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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 p.m., and read prayers.

REPRESENTATION OF QUEENSLAND

The PRESIDENT—I table the original certificate, received through His Excellency the Governor-General, from the Governor of Queensland, of the choice by the Queensland parliament of Senator Santoro to fill the vacancy caused by the resignation of Senator Herron.

RESEARCH INVOLVING EMBRYOS BILL 2002

Second Reading

Debate resumed from 11 November, on motion by Senator Abetz:

That this bill be now read a second time.

upon which Senators Murray and Ridgeway had moved by way of an amendment:

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 BOSWELL (Queensland)—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (12.31 p.m.)—I would like to go back to the beginning of this important national debate on the Research Involving Embryos Bill 2002. COAG decided in April that researchers should be given access to potentially 70,000 frozen embryos on a uniform national basis. Debate developed over the moral question of whether embryos that would have died anyway should be destroyed for research. In May we saw a huge grant of $46.5 million awarded to the National Stem Cell Centre. COAG made that legislation, the grant and the centre possible. Then we had a Senate inquiry into the bill. I moved the reference of the bill to the Senate Community Affairs Legislation Committee to aid further scrutiny. The Hansard record of the Senate committee takes us much further down the road of understanding than was possible during the debate in the other house. Members of the parliament have been presented with an either/or scenario: either we pass the bill, or so-and-so will die or Little Johnny will never walk again. That has been a sword at everyone’s throat. It has not been pleasant for anyone. No-one in this parliament has a monopoly on compassion. We are more fortunate in the Senate because there is more information to make an informed decision than during debate in the lower house and at COAG. The debate is changing its shape, not just in Australia but in the world. There has been very little take-up of eligible stem cell lines listed with the US National Institutes of Health. The European Union announced in September that it was postponing public funding of new embryo research. Witnesses before the Senate Community Affairs Legislation Committee told us that the real therapies of the future would come from discovering the triggers that make our own cells heal themselves.

Even as we debate this legislation, there are new advances in adult stem cell therapy. The rubbishing of adult stem cell therapy in the debate is disturbing. It has many runs on the board. It is also more scientifically advanced than embryo therapy, which still has to be proven in animal models before it gets anywhere near humans. Embryo research has not even reached proof of principle stage. A lot of adult cell work is being done in human clinical trials as we speak. The disparagement of adult stem cell therapy has its ori-
gin in money. Embryo therapies require lots of money to grow the cells and involve patients, intellectual property and so on. Adult stem cell therapy is not such a money-making venture because the patient’s own cells are used. The research is publicly available and is not tied up in intellectual property agreements. If adult cells become the norm, then all of those who invested in embryo research will lose out. Adult cells are a direct threat.

Now the debate has moved on from the either/or scenario. The legislation before us today does not require us to wrestle with the profound ethical dilemmas pitting religion against science. Our consciences can instead be exercised on the more familiar ground of political leadership and good government.

There are several reasons. Firstly, embryo research will continue in Australia regardless of this bill. It is happening now, it happened yesterday and it will happen tomorrow, whether we pass this bill or not. The Senate is not being faced with a do or die decision that will give life or take it away. The National Stem Cell Centre has 25 per cent of all available embryo stem cell lines in the world now. Witness after witness before the Senate committee stated that there was no need for additional stem cell lines to carry out the research for the proof of principle stage. That can be done with what we have got in the labs at present.

Some senators may think that if there is a chance that access to additional embryos will lead to a cure then we should take that chance. If we go down that line of thinking we soon come to a terrible hurdle. Let us say that Dr Smith thinks that he has found a way to use embryo stem cells to help a patient, even just a little. What is the first thing that Dr Smith has to do? He has to find some embryo cells that are compatible with his patient’s cells. The head of the Queensland Institute of Medical Research, Professor Michael Good, told the committee that a bank of 10 million embryo cell lines would be needed to have a good chance of getting a match for Caucasian persons. The same applies for Asian persons. Aborigines have great difficulty finding matching donors for kidney and liver transplants. I ask the question: where would we find a bank of 10 million embryos for them? The logistics of finding a match in order to put embryo cell therapy into practice are absolutely horrendous. The cost alone would put it out of reach.

Is there an alternative? Professor Trounson would have us believe that you can regenerate the thymus into tolerating foreign cells. But when asked for proof he provided a paper that did not match his claims—in fact it did not go anywhere near them. If the thymus were the solution, it would be headline-breaking news across the international scientific community. It was not, because it is not the solution. Is there any other way that embryo stem cell therapy can actually be put into practice on a real live human patient? There is: through cloning a patient through a process known as nuclear transfer and growing the necessary embryonic stem cells in fermentation tanks. But the cloning throws up serious implications, and that is why we will prohibit it in Australia when the vote is taken.

So poor Dr Smith: he spent years researching embryo cells and he is ready to try it on a human, but he cannot because there is no bank of cell material to match his patients, there is no thymus gland being reactivated and there is no cloning allowed. T.S. Eliot said that between the idea and the reality falls the shadow. When the idea of embryo research cures meets up with the reality of being totally impractical, you get a very long shadow indeed. If this bill is not about cures, what is it about? If most scientists say we can work on existing embryo lines, and a few say they only need 50 or up to 1,000 more, why does this bill create access to some 70,000? There are only 16 cell lines available now that are listed with the US NIH. Our stem cell centre has one-quarter of the world’s lines. Why are we opening the embryo floodgate to the world? Someone somewhere needs generous access to Australian embryos to make money.

The months since COAG have highlighted significant discrepancies between Alan Trounson’s claims and the facts. I do not say these things lightly or in any personal way. If someone puts himself up as a leading public
advocate of a particular policy position and then wins $46.5 million of federal money for it, it is our job as senators to make them accountable for their statements, their claims and their right to be trusted with enormous sums of public money. Alan Trounson showed a rat video to persuade MPs and senators to vote for this bill. The cells used were not the embryo cells involved in this bill; they were from a foetus. He did not come clean until exposed. That was the first misrepresentation. Then he distributed a paper to a coalition briefing. It quoted a reference relating to the rat video research. He stated that such a paper was published in the very prestigious *Nature* medicine journal. Not only did it relate to the wrong kind of cells but the paper had been rejected by the editor. It was never published, yet Trounson even provided a publishing date in black and white. That was the second misrepresentation.

At the coalition party room briefing, Trounson told the gathering, and then repeated to me personally, that he had divested himself of all shareholdings so that the public would know he was only in it for the science. A company search found that he still held 200,000 shares in ES Cell International, the commercial heart of the National Stem Cell Centre. When exposed, he admitted to a further 200,000 shares held in a trust for him by Monash University. He also has shares in other companies that would potentially benefit from the association with the centre. That was another misrepresentation. Professor Trounson offered a statement of his financial interests to the Senate committee. He neglected to put in four company directorships. That is another misrepresentation that is not yet known. He also claimed the recent research on the thymus gland would solve the rejection problem of applying cell therapy, but experts say the quoted research will do nothing of the sort. This is another misrepresentation.

Why the need for all these misrepresentations? And where do they end? We hear stories of how scientists leave Australia because they cannot get funding. This week North Queenslanders were disappointed to find their badly needed irukandji jellyfish research grant was rejected by the NHMRC. I would be very frustrated if I were a scientist dedicated to public health outcomes and kept on seeing the same people win huge grants, with little or no health outcomes at the end. Public funding arises as a result of this bill. It is a huge prize. But has the $46.5 million been won fairly and squarely? Why does a majority foreign owned company registered in Singapore play such a large role? There is a pattern of research-funding decisions that raises serious questions of conflict of interest. If grants have been recommended improperly, that goes to the credibility of the whole debate.

I believe there is sufficient evidence to warrant the investigation of a number of recent grants. Peter Jonson is the chair of the expert panel that awarded $46.5 million to Trounson’s National Stem Cell Centre. He also awarded $5.5 million of a major national research facility grant to Trounson’s other cell centre. BresaGen is a commercial partner of both these grants. Jonson later set up a business with the Stem Cell Centre’s chief operating officer—Trounson’s self-styled secret weapon in getting the large grant. This business is a joint venture with a CRC grant of some $17.4 million.

The chairman of the CRC funding panel is Geoffrey Vaughan, a former deputy vice-chancellor of Monash. Vaughan is also a director of BresaGen, which stands to benefit considerably from the Stem Cell Centre grants award by Jonson. Jonson is a former chairman of ANZ Funds Management. ANZ has approximately 2.6 million shares in BresaGen. Vaughan has presided over the funding decision of the $17 million dairy CRC, of which Trounson is a director. There have also been two CRC grants totalling $29.9 million to groups associated with Bob Moses, who is the Chairman of the National Stem Cell Centre.

 Vaughan was also appointed to the industry R&D board that subsequently gave Vaughan’s own company, BresaGen, a grant of $4.9 million to find a stem cell therapy cure for Parkinson’s. Expert evidence to the committee from a Parkinson’s Australia representative showed that the wide nature of the disorder meant that embryo stem cells
would never be able to cure Parkinson’s. Certainly BresaGen has yet to show any significant public health outcomes for all the millions that we have given them.

A Trounson company, CopyRat, which clones rats, claims on its web site to have received a $1 million industry R&D Start grant. Another Trounson company, IngenKO, also received $246,500 to ‘develop therapeutic compounds’—once again helping drug companies. This money came from the Biotechnology Innovation Fund under the umbrella of the AusIndustry R&D board that includes Vaughan. There are two other major funding sources: the Australian Research Council and the NHMRC. Trounson’s boss at Monash is on the board of the ARC and is the chair of the NHMRC. Another prominent Trounson supporter, also on the ARC board, is Professor Brian Anderson, from the Academy of Science—and a great believer in cloning.

BresaGen has received $476,000 from the ARC, while Trounson’s outfits have received several grants totalling over $644,000. In addition, they both benefit from the $46.5 million centre of excellence grant, yet to be provided, jointly with Biotechnology Australia. One ARC grant of $364,000 went to Trounson’s CopyRat company to fund rat cloning strategies. The grant summary states that ‘the development of this technology will bring considerable benefits to the areas of physiological research and drug design’. We seem to be spending a lot of money helping drug companies and cloning.

The NHMRC has been a great supporter of Trounson over many years, particularly via the Monash Institute of Reproduction and Development. The NHMRC chair is a member of the institute’s management board, which received $4.26 million in an NHMRC partnership grant to work on embryo cells from Singapore. The intellectual property from the Monash Institute of Reproduction and Development has been assigned to the majority foreign owned ES Cell International.

Another member of the MIRD management advisory board is Charles Curwen, who was responsible for the fundraising campaign that brought in a major donor in HIH through Ray Williams, who received an honorary doctorate of law from Monash. Williams was an advisory board member of MIRD. Curwen was similarly honoured with a Monash honorary doctorate. He is also a director and shareholder of Maccine Pty Ltd, Trounson’s monkey-cloning company.

While millions of dollars are being spent funding the commercial goals of some well-connected investor scientists, what has happened to grant proposals with genuine public health outcomes that have missed out year after year? No wonder scientists leave in frustration and feel intimidated about speaking out lest their funding suffers as a result. The Monash group know how to look after their own.

Alan Trounson must be one of the most prolific grantees in Australian history, with a haul of over $97 million. If we pass this bill we will give Trounson’s commercial partner, ES Cell International, carte blanche to do what they like with Aussie embryo products once they leave our shores. There is nothing in this bill to stop or regulate exports. Stem cell lines can go overseas and be used in cloning of animals and in human mixed experiments. They will also be used for drug screening. Trounson’s application for the $46.5 million said:

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.

We are being asked to underwrite the intellectual property portfolio of a foreign company dealing in embryo product, cloned or otherwise. Not only that, but we are being asked to put our faith in the promises of one who has failed time and time again to speak true to us right here in this building. This is not a conscience vote on where life begins. This bill is properly a conscience vote on where political responsibility ends.

Senator JACINTA COLLINS (Victoria) 

(12.51 p.m.)—As a participating member of the Senate Community Affairs Legislation Committee inquiring into the Research Involving Embryos Bill 2002, I have followed this debate quite closely. There are some
concerns in relation to the process and, if I have time, I will deal with those a bit later in my speech. Let me commence my remarks with one reflection: I believe that the issue here is not the character and the strength of my personal Catholicism. In many senses in respect of this debate I do not believe it is a relevant issue. I believe that there are quite strong secular reasons for opposing this bill, and it is on those that I will concentrate.

The debate in this place and in the media has loosely centred on the words 'stem cells'. However, this is not the real essence of what we have been deliberating. The acronym ESC has often been used to spin a promise of a clean, bright future, yet the words have also been used to downplay the darker side of what we have really been discussing. What we are contemplating here is the unprecedented sanctioning of destructive research on human life. That is the fundamental issue we as legislators in a secular society are dealing with. In my view it is undeniable that, from the point of conception, nothing is added to the fertilised ovum but nutrition, care and the time for it to grow into a baby, a child, an adolescent and an adult. To me, the human embryo is not a potential human being or a pre-human being; it is already human. As legislators, we need to determine what standing that human life should have.

Recent research shows that Australian society is now more cautious about what is and what is not human than some in this place would acknowledge. There have been references to what is, in my view, a very limited Morgan poll, but I would like to bring to the Senate’s attention a recently published study by the Australian Social Monitor which found that, to the question of whether an embryo was a human being at the moment of conception, 56 per cent of Australians responded ‘definitely yes’ or ‘probably yes’, had mixed feelings or were undecided. Another interesting element of that research is the finding that there was a growing tendency among young Australians to acknowledge that an embryo was a human life around the time of conception. So it is not the case that the Australian community is becoming less concerned about the value of a human embryo; rather, it is becoming more concerned. In my view, that probably reflects some of the developments in biology and the education of young Australians in understanding how life develops. Senators should not delude themselves that the sanctity of human life is a diminishing community attitude. This research shows that, among young Australians, it is growing.

Whilst obtaining much-prized embryonic stem cells has been the justification for destroying human embryos, in reality the scope of this bill is much broader than what was canvassed before COAG. The bill goes beyond the COAG statement, which called for ‘research for the extraction of stem cells’. I have listened to some of the earlier contributions to this debate. Senator Lees, for instance, said, ‘All we are talking about here is research on extracted human stem cells.’ She is wrong. Unfortunately there is still much confusion in people’s minds after our Senate inquiry, which is why I will reflect later in my remarks on some points about the conduct of this inquiry. The scope of this bill is much broader than what was sold to the Australian public and, indeed, sold to the Australian premiers.

While I will be opposing this bill, I will also be moving, with others, amendments designed to restrict the scope of the project that has been presented through this bill. Not only is the scope of this bill much broader but also, even among those participating in the NHMRC and the Australian Health Ethics Committee, there are still strong concerns that the bill as currently framed does not present, as has been claimed, a strict regulatory regime. So there will also be amendments aimed at ensuring, if the Senate does allow this project to occur, the strong regulatory regime that it was claimed would be put in place will actually be presented.

The Research Involving Embryos Bill 2002 reverses a significant amount of legislative thinking that has been done in the area of embryo protection and assisted reproductive technology. Whilst we are looking at an unprecedented step in how we sanction the treatment of human life, we need to reflect on our past thinking in this area. As a senator for Victoria, I represent much of the policy
thought and consideration that has occurred in that state in dealing with assisted reproductive technology. The Victorian Infertility Treatment Act 1995 contains a number of provisions giving protection to human embryos. In section 5, ‘Guiding principles’, the act acknowledges:

... the welfare and interests of any person born or to be born as a result of a treatment procedure are paramount ...

And:

... human life should be preserved and protected ...

The act goes further to explicitly ban ‘destructive research on embryos’, stating:

A person must not carry out research, outside the body of a woman, involving the use of an embryo—

(a) if the embryo is unfit for transfer to a woman; or

(b) in the case of an embryo which is fit for transfer to a woman, if the research would—

(i) harm the embryo; or

(ii) make the embryo unfit for transfer to a woman; or

(iii) reduce the likelihood of a pregnancy resulting from the transfer of the embryo.

I highlight the fact that there are similar laws in other states and a range of international conventions to which Australia is a signatory that call on us to be extra careful and vigilant when it comes to making decisions that endanger human life. Much of this is based on a very simple philosophical theme. This is what the Australian Prime Minister breached with his misconception about the difference between letting life succumb and allowing research to be conducted. There is a strong principle about the distinction between killing and letting die. We have dealt with it in relation to issues around human death—how we allow people to die; we have dealt with it in relation to issues about what research can and should be conducted; and we have dealt with it in a range of Australian states when we have established regimes for assisted reproductive technology.

The fact that a legislative void has been allowed to continue to exist in some states is no reason to deny or simply overturn the public policy debates that have occurred within Australian jurisdictions and the principles upon which they are based. Clearly, they are based on the principle that we preserve human life. We understand that human life does succumb, but that does not mean it should be the subject of research. People say in relation to embryos, ‘We have got them all sitting in this stem cell bank and it is such a waste if they are not used for research.’ In fact, the suggestion has been made that it is unethical if they are not used for research. I am sorry, but anyone with a basic understanding of the human reproductive process knows that such supposed waste occurs in the menstrual cycle of any sexually active woman. The fact that many embryos never actually eventuate into an adult human life does not mean that they are not human. Nature itself reinforces that principle.

The main point I want to raise here is that society has not suddenly stumbled across embryo research and found it a morally blank canvas that has never been considered before. Australian legislators have thought through these issues before and seen the need to protect life in all of its stages. But we now have a small group of scientific researchers and companies pushing for embryo experimentation. More than in any other ethical debate in Australia, support for the bill has come from a small group with substantial pecuniary interests in the outcome. Monash University professor Alan Trounson has become the voice of this group, and the professor has certainly not excelled in the public debate. Many of his statements to the media and to the parliament have been infused with exaggerations, controversy and inconsistencies.

Professor Trounson informed government members that he had divested himself of shares in projects that would benefit if this legislation were passed by the parliament, yet we found evidence only a few months ago that he still had 200,000 shares in ES Cell International—that acronym again; we cannot say it is about embryos, because we do not really want to acknowledge that we are talking about their destruction. Throughout the debate, Professor Trounson’s views on the number of embryos needed for stem cell research and what cloning practices
should and should not be allowed have changed, leaving many confused about what is being asked for. The professor also lashed out at opponents of embryo experimentation earlier this year, portraying challengers as irrational hypocrites, according to the Australian. Professor Trounson later apologised, as he also did to me over the renowned ‘rat incident’, which I will not go into further. But this is no way to handle an enlightened debate.

Rather than repeat some of the issues already raised by other senators about Professor Trounson, I want to raise a different issue. I have had a long interest in reproductive technology in the context of the Victorian legislation in the eighties and its development and the public policy debates there, so I am one of the few people to be informed of the fact that Professor Alan Trounson—this is the best way to say it—has form. He has well-established form. I want to bring to the Senate’s attention what occurred in the public policy debate in this area in Victoria in the late 1980s.

In late 1986, the members of the Standing Review and Advisory Committee on Infertility in Victoria had to deal with a research proposal submitted by Dr Trounson’s team to investigate the effects of microinjection. To place a microinjected embryo in a woman’s womb without such research, the scientists claimed, would be ethically irresponsible. Attempts were made to amend the legislation. Perhaps time was moving far too slowly, though, because by the time we got to April 1988 an unidentified source from the Monash University medical centre leaked that the supposedly unsafe experiments had occurred. Despite sanction, they had been conducted. Whilst we had the scientists claiming that, without the research that they could not get approved, it would be unsafe to conduct this procedure, they went ahead and did it anyway. This is Professor Alan Trounson.

What occurred after this is interesting too. The Waller committee had not been informed but it learned indirectly that the work had begun. The committee was surprised and discontented, according to the chairman, Louis Waller. The health minister then ordered IVF scientists to stop using this technique. With the exception of one feminist group, no-one pointed out that this was grossly unethical experimentation on women and that Dr Alan Trounson was the one that was associated with it.

I would encourage anyone to have a look at the comments made by Dr Carmen Lawrence in the debate on this bill in the other place with respect to the history and the form of the IVF industry. I think it is fair to characterise her as suggesting that there have been several problems in the past but that behaviour appears to have improved. I am not as confident as that. Some of the debate about the ethical issues has gone back to examples of unethical research in the States dealing with men with syphilis, allowing non-treatment to occur. Some ethical analogies have been drawn from that example. In some of my recent research regarding IVF and other related medical technologies, I discovered that in the late 1980s there was a similar type of incident on our back door. This was in New Zealand, where it was allowed for women not to be apprised of the fact that they had abnormal cervical cells. Thirty years of research occurred without people being advised that they had potential cervical cancer, and women died.

The response to and the culture on these issues are the most alarming aspect, because the response was not to praise the feminists who unearthed that this had been occurring but to say, ‘They did have the best intentions in terms of medical science and research, and it’s really unfair for you to be criticising these people because we must allow this sort of research to occur.’ I am sorry but I will never sanction research, whether we are talking about embryos or adult human lives, that destroys or allows the destruction of life. This is the fundamental point that the Prime Minister does not seem to have understood. There is a very big distinction between killing and letting die or, in the case of the embryos that are in storage, allowing them to succumb.

Senator Hill interjecting—

Senator JACINTA COLLINS—The Leader of the Government in the Senate, unfortunately, has taken this moment to start
interjecting in the debate. Given that this
debate has been conducted in the Senate with
quite a high level of goodwill, I would en-
courage him to desist, because I do not be-
lieve that that is the character or the nature of
this debate. He and others might feel uncom-
fortable with the notion that Professor Alan
Trounson does have past form, and I still
look forward to the Prime Minister’s review
of the funding arrangements that were estab-
lished. Some people have forgotten, but for
many months this government has been
stalling on dealing with the funding that
should never have been approved in relation
to embryonic stem cell research.

In portraying the potential of embryonic
stem cells, this small group of scientists has
downplayed the potential of adult stem cells
and the need to follow normal scientific re-
search processes. The normal scientific re-
search processes are to conclude basic re-
search first and then to move on. I will not
go into the detail of the argument of adult
versus embryonic stem cells, because I do
not really think that is the argument. The
point in my mind is not whether one is better
than the other; the point is that, with respect
to adult stem cells, we have established prin-
ciples, we have success stories and we have
more likely successful outcomes. I have
never said that this then means that we
should not continue with work related to em-
byronic stem cells, but what I will always
say is that such work should never allow the
destruction of human life.

I have not covered anywhere near as much
ground as I would have liked to in these 10
minutes, and I suggest to the government
that, if they are happy, I will seek to incorpo-
rate the remainder of my speech so that they
have an opportunity to review its content.
The one point I would like to close on is the
distinction that some people make between
organ donation and embryonic stem cell
work. Organ donations occur after someone
is dead. In my mind, the only valid compari-
son in relation to embryonic stem cell re-
search work would be if parents were pre-
pared to allow germ cells to be taken from an
embryo that had been the result of a sponta-
neous abortion. If Professor Alan Trounson
says that he only needs a few stem cell lines,
then let him have such stem cell lines, be-
cause they do not involve the conscious de-
struction of human life, and that is what this
parliament should never sanction. (Time ex-
pired)

Senator BOSWELL (Queensland—
Leader of the National Party of Australia in
the Senate and Parliamentary Secretary to
the Minister for Transport and Regional
Services) (1.11 p.m.)—I seek leave to table
some documents that related to my speech.

Leave granted.

Senator JACINTA COLLINS (Victoria)
(1.11 p.m.)—As foreshadowed, I seek leave
to incorporate the remainder of my speech in
Hansard.

Leave granted.

The speech read as follows—

Bio-ethicist Dr Nicholas Tonti-Filipini’s submis-
sion presented the Senate Inquiry into the Re-
search Involving Embryos Bill 2002 with a list of
over 100 articles in major peer-reviewed journals
that demonstrate treatments using a patient’s own
stem cells, which are not ethically contentious at
all.

He challenged the pro-embryonic stem cells ad-
vocates to produce a similar list.

The facts are that treatments using a patient’s own
stem cells have been achieved for many diseases.
In contrast, treatments of disease using embryonic
stem cells are just speculation with no track rec-
ord, even though stem cell research is now sev-
eral years old.

It is ludicrous to be claiming the development of
treatments using embryonic stem cells as a reason
for passing a Bill allowing human embryonic
experimentation. There absolutely no need to pass
this legislation at this time.

And rejecting this Bill will not stop embryo stem
cell research as existing stem cell lines are still
available for research, which destroys the argu-
ment that Australia will fall behind in medical
research in this area.

This point of inappropriate timing was clearly
made to the Senate Inquiry by Professor Good,
director of the Queensland Institute of Medical
Research. He said:

If we were to come back here, in 10 or 20
years time and we were saying, ‘We’ve done
all the animal experimentation, we’ve done
all the adult stem cell work and we’ve done
more and more research on animal models of
embryonic stem cells. The adult stem cells
don’t work in people. We can’t position or activate the endogenous stem cells. The embryonic stem cells are working in mice. Why don’t we try them? you would have to then look at that situation at that point in time...in that 20 or 30 years you can do the vast majority of what you are talking about in animal models and with adult stem cells. I am saying that we have not got the answers to these fundamental questions of the alternatives in place yet. To date, there is not one single therapy using embryonic stem cells which is successful. There are successful therapies with adult stem cells.

Such comments also raise questions about how we build good public policy. Much of this debate in the Parliament and the media has focused on the personal suffering of people who have diseases and conditions that are incurable at the moments, and speculation about what embryonic stem cell research may be able to do to assist. I believe it is important that the reality of people’s lives be taken into account when developing policy. But it is unacceptable to use people’s misfortune as a tool to push through policy that is nowhere near ready to be of benefit to those people.

In the time I have left I would like to focus on several other concerns I have in this whole affair. First, the commercialisation of embryonic stem cell research. It is not outside the realms of the possible to suggest the reason that Australia has been rushed to have ESCR legislation in place is because of the embryo stockpile we have in this country.

Once we have removed the humanity of this stockpile we are left with a commodity— and a profitable resource at that.

It was put to the Senate Inquiry that the poor scientific evidence for ESCR could be put down to commercial interests. At the inquiry Professor Peter Silburn, spokesperson for Scientific Committee of Parkinson’s Australia and Princess Alexandra Hospital, made a distinction between scientific evidence and commercial lobbying. He said:

With scientific evidence you should just keep to the facts— published facts which have been peer reviewed and accepted. The lobbying that I have picked up...is basically generated very much I think from an embryonic stem cell group. ...I think that if you are going to look at scientific evidence and be given information, somewhere along the line somebody should have raised the alarm bells and said, ‘Well, that’s one story; what’s the other story?’ Somewhere along the line the balanced information should have been given.

As I highlighted earlier, the way the embryonic stem cell research group have conducted themselves to date is very concerning. If information is unbalanced and selective, with favourable stories being played up and negative data downplayed now, what sort of commercial enterprises will be run if these groups do get there hands on the embryo stockpile.

Commercialisation will not speed up common scientific knowledge in the area of stem cells research. In recent years we have seen the issues of medical patents, intellectual property rights and the need to protect one’s investments as reasons for denying medicines and medical breakthroughs to the world’s poor. If we again let commercialisation be the driver in this area of research, we are only setting ourselves up for more winners and losers, depending on the size of your wallet.

Another issue I want to address is the potential exploitation of women if this bill is passed. Women’s groups as diverse as The Australian feminist group, FINRRAGE, and the Catholic Women’s League raised concerns about the invasive technology and women’s rights.

One concern was that, because of the number of eggs required, any clinical application of this practice would essentially be exploitative of women, with the risk that various women may be coerced in some way to provide their eggs. Another concern was the health impacts of using super-ovulatory drugs, particularly if there is an increased use of drugs in the future to meet a growing demand for eggs.

Feminist writers have begun to raise concerns about this potential exploitation of women. Australian ethicist Dr Denise Cooper Clarke, opines:

There is a real danger of the commodification of women’s bodies, with (poor) women being paid to undergo super-ovulatory drug treatment so that many eggs can be harvested from them (a procedure not without risk, and which has been likened to the farming of human hens), or to act as gestational mothers. Another group of potential egg donors could be women in IVF programs whose consent to donation may be subtly coerced as a condition of continuing in the program.

FINRRAGE’s submission went on to highlight that the ESC scientific process dehumanises women, dismembering their body into parts to be recombined at will—a cross from one woman and a
uterus from another, with documented adverse effects from fertility drugs. They wrote:

“The language of IVF researchers implies that researchers see women as experimental test sites. Women are described by researchers as ‘endocrinological environments’, ‘therapeutic modalities’, ‘egg crops’ and ‘alternative reproductive vehicles’."

I would have to say that if FINRAGE is concerned about those labels, then I’m sure terms used by embryonic stem cells companies such as ‘competitive advantage’ and ‘first to market’ will only further fuel that concern.

Senator HILL (South Australia—Minister for Defence) (1.11 p.m.)—I will support the Research Involving Embryos Bill 2002. I do not think the issues are easy, but in this place we have to make decisions and we have to live with those decisions and with our conscience. Scientists have put to us the argument that embryonic stem cell research offers a genuine hope to advance scientific understanding that could eventually provide treatments of such afflictions as Parkinson’s disease, Alzheimer’s disease and diabetes—in other words, there are potentially huge benefits for humankind. Not all scientists agree; others say that there are substitutes such as adult stem cell potential. So the scientific case, although genuinely put, is not undisputed. There is, of course, no way of settling the scientific issues in absolute terms. The other side of the argument is a moral one: that embryos are human life and no potential benefits to third parties can justify the destruction of human life; that every individual, even in the earliest form of creation, is sacred; and that to seek some utilitarian benefit from such a life, no matter how well intentioned, is therefore unethical.

This legislation does not allow unfettered destruction. We are, in fact, talking about surplus embryos left over from in-vitro fertilisation procedures, embryos that are no longer required and would otherwise be destroyed. If the argument were to create embryos for the purpose of research, I might have come down on the other side. But this legislation does not allow the creation of embryos for research. If the embryos which are the subject of this legislation are to be destroyed, I find it hard to see the sin in seeking to achieve some humanitarian bene-fit from their short existence. I think those who oppose the creation of these embryos in the first place have a stronger case in terms of consistency. But, like most in this chamber, I have not objected to the processes that create these embryos in the hope of producing a healthy child for otherwise infertile couples. I have accepted that the benefits outweigh the cost. In many ways, I think the more difficult moral question is in the earlier process—and that, of course, is not before the chamber—which results in surplus embryos in the first place that are to be subsequently destroyed. But, as I said, that is not the question before the chamber.

This legislation applies only to embryos existing before 5 April this year which would otherwise be destroyed and where the parents have consented. It will be further reviewed in two years against developments in relation to assisted reproduction technology, medical and scientific research, the potential therapeutic application of such research and community standards. I think this strict regulatory regime is important but, within it, I think the research, with the potential benefits it might bring to the sick and suffering, is in fact justified.

Senator COOK (Western Australia) (1.15 p.m.)—I rise to speak in support of the Research Involving Embryos Bill 2002. There have been many speakers before me on this bill and there are still many more to follow. It may be that all that can be said has been said and there is nothing new now to add. But I believe that all of us in this chamber owe it to the Australian public to show that we are aware of the extent of the concern that it has generated for many within the community and that indeed they are entitled to hear the views of their elected representatives on this very sensitive issue. My office, like many others, has received a large volume of mail on this matter, some supportive of the bill and some not. Some of the centrally organised campaigns have been, shall I say, rather cynical in tone, implying that parliamentarians may not have made the effort to acquire sufficient knowledge to responsibly make such decisions as this bill before us involves. All I have read or heard of the parliamentary debate so far belies that cynicism.
This is not only a sensitive issue; it is also a serious one. The number of speakers in this debate indicates that members and senators regard it as such. Nearly every senator is stating their own position. It has been the subject of two separate parliamentary committee reports with numerous witnesses and submissions in public hearings. There has been much media attention directed to it. There have been seminars arranged here in Parliament House for members, senators and their staff. That is because there is recognition that both the scientific and ethical arguments can be complex and abstruse. There has also been all the material sent to parliamentary representatives from those within the scientific, medical and religious communities as well as from interested community members. In fact, to remain ignorant of the issues would have taken a very deliberate effort indeed.

Because each member or senator will be voting according to his or her conscience it does tend to encourage far more individual research than when a party political approach is adopted. This debate is therefore, in my view, a fine example of our Australian democracy in action. Others have suggested that we could have been wrongly persuaded by scientists, since we ourselves, as members of parliament, do not have the specific scientific qualifications necessary to distinguish between the arguments for and against. This is to misunderstand the role of parliamentary representatives. The Minister for Defence, for example, is not a soldier; the minister for health is not necessarily a doctor; and so on. Our role in this parliament is to take advice from the community from a range of experts and then make considered decisions that reflect the will of the people.

There are a number of ways of understanding the will of the people. One way, but not the only way, is through proper surveys of opinion. According to a series of surveys conducted by a team from the Australian National University over a decade, most Australians support the use of foetal tissue from abortions already carried out for other reasons—not for research purposes. Support ranged from 68 to 85 per cent. The wide variations in support depended on the purpose of the research and also the motives. According to one of the survey team, Dr Jonathon Kelley:

This suggests that part of the reason so many support the use of foetal tissue from birth-control abortions may be that people see some redemptive value in using the tissue rather than disposing of it.

While this series of surveys deals with tissue from abortions rather than the spare embryos created as a consequence of in-vitro fertilisation procedures, it does demonstrate what people think on the matter, including what their assessment is of the moral issues involved. However, the most definitive way of understanding the will of the people in respect of this bill is by taking the example of in-vitro fertilisation itself. There has long been acceptance both in the parliament and in the community of in-vitro fertilisation procedures to create a family for couples who would otherwise be unable to have children. A consequence of these procedures is that spare embryos are created and those that are not required are destroyed after a set time.

It has been said that of those who oppose this bill many of them also oppose IVF procedures. It is even said that the opposition to this bill is based on the hope that if it is defeated it will lead to a revisiting of the IVF issue. Certainly I have received letters asking me to oppose this bill on the basis of objections to IVF procedures. Much of the opposition I have received to IVF is based, as well, on particular religious views. Yet IVF procedures are—overwhelmingly, I would submit—a settled issue as far as the parliament and the community are concerned. While I am confident that not all the moral or ethical opposition to embryonic stem cell research is based on religious belief, the very fact that both major parties have allowed their members a conscience vote on this issue indicates that this is an issue of personal belief.
I believe that one of the great attributes of this nation is that we have a secular system of government—a system that separates the church and the state. This does not mean that on questions of ethics we should not listen to the views of church leaders. Their study and their work involve questions of morals and ethics and so we should listen to what they have to say on such matters. The committees inquiring into this issue did, of course, receive submissions from the churches and from groups with particular religious views. But the question of when the embryo qualifies as a life or as a person attracting the same duty of protection is an issue of personal belief. For many, it is dependent on a belief in God as the creator of all life. For those of us who do not share this belief it is a matter of humanist morality. I would like to quote the definition of a secular state that appears in a volume of the publication Contemporary European Affairs, because it seems to me to be particularly relevant at this particular moment in our history:

The secular State preaches and defends reciprocal tolerance. It forbids any group whether of believers or agnostics, and whether it forms a majority or not, to claim power and to use such power to assert the spread of its beliefs and its own domination.

Not only is secularism the only approach that allows for equal treatment between those who hold religious beliefs and those who have none at all, it is also the only approach that offers equality of treatment between those holding different religious beliefs.

As I said, now is an apposite time in our history to reflect on how lucky we are to belong to a nation that allows such a plurality of views and beliefs. I am convinced that even those who object to this bill because of their religious beliefs would agree that it is preferable to have a system of government that tolerates all religious beliefs rather than one based on a particular belief and therefore intolerant of any other. Those societies where this is not so do not enjoy the rights and freedoms that we in Australia take for granted.

Previous speakers have pointed out that there are two central issues to this debate. Firstly, there is the scientific question: will the research result in beneficial outcomes and, if so, is it essential that embryonic stem cells be used or is the use of adult stem cells of equal or superior value? The second question is the moral or ethical question: even if there are beneficial outcomes, are we justified in proceeding in a sort of crude utilitarianism—the view that the end justifies the means—or even the John Stuart Mill approach of the greatest good for the greatest number? Are we able to move in either way?

In addressing the potential scientific outcomes of stem cell research, we need to be mindful of the benefits anticipated. It has been claimed that these potential benefits have been ‘talked up’ and this may be so. But without optimism and enthusiasm to forge new scientific frontiers Australia would not enjoy its position as a world leader in biotechnology. The possible benefits of this research include the great healing potential of embryonic stem cells. They have the capacity to grow new body parts, such as tissue and organs, which could be used to provide new skin tissue for burns victims, new pancreatic cells for diabetics and to replace damaged cardiac muscular cells and arteries for heart disease victims, and they could be therapeutic in the treatment of Alzheimer’s by replacing damaged nerve cells.

Is there anyone here, knowing someone with such cruel afflictions as Alzheimer’s, which attacks the mind and leaves the body intact, or motor neurone disease, which attacks the body but leaves the mind intact, who would not embrace the potential of finding a cure or remedial therapy for these two distressing diseases alone, let alone others which are increasingly more prevalent, such as diabetes and heart disease?

It has been claimed that similar benefits can be obtained through the use of adult stem cells. However, there is compelling evidence that the best hope of a breakthrough for a cure or improved treatment and a better quality of life for those with these serious illnesses is through embryonic stem cell research. Embryonic stem cells are easier to identify and isolate. There are many more of them; they grow more quickly and more easily in the lab than do adult stem cells. They have been successful in experiments on ani-
mals. If these do not appear to be arguments of significant weight to sway the argument one way or another, I am swayed by the words of Professor Bob Williamson, who is the director of the Murdoch Children’s Research Institute and a professor of medical genetics at the University of Melbourne. In his submission to the Community Affairs Legislation Committee he said:

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.

I particularly like his analogy of two strong runners in a marathon race, which is that we should not make the decision to eliminate one of our strongest runners before we even start.

If it so happens that in the longer term adult stem cells turn out to produce superior results, then I have no intrinsic commitment to embryonic stem cells because of any antitheistic ideological position. I simply want what I believe we all want—the best outcome that offers hope of a cure or a better quality of life for those afflicted with some of the most feared diseases we know. As the Leader of the Opposition said in another place, we do know that such breakthroughs will only come if the research is allowed to continue.

I will turn now to the moral or ethical question of whether we are justified in proceeding with such research, regardless of its benefits. It seems to me that those who support this bill do so because they believe it is the right thing to do and those who oppose it do so for the same reason—they believe it is the right thing to do. The issue is how we determine what is right. As the study of moral or ethical philosophy reveals, there are few moral absolutes that are universally held. Many mores or practices that we hold as being self-evidently good, such as free speech or the right to choose one’s own partner in marriage, in some cultures can be seen as dangerous and/or disrespectful. However, I suggest that a short-list of universal moral absolutes would include, at the very least, that we do all we can to reduce needless suffering. It would be hard to mount an argument against it.

In embryonic stem cell research we hold out the hope that we will be able to reduce the suffering of those who are afflicted with the cruellest diseases or who have suffered tragic accidents, and also reduce the suffering of those who care for and love them. It would also have the consequential benefit of reducing society’s burden in caring for them, although this is not and should not be the primary motivation. I am not a proponent of the view that we are entitled to use embryonic cells for research simply because ‘they are going to die anyway’. I think this is a straw argument set up by those opposed to this bill and this research in order to knock it down. The phrase, ‘They are going to die,’ is meant to imply a moral status to the embryo. It has emotive connotations meant to influence opinions against the research. As a number of speakers before me have pointed out, and as is self-evident from the controversy surrounding this bill, there is no universal acceptance of the moral status of the embryo—beliefs about the embryo at this stage of its development are a matter of belief, not of fact.

An analogy which I prefer, and which is another way for us as parliamentary representatives to determine the will of the people, is the long-accepted practice of organ donation for the purpose of transplantation. In transplantation the donor is what is often referred to as ‘brain dead’—that is, the body lives but the mind is no longer active and will never be able to be reactivated. The donated organs are removed, the life support system that keeps the body alive is withdrawn and the body is allowed to succumb. Not only do the community accept this practice; it seems to me that they laud it, admiring those who have the courage and the generosity to contribute to the reduction of suffering in this way.

There are other arguments mounted against this bill. One is that we are on a slippery slope here—that is, basically this is the thin end of the wedge and, once we allow this research to occur, it will open the door for going further and creating embryos on demand purely for research. Human life, so
this line argues, then becomes simply another commodity. I must say that, if that argument is followed, community respect for the sanctity of human life will be undermined, with a consequent ‘coarsening’ or loss of certain moral values. That is the argument. This and many other similar objections have been addressed by incorporating limiting safeguards in the bill. In fact, it is only with the passage of this bill that these safeguards will come into effect on a national basis.

There will be a new regulatory system with provisions for public reporting on an annual basis. There will be penalties for breaches and there is a built-in review provision. Most importantly, there will be a requirement for full and informed consent by donors. This in itself can be regarded as a way of judging in the future what the will of the people is—that is, the number of putative parents or those who achieve parenthood through IVF who are willing to donate their surplus or spare eggs to research. This will be only one of the elements that the licensing committee will report on each year.

I think it is also important to point out that the licensing committee will comprise a range of experts, not simply those in the scientific area but also those in other fields, including ethicists. It is not possible to say at this early stage in the research process whether the significant benefits we hope to see as a result of this research will arise or not. However, research is proceeding in a number of countries overseas and, while this in itself is not a sufficient condition for us to follow suit here, it is one factor that we as decision makers need to consider. We cannot afford to allow the brain drain of some of our best biomedical students and scientists to other countries with a more enlightened approach. Even if other lines of research prove to be more beneficial in the longer term, we may lose biomedical expertise that we as a country can ill afford to lose.

There have been some suggestions that the push for this research has more to do with rampant scientific or financial entrepreneurship. I believe, however, that most of the arguments proffered are based on genuinely held opinions. The depth of conviction on this issue should not be underestimated. I for one do not treat it lightly. It does not reflect a party political divide. Those of us who support the bill do not make the error of assuming that this is just a debate about a clump of cells that should be treated as if they are of no consequence—nor is the basis for decision making on an ethical issue such as this of little or no significance. In our pluralistic society, how we decide such issues has far-reaching implications.

I am proud to be part of the debate and to have the opportunity to put my views knowing that my right to do so is respected, even if the views are not necessarily agreed with. I consider myself lucky to be part of a nation that accepts the right of all to hold a particular religious belief, or to hold none at all. There is no consensus on this issue, and by its very nature no consensus is likely. This is the reason why a conscience vote was granted: in recognition of the range of opinion and the depth of conviction held. (Time expired)

Senator COLBECK (Tasmania) (1.35 p.m.)—In rising to speak to the Research Involving Embryos Bill 2002, I would like to acknowledge the many people who have contacted me both in support of and in opposition to this bill. I thank those who took the time to prepare their own submissions, which I found to be informative and to appropriately express what obviously are very firmly held views on each side of the argument. For some, this is a fundamental issue and I respect sincerely their views and thank them for their efforts. I do not intend to repeat what has gone before me; the debate to this point has been extremely extensive.

