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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 a.m., and read prayers.

FIRST SPEECH

The PRESIDENT—Before I call Senator Santoro, I remind honourable senators that this is his first speech. I therefore ask that the usual courtesies be extended to him.

Senator SANTORO (Queensland) (9.30 a.m.)—Only 76 of us sit in this chamber today, and for each and every one of us it is a privilege to be here, to have the opportunity to serve the nation in such an inspiring and historic institution. In fact, I could not even begin to imagine, 13 years ago when I rose to deliver my maiden speech in the Queensland parliament advocating the reintroduction of the state house in that parliament, that today I would have the opportunity to address the Australian Senate as one of its members, that I would be representing the Queensland interest within the federal parliament as a Liberal senator.

It is most appropriate in a speech such as this that I acknowledge the great contributions that so many have made to my development as a person and to my capacity to pursue my political dreams. The people who have inspired me are many, but six deserve special mention: John Howard, the late Sir William Knox, Sir Robert Mathers, Terry White, my best friend in this parliament Senator Nick Minchin, and someone that few may have heard of—the late Allan Robb, a brilliant lawyer unfortunately cut down in his prime and denied the opportunity of making a most distinguished contribution to the legal, constitutional and political strength of our nation.

At various times during my 26 years of active political involvement, these great men of great principle and personal strength have supported, sustained and encouraged me. I acknowledge two additional most significant personal debts: to my immigrant parents, Alfio and Sebastiana Santoro, for the sacrifices they have made in an unfamiliar but welcoming Australia for me and my brothers, Sebastian, Guy and Mario—brothers who in turn have been of enormous and much valued support—and to my wife, Letitia, for unconditional support over 20 years and for the greatest gift she has given to me: two beautiful sons, Andrew and Lachlan, two beautiful young Australians whom I love so very dearly.

There are so many other people whom I need to thank that if I did so in this speech I would be saying very little else. They know who they are and I look forward to acknowledging them in this place. However, there is a most special group of close friends whose loyalty to me over the best part of 26 years has been unconditional: Geoffrey Thomas, Allan Pidgeon, Peter Torbey, Pat McKendry, Michael Caltabiano, Richard Laidlaw, Graeme Quirk, Karl Morris, Peter and Tim Nicholls, Colin Thatcher, Jim Stewart, Darrell Butcher, Kim Jacobs, John Sosso, Eric Abetz, Tony Abbott, Alexander Downer, Lee Benjamin and Desley Wharton. And I say a special thank you to my many friends in the other place for your faith in and support for me. You are good people and you do your families, your constituents and the Liberal Party proud.

If you believe in the innate goodness of the human mind, then what I describe as progressive conservatism has much to recommend it—and I am a progressive conservative. The Liberal Party is a broad church that encompasses the two great non-socialist traditions of Western political thought: liberalism and conservatism. Its founder, Sir Robert Menzies, said:

"We took the name Liberal because we were determined to be a progressive party, willing to make experiments, in no sense reactionary but believing in the individual, his rights and his enterprise."

Australia is a new society—grafted by settlement onto the world’s oldest continent, itself the home of one of the oldest traditional societies. In such a new society the conservatism of Britain has always been irrelevant, for Australian conservatism, like Australian society, is a blend of both classic liberalism and modern conservatism.

It is fair to say that in the Liberal Party the difference between those who incline towards one great philosophic tradition or the
other is often marginal. Indeed as Liberals we all share a defining belief in the value of the individual and the role of individual enterprise. We cherish the motive force that drives and invigorates human society, namely individual initiative. We treasure that initiative because we have inherent faith in the virtue and zeal with which the vast majority of people are born. More than that, we believe that by restricting the controls and burdens placed on individual enterprise by the state, we liberate the creative intelligence of our citizens which in turn results in a free, open, vibrant and prosperous society. In short, we believe that the common good is achieved by respect for and promotion of the free exercise of the liberties of the people in their many forms—economic, social and personal.

As a conservative, I believe that order and stability are central to good government and to individual freedom. Individual freedoms will never prosper unless we have a fair and stable society with appropriate laws administered equally. The best system of law and administration is one marked by restraint and a respect for our shared national traditions and aspirations. I believe that liberty and variety lie at the core of our wellbeing. We must value and encourage people who have the guts to have a go and reward them for their effort. We must value differences in our society and be tolerant of those differences. It is indeed those differences that make us great.

Social and political engineering are prime dangers for our system of governance. We must be ever vigilant to ensure that the people are never again so alienated from our system of government that another One Nation Party is spawned. As political representatives of the Australian people we owe it to them not only to tell them what we think but also to give their opinions the respect they deserve—and remember that reflecting public opinion is not populism; it is the very essence of democracy.

I value the views of my constituents and come to this place determined to ensure that never again will we need to hear a speech of the sort Sir Robert Menzies felt compelled to make in 1942 when he spoke so eloquently about ‘the forgotten people’. I pledge during my term in this chamber to ensure that the views and aspirations of the people of Queensland will not be forgotten.

Finally, as a conservative I believe that our primary goal is to nurture a society that is a caring and prosperous one with the family unit as its core. The family is the prime socialising, nurturing and teaching unit. Without it, our society would wither. I pledge that, during my time here, I will work tirelessly to promote policies that will conserve and enhance the most fundamental unit of our society—the family unit.

I describe myself as a progressive conservative. I am a passionate Liberal in my core belief about individual liberties and the need for the state to let the ordinary men and women of this country get on with their lives without unnecessary interference. I have always been interested in our industrial relations system for that very reason—not because I do not see a need for unions or because I am in any way anti-union but because I want to see our private enterprise system protected and promoted. As a Liberal, I value the right of freedom of association, including the right of people to form unions or cooperatives to look after their interests. There is no conflict in supporting both goals.

The first task of any modern nation is to protect its citizens and, as the tragic events of the past year have shown, we must be more vigilant than ever. When our society is under threat, which it is today, I reluctantly accept that individual rights must receive a lesser priority than the protection of the public.

Conservatism is not about inertia, nor is it about fear of change. It is about respect for individual rights and our shared values. It is about a society of free people—of decent men and women imbued with a great tradition of tolerance and initiative. As a progressive conservative, I want to ensure that this society which I love is protected and that we take care to ensure that we manage change so that we build on our great society and do not undermine it.

People who know me well know that I come here with a strong record of advocacy
for my state. I am a state-righter, and my state has too often been short-changed by federal governments, irrespective of whether they are Labor or coalition. I want to help change that. In cooperation with my Queensland Liberal colleagues, I want to clearly articulate Queensland’s interests by focusing on the policy areas that matter to all of us.

When the Commonwealth was established 101 years ago the building blocks of nationhood were the states, and the sum of the parts was greater than the whole. Over the past century, the balance of that equation has shifted. It is certainly true that many Australians, and a lot of younger Australians, now see little relevance in their state other than as a reasonably efficient working unit of administration.

Having said this, there can be no denying that the states we represent in this place have rights and that we in this place need to be protective of them. But, like all rights, these are balanced by obligations, and the states must be seen to be meeting these obligations. In my view, the Senate is a very appropriate forum through which they can be held to account.

For example, the states have a duty to use the tax funds they draw from the Commonwealth responsibly. The states now have access, in the GST, to the first major true growth tax they have enjoyed since they turned over income taxing powers to the Commonwealth 60 years ago in the darkest days of World War II. They have been given a historic opportunity to be truly responsible for tax revenue that comes to them by right, with no strings attached, but is collected by another government which takes on the political odium of doing so.

