it—both on the same day. The second was essentially a follow-up question to the first. I have no reason to believe that the police have any understanding that I rang anyone else. Certainly I have absolutely no knowledge of any suggestion. However, I am aware that Mrs Garms has intimated that there were more calls made than two—(Time expired)

**Telstra: Privatisation**

Senator COLBECK (2.07 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Did the coalition commit before the 2001 federal election not to progress any further sale of Telstra until arrangements are in place to ensure services are adequate? Is the minister aware of any evidence that demonstrates that arrangements are now in place to deliver adequate services?

Senator ALSTON—Indeed, in the year 2001—which might seem a long time ago now—we stated:

The government will not proceed with any further sale of Telstra until it is fully satisfied that arrangements are in place to deliver adequate services to all Australians.

In other words, we were very up-front because we had already received a report from Mr Besley which had made, I think, 16 recommendations and we were in the process of implementing those. We made it plain going into that election that we would not proceed unilaterally and that we would not do what the Labor Party had done, for example, in relation to the Commonwealth Bank: say one thing before the election but do something else afterwards.

In August of this year, we announced the establishment of the independent Regional Telecommunications Inquiry to review regional services in respect of telecommunications and to take a fresh look at telecommunications services in the light of the considerable investment and improvements made since we came to office. As I am sure honourable senators are aware, over the past five years we have spent something in excess of $1 billion on regional and rural telecommunications infrastructure; and that makes us world’s best practice. As a result, the report found that the government had responded positively and comprehensively to the findings of the 2000 telecommunications service inquiry and that arrangements had been put in place that are addressing community concerns.

The report also stated that the inquiry is confident that arrangements that have been put in place over the past five years, including the TSI response together with commercial developments and the inquiry’s further recommendations, will create an environment into the future where regional, rural and remote Australians would be able to benefit fully from advances in telecommunications technology and services. The report does make a number of recommendations—39 in all—which will require a considered response, and we are in that process. There were a number of submissions that naturally tended to highlight some of the shortcomings that individuals might have experienced in their dealings. But, given the mammoth level of operations on the part of Telstra, it is not surprising that there are always going to be some concerns about the level of service. The overall report makes it very plain that those substantial implementations have led to a very significant level of service, which can now be regarded as adequate.

I think the real question arising out of the whole exercise on the Friday is why Mr Tanner, who is supposedly still the shadow minister, put out a press release saying that he was going to have a press conference at 2 o’clock, but that was unilaterally cancelled and Mr Crean came in over the top. Mr Tanner was not allowed to speak at the press conference and was not allowed to put out
his own press release. It is very difficult to understand what is going on here. To describe this as a whitewash, which is the usual knee-jerk response to anything you do not like, does not sit at all well with what the Democrats said, which was essentially that this makes out a case for further government ownership. Of course you would have to spend about another $6 billion if you were to acquire another 10 per cent of Telstra into government hands.

I think the responses have been fairly predictable. Certainly, the Labor Party have once again demonstrated that they have no interest in good policy outcomes and no interest in looking at whether those in regional and rural Australia are being well served by telecommunications. They have never supported any of our Networking the Nation initiatives or the customer service guarantee or the Network Reliability Framework. This report makes it plain that we are very well placed in Australia and we ought to be able to move to the next stage. We will be doing just that, as soon as we have had an opportunity to respond comprehensively to the report.

**Telstra**

**Senator FAULKNER (2.12 p.m.)—**My question is directed again to Senator Alston, the Minister for Communications, Information Technology and the Arts. On the two occasions that you spoke to Mr Jepson, the solicitor of the Major Fraud Group of Victoria Police, can you indicate what precisely you said to him? Did you at any stage refer to the Australian Federal Police—particularly as I had told the Senate, some three or four days earlier on 11 March—that I would be writing to Telstra. According to the Victoria Police government liaison officer, my second phone call was to ask whether the police had contacted senior management at Telstra about this matter. Again, this is totally consistent with my statement made on the day of the *Sunday* program, where I made it clear that I wanted to make sure that any direct action I might take with Telstra did not interfere with the Victoria Police investigation.

I think that tells us the answer to Senator Faulkner’s last two questions: did I refer to the Federal Police—and it would seem I did not—and did I suggest that they somehow go slow or stall? Again, there is no suggestion from them that I did—quite the contrary. They have put out, as I have said, two separate releases, one of which said:

The Victoria Police has conducted this investigation thoroughly and impartially without coercion from any outside party.

They said that in a release of 17 October, and on 23 October they said:

At no time has any outside party attempted to pressure, influence, coerce or intervene in the matter.

**Senator ALSTON—**As I have said, on those two occasions I spoke only to Mr Jepson. I am informed, and I have no reason to doubt this, that the first conversation was longer than the second but that neither of them was an extensive conversation. Can I indicate precisely what I said? No, I cannot, because I do not have notes of that discussion; but I do have information provided by the Victoria Police government liaison officer—

**Senator Mackay—**You can’t remember two phone conversations!

**Senator ALSTON—**Three and a half years ago; that is right. But, fortunately, the police have records. If you want to know what was canvassed in those calls, according to the Victoria Police government liaison officer, my first phone call was to ask whether the police were aware of recent material relating to the alleged upgrade of the Fortitude Valley exchange. Of course, this was highly relevant in determining how I handled the matter directly with Telstra—particularly as I had told the Senate, some three or four days earlier on 11 March, that I would be writing to Telstra. According to the Victoria Police government liaison officer, my second phone call was to ask whether the police had contacted senior management at Telstra about this matter. Again, this is totally consistent with my statement made on the day of the *Sunday* program, where I made it clear that I wanted to make sure that any direct action I might take with Telstra did not interfere with the Victoria Police investigation.

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They said that in a release of 17 October, and on 23 October they said:

At no time has any outside party attempted to pressure, influence, coerce or intervene in the matter.

**Senator ALSTON—**Absolutely not. All the evidence suggests quite the opposite. In fact, if you look at the police statement of 23 October they said:
Solicitor Neil Jepson is assigned to the Major Fraud Squad Initial Action Section. His involvement in this complaint lasted for a period of only 12 months commencing in 1998 during its assessment phase. This was prior to the matter being assigned to an investigation crew.

In other words, the inquiry had been upgraded. That is very much what was also said by Mr Scorer in his letter, which was dated several months later: that not only had the Victoria Police upgraded the matter but also he was urging people to contact them. He was speaking on behalf of the COT cases. So quite clearly he did not believe that, either.

(Time expired)

Foreign Affairs: Iraq

Senator FERGUSON (2.16 p.m.)—My question is directed to the Leader of the Government, Senator Hill. Will the minister inform the Senate of the most recent resolution passed by the United Nations Security Council in relation to Iraq? Will the minister also outline why it is important that Australia support international efforts to bring an end to Saddam Hussein’s program of weapons of mass destruction?

Senator HILL—I thank Senator Ferguson for his questions. It is true that the Security Council has now passed resolution 1441 in relation to Iraq, and we welcome that resolution. This government has held the view that it is important that Saddam Hussein disarms and that he ends his program of weapons of mass destruction. We have also expressed the view on many occasions that it is preferable that that be achieved through collective action under the auspices of the United Nations Security Council. Therefore, although it has taken some time to achieve—it is about four years since the inspectors were in effect thrown out of Iraq—it is pleasing that the United Nations has now taken up that responsibility and passed a unanimous resolution. I think it is worth reinforcing the fact that this resolution was unanimous and included such states as Syria, so that Saddam Hussein knows that he is now totally alone, that the international community as a whole is determined that he end his weapons program and that the threat be removed.

I think it is also noteworthy that the resolution has been passed in the strongest possible terms. For the benefit of honourable senators who may not have had an opportunity to look at the resolution, I can bring to their attention the fact that it recognises Iraq’s non-compliance with previous resolutions; that it recalls its previous resolution that authorised the member states to use all necessary means to uphold and implement the resolutions; that it deplores the fact that Iraq has not provided an accurate, full, final and complete disclosure as required in relation to weapons in the past; that it deplores the fact that Iraq has repeatedly obstructed immediate unconditional and unrestricted access to sites; that it deplores the absence since December 1998 of international monitoring, inspection and verification; and that it deplores the fact that the government of Iraq has failed to comply with its commitments pursuant to resolutions with regard to terrorism and with regard to repression of the civilian population and other international humanitarian responsibilities.

The resolution recalls previous resolutions under which the Security Council agreed that a cease-fire would be based on acceptance by Iraq of those resolutions and expressed its determination to ensure full and immediate compliance by Iraq with its obligations. In particular, the resolution decided that Iraq has been and remains in material breach of its obligations under the relevant resolutions; that this is a final opportunity—and I emphasise the words ‘final opportunity’—to comply with disarmament obligations; that, in order to begin to comply with its disarmament, Iraq must provide a currently accurate, full and complete declaration of all aspects of its weapons program within 30 days; that false statements or omissions will be a material breach in themselves; and that Iraq must provide immediate unimpeded, unconditional and unrestricted access for inspectors—exactly the sort of terminology that this government has been seeking. It directs the Executive Chairman of UNMOVIC and the Secretary of IAEA to go back in and put the inspectors back in place, and it decides to convene immediately upon any irregularities. It is a strong resolution. (Time expired)
Senator CONROY (2.21 p.m.)—My question is to Senator Alston, the Minister for Communications, Information Technology and the Arts. Is the minister aware of the claims on the Sunday program that Telstra and lawyers Freehill Hollingdale and Page concocted a strategy to remove documents from the ambit of the freedom of information process by artificially dealing with them in a way which enabled Telstra to claim that they were protected from disclosure by legal professional privilege? Has he questioned Telstra about these claims? Are they true? Does the minister condone such behaviour?

Senator ALSTON—My recollection of the reference to Freehills was in the context of bugging allegations. Of course, that matter was comprehensively responded to last week, when I made it plain that the matters had been investigated by the Director of Public Prosecutions and that there had been a subsequent request to reopen that inquiry made last year by Mrs Garms. I think that the Attorney-General made it clear at the time that that was not appropriate. As far as the other suggestion that Senator Conroy makes is concerned, I draw your attention to a document called the COT strategy. The COT strategy was a document drawn up by Freehills as to how Telstra should go about creating legal professional privilege on documentation. I have not looked into that, but I have looked at some of the other material, including that of a professor who was mentioned in passing on the program and who gave some very long and complicated advice about legal professional privilege. What seemed to me to come through in that was that Telstra had sought high-level advice from Freehills about how they could protect their own position under FOI and, particularly—

Senator Conroy interjecting—

Senator ALSTON—You can laugh, but you would be negligent if you did not.

Senator Conroy—Only a lawyer could say that.

Senator ALSTON—Again, I can understand why it might suit your purposes to suggest it, but the fact of the matter is that, if you are subject to an FOI application, or you apprehend that there will be documents sought, you are entitled to seek legal advice as to how you can best not only respond to it, but protect your position.

Senator Conroy—Does that include concocting a scheme?

Senator ALSTON—I do not know that concocting a scheme is correct. I think that you are entitled to point out what the consequences might be if a document comes from a certain source rather than another. In other words, as I recall it, the suggestion was that all matters should go through legal counsel. Therefore, the matter would attract legal professional privilege in a way that it might not otherwise do. If that is the case, and as long as that is a genuine exercise in looking at whether or not documents are properly privileged, then on the face of it one can understand why Telstra would take that sort of action.

Senator Conroy—Have you asked Telstra yet?

Senator ALSTON—No, I have not asked Telstra about it. There were plenty of other matters—

The PRESIDENT—Order! Senator Conroy and Senator Alston, conversations across the chamber when answering questions are not appropriate. Would you please refer your remarks to the chair and avoid responding to allegations.

Senator ALSTON—Thank you, Mr President. He was trying to get a free question. He can wait for his supplementary question. The fact is that there have been a number of matters that have arisen from that particular exercise. I have looked into most of them as best I can and, certainly, in relation to that matter it seemed to me to be ultimately a very technical question. There is at least one High Court decision which takes you in a certain direction. In other words, it is a fairly complicated area of law—one on which you would expect Telstra, with its resources, to be able to get the best quality legal advice. No-one for a moment condones an artificial construct that has them pretending that a document is entitled to privilege when it clearly is not. But if there are some
ways in which a document might be protected when acting prudently, when it will not be if you act carelessly, you can hardly blame them for taking the former course of action.

Senator CONROY—Mr President, I ask a supplementary question. Has the minister taken any steps to ensure that Telstra complies with both the letter and the spirit of the Freedom of Information Act?

Senator ALSTON—The trouble with the spirit of the act is that it is in the eye of the beholder.

Senator Conroy interjecting—

Senator ALSTON—I think there was a time when you were a fan of Brad Cooper, if I may say so, through you, Mr President. I am sorry that you have jumped off the cart, but hopefully not completely. The fact is that it is not productive to ask any major corporation, or even any individual, whether they have responded to the spirit, because your interpretation of that might be quite different from theirs. What you can expect is for them to act in accordance with the law and not do anything that would be aimed at getting around the law in such a way as to make a mockery of the provisions. I know, from my involvement with freedom of information over probably 15 or 20 years, that it can become a very complicated area of law. That is why I imagine that Telstra got good legal advice. (Time expired)

Immigration: Asylum Seekers

Senator BARTLETT (2.27 p.m.)—My question is to the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs. Can the minister explain the extraordinarily long period of time—up to 10 years in some cases—that it has taken the immigration department to determine the claims for asylum from well over 1,500 East Timorese asylum seekers? Can the minister inform the Senate how many claims from East Timorese asylum seekers? Can the minister inform the Senate how many claims from East Timorese have now been rejected and when the decision on the remainder will be made? Is it the case that those people who exercise their right to appeal these decisions to the review tribunal will be plunged into poverty as a consequence, reliant solely on charity to survive for months, if not years, to come? Can the minister detail what the economic and social impacts will be if hundreds of families are unable to work and are ineligible for government assistance?

Senator ELLISON—There have been a number of cases in relation to the East Timorese. I understand that the department has been handing down primary decisions on protection visa applications for East Timorese asylum seekers since September 2002. It is inappropriate to discuss individual cases and why some cases took a certain length of time but, as at 11 November this year, 235 cases have been decided, covering 564 people. All decisions so far have been refusals. Further decisions will follow in the coming months in Victoria, Western Australia and New South Wales, where protection applications are processed. Since the minister announced that decision making on East Timorese cases would resume, 106 applicants have been otherwise decided, including those who have been granted another visa and those who have departed Australia. There are some 1,070 East Timorese asylum seekers awaiting a decision.

All applications are being assessed in accordance with standard protection visa criteria. Any person found to be owed refugee protection will of course receive it. However, it is not unreasonable to expect people who are found not to be refugees to return home when their country is safe and secure. Any person refused a protection visa by the department can seek an independent review of their case by either the RRT, the Refugee Review Tribunal, or the AAT, the Administrative Appeals Tribunal.

East Timorese applicants have had the opportunity to provide further information or claims in the light of the current situation in East Timor. East Timorese who have applications under consideration will be able to remain in Australia until their applications are finally determined. Existing arrangements for provision of asylum seeker assistance to those in need will continue. In relation to which visas will be granted, the recommencement of decision making on the East Timorese cases has not changed the types of visas available to East Timorese
people found to need protection. Those who arrive lawfully and are found to meet the criteria for a protection visa will be eligible for a permanent protection visa. Any who arrived unlawfully and lodged their protection visa applications before 20 October 1999 and are found to meet the criteria for a protection visa will also be eligible for permanent protection visas. Senator Bartlett mentioned I think 10 years in relation to some applicants. I do not have details in relation to that. I will take it up with the minister and get back to Senator Bartlett on that particular point.

Senator BARTLETT—Mr President, I ask a supplementary question. I note the minister’s comment that these cases are being assessed using the standard criteria. Does the minister acknowledge that these are not standard cases? These are people from East Timor who have been in the Australian community for many years. The department and the government have been well aware of what the situation has been in East Timor. Is it the case that out of all these people who have received negative decisions—over 564 already; that is, 235 separate families—any who seek to appeal to the tribunal in the meantime will not be eligible for assistance, will not be eligible to work and that the children involved in those cases will not be eligible to go to school? Can the minister indicate how many of those people who have married Australian citizens in this period and have been knocked back or are about to be knocked back will be forced to return home? How many children have been born in Australia whilst their parents were waiting to be processed? They will be eligible for Australian citizenship whilst their parents will not be eligible to be in Australia. (Time expired)

Senator ELLISON—There were a number of issues in the question. In relation to the number of children born and marriages in the interim, I will seek that information from the minister. Apart from the normal process that was engaged in for review, which is made available to people in such a situation, there was of course the need to ensure the situation in East Timor was clear enough to enable these cases to be determined reliably. I am sure Senator Bartlett would understand that, until recently, the situation in East Timor has been a rather fluid one. I will get back to him on those other details.

Telstra: Telecommunications Infrastructure

Senator MACKAY—My question is to Senator Alston, the Minister for Communications, Information Technology and the Arts. Can the minister confirm that the Estens report into regional telecommunications services accepts at face value Telstra’s claim that its new FuturEDGE workforce management database will solve the widespread problems associated with Service Plus and Director? Does the minister accept these claims at face value as well?

Honourable senators interjecting—

Senator ALSTON—Did you say ‘Service Plus and Director’? I could not hear you properly.

The PRESIDENT—Order! There was discussion in the chamber that did make it rather difficult to hear the question. Senator Mackay, could you repeat your question?

Senator MACKAY—Can the minister confirm that the Estens report into regional telecommunications services accepts at face value Telstra’s claim that its new FuturEDGE workforce management database will solve the widespread problems associated with Service Plus and Director? Does the minister accept these claims at face value as well?

Senator ALSTON—I do not recall reading anything about Service Plus and Director—whatever they relate to. Senator Mackay might be able to throw some light on that.

Senator MACKAY—I do not recall reading anything about Service Plus and Director. If you want to talk about the Estens report, I can do that at great length, because Estens deals with—

Senator MACKAY—that is what the question is about.

Senator ALSTON—No, it is not. I do not know what the question deals with. Does it deal with mobiles? Does it deal with general quality of service? Does it deal with the Internet?

Senator Mackay—Mr President, I rise on a point of order. I do not know whether the
minister wants me to read the question out for a third time, but the question was about the Estens report and one of the recommendations of the Estens report. Perhaps the minister could indicate whether he has in fact read the Estens report?

**The President**—There is no point of order. It is a question of the interpretation of your question. Minister, I hope you now understand what Senator Mackay is trying to ask you.

**Senator Alston**—As best she can, she seems to have explained her position. The fact is that I have read the findings and the 39 recommendations. I do not recall something called—

**Senator George Campbell**—They were the bits you wrote, weren’t they?

**Senator Alston**—He’s gone mad! You don’t need a telephone to talk to him; you could hear him if you were interstate.

**The President**—Please return to the question, Senator.

**Senator Alston**—I do not recall something called ‘Service Plus and Director’. Whether that relates—

**Senator Robert Ray interjecting**—

**Senator Alston**—Maybe Senator Ray has read this particular recommendation. He can enlighten us as to ‘Service Plus and Director’. Does it relate to the quality of service? Does it relate to the Internet? Does it relate to future-proofing? Does it relate to mobile phones? I am aware of all these recommendations—

**Senator Mackay interjecting**—

**Senator Alston**—You might think it is quite clever to find something so abstruse that does not relate to the main game, but it highlights Labor’s decision to play at the fringes. I noticed that Senator Cherry the other day put out a very comprehensive document on media policy. Can anyone last recall Labor ever getting serious about policy? To refer to some obscure provision without giving any context or explaining what it relates to in any event is silly nonsense. I can tell you what is in the Estens report, and I can tell you that, overwhelmingly, it has given a big tick. Some matters do need to be attended to. In terms of quality of service, you and I well know that Austel’s quality of service reports have made it abundantly plain that Telstra has lifted its game across the board on both fault repairs and installations to the point where 90 per cent plus is the norm.

In terms of Internet access what Estens recommends is that 19.2 be a licence condition and I think that is a reasonable proposition. In fact, he finds that as far as mobile phones are concerned the roll-out to towns of 350 or more, plus continuous and spot coverage on highways, is more than sufficient to meet the needs of those wanting mobile service, particularly when we have a 50 per cent subsidy on handsets for satellite services. If somehow none of those things mattered to Senator Mackay and the Service Plus and Director were the main game then I would be very interested to hear a bit more about it.

**Senator Mackay**—Mr President, I ask a supplementary question. I refer the minister to page 74 of the Estens inquiry. This was one of the major recommendations that relates to Service Plus and Director and a system called FuturEDGE, which I also referred to. Isn’t it true that the Estens report—and I again ask the minister whether he has read it—completely ignored the extensive problems in the network caused by the use of a corrosive sealant gel and took Telstra’s advice on this as well at face value?

**Senator Alston**—The logic of that is quite breathtaking: ‘Have you read the report, because you will find that it comprehensively ignores something I think is important?’ If it comprehensively ignores it, by definition it is not there, so what is the point?

**Senator Mackay**—Have you read the report?

**Senator Alston**—I have told you I have read every one of the findings and recommendations.

**Honourable senators interjecting**—

**The President**—Order! Senators on my left and those on my right will come to order and allow the minister to answer the question.
Senator ALSTON—We have a report in excess of 300 pages. I have already received comprehensive advice in relation to it. We are going carefully through the implications of each of those recommendations and I have looked at the parts of the report that deal with the major issues.

Senator Mackay—This is one of them.

Senator ALSTON—You might think it is major but, once again, you seem to be very obsessed—

Senator Faulkner—You have not read your own report.

Senator ALSTON—Of course, you have read it!

Senator Faulkner—No, I haven’t but I am not the minister.

Senator ALSTON—And you never will be.

The PRESIDENT—Senator Faulkner, Senator Mackay asked a question. Senator Alston, can you complete the answer, please?

Senator ALSTON—What we have done over the last five years in this area has been made abundantly plain by Mr Estens, and we have done very well. (Time expired)

Health: Medical Copayments

Senator LEES (2.40 p.m.)—My question is to the Minister for Health and Ageing, Senator Patterson. I refer the minister to a recent report, commissioned and funded by her department and written by the Health Economics Unit at Monash University, which details out-of-pocket expenses for people with chronic illnesses. Does it concern the minister that the report finds that some pensioners have to spend some 12 per cent of their income on medical copayments? Does the minister have any specific plans to reduce the growing level of medical copayments and, in particular, any measures to ensure pensioners are bulk-billed when they visit the doctor?

Senator PATTERSON—I thank Senator Lees for her question. With regard to increased payment and that particular report, the government has done a number of things about the issue of differences in payments for individuals and out-of-pocket expenses. Let me just begin by saying that there are about one million pensioners who have private health insurance and one of the measures that has been put in place to reduce gap payments for those people has been an arrangement with doctors not to have gap payments. There has been a significant increase in the number of doctors who are actually treating patients without gap payments. That is one of the measures that have been taken.

Another measure is that we have in fact increased payments to GPs since the 2001-02 budget by 24 per cent, up to and including next financial year—by increasing payments for immunisation, practice incentive payments and other incentives—to keep doctors in rural areas. There are 14 of those programs. Doctors bulk-bill less in areas where there are fewer doctors and, as I have mentioned a number of times in this chamber, we have spent $562 million over a period of years to increase the number of doctors in rural areas. Over the last four years we have seen an 11 per cent increase in doctors. I think there has been about a 4.3 per cent or 4.4 per cent real increase in the estimated number of full-time doctors.

Some of the issues surrounding the fact that bulk-billing is declining did not happen yesterday. They happened as a result of a maldistribution of doctors over a period of time. We had a high number of doctors in metropolitan areas, where some bulk-billing rates were up around 94 per cent, and we had fewer doctors in country areas and fewer doctors in outer metropolitan areas. As I mentioned, we spent $562 million getting doctors out into rural areas but you cannot turn that around overnight. These work force issues take a long time to redress. They take a long time to develop and they take a long time to cure.

The outer metropolitan area is another issue. We are addressing the issue of trying to attract doctors into outer metropolitan areas but we have to do it in a way that does not suck doctors back from rural areas into outer metropolitan areas. We have increased the number of doctors in training by 160 through the 100 rurally bonded scholarships and 60 new places at James Cook University, and we have a new medical school coming on-
line, through which some of those rural places will be filled, at the ANU.

We are working assiduously to try and increase the number of doctors in rural areas. I was at the Divisions of General Practice conference on Friday and was delighted to find that some divisions are actually working themselves to try and ensure that we keep our doctors. One division was working with overseas doctors training for their RACGP specialist training, giving them counselling and assisting them. It cannot all be done by government; some of it can be done by general practitioners themselves, and some of the divisions are doing very well. For example, they have taken up one of the programs we have where doctors get a benefit if they reduce overservicing in the Pharmaceutical Benefits Scheme. They can take half of that money and put it into their divisions—for example, employing practice nurses. That will relieve the strain on doctors. A large number of programs are being undertaken to actually try and redress some of the issues affecting general practice.

Senator LEES—Mr President, I ask a supplementary question. The minister mentioned the doctor shortage and the need to prevent rural doctors from moving, due to the incentives program, into outer metro areas. I ask the minister: does she agree that there is a shortage of doctors in total across Australia? The only places where they are still oversupplied are a few inner metro areas. Isn’t it time, Minister, that we began training in this country several hundred more doctors a year? Finally, does the minister agree that increasing the pharmaceutical copayment—the PBS copayment—by close to 30 per cent for pensioners will put significantly more pressure on the sickest and poorest in the community?

Senator PATTERSON—I am not sure that is a supplementary question when it went on to the PBS copayment. Senator Lees knows that the Senate actually opposed that. We have a Pharmaceutical Benefits Scheme that has gone from $1 billion in 1990 to $4.8 billion last year. It is unsustainable at that rate of growth. We were asking people to make a small—I know it is difficult—increased contribution to ensure that the Pharmaceutical Benefits Scheme is viable into the future. With regard to the number of doctors, AMWAC—the Australian Medical Workforce Advisory Committee—has indicated for a number of years that we had a sufficient number of doctors. They are actually reviewing those figures. But, as I said, we have increased the number of students going into medical school by 160 and we are looking at other ways to address some of the problems. One of the things that have happened is that doctors have changed their work pattern. There is an increased feminisation of the work force, which AMWAC says they have taken into account, but I believe that most probably some of the male doctors are now wanting to be more involved in family and work for fewer hours. (Time expired)

Telstra Enterprise Services

Senator LUNDY (2.46 p.m.)—My question is to Senator Alston, the Minister for Communications, Information Technology and the Arts. Can the Minister confirm that Advantra—the company which won the contract for IT in the Department of Communications, Information Technology and the Arts, the Department of the Prime Minister and Cabinet, and the ACCC—is now fully owned by Telstra and trades as Telstra Enterprise Services? What steps has the minister taken to ensure that Telstra does not have access to sensitive information, relating to Telstra, held by these three agencies?

Senator ALSTON—I cannot tell you off the top of my head what arrangements the agencies might have put in place to ensure that information they regard as sensitive should not be made available to Advantra/Telstra. To the extent that they are matters about which they would be concerned, I would therefore expect that they have entered into negotiations to ensure that their interests are fully protected. Other than that, I do not know that I could really add much.

Senator LUNDY—Mr President, I ask a supplementary question. Does the minister acknowledge that the Department of Communications, Information Technology and the Arts, and the Department of the Prime Minister and Cabinet are the principal government departments responsible for com-
communications policy? How can the minister assume or possibly guarantee that commercially sensitive information about the government’s policies and plans cannot reach Telstra via its wholly-owned subsidiary, Telstra Enterprise Services, which has control of the IT functions—including data and voice communications—in both of those departments?

Senator ALSTON—If the proposition is that somehow Telstra is our company and, therefore, it has access to sensitive government policy information, then of course there is an obvious solution, as you know, isn’t there? If, however, the issue is not privatisation, which would resolve all these conflicts of interest—

Senator Lundy—It’s a probity issue. Don’t try and fudge it; answer the question!

Senator ALSTON—Don’t try and get annoyed, either! It does not become you.

Honourable senators interjecting—

The PRESIDENT—Order! I ask the Senate to come to order so that we at least have a chance of hearing what the minister has to say.

Senator ALSTON—To the extent that there are concerns about anyone with whom the government might contract in respect of IT outsourcing or, indeed, of the use of any sensitive information, one would expect that the government has put in place those sorts of arrangements. It is not confined to telecommunications policy; it is a whole of government issue. (Time expired)

Indonesia: Terrorist Attacks

Senator SANDY MACDONALD (2.50 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Minister, will you update the Senate on the recent significant developments in the joint investigation by Australian and Indonesian law enforcement agencies to hunt down those responsible for the Bali bombings and bring them to justice?

Senator ELLISON—I thank Senator Sandy Macdonald for what is a very important question and one which all Australians will be vitally interested in. In the short time since the Bali bombing, there has been strong progress made in relation to the investigation. In fact, I think it would be fair to say that law enforcement in Australia did not expect the progress to be as it has been. Of course, this is a complex investigation—a big investigation—and one which has now resulted in a suspect, Amrozi, being held in the custody of the Indonesian police and making various admissions in relation to the transportation and manufacture of the bomb concerned. Another person has also been arrested—Mr Sylvester Tendean, a shop owner in Surabaya—in relation to the supply of chemicals allegedly used to produce the bomb. Other people have been detained and are being questioned by the Indonesian police.

The Australian Federal Police continue to have an essential role in this investigation and, although not having access to Amrozi, who is being held at the moment, the Australian Federal Police are happy with the evidence that is being provided and have stated that this has been a significant development and one which has resulted in new lines of inquiry. Apart from the statements made by Mr Amrozi, there have been other corroborating facts dealing with the vehicle concerned and the premises which are alleged to have been used for the manufacture of the bomb. The Australian Federal Police forensic team has been working closely with the Indonesians, and the AFP continue to be the lead foreign agency in relation to law enforcement in this matter. We have to remember that this investigation is being conducted on Indonesian soil and within Indonesian jurisdiction.

It is believed that the suspect Amrozi was in possession of the Mitsubishi L300 van which carried the bomb and that there is other evidence to corroborate what he has said to the Indonesian police. As well as the investigation by the Australian Federal Police, AUSTRAC is also involved. AUSTRAC is the foremost anti-money laundering agency in Australia and is widely acknowledged internationally as being excellent in detecting money laundering. Financing is the lifeblood of terrorism and AUSTRAC is working on this matter. It has
identified a number of transactions of interest and is pursuing its investigations.

Importantly in relation to disaster victim identification, I can report to the Senate that there are some 55 victims who have been repatriated to their next of kin. That figure is a substantial one. To date, 63 Australians have been identified as dead. We have had four deaths in Australia and there was one cremation in Bali, which brings that figure to five, plus the 58 who have been identified in Bali, so that is a total of 63. Of that, 55 have been repatriated. We will continue to deal with the remaining situation, where we have concerns for 23 Australians who are still missing. Our experts in Bali are continuing to carry on the disaster victim identification. We appreciate the anxiety of those who are awaiting news of those people, but we do believe the work that has been done to date has been excellent and the progress has been significant. There are other aspects to this affair and they are being pursued.

Defence Signals Directorate

Senator HOGG (2.54 p.m.)—My question is directed to Senator Hill, the Minister for Defence. Can the minister confirm that the Washington Post has made claims that the Defence Signals Directorate has intercepted signals from the Freeport mine area in West Papua indicating TNI involvement with the assassination of two Americans and one Indonesian? Whilst not asking the minister to confirm or deny the veracity of the article, what steps does the Australian government take to monitor the nondisclosure of material passed on to other security agencies by DSD? Would material emanating from DSD that later appeared in US newspapers indicate a breach of the normal terms and conditions of the exchange of information?

Senator HILL—I am aware of the article; I read reports of it in the Australian press. I am pleased that I am not being asked to comment on the assertions within it in relation to Australian intelligence, because I would not be able to do so. If I am then asked the hypothetical question of whether it is legitimate for our friends and allies to release intelligence that we provide to them, I would have to say no. But I am answering that in a hypothetical sense; I do not want you to draw a conclusion from that in relation to the Washington Post article.

However, I also take the opportunity to say that in relation to General Sutarto, who was mentioned in that article, we have no reason to have anything other than confidence in him, particularly his determination to improve the professionalism of TNI. We also believe his views on the appropriate distinction of role between TNI and civilian governance in Indonesia are heartening. So, to the extent that the article was an attack on him, we regret it.

Senator HOGG—Mr President, I ask a supplementary question. Minister, you missed that part of my question which went to what steps the Australian government is taking to monitor the nondisclosure of material passed on to other security agencies by DSD. Further, has the NSA expressed concern to DSD about the Washington Post article or, indeed, has DSD raised any concerns with the NSA?

Senator HILL—I am not too sure how we would monitor nondisclosure. It may well be that inappropriate disclosure might be monitored, but the intelligence relationship between us and our allies is very good and very professional. It is clearly not only to their advantage but even more so to our advantage. We greatly respect that relationship and will do everything we can to enhance it and build upon it in the future.

Telstra: Privatisation

Senator CHERRY (2.57 p.m.)—My question is to the Minister for Finance and Administration and concerns the proceeds from a proposed Telstra sale, which may or may not be used to pay off debt, depending on who in government is speaking. Has the minister availed himself of the ready reckoner provided by the Parliamentary Library to look at the real budgetary impact of the Telstra sale? Is he aware that, based on current share prices, the likely sale costs, the current bond rate on interest and the average profit growth for Telstra over the last four years, the model forecast an accumulated loss to the Commonwealth budget of $940 million over the first five years following a
Telstra sale? Given the sale is such a poor outcome for the federal budget, will the Department of Finance and Administration be withdrawing support for such a sale?

Senator MINCHIN—I have not read the document in question, but I look forward to doing so. I will just make a few points. The government has always said that, while its policy in principle is that the remaining shares of Telstra should be sold, we made it clear we would not proceed to implement that policy unless and until we conducted the Estens inquiry, examined its findings and decided on a course of action. We have only just received the Estens inquiry report and are in the process of considering our response to it. If, as a result of that report, we decide that it puts us in a position to implement our policy, we would then implement legislation to that effect—that is an if.

If the parliament then approves that legislation, the government would then have to decide under what circumstances to proceed with a sale. Obviously, as a responsible government, one that has managed the nation’s affairs so well for nearly seven years, we will make a very responsible decision on the question of the basis on which a sale would proceed—if the parliament approves legislation that we may or may not introduce, because that decision has not yet been made. So this is all utterly hypothetical. The basis on which the Parliamentary Library has done its figures is obviously utterly hypothetical, because no decision has been made. All I want to do is assure the Democrats, the Senate and the nation that the government will act with appropriate and due responsibility as to the timing of any sale to ensure that the position of taxpayers is optimised in any sale that does take place.

Senator CHERRY—Mr President, I ask a supplementary question. Continuing on with this very responsible decision-making process, can the minister inform the Senate whether the Commonwealth will be paying out unfunded superannuation liabilities out of the sale price, as suggested by this morning’s Financial Review, and is he aware that if this is done then the accumulated loss to the first five Commonwealth budgets following the sale rises to $2 billion?

Senator MINCHIN—As Senator Cherry may know, the arrangements to which he refers were entered into in 1990 under the previous Labor government. Under those arrangements the Commonwealth has been making payments to fund Telstra superannuation through determinations under the Superannuation Act 1976. Those arrangements also apply to Australia Post. Those arrangements are in place, are continuing and are an obligation that we have in relation to Telstra superannuation, and any suggestion or views about what might happen to those arrangements if indeed we did proceed to the full sale are again in the realm of hypothesis.

Senator Hill—Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Telstra Enterprise Services

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (3.01 p.m.)—During question time Senator Lundy asked me a question in relation to Advantra. I have had inquiries made and I understand that Telstra Enterprise Services, formerly Advantra, is required by its contract with the government to operate wholly independently of Telstra.

Senator Mackay interjecting—

Senator ALSTON—I have had a look at yours, and yours was a complete beat-up.

Senator Mackay—It is on page 74.

Senator ALSTON—A complete beat-up.

Senator Mackay—It is one of the main recommendations.

Honourable senators interjecting—

The PRESIDENT—Order! I remind senators that the President is on his feet.

Honourable senators interjecting—

Senator Alston interjecting—

The PRESIDENT—Senator Alston!

Senator Alston—My apologies.

PARLIAMENTARY LANGUAGE

The PRESIDENT (3.02 p.m.)—On 23 October 2002, during debate in the Senate on the report of the Select Committee on a Cer-
tain Maritime Incident, Senator Cook drew attention to language used in the minority report which he submitted was contrary to standing order 193, in that it constituted offensive words about senators, and asked for a ruling on the matter. He indicated that he accepted that there was no remedy against the inclusion of such language in a report to the Senate but asked for a ruling on the repetition of that language in debate. The Acting Deputy President, Senator Lightfoot, ruled that language contrary to standing order 193 could not be used in debate and undertook to refer to me the question of the use of such language in a report.

It is clear that there is no remedy against the inclusion of unparliamentary language in a committee report because neither the chair nor the Senate sees a committee report prior to its presentation. Nor does the majority of a committee see a minority report before presentation. Indeed, there is a resolution of the Senate to the effect that a minority on a committee is not obliged to disclose its report to the majority in advance. It is also clear that unparliamentary language may not be used in debate by the device of quoting a document. This rule has been upheld not only by rulings of the President but by reports of both the Standing Orders Committee, as it then was, and the Privileges Committee. There is no reason in principle for this rule not applying to committee reports as to all other documents. If it did not apply, senators could circumvent standing order 193 by simply including offensive language in a minority report or reservation attached to a report and then repeating that language in debate, with no ability of the chair or the Senate to control the breach of the standing order. Unparliamentary language should not be used in committee reports, and it is the duty of all senators to see that such a thing does not occur. If senators are in any doubt about the terms which may be used, they should consult the staff of the committee concerned in the first instance. Quoting material from a committee report does not excuse use of language in debate contrary to the standing orders. Apart from upholding the Acting Deputy President’s ruling, I do not think it is necessary to revisit the particular incident concerned.

Senator Cook—I seek leave to make a short statement on your statement.

The PRESIDENT—Is leave granted?

Senator Faulkner—I rise on a point of order, Mr President. I think that Senator Cook should either seek leave to move a motion that the Senate take—

Senator Hill interjecting—

Senator Faulkner—Hang on! Just wait a minute, Senator Hill. I am making a point. If you were on the ball, you would make the point of order, but I have to help you out because you are so slow you cannot even respond in these circumstances.

Senator Hill interjecting—

Senator Faulkner—But, anyway, I just keep saying to you—

Senator Hill interjecting—

Senator Faulkner—I know, but you’ve got to concentrate—

The PRESIDENT—Order! Senator Faulkner, I would like to hear your advice.

Senator Faulkner—Thank you, Mr President. In the absence of Senator Hill taking the appropriate point of order, let me make the point that Senator Cook either seek leave to move a motion that the Senate take note of the report or make some form of personal explanation, which it would be appropriate to do after taking note. I do not want to see the procedures that the opposition tries to consistently adopt in this place not adhered to on this occasion, albeit that I know Senator Cook wants to make an extremely important contribution in relation to this extraordinary abuse that Senator Mason and others have been responsible for.

The PRESIDENT—I take your point, Senator Faulkner. Perhaps, Senator Cook, you should seek leave to take note of my statement.

Senator COOK (Western Australia) (3.06 p.m.)—I seek leave to take note of your statement, Mr President.

Leave granted.

Senator COOK—Thank you, Mr President, and I will be very brief.

Senator Ferguson—I rise on a point of order, Mr President. Is Senator Cook taking
note of it or moving to take note of it? If he moves to take note of it, I guess other people can speak.

The PRESIDENT—Senator Ferguson, my understanding was that Senator Cook sought leave to take note of the answer. Any other person seeking leave to take note of the answer may do so, I understand, if leave is granted. So, Senator Cook, you are moving to take note of the statement?

Senator COOK—I am.

The PRESIDENT—Senator Ferguson was quite correct that if you do that other people may speak by leave.

Senator COOK—I accept your guidance, Mr President, and I will do as suggested. I now move:

That the Senate take note of the statement.

First of all I want to say that I thank you for coming back to the chamber and providing a considered ruling on the point of order that I raised at the time. It should be noted that, regarding the words in question, there is no difference between you, Mr President, and the then Acting Deputy President, Senator Lightfoot. The words were in fact unparliamentary. I have to say that I sometimes think we are, in this place, a little precious about what words are parliamentary and unparliamentary. The reason why I raised the point of order is that the people who are using these words are frequently on their feet taking points of order about unparliamentary language. In this particular case, the language that they are committing to writing has been ruled unparliamentary.

The second point worthy of note is that in the committee we decided that there would be an opportunity for the minority report to be seen by the majority so that we could have an intelligent and structured debate in this chamber about the points being raised on both sides and there would be no unfair surprise in terms of any comment made by any of the senators who had sat through what was a long and complex hearing. I have to say that I was not able to see the minority report until a number of minutes before it was actually printed and I was therefore in no position to raise any objection to the unparliamentary nature of the language being used. But had the original agreement struck in the committee been adhered to then there would have been an opportunity to identify the unparliamentary language. I would hope that the honourable senators opposite who were the authors of that language would have been agreeable to removing it so that the report conformed to standing orders. I notice, through you, Mr President, Senator Brandis vigorously indicating disapproval of that remark. I take that to mean that he would not have agreed to the removal of the unparliamentary language. If that is the case then I do think this is a matter for consideration under the standing orders and perhaps the appropriate committee should consider it, because a device has now been developed in which unparliamentary language can be entered into the record of the parliament by use of a minority report undisclosed to majority senators—language which would not be admissible in this chamber were it subject to debate.

Of course, the other fact—and it is a fact—is that what the unparliamentary language was about, what it was meant to convey, was untrue and it was meant to paint a picture which was not accurate. It was done so on the basis of trying to discredit a considered report by the majority and it resorted to colourful language to attract newspaper headlines but it was devoid of content or merit from any other point of view. I think it should be deplored for that aspect, but I do note your ruling, Mr President, and I thank you for it.

Senator FERGUSON (South Australia)—by leave—I am very surprised that Senator Cook would be so precious as to raise this issue again on receipt of your report, Mr President, looking into what he complained about when we were tabling our report. Mr President, looking into what he complained about when we were tabling our report. I am surprised Senator Cook is so precious when, as those of us who have been in the chamber for a long time know, parliamentary language—or unparliamentary language—is something that Senator Cook should feel quite comfortable with. I distinctly remember chairing a Senate estimates committee a couple of years ago when, at one o’clock in the morning, Senator Cook used some of the most unparliamentary lan-
I have ever heard and then tried to get out of it by saying he believed in what he was saying. I cannot believe that Senator Cook would be that precious when in fact he knows, as well as those of us who are on the committee, that it took 2½ months to write a chairman’s draft report, which we never saw in its finality before it was tabled. He had 2½ months to write his report and, at the very meeting when we were asked to endorse the report, it was not in its finality because there were still changes being made to it. That was after 2½ months. Those who were writing the government senators’ report had a couple of weeks to do theirs, once they got the bulk of the report that had been drafted by Senator Cook. I am absolutely amazed that Senator Cook would be so petulant as to get up and claim that government senators have used unparliamentary language in a report which in fact was only describing what was put together in the majority report, as he claims it to be, and we all know that that report, which claimed to be a minority report, was actually Senator Cook’s report. If you read the Hansard carefully, when I was making my contribution on the tabling of the report, Senator Cook interjected twice and said, ‘It’s my report! It’s my report!’ If you read Hansard they are exactly Senator Cook’s words and I took note of them. He said, ‘It’s my report!’

Senator Cook—Mr President, I raise a point of order. There ought to be a rule in this place that honourable senators accurately report matters. It was the report of the committee—and a majority of the committee—and any allegation to the contrary is untrue.

The PRESIDENT—There is no point of order. Senator Cook. Senator Ferguson, I will review the Hansard but I do not believe there is any point of order.

Senator FERGUSON—Mr President, had I known that Senator Cook was going to raise this, I would have brought along the Hansard where Senator Cook interjected when I was speaking on the tabling of that report. When I said it was his report, he said, ‘No, it’s a majority report’. About one page later in Hansard, he interjected and said, ‘You’re talking about my report!’ Twice he said, ‘It’s my report,’ which is exactly what it was—it was Senator Cook’s report, which was skimmed over very carefully by Senator Bartlett. I am not sure whether Senator Murphy ever read the lot but, in fact, they decided that they could agree in principle with most of what was being said anyway. For Senator Cook to get up in this parliament and suggest that unparliamentary language was being used in our report for any motives other than describing accurately what took place, when much of the hard work in that report was done by Senator Brandis—the report was written by the senators themselves and Senator Brandis and Senator Mason spent many hours making sure that the government senators’ report was put in place—is hypocritical. For Senator Cook, a senator who himself has been guilty of using the worst parliamentary language I have heard in this place, to be so petulant on this occasion as to suggest anything otherwise is very hypocritical.

The PRESIDENT—Thank you, Senator, but I think you would understand that unparliamentary language, however it appears, is against the standing orders.

Senator BRANDIS (Queensland) (3.15 p.m.)—by leave—I want to make this point: the ruling of Acting Deputy President Lightfoot was a ruling that no unparliamentary language had been used. The basis of that ruling, as the Acting Deputy President explained, was that the words objected to, which, as I recall, were words to the effect that ‘the report of the majority is corrupted by intellectual dishonesty,’ were in reference to a document rather than to a senator or senators corporately and therefore standing order 193(3) did not apply. You have upheld that ruling, Mr President, as I understood your statement earlier this afternoon. There was no circumvention of the standing orders by the government senators because there was no unparliamentary language used within the meaning of standing order 193(3), which Senator Cook ought to know attaches only to references to senators individually or corporately. The ruling of the Acting Deputy President was that it did not.

The PRESIDENT—My understanding is that no unparliamentary language was used...
in the debate. What was used in the report is another matter.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.16 p.m.)—by leave—I would like to speak briefly on this matter. I do not know that I would like to, but I feel that I should to ensure the record is complete. In the context of this debate it is appropriate to acknowledge the chair’s ruling. It is one that I agree with. It is the only logical ruling to take. Nonetheless, it is probably incumbent on us all, when we are putting together reports—whether majority, unanimous, minority or individual—to choose our words in a way that is not unnecessarily inflammatory or attacking individuals, whether they be senators or others. People in the general community have just as much right to be defended against extreme attacks as senators do.

The report and many of the issues it raises lend themselves to people getting passionate. In a sense I wish there was more passion in the Australian community and, indeed, in the press gallery about some of the issues raised in the report—not to do with Mr Reith at all but to do with other incidents relating to the Pacific solution. It is important that it also be clear that, whilst I understand the political point that various senators want to make about whether it was a majority report or an individual report, it was a report that I signed off on as the Democrat member on that committee. I supported, and do support, the contents of the main report. Indeed, I read the full main report to ensure that I could support the content within it. I have not actually read the government senators’ contribution yet. I am sure it is fabulous.

Senator Brandis—It is the definitive report.

Senator Mason interjecting—

Senator Ferguson interjecting—

Senator BARTLETT—I think I get the drift of where they are coming from, subtle though their argument may be. I commend to them my additional report, which is much shorter and much easier to read.

The PRESIDENT—Senator Bartlett, please ignore the interjections and address your remarks through the chair.

Senator BARTLETT—It is much more germane to the thrust of the inquiry.

Senator Faulkner—Mr President, I raise a point of order. Normally I would not take such a point of order, but I am appalled at the unparliamentary behaviour of Senator Brandis interjecting so loudly from someone else’s seat. Could you ask him whether, if he is going to behave in such a disorderly way, he could go and sit where he belongs?

The PRESIDENT—I understand Senator Brandis is leaving the chamber.

Senator MURPHY (Tasmania) (3.19 p.m.)—by leave—On two occasions now Senator Ferguson has made a statement to the effect that I have not read the report. In fact, I have. I would like to put on the record that I did read the report, I supported it and I signed off on it. There were two aspects of the report with respect to SIEVX matters that I wanted to take some additional time to consider, and I did so. I support the report. At the time I wrote to the chair of the committee—a letter which I hope Senator Ferguson might have read—stating my position. Whether Senator Ferguson took the time to read the letter I sent to the committee is another matter. I certainly did read the report and I did sign off on it.

Question agreed to.

AUSTRALIAN DEMOCRATS
Leadership and Office Holders

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.20 p.m.)—by leave—Following the change of leadership of the Australian Democrats, I have a revised list of portfolio arrangements which I wish to table. For the edification and information of the general public, I seek leave to have that list incorporated in Hansard.

Leave granted.

The document read as follows—

Australian Democrats Portfolio Distribution
(as at 24 October 2002)

*Indicates new responsibility since last issued

Senator Lyn Allison [*Deputy Leader & Party Whip]

Energy & Resources
Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.22 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Alston) to questions without notice asked today relating to Telstra.

In question time today we had another extraordinary demonstration of Senator Alston’s lack of knowledge and lack of interest in his own portfolio responsibilities. What an extraordinary admission to the Senate today—Senator Alston, the Minister for Communications, Information Technology and the Arts, had not read the Estens report. What an extraordinary admission from him! He said he had glanced at the findings and recommendations of the report. He had glanced at them! The report was released to the general public last Friday. I do not know how long Senator Alston had the report before he released it, but what an admission. He did not read the report.

I suppose that you would not worry about reading the report if you were Senator Alston when the report is only window-dressing anyway. He was always going to give the full privatisation and the full sale of Telstra the green light. The report, of course, was always a sham. So why would you bother reading it if you were Senator Alston? The report was always a tactic and not worth reading if you are Senator Alston, the Minister for Communications, Information Technology and the Arts. It was just a fix—not even worth a read by Australia’s communications minister.

Of course, he also had the complete embarrassment in question time today when he was not able to answer two questions of detail by my colleagues Senator Mackay and Senator Lundy. Senator Mackay’s question related to a matter that was raised in the Estens report. A major recommendation in
the Estens report was the very important issue of the widespread network problems associated with Service Plus and Director and the proposals in relation to Future Edge, the new work force management database. Senator Alston said he did not know anything about it at all. It is one of the major findings, one of the major recommendations, of the Estens report. But Senator Alston could not comment on that or the other matters raised by Senator Lundy because he has no capacity to look at the detail in relation to these important and crucial issues in his own area of ministerial responsibility.

If that was not bad enough, Senator Alston consistently flubbing questions in relation to the COT cases. What on earth was he up to anyway phoning the Victorian major fraud group? When he was asked about his 1999 phone calls with the fraud group regarding Telstra on the *Sunday* program, there was a bit of a twitch from Senator Alston—a guilty twitch, I thought—and he said, ‘Oh no, not at all.’ But the body language said it all to everybody. Of course he changed his tune when, on the same program, he was presented with evidence that two calls had been made to the major fraud group’s solicitor, Neil Jepson. Senator Alston said he might have made the phone calls but he could not recall. This is the record of Senator Alston. He denies on the *Sunday* program that he made any such calls. Then he claimed on the self-same television program that he made the calls to ensure the matters were properly investigated. Then another change—later on in a media release, he claimed that he made the calls to ensure that any action he took did not compromise the investigation.

Then later on, he gave a fourth version of events: namely, that he made the calls on behalf of Mrs Ann Garms, which she vigorously denies. So that is the record. Senator Alston could throw no light on those matters today. The three COT claimants involved in this matter—Ann Garms, Ross Plowman and Alan Smith—all state categorically that they never asked him to contact the Victorian major fraud group on their behalf, even though Senator Alston claims that Mrs Garms did. In a media release dated 6 November, Mr Plowman said:

Senator Alston’s call to Neil Jepson in 1999 prior to the Senate recommendation was not at our request or any of the other COT cases.

I would say to Senator Alston that of course they would not have asked him to make the calls. They clearly do not trust him and why should they? There are allegations that not only was Mr Jepson called by the minister but there may have been other contact. In his qualified and guarded language, Senator Alston now says that that is not the case. But we are entitled to ask and entitled to get some answers from Senator Alston on what is going on. Why all the excuses? Why the admission in question time today that he had not even read the Estens report? This minister has got to lift his game. *(Time expired)*

**Senator EGGLESTON** (Western Australia) *(3.27 p.m.*—I would have thought that Senator Alston would be one of the finest communications ministers this country has ever seen. Far from needing to lift his game, he is a benchmark by which communications ministers will be judged from hereon after. Senator Alston has transformed telecommunications in this country. He has brought enormous improvements to telecommunications in small towns through the Networking the Nation scheme. He has brought mobile phone coverage to the great highways of this country. He has improved telecommunications particularly for people living in the most remote and outback parts of Australia with a special contract of $150 million to provide them with satellite, Internet, fax and telecommunications services. Senator Alston is a very great and outstanding communications minister. He is far better than anybody in the Labor Party who has ever held that portfolio. That is why he has held the portfolio for seven years because he is so outstanding, so able and so on top of the issues. This man deserves praise not criticism.

Senator Faulkner has made a few comments about the COT cases, claiming that Senator Alston said that he was asked to ring the Victorian fraud group by Mrs Garms and Mr Schorer. That is not the case. He made it quite clear that he rang on behalf of Senator Boswell and Senator Boswell alone. I will go into this in a minute, but Senator Boswell
sought to have clarified the fact that the fraud group would not interfere with matters concerning the Fortitude Valley exchange. That was why Senator Alston rang the fraud group.

Senator Alston was never approached by Mrs Garms and that is on the record. Senator Alston put out a press release to that effect. He has said quite openly and directly that he rang on behalf of Senator Boswell who was very concerned that the matter of the Fortitude Valley exchange be clarified and that the fraud squad investigation would not in any way interfere with Telstra dealing with that issue. That was the core issue in the COT cases as they affected Mrs Garms. As the Senate will know, the COT cases had been before the Senate estimates committees in 1994. The cases involved a small group of business people who thought that their businesses had been adversely affected by poor telephone services. As I am sure many senators know, a fast-track settlement proposal was set up under Austel, and the matter dragged on and on until the Howard government came in. The communications committee at that time set up a working party and brought in the Telecommunications Ombudsman, Mr Wynack, to help get to the bottom of the matter. As many senators will recall, on 11 March 1999 the Senate Environment, Communications, Information Technology and the Arts Committee, which I chaired, reported to the Senate, saying that it had concluded on the basis of advice that there was no point in continuing with the working party and it was the committee’s view that Telstra should now seek to reach a negotiated settlement with the interested parties.

At that point, the issue of the Fortitude Valley telephone exchange became very important in relation to Mrs Garms’ case. The minister told the Senate on 16 March that he had written to Telstra seeking clarification of whether or not the Fortitude Valley exchange had been upgraded. Senator Boswell then contacted Senator Alston expressing concern that the fraud case might interfere with the clarification of the Fortitude Valley issue. Senator Alston then rang the fraud squad to make sure that there would be no problems.

That is all there is to this matter. As I have said, Senator Alston is a great and fine minister who has acted very much in the interests of the COT cases and he has brought great improvements to telecommunications in this country generally. For Senator Faulkner to criticise him in the way he did is unacceptable and quite wrong. (Time expired)

Senator LUNDY (Australian Capital Territory) (3.32 p.m.)—It may be unacceptable to the other side of the chamber, but we saw all the evidence we needed to see today of a minister who just does not care enough about the future of telecommunications in this country to actually read the detail of the report. I mean, hello: this is a report of an inquiry that the government set up to help them try to justify the further privatisation of Telstra. Do we need any more evidence to see what a patsy this report and Mr Estens played as part of their political agenda? Absolutely not—the minister did not even bother to read it. To me, that is cut and dried. This minister has been found guilty of not caring enough to read the report and this singularly exposes the fact that it was a political tool contrived to create arguments for further privatisation.

The substance does not matter to this government. It does not matter to the coalition that people in the bush still do not get the services that they deserve. They still do not get the services that the minister and Telstra stand up on a regular basis and say that they have got. Let us get to the substance of these issues. What we have seen today is a profound argument why no more of Telstra should ever be sold.

I want also to comment on the minister’s response to questions about allegations of his contacting the Victoria Police. It is worthwhile recapping briefly on the way the story originally went to air on the Sunday program. The Dial S for Scandal report states:

Sunday reveals that in 1999, Richard Alston—as Federal Communications Minister—personally telephoned the Major Fraud Group solicitor investigating Telstra over allegations of perjury, conspiracy and attempting to pervert the course of justice. The solicitor—Neil Jepson—received two calls from the Minister but has been forbidden by his superiors to speak to Sunday. Alston himself—under questioning from reporter Graham...
Davis—at first denies ever having contacted investigating officers. He then says he may well have done but can’t recall having made the calls or the details of the conversations.

Then we come to question time today. It has been suggested that Senator Alston has been improperly interfering with the Victoria Police major fraud group inquiry into Telstra so we asked questions today to seek clarification about the minister’s subsequent several different explanations as to what prompted those calls and by whom he was prompted. He made the call to Mr Neil Jepson in 1999 and when first confronted, as we have just heard, on the Sunday program, he denied making the contact. When further confronted with the detail of those calls he said he may have done that and he then said he had done it because, I presume, he was concerned to know whether these matters were properly investigated. Then on 3 November, in a press statement following the Sunday program, Senator Alston stated:

... I contacted Mr Jepson in order to satisfy myself that any direct action I might take in regard to Telstra did not compromise any investigation which might be undertaken by the Victoria Police.

On Monday, 4 November, despite the refutations from across the chamber just now, Senator Alston said:

I had been urged on behalf of Mrs Garms to make contact with Mr Jepson.

He repeated this on the 7.30 Report. However, as we now know, Mrs Ann Garms has categorically denied, as have others involved in the COT cases, that they ever made any request of Senator Alston to contact the Victoria Police. This calls into question Senator Alston’s repeated claims during that period that he made those calls on behalf of Mrs Garms. Mrs Garms also claimed that, after those calls had been made, the police investigation stalled.

In response to all of this, the fact that Senator Alston has found it necessary to change his story so many times over this period raises serious questions about his credibility on this matter. In response to the allegations against Telstra, Senator Alston has gone to great lengths to refer to the ACA just one narrow aspect of the serious allegations against Telstra. If ever there was a giveaway that something funny was going on, it is the narrow definition of the issues referred to the ACA in this circumstance. It has been, and it remains, Labor’s position that the only way to get to the bottom of these most serious allegations, including the fact that Mr Jepson has been forbidden by his superiors to say anything more about the issue, is to have a royal commission. If this minister is as good as Senator Eggleston says he is, he has no choice but to instigate a royal commission and get to the bottom of these most serious allegations into Telstra’s conduct.

Senator MASON (Queensland) (3.37 p.m.)—I must concede that I enjoyed Senator Faulkner’s performance last night on SBS with Mr Whitlam far more than his performance here this afternoon in relation to Telstra and the COT cases.

Senator Ferris—He was hamming it up.

Senator MASON—He was hamming it up. The issue raised by Senator Faulkner is a diversion. It is a diversion from the poverty of policy that afflicts the Labor Party; the fact that the Labor Party has virtually no policies and the fact that instead they are talking about irrelevant things and witch-hunts. It is not so long ago that we spoke about border protection, and the diversion was the children overboard inquiry. That did not go too well for the Labor Party either. We have had tax reform before that and that did not go too well either. You see, the Labor Party has very few policies and the policies that they do have are wrong—on tax reform, on border protection or whatever, and similarly on telecommunications. They are wrong for this reason. Labor is still stuck in a sort of post-Keynesian age where they believe that, if the government owns a resource, that resource or utility will provide far better services to the public. Do you know what? PMG, Telecom and then Telstra were owned by the government for 50 years, and the services in the bush were atrocious. It was entirely owned by the government: not, as it is today, 51 per cent but 100 per cent.

Senator Ian Campbell—The services in the city were atrocious.
Senator MASON—Exactly, as Senator Campbell says, the services in the cities were appalling. But somehow there is this really naive social democratic view that if the government owns a utility it will be better. Let me tell you, I have relatives in central western Queensland that until a few years ago used to have party lines. But the fact is—

Senator Ludwig—You wouldn’t remember a party line.

Senator MASON—that is right. Telstra, as it became privatised, increased the services to the bush. Nothing indicates more clearly the failure of the Labor Party and left-wing ideology of the 20th century. The Labor Party has not yet come to terms with the fact that government owned enterprises do not necessarily deliver better services to the public. Let me say that again. Government owned enterprises do not necessarily give better services to members of the public; that is the myth from the Labor Party, and they are still stuck on that in the year 2002. The Estens report, of course, is correct; Telstra should be privatised when the services in the bush are adequate. It says that the inquiry:

... is confident that arrangements that have been put in place over the past five years (including the TSI response), together with commercial developments, and the Inquiry’s further recommendations, will create an environment into the future where regional, rural and remote Australians will be able to benefit fully from advances in telecommunications technology and services.

Again the Labor Party is falling into the trap. They think—just like with the GST—that if they keep hammering on an issue and make themselves as small a target as possible, they will do well electorally. It did not work too well in 2001, did it? For such a large man, Mr Beazley became the god of small things and suffered accordingly.

In relation to the COT cases, Mr Deputy President, you will be pleased to know that I do not watch the *Sunday* program—I am in church. However, I am told that it is a very important program and that it raised this issue. Apparently the allegation is that Senator Alston interfered with the Victoria Police investigation into the COT cases. Let me read the media release that Senator Alston put out on 3 November:

My considered recollection is that, following a request to do so on behalf of the CoT cases by Senator Boswell,—

He has had a long history in these issues—

I contacted Mr Jepson in order to satisfy myself that any direct action I might take in regard to Telstra did not compromise any investigation which might be undertaken by the Victoria Police. Senator Alston did not want to compromise any investigation being taken by the Victoria Police. He never said—despite what the opposition has said—that he was aware of claims by Mrs Garms and the *Sunday* program that she never requested him to contact the Victoria Police. Senator Alston never said that. He always said that the request came from Senator Boswell. *(Time expired)*

Senator MACKAY (Tasmania) (3.42 p.m.)—I think the last two coalition contributions have been peppered with what one may call politely, I suppose, irony in relation to the defence of Senator Alston. Certainly I actually quite enjoyed Senator Eggleston’s contribution—it was highly ironic. I would like come back to the issue of the Estens report. I note with some amusement that the press release that the minister put out when the report was released said:

The Minister for Communications, Information Technology and the Arts, Senator Richard Alston, today released the full report of the Regional Telecommunications Inquiry.

What it did not say is, ‘PS: he never bothered to read it’. I think he probably ought to. We found out in question time today that he has skimmed through the recommendations. One of the critical issues that was raised in the Estens inquiry and also in the Besley inquiry is the issue of fault management. That is one of the big issues. The state of the network is a mess. I have to say that the Estens inquiry did concentrate on this and did look at it, as did Besley. My question today referred to page 74 of the Estens report, in which Telstra advised the inquiry of what they were doing in relation to fault rectification time. For senators who were not around during this period, the most infamous case of problems with fault management was the tragedy of Sam
Boulding. So we are not talking peanuts here; this is a big issue: fault rectification in the network. My question today went directly to the issue of fault rectification—the time that it took; the downgrading of staff—and Telstra reported to Estens on some of the things that it was doing. On page 74 the Estens report says that Telstra has recognised that its work force management databases—and it names them, if the minister is listening: Service PLUS and Director—have contributed to some of the problems discussed in the Besley report. Whoopee! They finally got that right. But at least they have recognised it. The report continues that, to that end, Telstra has advised that it is developing a new computerised work management system, Future Edge, that will be able to better map skills to jobs and calculate work times, etc. It then goes on to say that the pilot implementation of the new program announced in Estens, Future Edge, commences in December 2002 with deployment throughout 2003. One of the major reasons this was done was, as I said, the tragedy of the Sam Boulding case. People do not have to believe me: they can go and have a look at a number of inquiries that were done, including the report by the Australian Communications Authority in relation to that.

Let us highlight what we have here. We have here an inquiry which, from the very beginning, had two fully paid-up members of the National Party on it. Putting that aside, the minister still has the hide to get up and call it ‘independent’. He was so convinced that it was independent that he admits here in the Senate that he has not even read the report. He has not even read a major report—supposedly the seminal, pivotal report on which this government will make a determination as to whether it is going to sell Telstra. He is so incompetent that he gets up in the chamber and admits he has not read this pivotal, seminal report that they said would determine the future of Telstra and its customers, particularly in relation to services in regional Australia. I have to say to you, Mr Deputy President, that is pathetic.

A number of these issues were also canvassed in Besley. The minister obviously did not read the Besley report either—because in many cases, particularly in this one, the Estens inquiry was getting updates on what Telstra had done as a result of the Besley report. One has to ask the question: did he read the Besley report? I think not. So what does he do? He just puts out press releases ‘releasing’ reports—and, as I said, he did not put, ‘PS: I have not bothered reading this major report into your future, people of Australia, in relation to what remains of Telstra, the people’s company, still 51 per cent held.’ I think the rumours about this minister are true. I think he is bored out of his brain. I think it is time he retired.

Question agreed to.

Telstra: Privatisation

Senator CHERRY (3.47 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Cherry today relating to the proposed sale of Telstra.

I want to apprise the Senate very quickly of some of the issues about the financial implications of the sale of Telstra. One of those things which the government does not really seem to want to acknowledge is the fact that the sale of Telstra as a hypothetical proposition, as Senator Minchin kept referring to it as, will in fact reduce the capacity of the Commonwealth budget to pay for programs very long into the future.

I refer anyone who does not believe this to the Parliamentary Library’s website, where they now have a marvellous little ready reckoner which allows you to calculate, up to five years into the future, exactly how much the sale of Telstra will negatively impact on future budgets. I plugged in today, and I will take Senate briefly through it. There is Telstra’s current share price of $4.69 as it closed on Friday, less a 10 per cent discount—and you have got to do to get people to buy your stuff at a float—and less the two per cent sale cost. I plugged in the 10-year bond rate as at last Friday, and Telstra’s average dividend growth rate for the next five years. The combination of all those things produces a $14 million gain to the budget in the first year, an $18 million loss to the budget in the second year, a $181 million loss to the budget in the third year, a $289 million loss...
to government in the fourth year, and a $404 million loss to the budget in the fifth year.