One point I would like to touch on, though, relates to what has been at the core of many representations—that is, the preservation of the commencement of human life as being fundamental to the argument. Only one representation to me has expressed an argument for preservation of the embryo at all costs. In my view, if this is to be an argument, you must be either inside the tent or outside the tent—there is no halfway house. Likewise, senators in the chamber and members in the other place have used the same argument: the fundamental issue is the sanc-
ntity of these cells, these embryos, as human life. Yet, not one has argued for the complete preservation of these cells. They are all content for them to die by human hand. It will be a human hand that will take them from their refrigerated container, just as it will be a human hand that will perform the proposed scientific experiments. Surely, if the argument is so compelling for the preservation of these cells, their complete protection should be the goal—in other words: why open the freezer in the first place?

Many people have made representations in this debate, and it disturbs me that the veracity of their evidence and their reputations have been questioned—essentially on the basis of agreement or otherwise with the views expressed. This is a very difficult debate, and I do not think anyone would argue with that. But during the proceedings of the committee conducting the inquiry into this bill, I have been disturbed to watch the approach taken to some of the witnesses. In my view, however significant our passions, some level of civility should remain.

For me, the question has been what the ultimate fate of these cells of human tissue will be. It has essentially already been determined by both sides of this debate that the cells are to be destroyed. In my view, with regard to where we sit at this point in time, a case exists to pursue research on both embryonic and adult stem cells. It seems clear to me at this point in time that the two avenues of research are complementary. That of course may change but, without the benefit of a crystal ball, we can but speculate. Until clear evidence is available that this research is of absolutely no value—and, in my opinion, that has not been established, despite the claims of opponents—it has my support.

Senator Crossin last night placed on the record statistics relating to the wishes of those for whom these embryos have been produced, so I shall not repeat them. But I reinforce that some 60 per cent of the parents are prepared to donate cells for research. This is a very important matter. Not only is the statistic significant in its own right; the fact that the parents have the choice and the final say as to the use of the embryo also makes a significant difference. During this debate, scientists have been portrayed as having taken control of the fate of these cells, yet the final say rests not with the scientists or the researchers but with the parents. It is they who will decide whether their embryo will end its time potentially making a contribution to the greater good of mankind. In my view, that and the other protections contained in this bill make it worth supporting.

Senator GEORGE CAMPBELL (New South Wales) (1.40 p.m.)—I rise to speak today on the Research Involving Embryos Bill 2002. This legislation is about many things. It is about our greatest hopes and our deepest fears. It is about what we want to be and about what we are scared might be. It is about science and it is about miracles. But most fundamentally it is about good sense and compassion—the good sense to try and the compassion to want to. It is not easy legislation. No-one says it is. But surely as a parliament our role is to use good sense and compassion to bring about change that will benefit us all. This legislation, of all legislation, must be above the ugly machinations of day-to-day politics. It is legislation that calls for clear heads and open hearts. It is legislation that calls out for the question: ‘How can we not?’

I am a senator, but I am also a father. As a father, I have watched a tiny child fight against odds so cruelly stacked that there never was a chance. Back when my daughter was born—and died—there was no chance. Simple as that: the end of her story. But now we are in the year 2002 and there is a chance. Now we stand on the brink of a chance, a chance so big that babies like mine—and children like yours—could be set free from the pain and suffering that once were deemed to be their only fate. I am a big man and I can be a tough man, but I am not big or tough enough to turn my back on that—to turn my back on those who are suffering and to tell them and their families they cannot have their chance, to tell them we will not let the research go ahead. I cannot do that, because it would be wrong. This is the place—and this has to be the place—where we do what is right.
I believe it is the women and men who use IVF who should decide what should happen to their embryos. If their choice is to allow those embryos to be used for medical research under the strict ethical guidelines proposed under this bill, then that is a legitimate and potentially lifesaving choice that all of us in this chamber should honour. It is not a choice that they will make lightly, but it is choice that will be made by those who value life so deeply that they have turned to science to help them create it. I have no doubt that it will be a deeply respectful decision.

Just as the science of IVF has eased the emotional pain of those who would otherwise have been childless, it also has the potential to ease the physical pain of those with debilitating illness. How can we not explore that? What gives us the right to decide not to? In fact, submissions to the Senate inquiry into this bill made by such groups as the Coalition for the Advancement of Medical Research and the Juvenile Diabetes Research Foundation confirmed my instinct to vote for this bill. Alzheimer's disease, for instance, affects more than 300,000 Australians and is the focus of stem cell research that must be continued. It is a similar story with motor neurone and spinal cord injuries. Diabetes is the world's fastest growing disease, ahead of HIV-AIDS, and is another disease earmarked for ongoing stem cell research. It affects more than one million Australians. It is a disease, common and widespread, that, if cured, would ease the lives of tens of millions of Australians in the future.

What stands out, though, in all the arguments against such medical research is the fact there is little that cannot be separated from a clear religious or ideological opposition to other medical practices, such as the IVF program in general or abortion. This moment in medical history cannot rest on creed or ideology; it must rest, as I said before, on good sense and compassion. There have been hundreds of letters sent to my office and almost all of them have centred on the argument that human life begins at the moment of conception and that the rights of the embryo must be placed above the rights of all others. For example, they have said:

If we go ahead with embryonic stem cell legislation, we are no better than Hitler.

And they have said:

Destruction of even a two-cell embryo is murder.

One constituent writes:

The debate is based on two fundamental questions: when does life begin? And what values do we place on human life at its very beginning?

I submit that this assessment is incorrect. This debate is about much more than when life begins; it is about life per se. It is about life’s quality, its value and its spirit. It is also about death, death from illnesses for which medical science might hold the key. Those who oppose this legislation say that to pass it would be to devalue life. I find that staggering.

Let us look in our broad social context at the extent to which this legislation is about the value we place on life. When I think of the value, or lack of value, we place on life in all its forms and at its various stages, it is certainly not the rights of frozen cells that come to mind. Instead, I see the two billion people in the world who live on less than one dollar a day. I see the tens of thousands of children who die literally every single day—today included—from curable diseases such as diarrhoea and measles. I see the millions of innocent civilians killed and maimed in the more than 100 military conflicts raging across the world as we speak. Do we value them? The answer is no. I cannot see why, in a world where life is so cheap, so disposable, so undervalued, we would fight to protect the so-called rights of two-cell embryos above the rights of all those others. I do not understand how the line has been so drawn.

I certainly respect the opinions of those who disagree, and I acknowledge that views on this issue are held strongly. Mine are. But I cannot just abide by the notion that protecting the rights of embryos is what defines us as a moral and compassionate society, what makes us ethically pure. There are, to put it quite bluntly, far greater and more immediate human rights priorities, and most of us do not give a damn about them. That is not to say that the cells that ultimately become babies and grown adults are not alive. But it is incorrect to say that they take the
form of a human being physically or mentally at the stage these cells would be used for research. They are not yet individualised, are not yet a growing body part. They are unformed. Their potential for human life is unrealised.

To argue then that a small number of cells, as miraculous a cluster as they are, is equal to a three-month-old foetus, as some members have done in the course of this debate, ignores the scientific reality. More importantly, I believe it ignores the personal reality of pregnancy. Those couples who choose to undertake the very difficult procedure that is IVF face enormous pressures. The decision about whether to take part in a program that is riddled with pain and frustration is an agonising one. A failed pregnancy at three days is, for these couples, very different from a failed pregnancy at 90 days. For the couples who have embryos left over—either because all their attempts have failed or, more joyously, because they have worked and they have their baby—the opportunity to donate their surplus embryos for what is potentially the good of humanity would be wonderfully satisfying. This legislation would provide them with that access. It would allow adults, adults who have determinedly pursued the gift of human life, to decide whether their genetic material can be used for medical research—not for sinister medical experimentation but for medical research—the existing advancement of which no-one would ever want reversed.

In addition to permitting and regulating the use of surplus embryos from assisted reproductive technology, as agreed by all the states and territories in April this year, this bill also proposes to ban human cloning. If we are honest, that is what frightens the ill-informed here. Human cloning would perhaps be the logical end point of unregulated cultivation of embryonic stem cells. But as it is not the intention of this bill to do more than assist those whose medical conditions might be addressed by research using stem cells, the possibility of human cloning is not—I stress, not—a possible result of this legislation.

Human cloning simply invites the regeneration of eugenics as a scientific field. The promotion or rejection of children with particular characteristics in an arbitrary manner, as would be possible with cloning, is something we, as a society that values and respects all of its members, must reject. Cloning must never be an option. As a society, we are absolutely agreed on that. But to let our fear of that prevent such tightly regulated legislation as this which is proposed would be to throw the metaphorical baby out with the bathwater.

The fact that passions run so deep around this issue is a good thing. It means that we are all being forced to think long and hard about the implications of this bill and their ramifications for us all. Let us face it: the ongoing research that would result from the passing of this bill might not hold all the answers—it might hit brick walls; it might not deliver all we want it to—but we will never know unless we try.

Medical science has delivered us some of our greatest gifts. The only tragedy is that those gifts have not been shared equally among the first and third worlds. That must also become one of our priorities. But they are gifts that have given life and hope, immeasurable gifts which I believe it is our duty to go on giving. For my part, I am not prepared to say no. I do not have either the courage or the conviction to say no. Instead, I want to be able to look in the eye those kids who are suffering and those families who are suffering and tell them we are going to do all we can to find the answers. History, I am confident, will record its thanks to us.

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (1.52 p.m.)—I enter this debate on the Research Involving Embryos Bill 2002 very briefly. I, like other senators, thank all of those who have written to me or phoned my office and who have very sincerely put views which are important to them. I am grateful to have received those comments and I have considered all of them, as much as I possibly could. I have also listened very carefully to the debate both in this chamber and in the other place. I am grateful to many of my colleagues in both places who have raised arguments that have helped me in coming to a conclusion on how to vote on the bill.
Having said that, I will not repeat the arguments and comments from either the proponents or the opponents of the bill. There are elements of many of the comments from both sides that I agree with. I intend to vote for the bill, after much consideration of the debate and the comments that have been made to me by constituents. I have reached this decision on the understanding that embryonic stem cells will otherwise be destroyed. It is my very strong belief that if there is any chance that stem cell research into some of the tragic diseases and ailments that afflict humankind will lead to cures then that is an action well worth taking. I believe the legislation before the Senate contains adequate safeguards and therefore it is my intention to support the legislation.

Debate (on motion by Senator Ian Macdonald) adjourned.

Sitting suspended from 1.54 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Drought

Senator O'BRIEN (2.00 p.m.)—My question is to Senator Ian Macdonald, representing the Minister for Agriculture, Fisheries and Forestry. Can the minister confirm that 63 days have passed since the exceptional circumstances drought relief application for Bourke and Brewarrina was lodged? Can he also advise precisely how many farm families are in receipt of promised interim drought relief payments in the Bourke and Brewarrina exceptional circumstances application area? How much longer must farm families in this drought-stricken area of New South Wales wait for the Howard government to assess their exceptional circumstances application and provide comprehensive drought relief?

Senator IAN MACDONALD—The drought is certainly ravaging many parts of Australia and causing great distress to farming families. It is a time when governments of all persuasions and at all levels must work together to get the best result in these very difficult circumstances. That is why the Commonwealth government has been working very hard to make sure that money is available to those in need. We have also been working—and Mr Truss has made an exceptional effort—to try and get the states to involve themselves with the Commonwealth in a better form of relief for those afflicted by the drought.

As the Senate would know, on 10 September the New South Wales government lodged an application for an exceptional circumstances declaration for the Bourke and Brewarrina shires and the Rural Lands Protection Boards area because of the impact of the dry conditions. On 19 September Mr Truss referred the application to the National Rural Advisory Council—which is the appropriate procedure to follow for a full assessment against EC eligibility criteria—after our department had established that a prima facie case for exceptional circumstances did exist. Mr Truss has asked the NRAC to assess the application as quickly as possible. An NRAC subcommittee visited the region on 9 and 10 October to do an on-ground assessment.

Also on 19 September, Mr Truss announced a significant new federal government measure to permanently apply to EC to reduce the difficulties being faced by drought affected farmers. The new federal government measures provide income support to farmers from the day a fully completed application has been deemed to have been made, a prima facie case has been made and it is referred to the NRAC. The farmers in the Bourke and Brewarrina areas, which Senator O'Brien asked about, were the first to benefit from these changes made by the Commonwealth government, although assistance to those most in need is already available through existing Commonwealth initiatives such as the AAA Farm Help program and the Rural Financial Counselling Services.

At the close of business yesterday, 11 November, the Commonwealth has expended over $40,000 in interim welfare payments to 24 farmers in the Bourke and Brewarrina area. In addition, the appropriate use of predictive modelling will enable applications to be considered sooner. The new arrangements will assist in consideration of completed applications to help provide faster relief for farmers. However, this does not mean that
Mr Truss has given up the fight to provide improved support for farmers through a more inclusive, faster and more generous EC system.

The government, Mr Truss and I will continue to press state and territory governments to agree with reforms. In the meantime, the New South Wales government has advised that there are at least four EC applications being prepared for Commonwealth consideration. They are not there yet—that is important to understand—so the Commonwealth cannot deal with them. They have not yet arrived from the New South Wales government. As soon as those applications do arrive they will receive urgent attention so that farmers experiencing a rare and severe drought can receive the appropriate assistance.

Senator O'BRIEN—Mr President, I ask a supplementary question. Can the minister advise whether the government will make interim income assistance available to the 220 farm families covered by the Peak Downs exceptional circumstances application, which was lodged on 28 October? Will these families also be forced to wait more than 60 days for their EC application to be assessed?

Senator IAN MACDONALD—In the way that I indicated in the answer to the first part of Senator O'Brien's question, the new arrangements will apply as soon as the application is received from the state government and the prima facie case is made, and the money will start to flow immediately. I again say that there is a lot of criticism of Mr Truss and the federal government. But we cannot do anything until the states put in the applications. The states have to do this before we can actually assess the applications. The New South Wales Premier, Bob Carr, talks a lot and criticises a lot, but he does not take the action that is necessary for the Commonwealth money to flow. Senator O'Brien could help by making sure that he did that.

Economy: Performance

Senator FERRIS (2.06 p.m.)—My question is to the Minister representing the Treasurer, Senator Minchin. Will the minister provide the Senate with an update on the Australian economy and the benefits of the government’s strong economic management? Is the minister aware of any alternative policies?

Senator MINCHIN—I thank Senator Ferris for her very pertinent question. Australians are continuing to benefit significantly from this government’s very strong economic management at a time when the world does face global economic uncertainty. As all senators will have observed, the unemployment rate in October fell to six per cent, down from 6.2 per cent in the previous month. That compares to a rate of seven per cent a year ago and the 8.2 per cent unemployment rate we inherited from Labor. We do welcome that drop in unemployment. It is on top of the very significant fact that we have created one million new jobs since we were elected some 6½ years ago.

I can also confirm that inflation in Australia continues to remain low and manageable and within the inflation target band. Our interest rates are at 30-year lows, and the Reserve Bank indicated in its quarterly monetary statement yesterday that rates were likely to remain stable well into the future. The Reserve Bank also stated yesterday that business investment in Australia has been a very big contributor to what is the world’s highest economic growth for a developed economy and that future investment prospects still look good.

A very significant indicator of the health of the domestic economy is of course the great Australian car industry. I draw to the Senate’s attention that figures out last week show that October this year was the best October ever for car sales in Australia. Sales of new motor vehicles were 9.4 per cent higher than a year ago. September this year was also the best September on record. So, clearly, we are on track for the best year ever for Australia’s car industry, with sales up around 862,000 units. That is tremendous news for the Australian manufacturing industry and everybody who works in it. And, of course, it is a very strong indicator of continuing consumer confidence. Economists continue to forecast that we will have the strongest-growing developed economy for this year and the next.
It is clear, as I think even the opposition recognises from its previous question, that the drought is becoming serious and does pose a clear threat to growth and is going to have a big impact on the economy. Forecasts from ABARE and others indicate that, given the severity of the drought, it is going to affect the current budget forecast of 3 ¾ per cent economic growth. It is not something that the government itself can control—if we could make it rain, we would. Not only the drought but the international economy is still very wobbly. As you know, the Federal Reserve lowered interest rates by half a per cent recently to stimulate the American economy. We will be setting out our official view and reaction to the external impacts on our economy and the impact of the drought in MYEFO, our mid-year review, which we will release later this month. It will take account of these risks and adjust budget forecasts accordingly.

I was asked about alternative policies. Last week we had the spectacle of the shadow industry minister, Mr Craig Emerson—who most of us had never actually heard of before—coming out and, unusually, instead of attacking the government, actually attacking his own party. His line was to attack his own side for having a policy approach that Labor is all things to all people. I think, as Paul Kelly said, that Mr Emerson committed a very grave error of judgment in personally attacking our Prime Minister, but Mr Emerson is certainly right in his comments about Labor’s idiotic approach to policy development. Labor really has at present a grab bag of policies that involves promising everything to everybody. Labor is promising tax indexation at a cost of some $6 billion a year, promising extra spending on paid maternity leave and innovation—you name it, Labor is going to spend more on it—and of course it will also deliver surpluses. Mr Emerson does not believe it, and nobody else does either. (Time expired)

Telstra

Senator FAULKNER (2.10 p.m.)—My question is directed to the Minister for Communications, Information Technology and the Arts, Senator Alston. Given the minister’s equivocal answer to my question yesterday on whether he had spoken to anyone else in the Major Fraud Group of Victoria Police about their investigation of COT cases, I ask him again: did he or did he not speak to Detective Sergeant Rod Keuris?

Senator ALSTON—I will make it plain. Having refreshed my memory of matters that occurred 3 ½ years ago and spoken to people like Senator Boswell who were intimately involved in these matters, I have absolutely no recollection of speaking to anyone other than Mr Jepson. As I indicated to the Senate yesterday, the discussion that occurred between my chief of staff and the Victoria Police Media Unit also makes it plain that, as far as they are concerned, there were only those two conversations. They do not refer to anyone else; there is therefore no basis for any suggestion that I spoke to anyone else. I think the suggestion arises from the fact that Mrs Garms, on one of the programs I saw, was reported as saying that she had been told by investigating officers that I had rung them. It may well be that different investigating officers have said that I had rung the Major Fraud Group, but all the evidence indicates that the only calls I made were to Mr Jepson.

Senator FAULKNER—Mr President, I ask a supplementary question. I note the minister’s answer and I also ask the minister whether he recalls saying in answer to my question yesterday:

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.

Given the minister’s continuing inability to answer this important question categorically, will he undertake to check with Detective Sergeant Keuris, through appropriate channels, to establish whether Detective Sergeant Keuris recalls a conversation with the minister, and will he report back to the Senate on the outcome of such an inquiry through appropriate channels?

Senator ALSTON—I am not here to go off on wild goose chases to suit Senator Faulkner’s convenience. I simply say once again that, according to the government liaison officer of the Victoria Police—and we made inquiries of them to ascertain whether
there was any basis for the proposition that I had spoken to anyone other than Mr Jepson—who spoke to my chief of staff yesterday morning, only two phone calls were made by me, both on the same day. 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. According to the same liaison officer, my second phone call was to ask whether the police had contacted senior management at Telstra about this matter. So there is nothing at all—

Senator Sherry interjecting—

Senator ALSTON—I am telling you: he is authorised to speak on behalf of the police. I have asked whether there is any basis for suggestions that I rang anyone other than Mr Jepson, if that was the purpose of the inquiry, and that is the answer I have received. (Time expired)

Superannuation: Unclaimed Money

Senator WATSON (2.15 p.m.)—My question is directed to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Will the minister advise the Senate of what the government is doing to help people find and access lost superannuation funds? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Watson for his enduring interest in all things to do with superannuation. I was very pleased recently to be given the opportunity to launch a campaign to unite Australians with almost $7 billion worth of superannuation savings that had been effectively lost to them. This is money that is listed on the Australian Taxation Office’s lost members register. One in three Australians—as many as 2.75 million people—have an average of $1,500 invested in superannuation accounts that are, for all intents and purposes, lost. That is a very significant amount of money for a very large number of people. The super funds managing these savings can no longer find the rightful owners, and the purpose of this campaign was to put those people back in touch with their money, which will remain invested and continue to grow until they retire. The Australian Taxation Office, the Conference of Major Super Funds, the Australian Preservation Fund and other major superannuation industry bodies are to be congratulated on the success of the campaign, and I commend them for their initiative.

Between 25 and 27 October, the campaign provided on-the-spot searches at major shopping centres around the country, so it was very accessible to people just walking around the shops. Nearly 13,000 searches were completed, and the individuals involved were reunited with $4.7 million worth of unclaimed superannuation. Through the campaign’s hotline and web site, more than 60,000 search forms have been sent to Australian employees wanting to search the register, and approximately 2,000 additional requests are being lodged every day. This is a great credit to the superannuation funds, which provided funding for the campaign, and the Australian Taxation Office, which provided staff and IT services to allow for on-the-spot searches. This is, after all, employees’ money—it is their savings—and we need to do what we can to reunite them with it.

As well as helping people find super that is already lost, the government does want to help ensure Australians can take a more active role in managing their superannuation in the future by actually letting them choose where to invest and to consolidate their savings into one account if they please. This is why I am moving ahead with the government’s twin policies of choice and portability. In some ways it is not surprising that many Australians do lose track of their superannuation. Under the current system they have very little opportunity to get involved in their own superannuation beyond receiving the odd statement. The fund their money is invested in is often chosen by their employer or their award, and even if they are not happy with the fund in which their money is invested there is next to nothing they can do about it. Not only will choice deliver control into the hands of those with the greatest stake in super—the employees—but the additional competition in the system will lead
to better services and lower fees from superannuation providers.

Opposition senators interjecting—

Senator COONAN—I know from those shouting opposite that the ALP is trying to give the impression of having a policy, but Labor seems to have forgotten the difference between a policy and an option. Senator Sherry is probably going to stand up at a conference at the end of the week and spout about more options. There is a fear of commitment amongst the ALP frontbench. They are afraid of committing themselves to any policies whatsoever. My challenge to those opposite is to stop talking about options and stand up and commit yourselves to something.

Telstra

Senator STEPHENS (2.20 p.m.)—My question is to Senator Alston, the Minister for Communications, Information Technology and the Arts. Does the minister agree with finding 2.6 of the Estens report that overall fault levels are reasonable? How does the minister explain this finding when the Estens report also finds that there is a fault rate in country New South Wales which is 45 per cent above the national average?

Senator ALSTON—If what has just been put to me is that Estens said that, overall—and I am just looking at 2.6—

Opposition senators interjecting—

The PRESIDENT—Order! You will all know on my left that clapping is disorderly. The question has been asked by your side and I would have thought that you would have at least wanted to hear the answer.

Senator ALSTON—What finding 2.6 says—and I presume that is what is being referred to—is that, in most regions, faults per 100 services in operation in Telstra’s customer access network have increased slightly but that, overall, fault levels remain broadly consistent with historical levels and are reasonable. It says that the evidence suggests that there continue to be localised pockets of particularly fault-prone services requiring specific attention from Telstra, the government’s network reliability framework and Telstra’s rural network task force, and that other Telstra initiatives are expected to reduce fault levels with the full benefits flowing through over time. That is clearly saying that you do not expect absolute perfection. What you do expect is an increase. If you go back to pre-1996, before we came to government, you did not have any such thing as customer service guarantees and you did not have anything like the network reliability framework. You basically had nothing. You were not interested. You did not do anything about it. You presided over a cosy duopoly, effectively, and we have come light years since then.

Telstra has 11.3 million lines. It deals with 11 billion local calls a year, 6.3 billion STD minutes a year, 840 million international minutes per year and 2,200 CSG faults per day, so there will always be problems with the network. The key issue is whether they are being adequately addressed—whether they are being repaired on time. To the extent that they are not, the CSG allows people to get a rebate on their phone bill. If they do not get an installation within 30 days, they effectively get a free handset. If they want to buy satellite services and are in an area where they cannot get normal mobile coverage, they are able to buy that satellite handset on the basis of a 50 per cent subsidy. So we have come a long, long way. Estens is saying that, overall, fault levels are reasonable. That is a very good starting point. It does not mean that there is any basis for Telstra to rest on its laurels. We certainly expect that recommendation 2.9, which deals with the worst-performing exchange areas, will be attended to as a matter of priority and that, consistent with the network reliability framework, Telstra will take the action recommended.

Senator STEPHENS—Mr President, I ask a supplementary question. Minister, what do you have to say about the Townsville Bulletin survey published yesterday that found that 87 per cent of respondents are not happy with the service they get from Telstra?

Is this the reason why the Estens inquiry did not hold any public hearings in regional Australia?

Senator ALSTON—I did not hear the detail of that. It was something about the Townsville Bulletin, wasn’t it? No doubt
some newspapers will do their own surveys and, as they always will, try to disagree with a considered report. We know that the Estens inquiry got something like 606 submissions. Certainly it made 39 recommendations and I think—

Opposition senators interjecting—

Senator ALSTON—No, I have read them in quite some detail. I am just looking for the number of meetings that were held. From memory, I think it was 41. What is important is that they seriously addressed all of the matters that were put to them. Labor, of course, cannot accept that the submissions, largely inspired by central casting from the CEPU, which deal with inputs rather than outputs, will not result in their constituency having more union members. That is what Labor are really concerned about. (Time expired)

Indonesia: Counter-Terrorism Training

Senator BARTLETT (2.25 p.m.)—My question is to the Minister for Defence. It relates to the minister’s recent comments that ‘Australia should engage in cooperation and mutual support’ with Indonesia’s Kopassus forces as part of the fight against terrorism. Given the ongoing human rights abuses by some members of Kopassus, why is the minister so strongly pursuing cooperation with, and support of, Kopassus? The minister indicated in a response to a question I asked on 16 October that training and joint exercises had not yet resumed. Can the minister explain exactly how far cooperation has progressed, whether the intent to resume ties with Kopassus has been agreed to in principle by the federal government and what formal approaches have been made to the government of Indonesia regarding this matter?

Senator HILL—I have not been strongly supporting a new relationship with Kopassus. I have, however, been pointing out that Kopassus has the principal counter-terrorism capability within Indonesia and, in circumstances post Bali, it might well be in Australia’s national interests in protecting Australian citizens to have some form of relationship with the body that has that counter-terrorism capability. Speculating, for example, on an event such as an aircraft hijack involving Australian citizens where Kopassus, as one would expect, were sent to address the issue, I think there is an argument that it would be in Australia’s interests if we could at least communicate with that body and satisfy ourselves that the hijack was being addressed in a way that would best protect Australian lives. I recognise that, because of the record of Kopassus, it is not a straightforward issue at all. In rebuilding our defence relationship with Indonesia, we have been approaching it cautiously on a step-by-step basis when we have been able to identify steps of mutual interest. That has been the preference of both sides. But I do think, post Bali, that we are required to readdress these issues. Again, in a rational but cautious way, that is what this government will do.

Senator BARTLETT—Mr President, I ask a supplementary question. Could the Minister for Defence indicate exactly how far this cautious progression has gone? Has the government agreed in principle to seek to resume some links with Kopassus, and has some formal request along these lines been made to the Indonesian government?

Senator HILL—As I just said, the government has not made a decision on counter-terrorism. That being so, there has not been any specific approach to Indonesia; nor has there been an invitation from Indonesia. In my talks with the Indonesian defence minister and in talks between defence chiefs, there has been discussion of the general issue of areas of greater cooperation. I mentioned that in my answer to the first question. But, as the government has not made a decision, no specific relationship arising from the Bali experience has commenced.

East Timor: War Crimes Investigation

Senator CHRIS EVANS (2.28 p.m.)—Mr President, my question is directed to the Minister for Defence, Senator Hill. Can the minister explain why it has taken more than two years to conduct an internal investigation into claims that war crimes were committed by the SAS in East Timor? If there is no substance to those allegations, don’t the troops concerned deserve to have their names cleared as soon as possible? Why, then, haven’t more resources been allocated to the investigation, and why does the Aus-
Australian public have to learn about the investigation from media reports? Will the minister give an assurance that he will make a statement to parliament on the allegations and the investigation and will he also indicate today when that investigation is likely to be concluded?

Senator HILL—I have already said publicly that, upon conclusion of that investigation, I will make a statement. I have not considered it appropriate to give a blow-by-blow report of the investigation as it has been progressing. Why is it taking so long? Because it is complex and because it has required interviews not only of Australian personnel but of personnel from other military forces. I have stressed to my department the importance of settling the issues as quickly as possible but, whilst that is obviously a desirable goal, it should not be at the expense of doing it thoroughly. The issues are important. It is in the interests of those against whom allegations have been made and also in the interests of the standing of the ADF and the very high reputation of the Australian Defence Force that the investigations are carried out objectively and thoroughly, and that is what is in fact occurring.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. The minister made the point that these investigations need to be carried out thoroughly and objectively and with some proper due regard to the time taken, in the interests of those accused. Minister, doesn’t this again highlight the need for the office of a director of military prosecutions to be established—an office that has been recommended to the government in more than one report over the last few years and that the government was giving active consideration to? When will the government get around to setting up the director of military prosecutions, and won’t that assist in resolving issues such as this and the more recent cases to do with the Arunta and others where there seem to have been extraordinary delays in bringing military prosecutions to a conclusion?

Senator HILL—The Arunta allegations I think are in a very different class to what was the principal question. With the Arunta, time issues largely related to process. These are in the first matters the honourable senator raised. They are serious criminal allegations that have to be properly and thoroughly investigated. I think they have been, and of course this has been done in conjunction with the Australian Federal Police. I do not see how a more timely outcome would have been achieved if a person had held the office of prosecutor. As I said, I think the investigation is being conducted thoroughly, objectively and—in the circumstances—in a timely way, although it is important that it be brought to a conclusion as quickly as possible.

National Stem Cell Centre

Senator MURPHY—My question is to Senator Minchin, representing the Minister for Industry, Tourism and Resources. On 30 May this year, the Prime Minister announced a $43.55 million grant to the Centre for Stem Cells and Tissue Repair to establish and operate the Australian Biotechnology Centre of Excellence, now called the National Stem Cell Centre. Given this funding is coming from at least two sources, can the minister inform the Senate to which government department the centre will be directly accountable in terms of the centre’s funding, its strategies and outcomes? What measures have been or will be put in place to ensure that the centre and its intellectual property can be seen by taxpayers to be, according to Biotechnology Australia, managed for the maximum national benefit? Can the minister also inform the Senate who the members or owners of the company National Stem Cell Centre Ltd are?

Senator MINCHIN—that is quite a detailed question. I will take it on notice and get Senator Murphy all the information he seeks. It is a fair question, but I am afraid my briefing papers do not have the sort of detail that he seeks. I am very happy to get that for him as soon as I can.

Senator MURPHY—Mr President, I ask a supplementary question. Whilst the minister is seeking that information, might he also seek information about whether the number of directors—which, I understand, stands at four at the moment—will be increased and, if it is to be increased, who will appoint those new directors?
Agriculture: Sugar Industry

Senator LUDWIG (2.34 p.m.)—My question is to Senator Minchin, the Minister for Finance and Administration. Does the minister stand by his guarantee that all funds from the proposed 3c a kilogram tax on sugar will go directly to producers? Can the minister confirm that the administration costs of this new tax over its five-year life will be of the order of $4 million and the cost of servicing the consultative structure the government proposes will be in the order of $10 million? If the government’s latest tax impost is adopted, will these administration costs be met from consolidated revenue?

Senator MINCHIN—The government is very proud of its package of support for the Australian sugar industry. Unlike the Labor Party, we are concerned to ensure support for industries like sugar that are in stress. This stress is imposed by corruption in world markets—corruption in the sense of the extraordinary subsidies which are provided to world players in the sugar market, most particularly Brazil, of course, which is a major producer. This means that it is very difficult for Australian sugar producers to compete on world markets, despite their levels of efficiency and the low prices which Australians enjoy in relation to sugar products. We put a very comprehensive package in place. We have noted that it is a package that follows a previous endeavour to assist sugar producers. It is generous. I think it is $120 million on the part of the Commonwealth over several years. It is matched by $30 million from the Beattie Labor government, which of course strongly supports this package. The Beattie Labor government has joined with us in supporting this package.

Senator LUDWIG—Mr President, I ask a supplementary question. The minister failed to answer the question that I asked: can the minister confirm that this sugar tax administration cost will be met from consolidated revenue? Can he confirm that the projected budget surplus for this financial year is $2.1 billion? If this figure is accurate, why has the government chosen to impose a new tax that will disadvantage the food manufacturing sector to fund modest assistance for the sugar industry?

Senator MINCHIN—Yes, the surplus for this year is forecast to be $2.1 billion. But, of course, the surplus is threatened by your utterly irresponsible actions in this chamber of blocking very significant budget moves,
blocking our attempts to reform the Pharmaceutical Benefits Scheme, blocking our reforms to the disability support pension and blocking our attempts to ensure decent responsible budgeting for this country. You should be ashamed of yourselves.

Small Business: Growth

Senator SANTORO (2.39 p.m.)—My question is to the Minister representing the Minister for Small Business and Tourism, Senator Abetz. Will the minister inform the Senate of the challenges facing Australia’s small businesses? How is the Howard government assisting small business to grow and to employ more Australians?

Senator ABETZ—I thank Senator Santoro for his genuine interest in assisting small business. Senator Santoro has a strong history of supporting small business, particularly in his home state of Queensland.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left! Can we have some quiet so we can at least hear what Senator Abetz has to say.

Senator ABETZ—Just like Senator Barnett, Senator Santoro has taken the opportunity of asking his first question about helping small business. There can be no doubt in the minds of our fellow Australians as to which side of politics supports Australian small businesses, their families and their employees. It is the Howard government. Many coalition senators, like Senator Santoro, have asked questions about Australian small businesses and the issues that affect them.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left! Can we have some quiet so we can at least hear what Senator Abetz has to say.

Senator ABETZ—Despite all the interjections coming from the opposition, the Australian people will not believe that, even though it has now been one year and two days since the re-election of the Howard government, the Australian Labor Party have failed to ask one single question about small business. The Australian Democrats have similarly failed but at least the Democrats, to their credit, are sitting there in guilty silence, unlike the Australian Labor Party, which are trying to overcome their deficiency by sheer noise!

Senator George Campbell interjecting—

The PRESIDENT—Senator George Campbell, please come to order.

Senator ABETZ—The Australian Labor Party have not asked a single question about small business, which is the engine room of job creation in this nation. It represents 1.2 million separate business enterprises, and the Labor Party are simply not interested. But that is not surprising when you realise that 20 out of the 28 Labor senators are former trade union operatives. They have no understanding or interest in looking after the interests of small business.

Opposition senators interjecting—

Senator ABETZ—Isn’t it interesting how the Australian Labor Party fail to engage in the policies but seek to interject so the government’s message of support does not get through to the Australian people? Australian small businesses face many challenges. The most important one is the unfair dismissal laws. The Australian Labor Party left more than just a legacy of $96 billion of government debt; they also left the legacy of the unfair dismissal laws, which we have been trying to repeal ever since we were elected in 1996. The Labor Party’s opposition to that repeal is denying 50,000 jobs from being created in this nation—

Senator Cook—Untrue!

Senator ABETZ—and 50,000 jobs will have a social, psychological and economic flow-on benefit to our fellow Australians.

The PRESIDENT—Order! Senator Cook, I ask you to withdraw that statement.

Senator Cook—I do not know that I said anything unparliamentary, Mr President.

The PRESIDENT—I believe I heard you.

Senator Cook—If you think I did, I will withdraw whatever you refer to, but there is nothing that the Labor Party is doing that would prevent 50,000 new jobs being created.

The PRESIDENT—Senator Cook, you are out of order. Please take your seat, unless you are making a point of order.

Senator Cook—There is nothing the Labor Party is doing that will not create those jobs—nothing; it is a lie.
Senator ABETZ—Just in case the Australian people were wondering why the Australian Labor Party dumped Senator Cook as deputy leader, I think that display will tell them all. The small business community of this country has the opportunity of creating another 50,000 jobs for our fellow Australians. The social benefits that would flow from that are immense. The Labor Party is standing in the way of that important reform.

When the Franchise Council were asked about unfair dismissal, 78 per cent of their respondents indicated the importance of repealing this law. We as a government are committed to supporting small business. (Time expired)

Immigration: Border Protection

Senator JACINTA COLLINS (2.45 p.m.)—My question is to Senator Ellison, representing the minister for immigration. Is the minister aware of the reports that a construction worker who was injured in the collapse of a water tower at Lake Cargelligo two weeks ago, Mr Malothane, was a black South African who was brought to Australia in July possibly for a small business—on the project 14 hours a day, seven days a week, for $100 a month? Is he further aware of reports that Mr Malothane entered Australia on a business visa but has denied ever having seen or signed a visa application? Does the minister agree that, if true, these reports suggest not only lax border control but what could be slave labour in Australia? What action has the government taken to investigate these reports?

Senator ELLISON—The claims made by the South African High Commission and the CFMEU relate to an industrial accident in October at Lake Cargelligo in New South Wales, as indicated by Senator Collins. This accident is the subject of investigations by the relevant industrial and police authorities in New South Wales. The Department of Immigration and Multicultural and Indigenous Affairs is also investigating this as a matter of priority. For privacy reasons, the minister will not comment on matters relating to individuals, but what can be said is that the allegations made about immigration malpractice need to be substantiated so that they can be properly investigated. Officers from the Department of Immigration and Multicultural and Indigenous Affairs have been working with representatives of the South African High Commission to determine the extent of any organised malpractice involving South African nationals working illegally in Australia. Officers from the department have also been in contact with the CFMEU in Sydney on this matter. On 31 October this year it was put to the CFMEU that if they had information suggesting a racket then they should provide it.

Senator Heffernan interjecting—

The PRESIDENT—Order! Senator Heffernan!

Senator Carr interjecting—

Senator ELLISON—Obviously Senator Carr is not interested in listening to this answer, but there may be others who are. The New South Wales state secretary of the CFMEU could supply no further information. He simply continued to refer to this incident as a scam. The minister has taken note of the information raised in today’s media and there is no new information to suggest anything other than this case being an isolated instance of visa abuse. In fact, today’s article in the Australian suggests that the person, now back in South Africa, denies any knowledge of an organised black slave labour market. The minister does not discount the possibility of an organised racket being associated with the case. However, all evidence produced so far indicates otherwise. I reiterate that when the CFMEU were approached they simply referred to this incident as a scam and could provide no further information. The overall assessment is that South African short-stay business visitors to Australia are a low-risk case load. Nevertheless, the department will review its visa issuing procedures in Pretoria and will also review those procedures with a view to detecting bona fide applications. The matter continues to be afforded high priority within the department, but I stress again that there is no new information offered in the press report today.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. Has the government at least established how
Mr Malothane entered the country? Despite the government’s claim that no new information has been offered in the media today, what is the government itself doing to establish the facts in this matter? When are the inquiries that the minister referred to going to be concluded and reported back publicly to the parliament?

**Senator ELLISON**—I was not asked how he arrived here, but I can say it was a short-stay business visa that was granted. That is one of the things that I mentioned in my answer which is being reviewed. That is what is being taken up with our mission in Pretoria. These are matters which are being looked at. When the matter was put to the CFMEU there was no evidence provided, other than the allegation that a scam was involved.

**Telstra: Privatisation**

**Senator CHERRY** (2.50 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts. I refer the minister to comments by the Prime Minister yesterday in relation to a possible sale of Telstra:

We’ve also got to be satisfied ... it would be sold at a time and at a price that would maximise the return to the Australian public ...

Is the minister aware that it would take a 30 per cent increase in the Telstra share price for the budget to break even in each of the five years following such a sale? Based on the Prime Minister’s comment, can the minister assure the Senate that the government would never ever support the sale of Telstra if such a sale would result in a continuing loss to the budget?

**Senator ALSTON**—I cannot say I have done the calculations that Senator Cherry has put before us about a 30 per cent or anything else increase in the Telstra share price, but what I can say is that, obviously if and when we get to a situation where these matters become relevant, the government will of course take account of the need to ensure that any potential sale of Telstra delivers good value to the people of Australia. I think that is what the Prime Minister has been saying now for some days. I think it is a self-evident proposition.

**Senator CHERRY**—Mr President, I ask a supplementary question. The Prime Minister also stated that to support a sale:

We’ve got to be satisfied about the bush ...

I presume he was talking about service levels, not the Queensland National Party. Can the minister define clearly and precisely at exactly what level of service the government becomes satisfied about the bush to such an extent that the benchmark test on service delivery will be met?

**Senator ALSTON**—We are currently considering our response to the Estens inquiry, but I would have thought that Senator Cherry and anyone else who had an open mind on the subject—and that does not include that lot on the other side—would have to acknowledge the enormous improvement in service levels over recent years. You get quarterly quality of service reports—

**Senator Lundy interjecting**—

**Senator ALSTON**—We are currently considering our response to the Estens inquiry, but I would have thought that Senator Cherry and anyone else who had an open mind on the subject—and that does not include that lot on the other side—would have to acknowledge the enormous improvement in service levels over recent years. You get quarterly quality of service reports—

**Opposition senators interjecting**—

**Senator ALSTON**—And I trust you will read it from cover to cover. You will be able to see there in all its glory— *(Time expired)*

**Agriculture: Sugar Industry**

**Senator McLUCAS** (2.53 p.m.)—My question is to Senator Minchin, the Minister for Finance and Administration. Is the minister aware that some Australian food processing companies manufacture several hundred product lines, some of which contain varying sugar content? Can the minister confirm that under his new sugar tax proposal any company making an application for an
export rebate will be required to calculate the level of sugar used in each product, possibly as often as once a month, and then apply for a sugar tax rebate? What assessment has the government made of the administrative cost burden imposed on Australian food manufacturers under this sugar tax proposal?

Senator MINCHIN—I firstly point out that the department of agriculture has been responsible for arrangements pertaining to the sugar levy including negotiations with the industry and the determinations, so it is not my direct responsibility. Again, the opposition is misdirecting its questions.

I again state that we have absolutely no regrets about the way in which this matter has been handled. We had to decide how we were going to fund this package; we decided to fund it responsibly through a levy. Levies are not unprecedented. Of course, the Labor Party is a past master of levies; it introduced the aircraft noise levy in 1995. There is a very good precedent from the former Labor government in relation to levies. We say that if particular industries have particular problems it is a much more responsible and effective approach to impose a levy of this kind for a specific duration and of a specific level and dedicate it to a specific task, which is in this case the sugar industry.