They have this benefit because the Howard government had the courage to take the political pain and wear the administrative burden of introducing a broad based consumption tax on their behalf. As a Queensland senator, I shall seek to make Queensland governments, irrespective of their political colour, fully accountable for the way in which they spend the billions of dollars that they get from Australian taxpayers.

I am a fiercely proud Queenslander. I may be partisan, but I am not going to be irresponsible. We can all argue policy and politics, but sometimes we need to find a way to do so from a national standpoint. Where appropriate, I will not allow my strong state-righter predisposition to discourage me from engaging in the debate about the balance that must be struck between states rights and the national interest.

The issue goes beyond fiscal matters, particularly at this difficult time in our nation’s history. It goes to the heart of national security; for example, to border security—rightly an issue that is of immediate concern to the Queensland government. It certainly extends to native title, something the Queensland government has recently recognised. And it extends to matters such as workers compensation and the broader liability insurance issue.

Perhaps the most poignant example concerns the supply and availability of water drawn from the great rivers that flow through two or even three states. It illustrates the point significantly and with force. In fact, the time has passed when it can be viewed as legitimate for property rights to differ according to which side of the colonial boundary line that property lies on. Indeed, the time has passed when gun laws can reasonably be within the remit of state governments. These are all things that require not only goodwill in principle but also commitment at a practical level, on all sides, when it comes to considering adjustments in power sharing between levels of government.

Mr President, I have other clear objectives as a senator. One is the protection and promotion of small business. The Liberal message throughout the party’s history has been that it is the party of small business. Small business is the lifeblood of this country’s economy—certainly of the Queensland economy. It deserves protection from over-regulation, from irresponsible unionism and, more specifically, from onerous unfair dismissal laws.

Another of my priorities is education and training. When I was the Queensland Minister for Training and Industrial Relations from 1996 to 1998, I gained much insight into
practical ways for improving educational opportunity. One matter I will pursue is streamlining interstate recognition of qualifications—an increasingly important measure when Australians are becoming more and more mobile.

Further, rural and regional Queensland faces specific problems, particularly now in relation to the drought. The federal government has implemented a wide range of initiatives designed to address these problems. It is important that these programs continue and that they be managed well and cooperatively.

For most Australians, another vital area of policy is taxation. In 1998, in making its case for taxation reform, the government said: Wage and salary earners are hardest hit by our tax system. Personal tax rates are high by international standards and apply to those on average incomes ... There is no incentive for average Australians to do a bit of extra work and earn a few extra dollars.

Australians recognise that this government has much to be proud of in the area of tax reform. However, I am encouraged by the Prime Minister’s comments that further relief for individual taxpayers should be a priority. Consistent with international trends, the reduction of marginal income rates and the adjustment of tax brackets, Australia should also be prepared to consider reducing the overall tax burden on individuals.

In 2000-01, Australia’s personal income tax as a percentage of GDP was 11.6 per cent, compared with the OECD average of 10 per cent and 9.7 per cent for Asia-Pacific countries. With most of Australia’s major trading partners having recently introduced or announced reductions in their marginal tax rates or increases in income thresholds, Australia should not be left behind.

Queensland is a great state. That needs to be said as often as possible and in as many forums as possible, and perhaps especially in this place, the house of all the great states that make up our nation. Let it be said that the component parts of Queensland are great places: the Gold Coast, the Sunshine Coast, Townsville, Cairns, the Far North, the Darling Downs and the west—indeed, all the many varied places and energetic people that make up the rich mosaic of our state. I intend to represent their interests, their views and their aspirations very strongly in this place.

I want to close by making some further remarks about the Liberal Party and some personal reflections. Part of the privilege of being a Liberal senator for Queensland is being able to work with my senatorial colleagues from Queensland. I would like to place on record my regard for the hard work and effective representations of Senator Brandis and Senator Mason and also acknowledge the diligent ministerial work of Senator Ian Macdonald and his advocacy for his state. There are four Queensland Liberals in this place at the moment. Our joint, collective, strong aim is to increase that number. I also pay special tribute to my predecessor, the Hon. John Herron, and wish him and his wife, Jan, all good fortune in the important diplomatic post that he will take up in the new year.

It was in the Liberal Party more than anywhere else that I found most people were prepared to get to know me and give me the opportunity to prove my ability and my determination. That is why I am not ashamed to say that I love the Liberal Party. I love what it stands for, I love it for the friends it allowed me to make and I love it for the opportunities it has given me to help make our state and our country a better place to live.

On this personally significant day I am humbled, as I reflect on my origins, by how good Australia has been to me, my family and to those that I hold dear. I am proud of my Italian origins. I am grateful for the opportunity provided to me by my parents. I recognise the loyalty and the support of many. As a person who came to Australia from Italy at the age of five and who could not speak a word of English, I am very grateful to our nation for what it has enabled me to achieve. Where else could a person in my situation gain the opportunity to be highly educated, to hold responsible jobs in the private and public sectors, to serve 12 years in a state parliament, including a term as a cabinet minister, and to be elected deputy leader of the party in that state?

At the same time, I have become a proud new Australian who has raised a family and
who has met and made friends with some of the most wonderful people in the world. This could only happen in a great country and a great democracy—a country where opportunity still abounds and success stories and dreams can come true. I have been blessed, and I am reminded of what Thomas a Kempis once wrote:

Be thankful for the smallest blessing, and you will deserve to receive greater. Value the least gifts no less than the greatest, and simple graces as especial favours.

If you remember the dignity of the Giver, no gift will seem small or mean, for nothing can be valueless that is given by the most high God.

Mr President, I look forward to serving with you and my other colleagues in this place in the best interests of our nation, our states and our parties.

BUSINESS

Consideration of Legislation

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.50 a.m.)—I 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:

- Charter of the United Nations Amendment Bill 2002
- Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002
- International Tax Agreements Amendment Bill (No. 2) 2002
- Medical Indemnity Bill 2002
- Medical Indemnity (Consequential Amendments) Bill 2002
- Medical Indemnity (Enhanced UMP Indemnity) Contribution Bill 2002
- Medical Indemnity (IBNR Indemnity) Contribution Bill 2002
- National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2]
- Trade Practices Amendment Bill (Small Business Protection) Bill 2002 [No. 2].

Senator LUDWIG (Queensland) (9.50 a.m.)—I move:

Omit the following bills:

- Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002
- National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2]
- Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2].

In speaking to the motion I will not take up a significant amount of the Senate’s time—we have legislation before us at the committee stage—but it is at least necessary to set out the opposition’s position. We will not be supporting the motion. We are in the penultimate sitting week of the Senate for this year. At this very late stage of the sitting, with the legislative program in front of us, we need to look at the program critically and make an assessment of and a decision on the priorities that need to be dealt with.

We have only six days remaining, including today, and numerous bills still to consider. Much of this legislation is, according to the government, urgent. The ASIO bill, for example, is one of the most significant pieces of legislation that we will consider in this sitting, in my view. We anticipate a lengthy and complex debate in respect of that stage, and we have not started it as yet. The committee report was handed down only last night at 11.19 p.m., and as yet the chair of the committee has not spoken about the report. I am sure most members will not even have an opportunity to read the committee report before we end up debating it. We note that the Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2] has already been considered by the Senate. In these circumstances, we do not regard it a priority that it be considered. When you look at the substance of that particular bill, the reason it is being proposed as urgent is:

The Government has on several occasions sought the introduction of protections for business, and particularly small businesses, against secondary boycott actions.