As you can see, those figures will keep increasing over time because of the growth in Telstra’s dividend rate. That is a $980 million reduction in the budget in the first five years, flowing from the sale of Telstra, based on the figures as of last Friday. If you actually further factor into that the issue of the unfunded superannuation liabilities for Telstra, as discussed in this morning’s Financial Review—the $3.4 billion of unfunded liabilities left over from the transfer of members from the CSS and the PSS into the Telstra super fund—then the losses rise quite sharply. In fact they rise to $1.98 billion over five years.

I want to know how the government proposes to plug that budget hole from the sale of Telstra. We keep hearing about how it is going to reduce debt and how it is going to pay for all sorts of pork—and the Queensland National Party is trying to work out what they want to pour it into. But at the end of the day, even if it is used solely to reduce debt, the simple fact is that the loss of the dividend stream will cost the budget more than we gain in terms of interest savings. That will spark a fiscal disaster in the making for the Australian government, a fiscal disaster which will rise year by year—a fiscal disaster we are already actually suffering from as a result of the sale of the first two tranches. I would like to point out that the first tranche was sold in 1997 for around $5 billion less than its economic cost—a $5 billion transfer of value from all Australian taxpayers to that small minority who could actually afford to buy Telstra shares. In addition to that, we are suffering, because of that particular sale, a loss of dividend year in, year out that was less than the interest saving afforded by retiring debt.

At some point, the government will have to actually start saying to the Australian people, ‘This is how we are going to fund that budget black hole.’ They have not done it. The minister today refused to answer my question over the issue of whether the government would or would not be counting Telstra’s unfunded superannuation liabilities. Add that in and you have an even larger budget black hole. This is one of the fundamental parts of the Telstra sale proposal that the government cannot defend, because the numbers do not add up. In addition to that, its rural services do not add up in that report that the minister is yet to read, released on Friday. In addition, the competition regime does not add up, as highlighted by the Telstra approach to the Garms and the other COT cases. I look forward to the minister releasing, hopefully tomorrow, the report he will be receiving from the Communications Authority, presumably today, and we will see exactly how Telstra stacks up in the whole corporate good citizen category. From these points of view it is quite clear that the argument has not been made by the government to sell Telstra, and that was also quite clear from the minister’s hypothetical answer.

Question agreed to.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:

Science: Stem Cell Research

Honourable the President and Members of the Senate in Parliament assembled:
The Petition of the undersigned shows that the Commonwealth of Australia and the various States are considering legislation which would allow the use of excess IVF embryos in stem cell research.

Your Petitioners request that the Senate should:

• Regard the human embryo as a human life deserving of human dignity;
• Acknowledge the important and proven contribution to medical science of adult stem cell research; and
• Prohibit any research which results in the destruction of human embryos.

And your Petitioners, as in duty bound, shall ever pray.

by Senator Barnett (from 446 citizens).

Trade: Live Animal Exports

To the Honourable the President and Members of the Senate in Parliament assembled:
The petition of the undersigned shows:

Opposition to the Live Sheep Export Trade on the grounds that it is inhumane in the extreme, is a contributing factor to unemployment within Australia, has adverse effects on residents and is environmentally harmful.
Your petitioners request that the Senate call upon the Australian Government to ban the export of live sheep immediately and actively pursue the frozen carcass alternative.

by Senator Bartlett (from 4,265 citizens).

Foreign Affairs: Iraq

To the Honourable the President and Members of the Senate in Parliament assembled. The Petition of the undersigned calls on the members of the Senate to support the Australian Democrats’ motion opposing Australia’s involvement in preemptive military action or a first strike, against Iraq.

We believe a first strike would undermine international law and create further regional and global insecurity.

We also call on the Government to pursue diplomatic initiatives towards disarmament in Iraq and worldwide.

by Senator Bartlett (from 227 citizens).

Science: Stem Cell Research

To the Honourable The President and the members of the Senate assembled in Parliament

This Petition of certain citizens of Australia draws the attention of the House to the growing concern in the Australian community about the proposed legislation to allow destructive research on human embryos.

Your petitioners call on the House to prohibit all research on human embryos which is destructive of a human embryo in anyway damaging to a human embryo.

by Senator Boswell (from 1,678 citizens).

Petitions received.

NOTICES

Presentation

Senator Ian Campbell to move on the next day of sitting:

That the days of meeting of the Senate for 2003 shall be as follows:

Summer sittings:
Tuesday, 4 February to Thursday, 6 February

Autumn sittings:
Monday, 3 March to Thursday, 6 March
Tuesday, 18 March to Thursday, 20 March
Monday, 24 March to Thursday, 27 March

Budget sittings:
Tuesday, 13 May to Thursday, 15 May

Winter sittings:
Monday, 16 June to Thursday, 19 June
Monday, 23 June to Thursday, 26 June

Spring sittings:
Monday, 11 August to Thursday, 14 August
Monday, 18 August to Thursday, 21 August
Monday, 8 September to Thursday, 11 September
Monday, 15 September to Thursday, 18 September
Tuesday, 7 October to Thursday, 9 October
Monday, 13 October to Thursday, 16 October
Monday, 27 October to Thursday, 30 October
Monday, 3 November and Tuesday, 4 November
Monday, 24 November to Thursday, 27 November
Monday, 1 December to Thursday, 4 December.

Senator Bolkus to move on the next day of sitting:

That the Legal and Constitutional References Committee be authorised to hold public meetings during the sittings of the Senate to take evidence for the committee’s inquiry into the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 on the following days:

Tuesday, 12 November, from 5 pm
Wednesday, 13 November, from 3.30 pm
Thursday, 14 November, from 5 pm

Senator Heffernan to move on the next day of sitting:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Transport Safety Investigation Bill 2002 be extended to Monday, 18 November 2002.

Senator Cook to move on the next day of sitting:
That the time for the presentation of reports of the Foreign Affairs, Defence and Trade References Committee be extended as follows:

(a) materiel acquisition and management in Defence—to the last sitting day in March 2003; and

(b) Australia’s relationship with Papua New Guinea and other Pacific island countries—to the last sitting day in June 2003.

Senator Cook to move on the next day of sitting:

That the Foreign Affairs, Defence and Trade References Committee be authorised to hold a public meeting during the sitting of the Senate on Friday, 15 November 2002, from 9.30 am to 4.25 pm, to take evidence for the committee’s inquiry into materiel acquisition and management in Defence.

Senator Stott Despoja to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) in June 1999 the International Labour Organisation (ILO) adopted Convention 182 regarding the worst forms of child labour;
(ii) this convention deals with children in the worst forms of labour, including trafficking, bonded and forced labour, armed conflict, prostitution and pornography,
(iii) in April 2002, ILO research found that there were 8.4 million children world wide involved in the worst forms of child labour,
(iv) to date, 131 countries, including the United States, New Zealand, Papua New Guinea, the United Kingdom, Iraq and Thailand, have ratified this convention,
(v) this convention has been the fastest ratified in the 82 year history of the ILO, demonstrating an overwhelming international commitment to eliminating abusive child labour, and
(vi) Australia remains in a minority of nations, including Eritrea, Swaziland, Suriname, Kyrgyzstan, Kiribati and India, which have not ratified the convention, and is the only Organisation for Economic Co-operation and Development nation not to have done so.

(b) encourages the Australian Government to immediately pursue the ratification of ILO Convention 182.

Senator Tierney to move on the next day of sitting:

That the time for the presentation of the report of the Employment, Workplace Relations and Education Legislation Committee on the provisions of the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 be extended to Friday, 15 November 2002.

Senator Eggleston to move on the next day of sitting:

That the Environment, Communications, Information Technology and the Arts Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Friday, 15 November 2002, from 9.30 pm to 4.25 pm, to take evidence for the committee’s inquiry into the provisions of the Renewable Energy (Electricity) Amendment Bill 2002.

Senator Sherry to move on the next day of sitting:

That there be laid on the table, immediately after taking note of answers to questions without notice on 13 November 2002, the evaluation of the ‘Living in Harmony’ initiative and the associated market research that was conducted between 1996 and 1998.

Senator Chapman to move on the next day of sitting:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold public meetings during the sittings of the Senate on Tuesday, 12 November 2002, and Thursday, 14 November 2002, from 4 pm, to take evidence for the committee’s inquiry into banking and financial services in rural, regional and remote areas of Australia.

Senator Carr to move on the next day of sitting:

That there be laid on the table, by the Minister representing the Minister for Science, no later than immediately after motions to take note of answers on Tuesday, 18 November 2002:

All documents referred to on pages 3 and 4 of the ‘communications strategy’ section of the public relations brief for the provision of ‘Public relations services surrounding the announcement of the decision of where to establish the national repository for the disposal of Australia’s low level radioactive waste’, including:
(a) ‘Community consultancy on transport issues associated with the proposed repository’, dated 26 October 2001;
(b) ‘Market research into national sentiment on nuclear-related issues’, dated 30 April 2001;
(c) ‘National sentiment on nuclear related issues’, dated 11 April 2001;
(d) the addendum report to the above report;
(e) ‘Wave 3 radioactive waste: Understanding and attitudes monitor—South Australia’, dated 23 March 2001;
(f) ‘Qualitative research report radioactive waste management and other nuclear issues primary and secondary audiences’, dated 12 January 2001;
(g) ‘Radioactive waste concept testing’, dated 11 August 2000; and
(h) the untitled ‘research activities’ reports of 8 November 1999 and 21 July 2000 that tracked levels of understanding and perceptions in South Australia of the proposed repository.

Senator FERGUSON (South Australia)  (3.52 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during sittings of the Senate.

I seek leave to table a statement of reasons for this notice of motion.

Leave granted.

Withdrawal

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate)  (3.53 p.m.)—I withdraw government business notice of motion No. 1.

LEAVE OF ABSENCE

Senator FERRIS (South Australia)  (3.53 p.m.)—by leave—At the request of Senator Lees, I move:

That leave of absence be granted to Senator Lees for the period 14 November to 19 November 2002, inclusive, on account of parliamentary business overseas.

Question agreed to.

COMMITTEES

Legal and Constitutional Legislation Committee

Extension of Time

Senator FERRIS (South Australia)  (3.54 p.m.)—by leave—At the request of Senator Payne, I move:

That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on the Statutory powers and functions of the Australian Law Reform Commission be extended to the last sitting day in 2002.

Question agreed to.

Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Senator FERRIS (South Australia)  (3.54 p.m.)—by leave—At the request of Senator Heffernan, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 1) 2002 be extended till the next day of sitting.

Question agreed to.

NOTICES

Postponement

Senator BROWN (Tasmania)  (3.55 p.m.)—by leave—I move:

That general business notice of motion no. 230 standing in his name for today, relating to the restoration of certain bills to the Notice Paper, be postponed till the next day of sitting.

Question agreed to.

BUSINESS

Consideration of Legislation

Senator BROWN (Tasmania)  (3.55 p.m.)—I seek leave to amend general business notice of motion No. 230.

Leave granted.

The amended notice of motion read as follows—

(1) That so much of standing orders be suspended as would prevent this resolution having effect.

(2) That the following bills be restored to the Notice Paper and that consideration of each of the bills be resumed at the
stage reached in the last session of the Parliament:
Convention on Climate Change (Implementation) Bill 1999
Customs Amendment (Anti-Radioactive Waste Storage Dump) Bill 1999
Human Rights (Mandatory Sentencing for Property Offences) Bill 2000.

NOTICES
Postponement

Items of business were postponed as follows:
Business of the Senate notice of motion no. 1 standing in the name of Senator O’Brien for today, relating to the disallowance of the Civil Aviation Amendment Regulations 2002 (No. 2), postponed till 13 November 2002.
Government business notice of motion no. 2 standing in the name of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) for today, relating to the consideration of legislation, postponed till 13 November 2002.
General business notice of motion no. 197 standing in the name of Senator Allison for today, relating to a response by the Australian Competition and Consumer Commission to an order of the Senate, postponed till 12 November 2002.
General business notice of motion no. 222 standing in the name of Senator Allison for today, relating to the Gembrook Primary School, postponed till 12 November 2002.
General business notice of motion no. 227 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, proposing an order for the production of documents relating to the Great Barrier Reef Marine Park Authority, postponed till 19 November 2002.

REMEMBRANCE DAY
Senator HUTCHINS (New South Wales) (3.56 p.m.)—as amended, by leave—I move:
That the Senate—
(a) notes on this Remembrance Day that 2002 is the centenary year of the conclusion of the Anglo-Boer War, which lasted from 1899 to 1902;
(b) remembers:
(i) the 16 000 Australians who served in the Anglo-Boer War as soldiers of the colonies of Australia and, after 1901, as soldiers of the newly federated Commonwealth of Australia, as well as the 8 000-odd Australians who served with irregular South African units like Thorneycroft’s and Bethune’s Mounted Infantry,
(ii) the 518 young Australians who lost their lives serving their country during the war, and
(iii) remembers the Boer women and children who died during internment in British camps;
(c) notes that the Anglo-Boer War was the first war:
(i) that the Australian Army participated in as a unitary force, fighting under the badge of the Rising Sun, and
(ii) in which Australian nurses and doctors served as members of the Australian Army Medical Corps; and
(d) recognises the importance of the Anglo-Boer War in the development of Australian culture, nationhood and the legend of the ANZAC.

Question agreed to.

COMMITTEES
Community Affairs Legislation Committee
Extension of Time

Senator FERRIS (South Australia) (3.57 p.m.)—At the request of Senator Knowles, I move:
That the time for the presentation of the report of the Community Affairs Legislation Committee on the provisions of the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002 be extended to 2 December 2002.

Question agreed to.

ENVIRONMENT: SUDA W DEVELOPMENTS LTD

Senator CHERRY (Queensland) (3.57 p.m.)—At the request of Senator Bartlett, I move:
That there be laid on the table, no later that 2 pm on 19 November 2002:
(a) all documents from 2002 relating to any approaches made by Sudaw Developments Ltd (or its agents) to the Government seeking funding or other
support for the Nathan Dam on the Fitzroy River in Queensland;
(b) any documents or comments provided to Environment Australia in response to the referral, Ref. No. 2002/770—Sudaw Developments Ltd—Water management and use—Dawson River—QLD—Nathan Dam, central Queensland;
(c) any report or document prepared by Environment Australia in response to referral 2002/770; and
(d) the report, Literature review and scoping study of the potential downstream impacts of the proposed Nathan Dam on the Dawson River, Fitzroy River and offshore environments, prepared by the Australian Centre for Tropical Freshwater Research.

Question agreed to.

TRADE: LIVE ANIMAL EXPORTS

Senator CHERRY (Queensland) (3.58 p.m.)—At the request of Senator Bartlett, I move:

That there be laid on the table, no later than 2 pm on 18 November 2002, the October 2002 report of the Independent Reference Group on the options for improving the welfare record of Australia’s live animal export trade.

Question agreed to.

DOCUMENTS

Tabling

The DEPUTY PRESIDENT (3.59 p.m.)—Pursuant to standing orders 38 and 166, on behalf of the President, I present documents listed on today’s Order of Business at items 14(a) to (f), which were presented to the President, the Deputy President and the Temporary Chairmen of Committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised. In accordance with the usual practice and with the concurrence of the Senate, the government response will be incorporated in Hansard.

The list read as follows—

PARLIAMENTARY ANNUAL REPORTS PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF SENATE

1. Parliamentary Service Commissioner—Annual report 2001-02 (certified by the President on 28 October 2002).
2. Department of the Parliamentary Reporting Staff—Annual report 2001-02 (certified by the President on 30 October 2002).
3. Department of the Parliamentary Library—Annual report 2001-02 (certified by the President on 30 October 2002).

COMMITTEE REPORTS PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE

2. Select Committee on a Certain Maritime Incident—Erratum (presented to the Deputy President on 25 October 2002).

GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE

2. Select Committee on Superannuation and Financial Services—Report—Prudential supervision and consumer protection for superannuation, banking and financial services: First report (presented to the President on 24 October 2002).

GOVERNMENT DOCUMENTS PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE

3. Office of the Official Secretary to the Governor-General—Annual report 2001-02 (presented to the President on 24 October 2002).

5. Insolvency and Trustee Service Australia—Annual report 2001-02 (presented to the President on 24 October 2002).


7. Australian Institute of Aboriginal and Torres Strait Islander Studies—Annual report 2001-02 (presented to the President on 24 October 2002).


27. Australia New Zealand Food Authority—Annual report 2001-02 (presented to temporary chair of committees, Senator Cherry, on 29 October 2002).

28. Australia Business Arts Foundation Ltd—Annual report 2001-02 (presented to the temporary chair of committees, Senator Cherry, on 29 October 2002).


32. Department of Industry, Tourism and Resources—Annual report 2001-02 (presented
to temporary chair of committees, Senator Sandy Macdonald, on 30 October 2002).
42. Department of Immigration and Multicultural and Indigenous Affairs—Annual report 2001-02 (presented to temporary chair of committees, Senator Sandy Macdonald, on 31 October 2002).
43. Aboriginal and Torres Strait Islander Commission—Annual report 2001-02 (presented to temporary chair of committees, Senator Sandy Macdonald, on 31 October 2002).
45. Department of Finance and Administration—Annual report 2001-02 (and corrigendum) (presented to temporary chair of committees, Senator Sandy Macdonald, on 31 October 2002).
51. Airservices Australia—Annual report 2001-02 (presented to temporary chair of committees, Senator Collins, on 1 November 2002).
52. Housing Assistance Act 1996—Annual report 1999-02 (presented to the Deputy President on 4 November 2002).
53. Alcohol Education & Rehabilitation Foundation Ltd—Annual report 2001-02 (presented to the Deputy President on 4 November 2002).
54. The Commonwealth Superannuation Scheme Board—Annual report 2001-02 (presented to the Deputy President on 4 November 2002).
55. The Public Sector Superannuation Scheme Board—Annual report 2001-02 (presented to the Deputy President on 4 November 2002).
56. High Court of Australia—Annual report 2001-02 (presented to the Deputy President on 6 November 2002).
57. Federal Court of Australia—Annual report 2001-02 (presented to the Deputy President on 6 November 2002).
58. Federal Magistrates Service—Annual report 2001-02 (presented to the Deputy President on 6 November 2002).
REPORTS OF THE AUDITOR-GENERAL PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE


2. Report no. 15 of 2002-03—Performance Audit—The Aboriginal and Torres Strait Islander Health Program: Follow-up Audit—Department of Health and Ageing (presented to temporary chair of committees, Senator Cherry, on 29 October 2002).


RETURN TO ORDER PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE

1 Science and Technology—Canola trial (agreed to by the Senate on 17 October 2002) (presented to the Deputy President on 24 October 2002).

The government responses read as follows—

GOVERNMENT RESPONSE TO THE SENATE EMPLOYMENT, WORKPLACE RELATIONS, SMALL BUSINESS AND EDUCATION REFERENCES COMMITTEE REPORT UNIVERSITIES IN CRISIS—REPORT ON HIGHER EDUCATION (SEPTEMBER 2001)

Response to Recommendations in the Main Committee Report

1. Introduction

Recommendation One

The Committee recommends that the Government end the funding crisis in higher education by adopting designated Commonwealth programs involving significant expansion in public investment in the higher education system over a ten year period.

Government response

The Government does not accept the premise that there is a ‘funding crisis’ in higher education. Universities are in a generally sound financial position and are adapting well to the challenging environment in which they are now operating. This is due to the innovative and creative response of institutions to the flexibility and opportunity available under the policies of this Government. These policies have allowed universities to achieve:

- growing revenues—total university revenues from all sources will be at the record level of an estimated $10.4 billion in 2002, almost $2 billion more than in 1995 (in cost adjusted terms);
- increasing student participation—in 2001 there were 478,000 equivalent full-time student domestic places in Australian universities, an increase of 55,000 since 1995;
- continuing high levels of graduate satisfaction—satisfaction among bachelor degree graduates, as shown by the broad satisfaction measure, remains very high at 90 per cent, maintaining the record high levels of recent years;
- good graduate employment outcomes—graduate employment remains at high levels, with 83 per cent of graduates in 2001 available for full time employment finding full time employment within four months of completing their degrees. This compares to 80.8 per cent for 1999 graduates. In 2001 starting salaries for bachelor degree graduates, as a proportion of average weekly earnings, were at their highest level since 1991 at 85.8 per cent. The May 2000 unemployment rate among bachelor degree graduates was 3 per cent, comparing favourably with the overall rate of 7 per cent; and
- the success of Australian educational exports—education has become Australia’s third largest service export industry, generating earnings of over $4 billion each year, of which higher education students contribute over $2 billion.

The Government is committed to ensuring an accessible, quality higher education system in Australia. While Australia’s total investment in higher education is already above the OECD average, the Government is currently delivering a significant injection of funding through the Backing Australia’s Ability initiatives and other measures such as the 2001-02 Budget measure to provide additional places to regional universities. As a result of these initiatives, by 2004 annual Commonwealth funding to universities through the Education, Science and Training portfolio, including HECS, will be $480 million higher than
in 2001 at around $6.3 billion (in non cost-adjusted terms) and there will be at least 8,300 more fully funded undergraduate places in 2004 than in 2001.

The Government has invited public discussion on the future policy directions of higher education over the coming months and has issued a series of discussion papers examining specific issues. Among the issues being considered are the appropriate mix of funding mechanisms to promote a high quality and responsive higher education sector. The Government would like to see arrangements that build on the strengths, increase the diversity and recognise the special roles of institutions such as those in regional communities (see also Response to Recommendation 8).

2. Public Universities at a Time of Change

Recommendation Two

The Committee recommends that the Government promote national debate on the issues addressed in this report, and that a national summit, representative of cross sectoral interests, be convened to build consensus around the following principles:

• a clear assessment of the nation’s higher education needs both in the immediate and longer-term;
• a clear vision for the role of public universities in meeting those needs, including national social development and local or regional development needs. This vision must clearly articulate:
  • universities’ commitment to academic freedom and intellectual inquiry and to promotion of the public good;
  • public universities’ responsibility for meeting national needs for education and research and the relative importance of these and commercial, including international education activities;
  • the respective roles of public universities and private providers and VET institutions and providers in meeting needs for further education;
  • agreed principles for universities’ commercial activities, which reflect universities’ status as public institutions accountable to both State and Commonwealth governments; and
• provision of public investment levels consistent with the agreed principles.

Government response

The Government partly supports the recommendation and has already engaged a debate about the challenges facing the higher education sector. The Government has been and will continue, consulting widely during this year with stakeholders on longer term strategies for improving the sector. The Government has frequently stated that the objectives for the sector are to:

• expand opportunity;
• assure quality;
• improve universities’ responsiveness to varying student needs and industry requirements;
• advance the knowledge base and university contributions to national innovation; and
• ensure public accountability for the cost-effective use of public resources.

3. The Funding of Higher Education

Recommendation Three

The Committee recommends that the Government review the differential HECS charge levels and lower HECS thresholds. In the first instance attention needs to be paid to the removal of disincentives to mature age access, particularly in such areas as nursing.

Government response

The Government will give careful consideration to proposals brought forward in the Review of Higher Education in relation to HECS. In general, the Government considers that differential HECS bands are a fair and equitable way to reflect the differing costs of delivering courses and their impact on the earnings potential of students. On average, the Government pays 75% of the cost of a student’s course with students contributing around 25 per cent. The Commonwealth provides students with access to an interest free income-contingent loan for their contribution. The Commonwealth, on average, pays around $12,000 a year (including the student contribution) for each university place.

The current HECS repayment threshold ensures that students make a reasonable contribution to the costs of their education, but only when they are financially able to do so. HECS debtors with low family income (as indicated by either exemption from, or reduction of, the Medicare levy) are exempt from making repayments in that year. Also, the Higher Education Funding Act 1998 includes a provision for HECS debtors experiencing financial difficulties to apply to the Commissioner for Taxation to defer a compulsory
repayment of a HECS debt to a time when they can afford it.

Nursing is in the lowest differential HECS band. The wider issues surrounding the demand for, and supply of nursing education and training are being examined as part of the National Review of Nursing Education currently underway. The Review is expected to report shortly.

**Recommendation Four**

_The Committee also recommends that the Government phase out domestic students’ access to undergraduate places in HEFA funded courses on a fee-paying basis. This policy is fundamentally inequitable and has no place in an Australian higher education policy based on the principles of equity and merit._

**Government response**

Generally the Government does not support phasing out access to undergraduate courses on a fee-paying basis and rejects the view that allowing fee-paying undergraduates is inequitable.

However while the Government is satisfied with the current HECS arrangements it will give careful consideration to proposals to the Higher Education Review which will bring sustainable improvements to arrangements for students to contribute towards the cost of their higher education.

The Committee suggests that fee-paying students should not have access to HEFA funded courses. The Government notes, however, that funds are not appropriated through HEFA for specific courses. HEFA funds places, not courses. Institutions are required to provide a specified number of HECS-liable undergraduate places and a minimum number of total (undergraduate and postgraduate) HECS-liable places. The suggestion that fee-paying students could be excluded from ‘HEFA funded courses’ is, therefore, based on a misunderstanding of the funding arrangements. In 2002 the Government is providing a record number of fully-funded HECS-liable places which it expects institutions to allocate on the basis of academic merit.

Phasing out fee-paying places completely will not enhance the principles of equity and merit. Current safeguards ensure that no student is prevented from taking up a Commonwealth funded place by the existence of fee-paying undergraduates. Fee-paying students are not counted towards meeting the targets for student places required as a condition of HEFA operating grants. They are additional places. The effect of the policy is to open up study opportunities that would not exist otherwise and to give Australian students the same opportunity to invest in their education as is available to overseas students.

The impact of fee-paying students transferring to HECS places after their first year is negligible. Of some 470,000 HECS-liable undergraduate students enrolled in 2001, only 105 had commenced in a fee-paying place in the same course in the previous year. Fee-payers are 1 per cent of undergraduates. Fee-payers who get HECS places in their second year are some 0.0002% of undergraduates. There is no basis for believing that these students obtained a HECS liable place on any grounds other than merit.

The Government notes that fee-paying is not generally regarded as against the principles of equity and merit when it occurs at primary and secondary levels of education. The Government believes people should have the option of paying for educational services as long as it is not to the detriment of non-fee paying students and that qualifications are only awarded upon reaching the required level of skill and educational attainment.

**Recommendation Five**

_The Committee recommends that as a matter of urgency the Government undertake a review of the most appropriate indexation arrangements for university operating grants._

**Government response**

The Government has been, and will continue, consulting widely during this year with stakeholders on longer term strategies for improving the sector. In these circumstances, a separate review of the most appropriate indexation arrangements is unnecessary.

The Senate Committee’s Report states that “In 1996 the Government decided not to supplement budgets for the full amount of any agreed wage levels. Instead, it indexed operating grants on the basis of an agreed Cost Adjustment Factor:….” (Page 49). The statement implies that this was a decision of the current Government. This is not true. The decision to index operating grants using the Cost Adjustment Factor was taken in 1995 by the previous Government, when the now Leader of the Opposition, Mr Crean, was the responsible Minister. The CAF took effect in 1996.

**Recommendation Six**

_The Committee recommends that the Ministerial Council on Employment, Education, Training and Youth Affairs (MCEETYA) commission a review of the costs of providing higher education for international students, with a view to ensuring that charges accurately reflect all direct and indirect costs. The review should include an assessment of any additional support requirements for international students._
Government response
The Government does not support this recommendation.

The variability in costs faced by institutions and differences in the services they provide means that a review would be unlikely to arrive at a generally accepted cost for courses provided to international students.

Under Ministerial Guidelines, institutions are required to charge overseas students a fee of at least the full average cost of a course. The Commonwealth sets an indicative minimum fee (between $8,670 and $17,840 in 2001 depending on the course). Institutions can charge less than the indicative minimum fee only if that fee meets the full average cost and they have written permission from DEST.

Most institutions charge fees greater than the minimum fee. The Government considers that managers at the institutional level are in the best position to understand the costs of overseas students to their institution.

The Auditor General of Victoria recently released a report, International Students in Victorian Universities. The audit found that international students contributed $714.5 million to the Victorian economy in 1999, which was 0.47% of Gross State Product. The audit concluded that international fees were a significant component of funds to faculties, capital expenditure, libraries and university wide support services, allowing universities to deliver educational services to all students. It determined that fees paid by international students recovered the full cost of their education, and no cross subsidisation was occurring.

Recommendation Seven
The Committee recommends that as a matter of urgency the Government undertake a review of universities’ current practice concerning ancillary fees and charges, including for student accommodation.

Government response
The Government already monitors universities’ compliance with the Commonwealth’s Ancillary Fees Guidelines.

In 2001 the Government asked all Vice-Chancellors to provide information about current processes and mechanisms for ensuring that the requirements of the Ancillary Guidelines are known to the personnel in their institution who are authorised to set charges for relevant materials and services. The Commonwealth is also examining whether there is a need for greater clarity in the Ancillary Fees Guidelines. A final determination will be made following the Government’s consultations with the sector during 2002. Universities themselves have responsibility in relation to fees and charges for student accommodation.

Recommendation Eight
The Committee recommends that the Government alters current funding models and identify alternate models that would better reflect the specific needs of regional and new universities, and those serving large populations of disadvantaged students, as well as ensuring that the provision of places is in line with national needs.

Government response
The Government agrees that this issue warrants consideration and, accordingly, it will be one of the central issues on which it will be conducting consultations during this year.

The Government is of the view that without changes the current funding arrangements will be difficult to sustain in the longer term. In particular the consultations will focus on developing arrangements that build on strength, increase diversity and enable universities to specialise in areas of excellence and in niches that are appropriate to their individual circumstances.

4. Governance and Regulation of Universities

Recommendation Nine
The Committee recommends that a formal inquiry be conducted into the auditing requirements of universities, covering both the scope of DETYA guidelines and the varying requirements of state foundation and audit acts.

Government response
The Government does not support a formal inquiry into the auditing requirements of universities but notes that the appropriateness of current reporting and regulatory requirements is one of the issues being considered as part of the Higher Education Review.

Under current arrangements, the legislative requirements for auditing of universities are a matter for establishing parliaments. It is appropriate that each Auditor-General continues to audit the external financial statements of universities within their jurisdictions, in line with the relevant legislative requirements.

DEST’s financial reporting guidelines are reviewed annually. The review for the 2000 guidelines involved consultation with the higher education sector, Commonwealth, State and Territory Auditor-General and financial officials, State and Territory education officials and the Australian National Training Authority.
Recommendation Ten
The Committee recommends that MCEETYA examine the current balance between Commonwealth and State responsibilities for higher education and consider the possible transfer of statutory powers for universities to the Commonwealth.

Government response
The Government does not currently support this recommendation, but welcomes submissions on this matter as part of the Higher Education Review.

The current balance of Commonwealth/State responsibilities were agreed at the 1991 Special Premiers’ Conference. Specifically, the Commonwealth has primary funding and policy-making responsibility, while the States and Territories have responsibilities related to legislation, governance (including accreditation of non-self accrediting institutions, the recognition of new universities and the oversight of universities as statutory authorities) and the identification of broad priorities for the development of the sector.

The Government notes that the current mechanisms for working and consulting with the States/Territories (MCEETYA, the Joint Committee on Higher Education and the bilateral Joint Planning Committees) are generally effective.

Recommendation Eleven
The Committee also recommends the appointment of Commonwealth parliamentary representatives, or parliamentary nominees, to governing bodies of universities in receipt of Commonwealth monies.

Government response
The composition of the governing bodies of universities is the responsibility of establishing parliaments. They are entitled to invite, and legislate for, the appointment of Commonwealth parliamentary representatives. Governance and management issues are being considered as part of the Higher Education Review including the size and number of members on university governing bodies, and the role of governing bodies in representing the interests of the institution as a whole, rather than sectional interests.

Recommendation Twelve
The Committee recommends that a national Universities Ombudsman be appointed, funded by the Commonwealth, after consultation with the states and national representative bodies on higher education, including staff and students, and that such an office include the power to investigate ancillary fees and charges and to conciliate complaints. Students enrolled in Australian programs off-shore should have equal rights of access to the Ombudsman.

Government response
The Government is keeping an open mind on this proposal in the context of the Review of Higher Education. If there appears to be strong support and a demonstrated need, then the Commonwealth will give further consideration to the idea. Naturally the proposal could only be implemented with the agreement of States and Territories, who currently have this responsibility.

Recommendation Thirteen
The Committee recommends that a cross-sectoral advisory body be established to provide independent advice to government, and that this body include respected and experienced individuals reflecting community interests as well as those of higher education. Issues to be referred to such a body could include:

- a review of the adequacy of student income support measures, particularly the impact of changes to the age of independence requirements for student income support, especially in relation to participation rates in higher education;
- a review of the cost for rural and regional families and students of participating in higher education;
- the effects of convergence between the higher education and VET sectors; and
- examination of the applicability of the Research Assessment Exercise developed in Britain as a basis for distributing public research funds on the basis of quality.

Government response
While the Government’s current view is that there are sufficient avenues available for the Government to receive independent advice, it will be considering the issue of higher education advisory structures in its public discussion of higher education policy.

5. Quality and Diversity of Teaching

Recommendation Fourteen
The Committee recommends that the Australian Universities Quality Agency (AUQA):

- address the issue of course assessment to ensure the integrity of qualifications granted by Australian universities; and
- investigate the effectiveness and application of quality assurance regarding assessment procedures.
Government response
The Government agrees in principle with the recommendation and notes that the scope of the audits to be undertaken by the Australian Universities Quality Agency (AUQA) from 2002 enables it to assess the appropriateness and effectiveness of universities’ quality assurance plans and processes, including in relation to assessment.

Recommendation Fifteen
The Committee also recommends that universities collectively consider:

- the more widespread use of external examiners; and
- a greater use of moderation exercises across a number of universities.

Government response
This recommendation is for universities to consider.

The Government encourages best practice in assessment methodology in universities. The Government is currently funding a project through the Australian Universities Teaching Committee (AUTC) on best practice in assessing student learning. The project team is producing resources that can be used by all universities to assist teachers in assessing student learning.

Recommendation Sixteen
The Committee recommends that the Government ensures a high priority be given to funding to public universities to support on-line learning including:

- free bridging or pathway programs to university study to encourage as many people as possible to improve their education, with a view to providing an additional 100,000 places;
- an expansion in on-line courses for undergraduate students;
- increased development of on-line education materials; and
- an increase in the capacity of all universities to offer on-line courses to overseas students.

Government response
The Government agrees in principle with some aspects of the recommendation. The Government is already active in supporting the development of on-line learning, through seed funding initiatives and the dissemination of best practice information.

Universities have been quick to adopt new technologies and to develop on-line study and education materials. The growth in this area has been rapid in recent years, with a large proportion of undergraduate courses offered by Australian universities already having some on-line component. Rather than adopting a centralised approach to developing this area of higher education, which is the implied suggestion of the Committee’s Report, the Government considers that it is best left to institutions, many of whom have developed highly strategic and integrated approaches to on-line learning.

A number of universities already offer full on-line courses or units of study to students overseas. While such practices increase the diversity of course offerings, it cannot be assumed that all overseas students will embrace on-line learning. Social and cultural issues will affect the acceptance of various forms of education delivery.

6. The Funding and Management of Research

Recommendation Seventeen
The Committee recommends that the Government contribute to the funding of the collaborative development of National Site Licence agreements with publishers to enable university libraries to gain greater access to the widest possible range of on-line serials and other research materials.

Government response
The Government agrees with the recommendation in principle.

For some time the Government has supported the development of collaborative national site licences for research journals. Funding was earmarked in Backing Australia’s Ability (BAA) for this purpose, as part of the $246 million Strategic Infrastructure Initiative.

The Government is currently exploring ways to progress the proposal to develop National Site Licences.

Recommendation Eighteen
The Committee recommends that the Government review the balance between the level of block funding provided under the Institutional Grants Scheme (IGS) and that provided under competitive grants.

Government response
The Government welcomes submissions on this matter as part of the Higher Education Review.

The Government notes that the Universities in Crisis report provides no evidence to support the assertion that the funding balance is excessively skewed towards competitive grant programmes. In 2002, around $410 million in block funding has been allocated to universities for research and research infrastructure and a further $617 million has been allocated for research training.
including funding for Australian Postgraduate Awards (APA) and International Postgraduate Research Scholarships (IPRS). Competitive research grants through the Australian Research Council will total $272 million in 2002, and will be around $500 million in 2006 as a result of the Backing Australia's Ability increases. A number of other agencies, including the National Health and Medical Research Council, provide competitive grants.

The Government's decision to allocate the largest proportion of the additional funding provided in Backing Australia's Ability through ARC competitive programmes ($736 million), reflects the recommendations of the Chief Scientist's report on Australia's science capabilities and the Innovation Summit Implementation Group.

**Recommendation Nineteen**

The Committee recommends that the Government consider removing the following two items as components of research income for the purposes of the IGS:

- universities’ own investment of funds (from endowment income etc) on research; and
- income from consultancies that do not involve the development of new knowledge.

**Government response**

The inclusion of universities’ own investment income is justified to the extent that it encourages philanthropic support for Australian research and innovation. Investment income from endowments can only be counted in the IGS formula if the donor has specified that the funding must be used for research purposes. Endowments, which are for spending by a university according to its discretion, are ineligible. This is consistent with the recommendations of the Innovation Summit Implementation Group.

Income from consultancies that do not involve the development of new knowledge is already explicitly excluded from the IGS formula.

**Recommendation Twenty**

The Committee recommends that Australian Research Council grants schemes be reviewed to ensure they reflect:

- adequate support for both basic and applied research and for the humanities and social sciences;
- support for emerging disciplines and early career researchers; and
- implementation of a range of strategies to assist new universities to develop their research and training capacity.

**On 29 January 2002 the Minister for Education, Science and Training, the Hon Dr Brendan Nelson MP, announced the Government’s decision that 33 per cent of the funding available in the ARC’s 2003 funding round would be directed to four research priority areas—Nano and Biotech, Materials; Genome-Phenome research; Complex Systems; and Photon Science and Technology.**

**Excellent research across the range of disciplines in basic and applied areas (including the humanities and social sciences) will continue to be supported by the ARC and will benefit from the doubling of ARC funding over 5 years announced in Backing Australia’s Ability.**

ARC programmes already include mechanisms to assist early career researchers, through the provision of postdoctoral research fellowships (which have doubled in number since the Government’s commitment in Backing Australia’s Ability to double the ARC’s funding over 5 years), and provide opportunities for early career researchers to apply for Discovery research grants.

The ARC conducts regular formal visits to all Australian universities to discuss research policy issues with senior management. The executive directors responsible for management of the ARC’s six disciplinary clusters (Biological Sciences and Biotechnology, Physical and Earth Sciences, Engineering and Environmental Sciences, Mathematics, Information and Communication Sciences, Social, Behavioural and Economic Sciences, and Humanities and the Creative Arts)
liaise with the research community and users of research concerning strategic issues in each area.

**Recommendation Twenty-One**

The Committee recommends that the Government double the number of research fellowships available to Australian researchers. Such fellowships should assist both early and mid career researchers, as well as providing a new range of assistance to outstanding researchers through a new program of elite fellowships designed to retain our brightest minds in Australian universities.

**Government response**

The Government supports the recommendation in principle and notes that as part of Backing Australia's Ability the Government is providing $736 million over five years to double the funding of the Australian Research Council. Amongst other measures, this funding has enabled the introduction of Federation Fellowships and the doubling of funding for postdoctoral research fellowships. 25 Fellowships have already been allocated and applications are now open for a further 25 Fellowships for take-up in 2003.

The 2002 Federation Fellowships have brought home 8 Australian researchers currently holding research posts in prestigious institutions in the USA, Europe and Asia and helped retain in Australia a further 16 of our best researchers. Also, the Fellowships have attracted a top researcher from Sweden.

In addition to the Federation Fellowships, another 163 research fellowships were offered in 2002. 15 of these brought home leading Australian researchers who were working overseas.

**Recommendation Twenty-Two**

The Committee recommends an increase in the level of support provided under the Research Infrastructure Block Grant (RIBG) scheme. To limit the immediate budgetary impact, this could be done on a phased basis, until the ratio reaches the level of 45c expenditure on infrastructure for every dollar of competitive grant income.

**Government response**

The Government will consider its overall level of funding for Higher Education and the priority given to the various funding programmes following the current Higher Education Review. The Government is already injecting $337 million over five years into the RIBG Scheme to maintain it at the acceptable level of around 20c for every dollar of competitive grant income.

The Government also provides direct research infrastructure funding through a variety of mechanisms in addition to RIBG, including the Systemic Infrastructure Initiative, the ARC Linkage—Infrastructure scheme, Major National Research Facilities programme and the Institutional Grants Scheme.

**Recommendation Twenty-Three**

The Committee recommends that DETYA review the Research Training Scheme (RTS) criteria so that research in emerging disciplines can be supported as areas where major contributions to innovation can be made.

**Government response**

There is nothing in the current RTS criteria that prevents an institution from supporting research in emerging disciplines where major contributions to innovation can be made. In fact the Government expects universities to do so and has sought to increase accountability for research and research training expenditure through agreed public Research and Research Training Management Reports.

The Government notes that there is no requirement for the internal allocation of RTS funds to reflect the past contribution of disciplines to the performance of institutions, on which funding is based under the RTS formula.

**Recommendation Twenty-Four**

The Committee recommends that the Government upgrade the Science, Engineering and Innovation Council into a Council with responsibility of providing expert advice across the widest range of disciplines, including sciences, engineering, the humanities and social sciences.

**Government response**

The Government does not support this recommendation. The role of Council is to be the Government’s principal source of independent advice on issues in science, technology and engineering and the contributions these make to Australia’s economic and social development and innovative capacity. In cases where issues relating to science, technology and engineering interplay with other disciplines, PMSEIC has always drawn on the expertise of those from other disciplines including the humanities and social sciences.

**Recommendation Twenty-Five**

The Committee recommends that the Office of the Chief Scientist be made a full time position.

**Government response**

The Government does not accept the recommendation. The role of Council is to be the Government’s principal source of independent advice on issues in science, technology and engineering and the contributions these make to Australia’s economic and social development and innovative capacity. In cases where issues relating to science, technology and engineering interplay with other disciplines, PMSEIC has always drawn on the expertise of those from other disciplines including the humanities and social sciences.
is based on close and continuing contact with industry and research communities. Assistance is provided to the Chief Scientist in undertaking his duties through dedicated secretariat support provided by the Department of Education, Science and Training and regular discussions between the Minister for Science and the Chief Scientist ensure that other means of complementing and augmenting the Chief Scientist’s activities are considered.

**Recommendation Twenty-Six**

The Committee recommends an expansion of the Cooperative Research Centres Program to ensure the incorporation of the humanities, social sciences and creative arts.

**Government response**

The next selection round for CRCs will be in 2004. A major review of the Programme is planned for 2003 to allow any necessary revisions of the guidelines to be in place for that selection round. Proponents of expanding the CRC programme to incorporate the humanities, social sciences and creative arts will have an opportunity to present their case.

**7. The Commercial Operations of Universities**

**Recommendation Twenty-Seven**

The Committee recommends that the MCEETYA should formally commission a review addressing the commercial accountability framework as it applies to universities as well as broader public policy issues including the need for a ‘public interest’ test for commercial operations. Such a review should include consideration of universities’ legal liabilities for commercial operations and associated risks.

**Government response**

The broad issues regarding accountability and commercial operations are being canvassed during the public discussions the Government is having on the future policy directions for higher education.

The Government will continue to facilitate improvements across the States and Territories with the assistance of MCEETYA. In this respect the Government has already conducted a study (with the assistance of the law firm Phillips Fox) on the regulatory framework applying to universities. The final report of the study was released in April 2002. The study will assist governments in each jurisdiction to ensure that an appropriate regulatory framework is in place.

The States continue to actively review the accountability framework for commercial operations in their jurisdictions. For example New South Wales has recently completed a process of legislative reform with bills passed last year to explicitly empower universities in NSW to pursue commercial activities. Victoria has recently completed a review of university governance to develop options for appropriate corporate governance and accountability for Victorian universities. Other States have also been active in this area.

**Recommendation Twenty-Eight**

The Committee recommends that proposals for commercial investments or undertakings should be subject to full disclosure and scrutiny by councils and associated committees and should conform to all relevant legislation and recognised standards of public disclosure.

**Government response**

The establishing Acts of all universities provide for a governing body to manage and control the university. These bodies are entitled to require full disclosure of any proposals for commercial investments or undertakings by the university. They may also elect to delegate such matters.

Universities, which are generally statutory bodies, must comply with legislative requirements operating in their jurisdictions concerning proposals for commercial investments. Controlled entities established by universities are already subject to legislation (eg Corporations Law) and there are likely to be other formal reporting and disclosure arrangements with the university.

In several jurisdictions, the engagement of universities in commercial and off-shore ventures has led to questions by State Auditors-General about the authority for universities to undertake such ventures, their capacity to do so effectively, and their treatment of potential profits from such ventures. These are matters for review by the respective State/Territory governments.

**Recommendation Twenty-Nine**

The Committee recommends that the Government address the current ambiguity governing the taxation status of universities’ commercial arms and their compliance with the principles of competitive neutrality.

If there are genuine public interest reasons for competitive neutrality principles to be over-ridden, these should be stated explicitly and appropriate legislative steps taken to protect the legal position of universities.

**Government response**

An organisation can be endorsed as an income tax exempt charity (ITEC) where it is non-profit, it is for the public benefit, and its dominant purpose is a charitable purpose, such as the advancement of education.
For a university to be non-profit and for the public benefit, it must be a public university that does not distribute profits or assets for the benefit of particular persons. For a university to have the advancement of education as its dominant purpose, any commercial purposes (or other non-commercial purposes) must be incidental or ancillary to the university's advancement of education.

The requirement for charities to be endorsed by the Australian Taxation Office in order to gain income tax exempt status, introduced by the Government in July 2000, is designed to prevent abuse of the income tax exempt status of charities and provide certainty for the charitable sector. Where an organisation is endorsed, the income tax exempt status is enjoyed by the whole organisation.

The issues taken into account when considering the endorsement of organisations are questions of fact. Accordingly, the endorsement of ITECs is done on a case-by-case basis. The Government considers such case-by-case endorsement to be appropriate.

The Government announced the establishment of an Inquiry into the Definition of Charities and Related Organisations on 13 April 2000 in order to obtain options for enhancing the clarity and consistency of the existing definitions of charities and related organisations in Commonwealth law and administrative practice. The Treasurer released the Inquiry's Report on 24 August 2001. The Government is giving careful consideration to the issues raised.

The Competitive Principles Agreement between the Commonwealth and States and Territories provides that the principle of competitive neutrality applies only to the business activities of public owned entities, not to the non-business, non-profit activities of these entities. The Commonwealth's position is that the core teaching and research activities are non-business, non-profit activities.

In relation to other activities, the Commonwealth expects that universities will comply with the Agreement. The Government notes that in 1999 the COAG Committee on Regulatory Reform Sub-Group on Higher Education considered introducing a common approach to the application of competitive neutrality principles across the States and Territories. The Sub-Group decided that it would remain up to States and Territories to determine whether universities in their jurisdictions are complying with the principles of competitive neutrality.

Recommendation Thirty
The Committee recommends that MCEETYA identify the key elements that should be included in universities' policies and practices concerning academic consultancies and that the AUQA be required to examine these policies and practices as part of its audit of educational institutions.

Government response
The Government supports universities having in place appropriate policies and practices concerning academic consultancies. It believes that such matters are the responsibility of university governing bodies, as these matters are about the appropriate use and protection of university resources and the conditions of employment of staff.

A recent survey by the AVCC has revealed that all universities now have in place formal policies in respect of outside work undertaken by academic staff. Some of the common features of these policies include limits on the amount of outside work by academics, prescribed approval processes to undertake such work and clearly defined accountability arrangements to ensure adherence to the policies of the university.

Recommendation Thirty-One
The Committee recommends that the Government, in consultation with MCEETYA, develop a broad policy framework for commercialisation of research to ensure that public interest and probity considerations are given due weight in universities' individual policies and that there is due diligence and full scrutiny by university governing bodies of all proposals for commercialisation of research.

Government response
The Government believes that commercialisation of research is in the public interest and encourages universities to put in place policies and procedures to ensure university interests are protected and that there is probity in dealings related to the commercialisation of research.

The Government notes that the main elements of its broad policy framework for commercialisation of research are already in place. The Commonwealth, States and Territories have recently cooperated in the development of National Principles of Intellectual Property Management for Publicly Funded Research. These specify that research institutions, including universities, will have policies and practices that govern their management of intellectual property, including in relation to potential conflicts of interest. Furthermore, universities receiving Commonwealth research funding are required to submit Research and Re-
search Training Management Reports which outline their policies for managing, protecting and exploiting intellectual property, the commercialisation of research, and management of research contracts. In addition, institutions are expected to describe their practices for identifying intellectual property with commercialisation potential, assigning intellectual property rights, research commercialisation strategies and related governance arrangements. Reporting arrangements in relation to the commercialisation of university research are being strengthened in 2002.

Institutions’ governing bodies already have the authority to require full disclosure of commercialisation activities or to delegate this power if they wish, in accordance with their own act of establishment. The intellectual property and commercialisation policies of many universities require staff members to formally report on research they are conducting that may have commercial application. Proposals are usually made in writing to the Pro-Vice Chancellor/Deputy-Vice Chancellor (Research), or delegated representative(s) of the institution, who will act on behalf of the university to assess the benefits of the proposal and will decide whether the university wishes to be involved in the commercialisation of the research.

Recommendation Thirty-Two
The Committee recommends that the Government, as part of its development of commercialisation policy, consider establishment of an Innovation Grants Program from within existing resources to provide seed funding to university owned (or majority-owned) companies to address the current lack of start up capital.

Government response
The issue of capital for university based start-up companies has already been addressed through the Backing Australia’s Ability initiatives. The package includes the new Pre-Seed Fund totalling $78.7 million. It will target commercially promising research and development opportunities at the pre-seed stage within Australian universities and Commonwealth Government owned research agencies. The fund will be managed by experienced private sector venture capital fund managers who have extensive experience in public sector research commercialisation and venture capital investment at the pre-seed stage.

Other BAA measures will also assist in the commercialisation of research, including the expansion of the Commercialising Emerging Technologies (COMET) Program, the Biotechnology Innovation Fund and the 175% R&D Tax Concession ‘Premium’ for Additional R&D.

Recommendation Thirty-Three
The Committee recommends that the States and Commonwealth (through MCEETYA) consider the benefits inherent in the Commonwealth, with its major funding responsibility and greater resource base, assuming responsibility for monitoring universities’ financial operations, including the operations of commercial arms.

Government response
The Government will consider submissions received on this matter as part of the Higher Education Review.

The Government currently supports the division of Commonwealth/State responsibilities agreed at the 1991 Special Premiers Conference. State Parliaments and Auditors-General play a critical role in monitoring universities financial operations (including the operations of commercial arms) within their jurisdictions.

The Commonwealth also monitors the financial performance of public universities based on their audited financial statements and through the bilateral consultations with universities on their Educational Profiles. It uses audited financial statements to assess whether controlled entities have any significant negative effect on the operations of universities. The Department of Education, Science and Training also monitors each institution’s overseas student activity and risk management with respect to revenues and expenditure on that activity.

8. Participation in Higher Education

Recommendation Thirty-Four
The Committee recommends that the Government examine new ways of encouraging the participation in higher education of educationally disadvantaged Australians, particularly Indigenous students.

Government response
The Government agrees in principle with this recommendation.

The Government welcomes proposals to the Review of Higher Education on new ways to increase participation in higher education by educationally disadvantaged Australians.

The Government encourages the participation of educationally disadvantaged Australians, including Indigenous students, in higher education. In the 2001-2002 Budget, the Government announced a new programme to support students with high cost disabilities. It also introduced the Postgraduate Education Loan Scheme, which commenced in 2002, to improve access to postgraduate coursework opportunities.
The number of students enrolled in universities in the six equity groups identified by the Commonwealth has increased over the last decade in line with the overall increase in participation during this period. Five of the six equity groups have modestly increased or had a stable share of domestic student enrolments. The proportion of students from non-English speaking backgrounds has declined slightly in recent years but this is thought to be mainly due to migration patterns. Although the trends are encouraging, the Government would like to see even greater improvement.

The Government is concerned that Australia’s Indigenous students suffer the most educational disadvantage. The National Indigenous English Literacy and Numeracy Strategy aims to ensure that every Indigenous child leaving primary school should be numerate and be able to read, write and spell at an appropriate level. This strategy should impact upon Indigenous retention rates and subsequent participation in higher education. Indigenous Support Funding is provided as part of operating grants for universities to meet the special needs of Aboriginal and Torres Strait Islander students.

Funding support to improve the higher education participation of other equity groups is provided through the Higher Education Equity Programme. Among other things, the programme funds a network of Regional Disability Liaison Officers, to assist students with disabilities into higher education and to support their transition from study to work.

The deferred payment arrangements of the Higher Education Contribution Scheme (HECS) are designed to ensure that no student is prevented from attending university because of having to pay tuition fees up-front.

9. Staffing in Public Universities

Recommendation Thirty-Five

The Committee calls on the Government to acknowledge that Australia is facing a loss of experienced academics as a result of comparatively poor salary rates in Australia and recommends that the Government increase public investment in higher education to enable an increase in salary levels.

Government response

The Government disputes the premise of this recommendation.

The market for knowledge workers is international. It is inevitable that some talented young people will leave Australia to gain experience and seek opportunities overseas. Many return having benefited significantly from the experience. A recent study by Dr Robert Birrell of the Centre of Population and Urban Research, Monash University (Skilled Labour: Gains and Losses, July 2001) has revealed that more highly skilled workers come to Australia from overseas than leave. The study also found that much of the movement of Australians out of the country is not permanent and that a significant proportion of these individuals return to Australia in due course.

Australia also attracts large numbers of academics and researchers. Department of Immigration and Multicultural and Indigenous Affairs research shows that immigration of university lecturers and tutors exceeded emigration by thirteen per cent over the past five years.

Australia’s ability to retain and attract highly skilled people depends principally on there being suitable employment opportunities for them in Australia. In this context, the initiatives announced in Backing Australia’s Ability, which are directly providing some $1.3 billion for university research and research infrastructure over five years, will greatly enhance the environment for research and innovation in Australia, including within our universities. Backing Australia’s Ability will also provide additional support for Cooperative Research Centres, for major national research facilities, and for centres of excellence in biotechnology and information and communications technology.

A portion of the funds provided through Backing Australia’s Ability is being used to support a new programme of Federation Fellowships, each worth $225,000 a year for five years, while the number of Australian postdoctoral fellowships is being doubled. These initiatives will significantly improve Australia’s capacity to attract and retain researchers of outstanding calibre. Indeed, there are already indications that a number of high profile Australian researchers based overseas are taking steps to accept appointments in Australia.

Recommendation Thirty-Six

The Committee recommends that DETYA include an emphasis on professional development in profile discussions with universities and that funding be identified for professional development including:

- expansion of the Excellence in Teaching Awards program; and
- the development of a program of professional development for academics, including formal teaching qualifications.
Government response
The Government notes that these arrangements are predominately in place.
As part of its Educational Profile, each university is required to submit quality assurance plans that outline its objectives and plans for professional development. The plans indicate that universities take this responsibility seriously and that many have implemented innovative programs that demonstrate excellent practice in this area. A good example is the Foundations of University Teaching Program at Flinders University.
The Australian Awards for University Teaching, established in 1997, are among the world's most substantial in their field and represent an annual commitment of approximately half a million dollars in prize money.
The issue of professional development for academics has recently been addressed in the Issues Paper—Striving for Quality: Learning, Teaching and Scholarship as part of the Higher Education Review. It would appear that whilst most institutions have dedicated teaching and learning centres with staff providing professional development opportunities in teaching and learning issues, only a small proportion of teaching academics take part in professional development. As professional development for academics is not generally accredited it is possible that this demotivates staff updating their professional development. Professional development issues will be further considered and discussed as part of the Review.

10. Universities' Contributions to Regional Development and Exports

Recommendation Thirty-Seven
The Committee is concerned that present resources for access by universities in regional areas to high bandwidth and telecommunications links are inadequate and recommends that the Government provide extra assistance to address this problem.

Government response
Extra funds to assist regional universities gain access to high bandwidth and telecommunications links were provided as part of Backing Australia's Ability. Under this initiative the Government is providing $246 million over five years for systemic research infrastructure. Priority will be given to innovative and cost-effective approaches to improved bandwidth, particularly in regional Australia. A substantial proportion of funds allocated under the Rationalisation and Restructuring Programme were provided for the enhancement of ICT infrastructure. There has also been $3 million from the Higher Education Innovation Programme provided for additional bandwidth.

Recommendation Thirty-Eight
The Committee recommends that the need to develop a strategy for development and support of regional universities and students living in regional areas be referred to the proposed advisory body, in consultation with state governments.

Government response
As noted in the response to Recommendation 13, the Government is considering the issue of higher education advisory structures in its public consultations on higher education policy. It will also be consulting widely on best arrangements for recognising the special role of institutions in regional communities.
The Government notes that it provides a wide range of support to regional universities and campuses including:

- over $1 billion a year to regional universities in operating grants;
- some 100,000 full time student undergraduate places for Australian students in the regions—as compared to 91,000 in 1995;
- $177 million for physical and electronic infrastructure at regional universities;
- $34.8 million (in 2001 dollars) over four years for an additional 670 new university places each year for regional universities and campuses;
- $13 million over four years to improve access to undergraduate nursing education for rural and regional students;
- $3.2 million for expanded bandwidth access at regional universities;
- a Regional Protection Fund of $6 million over three years to ensure that regional universities do not lose research funding in the first three years of the Research Training Scheme (RTS) and Institutional Grants Scheme (IGS);
- $10 million for a collaborative research programme on issues of benefit to regional communities; and
- 100 bonded scholarships to encourage medical students to work in regional areas. Nine new rural clinical schools and two University Departments of Rural Health costing $217 million have been established.

Recommendation Thirty-Nine
The Committee recommends that the Government address as a matter of urgency the potential of the current round of General Agreement on Trade in
Services (GATS) negotiations and resultant trade agreements to put at risk our national capacity to shape the future of our higher education system.

Government response
In early October 2001, the Government tabled a communiqué at the WTO Services meeting in Geneva, which outlined Australia’s interests and priorities for the education services negotiations. The communiqué clearly stated that the Australian Government retains its right to continue to fund, deliver and regulate the education and training sector, including its right to set and retain nationally agreed standards.

The communiqué, as endorsed by State and Territory Governments and the Australian Vice-Chancellors’ Committee, acknowledges the benefits of trade in education services, promotes Australia’s existing GATS commitments on education and seeks matching commitments from other WTO members.

The Government will undertake further research and consultation to finalise the Australian position before the commencement of the ‘request-offer’ stage of the GATS negotiations.

Response to recommendations in the Democrats Supplementary Report

Recommendation (1): that at minimum, $500 million additional funds is committed to university operating grants in 2002, as part of a 20% increase over 3 years to take account of unfunded changes in cost structure since 1996. That this 3 year initial re-investment be the basis of a 10 year commitment that is a more realistic basis for public investment in higher education.

As stated in the response to Recommendation 1 of the main committee report, the Government does not accept the premise that there is a ‘funding crisis’ in higher education.

Universities are in a generally sound financial position and are adapting well to the challenging environment in which they are now operating. This is due to the innovative and creative response of institutions to the flexibility and opportunity available under the policies of this Government. These policies have allowed universities to achieve:

- growing revenues—total university revenues from all sources will be at the record level of an estimated $10.4 billion in 2002, almost $2 billion more than in 1995 (in cost adjusted terms);
- increasing student participation—in 2001 there were 478,000 equivalent full-time student domestic places in Australian universities, an increase of 55,000 since 1995;
- continuing high levels of graduate satisfaction—satisfaction among bachelor degree graduates, as shown by the broad satisfaction measure, remains very high at 90 per cent, maintaining the record high levels of recent years;
- good graduate employment outcomes—graduate employment remains at high levels, with 83 per cent of graduates in 2001 available for full time employment finding full time employment within four months of completing their degrees. This compares to 80.8 per cent for 1999 graduates. In 2001 starting salaries for bachelor degree graduates, as a proportion of average weekly earnings, were at their highest level since 1991 at 85.8 per cent. The May 2000 unemployment rate among bachelor degree graduates was 3 per cent, comparing favourably with the overall rate of 7 per cent; and
- the success of Australian educational exports—education has become Australia’s third largest service export industry, generating earnings of over $4 billion each year, of which higher education students contribute over $2 billion.

The Government is currently delivering a significant injection of funding through the Backing Australia’s Ability initiatives and other measures such as the 2001-02 Budget measure to provide additional places to regional universities. As a result of these initiatives, by 2004 annual Commonwealth funding to universities through the Education, Science and Training portfolio will be $480 million higher than in 2001 at around $6.3 billion (including HECS) (in non-cost adjusted terms) and there will be at least 8,300 more fully funded undergraduate places in 2004 than in 2001.

The Government has been and will continue consulting widely with stakeholders and taking advice from a range of sources on longer term policy and funding issues. The consultations are focussing on developing arrangements that build on strengths, increase diversity and recognise the special roles of institutions such as those in regional communities.

Recommendation (2): That the Government bring forward the increases in ARC Competitive Grants and research infrastructure announced in Backing Australia’s Ability such that one third of the total increase is effective in 2002, two thirds in 2003 and the total in 2004.
The Government does not support this recommendation.

There are significant funding increases in each year of Backing Australia’s Ability. In 2002, for example, there will be an additional $112 million for the Australian Research Council, university places, and research infrastructure alone (including the HECS component of the additional places).

This approach recognises that universities and research agencies need time to plan for additional university places, fellowships and other measures.

**Recommendation (3): That the Commonwealth apply financial penalties for States and Territories that have not enacted relevant legislation to give force to the National Protocols by December 31, 2002.**

The Government is not intending to apply financial penalties in relation to the National Protocols.

The Government’s preferred approach is to work with the States and Territories in implementing the National Protocols. Several are already in the process of introducing or amending legislation or have completed that process. The Joint Committee on Higher Education, a committee of Commonwealth, State and Territory higher education officials, is monitoring the implementation of the Protocols.

**Recommendation (4): That the very different goods achieved by public and private provision of education and research is formally recognised in funding and policy.**

The Government rejects the notion that “very different goods” are achieved by public and private provision of education and research.

The Government believes that its current policy settings have achieved a good balance between public and private support for higher education and research. The Government will continue to review its policy settings to ensure that it can assist both public and private universities to develop further in the future.

As noted above, the Government has been and will continue consulting widely with stakeholders and taking advice from a range of sources on longer term policy and funding issues, including funding and policy for private providers of higher education.

**Recommendation (5): That the number of fully funded postgraduate research students be restored to 2000 levels of 25,000 EFTSU.**

The Government’s Research Training Scheme is a significant improvement on the arrangements which previously existed to support research training.

Prior to the commencement of the scheme, many universities had grown research student numbers beyond the number of HECS-exempt places provided by the Government. This led to justified concerns about the quality of the research training environment and supervision, high attrition rates and slow rates of completion.

Under the new arrangements, all commencing Commonwealth funded research training places are HECS-exempt and allocated through a performance-based formula that ensures they are distributed according to the capacity of universities to properly support them. In 2002 it is estimated that there will be some 22,100 Research Training Scheme places provided, up from 21,644 in 2001.

In relation to the research training ‘gap’ places, or places provided in 2000 in excess of the allocation of HECS-exempt research training places, universities were given the option of transferring those places to non-research areas, or retaining them as research places on the condition that they be subject to the performance-based formula once the student occupying them completed their studies. Many universities elected to return these places to coursework and undergraduate places.

**Recommendation (6): That additional funds of $10 million be allocated to the ARC for a “reflections” program that gives academics grappling with fundamental conceptual issues in their disciplines, notably the core sciences and humanities teaching relief to enable and encourage considered reflection and speculation.**

The Government does not support this recommendation.

An additional $736 million over five years is being provided over five years under Backing Australia’s Ability to double funding for the ARC’s National Competitive Grants programme. This will provide ample opportunity for the ARC to support academics undertaking fundamental research across all disciplines.

In addition, institutions may choose to use their own resources to support staff to focus on research or related activities in the course of their professional development.

**Recommendation (7): That a term of reference for the cross-sectoral advisory body be ongoing cost-benefit analysis of reporting requirements and provision of advice to the Minister of important gaps in data.**

As noted in the response to Recommendation 13 of the main committee report, the Government is considering the issue of higher education advisory structures in its public discussion of higher education policy.
Recommendation (8): That differential HECS be abolished and a single HECS rate scheme is set at the current band 1 level.

In general, the Government currently considers that differential HECS bands are a fair and equitable way to reflect the differing costs of delivering courses and their impact on the earnings potential of students. That said, the Government will give careful consideration to proposals brought forward in this year’s Higher Education Review which could bring sustainable improvements to arrangements for students to contribute towards the cost of their higher education.

Recommendation (9): That HECS-exempt places are provided for teaching qualifications for students in science and mathematics to encourage a reversal of the serious shortage of qualified science and maths teachers in primary and secondary education.

The Government does not support the provision of HECS-exempt non-research places.

The Government also notes that 2002 university admissions centre figures suggest an upsurge in demand for teacher training places.

The Government’s Backing Australia’s Ability initiative provided an additional 2,000 new places each year from 2002 in the priority areas of mathematics, science and information and communications technology, which will have a tangible impact on improving science and maths teaching in primary and secondary education. A number of the courses funded under the initiative directly target improved teaching in these areas.

Recommendation (10): That the HECS repayment threshold be restored to average male earnings over the next three financial years.

The Government considers that the current threshold is fair and ensures that students make a reasonable contribution to the costs of their education, but only when they are financially able to do so. HECS debtors with low family income (as indicated by either exemption from, or reduction of, the Medicare levy) are exempt from making repayments in that year. Also, the Higher Education Funding Act 1998 includes a provision for HECS debtors experiencing financial difficulties to apply to the Commissioner for Taxation to defer a compulsory repayment of a HECS debt to a time when they can afford it.

As noted in response to the Democrat’s Recommendation 8, the Government will consider proposals relating to this issue in the Higher Education Review.

Recommendation (11): That growth funding to institutions be contingent on their capacity to meet agreed targets of increasing participation from Indigenous, low SES, rural, regional and remote students.

The Government takes a variety of factors into account when allocating growth places, including whether the additional places will meet unmet demand and improve higher education participation rates.