Of course sugar manufacturers who use sugar products are not going to be happy. Nobody likes it when the price of their product is increased, albeit by a very small amount for a specified period. We understand that, but we decided that the most effective way of doing this was to place the levy at that point in the production chain rather than introduce a consumer-wide levy. The fact is that Australian manufacturers who use sugar products continue to have the enormous benefit of some of the lowest sugar prices in the world and some of the lowest prices that sugar has ever had.

So manufacturers are still in a very good position. They have the benefit of the generally very good and very benign economic conditions prevailing in this country, very good conditions for manufacturing and, as I say, very low input costs in a relative sense. We have obviously spent a long time—or Mr Truss, as the minister responsible for agriculture, has—with the industry discussing this with them, taking account of their issues and seeking to ameliorate the impact. We have kept that impact as low as we possibly can and the levy will only be in place for as short a time as possible.

Senator McLUCAS—Mr President, I ask a supplementary question. I note that the minister in no way addressed the issues that the manufacturing industry is facing. Can the minister advise what assessment the government made of the competitive advantage provided to imported food products by the imposition of their sugar tax on domestic products and the consequential administrative cost burden on processors making applications for rebates? Can the minister confirm that there will be no protection for Australian food products forced to compete in the domestic market against imports unburdened by the Howard government’s sugar tax?

Senator MINCHIN—As I said, Senator McLucas, you are asking the wrong minister. The responsible minister is the Minister for Agriculture, Fisheries and Forestry and I do not represent the minister for agriculture. So it would help if the opposition knew to whom they should be directing these sorts of questions. Nevertheless, I repeat that sugar manufacturers in this country still have the enormous benefit of some of the lowest input costs in the world. This is a very small levy that is deliberately designed to ensure that Australian manufacturers can continue to have access to Australian sugar. Without this, there will not be a sugar industry. The whole point of this package is to ensure that the Australian sugar industry can restructure, reform and survive and continue to provide sugar to Australian manufacturers who use sugar products.

Environment: Australian Government Enviropfund

Senator TCHEN (2.58 p.m.)—My question is to the Minister for Forestry and Conservation, Senator Ian Macdonald. Will the minister outline to the Senate how the Howard government is supporting communities in their efforts to develop local solutions to local environmental challenges through the Australian Government Enviropfund?
Senator IAN MACDONALD—I am delighted to again report that the Howard government have done more for the environment than any other government in the history of Australia. In addition to funding the first stage of the Natural Heritage Trust—some $1½ billion—we announced before the last election that another billion dollars would be put into the Natural Heritage Trust. Senator Tchen, who I know is very keen on supporting, maintaining and enhancing our environment and the quality of our land and our seas, will know that the second phase of the Natural Heritage Trust is all about focusing on the regions and the catchments—focusing more on the big picture.

Senator Tchen will understand that in NHT1 a lot of the good work was done by community groups—small organisations that did a lot of magnificent things on the ground at the community level. So, in addition to the major thrust of NHT2, we as a government have decided that there should be a program to assist smaller community groups, and that is called the Australian Government Envirofund. I am delighted to tell the Senate that just last Friday Dr Kemp as Minister for the Environment and Heritage and I as Minister for Forestry and Conservation were very pleased to announce the first grants under the Australian Government Envirofund. These grants of up $30,000 will go to community groups.

At the launch in my neck of the woods in Townsville, we were able to identify some of the magnificent projects that community groups are doing right around Australia. These are ordinary groups on the ground, and I know as well that all of my colleagues were involved in the launch of this very good program. Up my way, the green sea turtle, which has been in some danger of extinction, was given a boost with a grant to a Townsville group supporting the green sea turtle. Some $8,000 was given to a local Aboriginal corporation in my home town of Ayr to fence off some Aboriginal middens and put plaques on them so that that Aboriginal heritage would be saved for posterity. Right across Australia some 1,700 projects received funding last Friday, and those 1,700 community groups will now proceed to help enhance our environment and to look after the land and water quality of our nation.

I have to say that this is a government that has done something for the environment. I remember the days when Senator Faulkner was the environment minister, and all he could do was ground truth; he did absolutely nothing. He talked a lot. Senator Richardson only used the environment to get second preferences from the Greens, but this Howard government has actually put money into it. I acknowledge Senator Hill and the magnificent work he did as environment minister—such a contrast to the previous environment minister. This is a great program.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Immigration: Asylum Seekers

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.03 p.m.)—Yesterday Senator Bartlett asked me a question that dealt with a number of issues. I took the question on notice and said that I would table the answer; I seek leave to incorporate that answer.

Leave granted.

The document read as follows—

Senator Bartlett asked the Minister representing the Minister for Immigration and Multicultural Affairs and Indigenous Affairs (Senator Ellison) the following questions without notice on 11 November 2002.

(1) 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 for well over 1,500 East Timorese asylum seekers?

(2) 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?

(3) 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?

(4) 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?

(5) I note the Minister’s comment that these are being assessed using standard criteria. Does the Minister acknowledge that these are not standard cases?

(6) 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 will not be eligible for assistance, will not be able to work and that the children involved in these cases will not be eligible to go to school?

(7) 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?

(8) How many children have been born in Australia whilst their parents are waiting to be processed

Senator Ellison—The answers to Senator Bartlett’s questions are as follows:

(1) Decision making on Protection Visa applications lodged by East Timorese asylum seekers had been delayed for several years because of litigation over nationality issues and more recently due to the need to ensure that the situation in East Timor was clear enough and our information sufficiently sound to enable the Department of Immigration and Multicultural Affairs and Indigenous Affairs (DIMIA) to finalise these cases reliably.

(2) As at 12 November 2002, 235 cases, covering 564 people, have been decided. All decisions so far have been refusals. Further decisions will follow in the coming months. The precise timing of decisions will depend on the details of individual applications.

(3) No. East Timorese Protection Visa applicants are claiming the need for refugee protection. The tests applied for the grant of a visa are set out in the Migration Act and are binding on decision makers and must be met by all applicants. East Timorese applicants are being treated fairly and equitably as are all Protection Visa applicants. DIMIA has, however, taken comprehensive steps to ensure that East Timorese applicants have been notified of the processes to be followed in the processing of their cases and have been given a thorough opportunity to advance any new claims or information they wish to have considered.

Like all PV applicants, East Timorese applicants have access to independent merits review. If they are found not to be refugees by the RRT, the Minister for Immigration, Multicultural Affairs and Indigenous Affairs has a power to act in the public interest to substitute the RRT decision with a more favourable decision. This power is non-compellable and discretionary. The Minister has made it clear that he is keen to hear of cases where there may be public interest grounds warranting the use of this power.

(6) No. As stated in Answer 3, applicants who seek merits review will continue to have access to asylum assistance support and any work rights and Medicare access will continue. International obligations require all children in Australia, irrespective of status, to be able to access basic education. Children of PV applicants who have applied for merits review are able to continue to attend school until the application is finally decided.

(7) (8) Statistics on these questions are not readily available and in any event data on new dependents and Australian citizen spouses depends on the applicants notifying DIMIA of these matters. As decision makers work through this caseload these issues will be explored in detail on a case by case basis and more reliable information on these matters will emerge.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Drought

Senator O’BRIEN (Tasmania) (3.03 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Forestry and Conservation (Senator Ian Macdonald) to a question without notice asked by Senator O’Brien today relating to drought assistance.

It is very tempting to suggest that all the delays in processing exceptional circumstances applications are due to the fact that Senator Ian Macdonald is hiding them under his papers, but I am sure that is not the case. What
we really know, of course, is that the problem is being caused by a minister who has not been paying attention to his portfolio. We know that the government can process exceptional circumstances applications very speedily. How do we know? Because they did it last year at election time when, very speedily, they decided to approve exceptional circumstances applications in critical areas of Western Australia and have them processed expeditiously as something very important turned on it: votes for the coalition at the last election.

The reality is that, in relation to the applications for exceptional circumstances assistance that this government has been dealing with over the last couple of months, we have seen procrastination and blame shifting. Frankly, every time this government stands up to justify its position on exceptional circumstances assistance it is only looking for a scapegoat; it is not looking for an outcome. That is shameful considering the announcement yesterday that the GDP will be reduced by one per cent, $7.1 billion, as a result of the effect of the drought. Anyone who has been to western New South Wales will have seen very little in the way of pasture for animals and very little in the way of the crops that should have grown through the winter. They will have seen the devastation that is there for everyone to see and that members of RASAC would have seen when they went to the Bourke and Brewarrina areas. They would have seen that there are producers who have nothing with which to feed their animals; they would have seen that there are producers who have spent hundreds of thousands of dollars in providing feed to keep breeding stock.

Senator Ferguson—That’s what happens in droughts.

Senator O’BRIEN—Senator Ferguson says that that is what happens in droughts. Senator, the people of New South Wales are telling me—and I wonder if the government has heard this—that this is a 100-year drought. It is the worst drought in 100 years, in their view. It is a terrible drought, and these farmers have been doing what they can to survive, to keep the basis of their economic activity together. There was a very angry meeting in Narrabri last Friday in the electorate of the Deputy Prime Minister, and I can assure you that his constituents in that area are not very pleased with the way their concerns are being dealt with.

I was telephoned by one particular producer who is down to 50 head of cattle. He is getting rid of all the horses on the property. He and his family have no money left with which to feed them and they are desperate for their concerns to be addressed as speedily as possible. The reality is that the New South Wales government has put things on the table and money is going out into these areas—and others will address this in the debate—to assist with transport and other areas of need. But the federal government has a responsibility.

In the early 1990s, the federal government, a Labor government, and the various state governments, the majority being coalition governments, agreed to an exceptional circumstances assistance package. That is the basis for the sort of funding that those farmers are seeking now. Yes, there have been negotiations to change that, and most of the issues being addressed in those negotiations have been agreed. But what are the present federal government saying? They are saying, ‘We’re not going to implement any agreement unless we screw some more money out of the states; we will hold a financial gun to the head of farmers’—supposedly the constituents of the coalition—and pull the trigger if you don’t pay the money.’ Let us face the fact: the government are trading on the misery of farmers to try and screw a few dollars out of state governments. That is the reality that the government—and senators opposite will seek to defend this—are trying to visit on farmers in this country.

So what do we have? We had a minister—one who does very little in his portfolio—promise in September that there would be immediate assistance for the farmers in Bourke and Brewarrina. What do we hear today? Sixty-three days later 24 of them have got $40,000. It has taken 63 days to get a miserable $40,000 into the hands of those farmers, after he had promised immediate assistance—a promise he repeated about a week later. What about all of the others? Was
there an answer to my question about the 220 Peak Downs farmers who lodged their application on 28 October? Are they guaranteed an immediate response? No, they are not. They are not guaranteed any response at all in the answer of this minister. (Time expired)

Senator SANDY MACDONALD (New South Wales) (3.09 p.m.)—Members of the government are very aware of and very concerned about the pain caused by the drought. To listen to Senator O’Brien, it sounds as though we are not aware and not concerned. From a personal point of view, as somebody who lives in the north-west of the state, I spent last Saturday and Sunday morning feeding stock, and I am very aware of the pain that people are feeling because I am feeling it myself. It is the worst drought in our history and our records go back about 100 years—and I say to Senator O’Brien that that is probably the only correct thing in his speech. It is the worst drought for 100 years. It is affecting farmers, it is affecting families and it is affecting communities. In fact, it will affect the total Australian community because it will impact on the economy, on the GDP and on all of us. But particularly for regional Australia, the impact will take some time to recover from.

Unfortunately, there is no silver bullet for drought, except rain—and even this government, which can do and has done a lot for people, cannot organise that. But the government is responding under the exceptional circumstances arrangements, which I am sure most people in the Senate know have been put in place. They have been finetuned and are there to respond to very unusual seasonal conditions—in fact, a one in 20 to 25 year event.

On 19 September 2002, the government announced significant new measures for the exceptional circumstances legislation. The measures include welfare support being available to farmers at an earlier stage and the use of predictive modelling, enabling applications to be considered sooner. The farmers of the Bourke and Brewarrina region will be the first to benefit from these changes to EC measures. Welfare assistance will now be made available, once a fully completed application has been deemed to demonstrate a prima facie case and has been referred by the NRAC. In addition, the prima facie case assessment can now be made on the basis of predictive modelling—which is a big improvement—indicating, where appropriate, that income will be impacted in the months ahead.

This new EC framework and these detailed arrangements for implementing the new measures have been developed by AFFA, in conjunction with the Department of the Prime Minister and Cabinet and DOFA. Agreement to the arrangements was sought from the Prime Minister and the Minister for Finance and Administration on 9 October 2002 for immediate availability. New and permanent arrangements have been built into the EC policy processes to reflect the changes. An unintended consequence—and I admit it—was a delay in payments flowing to the Bourke and Brewarrina region. However, for eligible farmers, payments will be backdated to 19 September 2002. The minister acknowledges the mistake and will arrange for those benefits to be backdated.

To expedite payments to farmers in this region potentially impacted by this delay, a number of additional measures were undertaken by Centrelink, which normally delivers this type of assistance. The additional measures taken by Centrelink include that, on 9 October 2002, the Maryborough rural call centre began to contact up to 50 farmers who had sought further information about the payment prior to its commencement and had left their contact details. All those who registered as having made inquiries have been followed up and phoned. The Centrelink Internet web site has been updated to include information on interim income support. It is not clear how many people have accessed applications off the Internet. The Dubbo customer service centre, which is close to Bourke and Brewarrina, has been made aware of the approval of the guidelines, and a staff member has been dedicated to processing the claims as soon as they are made. Information will be issued to the rural finance counsellors in Bourke and Brewarrina, along with the claim form and fact sheet. Applications can be lodged by fax or mail to
the Dubbo customer service centre or be personally lodged at the Bourke customer service centre or Brewarrina agent. *(Time expired)*

**Senator McLUCAS (Queensland) (3.14 p.m.)*—I too rise to take note of the answer given by Senator Ian Macdonald to Senator O’Brien’s earlier question on the drought and to bring to the attention of the chamber the fact that Queensland farmers, like farmers in Bourke and Brewarrina and other parts of New South Wales, are facing the hardships of drought.

On 29 October, the Queensland Minister for Primary Industries, Henry Palaszczuk, announced that an exceptional circumstances application had been lodged with the federal government on behalf of drought stricken producers in Peak Downs shire and parts of the Emerald shire in Central Queensland. In contrast to the inaction—and I mean inaction—of Minister Truss, Queensland’s primary industries minister, Mr Palaszczuk, has formed a dedicated unit within the Queensland Department of Primary Industries which is providing help with exceptional circumstances applications for emergency drought assistance. The DPI will also be allocating additional staff to work in this area, particularly as conditions worsen and further exceptional circumstances applications are required. These Queensland applications give Mr Truss and this government an opportunity to show that they have some care and understanding for drought stricken families, care that I must say has not been shown to families in Bourke and Brewarrina.

Under reforms agreed to by the states—but being held up by Minister Truss—exceptional circumstances applications would be assessed in four weeks. This would mean that the farmers of Peak Downs shire and Emerald shire could potentially see assistance arriving on 26 November. However, the people of Bourke and Brewarrina have been waiting 63 days for their assessment. Based on this form, the farmers of Peak Downs shire and Emerald shire will be waiting until the end of December, after Christmas, before they see any help from the Howard government. I do note that only 24 farmers from Bourke and Brewarrina have as yet received exceptional circumstances assistance—$40,000 is not much to boost their economy in what is, as we have heard, the worst drought in 100 years.

Senator Ian Macdonald told us earlier that, like the farmers of Bourke and Brewarrina, the farmers of Peak Downs and Emerald shires could start to receive emergency income support once a prima facie case for exceptional circumstance had been made—or, as the minister put it in his answer, once an application has been received from the state. The same promise was put to the people of Bourke and Brewarrina on 19 September, but Mr Truss bungled the administration so badly that the application forms did not even exist until halfway through October. That is a long wait for an application form when you have got mounting household bills, no money, no income and dry paddocks.

But we know that Mr Truss pulled exactly the same trick on sugar cane farmers when he promised them immediate assistance on 25 September only to have Labor reveal on 9 October that no money had reached needy cane farming families because no application form existed and because Centrelink staff had not been briefed or advised by the responsible minister, Mr Truss. I hope that this time Mr Truss will have a quiet word, as Senator Ian Macdonald suggested, with Senator Vanstone and have arrangements in place for delivering payments to the farmers of Peak Downs and Emerald shires through Centrelink.

I would also urge farmers in those areas to call the minister’s office—or my office—if they are having trouble getting their payments from Centrelink. I also call on Mr Truss to ensure that these farming families are not left facing Christmas with no cash—to ensure assessment of the Peak Downs and Emerald shires exceptional circumstances application within four weeks. In today’s *Courier-Mail*, Mr Truss said that 30 to 40 per cent of all farming families in Australia—52,000 families—will be needing financial assistance due to this drought. I hope that all of those people get in a timely fashion the assistance they deserve.
Senator FERRIS (South Australia) (3.19 p.m.)—Can I say how pleased I am to have the opportunity to speak on the subject of the drought, since I came into question time today straight from a meeting with Dr Wendy Craik on this very subject—Dr Wendy Craik is the chair of the government body which deals with drought—and also from meeting with three members of a leading women’s community organisation which has representation across the drought affected regions of this country. I was able to discuss this matter with Dr Craik just an hour and a half ago, and I was reassured by her that there are measures in place to process the Peak Downs application in a speedy and timely fashion. In fact, that application was received only on 30 October this year. Five more applications are expected this week and, because of the dreadful circumstances in country Australia at present, another 15 applications are expected by the end of January. There are measures in place to ensure that these applications—

Senator Ludwig interjecting—

Senator Hill interjecting—

The DEPUTY PRESIDENT—Order! Senator Hill and Senator Ludwig, give Senator Ferris a go.

Senator FERRIS—will be processed in a timely fashion. I can assure Senator McLuscas and Senator O’Brien—and I must say that I am very glad to hear that they are as concerned about the drought as I and others on this side of the chamber are—that those applications will be processed and that arrangements are in place for extra staff to be made available for the processing.

I want to tell the chamber this afternoon of the real difficulty of the three women I spoke of. They drove to Canberra especially to meet with a group of backbenchers who are particularly concerned about the practical difficulties on the ground, not only on the farms of those areas but also in the towns, with the harvesting contractors, who will have no financial assistance this year. We heard about one contractor who currently employs 17 people. He has had to let those people go, and he himself has taken a wage paying job because of the drought. We are also interested in the support services in the regional towns. Let me tell you what these women told us today. I fortunately brought my notes into the Senate, and I am able to quote from these women themselves.

One of these women, who has lived on the land for 47 years, said that her biggest problem was not with the federal government’s assistance but with Bob Carr’s bureaucratic red tape. I refer not only to the length of time that is being taken by the states to process these applications with the pasture protection boards but also to the other structural difficulties facing farm families. For example, this woman and her family made an application for some form of water assistance. I believe it involved sinking a bore. This is apparently something that the New South Wales government has been encouraging farmers in water-strapped areas to do. They submitted their application in August, as was suggested, and guess what? The New South Wales government has not approved it as yet. She is now concerned that they will run out of water on the property before Bob Carr’s bureaucratic red tape allows her issue to be dealt with.

I could refer also to the difficulty they face with other state government applications, and the nonsense that has been put about on the ground, particularly in New South Wales, when the federal government put in advertisements to tell people how to apply for different measures to assist them in the drought. These people then find that Bob Carr’s representatives tell them that they are not applicable to them. They are genuinely concerned about the bureaucratic buck-passing from New South Wales to the federal government. I suggest that those opposite, instead of coming in here and criticising our measures, should look to their own—(Time expired)

Senator STEPHENS (New South Wales) (3.24 p.m.)—I also rise to speak to the motion to take note of the answer given by Senator Ian Macdonald to a question relating to drought, and share the concerns of people in this chamber for rural communities, families and businesses that are being affected by a drought which, as we have heard, is probably the worst in 100 years.
The combination of inaction and bungling by the Minister for Agriculture, Fisheries and Forestry, Mr Truss, has demonstrated that he has a lack of understanding and ability in relation to this drought and his portfolio overall. On 19 September Mr Truss promised that the drought stricken farming families awaiting assessment of their exceptional circumstances applications in Bourke and Brewarrina would receive emergency income support immediately. 'Immediately' in Mr Truss's terms obviously means a time period of some 63 days, although many are still waiting.

Labor revealed on 9 October that not one cent promised to those families had reached them, simply because Mr Truss had failed to brief his colleague Senator Vanstone on the role that Centrelink was required to play in enabling those people who were eligible to actually be involved in the application process. This is typical of the minister—promises and statements but no follow-through.

When the voices of rural Australia are calling for our help with drought assistance, Mr Truss has responded with a newspaper ad entitled 'Commonwealth drought assistance'. This is the advertisement that Senator Ferris was referring to. All I can say, Mr Deputy President, is that it is a shame you cannot feed starving stock newspaper. The minister did not bother to point out in this ad that the states are making a substantial contribution to three of the five programs that he highlighted in his advertisement and that in many respects it is all bluff and bluster by this government on drought.

I suggest, however, that the award for the most detached member of the Howard ministry from the problems faced by drought stricken farmers goes in fact to the self-styled farmers' friend, John Anderson. With breathtaking arrogance, on 7 November Mr Anderson said that 'most farmers aren't suffering a cash drought'. According to Mr Anderson, 'It is for some but for a lot it's not.' Here he is, a farmer and the Leader of the National Party, and either he is ignorant or he chooses to ignore the impact of drought on farmers and rural communities. Of course, enjoying the Deputy Prime Minister's salary of over $200,000 to supplement his farm income and to soften the cash drought on his place is probably part of the issue.

Clearly, in his mind, all farmers have a tidy second income to keep them afloat on the dust plains of drought affected New South Wales. His constituents in Narrabri certainly had this impression, as they expressed so vocally last week. But, unlike Mr Anderson, Labor understands that 70 per cent of Australia is in drought, and five states are now providing drought relief. Rural exports have collapsed, rural employment has fallen and the GDP will suffer a drought induced cut of up to $7.1 billion this year, according to ABARE.

I point out that drought assistance in New South Wales provided by the New South Wales government is in marked contrast to the federal government's paltry efforts in providing $40,000 by way of exceptional circumstances assistance to just 24 families. Those 24 families are in fact receiving $170 a week in payments by way of the Newstart allowance. The New South Wales government has put in place 31 drought assistance initiatives since 18 July, helping more than 1,500 farmers so far.

That assistance includes 50 per cent subsidies for transport of domestic water and the transport of stock; an extension of special conservation loans criteria to include dam desilting and planting of perennial species such as saltbush; free transport for fodder bought through drought appeals; $1 million to provide TAFE based training for farm employees to keep them on farms and to keep them skilled; five new EC teams to provide exceptional circumstances applications for 22 rural land protection board areas; two business counsellors to work with drought affected businesses in the Urana region; and a $1 million cash donation to provide assistance through the New South Wales Community Disaster Relief Fund. This is not chickenfeed; these are real funds going to people in real need in drought affected areas across the state. (Time expired)

Question agreed to.

Telstra: Privatisation

Senator CHERRY (Queensland) (3.29 p.m.)—I move:
That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Alston) to a question without notice asked by Senator Cherry today relating to the proposed sale of Telstra.

The Minister for Communications, Information Technology and the Arts was responding to a fascinating comment by the Prime Minister on the 7.30 Report last night. When he was asked about Telstra he said:

We have to be satisfied about the bush. We also have to be satisfied, if we were satisfied about the bush, that we sold at a time and a price that would maximise return to the Australian public and that could be quite a factor.

They are very important statements, because the Prime Minister is essentially saying that he has to work out whether he has got the bush service levels up to scratch. The Estens report, released last week, certainly showed that, whilst there has been some progress, we are well short of that benchmark before we even consider the sale of Telstra. He is also highlighting that there is a budgetary issue. That is very significant. That is essentially saying that there is a very strong argument—in fact, an irrefutable argument—that you could not sell Telstra on the current share price that Telstra has been suffering from for some time without there being a significant negative budgetary impact. It is quite clear, when you look at the figures based on the current share price, that you are looking at a budgetary impact of around $980 million over five years, rising quite substantially to almost $2 billion if you take into account the cost of offsetting the superannuation liabilities for Telstra. These are very significant issues.

But, even when you look at the second benchmark that I asked Senator Alston about in my supplementary question on the whole issue of country services, the government cannot sustain an argument based on the Estens inquiry report that Telstra has met a reasonable standard for service in the country. If you look at the Estens report, you see quite clearly that, for example, there has actually been a slight decline in the level of faults over recent years and that these will need to improve before you can say that country services are up to whatever this as yet unspecified benchmark standard is for the government for the Telstra sale to be concluded.

The most important recommendations of the Estens report are the ones that the government seems to have forgotten about. They are about the necessity for continuing aggressive public intervention in a policy sense for maintaining decent service standards in the bush. I refer, for example, to recommendation 9.5. This is about ensuring that the bush gets adequate services, not just current telecommunications services but future telecommunications services. Recommendation 9.5 says:

The Government should provide funding for future service improvements in regional, rural and remote Australia, rather than imposing financial obligations on industry.

Similarly, recommendation 9.1 says:

The Government should put in place a process to regularly review telecommunications services in regional, rural and remote Australia, and to assess whether important new service advancements are being delivered equitably in those areas.

This highlights that, even if you actually got some as yet unspecified benchmark of appropriate service to the bush delivered under the current services, that does not guarantee that the bush will actually get access to any new services, as highlighted in this report, such as the now overwhelming demand in the bush for decent Internet speeds, ISDN and broadband.

Even if we lock in stone the current batch of services provided by Telstra, privatising Telstra will not ensure that the bush enjoys future services. That is why I argued at the time that I think the Estens report—and I stand by this—actually provides a better case for increasing government ownership in Telstra rather than reducing government ownership. I certainly hope that when the minister—whether it be the Minister for Finance and Administration or the Minister for Communications, Information Technology and the Arts—looks at those benchmarks set by the Prime Minister on the 7.30 Report last night he will conclude that, if we are going to have decent services in the bush now and into the future, we will need continuing government subsidies and regulation, preferably government ownership. Secondly, if you are
going to sell Telstra at some point, you have to make sure that the budgetary impact is a positive, and that cannot be guaranteed on current share prices or the likely share prices over the next couple of years, given the price of telcos around the world. Certainly there is no case for selling Telstra on current policy.

Question agreed to.

PETITIONS

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

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 600 citizens).

Terrorism: Suicide Bombings
To the Honourable the President and members of the Senate assembled in Parliament
We the citizens of Australia note that the practice of suicide bombing is a crime against humanity. This crime and its participants, organisers and supporters are guilty of a crime which has been committed against innocent civilians.
Further, we the undersigned note that there is no moral, religious, or political justification for this crime.
Your petitioners, declare therefore, that the perpetrators of these crimes should be prosecuted and punished by the appropriate international courts of justice.
We the citizens of Australia call on the Senate to act immediately to facilitate a debate at the next United Nations conference to declare, clearly and unequivocally, that the practice of suicide bombing is a crime against humanity.

by Senator Forshaw (from 372 citizens).

Immigration: People-Smuggling
To the Honourable President and members of the Senate in Parliament:
We request that the Senate call for a full independent judicial inquiry into the role of Australian Defence Force personnel and the Australian Federal Police in immigration-related activities including (a) the circumstances surrounding the sinking of the SIEV-X and (b) the people-smuggling disruption program in Indonesia.

by Senator Kirk (from 220 citizens).

World Trade Organisation: General Agreement on Trade in Services
To the Honourable the President and members of the Senate in Parliament assembled:
The Petition of the undersigned shows our concern that:
That Australia is currently involved in a new round of negotiations on the General Agreement on Trade in Services (GATS) through the World Trade Organisation (WTO). We are concerned that this negotiation process is not open or transparent nor is there sufficient accountability to the Australian community for the decisions made in this process. We are concerned that further trade liberalisation through GATS will have a significant effect on the provisions of public service in Australia such as health, education and water services and national sovereignty generally.
Your petitioners request the Senate should:
Commission and inquiry into GATS to ensure that the potential ramifications of this round of negotiations receive sufficient scrutiny and public debate. Further to this, we seek a moratorium on further GATS commitments until a Senate Inquiry takes place.

by Senator Moore (from 267 citizens).

Roads: Princes Highway
To the Honourable the President and members of the Senate in Parliament assembled:
The petition of the undersigned shows:
We object to the state of the Princes Highway in the Bega electorate. In particular we draw to your attention the bridge at Pambula that is subject to flooding, and the necessity for heavy vehicles to travel through the main street of Bega.
Your petitioners request that the Senate should:

(1) declare the Princes Highway a road of National Importance;
(2) provide at least $5 million to the NSW State Government to match their contribution for the construction of a flood free bridge at Pambula; and
(3) provide funds for the construction of a heavy vehicle by pass for Bega.
by Senator Stephens (from 1,658 citizens).

Petitions received.

NOTICES
Presentation

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 Australian meat industry and export quotas be extended to 14 November 2002.

Senator Heffernan to move on the next day of sitting:

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 13 November 2002, from 4 pm, to take evidence for the committee’s inquiry into the Transport Safety Investigation Bill 2002.

Senator Bartlett to move on the next day of sitting:

That there be laid on the table, no later than noon on Thursday, 14 November 2002, the figures ‘in terms of the increasing capability that’s necessary to meet this much more complex strategic environment’, and all documentation relating to those figures, which were provided to the Government by the Minister for Defence (Senator Hill) and referred to by Senator Hill on Channel 10’s Meet the Press program on 10 November 2002.

Senator Bartlett to move on the next day of sitting:

That there be laid on the table, no later than 2 pm on Thursday, 5 December 2002, all documents associated with the formation, funding and membership of the Foundation for a Sustainable Minerals Industry, including but not limited to: reports, correspondence, e-mail, records of conservation, memos, margin notes and minutes of meetings.

Senator Knowles to move on the next day of sitting:

That the Community Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 14 November 2002, from 3.30 pm, to take evidence for the committee’s inquiry into the provisions of the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002.

Senator Greig to move on Thursday, 14 November 2002:

That the Senate—

(a) notes, with concern, indications by the Government that it is considering entering into an agreement with the United States of America (US), pursuant to which Australia would agree not to surrender US nationals to the International Criminal Court without the consent of the US; and

(b) refers the proposed agreement to the Joint Standing Committee on Treaties for inquiry and report, with particular reference to the following matters:

(i) whether the proposed agreement would breach the terms of, or be otherwise inconsistent with the spirit of, the Rome Statute which Australia has ratified,

(ii) the effect of the proposed agreement, either itself or in conjunction with similar agreements between the US and other states, on the ability of the International Criminal Court to effectively fulfil its intended function,

(iii) the implications of any extradition provisions in the proposed agreement and whether the proposed agreement would require the re-negotiation of existing extradition agreements to which Australia is a party, and

(iv) the implications of the proposed agreement with respect to Australia’s national interest.

Senator Ridgeway to move on the next day of sitting:

That the Senate—

(a) notes, with sadness, the passing on 3 November 2002 of Mr Jimmy Pike, a Walmajarri man from the Great Sandy Desert in the Kimberley, and thanks his family for their permission to refer to him by name in recognition of his outstanding achievements as an artist;

(b) remembers Mr Pike as one of the artists who transformed the Indigenous fine art movement by his bold use of colour and distinctive style of design, which were inspired by his traditional desert country and the Walmajarri ceremonies and stories associated with that country;

(c) notes that Mr Pike was first introduced to Western-style painting in his 40s, yet
created an expansive body of work across many different mediums including painting, printmaking, fabric design and wood carving, that has been exhibited in major galleries throughout Australia, and in Japan, France, Germany, the United Kingdom, the United States of America and the People’s Republic of China; and

(d) recognises that Mr Pike’s works are represented in most of the major galleries, museums and private collections in Australia, as well as overseas, contributing to his status as one of the nation’s pre-eminent Aboriginal artists and cultural custodians.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the many calls by the Australian Democrats to phase out clear-fell logging of native forests in Victoria, and the local and state-wide opposition to logging, particularly in the Otways and Wombat State Forests,

(ii) the work of members of the Otway Ranges Environment Network, Geelong Community Forum, Geelong Environment Council and Otway Ranges Interest Group in working to protect native forests, and

(iii) the announcement by the Victorian State Government last week that the logging of native forests in the Otways will end within 6 years and logging in the Wombat State Forest will be reduced and woodchipping there stopped altogether; and

(b) congratulates the State Government on this initiative and urges the Premier to put these promises into action immediately after the forthcoming election.

Senator Nettle to move on the next day of sitting:

That the Senate calls on the Australian Government:

(a) to agree to a unitisation deal concerning Greater Sunrise that considers for the purposes of negotiating the Timor Sea Treaty that 80 per cent of the Greater Sunrise gas field is accepted to lie within the Joint Petroleum Development Area (JPDA);

(b) if it will not negotiate in good faith about the proportion of Greater Sunrise to lie with the JPDA, to ratify the Timor Sea Treaty independently of the Greater Sunrise unitisation arrangement being finalised; and

(c) in order to facilitate ongoing negotiation in good faith, to recommit to the jurisdiction of the International Court of Justice with respect to the determination of maritime boundaries.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes the Medact report, Collateral Damage: the health and environmental costs of war on Iraq, launched internationally on Tuesday, 12 November 2002 by the International Physicians for the Prevention of Nuclear War; and

(b) calls on the Government to adopt conclusions contained within the report, including:

(i) the urgent need for humane and wise global leadership which recognises Organisation (WTO) negotiations relating to the General Agreement on Trade in Services (GATS), and

(ii) the specific requests received by Australia from other countries in the current round of WTO negotiations relating to GATS; and

(c) invite community, parliamentary and media observers to sit in on the informal ministerial talks to be held in Sydney in the week beginning 10 November 2002 relating to WTO and GATS.
that national security is impossible without international security and that this can be achieved only the measures outlined in the report, and

(ii) pursuing peaceful means of resolving conflicts with Iraq and thinking carefully about the effects of waging war that might damage our fragile planet and its people for decades to come.

Senator Faulkner to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) four and a half years ago, on 18 May 1998, Malcolm Arthur Colston was committed in the Supreme Court of the Australian Capital Territory to stand trial on 28 charges of defrauding the Commonwealth pursuant to section 29D of the Crimes Act 1914,

(ii) on 5 July 1999, the Director of Public Prosecutions (DPP) presented a Notice Declining to Proceed Further on the charges to the Supreme Court because of medical evidence of Mr Colston’s imminent demise, and

(iii) Mr Colston and spouse each incurred fares in the period 1 July 2001 to 30 June 2002 for $992.24, and charged the taxpayer for Comcar services worth a total of $212;

(b) welcomes the Parliament’s enacting legislation to strip corrupt politicians of their gold passes; and

(c) in the light of the recent revelations of Mr Colston’s use of his gold pass entitlements, welcomes the decision of the DPP to review Mr Colston’s medical status.

Senator Brown to move on the next day of sitting:

That the Senate—

(a) notes that former Senator Ingrid Betancourt and Ms Clara Rojas have been held captive by Revolutionary Armed Forces of Colombia (FARC) guerrillas in Colombia since February 2002; and

(b) calls on the Australian Government to write to President Uribe asking that he take urgent and active steps to secure the release of Ms Betancourt, Ms Rojas and other captives of the FARC.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (3.36 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Australian Animal Health Council (Live-stock Industries) Funding Amendment Bill 2002

Health Care (Appropriation) Amendment Bill 2002

Higher Education Legislation Amendment Bill (No. 3) 2002.

I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—

AUSTRALIAN ANIMAL HEALTH COUNCIL (LIVE-STOCK INDUSTRIES) FUNDING AMENDMENT BILL 2002

Purpose of the Bill

The Bill will enable livestock industries to repay the Commonwealth for the costs of dealing with animal disease outbreaks and emergencies. Livestock industries have agreed to impose a new levy by regulation under the Primary Industries (Excise) Levies Act 1999 and the Primary Industries (Customs) Charges Act 1999 to fund their liability to the Commonwealth.

It is intended that the new levy will be disbursed to Animal Health Australia (AHA) for administration purposes. AHA will, as necessary, make the required re-payment to the Commonwealth on behalf of the relevant livestock industry.

Reasons for Urgency

The Commonwealth government approved the Emergency Animal Disease Response Arrangements (EADRA) and the arrangements for re-payment by industry (the Cost Sharing Agreement (CSA)) in March 2002. Following a lengthy and detailed process commencing in 1999, governments and industry determined that the cost sharing arrangements in place since 1955 were inadequate to deal with the scale of most existing or emerging exotic animal diseases. The arrangements provide for the sharing of the eligible costs of a disease response by governments and af-
affected industries and will replace the current Commonwealth-States Cost Sharing Agreement. Under the terms of this new agreement, the Commonwealth may be required to underwrite a livestock industry’s share of costs of an emergency animal disease response. The Commonwealth has agreed to underwrite the cost of reacting to an exotic animal disease outbreak on the proviso that livestock industries, who have signed the new cost sharing arrangements, agree to an appropriate repayment scheme.

The government decision provides that industry repayment of Commonwealth underwriting will be via statutory levy arrangements. The Commonwealth government, livestock industries, states and territories signed the CSA on 19 March 2002 binding them to the new cost-sharing arrangements, including the underwriting of industry contributions which may be necessary in some cases.

Amendments to the Australian Animal Health Council (Livestock Industries) Funding Act 1996 and associated amendments to the levies and charges legislation need to be put in place to enable livestock industries to use the levy and charges mechanism to repay the Commonwealth for the costs of dealing with animal disease emergencies.

Livestock industries would be critical if specific purpose legislation to allow them to fund their liability to the Commonwealth is not implemented as soon as possible. For example, the poultry industry is likely to call on the cost sharing arrangements, ie levies, agreed to under the CSA, in order to repay their liability to the Commonwealth following the recent case of Newcastle disease in Meredith, Victoria.

(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry)

HEALTH CARE (APPROPRIATION) AMENDMENT BILL 2002

Purpose of the Bill

The Bill will:

- increase the ceiling to an amount which will allow the Commonwealth to discharge its responsibilities under the 1998-2003 Australian Health Care Agreements to provide financial assistance to the States and Territories for the provision of public hospital services; and

- introduce a requirement that the Minister tables, in both Houses of Parliament, a statement of the actual amounts appropriated and paid under the Agreements. This will enable public accountability requirements to be met and the Minister’s authority to approve payments under the Agreements to be discharged, but not exceeded, in accordance with both the Act and the Agreements.

Reasons for Urgency

The Bill will provide the Commonwealth with the legislative authority to continue making payments from early 2003 to the States and Territories for the provision of public hospital services under the 1998-2003 Australian Health Care Agreements. This financial assistance is payable in accordance with estimates approved by the Minister for Health and Ageing under the provisions of the Agreements and the Health Care (Appropriation) Act 1998.

Current approved estimates total over $31.7 billion over the five years of the Agreements, equating to payments to the States and Territories of approximately $130 million per week.

At this rate, the current ceiling specified in the Act will be reached in early 2003. Once the ceiling is reached, the Commonwealth will have no legislative authority to continue making payments to the States and Territories for the provision of public hospital services. If the legislative amendments are not made this year, the Commonwealth will not be certain it can make the payments from early 2003.

It is politically imperative that the Commonwealth continue to meet its responsibilities to make financial assistance available to the States and Territories in accordance with the provisions of the Australian Health Care Agreements. The total amount of funding to be paid out under the Agreements reflects Government decisions taken since the Act was passed in June 1998. Through clause 20 of the Agreements, the Government has already made a commitment to the States and Territories that its responsibilities will be fully discharged.

(Circulated by authority of the Minister for Health and Ageing)

HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 3) 2002

Purpose of the Bill

The bill will amend the Higher Education Funding Act 1988 to extend the application of the National Protocols for Higher Education Approval Processes (National Protocols) to Australia’s external territories.
Reasons for urgency

Urgent action is required to stop damage to Australia’s international education industry from the operations of unaccredited bodies. Unaccredited bodies (such as Greenwich University on Norfolk Island) have not demonstrated they meet the higher education quality standards set out in the National Protocols.

Delay in passage until 2003 will prolong and exacerbate the potential for damage to the reputation of Australia’s international education industry.

If the legislation is not passed, the Commonwealth will be unable to prevent the operations of bodies which do not meet the National Protocols, such as Greenwich University and any similar bodies that might be established or operate in external territories.

(Circulated by authority of the Minister for Education, Science and Training)

Senator MACKAY (Tasmania) (3.37 p.m.)—At the request of the Deputy President, I give notice that, on the next day of sitting, he shall move:

That standing order 21 be amended to read as follows:

(1) A House Committee, consisting of the President, the Deputy President and 5 senators, shall be appointed at the commencement of each Parliament, with power to act during recess, and to confer and sit as a joint committee with a similar committee of the House of Representatives.

(2) The committee may consider any matter relating to the provision of facilities in Parliament House referred to it by the Senate or by the President.

(3) The President shall be the chair of the committee.

I seek leave to incorporate in Hansard a brief explanation of the notice of motion.

Leave granted.

The statement read as follows—

The provisions in standing order 21, whereby the Deputy President is the Chair of the Senate House Committee, and the President is not specified as an ex officio member, which were introduced in 1994 as part of the scheme for sharing the chairs of Senate committees among the parties in the Senate, have been ignored in practice. The President has continued to chair the meetings of the Senate and House of Representatives House Committees when they meet together, in accordance with the practice before the amendment of the standing order.

To regularise the practice, it is proposed that the standing order be amended so that the President is Chair of the Senate House Committee and the Deputy President is an ex officio member.

Withdrawal

Senator CARR (Victoria) (3.38 p.m.)—Given that the Minister for Science has agreed to provide all the documents requested in the return to order by Friday, I ask that general business notice of motion No. 240, standing in my name for today proposing an order for the production by the Minister representing the Minister for Science, Senator Alston, of documents relating to the proposed national repository for low-level radioactive waste, be withdrawn.

Postponement

Items of business were postponed as follows:

General business notice of motion no. 53 standing in the name of Senator Greig for today, relating to the introduction of the Sexuality Anti-Vilification Bill 2002, postponed till 4 March 2003.

General business notice of motion no. 235 standing in the name of Senator Stott Despoja for today, relating to child labour, postponed till 13 November 2002.

General business notice of motion no. 238 standing in the name of Senator Sherry for today, proposing an order for the production of documents relating to the evaluation of the ‘Living in Harmony’ initiative, postponed till 13 November 2002.

BUSINESS

Days of Meeting

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.39 p.m.)—I move:

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.

Question agreed to.

**COMMITTEES**

**Rural and Regional Affairs and Transport Legislation Committee**

**Extension of Time**

*Senator FERRIS (South Australia) (3.40 p.m.)—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 Transport Safety Investigation Bill 2002 be extended to Monday, 18 November 2002.