There is no claim for urgency within the text of the statement by the government to support the passage of the bill. If you look at the
history of that particular piece of legislation, the exemption from the cut-off was—to say it again—firstly, to avoid the great haste with which this government might want to drive through legislation and, secondly, to enable the Senate to have more control when determining which matters are urgent or important and which matters can be dealt with later. The opposition, in relation to the Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2], have to then examine each bill upon its own merits. The opposition have been extremely generous to date in terms of our position to the exemption of bills from the cut-off date. In this sitting year alone we have agreed to something in the order of 34 bills for exemption from the cut-off.

Each bill, as I have said, should stand on its own merits. It should be highlighted that this government has failed to convince us that the Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2] is urgent. The opposition have already made their position on this particular bill quite clear. That position remains unchanged since the bill was first introduced. The government has had the debate on that bill a number of times before. It knows our position and it knows what our position will be. It is clearly no surprise to the government. The bill does not meet the priority test when applied. Already, as I have said, there is a significant legislative program to be dealt with. There is no practical reason for dealing with this legislation in an urgent way. Similarly, in relation to the National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2], the government states in one sentence the reason for urgency: If the Bill is not introduced and passed in the 2002 Spring sittings, projected savings to the Pharmaceutical Benefits Scheme will not be achieved.

That may be a fact, but it is certainly not a reason for urgency for the bill. The bill does not contain urgent measures. There is no adverse effect on Australians if the bill is not considered. There is a program of essentially urgent bills that the government requires to be dealt with in this sitting period. This bill does not fall within that group. Similarly, the reason put forward by the government for the urgency of the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002 is hollow. The initiative contained in this bill is to commence on 1 January 2003. This is a fact—one put forward by the government. It then claims that it is critical that the bill be passed in the 2002 spring sittings ahead of the commencement date so as to have sufficient time to finalise supportive administration. But this bill had only just been reported on in the Senate, with the majority and minority reports only tabled earlier this week. There were over 50 submissions received in relation to that particular bill. The important issue to recall is that there is no stated urgency in the grounds to support the particular bill. The date is the only reason this government has been able to suggest that the bill is urgent, but the date in itself is not a claim for urgency. Therefore there is no merit in considering this bill ahead of other essential bills that we need to deal with, given the small time that we have available to deal with the legislative program in a way that ensures proper debate.

If the government were serious about the program and about having sufficient time to debate the legislation in the program this year, then it would have considered not setting aside some 10 or 11 days fewer than the number set aside in what might be considered more usual sitting periods. In 2000 there were 71 days set aside. In 2001—an election year, which was terminated from 27 September—there were 52 days. This year, to date, there have been 53 days. In relation to hours, 449.42 hours were set aside this year. Last year there were 442. When you look at the figures for the pattern of sitting, the opposition has met the requirements to expand the program to deal with the hours. We have, to date, provided an additional 55 hours and 24 minutes to meet the government’s legislative program—in other words, to allow the government time to deal with the legislation. That is notwithstanding the fact that the government lost something in the order of 22 hours and 58 minutes out of the program due to early adjournment.
When you then examine the fact that there have been five occasions when the opposition has allowed government business to be dealt with during general business on Thursday, you will see that the opposition has ensured that the legislative program, notwithstanding the tight sitting days that were scheduled, has allowed the government to have sufficient time to deal with the program to date. In total, there have been 231 hours and 32 minutes spent on government business this year compared to 223 hours and 11 minutes spent on government business last year. The percentage of time this chamber has spent dealing with government business has remained in the order of 55 per cent to date, but in the last sitting period it was 68 per cent. The figure of 55 per cent is consistent and not out of kilter with earlier years but, if you look at the last session in this period, the opposition has ensured that there have been sufficient hours to deal with the program, which has been put forward to allow those bills to be debated properly and appropriately and considered sensibly.

The position we have now is that the government wants to treat the exemption from the cut-off in a manner that does not allow appropriate bills to be considered in the last few days—six in all—that we have, including today. Therefore, it is our position that we do not support the exemption for those bills.

Senator ALLISON (Victoria) (10.01 a.m.)—The Democrats will be supporting Senator Ludwig’s amendment. All the reasons have been stated and I do not need to go into them again, but I wanted to indicate the Democrats’ position on that.

Senator BROWN (Tasmania) (10.02 a.m.)—The Greens were partly instrumental, through Christabel Chamarette, in having the cut-off brought in so that bills could not be landed in the Senate and passed through without time for the senators to go back to the community and discuss the ramifications. The Greens are inherently opposed to the repeated use of the cut-off and its increasing use by the government.

There is not on this list legislation that could not have been brought here earlier. What happens here is that the government ministers who are responsible for these bills do not get them together in time and do not get them brought to the House of Representatives, knowing that there is a delay between then and when they come to the Senate, and do not allow the Senate adequate time. This happens at the end of every year, but we are now seeing the cut-off being used more and more throughout the year as well. I feel very defensive about it.

The mechanism was brought in by all parties, I think, except the Labor Party at the time, because they were in government—please correct me if I am not right about that. It was brought in so that the community could be adequately consulted. All of the pieces of legislation that are on this list are of intense interest to different sections of the Australian community. To accede to the cut-off is to simply say, ‘Anything goes.’ We are back where we were. Ministers who have not done the work and who have not ensured that the bureaucracy, at their assistance, did the work to get the legislation before the parliament in time for it to be properly canvassed with the community by parliamentarians are not going to be rebuked over that. I think they should be, and we oppose this cut-off motion.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (10.04 a.m.)—I accept much of what the Manager of Opposition Business in the Senate said in terms of cooperation and additional hours. This year has been unusual in terms of the number of sitting days for a number of reasons. Firstly, it was the first year after an election. If you go back through the records, you will see that in the first year after a general election is held in the summer period the parliament has tended to sit late. I noticed that some almost pro-forma objections were lodged early in the year when we announced when the parliament would sit—

Senator Mackay—They were not pro forma: they were genuine.

Senator IAN CAMPBELL—I have got to say that I privately canvassed this with a range of parliamentarians from around the Senate and I did not receive one single ob-
jection from a single Labor senator about how late the Senate was resuming—

Senator Mackay—I raised it as the Whip, thank you.

Senator IAN CAMPBELL—You would have been a lonely person in the Labor Party in saying, ‘Let’s come back early; let’s come back in January’—

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! Let us not have conversations across the chamber.

Senator IAN CAMPBELL—The historic reality will record that parliaments generally resume slightly later; I think we resumed about a week later. The other event that occurred this year was CHOGM, which was delayed from last year due to the events of September 11 and which interrupted the normal sitting pattern. So certainly in the first half of this year we had fewer sitting days. I acknowledge and thank the opposition and all honourable senators for assisting the government in finding additional hours to deal with the busy program of a reformist government that has come back after the last election with a heavy number of reforms.

The one point that should be made is that the National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2] and the Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2] are two bills for which the arguments put—and, I think, quite reasonably—by Senator Brown and others are the fundamental case for the cut-off provision: that is, the Senate should have adequate time to review the provisions of bills, the community should have the time to put their views to the Senate, the processes of the Senate should be allowed to work and, therefore, bills should only be introduced in one session and debated in the next session. That is an entirely reasonable proposition that the Liberal Party supported in opposition; it is a proposition that we continue to support in government. That is why the democratic provisions of the Senate apply. You obviously need a majority of the Senate to say, ‘This is an exemption.’ So you need to demonstrate to the Senate that this bill does not need to wait around for a few months and that it can be dealt with straightaway. Traditionally, the Senate has given us the exemption.