The consultations taking place for the Review will examine, among other things, ways in which funding arrangements can best recognise the special roles of some institutions such as those in regional communities and will consider mechanisms to increase the participation of educationally disadvantaged groups, including those identified students with disabilities.

Recommendation (12): That the Government provide 10,000 HECS-exempt scholarships to be allocated to fields of study deemed to be areas of national strategic importance (ie. photonics) or areas where there is unmet demand for graduates but little private benefit but high public benefit (eg nursing).

As noted above, the Government does not support the provision of HECS-exempt places. There is no evidence that HECS is a significant factor in relation to demand for particular courses of study.

Recommendation (13): That additional HECS places be provided for postgraduate coursework studies.

The Government does not support the recommendation. There is no case for additional places as universities do not currently use all of the HECS places now available for postgraduate coursework students for provision at that level. The Government believes that the Postgraduate Education Loan Scheme addresses equity concerns and allows people to undertake study without having to pay upfront fees.

Recommendation (14): That the current parental income threshold be lifted.

The Government believes that the current parental income test threshold for dependent young people receiving Youth Allowance is appropriate, and works effectively in targeting these payments to those families and young people that are most in need. The parental income test has been eased under Youth Allowance compared to the former AUSTUDY scheme, and research from the Youth Allowance Evaluation indicates that the majority of parents support the principle of parental means testing. The Government continues to work on ways of providing better and more targeted assistance to families with dependent children and young people.
Recommendation (15): That the age of independence be lowered to 18, failing that, 21.
Following the recent completion of the Youth Allowance Evaluation, the Government will be considering the age of independence under Youth Allowance, along with many of the other issues raised, for further policy development. There is, however, no immediate intention to change this policy.

Recommendation (16): That all forms of student income support be raised to parity with the age pension over a 5 year period.
Rates of youth and student income support have historically been lower, reflecting lower wages for young people in the labour market and the Government’s desire to encourage participation in employment. Youth Allowance and Austudy rates are adjusted every year in line with changes to the cost of living. Any further increases would need to be considered carefully as they would involve substantial additional outlays. There is no justification for aligning youth and student income support with pension rates.

Recommendation (17): That the benefits to Australia and Australian students from internationalisation of the student cohort be an explicit term of reference of any MCEETYA review of the direct and indirect costs of the provision of education for international students.
The Government agrees that there are benefits from the internationalisation of the student cohort.
As noted in the response to Recommendation 6 of the main committee report, the Government does not support a MCEETYA review on the costs of provision for international students.

Senate Select Committee on Superannuation and Financial Services
Prudential Supervision and Consumer Protection for Superannuation, Banking and Financial Services: First report

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<td><strong>Regulatory framework</strong></td>
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| The Committee recommends that the regulators, especially APRA and ASIC, work together to develop a coordinated strategy to improve awareness in the community about their respective roles and responsibilities. | Support.
APRA and ASIC have already worked together on joint publications and industry seminars and will discuss how such programs can be expanded and improved. Implementation of the Financial Services Reform Act 2001 will provide another opportunity for cooperation between the two agencies.
APRA and ASIC also jointly conduct industry liaison meetings on matters of common concern. ASIC already expends resources educating not only industry groups but also the media and consumer organisations about its role and will continue to do so.
Also, APRA will be examining opportunities to improve community awareness (see recommendation 2). |
| **Recommendation 2** | |
| The Committee recommends that an Office of Regulatory and Consumer Affairs be established within APRA to act as a first point of call for consumers and others unsure of which regulator to approach regarding a particular issue. | Not supported.
ASIC is the regulator responsible for consumer protection. Since acquiring this role in 1998, ASIC has expended considerable efforts promoting itself to both the general public and industry as the consumer protection regulator for all financial services (except credit). The ever increasing number of visits to its consumer site, FIDO, along with the increased number of calls to its Information Line, are evidence that this message is being heard. |
The creation of an Office of Regulatory and Consumer Affairs within APRA would be at odds with the respective roles of the two regulators and would blur the demarcation of responsibilities in the eyes of the public and industry.

The referral role which the report seems to see as the primary focus of such an office is one already adequately undertaken by the staff of each of the four regulators—APRA, ASIC, the ATO and ACCC. In practice, the establishment of such an office would not stop calls being made to the wrong regulator nor the need for appropriate referral procedures to be in place. Should faults be found with referral processes at any stage, steps will be taken to rectify them.

APRA already has a public information service that handles a large volume of calls from the general public (around 700 per day), mainly about superannuation. The Government has increased APRA’s funding by $1.2 million to enhance APRA’s education role. Together with improved co-ordination between APRA and ASIC, APRA’s enhanced public education role should obviate the need for the establishment of such an office.

Recommendation 3

The Committee recommends that ASIC and APRA establish an employee industry secondment scheme to provide opportunities for staff to gain practical experience in the financial services industry.

In principle support. This is a matter for APRA and ASIC to determine. Both regulators recruit experienced staff from the financial services industry and are in the best position to determine the training needs of their staff.

Prudential supervision—trustees of superannuation funds

Recommendation 4

The Committee recommends that APRA take steps to improve its performance in its oversight of trustees—whether they are trustees of small, medium or large funds—in particular by ensuring that trustees abide by the standards required to protect the best interests of fund members.

Support. APRA has already made some progress in building up its enforcement capacity. The Government has increased APRA’s funding by $3.1 million per year to improve its supervision of superannuation funds and trustees. The safety of superannuation funds is of great importance to the Government and to this end the Government commissioned the Superannuation Working Group (SWG) to undertake public consultation and develop legislative proposals to improve the safety of superannuation. The SWG has presented its report and the Government is now considering its recommendations.

Recommendation 5

The Committee recommends that:

APRA act more quickly when matters come to its attention, and that APRA deals with those matters within its jurisdiction rather than passing them on to another regulator; and

APRA and ASIC work more closely to-

Support. APRA is working to improve procedures as far as possible. APRA and ASIC have protocols covering the referral of possible enforcement cases and information-sharing to supplement their high level memorandum of understanding. Those protocols have been revised.
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<td>gather to ensure a timely and effective response when matters come to their attention.</td>
<td>in the light of experience and remain under ongoing review. New and existing staff will be trained in the operational requirements of those protocols.</td>
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<td><strong>Recommendation 6</strong></td>
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<td>The Committee recommends that APRA work more closely with superannuation funds, the Australian Institute of Superannuation Trustees and others to ensure that an appropriate level of education and training is provided to trustees, including a mandatory minimum level of training prior to service.</td>
<td>In principle support. APRA is happy to work with industry groups such as the AIST to help them develop training material for trustees. As mentioned in the response to recommendation 2, the Government has increased APRA’s funding by $1.2 million to enhance this education role. Although only applicable to certain superannuation entities, the Corporations Act 2001 requires licensed trustees to have an adequate level of training. Further work would need to be done to establish whether a mandatory minimum level of training should be done by all trustees in conjunction with the development of other requirements for trustees.</td>
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<td><strong>Recommendation 7</strong></td>
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<td>The Committee recommends that APRA work more closely with the Australian Institute of Criminology to examine the best methods of crime prevention in superannuation funds administration.</td>
<td>Support. APRA will establish contact with the Institute to identify areas where they could usefully work together.</td>
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<td><strong>Recommendation 8</strong></td>
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| The Committee recommends that, in relation to annual reports to fund members, the minimum information requirement be expanded to include identification of:  
- any payments to trustees from the fund, broken down into directors’ fees and other payments; and  
- all significant administration fees, charges and commissions paid to both fund and investment managers. | Noted. As part of the FSR regime, regulations require a financial product provider to disclose information about costs associated with the holding of the product in periodic reports. These costs include details of amounts paid in respect of the product throughout the period and any amounts deducted by way of fees, expenses or charges. The Government supports the increased disclosure of information to fund members. It is noted that the SWG is also examining proposals to enhance disclosure. The Government is now considering the SWG’s recommendations. |
| **Recommendation 9** | |
| The Committee recommends that:  
- a trustee, fund manager or administrator who has been convicted of fraud should not practice again in the business of superannuation until certain conditions are met. These conditions might include not practicing for a period of at least 15 years, and then proving to APRA’s satisfaction that they are a fit and proper person; and  
- APRA maintain a listing of trustees, fund managers and administrators of superannuation funds which have | More work required. There are existing legislative provisions relating to disqualified persons and these would need to be reviewed. Part 15 of the Superannuation Industry (Supervision) Act 1993 governs the eligibility of trustees of superannuation funds, including provisions for the treatment of a trustee who has been disqualified. Section 120 of the SIS Act defines when an individual or body corporate is a disqualified person and section 120A outlines the circumstances where the regulator may disqualify an individual, ie for a contravention of the Act that is serious enough to provide grounds |
Recommendation 10

The Committee recommends that:
- the Minister act expeditiously and efficiently in making a decision under the

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<td>been defrauded, regardless of whether they are regulated or not.</td>
<td>for a disqualification, as determined by APRA. These circumstances give the regulator significant powers where a person has contravened the Act, and the nature of the contravention is of a serious nature, for the regulator to disqualify the person. Although not applicable to all superannuation entities, under the Financial Services Reform regime, Part 7.6 Div 4, Subdivision C, ASIC may suspend or cancel an Australian financial services licence in specified circumstances such as insolvency, conviction of serious fraud or not carrying on a financial services business. Section 915I of the Corporations Act 2001 outlines special procedures in the case of APRA-regulated bodies, such as public offer superannuation funds, which may have their licenses suspended or cancelled. Part 7.6 Div 8 contains procedures for banning or disqualifying persons from providing financial services. Further, Part 2D.6 of the Corporations Act provides for a range of measures to disqualify persons from managing corporations. The disqualification can be automatic and for a period of five years (for example for offences concerning breach of the Act, dishonesty, offences concerning participation in decision making affecting the business, or significantly affecting the corporation’s financial standing). The Court can disqualify persons from managing corporations for breaches of the Corporations Act civil penalty provisions (disqualification for any period of time), insolvency and non-payment of debt (disqualification for up to ten years), or repeated contraventions of the Corporations Act (disqualification for any period of time). ASIC has the power to disqualify for up to five years in circumstances involving the management of at least two corporations that have become insolvent in the last seven years. The applicability of these provisions to the superannuation industry would need to be considered, and whether they could be used as a model for disqualification from operating generally in the superannuation industry. Specific issues that require consideration are whether the disqualification should be automatic, or whether it should be imposed by the Court or a regulator (or a combination of all three), and the means of appeal. Under paragraph 922A(2)(c), ASIC may keep a register of person against whom a banning order or disqualification order is made. Regulation 7.6.06 currently deals with the requirements of this register.</td>
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| SIS Act to grant financial assistance to a fund that has suffered as a result of fraud or theft, to minimise the hardship that superannuation fund members could otherwise potentially suffer; and  
• the provisions for financial assistance to funds under Part 23 of the SIS Act be extended to include an appropriate range of pension and retirement annuity products. | APRA funds that suffered losses in the Enhanced Cash Management Trust, with further determinations to be made. A grant was also made to members of the Australian Independent Superannuation Fund.  
The Government is concerned to minimise hardship suffered by fund members that suffered losses as a result of fraudulent conduct or theft.  
There are a number of conditions for an application under Part 23 that must be met before a determination can be made, including:  
the fund must suffer an eligible loss. That is, a loss as a result of fraudulent conduct or theft (a conviction is not required);  
the loss must have caused a substantial diminution of the fund leading to difficulties in the payment of benefits; and  
the application must be in writing and be accompanied by such information as the Minister determines.  
The Minister may also request any additional information as the Minister considers necessary for an application to be determined. The Minister must also seek APRA’s advice on the application. Further, if a grant is made, it can be funded out of consolidated revenue or a levy on other superannuation funds.  
Any extension of Part 23 of the SIS Act to encompass some pension and retirement annuity products would require further examination. |

**Prudential supervision—operational effectiveness of APRA**  
Recommendation 11  

| The Committee recommends that APRA review its approach to risk management to ensure that it has transparent procedures in place to detect early warning signals of impending institutional or fund failure or loss. | Support.  
An essential element of APRA’s prudential supervision is formal risk rating of financial entities with a view to identifying the potential for serious problems to develop. APRA’s internal risk rating system and all other aspects of its supervisory approach are being refined and improved continuously. The SWG is also examining proposals that would assist APRA in supervising the superannuation sector. These include a proposal for universal licensing requirements to operate a superannuation fund and risk management plan requirements. |

Recommendation 12  

| The Committee recommends that APRA increase the attention it gives to the prudential supervision of superannuation entities, especially those in the small to medium sized fund environment. | Support.  
APRA is responsible for determining how best to supervise superannuation entities. APRA has indicated that it has increased its vigilance in supervising these types of superannuation funds.  
Additional funding of $3.1 million per year has been provided to APRA to expand its superannuation investigation and enforcement capability. |
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<td><strong>Recommendation 13</strong></td>
<td>Support. The Government has agreed to increased funding of $3.1 million per annum to APRA to improve superannuation supervision. The Government will also be reviewing APRA's funding for the next financial year as part of the public levy setting process that occurs each year in March-May. In addition, a formal review of levies involving industry is scheduled to commence later this year.</td>
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<td><strong>Consumer protection</strong></td>
<td><strong>Recommendation 14</strong></td>
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<td>The Committee recommends that the Government review the resources allocated to ASIC to ensure that it is provided with the resources necessary to perform effectively its broad and increasing range of regulatory functions.</td>
<td>Support. ASIC has already undertaken a pricing review to assess its own resource needs and the Government continuously reviews ASIC's resource allocation through the budgetary process.</td>
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<td><strong>Regulatory issues—levies and standards of auditing</strong></td>
<td><strong>Recommendation 15</strong></td>
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<td>The Committee recommends that APRA review the rationale for determining the quantum of supervisory levies, in order to remove inequities and ensure that levy payments more closely match the level of supervision.</td>
<td>Support. APRA and the Government will continue to consult with industry, to ensure that as far as possible, levies are set at a level that matches the cost of supervision and that avoids cross-subsidisation between sectors. Further, industry will have an opportunity to comment on the rationale for determining levies during the review of the levy setting process commencing later this year.</td>
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<td><strong>Recommendation 16</strong></td>
<td>Support. The Government commissioned a comprehensive review of audit independence in Australia, undertaken by Professor Ian Ramsay. It would be appropriate for APRA to work not just with the ICAA but with the accounting profession as a whole (including CPA Australia, the National Institute of Accountants and the staff of the Australian Accounting Research Foundation) to this end. There is already close collaboration between APRA and the profession on these issues. For example, The AARF Audit Guide, ‘The Audit of Superannuation Funds’, developed at the direction of the Auditing and Assurance Standards Board and endorsed by APRA, has a chapter on the qualifications and independence of the auditor.</td>
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<td>Recommendation</td>
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<td><strong>Superannuation regime</strong></td>
<td><strong>Employer-sponsors Raiding Surpluses</strong></td>
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<td>Recommendation 17</td>
<td>The Government notes that there have been situations in which some employers contributing to defined benefit superannuation funds are using an actuarial surplus—the amount above that needed to meet their future obligations, in lieu of contributions. The Government has asked Treasury to review the standards that apply to defined benefit funds, including undertaking public consultation to ascertain whether alternative arrangements are necessary to safeguard member interests.</td>
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<td>The Committee recommends that the Government review those aspects of the Superannuation Industry (Supervision) Act 1993 (the SIS Act) referred to in this report.</td>
<td><strong>Impact of Severe Financial Hardship Claims on Funds</strong></td>
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<td><strong>Employer-Sponsors Raiding Surpluses</strong></td>
<td>The Committee was advised by some industry representatives that severe hardship provisions in the SIS Act are cumbersome, costly, time consuming, and open to abuse by members.</td>
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<td>It was recommended to the Committee that there should be a prohibition against the surplus of a defined benefit fund being used for any purpose other than the best interest of defined benefit fund members.</td>
<td>An important part of the Government’s retirement income policy is to ensure that all members of the community have an adequate level of income in retirement. Consequently, restrictions are placed on the early withdrawal of superannuation savings to ensure that they provide for genuine retirement income. The Government recognises, however, that these restrictions may cause undue hardship for some people because of their personal circumstances. The legislation therefore provides for the early release of superannuation benefits in certain limited circumstances, such as retirement due to incapacity, severe financial hardship and in a limited number of compassionate circumstances. The final decision as to whether a release is permitted on any of these grounds rests with the trustees of the applicant’s superannuation fund, subject to the fund’s governing rules. That is, individual funds have the discretion as to whether they will make such access available to their members. There has been significant interest from both the public and the superannuation industry in relation to early release of benefits and the Government believes that the existing arrangements be reviewed. Accordingly, the Government referred the issue of the effectiveness and efficiency of the current rules governing early access to superannuation benefits on existing compassionate and severe financial hardship grounds to the Senate Select Committee on Superannuation and Financial Services. The Committee has now reported and the Government is considering its recommendations.</td>
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<td><strong>Rules Governing Successor Funds</strong>&lt;br&gt;The Committee found that the existing rules had two complications: where a successor fund transfer was to take place but was effectively blocked; and in the difficulty in determining whether benefits in the old and new funds are equivalent.</td>
<td><strong>Rules Governing Successor Funds</strong>&lt;br&gt;The current arrangements enable bulk transfers between funds without the consent of the members so long as equivalent rights between the respective funds are conferred, and this is agreed by the trustees of both funds in writing. These arrangements require trustees to act in the best interests of members. The Government does not consider that the issues raised in this Senate Committee report warrant a review of the successor fund rules. To allow trustees to be directed to agree to a successor fund arrangement without concern for the impact on members is contrary to this approach and may adversely impact upon retirement incomes. Moreover, the Government’s policies in favour of choice and portability of superannuation are its preferred methods for enhancing mobility in superannuation. The Government reaffirmed its commitment to these policies in its 2001 election statement A Better Superannuation System and the 2002-03 Budget. Choice and portability will increase mobility between superannuation funds and provide individuals with the freedom to choose who is responsible for managing their superannuation.</td>
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<td><strong>Definition of ‘Dependant’</strong>&lt;br&gt;The Committee noted that the definition of ‘dependant’ could lead to misunderstandings, unintended consequences or introduce an element of discrimination.</td>
<td><strong>Definition of ‘Dependant’</strong>&lt;br&gt;APRA Circular LC.2, Payment Standards for Regulated Superannuation Funds issued in September 2000, defines a dependant to include: a spouse regardless of whether they were financially dependant on the member. A spouse includes a person who although not legally married to the member, lived with the person on a genuine domestic basis as the member’s husband or wife at the time of death; a child of the person including an adopted child, a step-child or an ex-nuptial child, regardless of whether they were financially dependant on the member; any person who was financially dependant on the member at the time of the member’s death. This may include a partner who does not meet the definition of a spouse. It is the trustee’s responsibility to decide whether such a person was financially dependant on the member at the time of death. The Government does not believe that the current arrangements are discriminatory. The Government does not propose to amend the definition of ‘dependant’ in the SIS legislation at this time but has noted the Committee’s discussion of the issue.</td>
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<td><strong>Binding Death Benefit Nominations</strong>&lt;br&gt;The SIS Act was amended recently to allow superannuation funds to structure their governing rules to accept binding death benefit nominations. As a result,</td>
<td><strong>Binding Death Benefit Nominations</strong>&lt;br&gt;The Government notes the Committee’s interest in this matter and its view that the SIS regime provides an appropriate outcome. The Government’s priority at this time is to implement its election commitments</td>
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<td><strong>Recommendation</strong></td>
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<td>where a binding death benefit nomination stands, a trustee would automatically pay the death benefit to the person nominated on the beneficiary nomination form. The Committee sees merit in the suggestion that binding death benefit nominations stay in force in a manner similar to a will.</td>
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<th><strong>Proposed Government response</strong></th>
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<td>announced in A Better Superannuation System and the 2002-2003 Budget and it does not intend to review the operation of binding death benefit nominations.</td>
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<tr>
<th><strong>Arrangements for People over 65 years of age</strong></th>
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<tr>
<td>The Committee noted that superannuation arrangements for older Australians are less flexible where people over 65 wish to continue to make superannuation contributions.</td>
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<th><strong>Arrangements for People over 65 years of age</strong></th>
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<td>Noted. Issues relating to superannuation and mature age workers were considered by the Productivity Commission in its examination of the SIS Act and certain other superannuation legislation. Furthermore, as part of the 2002-03 Budget, the Government delivered on its 2001 election commitment to allow working members of superannuation funds aged between 70 and 75 to continue to make personal superannuation contributions provided they are working at least 10 hours per week. The Government has also asked Treasury to review the monitoring requirements for superannuation funds in respect of the 10 hours per week employment test for persons aged between 65 and 75 years.</td>
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<th><strong>Preservation Rules Too Restrictive</strong></th>
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<td>The Committee notes moves to improve the portability of superannuation benefits by non-residents departing Australia permanently and reiterates the views expressed in its earlier reports that there may be a case to review the preservation rules to facilitate such portability.</td>
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<th><strong>Preservation Rules Too Restrictive</strong></th>
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<td>The Government has amended the preservation rules to allow eligible temporary residents who have permanently departed Australia to access their superannuation from 1 July 2002.</td>
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<th><strong>Trustees’ Power to Delegate Investment-Related Functions to an Investment Manager</strong></th>
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<td>The Committee noted its concern at the issue of superannuation funds outsourcing certain functions, and the importance of maintaining appropriate controls over these functions.</td>
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<th><strong>Trustees’ Power to Delegate Investment-Related Functions to an Investment Manager</strong></th>
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<td>The Government notes that the SWG, established to make recommendations on issues relating to the safety of superannuation, examined existing structures for contractual arrangements of outsourced functions. The Government is currently considering the SWG’s final recommendations with a view to ensuring the appropriateness of these arrangements.</td>
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<tr>
<td><strong>Recommendation 1</strong></td>
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<td>The Committee recommends that, in conjunction with APRA, the Queensland State Government, through the Department of Industrial Relations and in consultation with the Queensland Industrial Relations Commission and the Queensland Industrial Court, conduct a review of all superannuation provisions in State awards and agreements with a view to ensuring their consistency with national standards.</td>
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<td><strong>Recommendation 2</strong></td>
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<td>The Committee recommends that, in conjunction with APRA, all other State Governments conduct a similar review of all superannuation provisions in their own State awards and agreements with a view to ensuring their consistency with national standards.</td>
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<td><strong>Recommendation 3</strong></td>
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<td>The Committee recommends that the Superannuation Industry (Supervision) Act 1993 be amended to tighten the requirements applying to trustees to ensure that trustees notify the regulator of any significant adverse event which might impact on any superannuation product under APRA’s regulation.</td>
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<td><strong>Recommendation 4</strong></td>
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<td>The Committee recommends that the Managed Investments Act 1998 be amended to ensure all funds that invest monies for superannuation purposes come within the regulatory framework supervised by APRA.</td>
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<td>that accepts superannuation monies must fall under the direct supervision of APRA. Arguably, a superannuation fund which invests in a non-superannuation managed fund (excluded or otherwise) would lead to the managed fund also being caught. This would have an undesirable impact on the broader managed investments industry. Implementation of such a recommendation could severely limit investment options and reduce returns.</td>
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**Recommendation 5**

The Committee recommends that the $10,000 fee requested by the replacement trustee of Commercial Nominees of Australia Pty. Limited be waived and that APRA bear the cost of rendering the small superannuation funds compliant.

The Government does not support this recommendation.

The level and setting of fees by the acting trustee is a matter for the acting trustee and APRA. It is not Government policy to intervene in commercial decisions by businesses.

The Government has made determinations regarding 197 small APRA funds formerly under the trusteeship of Commercial Nominees of Australia Pty Ltd. (CNAL) affected by losses in the Enhanced Cash Management Trust. These grants of financial assistance included an allowance for the fees charged by the acting trustee, Oak Breeze Pty Ltd.

It is noted that the costs of a replacement trustee are often higher than a substantive trustee.

In the case of CNAL, a number of the duties of the replacement trustee have related to activities that were necessary as part of CNAL's obligations as an Approved Trustee, but were not completed. As part of its duties, the replacement trustee has had to arrange for completion of annual returns and tax returns for both the 2000 and 2001 financial years so that the funds can maintain their complying fund status and their tax concessions. Because of poor record keeping by CNAL, the acting trustee has had to do significant work to rebuild accounts and records.

As such, the level of fees of the replacement trustee was determined to be attributable to the actions of CNAL and outside of the normal trustee costs and therefore were included as part of the losses incurred in the Government’s determinations.

The appointment of a replacement trustee puts no onus on APRA to meet costs associated with that trustee.

**Recommendation 6**

The Committee recommends that the Minister for Financial Services and Regulation expedite the application lodged under section 229 of the Superannuation Industry (Supervision) Act 1993 by the trustee of Commercial Nominees of Australia Pty.

On 14 June 2002 the Minister for Revenue and Assistant Treasurer announced the successful applications of 197 small APRA funds that suffered losses in the Enhanced Cash Management Trust, under Part 23 of the Superannuation Industry (Supervision) Act 1993 (SIS Act), with further deter-
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| **Limited on behalf of the affected investors.**                               | The Government is concerned about the hardship experienced by superannuation fund members able to demonstrate that they have suffered losses as a result of fraudulent conduct or theft. The Government worked as quickly as possible to assess the applications received. A number of conditions for an application under Part 23 must be met before a determination can be made, including:  
- the fund must suffer an eligible loss. That is, a loss as a result of fraudulent conduct or theft (a conviction is not required);  
- the loss must have caused a substantial diminution of the fund leading to difficulties in the payment of benefits; and  
- the application must be in writing and be accompanied by such information as the Minister determines.  
- The Minister may also request any additional information as the Minister considers necessary for an application to be determined. The Minister must also seek APRA's advice on the application. Further, if a grant is made, the Minister must determine that the public interest requires a grant to be made. If one is, it can be funded out of consolidated revenue or a levy on other superannuation funds.  
- The Government will review the process for making applications under Part 23 of the SIS Act to assess where improvements can be made. |
| **Recommendation 7**                                                          |                               |
| The Committee recommends that ASIC work with both the Tasmanian Government and the Law Society to devise strategies for the ongoing management of McCulloch and McCulloch and Lewis Driscoll and Bull to the benefit of the clients awaiting compensation. | This is a matter for ASIC and the Tasmanian Government. ASIC advises that it works co-operatively with relevant State law societies. |
| **Recommendation 8**                                                          |                               |
| The Committee recommends that ASIC work with State Governments and relevant law societies to ensure that appropriate strategies are developed for the supervision of mortgage investment funds with fewer than 20 members which will continue after 31 October 2001. | This is a matter for State Governments. ASIC does not have jurisdiction or power to regulate mortgage investment schemes outside the purview of the Corporations Act 2001 or to exchange or pass on information to State regulatory bodies and law societies. However, ASIC advises that it continues to work co-operatively with relevant State law societies in regulating small industry supervised mortgage practices. |
Recommendation 9

The Committee recommends that the Tasmanian Government further review the Legal Profession Act 1993 in order to ensure that the benefit of the amendments to the Legal Profession Act 1993 and the Freedom of Information Act 1991 are available to the clients who have lost funds, as well as those who may do so in the future. The review should also consider the following areas:

- disciplinary procedures and penalties for legal practitioners who are guilty of professional misconduct;
- complaints procedures, including independent investigative powers by a separate body;
- regular independent audits of legal practices;
- consumer information; and
- a requirement that the Law Society of Tasmania be subject to regular reviews conducted by an external unrelated body. The reviews should focus on the extent to which the Society meets its statutory obligations to its members and their clients.

Recommendation 10

The Committee recommends that the Law Society of Tasmania adopt a more strategic, open and less rigidly insular approach to its relationships with consumers as well as its members.

Recommendation 11

The Committee recommends that the Tasmanian Government improve access to compensation for all victims of failed solicitors’ mortgage schemes.

Recommendation 12

The Committee also recommends that the Tasmanian Government continues to ensure that the Solicitors’ Guarantee Fund is maintained at a level which is sufficient to meet anticipated needs. This might include legislatively requiring solicitors to contribute in advance to the fund to ensure an appropriate level of liquidity.

Recommendation 13

The Committee recommends that the Tasmanian Government:

- evaluate the proposal developed by the Australian Property Institute with a view to incorporating its features in its
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<td>review of the Valuers Registration Act 1974; and • consider amending the solicitors’ Rules of Practice to require solicitors to obtain more than one valuation for properties securing mortgages under the solicitors’ mortgage schemes.</td>
<td>Support. The Financial Services Reform Act 2001 (FSRA) makes provision for licensing of financial advisers (including those giving advice on mortgage schemes) by ASIC. ASIC may impose conditions on a financial adviser’s licence. Licensees are obliged under the FSRA to ensure their representatives are adequately trained and competent to provide financial advice. In this regard, ASIC has released Policy Statement 146—Licensing: Training of financial product advisers. This sets out detailed training standards for financial product advisers to retail consumers to ensure that they will meet statutory obligations, among them, that they carry out their duties efficiently, honestly and fairly. In addition to this, the FSRA requires a financial adviser to give a retail consumer specified written material before transactions are entered into to enable the consumer to make informed decisions about whether to invest or not.</td>
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**Recommendation 14**

The Committee recommends that financial advisers ensure that the consumer information provided to investors in mortgage schemes is concise, in plain English, thoroughly researched and complies with ASIC disclosure and information requirements.

**Recommendation 15**

The Committee recommends that ASIC and Garrisons Financial & Retirement Specialists ensure that compensation payments to be made under the rescue package negotiated between ASIC and Garrisons are made to clients without delay.

Support. ASIC secured undertakings from Garrisons Pty Ltd, among other things, to pay interest at 6 per cent per annum by 31 December 2002, to clients who have been unable to redeem their investments in non-performing solicitors mortgage investment funds in Tasmania (and who have signed a deed of assignment with Garrisons). Garrisons has also to pay clients the capital investment offered by Garrisons on 13 June 2001 upon receipt of signed deeds of assignment to Garrisons (under these deeds, the clients will assign some rights to Garrisons).

Under ASIC’s agreement with Garrison, the latter agreed to report on payments made to clients in September and March each year.
Ordered that the report of the Community Affairs Legislation Committee and the erratum to the report of the Select Committee on A Certain Maritime Incident be printed.

Senator FERRIS (South Australia) (3.59 p.m.)—by leave—I move:

That consideration of government responses to committee reports tabled earlier today be listed on the Notice Paper as separate orders of the day.

Question agreed to.

Senator Carr—Is it appropriate to take note of one of the government responses at this point?

The DEPUTY PRESIDENT—Senator Ferris has moved to take note of the documents and put them on the Notice Paper.

Senator Carr—I will speak to that motion then.

The DEPUTY PRESIDENT—It has been made an order of the day for consideration on Thursday.

Senator Carr—I thought that motion had been moved but that it had not been put.

The DEPUTY PRESIDENT—Senator Ferris sought leave to move a motion relating to the consideration of government responses to committee reports tabled earlier today and then she moved the motion and it was agreed to. The debate on government responses is now adjourned until Thursday.

**DOCUMENTS**

**Tabling**

The DEPUTY PRESIDENT (4.01 p.m.)—On behalf of the President, I table the following documents:

Foreign Affairs—Bali—Letters of condolence to the Deputy President (Senator Hogg) of the Senate from—

Speaker Avraham Burg, Speaker of the Knesset, dated 20 October 2002.


Monash University tragedy—Letter to the President of the Senate from the Vice-Chancellor and President (Peter LeP Darvall), Monash University responding to the resolution of the Senate of 23 October 2002, dated 30 October 2002.

Foreign Affairs—Iraq—Military action—Parliamentary debate—Letter to the President of the Senate from the Prime Minister (Mr Howard) relating to the resolution of the Senate of 26 September 2002, dated 3 November 2002.

Tabling

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (4.02 p.m.)—I table the government response to the Productivity Commission inquiry into citrus growing and processing and a report by the Human Rights and Equal Opportunity Commission of an inquiry into a complaint by six asylum seekers concerning their transfer from immigration detention centres to state prisons and their detention in those prisons.

Senator NETTLE (New South Wales) (4.02 p.m.)—In relation to the report by the Human Rights and Equal Opportunity Commission, I move:

That the Senate take note of the document.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**COMMITTEES**

**Electoral Matters Committee**

**Report**

Senator FERRIS (South Australia) (4.02 p.m.)—On behalf of Senator Mason, I present the report of the Joint Standing Committee on Electoral Matters entitled Integrity of the electoral roll: report on the review of Audit Report No. 42 and seek leave to move a motion in relation to the report.

Leave granted.

Senator FERRIS—I move:

That the Senate take note of the report.

I seek leave to incorporate the tabling statement in Hansard.

Leave granted.

The statement read as follows—
Mr President, the Report I have just tabled on behalf of the Joint Standing Committee on Electoral Matters presents the Committee’s findings and recommendations arising out of a review of an Auditor-General’s Report on the Integrity of the Electoral Roll. The Audit Report, Audit Report No. 42, 2001-02, Integrity of the Electoral Roll, was tabled in April this year.

The integrity of the Electoral Roll is of fundamental importance to the integrity of our system of representative democracy. It has been the subject of a number of previous inquiries. Audit Report No. 42 analysed the key components of Electoral Roll integrity—namely accuracy, completeness, validity and security—and also reviewed the effectiveness of the Australian Electoral Commission’s management of the Electoral Roll in ensuring the Roll’s integrity.

The Australian National Audit Office—the ANAO—made 12 recommendations, all of which the Australian Electoral Commission—the AEC—agreed with. The Committee also broadly agrees with the ANAO’s recommendations, and has made 10 recommendations itself. These recommendations are made with a view to enhancing the integrity of the Electoral Roll and improving aspects of the Electoral Commission’s management of the Roll, and, ultimately, elevating public confidence in this critical component of Australia’s democratic system.

The Committee considers that the components of integrity—accuracy, completeness, validity and security—should be tested and reported on regularly. The testing and reporting should be comprehensive, rigorous and transparent. In addition, the AEC should set targets for the accuracy, completeness and validity of the Electoral Roll where such targets do not already exist, and the targets should be used as performance indicators for the AEC.

Key features of an Electoral Roll with high integrity are accuracy and validity—that is, that it contains correct and up-to-date information on individuals who are eligible to be enrolled. These elements are important because they provide a level of assurance that the risk of electoral fraud occurring in our electoral system is minimal.

A stand-out feature of the Audit Report was the finding that the Roll was 96 percent accurate. It has to be said that a figure like this inspires great confidence.

However, on closer examination it became apparent that the independent data matching by the Audit Office only established that the Electoral Roll was accurate to 96 percent as to names and dates of birth. The ANAO did not establish that people defined by name and date of birth were correctly enrolled in the State, the Division or at the address at which they resided. In the absence of such matching, the Committee considers that the Audit conclusion of 96 percent accuracy is not proven.

However, the Committee also notes that the finding of 96 percent accuracy as to names and dates of birth on the Roll does not necessarily imply that there is 4 percent inaccuracy. More testing may in fact establish that the Roll is more than 96 percent accurate.

In seeking to test accuracy, the ANAO found that 4.4 percent of people on the Electoral Roll did not appear on the Medicare records. The ANAO attempted to match these people to the motor vehicle registry records the AEC had access to, namely those of South Australia, Queensland, the ACT and the Northern Territory.

The ANAO did not seek to match addresses. Nevertheless, the ANAO concluded that 15 percent of the electors who were matched to motor vehicle records, had vehicles registered in a State other than the State in which they were enrolled to vote. The ANAO stated that this occurred because the matching process identified instances where individuals had cross-border transactions with motor transport agencies. The ANAO explained that it understood that this was generally due to people being correctly entered on the Electoral Roll in their state of residence, but having their motor vehicles registered in another state. Subsequently the ANAO indicated that it did not have any independent evidence of this, but had accepted AEC data analysis. In response to the Committee’s inquiries, the AEC indicated that it had not conducted analysis that would support such a conclusion.

Mr President, the AEC maintains the accuracy of the Electoral Roll using a process called Continuous Roll Update or CRU. The CRU process involves the Electoral Commission conducting processes described as data-matching and data-mining, using its own data and data obtained from external sources, to identify addresses on the Electoral Roll where residents have moved. Using addresses identified in this way, the Electoral Commission sends letters and enrolment forms to individuals inviting them to enrol or update their details on the Roll.

The Audit Office considered “that the CRU methodology is an effective means of managing the electoral roll and is capable of providing a roll that is highly accurate, complete and valid.” However, the ANAO also found that to date, CRU has been developed and implemented in an
ad hoc manner, without strategic planning to achieve a consistent national approach. The ANAO made a number of recommendations that were directed at addressing these defects. The Committee has made two further recommendations on this point.

The first recommendation is that the Electoral Commission develop and implement national standards for updating the Electoral Roll, and also a timetable for implementing a consistent national CRU program.

The second recommendation is that the AEC centralise its negotiations with State and Territory agencies for access to data sources.

CRU has replaced good old-fashioned habitation reviews—going door-to-door to check enrolment details—as the means of maintaining the Electoral Roll. However, the Committee considers that habitation reviews are not obsolete. Periodic, random spot checks of enrolment details at a sample of addresses should be conducted to test the effectiveness of CRU in achieving accuracy. Moreover, a total habitation review of an electoral division should be conducted in order to test by sample the accuracy of individual enrolments at the correct address.

Mr President, the ANAO also considered AEC management issues in so far as those issues affect Electoral Roll integrity. It its inquiry, the Committee has come to the view that the AEC must implement more effective management information systems. The enhanced management information systems should be capable of providing the AEC with accurate estimates of the costs of, and the timetable for, implementing enrolment activities. They should also provide adequate data to enable the AEC to properly analyse and report on its activities.

The Audit Report commented that more performance indicators could be established to better reflect the accuracy of enrolment information on the Electoral Roll. The Committee agrees with this and has recommended that the AEC use targets as performance indicators, and report on these performance indicators in its Portfolio Budget Statements and in annual reports.

Mr President, in relation to questions about the implementation of the Audit Office’s recommendations, the Electoral Commission advised the Committee that this might require additional resources. The Committee recommends that the AEC report to it on its funding requirements for this task. However, the AEC should also develop and implement a pricing regime to charge for use of Electoral Roll data, and should review its pricing arrangements for CRU data exchange.

I note in passing that the AEC’s funding has also arisen as an issue in the Committee’s current inquiry into the conduct of the 2001 Federal Election.

Finally, Mr President, the Committee believes that the Audit Report recommendations should be implemented expeditiously, and it will observe the AEC’s progress with interest. Further to this, we recommend that the Audit Office conduct a follow-up audit to its 2001-02 audit of the integrity of the Electoral Roll. This will enable the Committee to review the progress of the Electoral Commission in implementing the Audit Office’s recommendations. We consider that both of these follow-up reviews should be completed well in advance of the next Federal Election.

Mr President, in concluding my remarks I wish to thank both the Australian Electoral Commission and Australian National Audit Office for their various contributions to this review. I would also like to acknowledge the contribution of my Committee colleagues. Like me, they have a real interest in the work of the Electoral Matters Committee and a desire through our work to continually improve our electoral system.

Finally, I would also like to thank the secretariat staff who assisted the Committee in this review. I commend the report to the Senate.

Senator ROBERT RAY (Victoria) (4.03 p.m.)—This is the first report of the Joint Standing Committee on Electoral Matters since the last election, and I think it will be one of quite a few that will come into this chamber. The integrity of the electoral roll is of fundamental importance to democracy. The electoral roll must be accurate and protections must exist to protect against the possibility of fraud.

I welcome the fact that the ANAO have examined this issue and have found that a high level of integrity exists. However, looking at the methodology adopted by the Audit Office, one could not be fully satisfied that they have the methodology right. What they have done is to compare names and dates of birth between the Medicare database and the electoral roll, and they have found that it is 96 per cent accurate. That is not to imply that it is four per cent inaccurate; they can only go so far as to say that it is 96 per cent accurate. The Audit Office assert—and I think quite correctly—that the electoral roll and the integrity of the electoral roll is in
very good shape. However, given the variety of databases that now exists, the next time the Audit Office undertake such an activity we hope they can access more than just the Medicare database in order to verify the accuracy of the roll, because the missing element here is addresses. They never at any stage addressed the question of whether people’s residential addresses were correct and up to date.

The committee notes that the Electoral Commission is now using the continuous roll update method as a way of keeping an accurate roll. This is highly dependent on the Post Office and state based databases to keep it accurate. But, compared with what was done in the past, it is certainly a cheaper method and a more up-to-date method than the old habitation reviews. To make it work, one of the crucial elements is that we keep the joint state and federal roll arrangements—something that has been cast in doubt, as this government, in a vanguardist way, wants to rush off and put all sorts of changes into the Electoral Act that no other state or territory government agrees with. But I think that is coming under some control at the moment.

I postulate about how much simpler this all would have been if 15 years ago we had adopted the Australia Card principle. It could have been used as a basis for verification and elimination of electoral fraud. I know what the objections were 15 years ago, but my privacy is far more invaded now than that proposal ever would have caused because it had protections in it. These days with data matching there is virtually no protection for the individual in Australian society.

The Joint Committee on Electoral Matters made several recommendations. I commend them to the Senate; I will not go through them all. One of the recommendations suggests that we do a habitation review of a whole federal division and check it against the roll as delivered by the continuous roll update, as a verifier of just how accurate a particular roll is. We also recommend random spot checks in other divisions, because with census districts it will be quite easy to do random spot checks via habitation review and check them against what the roll currently says. We also stress that staff training should be upgraded with regard to the electoral fraud control plan.

The main problem with the accuracy of the electoral roll is one of perception rather than reality. There has been a sustained campaign from various right-wing organisations to try to create the impression that there is a problem. The H.S. Chapman Society time and time again make allegations that the electoral roll is fraudulent. The problem is that when you ask them for evidence it is always going to come but never arrives. The same old recycled canards come out time and time again. Accusations that have been totally disproved are just recycled time and time again.

This not only extends to extreme right-wing organisations; there are a couple of stupid members of the House of Representatives that also give truck to these particular theories. It is as though they think that they could only ever have been beaten in an election if fraud were involved, because they are just such wonderful, brilliant candidates. What other explanation could there be?

The one missing element here, of course, is evidence. There is no denying that there were problems in Queensland two years ago. There is no question of that. They were dealt with at a political level and quite a few political careers were terminated as a consequence. Of course, the motive there was not to rig electoral results; it was to determine internal party arrangements. The motive was not to affect the outcome of the state or federal election. The Queensland government, having dealt with this matter in a very authoritative way, were then judged by the electorate. The judgment was pretty overwhelming: 66 Labor members and three Liberals were elected. I think at least the Queensland electorate thought the matter had been dealt with expeditiously and quite well.

What should the future hold with regard to enrolments? The electoral matters committee is going to keep the question of enrolment under constant review. It urges the Australian National Audit Office also to play a key role. Almost certainly at some stage in the future we would like to see tougher fines and sentences for anyone convicted of fraud with regard to enrolment. It is also possible, I
think, to entertain the idea that sustainable ID should be introduced to check enrolments. The previous government had done this but in a very draconian, complex way. There are simple methods that can be used to check the validity of enrolment. Drivers licences make a pretty good start, with well over 90 per cent of those over the age of 18 holding a drivers licence. That could well be at least the starting point of a good regime that requires identification before people are enrolled.

But, of course, this misses the point. The whole point of some of the more stringent identity checks was just a smokescreen so that the roll could be cut off from day one of an election, so that 80,000 or 90,000 new enrollees could not get on the roll and another 350,000 could not change their addresses. I think that is an appalling approach to democracy. Arguing that there might be five or 10 fraudulent enrolments Australia-wide yet capriciously wanting to knock off 440,000 at the stroke of a piece of legislation seems to me passing strange.

The real problem with the electoral roll is that five per cent of eligible Australians are not on the roll. That is where we should be concentrating our effort. That is where we should be encouraging the Australian Electoral Commission to concentrate their efforts. It is certainly true that with their upgraded systems—systems that are far more sophisticated than those they used in the past—they now have the scope to bring about those improvements. I think they have the will to do so as well. It is not good enough to say that Australia is better than the rest of the world with regard to enrolments and electoral systems. There is no doubt we are, but there is always room for improvement and we should try to encourage that improvement.

In conclusion, I thank the staff of the electoral matters committee for all the work they have put into this inquiry and other inquiries we are currently undertaking. I also acknowledge that the committee is working smoothly thanks to the competent chairmanship of Mr Petro Georgiou. What a contrast to his predecessor, a hired hit man put in to drag the Labor Party through the mud and to totally disregard the normal committee processes!

Now we have someone who is trying to rebuild the esprit de corps of the committee. That is not to say that we will take a bipartisan attitude on everything. There will be disagreements but they will be disagreements based on decency and not political opportunism. However, I suppose in the end it was all for nothing. There was all that dirty work done at whoever’s behest, and Mr Pyne has been rewarded with nothing. It is really gratifying to know that a groveller got his best and proper deserts.

Senator MURRAY (Western Australia) (4.12 p.m.)—I rise to address the report of the Joint Standing Committee on Electoral Matters into the integrity of the electoral roll, which itself is a review of the Auditor-General’s report No. 42 of 2001-02. I was one of those who promoted audit report No. 42, being a member of both the Joint Standing Committee on Public Accounts and Audit and the Joint Standing Committee on Electoral Matters. My attention to this technique had been attracted by the audit report on taxpayer file numbers. It occurred to me that it was important to do the same sort of report on the electoral roll and I was surprised to discover that the electoral roll had never before been audited in this manner by the Auditor-General. What is apparent from the JSCEM’s report, of course, is that the JSCEM now believes that the Auditor-General should do such an audit periodically. That is a good outcome from the inquiry. We look forward to a follow-up audit.

In the meantime, the AEC have a number of recommendations to comply with. There are 12 recommendations from audit report No. 42 and a further 14 to comply with with respect to this report from the JSCEM. All of these may result in an additional call for funds to resource additional work by the AEC. We should always bear in mind that the AEC are telling us currently that they are short of money—there is no reason to believe that that is not the case—and they may need additional funding to improve their performance in terms of the sorts of submissions they have made to the committee.
It is critical that public confidence in the electoral roll remain high, and that means not only keeping the public happy but also keeping the states happy, because of the joint federal-state arrangements. The integrity of the electoral roll is such that it has often been put under attack. The virtue of even unsubstantiated attacks and assertions is that it helps keep everyone on their toes. Bear in mind that it is in the great self-interest of all political parties and all candidates to have a roll with integrity. But I should stress that in all the time that I have been on the JSCEM I have never seen evidence of any level of fraud which would result in the alteration of either a House of Representatives or a Senate outcome. In fact, the 2001 *User friendly, not abuser friendly* report of the Joint Standing Committee on Electoral Matters inquiry into the integrity of the electoral roll pretty well indicated that the roll was in good shape, but it recognised that the roll needed a number of improvements to maximise the faith we should have in it.

The part played in these inquiries by a diligent secretariat, a strong chair and a cooperative cross-party committee should never be underestimated. These committee inquiries—and the hearings are public—are very important in keeping the AEC accountable and under scrutiny, and in ensuring that members of the public and organisations who are concerned about our democracy are able to express their views. I welcome this report.

I look forward to a positive and swift response from the Australian Electoral Commission and I hope that the Attorney-General’s office will be factoring in a follow-up audit within the next year or two.

Question agreed to.

COMMITTEES

National Crime Authority Committee

Report

Senator FERRIS (South Australia) (4.17 p.m.)—On behalf of the Parliamentary Joint Committee on the National Crime Authority, I present its report entitled *Australian Crime Commission Establishment Bill 2002*, together with the *Hansard* record, the minutes of proceedings and submissions received by the committee. I seek leave to move a motion in relation to the report.

Leave granted.

Senator FERRIS—I move:

That the Senate take note of the report.

I seek leave to have my tabling statement incorporated in *Hansard*.

Leave granted.

*The statement read as follows*—

Early this year, the Government undertook a review of the National Crime Authority, in fulfillment of an undertaking made before the last election. The review was followed by a meeting of State and Territory Premiers and Chief Ministers to discuss security and related issues. At that meeting, State and Territory leaders agreed to replace the National Crime Authority with the Australian Crime Commission. On 9 August the governance proposals were endorsed by the States and Territories, and the bill was introduced on 26 September by the Attorney General.

On the same day, the Bill was referred to the Parliamentary Joint Committee on the National Crime Authority for report by 6 November. The report was submitted on that date.

Mr President, in this relatively short reporting period, the PJC has received 18 submissions and heard evidence in Sydney, Melbourne and Canberra from a wide range of individuals and representative bodies. The material the PJC received has founded its recommendations.

The replacement for the National Crime Authority is a link in the chain of protection for all Australians from the consequences of organised criminal activity. On a national level this embraces security, the flow of money to and from this country, and the illegal importation of items such as drugs and guns. Mindful of this, the PJC has made a number of recommendations it believes will give the new body the environment it needs to operate effectively and with accountability. The recommendations are designed to strengthen the new body and improve the environment for the use of the coercive powers.

Mr President, these powers are not available to police in ordinary law enforcement environments: they are granted to Royal Commissions and are a potent weapon which can affect individuals significantly. In the case of the NCA their use was determined by an intergovernmental committee. This process was considered time consuming and cumbersome; some considered it inhibited the work of the NCA.
For the Australian Crime Commission, these powers are proposed to be extended to intelligence operations as well as investigations: this represents a fundamental shift in the use of such powers. The PJC noted a number of submissions which expressed concern about maintaining the balance between intelligence gathering and crime investigation, and the need to preserve certain civil rights.

There was unease from some quarters about the invocation of a broadly defined “public interest” which could extend the use of coercive powers—particularly in the area of intelligence gathering—beyond what is justified by special circumstances. The PJC was concerned to ensure that there are safeguards in both the authorisation of the powers and in their use.

The Bill proposes that a 13 member Board consisting of State, Territory and Federal Police Commissioners together with the Secretary of the Attorney General’s Department, the CEO of the Australian Customs Service, the Chairperson of the Australian Securities and Investment Commission and the Director-General of Security, authorise an operation as a special operation or investigation which would bring the coercive powers into play.

The PJC considered at length a number of alternative proposals. Included was the suggestion that any authorisation by the Board of a special operation should be ratified by the Inter-Governmental Committee. (The IGC is made up of State and Commonwealth Ministers). For urgent special operations, the PJC considered that the operation could commence pending the ratification by the Board.

Alternatively, given the agreement between the Commonwealth, States and Territories the PJC considered the possibility of further Ministerial negotiations over the process.

Ultimately the PJC agreed that the major concern lay with the Board’s power to create committees and delegate functions to them. The PJC took the view that a committee authorising the use of coercive powers would not provide sufficient safeguard and therefore recommended that the Bill be amended. Accordingly, the PJC has recommended that any decision by a committee of the Board to authorise the use of coercive powers for an investigation or a special operation should be ratified by the full Board.

Having addressed the issue of authorisation, the PJC considered at length the process for the exercise of these powers. The position of examiner has been established to conduct ACC hearings. Under the NCA Act, these hearings were undertaken by Members of the NCA.

In conducting these hearings the examiner can—among other things—require the production of documents and the provision of evidence with significant penalties for failure to comply.

The PJC noted that there was no provision for the examiner to provide reasons for his or her determinations regarding the use of these powers. The PJC is anxious to ensure that their use is limited to those situations in which doubt as to their appropriateness has been removed.

Accordingly, the PJC has recommended that the Bill be amended so that examiners satisfy themselves as to the reasonableness and appropriateness of using the coercive powers. In addition, the Report recommends that the Examiner record in writing, the grounds for forming his or view.

Mr President, the PJC noted that there was no explicit requirement for the Examiners to receive a full briefing on investigations prior to conducting hearings. After deliberating at length, the PJC decided not to make such a recommendation, but it does wish to emphasise that full and accurate briefings are basic to the role of the examiner in his or her exercise of the coercive powers.

Mr President, related to the use of coercive powers is the broader issue of organisational accountability and performance. Many witnesses referred to the current oversighting role the PJC has in relation to the NCA. This statutory duty will continue in relation to the ACC.

The Bill provides only technical amendments to the provisions of the NCA Act relating to the disclosure of information concerning an investigation. However, the PJC believes that access to operational information is essential for effective oversight of the ACC. It is for this reason, that the Report includes a recommendation which obliges the ACC to provide information when the PJC asks for it, provided of course, that current enquiries are not prejudiced.

Mr President, the Report also canvasses a number of other aspects of the Bill, including the composition of the Board. The PJC took the view that the ACC would be enhanced by representation from the Australian Transaction and Reports Analysis Centre.

Part of Austrac’s charter is to create a financial environment hostile to money laundering, major crime and tax evasion. Given that financial matters are of immense significance the drug trade, and illegal importing, the PJC considers the inclusion of Austrac on the Board would enhance the ACC’s capacity for long term success.
The PJC’s statutory role of monitoring and evaluating the organisation will continue under the new legislation. However, the PJC is also concerned to ensure that there is a statutory review of the activities of the new organisation within a defined period. It is for this reason that the PJC has recommended that such a review take place after three years have elapsed from the date of commencement of the Act.

Mr President, the PJC was pleased that so many people gave their time to appear at hearings and provide thoughtful and detailed submissions, particularly in view of the short timetable. The amendments recommended in this report have evolved from the PJC’s discussions of the evidence provided to it. The PJC considers that those amendments will provide a more accountable body which will effectively discharge its role in the detection and control of organised crime in this country.

Question agreed to.

Membership

The ACTING DEPUTY PRESIDENT (Senator Knowles)—The President has received a letter from a party leader seeking a variation to the membership of committees.

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.19 p.m.)—by leave—I move:

That Senator Stephens be appointed as a participating member of the Employment, Workplace Relations and Education Legislation and References Committees.

Question agreed to.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Message received from the House of Representatives returning the following bill without amendment:

Torres Strait Fisheries Amendment Bill 2002

DISABILITY DISCRIMINATION STANDARDS FOR ACCESSIBLE PUBLIC TRANSPORT 2002

Consideration of House of Representatives Message

Message received from the House of Representatives acquainting the Senate that the House has approved the Disability Discrimination Standards for Accessible Public Transport 2002, as approved by the Senate on 23 October 2002.

TAXATION LAWS AMENDMENT BILL (No. 5) 2002

HEALTH INSURANCE AMENDMENT (PROFESSIONAL SERVICES REVIEW AND OTHER MATTERS) BILL 2002

First Reading

Bills received from the House of Representatives.

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.20 p.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.21 p.m.)—I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—

TAXATION LAWS AMENDMENT BILL (No. 5) 2002

The Taxation Laws Amendment Bill (No 5) 2002 will amend various income tax laws to make the following amendments:

There will be a special transitional measure to address the concerns of oyster farmers who use the traditional stick farming method of capturing oyster spat about the difficulties for them in complying with the trading stock rules.

The transitional rule will assist the oyster farmers by attributing a value for the oyster trading stock of these farmers at the start of the 2001-2002 income year, based on a value per stick multiplied by the number of sticks used to capture the oyster spat. The stick method of calculating the value of trading stock allows oyster farmers to avoid excessive compliance costs.

Schedule 2 of the bill will remove the potential for double taxation where amounts are paid for work in progress.
Work in progress will be partially completed work that has not yet reached a stage where a recoverable debt has arisen in respect of the work. It commonly arises in the context of a change in the composition of a professional partnership, for example accountants or lawyers, but the measure is not limited to a particular industry or particular types of entities. Work in progress will not include partially completed goods or partially completed structures.

In the case, for example, of a partner leaving a partnership, a payment for work in progress will be deductible for the remaining partners, and receipt of an amount for work in progress will be assessable income for the departing partner. When the work is completed and invoiced or paid for, the amount invoiced or paid will naturally be income of the partnership.

Schedule 3 contains technical corrections and amendments to the Capital Allowances system to ensure it operates as intended and interacts appropriately with related provisions. In particular, there will be fine tuning of the provision governing the deductibility of blackhole expenditure to ensure it operates as the Government intended.

Finally, Schedule 4 of the bill will make technical amendments to enable the Commissioner to recover all PAYG withholding amounts by making an estimate of the outstanding liability. In addition, it will allow taxpayers to have the estimate of the withholding amount reduced or revoked by giving the Commissioner a statutory declaration. The amendments will apply to amounts due and payable in the financial year ending 30 June 2002 and in subsequent years.

HEALTH INSURANCE AMENDMENT (PROFESSIONAL SERVICES REVIEW AND OTHER MATTERS) BILL 2002

This bill contains a number of amendments to the Health Insurance Act 1973.

Professional Services Review

The main amendments relate to the Professional Services Review Scheme which commenced in 1994.

The Scheme is a process for reviewing and investigating the provision of services by a person to determine whether the person has engaged in inappropriate practice in the rendering or initiating of Medicare services or in prescribing under the Pharmaceutical Benefits Scheme. The essence of the Scheme is one of peer review to ensure that the technical and professional issues of providing services are appropriately considered in the review process.

The amendments proposed to the Scheme in this bill need to be considered in the context of changes in the Scheme’s operation since its inception. The PSR Scheme was substantially amended by the Health Insurance Amendment (Professional Services Review Act 1999) following a detailed review conducted by the Department of Health and Aged Care, the Australian Medical Association, the Director of Professional Services Review and the Health Insurance Commission. The changes implemented following the review were endorsed by all the parties.

Subsequently, a decision of the Federal Court has suggested that the amendments made in 1999 may not have the effect intended by the Review Committee. The proposed amendments clarify the intended operation of the Scheme, consistent with the recommendations of the Review Committee, and address certain issues identified by the Federal Court. Again, wide consultation has been undertaken with all stakeholders who support the provisions in the bill.

The bill clarifies the three operational stages of the review process. The Health Insurance Commission requests the Director of Professional Services Review to review a practitioner’s provision of services. Following the review, the Director may decide to take no further action, enter into an agreement with the practitioner or refer the provision of identified services (the referred services) to a Professional Services Review Committee for investigation. It is during the PSR Committee investigation that the conduct in connection with the provision of the referred services by the person under review is examined.

The amendments in this bill make it clear that the Director’s review is limited to the services specified in the request, but is otherwise not limited in any way by the initial Health Insurance Commission request. Where the Director has made a referral to a PSR Committee, that investigation is restricted to the services referred to them by the Director, but is not limited by either the initial Health Insurance Commission request or the reasons contained in the Director’s referral. In other words, both the Director and the Committee can identify additional conduct arising from the provision of the referred services that may constitute inappropriate practice.

Normal procedural fairness safeguards apply throughout the PSR process, and have been further strengthened by this bill. The services to be investigated are clearly identified in advance, so the practitioner knows where the investigation will focus.

But it is only when a PSR Committee, the practitioner’s peers, are able to examine individual
services, including interviewing the practitioner and hearing their explanations or reasons for engaging in a particular course, that it is possible to properly assess the appropriateness of their conduct.

The bill provides that before a PSR Committee makes a finding of inappropriate practice, the person under review must be notified of the intention to deliver such a finding and the Committee’s reasons for doing so. The person under review must be provided with an opportunity to respond to the proposed Committee finding and the reasons. Further, the person under review is able to make submissions to the Determining Authority before the draft determination stage.

The proposed amendments also validate the investigative and adjudicative referrals which are currently before PSR Committees to the extent that those referrals specify the conduct to be examined and do not involve examination of conduct at large.

Members will be aware that Medicare is one of the largest programs administered by the Federal Government. This investment needs to be protected particularly in regard to accountability, the public interest and the standard of health care attracting Medicare and Pharmaceutical benefits. Providing this protection is the principal objective of the Professional Services Review Scheme and I thank all parties for their continued support of the Scheme.

Cleft Lip and Cleft Palate Scheme
The bill also proposes changes to the Cleft Lip and Cleft Palate Scheme.

The proposed changes will enable eligible persons requiring ongoing treatment for cleft lip and cleft palate conditions to claim Medicare benefits under the Cleft Lip and Cleft Palate Scheme until their 28th birthday. Under the current arrangements, in order to be eligible for Medicare for cleft lip and cleft palate treatment, a patient must be a person who has not attained the age of 22 years.

The current age limit was established on the basis that cleft lip and cleft palate patients would generally have completed most specialist dental work associated with their condition once their facial growth was complete.

However, the age limit of 22 years has created some difficulties, as some patients require ongoing treatment beyond their 22nd birthday as their facial growth continues, or where scheduled surgery had not been possible until after attaining 22 years of age.

The Department of Health and Ageing has advised that only a small number of existing patients would require continuing care beyond that which is now provided and so this measure will have a minimal impact on Medicare outlays.

Miscellaneous/Technical corrections
The bill also contains minor technical amendments to remove redundant definitions in section 3 of the Act relating to health care cards and pensioner concession cards.

Debate (on motion by Senator Crossin) adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

HEALTH CARE (APPROPRIATION) AMENDMENT BILL 2002
HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 3) 2002
First Reading
Bills received from the House of Representatives.

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.22 p.m.)—I indicate to the Senate that the bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.
Bills read a first time.

Second Reading
Senator KEMP (Victoria—Minister for the Arts and Sport) (4.22 p.m.)—I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—

HEALTH CARE (APPROPRIATION) AMENDMENT BILL 2002
This bill proposes to amend the Health Care ( Appropriation) Act 1998.
That Act was made to permit the Minister for Health and Ageing to determine grants of financial assistance to a State, or to a hospital or other
person, for the purpose of providing or paying for, health and emergency services of a kind or kinds that are currently, or were historically, provided by hospitals. As such, the Act provides the legislative basis for the Commonwealth to pay financial assistance under the 1998-2003 Australian Health Care Agreements, including Health Care Grant and National Health Development Fund payments to the States and Territories and Commonwealth Own Purpose Outlays for mental health, palliative care and casemix development.

The Act currently provides that total grants of financial assistance must not exceed $29,655,056,000. This estimate was current when the Act commenced on 30 June 1998.

Since that time, the Commonwealth’s financial responsibilities have increased because of Commonwealth Government decisions which have increased the level of funding available under the Agreements and forgone the Government’s right to claw back any funding from the States in recognition of increased private health insurance coverage. As a result, the ceiling currently specified in the Act will be reached in early 2003.

The bill proposes amendments which will allow the Commonwealth to discharge its financial responsibilities by increasing the ceiling to $31,800,000,000. As the precise financial responsibilities of the Commonwealth will not be known until May 2003, this amount includes an allowance above the current approved estimates for the five years to 30 June 2003 for unexpected population growth and rounding.

The proposed amendments will also require the tabling of a statement of the total amount of financial assistance paid under the Act as soon as practicable after 30 June 2003, to ensure that public accountability requirements are met.

HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 3) 2002

The bill currently before the Senate extends the application of the National Protocols for Higher Education Approval Processes to Australia’s external territories, on the same basis as they apply in the states and mainland territories. The National Protocols for Higher Education Approval Processes were agreed to in 2000 by the States and mainland Territories and the Commonwealth. The Protocols were designed to ensure consistent criteria and standards across Australia in the field of higher education accreditation. These national arrangements for accreditation give confidence to students, parents, employers and governments that the quality of Australian higher education is being assured.

Under this bill, the Government will strengthen Australia’s quality assurance framework by extending the operation of the National Protocols to the external territories. External territories may no longer establish universities or authorise bodies to deliver higher education awards without regard to the National Protocols. The bill proposes penalties, on a similar basis to that applied by the States and mainland Territories, for persons who breach the requirements of the proposed legislation. The bill also provides that applicants in an external territory will be able to apply in writing to the Commonwealth Minister for Education Science and Training, for authorisation in accordance with the Protocols to operate as a university or other self-accrediting higher education institution, or offer higher education awards, in an external territory.

The bill expresses the Government’s commitment to a quality assurance system for higher education in Australia that is comprehensive in its coverage. Indeed, it would be irresponsible not to take the measures that this bill outlines. To leave the status quo in place could allow our external territories to become a haven for unauthorised and sub-standard operators wishing to avoid quality assurance processes. We have seen a number of press reports recently on dodgy higher education outfits who trade through companies registered on off-shore islands where no accreditation arrangements exist. Through this bill the Government intends to ensure that providers in an external territory are not able to circumvent Australia’s accreditation requirements. The bill is framed to prevent sellers of fake degrees from operating on or from an external territory.

It is important to note that the operation of the Greenwich University Act 1998 (Norfolk Island) will be overridden by the bill. Under the bill, Greenwich will no longer be able to trade as a University, or offer higher education awards, until and if it makes an application demonstrating that it meets the requirements set out in the National Protocols. Members may recall that Greenwich University was assessed by a Commonwealth review panel in December 2000 as not meeting the standards expected of an Australian university. Its continued operation with this history has the capacity to damage Australia’s reputation as a high quality, quality-assured higher education system.

The legislation will prevent it from trading as a university until such time as an independent expert panel provides advice to the Minister that it is operating at such a standard.
Until it has demonstrated that it meets the standard required of a university in the National Protocols, Greenwich University cannot continue to call itself an Australian university or offer higher education awards. Any person contemplating enrolling at Greenwich University should understand that the Australian Government does not vouch for the quality of universities not listed on the relevant register of the Australian Qualifications Framework. Prospective students, employers, tertiary education institutions accepting graduates from another university, or officials assessing applications for migration purposes should be aware that a degree, or any other higher education award from Greenwich University, has no recognised status in Australia.

Finally, the bill contains measures to enable the Minister for Education Science and Training to approve use of the title university in a company or business name in an external territory. This measure will prevent a body in an external territory from registering a company or business name using the title "university" without the Minister’s written approval. The immediate effect of this measure will be to require International University of America Pty Ltd on Norfolk Island and any other bodies registered in the external territories with the name ‘university’ to cease using the word ‘university’ in their company or business name.

I commend the bill to the Senate.

Ordered that further consideration of this bill be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2002

First Reading

Bills received from the House of Representatives.

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.23 p.m.)—I move:

That these bills be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

The speeches read as follows—

SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2002

The Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 will enact legislation that will establish the arrangements for the Government to pay superannuation co-contributions to eligible low income earners. This legislation will outline how the Government will determine those who are eligible for a co-contribution and the amount of the co-contribution; the method of payment of the co-contribution and of adjustments where necessary; information gathering arrangements by the ATO; review of decisions; and, other administrative matters.