Question agreed to.

**Employment, Workplace Relations and Education Legislation Committee**

**Extension of Time**

*Senator FERRIS (South Australia) (3.40 p.m.)—At the request of Senator Tierney, I move:*

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.

Question agreed to.

**Environment, Communications, Information Technology and the Arts Legislation Committee**

**Meeting**

*Senator FERRIS (South Australia) (3.40 p.m.)—At the request of Senator Eggleston, I move:*

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.

Question agreed to.

**Corporations and Financial Services Committee**

**Meeting**

*Senator FERRIS (South Australia) (3.41 p.m.)—At the request of Senator Chapman, I move:*

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.

Question agreed to.

**Foreign Affairs, Defence and Trade Committee: Joint Meeting**

*Senator FERRIS (South Australia) (3.41 p.m.)—At the request of Senator Ferguson, I 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.

Question agreed to.

**Legal and Constitutional Affairs References Committee**

**Meeting**

Senator MACKAY (Tasmania) (3.42 p.m.)—At the request of Senator Bolkus, I move:

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

Question agreed to.

**Foreign Affairs, Defence and Trade References Committee**

**Extension of Time**

Senator MACKAY (Tasmania) (3.42 p.m.)—At the request of Senator Cook, I move:

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.

Question agreed to.

**Legal and Constitutional Affairs References Committee**

**Meeting**

Senator MACKAY (Tasmania) (3.43 p.m.)—At the request of Senator Bolkus, I move:

That the Legal and Constitutional References Committee be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during sittings of the Senate.

Question agreed to.

**GEMBROOK PRIMARY SCHOOL**

Senator ALLISON (Victoria) (3.44 p.m.)—I move:

That the Senate—

(a) notes that:

(i) the Gembrook Primary School has for the past 100 years had only two permanent classrooms, even when the school population has been around 300,

(ii) the Gembrook Primary School population has been around 170 children for the past 3 years and is increasing each year,

(iii) the Victorian State Government’s school infrastructure policy for the ratio of permanent and portable classrooms is 80:20,

(iv) the Victorian State Government does not provide funding for the maintenance of portable classrooms, instead replacing them when the repair bill is more than 5 per cent of the cost of replacement, and

(v) as a result the Gembrook Primary School, receives no maintenance funding for most of its classrooms;

(b) calls on the Victorian State Government to provide Gembrook Primary School with four new permanent classrooms, bringing the capacity of its permanent classrooms to 150;

(c) recognises that there are many thousands of students housed in inadequate portable classrooms Australia-wide; and

(d) calls on the Federal Government to provide more funds for urgently needed, basic capital works in government schools.

Question put:

That the motion (Senator Allison’s) be agreed to.

The Senate divided. [3.48 p.m.]

(The Deputy President—Senator J.J. Hogg)

Ayes…………… 9
Noes…………… 43
Majority………. 34
AYES
Allison, L.F. *  Bartlett, A.J.J.
Brown, B.J.    Cherry, J.C.
Greig, B.      Lees, M.H.
Murray, A.J.M.  Nettle, K.
Ridgeway, A.D.  

NOES
Barnett, G.    Bishop, T.M.
Bolkus, N.     Brandis, G.H.
Campbell, G.   Campbell, I.G.
Collins, J.M.A. Colbeck, R.
Crossin, P.M.  Denman, K.J.
Evans, C.V.    Faulkner, J.P.
Ferguson, A.B. Ferris, J.M. *
Forshaw, M.G.  Hogg, J.J.
Hutchins, S.P.  Johnston, D.
Kemp, C.R.     Kirk, L.
Knowles, S.C.  Lightfoot, P.R.
Ludwig, J.W.   Lundy, K.A.
Macdonald, J.A.L. Mackay, S.M.
Marshall, G.   Mason, B.J.
McGauran, J.J. McLucas, J.E.
Moore, C.      Payne, M.A.
Ray, R.F.      Reid, M.E.
Santoro, S.    Scullion, N.G.
Sherry, N.J.   Stephens, U.
Watson, J.O.W. Webber, R.
Wong, P.      

* denotes teller

Question negatived.

BUSINESS
Consideration of Legislation

Senator BROWN (Tasmania) (3.52 p.m.)—I move:

(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

Question agreed to.

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

Senator ALLISON (Victoria) (3.52 p.m.)—I move:

That the Senate requires advice from the Australian Competition and Consumer Commission (ACCC) on its progress in responding to the Senate order of 27 June 2002 and its expected date of reporting to the Senate.

Question agreed to.

DOCUMENTS
Tabling

The DEPUTY PRESIDENT (3.53 p.m.)—On behalf of the President, I present an address of the Federation Council of the Federal Assembly of the Russian Federation from the Ambassador of Russia, Leonid P Moiseev, relating to the recent hostage crisis in Moscow.

Tabling

The DEPUTY PRESIDENT (3.53 p.m.)—On behalf of the President, I present a letter from the Acting Auditor-General, Ian McPhee, relating to parliamentary privilege over certain documents.

PARLIAMENTARY ZONE
Proposal for Works

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.53 p.m.)—In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone, together with supporting documentation, relating to additional works at Reconciliation Place and Commonwealth Place. I seek leave to give notice of motion in relation to the proposal.

Leave granted.

Senator IAN CAMPBELL—I give notice that, on Thursday, 14 November 2002, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being additional works at Reconciliation Place and Commonwealth Place.
COMMITTEES
Treaties Committee
Report

Senator KIRK (South Australia) (3.54 p.m.)—On behalf of the Joint Standing Committee on Treaties, I present the 49th report, entitled The Timor Sea Treaty, together with the Hansard record of proceedings and minutes of proceedings, and seek leave to move a motion in relation to the report.

Leave granted.

Senator KIRK—I move:

That the Senate take note of the report.

The report contains the results of an inquiry conducted by the Joint Standing Committee on Treaties into the exchange of notes and the Timor Sea Treaty, both done at Dili on 20 May 2002 and tabled in the parliament on 25 June 2002. From the outset it was evident that the committee would require longer than the normal 15-day sitting period to review the Timor Sea Treaty, and on 26 June 2002 the committee informed the Minister for Foreign Affairs that this was the case. The longer period of time was required because of the high level of interest in the proposed treaty action among the Australian public.

The purpose of the treaty is to set in place a framework that provides the necessary legal and fiscal security to enable the development of the oil and gas resources within the designated area. The treaty provides for East Timor having title to 90 per cent of the resources within the JPDA and Australia having title to 10 per cent. The revenue flow to Australia from the Bayu-Undan oil and gas fields, enabled by the ratification of the treaty, is not inconsiderable at $A2 billion over the life of the project. In addition, Australia as a whole—and the Northern Territory in particular—stands to gain through indirect benefits, such as employment, associated with bringing oil and gas from the Bayu-Undan fields onshore.

The Bayu-Undan venture participants estimate that the construction of a liquefied natural gas plant in Darwin will create about 1,200 jobs and the operation phase will sustain 100 direct jobs and from 300 to 500 indirect jobs for the 20-year life of the project. The cost of the construction of the pipeline from the Bayu-Undan to Darwin, together with investments in Darwin, is estimated at $A2.7 billion.

In an increasingly global world, Australia’s interests are increasingly bound up with the interests of its region. Ratification of the Timor Sea Treaty serves the Australian national interest in providing the conditions that will allow East Timor economic independence and political and social stability. East Timor is the newest sovereign member of the international community and the ratification of the treaty provides a rare opportunity for putting in place conditions that will exert a beneficial influence upon the future course of this nation and contribute to the stability of the region.

The treaty also makes provision for the unitisation and equitable sharing of any oil and gas resource that extends across the boundary of the JPDA. The oil and gas fields of the Greater Sunrise constitute a known instance of a straddling resource. The treaty provides that the Greater Sunrise shall be subject to a unitisation agreement on the basis that 20.1 per cent of the field lies within the JPDA and 79.9 per cent lies within Australian jurisdiction.

The unitisation agreement for the Greater Sunrise fields is currently under negotiation. Both Australia and East Timor signed a memorandum of understanding on 20 May 2002 stating that they will work expeditiously and in good faith to conclude this agreement by 31 December 2002. The committee recommends that the government use its best endeavours to achieve this objective on or before the date on which the Timor Sea Treaty is ratified and, in any event, before 31 December 2002, as this would serve the best interests of both nations.

The committee was concerned to ensure that the treaty provides for the adequate maintenance of employment and environmental standards within the JPDA. The occupational health and safety and environmental regimes that are currently in operation are likely to continue under the terms of the treaty. The committee urges the government to use its presence on the administrative agencies overseeing oil and gas devel-
velopment in the JPDA to ensure that standards are enforced.

Although some non-government organisations and individuals before the committee in Australia and in East Timor challenged the treaty as prejudicing future maritime claims by either East Timor or Australia, the treaty is without prejudice to the claims of either party. The treaty is a provisional instrument that provides the necessary conditions for the development of petroleum related activities within the JPDA. These activities will bring great benefits to Australia and are vital to the future development of East Timor. It is the view of the committee that it is in the interests of Australia for the Timor Sea Treaty, considered in report 49, to be ratified. The committee so recommends. I commend the report to the Senate.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.00 p.m.)—I will not speak long on this matter but, as the Democrats representative on the Joint Standing Committee on Treaties, and in view of the Democrats’—indeed many other people’s—longstanding interest in issues relating to East Timor and indeed this particular treaty, I thought I should speak briefly on it. I apologise to the committee and to the people who appeared at public hearings throughout the country that I was not able to get to any of the hearings. I certainly read transcripts and submissions that were provided to the inquiry. It is an issue that the Democrats and I take seriously. I would not want people to get the impression that, because I was not able to attend hearings, that is not the case. As people would recognise, trying to cover all the different workloads and responsibilities one has is not always easy. This was particularly so over that period of time. Nonetheless, the issue is an important one. The fact that I felt it necessary to put in a minority report reflects that.

I understand and recognise the rationale behind the committee’s recommendation, but the Democrats still retain some concerns. It is fairly obvious to all of us, no doubt, that the future of East Timor very much depends on its offshore resources. It is of course an extremely poor country and it will very much rely on its ability to generate revenue from this resource. For that reason, the Democrats have some concerns that the East Timorese may have been locked into a situation that is not as beneficial as it could be for them.

According to its terms of reference, the treaties committee is perhaps not normally meant to consider what is in the national interest of another country. We consider what is in our national interest, and that is appropriate, but East Timor is a special case for a number of historical reasons and its interests need to be given greater priority than perhaps we would give to those of other nations that we are negotiating treaties with. Secondly, it is in Australia’s own interests to have East Timor develop as a prosperous nation and as one that is able to operate in an independent and self-determined way. It has, as a nation, set a great example to people around the world with its perseverance for justice. It is in everybody’s interests for East Timor to be able to succeed, to be seen to succeed and to continue to provide inspiration for others around the world who struggle for freedom.

There were a number of significant submissions that raised concerns about aspects of the treaty. The Democrats or I have raised concerns, in previous reports, about the Australian government’s decision to exclude Australia from the compulsory jurisdiction of the International Court of Justice with respect to maritime boundary disputes. We recorded our opposition to that decision when the government made it in March this year. We believe that it is best not to have this issue dangle on indefinitely, for the sake of the interests of both countries at government level and also for the sake of the countries that are seeking to utilise this resource. I know there are a number of Australian companies, such as Santos and others, which are looking to utilise some of the resources such as natural gas. I recognise that it is desirable to have it all concluded as promptly as possible, but we believe that there are still issues relating to the seabed boundaries that could do with ongoing examination.
The Democrats repeat our opposition to the government’s decision to remove itself from the jurisdiction of the ICJ pertaining to maritime boundaries. We believe that there need to be express provisions in the treaty relating to environmental standards, particularly given that the area is going to be subjected to significant exploitation in relation to gas and oil. Environmental standards are important, as are occupational health and safety standards. It would have been useful for the Australian government to make a clearer commitment to providing training for East Timorese nationals and residents who are seeking to enter the resource industry. Skilling up the citizens of East Timor is again something that is in our national interests. Nonetheless, we support the 90 to 10 ratio that was agreed to and, given that undoubtedly this treaty will be ratified, we look forward to the provision of that source of income for the East Timorese to be able to be applied in conjunction with ongoing aid and assistance from the Australian government to help in the very crucial issue of the further economic and social development of the East Timorese nation.

Question agreed to.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator McGAURAN (Victoria) (4.06 p.m.)—On behalf of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, Senator Eggleston, I present additional information received by the committee relating to hearings on the budget estimates for 2002-03.

COMMITTEES

Community Affairs Legislation Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—The President has received a letter from a party leader seeking a variation to the membership of a committee.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (4.07 p.m.)—by leave—I move:

That Senator Moore replace Senator Hutchins on the Community Affairs Legislation Committee for the committee’s inquiry into the provisions of the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002 on Thursday, 14 November 2002.

Question agreed to.

SUPERANNUATION LEGISLATION AMENDMENT (CHOICE OF SUPERANNUATION FUNDS) BILL 2002

Report of Senate Select Superannuation Committee

Senator WATSON (Tasmania) (4.08 p.m.)—Mr Acting Deputy President Lightfoot, I acknowledge your membership of the Senate Select Committee on Superannuation and also the presence in the chamber at the present time of the deputy chair of that committee, Senator Sherry. I thank you both for your good work. As chair of the committee, I present the committee’s report on the provisions of the Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2002, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (No. 1) 2002

Report of Senate Rural and Regional Affairs and Transport Legislation Committee

Senator McGAURAN (Victoria) (4.09 p.m.)—On behalf of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I present the report of the committee on the provisions of the Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 1) 2002, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.
RESEARCH INVOLVING EMBRYOS
BILL 2002
Second Reading

Debate resumed.

Senator SHERRY (Tasmania) (4.09 p.m.)—The Senate is considering the Research Involving Embryos Bill 2002, which sets out the parameters for allowing research involving the use of human embryos in Australia. All senators are allowed a conscience vote on this bill—that is, the individual can make their own decision, free of party meeting—in the Australian Labor Party’s case, this is free of caucus and the collective decision making involved. This is a rare event in Australian parliamentary history. In Australia, the party system involving pre-parliamentary discussion and decision making in the party caucus before the respective debates in the parliamentary chambers is long established and perhaps the most tightly applied in any Western democracy.

In my 12 years in the Senate, this is only the second occasion when political parties have allowed such a conscience vote to occur, the other being the overturning of the Northern Territory’s euthanasia bill in 1997. I welcome a conscience vote. I am a strong supporter of such an approach being applied to so-called matters of life and death. It is not an approach that any member or senator should fear. There is certainly more than the usual amount of lobbying, debating, persuading and perhaps cajoling. There has also been a strong flow of representations. In my case, I have received some 350 representations in a variety of forms including letters, emails, articles and personal representations, and I thank all of those people who have contacted me.

As legislators we have been left to determine our vote based on our own set of individual ethical principles, our practical experience and our evaluation of the evidence. I contend that each individual’s decision is no more ethical or moral and no less ethical or moral than others’ decisions. It is an individual’s decision, and I respect all my colleagues for their contributions and for the final vote that they will exercise. I also thank my party, the Australian Labor Party, for allowing me this opportunity to make my own decision on this matter. It certainly will not be the end of the two-party system now or in the foreseeable future. Many other fundamental economic and social issues form the basis of a political party’s belief systems and that will continue long after I have left this place.

Let me outline the approach I have brought to this bill in order to make a final decision. There are a number of principles that I would like to broadly touch on when considering public policy. My first approach to general economic and social policy is that there is a role for government. Obviously the role for government in our society, when providing a range of services to the community in such areas as health, education, personal security, employment protection and many others, varies to a degree. Government intervention, in my view, is necessary to ensure a relative equality and that, critically, the areas of support that I have just referred to are delivered to both the individual and the community.

I have a strong aversion to government determining the individual personal behaviour of adults, so long as that behaviour does not interfere with another individual’s. I also have a strong view that human life should not be ended by the state nor should the state sanction the ending of human life at any time, except in respect of circumstances involving defence of the state. I also have a deep concern about experimentation with human life. At the same time, I am a strongly practical person who always tries to ask the basic question on any policy matter: will it work? I should make it clear that I do not adhere to a particular Christian denomination, but I consider myself a Christian. Australian society is strongly influenced by Judaeo-Christian principles, particularly those of the value and respect for human life, and I hope that remains so.

There is no doubt that embryo research is a very complex issue, particularly when we come to the scientific material that we have been asked to consider. Indeed, in this debate many have remarked on the difficulty of assessing the scientific material before them. I should say I have never been in awe of or
blinded by science. It exists to serve our community, usually for the good and sometimes for the bad. I found it an extremely difficult area on which to make a final decision, not because of the science but because the application of the broad set of principles and ideals that I referred to earlier, when applied to embryonic research, made it very difficult to come to a final, clear answer.

Early on, when this matter was first raised in a legislative form, I decided to read a representative cross-section of at least some of the material. To read it all is impossible. In this regard, the Senate Community Affairs Legislation Committee report was particularly useful. I acknowledge the work that senators put into the production of that report and thank them for doing that. It is a good example of the type of detailed examination of legislation in this Senate chamber in a range of areas that it is always important for us to consider. I have also listened to at least some of the debate in the other chamber and here in the Senate. The debate has been characterised by a range of strong and at times very emotional claims at, I have to say, both extremes of the issue. For example, some who are against the legislation we are considering have raised a spectre of some sort of Nazi-like *Boys from Brazil* engineered humans. At the other end of the spectrum we have had the lure of a cure for many diseases, and perhaps even immortality. While not condoning such extreme arguments in this debate, could I simply say that that is life, human life, with all of its remarkable diversity.

Let me turn to the critical issue: allowing research on human embryos. There is little disagreement that the embryo is a human life. But is it a life? I must say that this is an issue that I have spent many, many hours trying to turn over in my mind and come to a very clear understanding of. I suppose some people would find it a little strange that a senator is not quite sure of the meaning of what a life is. But it is something I have had to think about long and hard. I have no doubt that the human embryo is certainly a building block at the commencement of human life. There is no doubt about that. Allowing research and experimentation will have, I believe, massive consequences, perhaps not immediately but certainly in the longer term. Once this is allowed to commence, it will be impossible to reverse and will only be controlled and supervised with the utmost difficulty.

I have come to the conclusion that I will not be supporting this legislation at this particular time. I would emphasise ‘at this particular time’. I have also asked myself, ‘Is there any other possible practical alternative to experimentation with human embryos?’ And there is. There is research in the area of adult stem cells. There has been extensive debate about the therapeutic prospects of research into adult stem cells. It appears at the present time that that research and its medical outcomes are probably not as significant as research using embryonic stem cells. However, the possibility of research in this area is still strong and should at least be considered. If this possibility had not been available, I probably would have supported the bill. However, given the acknowledged momentous decision we are being asked to make, I would prefer to wait. If the possibilities of adult stem cell research cannot be realised over a reasonable time period—in my evaluation, perhaps four to five years—I would reconsider my support for this legislation at a later date if we have that opportunity. My view on this bill can best be summarised as saying, ‘No, not at this time.’

**Senator SANDY MACDONALD** (New South Wales) (4.19 p.m.)—I rise to join the debate on the *Research Involving Embryos Bill 2002*. Whilst this is potentially a very emotional debate, it is also a very refreshing debate. This is a debate not simply about what you might subjectively think is right or wrong or what you might subjectively feel may improve people’s prospects. Those debates are essentially political and, as politicians who are contributing to a political party, we can argue the merits of a case and we do. Good and principled people can have different political views, and they do. However, this debate is different because it is a conscience vote—a rare occurrence in public life, not because we shy away from a conscience vote; it is just that there are very few decisions that go to the core of our being.
This debate is refreshing for that reason. It has certainly reminded the great majority of politicians that they still have a soul—that also is refreshing—and, having made up their mind, it is almost impossible for them to be persuaded by argument, despite the passion expressed in this place and in the other place over the last couple of months.

In drawing an analogy to the euthanasia debate, I found that in that debate it was impossible to believe that the state should be able to legislate for a method for a citizen to commit suicide. If I could accept that proposition, I found it impossible to understand how they should do it with legitimacy. The same applies in this debate. I do not know how the state can legislate for the destruction of human life. Even if I did, I do not know how it would legislate for it to be done appropriately. In this debate, many promises have been made about embryonic stem cells being a panacea for disease and injury. Great expectations have been raised that these non-tissue specific embryo cells—about which we know very little and which, once colonised, apparently live forever—could treat many of the diseases that presently plague mankind. Well they might, but there is little or no evidence so far. The science for persuading me has not been forthcoming.

I have found some of the claims for cure or potential cure fanciful. I feel reminded of the medical treatments meted out in previous times, where the most horrendous treatments were believed to be assisting patients diagnosed with a real or imaginary illness of the day. In past times we have seen bleeding, purging, arsenic and mercury administered for a number of afflictions, strychnine used as a tonic for almost any ailment, and electronic shock and sleep therapies. These are not happy medical treatments, but they were done by the professional medical people of the day because they thought they worked. I am sure that at the time relevant medical researchers made all sorts of claims about the potential benefits of those treatments.

I do not wish to sound emotive about these treatments, but I remind the Senate that we are in such early days in stem cell research. This has been a great debate about potential. It is about promises and hope and it is about large amounts of research funding, but very little of it is about published research. Medical research is an extremely slow business. Cancer research moves forward inch by inch. Medical research is increasingly slow as we move closer to finding a cure for many of the diseases that plague mankind. I suspect that stem cell research will be slow for the same reason.

I was speaking to a very eminent cancer surgeon during the build-up to this debate who told me that early in his career, when Professor Crick unravelled the DNA cell structure, he believed that cancer would be completely understood within a couple of decades. That surgeon is now 70 and retired, and cancer research goes on. Progress has been made, yes, but, as to a cure, we are still getting there—we are moving in the right direction.

Embryo stem cells apparently have two great advantages: they grow rapidly and easily in a test tube and they allegedly can form into any tissue in the body. But they have two great and insurmountable disadvantages. They provoke immune rejection because they are foreign to the recipient—and when you acknowledge the work that has already been carried out over the years in an attempt to beat rejection in organ transplants this is an enormous and overwhelming problem. Also, we have no capacity at this time to direct the embryo stem cells as to which tissue they might become. It might come later, but we have no idea now.

The research may well come from adult stem cells. I am supportive of research into adult stem cells. These can be obtained from many tissues, especially in infants and children, from placenta and, I understand, even from foetuses. They have one main advantage: they do not cause immune rejection. They, too, have disadvantages. They prefer to generate cells for the tissue from which they are obtained, they are harder to grow and you have to take them from the patient, which is fine if you want blood cells for cancer treatment but harder if you are looking for brain or heart cells. But adult stem cells are already delivering benefits. In current clinical tests we have seen them used for cancers, including lymphoma, auto-immune
diseases, bone and cartilage deformities, corneal scarring, repairing cardiac tissue after a heart attack, preliminary treatment of Parkinson’s and in skin grafts—there is a whole range of things where adult stem cells have been used.

I cannot support embryo stem cell research for the additional reason that it interferes with a potential human life. I think we have to take a very hard look at ourselves if we arbitrarily determine when we can destroy potential human life, especially when there is no objective proof of tangible benefit. Medical research should be conducted in a highly ethical framework. This is not a criticism of the many pioneers who have worked in our wonderful IVF programs; it is just that human life is characterised by growth, development and change. It seems to me that any definition of the beginning of human life at any time other than at conception is arbitrary. This is not a right-to-life argument to me; it is just that I oppose the destruction of potential human life for this purpose. Whether we are talking about one or thousands of embryos, the principle to me is the same. Whether or not the embryos are surplus to IVF is also irrelevant. That is the decision of my conscience.

In addition, to pursue embryo stem cell research, embryos would have to be farmed extensively in order to provide the multitude of cell lines necessary to attempt to mask the problem of rejection. Stem cells can be derived from adult tissues and this research does not involve the destruction of human life. It is an alternative morally acceptable to all sectors of the community. Even then there are significant scientific obstacles, but there are already runs on the board, as I have explained. Stem cell derived tissues have to integrate into the correct human organ or tissue. Currently, we know very little of how this occurs.

I come to a couple of final points. Firstly, I believe the community has been poorly served by this debate. Ask anybody about embryo stem cell research and a majority of people would have to dig deep to formulate a point of view. The community has been bombarded by hype, and we are certainly not at the endgame in embryo stem cell research; we are barely at the beginning. If you talk about the amount of knowledge that is needed, currently it is probably a speck of knowledge on the floor and the whole Senate has to be filled. The community has not been informed of the real scientific difficulties involved in developing embryo stem cell derived tissues. In other fields of medical research, I understand proof of principle research is conducted firstly on animals. I am not aware of any animal research showing that diseases such as diabetes can be cured by embryo stem cell derived tissue, even though there are good animal models for these diseases. For these reasons I will be opposing the bill. I am not opposing stem cell research. That can continue apace without the use of human embryos.

**Senator McLUCAS** *(Queensland) (4.30 p.m.)*—The Research Involving Embryos Bill 2002 is the second part of the legislation designed to deliver a national regulatory system to address concerns about scientific developments in relation to human reproduction and the utilisation of human embryos. It regulates the use of certain embryos created by assisted reproductive technology. Like the Prohibition of Human Cloning Bill 2002, this bill reflects the shared views of all of the states and territories as described by the Council of Australian Governments communique of April this year. COAG clearly recognised the need for nationally consistent legislation, acknowledging that, if it is left to the states, a variety of approaches will emerge, leading, as the Queensland government advised the Senate Community Affairs Legislation Committee, to ‘possible loopholes and safe havens’. The bill before us reflects the intent of the states and territories faithfully.

The consequences if the bill fails to pass should also be recognised. It will have no impact on the rate of production or disposal of ART embryos. If the bill fails to pass, embryonic stem cell research will continue on existing lines, which the committee was advised are not acceptable for future clinical research and are limited for research purposes, as they were created using mouse feeder lines. As most jurisdictions do not ban or regulate the destruction of embryos, if this
bill does not pass then retention of the status quo will mean such activities are permissible in all jurisdictions apart from Victoria, South Australia and Western Australia. If the bill fails to pass, the states and territories can determine their own approach and, given the public comments of several of the state premiers, this may result in more liberal regimes than this Commonwealth legislation permits. There will be no central agency to provide oversight, informed monitoring or review. Furthermore, there will be no central data collection agency, and research may be hampered, as researchers will only be able to access existing stem cell lines or lines from overseas—most likely from commercial sources, which may require some rights over intellectual property developed from the research. I suggest national consistency is surely a desirable goal in the delivery of such contentious public policy.

COAG recognised that this is a difficult area of public policy, involving complex and sensitive ethical and scientific concerns. The fundamental question that we in this place have to answer is whether people believe destructive research on excess ART embryos that have been donated with consent and that would otherwise be allowed to succumb is acceptable or not. For every person, the answer to that question ultimately is very personal. As Dr Best, representing Dr Jensen, the Anglican Archbishop of Sydney, 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 world-views. But we live in a multicultural democracy and world-views abound.

It has been suggested that an embryo that is excess to the needs of the donor parents has the same moral equivalence as an adult. What this position fails to acknowledge is that an embryo that is not going to be implanted in a woman’s uterus cannot achieve its potential. The potential for life is present but cannot be fulfilled. During the committee hearings, Ms Sandra Dill from ACCESS—Australia’s National Fertility Network argued against the view that the willingness of parents to donate their embryos for research purposes signified a lack of respect or a crude commodification of life. As ACCESS submitted, and these are Ms Dill’s words:

Those of us who have created embryos have grappled with the ethical and social implications of what to do with them because we must. They are ultimately our responsibility. Then we live with the decisions we make about them. We care about the fate of the embryos that were created to be our children, to see that their existence has had some meaning. We do not believe that to use them for research would be disrespectful, quite the contrary. For many couples, the opportunity to donate their embryos for ART research gives them some added meaning, as they contribute to scientific knowledge that will lead to improvements in ART practice and ease human suffering. No one else values or respects these embryos more.

This is a personal decision that we all must make and in doing so remain respectful of each other’s positions. I move now to some of the elements of the bill. Under clause 39, before an excess ART embryo may be used, each ‘responsible person’ must have given ‘proper consent’ to the use authorised under the licence. That is in addition to the donor’s determination that the embryo is excess and their written authority for its use for purposes other than their own ART treatment. The bill provides for informed consent provisions to be applied. Much has been said about the ability of either adult or embryonic stem cells to provide potential therapies for a range of diseases. A number of submissions to the committee argued or implied that recent developments in adult stem cell research and therapies made embryonic stem cell research redundant. This was firmly rejected by a number of scientists specialising in both embryonic and adult stem cell work.

Rather than engage, though, in a tit for tat between the two fields of research—and, I must say, both have the potential to deliver cellular therapies—it is the view of many eminent researchers that both need to be progressed and, further, that there are synergies that will emerge when adult and embryonic research is conducted together. Associate Professor Simmons, of the Peter MacCallum Cancer Institute and a leading stem cell researcher, stated:

… adult stem cell researchers and the embryonic stem cell researchers will benefit from under-
standing the two systems. In the end we both benefit. I think integration between the two is really ... important. There is a synergy there and it is a driving force for discovery which neither field of stem cell research alone would likely produce.

This was supported in evidence by most respected researchers. There are two main reasons given by scientists for the need to continue research into both adult and embryonic stem cells. Firstly, it is too early to determine fully just what the potential applications of the sets of stem cells are. Secondly, there is a possibility that advances in one field will spur advances in the other.

To correct the record from yesterday, it should be noted that the respected adult stem cell researcher Professor Verfaillie is clearly on the record as supporting the advancing of both areas of research. Some people are, I believe, intentionally overstating her results to indicate that adult stem cell research makes embryonic stem cell research completely redundant. She herself does not make that claim and rejects that such a conclusion can be drawn from her work. It is interesting that people who hold up Professor Verfaillie's work in this manner fail to mention that in fact her results have not been replicated in any other laboratory in the world. I want to make it clear that, as her results are very recent, it would be surprising if they had been reproduced yet. However, I think there is somewhat of a double standard at play in this area in that a number of people have strongly criticised the science of embryonic stem cell advocates without acknowledging the limitations of adult stem cell research as well.

At the committee hearings on 19 September, Professor Bartlett, the Foundation Professor of Molecular Neuroscience at the University of Queensland, outlined very clearly some of the difficulties he believes confront embryonic stem cell researchers if they are to achieve therapies. He concluded:

... in no way am I suggesting that we should not have a shot at seeing if embryonic stem cells really can fulfil a potential that these other cells cannot ... as a scientist I know that discoveries do not often come in a linear manner; they come from left or right field. So I would never cut off a potential cure base or a potential discovery because of the thought that you know the answer.

I think that is a really important point. Professor Bartlett, I think it is fair to say, is sceptical of the therapeutic potential of embryonic stem cells because of immunological difficulties. However, he clearly understood that science, medical science, is unpredictable. More to the point, he was not dogmatic. He was not so arrogant as to believe that he knew the answers. In my view, Professor Bartlett showed humility towards the intrinsic nature of knowledge and the pursuit of knowledge that others could learn from.

There is a question as to whether existing stem cell lines are adequate. It has been suggested a number of times in this chamber and in the inquiry that, as there is little prospect of clinical trials using human embryonic stem cells in the short to medium term, there is no need for additional stem cell lines because there are adequate existing lines available for research. I do acknowledge that there seems to be some difference of opinion on this matter among scientists.

However, in the inquiry there were a number of very good reasons put forward about why new embryonic stem cells were required for research. They included: existing stem cell lines have been created with mouse feeder cells and these create unidentified effects. In addition, feeder layers give signals to the cells to allow them to change from inner cell mass lines to cell lines but it is likely that those cell lines will behave differently with mouse feeder cells, as they would with human derived feeder cells. This means that the research conducted with mouse derived feeder cells will need to be repeated with human derived feeder cells. Long established cell lines that have been used for hundreds and hundreds of passages are not likely to give as clean a result as is required for research. Scientists need cells that are in the best possible state. As embryonic stem cell research is in its infancy, it is likely that future improvements in initiating and growing stem cell lines will lead to second generation lines with improved properties. Where there are commercial barriers to existing stem cell lines, researchers will want to create their own lines.

In addition, a number of reasons why additional stem cell lines were required for
therapeutic reasons were identified. They included: human embryonic stem cell lines using mouse feeder cells are considered by the FDA to be contaminated by animal pathogens. That means that they cannot be used for clinical trials. If—and I said ‘if’—and when there is a prospect of safe human trials, stem cell lines compliant with the FDA’s current good manufacturing practice guidelines will be required. Further, clinical therapies using embryonic stem cell lines will have to address immunological rejection and this may require larger panels of stem cell lines. The committee was also told that relying on mouse embryonic stem cell lines creates problems when trying to investigate some diseases. In my view, a strong case has been made that we should support the need for new stem cell lines and that relying on existing stem cell lines is not good enough for ongoing research, let alone possible therapeutic purposes.

Much has been said about the number of embryos available for research. Even in this week’s press, and again in the chamber yesterday, last night and again today, there have been references to there being over 70,000 embryos available for research. This is simply just not true. I am continually annoyed that the people saying it are people who should know better. They are senators who attended the hearings, they are senators who received the evidence from a range of people, and they are senators who know that there are not 70,000 embryos available for research.

The committee was advised that there are 71,176 ART embryos in storage because the couples for whom they are created either still want them—they have not decided that they are no longer required—or, if they are in excess, have not determined what they want to do with them. It is just not known exactly how many of these are excess in any given year or how many would be available for research. However, we received very good evidence at the committee hearings that would indicate to those senators who continually use that figure the sorts of numbers that may be available. The NHMRC provided data from the South Australian Council on Reproductive Technology which shows that on 31 December 2001 there were 5,718 embryos in storage—1,239 of those were stored for couples who at the time still intended to use the embryos. In 2001, 423 embryos had been destroyed—374 of those at the couple’s request. There were 110 embryos donated for use by other couples, and 137 of the approximately 7,000 embryos were donated for research.

Professor Peter Illingworth from the Westmead Fertility Clinic also provided evidence to the committee that 450 letters were sent to couples who had used the clinic and who had embryos in storage for more than two years. A hundred of those couples responded—a number had moved and a number of couples did not respond because I think they had lost contact. Fifteen couples—three per cent of the couples who were written to—decided that their embryos were excess to their requirements. Of these, seven requested that their embryos be allowed to succumb and eight couples indicated an interest in donating their embryos. All of those people attended counselling but only three of the 450 couples went on to donate their embryos.

The South Australian data combined with Professor Illingworth’s experience indicates that there are not 71,000 excess ART embryos available for research. The number of embryos available for research and stored prior to 5 April is likely to be very small, and it cannot be assumed that many couples will seek to donate embryos excess to their requirements. So it is simply misleading to say that there are over 70,000 embryos available for research, and I urge senators to be careful with their language.

During the course of the inquiry it was suggested that Australia could use the model recently adopted in the United Kingdom of a national stem cell bank. Mr Ilyine of Stem Cell Sciences suggested that such a facility might minimise the number of embryos that may be required to create new stem cell lines. Furthermore, he said that the UK National Stem Cell Bank was established to hold all the stem cell lines in a central point where there would be free and unencumbered access to those stem cell lines to qualified researchers.
This proposal seemed to a number of the senators at the inquiry to have merit, but I have to say it was not discussed at length by other witnesses. Given that the UK experience is so new and there seemed, albeit from limited evidence, some merit in the proposal, Senator Stott Despoja and I recommended in our additional comments to the inquiry an amendment—and we have subsequently circulated it—which would require the review that is to be conducted in the third year of the operation of the act to include a new term of reference. This term of reference would require the independent review—and I remind the Senate that it is an independent review—to assess the applicability of establishing a national stem cell bank here in Australia along the lines of the UK model. In conclusion I must say the legislation is supported by all states and territories as a national regulatory framework. It is careful and conservative legislation. It is sound legislation, and I will be supporting it and suggest it should be supported.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (4.50 p.m.)—I rise to speak on the Research Involving Embryos Bill 2002, which was introduced into the parliament by the Howard government following a communique of the Council of Australian Governments issued on 5 April 2002. The communique records an agreement reached for nationally consistent legislation that will provide for a regulatory regime allowing research on excess embryos, created in the course of assisted reproductive technology, that are in existence as at April 2002. All states and territories have agreed to introduce complementary legislation or to amend existing legislation to achieve a consistent regulatory scheme operating throughout Australia. The expressed rationale of COAG is to enable Australia to remain at the forefront of research which may lead to medical breakthroughs in the treatment of certain diseases. These are supportable aims.

The scope the bill is to ban certain practices relating to reproductive technologies and to provide the framework for a system of regulatory oversight for the use of excess assisted reproductive technology embryos that would otherwise have been destroyed. The bill provides for a system of licensing administered by National Health and Medical Research Council through the establishment of a NHMRC licensing committee. Assisted reproductive technology, including in-vitro fertilisation, is regulated in Australia through legislation in three states and a voluntary compliance framework, together with a national system of accreditation by the Reproduction Technology Accreditation Committee underpinned by the NHMRC guidelines. There is therefore no Commonwealth legislation covering regulation of ART clinical practice.

The use of embryonic stem cells is currently covered by advice from the NHMRC’s Australian Health Ethics Committee. The NHMRC Ethical Guidelines on Assisted Reproductive Technology of 1996 provide guidance on research involving ART embryos surplus to a couple’s needs. These guidelines are currently under review. Absent this bill, therefore, there is no comprehensive and consistent national approach to the use of embryonic stem cells for research.

The question is whether the bill, which is founded on the proposition that research should be permitted on embryos that would otherwise have been destroyed, should be supported. Indeed, the fact that there are some thousands of excess embryos in existence that are surplus to IVF requirements and that would be destroyed in any event seems to be pivotal to the thinking of many supporters of embryonic stem cell research. However, this view appears to assume, wrongly in my opinion, that there is no moral difference between removing an embryo from liquid nitrogen and allowing it to succumb, because it cannot survive without being implanted, and removing it from liquid nitrogen and actively destroying it for the purpose of gaining access to tissue or cells as a commodity for the benefit of others. In my view, the active culling of an embryo is of a profoundly different character to its destruction by passive means. Whilst the end result is the same, the route to destruction makes a moral difference and gives rise in my view to serious ethical, legal and practical questions.
I appreciate that the debate on the status of the early embryo up to 14 days is contentious but, however it is regarded, no scientist and certainly no ethicist disputes that the embryo is undeniably human or at least contains human cells and within it the full genetic potential of a human being. Of course, it requires much more to realise its potential. This knowledge no doubt underpins the wide measure of community support for IVF technologies, which of necessity result in the creation of a number of surplus embryos to maximise the potential of a successful pregnancy. Absent other arrangements, surplus embryos will be destroyed. There is not a groundswell of opinion condemning IVF as it is currently practised and there is little or no criticism of those who have found it necessary to avail themselves of IVF technology and the creation of surplus embryos to achieve a much wanted pregnancy. It is widely regarded as an exercise of reproductive rights.

Herein there lies a contradiction. There is little public concern about some forms of embryo destruction but strong interest in other forms of embryo destruction. There is real moral equivalence about, for example, the age at which embryos can be used for research, the prohibition of cloning and the creation of embryos purely for research. Indeed, if the parents of doomed embryos fully understood the range of research purposes to which their surplus embryos could be subject under this bill, including commercial exploitation, many of them might put conditions on their use or not consent at all. As it is, we have the curious outcome that it is said to be acceptable to many to experiment on embryos that are discarded as part of an approved process in IVF procedures but not if they are created solely for the purpose of research. The reason for this reluctance is that experimentation alone goes well beyond the creation of embryos as an exercise of reproductive rights. To my mind, logically, concerns are raised by experimentation on embryos irrespective of the purpose for which they were created. Experimentation on early embryos is a vice, irrespective of how and for what purposes those embryos were created.

These contradictions and attempts to draw legal and technical boundaries around research on surplus embryos suggest that much of the thinking about embryonic stem cell research is based on expedience rather than anchored in any coherent moral philosophy. However, accepting for the purposes of argument that there appears to be broad community support for research on surplus embryos under defined conditions, the question must be asked whether there is real likelihood of significant advances in knowledge about disease that could not be gained from other techniques or whether we have allowed ourselves to become mesmerised by the dazzling potential of new therapies and scientific breakthroughs to treat common or serious recurring conditions. The answers to these questions involve not only evaluating available and recent scientific research but also, of necessity, taking the claims of scientists, some of whom have both their financial and professional reputations at stake, largely on trust. This in turn has implications for both future government funding and private investment.

As the report of the Select Committee on Stem Cell Research in the House of Lords points out, stem cell research is currently subject to very rapid change. Of necessity, consideration of the issues can reflect only the current state of knowledge. There appears to be a consensus in the scientific community that over the next few years most studies in stem cells—whether adult, foetal or embryonic—will be basic research. However, the possibilities stack up, it is no exaggeration to say that human stem cells of all types are difficult to handle and that the arrival of effective stem cell therapies to address unmet clinical needs is very far off.

From what I have said so far, it will be apparent that I have the gravest reservations about the morality of stem cell research for commercial ends. I am sceptical about some of the claims made in the scientific community—for example, how many surplus embryos beyond those created before April 2002 are likely to be required and under what conditions they will be obtained. Most compellingly, I am not confident that, as a community, we have thought carefully
enough about some of the consequences of those hoped for scientific advances.

Many of the pros and cons in this debate have centred on religious convictions or on utilitarian or pragmatic responses. However, the eminent scientific author Dr Margaret Wertheim, in her recent Redmond Barry Lecture entitled ‘Stemming the Tide: Clones, Stem Cells and the Future of Medicine’, has raised more secular concerns. Of particular resonance is her observation that stem cell therapies are not generic treatments. Rather, they are specifically targeted and individualised to meet a patient’s requirements. As Wertheim says:

Drugs, at least, can be mass-produced. If we are having trouble providing mass produce-able drugs to all those who need them, how on earth are we going to afford a specialty service like targeted stem cell therapy?

While the allure of miracle therapies and wonder cures is strong and perhaps understandable, this parliament must ask, given the nature of the therapies: will the community actually be able to deliver individualised therapies to those who need them or will these be elite therapies that only the wealthiest among us will be able to access?

There are a number of quite unsettling scenarios, as we imagine unforeseen and unintended consequences, side effects and contingent liabilities that are secular in nature but warrant careful thought about whether the community as a whole will benefit from these potential technologies. The scientific evidence about how many embryos will be required to create new stem cell lines in the future is deeply conflicted and, in the recent Senate committee report, is estimated by the experts to be from about 50 to approximately 10 million. Obviously, low numbers are predicated on the basis that cellular grafts will be successful.