But I have to say, having agreed with all of those arguments, that I do not think it is logical to apply the same argument for bills that have already been dealt with by the Senate and which have come back here in exactly the same form. In fact, I pre-empt my referral of this matter to the Procedure Committee. I think it is something that should not be looked at in the light of a particular bill or a particular tactical situation at the time. I think the Senate should give due consideration as to whether bills that have been already dealt with by the Senate should still be subject to the provisions of standing order 111.

You cannot logically make the same argument for the cut-off—that the Senate has not had time to consider it—for a bill that has already been, potentially, through a legislative committee, through detailed consideration by the Senate and the Committee of the Whole, been voted on and been sent back here after insistence by members in the other house. Logically, the Senate has already given that legislation detailed consideration. So I will be referring that matter to the Procedure Committee for consideration as to whether bills that have already been dealt with by the Senate once should be considered subject to standing order 111.

Having said all of that, we would of course have liked to have dealt with the pharmaceutical benefits measures; they are key budget measures. They will of course have an impact on the federal budget. The Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2] is a key reform measure of the government to help small businesses. We would have liked to have had those bills passed into the law of the land prior to the adjournment at the end of next week. If the Senate votes to not allow that to happen, the government will of course respect the democratic processes of the Senate. But we would have preferred to have seen the measures in place, because they would have improved the Australian economy and improved things for small business.

Question agreed to.
Original question, as amended, agreed to.

RESEARCH INVOLVING EMBRYOS
BILL 2002

Consideration resumed from 3 December.

Declaration of Urgency

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (10.10 a.m.)—I declare the Research Involving Embryos Bill 2002 an urgent bill and move:

That this bill be considered an urgent bill.

Question put.

The Senate divided. [10.15 a.m.]

(The President—Senator the Hon. Paul Calvert)

AYES

Abetz, E.  Allison, L.F.
Alston, R.K.R.  Barnett, G.
Bartlett, A.J.J.  Boswell, R.L.D.
Brandis, G.H.  Calvert, P.H.
Campbell, I.G.  Chapman, H.G.P.
Cherry, J.C.  Colbeck, R.
Cooman, H.L.  Eggleston, A. *
Ellison, C.M.  Ferguson, A.B.
Ferris, J.M.  Greig, B.
Heffernan, W.  Johnston, D.
Kemp, C.R.  Knowles, S.C.
Lees, M.H.  Lightfoot, P.R.
Macdonald, I.  Macdonald, J.A.L.
Mason, B.J.  McGauran, J.J.J.
Minchin, N.H.  Murray, A.J.M.
Patterson, K.C.  Payne, M.A.
Reid, M.E.  Ridgeway, A.D.
Santoro, S.  Scullion, N.G.
Stott Despoja, N.  Tchen, T.
Tierney, J.W.  Troeth, J.M.
Vansone, A.E.  Watson, J.O.W.

NOES

Bishop, T.M.  Bolkus, N.
Brown, B.J.  Buckland, G.
Campbell, G.  Carr, K.J.
Collins, J.M.A.  Conroy, S.M.
Cook, F.P.S.  Crossin, P.M.
Denman, K.J.  Evans, C.V.
Forsow, M.G.  Harradine, B.
Harris, L.  Hogg, J.J.
Hutchins, S.P.  Kirk, L.
Ludwig, J.W.  Lundy, K.A.
Mackay, S.M.  * Marshall, G.
McLucas, J.E.  Moore, C.
Murphy, S.M.  Nettle, K.
Sherry, N.J.  Stephens, U.
Webber, R.  Wong, P.

PAIRS

Hill, R.M.  Faulkner, J.P.
* denotes teller

Question agreed to.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (10.19 a.m.)—I move:

That the time allotted for consideration of the remaining stages of the Research Involving Embryos Bill 2002 be as follows:

Committee of the whole—

Amendments to Part 1 and Divisions 1, 2 and 3 of Part 2
Commencing not later than 4 pm on Wednesday, 4 December 2002 for 1 hour or until 5 pm on Wednesday, 4 December 2002, whichever occurs first

Amendments to Division 4 of Part 2
Commencing immediately after the previous item until 7 pm on Wednesday, 4 December 2002

Amendments to Divisions 5 and 6 of Part 2
Commencing immediately after tabling and consideration of committee reports on Thursday, 5 December 2002 until 11.15 am

Amendments to Parts 3, 4 and 5 and any remaining amendments
Commencing immediately after the previous item until 12.05 pm on Thursday, 5 December 2002

All remaining stages
Until 12.45 pm on Thursday, 5 December 2002.

With this time management motion, while I am endeavouring to ensure that the government continues with its commitment to seeing this bill debated fully and wholesomely in an informed and diligent manner, I am putting in place some parameters for that debate. I have sought in discussions with the minister to allocate times to the remaining groups of amendments, which will allow a
full debate on each section of them. After the drafting of this motion, I have suggested to people—and I would like to put on the record the government’s intention here—that if those particular break-ups of groups of amendments remaining on the Research Involving Embryos Bill 2002 unnecessarily curtail debate—for example, if there were to be more debate on the first group of amendments and we have allocated too much time to the last groups—it will remain open to the Senate to change those allocations, and the government would do that.

The government’s main motivation is to see that the debate will be concluded by lunchtime tomorrow. These time allocations will have ensured that the Prohibition of Human Cloning Bill 2002 and the Research Involving Embryos Bill 2002 would have been debated in excess of 47 hours. No-one could possibly argue, even for the enormous gravity and importance of these two pieces of legislation, that that is an entirely unreasonable amount of time—in fact, it is an incredibly lengthy amount—dedicated to those bills. This time management motion which I am moving today will ensure that the Senate spends just under nine hours—in fact, I think it is much longer than that—debating these bills between now and when the debate will conclude just before the lunchtime suspension tomorrow.

A number of suggestions have been made, and I regard them as suggestions that are seeking to be helpful to the government, to me and to the chamber. Senator Murphy, Senator Brown and Senator Harradine have come to me at different times over the last 24 hours and suggested perhaps sitting late tonight. I do not blame Senator Brown for that one—that was not his idea—but some people have said, ‘Why don’t we sit late tonight?’ Others, including Senator Harradine, have said, ‘Why don’t we sit on Friday?’ Sittings on Friday create significant problems for senators when we do not have the number of airline seats available that we had prior to 14 September last year. It is very hard, if you change the sitting times late in the week, for the airline—or airlines, in some cases—to rearrange seat availability, and so the government tries very hard to ensure that we can give senators advance notice of late sittings and changes of sittings. For senators who come from Western Australia, Queensland and the Northern Territory, for example—

Senator Sherry—Tasmania!

Senator IAN CAMPBELL—and Tasmania, which happens to be in the same time zone, Senator Sherry, which is a major advantage for some—it is particularly hard. For those of us who come from the most outlying states, sittings on Friday ensure that, if you are lucky, you get home either late Friday night or Saturday morning. You then have to turn around at lunchtime on Sunday and fly back here again. We have looked at all those options. I have spoken to various people involved in the debate. I have been told by some strong opponents of the bill that they would in normal circumstances expect the bill to have been completed by close of business today. This motion certainly will not stand in the way of that occurring. I would welcome that occurring, because it would allow the government to get on with a number of other bills on the program. This motion will allow us to consider the bill for all of today. I note that it will all be in daylight hours. A very good point was made by Senator Harradine yesterday that it is preferable not to have late night sittings. We will have all of the daylight hours of today to deal with this bill and we will have—to use cricketing parlance—the entire morning session tomorrow to deal with it as well.