This bill, together with the Superannuation Legislation Amendment Bill 2002 will fulfil an election commitment, announced on 5 November 2001 in ‘A Better Superannuation System’ to further assist low income earners to save for their retirement. The Government co-contribution is expected to increase the numbers of low income earners making personal superannuation contributions, and increase the levels of contributions being made by existing contributors. More generally, the Government co-contribution will boost the retirement savings of low income earners. The Government co-contribution will replace the existing taxation rebate for personal superannuation contributions made by low income earners. However the co-contribution will be more generous than the rebate it is replacing. The maximum co-contribution of $1000 compares with the maximum rebate of $100.

Low income earners who are not entitled to claim a deduction for their personal superannuation contributions will be eligible to receive the co-contribution if they meet the eligibility criteria. The Government co-contribution will match personal superannuation contributions made on or after 1 July 2002 by eligible people with incomes
less than $32,500. The maximum co-contribution of $1,000 will be payable for those on incomes of $20,000 or less. The maximum co-contribution will reduce by 8 cents for each $1 of income over $20,000, with some co-contribution available for those with incomes up to $32,500. A minimum co-contribution of $20 will also apply, as long as the person is below the income thresholds and has made some personal superannuation contributions during the year.

The income test for the Government co-contribution will be based on assessable income plus reportable fringe benefits. This is consistent with the existing rebate. To be eligible for the Government co-contribution, a person will need to have employer superannuation support, be aged less than 71 on 30 June of the year in which the personal contributions were made, and, not be eligible for release of benefits upon permanent departure from Australia.

Small business people who are self employed will be unaffected by this proposal, as they will continue to be able to claim a tax deduction for personal superannuation contributions. One of the Government’s other election commitments increases, from $3,000 to $5,000, the amount of personal superannuation contributions that is fully deductible for this group. Similarly, those with superannuation support, but not employer superannuation support will be eligible for a taxation deduction for superannuation contributions.

The Government co-contribution will be treated as an undeducted contribution. This means that the co-contribution will not be subject to contributions tax when paid into the fund and will also not be taxed when paid out to a person as an end benefit. In situations where it is paid directly to the person it will be treated as exempt income and will not attract income tax.

The ATO will use contribution and account details provided by superannuation funds, together with the income details from low income earners’ tax returns, to assess and pay the co-contribution directly to the person’s fund. That is, there will be no need for eligible people to apply for the co-contribution. This delivery mechanism is the most seamless option for low income earners and is designed to ensure that low income earners who are eligible for the co-contribution receive their correct entitlements.

While funds will need to report new information from that currently required, this requirement will not commence until 1 July 2003. This will provide superannuation funds with a window in which to implement any necessary system changes. Full details of the measures in the bill are contained in the explanatory memorandum. I commend the bill.

SUPERANNUATION LEGISLATION AMENDMENT BILL 2002

Over recent years there has been a growing realisation throughout Australian society of the importance of retirement planning and saving for the years ahead. Superannuation is seen as a vital element in planning for a comfortable and secure retirement.

This bill, together with the Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 will fulfil two election commitments, announced on 5 November 2001 in ‘A Better Superannuation System’ to make superannuation more attractive and support the Government’s retirement incomes policy.

The Government co-contribution is expected to increase the numbers of low income earners making personal superannuation contributions and increase the levels of contributions being made by existing contributors. More generally, the Government co-contribution will boost retirement savings for low income earners.

The details of the arrangements for the Government to pay superannuation co-contributions to low income earners are contained in the Superannuation (Government Co-contributions for Low Income Earners) Bill 2002.

The Superannuation Legislation Amendment Bill 2002 will amend a number of taxation and superannuation laws. In particular, this bill will deal with the following aspects of the Government co-contribution measure: eligibility for and taxation treatment of Government co-contributions; arrangements for certain Defence personnel and Commonwealth public servants regarding co-contributions; use of the Superannuation Holding Accounts Reserve for co-contributions in some circumstances and a review of certain decisions. This bill will also repeal the existing personal superannuation contribution taxation rebate found in the Income Tax Assessment Act 1936. In addition, this bill will reduce the maximum superannuation and termination payments surcharge rates from 15% to 10.5% over the next three years.

Full details of the measures in this bill are contained in the explanatory memorandum.

Debate (on motion by Senator Crossin) adjourned.
ASSENT

A message from His Excellency the Governor-General was reported informing the Senate that he had assented to the following laws:

- Crimes Amendment Act 2002 (Act No. 88, 2002)
- States Grants (Primary and Secondary Education Assistance) Amendment Act (No. 2) 2002 (Act No. 92, 2002)
- Petroleum (Submerged Lands) Amendment Act 2002 (Act No. 93, 2002)
- Treasury Legislation Amendment Act (No. 1) 2002 (Act No. 94, 2002).

RESEARCH INVOLVING EMBRYOS BILL 2002

Second Reading

Debate resumed.

(Quorum formed)

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.28 p.m.)—I will not be supporting the Research Involving Embryos Bill 2002. Like other members of the parliament, I have received numerous representations on this issue. I would like to say to all those who have approached me that I have considered the arguments very carefully before deciding on how I will vote. I would particularly like to commend the work of the Senate Community Affairs Legislation Committee, under the chairmanship of Senator Sue Knowles.

I know some of our senators were concerned about the time frame under which the committee worked. However, as one who has come to this debate recently, I found the report of the Senate Community Affairs Legislation Committee greatly assisted me in working through the complex issues involved in this bill. I commend the work that was done by that committee and by those who assisted with the drafting of the report. The report of the Senate committee carefully examines all aspects of the bill and the attendant ethical, medical and scientific issues. I must say I have also found the material supplied by the Parliamentary Library a considerable help.

Let me deal with the ethical issues raised by research involving human embryos. No one, it seems, supports unregulated, unimpeded research involving human embryos. Virtually everyone recognises that there are significant ethical issues. Our society is understandably very sensitive about any research that involves the destruction of human embryos. The bill itself seeks to address some of these sensitivities. It imposes a very tight regulatory regime. For example, no licence could be granted for any investigation to be carried out on embryos created after 5 April 2002, which—certainly in the short run—greatly limits the number of embryos available for research. As the committee report points out, the bill recognises a moral status attaching to embryos. According to the report, it does this through:

... the limitation on the age of the embryos to be used, the prohibition on the creation of embryos specifically for research, and the specification that the research to be undertaken must be serious and must not entail the unnecessary destruction of embryos.

Despite all the efforts of the drafters of the bill, there remains a significant contradiction within this bill: if it is wrong to use embryos created after 5 April, surely it must also be wrong to allow destructive research on embryos created prior to 5 April. In order to find a way out of this dilemma, many of the bill’s supporters argue that there are up to 70,000 surplus embryos which will inevitably be allowed to die and, if they are going to die, then they should be available for research, with the consent of the parents. However, I believe there is a moral difference between allowing embryos to die, or succumb, and destroying them by conducting research on them. There would be universal agreement that we should do everything that is ethically sound to treat diseases and to assist recovery of injured tissue. The debate between scientists is a particularly interesting part of the Senate report and it demonstrates many of the dilemmas that we are faced with in considering this bill.
The report concludes, among other things, that most scientists would agree that there is as yet insufficient experimental data to be certain either just how important research into stem cells is likely to be or to be certain about the relative value of embryonic and adult stem cells for that research. The claims of some of the scientists are described as overblown and premature. Senator Abetz in his earlier remarks in this debate dealt with some of these claims. Professor Colin Masters, a professor of pathology at the University of Melbourne with expertise in the study of brain diseases, including Alzheimer’s disease, has questioned claims about the potential of research with embryos to create therapies. A range of other scientists and experts have questioned the claims of Professor Alan Trounson, the most public scientific advocate of the bill. In responding to these criticisms, the proponents of the bill agreed it was unrealistic to expect overnight or miracle cures from stem cell research.

What conclusions do I draw from this? Firstly, there seems little doubt—and the report, I think, makes this clear—that the promised breakthroughs from results of embryonic research are far off and highly speculative. Secondly, research using adult stem cells—which is ethically uncontroversial—is opening up promising avenues. Indeed, I understand that recent progress with adult stem cell research has been extremely encouraging. I believe this is the area in which research should be focused rather than allowing destructive experiments on human embryos. I agree with many of the conclusions that Senators Barnett, Heffernan and Hutchins expressed in the report. In particular, they said that they believe that, for parliament to mandate the expansion of ethically contentious research, there must be compelling reasons. I do not find there to be compelling reasons, for the reasons that I have stated in my remarks.

Senator ABETZ  (Tasmania—Special Minister of State) (4.34 p.m.)—by leave—Before question time, I dealt with the issue of the false hopes that were being raised by the likes of Professor Trounson and Premier Carr. I now want to look at the very hopeful research in the area of adult stem cells, which Senator Kemp has just touched on. When you read that American doctors reimplanted stem cells taken from the brain of a patient with Parkinson’s disease, resulting in an 83 per cent improvement in the patient’s condition, you realise that there is very real hope there, based not on speculation but on results that have already been obtained. Similarly, the Washington Medical Center treated 26 patients with rapidly deteriorating multiple sclerosis with their own stem cells, stabilising the condition in 20 patients and improving the condition in the other six. Israeli doctors implanted stem cells taken from a paraplegic woman’s blood into her spinal cord, allowing her to regain bladder control and the ability to move her toes and legs. Surgeons in Taiwan have used stem cells taken from a patient’s eyes to restore vision. There is a list of successes. In a situation where we have limited money for research, the question should be asked: why would we seek to go down the route of highly speculative activities—ethically wrong activities—when the door to these benefits is already opening to us through adult stem cell research, and activities and operations that have succeeded?

Others have sought in this debate to enhance their faltering arguments by demeaning the embryo because of its size and shape. We in this place are all different in shape and size. Just as our essential humanity is not based on the number of cells we have, nor our size, nor our shape, neither should the inherent value of an embryo be judged on those—quite frankly, silly—criteria. To describe an embryo as a blob or a five-day ball of cells, or through other demeaning language, does not enhance this place nor this debate. It might receive a headline from sympathetic media, but I simply ask, ‘Does it add to the rigour of the debate?’ Of course it does not. Surely we as legislators can do better than to descend to such unnecessary labelling. Indeed, Madam Acting Deputy President, if you wanted to you could describe me as a 44-year-old ball of cells. Does that mean that destructive research ought to be allowed on me? These sorts of terms—and the age and the size—are irrelevant to this argument. What we need to do is ask, ‘When does life begin?’
I note that those who have sought to belittle the argument that life begins at the fertilisation of the ovum have been unable to provide any logical basis for saying, ‘It does not start there but it definitely starts somewhere else.’ We just have not been presented with that, and the reason is that there is no other logical basis on which you can rationally argue that human life begins at some other point. As the Senate report on this bill told us, very few argue that the human embryo has no moral status at all, and that was in paragraph 3.16. At paragraph 3.30 we are told:

There is in fact little disagreement that the embryo is a human life and that its life commences at fertilisation.

No other defining moment can be identified as the start of human life. The simple fact is that the fertilised ovum has life, and it is genetically human. The genetic individuality or identity of the adult is practically the same as that of the embryo who possesses the actual potential to develop and to grow into an adult. Let me dismiss as quite inappropriate the sorts of contributions we have heard in this debate that somehow a sperm should be treated in the same way as the embryo. The sperm of itself does not have all the genetic material of a human being, but the fertilised egg does. That is the big and fundamental difference, and I am sure it is not lost on the majority of honourable senators.

The evidence is overwhelming. But to justify the destruction of this human life we have the introduction of this horrid concept of questioning in what sense the embryo is to be considered a human life. Once we countenance those questions, we open the door to the concept of lesser humans who, by virtue of their status as lesser humans, are allowed to be destroyed for our—presumably the greater humans’—good. As the Warnock report found, once the process of development has begun—and that is at the time of the fertilisation of the ovum—there is no particular part of the process which is more important than any other. So, in the face of the overwhelming evidence, we are simply told to put an arbitrary cut-off point to allay public anxiety. Such an approach is both cynical and immoral, and has no intellectual basis.

We thus move to the selfish bill, which presupposes that the interests of adult human beings in the potential benefits of the research take precedence over any interests possessed by the embryos. One can read about that in paragraph 3.68 of the Senate report. Even if all the exaggerated claims of cures were to come true, the method of such cures is premised on the deliberate destruction of fellow human beings. Let us not forget: we all started out on life’s journey as a fertilised ovum—an embryo. If we were not human then, when did we become human? Until honourable senators can answer that question, I will be opposing this bill. What was the additive which made us change from the so-called blob to a human being worthy of support, nurture and protection? No-one to date has been able to point to such an event, apart from the fertilisation of the ovum. And if that is the point where life begins it is abhorrent to think that we are prepared to destroy human life for our selfish gain. To do so devalues humanity itself.

Let me turn to the fundamental difference between destroying a life and allowing it to succumb or die naturally. There is an accepted and quite easily understood difference between allowing a person to succumb and deliberately killing them. We can talk about throwing them into the rubbish bin and can use those sorts of emotive terms; well, we can talk about people who are about to be put six foot under or be thrown into an incinerator shortly. So why not allow them to be experimented upon before they die? Those arguments, when you analyse them, hold no substance. They are emotive and they do not add to the debate. There is a difference between, for example, poisoning a patient and turning off his life support. We have no right to deliberately kill other than in self-defence, and so it should remain.

This differentiation becomes relevant when some advocates insist that excess IVF embryos will be destroyed anyway. That simply is not true. They will not be destroyed; they will be allowed to succumb, like somebody dying from cancer. They are going to die anyway and end up in the incin-
erator or six foot under. Does that mean we should therefore have the right to conduct destructive experimental surgery on them, knowing that that will kill the human being? Of course not. Similarly, just because an IVF embryo may succumb and die does not give us the right to deliberately seek to destroy it.

I also add that, in this case, with research on IVF embryos—the so-called leftover ones—as I understand the situation, the embryo that is deep-frozen and then thawed for IVF purposes does not have the useable stem cells as yet. Therefore, the embryo is deliberately grown and further developed prior to its destruction in order to access the stem cells. Such behaviour with a human life should not be tolerated, let alone condoned as this legislation does. What does this bill say about our society—that the end justifies the means, that life is just a commodity, that it is acceptable that the unborn be sacrificed for the possible convenience of those already born? Research that deliberately destroys human life from embryo onwards is ethically wrong. The scientific research may well be interesting, but the simple fact is that it is ethically wrong. This bill should be rejected. 

In so doing, senators could make a statement that human life, born or unborn, is sacred, should be protected and nurtured and, above all, should not be deliberately destroyed. I oppose the bill.

Senator LEES (South Australia) (4.46 p.m.)—This is very much an emotive issue, as we have heard from the various speeches already given in this chamber and in the other place. The fact indeed that it is so emotive and so very much a personal issue has led to the major parties giving their members and senators a conscience vote. That is to be encouraged and it is something I fully support. I will be supporting the Research Involving Embryos Bill 2002.

Firstly, let us look at the argument about the embryos themselves—a collection of some 100 or 150 cells—whether or not they are in fact, as some of the more emotive letters to me have said, tiny human beings. While the potential for life is certainly there, it is not actual. While a healthy embryo has the potential to become an independently functioning human being, in its earlier stages it is little more than a clump of cells entirely dependent on another human being for nourishment and growth. The issue of when an embryo is considered fully human is highly contentious. This debate also goes on in relation to the whole issue of abortion and when—or indeed if—pregnancy should ever be terminated. As we know, depending on state legislation, a pregnancy can be terminated in this country for different reasons at different points. Those who support a woman’s right to choose would, I imagine, also be supportive of this legislation.

In dealing with the question here, we need to be clear about what this research actually does and does not do. It does not propose experimentation on human embryos per se. It involves the isolation and removal of stem cells from embryonic clusters of undifferentiated cells which were created by medical researchers in laboratories and are about to be destroyed or, as the previous speaker said, be basically disposed of, regardless of their potential. The experimentation and treatments are then centred on the stem cells themselves, not on the embryo or the clump of cells from which they came. I think it is an important distinction to note in the debate. Opponents of the research would draw us a picture of medical researchers actually taking viable human beings—or, as some of the emotive letters have said, ‘little people’—and experimenting on them.

Secondly, we have debated and must debate the use of the stem cells that have been collected. As I said, if not used, they will be disposed of. That depends on the wish of the donors. This research has the potential to help many Australians who face a very wide range of debilitating and life-threatening diseases. It will help them to live longer, happier and healthier lives. The hope for them is that this chamber will support this legislation to give them, as members of our society already, a better chance to continue life without facing the isolation, pain, depression and, often, early deaths that they now face. These potential benefits were highlighted during the committee hearings, and I will mention only a few of them in a moment.

Some in this debate have argued that, because these advances are not locked in, be-
cause we do not have actual proof that embryonic stem cells are going to be of use, we should not proceed. If that were the case, we would not proceed with any of the research. Many of those who have written to me have highlighted the point that they believe embryonic stem cell research is not proven and so we should not go ahead with it. But think of the times we have looked at diseases such as Alzheimer’s. Just a few years ago, we did not believe that anything could be done for those suffering from Alzheimer’s, but now medication is available and there is apparently already in the pipeline a new generation of medications that will further improve the quality of life for those with Alzheimer’s.

Again, a few years back we did not believe anything could be done for those people who were diagnosed with multiple sclerosis. Now there is a wide range of medical options to slow this disease, to reduce its impact and, for some, to improve functioning. Also with MS we have a new generation of drugs on the horizon—not cures, but a means of holding this disease at bay and improving the quality of life. Apparently, the use of stem cells is being considered as a further way of improving treatment for those people with MS. There are roughly 15,000 Australians in this category.

Medical researchers tell us that there is in fact a very long list of diseases that potentially may be alleviated or cured by the procedures likely to come from stem cell research, both embryonic and adult. They include our major killers, such as heart disease and cancer, but also diabetes—including juvenile diabetes—Parkinson’s disease, spinal cord injury, stroke, even burns, rheumatoid arthritis, osteoporosis, motor neurone disease et cetera. Surely we should encourage a process that may improve the quality of life and life expectancy for people who are definitely with us and who are suffering and who do not have a lot to look forward to, in the case of those with diseases that have a very rapid onset.

Embryonic stem cell research is certainly in its infancy but is already showing great promise for a wide range of treatments. In some cases we see now, adult stem cell research is shown to be of very little, if any, further use. The research has been undertaken for decades, has been tried again and again and is not working. So the researchers want to move on and look at embryonic stem cell research. This very fruitful line of research is there for a number of reasons. Firstly, embryonic stem cells are seen to be ‘immortal’ because they multiply endlessly; thus, they can be used for large-scale research and treatments. Secondly, adult stem cells cannot be multiplied; thus, they have very limited, expensive and sometimes time-consuming application—perhaps involving many donors. Thirdly, embryonic stem cells can be used to create many types of cells: neural, cardiac, pancreatic et cetera. Adult stem cells are limited in application—that is, muscle stem cells for muscles, bone marrow for blood, neural for neurones, skin for skin, et cetera.

I want to go through some of the problems which have been identified should embryonic stem cell research go ahead. Firstly, there is the fear that embryos may be produced specifically for research; secondly, there is the concern that IVF donors could be pressured to donate their leftover embryos or indeed to have their ovaries hyperstimulated to overproduce eggs; and, thirdly, there is the possibility of somehow ‘slipping’ into human cloning. As you read through the legislation, you see that it in fact protects IVF donors by separating them from the research arm of the program. It also makes it unlawful to hyperstimulate ovaries for research. These points have been amply argued, and I am quite convinced—as I listened to the debate both in the committee and here—that the safeguards are in place to protect donors from overzealous medical researchers. There are similar protective barriers between organ donors and recipient teams. I think that is operating well and obviously to the great benefit of the recipients, who are suffering from things like heart, lung and kidney disease.

This legislation does not make human cloning any more lawful than it is today. I therefore do not have any concerns in that area. These issues certainly are hard issues. They have to be grappled with or we will miss this opportunity that is within our grasp. I see the donation of stem cells from a dis-
carded or unwanted embryo as parallel with donation of organs from a deceased person’s body. I think we need to turn our minds now to the future, to the kinds of ethical questions which flow from implementing the legislation. There are social questions such as, ‘Who will have access to this technology?’ As with all new and expensive medical advances, there must be provision in the regulatory system to ensure that all Australians, not just a privileged few, benefit from the research. This is achievable by ensuring that the medical procedures which emerge from the research are available on the public system, particularly in the case of life-threatening, life-shortening or serious debilitating conditions. It means that we must ensure the future of the Pharmaceutical Benefits Scheme, not by increasing the cost of medications for those who are ill but through the taxation system, perhaps by an increase in the Medicare levy.

Senator KIRK (South Australia) (4.58 p.m.)—I rise to speak on the Research Involving Embryos Bill 2002. The government originally introduced this bill and the Prohibition of Human Cloning Bill 2002 into parliament as a combined bill: the Research Involving Embryos and Prohibition of Human Cloning Bill 2002. On 29 August 2002, the House of Representatives voted to split this legislation into two bills: one to ban human cloning and the other to regulate research on human embryos. I state at the outset that I will be supporting both of these bills, particularly the bill that is before the chamber this afternoon.

In thinking about either of these bills, we are forced to draw ethical boundaries. The Labor Party’s position against human cloning is one which I wholeheartedly support. I do not believe that there is any significant level of public support for human cloning, and little is to be gained from it. On the other hand, the ethical boundaries that the Research Involving Embryos Bill requires are more difficult to draw. Labor supported the agreement reached by the Commonwealth, state and territory governments on Friday, 5 April 2002, to allow stem cell research for therapeutic purposes using excess or surplus IVF embryos under strict national regulation.

Under the nationally agreed framework, the Commonwealth, state and territory governments agreed to introduce nationally consistent legislation to ban human cloning and the creation of embryos for the purpose of harvesting their cells for research and other unacceptable practices. The national framework would permit research involving existing excess human IVF embryos, but only under strict controls enforced by the National Health and Medical Research Council. Applications for such research would be considered on a case-by-case basis and approval would only be granted where the research is likely to lead to a significant advance in knowledge or improvement in technologies for treatment. The decision to support the national framework was reached only after lengthy consideration of diverse social views and the complex and sensitive moral and ethical issues raised by the research.

At a very early stage in the debate, Labor endorsed having a conscience vote for our parliamentary members on the issue of research involving human embryos, and this is the bill before us today. In all of our policies, Labor are committed to a just and tolerant society that protects the rights and freedoms of all Australians. In our own internal operations we also pay heed to this and, in particular, to the fundamental right of freedom of conscience. No-one should be forced to vote for a motion in opposition to his or her own carefully formed and articulated moral and ethical beliefs. I am pleased that the Prime Minister eventually followed the example of the Leader of the Opposition, Simon Crean, in allowing a conscience vote on this issue.

I defend absolutely the right of all groups to participate in this debate—churches, lobby groups, research organisations and private citizens. This is a debate that can only benefit from a broad array of opinions and a broad collection of views. Personally, as a South Australian senator, I have received letters from many South Australians urging me to consider their points of view before formulating my own decision. In addition, I defend the right of all of my colleagues to
put forward their opinion on the issue, whether formed through their secular or religious beliefs. Our parliamentary system allows us to express our views with an aim to convince others and allows us, in the end, to make decisions by the vote of a simple majority.

With this bill, members are forced to draw some moral and ethical guidelines for our society’s direction in relation to scientific research. This is not an easy task. I have spent much time thinking about and researching the Research Involving Embryos Bill 2002. It is legislation that forces one to weigh up the potential benefits and detriments of its introduction. It also requires each member to weigh up in their own mind their perspectives on human life, its value and quality. Essentially, the Research Involving Embryos Bill establishes a principal committee within the National Health and Medical Research Council and the NHMRC Embryo Research Licensing Committee for the purposes of performing functions and exercising powers under the bill. It also establishes a scheme for the assessment and licensing of certain activities, such as research and training, that involve the use of excess embryos created by assisted reproductive technology, known as excess ART embryos. The bill provides for a centralised, publicly available database of information about all licences issued by the NHMRC licensing committee. Should this bill be successfully passed, excess IVF embryos will be able to be used for certain research.

I believe that this bill offers us an opportunity—an opportunity not only to advance scientific research but also to alleviate the suffering of many of our fellow human beings. It is important to ensure our legislation does not impair the operation of our already excellent scientific and research facilities. The potential loss of intellectual capital if this bill does not proceed is great. However, I believe the greater value of this bill lies in its import for humanity. Embryonic stem cell research holds one of the greatest hopes of dramatically improving the quality of life of many everyday Australians—everyday Australians who suffer from debilitating diseases such as Alzheimer’s, Parkinson’s, cystic fibrosis and juvenile diabetes. Stem cells may offer us a revolution in medicine as significant and beneficial to humanity as the development of vaccines taken for granted today but the cause of dramatic improvements in both our quality and quantity of life. Stem cell research has the very real possibility of offering hope to many of our fellow citizens who battle daily with such debilitating diseases. We know that the research resulting from the passage of this legislation will look into this proposition. Perhaps researchers will not find that stem cells offer the solution they appear to now, but perhaps they will. That chance is something we cannot afford to rule out.

Stem cells are unique in that they can multiply indefinitely and differentiate into specialised cell types as they multiply. Other cells cannot do this; they are dedicated to being one cell type only. The ability of stem cells to become specialised means that there is a possibility that these cells may be used to create any type of cell and possibly used as a treatment to replace diseased and damaged cells. Stem cells occur at all stages of human development, from embryo to adult, but their versatility and abundance gradually decrease with age. Embryonic stem cells are able to produce any of the different types of specialised cells, whereas adult stem cells are not able to differentiate into as many different cell types.

At the current time, the type of scientific advances we are hoping for will not be possible without the use of embryonic stem cells for research. Although research with embryonic stem cells is in its early stages, it is showing enormous potential. Research is advancing so fast that it is thought by the experts in this field that it could outmode the field of adult stem cell science. Researchers have now produced lung alveoli—the little sacs at the base of the lung which exchange gases. These are the materials that patients with cystic fibrosis so desperately need. My family has a long history of cystic fibrosis. About 2½ thousand Australians have cystic fibrosis, which is a disease characterised by a build-up of thick mucus in the lungs and pancreas, leading to breathing and nutritional difficulties. The lungs of most
victims become infected with a bacteria, pseudomonas aeruginosa—it is difficult to say—a persistent and chronic infection causing inflammation and damage to the lung tissue. On my mother’s side, my family has lost five members to this disease, and one of my first cousins is a sufferer of cystic fibrosis. I have personally seen the suffering this disease causes, and I feel compelled to support research that offers hope to its victims.

Some scientists believe that it may eventually be possible to exploit adult stem cells for most of the anticipated therapeutic purposes they provide. This would mean that, in the future, research on embryonic stem cells might not be necessary. Current research may in fact be impeded by this bill’s prohibition on the farming of human embryos. However, it is a prohibition I support and a small example of the kind of fine ethical boundaries this bill forces us all to negotiate. My hope is that under this new legislative regime scientists will be able to improve our understanding of stem cells generally and one day deliver the hoped-for medical advances that have the potential to so radically change the lives of so many Australians.

Continuing the prohibition on the use of embryonic stem cells comes at a high cost: spare IVF embryos will continue to be discarded, and those living with debilitating conditions will continue to suffer. The IVF program itself draws out similar ethical issues to those in the bill we are debating this afternoon. IVF, which was legislated 25 years ago, has improved the quality of life for so many couples who were finally able to have long-sought-after children through the program. One of my cousins was conceived in this way. I believe that few Australians would question this program’s benefit. When this program was introduced, we made the decision—a precedent—that, in the process of allowing couples to have their own children, it was acceptable that excess embryos would sometimes also be created and those not implanted would be destroyed.

Embryonic research has in fact already been carried out for some time in order to improve the IVF program. In the past, excess embryos would have been discarded. The legislation before us today allows them to be used for the purposes of medical research. Not a single extra embryo will be created under this legislation. I believe that the IVF program is not flawed in its motivation to improve the quality of so many people’s lives by giving them a further hope and the opportunity to have their own children. Embryonic stem cell research, perhaps even more importantly, has the potential to improve the human condition and reduce the suffering of our fellow citizens.

There are several specific aspects of this bill that I would like to draw to the attention of the Senate. In terms of public policy, I am always keen to ensure that the people involved have control over their own participation. In the IVF program, those couples who choose to participate are able to consider for themselves, in consultation with medical staff, how to limit the inevitable creation of surplus embryos and whether they consider them excess to their requirements. IVF participants have largely been ignored by the political debate in the discussion of the Research Involving Embryos Bill 2002. The responsibility for these embryos is and remains, under this legislation, the domain of the male and female parents, those who are essentially the participants in the medical research. IVF participants must retain their power to choose whether or not they consider the embryos as excess. This means that the woman for whom the embryo was created must determine in writing that the embryo is excess to her need or she must have provided authority in writing for the embryo to be used for a purpose other than achieving pregnancy—for example, for research or training purposes. I believe that this is an incredibly important safeguard. The rights of participants in IVF programs should not be overridden by the drive of science.

Determination of an embryo as excess, however, is also distinct in this bill from the issue of proper consent. Under the legislation, proper consent must also be obtained, and it must be in accordance with the NHMRC Ethical guidelines on assisted reproductive technology, which are currently being reviewed and will be reissued in early 2003. I look forward to seeing them and
hope that they will give proper weight to the role played by the couples for whom and also by whom the embryo was created.

In addition, I also applaud the inclusion of the three-year sunset clause in this bill. The requirement that there be a review of the stem cell regulations by a qualified and unbiased body in three years time is essential. Three years allows us time to review the legislation and its outcomes and possible alterations that may need to be considered. I hope that in time we may be rewarded with tangible medical advances that promise an improvement in both the quantity and quality of life experienced by our fellow Australians.

Senator WATSON (Tasmania) (5.14 p.m.)—I rise to make a contribution to the debate on the Research Involving Embryos Bill 2002. During my many years as a senator for the state of Tasmania, I have regularly been the target of lobbying by constituents who have ardently advocated opinions on a very wide range of topics. In recent times the introduction of email services has allowed an even wider and easier access for the expression of views, and to say that recent months has seen this topic cram my emails would not be an exaggeration. It is interesting to note that the vast majority of those emails were directed at securing my support to vote against research using embryos and that the vast majority of those emails were from people with strongly held religious beliefs and convictions.

It has been an interesting exercise to see the wide range of views held against this research and the basis of the arguments used by those lobbying in this particular way. However, at the end of the day, my decision has been based on what I evaluate to be the view of the majority of my constituents, including the vast majority of those who did not feel strongly enough to contact me about this important vote, and on consideration of the ethical issues. My decision also has to bear the scrutiny of those who will look back on this legislation and its consequence for the good of all Australians in the years to come.

In reaching my decision I was greatly influenced by those who put forward the argument that, to a large degree, we are debating what will become of embryos who have been determined to have no future value and, if not used for scientific research, would be allowed to perish anyway. So the Prime Minister’s words when he said that the decision is largely a question of whether the embryo is to be killed by throwing it away or by using it for medical research bring the nub of the matter to a head.

We are debating the treatment of embryos whose future has been decided: they are no longer needed for the purpose for which they were intended and they are, in chillingly basic terms, excess to requirements. Therefore, I have very strong reservations about the risk of embryos being created with a view to research at some future date. I believe that in this area it will be vital that appropriate controls are maintained. On the other hand, I believe there are currently some 70,000 embryos in storage in Australia and that many will not be needed for their original purpose—that is, to assist in the IVF processes needed to help many young Australians have families.

I have also taken into account the material, some of it very emotive and subjective, about the relative need for the use by scientists of embryonic stem cells compared with the need for adult stem cells. I believe this topic is far from conclusive and that, while mankind is ravaged by many diseases for which we have no cure, every possible reasonable option should be kept open for future developments in the treatments for certain cancers, cystic fibrosis, organ failure, stroke, burns, HIV and the many other ailments of the human condition. Keeping researchers from accessing embryonic stem cells and confining them to adult stem cells simply halves or more the opportunities to carry out some good work.

I believe it is therefore important to keep both routes to therapy open. Unlike some in this chamber, I have no innate or unreasoned fear of terrible crimes against humanity waiting for medical scientists to be let off the leash. At the same time, I want to put on the record and make abundantly clear that I am firmly against all forms of cloning. Medical research has produced some marvellous cures over the past century, and in most cases
this work was done by people whose motives were positive and ethical. When I read that medical scientists have noted that embryonic stem cells display advantages and flexibilities not always apparent in adult stem cells, I have no particular reason to believe they are lying or that their motives are not directed at applying this technology for the good of humankind.

To say that this technology will not be utilised to return profits to the investors in research would, I believe, be naive. However, I also accept that a great deal of modern medical research is enormously expensive and that much of the work that goes into finding cures must be linked with certain financial returns to the commercial investors who risked their capital in these sorts of ventures. It would be entirely foolish to ignore the connection between these sorts of things but, at the same time, to deny the possibility of positive outcomes would be harmful to future generations yet unborn. We have the ability and the power to legislate to control potential abuses of this technology, and I believe it is essential that we do just that. Therefore, I think perhaps the most important part of this debate will not be during this second reading debate but during the committee stage of the debate, in which I will be involved.

I believe that stifling enterprises that may lead to advances in human medical technology is not the Australian way. To those who draw on their religious beliefs to oppose this work, I offer this comment: this parliament is not here to pick winners and losers among religious views. I, like many others, have a strong personal faith and, like other senators, will be required to vote on this bill in a conscience vote. However, I do not believe that my faith precludes me from acting in what I believe to be an ethical and rational way to try to assist those who are suffering and may benefit from research on embryos that have no future prospects.

I believe that this parliament should pass the bill to enable medical research to proceed without inappropriate restraint on materials, but, at the same time, I also believe it should impose appropriate controls against abuses of this particular right. It is therefore essential that controls are provided against inappropriate use of embryos, inappropriate development of embryonic material and inappropriate research—that is, research that is not linked to proper ethical medical practices. This includes appropriate controls in terms of growing out the embryos beyond the immediate embryonic stage. I therefore have serious misgivings about our ability to ensure controls, for example, if embryonic material were to be sent overseas. I would support an amendment or put up an amendment myself which would prevent materials from being exported from Australia. Within Australia, we can and must have strict scientific and ethical rules for this work, but outside Australia that would be unenforceable. The export of Australian embryos or embryo products should therefore not be permitted.

Given the necessary controls and the proper administration of matters such as the rights of the donor parents to decide on usage of their unwanted embryos, I support the bill. At the same time, I give notice that I will be involved in the committee stage to ensure that there are appropriate safeguards, particularly to prohibit the export of embryos or embryo products; to support measures under the licensing arrangements to control or limit the growing out of the embryos; and to support the other measures deemed necessary to ensure the highest ethical practices are appropriately enforced. I support the bill.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (5.26 p.m.)—I rise to speak on the Research Involving Embryos Bill 2002 to commend the Prime Minister for ensuring that we have a conscience vote on this bill but also to express my disappointment that the Prime Minister is supporting this bill. I must say that I never contemplated that there might be an occasion where, on a major piece of legislation such as this, I would take a position which was simultaneously contrary to the position of the member for Bennelong and consistent with the position of the member for Sturt. I think it is well known that I have absolutely the highest regard and with whom I find myself in agreement on almost every
major issue in politics—most recently, the question of a republic. In contrast, my disagreements with the member for Sturt on a number of policy issues are certainly well known in our home state of South Australia. But I have to say that, on the issue of embryo research, I can only applaud the position taken by the member for Sturt in his strong opposition to this bill and I must profoundly disagree with the position taken by the Prime Minister.

My opposition to this bill arises from my very fundamental concern about the destruction of human life for the purposes of scientific research. My views on the issue do not spring from any deep-seated religious conviction—I guess I could best be described as a disillusioned Anglican—but I do believe that on a logical analysis of the ethical issues involved it is wrong for this parliament to authorise the deliberate destruction of human embryos for whatever reason. The elementary starting point for consideration of this bill is the question of whether an embryo is human life, and I have absolutely no doubt that of course it is. Father Anthony Fisher, in an article in the Bulletin rejecting Archbishop Carnley’s quite silly article about an idiotic 14-day rule, said:

Ever since microscopes, scientists have said that human beings are conceived when an egg is fertilised by a sperm. Every modern embryology textbook says that a new individual member of the human species is conceived at fertilisation. The report of the chairman of the Senate Community Affairs Legislation Committee, at paragraph 3.30, states:

There is in fact little disagreement that the embryo is a human life and that its life commences at fertilisation.

If you accept that an embryo is human from the time of fertilisation, it then flows logically that destroying an embryo is ethically wrong and should not be permitted, even for the ostensibly beneficial purposes of medical research. A civilised society would never countenance medical research on a live human being that caused that person’s death. Given that an embryo is human, then exactly the same moral principle applies to an embryo. The response of embryo research proponents is to argue that embryos surplus to IVF will die anyway, so they might as well be used for research. That is an argument with which I have a fundamental disagreement. I recently launched a discussion paper from the Southern Cross Bioethics Institute, based in South Australia. In that paper, Dr John Fleming and his colleagues effectively demolished that argument. I would like to quote briefly from that report. It states:

The profound ethical difference between killing and letting die has been, and still is, an essential component of our legal and moral understanding of the way we deal with each other. It is difficult to understand why people who can see this clearly for most human beings apparently fail to see it where embryonic human beings are concerned.

If a human being has a terminal illness we do not permit other people to kill that human being for research purposes, no matter how vital that research may be, or what utopian cures such research may promise. The legal (and ethical) distinction between allowing a person to die of their disease when we can no longer arrest its inexorable progress, and killing that person, is accounted for in the crime of homicide or murder. If you kill another human being, even if the motive is one of ‘scientific research’ or for ‘the benefit of humanity’, you will be arrested and charged with murder.

If we do permit some human beings to be killed in order to conduct scientific research, we are surely on a slippery slope to expanding the categories of humans ‘who are going to die anyway’ on whom research could be conducted. My fundamental premise is that embryos are human and they are human from fertilisation. If an embryo is not needed for an IVF process, it is ethical for that embryo to be left to succumb—which is the moral equivalent of turning off a life support machine—but actively destroying the embryo, for whatever purpose, is ethically wrong. As this bill permits that destruction, I am opposed to it.

If the bill is so wrong, and so clearly wrong, it is fair to ask how on earth this bill has got to where it is—how it has achieved the support of the Prime Minister, premiers and the House of Representatives. I think it is because the proponents of embryo research have been able to perpetuate a number of myths about it, and I want to deal with those myths. The first myth is that destructive research on embryos will lead to cures
for a number of serious diseases. The proponents argue that embryonic stem cell research will lead to cures for Alzheimer’s, Parkinson’s, motor neurone disease, diabetes, quadriplegia et cetera. I find it quite repugnant that sufferers of many of these conditions are being misled by the proponents of embryonic stem cell research, who say that a cure is around the corner. The Senate Community Affairs Legislation Committee report on this bill does an excellent job of exposing this myth. Expert after expert, professor after professor, is quoted in the report admitting that the benefits of ES cell research have been oversold. Professor Peter Rowe, Director of the Children’s Medical Research Institute in Sydney, said:

I think the public ... has been grossly misinformed as to the potential ... I feel that there is a lot of work that could be done on human embryonic stem cells, but to what end? Because I do not think we are ever going to use them in any form of treatment, not in the next foreseeable 20 or 30 years, if even then.

In June, Professor Rowe told the Australian:

... some stringent rules have to be applied to restrict the activities of individuals, often with doubtful scientific credentials, who will be seeking to gain commercial benefit from their work while claiming to pursue altruistic goals.

The committee’s very good report deals with the practical difficulties associated with embryonic stem cell research. The cells are at risk of immunological rejection by a recipient’s immune system, and Professor Michael Good makes a very strong case on that ground. Embryonic stem cells can cause cancer—they do have a predisposition to become malignant. On this matter, Dr David Prentice, the American expert who visited Australia earlier this year, said:

Embryonic stem cells have not yet produced a single clinical treatment; there are few and limited successes in animal models; and problems of immune rejection, tumour formation and genomic instability continue to be unresolved.

The most that the proponents of this form of research can say is that one day in a few decades time it may be that embryonic stem cell research will yield deliverable benefits. Given that we are proposing the destruction of human embryos, that is just not good enough, in my view, for this parliament. It is very interesting that, as reported in the Senate committee report, a number of groups of people affected by the very diseases that the proponents say will be cured by this research have given evidence to the committee opposing such research. A number of colleagues have referred to the much greater potential benefit from adult stem cell research, to which I want to lend my weight. We are not opposed to stem cell research; we just believe that it should be restricted to adult stem cells, about which there is no moral or ethical dilemma, as there is with embryonic stem cell research.

The second myth I would like to touch on is that the bill is only about embryonic stem cell research. As shown in the paper from the Southern Cross Bioethics Institute which I referred to earlier, this bill does not actually directly cover embryonic stem cell research; it sets out the circumstances in which embryos can be experimented on and, in many cases, destroyed. It will actually permit the destruction of embryos for far more reasons than just ES cell research, much of it under the vague heading of ‘diagnostic testing’. Permissible experimentation will include vitrifying, freezing and thawing, a process in which many embryos are killed. It permits micromanipulation—lasering, cutting and dissecting embryos—which will often kill them. Embryos can be analysed for different characteristics, such as through electron microscopy, and that is often fatal to the embryo. Embryos could be exposed to various chemicals to test the effect on their survival, growth and development. The Southern Cross Bioethics Institute warns that there is nothing in the legislation that ‘would directly restrict the broader use of human embryos to direct application in pharmaceutical testing or in toxicological testing’. Professor John Hearn from the ANU, for whom I have a high regard, has counselled against embryos being used for this sort of testing, which this bill will allow. Proponents point to the claimed benefits of embryonic stem cell research, but you do not hear them talking about all of the other things that under this bill will be allowed to be done to embryos.

The third myth is that the destruction of more embryos is required in order to allow
embryonic stem cell research to proceed. Senators may be aware that when the government was first considering its response to the Andrews report Professor Trounson was consulted by the government on whether existing stem cell lines were adequate for ongoing research and his response then was yes. In their evidence to the Senate committee, other experts—such as Dr Juttner from BresaGen, Dr Silburn, Professor Rowe, Professor Good and Professor Bartlett—confirmed that this remains the case. And, of course, President Bush’s decision last year on stem cells was predicated on the existing stem cell lines being adequate. But, apparently under pressure from his industry colleagues, Professor Trounson did a backflip on his original position and now advises that existing stem cell lines are not adequate and more embryos have to be destroyed. Professor Trounson certainly does not convince me, particularly given other controversy about his evidence. I prefer the evidence of the other experts and submit that, if there are benefits from ongoing embryonic stem cell research, they can be achieved using existing stem cell lines.

The last significant myth I want to touch on is that this legislation represents a national approach that all states have signed up to. That is simply not the case. This Commonwealth legislative proposal will unilaterally override state legislation, irrespective of the views of state parliaments. That, at least, is what it purports to do. There are two reasons why I think that is wrong. First of all, this country is a federation—one of the world’s great federations—not a unitary state. This Senate is the states house: it exists only because we are a federation. The regulation of scientific research is not a responsibility given to the Commonwealth by the states under our great Constitution. Therefore, in a case like this, the Commonwealth should legislate only with the consent of every state. By that I mean not the say-so of the premier but the consent of each state speaking through its own sovereign parliament.

There should be no confidence that the state parliaments will necessarily agree to the deal their premiers, their Labor premiers, and others signed up to. Indeed, when the parliaments of Western Australia, South Australia and Victoria last considered these issues, they decided to ban destructive research on embryos in their states. I applaud them for so doing and I am totally opposed to any attempt by this federal parliament to override those bans without the consent of those state parliaments. I am glad, as I said, that we are deciding this as a matter of conscience but, as it is a conscience issue, our colleagues in the state parliaments should also have the opportunity to express their conscience on this matter and not have it overridden by federal law as this bill purports to do. It is not made conditional on the agreement of the state parliaments.

I have referred to the questionable constitutional validity of this bill. There is no specific head of power that gives the Commonwealth the right, the responsibility or the authority to legislate on scientific research, and I think there is doubt about the constitutional validity of this bill. The NHMRC told the Senate Community Affairs Legislation Committee:

The advice we have received from the Australian Government Solicitor has been that using a range of constitutional powers, as we do in clause 4, provides considerable coverage in relation to the legislation, but not complete coverage. Hence, there is a need for corresponding state and territory laws to confer powers on the NHMRC licensing committee to enable full constitutional coverage of all activities and persons in Australia.

So there is acknowledgment that this bill has a fundamental flaw. It does not provide the appropriate constitutional coverage and it cannot do so—and it is wrong for it to purport to do so—but it is not made conditional on the state parliaments passing corresponding legislation. Without that complementary state legislation—the passage of which must be considered to be in doubt—this bill would be subject to challenge if it were to pass through this parliament, and there must therefore be doubt about relying on the regulatory regime it establishes. I certainly believe the legislation should at the very least be amended so that it does not seek to override those states whose parliaments wish to maintain bans on destructive research on embryos.
In conclusion, I understand that there will be amendments put and I look forward to adding my weight to those which seek to restrict the very tragic impacts of this legislation. Those amendments are not going to change the fundamental flaws in the bill. Regrettably, this bill would allow human embryos to be destroyed in the course of scientific research, despite the fact that there is general acceptance that they are human life. The bill fundamentally fails to make the distinction between allowing an embryo to succumb and deliberately destroying that life—a distinction which this parliament, to its credit, saw in relation to euthanasia. Of course the case for the bill, as I said, has been built on a number of quite false premises: that embryonic stem cell research offers great hope of curing a range of diseases, which is wrong; that embryonic stem cell research will halt without this bill, which is wrong; and that this bill is only about embryonic stem cell research, which is wrong.

So I urge my fellow senators, in exercising their consciences on this matter, to look through the false premises of this bill—to look again into their hearts and souls at the ethics of destroying embryos in the way that this bill would allow and to look at the vital distinction between killing a human embryo and allowing it to succumb. It is those very serious ethical considerations that have led me to strongly oppose this legislation.

**Senator HOGG (Queensland) (5.42 p.m.)—**I rise to speak on the Research Involving Embryos Bill 2002. When I spoke earlier today on the Prohibition of Human Cloning Bill 2002, I said that I would keep my remarks separate because there is no doubt in my mind that they are separate issues. This bill takes a different perspective from the other. It deals with the issue of life and the embryo. I will speak, from my perspective, about life in a more general sense. I believe that life is a continuum. For me, that is one of the very important issues that comes out in this whole debate. The value of life throughout that continuum does not alter; however, there is no doubt that the quality may differ throughout that continuum. The unfortunate thing about life is that people only get one shot at it; there is no second go. Once you have had your one shot at life, if it is taken away or you lose your life, you do not get another go at all.

Within the continuum, of course, there is no interruption at all. I believe—I have no reason not to believe—that I commenced life as an embryo. My distinctiveness, my uniqueness, commenced then. It did not commence at some stage down the track; it commenced at my conception. Developmental change did not change my distinctiveness, my uniqueness. Whether people like me or hate me, they know I have a unique character, a unique personality, unique traits and unique DNA. That uniqueness, that distinctiveness, about me has been with me throughout that continuum.

My custodians—who were my parents, of course—are no longer alive. But they were never more than my custodians at any stage. I was never their possession. My growth and development as an embryo was neither intrusively nor invasively interfered with at any stage. The life that I had been given in the first instance was never at any stage interfered with or invasively attacked. Therefore, I was allowed to come to fruition. Not every life has that opportunity. Unfortunately, many lives succumb for a wide range of reasons. But nature was allowed to take its course. Some people will say that that was unfortunate and some people will say that that was good. But I was a surviving embryo, for which I am entirely grateful, otherwise I would not be participating in this debate.

However, the crucial question in this bill is the dignity of human life itself. That is really the crucial question. Most people in the debate would at least agree with the fact that we are dealing with human life, but where there is a divergence of opinion is on the respect and worth to be attributed to the human life at its various stages of development. Human life is the highest form of life on this planet. It is clearly superior to any other form of life. Human life therefore warrants a respect and assumes a dignity like no other form of life. There are clear ethical considerations in this bill. People who try to attribute religious and other grounds to this bill may well be correct, but clearly there are ethical grounds. The bill arose ostensibly around the debate on embryonic stem cell
research, but it clearly goes beyond this issue as it looks at the matter of excess ART embryos. The debate on embryonic stem cells has been characterised by false and misleading claims, wild overstating of the likely achievements of embryonic stem cell research and prominent people claiming outlandish miracle cures should the research proceed and a condemnation to a life of misery if it does not proceed at all.

In September last year I undertook a visit to the United States specifically to look at the issue of human cloning and stem cell research. On the matter of embryonic stem cell research, the Bush administration had drawn a line in the sand for their federal funding, based on the date of 9 August, which was that 64 human embryonic stem cell lines were noted as being in existence for research. This number had been established after extensive and wide consultation with all leading participants in embryonic stem cell research in the world. In other words, it was not something that was arrived at flippantly, loosely or without consulting a vast array of participants. When I say a vast array, there were five major centres of embryonic stem cell research in the world and two of those, I believe, were here in Australia. It was agreed that there were sufficient embryonic stem cell lines to do the basic research that was necessary in this fledgling area of research.

The evidence I also adduced on that visit showed sensational claims about injuries and disabilities to be cured, none of which were sustainable. This has been shown to a certain extent in the inquiry conducted by the Senate Community Affairs Legislation Committee. Another thing that I discovered was that there were no short-term outcomes likely, with five to 10 years being the best guess. I also found as part of my study tour that all that was necessary to carry out all of the basic research that was yet to be done was two embryonic stem cell lines. With 64 stem cell lines, many of those at that stage not yet in existence, there was undoubtedly a degree of unanimity that there were sufficient stem cell lines available to do the basic research. Existing stem cell lines were replicating well and were supplying the scientific community with adequate research material. There was no convincing argument that the mouse feeder was contaminating the human embryonic stem cell lines.

I did have the pleasure of attending a hearing of the United States Senate Committee on Health, Education, Labor, and Pensions, chaired by Senator Edward Kennedy, on this very issue. Very apparent at that hearing was the attempt to push the threshold beyond the 64 existing stem cell lines that had otherwise been just recently agreed to by the major scientists involved in this area throughout the world. The envelope, the threshold, was being pushed purely and simply to gain access to more embryos. If one looks at what is before us in this bill today, the essence goes not to embryonic stem cell research—that will continue because the lines are in existence—but to access to human embryos for other purposes. These were clearly outlined in the additional comments in the Community Affairs Legislation Committee report which I subscribe to and which was also alluded to by Senator Minchin in his contribution in this debate.

The envelope was being pushed in the United States, so to see it being pushed here does not surprise me at all. This was strongly resisted by the administration in the United States when I was there, as they said that sufficient embryos had already been destroyed and no more should be subjected to that fate. The other thing that stands out—and I have written a fairly extensive report if people want to avail themselves of it; it is reasonably simple in terms such that ordinary people like me can understand it—was that the evidence available showed that the most promising aspect of human embryonic stem cell research was that it might show how differentiation of the stem cell takes place and that could be transferred into adult stem cell research. But there was nothing to give any real warmth or feeling that human embryonic stem cell research was going to be the be-all and end-all in solving the problems of many tragic diseases that people suffer from.

There is no doubt, based on my experience in the United States and the evidence before the Senate committee, that there are ample stem cell lines available to do the very
basic research that is still in the throes of being commenced and that needs to be done and documented in the literature of the scientific community before it has any real standing at all. There is no need to destroy even one excess ART embryo for human embryonic stem cell research purposes. As I have said, this bill goes further than embryonic stem cell research and proposes a raft of purposes for which the surplus ART embryos could be used.

First and foremost, these embryos were collected to create life. They were collected in the first instance to create life for couples who had difficulty or found it impossible to conceive naturally. The early and only hopes of the IVF program were to give couples the opportunity to have children. That is what it was about. It was about giving life. It was about creating children for those who had a disability and it gave them the opportunity to have children. I can understand that particular desire on the part of a number of people. People who participated in that program did so for that sole and express purpose. The surplus ART embryos were never a by-product of the process to be eyed off and used for other purposes.

The slippery slope has certainly arrived with this bill today. Now we have scientists, commercial enterprises, big business and entrepreneurs all wanting to exploit the human life that has been created in the hope of bringing children into the world. This bill, if passed in its current form, will support the destruction of human life. It surely is a sign of a society or a culture in a state of real decay when it turns on its own in the name of protecting itself and its own kind. History is littered with societies that have self-destructed by turning on themselves in many ways. This is just another variation of that happening.

The issue of allowing the excess ART embryos to succumb versus their destruction is well covered in the qualifying comments signed onto by me and others at page 128 of the Senate Community Affairs Legislation Committee report. I have no intention of canvassing those comments again, but they get to the nub, the heart, of the issue that is in this bill. I believe that simply because overzealous IVF specialists have brought about an obscene surplus—and that is true: an obscene surplus—of embryos this does not warrant that those surplus embryos should be treated with any less dignity than they otherwise would have been. That is what the program was about. It was about life. Now its focus has changed completely.

There is a dignity in being allowed to succumb. This fate awaits the majority of those of us who are not killed suddenly and, in many ways, generally tragically. We will all succumb at some stage, but we will succumb with dignity. It is completely undignified, in my view, to destroy human life by invasive and intrusive procedures, for if we allow this to happen it will not be long before further down the slippery slope one will find the threshold being pushed even further. That is a real concern of mine as well. When I went to the States and watched what I thought was going to be a fairly mundane hearing of their Senate committee, one could see the envelope being pushed and pushed for no good or valid scientific reason other than it was there to be pushed—by the drug companies and by the scientists who wanted to do so.

Where does one stop in this process? Where does one say that one cannot go any further? I say that this is where conception has occurred and if, unfortunately, there are embryos that are going to succumb then that is sad but they will succumb. But life is a continuum, as I have said. That is my view. Not everyone shares that view—or do they? Life is a continuum, life is unique, life is distinct, and as such I believe people should have access to live that life to the fullest and to see it come to fruition in many ways. Those who do not agree with me are involved in arbitrary, human-made judgments that have no reason to remain in place as to where life begins. They can be moved at the whim and the fancy of those who have the power—the scientists and big business—to change an arbitrary point in time where life is deemed to begin and supposedly therefore suddenly takes on a worth.

My argument is that life has a worth from conception right through. All that changes is the quality of life. And, if we are going to look at quality of life, there are many people
in this world who have a very poor quality of life: people who live with AIDS, people who live in hunger and people who live with disease. If we are going to become judgmental, that is fine, people can go down that path—then I think we will surely destroy ourselves. For me, the arbitrariness of the way some people put the markers down as to where life takes on a value is completely unwarranted. At the end of the day, I believe that commonsense has to prevail. Commonsense to me dictates that the inviolable nature of human life and the dignity and respect that it deserves are above all other forms of life on this planet. I believe it is the responsibility of this Senate to take some difficult decisions to ensure that when future generations look back upon us they will see that we had the good sense to respect humanity, and the dignity of human life in particular.

In conclusion, I believe that the report my colleagues put before this parliament is worthy of study indeed, because it gives a fairly dispassionate view of the issue. One of the things that I found characterised the debate in the United States was that it was highly emotionally charged. It has been no different here. Many people have not looked at the very simple issues and the very simple resolution of those issues. They should take the report that was signed by my colleagues and I into consideration when considering how they will cast their votes during the debate that will take place on this bill.

Finally, I want to make it absolutely clear that I am not opposed to the embryonic stem cell research that is taking place. In other words, I am not burying my head in the sand. There are 64 stem cell lines in existence, and probably more. Those stem cell lines exist and one cannot stop that research from proceeding, but one cannot give open slather to those who want to destroy other human embryos for other reasons and have no relationship whatsoever with the emotive issue of human embryonic stem cell research. It is purely a waste of human life, and something that should be condemned.

Senator NETTLE (New South Wales) (6.01 p.m.)—In rising to speak to the Research Involving Embryos Bill 2002, like other senators before me I recognise the enormous amount of community interest that has been generated by this debate. For all of us, the volume and content of the letters and phone calls that we have received has made it very clear that many Australians feel very passionately about the subject of this bill. The Australian Greens’ concerns with this bill focus around the privatisation and the commercialisation of the research involved. We believe that, if this type of research is to continue, it should be fully regulated, transparent and open to public scrutiny. We believe the bill in its current form fails to safeguard the public interest that we believe is so important.

Biotechnology companies lobbying for this bill have made much of the potential benefits of research using embryonic stem cells. We have been told that embryonic stem cells could hold the promise to cure Alzheimer’s, Parkinson’s, diabetes, and even allow people with paraplegia to walk again. People suffering serious illness and disability have been presented to support the case for this legislation. Understandably, some people with disabilities have been offended by this campaign. Some witnesses and authors of submissions to the inquiry into this bill questioned the claims of possible benefits and said the public has been misinformed about the potential of embryonic stem cell research. Even if we accept the claims of the advocates, this bill raises many serious issues, including how to guarantee that private companies do not gain a stranglehold on knowledge and developments that may save lives or improve the quality of life for people who are suffering serious debilitating diseases and conditions.

Part of the problem with this bill is that it does not actually regulate stem cell research, although the community could be forgiven for thinking otherwise, given the public debate. The House of Representatives Standing Committee on Legal and Constitutional Affairs, when it looked at the issue of human cloning last year, recommended that the government legislate to regulate human cloning and embryonic stem cell research. This legislation, however, sets out circumstances in which no licence is required to use a human embryo deemed excess to the needs of peo-
people undergoing assisted reproductive technology programs, and it leaves it to the National Health and Medical Research Council to decide for what other purposes researchers may have access to these embryos. Research involving embryonic stem cells will be subject to guidelines and the council’s approval, but this is not regulation. Parliament does not even have the benefit of the new guidelines that will underpin this bill, as they are currently being revised.

This parliament should be legislating to regulate stem cell research to ensure as much accountability as possible and because of the ethical issues that such research raises. The public has a major stake in this matter. Government funding to IVF and assisted reproduction amounted to $2.9 million this year from the National Health and Medical Research Council alone. The excess embryos that may be provided for research under this bill have been created in part by public funding. But more significantly, the Australian public is ploughing millions of dollars into stem cell research, through Commonwealth government grants. The Australian public should be guaranteed a return on these grants, a guarantee that ensures profits go not only into private pockets but can also be used to ensure that any treatments or drugs derived from embryonic stem cell research will be widely available at a price that people can afford. Make no mistake: large sums of money are involved. Biotechnology Australia, a division of the Commonwealth Department of Industry, Tourism and Resources, told the committee that there were around 200 biotechnology companies in Australia and that the total market capitalisation of Australian biotechnology companies was greater than US$5 billion in February this year.

In its submission to the inquiry, the division gave one example of potential money to be made from stem cell research. If Australia could produce a single commercial cell therapy product for diabetes, with a conservative five per cent market share, annual sales revenue would be worth around $500 million in the year 2010. That is excluding royalties from third-party use of derived products based on Australian-owned embryonic stem cells. These sorts of figures explain the feverish lobbying from the private sector. State governments have been falling over themselves in the past few years throwing money at biotech companies, competing to be the hub for Australia’s biotech industry. The federal government also has been keen to encourage this industry, not just in the area of stem cells—into which it has poured $43.5 million just this year for the National Stem Cell Centre—but also in other fields of biotechnology such as genetic engineering.

Earlier this year, the minister for industry addressed the AusBiotech 2002 dinner with news of 39 successful grants for $9 million from the Biotechnology Innovation Fund. The minister described himself as a ‘friend and a supporter of the industry in Canberra’. He told the audience that the industry’s immediate future hinged in part on its relationship with individuals in the federal parliament, and he proceeded to dispense political advice on how to ensure a win for this bill before us. Without this legislation, the National Stem Cell Centre will be restricted in what it can do and will rely on human embryonic stem cells derived from overseas, with all the restraints on downstream benefits that that entails. The companies seeking the passage of this bill have told the parliament in no uncertain terms that failure to deliver will have them heading offshore, where some of them already have established operations.

The Australian Greens do not oppose research and development. We know it holds promise for alleviating human suffering and for developing techniques to reduce our environmental impacts and to improve the quality of life for all individuals. But we are concerned about transparency, public accountability, good decision making and equitable access to medical treatments and therapies. We also question some of the assumptions that others take for granted about the benefits of biotechnology—the focus on novel treatments and manipulations—especially when it is at the expense of addressing the causes of illness and disease. Is this the best use of public research moneys? We are concerned, also, about aspects of partnerships between public research institutions
and commercial entities in which public moneys are being expended and can potentially be hidden behind claims of ‘commercial-in-confidence’. Evidence to the committee about the National Stem Cell Centre supports our concerns. The Commonwealth has committed these funds before reaching a final agreement on commercialisation and intellectual property rights arising from the research that the centre conducts. One of the key research projects is planned to be embryonic stem cell research, even though the parliament has not yet determined whether this should be permitted. We note that negotiations on the deed of agreement are in abeyance, but we believe this sort of process is unsatisfactory. The Australian public ought to know what its money is buying, and I hope that in the deed of agreement the government has not preempted the parliament’s consideration of this matter.

With so much profit at stake in this growing sector, we are right to be cautious. Market forces are not the most appropriate means for achieving the best outcomes, especially in an area as essential as health. They do not guarantee that people will receive the treatment that they need at a price they can afford. If governments are to be such a major player, with so much at stake financially, how can we be sure that the public good will outweigh the profit motive? Central to this issue is the quest for intellectual property rights over human stem cell discoveries. This appears to be one of the critical driving factors in the industry’s push for this legislation. The committee heard from several witnesses that researchers cannot get free access to existing human embryonic stem cell lines and that private profit has a stranglehold on them. Will we end up with a situation where discoveries about how human cells work—how they grow, repair and renew themselves—will be locked up for decades in patents protecting intellectual property?

Traditionally, patents were sought and granted to protect an investment in innovation, the creation of something novel. But in recent years we have seen patents granted for simple discovery, as lengthy, challenging and commendable as the discovery may be. This trend to merge the line between what is novel and what is a discovery poses particular problems in the case of human biology, and it has grave implications in the field of health and medicine to which these discoveries may be applied. In the case of discovering how the complex and intricate processes of human biology work, this is a discovery of natural processes. The knowledge gained should be the common property of mankind, to be used for the benefit of all. To patent discovery of these processes is akin to patenting the discovery of a new species of plant or animal. It is completely absurd. More than this, it is bound to restrict access for researchers and eventually put access to any applications derived from these discoveries beyond the reach of many millions of people.

We have seen elsewhere the application and granting of patents for human stem cell lines, which has generated concern that scientists, including publicly funded ones, will be hampered in their research efforts in this field. These patents, and the conditions attached to any use of the stem cells they cover, have been used as an argument in support of this legislation: the need for Australian based researchers to have access to human embryos to derive their own stem cell lines. The Australian Research Council told the committee inquiry that the fastest rate of growth in Australian patenting is in biotechnology, and that this rate of growth is significantly faster than the world average. The committee heard that Australian biotech companies working in the stem cell field are keen to protect their discoveries with intellectual property patents. Will we be guilty of doing to others what we have complained of having done to us with regard to intellectual property patents? If all citizens are to benefit from the output of stem cell research involving human embryos, then government needs to moderate market forces and no-one should be permitted to patent stem cell lines.

To ensure this happens, the Greens propose that the Commonwealth government establish a national stem cell bank as a repository for stem cell lines from human embryos and adult stem cells. The United King-
dom is to have such a bank, to be established by the National Institute for Biological Standards and Control and to be overseen by the Medical Research Council. The British House of Lords Select Committee on Stem Cell Research this year endorsed such a proposal. We envisage that any holder of a licence issued under this legislation would be required to deposit stem cell lines into the national bank and that any researcher approved for conducting research using human tissue would be permitted to use stem cell lines from the bank. At the very least, a national stem cell bank ensures that all research institutions, in particular publicly funded institutions, will have access to the basic materials for developing applications from stem cell lines. As far as we can see, this is the best mechanism within the constraints of this legislation to safeguard the public interest. We note that Stem Cell Sciences Ltd supports such a proposal, as do a number of scientists who gave evidence to the inquiry.

Clearly, separate legislation would be required to establish a stem cell bank. Accordingly, we are proposing an amendment directing the Australian Health Ethics Committee of the National Health and Medical Research Council to investigate the establishment of a stem cell bank and report to parliament within six months of the act’s commencement, and asking the government to bring forward a bill to establish the bank by the end of next year. We see no need to delay the stem cell bank by incorporating it into a review of the legislation, as the committee report suggested. This could lead to a long delay before a stem cell bank was established and, in the meantime, if the bill were passed, companies may be tempted to beat a possible future ban on the patenting of stem cell lines.

The Greens also support the suggestion in the committee report for a separate reference to the Australian Law Reform Commission and the Australian Health Ethics Committee to examine intellectual property rights in this area. However, as in the case of the stem cell bank, we are concerned that this matter not be delayed. We are calling on the government to issue such a reference immediately upon the passage of this legislation, and we will be moving a second reading amendment to this effect. I foreshadow that. It will be moved by my colleague Senator Brown. This reference should include an examination of intellectual property rights for human stem cell lines derived from embryos made available under this legislation. It should include all existing stem cell lines that are not subject to a patent and the ways to safeguard the public interest and guarantee equitable access to therapeutic applications and drugs developed from stem cell lines.

In the interim, we are calling on the federal government to commit to using its financial leverage as a partner in stem cell research to ensure that the Australian public secures a share of any intellectual property rights from derived products or applications. The revenue that would flow from such rights should be used to subsidise access to products and applications for disadvantaged Australians. The Australian Greens will be moving several other amendments that address the scope of the research permitted under this bill, looking at public disclosure and administrative arrangements. I look forward to support from a range of senators to ensure that, if this bill is passed, the public interest is protected.

Senator FERRIS (South Australia) (6.17 p.m.)—In making my contribution to the debate on the Research Involving Embryos Bill 2002 today I would like to ask the Senate to recall the year 1967, when an eminent medical researcher and very talented surgeon developed a technique to prolong life using a then controversial and untested measure. It was the heart transplant. Suddenly a surgeon in South Africa was offering hope. His revolutionary technique raised some important ethical issues. The most difficult of the issues posed by transplantation was the need to redefine death, to shift from the traditional definition—which then focused on circulation and respiratory function—to that of ‘brain death’. Opposition came from within and outside the scientific community. People began to doubt doctors’ ability to diagnose death. Some were saying that the doctors were wrong and that perhaps the donor was not dead. Some argued that it was not moral, that it was not ethical, to remove any of the
Professor Christiaan Barnard countered by saying: ‘To me, it is not a question of whether it is moral or ethical to remove those organs for saving another patient’s life or treating him. To me the real question is: is it moral to bury those organs, when they can be used further?’