Obviously, no-one knows when or how issues of tissue typing and immunological rejection will be resolved. In the meantime, the need for an extremely large stem cell bank to maximise tissue matching is not far-fetched. This raises some very troubling and so far unanswered questions. How many donor eggs will eventually be required to meet this incredible demand? How will they be obtained, and who will they be harvested from? Donating eggs is an invasive procedure. In the same way that ethical problems are being thrown up around the supply of organs as transplantation becomes more successful, how will we as a society deal with the demand for eggs and embryos should stem cell therapy become the success some of the scientists would have us believe? Will the underprivileged women of the Third World be seen as a potential source of eggs? Will the miracle treatment for a well-to-do patient in the First World be bought at the cost of a desperate individual in the Third World? I do not think any of these questions have been adequately asked or framed, let alone answered.

The current bill, in my view, is seriously deficient in addressing matters of fundamental concern to those who may otherwise support the basic concept of destruction of early embryos for research but who feel distinctly uneasy about the inadequacy of the regulatory regime to deal with new and emerging technologies. The bill makes no provisions for the regulation of harvesting of eggs. It is true that the Reproductive Technology Accreditation Committee guidelines specifically prohibit the practice of deliberately superovulating patients in the IVF process, but this is not addressed in the legislation. Although this bill restricts researchers to using embryos created before 5 April 2002, the legislative design provides for the restriction to be removed in three years, subject to a review. What is perhaps illustrative of the inadequacies of the bill is the statement of the Attorney-General during debate on this bill in the House of Representatives, where he said:

These reviews will ensure that strong ethics and research protocols and appropriate safeguards are in place prior to the sunset clause coming into effect.

For my part, I would have thought it was imperative that strong ethics and research protocols and appropriate safeguards are in place prior to the passage of the bill and not three years down the track.

As others have noted, part of the problem with this bill is that it does not actually regulate stem cell research. In a curious
omission, the bill leaves it up to the NHMRC to decide for what purposes researchers may access certain embryos. If this bill is passed, research involving embryonic stem cells will be subject to guidelines that are currently under review. It is a regrettable omission that the guidelines that underpin the bill are not yet settled. It is simply not possible to make an informed assessment as to the adequacy of safeguards that should be clear in the guidelines.

Not unexpectedly, this bill has generated, without exception, sincere and well-intentioned contributions. But, as the bill stands, it is difficult to support it. Some experts have given evidence that existing stem cell lines are adequate for the basic research to continue in the near future. If this is correct—and, once again, we have to take a lot of these claims on trust—the bill will have no effect on the use of existing stem cell lines for research and will continue to be regulated by NHMRC guidelines.

Whilst I support COAG’s intention for the creation of a consistent national scheme to regulate stem cell research—because a lot of it involves adult stem cell research—the bill does not, in my view, achieve that objective. The full and safe exploitation of stem cells is in its infancy and is unlikely to produce any treatment or cure for individuals for many years to come, even assuming that the costs of making such treatment or cures available can be managed. There is therefore time to pause and consider an improved and focused regulatory regime for stem cell research which better reflects assessment of the ethical, social, scientific and indeed future commercial implications of such research. Again, I refer to Margaret Wertheim, who in concluding her paper said:

Medicine is about more than Nobel Prizes and technological prowess; in the long run, surely, its primary aim must be the promotion of good health and well-being on the widest possible scale. Whether stem cell research will further that aim remains an open question.

We are privileged to have a conscience vote on this very important bill. Conscience is a very private attribute. However, as an elected representative I have very public duties. I feel that I have a broader obligation to try to identify community sentiment on this matter. Despite my personal misgivings, I acknowledge the broad community support for research that may lead to the development of potential stem cell therapies. I would not want to stand in the way of potential medical breakthroughs to alleviate suffering. However, I do not think that this bill has the necessary ethical and legal underpinnings to justify community confidence that we as a parliament have grappled with the issue and come up with the very best possible response. For these reasons, I have decided not to support the bill.

Senator FORSHAW (New South Wales) (5.06 p.m.)—I indicate at the outset of my contribution to this debate on the Research Involving Embryos Bill 2002 that I have listened intently to Senator Coonan’s speech, as I have tried to do with the speeches of many other senators. I find myself very much in agreement with the arguments that Senator Coonan has just advanced. I will indeed touch upon some of those again. As we all appreciate, this has been a most difficult and complex issue for many of us. For some, it may have been a lot easier to come to a final position when exercising a conscience vote, whether it be based upon religious commitments and beliefs or based upon some absolute or strong acceptance of the promises of medical science as advocated by the proponents of embryonic stem cell research.

I have endeavoured, throughout my wide reading and consideration of this issue, to consider all of those issues including my own personal religious beliefs but also the very complex issues that have been raised in respect of this debate. I want to pay tribute to all the members of the committee in bringing down the report of the Senate Community Affairs Legislation Committee. Despite what has been said by a number of speakers regarding the way in which the committee may have conducted its inquiry and some of the limitations that were placed upon it, I certainly found it a most useful report. I have taken the opportunity to read earlier reports of the parliament including the report of the House of Representatives committee on human cloning and also to go back and have a
look at reports of earlier committees including the Senate select committee in 1985.

What struck me about the report of the Senate Community Affairs Legislation Committee was that it clearly recognised that on both sides of this debate—if for the moment I can say that there are two sides, and I think that it is unfortunate that in some ways the debate has been reduced to that—there are eminent experts in ethics, in law, in science, in medicine that hold contrary views and who have argued their case very professionally. I found it very helpful to read the report and note that there are highly regarded eminent medical experts, for instance, who oppose further embryonic stem cell research and more particularly the destruction of excess embryos for such stem cell research just as there are scientists who are strong proponents. I also found it interesting that there were submissions to the committee and representations made to me—and, I know, to many other members of the parliament—from people as well as witnesses before the committee who were suffering from disabilities and diseases and who had contrary views. This is no easy matter to decide for many of us.

It is not a simple issue. It is not, as I would suggest has been put by some other speakers, simply a choice between the fact that these excess embryos are going to be destroyed in any event—or thrown in the bin, as I think one speaker said—and therefore they should be made available for research purposes. The COAG communique recognised the complexity of the issue. The communique on page 6 and 7 of the report states:

The Council agreed that research involving the use of excess assisted reproductive technology (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 5 April 2002. Donors will be able to specify restrictions, if they wish, on the research uses of such embryos.

The communique itself not only recognised the difficulties and the complexity of the ethical issues and the other issues involved but also acknowledged that there had to be limitations placed upon the use of excess embryos for research, even if that was to be supported as acceptable.

I wish to comment on the Prohibition of Human Cloning Bill 2002, which has already been passed through the second reading stage of the Senate. There is unanimous opposition within this parliament to human cloning and that, of course, has been reflected in the vote of the parliament. The report acknowledged that there was near unanimous opposition within the scientific community—and I think they were the words used—because we know that there are some elements of the scientific research community that actually would like to see human cloning techniques available, if not now then in the future.

It is an interesting conundrum in that it is recognised that human cloning—the cloning of a whole human being—could well lead to significant medical advances. Indeed, some of the proponents of that technology support that view. Positive benefits, such as the ability to remove genetic traits which may cause disease in future generations, could flow from human cloning. However, there is an almost unanimous acceptance—and there is a unanimous acceptance in this parliament—that it should be outlawed despite the potential advantages. That is because we all have an ethical or moral—whatever word you want to use—objection to it. The interesting conundrum is that, with respect to embryonic stem cell research, the argument advanced is that we should allow the destruction of human embryos in the interest of future medical cures.

Of course, some argue—with some justification, I think—that the time may well come when the pressure will be on to move the line further to allow human cloning in the interests of medical science, in the interests of future cures for genetic diseases and in the interests of improving human life in the fu-
ture. As we know, that is called the slippery slope argument. It is often dismissed as scaremongering. Members of parliament who were here in 1985 will recall that people back then were warning against some of the practices that are accepted now. At that time, it was considered that they were not acceptable practices on ethical grounds. As we all know, IVF technology was developed to assist childless couples to have children. It was not considered at the time—and it was no doubt considered not a possibility in the foreseeable future—that embryos would be created for the purpose of scientific or medical research. However, that has happened.

We are now at the stage where the debate is about whether the excess embryos created through the IVF program should be allowed to be used for embryonic stem cell research. I believe it is important to try to look further ahead and acknowledge that the time will come when we will probably be back here arguing whether or not the line should be moved further to allow the deliberate creation of embryos for medical research, for stem cell research and for the therapeutic application of stem cell research. That is where this is heading, and Senator Coonan’s comments in that regard were most important.

During the committee’s deliberations, and in all my reading and the discussions I have had with many people, a couple of things have been highlighted. The first point I want to refer to is the significant concern about the commercialisation aspects of this research. It is acknowledged universally that the prospects for cures deriving from embryonic stem cell research are a long way off. Indeed, if those cures are to be discovered and developed, huge numbers of embryos will need to be further developed or created to allow for therapeutic applications. At this point in time, when this research is in its infancy, as the proponents acknowledge, it is reasonable and important for us to consider whether or not other influences are involved. As Professor Trounson stated at page 124 of the committee’s report:

... these cells will be highly useful for screening drugs for both toxicology and effectiveness.

That is a real factor. Whilst all the public pronouncements by supporters of this technology have focused on the great advances that may be made in terms of cures for diabetes, Alzheimer’s or other complaints, it is a fact that there are substantial commercial interests involved here. In the near future, this technology and these embryos could well be utilised for toxicology, for testing pharmaceuticals and so on. That is something we do not want to see. Indeed, this bill seeks to prevent it. We should remember that this bill seeks to place restrictions upon this research. The irony is that, whilst the bill acknowledges that it should go ahead, it nevertheless seeks to restrain and restrict it. Some people might say that that is a good thing and that that is being cautious. I take the view that it is an acknowledgment of the very real problems and dilemmas that exist and which we have to deliberate on in this debate.

The second and most important point I want to come to at the conclusion of my remarks—and which is ultimately the issue that has helped me come to the decision to oppose this bill—is the fact that there are already sufficient existing stem cell lines available for this research to continue. This is an issue that was debated during the committee’s deliberations, and it has been debated widely. It is not disputed that there are sufficient existing embryonic stem cell lines available in the world, including in Australia, for the research to continue. It is legitimate for people to ask, ‘How were those stem cell lines created in the first place?’ It is true that they have been created, they exist and they are available for continuing research. However, that is no longer research which involves the destruction of further embryos. It is research on existing stem cell lines. The position that has been adopted by the US government is that it is appropriate for that research to continue. It is my view that those existing lines are sufficient, at this point in time, to enable the research to continue and to see whether it has any real prospects of leading to the cures that we all hope it might and, indeed, that some continue to espouse as inevitable.

Ultimately, I come to the view that opposing this bill will not prevent the research
from continuing on the existing stem cell lines. Nobody in here or out there in the scientific community is arguing that there is a pressing need to have access to more and more excess embryos for this research. What they are saying is that they want the opportunity to do that, but they nevertheless acknowledge that there are sufficient existing stem cell lines for the research to continue. As I said, the bill imposes a range of limitations: the research can only take place on embryos that were stored prior to 5 April 2002, consent is required, there are restrictions on the type of research that can occur and the act will be reviewed. All of those limitations are an acknowledgment that this issue is very difficult to determine in the absolute at this point in time. Because I accept the argument put by many eminent scientists and others that the research can continue on the existing 64 stem cell lines that have been identified and developed, it is my view that it is not necessary to enable further access by destroying further excess embryos. On that basis, I will be opposing the bill.

As Senator Forshaw just alluded, perhaps one day, when other experiments are finished and there is certainty as to what diseases will be rectified by using human stem cells, all this will be seen to be negative and to have delayed that cure. But, notwithstanding that and notwithstanding the good that will undoubtedly come from it, I am still not sure as to the degree of good. I am still not sure as to whether the experimentation that has been undertaken on human embryonic stem cells has achieved anything or achieved those goals of reversing Alzheimer’s, Parkinson’s, juvenile diabetes, spinal problems, quadriplegia or any of those debilitating. I am not sure that that has actually happened. If I were sure of that then I would not be convinced that destroying life in order to enhance or sustain another life is the moral thing to do, unless those stem cells came from mature sources—they were adult stem cells—or alternatively came from placenta or umbilical cords that were going to be disposed of in any case.

But can anyone believe that embryos are not alive, that the creation of life does not start with embryos? Everyone in the chamber—in fact, everyone in this building—started life as an embryo. If that is the case, and it surely is, why is an arbitrary figure put that embryos of up to 14 days can safely be harvested? They are not in fact harvested; they are mined, in the sense that they do not reproduce. Once you take the embryo and destroy it, it is destroyed. You cannot reharvest it. It is a little misleading to say that. Embryos are the smallest living precursor to human beings. They are the very light, the very spark, that gave life to everyone in this chamber. They are the most defenceless of all living things in this world. They depend on us for sustenance and safety up to the stage where they can be part of the human race. For that reason alone I do not think that they should be destroyed when there are alternative sources of stem cells. Stem cells are of course not like a skin cell, a kidney cell or a heart cell. They are cells from which you can grow almost all—if not all—those things that I have just mentioned, which form the complete, complicated human biological mass.
I wonder too whether we have given thought to those people who have given so much to the world—the geniuses of da Vinci, Michelangelo, Francis Bacon, Shakespeare, Wagner and Tchaikovsky—and to what it would be if they had been destroyed at their embryonic beginning, the genesis of their life. I wonder whether we have given thought to that and whether—and I am not a particularly religious person—we have given thought to the fact that Jesus Christ himself was an embryo at his earliest stage.

The bill is not just for human embryonic stem cell research—it would be bad enough if it were—but it seems to me that it is going to give licence to those things which we know nothing about and over which we will have no control. Those things over which we have no control include the export of these tiny living cells—they may be a prohibited export, but they are so small that they will no doubt find their way overseas. Alternatively, like other issues that have affected us for the past few decades, they may find their way into Australia. These will be embryos whose genetic make-up we will have no knowledge of. I am drawn to think about this because of the tragic events when pituitary glands were harvested overseas and brought into Australia. They brought bovine spongiform encephalopathy, or BSE, into Australia and many other parts of the world and gave us the human variant of that: Creutzfeldt-Jakob disease. I wonder how we are going to stop that coming into Australia if we are able to set up these embryonic stem cell farms overseas and the cells are subsequently brought into Australia.

I was in Dubai a few days ago and it was announced that a stem cell centre was planned for the United Arab Emirates, where foetal blood would be collected and sent off to cryogenic captivity somewhere in the UK. That is not necessarily bad, because they proposed to harvest stem cells from the placenta or from the umbilical cord of newborn babies and to store the product. If that child at some stage, as an adult, should need the cells then they could be sourced—having been kept meticulously with respect to records—and used for the benefit of saving that child or adult as he or she progressed through life if he or she met with some disaster or accident.

In relation to the issue of when human life starts, until the debate in the last couple of days, I would have thought that human life started at conception. From that moment on, it is human life. Apparently that is not the view of some of my colleagues: varyingly, human life starts from seven days after conception or from 14 days after conception or at any time in between—I have heard both those figures used during this debate. I had never heard that variance before. It is the first time in my life that I have heard that human life does not begin at conception. If that is the case then the moral issue here is, once again, confounding. If we have other sources of stem cells, other sources from which we can harvest stem cells—be they adult stem cells, or those from placentae or umbilical cords—why is it, when we are still at the experimental stage, that we are looking particularly at human embryos from which to harvest stem cells? I think I know why: they offer a wide range of stem cells, they offer easy access, they cannot sue the person experimenting on them, and there is a lot of money involved. There is big money. There are going to be stem cell farms set up throughout the world whether we like it or not and whether this legislation is passed or rejected. It is the big money that worries me.

Incidentally, I heard Senator McLucas say—I think this is what she said—that she agreed with the UK model: that is, the national stem cell bank. But, as I understand it, the UK model allows for cloning as well. Of course, we are rejecting that, and rightly so. I also wonder what the ramifications would be with respect to the arbitrary periods of seven or 14 days before which embryos could legally be harvested for their stem cells. What would happen if the scientist in charge of a laboratory were to go on holidays, were to be transferred or were to be taken ill and the embryos were allowed to progress in an IVF fashion and reach the stage of 20, 30 or 40 days old? What would happen to the embryo or foetus at that stage? Will that offence become absolute—that is, will there be no excuse and no mitigation and the offence be dictated by regulation or by law? Or is it
something that has the mens rea—the guilty mind—tag put on it? If the latter is the case, then there may be a lot of mistakes being made with respect to older embryos. And the older they are, as I understand it, the greater the number of stem cells that can be harvested.

What of the cases where there is self-inflicted damage: where alcoholism plays a role in damaging the liver or the kidneys, where unprotected sex leads to HIV-AIDS being contracted or where there are other cases of what one may describe as self-inflicted diseases? Is it fair that embryos should be destroyed in order to repair this sort of biological damage to people? Some people would say yes, but I think there is a question mark related to ethics and bioethics in this case as well.

I find it immoral that my country and this parliament in which I work seem to have the numbers to pass this bill. I am not a particularly religious person. As I said, I do believe in God. I do not believe I have ever been subjected to propaganda of such a nature that I would make a decision based on what I was taught by the church. The church, over the generations that I have been alive, has been kind to me but it has not dictated to me and I do not think it dictates morality to me. It is sufficient for me to say that I have been guided by the church to vote against this bill.

I still think of the thousands who suffered as a result of experiments with the pituitary glands that were brought into Australia—of which, incidentally, no record was kept. I do fear that unless the legislation is strong enough and unambiguous enough—and it does not appear to me that that is the case—we will have stem cell farms springing up around the world. I fear that scientists of this nature will be a cause celebre, that there will be much money made and that there will be times when those people expecting to be cured of their diseases and dysfunctions—and I sympathise and empathise with them—will be disappointed. I do hope that the scientists involved with this new kind of medical miracle are of better backgrounds than, unfortunately, Professor Trounson appears to be.

Some of the areas that Senator Boswell spoke about today have caused me some concern and only cemented my position. They include concerns about Professor Trounson’s untruths and seriously misleading statements to the parliamentary committee. I hope that the human embryo industry can look at other areas and other people and get other corroboration before we accept that embryos can be destroyed in a manner that I find rather repulsive and sickening.

I also found it rather strange, because we protect a lot of our indigenous flora and fauna. We protect our magnificent giant Karri trees in Western Australia and the more diminutive noisy scrub bird in Western Australia; we have taken DNA from them and we have spent many thousands, if not millions, of dollars on their protection. Also, in Gippsland we even protect the giant Gippsland earthworm. We, rightly so, protect the Huon pine in Tasmania, and even the Tasmanian devil. We protect the coral reef in Ningaloo in Western Australia—one of the best kept secrets in the world—and, of course, the Great Barrier Reef in Queensland. We protect all these areas, and all those indigenous things. We protect the ugly crocodile. We protect all of these non-human things, but here we have the beginning of life itself. It is life—the most diminutive, most microscopic part of life that invariably develops, if it is allowed to, into a child and then into an adult. We protect all those big things, but we are going to make a law that does not protect this most tiny and defenceless aspect of human life. I find that strange. Perhaps I am getting too old; perhaps I am not moving quickly enough with the world; perhaps there are things on which I should take some counselling. But, in any case, I am very pleased to say—and I say it unambiguously—that I will not be supporting the bill.
and we do not really protect Tasmanian devils at all, except those that are in the zoo, which are exempt from the possibility of being fed a 1080 poison bait. I admire Senator Lightfoot’s contribution and his concern for the Tasmanian devil, but he might like to remind the government of the problem we have with 1080 in Tasmania and maybe encourage his environment minister to take that issue to heart.

I come back to the bill. At this point in time I cannot support this bill. I do not necessarily do it on religious grounds and I do not do it on the basis of a singular ethical point of view, although there are a number of ethical matters that do concern me in respect of this legislation and the issues that surround it. My greater concerns go to the administrative aspects of what is proposed under the legislation and whether or not at the end of the day there is a true public benefit. Some of the areas with which I have concerns, as I said, go to administration. Indeed, I refer to the question that I today asked Senator Minchin—who is actually the former Minister for Industry, Science and Resources but is now representing the Minister for Industry, Tourism and Resources, who is in the other place—with regard to the administration of the National Stem Cell Centre, which was formerly the Australian Biotechnology Centre of Excellence. I asked the minister which department the National Stem Cell Centre and its administration would be directly responsible to, given that it is receiving in excess of, as I understand it, $46 million of public funds.

The fact that the minister could not answer that question directly is somewhat concerning in itself, because it is impossible to find any reference to whom this organisation would be responsible to. I understand it will have a board. It currently has four directors and a secretary. I do not know whether or not the board will be increased in size or how it would be increased in size. I do not know, in terms of the overall objective of this process—if we look at things such as the Pharmaceutical Benefits Scheme and if we talk about developing new therapies or new medicines for life-saving purposes—where that leads us in respect of the problems that could be associated with patenting, and whether or not joint venture partners may join with the National Stem Cell Centre, which I understand will have a commercial arm, and how all that would operate. There is very little explanation on all these things, and yet we are being asked to pass legislation that in itself, I think, is very lacking.

The government has not provided any explanation with regard to all the other areas of legislation that the National Stem Cell Centre and the research work that it proposes to do could be affected by—things like the Patents Act, the Trade Practices Act and a number of other relevant pieces of legislation which they may find themselves in breach of. One of the reasons that I have a concern is that I have sought answers, mainly from Ms Kerri Hartland—and even when we have written to Minister Macfarlane’s office they have referred the questions to her. It has been interesting to note that the responses have been somewhat vague or evasive. They have found it difficult to respond to some of the questions, and I will be re-asking a lot of those questions during the course of the committee stage of this bill.

From where I sit at the moment, the bill is unsupportable just from an administrative point of view. There are a significant number of questions that I will seek to raise with regard to the administration and the processes that will be used during the life of this particular organisation. I know there is going to be a review, but it would seem to me that a lot of work can be done even before this thing is proposed and gets off the ground—and before we need to pass this legislation. If I could refer to the Prime Minister’s announcement, I think he announced $43.55 million and said that the passing of this legislation was not essential to the granting of the money, so we are not really holding anything up by giving greater consideration to this legislation—by actually seeing whether or not there are problems. I believe problems exist from an administrative point of view. We ought to sort those out from the outset before we pass the legislation, to ensure that the legislation covers off all of these administrative concerns.
Essentially, we are dealing with something that may well come down to an ethical and a religious view about human life, and I accept people’s arguments from that point of view. I do not have the scientific knowledge to determine which argument is right or wrong with regard to whether or not there are significant advantages to being able to use embryonic stem cells in research; it seems to me that this is in the balance. We do know that the possible downstream therapies that might be available will not be available for some period of time. As I understand it, we also know that there is a sufficient bank of stem cells available for research, at least for the short-term future. That is why I believe that we need to take a longer period of time.

This legislation is very important. It is going to set the basis for future research in a very important area. We must get it right in administrative terms. If we are looking for very important therapies and cures to assist people who are suffering, I do not want to see those people not being able to access them because of the cost caused by the patenting of these therapies, cures or medicines—and patents are already being taken out on a whole range of these things. In many respects, we already confront this problem of cost under the current medical system; it is one of the major problems the Pharmaceutical Benefits Scheme confronts right now. Why would we want to use taxpayers’ money to fund research which will put us in the same position at some point of time in the future, when we have not really dealt with any of the administrative problems that could arise?

I will not support the bill. I have looked at some of the amendments that have been proposed by some senators—there are some that I have yet to look at. Certainly, some of the proposed amendments I have seen do not solve the problems that I have concerns about. I will be raising these concerns in the Committee of the Whole, and I think we are going to be in for a long debate. As I said, I am not prepared to support the bill at this point of time.

Senator CHAPMAN (South Australia) (5.56 p.m.)—The dilemma for parliamentarians considering an issue which polarises the community was put succinctly in evidence on the Research Involving Embryos Bill 2002 to the Senate Community Affairs Legislation Committee by Dr Nicholas Tonti-Filippini when he said:

There will be no consensus on questions such as this, so you the government have the responsibility to decide on behalf of our society where we will draw the line—what will constitute the characteristics required for a member of the species homo sapiens to be given the protection of the state.

He also said:
... either it is permissible to destroy human embryos in the name of science or it is not. Whether they are frozen embryos or embryos which have been created specifically for research does not change the basic ethical issue ... if we come to regard the early stages of human life as raw material for use in exploitation ... the moral status of an embryo is not a fact but a value.

Since I am neither an ethicist nor a geneticist nor a microbiologist, in reaching my conclusions on this legislation I have had to rely on the evidence, research and descriptions of those qualified to discuss the science and ethics and I thank all of those who have presented information and arguments to me as this legislation has come towards debate in this chamber.

The majority of the representations made to me have been opposed to the legislation on moral, ethical, religious and scientific grounds and have urged me to cast my vote against it. That was reinforced in the Senate inquiry’s findings where, of 1,851 submissions received, some 1,803 opposed destructive research on human embryos.

A couple of months ago, I met with the American professor William B. Hurlbut MD, a member of the US Presidential bioethics council, physician and Consulting Professor in the Program in Human Biology at Stanford University. I have read his detailed papers on this issue and have had discussions with him. A comment made in one of his research papers struck a chord with me. He said:
... without clear and distinct moral principles, grounded in scientific evidence and reasoned moral argument, no policy can be effectively formulated or enforced ...
Reasoned argument and, again to quote Dr Hurlbut, ‘thoughtful consideration of the moral status of the human embryo’ are unarguably warranted and there can be no doubt that the debate on this legislation has certainly been extensive—in the parliament, the media, academic circles, the science fraternity and also amongst the public at large. Given the amazing medical and scientific research into and treatment of disease afflicting humans over the past century, from the discovery of penicillin to the latest surgical organ transplant techniques, it is not surprising that for people currently affected by incurable diseases, nerve injuries or disabilities the prospect of finding a medical advance or cure for their condition provides compelling emotional and, I concede in some instances, medical and scientific argument. However, according to the Coalition of Americans for Research Ethics, the claims of the potential for embryonic stem cells are unsubstantiated.

This legislation proposes that Australia’s stock of 71,000 so-called ‘surplus’ embryos, the result of what might be termed ‘overproduction’ during the IVF process for the treatment of infertile couples, be used for stem cell research. I believe that the moral argument against the legislation is compelling. I have reservations about proceeding further down the path of embryonic stem cell research beyond what is already under way in IVF laboratories to treat infertility. Undeniably, IVF treatments have produced extraordinary results—for example, the birth of a twin some 7½ years after the birth of the first twin—and, according to Dr McBain and Dr Baker, in Australia approximately two per cent of children are born through IVF. However, despite IVF having been in existence for some 25 years, estimates indicate that 80 per cent of fertilised IVF eggs die in the early stages of development, with implanted IVF embryos also having a high failure rate. Success or failure aside, medical, ethical, social and legal issues related to IVF are as yet still unresolved and some of those same issues apply to embryonic stem cell research. As overseas data shows, one per cent of births in America result from artificial insemination by donors via Internet mail-order sperm banks, and genetic testing is well advanced, both overseas and in Australia. It is estimated that within two years 50 per cent of all IVF cases will be undertaken not to overcome fertility problems but for preimplantation genetic diagnosis.

So what does preimplantation genetic diagnosis mean for generations to come? It is worth remembering that legal insurance exclusions already exist for those suffering from some conditions, such as heart disease, and that in the United States insurance implications for specific gene carriers for some other illnesses and conditions are already a reality. To what extent would a future Australian society tolerate or sanction transgenic remedies or perhaps the sterilisation of prepubescent girls carrying such genes? This proposition sounds absurd today but it is not beyond the realm of possibility if moral and ethical arguments are no longer persuasive.

Embryos from IVF treatments hold the promise of precious children. As fertilisation rates are low, any resultant embryo is highly prized. This legislation will allow researchers to derive new embryonic stem cell lines from embryos surplus to clinical requirements, donated with informed consent by couples having undergone such infertility treatment. It is possible that that consent may sometimes be given at the end of a physically, emotionally and financially debilitating and perhaps unsuccessful IVF process. Since it is not uncommon for IVF couples to have up to 10 IVF cycles in order to achieve a viable pregnancy and childbirth, the process requires stamina, commitment and a healthy bank account. Consent may also be given after a couple has learned that their remaining embryos are less than optimum for transplantation, the most viable embryos having already been used, or following either a pregnancy or the birth of a child or children. It is currently legal to preserve excess IVF embryos for future pregnancies or to donate them to other couples. In all states of Australia, all IVF clinics are required to adhere strictly to National Health and Medical Research Council guidelines to ‘limit storage of embryos to a maximum of 10 years’. The NHMRC has advised:

In all data gathered to date, less than 10% of patients will donate their embryos to other infer-
tile couples. The majority of patients (50-65%) request to donate to research. The remainder (25-40%) request that the frozen-stored embryos be destroyed.

However, a survey published in the New England Journal of Medicine on 5 July last year found that 59 per cent of parents who initially planned to discard their embryos after three years later changed their minds. It is not drawing a long bow, despite the NHMRC data, to suggest that Australian couples, on reflection, would not support their embryos being used for research purposes, particularly research unrelated to IVF.

A belief that the legislation before us proposes not arbitrarily set but tight prohibitions has been disputed in evidence to the Senate inquiry. Even faith in our scientists and doctors at the cutting edge of scientific technique and medical therapy may ultimately be irrelevant when subjected to ethical and moral barometers. Going back to the economic argument, despite assurances and legislative penalties, with the prospective huge financial incentives science may well be motivated to create human life purely for research purposes. Earlier this year, Dr John Smeaton, the Chief Executive Officer of BresaGen, a South Australian based company, estimated that embryo research had the potential to become a multibillion dollar business. It has already received US National Institutes of Health funding—specifically, a $US1.6 million grant for expansion, differentiation and distribution of four human embryonic stem cell lines in the United States. Dr Hurlbut’s view is that therapeutic cloning is a likely possibility. He argues that arbitrarily set prohibitions are ‘vulnerable to transgression through the persuasive promise of further scientific benefit’. While cloning is illegal in Australia, some other countries do allow therapeutic cloning. They are listed in the Senate committee report. The pressure for Australia to do likewise in the future is not remote, despite the fact that it is very likely that the Prohibition of Human Cloning Bill 2002 will pass this parliament. There can be no doubt that we are therefore at a significant turning point.

Embryonic stem cell research itself has been undertaken in mice for nearly 30 years. According to Dr Peter McCullagh from the University of Sydney, the results of this research so far have been less than spectacular. He argues:

... rigorous animal testing ... is required for two reasons: to determine whether it works and, if so, whether it is safe.

It seems to me that the evidence—after nearly 30 years—shows that it is neither. A particularly persuasive argument for me was from Professor Michael Good, an Australian medical researcher and Fellow of the Australian Society for Microbiology and Honorary Fellow of the Royal Australian College of Physicians. In a frank articulation of his views, he said:

... the science does not stack up. The Australian public has been hoodwinked by the proponents of this research.

He went on to say: they—

that is, the proponents of research—

talk about providing cures for very ill patients from human embryonic stem cells. However, embryos would have to be mass produced in order to provide the millions of cell lines that would be needed for transplantation for diseases such as diabetes, Parkinson’s disease and so on. This is because we all possess near unique tissue types. If not correctly matched, the chances of graft rejection are greatly increased. Furthermore, women would have to undergo super-ovulation to provide the number of eggs that would be needed to generate the cell lines.

In relation to the results obtained, Professor Good’s comments are particularly enlightening. He said:

In all other fields of medical research, ‘proof of principle’ research is conducted firstly in animals. There are scant animal data when it comes to treating diseases with embryonic stem cells. Why?

Because the lack of normal rigour that is expected of research leads me to question whether there is an ulterior motive … and I am concerned that it may be to clone human beings.

‘Therapeutic cloning’ is where a person’s cell nucleus is placed in an enucleated egg. At that point the person is ‘cloned’.
He further stated that the clone can provide ‘specialised cells’ or can be ‘implanted and allowed to develop into a fetus’. He said:

Fetal-derived tissues ... could be taken and because the embryo or fetus is an identical clone ... tissues ... would not be rejected by the immune system.

From a purely scientific perspective, it is far more sensible than attempting to use unrelated ES cells. In his view:

The foetus would become a commodity ... now is the time to draw the line.

According to the founding member of Do No Harm: the Coalition of Americans for Research Ethics, Professor of Life Sciences at Indiana State University, Dr David A. Prentice:

Proponents of embryonic stem cell research readily admit embryonic stem cells have a nasty habit of forming tumors when injected into experimental animals ... 20% of rats injected with embryonic stem cells died from tumors formed in their brains.

He went on to say:

A treatment which kills one-fifth of the patients is not very promising ... after over 20 years of work with the cells ... 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, tumor formation and genomic instability continue to be unresolved.

With respect to contrasting research using adult stem cells, he stated:

Adult stem cells have proven success in laboratory culture and animal models. They are already being used in a range of clinical treatments.

One cannot look at embryonic stem cell research in isolation when there are such positive results already being achieved with adult stem cell research. To use Dr Prentice’s phrase:

It’s a contrast of promises versus treatments, dead mice versus live patients.

An article in the New Scientist on 23 January this year claimed that adult stem cells are the ‘ultimate stem cells’. Obtained from mature human cells, their therapeutic application is already commonplace. Trials are under way, using patients’ own stem cells to overcome immune rejection problems.

If sanctity of human life is the fundamental principle upon which civilisation and law is based, it cannot be denied that civilised human society is full of contradictions. However, given those contradictions, much harder ethical questions need to be considered—for example, the value of the human pre-brain development entity. Given that the embryos in question are never destined for natural gestation, what is the relevance of their surplus status and should embryonic potential be part of the moral and ethical argument? If so, does the surplus embryo’s fragility, vulnerability and lack of potential for viability reduce its inherent moral value?

My colleague Kevin Andrews, who chaired the committee on cloning, put a very persuasive argument when he said:

Human life deserves full respect and protection at every stage and in every condition. The intrinsic wrong of destroying innocent human life cannot be ‘outweighed’ by any material advantage ... the end does not justify an immoral means.

Professor Good said:

Human life is a continuum characterised by growth, development and change. Any definition of its beginning at any time other than conception is arbitrary.

The fertilisation process initiates the most complex chemical reaction known to science. To paraphrase Dr Hurlbut, potency endows the embryo with its human character and inviolable inherent moral status, its unique genetic DNA code creating individual human character. Embryonic cells differ from any other human cell or tissue in that they alone have the potential to develop into a full human organism. The reference to human embryos as a ‘ball of cells destined for the rubbish bin’, I believe, diminishes their significance.

Dr Amin John Abboud, Director of Australian Bioethics Information, told the Senate Community Affairs Legislation Committee:

... the debate about embryonic stem cell research is, at the end of the day, a debate about cloning. At the stem cell conference held in Melbourne in September all the participants:
advocated what they call therapeutic cloning—because for therapeutic benefit you will need that. The existing embryos will probably have no therapeutic benefit.

Scottish scientist Ian Wilmut, who cloned Dolly, this year published findings that every cloned animal in the world is genetically and physically defective. Dr Tonti-Filippini—to whom I referred at the beginning of my remarks—criticised the drafting of the bill and the ‘secretive, non-consultative culture’ of the Human Research Ethics Committee, which he said was ‘unregulated, unrestricted and unsurveyed research on stem cells and embryos’ and he went on to speak about the lack of ‘restriction on export or import of stem cells’.

While therapeutic cloning is not proposed in this legislation, any extension of this existing research, even for human therapeutic benefit, which uses the human embryo as a resource or commodity for research purposes diminishes our humanity. The potential merits of therapeutic cloning, in the event that it was approved, have not been outweighed by morality relating to the sanctity of human life. The scientific case in favour of embryonic stem cell research is not compelling in my view, whereas alternative forms of research on adult stem cells continue apace with exceptionally impressive results. Issues of our humanity and ethical science are paramount, and I find the moral and ethical arguments opposed to embryonic stem cell research and the use of foetal tissue to develop stem cell lines very persuasive.

Additionally, there is substantial discrepancy and polarisation of views within the scientific community itself while the rest of the community lags a long way behind in its understanding of the science. In my view, now is the time to draw the line. To me, the creation of life is still miraculous, in vitro or naturally, viable or not. Therefore, I will be voting against the Research Involving Embryos Bill 2002.

Senator RIDGEWAY (New South Wales) (6.16 p.m.)—I also rise to speak on the Research Involving Embryos Bill 2002, which establishes a nationally consistent regulatory framework covering, amongst other things, access to excess ‘assisted re-productive technology’ embryos for embryonic stem cell research. This is a particularly difficult bill to deal with because I believe in many respects it asks each of us to somehow gaze into a crystal ball and see something about an unknown human future. The bill raises questions about who has the right to define life and it challenges the very definition of life and self-definition.

However, it is a compelling argument that, while many people suffer cell degenerative diseases, stem cell research—and, more particularly, embryonic stem cell research and its applications—might offer some cures for those afflicted with leukaemia, type 1 diabetes, Parkinson’s disease, some heart conditions, and so on. The question is: how should we respond to the promises and misgivings of advances in stem cell science and other fields of biotechnology such as genetic engineering? This is a difficult question.

It must be said from the outset that there is no conventional wisdom in relation to embryonic stem cell research. There is no question in my mind that modern science and technology have made extraordinary leaps forward in a very short period of time. The application of new medicine has allowed us to intervene to make human life better. This is the way it has always been—steady steps forward, punctuated by significant breakthroughs to make life better but with regulation where and if it is needed. Stem cell research itself should not be seen in isolation from other developments in the field of biotechnology and the debate to date should not preclude discussion on some of those wider issues.

I want to draw attention to a project known as the human genome study, which was undertaken in the early 1990s by the Human Genome Organisation—a global organisation that established a genome diversity project to study the genetic richness of the entire human species. It was essentially a global study into population genetics which sought to trace history and cure disease by investigating human, animal and plant genes. Plant and animal gene research has been occurring for some time, but it is only since the mid to late 1990s that human genes have been used in research.
Dolly the sheep has been the most famous case of genetic cloning and, in my view, has triggered the wildfire about moving a step closer to human cloning itself. The response of the Prime Minister to ban human cloning is indeed morally and ethically correct. The scientists involved in creating Dolly—Ian Wilmut, Keith Campbell and Colin Tudge—never intended exact replication or virtual resurrection. Their intention and longer term ambitions lie in using animal and human cells for purposes in medicine, agriculture, conservation and science.

One aspect of the human genome research project was, however, designed to benefit humankind through research on the study of adaptation and disease, especially in relation to human anatomy, physiology and disease susceptibility. The human genome research project conducted the world over also came to Australia, driven by the purpose of collecting human tissue and blood samples from linguistically distinct groups in 12 Aboriginal communities. The thinking simply was that those groups worthy of study included isolated population groups because of their ‘pure’ bloodlines and their capacity to provide genetic information unique to that group which would not exist anywhere else on the globe.

At the time, Aboriginal groups across the country—and, for that matter, across the globe—reacted swiftly, labelling the initiative ‘the vampire project’. But it also raises issues about ensuring that the individuals involved understand what they are involved in, that there must be a process of acquiring fully informed consent, and that people are entitled to the benefits of the information gathered. These earlier and continuing research projects are integral to the current debate in that the collection of genes and their manipulation in stem cell research is what can and may lead to modified stem cell outcomes to form liver or lung or heart tissue to assist wellbeing. Stem cell research does raise ethical, moral and legal issues which are yet to be determined. There is no question that research in stem cell sciences—as indeed in other areas of biotechnology—does raise serious questions about the impact that such advances may have upon our society, our economy and the environment.

In particular, we should be having a fuller debate about the application of this new science to reproductive technology and surrogacy, human organ reproduction, human gene or stem cell surgery and future genetic discrimination. Additionally, it further raises issues about the commercialisation of the gene pool by those in agricultural, pharmaceutical, chemical and biotech organisations. On the matter of reproductive technology I, like my colleague Senator Andrew Murray, have concerns in this area. In particular, it raises further questions about the rights of the child. Following on from the inquiry into the stolen generations, I have come to the view that there is an innate belief, a requirement and a compulsion in every human being to know what they are the sum of. All of the members of the stolen generation were removed from their families and communities. Many since then have been on a journey to discover themselves and rediscover their family history.

To this end, Senator Murray has already moved a second reading amendment in both our names which seeks to acknowledge the standards as set under the UN Convention on the Rights of the Child concerning the preservation of identity, acknowledging that the Australian ethics committee guidelines of 1996 reinforce the concept of biological identity, and further urges the Senate to do all in its power to ensure that every child, whether adopted or conceived using assisted reproductive technology, can access information about their biological parents. I believe these requests are not onerous. They provide the means by which we guarantee that people related but unknown to each other do not cross-fertilise in a small population gene pool such as that which exists in Australia. At the very least, this would bring us more into line with accepted international standards on accessing national, state and territory databases.

On the matter of commercialisation, it is apparent that state sponsored research is now steadily moving towards privately funded research. This inevitably raises questions of the profit motive, the patenting of material
and the rights and benefits available to individual donors. At the very least, it is important not only that appropriate guidelines are put in place but also that international instruments concerned with intellectual property and more particularly trade agreements impose stronger restrictions on the patenting of human or genetically modified material.

The Democrats have a longstanding interest in these issues. My colleague Senator Stott Despoja introduced private members’ bills in 1996 and 1998 that went to protecting naturally occurring genes and gene sequences and genetic privacy. We have contributed in depth to these and related debates for many years. We also have a keen interest and strong legislative record in dealing with intellectual property and patent issues and just last year successfully amended the Patents Amendment Bill to ensure that publicly funded research institutions including universities and the CSIRO are not burdened by onerous compliance costs in establishing patents.

Balancing the rights of inventors and the community requires good judgment. It is not an area that is amenable to ad hoc interventions, no matter how well intended. While issues of intellectual property and patent law do not form part of this bill, I do commend to the Senate the concise discussion on these issues in the supplementary report in favour of the legislation written by Senators Stott Despoja, McLucas and Webber. Their report effectively foreshadows two amendments and I note that Senators Stott Despoja and McLucas have already circulated amendments concerning the applicability of a national stem cell bank.

On behalf of Senator Stott Despoja, I now foreshadow that we will be moving a second reading amendment standing in her name. This amendment, on sheet No. 2701, was circulated to all senators last night. The intent of this amendment is to establish a process by which the Australian Law Reform Commission and the Australian Health Ethics Committee will review the intellectual property and patenting considerations of stem cell science including stem cell products. As the Senate will be aware, the ALRC and AHEC are currently doing a very comprehensive review of protection of human genetic information. It is clear to the Democrats that they are best placed to do this review, as they are very well grounded in the challenges posed by genetic sciences. The amendment also requires that the report be presented to both the parliament and the persons conducting the independent review of the act that is required in clause 47 of this bill and clause 25 of the Prohibition of Human Cloning Bill.