The government commends this motion to the Senate. We think it is a civilised way to conclude the remaining stages of the bill. I think the debate has been full, whole, well informed and diligent. The government has sought to encourage that. We are trying here to ensure that we create enough time to deal with the remainder of the government’s program. My earnest wish—and I think it can be achieved with goodwill around the chamber, and it is a goodwill that has existed throughout the year—is to have the Senate conclude at the time that is published in the program; that is, at a reasonable hour on Thursday afternoon next week. I will seek, with all senators in this place, to manage the program. If there are bills that have to go back to the other place and then come back here
again for reconsideration, we would like to ensure that all of those processes can be concluded by the normal adjournment time next Thursday.

I am going to work hard with Senator Ludwig, the Manager of Opposition Business, with senators on the crossbenches and with my colleagues in the House of Representatives to ensure that we do not have to have an all-night sitting on Thursday and have the House of Representatives come back on Friday morning. If we can avoid that, it would be desirable. We want to handle the program, ensure that we have vigorous, full debate on the bills on the program, have the votes, and leave this place at a sensible and civilised time next Thursday. We have not been able to achieve that very often in the past but, if we are able to get this motion through this morning, deal with this bill and move through the remaining bills, then the hope of leaving here at a sensible time next Thursday is achievable.

**Senator BROWN (Tasmania)** (10.27 a.m.)—The Greens totally oppose the guillotine being applied to a great debate in this place on a matter of conscience. The debate on the Research Involving Embryos Bill 2002 is extraordinarily important not just to the wider Australian community but to the consciences of all members who have been involved, particularly those who have sat here hour through hour determining, listening to, arguing and settling the extraordinarily complex issues that are involved. This bill entails a great matter of conscience. It is about testing of embryonic stem cells. It is about the commercial impulse that is behind the experimentation that takes place there. It is about our regard for life on earth, in the end. It is about human and scientific manipulation of the natural fabric of life on this earth, not least human life. As such, it measures up with the debates on the death penalty, on abortion, on gay law reform, on the Family Court, on euthanasia—enormously important matters which have been conscience matters and open to all members to debate and ultimately decide as best they could on their conscience and on the debate available. I do not know if ever before such a bill has been subject to the guillotine in this place. I do not know that that has ever happened. I find it extraordinary that the government and the Democrats voted en bloc to put this rolling guillotine or gag—the government puts the nice term of ‘time management’ on it—onto a matter as important as this.

That this extraordinarily important piece of legislation is being debated in the second last week of sitting for the Senate is not in the hands of senators here, except those opposite—the government itself and the Prime Minister himself. But to apply implicitly, if not explicitly, a gag on this and to have that threatening the debate is quite outrageous. That the Democrats have supported the government in potentially gagging a vote on a matter as important to the conscience as this is must in itself be quite unprecedented for the Democrats, who have always determined—I think, quite wonderfully—that there should be open and free debate in this place on the most difficult of matters to do with the shaping of our society and its future. I would have thought that, in the course of events—and the debate quickened last night—this matter would have been dealt with by today or tomorrow anyway. I think that will still be the case. But now we have a guillotine hanging over our heads. It is a very bad move by the government. Members have not been wasting time in here, I can tell you that. I think that everybody who sat in here would agree. It has been a heartfelt, informative and important debate. To trivialise it by saying that it can be cut off at the whim of the majority—maybe the uninterested majority, at that—and to prevent those who find this matter extraordinarily and hugely important and deserving of the greatest consideration is very bad parliamentary process. I think it is unconscionable: the unconscionable is occurring to what we proclaim as the conscientable. It is bad parliamentary process and a total abrogation of the whole idea that, when we get to complex and important ethical mileposts like this in the progress of our society, the matter should be given greater importance and should not be cut down by a guillotine—one which, on this occasion, is imposed by the government and the Democrats.
Senator BARTLETT (Queensland—Leader of the Australian Democrats) (10.32 a.m.)—That is the best example I have heard yet of weasel words, sophistry and hypocrisy from the Greens, who are trying to get on the moral high horse whilst actually getting in the way of the Senate doing what it is supposed to do, which is to enable proper consideration of legislation. This proposal—which gives plenty of time: people who are involved in the debate are saying that we will probably be finished by then, in which case it has no effect at all; but that does not stop all the moralising, anyway—enables a disciplined and responsible approach to important issues, rather than trivialising the debate by allowing it to waffle on for endless hours.

The alternative is midnight sitting after midnight sitting. Nothing trivialises a debate more than endless speeches that repeat the same thing. We have already seen amendments that have failed being put up again and again, and attempts by those who do not support this legislation—although I respect their right not to support the legislation—and who have the majority of the amendments, continually lengthening the debate, to prevent the legislation going through. Those people are trying to prevent the consciences of those who support the legislation from being exercised. This does not gag a vote. That has been said to the Senate, but it is a falsehood. This enables votes. It enables more informed votes because it will not be at midnight, when people are brain-dead and sick of listening to the ongoing repetition. It will enable an informed vote and it will enable that vote to happen rather than continuing to prevent it coming to the conclusion that it needs to come to.

Nobody is more passionate or more informed about this issue than the Australian Democrats—with the possible exception of Senator Harradine, who is certainly passionate about it—and we have contributed constructively. But we have also had a committee stage, a comprehensive committee process, committee inquiries with very many witnesses and a comprehensive report. There is no requirement for every senator to be involved in the committee process, but it is worth noting that some people ignore all of those attempts to get informed consideration and do not participate in the committee process. We have heard the moralising from the Greens, but the Greens did not participate in the committee process, turn up to any of the hearings, listen to any of the evidence nor contribute to the report. Then they come in here and talk about an informed debate.

We have responsibilities if we are going to exercise conscience votes. The Democrats have pioneered, and continue to highlight, the importance of the conscience vote. For us every bill, if someone feels strongly enough about it, is a conscience vote. I wish the other parties would take that into account. That is why we want to ensure that legislation is dealt with properly. It is not just about this legislation; it is about all of the other legislation that we have to deal with and ensuring that it gets proper consideration. If people want to scuttle this legislation—and clearly the Greens are amongst those, by the stance they have taken—that is fine; they can vote against it. But they are trying to prevent the will of the majority of people who support this legislation and these important scientific advancements from prevailing. They can vote against it as they are entitled to, but the majority eventually should prevail on this bill, whether it is a conscience bill or any other bill.

As I said, for the Democrats on every bill there is the prospect of a conscience vote. But that includes all of the other bills we have to deal with. There are some very important bills to do with refugee issues that the Democrats are strongly concerned about. That legislation will not get proper consideration if we all sit here midnight after midnight, through into next week. For those who want to scuttle this legislation, it is quite reasonable to expect that they would do so. I have sat in on meetings before where we have tried to figure out a decent time line for this bill. People say that we will be able to deal with this in a certain length of time but, when it comes into the chamber, that does not happen.