One of the questions that we now have to answer is: is it moral to let embryos expire—‘succeed’, as has been said—when potentially they may in the future be used to develop a treatment for some of our most crippling diseases? Issues of life and death are so important to all human beings that they almost always provoke very deeply felt and emotional responses. Many of those responses are rejected by others as illogical and emotive. But this is a time for quiet logic, cool heads and understanding and tolerance of other people’s opinions. But let us not forget that this courageous man, Professor Christiaan Barnard, was not deterred by the criticism, and the surgical techniques that he pioneered have helped to prolong the life of more than 30,000 people around the world.

Christiaan Barnard was of course not the only courageous medical trailblazer of the 20th century. There was a similar debate when Patrick Steptoe and his team developed in-vitro fertilisation. Criticism and moral outrage followed, some claiming that Steptoe and his partner Edwards were ‘playing God’. Religious and political figures strongly objected to ‘science fiddling with nature’. But let us not forget to look at the consequences. There are now one million healthy people alive as a result of IVF. They are the children of forever grateful parents who were beneficiaries of Steptoe’s courage to press the boundaries, to push the envelope of scientific research. One million people are beneficiaries of his courage, and 30,000 people are beneficiaries of Dr Christiaan Barnard’s courage.

Scientists and others will always argue that because something can be done it may be done or should be done—or even must be done. We are trying to find a balance here, to decide whether to match ‘can’ with ‘should’. I believe that balance is found within the Research Involving Embryos Bill. It seems to me that three fundamental questions are at the centre of this debate. First, why can’t we just use adult stem cells? Second, when does life begin, and what is the status of the early embryo? Importantly, third, as politicians, do we have the right to decide that this new medical technique cannot be made available to Australians in Australia by Australian researchers?

Why can’t we just use adult stem cells? Are adult stem cells a viable alternative to embryonic stem cells for the development of stem cell based therapies? Do developments on adult stem cells make research on embryonic stem cells quite unnecessary? The short answer is that there appears to me to be responsible medical and scientific evidence that adult stem cells and embryonic stem cells should not be seen as alternatives but as complementary pathways to therapy. The scientific community acknowledges that there are more issues to clarify about either adult stem cells or embryonic stem cells and that still more research is necessary before the most appropriate routes for therapy are discovered. Furthermore, it is widely accepted that the full potential of adult stem cell research and its therapeutic application are questionable without research being carried out on embryonic stem cells.

We have seen internationally renowned adult stem cell experts, such as Professor Helen Blau and Dr Jonas Frisen, strongly arguing that there is a need for research on both adult stem cells and ESC. These eminent people claim that there is no scientific data to support any other conclusion. In exercising their responsibilities in this area, the legislatures of both the United States and the United Kingdom have closely examined this issue and they have concluded that it is still impossible to predict which stem cell research will best meet the needs of research and clinical applications. Current medical and scientific evidence indicates that at this time, in my view, we cannot afford to prematurely close the door to one area of research. To obtain the maximum medical benefit, it is necessary to keep both routes to therapy open, since neither alone appears to meet all therapeutic needs. If adult stem cell research could provide all the answers, we
would not today be required to answer the big questions of when life begins and the protection that we should afford to questions of embryonic and foetal life.

Another fundamental question that concerns us all, not just scientists and regulators, is: when does life begin? This of course is not a new question, although the context in which it is now being asked is certainly challenging. This question must be addressed, but can it be easily answered? We have already heard the broad arguments in our community, and we all have our own personal views on the issue. Each side of the dialogue needs to respect the view of the other so that we can have informed debate. But it is for each of us, using our obligation and our privilege as representatives of the states in this place, to weigh up the ethical and scientific arguments and decide which is the best way forward.

In IVF techniques, it is about a week after fertilisation that the blastocyst is implanted in the womb. This is then a cluster of approximately 100 cells, which is smaller than a pinhead. It is a fact that if the blastocyst is not implanted in a womb the blastocyst does not develop further. It is also a fact that if the blastocyst is not implanted in a womb it cannot go through the stages of embryonic development and will not become a foetus. Specific biochemical signals from the mother are required for further development. It is also a fact that at this stage there is relatively no trace of human structure.

About 14 days after fertilisation, following implantation, the early embryo consists of about 2,000 cells. It is only at this stage that the cells begin to become differentiated into more-specialised cell types, and there is the appearance of the ‘primitive streak’, as they say, from which the central nervous system eventually develops. The 14-day limit in the legislation therefore represents the stage at which the primitive streak appears. In fact, embryonic stem cells must be extracted for research much earlier than 14 days. Embryonic stem cells are extracted at the blastocyst stage. However, after about seven weeks development, individual organs become recognisable and the embryo can properly be described as a foetus.

So when does life begin? Well-meaning people may disagree quite radically about this. At one extreme, some will argue that from the moment of fertilisation the embryo is a human being in the fullest sense and should be accorded the same respect and rights as a foetus or a baby, and we have heard that position being put here this afternoon. However, at the other extreme, some argue that the early embryo is simply a collection of undifferentiated cells that deserve little more attention than any other isolated human cell or tissue. Of course there are many points of view in between, and I respect those who hold them. There is ultimately no absolute way of determining who is right in this debate. In this context it may represent a proper discharge of our obligations if we agree to interfere as little as possible with the ‘life’ of the early embryo while maximising the benefit to human kind in general. This, I believe, is accomplished by the terms of the bill. I certainly do not pretend to have all the answers or even to know all the questions. But it is because these issues are so important and in some instances so emotional that it falls to parliament—or, more specifically, to those people elected to parliament by the people of Australia—to make those determinations after careful thought.

We cannot stop progress. We can manage it, responsibly recognising that the law always lags behind science. This does not mean that the law must be ineffective in regulating scientific developments, however. I say: let the research proceed. Let the world see whether responsibly carried out research can alleviate the suffering of millions of people around the world. This may be a time when science can find a treatment measure for many of the world’s most devastating diseases.

As legislators, it is now our duty and responsibility to constantly review the laws that we make. Future developments might eventually make further research on embryonic stem cells unnecessary. We do not know that; we certainly do not know it today. In the meantime, in my view, there is a strong scientific and medical case for continued research on human embryonic stem cells. We
are now presented with the opportunity to regulate the research and keep Australia at the forefront of the global scientific community. Let us not waste that opportunity. Let the research proceed. I support the bill.

Sitting suspended from 6.29 p.m. to 7.30 p.m.

Senator DENMAN (Tasmania) (7.30 p.m.)—I rise to endorse the Research Involving Embryos Bill 2002 and the Prohibition of Human Cloning Bill 2002. The debate surrounding research involving embryos has highlighted the diversity of and conviction in the beliefs and opinions of Australians. Scientists, academics, office holders from all religious denominations and industry representatives have all endeavoured to persuade us with their arguments. Equally importantly, my office has received—as have the offices of most other senators and members of parliament—a flood of letters and emails from the Australian public. All of these views deserve to be represented, regardless of whether we agree or disagree. This is an issue of incredible public interest, an issue that has involved great promise, emotion and exaggeration from both sides of the debate.

Against this backdrop, one of the challenges is remaining realistic about the modern society in which we live and our opportunities and values. The task is made more difficult because we do not know what the future holds. Comments have surfaced on the difficulties of drafting legislation on this issue. One comment is that there are significant disadvantages to formulating legislation that proposes bans in a rapidly developing scientific area. The legislation can unintentionally include or miss things. It is true: we cannot be certain of where embryonic research may lead us, if anywhere at all, in the next five, 10 or even 20 years. However, that perhaps makes the arguments for the legislation in this area even more convincing. We do need a nationally consistent, clear and responsible framework.

Research is already occurring in the processes of artificial reproduction technologies in some of the states. A national framework will ensure that the same level of freedom and restriction applies to embryonic research in all states and territories. It will also allow the quest for the benefits of this research to continue, while imposing boundaries that prevent research from moving into areas that are dangerous or ethically unsound. I am satisfied with the safeguards in this legislation, such as the requirement that permission be gained from the people for whom the embryo was originally created; a number of offences and prohibited activities are outlined in the bill and a licensing committee of the National Health and Medical Research Council will assess all applications from the organisations proposing research on embryos. As noted in the supplementary report signed by Senator Natasha Stott Despoja and my colleagues Senator Jan McLucas and Senator Ruth Webber to the Senate committee report on this bill, I share the views that this legislation is relatively conservative. Just as an aside, the accompanying bill, the Prohibition of Human Cloning Bill 2002, clearly outlaws therapeutic cloning. It gained unanimous support in the House of Representatives and is also expected to do so in the Senate. I fully support that bill.

In recognition of the personal nature of this legislation, all political parties are allowing a conscience vote, giving each politician the opportunity to approach this legislation from their own unique life experiences. I would like to share some experiences from my personal circumstances that have undoubtedly influenced my perspective. I was born with disabilities which all my life have caused problems in various ways. However, the most traumatic aspect of my disabilities is that my daughter was born with those same disabilities. As a parent, it is very difficult to accept that your child has inherited your disabilities. Fortunately, these disabilities were diagnosed when she was a few weeks old and corrected by the time she was 12 months old. I wanted to share this experience not as a direct example of the merits of stem cell research but to point out that progress in medical detection and treatment is able to make life less traumatic and demoralising. I feel very strongly that children born with disabilities have the right to have a life that is pain free and without discrimination. I think we move closer towards achieving this when we offer our medical researchers and
scientists the opportunity to explore treatment, whether these are stem cell therapies or other medical therapies.

I have a close friend who is a diabetes specialist. He is someone I have known all my life. He has credibility within his profession and within the community. He is also an active member of his church. I decided to talk to him about stem cell research. His response was: if you had a patient who was blind at age three because of type 1 diabetes, you would not hesitate to support this legislation. His response surprised me as I had assumed he might see this issue differently. I am aware that I am more fortunate than many others less able to participate in an active life because of their disability or disease, yet, even so, faced with my own knowledge and life’s experience, I am enthusiastic about this legislation. That is not to say all people with disabilities or diseases share my enthusiasm. The Senate committee inquiring into this bill, of which I was a participating member, received evidence from people with disabilities and diseases and others who clearly objected to being exploited to enhance support for embryonic stem cell research by scientists whose real interest may in fact lie elsewhere.

Medical advances and cures are a long way off: scientists are unable to predict when they will be available, and it is cruel to speculate. There is great danger in giving false hope rather than remaining focused on what this research can realistically deliver. However, that is not to say that there is not an element of hope with which I, like many others, approach this legislation. Evidence given to the Senate committee by the Coalition for Advancement of Medical Research Australia suggested:

... embryonic stem cell research holds one of the greatest hopes for finding a cure for hundreds and thousands of Australians with diseases and disabilities. We believe that these people should have the opportunity for a better quality of life and to not literally be protected to death by legislation.

As one would expect, there are others who dispute such claims. Yet other countries, such as Japan, Spain and Italy, are allowing research on excess IVF embryos. If Australia does not foster an environment that allows for research—research that just might one day lead to a treatment for a disability or Alzheimer’s disease, Parkinson’s or heart disease, insulin dependent diabetes, multiple sclerosis or one of the many other diseases from which thousands of Australians suffer—we simply risk losing our leading scientists overseas.

While it is true at this point in time that it is without certainty that we can say that embryonic stem cell research will absolutely deliver medical benefits to those suffering from these diseases or indeed any benefits at all, when we reflect on the many medical advances that have been made over the years we are reminded of just how wide the realm of possibilities is. At some point in time, the invention of penicillin and the possibility of organ transplants seemed far away. Had it not been for research and hope, who knows if these advances would have been made? I believe we should do all we can to increase the possibility of advancement for human-kind, not limit it.

One of the opposing arguments to embryonic stem cell research is that it is unnecessary, as adult stem cell research holds the same medical promise. I am not convinced this is true. With stem cell research in its early stages, we cannot be confident of the results of either. As the UK Royal Society stated:

... adult stem cell research and embryonic stem cell research are not alternatives and both must be pursued. In all likelihood each will yield distinctive therapeutic benefits but (i) we cannot predict which will be first or better and (ii) work on one system may help work on the other.

At this stage, it seems pertinent to explore the potential of embryonic stem cell research before we can confidently discount it. Whether it does hold medical promise is something we will only learn with time and experience. There may currently be scant evidence that embryonic research can lead to a medical treatment or therapy, but this is no reason to prevent the opportunity for evidence to be gained in the future.

During this debate, a great deal of attention has focused on the embryo and the point at which life begins. I do not want to argue
this point, as I believe it is a personal and contentious issue. It is also peripheral to the fundamental issues of this legislation. This legislation is not about denying or creating embryos. The question of whether it is right to create and then destroy embryos for the purpose of stem cell research is another debate. I suspect, like many others have, that we will face that debate in coming years. However, almost without exception, in the process of in-vitro fertilisation more embryos are produced than can reasonably be used.

This legislation will only allow for research to be conducted on excess embryos—those that were going to be destroyed anyway. I am swayed by the argument that, once we have established that there are excess embryos, they are of much greater use to mankind if they are being used for research and the advancement of medicine rather than being disposed of or left to succumb, as would otherwise happen. I also do not believe that to hold this view means that I respect human life any less, which has been one of the arguments of the opponents of this legislation.

As a participating member in the Senate committee inquiry into this bill, I participated in public hearings where evidence was given by accomplished individuals from all walks of life. One of the witnesses clearly described for me how one’s value for human life is not diminished by support for this legislation. I would like to read a short excerpt from the Hansard transcript of the evidence of Ms Sandra Dill, the Executive Director of ACCESS, Australia’s National Infertility Network:

We do not believe that to use surplus embryos for research would be disrespectful—quite the contrary. For many couples, allowing them to expire on a laboratory bench without ever having had any added value would be less respectful. An IVF embryo is not a human person who would suffer in the process; it is a cluster of cells with extraordinary potential, even though more than 90 per cent will not result in a live birth, given the chance. Infertile people reject the suggestion that anyone else values or respects our embryos more. We value life and we value children, which is why we have been prepared to undergo extensive investigation and treatment in order to create a family.

Clearly, the decision to donate an embryo for research is not a decision that is made easily or lightly. I think it is important to remember that the people making these decisions are grappling with many of the dilemmas we face today. The House of Representatives committee examining human cloning and stem cell research voted 6-4 in favour of research on surplus embryos within defined parameters—a majority vote. Interestingly, a Roy Morgan poll on this issue revealed that 72 per cent of Australians are in favour of allowing research to be conducted on surplus embryos where donors have given their permission. The recent Senate committee inquiry on this issue produced a report which included four additional reports containing qualifying, supplementary or additional comments, demonstrating the diverse yet deeply held values of committee members. On that note, I would like to thank the chair of the committee, Senator Sue Knowles, who under these circumstances was generous in her patience and good humour throughout the inquiry and in leading the committee to produce a useful report.

The question we face today is: do we sensibly formulate a legislative framework which will allow research on embryos that may or may not one day provide benefit towards extending life, saving life or improving life? I believe that the legislation we have in front of us today achieves a balance between the potential of stem cell research and the protection of the human embryo. It also improves our current situation where regulations vary between the states and the entire approach seems to be rather ad hoc and confusing.

I am not convinced by any of the arguments for opposing this legislation, whether those arguments are based on the suitability of the legislation, ethical grounds or the adequacy of adult stem cell research. Yet the medical promises for embryonic stem cell research are great, and there is a chance that the realities may never compare. Perhaps for me it is the experience of watching my daughter, born with a disability, benefit enormously from medical advancement, not as a result of stem cell research but as a result of medical advancement made possible
because society allowed the medical advances and avenues to be explored; this is the experience that fuels my strong support for this legislation. I am confident that the timing and framework of this legislation offer real opportunities to discover whether there are medical and scientific benefits to be gained from embryonic research.

Senator KNOWLES (Western Australia) (7.47 p.m.)—May I start my contribution to this debate on the Research Involving Embryos Bill 2002 by first thanking Senator Denman for her kind words. With regard to the bill coming before the Senate Community Affairs Legislation Committee, which I chaired, the committee’s report was tabled out of session, so I would like to make a few comments about the report and the inquiry, if I may. It was an unusual inquiry because it was held in an environment where senators were being given a free vote and with the major thrust of the inquiry being designed to give senators information. It was for that reason that the main report made no recommendations and drew no conclusions. It was my decision to uphold convention and produce such a report, even though my position was quite strongly in favour of the legislation. There was significant interest in the inquiry, both external and internal, and that is demonstrated by having 18 senators receiving all committee information and the committee’s receipt of over 1,800 submissions. While many of those were duplicated submissions, they nonetheless showed that there was interest.

There has been criticism that the committee did not travel all round Australia. As this legislation was wanted before the end of the year by the states, it was considered important that we proceed and try to get the legislation through, this side of Christmas. Equally, from a logistical point of view, a legislation committee does not have a budget of a magnitude to carry senators all round Australia, plus Hansard staff and all of the incumbent costs that go with that. Be that as it may, it was my decision that we would have the hearings in Canberra, where Canberra is central to most and where honourable senators could attend the hearings. I believe the inquiry is a tribute to the Senate committee system and its capacity to organise and conduct hearings and to produce informative and valuable reports within tight time frames with extremely limited resources. For that reason, I would like to make special comment about the members of the Senate Community Affairs Legislation Committee secretariat: Elton Humphery, secretary; Leonie Peake and Ingrid Zappe, who processed the voluminous number of submissions; and Christine McDonald and Peter Short, who were ably assisted by Sarah Bachelard and Ian South. It was an amazing team who, in a very short space of time, grappled with the issues and helped to produce a report that I believe really did sum up the issues on both sides of the argument. So to them I say a huge thank you, as I always do after every inquiry. They are a terrific team and I am very fortunate to have them as part of the legislation committee structure.

Moving to the bill proper: as I say, I am very strongly in favour of this legislation. I have found many of the arguments used against this legislation exceedingly emotive and, frankly, quite dishonest. I find that very sad because I think a debate such as this can be held with both sides of the argument being up front, and while people might have religious beliefs and so-called ethical beliefs on the one hand, there is an entitlement for people to hold another view without persecution. I also feel—

A government senator interjecting—

Senator KNOWLES—It is interesting that I have a colleague here at the moment grunting and groaning because I choose to make those comments. If he made comments according to his beliefs then that is his entitlement, but I do believe that in a debate such as this one should be able to make any comments without vilification, because this is a personal decision of every individual in this place. I think that personal decision is a very important one because it does, as Senator Denman has said tonight, come from our life experiences and what we believe.

I am a Catholic, but that does not mean to say that I am going to be dictated to by the Catholic Church. The Catholic Church is entitled to its view, but that does not mean I have to subscribe to it in every way, shape or
form. I might hold a slightly different view. However, I do make the distinction that the Catholic Church does not oppose in-vitro fertilisation. It does not oppose ART—artificial reproductive therapies—and yet there are many in the Catholic Church who have said, ‘We can’t have those embryos that are left over being used for scientific purposes which might create a therapy further down the track.’ But the very process of ART involves the expending of many embryos to get a result. I find it quite contradictory that people, on the one hand, can accept and use a process that wastes embryos but, on the other hand, find it heinous if you say that the owners of the leftover embryos can have the choice of whether those embryos will be used in further research or whether they will be allowed to disintegrate upon thawing. I find that very contradictory because the whole process that some people agree with and subscribe to actually wastes embryos. We need to focus on the fact that we are talking about excess embryos and about approval being given for the use of those embryos. If someone says, ‘You’re not going to use my excess embryos,’ then so be it. But, equally, if someone says, ‘I was a beneficiary of research conducted some time ago on embryos which got artificial reproductive technologies up and running; I believe that I should therefore contribute to see whether there will be further therapies down the track that might be beneficial,’ that is their decision.

I would be interested to know whether those opposed to the research conducted on excess embryos would in future access any therapy that might ultimately be derived from such research or whether they would prevent a family member—a child of theirs—from accessing therapy that had been derived from excess embryos. That to me would be a real challenge. If those people who oppose such research would sign a declaration saying, ‘I personally will never access, and nor will I allow my family to access, any therapy derived from embryonic stem cell research,’ then maybe the credibility would be there—but one wonders whether that would be the case. It may well be the case—and I am not trying to say that it would not be the case—but I have not yet heard anyone say, ‘I would thus prevent anyone in my family from having access to that type of therapy.’

It is also an unbelievable position for people to subscribe to the notion that they would support this legislation if it were proven that embryonic stem cell research was of benefit. Well, golly! That is what research is all about. I cannot believe there are people who would say that they would vote for something or support something if they knew what was going to happen down the track. I have had the good fortune to be able to sit in the chamber for much of today’s debate. I have heard many people say that embryonic stem cell research is a nonsense because it might take 10 or 15 years to produce a result. Another speaker opposed to the legislation said that it might take 20 or 30 years. So I expect to hear by the end of this debate that it will probably take centuries. Be that as it may, I am of the opinion that it does not matter how long it takes because, if someone has a disability or if someone has an illness and I deny them hope of a cure in 10, 15, 20, 30 years or whatever it might be, then I am neglectful of their position. I think that view is unbelievable. I also think it was unbelievable that someone like Professor Silburn could come along to the Senate Community Affairs Legislation Committee and say that all of those people who are suffering from Parkinson’s disease did not really want embryonic stem cell research. I know many people with Parkinson’s disease who say the reverse. Professor Silburn is entitled to his view but he should not try to portray his view as the view of all of those people who are suffering from Parkinson’s, because it is simply not accurate.

The moral or ethical argument has been distorted. It has been portrayed as one that is high and mighty, and anyone who does not subscribe to that moral/ethical argument is therefore either immoral or amoral and should somehow stand condemned. I believe people form a view based on a number of issues that they have gone through in their life. It is interesting to note that a number of senators have said, ‘We all started off as an embryo.’ Well, let us state the obvious! But what is different now? We all started off as
an embryo but the difference is that some have been implanted in the womb and others have not. We are talking about the others that have not. One is not saying that all excess embryos will be used for research. We are talking about a cut-off time and we are also talking about permission—and let us not lose sight of that.

I also strongly object to the notion that I and others who support the legislation are influenced only by people who have been paraded before us in wheelchairs. One of the witnesses who came before the committee made that repeated accusation until I could bite my tongue no longer and I had to say that that was not the reason for my support of the legislation, because no-one had been paraded before me in a wheelchair to try and win my support for the legislation. But it is interesting to note that James Shepherd, a 13-year-old youth ambassador for the Juvenile Diabetes Research Foundation, came before the committee and spoke of the personal cost of living with juvenile diabetes. For a 13-year-old, Mr Shepherd was absolutely fantastic. He said:

I have lived with juvenile diabetes since I was five ... It has been quite traumatic for myself and my family ... In the course of my life I have had approaching 7,000 needles and approximately 16,000 finger pricks, but that is just an external factor because it is more than anything mentally difficult to cope with diabetes. For example, there is always the looming prospect on the horizon of complications which can derive from diabetes, such as blindness, kidney problems and the increased chance of death due to heart disease, to name a few.

He went on to say:

There are approximately 100,000 juvenile diabetics in Australia, and there are more being diagnosed each year. I think all of us deserve a chance for a cure.

‘A chance’—that is where I end my quote from James, and that is what people hope for. I just do not believe that it is incumbent upon any of us to snatch away anyone’s hope. James is a 13-year-old, active, intelligent young man. He is not naive enough to believe that he is going to go around to the corner store in a couple of days time and get a cure for his juvenile diabetes. But he does believe that he—and those that follow him—should be entitled to hope.

I have recently become associated with a most beautiful family in Perth. Kim, the mother, has four boys: Raymond, 10; Nathan, six; Aaron, four; and Liam, three. Raymond, Nathan and Liam are autistic. Three out of the four boys are autistic, the eldest being 10 and the youngest being three. Kim herself is not well, but she is studying full time. One could only imagine what that would be like—to have three out of your four boys being autistic. She and I were talking about stem cell research a few weeks back and, not knowing my position, she said, ‘I sure hope you’re going to vote for it’—and I said that I most certainly was—‘because that would give hope to other people, who may not have to have a situation like mine.’ Kim is not the type of person to grizzle and complain; she does anything but that. She just gets on with life with these four beautiful boys. That is a tribute to that woman and mother who loves those boys but would love to see them have greater opportunities.

I do not know whether embryonic stem cells are going to lead to a cure for autism—nor does anybody else. It is for that very reason that adult stem cell research and embryonic stem cell research should be run parallel. Let us not have a situation where in a number of years time we find out that adult stem cell research has not provided the results that one thought it might and where we say, ‘Gee, I wish we had been doing embryonic stem cell research in parallel.’ That is not going to be of assistance to those in real need.

But nothing is certain—nothing is certain about either form of research. Putting all of our eggs in one basket would be silly and naive. We want to give hope to people. I believe that I, as a legislator, came into this place to make decisions—tough decisions—as to what ultimately is going to be in the best interests of the constituents I serve. I believe that giving people hope of a cure in the future, whenever that future might be, is part of my responsibility. I deeply believe that. I do not want to deny anyone that. Equally, I do not belittle anyone who holds a different view.
We have had constant progress in medical science and technology, much of it coming out of Australia. As Senator Denman said, we do not want to see the excellent researchers that we have in this country go offshore purely and simply because we have taken a myopic view on something that should happen in this country, and happen sooner rather than later. I think it is very sad that some people want to focus on the comments of a few in trying to belittle the entire argument when the comments of some have in fact been backed by many others but we do not get the backing and the balance of that argument.

As I say, I would not want to face the next generation—or even the current generation—who have illnesses or disabilities that may have a hope of being cured or aided in some way in the future having voted against this legislation. I think this legislation is sound. It is far from radical—it is highly conservative. The states are in agreement. The states have looked at the issue very carefully. They need this legislation to make sure that there is uniform legislation. The opponents of this legislation need only look to see that if this bill is defeated then this will be out of their control. What the states may or may not do could be far more radical than this very conservative legislation. So I do support this legislation very strongly. I do hope that in the future we in the Senate will live to see the day where there are therapies and technologies that can be derived from the use of adult and embryonic stem cells.

Senator LUNDY (Australian Capital Territory) (8.07 p.m.)—Whilst the second reading debate on the Prohibition of Human Cloning Bill 2002 has now passed, I take this opportunity during the second reading debate on the Research Involving Embryos Bill 2002 to indicate that I will be supporting both bills. Many people have contacted me during the last few months and expressed their views—many in favour and many against. I undertook to take their views into account and I have done so in reaching my position of support for these bills.

In summary, the bills provide for a national framework under which the National Health and Medical Research Council will establish a licensing committee to assess applications for research involving the use of human embryos. Strong consent provisions exist within the Research Involving Embryos Bill to ensure that donors of embryos understand and approve of the research being carried out. Research that will damage or destroy the embryo can only be carried out on embryos created before 5 April this year. The bill prevents the creation of embryos specifically for research purposes. The Prohibition of Human Cloning Bill makes it an offence to intentionally create an embryo that is a genetic copy of another human—in other words, a human embryo clone.

These bills were drafted by the government and originally introduced into the House of Representatives as a single bill, following an agreement reached by the Commonwealth, state and territory governments on Friday, 5 April 2002 to allow stem cell research for therapeutic purposes using excess or surplus IVF embryos under strict national regulation. Under this framework, the Commonwealth, state and territory governments have agreed to introduce nationally consistent legislation to ban human cloning, the creation of embryos for the purpose of harvesting their stem cells for research, and other unacceptable practices. Research involving existing excess human IVF embryos is to be permitted, but only under strict controls enforced by the NHMRC. Applications for such research will be considered only on a case-by-case basis, and approval will be granted only where the research is likely to lead to a significant advance in knowledge or improvement in technologies for treatment.

The federal Labor caucus supported this initiative but, because of the involvement of IVF embryos, the national executive of the ALP decided to allow a conscience vote on the issue of whether or not stem cell research for therapeutic purposes ought to be allowed on excess embryos procured for the purposes of IVF. This issue of conscience is at the core of the controversial aspects of this debate. It is the same issue that is at the core of the right of women to make choices about their reproductive health and at the core of the right to have access to assisted reproductive technologies. I believe that most of the oppo-
sition to these bills relates back to opposition to these rights.

My position is clear and consistent. I support these rights and my support for these rights translates to encouraging further research into the use of stem cells derived from excess human embryos. This bill is not actually about these rights; it is about research. Nonetheless, it seems to me that the debate is about the status of the embryo. For some, an embryo is already a human life. For others, like me, it is not yet; as my colleague Senator Denman quoted, it is ’a cluster of cells with potential’. So decisions affecting embryos in different circumstances can be managed with ethical care and, in the context of this bill, strict regulatory guidance in clearly defined circumstances.

How individuals decide for themselves the status of the embryo is a very personal thing. For some, it is guided by their religious beliefs. I respect those beliefs, but I do not share them. I find it offensive that some people who hold such passionate beliefs and hence oppose these bills have engaged in moralistic ranting and condemnation of all who do not share their views. This has meant that the same tolerance and respect of a different view has not been shown. This is not universal amongst those who oppose these bills, but I feel compelled to express my disappointment.

In supporting these bills, I will argue for the need for continuing research to resolve the ills confronting many, many people. This is both a moral and an ethical pursuit. We have heard many stories, both here and in the lower house, referring to serious, heart-wrenching circumstances in which families know that the best chances of survival — perhaps not for their own loved ones but for loved ones in the future — are directly linked to stem cell research. For me, the outcomes of this research have the potential to pave a compassionate path for so many sufferers. For others, research offers tangible hope for loved ones and for people who are yet to suffer. Labor has recognised the potential for significant benefits in the treatment of diseases such as Alzheimer’s, Parkinson’s and juvenile diabetes that could result from stem cell research derived from embryos.

I would like to focus on the cruel disease of multiple sclerosis, or MS, for which there is no cure as yet. According to the Multiple Sclerosis Society of Australia web site, there are 12,000 to 15,000 Australians with this disease. When I was reading up on the role of stem cell research in the continuing search for a cure for multiple sclerosis, I found this reference on the Multiple Sclerosis Society of Canada web site, in the context of recent legislation passed in Canada similar to the bills we are considering. The site says:

Stem cell research has great potential for people with multiple sclerosis, because of the real possibility for breakthroughs that may lead to a cure for multiple sclerosis through research on adult and embryonic stem cells. The government’s — the Canadian government’s — action is also welcome because stem cell research is underway in other jurisdictions, and Canada must move quickly to keep pace. While the issue of embryonic stem cell research is controversial for some Canadians, research is already under way in Canada, using adult stem cells to stimulate myelin repair. This work is being funded by the MS Scientific Research Foundation, which is related to the Multiple Sclerosis Society of Canada. Embryonic stem cells may provide even more potential for progress.

I refer to two extracts from an article published by the Research Defence Society, or RDS, which is the UK organisation representing medical researchers in the public debate about the use of animals in medical research and testing. The article begins:

Multiple sclerosis (MS) is caused by the destruction of the fatty myelin sheath surrounding nerves, by the cells of the immune system ... Antibodies which target these immune system cells have stopped the development of disease in mice with experimental allergic encephalitis (EAE), an animal model of MS. However, because these antibodies are of mouse origin, they would themselves provoke an immune response in a human patient. This problem could be overcome by using humanised antibodies or vaccines that induce the formation of antibodies. Such approaches have been shown to work in mice with EAE. The understanding of the role of the immune system in MS has led to the development of antigen-specific immunotherapy, which has been tested successfully in marmoset monkeys. This therapy is based on a discovery that T cells in the immune system exposed to small amounts of myelin pro-
tein are stimulated to attack the myelin sheaths. But T cells exposed to large amounts of the same protein will undergo self destruction.

These opening paragraphs of the article provide the context for the following concluding paragraph:

A completely new type of therapy may be possible using stem cells, possibly produced by cloning techniques. Stem cells are embryonic cells that have the potential to develop into all cell types found in the body. Transplanted into the brains of mice lacking myelin producing proteins, these cells developed normally and secreted myelin, which began to cover nearby nerve fibres. The characteristic tremor disappeared in over half the treated animals. Similarly, frozen human cells taken from nerve tissue have restored nerve function in rats with EAE.

It just provides an interesting insight into the complex research that is happening in different jurisdictions around the world. I urge people interested in following up these examples to refer to the full text. I want to draw your attention to the fact that I have used just extracts to provide an insight into how stem cell research is being explored to find a cure for MS. This research is ongoing and has far to go in reaching its potential. It is clearly providing optimism and has the potential to make a positive difference to people’s lives. I would argue that not to pursue such research would constitute heartlessness and, indeed, would in itself represent moral decline. If there is knowledge and understanding, how can you choose not to find out more and not to help?

These bills demonstrate that scientific endeavour knows its bounds. It is a reflection on the ability of government to engage in a conversation with the scientific community and the community at large and reach an outcome. For example, in the case of the prohibition of human cloning, the Senate Community Affairs Legislation Committee made several important observations and conclusions in their supplementary report on the bills in favour of the legislation. I concur with their findings. I would also like to acknowledge the work of other senators on the committee, particularly the chair of the committee, Senator Knowles, who has just addressed the chamber on these issues. I urge those interested in understanding more about the specifics of stem cell research, the different lines of research, the findings to date and the hopes and predictions for the future to take the time to read this committee report. It can be found on the Senate committee web page and can be provided not only through my office but also through the offices of every elected member of this place.

In conclusion, I believe that these bills are very responsible and sensibly conservative in the context of the public debate. I urge the Senate to support them and I will look with interest at the range of amendments to be moved, although I have to say I am confident that these bills before us are adequate.

Senator PAYNE (New South Wales) (8.18 p.m.)—I rise to participate in the debate on the Research Involving Embryos Bill 2002 as a strong advocate of allowing, with responsible regulation, certain activities involving the use of human embryos. Like most if not all parliamentarians who have spoken on this bill in the Senate and the other place, I have contemplated the issues surrounding this legislation very carefully. Like most of my colleagues, I have considered many hundreds of items of correspondence from constituents. I have followed the debate closely in my own party room and in the media, and I have personally made the effort to seek expert scientific opinion so that I do feel confident in my decision to support research using embryonic stem cells.

As parliamentarians, we have had ample opportunity to gain information. The scientific briefings in the parliament and the Vital Issues Seminar series seminar on the scientific and ethical debate on stem cell research in August of this year, which I was invited to chair, are just some of the many briefings that occurred further to the extensive committee work that has been referred to in the
chamber tonight, most ably chaired by my
colleague Senator Knowles. I am confident
that the parliament will make the right deci-
sion, given the focus and attention that the
issue has received.

I think it is important to both acknowledge
and thank the Prime Minister for the decision
to allow this legislation to be dealt with as a
matter of conscience here because, while the
Prime Minister and I are of the same view on
this matter, debate to this point has brought
some interesting opposition. I think it is a
constructive process for the parliament.
Mind you, I say that before we get to the
committee stage. If it reflects the House of
Representatives committee stage, some may
end up disagreeing with that. It is an emotive
issue and for many people it involves both
moral and religious concerns. It has also
struck a very personal chord with many
members of the parliament who see this leg-
sislation as providing an opportunity to seek
solutions to diseases and personal health
situations from which many of our constitu-
ets, and in a number of cases our own fam-
ily members, have suffered.

Following the debate, both in the other
place and in other public fora, I have been
very intrigued to see the vastly different and
very personal decision-making processes at
work in the parliament. For example, after
the phenomenal achievements of the Aus-
tralian IVF program, which faced stringent op-
position from some quarters when it was first
introduced, similar arguments have been em-
ployed to oppose a process which in fact
saves surplus cells from destruction and em-
loys them ultimately in saving lives.

There are a number of areas this evening
on which I wish to focus my remarks. I begin
with some of the arguments against embry-
one stem cell research. Opponents of this
bill generally state the following: an embryo
is just as much a human life as an adult and
that life should be accorded the same respect;
there is a moral difference drawn between
what is termed ‘killing’ and allowing the
demise of the embryo, as currently happens;
there is often an argument that the potential
benefits of embryonic stem cell research
have been oversold, that support for embry-
one stem cell research will put Australia on
what some have called a slippery slope to-
wards a utilitarian society which no longer
sufficiently values human life and, finally,
that the scientific arguments for the research
are tainted by commercial interest.

On these points, I think the following
needs to be said. Essentially, we are discus-
sing a mass of cells that, with assistance,
have the full potential to become a normal,
functioning human being. I am confused,
though, by people who believe that it is bet-
ter to allow excess frozen embryos to expire
than to allow a potential life to assist in sav-
ing an existing one. It is a view that I respect,
because I respect my colleagues, but I find it
difficult to understand. I am pleased to have
had the opportunity to see some modern
Christian views on stem cell research that
acknowledge, in many cases, that God’s
work is being done through doctors helping
to alleviate the suffering of the sick and cur-
ing those who would ultimately die without
medical advances brought by their research.
It is a view that has been put forward by As-
sociate Professor John Yeo, co-chairman of
the scientific committee of the Australasian
Spinal Research Trust and board member of
the Royal North Shore Hospital. For exam-
ple, a woman is in fact born with a far
greater supply of eggs than in the normal
processes of life she could ever use. Morally,
if that is the argument, why should that mate-
rial not be given, if it is the wish of the do-
nor, to help research designed to relieve hu-
man suffering? In my view, there is indeed a
moral difference between allowing an em-
bro to expire through exposure to room
temperature and its being employed to sus-
tain a life. I believe that not allowing embry-
one stem cell research is morally abhorrent.

I want to restate a point I have made in the
chamber before on other issues—organ do-
nation and blood transfusions—that religious
differences in this place and in the commu-
nity should of course be respected and that
no-one should pressure the egg and sperm
donors to consent to donating this human
tissue for the new purpose of embryonic
stem cell research. But there is a very long
road to walk between respecting the individ-
ual views of our colleagues and members of
the community and bringing that to this de-
bate in the way it has been by some. In relation to the argument that the benefits of embryonic stem cell research have been over-sold, I think in fact they have been under-sold—and I will return to that later when discussing a range of areas in which potential benefits have been identified and real progress has already been made.

The bill itself is specifically designed to take a very responsible approach to licensing and monitoring this area of endeavour, and I think that is extremely important. While it is true, because it is a statement of fact, that financial interests are involved in the business of embryonic stem cells, the same can be said of private hospitals and drug companies, which are similarly involved in health care and healing. It is not an argument against the bill that is before the Senate at the moment.

I support embryonic stem cell research for a number of reasons. Those couples who are willing to donate their surplus embryos should be given the opportunity to do so in the interests of helping others. This is a bill which is cautious by its very nature and provides appropriate safeguards, such as an expert regulatory authority. In fact, given the Prime Minister’s natural caution on a range of issues, I would not expect anything less. The potential for live-giving medical advancement through this research is very strong, and many thousands of Australians who are now suffering from debilitating illnesses and injuries stand to ultimately benefit from this type of research. It is a field in which Australia’s most eminent scientists can lead the world. The bill itself, the way it is structured and the method by which agreement was reached mean that consistency and consensus amongst Australia’s parliaments can be delivered through this legislative approach.

There are arguments about whether adult stem cells alone are adequate for the purposes of the research that we are discussing. I think there is sufficient scientific research to indicate that they are in fact inadequate. In some cases, the opponents of embryonic stem cell research portray each new advance in traditional medicine as proof that research involving embryos is unnecessary. But one of the field’s leading scientists, the University of Wisconsin’s James Thomson, said: There is no compelling evidence that a pluripotent cell, equivalent to an embryonic stem cell, exists in the adult body. Period.

In fact, the three unique aspects of human embryonic stem cells that make further research in this area crucial are central to this debate. Firstly, there is the aspect of human embryonic stem cells that appears to give them a limitless population-doubling capacity, which means they can be expanded a great deal while still remaining normal with no chromosomal defects. Research on human adult stem cells has shown that these cells will only divide a certain number of times—around 50 to 75 population-doubling times—which does place some limits on their therapeutic utility. Secondly, embryonic stem cell research is providing the first window of opportunity for studying early human embryogenic events; for example, for the investigation of infertility, miscarriages and birth defects. No matter what the development potential of using adult cells turns out to be, studying these early events will be far more appropriate with embryonic stem cells. Currently, such investigation is carried out on mice. But, in the earliest stages of development, mice differ quite markedly from humans, and therefore embryonic stem cell research has opened up an entirely new and potentially beneficial field of medical and biological inquiry.

Human embryonic stem cells also offer a potentially limitless source of cells for, amongst other things, drug testing. There are certain cell types for which it is very difficult to develop new drugs. I understand heart tissue is one such cell type because it does not divide. While heart disease is a major killer in the developed world, most heart drugs are still developed in the laboratory using the heart tissue of mice, which is a very imperfect substitute for human heart tissue. The pace of medical progress would increase significantly if human tissue, developed from embryonic stem cells, could be used in this type of research.

The study of how embryonic stem cells can develop into many different cell types may also provide new knowledge of how
fertilised eggs develop into organisms. Learning how that process works is a key to producing healthy humans. There is a view that there has been an overemphasis on embryonic stem cells’ potential for cure and a missing of the point about their potential for biology. As a basic tool for understanding the body, these cells are unparalleled and their contribution will outlast the criticism if they do not produce cures quickly. In this context, transplanting of cells for cells affected by Parkinson’s disease is a more crude activity than using the cells to understand at a basic level how that disease occurs in the first place and prevent it or slow it down.

The notion that one cell type is better than another, or that scientists are competing on this point, is an argument which is essentially a political one. It has gained some currency in the media debate but it is not really a scientific argument. It is ill-conceived to say that, because there is potential with adult stem cells, we should do away with research on embryonic stem cells. It is like approaching the scientific field with one arm tied behind your back for no particular reason.

Australia has a multi-ethnic population and we have widespread access to IVF. This places our country in a very good position for providing the necessary embryonic stem cell lines for the majority of the world’s communities. As different racial groups have differing histocompatibility loci, or HLA, wide racial and ethnic diversity will be important for producing embryonic stem cell banks in the future. Because of the enormous cost of IVF at many levels in the United States, access is limited and they simply do not have that diversity. The Australian lines and the Australian experience are far more reflective of a broader and more diverse population. Our contribution in that regard is very important.

There has been argument by opponents of ongoing embryonic stem cell harvesting, who point to the potential danger to women in being coerced—perhaps through financial incentives—into providing embryos for research. Producing eggs engenders increased risks for women, according particularly to Cynthia Cohen of the Kennedy Institute of Ethics in Washington DC. She cites research that found that hyperstimulation can lead to liver damage, kidney failure or stroke. Additionally, ovulation-stimulating drugs have been associated with ovarian cancer, according to some studies. Supporters of the bill would agree that such coercion should not be allowed to happen and that this is another reason for supporting this legislation—to ensure that ethical processes are adhered to.

There are some similarities between the ethical debate regarding IVF and that regarding embryonic stem cell research. For example, in 1986 the ACT Right to Life Association argued, in its submission to the Senate Select Committee on the Human Embryo Experimentation Bill 1985:

... a human being remains a human being regardless of the circumstances of his/her conception. The elements of reproduction and the status of the embryo remain the same whether the embryo is conceived in utero, in vitro, or wherever. The law should extend its protection to human beings regardless of the circumstances of their conception. That some embryos are conceived as a consequence of deliberately structured procedures in the medico-scientific units does not change their essential humanity nor the task of legislators in their deliberations about appropriate protection of such humans.

On that basis, Right to Life groups also reject the argument that embryonic stem cell research is appropriate for embryos otherwise destined for destruction. However, in Australia 70,000-odd embryos remain as surplus from IVF programs. Community attitudes—as much as it is possible to glean them from polling—suggest that approval of IVF procedures has been widespread since the beginning. The same sort of polling is not really available on this issue. We have evidence in our offices, I am sure you would agree, Madam Acting Deputy President, of both sides of the debate—those who support and those who oppose the legislation. But, if you take as your starting point the sort of popular support that the IVF program has, then for many people this is an appropriate and natural progression.

I will speak briefly on the question of embryonic stem cell research and its benefits for the treatment of disease. It holds out enor-
mous promise to address and cure a whole range of diseases which are suffered by, and which kill, thousands of Australians year after year. In no area of medicine is the potential of stem cell research greater than in diseases of the nervous system—the most obvious reason being that so many diseases result from the loss of nerve cells, and mature nerve cells cannot divide to replace those that are lost. Afflictions in which nerve cells die include Parkinson’s and Alzheimer’s diseases, stroke, amyotrophic lateral sclerosis, brain trauma and spinal cord injuries. There are encouraging preliminary results from foetal tissue transplantation trials for Parkinson’s disease which argue that new cells can become well enough integrated to restore function to a structure as intricate as the brain.

With respect to cancer, pluripotent stem cells may be more effective than bone marrow stem cells in treating the tissue toxicity brought on by cancer therapy. Other tissues damaged by cancer therapy also may benefit by replenishing their stem cell pools. For example, the injection of pluripotent stem cells into the heart may permanently reverse cardiomyopathy caused by certain chemotherapeutic agents. Injection of pluripotent stem cells that have been differentiated into neural cells may restore brain function after cancer treatment. As cancer cells are similar to embryonic stem cells in that they can renew themselves, an in-depth study of embryonic stem cells’ molecular and cellular biology may help scientists understand why cancer cells survive despite very aggressive treatments.

The broadest potential application of stem cell research is the generation of cells and tissues that could be used as therapies for correcting heart and lung defects and promoting tissue repair following injuries. Studies on mice have already shown the feasibility of stem cell transplantations of healthy heart tissue into a diseased heart. The potential goes on in relation to diabetes, digestion and kidneys, allergy and infectious diseases. A combination of gene therapy and stem cell research could result in the immune reconstitution of AIDS patients with cells that are resistant to HIV. On 16 July this year I visited the Monash Institute of Reproduction and Development to speak with the officials and experts there on some of these opportunities. I found myself most compelled by the evidence that they presented to me.

In terms of promise fulfilled and progress in the application of embryonic stem cell research, probably the most important example is type 1, or juvenile, diabetes. One of the most promising avenues for curing type 1 diabetes is to biologically restore the function of islets—a cluster of cells located in the pancreas which contain the body’s natural insulin-producing beta cells. At the present time, this can occur either through islet transplantation or through the engineering of cells to restore the insulin-secreting function. In both instances, the availability of stem cells would significantly expedite research progress. Stem cells could be guided into becoming islets. These could then be transplanted into someone with diabetes to cure the disease. Insulin-producing cells have already been created in embryonic stem cells from mice, as well as in preliminary studies using embryonic cell lines from humans. This is an extraordinary advance and one which I find it impossible to turn my back on.

To conclude, those who oppose embryonic stem cell research must put forward a convincing argument as to why it is better not to use cells which will be discarded one way or another to save lives. Those cells, while they are indeed human tissue, are limited by being unrecognisable by any sensible definition of what it is to be human, in my view. The adequacy of adult stem cells for research is limited. This research has had clear success in treating diabetes and Parkinson’s disease and holds great promise in treating a range of other ailments, including cancer, heart disease and diabetes. In this context, the potential benefits of embryonic stem cell research cannot be ignored. This research—which sets in place in this bill an ethical framework—should not be seen as putting Australia on any sort of slippery slope. Quite the contrary: it is because I value human life that I support this research.

Senator BARNETT (Tasmania) (8.38 p.m.)—I take this opportunity to stand in
opposition to the Research Involving Embryos Bill 2002. In the first instance, I would like to congratulate the Prime Minister on his courage and wisdom in allowing a conscience vote on this important matter. This is a matter in which members of the Senate and the House of Representatives have to dig deep, because it is very much a personal and, for many, a moral issue that needs to be carefully considered. I think, also, that it has been good for the parliament to have the opportunity to take a step back from the standard, normal activities of the day and consider these big picture issues. It is a watershed event in the history of this parliament and a very important one.

At this point I want to thank the many hundreds of Tasmanians and others around Australia who have made contact with me and my office over the last many months, including those Tasmanians who have petitioned the Senate and expressed their views accordingly. I am also proud to have been able to stand shoulder to shoulder with others in parliament—from across the political spectrum—on this issue. Again, that opportunity has been possible because it is a conscience issue, and it has been accepted with relish from many sides. I also flag that, in my view, there are at least 10 major flaws in the bill. I will address those towards the end of my address.

Is anything sacred any more? A human embryo is the smallest human being. It is a life following conception. To relegate it to the research bin for exploitation and destruction is to devalue and desecrate that life, no matter how old. Life is a journey within abrupt and finite lines from fertilisation to death. It is deserving of respect and dignity throughout that period. Like postnatal human life, it is deserving of the protection of the law—irrespective of the potential that its dismembered tissues can offer to others. In this case, the ends do not justify the means. This is all that is asked by those who oppose embryonic stem cell research and the Research Involving Embryos Bill 2002. There are two distinct groups of stem cells, as has been discussed previously in this place and during the inquiry of the Senate Community Affairs Legislation Committee, of which I was a part. One group is taken from living human beings without any loss of life, and these are known as adult stem cells. They include cells from bone marrow, skin, fat, brain and blood, including blood from the umbilical cord. The other cells, embryonic stem cells, are removed from human embryos. This removal necessarily kills the embryo. Every living person was once an embryo at this stage—which is now, in my view, the target and the victim of the corporate researcher. The human embryo, with its valuable parts, has no means of giving its consent, arguing a defence, or giving any right of reply.

Like everybody, I have a heart for people with disease. We have heard it in previous presentations in the Senate and the House of Representatives. I have type 1, or insulin dependent, diabetes. My late father had motor neurone disease. Both of these diseases, with others, have been used and put forward as reasons for supporting this bill but, in my view, it comes down to this fundamental point: research to save lives is worthless if in the process we are destroying life. This is why I strongly support research using adult stem cells. Only recently, the University of Minnesota provided clear evidence—published in the journal Nature—that adult stem cells can have the same qualities as an embryonic cell. They are capable of achieving, or working towards, a satisfactory treatment for many of our diseases and medical ailments.

Adult stem cells are proven performers: almost weekly now you will see that the medical and health benefits have been flowing not only to the Australian community but worldwide. The deliberate destruction of human embryos for research is abhorrent to me and is now demonstrated to be ethically—and, in my view, practically—unnecessary. In fact, adult stem cell applications, as I indicated, are already treating hundreds of thousands of people, and they offer real hope for people with disease and disability—including those with diabetes. All governments, and all of us, should be proactively supporting this type of research. It avoids the ethical dilemma and provides a way forward. On the other hand, human embryo stem cell
research has so far not cured a single person. In all instances, no matter the potential medical research gain, the end does not justify the means. Good science necessarily requires good ethics. As the Anglican Archbishop of Sydney, Dr Peter Jensen, said recently:

We must not become scientific wizards and ethical cowboys.

Where do you draw a line in the sand? This is the key question for all of us. Professor Alan Trounson, a leading proponent of embryo stem cell research, says he is relaxed and willing to do research on human embryos up to the point where a body shape can be seen. Can he actually say how many days or weeks from conception this is? What a tragic concept! Many of the scientists who support the bill say that the use of excess embryos from IVF programs does not meet the strict criteria required for research. In other words, the human embryos available are only the B team. These scientists want more, and they are willing to keep asking for it.

As well, those likely to obtain substantial financial gain are key proponents of the research. This was demonstrated throughout the committee hearings that we have had over the last few months. We had a number of scientists presenting throughout the hearing, and those with vested interests and for whom financial gain is likely—including Professor Alan Trounson—have been strong proponents of the bill. But I say that those with vested interests should come clean and tell the public of the likely benefits to them. We should consider the views of independent, objective scientists and others. Certainly, from the submissions and the evidence put forward, a case has clearly not been made in favour of embryo stem cell research. The old adage is, in my view, true: he who pays the piper calls the tune.

The research allowed under the legislation opens the door to pharmaceutical and other companies testing drugs and cosmetics. That seems to be reasonably clear cut. We had a range of evidence put to us during the committee hearings on the definition of research. This was a question that I asked time and again of the scientists that presented before our committee: ‘Please advise us of your definition of research.’ Time and again the answer came back that the research, for them, was very broad-ranging and included not just the basic research to deliver cures for disease and so forth but also drug testing and toxicology. So I put it to the Senate: please consider this carefully when you consider the bill and your position as to whether we do need a tightening up of this definition of research. At the moment, under the bill—and you can obtain your own advice on this—it does include drug testing. Do we want this? Do we want it to be possible to use it for the testing of face creams and cosmetics?

My view is that the ramifications of the proposed legislation are still not at this stage fully understood by a majority of the Australian people. But I have been heartened by the views of Australia’s largest union, the Shop Distributive and Allied Employees Association—and they have put this forward into the public area. They support the protection of life of each human being, irrespective of their circumstances, from the moment of conception to natural death. Another group that appeared before our committee, the Children’s Medical Research Institute—as some of you and others would know, they are the proponents of Jeans for Genes Day—say that embryo stem cell research is unnecessary, and they have put that on the public record. I make the point because copious witnesses came before our committee to express their views. We had 1,851 submissions in total. Of those, over 1,800 were opposed to the legislation. Indeed, many of those were individuals writing in and putting their views, and many were organisations and community groups putting their views forward as well. I thank and congratulate them because the time available for them to make submissions was very short. It put everybody under great pressure and strain, including the committee members who had to deliberate on these matters in a short period.

I am but a small voice in this debate, in my view endeavouring to bring balance to a debate already overburdened with the rhetoric of possibilities and false hopes in medical science and the underselling of the value of human life. These points were made to us...
during the committee hearings and I would like to refer the Senate to the committee report, because I think it is very important. It is a watershed event in this whole debate. In particular, I am thankful for the work that has been put in to the qualifying comments on page 113, of which there is an executive summary on page 115. I want to draw on a quote from that report and again thank my colleagues for working with me and others to draw this report together. In my view, the evidence put forward by the scientists and others made it clear that there were fundamental flaws in the arguments of the proponents of the bill. The flaws raise these concerns:

- That there has been a failure to justify the need for the legislation with respect to destructive embryo research, and in particular, a failure to show that the existing regulation and permissible research is inadequate, which amounts to a failure to make the case for the ethically-questionable destruction of human embryos. There is almost unanimous support for the much less contentious part of the Bill which bans human cloning...

We had an opportunity to speak on that earlier, and I was very pleased to be able to put my views on the record. I congratulated other members of the Senate on putting on the public record their views on the definition of cloning and the reason they opposed it. I made the point quite clearly that there is a view put forward by some that reproductive cloning is different from therapeutic cloning. The point is also made that the process is substantially the same and that cloning is cloning. Another paragraph on page 117 of this report raises concerns:

- About possible dubious motivations of those supporting the Bill—

and that has been raised before: he who pays the piper calls the tune—

- About the consequences of passage of the Bill and the drafting of its provisions;

- About whether the Bill is broader than the COAG agreement.

I have argued, together with others, that we need to make it clear that the arguments from the other side are flawed. The reasons are set out in this report, but I will mention them again because I think they are important. Firstly:

- Embryonic stem cell research will continue in Australia whether or not this Bill passes the Parliament.

That might be lost on some people, but it is a very important point. It continues:

The purpose of the Bill has been fundamentally misrepresented—it does not regulate the use of stem cells, rather, it permits the destruction of so-called ‘excess’ IVF embryos.

Secondly:

- Research on embryonic stem cells is at a very basic stage, and there is no evidence that embryonic stem cell research offers any hope of a cure to sufferers of various diseases. Many witnesses agreed that existing stem cell lines are adequate for present research purposes.

We heard this argument from the proponents of the bill. They would say, ‘Look, what we have now is actually adequate,’ or they would say, ‘All we need is 10, 20, 50 or a couple of hundred human embryos to do the job. We don’t actually need the 70,000.’ If you do not need it, why should we be providing it? This is a very important point. Thirdly:

- Even if embryonic stem cells did hold promise of treatments for human patients, the number of human embryos to which this Bill grants possible access would be completely insufficient for the creation of therapies for human patients.

On the one hand we had scientists saying that we actually require up to 10 million human embryos for research in providing the cures that were being looked for, according to the proponents of the bill, yet there are only 70,000 so-called excess human embryos available. So there is a real conflict and a real confusion between the scientists in this regard. I say that, where there is that controversy and that conflict, let us avoid it and move forward. Fourthly and finally:

- Present science suggests that embryonic stem cell research offers inferior outcomes to alternative areas of research, which do not pose the same ethical dilemmas, and do not require the destruction of human embryos.

So they are some very important points that have been made. I would now like to address some of the flaws in the bill, and one of them relates to the proposed federal legislation which overrides the existing state bans on
human embryo research and destruction in Victoria, South Australia and Western Australia. These state laws which preserve human life should not be overridden. Each state parliament should stand accountable. I make the point that the Australian Government Solicitor says that the bill is not comprehensive in its coverage. This means that, to make these laws watertight, the states and territories need to pass their own laws. The constitutionality of the bill is in question because it is relying on the Corporations Law as well as the trade and commerce power and the external affairs power under the Constitution. They have accepted that they do not have any international treaties to draw upon, that there are only those two heads of power. It is incomplete, and that is accepted by the Australian Government Solicitor. So there will need to be state and territory legislation, and I think that is pretty much accepted by all sides.

In the haste to have the reforms introduced by 30 June, the process has been rushed. The consent forms for the parents are unnecessarily broad and generic. A one-line signed consent form would be adequate under this bill. What a tragedy. That is a great sadness to me and, I hope, to many others in this place. I hope that this is an area, the second key flaw, that can be tightened up and improved. The bill should require full disclosure of the consequences of giving consent. Counselling should be made available, and options should be given to specify the type of research. In many instances, the consent of the father will be impossible to obtain because sperm donations are sometimes done anonymously. The surplus embryos will be fair game for the biotech corporations in three years—or sooner, if COAG agrees. After this date, the moratorium will cease and any surplus embryos will be subject to research and destruction.

The penalty provisions are too weak. There should be an automatic loss of licence to research and practice as well as existing jail terms. That is the third flaw. The criteria for issuing licences to research on human embryos are also unnecessarily broad and ambiguous—in other words, easy to obtain. These should be subject to disapproval by the parliament. What can and cannot be done should be clearly set out in the bill. It should be up front, and any regulation should be subject to disallowance by the parliament. There should be a limit on the number of human embryos for research, and there should be regular reports to the parliament about the implementation of the licensing system.

I have made the point about the overriding of the states and the limiting number of the human embryos. There is an anomaly with the commencement date; it needs to be fixed. The diagnostic investigations definition is broad; it needs to avoid destructive research. So that needs fixing. The definition of ‘research’ itself needs fixing. As I said earlier, there needs to be a ban on drug testing and the use of these embryos for pharmaceutical or toxicology purposes.

In conclusion, a human embryo is not a commodity to be sold or a resource for experimentation, exploitation or research. As the community, we should draw a line in the sand and say that the protection of human life at whatever age in whatever form is an absolute—no ifs or buts. (Time expired)

**Senator CROSSIN (Northern Territory)** (8.58 p.m.)—I rise this evening to make a few brief comments about the Research Involving Embryos Bill 2002, because I believe that, given the context and the importance of this debate, it is important that as many people as possible put their views on the public record and provide an explanation for future records and to the public as to why they are taking the stance that they are taking on this bill. Let me say at the outset that I intend to support this legislation. I have thought about it for many days and have done a fair bit of research into it. I do not have a prepared speech for tonight, but I do have some dot points that I think will provide my reasons in this chamber as to why I will be supporting this legislation.

This legislation deals with the excess embryos that have arisen from the assisted reproductive technology techniques that occur in this country at the moment—embryos that are in excess due to the IVF program. There is not a lot more that I can say about this issue that has not already been said either in
the House of Representatives or in this
chamber. A number of speakers today quite
clearly identified what it is about this bill we
are being asked to determine. I do not be-
lieve we are being asked to determine, nor
can we determine, nor has it ever been possi-
ble to determine, when life begins. I do not
believe that it is up to us, as public repre-
sentatives in this chamber, to determine that.
We all have different views about that. Many
of the different churches and scientific lobby
groups have a different view about that. But I
do not think a decision about whether you
vote for this bill should be based on whether
you can clearly define when human life be-
gins. This is about what is going to happen to
these embryos that are currently in excess
and whether these embryos would be other-
wise destroyed, assumed or got rid of—
whatever word you want to choose—or
whether anything profitable can come from
the fact that they have existed.

There has been a lot of debate in times
gone by about when life actually begins.
There have been quite a number of very
good articles in the Bulletin in recent months
written by Dr Peter Carnley, who is the Pri-
mate of the Anglican Church of Australia
and the Archbishop of Perth. In the two arti-
cles in the Bulletin that I have read that he
has contributed to, he seeks to explore that
discussion. He talks about the difference
between fertilisation and conception. He
goes on to say in one of his articles in Sep-
tember:

... the present state of scientific physiological
knowledge allows us to appreciate that while
fertilisation occurs from the moment of the
docking of ovum and sperm, conception is not a
punctiliar or momentary event, so much as an
observable process.

He talks about the fact that what should by
now be clear to everyone is that the question
of when a human individual life may be said
to have begun is a physiological question,
not a theological question. There are a num-
ber of people who have provided a contribu-
tion to this debate who have embarked on a
theological path rather than a physiological
path. I do not subscribe to the idea that we
are destroying a human life. This debate has
opened the gates to a number of very emo-
tive terms and uses of language. Perhaps to

some extent they have been used to manipu-
late people’s thoughts about this bill. When I
was listening to the debate in the House of
Representatives, I often wondered whether a
lot of people were saying what they were in
order to simply get the attention of the media
for that night rather than genuinely trying to
contribute to the debate.

We are, though, talking about human tis-
sue. A number of people today have high-
dlighted dilemmas that scientists over the
years have come across and have been con-
fronted with in dealing with what happens
with human tissue. The transplant of organs
is but one example. I think it was Senator
Ferris who outlined the obstacles and the
dilemma that Dr Christiaan Barnard faced
those many, many years ago when that very
first heart transplant was to be used and de-
veloped over time. If we look back into his-
tory, there are many scientists who have
faced a barrage of criticism from public fig-
ures and politicians and even other scientists
of the day. But they have endeavoured to
continue with their campaign and, through
their successes, have eventually got public
opinion on side or have had tangible out-
comes.

It is not because I believe that somewhere
down the track there is going to be a miracle
cure that I support this bill. In fact, I am very
hesitant and I worry about those people who
have used examples of people’s lives to pro-
vide a glimmer of hope for those people. If,
at the end of the day, in five, 10 or 50 years
there is a positive outcome to the work that is
being done on embryonic stem cells, that is
well and good and that is an added and fan-
tastic bonus. I think that everyone has a win-
dow of opportunity in front of them at any
one point in time. This is another window of
opportunity for our scientific and medical
world. I believe that this is an opportunity
that we should seize. As legislators of this
country I believe that we need to keep pace
with science and assist science rather than
impede and retard what scientists in our
country are trying to do.

We know about the COAG communique
of 5 April this year. I do not believe this bill
should be supported simply because all the
other states and territories have decided that
that is a good thing. That assisted in having the bill come before the parliament. Following from this bill, there will need to be complementary and consistent legislation from each of the states and territories. The NHMRC will establish a licensing committee to assess the applications for this research. I understand that this research will be dealt with on an application-by-application basis. I have a lot of confidence in the work of the NHMRC. I believe that they apply rigorous scientific evaluations to the applications that come before them and I trust that they will make the best assessment, on a case-by-case basis, of applications regarding this research as they are received.

We know that this legislation will approve the use of embryos created before 5 April 2002. To some extent I believe that this is fairly restrictive of the bill. I certainly would not mind if there were no date there at all. I would not mind if in fact any of the excess embryos at any point in time, even into the future, were used for this sort of research. I understand that, to appease the minds of some and to provide them with some guarantee that there is a safeguard there, a fence has been put around this point in time, and it corresponds with the date of the COAG communique.

There has been a lot of debate about the use of embryonic stem cells and adult stem cells. I was not part of the Senate Community Affairs Legislation Committee and was not involved in the hearings. There has been an inquiry into this matter in the House of Representatives, and the committee report that was tabled in the Senate is extremely comprehensive. Let me say this: from the reading that I have done, I have come to the conclusion that both forms are needed, that one can complement the other and that science has still got to embark on a very long and complicated process of discovery and research before perhaps it comes to the conclusion that one of them is not needed. I do not think there is any basis in science, from what I have seen, that favours one over the other.

I believe, though, that there are some flaws in this bill and that a national bioethics commission should be established to support and oversee some of the work that might emanate from this bill. One of the flaws that is in this bill goes to the issue of ownership of the research and the patenting of the research. Whilst I have not had enough time to explore the elements of the bill in relation to this, I do know that there are substantial holes and gaps in the bill where I think there need to be a number of amendments that pick this up. I know that in her speech this afternoon Senator Nettle, from the Greens, alluded to this area as being one of the deficiencies in the bill.

The issue basically goes to what happens with the patenting of stem cell research. Currently, the stem cell lines can be imported and research can go on, but any benefits, tests or treatments derived will be privately owned by the corporation—which may be abroad—which is paying for the research to be conducted here in Australia. There is an argument, I believe, that says that any results from this research need to become publicly available, that the bill should specify that, and that we should ensure that the results are in the public domain and that people do not have to pay a commercial rate to benefit from the outcomes of this research. So the issues of ownership and public accountability in regard to this research need to be strengthened in the bill.

There is also the matter of the patenting of stem cell research. We know that patents are obtained, contested and used. The process through which the patents on this research would be obtained is the normal, standard process, with the standard application for patents being lodged with the Patents Office. But there have been a number of articles written and quite a few comments made about the fact that the current patents system does not allow any leeway for a public policy aspect to the patent. Miranda Forsyth discusses the matter in her article on public policy issues and patents. She writes:

... the patents system's current approach to biotechnology patents is unsatisfactory in two fundamental ways. First, it is undermining the delicate balance between inventors and the public that has been developed in patent law over the centuries. Secondly, granting patents for inventions without considering any social, ethical or
environmental issues they may raise is contrary to the raison d’être of the patent system.

That, I believe, is another flaw in this legislation which needs to be addressed.