The intent of the Democrat amendment is to encourage a holistic approach to considering intellectual property and stem cell sciences. Our current legislative framework is not adequate in this regard. I am aware that other senators have picked up on those recommendations. Their comments in the chamber and to the press have indicated their interest in addressing similar issues. Their support for the approach outlined by Senators Stott Despoja and McLucas is welcome and I look forward to further discussion on these matters when we get to the committee stage.

Finally, in this debate we are being asked by some to reject these bills because of fallacies, religious beliefs and superstitions. If we had applied such rigidity and dogmatic views in our past we might never have arrived at the position we now find ourselves in or indeed no medical development might have occurred at all. At the end of the day, I must ask myself whether the proposal is capable of being adverse to the wellbeing of society, of undermining a sense of morality or of not being good public policy. Like many of us, I have received letters from people who hold out great hope that these advances in science and technology will directly assist someone they care for. They may indeed be lifesaving but we will never know unless they are given the chance to show us what good they are capable of.

Of course there must be stringent guidelines in place to prevent ghoulish acts, but it is clear that any new research must have the wellbeing of society at heart in every sense of the word. Some also say that this type of intervention interrupts the natural selection process that has evolved for thousands of years. Let us not forget that it was Darwinian
thinking intertwined with biblical thinking that led to the concept of the inferiority of the black man, eugenics racism and inevitably apartheid in places like South Africa. I do not see the new advances in science as interrupting history. How in the natural selection process do we explain a breakdown in the differentiation processes in forming a human being or a plant or an animal? Birth defects are but a classic example. How do we account for continuing interruptions in the lives of people we know with heart disease, diabetes, Parkinson’s disease, nerve cell degeneration, leukaemia and cancer?

I do not believe for a moment that this is about understanding or displacing God but it is about understanding science. The cases crying out for attention seek some remedy and I believe that we should venture down this path in the hope that many cures might be found. I do not regard embryos, excess or otherwise, as having no value or of being relegated to a functional or resource part of the process. They do have a special status. I would hope that with the status I have given them we will be given the chance to move forward. I support the passage of these bills.

(End)

Sitting suspended from 6.30 p.m. to 7.30 p.m.

Senator TIERNEY (New South Wales) (7.31 p.m.)—I rise to speak on the Research Involving Embryos Bill 2002, on which all members and senators have a right to exercise a conscience vote. Parliamentary leaders are to be congratulated for allowing a conscience vote on this bill, as it throws up a number of complex ethical issues. The last time the parliament was in this situation was in 1997, when we were debating the euthanasia laws. The issues considered in this debate are even more complex because they involve the mystery surrounding the beginning of life itself.

Like other senators and members, I have received numerous letters, faxes and emails from lobby groups and concerned citizens. There has been considerable media comment, and the debate in both chambers of parliament has been robust and passionate. Our democracy works best in such situations. Like many of my colleagues, I have been rung by the press and asked how I am going to vote. I have refused to say, because I believe you should listen to the debate in the parliament before making your final decision. The contributions of Senator Chris Ellison, opposing the bill, and Senator Marise Payne, supporting the bill, stand out as persuasive arguments for both sides of the debate. In the end, we all make a judgment based on the arguments, our own personal histories and our own values.

Before the Prime Minister drew up this legislation, he consulted widely across the scientific and religious community. He found no consensus. Leading churchmen argued for and against, and top scientists also disagreed on the necessity of carrying out research on embryos to advance the science of stem cell research. The bill takes a middle course, allowing research to proceed under certain conditions and preventing open slather. However, history informs us that it is hard to keep this balance over time. It is difficult to ring-fence a dynamic research environment. In so many areas of social policy in the past, strict conditions have been laid down in legislation, ring fences carefully constructed and regulations vigorously designed. Five or 10 years later the carefully designed constraints are largely dismantled. We have seen
it happen in social policy on gambling, abortion, censorship, in-vitro fertilisation and marriage laws, to name but a few. Late one night an amendment to a bill or a changed regulation can mean that all that was originally agreed to suddenly changes or is reversed, or a court can put a new interpretation on the legislation.

At this point in our history we have a dynamic social and research environment, and my greatest concern is that, once we legalise embryonic stem cell research, from day one the pressure will be on to change the rules. Can we trust the scientists to stick to the agreement? Professor Trounson’s deceptive conduct with the rodent experiment, under the full glare of public scrutiny, does not fill me with confidence about what scientists may do in the privacy of their laboratories in the future. Why this point is so important with regard to this piece of legislation is that at the centre of this debate are ethical issues relating to the beginning of life. A number of speakers against the bill have agreed that life begins at the point of conception or, at the very least, at the point where the fertilised egg attaches itself to the womb. They argue that, once the life force begins, it should not be interfered with except in exceptional circumstances. Others claim the time benchmarks in the gestation process. It is because of this uncertainty that I am very concerned about the inevitable future pressure to relax the rules. What must be maintained is the very wise balance in the proposed legislation, and on this basis I will be supporting a regime where existing embryos which would have been destroyed anyway are used for research.

Some speeches have argued that there is a technical difference between expiring on the research bench and reaching the end as a result of experimentation. On balance, for embryos at the start of their development, I think this is splitting hairs, so I have come down on the side of the bill as it is presented. If we allow this research to go ahead, the potential for the relief of suffering and heartbreak in our society is enormous. I am sure that we all have family members whose quality of life would be enhanced enormously by treatment breakthroughs in a wide range of medical conditions for which stem cell research holds promise.

I must confess at this point to a particular personal interest. Having been a victim of polio just after birth, about 10 years before the Salk vaccine was developed, I saw in my regular visits to Camperdown Children’s Hospital in the late 1940s and the 1950s the ravages of full-blown polio in children. I thank God daily that I can walk. Post-polio syndrome means that it will catch up with me in old age. I have been told by specialists that I will need a major operation in about 10 years to correct some of the effects that have developed slowly over a lifetime. With the advent of stem cell research, a gloomy prognosis for old age is now reversed. There is now hope that not only old age conditions may be reversed but some of the original debilitating effects dating from the 1940s could also be reversed. If the effect of a mild dose of polio can be reversed, what might be possible for more serious conditions and their debilitating effects? Things such as severe physical disabilities, Alzheimer’s, dementia and diabetes—to name a few—could be stopped in their tracks and, in some cases, reversed.

Having listened carefully to the debate on adult versus new stem cells, I have come down on the side of advancing both forms of research in the belief that this will produce much earlier breakthroughs. I realise that research is still at a very early stage—Christopher Reeve is not going to walk next year and his condition may never be cured. But there is the potential with embryonic stem cell research to relieve so much suffering. If embryonic stem cell research is banned, the critical research breakthroughs—not possible with adult stem cell research—may never occur.

Australians overwhelmingly support this view. A Roy Morgan poll found that 72 per cent of Australians support embryonic stem cell research where the donors have given consent. On 4 September this year the Canberra Times printed an article stating that, according to the Canberra Fertility Centre, couples who have completed IVF treatment are already supporting this research and offering to donate their frozen embryos for
embryonic stem cell research. The Coalition for the Advancement of Medical Research, a group of 10 organisations including the Australian Spinal Research Trust, the Motor Neurone Disease Association and the Juvenile Diabetes Research Foundation, believe:

... embryonic stem cell research holds one of the greatest hopes for finding a cure for hundreds and thousands of Australians with diseases and disabilities ... that these people should have the opportunity for a better quality of life and to not literally be protected to death by legislation.

With regard to spinal cord injuries, scientists at Washington University have already successfully turned embryonic stem cells into nervous system cells when injected into the spinal cord of injured rats. Dr John Yeo, co-chairman of the scientific committee of the Australian Spinal Research Trust and a board member of the Spinal Research Foundation at Royal North Shore Hospital, has been involved in the treatment and rehabilitation of patients suffering from paralysis and loss of normal bodily functions as a result of spinal cord injuries for many years. In the Sydney Morning Herald on 29 August this year he stated:

We have been encouraged by research which many of us have undertaken to find ways of enticing nerves to regenerate and return to the "end organ", be it muscle, skin or internal organs.

Use of embryonic stem cells is an essential part of this learning process

we should not miss the opportunity of assisting those in need.

In another medical field, insulin was a major medical breakthrough for diabetes sufferers and has improved the lives of many in significant ways. However, diabetes remains the world’s fastest growing disease and Australia’s seventh leading cause of death. Over one million Australians have it—with 50 per cent as yet unaware—and every 10 minutes someone new is diagnosed. Insulin treatment is an example of a scientific breakthrough that may be improved dramatically by embryonic stem cell research.

Professor Bernie Tuch, the Director of the Diabetes Transplant Unit at the Prince of Wales Hospital in Sydney at the University of New South Wales, told the Senate Standing Committee on Community Affairs inquiry into this legislation that about three papers have been produced in relation to embryonic stem cell research. The first is from Spain in the year 2000. Professor Tuch stated that this paper:

... demonstrated that you could turn mouse embryonic stem cells into insulin-producing cells and that when you transplanted those cells into diabetic mice you would normalise the blood sugar levels.

How can we take away the chance when the possibilities are so clear?

Most arguments in opposition to this bill are based on the opinion that there are several sources of cells, for instance, the pancreas, bone marrow and, of course, adult stem cells. These other options sound fantastic in theory but unfortunately not in practice. The pancreas is the source of insulin-producing cells but research into this would involve the use of the human pancreas and, considering that the number of people in this country who donated organs last year was 185, this seems like a poor option.

We have heard of recent research at the University of Minnesota. It was found that a small number of stem cells in bone marrow have the same potential as embryonic stem cells to develop into mature cells. However, this research is very early and these cells are very small in number. In a recent research publication called Nature from University of Minnesota, Dr Catherine Verfaillie has said:

Adult stem cell research should be done in conjunction with embryonic, rather than instead of, so that the chances of developing therapies for disease are pursued as soon as possible.

Many of the findings showing that adult stem cells can be isolated and manipulated into a variety of mature cells have been difficult to repeat. It has been demonstrated that these conversions occur at very low frequencies and are therefore unlikely to be transferred into therapeutic use. It has been demonstrated that these conversions occur only under severe conditions such as those following irradiation of tissue—again generally unlikely to be used in a therapeutic context.

There is much hope held for adult stem cells but there is no proof that these can meet
all the potential needs for cell therapy. Adult stem cells are presently much less able to multiply and differentiate into as many cell types as embryonic stem cells can. In this way embryonic stem cell research is unique. I do not believe that we should give up on any of these options. As I said earlier, I support medical research. I think we should explore all these options along with the remarkable possibilities that embryonic stem cell research presents for the relief of human suffering. (Quorum formed)

Senator HARRADINE (Tasmania) (7.48 p.m.)—The Research Involving Embryos Bill 2002 sets an unacceptable and profoundly disturbing precedent in permitting for the first time destructive experiments on human embryos. For the first time, the Australian parliament will give a licence to kill the most vulnerable, innocent members of the human family—human embryos. A certain class of human life will be considered expendable for profit. No, those embryos do not look like us, but we once looked like them, needing only what they needed—that is, shelter and nourishment for survival.

No civilised society should reduce the status of that human being to one of an experimental tool or laboratory rat, and that is literally what would be allowed under this legislation. This legislation would enable the licence provider to provide a licence to test drugs with human embryos or human embryonic stem cells. If this legislation passes, pharmaceutical companies will use embryos or stem cells derived from their destruction for testing drugs or drug components. I have documented proof that they are waiting for this. Of course it will be very profitable for them. Unless the bill is amended, they will have no regard for the millions of Australians who conscientiously object to the use of early human beings for that purpose.

We are told that a conscience vote is provided to members of political parties. I suppose that is always the case for me because I am not here as a member of a political party. My approach to the establishment of public policy is to rigorously research the facts and apply them against a framework of the pursuit of a free, equal and life-affirming society.

Accusations and statements have been made ridiculing persons who have views on this matter. I want to say to them that the exercise of conscience is about determining what is right and what is wrong. Would anybody in this chamber disagree with that? Of course they would not. If a prominent person in the Senate happened to have her home—her plush residence—broken into, wouldn’t she say that she had been wronged rather than that it is illegal? Something is wrong, not because it is illegal but because it is wrong. Clearly, the taking of that individual human life is wrong.

We have heard many statements as to what constitutes human life when it comes to human embryos. I quote from a statement made to our committee as to the nature of a human embryo. The ontological definition of a human embryo is:

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.

Clearly, this entity is a human being. What this bill will do is pass that human being to science technologists for dissection for the stem cells derived from it, to its destruction. The scope of the legislation is so broad as to facilitate a wide range of destructive research on human embryos, of which stem cell research will be only a minor part. I want to describe a few of these uses. The embryos will be used for toxicology research, as I have mentioned. They will also be used for genetic diagnostics, transporter observation, training people in IVF techniques and testing different culture mediums for growth and survival rates, just to see how long it takes before the human embryo dies.

That reminds me of information that was provided to our Senate select committee 20 years ago. Professor Edwards, one of the originators of the IVF program in England, was growing a human embryo in a medium and he observed that the embryo was trying to attach itself to the wall of the Petri dish, mistaking that for the womb. Professor Jan-
sen, the Medical Director of Sydney IVF, told the committee that he would expect to use hundreds of human embryos to test different culture mediums. Other uses that the human embryo may be subjected to include micromanipulation, laserling, cutting, dissecting, studies in genetic make-up and expression, quality assurance testing to ensure that pre-implantation diagnostic tests give accurate results and, as mentioned, the testing of drugs. Were the public allowed to hear that? No, they were not told that they were the uses to be expected. In fact, it is certainly of grave doubt as to whether that was part and parcel of the COAG agreement.

The bill certainly contravenes the body of human rights law on human experimentation in using one section of the human family to serve as experimental subjects or spare parts, the resources for another group. The recent Helsinki agreement said, in relation to medical research, that the interests of the subject must take precedence over the interests of science and society. This bill turns that maxim on its head. The bill strips the embryo of protection for utilitarian purposes, and that has frightening implications for other vulnerable minority groups. We had evidence from some persons with disabilities who expressed concern about that. Some did not; some had other views. But there were people who expressed concern. Significant among them was, for example, Diabetics for Ethical Treatment. They argued:

1. It is unethical, and an insult to the integrity of persons with diabetes, to pursue research into therapies which involve harming or destroying human beings, including human embryos.

They went on to say:

We firmly believe that an attack on the dignity and well-being of any group of human beings is an attack on human dignity itself. It is a profound insult to people with disabilities and illnesses, including diabetics, to presume that we are willing to accept therapies developed at the cost of other human lives.

We know the information that came before the Senate committee showed quite clearly that there has been a huge hype for the science technology lobbyists who want to use embryonic stem cells when they cannot prove any cure using human embryonic stem cells—there is absolutely no proof—whereas of course there are at least 100 peer reviewed articles which were notified to us stipulating the cures and the treatment that have been provided through the use of adult stem cells. That is very important to know, but it was very interesting to see, notwithstanding that, that Diabetics for Ethical Treatment had their say. Of course they had their say in that regard because they would be concerned, as I am, that it is easier for politicians to make that sort of statement suggesting that a cure is around the corner instead of providing substantial sums of money for those with disabilities and their carers. It is a cop-out.

There are very many failures in this legislation. I mention the conscientious objection one. The consent processes for donating embryos to research are inadequate. The bill contains no restriction on embryonic stem cell use at all—none—or on export and subsequent trade. In fact, the representative of the NHMRC had to admit that the bill does not control the use of embryonic stem cells. They can go to the highest bidder overseas. Once couples have consented to the embryos being used, they have no further say in how the embryos will be used. More than 70,000 human embryos are currently in storage, but we do not address why that situation has arisen. It is a disgrace that it has arisen due to the failure of some science technologists in the IVF area. The legislation does not do anything about that for the future.

Prominent scientists, as I mentioned, have cast significant doubts about the overblown claims of embryonic stem cell research advocates. A number of specific communities—among them the Indigenous people, people with disabilities and women—expressed significant concern about destructive embryo experimentation. Some people with disabilities stated that it was unethical and, as I said, an insult to their integrity to pursue research involving the harming of other human beings. A number of scientists have publicly expressed their support for cloning embryos, and I will be dealing with that matter later this evening during the committee stage of the Prohibition of Human Cloning Bill 2002.
The proposal is to use a principal committee of the National Health and Medical Research Council as the licensing committee. This is no reflection on individuals in the NHMRC, but the fact of the matter is that they are interested parties. As was mentioned in the Senate select committee report, they in fact gave money for the purpose of dissecting human embryos long ago. They are a pro-experimentation organisation. Yet this bill gives them the right to provide licences. My time has concluded. If this bill is not rejected the Australian parliament will have abrogated the foundational principle of law and public policy regarding the uniform protection of all human life and will have entrenched in legislation the deliberate destruction of human life for radically utilitarian, commercial purposes.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (8.08 p.m.)—I rise to speak on the Research Involving Embryos Bill 2002. It is not often that parliamentarians are given a conscience vote. Such a liberating process is almost always reserved for matters involving high moral questions. This debate is no exception. It is hard to find more fundamental issues than those that enter the realms of eschatology: when does life begin and in what circumstances should it end? The utilitarian argument of ‘the greatest good for the greatest number’ is often used as an analogue of the much more expedient ‘the end justifies the means’. Neither should be allowed to prevail over matters involving high moral questions. This debate is no exception. It is hard to find more fundamental issues than those that enter the realms of eschatology: when does life begin and in what circumstances should it end? The utilitarian argument of ‘the greatest good for the greatest number’ is often used as an analogue of the much more expedient ‘the end justifies the means’. Neither should be allowed to prevail over matters of deep principle. Where there is doubt, one should err on the side of caution.

Much of the debate today has centred on the next nirvana, whereby the use of embryonic stem cells from human embryos is seen as potentially the cure for many of the major diseases and illnesses of our time. The reality, however, is that the legislation does not purport to limit the use of embryonic stem cells for such high-minded purposes and, given the enormous difficulty in framing such definitions in a highly technical and fast moving field of science, it is unlikely that any regulatory regime will be watertight. What is much more likely is that if the legislation is passed in its present form it will not be long before there is pressure to harvest very significant numbers of embryonic stem cells for general research purposes.

Perhaps the key issue in this whole debate is whether it should be permissible to actively intervene in harvesting embryonic stem cells, thereby killing off the prospect of a human life when those embryos which are surplus to IVF requirements are almost inevitably going to be allowed to succumb or die in a few years time. Once again the utilitarian argument seems to prevail: if it is going to happen anyway we may as well get on with it. This argument is not far removed from the euthanasia debate, which essentially says that rather than allowing nature to take its course human beings are justified in cutting life short for the alleviation of suffering. In other words, as the argument goes, there is not a sufficient moral difference between, on the one hand, allowing surplus frozen embryos to thaw and succumb and, on the other hand, destroying those surplus embryos for the benefit of scientific research which might advance lifesaving and life enhancing therapies. Again, there is the argument that since the embryos are going to die anyway we may as well make use of them.

Despite some expedient attempts to treat human life as beginning at an arbitrary seven or even 14 days after conception there seems little argument amongst modern embryologists that life commences at fertilisation and thereafter the genetic endowment of the embryo allows it to spring into life of its own accord. However, as the Southern Cross Bioethics Institute has stated so eloquently:

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...

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. Human embryos which have been frozen and which are no longer needed or wanted for further ART treatment cycles, are thawed and are al-
allowed to succumb. This is similar to other human beings for whom we have no meaningful treatment and who too are being maintained by an artificial life support system. We do not maintain artificial life support systems when those systems are no longer meaningful, when they no longer serve any therapeutic purpose. We remove those support systems and the person dies of the underlying condition.

Being maintained in deep freeze when there is no longer any prospect of being transferred to (a) mother’s uterus, or any prospect of any other life sustaining treatment is an offence to human dignity. The support system (being maintained in deep freeze) should be removed and the embryo allowed to succumb. There is a very significant ethical difference between being directly and intentionally killed, and being allowed to die.

Stem cell therapy has great potential but there are many sources of stem cells. Adult stem cells, which do not suffer from tissue rejection problems, are constantly being used and improved with exciting and positive outcomes in areas such as multiple sclerosis, Parkinson’s disease and sickle-cell anaemia. It is only adult stem cells that have helped patients to date or are likely to do so for the foreseeable future. On the other hand, stem cells taken from embryos—in a process which thereby destroys the possibility of human life—offer much more problematic prospects for providing therapeutic benefits. Indeed, there is little, if any, evidence to indicate that embryonic stem cells have yet produced a single positive clinical treatment.

While there may have been some apparently positive outcomes in relation to animals, problems of immune rejection and genomic instability render this area of research very problematic. Almost by definition, the supply of human tissue from adult stem cells is endless and therefore there is no question of a shortage of such material for research purposes. Adult stem cells are also more stable than embryonic stem cells and are not as prone to forming tumours. On the other hand, use of embryonic stem cells—apart from the moral and ethical issues involved—will inevitably lead to increased demand for much greater harvesting, thereby compounding the ethical issues.

It is also a matter of serious concern that debate on the bill has been surrounded by an emotive campaign aimed at appealing to those desperate to benefit from scientific breakthroughs for some crippling and life threatening illnesses rather than promoting a serious analysis of the moral issues involved. It seems that certain leading members of the scientific community see many commercial opportunities, both domestic and export, which are not necessarily limited to so-called therapeutic cloning—in particular, general research into pharmacological testing or toxicity. Indeed, despite some temporary tactical retreats in order to get the bill through, it seems that its principal proponent will stop at little to get his way. In relation to the Human Embryo Experimentation Bill 1985, Professor Trounson said:

I would do anything to cure disease.

He also said:

I don’t care if it is a floodgate. If it opens an opportunity to treat really serious disease and disabilities it is all right with me.

Such single-minded expediency inspires little confidence that his consideration of these issues will be troubled by any moral scruples. As Dr Tonti-Filippini has made clear, these bills suffer from serious legislative vagueness and are very much at odds with the proclaimed objectives. The issues at stake are fundamental to the basis of an ethical society. I do not accept that this bill is necessary for progress in treating many serious illnesses. Unless and until it is demonstrated that adult stem cells are inadequate, there is no reason to move into other areas of stem cell research. I will therefore be voting against these bills.
issue. In developing views on this matter, some people have approached it from a scientific angle and great weight has been given to the benefits of research on excess ART embryos, particularly the potential benefits of embryonic stem cell research. While I am concerned to hear people possibly overstating the extent of cures for diseases which are likely in the short term, there has at least been widespread agreement—even by some of those who do not support embryonic stem cell research—that there are potential significant benefits to be gained. I would suggest that the gains would be in the long term rather than in the short term, as some have claimed. These benefits have been espoused by many already from both sides and in both houses. Others considering this issue will be concerned with the question of when life begins. Surely one of the most fundamental questions one could consider is whether life begins at the moment of fertilisation, when cells first differentiate, at the arrival of the heartbeat or even, as some would claim, at birth. They are questions on which we are unlikely to agree.

As legislators we need to weigh up all these things. Reflecting community values and the views of our constituencies is difficult in circumstances where opinions on this issue are often very strong and deeply held, but often polarised. Senator Harradine asked that those who take one view not be belittled or intimidated in any way and, equally so, those who take an opposite view have every right not to have their views belittled or ridiculed. I respect the right of all senators to debate the bill from whatever perspective, belief or value system they wish. In the end, when deciding how we will vote, we must each exercise our own conscience. Some have said that they have exercised that vote on the basis of their religious beliefs; others have said that they are lapsed Anglicans. As a Christian and a frustrated Anglican on occasions, with the hierarchy of my church and their intrusion into politics, I have also brought to bear my moral views and my moral conscience on this, and I think I have every right to have them respected, just as I respect the moral and religious views of others. In so doing, I will most probably disappoint some of my colleagues who were surprised when I supported the Andrews bill, when I voted against euthanasia. Again, I have thought very carefully through this bill and have come to the conclusion that I support the Research Involving Embryos Bill because I believe that it allows individuals to exercise their conscience, in the same way as we are exercising ours.

If we pass this bill, people who are involved in IVF treatment will have the power to exercise their conscience to determine what should be done with their embryos which are no longer needed as part of their treatment program. If we pass the bill, people will have the choice to allow their excess ART embryos to die—I prefer to use the word ‘die’ than ‘succumb’, as that is a euphemism for ‘die’—to donate them to another woman or couple, to donate them to ART related research or to allow them to be used for other research, such as embryonic stem cell research. I know some people in this chamber will feel that we should not allow this to happen. However, for many other people the chance to be able to donate their embryos to potentially develop cures for disease and extend life further is a gift they wish to have the right to bestow.

I do not underestimate the controversial nature of the subject matter addressed this legislation and I respect the views of those who have considered the issues raised by this bill but who cannot support it because of the moral dilemma it poses for them. However, I believe that we have before us a comprehensive system that strikes an appropriate balance, ensuring community standards and ethical values are upheld and also enabling the enormous potential of research on excess ART embryos to be explored within appropriate regulatory parameters and subject to close scrutiny.

The bill establishes a national licensing body within the National Health and Medical Research Council to be known as the NHMRC Embryo Research Licensing Committee. The committee will be comprised of experts in a range of fields, including ethics, ART, research and law. The committee will also include consumer representatives with expertise in consumer health issues as they relate to disability, disease and
ART services. I have to say that this is a long road from the original research that was being done at Monash University. I happened to be there undertaking foetal movement research when some of the original research was being done without this sort of scrutiny. I welcome the national licensing body which will undertake the scrutiny of the licensing process. I believe that the proposed membership of the committee and the appointment process involving calls for nominations from a range of organisations in consultation with states and territories will ensure that the committee is a balanced one with appropriate expertise to enable proper decision making.

The Embryo Research Licensing Committee will be given the task of scrutinising projects proposing to use excess ART embryos. The committee will ensure that the embryos in question were donated with the fully informed consent of the couple for whom they were created. The committee will also ensure that the outcomes of the project will be likely to provide a significant advance in scientific knowledge or technologies which could not be reasonably achieved by other means.

The committee will also consider the number of excess ART embryos likely to be necessary to achieve the goals of the project, relevant NHMRC guidelines and the Human Research Ethics Committee assessment of the application. Further, it will be a condition of any licence issued by the committee in relation to work that may damage or destroy the embryo that the embryo must have been created before 5 April 2002. COAG set this restriction to address concerns that the COAG agreement would lead to deliberate creation of embryos for research purposes.

I believe strongly that it is wrong to create human embryos solely for research. It is not morally permissible to develop an embryo with the intent of truncating it at an early stage for the benefit of another human being. However, utilising embryos that are excess to a couple’s needs after a successful implantation is a very different matter. I believe it is disingenuous to suggest that approving this research will open the door to further killing of living human beings when the Prohibition of Human Cloning Bill 2002 bans the creation of a human embryo for a purpose other than achieving a pregnancy. In addition, COAG have asked that a health ethics committee be established, which will report back by April 2003 on protocols to preclude the creation of embryos specifically for research.

Consistent with the balanced approach I believe this legislation has taken, COAG was conscious that limiting research to excess ART embryos created before 5 April 2002 might unduly restrict the numbers of excess ART embryos that are available for research. COAG therefore asked the NHMRC to report to COAG by April 2003 on the adequacy of supply and distribution for research of excess ART embryos which would otherwise have been destroyed.

Given the public interest in this issue, I am pleased that the proposed new regulatory system also includes detailed provisions relating to public reporting. Not only will the NHMRC licensing committee be required to report annually on its operations but it will also be required to maintain a comprehensive, publicly available database of all licences issued, including details about the number of excess ART embryos actually used in relation to each project. This will provide maximum transparency and accountability within the system, and also inform government’s future decision making on these issues.

During debate in the House of Representatives and in the media, there has been considerable comment about adult stem cell therapies and their relative worth in comparison to embryonic stem cell research. The use of those stem cells in research is outside the scope of the legislation and therefore will not require a licence under this legislation. Valuable research on adult and embryonic stem cells will be allowed to continue in accordance with NHMRC guidelines.

I strongly believe that there are merits in pursuing both avenues of research, as developments in one area may result in new insights in the other. The other thing it will advise us of is whether embryonic stem cells have any potential capacity over and above those of adult stem cells. It is therefore imperative that both types of research are pur-
sued simultaneously to maximise the chances of making medical breakthroughs which will bring real hope to those suffering from disability and disease.

The bill preserves the integrity of the original bill, before it was split, by providing for the NHMRC to conduct an independent review of the operation of the Research Involving Embryos Act to be undertaken by the same persons who undertake the review of the Prohibition of Human Cloning Act. An independent review of the acts will be undertaken by persons chosen with the agreement of each state and territory. The review will consider and report on the scope and operation of the legislation, taking into account developments in technology in relation to assisted reproductive technology, developments in medical and scientific research and the potential therapeutic applications of such research, and community standards. Parliament will consider any amendments recommended as a result of the review process.

The establishment of a national regulatory regime in no way heralds an increasingly liberal attitude to research involving human embryos. Nor does it represent the first step on the slippery slope towards human cloning. What it does mean is that, for the first time in Australia, there will be national oversight of uses of excess ART embryos. The NHMRC licensing committee will demand that stringent criteria be met before a licence may be issued and that conditions of licence are complied with. The NHMRC licensing committee will also be appointing inspectors to ensure that this bill is strictly observed.

This bill does not require anyone to do anything. What it does is give people the capacity to exercise choice as to what they do with their excess IVF embryos—broadly, to let them die or to donate them for research that may assist humanity. In both cases the embryo has been created to give life and in both cases the embryo will die. I would have to say that it is here that I really do have a question that mystifies me. I guess I am the sort of person who is somewhat consistent in my views, and I find inconsistency in others difficult to comprehend.

The argument of those people who have benefited from IVF, who have knowingly consented to the creation of excess embryos and who would then argue that using them for embryonic stem cell research is different from creating them to let them die when they are in excess, seems to me to be not consistent. In my view, if that belief is carried to its logical conclusion, people who have that belief should either not use IVF or only have one egg extracted and one egg fertilised. If that does not work, despite the difficulty of the extraction process, if you are taking your belief to its moral conclusion excessive embryos should not be created. I do find it difficult to see an argument that creating an embryo with a possibility of giving life and then letting it ‘succumb’—using that euphemism—is different from creating an embryo and then using it for potentially beneficial purposes, if it is in excess.

The other thing, when we are starting to debate these issues, is that it is somewhat like asking how many angels are on the head of a pin: is it better to let an embryo succumb—or ‘die’, as I prefer to say—or to give it some form of continuing life as an ongoing embryonic stem cell? One may argue that an embryo from which embryonic stem cells have been taken—and the cells have the potential for continual life as long as they are maintained and given nutrients—is a form of life. It may not be the sort of life that we think of every day, but it is a form of life, letting an embryo live rather than die. As I said, it is a philosophical issue but it does mean that the embryo has some continuing life.

I cannot see the logical or moral difference between taking an embryo out of storage, where it will certainly die, and using the embryo for beneficial medical research. If one objects to embryonic stem cell research on moral, religious or ethical grounds, then consistency would demand that this objection should also extend to all embryonic stem cell lines. I believe that those people who have taken a very strong view about not using embryonic stem cells ought to be arguing that we should not use any embryonic stem cell lines and that we should stop even using those that exist. They should advocate a ban
on the importation of any embryonic stem cell lines, a ban on the use of stem cell lines currently in existence in Australia and, more importantly, a ban on the importation of the therapeutic benefits derived from embryonic stem cell research overseas. It is taking the decision of the people who oppose the bill now to its logical conclusion to say that we do not undertake research on existing stem cell lines, that one should accept that we do not import stem cell lines and that one should accept that we do not import the therapeutic benefits derived from embryonic stem cell lines.

I challenge those who are opposing embryonic stem cell research to place their hand on their heart and say they would reject, for themselves or their family, the therapeutic benefits derived from embryonic stem cell research. If people take that view and are prepared to say that, then I will respect it. However, that view demands consistency and the acceptance of the logical and moral responsibility and the consequences of the position that accompanies it. To reject the stem cell bill—to reject research on embryonic stem cells—is to also say that we reject the potential therapeutic outcomes of embryonic stem cell research. That is the test that I put to myself. If therapeutic benefits were to arise out of embryonic stem cell research in the future—from my limited biological knowledge, and I do take a fairly deep interest in these issues, I believe that there is potential for treatment to arise out of embryonic and adult stem cell research—I do not think that I could legitimately say that I would refuse a family member or anyone for whom I had medical power of attorney the benefits of such therapeutic treatment.

If as a nation we restrict embryonic stem cell work, then we must also bear the responsibility for those patients we have chosen not to try to save by the same means. I wonder, when innovative treatments arrive from overseas, if anyone in this chamber will be willing to ban the importation of such cures. The Research Involving Embryos Bill 2002 strikes an appropriate balance between ethical considerations whilst allowing Australia to remain open to the possibilities of finding new cures and therapies for diseases and disabilities which affect the lives of many Australians. I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Knowles)—The question is that the amendment moved by Senators Murray and Ridgeway be agreed to.

Question agreed to.

Senator STOTT DESPOJA (South Australia) (8.34 p.m.)—I move on behalf of the Australian Democrats the amendment standing in my name in relation to a review:

At the end of the motion, add:

"but the Senate requests:

(a) the Attorney-General to provide a reference to the Australian Legal Reform Commission (ALRC) and the Australian Health Ethics Committee (AHEC) requesting that they investigate and prepare a report on the intellectual property and patent issues concerning stem cells and stem cell products; and

(b) the Attorney-General is to cause a copy of the report prepared in accordance with paragraph (a) to be provided to the Parliament and also to the persons conducting the independent review of the Act; and

(c) the persons conducting the independent review of the Act must consider the ALRC and AHEC report and comment on it in their review”.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (8.35 p.m.)—by leave—The amendment put forward to the Research Involving Embryos Bill 2002 does not take account of the possible effects that such a reference may have on the Australian Law Reform Commission’s and the Australian Health Ethics Committee’s existing and future work programs and denies the consultation process that the government adopts in preparing references for work by the commission. The ALRC and AHEC are currently examining issues concerning the protection of human genetic information. This reference is scheduled to be completed in March 2003. The ALRC is also finalising a reference concerning civil and administrative penalties. The planning and development of terms of reference for any ALRC inquiry require consultation with the ALRC and
other relevant stakeholders to ensure that the ALRC has adequate resources and facilities to undertake the inquiry and to ensure that terms of reference are appropriate and targeted to dealing with key legal issues within the ALRC’s expertise. The consultative process also ensures that the ALRC has sufficient notice to make the appropriate arrangements to gain expertise on the topic and to plan appropriate public consultation.

Within the reference on the protection of human genetic information, the ALRC and AHEC are examining issues associated with the privacy of genetic samples, protection from inappropriate discrimination and other ethical considerations relevant to the use and collection of genetic samples. In the course of the inquiry, the interaction of the intellectual property issues and genetic information has been raised. The government is considering, in consultation with the ALRC and other relevant stakeholders, the desirability of a reference to the ALRC on this issue.

The proposal for a reference suggested by Senator Stott Despoja is a complex area of law and policy. The ALRC and AHEC would need to acquire expertise in intellectual property and related areas of law. Consideration about the appropriate form of public consultation would also be required. Senator Stott Despoja’s approach to imposing such a reference would not take account of these issues. Requiring the ALRC and AHEC to undertake such an inquiry would affect the progress of their other and possible future inquiries. A far better approach to developing such a reference would be for the government to continue to consult with the ALRC and other relevant stakeholders on the desirability and implications of such a reference dealing with these issues. As I have outlined earlier, this is already well under way.

Senator STOTT DESPOJA (South Australia) (8.37 p.m.)—by leave—I thank the Minister for Health and Ageing for her comments and for her speech on the second reading, with which I agreed wholeheartedly. I did not anticipate beginning this debate by disagreeing with the minister, however. I am very conscious of the matters that the minister raised in relation to the workload of the AHEC and the ALRC, having been involved with and certainly having read with interest the most recent discussion paper by the ALRC on the issue of genetic privacy—something that senators would know the Australian Democrats are very concerned about, and we worked very hard to initiate such an inquiry into that issue. We recognise their workload; hence my decision to phrase this amendment in a way that requests the Attorney-General to provide a reference to the ALRC and the AHEC. It is intended as a polite but strong reference in the form of a second reading amendment. Of course, the strength of that amendment is debatable in law.

The nature of this amendment is with the intention of requesting such an inquiry. We all know that the issue of intellectual property was raised in the context of the committee inquiry and, of course, in recent days in the media and in the chamber. The issue of patents and IP is not covered by the bill and, rather than seek to amend the bill explicitly or in any way, this is a genuine attempt by me and the party to provide for a report and an investigation into the intellectual property and patent issues concerning stem cells and stem cell products. I am sure that we would all agree that balancing the rights of inventors and the community requires good judgment and careful consideration. It is not an area that is amenable to ad hoc interventions, no matter how well intended; hence our decision not to amend the legislation per se.

The intent of this amendment is to establish a process by which the Australian Law Reform Commission and the Australian Health Ethics Committee will review intellectual property and patenting considerations of stem cell science, including stem cell products. As the Senate is aware, the AHEC and the ALRC are currently undertaking a review of the protection of genetic information. I commend that to the Senate. It involves a lot of reading but it is worth it. This review is due to be tabled in March 2003; hence our recognition that it would be well after that process—well after the tabling of the report—that you would have an inquiry into the matters raised in the amendment. The amendment requires that the report be
presented to both the parliament and the persons conducting the independent review of the act that is, of course, required under clause 47 of the Research Involving Embryos Bill 2002 and clause 25 of the Prohibition of Human Cloning Bill 2002.

In our view, the current legislative framework dealing with intellectual property and patents is not adequate; thus, the intent of the amendment is to encourage a holistic approach to considering IP and stem cell sciences. I do commend this amendment. I think that there is another one that is comparable, almost indeed a cloned amendment of this one before us. I urge senators to consider this amendment in the context that I have raised—that is, we recognise the workload of the ALRC and AHEC as well. We do think that it is doable. It is a request—it is a polite one at that, but it is one that is long overdue in this context. We recognise that the IP issues surrounding stem cells and stem cell products will have to be dealt with, and what better way is there to bring about a comprehensive investigation and review. I commend the amendment to the Senate. I thank the minister for her contribution, but I think that the concerns raised by some members of the government are not warranted.

Senator CHRIS EVANS (Western Australia) (8.41 p.m.)—by leave—I want to indicate on behalf of the Labor Party that we will be supporting this amendment for the reasons outlined in the case put by Senator Stott Despoja, despite her very poor pun. I also indicate that this matter is the subject of a conscience vote for Labor senators. I formally indicate that in terms of the Labor Party’s view on this matter Labor Party senators will be voting according to their consciences. But we do think that it is a useful addition to the debate. We accept that we ought not to be trying to write intellectual property amendments into the bill, but this is a useful statement of the need for a reference to the ALRC and AHEC for the reasons outlined by Senator Stott Despoja. Therefore, we would be inclined to support the second reading amendment.

Senator MURPHY (Tasmania) (8.42 p.m.)—by leave—With respect to what is proposed in this amendment and what is also proposed in an amendment by the Australian Greens, as I understand it, there is at this point in time an inquiry being conducted by the Australian Law Reform Commission and the Australian Health Ethics Committee with respect to the protection of human genetic information. They are due to report by March next year. I am not sure what the terms of reference cover—and I am trying to find out what they cover. I am not sure whether the terms of reference cover many of the issues raised here, and rightly raised, and whether we are asking for something that has already been done. If not, perhaps it can be incorporated into something else and done much more quickly than 12 months or indeed another period of time.

Senator STOTT DESPOJA (South Australia) (8.43 p.m.)—by leave—The terms of reference, which I am happy to table and make available to Senator Murphy, do not cover these issues. They deal specifically and quite explicitly with genetic privacy. Given that the first report of that inquiry will be delivered next year, it would be a massive and unfair task to undertake a comprehensive review and investigation before March 2003 on the other IP issues raised. I think that it is more important to do this inquiry correctly and comprehensively than to do it quickly—and that is coming from someone who has had a private member’s bill on genetic privacy on the Notice Paper since 1997, and yet this has taken until 2003 to come before the Senate. With all due respect to the idea, I do think that the terms of reference quite rightly do not cover these issues and probably there would not be time to incorporate your suggestion or the one before us.

Question agreed to.

Senator NETTLE (New South Wales) (8.44 p.m.)—On behalf of the Australian Greens, I move:

At the end of the motion, add:

*but the Senate calls on the Government:

(a) as a matter of urgency, to issue a reference to the Australian Law Reform Commission and the Australian Health Ethics Committee to examine intellectual property rights as they relate to human stem cell research, in particular how to safeguard the public interest in
the widest possible access to discoveries in this field; and

(b) to bring the report of the inquiry to both Houses of the Parliament within 12 months of the passage of this bill”.

Question negatived.

Question put:
That the motion (Senator Abetz’s), as amended, be agreed to.

A division having been called and the bells being rung—

The PRESIDENT—I understand that senators have suggested that in some instances it would be appropriate for two tellers to be appointed for each side for divisions in relation to these bills as a double-check on the count. With the concurrence of honourable senators, I shall follow that course of action for the first time in the history of the Senate when requested to do so.

Senator Hogg—Mr President, I have had no discussions with anyone about this procedural matter, but I think it is quite obvious who is voting where in this chamber. Unless anyone has any strong objections, I advocate that we go down the path we have always gone down in this chamber, and that is we have a teller for the ayes and a teller for the noes.

The PRESIDENT—The proposal was put by leave. If leave is not granted, we will revert to the normal procedure.

Leave not granted.

The Senate divided. [8.49 p.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes………… 43
Noes………… 26
Majority……… 17

AYES
Allison, L.F. Bartlett, A.J.J.
Bolkus, N. Campbell, G.
Campbell, I.G. Carr, K.J.
Cherry, J.C. Colbeck, R.
Conroy, S.M. Cook, P.F.S.
Crossin, P.M. * Denman, K.J.
Evans, C.V. Faulkner, J.P.
Ferguson, A.B. Greig, B.
Johnston, D. Kirk, L.
Knowles, S.C. Lees, M.H.
Ludwig, J.W. Landy, K.A.
Mackay, S.M. Marshall, G.
Mason, B.J. McLucas, J.E.
Moore, C. Murray, A.J.M.
Nettle, K. O’Brien, K.W.K.
Patterson, K.C. Payne, M.A.
Ray, R.F. Reid, M.E.
Ridgeway, A.D. Scullion, N.G.
Stott Despoja, N. Tchen, T.
Tierney, J.W. Vanstone, A.E.
Watson, J.O.W. Webber, R.
Wong, P.

NOES
Abetz, E. Alston, R.K.R.
Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Buckland, G. * Calvert, P.H.
Chapman, H.G.P. Collins, J.M.A.
Coonan, H.L. Eggleston, A.
Ellison, C.M. Forshaw, M.G.
Harradine, B. Heffernan, W.
Hogg, J.J. Hutchins, S.P.
Lightfoot, P.R. Macdonald, J.A.L.
McGauran, J.J.J. Minchin, N.H.
Murphy, S.M. Santoro, S.
Sherry, N.J. Stephens, U.