So this is about enabling a democratic outcome, an approach where the majority who support the bill—and it is clear that the majority do—will be given the opportunity
to have that vote taken. This has been an open and free debate; it will continue to be an open and free debate. The amount of time that has been put into the committee stages of these two bills will add up to 32 hours once the final vote is taken. I believe that is about the second largest time frame for debate in the history of the Senate—far more time than that taken for the euthanasia laws, for example, which had a total debate time of under 18 hours. The total debate time for these two bills will be over 47 hours, plus the committee inquiry and over 38 hours of debate in the House of Representatives. Every issue that needs to be explored and considered in relation to this bill has been dealt with in this committee stage, and there will be ample opportunity for arguments to be put forward in the remaining time. We have another full day. We have until the middle of tomorrow. That is ample time, given the number of issues and the amount of information that is already on the table.

It is difficult to suggest any other reason why people would oppose this motion than that they oppose the bill and therefore are trying to prevent it from getting through. As I say, if people oppose the bill, that is fine, they can vote against it, but they should not prevent others who support the bill from being able to ensure that it goes through in an appropriate length of time after proper debate. This will enable all the other important pieces of legislation—which, from my perspective, in some respects deal with much more important life-and-death issues than this legislation—to get proper consideration. So it is about being responsible, it is about being democratic and it is about ensuring that we take our responsibilities properly as senators, that we do not just chew up time for the sake of it and that we do not contribute in an uninformed way to debates that have already had extensive examination by people with expert evidence.

This approach is one that the Democrats not only support but strongly endorse. There is a suggestion that, because it is a conscience vote bill, it should not be guillotined. I can understand the superficial attraction of that argument, but the view of the Democrats is that every bill before us is a potential conscience vote bill, so it makes no difference to us on this bill as opposed to any other. I recognise that this is a rare opportunity for others in the larger parties to actually exercise some of their brain cells and get their head around an important issue, and we have given them ample opportunity to do that. But this motion does not prevent them from exercising that conscience vote. That is the whole point. If it prevented them, if it somehow or other said, ‘No, you now have to vote the way we say,’ then there might be a point. But it does not curtail their exercising of that conscience vote; it does not curtail the opportunity for people to have their conscience informed, if they wish to do so. Of course, if people had really wished to do so, they would have participated in the committee inquiry stage of this legislation. Every senator was free and able to do that if they wished. All of us have had the opportunity to read the report. All of us have had the opportunity and will continue to have the opportunity to listen to the debate in the chamber as it continues through today and tomorrow. So people will have the opportunity not only to have their conscience vote but to make an informed conscience vote, and they will be far more informed than they would be if they were trying to listen to a debate that waffled on endlessly until midnight, night after night.

Nonetheless, the Democrats make the point, as always, that we should be sitting more often. I note in Senator Ludwig’s previous contribution that he expressed a similar view that we are not sitting often enough. That is something that we should explore as a Senate, because we do have a responsible and important job. The Democrats support this motion because we believe it is important for us to be responsible in the way we act in this chamber. We have a great privilege to serve here. We have a particularly major responsibility and requirement to ensure that we fulfil that job in a responsible manner, and that means enabling all senators to contribute to debate, enabling all senators when they are able to do so to vote according to their beliefs and enabling every piece of legislation to get the consideration that it deserves. Voting against this motion will prevent other legislation from getting the
consideration it deserves and will clearly be an attempt by those who oppose the bill to scuttle what is, in the Democrats’ view, an important piece of legislation. It contains some significant scientific advances that Australia should be getting behind rather than trying to scuttle. So we support this motion. (Time expired)

Senator HARRADINE (Tasmania) (10.42 a.m.)—Senator Bartlett’s comments are a serious reflection on senators who strongly oppose the guillotining of a measure for which a conscience vote has been allowed. In all the 27 or 28 years that I have been here, I cannot recall one instance when that has occurred. The cut-off motion for the Research Involving Embryos Bill 2002 sets a precedent by the government, with the support of the Australian Democrats. Senator Bartlett has got up here and reflected upon the intention of those who will vote against this guillotine motion. Senator Bartlett’s comments were a reflection on Senator Brown. That was an improper reflection, because Senator Brown has taken a keen interest in the debate on this bill. I would have thought that the Democrats would uphold the importance of a conscience vote, but no, they do not. In fact, they voted against an amendment of mine which would have given effective protection for those who have a conscientious objection to working in relation to embryonic stem cells. So workers and students were not properly protected in that regard by the vote of the Democrats. That is all it needed; it was a close vote.

I am not going to take my full time, as Senator Bartlett did; I am just going to raise a couple of questions with Senator Ian Campbell. I notice that by, I think, five o’clock we need to have completed divisions 1, 2 and 3 of part 2. Clause 19 is the last provision relating to those matters. I notice that some of the amendments which fall within that area are listed right at the back of the running sheet. Perhaps they should come up in order to ensure that they are dealt with in that particular period of time. If you have a look at the last page of the running sheet, perhaps we could get the amendments to clause 12 up in the order a bit. They could then be dealt with as from now so that they fall within those areas. Possibly we can keep on with these discussions at a later stage. I do not want to eat into the time that is set for this discussion.

Senator LUDWIG (Queensland) (10.47 a.m.)—The opposition will not be supporting the urgency motion. The reason for that—and I think it is worth articulating this—is that we have a unique period in this sitting of parliament where we have a conscience vote on this legislation. I will not be taking my full 10 minutes; I will be relatively brief. The opposition will not use the procedural motions they have at their disposal to forestall the vote on this motion. Our position is clear: we will not be supporting the guillotine in this instance. As Senator Harradine has in part mentioned—and it is worth while reiterating this—the usual course of events would be for the committee stage to continue until its completion. With the cooperation of senators, my view is that that would have been completed some time this week.

There is no pressure on the legislative program that would require this bill to be declared an urgent bill and a motion such as this to be put in place at this time. We are still in the penultimate week of the sitting period—we are not in the last week. Bills do need to be dealt with in these last two weeks. Essential bills do get dealt with, with due consideration and appropriately, by this house. The use of this device should not be abused. It should not be used to deal with legislation in the committee stage in a way that has been enjoined by all the senators here. It seems to me that there is no pressure to require such a motion before us. Without wishing to take up any more of the time which would otherwise be devoted to the committee stage of this bill, we reiterate our opposition to this motion.

Senator JACINTA COLLINS (Victoria) (10.50 a.m.)—There are two issues that I want to briefly address, and I have just briefed informally with Senator Ian Campbell. I take the point he made earlier that there is some level of flexibility to ensure timeliness in this debate. Some issues have already been deferred because they relate to a cluster of issues that can be dealt with all at one time, following the report of the Stand-
ing Committee for the Scrutiny of Bills that we are anticipating being tabled around four o’clock this afternoon. There may be some limitations to take account of that report before five o’clock this afternoon, so I forewarn that that is a likely issue in relation to the timeliness. The issues around a proposed regulation in regard to the Research Involving Embryos Bill 2002 relate to clauses 8, 11 and 21. My suggestion would be that we deal with them together in looking at the issues around clause 21, and deal with them once, so that we are not duplicating the arguments. That has been the justification for deferring those issues in the debate so far. I should say that I have got Senator Ian Campbell’s assurance that that flexibility is what he was envisaging when he said that there would be the ability to be flexible around those issues.

The other issue I wanted to address follows on from Senator Bartlett’s comments about the debate. I can appreciate that someone who is not intimately involved in this debate might have a perception about it taking up excessive time. I could agree, for instance, that the debate we had yesterday on Senator Harradine’s amendment (3) stayed around that particular amendment for quite a considerable period of time. However, that debate was in fact dealing with a series of amendments. The debate related to at least the next half-dozen amendments, and once the debate occurred around one amendment the committee moved very quickly through the next half-dozen or so.