In my concluding remarks I want to say a number of things. I was somewhat surprised to receive a telephone call from a Catholic organisation, which must have been writing an article or doing a summary on how people in this chamber would vote. I said to them that I would be supporting this legislation. Of course, the person on the other end of the line then asked me whether I was a Catholic. The answer to that is yes, I am. But I do not believe that I have any right to come in here and assert my religious beliefs in deciding whether or not I support this sort of legislation. I think that I ought to do when I am in this chamber, and what I believe I have a role to do, is look at what is best going to advantage the community that I represent, the people of this country.

As I said before, I believe that there is a window of opportunity here. So often, the people who write legislation for this country and seek to pass it lag behind the progressive work that science is doing. It is probably about time we not only kept in step with scientists but, in some respects, walked along the path with them. So I do not believe it is proper for me to try and assert my religious views within this chamber in deciding whether or not legislation should be supported.

Finally, I was impressed to get a letter from Australia’s National Infertility Network. It is an area that I had not contemplated looking at in terms of the issues around this legislation. We know that those couples who are experiencing fertility problems have, at the end of the day, a number of excess stored embryos. It is interesting to see that the statistics show that 10 per cent of these couples donate those embryos to other couples. Twenty five per cent to 40 per cent want them destroyed. Whether they have had success and have children as a result of the IVF process or whether they have not had any success and have decided to give up the process, 25 per cent to 40 per cent of those people want their excess embryos destroyed.

However, 50 to 60 per cent of these people want to donate their embryos to research. It is not an area that I had consciously thought about. I think it is a bit like having a member of your family die and coming to terms with the reality of their wishes to have their organs donated. In a sense these embryos belong to these couples, and if a substantial number of those couples want to have some meaning come out of the purpose of having ovum and sperm create this cluster of cells in the very beginning, we should respect that wish. The letter from Australia’s National Infertility Network says:

For many couples, the opportunity for their embryos to have some added meaning would be given if they were permitted in law to donate them to embryo stem cell research. This would allow these embryos to contribute to scientific knowledge that will ultimately provide a way to ease the suffering of others with debilitating diseases.

That may or may not be the case, but I think we need to look at the requests of the people who own these embryos and try as best we can to emulate what clearly a majority of these people would want us to do in considering this legislation.

Like many other senators in this place I have had numerous emails—in fact hundreds—urging me not to support this legislation. It is unfortunate that perhaps not as many people have emailed me to suggest that I should support this legislation. But I am not about to give credence to or acknowledge the squeakiest wheel on the block; perhaps there were many who assumed and had confidence in the fact that I ought to and should support this legislation and did not bother to contact me. I do know that I do not support the very emotive debate that has occurred around this legislation. I do not accept the idea that in some way we are killing human beings in order to derive benefit from this research; I believe that we are undertaking research on a cluster of cells where it is yet to be determined whether or not that should develop into a human being. These cells have the potential to be, but they are not. I think there is a very significant difference between the two. By and large, I believe it is important that we take note of the wishes of those many couples who do have their excess em-
bryos stored and who have expressed a desire that something meaningful and useful should come from the creation of those cells; therefore, on that basis, I intend to support this legislation.

Senator BUCKLAND (South Australia) (9.17 p.m.)—I rise tonight to contribute to this second reading debate on the Research Involving Embryos Bill 2002. People with illnesses such as diabetes, Parkinson’s disease, Alzheimer’s disease and cancer and people with spinal injuries, or any of the many other sicknesses and physical disabilities confronting our society today, have been exploited in recent debates by raising their hopes that a cure will be available to them if research in human embryonic stem cells is allowed.

The claims that make people believe a cure is near to hand lack any serious scientific foundation. In fact, it could be said that the proponents of the bill are acting in a manner totally devoid of sound scientific evidence. All the research that has been done on human embryonic stem cells to date has not yet cured a single sickness or an injured person; nor is there any evidence that such cures will be found in the short term. Earlier speakers today have said that we are looking at 15 or 30 years before such a thing could occur. To raise the hopes of these sick Australians in the interests of profit for biotech companies and IVF laboratories is contemptuous, heartless and utterly lacking in decency.

It is an indisputable scientific fact that the life of every human begins at the point of fertilisation. Scientists, through the passage of this bill, are claiming that it is research on human—and I emphasise the word ‘human’—embryonic stem cells that they are interested in. Yet, at the same time, they are not acknowledging the cells to be the genesis of a human being. Medical textbooks teach us that human life starts at the moment of conception. Being a scientist is a humble, indeed a noble, profession. A scientist must act within an ethical framework; good science is ethical science. Destroying any human life, be it embryonic or mature, in the name of research is unethical. It reminds one of the words of the great Albert Einstein, who said:

It has become appallingly obvious that our technology has exceeded our humanity.

This bill is demonstration of exactly what he was talking about. Given that life begins at conception, it stands that using embryos to extract stem cells kills the embryos, thus killing an undeveloped human being. From conception our unique genetic endowment organises and guides the expression of our particular nature in its species and individual character. Fertilisation indicates the most complex chemical reaction in the known universe as a self-directed, purposeful integration of organism development. In both character and conduct the zygote and subsequent embryonic stages differ from any other cells or tissues of the body. They contain within themselves the organising principle of the full human organism.

The embryo is a human life, not a meaningless mass of human tissue. In no circumstances is the intentional destruction of the life of an innocent individual deemed morally acceptable. Early human life must not be treated as a commodity or as a means to an end, however worthy that end may appear. To treat a human embryo as a commodity—which, it appears, some seek to do—is no different from using older members of our society for medical research in the final hours of their lives. None of us would be prepared to allow a terminally ill family member to be used as a research vehicle simply because there was little or no hope of their life continuing for very long. We do not allow them to be used as guinea pigs—rather, we provide them with the greatest amount of care, love and comfort available to us. We treat them with dignity and compassion.

It is deplorable that, as a consequence of the IVF programs in Australia, many thousands of surplus human embryos have been produced. The surplus frozen embryos are above all else—despite the illusion of some—human life. Consequently, they should be treated with dignity and respect; they should not be killed, which is what occurs in the process of embryonic research. At the very least, they should be allowed to die...
with dignity. We sometimes have to let people on life support die when all hope has passed. We also have to let people die when their time has come. In both situations they die with dignity; we do not kill them. The same standards should apply to these unborn babies, which we refer to in this bill as ‘embryos’.

Every human being has a right to be treated with respect. No matter how we try to explain it, the embryo is human and, as I said earlier, the very genesis of human life. Such life must not be allowed to be used for the profit making of a commercial company. There are major ethical concerns and many practical reasons for not using embryonic stem cells. I have already pointed out, and it is very clear to most Australians, that the process to obtain and use the embryonic stem cell destroys a human embryo; it destroys a human being. Just because we cannot see this life with the human eye does not mean that we have a right, moral or otherwise, to destroy it. There is no ethical or, indeed, scientific need for an embryo to be treated as laboratory material. If we accept that, even in its earliest forms, human life can be destroyed to help others, there will be a question mark over the value we place on human life in all its forms. Embryonic stem cells are very versatile, but they also have a predisposition to becoming malignant. The cancer potential of the embryonic stem cell has been identified as a cause of great concern, and this fact has not been properly acknowledged in the debate. Another cogent reason for rejecting the bill and the use of embryonic stem cells is the body’s rejection of foreign human tissue implanted in it. Science has identified that tissue rejection is a major problem with embryonic stem cells, while adult stem cells taken from the patient’s own body do not face the problem of rejection.

There are many successful uses of adult stem cells in treating patients. I wish to give a few examples of those because, on the one hand, there is factual evidence that the process works and, on the other hand, there is a clear statement that embryonic stem cell research and the consequential death of an undeveloped but living human is of no value to our society. I note that in July 2001 German doctors used stem cells taken from a patient’s own bone marrow to regenerate heart tissue damaged by a heart attack, successfully improving that patient’s coronary function. American doctors re-implanted stem cells taken from the brain of a patient with Parkinson’s disease, resulting in an 83 per cent improvement in the patient’s condition. In Canada, a paraplegic had movement in her toes and legs restored after adult stem cells from her immune system were implanted in her severed spinal cord. They are factual cases—cases of real substance.

The argument that embryonic stem cells promise greater results than adult stem cells is based on four clear-cut claims: embryonic stem cells are easier to identify and isolate; there are more of them; they grow more quickly and easily in the laboratory; and they are more ‘plastic’, becoming any cell in the body. That, in my view, is disputable. These arguments have been shown to be false. At the very best, the first three claims have been shown to be highly questionable. Scientists have been identifying and extracting some types of human adult stem cells for almost a decade—for example, in bone marrow transplants. Human embryo stem cells were not successfully identified until 1998. Adult stem cells have been discovered in virtually every major organ, including the brain, and researchers last year identified conditions that would allow the manipulation of adult stem cells in culture by a billion-fold in a few weeks.

The key argument for using embryonic stem cells is that they are more plastic—that is, they are easier to change into other types of cells. But with new discoveries in adult stem cell research being reported on a weekly basis it is increasingly clear that adult stem cells are far more plastic than first thought, without having the same propensity to form tumours that the plasticity of embryonic stem cells creates.

Having said that, I would like to touch on two, perhaps three, other matters before closing tonight. Usually, when I say that I am on the final point I have got three or four points to go. Most of us have been touched by stories—factual or fanciful—that come very close to the heart and to the home. I
I have a very dear friend in my home city of Whyalla who worked for a colleague of mine and who had a tragic accident with a car falling on her, rendering her paraplegic—a beautiful young woman, a musician, a wonderful sports opponent for anyone and one of those young women who you would have to say was full of real and genuine decency and life.

Like others here, I received many emails—in excess of 300—and a great deal of letters, all of which we responded to making it very clear to those who supported the bill or opposed the bill that my opposition to the bill would be expressed in the Senate. But this young woman’s parents wrote to me and were disappointed that I was taking the stand I was taking, because they saw in embryonic stem cells a way of bringing life back to their daughter. Even in a wheelchair today, she is a charming young woman whose company is wonderful. But I cannot for the life of me see how I can stand in this place or anywhere else and support the killing of a human, be it embryonic or otherwise, to help another human simply because they are mature and what we consider to be living—that is, they are beyond the womb. It is hard to say to those people that I cannot change my position. I know the heartfelt feelings that have been passed on to me on that young person’s behalf and I grieve for them and consider the loss. It is not reasonable for any who support the bill to suggest that people like me who are opposing it do not give consideration to those in need.

The other thing that I have to say is that in the debate today and tonight there have been references to the church and the role that the church has in this bill. Let me say on the record that I am a Christian. I am quite proud of that fact and will never walk away from the commitments I have to the church. But this debate made me divorce myself from the teachings of the church to ensure that what I was speaking on tonight was based on scientific fact. I spoke to medical researchers, I spoke to ethicists, I spoke to those in the church and I spoke to the people who I represent in South Australia, and I weighed up all of the arguments—the pros and the cons. I also weighed up in my mind the debate in the other chamber and indeed here. This is not a debate of church versus the rest, religion versus the rest; it is a matter of people’s consciences and their beliefs in the value of human rights and human life that we are debating.

To your credit, Madam Acting Deputy President Knowles, you made it very clear tonight where you stand on that issue, and I praise you for that because you are not attempting to hide it. And others have made that clear. So it is not the church—it is not Catholic, it is not Anglican, it is not Baptist, it is not Buddhist or any other religion—fighting against a bill; it is the real feelings of people who are there considering what is life, what is the value of life. Because you cannot see the embryo with the naked eye, you cannot take it for a walk, you cannot nurse it, you cannot feed it, it is not reasonable to say therefore it has no rights, that it is not of value. Every creation of the human species is of itself a miracle. You do not have to consider it to be a miracle of God or of Christ or of anything else; it is of itself a miracle, because we have created a likeness of ourselves.

In the debate we should all dismiss the idea that there is church influence in any of this. If the church could have influenced anyone in this debate more than anyone else it would have been me. I spoke to the Archbishop of Adelaide and the Bishop of the Diocese of Port Pirie at length on the issue and had their support, in my view, that you had to divorce the argument from the church. This is a very scientific argument that is based on scientific facts, and the scientific facts do not support, in any form, the passing of this legislation.

Senator McGauran (Victoria) (9.37 p.m.)—I rise to join the long list of speakers on the Research Involving Embryos Bill 2002. This bill ranks as one of the most crucial pieces of legislation to be considered by this government and this parliament. Its importance is evidenced by the fact the parliament has declared a conscience vote for parliamentarians. As my colleagues would be aware, releasing parliamentarians from their party disciplines and allowing a conscience
vote is extremely rare. It is worth noting that the last conscience vote in this place occurred in 1997 and related to the issue of euthanasia—more specifically, to overturning the legalisation of euthanasia in the Northern Territory. Prior to that there was a conscience vote in the House of Representatives only in 1989 on the issue of abortion—specifically, whether federal Medicare funding should be used to fund abortions. Therefore, the gravity of life and death related issues will always prompt a conscience vote in the parliament. This bill is no different.

The Research Involving Embryos Bill 2002 revolves around the question of when life begins. If you believe life begins at conception, you have no choice but to protect life from the first. I believe that life begins at this point and therefore I have no choice but to vote no to this legislation. The principles are unavoidable. It is degrading to the life you believe exists to succumb to any other argument, like the argument that Australia has an opportunity to lead the world in science and cures or has an opportunity to make billions of dollars from Australia-first research. If you hold the view that life does not begin at conception, I think it is legitimate to support the bill before the Senate. However, it is foolish and false to believe that life begins at conception, yet still support this bill on the basis that ‘they are going to die anyway’. It is those in this realm of thought that I find the most bewildering.

It is true to say that the early visual forms may not appear to be life, but every scientific analysis points to stupendous growth from the moment of conception to those early days—more than at any other time up to birth and beyond. There is more sense and clarity in believing that life begins at conception than at any other arbitrary point. It is worth remembering what was once said in evidence to the Senate Community Affairs Legislation Committee: ‘While these embryos do not look like us, we once looked like them.’ The argument that ‘these embryos are going to die anyway’ is therefore no substitute for, or let-out from, the steely reality that they will be coldly experimented upon. This is the difference between allowing the embryo to slip away into death and allowing it to die by the knife. It would be a dull conscience—or a conscience denied—that accepted otherwise while believing that it is a life.

Without doubt, what has given this legislation the momentum and credibility to be passed by the House of Representatives, and seemingly now by the Senate, has been the scientific community espousing excitedly the possibility of cures for many human disabilities and, indeed, human suffering. There is no-one who would not embrace such a hope. But it is not real; it is a false hope. It is not even a glimmer of hope. There is probably no better than a one per cent chance that a cultivated embryonic stem cell will take if transplanted into another person. The genetic make-up of the embryonic stem cell and the receiver are incompatible. The problem of immune rejection is highlighted in the Senate Community Affairs Legislation Committee report by two leading sources. That report says:

The leader of the scientific team that first isolated embryonic stem cells at the University of Wisconsin-Madison has been reported as saying that therapeutic cloning would be ‘astronomically expensive’. Likewise, Dr Christopher Juttner, Medical and Executive Director, BresaGen Ltd, told the Committee that his company: ‘felt from the beginning that therapeutic cloning using human eggs as the recipients of an adult nucleus was never going to be possible because the success rates are so low that you would have to hyperovulate 10 women to get enough cells—say 100 eggs—to have a chance of getting one matching cell line. So that was practically impossible.’

It was put at about one per cent. The report goes on:

Professor Michael Good, by contrast, estimated that ‘millions’ of stem cell lines would be required for such matching. According to Professor Good:

‘This is because we all possess near-unique tissue types and it is extremely rare to find stem cells with the identical tissue type to ourselves. In humans, the tissue typing molecules are encoded by “HLA” genes and there are 5 main types ... Each gene has multiple “alleles” or variants ... There are literally millions of ways to mix and match the different genes. Collectively, these different “HLA” genes determine our “tissue type”.’
Further, in a submission to the House of Lords Select Committee on Stem Cell Research, the Linacre Centre for healthcare ethics quoted the types of mutations that occur from incompatibility. In this case the quote is about foetuses, but it goes on to say that this danger is ever-present in embryonic stem cells, and I would say it is higher. It says:

Where stem cells from foetuses have been transplanted into patients along with other tissue the results have not been altogether positive ... In one case, a man with Parkinson’s died after a transplant of foetal cells; it was later found that these cells had given rise to bone, skin and hair in the patient’s brain.

Yet those who have followed this debate and the scientists know that there is an alternative to embryonic stem cell research, and that is adult stem cell research. Adult stem cell research does not offer a false hope. In fact, already it has shining examples of success in just about every medical field, from juvenile diabetes, spinal cord injuries, brain tumours and cardiac repair to bone repair and multiple other medical areas. Breakthroughs in adult stem cell research are equal to any scientific advances in medical history. The research is pure, compatible and ethical because the receiver is using his own cells and his own DNA. We are only on the threshold of discovery. This research would lose valuable research dollars because embryonic stem cell research has now become the glamour research.

There have recently been three exciting examples of adult stem cell research breakthroughs. Firstly, one of the world’s great research centres in Melbourne, the Walter and Eliza Hall Institute of Medical Research, has successfully harvested adult nerves from stem cells. Its work has boosted the chance that human adult stem cells could one day be used instead of embryonic stem cells to treat diseases such as Parkinson’s. Secondly, in a world-first at the wonderful Peter MacCallum clinic, doctors in Melbourne are growing human stem cells and successfully transplanting them back to the patients. Five Victorian women suffering an aggressive form of breast cancer have been on a clinical trial of a unique treatment for the past year, with startling results. Thirdly, in another world-first trial, researchers at John Hunter Hospital in New South Wales took stem cells from bone marrow in a man’s hip and injected them into his heart in the hope that they would grow into new blood vessels. The procedure has the potential to treat almost a third of patients with end-stage coronary artery disease. Equally, many children have benefited from adult stem cell transplants. So this is a successful cure for all ages with a greater horizon than the disastrous consequences of embryonic cell transplants. The scientific complexities of this issue have often clouded the simplicity of this debate. We need to strip away those complexities and bring it to its raw element, which is the ethical and moral issue of when life begins. For the reasons I have outlined, in conscience I do not support the bill and I urge the Senate to vote against the bill.

Senator MOORE (Queensland) (9.49 p.m.)—I rise this evening to make some very brief comments on the Research Involving Embryos Bill 2002 and share my comments on this bill in the House. Certainly this particular legislation has created widespread comment and interest in the issue. That in itself is very positive. Over the last couple of weeks, people have become extremely expert on everything to do with this particular deeply scientific point. In discussions and debates we are hearing terms that some of us had not heard before and may not wish to hear again for a very long time. Certainly the discussion has led to a wide range of opinion and to a wide range of emotion and debate. Scientific terms have been thrown around and claims and counterclaims have been put about. In this mix, sometimes the key elements can be lost. However, in the midst of the debate—and many people came before the recent Senate Community Affairs Legislation Committee with their opinions—the Senate committee concluded that:

We find it quite unremarkable that there were divergent and at times strongly held differences between scientists concerning the therapeutic potential of embryonic stem cells. Disputes over the facts and the meaning of the facts are common, typical even, in science, particularly in fields as complex and new as stem cell research.
This debate has created extremely strong feeling in which the basic principles could be lost. In the heat, reputations have been impugned and motivations, especially those surrounding scientific expectations and reputations and also possible money gains, have been thrown up. One of my personal favourites, quoted in the Senate Community Affairs Legislation Committee report as indeed so much was, was a comment by Dr Brian Pollard. He said:

It would be foolish ... not to recognise that other motivating factors are also undeniably present, though they may never be made public, such as scientific intellectual satisfaction, scientific kudos from respected colleagues locally and internationally, advancement in status or employment and the potential for vast monetary gain.

Indeed, that was one of the more polite comments made in this discussion. Sometimes it seems that, when people have strong views, politeness goes straight out the door.

When the Council of Australian Governments, COAG, met in April and stimulated the legislation that we have in front of us, they agreed that research involving the use of excess assisted reproductive technology—another new term, ART—embryos that would otherwise have been destroyed is a difficult area of public policy involving complex and sensitive ethical and scientific issues. Having noted the range of views across the community, including concerns that such research could lead to embryos being created specifically for research purposes, the council agreed that research be allowed only on existing excess ART embryos that would otherwise have been destroyed under a strict regulatory regime including requirements for the consent of donors and that the embryos were in existence at that date—5 April 2002. Donors would be able to specify restrictions if they wished on the research uses of such embryos.

That particular statement clarifies so much of the concern. In that area, it clearly points out that there was going to be a strong regulatory regime—a national regime in which all states and territories would be included. There would not need to be the competition between the states for kudos. There would not need to be the debate going on within areas of science that could lead to the unnecessary pain and anger that would overcome what this is all about—the development of true science.

In this particular discussion I want to comment mainly on two areas. One is the fact that there will be a review. That always gives me hope, because nothing ends. We need to have a mechanism in any system that allows there to be a review of all its elements. Making one long black line at this stage is not the intent of this legislation. It is to allow things to proceed, and then through that process there will be independent review. That seems to me to be a natural evolution.

One of the issues that has been brought up, and was brought up at regular intervals during the Senate committee inquiry, is the issue of consent. The bill includes specific consent provisions. This created a significant response to the committee. All kinds of consent provisions can be improved, but clearly defined in the legislation is that any research on any embryo must have the consent of the donor. There are specific details about that, and in fact national guidelines are being prepared now that will help in defining exactly what can be done and by whom. However, some of the arguments that have been put up that this is going to be open slather and all things go are just not true. That is part of the emotion that surrounded this whole process.

I will move to the issue of the IVF process—and I am not going to go on very long about this because it has been covered quite fulsomely both in the House and here. Anyone who has experienced or talked with people who have survived—and I use the term quite deliberately—the IVF process will know that it is not an easy process. It is painful, it is difficult and it is intrusive. However, people make a choice to be part of that. The same people who make a choice to be part of the IVF process will be the donors whose consent any future research would have to have. We had submissions at the Senate committee from a number of people who represented the parents who go through this process, both successfully and not successfully, and they talked about the extraordinary...
During the process of developing the IVF process there was, and still is, considerable debate amongst the feminist community about the rights and wrongs of the IVF process—in fact, any kind of assisted reproductive technology. That is the second point I wish to touch on briefly. Many people within the feminist community and feminist scholars—and they have been quoted by Senator Harradine in his comments—are offended by what they perceive as the intrusive nature of reproductive technology. The terminology they use talks about the attacks on women’s bodies. The language itself can be quite confronting, with terms such as ‘harvesting eggs’ and talk of female bodies being used just to create eggs. Considerable discussion was had before the committee on this point, leading to quite a degree of discomfort from a number of people in the room. The point I wish to make this evening is that a lot of the emotion and the debate that was caused has moved on.

The issue of how the process would operate was the subject of significant discussion before the committee. I will not bore the Senate, but page 162 of the report goes through the process of exactly how the eggs would be formed in the woman’s body through IVF and then how the embryos would be formed. It is specifically contrary to the current guidelines to have unlimited access to eggs through this process. The fear concept, almost the scientific ‘star wars’ fear that women would be able to be used as some kind of machine for their eggs to be harvested for the venal causes of future scientific or commercial processes, is not a true concept. However, it has been used with great effect to create fear amongst people in our community and also quite divisively to attack women who are looking at the whole range of the IVF process and future scientific technologies.

A great deal of debate before the committee, in the House and today in the Senate has been about some kind of contest that seems to have been created between the different scientific forms of embryonic stem cell research and adult stem cell research. We have so many scientists in our midst who have great knowledge and can debate this point at any time. There are a number of letters that all of us have received which talk with great authority about why one form of research is superior to another and why there is somehow some collusion in some areas of scientific theory to force money into one stream as opposed to another. Those debates can be created very easily. However, it would seem to me that the issue, as brought out before the Senate committee, is that those two streams of research are not in competition. Those two streams of research can work together within an effective scientific program to ensure that the best possible results are received. In terms of the process, some members of the committee say in the report:

In view of the potential of embryonic stem cell research, we believe it is premature to unnecessarily constrain or prohibit research.

Again some members of the committee say in the report:

We conclude that it is a false dichotomy to consider the issue in terms of embryonic stem cells versus adult stem cells. We believe a very strong case has been made to encourage research on both with a view to understanding their relative merits and disadvantages. Moreover, there is a very good case to be made for encouraging productive cross-fertilisation of ideas and methodologies.
It is important then that, in the discussion of this process, we are not diverted from the issue of effective, progressive and evolutionary scientific research into some form of negative and quite simplistic debate in the interests of impugning reputations and attributing motivations which could only be seen to value one group over another. In the face of that kind of diversionary tactic, the real issue must be to consider where we as a community go and how we can work effectively together through a process agreed upon at the national level with a strict and careful regulatory framework, with the involvement of people at every level who are participants in this process, with acknowledgment and knowledge. This is the kind of process that a true scientific expose can reveal, rather than the kind of debate and emotional discussion that we have had.

I attended some of the sessions of the committee and I read most of the submissions. For me, the most painful process was the debate involving those people who were there representing the hope of some result. The word ‘hope’ was used consistently throughout a number of the submissions. In the hearings that I attended and in the many letters that I received, I did not read or hear from anyone claiming that there was absolute certainty of any result. In the heat of discussion and in the joy of being able to score points, some wild claims were made about the areas of research that could be addressed by this form of scientific process. However, at no time did I hear or read anyone make a promise that embryonic stem cell research would result in a cure. There was hope that it might. At no time was there any expectation that those kinds of results would be immediate. In fact, it was very clear through the process that, no matter what form of research and what form of investment occurred, there would be no easy or immediate answer.

There were submissions from a number of people who were current sufferers of diseases or who were working with people who had various conditions. However, what disappointed me most was the fact that people who had a point of view that supported the legislation were impugned by people who had a point of view that did not support the legislation. People that put forward any kind of suggestion that there could be any value in the legislation before us were accused of falsely claiming results, of exaggerating claims, of having unscientific bases for their arguments. In that environment, the real issues of effective communication and research were lost, because we degenerated into a debate that got increasingly personal and led to people’s qualifications, expectations and the credibility of their medical conditions being questioned quite openly.

I will be supporting this legislation. However, I do not expect that there will be any immediate cures. I do not expect that people will be united around any form of result. No matter what happens with the vote in the Senate, there has been a wide-ranging community debate on the issue. What concerns me, though, is that, because of the significantly strong views of people within the debate, there seemed to be a lack of any common ground throughout the process. I am quite fearful that, despite the fact that over 1,800 submissions were received by the committee, despite the fact that every major newspaper in the country and most major current affairs programs now have reporters who have an amazing newly acquired knowledge of the issues around embryonic research and on a daily basis there is coverage of this issue in most parts of the country, and despite the fact that this house will spend considerable hours on this debate, there is still not genuine understanding amongst the community about what exactly is involved in embryonic research.

If I could be convinced that, as a result of this process, regardless of the debate that has taken place, people now have gained knowledge, I would feel that perhaps some of the emotion that we have been sharing through recent weeks would have been of value. I trust that, as a result of this debate in the Senate and in the House of Representatives, some people will have taken the time to read the committee reports and to question some of the submissions that were received from over 1,000 scientists and people who work in the field. If, as a result, people now know what is concerning people about embryonic
research, we will have received a result, regardless of whether this legislation is passed. I trust that that will be the result. I am not convinced that that kind of common ground has been reached in the debate up to this point.

Senator MURRAY (Western Australia) (10.07 p.m.)—I rise to join the numerous speakers on the Research Involving Embryos Bill 2002. Like nearly every other speaker I have heard, this has been an issue that has pushed me backwards and forwards, because it involves human embryos. Having regard to the information I have been provided in my party room and outside, my end conclusion has been that the government’s bill has been constructed in such a way that it provides both the intention for sufficient protection and the intention for positive outcomes—which would mean that I should support it.

This bill concerns embryos in IVF facilities. Embryos of themselves raise issues of our humanity, our morality and our future. It is most often their place in our future which is the focus, but the essence of our genes is in our past. The Senate Community Affairs References Committee report on child migration in August 2001, titled Lost innocents: righting the record, followed on from the stolen generations report. At the heart of both those reports was the need for identity, for belonging, for country, for connection. If there is anything that characterises the 250,000 Indigenous and non-Indigenous Australian children and the foreign children in Australian institutions last century it is this absolute need for the restoration of identity and family.

The importance of connection to your past can never be overstated as an essential force making people whole. Chapter 6 of the child migrants report is entitled ‘The search for identity’. At the beginning of chapter 6 there is the following quote from Hansard:

After 53 years of loneliness, these people, like a lighthouse in the desert, shone that light through my heart and said ‘You have an identity.’ My heart was filled with happiness for the first time in my life.

The only gripe I really have is ‘why didn’t they tell me I wasn’t an orphan and that I had a family all along?’

The greatest hardship can be not knowing who you are, where you come from, whom you belong to. It produces a sense of dislocation and of emptiness. It is odd that something so fundamental and important should have been the subject of such insensitivity and wrong-headedness. Records connecting children to their past have been consistently denied to them by governments and by charities. Records have been deliberately destroyed, falsified or withheld. Again from the child migrants report is this quote:

All my life I wanted a mother and a father and a family and never stopped looking.

The child migrants report summarised the manner and the motives for withholding information. At page 169 it stated:

There was also a generally held view that it was ‘better’ if child migrants had a new start and didn’t find out about their backgrounds, particularly in the case of illegitimacy ... Appalling inaccuracies and discrepancies in record keeping are much evident: names were changed and birth dates were changed ... The Committee considers that these practices amount to gross incompetence and lack of duty of care ... We cannot overstate the importance of satisfying this human need.

This was not just an Australian problem but also an international problem. Eventually, in 1989, the United Nations Convention on the Rights of the Child said the following:

Article 7.1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

Article 7.2. States Parties shall ensure the implementation of these rights in accordance with their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8.1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

Article 8.2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.
Among the strongest supporters of the identity provision were the Argentinians, whose ‘dirty war’ had resulted in so many children lost to their past.

This bill attends to the fate of embryos. Whilst we have to attend in this legislation to the use of embryos for stem cell research, we must recognise that the IVF facilities in which these embryos are produced are also the IVF facilities where grown children later may vainly seek their origin.

In 1996 the Australian Health Ethics Committee, in its Ethical Guidelines on Assisted Reproductive Technology, strongly recommended the enactment of legislation in all states and territories dealing with assisted reproductive services. It recommended that children born from using assisted reproductive services should have access to information, including identifying information, about their biological parents. On 9 May 2002, the West Australian in my home state reported that the Labor state cabinet had:

... agreed to a bold move allowing anyone ever adopted in WA to know the identity of their relinquishing parent.

Professor Geraldine van Beuren, Professor of International Human Rights Law at the University of London, in a speech in October this year in New Orleans to the First International Congress on Child Migration—which covered child trafficking and refugee children—said:

In many countries there are only two groups of children who are denied, by law, access to their biological and genetic history—adopted children and children born by artificial insemination by donor.

The Western Australian government is moving to address the plight of adopted children who lose contact with their essential biological and genetic past. The Age, on 12 June 2002, had a story about Geraldine Hewitt’s hunt for her biological father. The Age stated:

... Ms Hewitt said children born of donor sperm “overwhelmingly have identity issues. They wonder who their biological father is. A lot said, ‘I look in the mirror and I don’t know who I am’. And every single person said, ‘yes, I want medical information’.”

In most states children are not permitted access to information until they are 18. Even then, it may of the bland, non-identifying type ...

“People are frightened that the kid is going to knock on the door and try and muscle in on the inheritance ... It’s not like that. I want to meet my donor, but not because I want another dad. I have a dad. He’s one of my best friends. But it’s like not having a proper history.”

Professor van Beuren said:

The essence of the Convention on the Rights of the Child can be reduced to one sentence—children have the right to know their past identities and the right to participate in shaping their future identities.

She said:

The fundamental issue is the right of all children to preserve their biological family as well as their social family relationships.

She also said that children are entitled to a concept of biological and social childhood which does not deny them their full genealogical heritage. I welcome the fact that this bill has generated an opportunity for senators and members to speak from the heart, free from their party whip. I think that the cause is a good one in the sense that these are issues that needed to be addressed seriously and in depth by the parliament of Australia. I wish that the parliament of Australia would spend as much effort, as much attention and as much time on those matters concerning living children—and they do not and have not.

Because this bill is one of those rare occasions when senators are freed from the binding ideology of their parties, the second reading amendment that I, and on behalf of Senator Ridgeway, will be moving provides a unique opportunity for senators to determine whether they should support this essential ethical position. Senator Ridgeway supports the amendment as a representative of his people, including the stolen generation. I will be moving it as a representative of the many institutionalised children who have struggled to connect with their past. It is very important that, when we think about those 250,000 institutionalised children last century, we recognise that their lives have probably touched the lives of a couple of million Australians and that these matters are
worthy of being addressed by the Senate, by this government and by this parliament. I, and also on behalf of Senator Ridgeway, move revised amendment 2685:

At the end of the motion, add:

“but the Senate supports:

(a) Article 8 of the UN Convention on the Rights of the Child that states “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference”;

(b) the Australian Health Ethics Committee 1996 Guideline 3.1.5 that recommends that children born from using assisted reproductive services should have access to information, including identifying information, about their biological parents;

and the Senate further urges the Government:

(c) to do all in its power by legislation or other means to try to ensure that every child, whether adopted or conceived via IVF (unless a foundling), can no later than on achieving adulthood access information about his or her biological parents”.

Senator STEPHENS (New South Wales) (10.18 p.m.)—I join the debate this evening on the provisions of the Research Involving Embryos Bill 2002 and would like to make a short contribution, acknowledging the extraordinary amount of discussion, debate and consideration that has been given so far. This is a matter of profound importance for the people of Australia, and the will of the people ought to be reflected in the decision that we make in this matter. It is very important to have a broad debate about the issues which are both complex and, for many, very emotional.

I congratulate the Senate Community Affairs Legislation Committee for the conduct of its hearings and its consideration of the more than a thousand submissions, which I know has been a difficult and complicated process for that committee. I congratulate them on their efforts. It is always most difficult to consider ethical issues rather than straightforward legislative issues. So this is something that I acknowledge has been quite an exhaustive process for many people.

I say, though, in the first instance that I am not supporting this proposition. My reasons for this are three. Quite simply, I find in my mind that the legislation is unethical, unnecessary and dangerous. I do fully support research using adult stem cells. Adult stem cells are already delivering many benefits, and these were adequately outlined to the committee through numerous submissions and have been outlined today in the chamber. The committee heard a range of views from scientists and researchers. Many provided evidence that future benefits will come from adult stem cell research. Many suggested that the focus of research should be on adult stem cells because of the fact that there is already progress in this area and future progress would build on achievements to date. I am aware that there are other scientists who do not agree with this proposition and who would argue strongly for embryonic stem cell research. They argue for
the development of new therapies which may provide the basis for treating a range of illnesses, yet I have found no evidence in the submissions to the committee or from individuals that these therapies are available or proven.

I also believe there are many difficult ethical issues that need to be overcome before we could ever begin to consider starting down this path. As I said, this is a complex debate and one which, if we get it wrong, will have far-reaching and profound effects on the way in which society makes decisions about those who have no capacity to represent their own interests. I say this in the truest sense—and I agree with Senator McGauran at this stage—because this legislation is about the extent to which embryos are recognised as human beings and it goes to the heart of the matter: at what point do we recognise human life?

The scientific evidence provided to the inquiry clearly suggests that human embryos will need to be destroyed to extract the stem cells. That these cells are alive is without doubt. That the embryo, with its own genetic code and unique make-up, is alive and human is something contested by those who advocate embryonic stem cell research. The issue is about defining embryos in terms of the continuum of human life and the extent to which we accord them the respect of human life. My position, quite clearly, is that embryos are a form of human life and should be accorded that respect. Therefore, I cannot support any proposal that will allow the destruction of these cells for the purposes of harvesting stem cells for research.

Beyond any ethical considerations, there are many practical reasons for supporting adult stem cell research in preference to embryonic stem cell research. Firstly, we have heard quite significant submissions to the committee, and from various speakers today, that the issue of rejection is one not faced in the use of adult stem cells, yet this applies to embryonic stem cells. Rejection issues lead to the need for harvesting massive numbers of cells, usually through the use of hormone treatment and the subsequent exploitation of women involved in in-vitro fertilisation programs. Secondly, adult stem cell research has proven successes in a range of therapeutic applications. Again, we have had many examples cited here and in the submissions to the committee about those kinds of successes and advances in therapeutic developments. Adult stem cells have been used on patients with breast cancer, Parkinson’s disease, juvenile diabetes, heart disease, spinal paralysis and spinal cord regeneration—just to mention a few.

I argue that the practice of harvesting embryonic stem cells requires the death of the embryo from which they are sourced. Stem cells are harvested from the blastocyst at about five days old, at which time the cells have differentiated to form the placenta and others to form the developing foetus. The practice of harvesting embryonic stem cells suggests that sacrificing one life with the intention of saving another is warranted. How can we make that choice? We cannot say that an embryo has less worth than a child or an adult, for all are human and all have potential.

As I have already suggested, embryonic stem cells have not yet proved to be a viable source of stem cells. Research indicates that the large replicating ability of these cells, which makes them an attractive option as a source of stem cells, can also make them conducive to developing tumours in tissues. We know that what makes this an attractive proposition is the commercialisation of the processes and the results of scientific research. We have heard the thrust of this argument today from several speakers, including Senator Boswell.

Embryonic stem cell research also has very dangerous implications. It could create a market for embryos. At this point in time, it is suggested that the unused IVF embryos will be used for research. There is a genuine concern about what will happen once these supplies are exhausted. How will the supply be maintained? Will the production and harvesting of embryos become an end in itself rather than a means to an end, as we are currently considering? This would lead to the production of embryos specifically to be destroyed for research purposes. Surely we cannot sanction such a direction. Embryos
cannot be considered to be a commodity or without a value in terms of human life.

There is a further concern raised by many of the submissions and raised in submissions directly to me— I have received almost 1,600 letters and submissions—that is, that the legislation does not specify that harvested embryos be used for stem cell research; rather, they can be used if a licence is approved by the NHMRC, which could of course become an ethical minefield. Any application would have free and open access to embryos, such as with pharmaceutical companies wanting to manufacture or test drugs for therapeutic purposes.

I appreciate the broadening of this debate and the contributions from both sides of the debate in the interests of the public good and the will of the Australian people. We are confronted with ethical and moral dilemmas in this legalisation, and I urge my colleagues to be guided by their conscience. My conscience will not allow me to support the legislation, and I appreciate that this right is being respected.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.28 p.m.)—Albert Schweitzer once said that the mark of any civilised society is respect for life in all its forms. That is the very issue that confronts us in this debate on the Research Involving Embryos Bill 2002. On the one hand, we have people who argue that research on embryonic stem cells is needed in order to preserve quality of life or indeed to save it. On the other hand, the argument is that alternative research is available without the need to destroy life in the form of an embryo. It is perhaps of assistance to look briefly at the history of this matter. The introduction of these bills follows agreement by the Council of Australian Governments in April this year that the Commonwealth, states and territories would introduce nationally consistent legislation to ban human cloning and other unacceptable practices. The council also agreed that ‘research be allowed only on existing excess ART embryos that would otherwise have been destroyed’.

The Research Involving Embryos Bill 2002 seeks to regulate research involving human embryos. This would allow the extraction of stem cells from those embryos left over from various IVF procedures. While this research is presented to us as having the potential to cure disease and save lives, it also involves the destruction of human embryos. It is perhaps of assistance to look briefly at the history of this matter. The introduction of these bills follows agreement by the Council of Australian Governments in April this year that the Commonwealth, states and territories would introduce nationally consistent legislation to ban human cloning and other unacceptable practices. The council also agreed that ‘research be allowed only on existing excess ART embryos that would otherwise have been destroyed’.

The COAG agreement specified that the research had to take place under a strict regulatory regime which was to include requirements for the consent of donors, and that the embryos were to have been in existence as at 5 April 2002. While the COAG agreement is not legally binding on the Commonwealth—nor on the states and territories, for that matter—it is based on a clear indication of political goodwill by all jurisdictions across Australia. As I have said, importantly, senators and members have and will be casting a conscience vote on these bills.
Before I comment on some of the science in this matter, I want to place on record the fact that the report by the Senate Community Affairs Legislation Committee was of great assistance. I acknowledge the efforts of the various members of that committee and those who participated in it. The arguments for and against were well laid out. The Research Involving Embryos Bill 2002 is specifically designed to allow research using embryonic stem cells. In this context, I want to make special note of the summary of the scientific overview section of the committee’s report. I refer to paragraphs 2.138 and 2.139, which state:

Most scientists would agree that there is as yet insufficient experimental data to be certain either just how important research into stem cells is likely to be, or to be certain about the relative value of embryonic and adult stem cells for that research.

This, I believe, sums up the difference of opinion in relation to scientific research. The committee stated that, notwithstanding that, many scientists:

... agree that therapies derived from stem cell research have at least the potential to ameliorate currently incurable conditions, ranging from diabetes to spinal cord injuries to motor neurone, Parkinson’s and Alzheimer’s diseases.

Clearly, the great potential to cure tragic diseases or consequences of tragic accidents is presented as the justification of the destruction of human embryos in the process. However, a closer examination is justified. I understand that embryonic stem cells are found in the inner cell mass of the blastocyst, which is basically the embryo by day five or six after fertilisation. Embryonic stem cells can become many or all of the specialised cells or tissues which make up the body. The ethical problem associated with research involving the removal of embryonic stem cells from the blastocyst is that it leads to the destruction of the embryo.

In contrast, I understand that an adult stem cell is an undifferentiated or unspecialised cell that occurs in differentiated tissue. Adult stem cells are responsible for normal repair and replacement of that tissue. Adult stem cells have been found in sources including bone marrow, blood, the brain, skeletal muscle, the pancreas, foetal tissue and tissue from the umbilical cord. Adult stem cells, therefore, do not pose the same ethical dilemma as embryonic stem cell research. What is more, adult stem cells are able to make identical copies of themselves or to self-renew for the lifetime of the organisms. We are advised that adult stem cells are not easy to grow or maintain in an undifferentiated state in culture because they naturally incline to become one or other more specialised cell type such as muscle, nerve or skin. It is this lack of flexibility that critics maintain is the problem with using adult stem cells.

As we have seen in evidence given before the committee, in the past three years there has been a major expansion in research on adult stem cells. There appears to be a new understanding of their flexibility. In particular, we are told, some evidence appears to suggest that given the right environment some adult stem cells are capable of being genetically reprogrammed to generate specialised cells that are characteristic of different tissues. This is the sort of flexibility that is needed in the research that we are looking to. At paragraph 2.33 of the committee’s report, it stated:

Recent research on adult stem cells indicates that they have the capacity to generate not only the tissue in which they are found, but to generate the specialised cell type of another tissue. It is thought, however, that adult stem cells can differentiate into a more restricted range of tissues or organs than embryonic stem cells. They are thus described as ‘multipotent’ rather than ‘pluripotent’.

This indicates the potential for adult stem cells, as opposed to embryonic stem cells, to be used for therapeutic measures. Of course there are no ethical questions posed with the use of adult stem cells, as I have mentioned.

One aspect worthy of mention is that, during the course of this public debate, controversy arose when a leading scientific advocate for stem cell research, Professor Trounson, presented what he said was evidence of a mouse cured of motor neurone disease following the use of human embryonic stem cells. It later became clear, in the words of clinical neurologist Professor Peter Silburn, that the cells that were used were
not human embryonic stem cells, that it was not motor neurone disease and that the animal was not cured.

Senator Jacinta Collins made the point during the committee meetings that she had repeatedly asked relevant questions of Professor Trounson. This included verifying what sort of cells had been used. I understand he repeatedly identified the type of cells that had been used as 'embryonic stem cells'. Professor Trounson has subsequently said that the term used was interchangeable with 'germ cells'. During this debate I have respected everyone’s right to his or her personal values and convictions. However, it was unfortunate that this was not more fully described by Professor Trounson to members of parliament when he explained his experiment to them. It is in debates such as these that you need the accuracy and scientific integrity of description in order for the matter to be squarely canvassed and dealt with. I believe that, during the course of this debate, that controversy was unfortunate and did not advance matters in relation to people understanding more fully the arguments for and against.

A number of issues have been raised in relation to this bill and I will deal with each in turn. Firstly, many have said that this proposal is like many other past medical advances, such as organ transplant and IVF, which did not have a smooth passage in their early days but are now well established. The difference, however, is that none of those required the destruction of life for the procedure that was involved—not as this does. What is required here for embryonic stem cell research is the destruction of an embryo and therefore life—human life—in a form that would come within the description in Schweitzer’s statement that a civilised society should respect life in all its forms.

Secondly, another argument is that the excess embryos are going to be tossed out and destroyed, so why not put them to good use? On the face of it, this does not seem to be unreasonable. However, it fails to understand the real situation. While no-one in this debate has opposed IVF or procedures which allow IVF to be used for procreation, there seems to be some misunderstanding as to how those excess embryos are dealt with. The Queensland Bioethics Centre clarified the difference between destruction of an embryo and allowing it to die:

... in the case of the frozen embryo the decision is made to cease the extraordinary life-support and allow nature to take its course ... to discontinue the life-support and allow the embryo to return to as natural a state as possible—a warm, moist environment. Development will be restored for a short time, but then nature takes its course. The embryo, because of its immaturity and inability to sustain itself, dies.

This is a much different scenario to that where, in a deliberate procedure, stem cells are extracted and thereby embryos are destroyed. I have touched on the competing aspects of scientific research on embryonic stem cells and scientific research on adult stem cells. Another aspect is the fact that, with the advances in relation to the latter, I am not convinced that in any event a compelling argument has been made out that embryonic stem cells will result in superior research.

Another aspect of the bill is the regulatory issue. With an issue as important as this, one would expect the regulation to be contained within the bill. Many times in this chamber we have heard senators say, ‘Why do we put it in the form of a regulation or guideline? Why not put it in the bill itself?’ I, as a minister for the government, have defended that on occasion. But this issue is so fundamental and so important to society that we should not just simply delegate it to a licensing regime. We should have any regulation contained within the bill itself. This is a flaw within the bill that we are presented with today. I think it is another aspect which demonstrates a weakness in this proposal.

Whilst this debate must be conducted in a rational manner, it must also be conducted without emotion. It is indeed difficult to deal with personal situations, which each one of us has encountered, whereby someone with an illness or spinal injury sincerely believes that their future lies in embryonic stem cell research. Of course, the question is asked: how can we as politicians sit in judgment on issues such as this? This debate involves hard decisions, but we were elected to this place to make hard decisions. It falls to us as
legislators to determine this issue and draw the line so that there is no slippery slope which could result in human life being used as a commodity.

It is our responsibility to define those parameters. It is our responsibility to ensure that there is research available to the community. However, in making that available to the community, we must also put in place safeguards and limits. Once this legislation, if passed, is formalised, no doubt the Australian research industry will not stop at what we have allowed. Clearly, there will be lobbying for further legislative change, and I believe that if this bill is passed that will commence as soon as the legislation is in place. We have seen that advance from various lobbyists for this research and for this bill, and it is therefore timely for us as legislators to stop in this chamber and ask, ‘Do we allow this to go forward or do we now draw the parameters—the line in the sand?’ I believe that we can do this and still accommodate research for those worthy causes that have been canvassed throughout this inquiry. At the end of the day it is a matter of conscience, and it is a decision I come to based on my conscience and the matters that I have raised. It is because of that that I will be voting against this bill.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (10.43 p.m.)—The Research Involving Embryos Bill 2002 has stirred up considerable controversy in the parliament and in the community. It raises questions that concern all of us: the nature of human life, our desire to cure disease and alleviate suffering, and the boundaries of scientific inquiry. In deference to the strength of the conflicting views on this legislation, parliamentarians from all parties have the opportunity to vote according to their personal opinions. I would like to take this opportunity to thank all those people who have contacted me. I hope I have been able to respond to them all individually—I have certainly tried to. I know from the correspondence that I have received that many of the opponents of this legislation hold very strong opinions indeed. I, too, have strong opinions on this matter; mine favour this bill.

Whenever scientific research reaches a new threshold, a time comes when the community and the community’s elected representatives must consider the ethical implications of new discoveries and new technologies; that is what we are about here today, and it is absolutely right and proper that we do so. I do not agree with those who suggest that this kind of debate is an inappropriate interference in scientific research. We should periodically examine the assumptions that underpin our attitudes to scientific discovery as the frontiers of knowledge are expanded.

The regulatory principle embodied in this legislation that the government can and must play some role in determining the ethical limits of medical research is in itself uncontroversial. The debate is very much between those who believe that embryonic stem cell research needs to be regulated in some manner and those who believe it ought to be prevented.

A key argument put forward by those against this legislation is that the embryos in question—embryos at or prior to 14 days development, created as part of the IVF program but not used for that purpose and scheduled to be destroyed—are human life or potential human life and thus ought to be protected. Some argue that they ought not be destroyed at all, some suggest that they ought never have been created and some say that if they are to be destroyed they should be simply disposed of rather than used for medical research. I believe that the use of IVF, which has brought great joy to thousands of Australians, ought not be hamstrung by any insistence that the number of embryos created for each participant be reduced.

The current procedures are founded on the best medical judgment of the doctors involved. I believe that keeping these embryos frozen indefinitely, with some vague idea that at some stage in the future another woman might agree to bear them, would be foolish. I believe that, given the choice between discarding thawed embryos and using them to advance our medical and scientific understanding and perhaps alleviating or curing painful, debilitating or fatal conditions and illnesses, there is simply no choice.
I think it would be irresponsible to turn our backs on this avenue of research.

Personally, I do not believe that a blastocyst, an embryonic collection of cells that is not yet attached to a woman’s body, is a human life. In my view, such an undifferentiated mass of cells without heart, brain, nerves or bones is not a human life, whether it is implanted or not. It has the potential to become a human life, yes, but it is no more than potential. It takes more than cellular division to create human life. The moment when a newborn baby is placed in its mother’s arms is the result of a myriad of the complex processes of gestation. For a baby to be born, there must be a mother’s body to protect and nourish it for up to nine months, and, modern science tells us, to guide development. It is all these processes in their totality that make up the potential for human life.

Some opponents of this bill argue that embryonic stem cell research ought not to go ahead because it is unproven science. I find an argument that research ought only be carried out when a subject is proven is a strange argument indeed. It seems rather to defeat the purpose of research, which is to advance our scientific knowledge and understanding. Some opponents of embryonic stem cell research who suggest we ought to ban such research also argue that there are other more promising avenues of research. This is certainly a discussion that scientists and funding bodies should have when setting their priorities. It is not, however, a reason to ban a particular kind of research.

I was quite surprised by some of the language used when this bill was debated in the House of Representatives. Equating scientists using embryonic stem cells for medical research with Nazis in the Second World War I think is unwarranted and unhelpful and, frankly, a gross slander of those dedicated researchers who are motivated by a desire to alleviate suffering and cure disease. Parallels to slavery, racism and the reprehensible treatment of indigenous populations by European colonial powers are, likewise, emotive nonsense which only display how little those who wish to apply them comprehend the tragedies of our history. But that has been the exception, not the rule. That has been the exception in the way this debate has been conducted.

Embryonic stem cell research may or may not provide cures for diseases and conditions that currently cause a great deal of suffering in Australia and around the world. Passing this bill to regulate embryonic stem cell research will not automatically lead to rapid cures for spinal injuries, diabetes, and other debilitating and chronic conditions. Supporting scientific research does not absolve us, as a society, from providing care for those who need it. Fortunately, this is not an either/or question. We can commit ourselves to support and help Australians with disabilities and chronic conditions. We can do that right now, as well as support scientific research that may in the future alleviate their suffering and improve their quality of life. The promise of embryonic stem cell research is not certain. The outcomes of scientific research never are. What is certain is that, if we close our eyes to science and ban an avenue of medical research, we will never know.

The debate between science and religion over the search for new knowledge is of course a long one. For many centuries, scientists had to contend with persecution by the church for discovering things that did not fit a contemporary religious model. School children learn the story of Galileo, who saved his life from the Inquisition only by swearing to what he knew was false—that the earth did not move but was the centre of the universe. Galileo spent the rest of his life under house arrest. Experimentation with blood transfusion was once banned by European governments and by the Pope because the Bible taught that blood was the seat of the soul. There are still those who refuse blood transfusions for themselves and their children on the grounds of religious belief, but we are long past the time where any government or religious organisation or church considers it appropriate to outlaw blood transfusions for all people on the grounds of religious objections to the practice from a few.

Further scientific research has shown that a human being’s individual identity resides not in the blood, as the Bible taught—nor in
the liver, heart or stomach, as many thought—but in the brain. Of course, these later discoveries that reduced opposition to blood transfusion would never have been made if religious objections to autopsies and the dissection of dead bodies had prevailed. Earlier in our history, medical understanding of the human body was limited and constrained to knowledge that could be gathered from the dissection of dogs. Today, dissection and autopsies are a regular occurrence: medical students can learn anatomy before being confronted with a live patient, and many important public health and public safety discoveries have been made through the process of investigating unexplained deaths. Protests concerning the practice have faded away, and the laws that forbade it have been repealed.

The discovery of ether and chloroform opened up new fields for medicine, for effective pain relief meant that surgery no longer had to be performed with the patient fully conscious and forcibly restrained. There was, however, one group for whom some religious thinkers felt that pain relief ought to be withheld—women in childbirth. Labour pains, these men believed, were women’s just punishment for their responsibility in bringing about the expulsion from Eden. It is unthinkable today that a woman enduring a protracted and painful labour should be refused pain relief on the grounds of original sin!

Vaccination was opposed because it was thought to interfere with God’s will, with God’s punishment of sinners through the scourge of disease. Elementary protection against disease is no longer seen as a sacrilegious attempt to thwart the will of the Almighty. As a result, parents no longer live with the knowledge that their children have a two-in-five chance of dying before the age of 15 of diseases like measles, mumps, whooping cough, diphtheria and scarlet fever. As a result, smallpox has been eradicated. Medical advances and scientific discoveries have routinely met with protests decade after decade, century after century. We have heard them all: some things are the will of God and ought not to be disturbed; if humans were meant to fly, they would be born with wings; interference with natural process is ipso facto morally wrong; Holy Writ forbids such a course of action.

Research, by its nature, opens up new areas of human knowledge, and thus quite frequently affronts accepted wisdom. Our responsibility here in parliament is to scrutinise both new knowledge and old truths. One old truth is that the highest goal of scientific development is to improve the human condition. Those are quite dry and passionless words. What they mean in a practical sense is that a compound fracture does not now lead to a lifetime of disability and pain. They mean that a diagnosis of diabetes is no longer a death sentence. They mean that injuries fatal 100 years ago are now easily repaired in the operating theatre. In my case, diagnosed with the eye disease glaucoma 25 years ago, without medication I would have been completely blind many, many years ago. But much more importantly than all that, they mean fewer parents sitting by the bedside of a dying child. We have here the possibility of new knowledge to carry on that old purpose. I believe it would be thoroughly irresponsible to close the door on that chance. I strongly support the bill.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Ferguson) — Order! It being almost 11.00 p.m., I propose the question:

That the Senate do now adjourn.
operation of key elements of the portfolio, including the Vietnam Veterans Counselling Service, some of the former repatriation hospitals, some other private health delivery services and, more recently, the Australian War Memorial. I would like to express my thanks to those officers who briefed me so professionally. Given the subject of my speech tonight, can I especially thank the Director of the Australian War Memorial, Major-General Steve Gower, and his staff for their time and courtesy when they gave me a guided tour of the operations.

It would be fair to say that most Australians who have visited the War Memorial periodically over the last 10 years in particular would have noted with great appreciation the extraordinary changes which have taken place honouring not just the deeds of our veterans and service personnel in all theatres but also the vision of the memorial’s founders, who believed that such an institution was essential to keep the flame of remembrance burning for all future generations. The memorial is no longer a place of stagnation with exhibits frozen in time or a static museum of wartime relics, as it once was. As we see it now, it is a vibrant and changing display keeping true to the original intention of remembrance and commemoration but going that extra step to actively pass on to subsequent generations the meaning of past commitments in a strikingly visible and tangible way.

Some of us in politics often bemoan the decline in the teaching of history in our schools, where choice is paramount, including soft choices, from which I believe students emerge with a much inferior understanding of their own place in the world. This is important because of the context of modern-day government in which they will soon become the key participants. As students emerge from the education system, many proceed to highly-specialised skilling, which is necessary in this increasingly technical and complex society; thus they are increasingly missing out on an appreciation of their social context. Is it any wonder that we are constantly at risk of repeating the mistakes of the past? With our current brand of consensus, poll-driven government, this lack of appreciation of context and history puts us at even more risk.

That is why the War Memorial is so valuable. It is a history lesson of lifelike proportions. No-one seeing and absorbing its content can possibly leave without an indelible impression of the horrors of war, of the suffering and bravery but also of the stupidity that led the world into conflict and the determination of the right-minded not to be bullied into accepting the aggression and greed of madmen. Above all, the War Memorial reminds the generations that pass through the display halls of the spirit of mankind and the strength of principle that we must resort to if we are to sustain our values and protect what we all love.

For veterans, of course, this is a sacred place. It is also a place of nostalgia and memories, both sad and happy. It is a reminder to them of their pain and deprivation and of the bonds of friendship they forged which lasted a lifetime. For them, it is also a matter of pride and having the satisfaction of showing their families what they experienced in real terms. It is a reminder to them too that we as a nation do not just respect what they endured but also respect their service to such a degree that we need to preserve as much as we can in so many forms the physical reminders, the stories and the graphic portrayals of the real experience.

Beyond that, the War Memorial has also become part of our family fabric as so many seek to draw and fill their family trees with the details of the service and deeds of parents and grandparents. Knowing the details of our antecedents is a fundamental part of our personal context. The work done on storing and restoring official and personal records is of the utmost importance, taking families beyond the written history to the detail and minutiae of their own inner stories, which otherwise might be lost. We all know, for example, of the excellent portrayal in the Australian newspaper of personal diaries, which are the bread and butter of the memorial’s very important task of preserving the individual record. That is the history which brings the past alive, because those diaries could have been written by so many at the time.
Our gratitude and congratulations, therefore, go to the staff of the War Memorial, to all the curatorial staff, to the volunteers who spend so much of their time helping to honour the commitment that we have made to the memorial and to the historians and other staff who provide so much of the intellectual input which packages it all together. In brief, all these agencies and service delivery organisations appear to me to be doing a fine job of delivering the care to veterans which we as a community promised them implicitly when we sent them off to fight in the defence of our nation.

The Australian War Memorial here in Canberra is an icon in its own right, as our national memorial to those of our countrymen who died in active service. But it is more than simply a memorial; it is a museum as well. Everyone will be familiar with the memorial, and it comes as no surprise to anyone when they are told that it is Canberra’s most popular site and one of the most visited sites in Canberra. Indeed, for the third year in a row the War Memorial has just been awarded the best major tourist attraction award in the Canberra and capital region for 2002.

The War Memorial’s primary purpose is to commemorate our war dead. The Hall of Remembrance and the eternal flame are very solemn and sacred features which strike all of us the most as we reflect on the deeds and the courage of those who served. Indeed, the values of our society as they are inscribed in the stained glass are of themselves a reminder that our society today would do well to reconsider for their continued relevance. They are values for us to reflect on and promote more actively as the cornerstones which bind our society together. These values have indeed stood the test of time and have served as the essence of what living in Australia stands for. In these very troubled times, when our values are clearly not shared by some, these simple words have a particularly salutary effect.

Turning to the detail of the annual report, there is one noticeable feature, and that is the flavour of enthusiasm and commitment which drives the memorial’s program. There is not only an ambitious list of future works allowing for growth but also a solid record outlined of the successful features of the past year’s program. Prominent among those are the exhibitions, which have been most successful. Also, the travelling exhibition has clearly been most popular.

The Senate might note that, in the year being reported on, 936,000 people went through the War Memorial, which is astounding. More to the point, 66 per cent were repeat visitors. Add to this the 149,000 people who visited the travelling exhibition, and it must be agreed that the memorial’s activities are in demand and really do form part of our society’s treasured institutions. Other statistical information in the report on the high level of research inquiries and the number of schoolchildren visiting—100,000—bears testimony to the success of the Australian War Memorial. I commend the report to the Senate.

Drought

Senator O’BRIEN (Tasmania) (11.08 p.m.)—This evening I want to talk about the drought, because the drought crisis is growing. Its effects are now being felt in rural and regional communities across the country. This drought—possibly the worst in a century—is not limited to rural towns but is now impacting on all Australians. One of the key features of this drought is the failure of the Minister for Agriculture, Fisheries and Forestry, Mr Warren Truss, to provide the rural community with the support it needs at this time. There is now overwhelming evidence that the effects of the drought are being felt well beyond the farm gate. Broadacre farming enterprises, intensive industries, support industries, rural businesses and services, food manufacturers and retail food businesses have all been hit.

On 30 October this year the Treasurer, Peter Costello, finally acknowledged the impact of the drought in saying that declining rural exports would contribute to lower than predicted growth in the gross domestic product. The Reserve Bank has predicted today that the drought will cut Australia’s gross domestic product in 2002-03 by a full one per cent—that is, by $7.1 billion. ABARE forecasts show that Australia’s wheat production will fall to 10.1 million tonnes this
year, down 58 per cent. Many regional employers, including those in the pork, poultry and feedlot sectors, face ruin due to soaring feed grain prices. An Australian Bureau of Statistics survey of retail prices released on 6 November 2002 shows that the price of vegetables is rising across the country. Last week, even the increasing cost of electricity generation was attributed to drought conditions.

With its impact on farm communities, rural exports, interest rates, jobs and city food prices, it is true to say that the tentacles of this drought reach into every aspect of Australian life. Its impact is now being felt in every home, yet the response of the minister in the face of this deepening national crisis has been nothing short of tragic. It did not have to be this way. Negotiations with the states to reform the exceptional circumstances drought relief program have been under way for no less than two years. Mr Truss defends his efforts by pointing to the fact that he has been trying to reform the EC process for such a long time, yet the very evidence Mr Truss uses in his own defence serves only to highlight his incompetence at negotiating reform—two years of the Truss reform method and not a centimetre gained.

Senator Kemp—Because of the Labor premiers—the Labor premiers are just hopeless; they are absolutely recalcitrant and you never say a word about them.

Senator O’Brien—The way Mr Truss has carried on, one would think there was furious disagreement on EC reform but, Senator, that is not the case. In May this year—if you wish to listen, Senator—and again just last month, all the states agreed to an exceptional circumstances reform package that would hasten the assessment process and deliver more effective assistance. The only person who disputes the fact that there is agreement on EC reform is Mr Truss.

On 10 September this year, the New South Wales government lodged an exceptional circumstances application for the Bourke and Brewarrina region. That was 62 days ago today. If the agreed reforms to EC were in place, the benefits of that program would have been available to farmers in that region over a month ago. Mr Truss is not only incapable of negotiation but an inept administrator as well.

The minister was not able to keep his word to Bourke and Brewarrina farm families and deliver interim assistance in his promised time frame. Instead, the promised assistance was tied up in an as yet unexplained bungle for which no-one in the government is willing to claim responsibility. Labor has urged the government to match Farmhand drought assistance on a dollar-for-dollar basis, just as Labor did in 1994, but this call has been ignored.

The minister has also ignored Labor’s call to establish a national grain audit to assess the true picture of national grain supplies. The hesitant response from Mr Truss and the lack of interest by the Prime Minister is now drawing widespread criticism from state governments, farmers, rural leaders and media commentators. The cost to the national economy is growing in the absence of effective Commonwealth leadership. There is now an urgent need for a national response to the economic, social and environmental consequences of the current drought. But Mr Truss, secure in his ministerial office, seems determined to sit it out.

Many senators will be aware that, at a meeting at Narrabri on Friday, the minister was the subject of fierce criticism from ordinary farmers who are sick and tired of endless political arguments. A member of my staff was present at that meeting and I can tell senators that the minister’s handling of drought relief has brought his party and his government no credit at all. In much of the debate about EC reform, it seems Mr Truss has forgotten that he is the federal minister for agriculture. He is the one person responsible for the development and implementation of the federal government’s response to drought. He is paid $170,000 a year to do that job. He is responsible for a department that employs nearly 3,000 officers and costs taxpayers about $250 million per year.

The minister should have established a national drought task force months ago. He should have ensured that the Bourke and Brewarrina exceptional circumstances applications were assessed within four weeks. He should have understood that rural communi-
ties look to the federal agriculture minister for leadership in times of rural crisis. Sadly, the minister has done nothing and understands nothing of his responsibilities. It is time, I must say, for the Prime Minister to do what Mr Truss has failed to do and develop a national drought response.

This drought requires a whole-of-government approach because the whole nation is hurting. The government must now marshal all of its resources and deliver a national response. All ministers must work in concert to ensure existing government programs are working effectively to deliver assistance to those who need it—no red tape and no administrative delay, but efficient and effective Commonwealth program delivery. It is not much to ask, but I must say that it has been lacking under this minister to date.

It is also time for the government to get on with the job of progressing reform of the exceptional circumstances program—not talking about it to the media but talking to the states about making positive changes to the EC program. But, rather than act, Mr Truss is content to commentate. This morning on the Channel 9 Today program Mr Truss demonstrated the poor grasp he has of his national responsibilities. He seemed somewhat surprised when his commentary was interrupted and he was asked to do something about drought assistance. The time for commentary has come to an end. It is time for the government to stop talking about improvements in drought response and to deliver them. It is time for Mr Truss to face up to his responsibilities and it is time that he did the job that Australia needs him to do at this time.

Senate adjourned at 11.17 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

A New Tax System (Family Assistance) (Administration) Act—Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2002 (No. 1).

Aboriginal and Torres Strait Islander Commission Act—


Zone Election Amendment Rules 2002 (No. 1).


Civil Aviation Act—Civil Aviation Regulations—Airworthiness Directives—Part—


Currency Act—Currency (Royal Australian Mint) Determination 2002 (No. 5).

Dairy Produce Act—

Dairy Structural Adjustment Program Scheme 2000 Amendment (No. 10).

Supplementary Dairy Assistance Scheme 2001 Variation (No. 5).


Environment Protection and Biodiversity Conservation Act—Instrument amending list of—

Exempt native specimens under section 303DB, dated 24 September 2002.


Threatened species under section 178, dated 22 October 2002.


Farm Household Support Act—Farm Help Re-establishment Grant Scheme Amendment 2002 (No. 1).