* denotes teller

Question agreed to.

Bill read a second time.

Ordered that consideration of this bill in Committee of the Whole be made an order of the day for a later hour.

PROHIBITION OF HUMAN CLONING BILL 2002

Second Reading

Debate resumed.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (8.55 p.m.)—The Prohibition of Human Cloning Bill 2002 creates a series of offences in relation to human embryo clones and other practices relating to the application of reproductive technology. The legislation provides significant penalties, which I believe are entirely appropriate to the seriousness of the offences. These penalties are also consistent with those in the Gene Technology Act 2000 and are comparable with international precedents such as those contained in the UK legislation.
I know from conversations I have had that people have different views. I know there is widespread support for the bill in principle. However, I have also heard some senators raise concerns about some aspects of the legislation and others talk about changes they would like to see made to the bill. I hope to address these concerns and anticipate the debate on amendments—if there are amendments moved—during the consideration of the bill in detail.

Both the Prohibition of Human Cloning Bill 2002 and the Research Involving Embryos Bill 2002 contain provisions requiring that each bill will be reviewed within three years of receiving royal assent. I have heard concerns raised in this chamber about the fact that the minister rather than the NHMRC is required to appoint the person to undertake the review of the Prohibition of Human Cloning Bill. However, it should be noted that when the bills were split it was intended that the review of both bills be undertaken contemporaneously and that the NHMRC be involved in administering the appointment of the independent person or persons to undertake both reviews.

I would like to say from the outset that my intention is to oppose amendments to the Prohibition of Human Cloning Bill. When the original bill was split in the lower house the Prime Minister stated that the legislation in its split form faithfully reflected the implementation of the COAG decisions and that he would be opposing any further changes to this legislation. I too consider that the legislation should not only reflect the COAG decision but also be appropriately drafted to achieve the object of addressing concerns about scientific developments in relation to human reproduction and the utilisation of human embryos.

Various senators have raised concerns about the evidential burden that must be satisfied by the prosecution in order to establish that an offence has been committed under the Prohibition of Human Cloning Bill. Questions have also been raised about matters such as whether people who assist in the commission of a crime can be prosecuted for an offence and whether corporations can share in responsibility for offences committed within their organisations. These are very valid questions, the answers to which are found not in the Prohibition of Human Cloning Bill but in the Criminal Code. As of 2001, the Commonwealth Criminal Code took effect. The Criminal Code sets out a range of provisions that are implied in all the Commonwealth legislation that describes criminal offences. In the past, such matters would have been included expressly in bills put forward before parliament but now they appear in the consolidated code. For example, it is no longer necessary to include in Commonwealth legislation a provision establishing an offence for aiding and abetting, because clause 11.2 of the Criminal Code says that if a person aids, abets, counsels, procures or commissions an offence then the person is to be treated as if they had committed the offence themselves. In other words, if a person aids or abets the creation of a human embryo clone they are subject to prosecution as if they had actually created the human embryo clone.

Another issue that is addressed in the code is that of the evidential burden that must be satisfied in order for an offence to be established. The code makes it clear that, in relation to conduct that gives rise to an offence, the prosecution must establish that the person intended to engage in the conduct that gave rise to the offence. Thus, even if the Prohibition of Human Cloning Bill 2002 had not included the word ‘intentionally’ in relation to the conduct leading to the prohibited offences, this would have been implied by the Criminal Code. It was thought prudent to include the word ‘intentionally’ in the offences because the Commonwealth Criminal Code does not apply in states and territories. These are just a few of the matters addressed in the Criminal Code and implied in the Prohibition of Human Cloning Bill. I would be happy to expand further on this during the debate in the committee stage of the bill.

Moving to other matters that have been raised, I note that Senator Stott Despoja and Senator McLucas have proposed that the matter of a stem cell bank be included as a term of reference for the review of the legislation. I have also heard Senator Nettle’s proposal that the Australian Health Ethics
Committee be requested to review the stem cell bank issue and report to parliament within six months. I think the issues around a stem cell bank are sufficiently complicated to warrant detailed, comprehensive and independent investigation before any decision is made. I understand that an initial analysis of the issues will be included in the NHMRC’s report to COAG on the adequacy of supply and the availability for research of excess ART embryos. There is also a range of other administrative avenues through which such an issue can be considered by governments—for example, through the Australian Health Ministers Conference or the Council of Australian Governments. I do not consider that it is necessary for an amendment to the legislation to be moved in order to effect such a review.

I have also seen the amendments put forward by Senator Harradine, and I am sure that these, like the other amendments outlined above, will give rise to significant discussion over the next stage of the debate. However, as I said previously, like the Prime Minister it is my intention to oppose amendments to this bill. Why I intend to oppose amendments to this bill is as follows. I have listened to the concerns raised in the chamber—in particular, I have heard several senators raise concerns regarding the export of human embryos.

Honourable senators interjecting—

Senator PATTERSON—This is actually quite important for senators who are supporting the bill but are concerned about the exportation of embryos. I know that people like Senator Watson expressed concern about this. It is quite difficult because many senators are listening to this in their rooms. I draw their attention to the fact that the government’s intention is to move quickly to amend the Customs (Prohibited Exports) Regulations 1958 to provide for a 12-month prohibition on the export of human embryos. During this period the government will review whether it is practical to allow the export of human embryos in a manner that is consistent with the Research Involving Embryos Bill 2002. I would hope that this would allay senators’ concerns.

I can also say with regard to the above proposal that the Prime Minister has advised me that he will allow government members to exercise their consciences when considering this proposal—that is, the amendment to the Customs (Prohibited Exports) Regulations 1958. I can also advise that the Prime Minister has indicated to me that he supports this proposal, and I will also be supporting the proposal when it is brought forward.

In summary, I believe that the legislation before this chamber represents a significant step forward. For the first time, we have the potential to provide a nationally consistent, strong and comprehensive approach to difficult ethical issues surrounding human cloning and certain other practices deemed to be unacceptable. I look forward to further debate in the committee stage, and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

The CHAIRMAN—I understand that a running sheet has been circulated outlining proposed amendments to the Prohibition of Human Cloning Bill 2002. We will begin with the first amendment on the sheet, which has been proposed by Senator Harradine and concerns clause 8 of the bill.

Senator HARRADINE (Tasmania) (9.04 p.m.)—I wish to go to that amendment shortly. I am rather surprised that the Minister for Health and Ageing said that she is going to vote against all amendments, presumably irrespective of what is said about them in this chamber. I say this particularly in relation to the amendment that I am referring to, which is simply an attempt to improve the proposed act. As is indicated in my amendment, a particular group of embryos may indeed not be covered by the cloning legislation.

I want to ask the minister about clause 2—that is, the constitutional powers upon which this legislation is based. For the record, I wish to hear the minister’s comments as to why the minister thinks that the constitutional powers mentioned will in fact be sufficient for the purposes of this legislation.
Again, I refer to the fact that this legislation is to prohibit human cloning. It is the Prohibition of Human Cloning Bill. We have to get it right. If we do not have the constitutional power mentioned, then what we all believe should be done will not be able to be done. I am simply asking why the minister thinks that the restricted number of constitutional placita is sufficient for the purposes of this legislation. For example, why weren’t the various other placita—and I can mention them—used for the purposes of this legislation?

Senator PATTERSON (Victoria—Minister for Health and Ageing) (9.08 p.m.)—Under the federal system that operates in this country, the Commonwealth only has power to legislate with respect to those matters where power is specifically given to it under the Constitution. Legislation relies on the corporations power, the trade and commerce power, the external affairs power, the census and statistics power and the incidental power to provide significant coverage for the activities described by the legislation. It applies to things done by the Commonwealth and Commonwealth authorities as well as entities undertaking interstate trade and commerce.

The heads of powers that support the legislation are set out in clause 4 of both bills, and the Commonwealth has received legal advice indicating that reliance upon these constitutional powers provides the bills with fairly extensive coverage. Many other Commonwealth acts rely on a range of constitutional powers’ validity and these bills are certainly not unique in that regard. To ensure that legislation applies to individuals and other entities outside the scope of the Commonwealth bills—for example, state government research facilities—the states and territories have agreed to enact complementary legislation.

Senator HARRADINE (Tasmania) (9.09 p.m.)—I really did not follow that. What about the provisions of section 51 which relate to, say, copyright or foreign corporations? Section 51(xx) talks about the foreign corporations and the legislative power of the parliament. It states:

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

………

(xx.) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth …

Is that covered and, if not, why not?

Senator PATTERSON (Victoria—Minister for Health and Ageing) (9.10 p.m.)—We are actually discussing the Prohibition of Human Cloning Bill 2002. I think Senator Harradine, in discussing section 51, is actually talking about the embryo bill.

The CHAIRMAN—It is the Prohibition of Human Cloning Bill 2002, Senator Harradine, which is now in committee.

Senator HARRADINE (Tasmania) (9.11 p.m.)—Yes, Mr Chairman, I am perfectly well aware of that. Are all of the powers mentioned, or why weren’t they? That is the point and that is the question that I will leave you with, as long as you can absolutely assure the chamber that there is no way that this bill will be ineffectual because of the limited number of powers relied upon in clause 4 of the legislation. If you say yes, then, for the record, let us hear it so that if there is any legal challenge in respect of a matter that everybody is agreed upon around the chamber then so be it. That will be a decision made by you.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (9.12 p.m.)—I am advised that all the powers that are relevant have been referred to. As I mentioned before, to ensure that legislation applies to individuals and other entities outside the scope of the powers of the Commonwealth—that is, research institutes, for example—the states and territories have agreed to enact complementary legislation.

Senator HARRADINE (Tasmania) (9.12 p.m.)—I move amendment (1) on sheet 2697 revised:

(1) Clause 8, page 4 (after line 16), after the definition of “Commonwealth authority,” insert:

embryo means:

(i) the cell formed by the fusion of an ovum and a sperm and the or-
ganism that develops from that cell; or

(ii) any cell or organism, however formed, that may be distinguished from ordinary cells by having a potential, if placed in a suitable environment, to develop in an integrated way, similar to the potential of the cell formed by the fusion of an ovum and a sperm.

This amendment is simply to try to make sure that the legislation operates properly. The definition of an ‘embryo’ is in fact needed to give effect to the intentions of the bill as follows. What the bill does—and honourable senators will have a copy of the bill before them—is offer the following definition, which states:

**human embryo** means a live embryo that has a human genome or an altered human genome and that has been developing for less than 8 weeks since the appearance of 2 pro-nuclei or the initiation of its development by other means.

The problem here is one of circularity. The definition says that a ‘human embryo means a live embryo’. In legislation, surely one cannot define a term by using the same term. A human embryo means a live embryo. That leaves open the question: what is an embryo that is formed by other means in the broad range of possibilities for experimenting with somatic cells, germ cells and their constituent parts? When could a court conclude that, as a matter of law involving severe penalties, what was formed was no longer just cells but had become an embryo ‘initiated by other means’? The definition gives no clarity as to what essentially a human embryo is or what conditions are required before one must conclude, as a matter of law, that such an embryo has come to be. This would create legal uncertainty for scientists and, more importantly, it would make the prohibition in relation to human embryos initiated by other means unenforceable because of the uncertainty as to whether experimentation had resulted in such an embryo being formed.

Quite frankly, Minister, that would seem to be contrary to the bill’s intention. What is needed is an additional definition of ‘embryo’ to complement the existing definition of ‘human embryo’. I am not altering any-

thing here; I am simply attempting to add a definition of ‘embryo’ so that when the bill defines ‘human embryo’ it says that a ‘human embryo means a live embryo’ and it uses the same term. I am proposing that ‘embryo’ means:

(i) the cell formed by the fusion of an ovum and a sperm and the organism that develops from that cell; or

(ii) any cell or organism, however formed, that may be distinguished from ordinary cells by having a potential, if placed in a suitable environment, to develop in an integrated way, similar to the potential of the cell formed by the fusion of an ovum and a sperm.

It would seem to me to be very desirable not to just close your eyes to this, because it has important implications for the scientist as much as for anyone else, as a scientist would surely be unsure of their position unless this definition was included. When there are very serious penalties in the legislation, I put it to you, Minister, through the chair and to all honourable senators listening to this debate, that this is a reasonable thing to do.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (9.19 p.m.)—Senator Harradine and I will most probably have to continue to disagree on this issue. I often agree with Senator Harradine on some issues and we have to disagree on others. However, a human embryo is defined in both bills to mean:

... a live embryo that has a human genome or an altered human genome and that has been developing for less than 8 weeks since the appearance of 2 pro-nuclei or the initiation of its development by other means.

The definition has been adopted because it encompasses all embryos, regardless of how they were created. The definition includes embryos created by the fertilisation of a human egg by human sperm—the appearance of two pronuclei is the first observable point at which it is clear that fertilisation has commenced—and embryos that have had their development initiated by any means other than by fertilisation of a human egg by human sperm. This includes embryos created by somatic cell nuclear transfer and it also includes parthenogenetic embryos.
It has been suggested that the definition of ‘human embryo’ in clause 8 of the Prohibition of Human Cloning Bill 2002 and clause 7 of the Research Involving Embryos Bill 2002 is circular and that an additional definition of ‘embryo’ is needed. My legal advice states that this is not the case. The term being defined is ‘human embryo’, which is a class of embryo. It is a standard rule of statutory interpretation that where a term is not defined in the legislation the ordinary meaning of the word applies. The ordinary meaning of the word would normally be identified in common available dictionaries. The consistent thread of such definitions is the reference to human development up to the eighth week. Common definitions support the contention that a further definition of the term ‘embryo’ is not required in order to maintain the effectiveness of the definition. The definition used in the bill was developed following extensive consultation. It is clear. It is broadly drafted, so it will still be appropriate even as technology develops and it describes a clear, identifiable point in time from which it is legally possible to say that the embryo exists rather than relying on uncertain or imprecise concepts.

With all due respect to Senator Harradine, the amendment creates many difficulties. Because of its reliance on vague concepts, such as the presence of a suitable environment and development in an integrated way, many things can be defined as embryos which I am quite sure it was never intended should be so considered. For example, somatic cells—such as a skin cell, a sperm or an egg—would be defined as an embryo because any of these things, if placed in a suitable environment, can develop in an integrated way. For example, a somatic cell, if placed in a nucleated egg that is placed in a suitable environment, can develop in an integrated way. Effectively, a somatic cell would then be defined as an embryo, which is clearly not our intention. This simply demonstrates the difficulty in defining a term such as ‘human embryo’ and the dangers that are inherent in making an ad hoc change that may look reasonable on the face of it but which may have unintended consequences.

Senator HARRADINE (Tasmania) (9.22 p.m.)—If that is the minister’s legal advice, I suggest that she get another lawyer, because that statement just said that a somatic cell, for example, could be termed as an embryo under this definition as it is developing in an integrated way. Her adviser has ignored the next point, which said:

... similar to the potential of the cell formed by the fusion of an ovum and a sperm.

No somatic cell has that potential if merely placed in a suitable environment, so it could not possibly be referred to as an embryo. I suppose that I will be around for a while yet. I have seen difficulties arise. This is no reflection on the minister, but I have read various statements in the Hansard which have referred to advice, even advice by the august Attorney-General, which has not always held up over the years. If the government have simply ignored my attempt to do the right thing and point out the problem, if that is their intention for whatever I move on this, so be it. I have attempted to do what I think is proper so that the bill, which we all agree with, can be truly operative.

Senator ABETZ (Tasmania—Special Minister of State) (9.25 p.m.)—I do not wish to delay the committee, but I really do believe that the matter raised by Senator Harradine deserves an answer, because the legal advice provided—and I do not blame the minister for this at all—is clearly spurious and wrong. When you have a situation where the amendment moved by Senator Harradine clearly says that the cell has to be ‘similar to the potential of the cell formed by the fusion of an ovum and a sperm’, it is unacceptable to try to fob that off and say that a sperm of itself would therefore be defined as an embryo, when the amendment clearly says that is not the intent. Clearly it cannot happen. On important matters such as this, the chamber is entitled to a full explanation to ascertain what the reasons are. There may well be good reasons to not accept Senator Harradine’s amendment. I was listening very closely, and it seems to me that, given the wording of the amendment, that assertion is unsustainable.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (9.27 p.m.)—I
disagree. It is like a bill of rights. Sometimes in setting it up and stating things you can omit other things that you meant to be there. This is the same case. What we have tried to do is have an all-inclusive definition that takes technological advances into account. Senator Harradine, we are reviewing this bill in three years, but we have seen the rate at which advances can occur. What we want to ensure is that the definition covers all of those aspects and that we do not have a definition that refers to some aspects, where others could say, ‘It didn’t include this.’ What I was talking about before—and it was not meant to be in any way disrespectful—was that you could end up with unintended consequences by trying to define exactly what is meant rather than by having a definition which is more encompassing.

Question negatived.

Senator HARRADINE (Tasmania) (9.29 p.m.)—I turn to my second amendment. In clause 8, which is on page 4, I am proposing that after the definition of ‘human embryo clone’ there should be imported the term ‘human embryonic stem cell’. That means an undifferentiated cell that is derived from the human embryo. I am asking that that be included because, at a later stage—not too much later—I will be referring to a human embryonic stem cell. Do you want me to go to the other matters first, Minister? I would be happy to oblige.

Senator Patterson—It may assist the Senate if you move as a whole all the amendments that relate to embryonic stem cells. Is that possible or is it too difficult?

The TEMPORARY CHAIRMAN (Senator Chapman)—It can be done by leave, if the mover so wishes.

Senator HARRADINE—I seek leave on the condition that, if something occurs later on in this legislation which requires the definition of ‘human embryonic stem cell’, I can come back to that proposal. I seek leave to have amendments (3) and (4) taken together.

Leave granted.

Senator HARRADINE—Obviously, if we get to the human embryonic stem cell definition, the definition that I propose is uncontroversial. If it has to be done, it simply means an undifferentiated cell that is derived from a human embryo. I move:

(3) Clause 11, page 7 (line 16), after “clone”, insert “or products or components derived from a human embryo clone”.

(4) Clause 11, page 7 (line 19), after “clone”, insert “or products or components derived from a human embryo clone”.

Going to amendments (3) and (4), on page 7 of the bill, clause 11 says:

Offence—importing or exporting a human embryo clone

• (1) A person commits an offence if the person intentionally imports a human embryo clone into Australia.

The maximum penalty is 15 years. The clause goes on:

(2) A person commits an offence if the person intentionally exports a human embryo clone from Australia.

So it is dealing with the issue in the bill of importing and exporting a human embryo clone. This bill of course is about cloning. What I am proposing to do, and what my amendments are proposing, is to include the words ‘or products or components derived from a human embryo clone’. We are proposing that we refuse to allow those products or components, as well as the human embryo clone, to be imported and exported.

If that is not accepted, one of the problems is that there are shysters around the place, overseas—we will leave it at overseas for the time being—who may wish to export human embryo clones or stem cells from human embryo clones. I do not think that we should allow the importation of such clones. The bill would not allow that, but nor should it allow the importation of products or components derived from a human embryo clone. That is all I am saying. I think that is reasonable. We are all against cloning, and I am sure we are against cloning whether it is here or elsewhere, but if we leave the gate open and allow somebody from overseas to export the products or components derived from a human embryo clone, including embryonic stem cells, then I believe we are leaving ourselves open to severe criticism. It is a similar case with regard to export. I think that is a reasonable attempt by me to ensure what we unanimously believe in respect of this—that
people should not get away with doing this to Australia.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (9.36 p.m.)—With regard to Senator Harradine’s amendment (2), relating to clause 8, I will not be supporting the amendment to include a definition of a ‘human embryonic stem cell’. The term is not used anywhere in the bill and the definition is not necessary. However, I understand Senator Harradine has foreshadowed that amendment because it accompanies other amendments he proposed to clause 11, amendments (3) and (4). Those amendments are designed to ban the import or export of products or components derived from human embryo clones. I know that Senator Harradine was here when I mentioned—although I am not sure now which bill I mentioned it in—that the Prime Minister had indicated that we were going to move an amendment to the Customs regulations to have a 12-month moratorium on the export of human embryos—not on embryonic stem cell lines, but human embryos. I want to reiterate that because I need to make sure that people who support the bill but who have concerns about exports of embryos know that and know that the Prime Minister has made that commitment.

As I said, the amendments that Senator Harradine has moved are designed to ban the import or export of products or components derived from human embryo clones. I oppose both of the amendments, but for different reasons. First let me turn to the proposed amendment to ban the export of products or components derived from human embryo clones. I consider that this amendment is entirely unnecessary because the bill before us already bans the creation of human embryo clones in Australia and the importation into Australia of human embryo clones. As such, there will be no human embryo clones in Australia from which a human embryo clone product could be derived.

I understand the motivation for the motion that Senator Harradine has moved to ban the export of products or components derived from human embryo clones. I am concerned that by including this it may suggest that the creation of human embryo clones is some-how permitted in Australia, because it would be assuming that there may be products or components derived from human embryo clones available in Australia for exportation. I am also concerned that if we assume that human embryo clones are created in Australia, despite their being banned and a 15-year penalty applying for such an offence, then the list of things that could be done with a human embryo clone or products derived from such a human embryo clone is potentially endless. For example, if we banned the export of products of human embryo clones, why would we not also ban the use of products of human embryo clones, the transport of products of human embryo clones and the storage of products of human embryo clones? The list goes on and on.

I believe that the bans on the creation and importation of human embryo clones are more than adequate to prevent the situation that Senator Harradine’s amendment anticipates arising. As such, I oppose Senator Harradine’s amendment to ban the export of products or components derived from the human embryo clone. I also oppose Senator Harradine’s amendment to ban the import of products or components derived from the human embryo clone, but for different reasons.

Like Senator Harradine and, I believe, other members of the parliament, I strongly oppose the creation of human clones for the purposes of implantation in a woman—what is commonly referred to as reproductive cloning. This is also broadly condemned throughout the world. However, I am aware that a number of countries which have banned the implantation of human embryo clones in a woman allow the creation of embryos via the process of somatic cell nuclear transfer for the purposes of research and the potential development of therapies. One such country is the UK, where the relevant regulatory authority can grant a licence for a person to create a human embryo clone, for example, via a somatic cell nuclear transfer. I understand these activities currently go on unregulated in a number of other countries including the United States of America.

Given the different regulatory environments in other countries, it is possible that a
range of therapies, medicines or other products may be developed directly or indirectly from human embryo clones. Both the findings and any subsequent therapies arising from this research could be described as products derived from human embryo clones. The proposed amendment may ban Australia’s access to both intellectual information and physical products that are derived, either directly or indirectly, from embryos legally created overseas via somatic cell nuclear transfer. I believe that such a ban goes beyond COAG’s intention and I therefore oppose the proposed amendment to ban the import of products or components derived from human embryo clones.

Senator HARRADINE (Tasmania) (9.41 p.m.)—That worries me even more, frankly. It is more important that we do what I proposed, particularly in respect of the importation of human embryo clones and of products or components derived from human embryo clones. In opposition to that, the first thing the minister said, as she was advised, was, ‘This is unnecessary because it is an offence in Australia to create a clone and, if this bill is going to include a prohibition of products derived from cloned embryos from export, you do not need to ban them when it comes to transportation or other things.’ Minister, it is already there in your legislation at clause 11(2):

A person commits an offence if the person intentionally exports a human embryo clone from Australia.

All I am doing, in answer to your argument, is adding the words ‘or products or components derived from a human embryo clone’. Your first argument against the amendment falls to the ground, because it is just building upon what is already in the legislation.

What you said about importation worries me, because what you are really proposing is to allow the importation of products from a cloned embryo from overseas. I hope I am not mishearing what the minister said but I thought she said, ‘If we did that, we would not allow the importation of products from human embryo clones.’ So with this bill we put a ban here in Australia on the production of human embryo clones and the minister says, ‘That’s okay. We’ll allow not the human embryo clone but the products derived from the human embryo clone, like stem cells, to come in.’ I think the people of Australia would be disgusted with that and I am even more committed to the amendments that I moved. I just say to you, Mr Temporary Chairman, and to honourable senators that I did not move amendment (2) in relation to the definition of ‘human embryonic stem cell’. I moved amendments (3) and (4).

Senator ABETZ (Tasmania—Special Minister of State) (9.45 p.m.)—I think it might assist if I go first and then the minister can respond. I am very concerned. I think I heard, as Senator Harradine did, that we are being told that it will not be illegal to import into Australia elements of a human clone. You cannot import the total human clone but you can import parts of it. With great respect—and this might be an analogy that Senator Nettle would understand—that is like saying that we are against the shooting of elephants but you can import ivory into Australia; if you do not support the shooting of elephants, you will stop the importation of ivory into your country, because that is the reason that people shoot elephants. Similarly, I must say, it is quite astounding to say that it is horrendous and immoral to make human clones, but if you happen to do so you can import the parts into Australia. I find that argument most concerning.

I doubt that this amendment is in conflict with COAG. Quite frankly, I doubt that COAG gave it the sort of detailed consideration that we are giving this bill tonight. I can see nothing that is in conflict with our abhorrence of human cloning to say that it is an unacceptable practice, irrespective of where it occurs in the world, and any elements that come from it that you then try to import into Australia should be banned as well. Another analogy is to say that AK47s are allowed in certain countries; as a result, we will allow them to be imported into Australia. The argument has no moral suasion; it has no logic behind it. I thought that in this place we were all united in our abhorrence of human cloning, yet somehow COAG, we are led to believe, said it would be okay if you did engage in this abhorrent practice in another country and you could make a profit from it.
by selling the parts into Australia. I find the argument quite unacceptable. It is a pity, quite frankly, that there are not more honourable senators listening in this chamber—I trust they are all listening in their rooms—because some of these issues that Senator Harradine raised I think are very important issues and are ones which are not in conflict with the COAG agreement.

Senator BARNETT (Tasmania) (9.48 p.m.)—I stand to support the comments of Senator Abetz and Senator Harradine on this particular matter. I think the amendment tightens the bill. We are talking about importing human embryo clones into Australia, and the amendment identifies the importation of products or components derived from a human embryo clone. So it is really a tightening—a broadening—of the bill; it is an improvement to the bill. I think everybody has made their point clear during the debate on the second reading that we abhor human cloning. Senator Abetz has made the point well, as has Senator Harradine. I want to make one other point, though. If, for whatever reason, a person has a human clone and it must be proved that the person intentionally imported the human embryo clone or the person intentionally exported a human embryo clone, I put it to the chamber to consider this: what if that cannot be proved? What if, for some unknown reason, there was an unintentional importation of that human embryo clone? I think that is another angle that needs to be considered in this whole debate about this bill, because the offence is talking about the intentional importation of a human embryo clone. I know this will come up. Senator Abetz will foreshadow some amendments in this regard shortly. I think that is another angle that perhaps the minister could consider in her response to the points that have been made.

Senator MURPHY (Tasmania) (9.53 p.m.)—I have a question regarding the technical issues. Listening to what the Minister for Health and Ageing has said, the difficulty in identifying things seems to be a justification for not accepting the amendment proposed. I do not disagree; it probably would be difficult to identify the things we are talking about in the amendment proposed by Senator Harradine. But I am not sure that that is the basis upon which you would seek to not accept the amendment. It would seem that, if the amendment strengthens the bill, that is a fair and reasonable outcome. The part which says ‘insert “or products or components derived from a human embryo clone”’ really strengthens what is already proposed in the bill. I do not think it is a sufficient argument to say, ‘We might not be able to prove that.’ It does not place any onerous obligations on anyone in terms of having to identify whether or not products or components that have been derived from human embryo clones have been used. But, if they are found, then you have the opportunity to prosecute the offence as listed in the bill. It seems to me to be a logical thing to do.
I cannot understand why it is unacceptable on the basis that you say, ‘It is too difficult to prove.’ I accept that it would be very difficult to prove some of those things, but I do not accept the argument that the Minister for Health and Ageing is putting up by saying, ‘This is an unacceptable proposal on the basis that it might be too difficult to prove.’ I just think that it makes no sense. In fact, if we can add something to strengthen this aspect of the bill, why shouldn’t we do it?

Senator HARRADINE (Tasmania) (9.56 p.m.)—I think what Senator Murphy has said it is absolutely correct. The minister says, ‘We might fix this up by an amendment to the Customs prohibited imports legislation.’

Senator Murphy—They might have trouble identifying them.

Senator HARRADINE—Exactly; they have trouble with that. Then the minister says, in opposition to what I am proposing here, that maybe we would not be able to determine which products. At least you would be able to deal with the situation, as long you knew that these were products of a cloned embryo. Again, I would just say I wonder whether each Premier would expect that this will open the way for importing into Australia products including stem cells from cloned human embryos. The minister even said this is what could happen. Unless my amendment is adopted, this is precisely what will happen.

You are encouraging the cloning of human embryos if you do not vote for what I am proposing. I am sure that most of the premiers would not agree with what was said: ‘Yes, it is okay to get products including stem cells from human embryos which have been cloned in the United Kingdom.’ The United Kingdom, of course! In the United Kingdom they have succumbed to the pressures of the science/technology lobbyists to accept the production of human embryonic clones. But the rest of the world is very concerned about this. Indeed, the United States and Spain suggested in the United Nations that all member countries ban human cloning of any type.

We have been through this in the second reading stage of this piece of legislation: cloning is cloning is cloning. It is precisely the same process whether or not it is cloning for a reproductive outcome; that is, in this outcome you have a somatic cell nuclear transfer, a cloning process, and one cloned embryo may be placed into the body of a woman and another at the same stage of development is then carved up and its stem cells taken. I again say I am sure that, if I rang up a couple of the premiers and said, ‘Is this what you meant? Is this the COAG agreement?’ they would say, ‘No, it’s not the COAG agreement at all. We did not envisage that there would be a loophole, that such cloning products would be able to be imported into Australia.’

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (10.01 p.m.)—I would like some information from the minister. Could she inform me whether she said in her statement that the export and import of embryos will be banned or she meant that the export and import of embryo products will be banned. I was under the impression that we could never send embryos out of Australia. I thought we could always send stem cells out of Australia but I believed that the export of embryos was banned before now. Maybe she could enlighten me on that. I was certainly under the impression that embryos were not allowed to go out of Australia. I was very concerned about even allowing stem cells to go out of Australia. I welcome the Prime Minister’s decision to stop the export and import of embryos but I cannot see what it achieves unless we stop the export and import of stem cells or products of or derivatives of embryos. I would appreciate her informing me if this should read ‘embryos and derivatives from embryos’. I know that we are on the cloning bill but perhaps the minister would inform me what her statement meant. Was it embryos and derivatives or was it just embryos?

Senator PATTERSON (Victoria—Minister for Health and Ageing) (10.03 p.m.)—Senator Boswell will appreciate that I am not actually on top of every aspect of every part of the customs regulations, but I believe that
people can take their own embryos out of the country now for their own purposes. They may go overseas to have the implantation done overseas or they may donate embryos to someone overseas. The Prime Minister indicated this evening when I was talking to him that he would bring in an amendment to the Customs (Prohibited Exports) Regulations 1958 to prevent the export of embryos, enabling a discussion to take place about this issue in parliament, and that would be the more appropriate place.

With regard to products from human embryo clones and products from human embryos, I have actually gone through that in quite some detail and I would refer you to the *Hansard*, because I do not think we can really reiterate that over and over as people come into and go out of the chamber. With all due respect, I have dealt with that, and people will have to make their decision on Senator Harradine’s amendments on the basis of the discussion that has taken place in the chamber.

**Senator Harradine** (Tasmania) (10.05 p.m.)—I have heard what the minister has said and what she is really saying. In fact I would challenge her to find out from the premiers whether in banning cloning they felt that we could import stem cells from cloned embryos, whether it be from Singapore or some outfit elsewhere. Could I ask her this: is it the view that the COAG members foresaw that this legislation could do what the minister says it could do—that is, allow the importation of stem cells from cloned human embryos, a process that would otherwise be banned in Australia? I ask her this: is it the view that the COAG members foresaw that this legislation could do what the minister says it could do—that is, allow the importation of stem cells from cloned human embryos, a process that would otherwise be banned in Australia? I ask the minister to advise the committee that, yes, all members of COAG agree that we should allow the importation from overseas of those embryonic stem cells from cloned embryos, when that cannot be done in Australia.

**Senator Patterson** (Victoria—Minister for Health and Ageing) (10.07 p.m.)—Given that there will be an opportunity for this issue to be raised, because the Prime Minister has indicated an amendment will come before the House—and I presume it will be a T-status bill to facilitate that as quickly as possible—as I have said, this issue which Senator Harradine and other senators have referred to could be pursued probably more appropriately under the customs regulations. That would permit time to examine whether the ban that Senator Harradine is recommending through his amendment goes beyond what COAG’s intention was.

I do think that there are problems in the sense that, when we import medications—I know they go through a Therapeutic Goods Administration process—we do not know everything about the derivation and the production of those medications. I think it would be appropriate for this discussion to be had. I understand people’s concerns. I think it is appropriate for it to be considered when we have the discussion about the banning of exported embryos for a moratorium period of 12 months under the customs regulations.

**Senator Murphy** (Tasmania) (10.09 p.m.)—I have a question in relation to what the minister has just said again. Given that most of the places that will produce embryos that could be cloned will be registered, is it the case that under the proposed legislation, if we were to discover the importation of products or components derived from cloned embryos, we would be able to prosecute those people or not? Would it be an offence under the legislation and would they be able to be prosecuted?

**Senator Patterson** (Victoria—Minister for Health and Ageing) (10.10 p.m.)—If a cloned embryo were to be imported, a person could be prosecuted, but that is not so with respect to a product arising out of or being developed from a therapeutic procedure or medication derived from a therapeutic clone. The bill does not oppose that.

**Senator Murphy**—What about with respect to a stem cell?

**Senator Patterson**—Nor does it cover a stem cell.

**Senator Jacinta Collins** (Victoria) (10.11 p.m.)—Senator Patterson, I wonder if you could comment further on the suggestion that this issue should be dealt with through customs regulations. I want to go back to the issue of the Victorian legislation because, in part, the justification for research on human
embryos that a number of senators have re-
lied upon was the loophole that existed in a
Victorian regulation that allowed the impor-
tation of Singaporean embryonic stem cell
lines. Some people have used the argument
that we allowed them to be imported and that
we have conducted research on the basis of
those imported embryonic stem cell lines.
Therefore, there is an argument that we
should be prepared to extract embryonic
stem cells from embryos here in Australia.

If the minister is saying that it is not ap-
propriate that the regime to deal with ban-
ing cloning should deal with such a poten-
tial loophole then how can the minister, re-
lying on this argument about the Victorian
regime, if I recall correctly, suggest that in
the case of research on embryos the very
existence of that loophole justifies that next
step? My concern here is that, if we say that
it is not appropriate to deal with this issue
within this regime, we will find—as we have
found in the case of research on embryos—
that in a few years time the very existence of
this loophole will be used as justification for
lifting the ban on cloning. That is the argu-
ment that has been used with respect to em-
byronic stem cell lines under the Victorian
regime.

The other aspect of that argument which I
think is very interesting is that if the ration-
ale is that this should be dealt with by Cus-
toms then the Victorian government never
had the jurisdiction to deal with it at the
customs level. So it was not a problem with
the Victorian regime that allowed Alan
Trounson to import embryonic stem cell
lines; it was a problem in that it had not been
dealt with at the customs level. So, yes, it
highlights the problem that we have had in
the past that we have not had any national
regime in this area. Frankly, it is quite in-
consistent for some senators to rely on that
loophole as justifying why we should go
down a particular path with respect to em-
byronic stem cell research, but then to argue
now that in relation to establishing a strong
moratorium or a ban on cloning we should
let that loophole exist on the basis of a very
loose understanding of what might have been
an intention of COAG that nobody can com-
prehend at this stage. To suggest that we
should hive this issue off with respect to
customs regulations is certainly not appro-
priate either. It is a matter that we should be
dealing with in relation to this regime. We
should understand what the intent of COAG
was here and now.

Senator ABETZ (Tasmania—Special
Minister of State) (10.14 p.m.)—I have one
specific question that I think will help inform
much of the chamber as to what the attitude
is. What is the attitude to the importation of
products or components derived from a hu-
man embryo clone? That is the question and
I think we need an answer to that. I can un-
derstand that it could be quite difficult to
pick up from time to time—chances are,
most of the time. But the issue is: what is our
position? If our position is that it is okay, that
is tantamount to saying that it is okay to
clone because we are going to allow you to
sell the products. It is like the clumsy anal-
ogy I used before: shooting the elephant is
allowed in another country, so you may as
well allow the ivory to come in. Although
you allegedly claim it is wrong to shoot ele-
phants, you will still allow people to profit
from it. If we believe it is wrong to clone
human embryos, then surely it must be
wrong to allow the importation of any prod-
uct derived from a human embryo clone and,
above all, to allow people to make a profit
from it. So my question is: what is the atti-
dute to the importation of products or com-
ponents derived from a human embryo
clone?

Senator PATTERSON (Victoria—Min-
ister for Health and Ageing) (10.16 p.m.)—I said
this was like a debate about how many
angels there are on the head of a pin. I just
want to make sure that I have said that the
Prime Minister was talking about making
amendments to the customs regulations. I
think I have used ‘act’ and ‘regulations’ in-
terchangeably, and I should not have. I
should have said ‘regulations’, and I just
want to clarify that.

I can understand the point that Senator
Jacinta Collins is making. We have an issue,
though, that some people here in the cham-
ber would agree that it is appropriate to im-
port human stem cell lines.

Senator Harradine interjecting—
**Senator PATTERSON**—One of the problems we have—and I can hear Senator Harradine and, Senator Harradine, it is getting late and we are both getting tired—is that, if the amendment were passed, a person could end up being charged with having innocently imported, for the purposes of research, a stem cell line without knowing that it had been derived from a human embryo clone. It would be possible. So I presume that if you wanted to achieve your outcome you would have to ban the importation of any products derived from human embryos, because I would defy anybody to say that a researcher would be able to know beyond reasonable doubt the derivation of any embryonic stem cell line that they were working on, or had imported to work on, for research purposes. They could be told one thing and they may believe that. That is the issue I was talking about: to be able to identify the source of the product, or the source of the therapeutic outcome. It could be a product derived from embryonic stem cell research, which may have come from a gifted embryo—and I know ‘gift’ also has another meaning in reproductive technology—or an embryo given for the purpose of research or an embryo that has been legally cloned in another country. Therein lies the problem—the angels on the head of the pin. I think the amendments would make it difficult. It is a problem for people who in all honesty with the best of intentions believe that they are importing an embryonic stem cell line or a product derived from a human embryo, not a human embryo clone. Therein lies the problem.

**Senator MURPHY** (Tasmania) (10.20 p.m.)—Minister, your argument conversely could be that you would encourage people to do exactly what you have said we are trying to discourage them from doing. What you are saying is that we will ban the importation of human embryo clones but we will not ban products or components thereof. In response to the question I asked you before about whether under this legislation proposed by the government we could prosecute a person that imported a stem cell line derived from a cloned embryo, you said no.

Of course everybody understands the difficulty, I am sure, from a technical point of view, and that is all I want to deal with. It would be very difficult. But you would encourage people to develop stem cell lines from cloned embryos and trade in them. From a technical point of view, this amendment would put them on notice that if they get caught they can be prosecuted. It does nothing more than that. That seems to me to be a logical, fair approach. It is not going to put in jeopardy somebody who unintentionally or unknowingly has imported a product or a stem cell line that they do not know the origin of.

Let me say this, and I say it probably naively. I expect that the development of stem cell lines around the world would come from registered producers—for the want of a better description. They would be operating under licences to do those sorts of things. Somebody who is purchasing a stem cell line, for instance, would buy it, one would expect, from a registered producer. So we should be able to know in the main where the stem cell lines, for instance, are coming from. Likewise, we should be able to know, if they are being produced in this country for export, where they are being produced. I would suggest to you, Minister, that the amendment assists the attempt to make an offence in trading in cloned embryos even stronger. It will stamp out the opportunity for people to covertly produce stem cell lines from cloned embryos to put into the market place simply because there is the possibility of being prosecuted. Under the legislation proposed there is no possibility of that and it will only encourage them, not discourage them.

**Senator ABETZ** (Tasmania—Special Minister of State) (10.23 p.m.)—With great respect, the argument that somebody might be prosecuted as a result of a mistake is covered in section 9 of the Criminal Code. That simply would not happen. I quote section 9.1(1):

A person is not criminally responsible for an offence that has a physical element for which there is a fault element other than negligence if:
(a) at the time of the conduct constituting the physical element, the person is under a mistaken belief about, or is ignorant of, facts; and

(b) the existence of that mistaken belief or ignorance negates any fault element applying to that physical element.

If somebody, as was put to us, honestly imports substances not being aware that they contain certain products derived from human embryo clones they are not criminally liable. So we can dispense with the argument, and we move back to the question that I did ask, for which I have still not received an answer, and that is this: I fully accept the difficulty in identifying some of this product coming into the country, but as a matter of principle what is the attitude to the importation of products or components derived from a human embryo clone? Does the COAG agreement support that or does it reject it?

Senator PATTERSON (Victoria—Minister for Health and Ageing) (10.24 p.m.)—I can understand why Senator Margaret Guilfoyle did law while she was finishing being a senator. I accept Senator Abetz’s comments. I was most probably pushing the argument a bit far. My advice is that COAG decided that the legislation does not extend to stem cells and that the regulation of imported and locally made stem cells should be according to NHMRC guidelines. The legislation does not extend to stem cells. I am advised that it is not a loophole; it is a policy agreed by COAG. Under the NHMRC guidelines, the Human Research Ethics Committee cannot approve research involving stem cell lines unless those cell lines were created for the purpose of achieving pregnancy through IVF and with the consent of the parents.

One of the issues with the amendments that Senator Harradine has put forward is that they are very broad. They could cover new technologies and, I am advised, even intellectual property. I would like the opportunity to confer with the Prime Minister on the issue of importation. Given the debate, I am assuming he would like me to do that. I am going to do it. I suggest that we move on to the other amendments and revisit this clause later. We will be on it tomorrow. My staff will have a chance to discuss it with him. I am sure one of his senior advisers is watching this debate. It may be that he is still of the opinion that the bill should not be amended in this way. It may be that narrowing the definition of ‘product’ in Senator Harradine’s amendment is possible. I am not making any commitment either way. I must say that I am a little disappointed. We did have the opportunity to raise this issue in the committee inquiry into the bill. With all due respect, had we had the amendments earlier—the bill has been around for a long time—we may have been able to look at these in much more detail. I move:

That further consideration of the amendments be postponed.

In the time we have got, we can move on to Senator Harradine’s fifth amendment.