This is the second time the issue has been raised that there are attempts to scuttle this debate. I have not heard them directed to me personally, but I find those comments quite offensive. I do not believe that the character of this debate in committee has been of that nature. Unlike the debate in the House of Representatives—where there was no realistic prospect of, if not all, of the amendments being carried—in this case anyone looking at the running sheet will see that we are considering serious issues related to the character of the regime to be established.

The question that has been addressed by most of the amendments is that COAG had promised that there would be a strict regulatory regime. This issue was addressed by the Senate Community Affairs Legislation Committee. Various recommendations were raised in the various Senate committee reports, and this committee has been addressing them quite seriously in a series of amendments. Some of those amendments have succeeded, some of them have failed—in some cases they have been very close failures—and some matters have been resolved by agreement. This is how the Senate committee process works. I understand why for some people the amount of time that might be involved is frustrating, particularly if they are not intimately involved in the debate. But there has been concrete work occurring in this committee process, and I find obnoxious any suggestion that the time being taken to do this is simply an attempt to scuttle the bill and I do not think it in any sense accurately reflects the work that has been going on in this committee.

Question agreed to.

In Committee

Consideration resumed from 3 December.

The CHAIRMAN—The committee is considering the Research Involving Embryos Bill 2002, as amended. We are working from running sheet revised No. 7. The running sheet has been rearranged so that all postponed and deferred amendments now appear towards the end. We are at the top of page 5 of the running sheet. I call upon Senator Harradine to, by leave, move together amendments (8), (9) and (12) on sheet 2696.

Senator HARRADINE (Tasmania) (10.55 a.m.)—Chair, can I go instead to one of the postponed amendments. I indicated when I rose before that this may be the way to proceed to ensure that those amendments which relate to clause 12 are moved. I would like to move amendment (5) on sheet 2751 revised. The proposal relates to labelling.

The TEMPORARY CHAIRMAN (Senator Jacinta Collins)—For the benefit of the committee, this is the first amendment on page 8 of the running sheet. Senator Harradine, do you wish to now deal with your amendment (5), which you deferred earlier in the debate?

Senator HARRADINE—Yes.
The TEMPORARY CHAIRMAN—Is it the wish of the committee to proceed this way? There being no objection, we will move to Senator Harradine’s amendment (5) on sheet 2751 revised.

Senator HARRADINE—Thank you. I move amendment (5) on sheet 2751 revised:

(5) Page 11 (after line 5), at the end of Division 2, add:

12D Offence—failure to label products developed from human embryos, human embryonic stem cells etc.

1. A person commits an offence if the person uses:
   (a) human embryos; or
   (b) human embryonic stem cells;
   in, or in the testing, creation or manufacture of, any pharmaceutical or cosmetic product and does not label the product in accordance with subsection (2).
   Maximum penalty: $10,000 for a body corporate or $2,000 in other cases.

2. Where a person uses human embryos or human embryonic stem cells in, or in the testing, creation or manufacture of, any pharmaceutical or cosmetic product, the product must be prominently labelled as having been tested on human embryos or human embryonic stem cells.

3. The regulations may make further provisions for labelling in accordance with this section.

This amendment is to insert a new 12D, an offence of failure to label products developed from human embryos, human embryonic stem cells et cetera. That amendment has been circulated and I have written to honourable senators about it and provided certain background to it. The immediate background to it is a decision last night—a very close decision—by this committee to reject an amendment which was to ban the testing of drugs on human embryos and human embryonic stem cells. This amendment provides for the labelling of products which use human embryos or human embryonic stem cells in the testing, creation or manufacture of any pharmaceutical or cosmetic products. Citizens who conscientiously oppose destructive research on embryos should have the right to easily identify drug products created by this research. What is needed is a system of clear product identification. Customers are best placed to know what they morally object to. Whilst it is their responsibility to inform themselves as to whether they would be acting in what they would consider to be a morally complicit way by consuming a product, they need proper labelling to make that informed choice.

Individuals are certainly not in a position to know what has been involved in the production of drugs, and their capacity to find out is limited, particularly if manufacturers refused to disclose this information. The only way for individuals to protect themselves from inadvertently using a product with which they have an ethical problem is for manufacturers to disclose in a way that is accessible to all potential consumers what in fact was involved in its manufacture.

Many people consider some practices so deeply wrong that it would be devastating for them to consume products manufactured under such practices and to contribute to the financial benefit of the manufacturer as well as to the product’s continued production. ‘Not tested on animals’ is considered an important label on cosmetics by those who have ethical objections to animal experimentation. It is therefore appropriate that similar labelling appears on drugs. Products are labelled because of the consumer’s right to know and the need to provide warnings about health risks, and for cultural, ethical and religious reasons.

Let us take the first point: the consumer’s right to know. Consumers may simply want to know more about a product. They may wish to choose to purchase a product that complies with health, environmental, religious, ethical or political values. These values may be regulated or controlled in some way by government. The Trade Practices Act has provisions to deal with false and misleading advertising. Some consumers want to know the fat content of foods, and there is provision for this in Australian labelling regulations. Consumers with sensitivities to certain additives require that additives in products are listed on food labels. Those with envi-
Ronmental concerns may wish to know that a food has been produced organically. This is not regulated for at a national level as such, but the Commonwealth has been a party to accreditation discussions in order to facilitate trade with overseas countries, especially those in the EU. The development of logos for organic foods that comply with production specifications is another approach.

A well-known recent example is, of course, the labelling of GM foods. The health ministers made it clear that the decision to label GM foods was driven neither by concerns about health and environmental risks nor by concerns about damage to our food export trade. The ministers made the decision on consumer rights grounds. The media briefing paper stated:

“This decision was taken so that consumers could be provided with the information necessary to make informed choices. If they can do it for that, they can do it for this. In regard to the health risks, the obvious example is health warnings on cigarette packs. Regulatory passage for warnings about allergens on food labels demonstrates difficulties in achieving mandatory labelling for confirmed health risks. It is only relatively recently that Food Standards Australia New Zealand extended mandatory warning labels to a limited range of allergens. Lobby groups are still pressing for additional warning labels for MSG, for example, and a number of other additives which I will not go into. Food Standards Australia New Zealand’s arguments against using warning labels for various substances in foods include that too much information on a label will confuse the consumer, that only a small percentage of people are affected by the issue and that there is not enough scientific evidence.

Cultural, ethical and religious concerns are additional issues. The Australian food standard governing GM food labelling specifies that additional GM labelling is required where food carries ethical, cultural or religious concerns. If pharmaceutical manufacturers are to be good corporate citizens, then they will need to be responsive to community members’ interests in knowing what they are consuming, including what ethically contentious practices their consumption may make them morally complicit in.

This is a very important matter, and it is of great concern to quite a large number of people. I have just touched the surface. I have been asking questions around the place. If human embryos or human embryonic stem cells are used to test drugs—as permitted by this bill—or, indeed, are used in some way in the manufacture of drugs, then the consumer ought to know. Great concern is expressed by quite a number of people when this matter is raised. This matter was rarely raised during the debate, because people did not know about it. People did not know that this legislation enables human embryos and human embryonic stem cells to be used in drug-testing and drug-manufacturing processes.