Fuel Quality Standards Act—
Fuel Standard (Diesel) Amendment Determination 2002 (No. 1).
Fuel Standard (Petrol) Amendment Determination 2002 (No. 1).
Goods and Services Tax Determination GSTD 2002/5.
Health Insurance Act—
  Regulations—Statutory Rules 2002 Nos 244-247 and 254.
Health Insurance Commission Act—
Higher Education Funding Act—Determination under section—
Jervis Bay Territory Acceptance Act—Administration Ordinance—Fee Determination No. 1 of 2002 [Electricity supply].
National Health Act—Declarations Nos PB 16 and PB 17 of 2002.
  Determination—
    No. PB 18 of 2002.
Nuclear Non-Proliferation (Safeguards) Act—Regulations—Statutory Rules 2002 No. 252.
Parliamentary Service Act—Determinations Nos 1 and 3 of 2002.
Product Rulings—
Radiocommunications Act—2.1 GHz Band Frequency Band Plan Variation 2002 (No. 1).
Taxation Determination TD 2002/22.
Telecommunications Act—Telecommunications Numbering Plan Amendment 2002 (No. 3).

**PROCLAMATIONS**

A proclamation by His Excellency the Governor-General was tabled, notifying that he had proclaimed the following provisions of an Act to come into operation on the date specified:

*Proceeds of Crime Act 2002—Sections 3 to 338—1 January 2003 (Gazette No. GN 44, 6 November 2002).*

**Departmental and Agency Contracts**

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended on 27 September 2001:

- Departmental and agency contracts—Letters of advice—2002 spring sittings—Attorney-General’s portfolio.
- Transport and Regional Services portfolio.

**QUESTIONS WITHOUT NOTICE:**

**ADDITIONAL ANSWERS**

**Health: National Burns Response Plan**

**Senator VANSTONE (South Australia—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women)—On 21 October 2002 (Hansard page 5471)** Senator Moore asked me the following supplementary question on the National Burns Response Plan:

I ask a supplementary question, particularly on the issue of Bali. Can the Minister confirm that the International Commission on Missing Persons has offered its assistance in the process of identifying victims of the Bali terrorist attack? Has the Government taken up this offer of assistance, if made?

The Minister for Health and Ageing has provided the following answer to the honourable senator’s question, in accordance with advice provided to her by the Australian Federal Police on 22 October 2002:

I am aware of an article in *The Australian* on 19 October 2002, reporting that the chief of staff of the International Commission for Missing Persons, Mr Gordon Bacon, had offered help in the Bali disaster, but has not heard from Australian authorities.
I am advised that a very brief message was passed to the Australian Federal Police (AFP) through Department of Foreign Affairs and Trade during a meeting last week stating that the chief of staff was requesting air travel costs to Bali to assist with the enquiry. The offer of assistance at that time was vague.

The AFP contacted Mr Bacon on 19 October 2002, and discussions were held concerning the role of the Australian DVI Team and the overall process being under command of the Indonesian Authorities.

At the AFP’s request on 20 October 2002, Mr Bacon provided details of the services that his organisation can provide and this information has been provided to the AFP Forward Command in Bali and the AFP Chief Scientist.

Discussions are currently being held between member countries regarding the issues associated with the identification of body parts. Mr Bacon’s offer of assistance is being considered in these discussions and Mr Bacon has been advised that as soon as some agreement has been reached on this issue he will be advised of the outcome.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Civil Aviation Safety Authority

(Question No. 422)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 July 2002:

(1) Did the Manager, Workplace Relations in the Civil Aviation Safety Authority write to Phillips Fox on 9 May 2002 seeking legal advice about a disciplinary process in relation to a CASA officer employed in CASA’s Sydney Airline Office.

(2) Did Phillips Fox respond to that letter on 20 May 2002; if so, did that letter advise that the author was concerned that one officer only was being singled out under CASA’s disciplinary policy in relation to an incident or series of incidents that occurred on or following 13 July 2001.

(3) In that letter, did the author advise that if charges were to be laid against this officer then the conduct of others involved in the incident, or incidents, may also warrant the laying of charges.

(4) In that letter, did the author advise that external scrutiny would not look favourably upon the timeframe in which the matter had been handled by CASA setting aside the merits and processes that had been followed.

(5) In that letter, did the author advise that if charges proposed against this CASA officer were in fact made out they would not warrant his dismissal from CASA and that, in the view of the author, the Australian Industrial Relations Commission would uphold such a dismissal as unfair.

(6) In that letter, did the author advise that external scrutiny would not look favourably upon the timeframe in which the matter had been handled by CASA setting aside the merits and processes that had been followed.

(7) In that letter, did the author express concern that the officer, who was the subject of the advice, had been suspended since 24 October 2001 but that no charges were laid against him.

(8) In that letter, did the author advise CASA that the outcome of the matter may be unfavourable comment by a tribunal or increased compensation for the officer if his employment was terminated.

(9) In that letter, did the author advise that he would not lay charges against the officer in relation to alleged negligence or carelessness in the discharge of his duties.

(10) Did the author also advise that in relation to alleged improper conduct he considered the officer’s actions inappropriate but trivial.

(11) Did the author of the letter advise CASA that he considered there were grounds for charges in relation to allegations by the officer about another officer and the officer’s alleged failure to act with honesty in relation to an investigation of the incident of 13 July 2001 and subsequent events.

(12) Did the author of the letter further advise that if these charges were found to be warranted they would still not justify the summary dismissal of this officer.

(13) Did the author of the letter advise that lesser sanctions, such as admonition or a reduction in salary, would be more appropriate.

(14) (a) Who received the advice from Phillips Fox other than the Manager, Workplace Relations; and (b) in each case: (i) when was that advice provided, and (ii) what action follows consideration of that advice by each person who received a copy of the advice other than the Manager, Workplace Relations.

(15) Has the Board of CASA, or any committee of the Board, considered this matter generally and the external legal advice dated 20 May in particular; if so: (a) on how many occasions has the Board, or any of its committees considered this matter or this legal advice; (b) when was the matter considered; and (c) on each occasion, what action did the Board or the committee recommend and require.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.
(1) Yes.
(2) to (13) The issues raised by Senator O’Brien are subject to legal privilege and CASA does not believe that it would be appropriate to reveal the details of sensitive personnel issues.
(14) (a) General Manager, Human Resources Management Branch; the Human Resources Strategic Adviser, Human Resources Management Branch; General Counsel, CASA Office of Legal Counsel; Legal Counsel, Office of Legal Counsel; and the Executive Manager, Aviation Safety Compliance Division. (b) (i) 21 May 2002; and (ii) The advice was provided to the above persons for their consideration from the Project Manager, Workplace Relations, Human Resources Management Branch as the officer responsible for progressing this matter in consultation with other senior CASA staff, including those referred to in (a) above.
(15) No.

Wide Bay Electorate: Program Funding
(Question Nos 433 and 439)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry and the Minister for Forestry and Conservation, upon notice, on 10 July 2002:
(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Wide Bay.
(2) What was the level of funding provided through these programs and/or grants for the 1999-00, 2000-01 and 2001-02 financial years.
(3) Where specific projects were funded: (a) what was the location of each project; (b) what was the nature of each project; and (c) what was the level of funding for each project.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry and I have provided the following answers to the honourable senator’s questions:
(1) The following programs/grants are administered by the Department of Agriculture, Fisheries and Forestry and can be accessed by all electorates, including the federal electorate of Wide Bay:

• National Landcare Program*
• National Rivercare Program*
• Farm Forestry Program*
• Fisheries Action Program*#
• National Action Plan for Salinity and Water Quality#
• Forest Industry Structural Adjustment Package#
• Dairy Structural Adjustment Package+
• Dairy Exit Program+
• Supplementary dairy assistance measures+
• Pork Producer Exit Program
• PorkBiz
• National Pork Industry Development Program
• Sugar Industry Assistance Package+
• Sugar Industry Infrastructure Program++
• Supermarket to Asia - New Industries Development Program
• Backing Australia’s Ability - New Industries Development Program
• Farm Innovation Program;
• Rural Financial Counselling Service+
• Farm Help+
• Exceptional Circumstances Relief Payment+
• Exceptional Circumstances Interest Rate Subsidies+
• Rural Adjustment Scheme**
• Queensland Drought Regional Initiative°
• FarmBis#

* Part of the First Phase of the Natural Heritage Trust
° Level of funding provided to the electorate of Wide Bay is not available as it is administered on a state/regional basis
+ Level of funding not available on an electorate basis.
++ QLD component of SIIP includes Eli Creek Effluent Irrigation Project which has a total Commonwealth funding of $774 000. The project which involves the supply of treated sewage effluent from Hervey Bay to canegrowers in the area, has been operational since December 1997 with some minor additional work undertaken in 2001/02. Level of funding provided to the electorate of Wide Bay is not specifically available.
** RAS closed in 1997 with some expenditure continuing up to 1999-00, Level of funding not available on an electorate basis.

(3) The level of funding provided through these programs and/or grants was as follows:

<table>
<thead>
<tr>
<th>Program/Grant</th>
<th>Appropriation for Wide Bay 1999-2000</th>
<th>Appropriation for Wide Bay 2000-01</th>
<th>Appropriation for Wide Bay 2001-02</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Landcare Program</td>
<td>$220 000</td>
<td>$68 000</td>
<td>Nil</td>
</tr>
<tr>
<td>National Rivercare Program</td>
<td>$69 000</td>
<td>$45 000</td>
<td>$17 000</td>
</tr>
<tr>
<td>Farm Forestry Program</td>
<td>Nil</td>
<td>Nil</td>
<td>$43 000</td>
</tr>
<tr>
<td>Forest Industry Structural Adjustment Package</td>
<td>Nil</td>
<td>Nil</td>
<td>$506 683</td>
</tr>
<tr>
<td>Pork Producer Exit Program</td>
<td>$90 000</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>PorkBiz</td>
<td>$26 471</td>
<td>$4 125</td>
<td>$3 275</td>
</tr>
<tr>
<td>National Pork Industry Development Program</td>
<td>$105 000</td>
<td>$4 494</td>
<td>Nil</td>
</tr>
<tr>
<td>Sugar Industry Infrastructure Program</td>
<td>Nil</td>
<td>$85 000</td>
<td>Nil</td>
</tr>
<tr>
<td>Supermarket to Asia - New Industries Development Program</td>
<td>Nil</td>
<td>Nil</td>
<td>$29 555</td>
</tr>
<tr>
<td>Backing Australia’s Ability - New Industries Development Program</td>
<td>Nil</td>
<td>Nil</td>
<td>$37 000</td>
</tr>
<tr>
<td>Farm Innovation Program</td>
<td>$46 010</td>
<td>$189 000</td>
<td>$541 950</td>
</tr>
<tr>
<td>Rural Financial Counseling Service</td>
<td></td>
<td>$46 010</td>
<td>$61,347</td>
</tr>
</tbody>
</table>

(3) Details for specific projects were as follows:

<table>
<thead>
<tr>
<th>Program/Grant</th>
<th>Location of project</th>
<th>Nature of project</th>
<th>Level of funding for each project</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Landcare Program</td>
<td>Baralaba</td>
<td>Employ a part time project officer to promote the Landcare ethic throughout the community. Improve future resource management strategies and actions in the lower Mary River Catchment through land resource assessment.</td>
<td>1999-2000 - $31,933</td>
</tr>
<tr>
<td>National Landcare Program</td>
<td>Lower Mary River catchment</td>
<td></td>
<td>1999-2000 - $61,020</td>
</tr>
<tr>
<td>Program/Grant Location of project</td>
<td>Nature of project</td>
<td>Level of funding for each project</td>
<td></td>
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<td>----------------------------------</td>
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<td></td>
</tr>
<tr>
<td>National Landcare Program Kilkivan</td>
<td>To encourage and promote the use of sustainable land and resource management practices through education, publicity, information dissemination, training skills, transfer and practical working examples.</td>
<td>1999-2000 - $30 000</td>
<td></td>
</tr>
<tr>
<td>National Landcare Program Callide-Kroombit catchment</td>
<td>To employ a coordinator to continue the group and community support role and to help to develop and maintain group projects. To aim at reducing the siltation and degradation of creeks in the Callide-Kroombit system by targeting side gully erosion and degraded areas of native scrub. To encourage the development of a more robust pasture in the area to decrease the flow of water and to aid in water penetration at higher levels therefore reducing overland flow.</td>
<td>1999-2000 - $46 960 2000-2001 - $42 800</td>
<td></td>
</tr>
<tr>
<td>National Landcare Program Burnett catchment</td>
<td>To support catchment management planning, strategic planning and property planning for the sustainable use and management of South-East Queensland lands. Provide land resource information and decision support systems.</td>
<td>1999-2000 - $50 000 2000-2001 - $25 000</td>
<td></td>
</tr>
<tr>
<td>National Rivercare Program Gayndah</td>
<td>The aim of this project is to revegetate a 400m section of the Burnett River bank adjacent to the Gayndah township. Dry vine forest was one widespread through much of the district. With continued clearing for agricultural use only remnants remain and many of the species are now classified as rare and threatened. This is to be the first stage of a wider program of regeneration within the Central and North Burnett subcatchment.</td>
<td>2001-2002 - $17 300</td>
<td></td>
</tr>
<tr>
<td>National Rivercare Program Mount Perry</td>
<td>To implement priority elements of the Oxley Creek Integrated Catchment Management Strategy.</td>
<td>1999-2000 - $24 000</td>
<td></td>
</tr>
<tr>
<td>Program/Grant Location of project</td>
<td>Nature of project</td>
<td>Level of funding for each project</td>
<td></td>
</tr>
<tr>
<td>----------------------------------</td>
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<td></td>
</tr>
<tr>
<td>Farm Forestry Program Dawson Valley</td>
<td>The project will investigate timber cropping as a viable alternative or supplement to, more established rural incomes. The trials will also indicate which methods and species are most suited to this area. Flow-on effects will be a more vital community, greater protection against salinity, and as we are targeting local species, local ecosystems will receive a boost.</td>
<td>2001-2002 - $43 100</td>
<td></td>
</tr>
<tr>
<td>Forest Industry Structural Adjustment Package Tiaro</td>
<td>Sawmill improvements</td>
<td>$333 000 (total grant) (note – balance of project grant monies due to be paid in 02-03 financial year)</td>
<td></td>
</tr>
<tr>
<td>Forest Industry Structural Adjustment Package Maryborough</td>
<td>Sawmill improvements</td>
<td>$257 193 (total grant) (note – balance of project grant monies due to be paid in 02-03 financial year)</td>
<td></td>
</tr>
<tr>
<td>Forest Industry Structural Adjustment Package Maryborough</td>
<td>Sawmill improvements</td>
<td>$444 112 (total grant) (note - balance of project grant monies due to be paid in 02-03 financial year)</td>
<td></td>
</tr>
<tr>
<td>Forest Industry Structural Adjustment Package Wondai</td>
<td>Sawmill improvements (stage 1)</td>
<td>$112 000 (stage 1 - total grant) (note - balance of project grant monies due to be paid in 02-03 financial years)</td>
<td></td>
</tr>
<tr>
<td>Pork Producer Exit Program Wowan</td>
<td>Pork producer assisted to exit the industry</td>
<td>1999-2000 - $45 000</td>
<td></td>
</tr>
<tr>
<td>Pork Producer Exit Program Murgon</td>
<td>Pork producer assisted to exit the industry</td>
<td>1999-2000 - $45 000</td>
<td></td>
</tr>
<tr>
<td>PorkBiz Murgon</td>
<td>Pork producers helped to attend business skills training workshops and have on-farm consultations.</td>
<td>$15 148</td>
<td></td>
</tr>
<tr>
<td>PorkBiz Biloela</td>
<td>Pork producers helped to attend business skills training workshops and have on-farm consultations.</td>
<td>$16 323</td>
<td></td>
</tr>
<tr>
<td>PorkBiz Goomeri</td>
<td>Pork producer funded to have an on-farm consultation.</td>
<td>2001-02 - $1 200</td>
<td></td>
</tr>
<tr>
<td>PorkBiz Hivesville</td>
<td>Pork producer funded to have an on-farm consultation.</td>
<td>2001-02 - $1 200</td>
<td></td>
</tr>
<tr>
<td>National Pork Industry Development Program South Burnett region</td>
<td>Funding provided to develop a pork market alliance in the South Burnett region.</td>
<td>1999-2000 - $105 000</td>
<td></td>
</tr>
<tr>
<td>National Pork Industry Development Program South Burnett region</td>
<td>Funding provided to pork alliance to attend negotiations skills seminar.</td>
<td>2000 - 2001 - $4 494</td>
<td></td>
</tr>
<tr>
<td>Program/Grant Location of project</td>
<td>Nature of project</td>
<td>Level of funding for each project</td>
<td></td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----------------------------------------------------------------------------------</td>
<td>----------------------------------</td>
<td></td>
</tr>
<tr>
<td>Supermarket to Asia - New Indus-</td>
<td>Organic Milk Production</td>
<td>2000-2001 - $85 000</td>
<td></td>
</tr>
<tr>
<td>tries Development Program</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Backing Australia's Ability - New</td>
<td>Vermi-composting service</td>
<td>2001-2002 - $37 000</td>
<td></td>
</tr>
<tr>
<td>Industries Development Program</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farm Innovation Program #</td>
<td>Organic odourless soil conditioner developed mainly from pig waste. It is unique</td>
<td>$189 000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>in both process and product in that it is comprised of pellets that are user</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>friendly from both an environmental and industrial perspective.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farm Innovation Program #</td>
<td>Construct a hatchery to produce spawns of mud crab and sea cucumber at a single</td>
<td>$119 020</td>
<td></td>
</tr>
<tr>
<td></td>
<td>facility.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farm Innovation Program #</td>
<td>Mandarin packaging and grading. The grader uses camera and computer software</td>
<td>$361 830</td>
<td></td>
</tr>
<tr>
<td></td>
<td>to identify and sort mandarins according to defects, colour, diameter, volume,</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>weight and density.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farm Innovation Program #</td>
<td>Adoption of the EliSmart Farm System – an electronic milk metering system that</td>
<td>$26 810</td>
<td></td>
</tr>
<tr>
<td></td>
<td>includes electronic cow identification, automatic feeding and drafting,</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>measurement of milk flow, conductivity and temperatures for individual cows (the</td>
<td>$34 290</td>
<td></td>
</tr>
<tr>
<td>Farm Innovation Program #</td>
<td>two applicants are part of a group application from 14 farmers)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farm Innovation Program #</td>
<td>To provide a rural financial counselling service to primary producers, small</td>
<td>$153,367</td>
<td></td>
</tr>
<tr>
<td></td>
<td>rural business and fishing enterprises in financial crisis, and in need of</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>financial counselling assistance</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## # Note: all Farm Innovation Payments will be finalised by 30 June 2003.

### Civil Aviation Safety Authority

(Question No. 518)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

1. (a) At what time did a phone hook-up take place on the afternoon on 30 May 2002 to seek to resolve the issue of his alleged inappropriate behaviour; and (b) when did the phone hook-up end.

2. (a) Who were the other CASA officers who participated directly in that phone hook-up; and (b) were there any other persons not directly employed by CASA involved in that phone hook-up.
3) If there were persons other than CASA officers involved in the phone hook-up: (a) who were those persons; and (b) what was the basis of their involvement.

4) Were there any CASA officers or other persons who were present during the phone hook-up but did not participate in the proceedings; if so: (a) who were these other officers or persons; and (b) why were they present during the phone hook-up.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has advised the following:

1) A number of telephone conversations took place between the CASA officer’s solicitor and the solicitors acting on behalf of CASA during late May and early June, including on 29 and 30 May 2002. Up until the morning of 30 May 2002, the solicitors had agreed that if these discussions did not resolve the matter, there would be a meeting on 30 May 2002. On the morning of 30 May 2002, the meeting was postponed.

2) (4) The telephone discussions referenced above were conducted by each party’s respective legal representatives. There were no CASA representatives present during these discussions.

Civil Aviation Safety Authority
(Question No. 519)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

1) Was a scheduled phone hook-up with that officer scheduled, for 30 May 2002, cancelled; if so: (a) when was the scheduled phone hook-up cancelled; (b) who made the decision to cancel the phone hook-up; and (c) why was the hook-up cancelled.

2) When was the suspended officer advised that the phone hook-up was cancelled; and (b) how was that advice communicated.

3) (a) In addition to the suspended officer, who else was advised that the scheduled phone hook-up was cancelled; and (b) in each case: (i) how was this information communicated, and (ii) when was it communicated.

4) What records of the provision of that advice are held by CASA.

5) (a) Who holds those records; and (b) in what form are those records held.

6) If those records are held in hardcopy files, what is the reference number for each relevant file.

7) If those records are held in electronic form, what is the reference number for each relevant electronic file.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has advised the following:

1) See response to Question 518 (1).

2) (a) and (b) CASA is unaware of when the Officer was advised that the phone hook-up was cancelled.

3) As referenced in CASA’s response to question 518, a number of telephone conversations took place between the CASA officer’s solicitor and the solicitors acting on behalf of CASA during late May and early June, including on 29 and 30 May 2002. Up until the morning of 30 May 2002, the solicitors had agreed that if these discussions did not resolve the matter, there would be a meeting on 30 May 2002. On the morning of 30 May 2002, the meeting was postponed.

A review of CASA’s files has not revealed who, within the Authority, was informed that the meeting had been cancelled, however information was conveyed as appropriate by the Project Manager, Workplace Relations, Human Resources Management Branch, to senior CASA staff directly involved in the management of this issue. CASA is unaware of any other person external to the Authority who was informed that the discussion had been cancelled.

4) A review of CASA’s files has not revealed who, within the Authority, was informed that the meeting had been cancelled, however information was conveyed as appropriate by the Project Manager, Workplace Relations, Human Resources Management Branch, to senior CASA staff directly in-
involved in the management of this issue. The Project Manager, Workplace Relations, Human Resource Management Branch maintains CASA's records of emails and correspondence between the parties.

(5) (a) and (b) The Project Manager, Workplace Relations, Human Resource Management Branch maintains records of emails and correspondence between the parties.

(6) The CASA file number is 01/11825-03.

(7) Records held in electronic form are not assigned a reference number. The Project Manager, Workplace Relations, Human Resource Management Branch holds records relating to this matter on his "H" Drive. However, all documents of relevance relating to this matter are also held in paper form (see 6. above).

Civil Aviation Safety Authority
(Question No. 520)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

(1) When was the Civil Aviation Safety Authority (CASA) officer, who was suspended from CASA on 24 October 2001, first advised that a phone hook-up was to take place on the afternoon of 30 May 2002 to seek to resolve the issue of his alleged inappropriate behaviour.

(2) (a) Who advised the Officer of the proposed phone hook-up; and (b) how was the officer notified.

(3) What records of that advice are held by CASA.

(4) (a) Who holds those records; and (b) In what form are those records held.

(5) If those records are held in hardcopy files, what is the reference number for each relevant file.

(6) If those records are held in electronic form, what is the reference number for each relevant electronic file.

Civil Aviation Safety Authority
(Question No. 521)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

(1) In addition to the Civil Aviation Safety Authority (CASA) officer who was suspended from duty on 24 October 2001, what other CASA officers, or other persons, were advised that a phone hook-up was to take place on the afternoon of 30 May 2002 to seek to resolve the issue of his alleged inappropriate behaviour.

(2) (a) Who advised these other officers or other persons of the proposed phone hook-up; and (b) in each case: (i) when were they notified, and (ii) how were they notified.

(3) What records of the provision of that advice are held by CASA.

(4) (a) Who holds those records; and (b) in what form are those records held.

(5) If those records are held in hardcopy files, what is the reference number for each relevant file.

(6) If those records are held in electronic form, what is the reference number for each relevant electronic file.

Civil Aviation Safety Authority
(Question No. 520)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

(1) When was the Civil Aviation Safety Authority (CASA) officer, who was suspended from CASA on 24 October 2001, first advised that a phone hook-up was to take place on the afternoon of 30 May 2002 to seek to resolve the issue of his alleged inappropriate behaviour.

(2) (a) Who advised the Officer of the proposed phone hook-up; and (b) how was the officer notified.

(3) What records of that advice are held by CASA.

(4) (a) Who holds those records; and (b) In what form are those records held.

(5) If those records are held in hardcopy files, what is the reference number for each relevant file.

(6) If those records are held in electronic form, what is the reference number for each relevant electronic file.

Civil Aviation Safety Authority
(Question No. 521)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

(1) In addition to the Civil Aviation Safety Authority (CASA) officer who was suspended from duty on 24 October 2001, what other CASA officers, or other persons, were advised that a phone hook-up was to take place on the afternoon of 30 May 2002 to seek to resolve the issue of his alleged inappropriate behaviour.

(2) (a) Who advised these other officers or other persons of the proposed phone hook-up; and (b) in each case: (i) when were they notified, and (ii) how were they notified.

(3) What records of the provision of that advice are held by CASA.

(4) (a) Who holds those records; and (b) in what form are those records held.

(5) If those records are held in hardcopy files, what is the reference number for each relevant file.

(6) If those records are held in electronic form, what is the reference number for each relevant electronic file.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) and (2) CASA is unaware of whether the Officer was advised that discussions were scheduled for 30 May 2002. This is a matter for the CASA officer and his legal representation.

(3)- (6) Not applicable.
(1)-(3) As referenced in CASA’s response to questions 518 and 519, a number of telephone conversations took place between the CASA officer’s solicitor and the solicitors acting on behalf of CASA during late May and early June, including on 29 and 30 May 2002.

Up until the morning of 30 May 2002, the solicitors had agreed that if these discussions did not resolve the matter, there would be a meeting on 30 May 2002. On the morning of 30 May 2002, the meeting was postponed. The Project Manager, Workplace Relations, Human Resources Management Branch was advised that the meeting had been scheduled. The Project Manager, Workplace Relations, Human Resources Management Branch advised senior staff directly involved in the management of the issue of the advice provided to him by solicitors acting on behalf of the Authority, including the advice that if discussions between the parties did not resolve the matter, there would be a meeting on 30 May 2002.

(4)-(6) Not applicable

Civil Aviation Safety Authority
(Question No. 522)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

(1) In addition to the Civil Aviation Safety Authority (CASA) officer who was suspended on 24 October 2001, what other CASA officers, or other persons, have received advice or information of any other communications relating to his suspension since 30 May 2002.

(2) (a) Who provided that advice or information or in any way communicated with these other CASA officers, or other persons, with regard to any matters relating to the suspension of the officer; and
(b) in relation to each CASA officer, or other person, when did those communications take place.

(3) What records of the provision of that advice are held by CASA.

(4) (a) Who hold those records; and (b) in what form are those records held.

(5) If those records are held in hardcopy files, what is the reference number for each relevant file.

(6) If those records are held in electronic form, what is the reference number for each relevant electronic file.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has advised the following:

(1) Information relating to this matter was placed on the public record during the Senate Rural and Regional Affairs and Transport Committee’s consideration of Estimates conducted on 29 May 2002. Since that time, the following officers have received direct information or advice from CASA relating to the suspension of the CASA officer:

- Executive Manager, Corporate Services
- General Manager, Human Resource Management Branch
- Project Manager, Workplace Relations
- Team Leader, Payroll Section
- Manager, People, Pay and Conditions
- Human Resource Officer, People, Pay and Conditions
- Policy Officer, Workplace Relations
- Human Resources Strategic Adviser
- General Counsel, CASA Office of Legal Counsel
- Legal Counsel, CASA Office of Legal Counsel
- Executive Manager, Aviation Safety Compliance Division
- General Manager, Airline Operations
- Manager, Airline Operations, Sydney.
In addition to the officers specified above members of CASA’s Executive, Finance Branch, and Corporate Affairs Branch were provided with general information or advice relating to the suspension of the CASA Officer.

Staff members of the Sydney Airline Office were advised on 31 July 2002 by their Manager that the situation had been resolved.

Other persons who have received information or advice on this matter since 30 May 2002 include the suspended officer’s legal representation, legal representatives acting on behalf of the Authority and representatives of the Department of Transport and Regional Services.

(2) (a) Since 30 May 2002, this matter has been co-ordinated by the Project Manager, Workplace Relations.

(b) With regards to the CASA officers referenced above, each received general communication from June 2002.

The staff members of the Sydney Airline Office were advised by their Manager on 31 July 2002 that the situation had been resolved.

Other persons who have received information or advice on this matter since 30 May 2002 include the suspended officer’s legal representation, legal representatives acting on behalf of the Authority and representatives of the Department of Transport and Regional Services. This information was provided on a general basis both prior to and from June 2002.

(3) Records of emails and other correspondence is retained on CASA file number 01/11825-03.

(4) The Project Manager, Workplace Relations, Human Resource Management Branch, holds records of emails and correspondence between the parties.

(5) Records of emails and other correspondence is retained on CASA file number 01/11825-03.

(6) Records held in electronic form are not assigned a reference number. The Project Manager, Workplace Relations, Human Resource Management Branch, hold records relating to this matter on his “H” Drive. However, all documents of relevance relating to this matter are also held in paper form (see 5. above).

Civil Aviation Safety Authority

(Question No. 523)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

(1) On how many occasions has the Civil Aviation Safety Authority (CASA) officer who was suspended from CASA on 24 October 2001 been provided with legal advice or contacted on matters relating to his suspension, since the afternoon of 30 May 2002.

(2) On each occasion: (a) who contacted the officer; (b) in what manner was the contact made; and (c) when was the contact made with the suspended officer.

(3) What records of that advice, or contact are held by CASA.

(4) (a) Who holds those records; and (b) in what form are those records held.

(5) If those records are held in hardcopy files, what is the reference number for each relevant file.

(6) If those records are held in electronic form, what is the reference number for each relevant electronic file.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has advised the following:

(1) CASA is not aware of how many times the CASA officer who was suspended from CASA on 24 October 2001 has been provided with legal advice. All communications with the suspended officer have occurred between the parties’ legal representatives.

(2) All communications with the suspended officer have occurred between the parties’ legal representatives.

(3) All emails and written correspondence between each parties’ legal representatives has been placed on file.
(4) The Project Manager, Workplace Relations, Human Resource Management Branch holds records of emails and correspondence between the parties.

(5) Records of emails and other correspondence is retained on CASA file number 01/11825-03.

(6) Records held in electronic form are not assigned a reference number. The Project Manager, Workplace Relations, Human Resource Management Branch hold records relating to this matter on his “H” Drive. However, all documents of relevance relating to this matter are also held in paper form (see 5. above).

Fisheries: Southern Supporter
(Question No. 565)

Senator Chris Evans asked the Minister for Forestry and Conservation, upon notice, on 19 August 2002:

(1) What are the terms on which the Australian Fisheries Management Authority charters the Southern Supporter, including the following details: (a) how many patrols the vessel is contracted to operate annually; (b) how lengthy the patrols are (i.e. number of seagoing days); (c) the value of the contract (i.e. what the Commonwealth pays for this service); (d) whether there are any performance measures for provision of the service (e.g. number of suspected illegal vessels apprehended etc.); and (e) whether there are any penalties if the Southern Supporter cannot, for any reason, patrol for as many seagoing days as it is supposed to.

(2) What was the total number of seagoing days of the Southern Supporter for each of the 2000-01 and 2001-02 financial years.

(3) Can the following details be provided in relation to the Southern Supporter for each of the 2000-01 and 2001-02 financial years: (a) the number of vessels intercepted; (b) how many were suspected of illegally fishing in Australian waters; (c) how many vessels were boarded or searched; (d) how many were apprehended; and (e) how many had their fishing equipment and catch seized.

(4) Can a physical description of the Southern Supporter, including the capabilities and the following details, be provided: (a) the length of the vessel; (b) crew size; (c) how many people beyond the crew can be accommodated and carried; (d) ability of the crew to board another vessel; (e) whether the vessel carries any inflatable boats or dinghies for the purpose of rescue or apprehension operations; (f) whether the vessel can carry a helicopter; if so, whether it usually does on patrols; and (g) patrol range of the vessel.

(5) Is the vessel capable of operating across the entire Southern Ocean; if not, what are its geographical limits.

(6) Are there any plans to continue the funding of the Southern Supporter beyond 2003; if not, are there plans to hire or lease other vessels for patrolling the Southern Ocean and the Australian Antarctic Territory.

(7) Has there been any evaluation done of the contract for the Southern Supporter; if so, what were the results.

Senator Ian Macdonald—The answer to the honourable senator’s question is as follows:

(1) (a) Patrol frequency is important tactical information and if made public could compromise future monitoring, surveillance and enforcement activity by Australia against illegal, unreported and unregulated (IUU) fishing activity at Heard Island and the McDonald Islands (HIMI). (b) Patrol duration is important tactical information and if made public could compromise future monitoring, surveillance and enforcement activity by Australia against IUU fishing activity at HIMI. (c) The last Deed of Standing Offer between P&O Maritime Services Pty Ltd and the Australian Fisheries Management Authority (AFMA) expired on 30 June 2002 and a new Standing Deed of Offer is currently under negotiation. Historically, pursuant to the Deed of Standing Offer, AFMA enters into a contract with P&O Maritime Services Pty Ltd for charter of the Southern Supporter, on a patrol-by-patrol basis. Detail of the contract with the vessel provider, P&O Maritime Services Pty Ltd, including the total value of the contract, is commercial-in-confidence information. (d) There is no formally agreed performance evaluation framework in place for each contract. Each contract is evaluated informally and on an ongoing basis after each patrol and when each new contract is agreed to provide for the evolving operational needs of Commonwealth authorities in combating
IUU fishing activity at HIMI. (e) The terms of the contract provide for a reduction in charges for non-performance of the Southern Supporter.  

(2) Historical data concerning the total number of seagoing days of the Southern Supporter is important tactical information and if made public could compromise future monitoring, surveillance and enforcement activity by Australia against IUU fishing activity at HIMI.  

(3) (a) Two vessels were intercepted by the Southern Supporter during the period in question, the South Tomi in 2000-01 and the Lena in 2001-02. (b) Both the South Tomi and Lena were suspected of fishing illegally in Australian waters. Following the apprehension of both vessels, the Masters and a number of senior crewmembers of the South Tomi and the Lena were successfully prosecuted for illegal fishing in Australian waters. Both vessels and the catch on board have also been forfeited to the Commonwealth. During an extended hot pursuit of the Lena by the Southern Supporter, two vessels, the Florence and the Volga, assisted the Lena by firstly broadcasting bogus Emergency Position Indicating Rescue Beacon (EPIRB) signals in an attempt to get the Southern Supporter to break off its hot pursuit. The Florence also re-fuelled the Lena. Whilst there had not been any recorded observations of the Florence or the Volga fishing in the Australian fishing zone (AFZ) around HIMI at that time, both vessels were strongly suspected of involvement in IUU fishing. The Royal Australian Navy subsequently apprehended the Volga for suspected illegal fishing in Australian waters earlier this year. Legal proceedings concerning the apprehension of the Volga are still before the Australian Courts. (c) No operations to board or search other vessels were undertaken from the Southern Supporter during 2000-01 or 2001-02. (d) No vessels were apprehended by the Southern Supporter during 2000-01 and 2001-02. Subsequent military operations directly related to the Southern Supporter patrols led to the apprehension of the South Tomi in April 2001, and the Lena and Volga in February 2002. (e) In terms of patrols undertaken by the Southern Supporter, no vessels had their fishing equipment or catch seized during 2000-01 or 2001-02.  

(4) (a) The overall length of the Southern Supporter is 75.4 metres. (b) The Southern Supporter accommodates a crew of thirteen. (c) Besides the crew there is accommodation for an additional 34 passengers in one and two berth cabins. There is also a two-bed hospital. (d) Boarding capability is important tactical information and if made public could compromise future monitoring, surveillance and enforcement activity by Australia against IUU fishing activity at HIMI. (e) The Southern Supporter routinely carries a number of ancillary craft including a 7.7 m aluminium workboat, a 5.5 m craft and a 4.3 m craft. While under charter to AFMA this configuration does change depending on the circumstances of each patrol. (f) The helideck permits full operation of a Bell 412 helicopter. In terms of whether the vessel carries a helicopter on patrol in the sub-Antarctic, operational capability is important tactical information and if made public could compromise future monitoring, surveillance and enforcement activity by Australia against IUU fishing activity at HIMI. (g) The Southern Supporter has a 14,000 nautical miles/50 days endurance capability.  

(5) Yes. The Southern Supporter is on the Lloyd’s Register and has 100A1 Ice Class 1A + LMC Special Purpose rating. However, the Southern Supporter is not an icebreaker and is limited in its range to that extent.  

(6) The terms of reference for the recently established high level policy group include the directive to provide advice and reports to relevant Ministers on illegal fishing issues and to implement the Government’s response to combat IUU fishing and protect the HIMI fishery. A final decision regarding future surveillance, monitoring and enforcement activity by Australia in the Southern Ocean will be considered late this year in the context of implementation of the overall strategy and in light of advice of the efficiency and effectiveness of the civil charter and RAN patrols undertaken to date.  

(7) There has been no formal evaluation of the contract of the Southern Supporter to date. However, the performance of the vessel is evaluated after each patrol and when the contract is renewed. These reviews have resulted in improved operational arrangements where required. To date the performance of the vessel has met expectations.
Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 27 August 2002:

(1) Is there a performance indicator for the payment of doctors’ fees for services provided to veterans in the memorandum of understanding between the department and the Health Insurance Commission; if so, what is the timeframe in which the Health Insurance Commission is required to pay.

(2) How has the Health Insurance Commission performed against this indicator on a monthly basis over the past 2 years.

(3) What is the average time for payment of fees for medical services provided, by category of health care service, on a monthly basis over the past 12 months.

(4) Can a copy of the memorandum of understanding between the department and the Health Insurance Commission be provided.

(5) (a) What was the total amount paid to the Health Insurance Commission by the department annually for each of the past 3 years; and (b) how many individual claims for payment for a service were made by doctors in each of those years, by Medicare item number.

(6) When is the memorandum of understanding with the Health Insurance Commission due for revision or renewal.

(7) Will the services presently provided by the Health Insurance Commission be put out to tender on expiry of the existing contract; if so, when will that occur.

(8) What is the estimated cost per transaction for administration (ie. rate per claim and payment) of the new Orange Card.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) A new Services Agreement with the Health Insurance Commission (HIC) is in the process of being finalised. This agreement will replace the Memorandum of Understanding (MOU) which has been in place since 1996. The performance indicators for the payment of doctor’s fees in the 1996 MOU are as follows:

- Local Medical Officers Accounts – To be paid within 28 days of date of lodgement with HIC. Accounts not paid within 28 days are subject to a penalty of 1.5% of the account for each 28 days the account is overdue.
- Specialists Accounts – To be paid within 28 days of date of lodgement with HIC.

(2) Over the past 2 years the HIC has consistently paid 99% of medical accounts within 28 days from date of lodgement.

(3) The average number of processing days from date of lodgement to date of processing for payment of fees for medical services over the past 12 months are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Jul 01</th>
<th>Aug 01</th>
<th>Sep 01</th>
<th>Oct 01</th>
<th>Nov 01</th>
<th>Dec 01</th>
<th>Jan 02</th>
<th>Feb 02</th>
<th>Mar 02</th>
<th>Apr 02</th>
<th>May 02</th>
<th>Jun 02</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specialist Services</td>
<td>12.81</td>
<td>11.79</td>
<td>11.32</td>
<td>10.62</td>
<td>11.84</td>
<td>11.04</td>
<td>12.29</td>
<td>10.81</td>
<td>12.11</td>
<td>11.69</td>
<td>10.52</td>
<td>10.73</td>
</tr>
</tbody>
</table>

(4) Yes, the MOU will be forwarded separately to the honourable senator.

(5) (a) The total amount paid to the HIC by the Department of Veterans’ Affairs for the processing of accounts for each of the past 3 years is as follows:

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<tbody>
<tr>
<td>$M</td>
<td>$14,344</td>
<td>$14,354</td>
<td>$16,824</td>
</tr>
</tbody>
</table>
These figures cover all service types, for example not only doctors’ services but also payment to allied health professionals, community nurses and hospitals.

(b) The following figures are the total number of medical services paid in the last 3 financial years.

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<tbody>
<tr>
<td></td>
<td>11,346,260</td>
<td>11,858,794</td>
<td>11,919,510</td>
</tr>
</tbody>
</table>

These figures represent services by medical providers (ie. general practitioners and specialists). A breakdown by Medicare item number is not currently available.

(6) and (7) The current MOU was due for renewal on 30 November 2001. However, provision exists for an extension to enable re-negotiation which is currently underway. The provision of services presently provided by the HIC will not be put out to tender as they will be incorporated into the current renegotiation of the agreement.

(8) The Department of Health and Ageing pays for processing Repatriation Pharmaceutical Benefits Scheme transactions as part of the Pharmaceutical Benefits Scheme script processing. The average cost per transaction is 25 cents.

**Defence: High Frequency Modernisation Project**

(Question No. 589)

Senator Chris Evans asked the Minister for Defence, upon notice, on 28 August 2002:

With reference to the High Frequency Modernisation Project (noted on page 82 of the Portfolio Budget Statement):

1. When was approval granted for this project.
2. Can a description of all the major phases of the project be provided.
3. (a) What was the original timeline for the completion of the project, including the dates for all major phases in the project; and (b) when was it due to be completed.
4. What was the original budget for this project.
5. (a) What is the current schedule for the completion of this project, including the dates for all major phases in the project; and (b) when is the project now due to be completed.
6. If there have been any delays associated with this project in relation to any of the phases, indicate the length of the delay and the reason for the delay.
7. If there have been any delays associated with this project, has the department sought compensation for the delays or imposed penalties on the supplier.
8. What is the current budget for this project.
9. If the cost has increased from the original budget, what are the reasons for the cost increase.
10. In relation to all contracts signed for this project, can the following information be provided: (a) when the contracts were signed; (b) the amount each contract is worth; (c) the nature of the activity covered by that contract; and (d) whether they have liquidated damages clauses.
11. Given the scale of the project, why is it not listed on the Defence Materiel Organisation’s website like a number of other projects.

Senator Hill—The answer to the honourable senator’s question is as follows:

Joint Project 2043 will modernise the high frequency radio communications systems used for the command and control of deployed Australian Defence Force assets. It will comprise a fixed high frequency radio network of four stations in the Riverina, Townsville, Darwin and North West Cape with centralised control being exercised from Canberra. The project will also upgrade selected Australian Defence Force aircraft, ships and vehicles to test the capability of the new system.

(1) Phases 1 and 2A of JP 2043 High Frequency Modernisation Project were approved in 1993. Phase 3A was approved in the context of the 1996/97 Budget.

(2) The High Frequency Modernisation Project is to replace aging Royal Australian Navy (RAN) and Royal Australian Air Force (RAAF) high frequency communications systems and provide enhanced capability using leading edge technology. The original project strategy provided for implementation in four phases:
• Phase 1 - A Network Definition Study to define the basic requirement and conduct an Invitation to Register Interest process, resulting in an initial short-listing of possible tenderers. Purchase of some land for a future high frequency site was also initiated in this phase.

• Phase 2A – Identification of the best value option for provision of a modernised high frequency communications system. This was achieved through parallel Project Definition Studies, undertaken by two companies selected as a result of a Request for Proposal to the short-listed companies selected in Phase 1. Some equipment and land required for the final system were also acquired under this phase.

• Phase 3A - The provision of the fixed network, its support for five years under a Network Operation and Support Contract, upgrading of an initial range of mobile platforms and provision of an Integrated Logistics System package for their support.

• Phase 3B (Never Approved) - Upgrading of other mobile platforms.

In October 1999, Defence revised the number and type of mobile platforms to be upgraded under Phase 3A and cancelled plans for the unapproved Phase 3B.

(3) (a) Phase 1 - commenced in August 1993 for completion in June 1994.

Phase 2A - commenced in December 1994 for completion in December 1996.

Phase 3A - the contract for this phase was signed on 31 December 1997 for completion at the end of 2004.

Phase 3A seeks to upgrade the fixed network in two stages:

(i) An initial network (called Core) to replace the existing networks by the end of 2001.

(ii) Enhancements to the Core network to provide improved capabilities by mid 2004 including the upgrade of selected platforms.

(b) The project was originally due to conclude at the end of 2004.

(4) The original budget for Phase 1 was $3.545m (April 1993 prices). This was increased to $6.970m (December 1996 prices) to fund land purchases. The original budget for Phase 2A was $6.565m (April 1993 prices) and for Phase 3A was $505.00m (December 1996 prices).

(5) (a) Phase 1 - this phase was completed on schedule in June 1994.

Phase 2A - this phase was completed on schedule in December 1996.

Phase 3A – Defence assesses that this phase will be completed in 2005. However, the contractor (Boeing) is still predicting delivery of the final fixed network and upgrades of platforms by the end of 2004.

(b) The project is now due to be completed in 2005.

(6) The delivery of the Core network under Phase 3A has experienced Defence and contractor originated delays and is scheduled for completion in the second half of 2003. Defence delays arose from a review of the operational requirement leading to changes to the technical specifications of the system. Time was taken at the start of the project to ensure that the final product delivered to the ADF could meet the evolving capability requirements.

Boeing is encountering delays due to difficulties with software engineering. Complex software is needed to manage the HF equipment as a single system spanning Australia and its surrounding areas. The software development problems arose because the contractor misjudged the development effort required and is experiencing configuration management problems.

(7) The Phase 3A supply contract has provisions to delay payments when critical milestones are not met. In addition, late delivery of the Core Network would trigger liquidated damages provisions. To date the critical milestone “not met” provisions have been applied twice. Payments were not resumed until Boeing demonstrated that the conditions of the critical milestone had been achieved. While this provision is not a formal penalty it is viewed as such by the supplier as it effects the company’s cashflow.

This contract also contains provisions for liquidated damages to remunerate the Commonwealth for the cost of extending the operation and maintenance of the existing RAN and RAAF high frequency communications systems. These will be triggered if delivery of the Core network is more than three months after the contract date (i.e. triggered in February 2003). When triggered the liquidated damages applied are calculated from the contracted delivery date of November 2002.
Boeing’s failure to achieve software development milestones resulted in Defence withholding payment. Boeing has recently met some of these milestones and Defence has released $11m of withheld payments. A further $2.5m is still being withheld against work not yet satisfactorily completed.

(8) Phases 1 and 2A were delivered for $2.725m (December 1993 prices) and $6.136m (December 1995 prices) respectively. The current budget for Phase 3A, is $595.116m (December 2002 prices).

(9) Phases 1 and 2A were delivered under budget. Increases for Phase 3A include increases due to expansion of the original scope to include extra capabilities - $14.350m (December 2002 prices)) and increase to compensate for economic conditions (inflation and exchange rate fluctuation - $75.766m (December 2002 prices)). These increases are made up as follows:

(i) on 13 February 1999, real cost increase of $11m (December 1992 prices) to add a High Frequency Direction Finding capability;

(ii) a $2.303m (December 1997 prices) real cost increase in July 1998 consisting of funds not expended in Phases 1 and 2A. This increase was offset by a real cost decrease in Phases 1 and 2A and the transfer of associated capability support tasks;

(iii) a $0.147m (December 1998 prices) real cost increase in February 1999 to Phase 3A consisting of travel funds not expended in Phases 1 and 2A but required on the basis that the associated work was to be undertaken under Phase 3A;

(iv) a $0.900m (December 2001 prices) real cost increase in May 2002 from Project APIN (Army Project in the North) to fund the procurement of new High Frequency radios on behalf of the Army in Darwin; and

(v) the other increases ($75.766m (December 2002 prices)) result from price increases to account for inflation and exchange rate fluctuations.

Despite the schedule delays, the project is proceeding on budget.

(10) (a) Phase 1 was conducted by the Defence Science and Technology Organisation. No contract was entered into. Phase 2A resulted in two contracts, one each with Telstra and Rockwell Australia Pty Ltd, being signed in May 1995. Under Phase 3A, a prime contract for supply of the network was signed with Boeing Australia Ltd on 31 December 1997. A five year maintenance and support contract for the fixed network was also signed with Boeing Australia Ltd on 31 December 1997.

(b) The Phase 2A contracts were for $2m each. The Phase 3A Prime Contract has a fixed price of $314m (in 1996 base date dollars). The Prime Contract also contains options for equipping mobile platforms which may be activated later in the project. The maintenance and support contract price is $72.480m (in 1996 base date dollars).

(c) The Phase 2A contracts were both for Project Definition Studies to identify the best value option for provision of a modernised high frequency communications system. The Phase 3A Primary contract is to replace the existing Naval Communications Stations Canberra, Darwin and Harold E Holt, the high frequency component of the Naval Communications Area Local Stations at Sydney, Fremantle and Cairns, and the RAAF Air Operations Communications System stations at Darwin, Perth, Sydney and Townsville. The new network comprises four geographically distributed pairs of transmitter and receiver stations with a local management facility integrated into either the receiver or transmitter site remotely controlled by a centralised network management facility in the Australian Capital Territory.

Compared with the current systems the modernised system will provide increased security and survivability, reduce the vulnerability to electronic attack and provide improved throughput and significant automation of high frequency communications. It will also reduce operating costs by combining the three staffed RAN and four staffed RAAF sites with one staffed and four unstaffed sites and by providing equipment that requires less operator intervention and is more reliable. The project will also equip selected mobile platforms.

The maintenance and support contract will provide five years of support to the fixed component of the high frequency communications system. The maintenance and support contract will commence after the acceptance of the Core System at which time the system will be
used by the ADF as the primary HF system. Enhanced capability introduced during the five year period of the initial support contract will also be supported under the same contract.

(d) The contract for supply of the modernised high frequency communications system has liqui-
dated damages provisions. (See answer to Question 7 above.)

(11) The website was removed to be upgraded and is presently being reviewed by Defence manage-
ment to ensure the appropriateness of the information being provided for public dissemination.

**Defence: AGM-142 Weaponry**

(Question No. 590)

_Senator Chris Evans_ asked the Minister for Defence, upon notice, on 28 August 2002:

With reference to AGM-142 weaponry:

(1) When were stocks of this weapon first purchased by the Australian Defence Force (ADF).

(2) What version of the AGM-142 was purchased by the ADF.

(3) What was the total cost of the purchase and, if possible, can a unit cost also be provided.

(4) What is the latest estimate on the total cost of modifying the F-111 fleet to enable these aircraft to deploy the AGM-142.

(5) What is the latest estimate on when those modifications will be completed.

(6) Has a decision been taken not to proceed with the modifications to the F-111s.

(7) Have any steps been taken to sell Australia’s stock of AGM-142s; if so, is it now planned to sell off Australia’s entire stock of these weapons.

_Senator Hill—_ The answer to the honourable senator’s question is as follows:

(1) The first Foreign Military Sales case was approved in June 1996 seeking delivery of limited training assets in May 1998. This followed the first funding approval which occurred in the 1994/1995 budget.

(2) The missile version being purchased by the ADF is the AGM-142E, an Australian variant of the United States Air Force AGM-142D ‘Have–Nap’ missile. The purchase includes AGM142E-1, blast fragmentation and AGM142E-2 penetration weapons.

(3) Total cost of the purchase of the missiles is US$102.3 million (in 2002 prices). This figure in-
cludes all variants and training missiles. Individual unit costs are classified.

(4) $53 million.

(5) Initial Operational Capability will be achieved by September 2004 and full fleet modification will be finalised by June 2005.

(6) No.

(7) No.

**Department of Finance and Administration: Superannuation**

(Question No. 614)

_Senator Sherry_ asked the Minister for Finance and Administration, upon notice, on 30 August 2002.

(1) For each department within the Minister’s portfolio, how is superannuation calculated (ie. Is the superannuation entitlement calculated on base salary and other income payments, such as overtime allowance or performance bonuses, or on base salary alone).

(2) If the department calculates superannuation on a broader basis, by incorporating all income pay-
ments in the calculation of superannuation entitlement, but allows employees to opt out of this ar-
rangement so as to reduce the basis upon which superannuation is calculated, what proportion of employees do this.

_Senator Minchin—_ The answer to the honourable senator’s question is as follows:

**Department of Finance and Administration**

(1) Salary for superannuation purposes is set in accordance with the relevant Superannuation Acts.

(2) Not applicable.
Sustainable Regions Program
(Question No. 621)

Senator McLucas asked the Minister for Transport and Regional Services, upon notice, on 6 September 2002:

(1) (a) Who are the members of the committees for each of the eight sustainable regions; and (b) when were they appointed.
(2) What criteria were used to select the committee members.
(3) What selection process was undertaken in choosing the committee members.
(4) What skills, attributes and experience does each individual committee member bring to these positions.
(5) What rules apply to the operations of each committee including: (a) how projects are identified; (b) how projects are chosen for funding; (c) how projects are announced; (d) how projects are monitored; (e) how projects are evaluated; (f) how the success of a project will be measured; (g) the protocols that apply to committee meetings; (h) how many members of each committee must be in attendance at meetings involving funding allocation decisions; and (i) the protocols are in place for replacement of committee members.
(6) For each of the eight regions, when will selection of projects for funding in 2002-2003 financial year be undertaken.
(7) When will projects for the 2002-2003 financial year be announced.
(8) Can a copy of the standard contract for these projects be provided.
(9) What organisations are eligible to apply for SRP funding.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) (a) The members of the eight Sustainable Region Advisory Committees (SRACs) and
(b) their date of appointment are listed below:

Far North East New South Wales
SRAC appointed – 5 October 2001
Chair: Mr Geoff Provest.
Members: Mr Greg Redmond, Ms Robin Amos, Mr Chris Condon, Ms Lexie Hurford, and Councillor Ernie Bennett.

Campbelltown-Camden, New South Wales
SRAC appointed – 5 October 2001
Mrs Julie O’Keefe appointed – 22 August 2002
Chair: Mr Bruce Hanrahan.
Members: Mr Ken Tagg, Councillor Geoff Corrigan and Mrs Julie O’Keefe (note Councillor Corrigan resigned from the Advisory Committee on 15 July 2002 and was replaced by Mrs O’Keefe).

Gippsland, Victoria
SRAC appointed – 5 October 2001
Chair: Mr John Hutchinson.
Members: Ms Robyn Cooney and Dr Robert Haldane.

Atherton Tablelands, Queensland
SRAC appointed – 10 December 2001
Chair: Mr Peter McDade.
Members: Councillor Mary Lyle, Councillor Anne Portess, Councillor Mick Borzi, Councillor Jim Chapman, and Professor Bob Beeton.

Kimberley, Western Australia
Date committee appointed – 21 December 2001
Mr Ian Trust appointed – 3 June 2002
Chair: Ms Cori Fong.

Members: Councillor Josie Farrer, Councillor Elsia Archer, Councillor Barbara Johnson, Councillor Kevin Fong, Mr Chris Kloss, Mr Ron Johnston, Mr Ian Trust, and Mr Jeff Gooding.

North West & West Coast Tasmania
SRAC appointed – 18 February 2002
Chair: Mr Roger Jaensch.

Members: Mr Russell Paterson, Mr Bob Wilson, Ms Catherine Fernon, Ms Megan Cavanagh-Russell, Mr David Sales, Mr Ross Hine, Ms Judith Liauw, Mrs Mary Binks, and Mr David Reed.

Playford/Salisbury, South Australia
Date committee appointed – 27 March 2002
Chair: Mr Peter Smith.

Members: Mr Tim Jackson, Mr Stephen Hains, Mr Kym Good, Mr Gerry Davies, and Mr Ron Watts.

Wide Bay Burnett, Queensland
SRAC appointed – 4 April 2002
Chair: Ms Diana Collins.

Members: Mr Robin Grundon, Ms Dot Hamilton, Councillor Ted Sorensen, Mr John Metelli, Mr Stephen Dixon, Mr Howard Leisemann, and Councillor Bill Trevor.

(2) Social, business, industry, environmental and cultural leaders and achievers in each sustainable region were selected for SRAC membership based on their knowledge and expertise.

(3) Prospective names were sought from the region based on (2) above and then sent to me for consideration.

(4) Each committee member was selected for their expertise within the region and the knowledge that they could bring to the role. Members were drawn from local government, local businesses, Area Consultative Committees, Indigenous communities and community organisations. All members are prominent in their region and were selected based on their past effective community involvement.

(5) (a) Projects are identified through an Expression of Interest (EoI) phase (which includes placing advertisements in local newspapers) and those that best meet the programme assessment criteria and the region’s identified priorities are invited to submit a full application. (b) Each application is rigorously assessed by the SRAC and the Department of Transport and Regional Services against project assessment criteria with proponents needing to demonstrate the project will address one or more of the region’s identified priorities. I make the final decision on whether a project receives funding. (c) Successful projects are announced in a variety of ways including launches, media releases and posting on web sites. (d) The Department of Transport and Regional Services and the Executive Officer in each region monitor projects and regularly report back to the SRAC on progress. (e and f) Projects are evaluated and their success measured using the reporting mechanisms in the funding agreement and the overall objectives of the programme. (g) The SRACs are governed by operating protocols published in the SRP guidelines and based on Australian National Audit Office best practice. These are listed below. (h) A quorum is required (see Operating Protocols). (i) Where a committee member resigns and needs to be replaced this is done in accordance with the criteria and processes outlined in (2) and (3) above.

OPERATING AND GOVERNANCE ARRANGEMENTS FOR SUSTAINABLE REGIONS ADVISORY COMMITTEES

TERMS OF REFERENCE

SUSTAINABLE REGIONS ADVISORY COMMITTEES

The Sustainable Regions Advisory Committee shall advise the Minister for Transport and Regional Services on matters relating to the implementation and management of the Sustainable Regions Programme and its strategic direction for the region. This will include:

• In consultation with the community, determining the priorities of the region;
• Managing an EoI exercise;
Providing direction to the Executive Officer;
Assessing grant applications; and
Making recommendations to the Minister on project funding.

The Advisory Committee shall be guided by the objectives and priorities of the Sustainable Regions Programme as it relates to the region.

In undertaking the above, the Advisory Committee will; consider and provide advice on proposals, taking into account agreed selection criteria for projects, the programme guidelines and any departmental advice.

Review and advise on programme documentation - such as guidelines and application forms - as required;
Review and advise on programme direction; and

Role of Chairs
Sustainable Regions Advisory Committees

The duties of the Chair are:

1. Lead the SRAC in the process of selecting and recommending projects for funding under the Sustainable Regions Programme, in accordance with the “Terms Of Reference - Sustainable Regions Advisory Committees” and the “Operating Protocols And Code Of Conduct - Sustainable Regions Advisory Committees”.

2. Act as spokesperson for the SRAC to the Minister, the public and the media.

3. Participate in the selection of an Executive Officer for the Sustainable Region.

4. Provide direction to the Executive Officer in accordance with a workplan agreed by the SRAC and the Department of Transport and Regional Services (DOTARS) and in accordance with the Executive Officer’s duties and responsibilities, which are:

   • managing the Sustainable Regions Programme delivery in the region;
   • provision of high level professional advice to the Advisory Committee to assist it in objectively assessing funding propositions from the community;
   • provision of executive support to the Committee, including organising and preparing meetings, planning sessions and correspondence;
   • initiating and managing partnership arrangements and coordinating activity between the Committee and government agencies, local communities and other organisations;
   • initiating proposals with local community groups and assisting in the development and preparation of proposals;
   • advising commercial entities and other regional stakeholders on the development of proposals to go before the Committee; and
   • undertaking other duties as directed, including acting on behalf of the Committee.

5. Approve, in consultation with DOTARS, expenditure by the Executive Officer that is not included in a budget agreed by the SRAC and DOTARS.

OPERATING PROTOCOLS AND CODE OF CONDUCT
SUSTAINABLE REGIONS ADVISORY COMMITTEES

OPERATING PROTOCOLS

A majority of members shall form a quorum.

The Federal Department of Transport and Regional Services is to be an observer at meetings of the committee. A formal record/minutes must be taken and endorsed at the following meeting.

The committee will always try to reach a consensus but where a vote is taken at a meeting the outcome will be determined by the majority of members present. The majority and minority views will be conveyed to the Minister by the Department.
The Minister has approved funding for Advisory Committees to appoint an Executive Officer initially for a period of one year. The Executive Officer will assist the Chair and the Committee by:

- advising the Committee to assist in objectively analysing and assessing funding applications;
- providing administrative assistance and secretariat support to the Committee;
- liaising, negotiating and coordinating activity between the Committee and government departments and agencies, local communities, and other organisations;
- promoting the Sustainable Regions Programme and assisting local community groups to identify, develop and prepare proposals; and
- undertaking other duties at the direction of the Chair, acting on behalf of the Committee.

Any official communication with the media should be sanctioned by the Chairman and approved by the Minister’s Office.

CODE OF CONDUCT

1. Principles

Members of the Committee must:

1.1 act with impartiality and integrity, conscientiousness and loyalty to the public interest;
1.2 ensure that the work of the Committee is not compromised or affected by any direct or indirect pecuniary or non-pecuniary interest;
1.3 ensure wherever possible that there is no public perception that the committee’s work may be so compromised or affected;
1.4 act as an independent adviser rather than an advocate for any stakeholder organisation;
1.5 ensure the confidentiality of information dealt with by the Committee;
1.6 act in good faith for proper purposes without exceeding their powers; and
1.7 be frank and honest in their official dealings with each other.

2. Confidentiality

2.1 With the exception of material referred to in paragraph 2.2, all information, whether written or not, dealt with by the Committee shall be treated as confidential unless agreed otherwise by a majority of the Committee.
2.2 Any member tabling a document may identify it as not being of a confidential nature, and seek the Committee’s agreement to that status. However, Committee members should not use such information for purposes unrelated to the Committee’s functions. The distribution of such information outside the membership of the Committee may be limited or restricted by agreement of the Committee.
2.3 Information available to members must not be used to obtain any advantage whether direct or indirect, for themselves or for any other person or body.
2.4 Confidential information available to members must be used only in ways which are consistent with the obligations of members to act impartially, with integrity and in the public interest.
2.5 Where confidential information is provided to a Committee member, care must be taken to ensure that the information is kept in secure storage, and that numbers of copies are kept to the minimum necessary. If such information is to be disposed of by a Committee member, it must be destroyed.
2.6 Members should avoid investments or business activities in relation to which they might reasonably be perceived to have access to confidential information which might give them an unfair or improper advantage over other persons.

3. Improper or undue influence

Committee members must take care not to use their position on the Committee to influence any other member of the Committee, or an applicant or potential applicant for assistance under the Sustainable Regions programme for the purpose of obtaining any advantage for themselves, or any other person or body, whether that advantage is direct or indirect.
4. Conflicts of interest

4.1 For the purpose of this Code of Conduct, conflicts of interest arise when members are influenced, or appear to be influenced, by personal interests in carrying out their duties as members of the Committee.

4.2 Conflicts of interest generally fall into one of two categories: pecuniary and non-pecuniary interests.

Pecuniary interests

4.2.1 Pecuniary interests involve an actual or potential financial gain. A pecuniary interest could be described as an interest that a person has in a matter because of reasonable likelihood or expectation of appreciable financial gain or loss to the person, or another person or body with whom the person is associated.

4.3.3 A person is taken to have a pecuniary interest in a matter if either

- the person’s spouse or de facto partner or relative, or business partner or employer of the person, has a pecuniary interest in the matter, or
- the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

4.2.3 A person is not taken to have a pecuniary interest in a matter referred to in paragraph 4.2.2:

- if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or just because the person is a member of, or a delegate of a company or other body that has pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

Non-pecuniary interests

4.2.4 Non-pecuniary interests do not have a financial component. A non-pecuniary interest generally involves some form of personal advancement or gain for the individual or for others (for example, friends or relatives) in whom they have a personal interest. For example, it would include assisting with the preparation of an application for a member of an organisation.

4.3 Disclosures to be made by committee members

4.3.1 If:

- a member of the Committee has a pecuniary or non-pecuniary interest in a matter being considered or about to be considered at a meeting of the Committee; and
- the interest appears to raise a conflict with the proper performance of the member’s duties in relation to the consideration of the matter;

then the member shall, as soon as possible after the relevant facts have come to the member’s knowledge:

(a) disclose the nature of the interest to the Chair at a meeting of the Committee; and
(b) refrain from voting on the matter.

4.4 Action to be taken when interests are declared at committee meetings

4.4.1 Any disclosures of interests and the member’s consequent refraining from voting on the matter in hand will be recorded in the minutes and, where a majority of the Committee considers it necessary, the disclosure will be reported to the Minister together with any relevant advice on the matter.

4.4.2 Where a member discloses a pecuniary or non-pecuniary interest relating to a matter under consideration by the Committee that member may, with the agreement of the Committee, contribute to the Committee’s discussion on the matter.

5. Use of public resources

5.1 The Department of Transport and Regional Services will ensure that financial, material and human resources are provided so that the Committee is able to perform its functions. All these resources should be used for the work of the Committee only, and be used effectively.
6. Gifts, gratuities, hospitality

6.1 Members must avoid giving any indication that gifts, gratuities or hospitality relating to their membership of the Committee will be accepted, either for themselves or for any other person or body, or that these may influence their advice.

6.2 Members may accept only token gifts and modest hospitality. Token gifts are taken to be those valued at around $20 or less. Hospitality is modest when it is not more than the Committee member would provide in return to that person, people or company.

6.3 If any gift, gratuity or hospitality of other than a token kind is offered, full and prompt disclosure must be made to the Chair, or the full Committee as appropriate.

7. Notification of suspected corrupt conduct

7.1 Any matter that is suspected, on reasonable grounds, to concern corrupt conduct should be reported to the Chair or directly to the Minister for Regional Services, Territories and Local Government.

(6) and (7) The selection and announcement of projects is a continuous process. Each region is at a different stage and applications are considered regularly at SRAC meetings. Each SRAC recommends projects to me for funding.

(8) A copy of the standard contract has been provided to Senator McLucas.

(9) Community groups, the private sector and local government.

Higher Education Contribution Scheme

(Question No. 622)

Senator McLucas asked the Minister representing the Minister for Education, Science and Training, upon notice, on 9 September 2002:

With reference to Table 1, page 7, of the discussion paper on university finances, Setting Firm Foundations, which lists the distribution of Higher Education Contribution Scheme (HECS) debts—Can the following information be provided, in the same format as Table 1: The distribution of HECS debts and the average HECS debt of: (a) all HECS debtors who have not made any repayments and who first incurred a HECS debt in or prior to 1999; (b) graduates who have not made any repayments and who first incurred a HECS debt in or prior to 1999; (c) all HECS debtors who have not made any repayments; (d) graduates who have not made any repayments; (e) all HECS debtors who first incurred a HECS debt between 1997 and 1999 and who have not made any repayments; and (f) graduates who first incurred a HECS debt between 1997 and 1999 and who have not made any repayments.