Senator HARRADINE (Tasmania) (10.29 p.m.)—I point out that I have moved amendments (3) and (4). I was hoping to come back to the other definitional matter—a simple definitional matter—in amendment (2), if that was required, after the consideration in committee. If there is need for a definition of a human embryonic stem cell, I propose one in amendment (2). Everybody would agree with the definition that a ‘human embryonic stem cell means an undifferentiated cell that is derived from a human embryo’. There is no point in moving that amendment or discussing it unless there is such a term in any future amendment. All I did was move amendments (3) and (4). If they are the ones that are postponed, then I agree.

Senator CHRIS EVANS (Western Australia) (10.31 p.m.)—We originally agreed to Senator Harradine’s request that he postpone his amendment (2) to later in the debate, depending on the outcome of later amendments. He formally moved amendments (3) and (4). I think that what the minister ought to be doing is moving that amendments (3) and (4) be deferred until tomorrow, and then we ought to proceed to the next item of business.

The TEMPORARY CHAIRMAN (Senator Cherry)—Senator Harradine’s amendment (2) has been postponed to a later stage. The question is that amendments (3) and (4) be postponed to a later stage.
I refer honourable senators who are following this debate to have a look at clause 14(1) of the bill, where reference is made to the terminology ‘a particular woman’. In clause 8 of the bill, the definitions section, clause (5)(a) refers to ‘assisted reproductive technology treatment of the woman concerned’. The proposed definition section also states: 

excess ART embryo means a human embryo that:

(a) was created, by assisted reproductive technology, for use in the assisted reproductive technology of a woman ...

My amendment goes to consistency. We have been talking about ‘a particular woman’ in other clauses, but here the bill refers to ‘a woman’; and further on in the same definitional clause, under the very same heading of ‘excess ART embryos’, reference is made to ‘the woman’. It seems to me to be a very small amendment whereby the insertion of the word ‘particular’ would define, clarify and narrow the situation considerably. I did raise it in my speech in the second reading debate. I am not sure that it was referred to in the response by the minister. I indicated to officials that, if there was anything that might dissuade me from moving such an amendment, they could give me a ring, because there may well be other matters that I have not considered in relation to this. But, in the absence of that phone call, I have moved the amendment.

As I read the bill, it would allow somebody to engage in reproductive technology and create an embryo simply on the basis that one day it may be used for ‘a woman’ somewhere. It is not being created for ‘a particular woman’ who can be identified. Therefore, that would allow deliberate artificial reproduction to take place. If the embryo then becomes in ‘excess to the needs of the woman for whom it was created’ at a later stage, that woman may well be a woman who does not want any embryos whatsoever, and therefore all the embryos would have been created basically for the purposes of making excess embryos. It seems to me to be just a small amendment, and I would be interested to hear the response.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (10.37 p.m.)—Senator Abetz has moved an amendment to the definition of ‘excess ART embryo’ to substitute the term ‘a woman’ with ‘a particular woman’. I understand from the second reading speech and from what Senator Abetz has just said that the basis of the concern was that clause 14 referred to ‘in creating an embryo to attempt to achieve a pregnancy in a particular woman’, while the definition of ‘excess ART embryo’ only referred to ‘a woman’.

The definition of ‘excess ART embryo’ in clause 8 refers to a human embryo created, by assisted reproductive technology, for use in the assisted reproductive technology treatment of a woman and which is excess to the needs of that woman and her spouse. My advice is that the inclusion of an additional word in paragraph (a) of the definition to refer to the use in the ART treatment of ‘a particular woman’ would not make a substantial difference. This is because the term ‘excess ART embryo’ is only used within the meaning of ‘reasonable expenses’ in clause 23 of the bill, which relates to commercial trading not to creation of the embryo. The word ‘particular’ in this context is not required, as it adds nothing to the meaning of clause 23. With regard to clause 14, it is this...
clause which makes it an offence to create an embryo outside the body, except for attempting to achieve pregnancy in ‘a particular woman’. In this case the prohibition does rest on the act of creation and the word ‘particular’ is required.

Senator HOGG (Queensland)  (10.39 p.m.)—Is the issue of surrogacy addressed in clause 14, given your answers? Where is it addressed?

Senator PATTERSON (Victoria—Minister for Health and Ageing)  (10.39 p.m.)—I believe you raised this issue in your speech in the second reading debate, Senator Hogg. Despite my interest in this, I could not sit through every speech in the second reading debate. When the Council of Australian Governments considered this matter, it was considered that social issues such as surrogacy were a matter for the state and territory jurisdictions and would not be included in the national consistent legislation scheme finally decided upon. While concern has been expressed about the lack of national consistency on these matters, these issues clearly require further consideration by governments but through different processes. Thus the Prohibition of Human Cloning Bill 2002, while it prescribes large penalties for commercial trading in embryos, sperm and eggs, does not extend to surrogacy. This is a matter which is dealt with in different ways by legislation in each state and territory.

Senator ABETZ (Tasmania—Special Minister of State)  (10.40 p.m.)—I was told that my proposed amendment did not add anything. Does it in any way detract or make the bill unworkable or have any unintended consequences? If not, might I suggest that there should be no opposition to my amendment even if it might be a fraction pedantic?

Senator PATTERSON (Victoria—Minister for Health and Ageing)  (10.41 p.m.)—Honourable senators have to make the decision for themselves. I do not think that it adds anything and therefore I will not be supporting it.

Senator ABETZ (Tasmania—Special Minister of State)  (10.41 p.m.)—It does not add anything but I assume from that that it does not detract from the bill, it does not have any unintended consequences and I would trust therefore that we will not be facing a division on this amendment.

Question put:
That the amendment (Senate Abetz’s) be agreed to.

The committee divided.  [10.46 p.m.]
(The Chairman—Senator J.J. Hogg)

Ayes...........  27
Noes.............  43
Majority........  16

AYES
Abetz, E. Alston, R.K.R.
Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Buckland, G. Calvert, P.H.
Chapman, H.G.P. Collins, J.M.A.
Eggleston, A. Ellison, C.M.
Forshaw, M.G. Harradine, B.
Heffernan, W. Hogg, J.J.
Hutchins, S.P. Johnston, D.
Lightfoot, P.R. McGauran, J.J.J.*
Minchin, N.H. Murphy, S.M.
Santoro, S. Scullion, N.G.
Stephens, U. Tchen, T.
Watson, J.O.W.

NOES
Allison, L.F. Bartlett, A.J.J.
Bolkus, N. Campbell, G.
Campbell, I.G. Carr, K.J.
Cherry, J.C. Colbeck, R.
Conroy, S.M. Cook, P.F.S.
Cooman, H.L. Crossin, P.M.
Denman, K.J. Evans, C.V.
Faulkner, J.P. Ferguson, A.B.
Ferris, J.M. Greig, B.
Kirk, L. Knowles, S.C.
Lees, M.H. Ludwig, J.W.
Lundy, K.A. Macdonald, I.
Mackay, S.M.* Marshall, G.
Mason, B.J. McClucas, J.E.
Moore, C. Murray, A.J.M.
Nettle, K. O’Brien, K.W.K.
Patterson, K.C. Payne, M.A.
Ray, R.F. Reid, M.E.
Ridgeway, A.D. Sherry, N.J.
Stott Despoja, N. Tierney, J.W.
Vastone, A.E. Webber, R.
Wong, P.

* denotes teller

Question negatived.
Senator ABETZ (Tasmania—Special Minister of State) (10.51 p.m.)—I seek leave to move amendments (2) to (13) and (16) on sheet 2695.

The TEMPORARY CHAIRMAN (Senator Chapman)—Can I clarify whether Senator Harradine wishes to move his amendments prior to Senator Abetz moving his amendments or is he happy to allow Senator Abetz to move his amendments?

Senator Harradine—I am happy to defer to the minister.

Senator Patterson—On a point of order: this is actually a very difficult bill and I did not hear what Senator Abetz said because lots of people were wandering around. Could Senator Abetz repeat what he said before you decide, Mr Temporary Chairman, whether leave is granted?

The TEMPORARY CHAIRMAN—I can answer that. Senator Abetz was simply seeking leave to move his amendments (2) to (13) and (16) together.

Leave granted.

Senator ABETZ—I move amendments (2) to (13) and (16) on sheet 2695:

(2) Clause 9, page 7 (lines 4 to 7), omit the clause, substitute:

9 Offence—creating a human embryo clone

(1) A person commits an offence if the person creates a human embryo clone.

Maximum penalty: Imprisonment for 15 years.

(2) Strict liability applies to subsection (1).

Note: For strict liability, see section 6.1 of the Criminal Code.

(4) Clause 11, page 7 (lines 14 to 20), omit the clause, substitute:

11 Offence—importing or exporting a human embryo clone

(1) A person commits an offence if the person imports a human embryo clone into Australia.

Maximum penalty: Imprisonment for 15 years.

(2) A person commits an offence if the person exports a human embryo clone from Australia.

Maximum penalty: Imprisonment for 15 years.

(3) Strict liability applies to subsections (1) and (2).

Note: For strict liability, see section 6.1 of the Criminal Code.

(5) Clause 13, page 8 (lines 3 to 9), omit the clause, substitute:

13 Offence—creating a human embryo other than by fertilisation, or developing such an embryo

(1) A person commits an offence if the person creates a human embryo by a process other than the fertilisation of a human egg by human sperm, or develops a human embryo so created.

Maximum penalty: Imprisonment for 10 years.

(2) Despite subsection 13.3(3) of the Criminal Code, a defendant does not bear an evidential burden in relation to...
any matter in subsection (1) of this section.

(3) Strict liability applies to subsection (1).

Note: For strict liability, see section 6.1 of the Criminal Code.

(7) Clause 15, page 8 (lines 20 to 25), omit the clause, substitute:

15 Offence—creating or developing a human embryo containing genetic material provided by more than 2 persons

(1) A person commits an offence if the person creates or develops a human embryo containing genetic material provided by more than 2 persons.

Maximum penalty: Imprisonment for 10 years.

(2) Strict liability applies to subsection (1).

Note: For strict liability, see section 6.1 of the Criminal Code.

(8) Clause 16, page 9 (lines 1 to 7), omit the clause, substitute:

16 Offence—developing a human embryo outside the body of a woman for more than 14 days

(1) A person commits an offence if the person develops a human embryo outside the body of a woman for a period of more than 14 days, excluding any period when development is suspended.

Maximum penalty: Imprisonment for 10 years.

(2) Strict liability applies to subsection (1).

Note: For strict liability, see section 6.1 of the Criminal Code.

(9) Clause 17, page 9 (lines 8 to 14), omit the clause, substitute:

17 Offence—using precursor cells from a human embryo or a human fetus to create a human embryo, or developing such an embryo

(1) A person commits an offence if the person uses precursor cells taken from a human embryo or a human fetus, intending to create a human embryo, or develops an embryo so created.

Maximum penalty: Imprisonment for 10 years.

(2) Strict liability applies to subsection (1).

Note: For strict liability, see section 6.1 of the Criminal Code.

(10) Clause 18, page 9 (lines 15 to 26), omit the clause, substitute:

18 Offence—heritable alterations to genome

(1) A person commits an offence if the person alters the genome of a human cell in such a way that the alteration is heritable by descendants of the human whose cell was altered.

Maximum penalty: Imprisonment for 10 years.

(2) Strict liability applies to subsection (1).

Note: For strict liability, see section 6.1 of the Criminal Code.

(3) In this section:

human cell includes a human embryonal cell, a human fetal cell, human sperm or a human egg.

(11) Clause 20, page 10 (lines 7 to 13), omit the clause, substitute:

20 Offence—creating a chimeric or hybrid embryo

(1) A person commits an offence if the person creates a chimeric embryo.

Maximum penalty: Imprisonment for 10 years.

(2) A person commits an offence if the person creates a hybrid embryo.

Maximum penalty: Imprisonment for 10 years.

(3) Strict liability applies to subsections (1) and (2).

Note: For strict liability, see section 6.1 of the Criminal Code.

(12) Clause 21, page 10 (lines 14 to 24), omit the clause, substitute:

21 Offence—placing of an embryo

(1) A person commits an offence if the person places a human embryo in an animal.

Maximum penalty: Imprisonment for 10 years.

(2) A person commits an offence if the person places a human embryo in the body of a human, other than in a woman’s reproductive tract.

Maximum penalty: Imprisonment for 10 years.

(3) A person commits an offence if the person places an animal embryo in the body of a human for any period of gestation.
Maximum penalty: Imprisonment for 10 years.

(4) Strict liability applies to subsections (1), (2) and (3).

Note: For strict liability, see section 6.1 of the Criminal Code.

(13) Clause 22, page 11 (line 1) to page 12 (line 4), omit the clause, substitute:

22 Offence—importing, exporting or placing a prohibited embryo

(1) A person commits an offence if the person imports a prohibited embryo into Australia.

Maximum penalty: Imprisonment for 10 years.

(2) A person commits an offence if the person exports a prohibited embryo from Australia.

Maximum penalty: Imprisonment for 10 years.

(3) A person commits an offence if the person places a prohibited embryo in the body of a woman.

Maximum penalty: Imprisonment for 10 years.

(4) Strict liability applies to subsections (1), (2), (3) and (4).

Note: For strict liability, see section 6.1 of the Criminal Code.

(16) Clause 23, page 12 (lines 5 to 30), omit the clause, substitute:

23 Offence—commercial trading in human eggs, human sperm or human embryos

(1) A person commits an offence if the person gives or offers valuable consideration to another person for the supply of a human egg, human sperm or a human embryo.

Maximum penalty: Imprisonment for 10 years.

(2) A person commits an offence if the person receives, or offers to receive, valuable consideration from another person for the supply of a human egg, human sperm or a human embryo.

Maximum penalty: Imprisonment for 10 years.

(3) Strict liability applies to subsections (1) and (2).

Note: For strict liability, see section 6.1 of the Criminal Code.

(4) In this section:

reasonable expenses: in relation to the supply of a human egg or human sperm—includes, but is not limited to, expenses relating to the collection, storage or transport of the egg or sperm; and

valuable consideration, in relation to the supply of a human egg, human sperm or a human embryo by a person, includes any inducement, discount or
priority in the provision of a service to
the person, but does not include the
payment of reasonable expenses in-
curred by the person in connection with
the supply.

I think that all senators in this chamber are
united in their opposition to human cloning. I
understand that the Prohibition of Human
Cloning Bill 2002 went through the other
place without dissent on the basis that the
practice of human cloning is unacceptable, to
use the terminology of the legislation. In the
drafting of the legislation a statutory re-
quirement has been placed in relation to all
the offences that are referred to in my
amendments. That is that they be done ‘in-
tentionally’. In other words, the prosecution
will be required to prove intention.

Honourable senators interjecting—

The TEMPORARY CHAIRMAN—Or-
der! I am sorry to interrupt, but could hon-
ourable senators please not conduct conver-
sations in the chamber while Senator Abetz
is moving his amendments.

Senator ABETZ—The amendments that
I am proposing start with clause 9 of the bill,
‘Offence—creating a human embryo clone’.
The legislation says:

A person commits an offence if the person inten-
tionally creates a human embryo clone.

It defies logic and commonsense to suggest
that you could somehow accidentally, or un-
intentionally, create a human embryo clone. I
am suggesting that, in relation to clause 9
and all the others in the amendments that I
am moving, the word ‘intentionally’ be re-
moved and that they be made strict liability
offences.

With a strict liability offence, the defence
of mistake is still allowable. It is not absolute
liability. It just means strict liability. Without
seeking to demean anybody, I simply ask, if
the mad professor who made these human
embryo clones exercised his right to remain
silent, how on earth could the prosecution
ever prove that he did it intentionally? They
would be confronted with a human embryo
cron. They might get some circumstantial
evidence before them that suggests that he
put it together and created that clone, but
how on earth could they prove that he inten-
tionally did it? When we are dealing with a
human being or a human embryo—I happen
to believe that it is a human life, but I think
that we are all agreed that it is a form of hu-
man life—we are dealing with something
pretty serious. If we have agreed as a Senate
that human cloning is unacceptable, then
these offences, as are outlined, should be-
come strict liability, because, quite frankly, I
cannot ever see a prosecution getting up un-
der this regime if the mad professor, to use
that term, exercises his right to remain silent.

I asked, ‘How could you accidentally, or
unintentionally, create a human embryo
clone?’ It really does defy logic. Clause 10
states:

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

Are you somehow able to do that acciden-
tally or unintentionally? It really does defy
logic and commonsense. By their very na-
ture, these acts must be intentional. But when
you put on the prosecution the onus of
proving the intention beyond reasonable
doubt, it is virtually impossible for the
prosecution to be able to prove these of-
fences. It becomes even more ludicrous with
some of the other offences, such as clause
13:

A person commits an offence if the person inten-
tionally creates a human embryo by a process
other than the fertilisation of a human egg by
human sperm...

Excuse me? Would that just happen by an
accident in the laboratory somewhere? Of
course it would not happen.

It is important for us as a Senate to con-
sider how the horrendous issue of human
cloning ought to be considered. If we do be-
lieve that human cloning is something that
should be banned, then these offences should
be made as strict liability offences. I am
moving 13 amendments altogether in this
raft of amendments, and it will have the
same impact in relation to all of them. I point
out that I have not sought to delete the word
‘intending’ in relation to clause 19. It pains
me to leave that clause as it stands, but I
fully accept that we do not, at this stage,
want to enter into a debate about the rights or
wrongs of abortion. Therefore, I think that it
is important to leave the words ‘intending to
collect a viable human embryo’ within clause 19. There has not just been a blanket removal of the words ‘intending’ or ‘intentionally’ from the bill. Each clause has been gone through separately and consideration has been given as to where it would be reasonable to make these offences strict liability.

Progress reported.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! It being 11.00 p.m., I propose the question:

That the Senate do now adjourn.

Agriculture: Chiswick Research Centre

Senator TIERNEY (New South Wales) (11.00 p.m.)—I rise here tonight on a matter of great importance to the New England region in New South Wales. On the New England for many decades the CSIRO has conducted agricultural and animal husbandry research at a centre known as Chiswick. I have been a long-term supporter of the centre, and I would like to report to the Senate tonight on some of its accomplishments. It has, phoenix-like, risen from the ashes, because in the period around 1997 the CSIRO decided to restructure its activities. Part of that restructure under the leadership in the CSIRO at that time was a centralisation of research facilities and a movement in emphasis from pastoral-type research to more modern, leading-edge research relating to new food technologies. The whole operation on the New England teetered on the brink at that time. The staffing was reduced from around 70 to around 17. The fact that there was only a small number of research scientists in operation at the time meant that it was quite likely that the Chiswick centre would become unviable.

The only reason initially that it did not collapse was the work of local MPs. I would like to pay special tribute to former Senator David Brownhill and the former member for New England Ian Sinclair, who joined with me in fighting to keep this centre open. Each year, following its near miss and near demise, I would visit the centre, feel its pulse and see how it was going. Initially it was a struggle. Initially, it looked like it was still teetering on the brink and was likely to close. There was outsourcing. They managed to rent out space that was no longer in use. They did undertake a small amount of research activity.

The changes that have come about in recent times are most heartening. There is some world-class research now carried out and the numbers of research scientists have actually gone up. There has been a major change in the direction and leadership of the CSIRO, and the importance of conducting pastoral research out in the region with the farmers, being able to interact with people who benefit from the research, has meant that this centre is now back on track and likely to grow. This is extremely important to an area like the New England. The synergy in research between an organisation such as the Chiswick centre and the local university, which has a major focus on agricultural research, cannot be understated.

We were curious about the initial changes. Why would you want to do pastoral research in Prospect, in the middle of Sydney? That is where it was proposed to move the research activities to. Prospect is right in the centre of urban Sydney, and it did not make sense to any of us at that time. But fortunately commonsense has prevailed.

The CSIRO has had a strong presence in Armidale for a very long time, and under the revised policies it looks like that very long-standing tradition will continue. It originally began as a research facility after World War II, when CSIR, as it was known at the time, purchased 4,550 acres of land to establish what was then called the Regional Pastoral Laboratory. Initial research focused on animal production from pasture in the New England area of New South Wales. From the outset, the laboratory attracted top-class local and overseas scientists representing a broad range of disciplines and interests. The centre had an international reputation for scientific excellence in livestock research and a strong tradition of collaboration with the local rural industry and the regional community. The Pastoral Research Laboratory, as it became in 1960, maintained a close association with the University of New England which dated back to 1947, when it was involved in the establishment of the Faculty of Rural Science. Indeed, several staff from the CSIRO
lectured in the fledgling faculty. However, there have been several occasions over the past 55 years when changing priorities, restructuring and rationalisation have significantly impacted on the laboratory. Strong industry support has in the long run ensured CSIRO’s Chiswick site in New England has been maintained.

So where to from here? Following the closure of the CSIRO laboratory at Prospect, the laboratory in Armidale is now in a new growth phase. The F.D. McMaster Laboratory has joined the venture and staff numbers will grow to between 80 and 90 over the next 12 months. It was a great pleasure to represent the Minister for Science, the Hon. Peter McGauran, at the launch of the new McMaster laboratory a month ago. The research programs that are now being carried out in that laboratory will continue to address opportunities and problems arising from temperate livestock production systems and will continue to strive for excellence in science and the delivery of outputs of value to clients and customers. The F.D. McMaster Laboratory is a world-class research laboratory, surrounded by primary producers, committed to seeing the links between science and industry strengthened and expanded. This laboratory will add to the outstanding work done at the centre and will have a huge benefit to Australian agriculture.

Two months ago, eminent Australian academic Donald Horne correctly remarked that the great successes of Australian farming would not have occurred without Australia’s world leading research scientists and the adaptability of intelligent farmers who put that research into practice. This statement is so true and that is why it is great to see the centre, which almost closed, now undergoing rapid expansion. It is so important to rural Australia that we have facilities such as this in places like Armidale.

Research that comes out of, and feeds back into, the economic development of a region is vital to the viability of regions such as New England. Such facilities are major drivers of the local economy and provide a multiplier effect that diversifies regional economic activity. I believe we should all congratulate the staff at this centre on their past work and look forward to what can be accomplished here at Chiswick during the operation of the new F.D. McMaster Laboratory.

**Western Australia: State War Memorial**

Senator MARK BISHOP (Western Australia) (11.08 p.m.)—As a matter of public interest, tonight I wish to bring to the attention of the Senate the need for restorative work to be carried out on the Western Australian State War Memorial, situated in King’s Park in Perth. Senators will be aware that the collection of many Western Australian war memorials in King’s Park, Perth, is a most fitting arrangement, given the strategic position of King’s Park overlooking the city of Perth and the beauty of the Swan River spread out below.

It is also a tranquil place, most befitting the purpose of these memorials as places of reflection and remembrance of those Western Australians who lost their lives in all wars in the service of their country. There are many memorials collocated in King’s Park, representing Western Australians in general but also those who served in specific campaigns and those who served as members of individual battalions or groups. Some of these, by way of example, are memorials commemorating the Boer War; the Light Horse; particular elements of the Navy, including the crew of HMAS *Sydney*; the 2nd/16th Battalion; the Kokoda campaign; the 11th and 2nd/11th Battalions; Aboriginal servicemen; the Jewish people; Vietnam; Tobruk—and the list goes on and on.

Central to these memorials, however, is the central cenotaph, which provides the ceremonial focus at time of remembrance: the WA State War Memorial, which sadly now is in a state of some disrepair and which therefore needs some urgent attention. The cenotaph consists of an 18-metre obelisk set on a podium with an undercroft and crypt. On the walls of the undercroft are marble plaques on which is inscribed the honour roll of more than 7,000 members of the services who died in action during World War I or later from their wounds or illnesses.

Brass plaques on the outside walls contain the names of those 4,000 Western Austra-
lians who fell during World War II and provision is also made for those who died in Vietnam, Borneo, Korea and Malaya. For the record, the state cenotaph was opened on 24 November 1929 by the Governor of Western Australia, Colonel Sir William Campion, and was dedicated by Rabbi David Freedman, who was the senior Jewish chaplain to the AIF. It was built to commemorate those who died in World War I, but of course its purpose was extended as further wars occurred.

While the land is state land, responsibility for the maintenance of the cenotaph seems to have been shared by the state government and the RSL, the latter having raised around $30,000 for restoration work in the late seventies to repair the damage done by vandals. The gardens are part of the botanic gardens and are therefore cared for by that authority. Continuing but modest contributions are made by the Premier’s department for minor maintenance, with the work being managed by the RSL.

Like so many war memorials around Australia, the cenotaph is now showing signs of wear and tear, with concerns being expressed by WA ex-service groups that the obvious signs of decay need to be repaired. Having personally inspected the site recently, my judgment also is that more extensive restoration and repair would now be timely. A report prepared for the RSL on the structural status of the cenotaph reveals that there is considerable water damage to the reinforced concrete, causing rusting of the steel reinforcement and consequent cracking of the concrete. There do not, however, seem to have been any structural issues identified, as the construction appears to have been of a high standard.

The report identifies a number of options, ranging from an expensive structure to cover the entire memorial to a shorter term temporary waterproofing at a lower cost. Clearly each of the options will need to be assessed, but the simple point is that something substantial needs to be done in the short term to repair the superficial decay and to treat the site in such a way that the further intrusion of water is prevented. This, of course, will require funding and, while no doubt the RSL will be critical in raising those funds, the Western Australia government too can be expected to assist. After all, this is the major cenotaph for the people of Western Australia.

King’s Park is a symbolically important place for all Western Australians, and I am sure that my colleagues in this place will agree that the increasing level of attendance at ANZAC Day and other annual commemorations is evidence of the place it holds for all of us as we commemorate those Western Australians who served and died. I believe there is a Commonwealth responsibility too, and fortunately there is already in existence a program for the restoration of our many war memorials, against which a bid ought to be made. As a senator representing Western Australia and as shadow minister for veterans’ affairs, I would be pleased to support such a proposal as a matter of priority.

**Genetically Modified Crops**

**Senator CHERRY (Queensland) (11.14 p.m.)—**I rise tonight to speak on a very interesting report that was tabled by the Productivity Commission last Friday entitled *Modelling possible impacts of GM crops on Australian trade*. The report models a number of assumptions about the possible responses of world markets to the adoption and commercialisation of GM crops in Australia and it comes to some interesting conclusions. Specifically, it concludes that if Australia’s adoption of GM crops does not increase, while its trading partners expand their use of GM crop technology, Australia may lose some opportunities to raise or even maintain its market share over the long run.

This is something which the Grains Council has picked up. It has said that this report supports and encourages the adoption of genetically modified crops in Australia. Yet the press release from the Grains Council, which makes it clear that Australia will lose its competitive position against overseas producers if farmers cannot take advantage of the potential for GM crops to increase productivity, is not really reflected properly in the report, because nowhere in the Grains Council propaganda going out to its members does it state the assumptions on which its report is based. It does not note, for example, that the report assumes that there is no GM-free price premium that develops the
marketplace for GM-free markets; it does not really assume that Australia is cut out of the markets that have low tolerance to GM-free contamination. It assumes a 25 per cent reduction in those markets but not absolute denial of access. The report also goes on in a number of other areas to assume that productivity improvements will continue at six per cent and seven per cent, eventually declining to two per cent, for GM crops. The evidence coming out of some parts of the United States at this point in time is that, rather than there being a productivity improvement in genetically modified crops, it actually wears through after possibly one or two years. In fact, there are now some studies suggesting that there is no improvement at all, but, in fact, after two or three seasons farmers are actually looking at a reduction in productivity.

The other thing which I am very concerned about in this report, put out in the name of the Australian government, is that it does not note more recent research on the costs of genetically modified crops. In particular, if Australia is going to maintain a genetically modified crop sector and a GM-free sector, we are looking at quite substantial costs. A recent European Union study on the costs of segregating different production, marketing, harvesting, distribution, sales mechanisms and systems for both GM crops and GM-free crops estimated it would gobble up between one per cent and 10 per cent of the harvest returns of the grain crop—that is, between one per cent and 10 per cent of the costs of our current return to farmers would be gobbled up by the costs of keeping the GM farmers out of the GM-free farms—and that assumes it can work in the longer term. There are some real doubts, given the nature of canola seeds in particular, that it could, in fact, work in the longer term.

The Australian Grain Harvesters Association, for example, has expressed deep concern about the enormous cost to grain harvesters of having to deal with GM and GM-free zones, and the costs of segregating their plant moving between a GM and a GM-free farm: the cost of dressing down and cleaning a harvester each time it is moved between farms. These costs have not been taken into account by the Productivity Commission in this propaganda put out to support the Grains Council position, nor has it taken into account the European Union studies or the studies coming out of the United States more recently by groups such as the British Soil Association, which show that the cost of genetically modified crops to US and Canadian farmers over last three seasons was upwards of $12 billion in terms of lost markets, in terms of reduced productivity, in terms of increased segregation costs and in terms of increased royalty payments to the multinational seed companies. These costs also have not been taken into account by the Productivity Commission.

I am deeply concerned, because this is the sort of material being put out to argue about what Australia should be doing on genetically modified crops. I am concerned about it because we are now only less than five months away from the gene technology regulator deciding two very important applications for the commercial release of genetically modified canola by two multinational seed companies, Monsanto and Aventis. That is literally five months away. We have not heard how that inquiry is going and we have not heard what evidence there is, but we do know that all that the gene technology regulator is allowed to look at under its act from this federal parliament is the scientific and the health aspects of genetically modified crop proposals. It is not allowed to look at the economic benefits and the economic costs of those particular proposals. We would expect the Productivity Commission to do the work on that, but this particular report fails in every possible respect in delivering a value-free and reasonable assumption of all the various options and scenarios that could and should have been considered for genetically modified crops. That is why the Democrats are adamant that there needs to be a proper cost-benefit analysis of the economic impact of the commercial release of genetically modified crops in Australia. It has not happened to date and it will not be happening through the gene technology regulator. It certainly will not be happening in the Grains Council itself.
The Grains Council have established what they call the Grains Gene Technology Committee to look at the issue of the segregation between genetically modified crops and GM-free crops in their system. But this committee is fundamentally flawed in its structure and even in its scope. Its scope is to look not so much at whether it is possible on a cost-benefit analysis to develop a cost-effective means of developing separate distribution systems for GM crops and GM-free crops but, rather, at how to get the least cost, lowest risk, segregated industry framework. The question, ‘Can we do it?’ is not asked. The question is, ‘We’re going to do it; how can we do it at least cost and at lowest risk?’ The problem is, when you look at access to markets, such as the European Union, they will not accept a crop that has a contamination rate for GM-free crops of more than one per cent. Can we achieve that in a segregated crop in Australia? Can we achieve that with the segregated marketing systems? And what will be the cost of that? These issues are not being considered in the Australian context.

It is not surprising. Going back to the Grains Gene Technology Committee, six of its members represent the beneficiaries of the adoption of genetically modified crops—multinational seed companies and their various proponents. Six of them sit at the table which is going to decide the rules which will regulate the adoption of their crops and their products. This is an extraordinary conflict of interest. It is extraordinary that this committee is not just advising the Grains Council, which is supposed to represent the interests of farmers; it is advising state governments on how they are going to develop the rules which decide how genetically modified crops will benefit Australia. It is extraordinary that all this is going on in Australia without proper debate—without any proper consideration of the costs and benefits of how these crops will be developed or the longer term impact on our trade position, on our farming families, on our communities, and on our reliance on biotechnology imported from other countries.

All of this is happening without a proper national debate, and that is something which the Democrats are particularly angry about. I will be returning to this place to discuss this at a later stage. I appreciate that I cannot actually foreshadow amendments here, but these things will be debated in amendments that I will be moving to subsequent legislation. I also believe that it is time that this Senate, this parliament and, more importantly, this Australian government and the Labor state governments started to take seriously the threats to the economy and the environment from the commercialisation of genetically modified canola. That approval is now only four months away. We as a nation really have to take that into account; we certainly need to.

Pambula River Bridge

Senator STEPHENS (New South Wales) (11.22 p.m.)—This evening I would like to raise an issue that is of critical importance to the people of south-east New South Wales, particularly those living along the South Coast. The issue is the condition of the Princes Highway and, in particular, the Pambula bridge. This bridge is the subject of the petition that I tabled in the Senate today on behalf of local Labor Party activist Wilma Chinnock and 1,658 New South Wales constituents. This petition requested that the Princes Highway at Pambula bridge be declared a road of national importance. This would enable the federal and state governments to jointly fund a solution to a problem that has implications not only for Bega Valley residents but also for the region as a whole.

The Pambula River bridge is the main point of access from the south of Bega into the Bega Valley. Many residents live south of Bega, while most services including the hospital, schools, shops and banks are on the north side of the bridge. The bridge in question is a low-level timber bridge that dates from 1896. When the bridge is flooded it becomes impassable. In this case, children who live on the south side of the bridge can only get to school if the bus takes a one-kilometre, circuitous and dangerous route on a dirt mountain road. This makes it particularly hard for students from Merimbula to get to the high school in Eden. Residents south of the river are similarly cut off from Pambula Hospital. Getting to or returning home
from work becomes very difficult in the case of flood. This creates obvious problems for both employers and employees in the area, not to mention the question of the safety of those who might need to access the hospital urgently.

The Princes Highway provides a vital transport corridor for industry and tourism for south-eastern Australia. The region has been the focus of considerable investment in tourism, timber and forestry, the cheese industry and new wharf facilities in Eden. The population swells during the summer months and there is a history of many serious accidents occurring on the road when the traffic bottlenecks around the Pambula River bridge.

The Pambula bridge is the only freight access from the south to the north of Bega. This clearly creates a problem for local industries that are dependent upon freight from Victoria. Freight and timber trucks and B-doubles cannot take an alternative route. Under the New South Wales government’s Country Timber Bridge Program, the RTA proposed building a concrete bridge at the same or similar grade to the existing timber bridge. Whilst increasing the safety of the bridge, not raising its level would ensure that residents, tourists and industry would still encounter difficulties due to flooding. The commonsense solution is to raise the level of the bridge. As one resident suggested:

... raising the height of the proposed bridge and its approaches by half a metre would dramatically reduce the frequency of flooding as the road rarely floods more than half a metre. Moreover any flood over that height is soon dispersed.

The provision of a totally flood-free crossing of the Pambula River would cost more than $30 million, according to RTA estimates. Both the Bega Valley Shire Council and local residents have recognised that this as an impractical solution. The Deputy Mayor and Bega Valley Shire Council proposed an alternative solution to the New South Wales Minister for Transport and Minister for Roads, the Hon. Carl Scully. This compromise would take the form of a new bridge approximately 1½ metres higher than that proposed by the RTA, together with associated earthworks and other infrastructure for the entire width of the Pambula flood plain. This would provide flood-free access during all but one-in-20-year floods. The estimated cost of this solution would be in the region of $9 to $10 million.

The minister promised a further $1.5 million for the project, on top of an already promised $3.5 million—a total commitment of $5 million. This is subject to the federal government matching the funds with up to $5 million under the Roads of National Importance program to achieve an outcome that is acceptable to the local community and which supports regional growth.

The importance of a flood-free Pambula bridge to residents on the far South Coast is clear: it is a matter of getting children to school, supporting employment and ensuring access to basic health facilities. The Princes Highway acts as the main artery for transport to the South Coast, where no train services are available to relieve the traffic congestion in peak times throughout the year.

The Princes Highway at Pambula is also of national importance. The region is experiencing strong growth, with several key infrastructure projects in train. Construction is currently under way on the $25 million multipurpose wharf at Twofold Bay near Eden. This wharf is part of a $40 million defence project that will meet the Navy’s long-term logistic and ammunitions requirements for its East Coast based fleet. It is anticipated that the multipurpose wharf will draw new industries to the region, attracted by the quality of the infrastructure and the harbour. Much of the building materials and equipment for the new naval ammunitions depot to the north of Eden will need to be brought in over the Pambula bridge.

Local industry in Bega is also jeopardised when flooding forces the bridge to close. Bega Cheese, which recently received a $770,000 grant under the Dairy Regional Assistance Program, is an important driver of local jobs and has also had a major impact on dairy industry suppliers outside of New South Wales. Bega Cheese has been experiencing rapid growth, with resulting major increases in the company’s freight road tonnage. Much of this increase goes via the Princes Highway to Melbourne, both into
and out of the factory. Dairy supplies clearly have a short shelf life and this becomes a dire problem when supplies from Victoria cannot get to Bega Cheese because the bridge is flooded. The alternative route through Delegate and the Gippsland region is a dangerous and narrow road, not capable of taking heavy traffic for any long period of time.

The Princes Highway acts as a lifeline for the far South Coast. Without alternative means of transport, the economy of the south-east region of Australia is inextricably linked to road transport and to the Princes Highway in particular. In light of this, a highway that is periodically cut off for days at a time should be a matter of some urgency.

I would like to congratulate the residents of the Bega and Eden region, particularly Wilma Chinnock, for lobbying so effectively on this issue. If it had not been for their concerted and dedicated efforts, the bridge would have been replaced at its current level. I am pleased to lend my support to their request that the Princes Highway from Pambula to the Victorian border be declared a road of national importance.

Senate adjourned at 11.30 p.m.

DOCUMENTS

Tabling

The following government documents were presented:

Army and Air Force Canteen Service Board of Management (trading as Frontline Defence Services)—Report for 2001-02.

Australia-Indonesia Institute—Report for 2001-02.


Commissioner for Superannuation (ComSuper)—Report for 2001-02, including reports on the administration and operation of the Papua New Guinea (Staffing Assistance) Act 1973 and the Superannuation Act 1922.

Crimes Act 1914—Authorisations for acquisition and use of assumed identities for 2001-02—Australian Federal Police.


Director of National Parks—Report for 2001-02.

Gene Technology Regulator—Quarterly reports for the period—

1 January to 30 March 2002.

1 April to 30 June 2002.


Military Superannuation and Benefits Board of Trustees No. 1—Report for 2001-02.

Office of Film and Literature Classification—Classification Board and Classification Review Board—Reports for 2001-02.


Services Trust Funds—Reports for 2001-02 of the Australian Military Forces Relief Trust Fund, the Royal Australian Navy Relief Trust Fund and the Royal Australian Air Force Welfare Trust Fund.


Wet Tropics Management Authority—Report for 2001-02.

Tabling

The following documents were tabled by the Clerk:

Australian Land Transport Development Act—Determination of charge rate under section 10 for the financial year 2001-02.


Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].


Quarantine Act—Quarantine Service Fees Amendment Determinations 2002 (No. 2).

Student Assistance Act—Determination No. 2002/1—Determination of Education Institutions and Courses under subsections 3(1) and 5D(1) of the Student Assistance Act 1973.
QUESTIONs ON NOTICE

The following answers to questions were circulated:

Defence: Peacekeeping Missions
(Question No. 692)

Senator Mark Bishop asked the Minister for Defence, upon notice, on 26 September 2002:

1. (a) In which peacekeeping missions have Australian military forces participated since the end of World War II, either: (i) under the auspices of the United Nations, (ii) under multilateral arrangements, and (iii) under bilateral arrangements; (b) what was the period involved; and (c) how many personnel were engaged on each mission.

2. Which missions were covered by: (a) Schedule 2; and (b) Schedule 3, of the Veterans’ Entitlements Act 1986.

3. For each mission covered by the Act, how many claims for disability compensation have been accepted at: (a) the general rate; and (b) the special rate.

4. For each mission, how many lives were lost.

5. (a) Which missions remain current; and (b) how many personnel are engaged.

6. (a) How many missions involving Australian Defence Force service overseas have there been in the same period involving the delivery of humanitarian assistance; and (b) in each case, how many personnel participated.

7. Service in which peacekeeping missions is eligible for the recently-announced certificates of appreciation to be issued to peacekeepers under the Saluting Their Service Program.

Senator Hill—The answer to the honourable senator’s question is as follows:

The information sought in the honourable senator’s question 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.

Agriculture, Fisheries and Forestry: Research Programs
(Question No. 796)

Senator O’Brien asked the Minister for Forestry and Conservation, upon notice, on 15 October 2002:

1. Since 1999, what research programs have been conducted by or sponsored by Agriculture Fisheries and Forestry Australia (AFFA) in order to examine the potential of coal/woodchip blending to reduce emissions from power stations.

2. Who conducted each program.

3. When did each program start.

4. When did each program finish.

5. Of those programs not yet finished, when are they expected to be completed.

6. How much has the Commonwealth expended on each program.

7. Since 1999, what research programs have been conducted by or sponsored by AFFA in order to undertake comparative life-cycle analyses of wood products compared with other building materials, looking specifically at greenhouse gas implications and providing results that can be used for carbon accounting.

8. Who conducted each program.

9. When did each program start.

10. When did each program finish.

11. Of those programs not yet finished, when are they expected to be completed.

12. How much has the Commonwealth expended on each program.

Senator Ian Macdonald—The answer to the honourable senator’s question is as follows:
In preparing this response, I note that Agriculture, Fisheries and Forestry Australia (AFFA) does not directly conduct or sponsor research programmes in these areas, but participates in partnership arrangements that involve such research programmes. The answers that follow relate to two partnership arrangements:

(a) R&D Corporations financed by industry levies and matching Government contributions, for rural research and development under the Primary Industries and Energy R&D Act 1989 (PIERD Act); and

(b) membership of Bioenergy Australia, a group comprising Government and industry organisations with the aim of information sharing and promoting the development of biomass to energy projects in Australia. Bioenergy Australia participates in International Energy Association (IEA) research programmes with a range of international participants.

(1) Since 1999, through Bioenergy Australia AFFA has participated in IEA Bioenergy Task 32: Biomass Combustion and Co-firing. The programme examines inter alia the potential of coal/woodchip blending to reduce emissions from power stations.

(2) An international team led by the Institute of Environmental Sciences, Energy Research and Process Innovation, Netherlands.


(4) Not applicable.


(6) Total Commonwealth contribution $7,800 including $3,000 from AFFA and the Bureau of Rural Sciences for five IEA Bioenergy tasks.

(7) Since 1999, AFFA has:

(a) participated in IEA Bioenergy Task 38: Greenhouse Balances of Biomass and Bioenergy Systems. The programme includes a comparative life cycle analysis of wood products; and

(b) three R&D Corporations (Rural Industries R&D Corporation, Land and Water and the Forest and Wood Products R&D Corporation) have co-funded a research programme that developed the Carbon Farmer model to assist advisers and farmers to decide whether to engage in the cultivation of trees in order to sequester carbon and obtain tradable rights in that carbon.

(8) (a) an international team led by the Institute of Energy Research, Austria; and

(b) Hassall and Associates.

(9) (a) January 2001; and

(b) April 2000.

(10) (a) Not applicable; and

(b) May 2001.

(11) (a) December 2003; and

(b) not applicable.

(12) (a) see (6) above; and

(b) total cost of the Carbon Farmer project $47,703.