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

The Australian Taxation Office (ATO) administers HECS repayments. The HECS management information system used by the ATO for this purpose is not designed to generate all of the data requested by the honourable member. The ATO data system can only identify HECS debtors as a single group. It cannot distinguish between graduates with a HECS debt and current students with a HECS debt. Thus, only responses to parts (a), (c), and (e) of the honourable member’s question can be provided.

As requested by the honourable member, the data has been presented in the same format as the data in Table 1 of the issues paper Setting Firm Foundations: Financing Australian Higher Education (DEST, July 2002) which shows the distribution of HECS debts by level of debt, as per the table below.

<table>
<thead>
<tr>
<th>Range of loan balances</th>
<th>(a) Number of HECS debtors who have not made any repayments and who first incurred a HECS debt in or prior to 1999</th>
<th>(c) Total number of HECS debtors who have not made any repayments</th>
<th>(e) Number of HECS debtors who first incurred a HECS debt between 1997 and 1999 and who have not made any repayments</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,000 and under</td>
<td>16,019</td>
<td>28,515</td>
<td>3,917</td>
</tr>
<tr>
<td>$1,000.01 to $2,000</td>
<td>22,219</td>
<td>71,236</td>
<td>6,011</td>
</tr>
<tr>
<td>$2,000.01 to $4,000</td>
<td>39,440</td>
<td>108,499</td>
<td>12,462</td>
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<td>$4,000.01 to $6,000</td>
<td>32,058</td>
<td>72,902</td>
<td>11,541</td>
</tr>
<tr>
<td>$6,000.01 to $8,000</td>
<td>28,683</td>
<td>72,309</td>
<td>10,829</td>
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<tr>
<td>$8,000.01 to $10,000</td>
<td>40,259</td>
<td>64,123</td>
<td>12,317</td>
</tr>
</tbody>
</table>
(a) Number of HECS debtors who have not made any repayments and who first incurred a HECS debt in or prior to 1999

<table>
<thead>
<tr>
<th>Range of loan balances</th>
<th>(a) Number of HECS debtors who have not made any repayments</th>
<th>(c) Total number of HECS debtors who have not made any repayments</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10,000.01 to $12,000</td>
<td>48,088</td>
<td>62,409</td>
</tr>
<tr>
<td>$12,000.01 to $14,000</td>
<td>41,874</td>
<td>57,601</td>
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<td>$14,000.01 to $16,000</td>
<td>38,621</td>
<td>40,057</td>
</tr>
<tr>
<td>$16,000.01 to $18,000</td>
<td>28,408</td>
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<td>19,559</td>
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<td>29,046</td>
<td>28,875</td>
</tr>
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<td>$30,000.01 to $40,000</td>
<td>1,657</td>
<td>1,648</td>
</tr>
<tr>
<td>$40,000.01 to $50,000</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Over $50,000</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Total debtors</td>
<td>385,985</td>
<td>656,031</td>
</tr>
</tbody>
</table>

**Attorney-General: Community Legal Centres**

(Question No. 634)

**Senator Ludwig** asked the Minister representing the Attorney-General, upon notice, on 16 September 2002:

1. What are the names of the community legal centres (CLCs) operating in Queensland.
2. What are the names of the CLCs that have been closed in Queensland since 1999.
3. What funding did each of the CLCs receive for the financial years: (a) 2000-01; and (b) 2001-02.
4. With the closures of these CLCs, have monies been redirected into ‘hotline’ services in Queensland or have they been retrieved by the Commonwealth.

**Senator Ellison**—The Attorney-General has provided the following answer to the honourable senator’s question:

1. The following community legal services operate in Queensland and are funded through the Commonwealth Community Legal Services Program.
   - Brisbane Welfare Rights Centre Inc.
   - Cairns Community Legal Centre
   - Caxton Legal Centre
   - Central Queensland Community Legal Service
   - Environmental Defenders Office (QLD)
   - Environmental Defenders Office of North Queensland
   - Highway Legal Service and Citizens Advice Bureau
   - Logan Youth Legal Service
   - North Queensland Women’s Legal Service
   - Pine Rivers Welfare Association
   - Prisoners’ Legal Service Inc
   - Roma Community Legal Service
   - South Brisbane Immigration & Community Legal Service
   - South West Brisbane Community Legal Centre
   - Suncoast Community Legal Service
   - Tenants Union of Queensland
   - Toowoomba Community Legal Service
   - Townsville Community Legal Service
Western Queensland Justice Network  
Women’s Legal Service Inc (QLD)  
Youth Advocacy Centre  
The following community legal services also operate in Queensland but are not funded through  
the program.  
Arts Law Centre of Queensland  
Bayside Community Legal Centre  
Gold Coast Community Legal Centre  
Goondiwindi Community Legal Service  
Logan Legal Advice Centre  
Peninsula Community Legal Service  
Petrie Community Legal Service  
Queensland Advocacy Inc  
Stanthorpe Community Legal Service  
University of Queensland Union Legal Service  

(2) No community legal centres have been closed by the Commonwealth since 1999. The Financial  
Counselling Service Qld Inc previously received funding under the Commonwealth Community  
Legal Services Program to provide some legal services as an additional service. That organisation  
decided not to enter a funding agreement in the 2002/03 financial year to provide legal services  
under the program.  

It is worth noting that the Department is in the process of reallocating the funding previously pro- 
vided to the Financial Counselling Service Qld Inc to a replacement service provider.  

(3) Commonwealth funding for community legal services in Queensland for the financial years 2000-  
01 and 2001-02 is shown in the following table.  

<table>
<thead>
<tr>
<th>Name</th>
<th>2000/01</th>
<th>2001/02</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brisbane Welfare Rights Centre</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Cairns Community Legal Centre</td>
<td>206,696</td>
<td>210,747</td>
</tr>
<tr>
<td>Caxton Legal Centre</td>
<td>176,175</td>
<td>179,628</td>
</tr>
<tr>
<td>Central Queensland CLS</td>
<td>307,406</td>
<td>313,431</td>
</tr>
<tr>
<td>Environmental Defenders Office (QLD)</td>
<td>160,769</td>
<td>163,920</td>
</tr>
<tr>
<td>Financial Counselling Services</td>
<td>75,461</td>
<td>76,940</td>
</tr>
<tr>
<td>Highway Legal Service and Citizens Advice Bureau</td>
<td>71,712</td>
<td>73,118</td>
</tr>
<tr>
<td>Logan Youth Legal Service</td>
<td>163,753</td>
<td>166,963</td>
</tr>
<tr>
<td>Environmental Defender’s Office of North Queensland</td>
<td>67,708</td>
<td>69,035</td>
</tr>
<tr>
<td>North Queensland Women’s Legal Service</td>
<td>163,753</td>
<td>166,963</td>
</tr>
<tr>
<td>Pine Rivers Welfare Association</td>
<td>5,712</td>
<td>5,910</td>
</tr>
<tr>
<td>Prisoners Legal Service</td>
<td>75,461</td>
<td>76,940</td>
</tr>
<tr>
<td>Roma Legal Service</td>
<td>71,712</td>
<td>73,118</td>
</tr>
<tr>
<td>South Brisbane Immigration &amp; CLS</td>
<td>163,753</td>
<td>166,963</td>
</tr>
<tr>
<td>South West Brisbane CLS</td>
<td>67,708</td>
<td>69,035</td>
</tr>
<tr>
<td>Suncoast CLS</td>
<td>163,753</td>
<td>166,963</td>
</tr>
<tr>
<td>Tenants Union of Qld</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Toowoomba CLS - Total</td>
<td>13,479</td>
<td>13,743</td>
</tr>
<tr>
<td>Townsville CLS- Total</td>
<td>14,951</td>
<td>15,244</td>
</tr>
<tr>
<td>Western Queensland Justice Network</td>
<td>164,746</td>
<td>167,975</td>
</tr>
<tr>
<td>Women’s Legal Service Inc (QLD) - Total</td>
<td>150,398</td>
<td>153,346</td>
</tr>
<tr>
<td>Youth Advocacy Centre</td>
<td>204,199</td>
<td>208,201</td>
</tr>
<tr>
<td>QUEENSLAND TOTAL</td>
<td>424,817</td>
<td>433,143</td>
</tr>
</tbody>
</table>

(4) No community legal centres have been closed in Queensland and no funding has been redirected  
from closures to the Regional Law Hotline. The funding previously provided to the Financial  
Counselling Service Inc QLD will be allocated to another service provider.
Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 16 September 2002:

(1) How do Regional Law Hotlines operate.
(2) Is the hotline a referral service only or is legal advice provided.
(3) What are the hours of operation for each of the Regional Law Hotlines in Queensland.
(4) Do solicitors directly handle the calls taken through the Regional Law Hotlines in Queensland.
(5) How many solicitors are employed to answer questions on the Regional Law Hotline in Queensland.
(6) How is advice, if any, dispensed to the callers.
(7) What funding does each Regional Law Hotline provider in Queensland receive.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) The Regional Law Hotline is a confidential, free, legal telephone service available to people living in 14 designated regional, rural and remote locations throughout Australia. This service uses the infrastructure that was established to support the Family Law Hotline. The Family Law Hotline is a confidential, free, national telephone service focussing on family law system information including details of relevant support services throughout Australia.

The Regional Law Hotline service is provided jointly by staff of the Regional and Family Law Hotline call centres and 14 participating Regional Law Hotline service providers. People who call the Regional or Family Law Hotlines (toll free on 1800 050 400 or 1800 050 321) can receive family law related information from the call centre staff. If they require legal advice or general legal information and they live in a designated area, then the call centre staff transfer the call to the corresponding Regional Law Hotline provider.

(2) No, the service is not a referral service only. Legal advice from the Regional Law Hotline service providers is available to people living in the designated areas who call either the Regional or Family Law Hotlines.

(3) The Regional and Family Law Hotlines operate Monday to Friday between 8 am and 8 pm excluding national public holidays. During these times family law and referral information is available to all callers. The following table shows the times the Queensland based Regional Law Hotline service providers are available to provide legal advice and general legal information:

<table>
<thead>
<tr>
<th>Service Provider</th>
<th>Hours of Operation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roma Community Legal Service</td>
<td>9 am to 5 pm Monday to Thursday</td>
</tr>
<tr>
<td>Western Queensland Justice Network</td>
<td>9 am to 5 pm Monday to Friday</td>
</tr>
</tbody>
</table>

(4) Yes, there is a solicitor employed by each funded service to accept calls which are transferred by the Regional and Family Law Hotline call centres.

(5) Two solicitors are employed in Queensland to answer questions transferred by the Regional and Family Law Hotline call centres.

(6) Information and advice is provided to the callers over the telephone. Where it would be inappropriate for the service to provide advice, callers may be referred to other services for assistance.

(7) Each Regional Law Hotline provider in Queensland will receive funding of $50,000 for 2002-03.

Attorney-General: Legal Aid Funding

(Question No. 636)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 16 September 2002:

With reference to Commonwealth funding of legal aid to the states:

(1) What is the process used by the Commonwealth Government to determine the level of funding by state to fund legal aid agencies.
(2) What is the number of matters referred by the Regional Law Hotline to legal aid agencies since it became operational in 2001.

(3) How many applications for legal aid have been rejected in Queensland in the past 2 financial years, by type of matter dealt with (eg. Family Court matter, criminal matter, etc).

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) Commonwealth funding under the legal aid agreements for 2000-04 was allocated using a distributive funding model which takes account of relevant demographics, and demand and cost factors. It uses a similar approach to that taken by the Commonwealth Grants Commission in its work. The methodology used to distribute funding is currently being reviewed with assistance from the Commonwealth Grants Commission and in consultation with Legal Aid Commissions. The Commonwealth aims to reach agreement on a revised model with the Legal Aid Commissions in time for the implementation of the new agreements for 2004-08.

(2) The Regional Law Hotline is a confidential, free, legal telephone service available to people living in 14 designated regional, rural and remote locations throughout Australia. This service uses the infrastructure that was established to support the Family Law Hotline. The Family Law Hotline is a confidential, free, national telephone service focussing on family law system information including details of relevant support services throughout Australia.

The Regional Law Hotline service is provided jointly by staff of the Regional and Family Law Hotline call centres and 14 participating Regional Law Hotline service providers. People who call the Regional or Family Law Hotlines (toll free on 1800 050 400 or 1800 050 321) can receive family law related information from the call centre staff. If they require legal advice or general legal information and they live in a designated area, then the call centre staff transfer the call to the corresponding Regional Law Hotline provider.

The Regional and Family Law Hotline call centres referred 3,007 matters to legal aid agencies between 21 June 2001 and 20 September 2002. Of these, 81 originated from Regional Law Hotline designated areas.

(3) The numbers of applications for legal aid in Commonwealth matters, which have been refused by Legal Aid Queensland, are set out in the table below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Family</th>
<th>Civil</th>
<th>Criminal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000/01</td>
<td>3,570</td>
<td>183</td>
<td>63</td>
<td>3,816</td>
</tr>
<tr>
<td>2001/02</td>
<td>3,877</td>
<td>160</td>
<td>68</td>
<td>4,105</td>
</tr>
</tbody>
</table>

By way of further information, the tables below set out the numbers of applications approved by Legal Aid Queensland in Commonwealth matters.

<table>
<thead>
<tr>
<th>Year</th>
<th>Family</th>
<th>Civil</th>
<th>Criminal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000/01</td>
<td>12,941</td>
<td>627</td>
<td>474</td>
<td>14,042</td>
</tr>
<tr>
<td>2001/02</td>
<td>12,807</td>
<td>494</td>
<td>536</td>
<td>13,837</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Family</th>
<th>Civil</th>
<th>Criminal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000/01</td>
<td>9,186</td>
<td>443</td>
<td>404</td>
<td>10,033</td>
</tr>
<tr>
<td>2001/02</td>
<td>8,884</td>
<td>313</td>
<td>476</td>
<td>9,673</td>
</tr>
</tbody>
</table>

Medicare: Bulk-Billing

(Question No. 658)

Senator Chris Evans asked the Minister for Health and Ageing, upon notice, on 19 September 2002:

(1) What is the breakdown, by postcode, of the percentage of unreferred attendances bulk billed for the 12 months ending: (a) 30 June 2000; (b) 30 June 2001; and (c) 30 June 2002 (period of processing).
(2) What is the breakdown, by postcode, of the number of unreferred attendances bulk billed for the 12 months ending: (a) 30 June 2000; (b) 30 June 2001; and (c) 30 June 2002 (period of processing).

Senator Patterson—The answer to the honourable senator’s question is as follows:

(1) and (2) Medicare statistics are not available at the individual postcode level due to possible confidentiality considerations.

Under subsection 130(5) of the Health Insurance Act 1973, it is possible to publish Medicare statistics, provided that such publication does not enable the identification of an individual patient or practitioner.

In a number of postcodes, there may be only a small number of medical practitioners rendering unreferred attendances, or a small number of practitioners rendering most unreferred attendances. In accordance with appropriate statistical best practices, on which the Department is guided by relevant Australian Bureau of Statistics practices, it is not appropriate to publish statistics in these circumstances. Similar considerations apply to statistics by patient enrolment region.

Medicare

(Question No. 659)

Senator Chris Evans asked the Minister for Health and Ageing, upon notice, on 19 September 2002:

On what dates were Medicare figures publicly released for each of the quarters since March 1996.

Senator Patterson—The answer to the honourable senator’s question is as follows:

The precise release dates for Medicare statistics by the Department of Health and Ageing and the Health Insurance Commission (HIC), for each of the quarters between March 1996 and March 2001, are not available as specific records of this data was not kept.

The Department of Health and Ageing issues a quarterly Medicare Statistics compendium. The dates listed for 2001-02 reflect the actual dates of release. For earlier editions, the dates printed on the respective issues of the publication are detailed below. These dates generally reflect the month on which preparation of the publication for printing was completed. The actual release of the publication would have taken place in the month in question, or the following month.

<table>
<thead>
<tr>
<th>Year</th>
<th>Reference Qtr</th>
<th>Month/Date of Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>March</td>
<td>May 1996</td>
</tr>
<tr>
<td></td>
<td>June</td>
<td>August 1996</td>
</tr>
<tr>
<td></td>
<td>September</td>
<td>November 1996</td>
</tr>
<tr>
<td></td>
<td>December</td>
<td>February 1997</td>
</tr>
<tr>
<td>1997</td>
<td>March</td>
<td>May 1997</td>
</tr>
<tr>
<td></td>
<td>June</td>
<td>August 1997</td>
</tr>
<tr>
<td></td>
<td>September</td>
<td>December 1997</td>
</tr>
<tr>
<td></td>
<td>December</td>
<td>February 1998</td>
</tr>
<tr>
<td>1998</td>
<td>March</td>
<td>May 1998</td>
</tr>
<tr>
<td></td>
<td>June</td>
<td>August 1998</td>
</tr>
<tr>
<td></td>
<td>September</td>
<td>November 1998</td>
</tr>
<tr>
<td></td>
<td>December</td>
<td>February 1999</td>
</tr>
<tr>
<td>1999</td>
<td>March</td>
<td>May 1999</td>
</tr>
<tr>
<td></td>
<td>June</td>
<td>August 1999</td>
</tr>
<tr>
<td></td>
<td>September</td>
<td>January 2000</td>
</tr>
<tr>
<td></td>
<td>December</td>
<td>April 2000</td>
</tr>
<tr>
<td>2000</td>
<td>March</td>
<td>May 2000</td>
</tr>
<tr>
<td></td>
<td>June</td>
<td>September 2000</td>
</tr>
<tr>
<td></td>
<td>September</td>
<td>November 2000</td>
</tr>
<tr>
<td></td>
<td>December</td>
<td>February 2001</td>
</tr>
</tbody>
</table>
Statistics published by the Department of Health and Ageing and the HIC complement each other. Quarterly Medicare statistics were published on the HIC’s website on the dates indicated:

<table>
<thead>
<tr>
<th>Year</th>
<th>Reference Qtr</th>
<th>Month/Date of Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>March</td>
<td>May 2001</td>
</tr>
<tr>
<td></td>
<td>June</td>
<td>30 August 2001</td>
</tr>
<tr>
<td></td>
<td>September</td>
<td>15 November 2001</td>
</tr>
<tr>
<td></td>
<td>December</td>
<td>25 February 2002</td>
</tr>
<tr>
<td>2002</td>
<td>March</td>
<td>31 May 2002</td>
</tr>
<tr>
<td></td>
<td>June</td>
<td>30 August 2002</td>
</tr>
</tbody>
</table>

Health: Animal Research

(Question No. 660)

Senator Nettle asked the Minister for Health and Ageing, upon notice, on 19 September 2002:

With reference to the $5 million grant from the National Health and Medical Research Council (NHMRC) to Monash University to establish a national primate breeding and research facility in Churchill, Victoria:

(1) What species will be bred in this new facility.

(2) How many animals will be housed at this facility.

(3) Will any of these animals be sent to other research facilities; if so: (a) can the NHMRC provide a list of the other research facilities that these animals will be sent to; and (b) how will the welfare of these animals be monitored if they leave the breeding facility for other research facilities across Australia.

(4) Will independent animal welfare bodies be given regular access to the breeding facility; if not, why not.

(5) Has an animal ethics committee been chosen for this new facility; if so: (a) can the NHMRC provide a list of the persons on this committee, along with their qualifications and positions; (b) will there be formal reviews of the decisions made by the committee for this facility; if not, why not; if so: (i) how often will these reviews take place; and (ii) what will they entail; and (c) is there a grievance system in place for any member who is unhappy with a decision made by the committee.

Senator Patterson—The answer to the honourable senator’s question is as follows:

(1) The species to be bred at the National Non-Human Primate Breeding and Research Facility (NHPF) located at Monash University (Churchill Campus, Gippsland, Victoria) are macaques and marmosets. The facility will relocate the existing National Macaque Facility and amalgamate it with the National Marmoset Facility.

(2) The new facility will house approximately 150 animals.

(3) As the NHMRC is not responsible for managing the NHPF it is unable to answer this question. This question should be directed to the management of the NHPF.

(a) The NHMRC does not have access to this information which falls under the control of the proposed NHPF. The NHMRC can not provide a list of other research facilities that these animals may or may not be sent to.

(b) The welfare of animals moved from the breeding facility for other research facilities across Australia will be monitored in accordance with the ‘Australian Code of Practice for the Care
and Use of Animals for Scientific Purposes’ (‘the Code’), the ‘Policy on the Use of Non-Human Primates in Medical Research and relevant State and Territory legislation. The Code promotes animal welfare as a key factor in the use of animals in research. It also highlights principles of replacement of animals with other methods of research, a reduction in the number of animals and a refinement of techniques to reduce the impact on animals used in scientific and teaching activities.

The Policy on the Use of Non-Human Primates in Medical Research aims to:
- protect the welfare of non-human primates in medical research;
- set out the basic principles for investigators and animal care staff who use non-human primates in their research; and
- assist Animal Ethics Committees (AEC’s) in dealing with applications for research using non-human primates.

(4) Representatives of independent animal welfare bodies are included on the animal welfare committee that oversees the operation of the NHPF and they have access to the facility. However, the NHPF is not open to the public for animal welfare and public health and safety reasons. A Management Committee that includes a nominee of the NHMRC manages the operation of the NHPF for Monash University. The facility is also inspected and as required, licensed, by relevant Victorian agencies, the Australian Quarantine Inspection Service and the NHMRC Animal Welfare Committee.

(5) Facilities such as this do not have a dedicated ethics committee because no research is conducted in this facility. Ethical oversight will be through the Monash University Animal Welfare Committee. Each researcher who seeks to use animals from the facility for research purposes will have to obtain approval from their own institution’s ethics committee. The NHMRC is not responsible for managing the NHPF and can not provide answers to questions 5 (a), (b) and (c). The facility is currently managed by the Monash University.

Defence: Overseas Postings
(Question No. 663)

Senator Chris Evans asked the Minister for Defence, upon notice, on 23 September 2002:
(a) Can a list of all capital equipment acquisition projects that currently involve the posting of personnel overseas be provided; and (b) for each project can the following details be provided: (i) the name of the project, (ii) the budget for the project, (iii) the number of personnel currently posted overseas, (iv) the maximum number of the personnel posted overseas, (v) the date personnel were first posted overseas, (vi) the role of personnel posted overseas, and (vii) the total cost to date for the posting of personnel overseas.

Senator Hill—The answer to the honourable senator’s question is as follows:
(a) and (b) (i), (ii), (iii) and (v) – refer to table.

(b) (iv) and (vi) The role and composition of staff posted overseas is dynamic and is subject to change throughout the acquisition process, according to the phase of the project. Typical roles of overseas staff include equipment operators, engineers, integrated logistic support officers, scientific advisers, and project management specialists. Tasks undertaken include technical, logistic, financial, contract and project management, monitoring of contractor performance, and project reviews.

(b) (vii) The total overseas allowances for Defence staff are disclosed each year in Defence’s financial statements. A breakup by project of allowances is not readily available. To provide a complete response would require considerable time and resources and, in the interest of efficient utilisation of departmental resources, I am not prepared to authorise the expenditure of resources and effort to provide the information requested.

<table>
<thead>
<tr>
<th>(a) and (b)(i)</th>
<th>(b)(ii) Dec 2002 prices</th>
<th>(b)(iii)</th>
<th>(b)(v)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hornet Upgrade AIR 5376 Phase 2</td>
<td>$1,606m</td>
<td>25</td>
<td>January 2002</td>
</tr>
<tr>
<td>Armed Reconnaissance Helicopter AIR87 Phase 2</td>
<td>$1,897m</td>
<td>16</td>
<td>January 2002</td>
</tr>
</tbody>
</table>
Senator Chris Evans asked the Minister for Defence, upon notice, on 23 September 2002:

With reference to the answer to question on notice no. 2889 (House of Representatives Hansard, 22 June 1998, p. 5112):

(1) Given the Government’s claim that, as a result of the reform program, the proportion of ‘combat-related positions’ in the Australian Defence Force (ADF) will increase to approximately 65 percent, what is the definition of ‘combat-related positions’, for the purposes of this claim.

(2) can the following information be provided as at each of the following dates: (a) 30 June 1996; (b) 30 June 1998; (c) 30 June 2000; and (d) 30 June 2002: (i) the number of personnel in combat-related positions, as defined, and (ii) the total number of personnel in the ADF.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) Combat-related positions are composed of two elements: combat elements and combat related elements. The definitions, in the context of the answer to question on notice no. 2889, are as follows:

Combat elements - are those that are to, or are likely to, participate directly in the commission of an act of violence against an adversary in time of military conflict.

Combat-related elements - are those required, or likely to be required, to work in support of and in close proximity to elements performing combat duties. These elements are usually staffed by military personnel. They include those command, communication, intelligence, logistics and other support elements, which normally deploy to the Area of Operations.

(2) The requested data was collected up until 30 June 2001, and is shown in the table below. The Defence Reform Program gave emphasis to combat-related ratios. The Defence Reform Program was completed in June 2001 and data for the current year has not been collated.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Combat-Related Force ¹</td>
<td>26111</td>
<td>27708</td>
<td>31610</td>
<td>32394</td>
</tr>
<tr>
<td>Total Force ²</td>
<td>57824</td>
<td>54835</td>
<td>53423</td>
<td>51951</td>
</tr>
<tr>
<td>Combat-Related Percentage</td>
<td>45.2%</td>
<td>50.5%</td>
<td>59.2%</td>
<td>62.4%</td>
</tr>
</tbody>
</table>

Notes
1 Personnel in Combat-Related positions
2 Total personnel in the ADF
3 Data for the final year of collection.
Health: Immunisation
(Question No. 667)

Senator Chris Evans asked the Minister for Health and Ageing, upon notice, on 23 September 2002:

(1) Was the inclusion of meningococcal C vaccine on the national vaccination program recommended by the Australian Technical Advisory Group on Immunisation prior to the announcement of the Government on 20 August 2002.

(2) (a) At the time the Government made the announcement relating to meningococcal C vaccine, what other vaccines had the advisory group either formally recommended or otherwise indicated for inclusion in the national vaccination program; and (b) which priorities had the advisory group assigned to each of those vaccines.

(3) What is the annual cost of each of the vaccines recommended or considered by the advisory group for inclusion in the national vaccination program.

Senator Patterson—The answer to the honourable senator’s question is as follows:

(1) Yes

(2) (a) At the time of the meningococcal announcement, the Government had not been formally advised of the Australian Technical Advisory Group on Immunisation’s (ATAGI) other vaccine recommendations for inclusion on the Australian Standard Vaccination Schedule. My Department formally advised me on behalf of ATAGI of the other vaccine recommendations on 5 September 2002.

(b) My Department advised me on 5 September 2002 that ATAGI had made the following recommendations for other vaccines to be included on the Australian Standard Vaccination Schedule on the basis that they had been assessed as suitable for use on a population basis. ATAGI made reference to the relative benefits of each recommendation and included indicative program costings as follows:

<table>
<thead>
<tr>
<th>ATAGI Relative benefit</th>
<th>Program</th>
<th>Estimated cost in first year</th>
<th>Estimated cost in subsequent years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greatest benefit</td>
<td>Pneumococcal polysaccharide vaccination for people 65 years and older.</td>
<td>$43.2m</td>
<td>$4.1m</td>
</tr>
<tr>
<td>Greatest benefit</td>
<td>Replacement of Oral Polio Vaccine with Inactivated Polio Vaccine-containing combination vaccines at 2, 4, 6 months and 4 years of age.</td>
<td>$20.2m</td>
<td>$19.5m</td>
</tr>
<tr>
<td></td>
<td>Introduction of varicella vaccination at 18 months for all and at 10-13 years for children with no varicella (chickenpox) history.</td>
<td>$11.4m</td>
<td>$11.4m</td>
</tr>
<tr>
<td>Significant benefit</td>
<td>Introduction of childhood pneumococcal conjugate vaccination at 2, 4 and 6 months of age.</td>
<td>$63.4m</td>
<td>$63.0m</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$140.9m</td>
<td>$100.8m</td>
</tr>
</tbody>
</table>

In addition, ATAGI had recommended that Influenza vaccination should be introduced for all Australians from the age of 50 years as a routine requirement. I have since been advised that ATAGI has rescinded this recommendation following a detailed consideration of new evidence presented at its last meeting on 23 September 2002.

(3) As above

Veterans’ Affairs: Nursing Homes
(Question No. 669)

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 23 September 2002:
(1) By state, how many nursing homes or hostels owned or operated by ex-service organisations have been served notice by the Department of Health and Ageing that the facilities inspected are sub-standard.

(2) How many licences have been: (a) suspended; and (b) restored.

(3) What grants have been paid to ex-service organisations in each of the past 3 years for the upgrading of facilities.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) The only facilities owned or operated by ex-service organisations falling into this category are two ex-service low-care facilities in Victoria where the Department of Health and Ageing issued notices of non-compliance and imposed sanctions.

(2) (a) and (b) Nil.

(3) Under the Residential Care Development Scheme, grants have been provided to ex-service organisations for the upgrading of facilities. A list of these grants for the past 3 financial years has been provided in the below tables.

1999/2000 financial year

<table>
<thead>
<tr>
<th>Facility</th>
<th>State</th>
<th>Amount (GST Inclusive)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morshead Home for Veterans and Aged Persons (Hostel)</td>
<td>ACT</td>
<td>$486,000</td>
</tr>
<tr>
<td>RSL War Veterans Home, Frankston (Hostel)</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$1,411,000</strong></td>
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2000/2001 financial year

<table>
<thead>
<tr>
<th>Facility</th>
<th>State</th>
<th>Amount (GST Inclusive)</th>
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</thead>
<tbody>
<tr>
<td>Morshead Home for Veterans and Aged Persons (Hostel)</td>
<td>ACT</td>
<td>$381,150</td>
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<tr>
<td>Ex-Services Memorial Centre, Lake Macquarie (Hostel)</td>
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<tr>
<td>Legacy Welfare Fund, Coffs Harbour (Hostel)</td>
<td>NSW</td>
<td>$66,000</td>
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<tr>
<td>RSL Retirement Villages, Narrabeen (Nursing Home)</td>
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</tr>
<tr>
<td>Illawarra Diggers Aged &amp; Community Care (Hostel)</td>
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<td>Ex-Services Complex, Ballina (Hostel)</td>
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<td>Legacy Brisbane Water (Hostel)</td>
<td>NSW</td>
<td>$11,308</td>
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<tr>
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2001/2002 financial year

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<tr>
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<th>State</th>
<th>Amount (GST Inclusive)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legacy Welfare Funds, Coffs Harbour (Hostel)</td>
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<td>$22,000</td>
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<tr>
<td>RSL Retirement Villages, Narrabeen (Hostel)</td>
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<td>Ex-Service Aged Care Complex, Ballina (Hostel and Nursing Home)</td>
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<td>Ex-Service Aged Care, Batesmans Bay (Hostel)</td>
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<td>Twin Towns Services Hostel, Winders Lodge</td>
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</tr>
<tr>
<td>Keith Payne VC Hostel, Wyong</td>
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<td>RSL Care, Menora facility (Hostel)</td>
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<td>RSL Care, Menora and Mandurah (Hostels)</td>
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Veterans’ Affairs: Repatriation Hospitals
(Question No. 671)

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 23 September 2002:

(1) For each of the past 3 years, on how many occasions have veterans been refused admission to each of the former repatriation hospitals.

(2) For each hospital, how many complaints about service have been received in each year since its sale or transfer.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) Information is not available on the number of veterans refused admission at the former Repatriation Hospitals. Under the agreements with the States and Ramsay Health Care, eligible persons continue to have rights for treatment as inpatients and outpatients at all former Repatriation Hospitals regardless of the areas in which they reside, where beds are available and the type of treatment they require is available at the hospital.

(2) The below table outlines the number of complaints received about service at the former Repatriation Hospitals between October 1996 to September 2002. Records of complaints prior to October 1996 are not available.

<table>
<thead>
<tr>
<th>Hospital</th>
<th>Oct 96-Sept 97</th>
<th>Oct 97-Sept 98</th>
<th>Oct 98-Sept 99</th>
<th>Oct 99-Sept 00</th>
<th>Oct 00-Sept 01</th>
<th>Oct 01-Sept 02</th>
<th>Total</th>
</tr>
</thead>
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<tr>
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<td>Lady Davidson</td>
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<td>0</td>
<td>2</td>
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<td>10</td>
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<td>Rozelle</td>
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<tr>
<td>Heidelberg (A&amp;RMH)</td>
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<td>4</td>
<td>2</td>
<td>3</td>
<td>5</td>
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<td>0</td>
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<td>Macleod</td>
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<td>Anzac Hostel</td>
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<td>7</td>
<td>5</td>
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<td>11</td>
<td>3</td>
<td>31</td>
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<td>2</td>
<td>5</td>
<td>2</td>
<td>12</td>
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<td>Hollywood</td>
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<td>5</td>
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<td>0</td>
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<tr>
<td>Hobart</td>
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<td>0</td>
<td>2</td>
</tr>
<tr>
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<td>12</td>
<td>22</td>
<td>11</td>
<td>14</td>
<td>25</td>
<td>16</td>
<td>100</td>
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Veterans: Gold Card
(Question No. 672)

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 23 September 2002:

(1) What advice is provided to Gold Card holders about the availability of after-hours services in their locality.

(2) How many local medical officers (LMOs) provide an after-hours or home visit service to Gold Card holders.

(3) What obligation is there for LMOs to provide an after-hours service to Gold Card holders.

(4) What arrangements, if any, exist with after-hours clinics for the acceptance of Gold Cards.

(5) For each month in 2002, to date, how many Gold Card holders, by state, have received treatment from public hospitals.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:
(1) Local Medical Officers (LMOs) advise Gold Cardholders of after hours services in their local area as part of their practice arrangements.

(2) and (3) The LMO registration criteria states that providers should provide the full range of general practitioner services including home visits and after hours health care arrangements. In some cases this is arranged through a locum service.

(4) The Department of Veterans’ Affairs has no arrangements with after-hours clinics for the acceptance of the Gold Card. However, it is open for registered LMOs who provide service in after-hours clinics to accept the Gold Card.

(5) Data for the first six months of 2002 is available for Victoria, Australian Capital Territory and New South Wales and is detailed below. Please note the data is yet to be checked for veteran eligibility by the Department of Veterans’ Affairs, and the data is subject to change by both the Department of Veterans’ Affairs and the supplying State or Territory Health Department.

Data from Queensland, Western Australia, South Australia/Northern Territory and Tasmania is still to be provided by the relevant State or Territory Health Departments.

**Victoria**

<table>
<thead>
<tr>
<th>Month</th>
<th>Jan-02</th>
<th>Feb-02</th>
<th>Mar-02</th>
<th>Apr-02</th>
<th>May-02</th>
<th>Jun-02</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of Gold Card separations</td>
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<td>2049</td>
<td>2232</td>
<td>2142</td>
<td>2575</td>
<td>2526</td>
<td>13612</td>
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**Australian Capital Territory**

<table>
<thead>
<tr>
<th>Month</th>
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<th>Feb-02</th>
<th>Mar-02</th>
<th>Apr-02</th>
<th>May-02</th>
<th>Jun-02</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of Gold Card separations</td>
<td>113</td>
<td>103</td>
<td>106</td>
<td>123</td>
<td>94</td>
<td>99</td>
<td>638</td>
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</table>

**New South Wales**

<table>
<thead>
<tr>
<th>Month</th>
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<th>Feb-02</th>
<th>Mar-02</th>
<th>Apr-02</th>
<th>May-02</th>
<th>Jun-02</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of Gold Card separations</td>
<td>4142</td>
<td>4260</td>
<td>4274</td>
<td>4276</td>
<td>4933</td>
<td>4474</td>
<td>26359</td>
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### Veterans’ Affairs: Program Grants

**Question No. 673**

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 23 September 2002:

(1) Does the department prepare: (a) advice letters for the Minister’s signature to government members and senators advising them of grants made under all grants programs; and (b) draft media releases on the same subject for use by government members and senators.

(2) Is similar advice prepared for any non-government member or senator.

(3) How many such letters have been prepared in each of the past 3 years.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) (a) and (b) Yes, for grants made under the Building Excellence in Support and Training (BEST) program, Saluting Their Service commemorations program and the Veteran & Community Grants program. However, for grants made under the Grants-in-Aid program no such advice is provided.

(2) No. However, advice letters are prepared for all members and senators who have made representations on behalf of applicants for grants under the BEST program and Saluting Their Service.

(3) The number of letters prepared under part 1(a) above is:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Letters</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999/2000</td>
<td>1054</td>
</tr>
<tr>
<td>2000/2001</td>
<td>1052</td>
</tr>
<tr>
<td>2001/2002</td>
<td>838</td>
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</tbody>
</table>

### Department of Immigration and Multicultural and Indigenous Affairs: Staff Absences

**Question No. 683**

Senator Sherry asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 24 September 2002:
For each month of the past 2 full calendar years, what are the figures for staff absent on stress leave in the Department of Immigration and Multicultural and Indigenous Affairs.

Senator Ellison—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator’s question:
The very detailed information sought in the honourable Senator’s question is not able to be provided as the department does not record the condition that prompted the leave in a way that would allow ‘stress’ or any other condition to be readily identified.
The practice of successive governments has been not to authorise the expenditure of time and money involved in assembling such information on a general basis.

Centrelink: Debt Recovery
(Question No. 690)

Senator Ludwig asked the Minister for Family and Community Services, upon notice, on 25 September 2002:
(1) On what statutory basis does a person retain liability for a Centrelink debt after a period of bankruptcy.
(2) On what statutory basis does a person lose liability for a Centrelink debt after a period of bankruptcy.

Senator Vanstone—The answer to the honourable senator’s question is as follows:
(1) Subsection 153(2) of the Bankruptcy Act 1966 provides that a person will still be liable to repay a debt, including a Centrelink debt, at the end of a bankruptcy period, if the debt was incurred by fraud.
(2) Subsection 153(1) of the Bankruptcy Act 1966 provides that, unless subsection 153(2) provides otherwise, a person will be released from all of his or her provable debts, including Centrelink debts, at the end of a bankruptcy.

Bankruptcy
(Question No. 691)

Senator Ludwig asked the Minister for Revenue and Assistant Treasurer, upon notice, on 26 September 2002:
On what statutory basis does a person lose his or her liability after a period of bankruptcy.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:
Section 153 of the Bankruptcy Act 1966 provides that a bankrupt is discharged from all provable debts upon discharge from bankruptcy.
Section 149 of the Act provides that a bankrupt is generally discharged automatically three years after filing his or her statement of affairs.
Discharge from bankruptcy does not release the bankrupt from any liability in respect of debts not provable in bankruptcy (such as court imposed fines and penalties) or certain other debts referred to in subsection 153(2) of the Bankruptcy Act.

Health: Medical Benefits Schedule
(Question No. 696)

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 25 September 2002:
(1) Are general practitioners (GP) in rural areas being paid at 110 per cent of the Comprehensive Medical Billing Services for services provided to Gold Card holders; if so: (a) by what authority has this concession been granted; (b) how many GPs are entitled to this concession; and (c) what is the justification for this concession, given that other GPs are limited to 100 per cent.
(2) With reference to the answer to question on notice no. 682 (House of Representative Hansard, 23 September 2002, p. 6806): Of the 77 specialists who have advised that they will no longer accept the Gold Card, what is the distribution by: (a) specialty; and (b) postcode.
(3) How many: (a) dentists; and (b) periodontists, have informed the department that they will no longer accept the Gold Card.

(4) Have any allied health providers advised the department that they will no longer accept the Gold Card.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) Yes, some Local Medical Officers (LMOs) are paid at 110% of the Medical Benefits Schedule (MBS) for some services.

(a) The Memorandum of Understanding (MoU) between the Repatriation Commission and the Australian Medical Association (AMA) makes provision for a higher fee to be paid to LMOs who provide services to veterans in identified rural public hospitals, where state governments have made provisions for fees higher than 100% of the MBS. This applies in New South Wales, Victoria, South Australia and Western Australia.

(b) Any LMO providing services in identified rural public hospitals in the 4 States mentioned in 1(a) above is eligible for the higher fee.

(c) Provision of payment of the higher fee was made as an incentive for providing medical services in defined rural areas.

(2) (a)

<table>
<thead>
<tr>
<th>Specialty</th>
<th>No.</th>
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</thead>
<tbody>
<tr>
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<tr>
<td>Nephrology</td>
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<tr>
<td>Neurosurgery</td>
<td>18</td>
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<tr>
<td>Orthopaedic surgery</td>
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<tr>
<td>Plastic and Reconstructive surgery</td>
<td>4</td>
</tr>
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<td>Urology</td>
<td>3</td>
</tr>
<tr>
<td>Diagnostic Radiology</td>
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<tr>
<td>Anaesthetics</td>
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</tr>
<tr>
<td>Obstetrics and Gynaecology</td>
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</tr>
<tr>
<td>Ophthalmology</td>
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<td>Otorhinolaryngology</td>
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<td>Psychiatry</td>
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<td>Oncology</td>
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<tr>
<td>Dermatology</td>
<td>1</td>
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<tr>
<td>Specialist Pathologist</td>
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</tr>
<tr>
<td>Consultant Physician – General Medicine</td>
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<tr>
<td>Consultant Physician – Rheumatology</td>
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</tr>
<tr>
<td>Surgery</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>77</strong></td>
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</table>

(b) The provision of this information would have the potential to identify individual specialists due to the small number of specialists in some groups and the identification by postcodes. Consistent with the requirements of the Privacy Act 1988 this information is not provided for publication in Hansard. Should the Senator require additional information, a confidential briefing could be arranged through the Office of the Minister for Veterans’ Affairs.

(3) (a) 1 (b) Nil.

(4) Yes, 4 have advised the Department of Veterans’ Affairs.

Veterans’ Affairs: Hospital Services
(Question No. 697)

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 25 September 2002:
(1) Is a review being conducted of the tier-one hospital arrangements; if so: (a) by whom; (b) at what cost; (c) in what time frame; and (d) what are the terms of reference.

(2) Has a steering committee been appointed; if so, is the ex-service community represented.

(3) Will it include an independent cost-benefit study of private versus public hospital treatment costs.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) A ‘post implementation’ review of tier-one hospital arrangements is planned but it has not yet commenced.
   (a) This has not yet been determined, but an external consultant will be contracted to assist with the study.
   (b) This has not yet been determined, as it will await the outcome of a Select Tender process.
   (c) It is expected that such a review would take approximately six months.
   (d) The draft terms of reference are as follows:

   TERMS OF REFERENCE
   REVIEW OF THE PURCHASING OF HOSPITAL SERVICES FOR ENTITLED VETERANS AND THEIR DEPENDANTS
   The Repatriation Commission is seeking an independent review of its strategies for purchasing public and private hospital services for entitled veterans, war widow(er)s and dependants to ensure that its arrangements are cost-effective to ensure access to quality, appropriate hospital services.
   Within the broad health service environment the consultant is required to:
   1. Examine the Department of Veterans’ Affairs’ arrangements for purchasing public and private hospital services for entitled veterans, war widow(er)s and dependants, identifying the associated costs, benefits, risks, strengths and weaknesses, while taking account of the historical legacy of the Department’s hospital services’ arrangements; and
   2. Develop a report with options and recommendations for improvement in future purchasing of hospital services to ensure veterans and dependants have effective access to quality and cost-effective hospital services.
   In undertaking this review the successful tender will also need to consider the following policy issues:
   • the appropriateness of the Department’s competitive neutrality purchasing policies;
   • whether the existing purchasing arrangements lead to appropriate contracting of hospitals with due regard to access, quality, and efficiency;
   • options for increasing competition and achieving improved value for money in a market place that tends to be segmented but where private hospital ownership is consolidating within a few corporate groups;
   • whether the current payment models have the appropriate incentives and disincentives for the delivery of best practice care;
   • the perceived increasing need for substitutability among providers of health care/hospital services where appropriate;
   • improvements for monitoring quality and continuity of care;
   • the appropriateness of the current information flows between the veteran community, the Department and the providers, or if these need to be enhanced to enable the veteran community greater ownership of their health requirements; and
   • the appropriateness of the current regulatory controls and quality mechanisms that are necessary to ensure that veteran communities are protected.

(2) A steering committee has not, as yet, been appointed. Any advisory committee that is appointed will have wide representation from both within the Department of Veterans’ Affairs and from the wider health industry. It has not yet been decided whether there will be ex-service organisation representation on the committee.

(3) No.
Eden-Monaro: Proposed Pulp Mill
(Question No. 698)

Senator Nettle asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 25 September 2002:

Has Harris-Daishowa (Australia) Pty Ltd, or any private or public agency on its behalf, prepared a study into the establishment of a pulpmill in the Eden-Monaro region of New South Wales; if so: (a) who conducted the study; (b) what were its principal findings; (c) when was it undertaken; and (d) is it a public document.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

I believe that a study was prepared for the NSW State Government in the mid 1970s, of which the Commonwealth has no details. There was also a feasibility study prepared for a proposed pulpmill at Towamba, a township west of Eden, the details of which are:

(a) The study was conducted by H.A. Simons;
(b) The principal finding was that the proposed pulpmill would not be economically viable;
(c) The study was undertaken in 1986;
(d) The study is not a public document.

The government is not aware of any other Eden-Monaro pulpmill studies initiated, contracted or prepared by Harris-Daishowa.

Rocklea Spinning Mills Pty Ltd
(Question No. 699)

Senator George Campbell asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 26 September 2002:

(1) Has the Minister, or any of his advisers or departmental officers, met with representatives of Rocklea Spinning Mills Pty Ltd or their agents or advisers to discuss relocating its operations from Moe to Brisbane; if so: (a) when did these meetings take place; (b) where did these meetings take place; (c) who was involved in these meetings; and (d) was a record of these meetings kept; if so, can copies of the records kept be provided.

(2) Was an offer of federal government funding made to the company to relocate the jobs from Moe to Brisbane; if so: (a) how much funding was offered; (b) on what basis would it be provided; and (c) which programs would the funding come from.

(3) Was the Member for Moreton (Mr Hardgrave) or his staff involved in any of the meetings; if so: (a) why; and (b) at which meetings was he or his representative present.

(4) (a) How much funding has Rocklea Spinning Mills Pty Ltd received from the various industry-related programs of the Commonwealth Government since 1996; and (b) for what purpose was this funding provided.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) No.
(2) No.
(3) No, there were no meetings.
(4) Amounts of Commonwealth funding to individual firms are treated as confidential information and are not publicly available.

Transport: Bass Strait Vehicle Equalisation Scheme
(Question No. 701)

Senator Brown asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 26 September 2002:

With reference to the partial answer to question on notice no. 573 (Senate Hansard, 23 September 202, p. 4529): Why is a $6 charge to remain in the peak season.
Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
A $21 year-round rebate for bicycles was introduced to allow bicycles to travel for free during the low and shoulder seasons, consistent with the treatment of other vehicles that receive a rebate. The ferry operator, TT-Line, is an incorporated enterprise wholly owned by its single shareholder, the State of Tasmania, and is therefore an independent commercial interest that sets its own fees and charges. The Commonwealth has no influence over these fees and charges.

While the rebate provided by the Commonwealth is set at a flat rate of $21 for bicycles year round, TT-Line has chosen to set a higher fare of $27 for bicycles during the peak season. Therefore when the $21 rebate is applied the rider is left with a net bicycle fare of $6 for the peak season.

Defence: Reserve 5/7 Company

(Question No. 722)
Senator Chris Evans asked the Minister for Defence, upon notice, on 2 October 2002:
(1) How many Reserves are there in the 5/7 Company that was deployed to East Timor in September 2002.
(2) Are there any permanent Australian Defence Force members working in this company for the purposes of this deployment.

Senator Hill—The answer to the honourable senator’s question is as follows:
(1) The Reserve Company had not been deployed in September 2002. In November 2002, approximately 90 Reservists will deploy.
(2) Yes.

Forestry and Conservation: Heard and McDonald Islands Fishery

(Question No. 727)
Senator O’Brien asked the Minister for Forestry and Conservation, upon notice, on 4 October 2002:
With reference to the Minister’s answer to question on notice no. 485 (Senate Hansard, 17 September 2002, p. 4316), and specifically parts (2) and (3):
(1) Will the increased funding for 2002-03 identified in the answer result in more patrols to protect the Heard Island and McDonald Island fishery.
(2) When will the specific funding allocation to protect the Heard Island and McDonald Island fishery for 2003-04 and future years be determined.

Senator Ian Macdonald—The answer to the honourable senator’s question is as follows:
(1) The additional funding will enhance Australia’s patrol capacity in the Heard Island and McDonald Islands (HIMI) fishery. Patrol frequency and capability is important tactical information and if made public could compromise future monitoring, surveillance and enforcement activity by Australia against illegal fishing activity at the HIMI fishery.
(2) The Government will be considering additional funding for the protection of the HIMI fishery later this year.

Forestry and Conservation: Heard and McDonald Islands

(Question No. 728)
Senator O’Brien asked the Minister for Forestry and Conservation, upon notice, on 4 October 2002:
With reference to the Minister’s answer to question on notice no. 486 (Senate Hansard, 17 September 2002, p. 4317), and specifically part (2)(b): Since 1996, when have the navy and civilian patrols undertaken to protect the Heard Island and McDonald Island fishery taken place.

Senator Ian Macdonald—The answer to the honourable senator’s question is as follows:
Patrol timing and duration is important tactical information and if made public could compromise future monitoring, surveillance and enforcement activity by Australia against illegal fishing activity at the Heard Island and McDonald Islands fishery.
Forestry and Conservation: Patagonian Toothfish

(Question No. 729)

Senator O’Brien asked the Minister for Forestry and Conservation, upon notice, on 4 October 2002:

With reference to the Minister’s answer to question on notice no. 488 (Senate Hansard, 17 September 2002, p. 4318):

(1) What information sources contributed to the assessment of the illegal Patagonian toothfish catch identified in the answer to question 488(1).

(2) Can the Minister explain the variation by year in illegal catch figures identified in the answer to question 488(2)(b).

Senator Ian Macdonald—The answer to the honourable senator’s question is as follows:

(1) The assessment was compiled using seized catch figures and ‘real logbooks’ from seized vessels, as well as an estimate of illegal, unreported and unregulated (IUU) catch made on the basis of all information available to Australian officials.

(2) Question 488(2)(b) does not refer to illegal catch figures, however presuming that the honourable senator was referring to the answer to question 488(2)(a): an assessment of the figures would indicate that the reduction in illegal catch from 1996/1997 to 1998/1999 is likely to be as a result of the introduction and presence of patrols in the area, which resulted in apprehensions; and the increase in illegal catch from 1999/2000 to 2000/2001 is likely to be as a result of increased levels of illegal fishing in Australia’s exclusive economic zone (EEZ), in part due to declining stocks in other target areas, such as the French EEZ around Iles Crozet and Iles Kerguelen.

Environment Protection and Biodiversity Conservation Legislation: Community Consultation

(Question No. 734)

Senator O’Brien asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 4 October 2002:

With reference to the Minister’s answer to question on notice no. 559 (Senate Hansard, 25 September 2002, p. 4691), and specifically parts (1), (4) and (6):

(1) Which ‘state agencies, peak industry, and rural and conservation groups’ receive notice from Environment Australia of nominations under the Environment Protection and Biodiversity Conservation Act 1999.

(2) (a) What is the total budgeted cost for the full-time position at the National Farmers’ Federation (NFF); and (b) when will this position commence.

(3) Will the Commonwealth-funded position at the NFF facilitate consultation and communication about environment protection and biodiversity conservation matters with non-NFF member organisations.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) A list of the state agencies, peak industry, rural and conservation groups that are notified of nominations under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) has been provided to the honourable Senator. Further copies are available from the Senate Table Office.

(2) (a) and (b) Details concerning the position are still to be finalised with the NFF.

(3) It is expected that the position will facilitate communication with non-NFF member organisations. List of the state agencies, peak industry, conservation and conservation groups that are notified of nominations under the Environment Protection and Biodiversity Conservation Act 1999

ORGANISATION
Minerals Council of Australia
Australian Chamber of Commerce and Industry
National Environmental Law Association Ltd
Law Council of Australia
National Farmers’ Federation
The Wilderness Society
Humane Society International (Australia)
Queensland Farmers’ Federation
AgForce
Cotton Australia
QLD Fruit and Vegetable Growers Ltd
Wildlife Management International Pty Ltd
Tasmanian Farmers and Graziers Association
Royal Australian Institute of Architects
Australian Gas Association
Australian Petroleum Production and Exploration Association Ltd
Australian Aluminium Council
Australian Automobile Association
Cement Industry Federation
Housing Industry Association
Industry Association of Australia
Australian Paper Industry Council
New South Wales Mineral Council
Sustainable Energy Industries Council of Australia Inc
Joint Coal Board
Northern Rivers Economic Development Organisation
Meat and Livestock Australia
Australian Industry Group
Northern Territory Minerals Council
Australian Coal Association
Australian Centre for Minesite Rehabilitation Research
Queensland Mining Council
Queensland Nursery Industry Association
Cattlemen’s Union
South Australian Chamber of Mines & Energy Inc
Tasmanian Minerals Council
Australian Institute of Petroleum
Australian Pipeline Industry Association
Economically Viable Alternative Green
The Centre for Conservation Biology, University of Queensland
Victorian Water Industry Association
Australian Chamber of Manufactures
Australian Council of Trade Unions
Plastics and Chemical Industries Association
Victorian Chamber of Mines
Sustainable Energy Industry Association Australia
The Chamber of Minerals and Energy of WA Inc
Chamber of Mines & Energy
Association of Mining & Exploration Companies (Inc)
Construction Forest Mining Energy Union
Australian Chamber of Commerce and Industry
Northern Rivers Chamber of Commerce and Industry
State Chamber of Commerce
Australian Business Chamber - Bathurst
Australian Business Chamber - Central Coast
Australian Business Chamber - Hunter
Australian Business Chamber - Illawarra
Australian Business Chamber - Mid-North
Australian Business Chamber - Murray Region
Australian Business Chamber - Northern
Australian Business Chamber - Riverina
Australian Business Chamber - Western Sydney
Australian Business Chamber
Northern Territory Chamber of Commerce and Industry Inc.
Queensland Chamber of Commerce and Industry - Brisbane
SA Employers Chamber of Commerce & Industry SA Inc.
Tasmanian Chamber of Commerce & Industry Ltd
Chamber of Commerce and Industry of WA
Electricity Supply Association of Australia
Queensland Tourist and Travel Corporation
Waste Management Association of Australia
Royal Botanic Gardens Sydney
Project Jonah Victoria
Queensland Aquarium Supply Divers Association Inc.
World Wide Fund for Nature
Australian Conservation Foundation
Environment ACT
NSW Department of Land and Water Conservation
Northern Territory Department of Lands, Planning and Environment
Parks and Wildlife Commission of the Northern Territory
Queensland Department of the Premier and Cabinet
Queensland Environment Protection Agency
Forestry and Wildlife, Queensland EPA
Conservation Sciences Unit, Queensland EPA
Office of the Environment Protection Authority (South Australia)
Department of Premier and Cabinet (South Australia)
Department of Environment, Heritage and Aboriginal Affairs (South Australia)
Department of Primary Industries, Water and Environment (Tasmania)
Department of Premier and Cabinet (Tasmania)
Department of Natural Resources and Environment (Victoria)
Parks Victoria
Department of Premier and Cabinet (Victoria)
Environment Protection Authority (Victoria)
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Department of Conservation and Land Management (WA)
Department of Premier and Cabinet (WA)
Australian Local Government Association
Australian Fisheries Management Authority

**Australian Federal Police: Interstate Livestock Theft**
*(Question No. 749)*

**Senator O’Brien** asked the Minister for Justice and Customs, upon notice, on 4 October 2002:

1. What is the number of investigations the Australian Federal Police (AFP) has conducted into interstate livestock theft for each of the past 10 years.
2. How many arrests have been made by the AFP in relation to interstate livestock theft for each of the past 10 years.
3. How many convictions have been obtained from investigations made by the AFP in relation to interstate livestock theft for each of the past 10 years.
4. How many convictions have been obtained directly by the AFP in relation to interstate livestock theft for each of the past 10 years.
5. Does the AFP have staff assigned specifically to investigating interstate livestock theft; if so, what is the current number Full Time Equivalents (FTE).
6. What is the number of staff (in FTE) the AFP has assigned specifically to investigating interstate livestock theft for each of the past 10 years.
7. What, if any, are the maximum and minimum penalties under federal law for persons convicted of interstate livestock theft.
8. Have these penalties changed since 1995; if so, can details of the changes be provided.

**Senator Ellison**—The answer to the honourable senator’s question is as follows:

1. None
2. None
3. None
4. None
5. No
6. None
7. None
8. Not applicable

There is no Commonwealth offence relating to interstate livestock theft. Livestock theft is covered by various state legislation.

**Customs: ComSuper**
*(Question No. 762)*

**Senator Sherry** asked the Minister for Justice and Customs, upon notice, on 8 October 2002:

With reference to Australian National Audit Office (ANAO) audit report no. 65 tabled on 28 June 2002, Management of Commonwealth Superannuation Benefits to Members – ComSuper:

1. In figure 3.10 the ANAO report states that 13 per cent of new members in the Australian Customs Service (ACS) were not reported to ComSuper in the period from 1 July 2001 to 1 October 2001: What steps has the ACS taken to ensure that new members are reported to ComSuper in a more timely manner.
2. In each of the quarters after 1 October 2001, what proportions of new members in the ACS were not reported to ComSuper.
3. In figure 3.10 the ANAO report states that, in the period from April 2001 to September 2001, the ACS did not report up to 32 per cent of changes in member contribution rates to ComSuper: What
steps has the ACS taken to ensure that changes in contribution rates are reported to ComSuper in a more timely manner.

(4) In the period since September 2001, what proportion of changes in member contribution rates was not reported in ComSuper.

(5) In each of the years starting 1 July 2002 and 1 July 2001, what proportion of changes in member contribution rates was not reported in ComSuper.

Senator Ellison—The answer to the honourable member’s question is as follows:

(1) Customs was one of a number of Agencies which implemented a new payroll system and resulted in some problems of reporting to ComSuper. Customs has worked closely with ComSuper and other Commonwealth Agencies to address these issues with the payroll software provider.

The software provider has implemented a number of ‘patches’ to meet the basic ComSuper requirements. A patch was implemented in May 2001 however it was not immediately apparent that it did not pick up any retrospective superannuation action or that double entry of contribution changes by payroll staff was required.

As a result, manual processes were introduced to minimise reporting problems. These included regular exception reports to ComSuper and secondary checks to identify known problems. In summary, Customs has updated programming of its payroll system, has introduced routine quality control checks, and implemented new processing procedures and exception reporting directly to ComSuper.

The issue is now considered resolved and Customs was not identified by the Commissioner for Superannuation as being non-compliant as at 6 December 2001 in response to Senate Question on Notice Number 758 by Senator Sherry.

(2) 100% of all new members in Customs were reported during the quarters after October 2001.

(3) Customs updated its payroll system and has introduced routine quality control checks, implemented new processing procedures and exception reporting directly to ComSuper. For further information see response to Question 1.

(4) Since September 2001, 100% of superannuation contributions have been reported.

(5) During 2001, 100% of changes in member contribution were notified to ComSuper. During 2000, a percentage of changes in member contribution rates were not reported to ComSuper automatically, due to payroll system defects. All changes were subsequently fully notified.

Department of Finance and Administration: Fleet Vehicles

(Question No. 764)

Senator Faulkner asked the Minister for Finance and Administration, upon notice, on 8 October 2002:

(1) How many vehicles provided to members of the House of Representatives from New South Wales, including vehicles supplied through external fleet companies, from 1 January 2002 to 31 August 2002, have been changed after delivery because the Member of Parliament or a family member was dissatisfied with the original order.

(2) In each instance, what was the reason for the change.

(3) In each instance, what was the make and model of the vehicle in the original order, and of the replacement vehicle; if the make and model of each vehicle is the same, can the differing features between the vehicles originally supplied and the replacement vehicle be identified.

(4) In each instance, how much has the changeover of leasing arrangement cost.

Senator Minchin—The answer to the honourable Senator’s question is as follows:

(1) Nil*

(2) Not applicable

(3) Not applicable

(4) Not applicable

*The above answer relates to cars provided by the Department of Finance and Administration.
Defence: Helicopters  
(Question No. 765)  

Senator Chris Evans asked the Minister for Defence, upon notice, on 9 October 2002:  
In relation to Project Air 87, the Government announced the signing of a $1 300 million contract in December 2001 for the acquisition of 22 helicopters and their through life support, however, the 2002-03 Budget Statement indicates the total cost of this project will be $1 858m: What items make up the difference between the $1 300 million acquisition and support contract and the project’s current total budget.  

Senator Hill—The answer to the honourable senator’s question is as follows:  
(1) Please refer to my answer to your Senate Question on Notice No. 623, Part (10).

Immigration: Migration Zone  
(Question No. 812)  

Senator Crossin asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 17 October 2002:  
With reference to the information kit on the Government’s proposed law to excise 3 000 islands from Australia’s migration zone: 
(1) On what date did the Minister direct that this information kit be prepared. 
(2) What advice or information was provided to, and what consultation occurred with, each of the island communities affected by the legislation prior to this date. 
(3) Can details be provided of how and when the information kit was distributed, including a complete list of the communities that have been provided with the kit. 
(4) Why did the Government not consult with these communities prior to acting to excise the islands by regulation on 7 June 2002. 
(5) Can the details be provided of consultations with each of the communities which have since occurred. 
(6) What action will the Government take in response to concerns or opposition from the island communities in relation to the proposed legislation.  

Senator Ellison—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator’s question:  
(1) On 1 September 2002 I signed a proposal from my Department to brief Indigenous communities on the excision provisions. 
(2) On 6 June 2002 I wrote to the Chairpersons of the Torres Strait Regional Authority, the Aboriginal and Torres Strait Islander Commission, the Tiwi Land Council and the Anindilyakwa Land Council, and to the relevant State Government Premiers. I advised them of the proposal to extend the definition of “excised offshore place” and the effect of the proposal. I also phoned, or attempted to phone, these people on that day.  
I wrote to the following people:  
• Mr Terry Waia, Chairperson of the Torres Strait Regional Authority; 
• Mr Geoff Clark, Chairperson, Aboriginal and Torres Strait Islander Commission; 
• Mr Matthew Wonaeamirri, Chairman, Tiwi Land Council; 
• Mr Walter Amagula, Chairman, Anindilyakwa Land Council; 
• The Hon Dr Geoff Gallop, Premier of Western Australia; 
• The Hon Clare Martin, Chief Minister of the Northern Territory; 
• The Hon Peter Beattie, Premier of Queensland; and  
• The Hon Wilson Tuckey, Minister for Regional Services, Territories and Local Government. 
(3) The information kit was first distributed by hand to the Goulburn Island and Elcho Island communities in the Northern Territory, on 10 September 2002. It was subsequently distributed by mail to the following community organisations in the Northern Territory, northern WA and northern Queensland including Torres Strait Islands:
• Northern Land Council, Casuarina
• Ngarda-Ngarli-Yarnu Regional Council
• Yamatji Regional Council
• Malarabah Regional Council
• Wunan Regional Council
• Kullarri Regional Council
• Yilli Reung Regional Council
• Miwatj Regional Council
• Jabiru Regional Council
• Garrak-Jarru Regional Council
• Peninsula Regional Council
• Townsville Regional Council
• Cairns and District Regional Council
• Goolburri Regional Council
• Torres Strait Regional Authority
• Goolarri Radio and Television Networks
• Imparja Television Network
• CAAMA Radio Network
• Broome Aboriginal Media Association
• TEABBA Radio Network
• Gumatj Association, Nhulunbuy
• Nauiyu Nambiyu Community Government Council
• Bagot Community Inc, c/- Winnellie
• Gwalwa Daranki Association, Nightcliff
• Nguiu Community Government Council, Bathurst Island
• Kardu Numida Council Inc, c/- Winnellie
• Belyuen Community Government Council, Darwin
• Coomalie Community Government Council, Batchelor
• Maningrida Council Inc, c/- Winnellie
• Pirlangimpi Community Government Council, Garden Point, Melville Island
• Cox Peninsula Community Government Council
• Milikapiti Community Government Council, Snake Bay, Melville Island
• Warruwi Community Inc, Goulburn Island
• Tiwi Land Council
• Central Land Council
• Daly River Community Development Association
• Minjilang Community Inc, Croker island
• Angurugu Community Government Council
• Marngurr Community Government Council, Nhulunbuy
• Galiwinku Community Inc, Elcho island
• Milingimbi Community Inc, Milingimbi
• Gapuwiyak Community Inc, Lake Evella
• Milyakburra Community Council, Bickerton Island, Groote Eylandt
• Umbakumba Community Council Inc, Groote Eylandt
• Yirrkala Dhanbul Community Association, c/- Nhulunbuy
(4) The Government’s Anti-People Smuggling Taskforce provided information in early June that people smugglers would target islands closer to the Australian mainland. The organisers were believed to be avoiding Christmas and Ashmore Islands, and intending routes via waters off northern Australia.

In order to ensure the integrity of Australia’s borders, it was necessary for the Government to act as quickly as possible to discourage future people smuggling operations. Accordingly, the Government made Regulations on 7 June 2002 to excise further offshore islands. When the regulations were disallowed, the Government believed that it had to act quickly to maintain Australia’s border integrity, and introduce the Bill, with retrospective operation from the date of the disallowed regulations.

(5) No further consultations to those outlined in (2) and (3) have taken place about the proposed amendments to the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002.

(6) The Government has not received any indication from island communities that they are concerned about or oppose the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002.

Further, the Senate Legal and Constitutional References Committee inquiry into the provisions of the bill specifically recorded that it had not received any evidence of negative effects of the bill on affected communities. On the contrary, the Committee received evidence from representatives on Elcho Island, and from the Torres Strait Regional Authority, that supported the bill.