Last night I quoted the chief executive officer of an embryonic stem cell scientific organisation. He said that he cannot wait to get his hands on the stem cells to develop these particular research programs. It is in the Hansard from last night, so I am not going through it again now. I ask honourable senators to consider that matter carefully. Having very narrowly lost the attempt last night to prevent drugs from being tested on human embryos and human embryonic stem cells, I now believe it is mandatory for this parliament to come clean and to require this information to be provided to persons utilising those drugs.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (11.07 a.m.)—I cannot see any reason why this amendment would not be supported by every member of this chamber. If we sell a packet of peanuts, the labelling shows the salt content, the potassium content and every other content—and that is legal. In fact, it is illegal not to do so. If we do decide not to label products developed from human embryos, I wonder whether the ACCC would investigate it with regard to truth in labelling. The Greens and the Democrats pride themselves on openness, particularly with regard to openness on labelling and complete information that should be available to the purchasers.
I can see absolutely nothing that would prevent any member of parliament voting for this amendment. If you buy a bottle of tomato sauce or a packet of anything it is required to be labelled. There are many people in this community of Australia who find that absolutely repugnant. You can find them in the charismatic churches, the Church of Christ, the Baptist Church and the Catholic Church, and those people have moral objections to this. On the other side, you have people such as those Senator Brown represents. They do not want genetically modified food and fight very strenuously to oppose it. That is not a view that Senator Brown and I share, but we do share the values of requiring a product to be labelled.

The National Party support genetically modified food—we think it is good for a number of reasons which I will not go into now—but we feel that genetically modified products should be labelled. At least we respect the rights of people who do not share our views to be able to make an informed decision. Even though we think that genetically modified food can solve a lot of problems—food shortages and a number of other issues—we respect the right of people to know what they are buying.

There are many people who have a moral and ethical view that this is wrong, and they are not all to be found in the more conservative churches. A great many of them who have no moral or ethical objections object on ordinary grounds—cures were promised and they supported that, but now we are getting down to the commercialisation of it. I do not think many Australians would support the commercialisation of human embryos. But even the fair-minded who do so would say that everyone has a right to know what they are buying. I will be listening to the minister and to Senator Stott Despoja. I think that if Senator Stott Despoja is not with us on this she will have a great deal of trouble explaining—

Senator Stott Despoja—On a point of order: Ron, you talk about your thing; don’t anticipate what I am going to say.

Senator BOWELL—I should not anticipate what Senator Stott Despoja is going to say, and I apologise to Senator Stott Despoja. I always find her a pleasant person, although we do not have very many similar views. I have just been given an ESI flyer—like you would sell spaghetti or something else. It is titled, ‘The complete human embryonic stem cell solution’ and has the subheadings ‘Total package’, ‘Quality’ and ‘Training and support’. ES Cell International are not ashamed of what they are doing. They are going out and promoting it. And why shouldn’t they? They should if that is their view. They say:

Researchers are provided with a comprehensive package of material which includes detailed scientific protocols, and essential hES cell reagents, including qualified feeder cells.

ES Cell International can transport its hES cell lines anywhere in the world, and will assist researchers in obtaining the required import permits.

If you are prepared to go out there and put your name on a product, sell the qualities of that product and believe in the product, then you should not have any objection to labelling that product and telling the people what it has been made of, how it has been tested and so forth. I cannot, for the life of me, see that there would be any person who could reasonably object to an amendment on labelling. I have a similar amendment. I not sure whether it crosses over with Senator Harradine’s, but I will certainly be supporting his amendment.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (11.14 a.m.)—I will not be supporting Senator Harradine’s amendment requiring labelling of pharmaceutical or cosmetic products developed from, or tested on, human embryos or human embryonic stem cells. Leaving aside the objective of the amendment, which is outside the scope of the Research Involving Embryos Bill 2002, I would have to oppose it purely on the practical grounds of its being impossible to implement as described.

I listened to Senator Harradine and Senator Boswell. I can understand the motives for doing this for people who have a philosophical objection to the use of embryos or embryo products to the end of some therapeutic benefit, and I have actually said here that people who oppose the bill ought, in all hon-
esty, to oppose accepting any therapeutic treatment arising from the outcome of the bill. That would be consistent with the position. I can therefore understand why Senator Harradine and other people would be arguing this case.

Senator Harradine used the example of warnings on cigarette packets. I think all of us who feel that smoking creates a burden on health care support warnings indicating that people are likely to suffer life-threatening illnesses. He mentioned that. But that labelling was not done under the Tobacco Advertising Prohibition Act. In recognition of the complexity, and because it was not within the scope of the Tobacco Advertising Prohibition Bill at the time, that was more appropriately done under the Trade Practices Act. It did not occur within the Tobacco Advertising Prohibition Act.

The other point I make is that some people have a moral objection to animals being involved in any testing, even in the production of pharmaceuticals. There is no legislation to require that for pharmaceuticals for which, at some stage in their development—and it could be 20 years back in research—the intellectual know-how was developed out of work on animals. Those people might feel just as strongly as people here arguing about the possibility of embryos having been used in the—

Senator Harradine—But this bill is not about animals.

Senator PATTERSON—I know this bill is not about animals, Senator Harradine. I have been in this chamber for 2½ or three days and I have really understood that this is not about animals. I might not be very bright, but I understand that.

Senator Harradine—What are you talking about then?

Senator PATTERSON—You were talking about smoking. This is what I find really difficult. I do not interrupt you when I think you have gone off the track, but it is all very well when I am developing an argument for you to question my argument. I am saying that we are possibly requiring a task which would be nigh on impossible: to go back through all the permutations of the development of a medication—and, as I said, some medications we take now may have been tested on animals way back—and even to trace how far back animals were used to develop the intellectual know-how that led to the development of that medication. Where do you draw the line?

We do have people voluntarily labelling for commercial purposes. They make a choice that they will label to say that food is kosher or halal in the way it is prepared, or that various products are not tested on animals. To require it—to make it mandatory—is an exercise which would put a burden on those who are developing therapeutic products in the future, especially if it carries a penalty—in the way it does in Senator Harradine’s amendment—that is onerous in the extreme. But, if the argument is to be had, this is not the appropriate bill—for the same reason that the issue of labelling for cigarettes was done under the Trade Practices Act and not the Tobacco Advertising Prohibition Act. We do have requirements for pharmaceuticals and for food under different acts; but this is about the testing of embryos, not about the manufacture of pharmaceuticals. As I said, it is outside the scope of this bill and for that reason I will not be supporting the amendment.

Senator BARNETT (Tasmania) (11.20 a.m.)—I have been listening carefully to the arguments put by Senator Harradine and Senator Boswell and the response from the Minister for Health and Ageing and, quite honestly, I am none the wiser as to the arguments why we cannot support Senator Harradine’s amendment. I have listened to the minister’s comments, particularly the thrust of the argument—that it is outside the scope of the Research Involving Embryos Bill 2002. This is new ground. We are developing and preparing a legislative and regulatory regime for human embryo stem cell research and the testing of drugs on human embryos, and the debate this morning has confirmed for me 100 per cent that the door is wide open to drug testing on human embryos. That saddens my heart, as I think it will the hearts of many Australians.

It concerns me that we have had some discussion about an acceptance that we have
labelling laws in this country. Of course we do. We have labelling laws for food, for drugs and for other products. Here we are establishing a regime for the testing of drugs on human embryos or human embryo stem cells, and we want to put labels on those drugs that might benefit from such testing. There has been the example of smoking and cigarettes. We all know there are labels on cigarette packets in this country. Whether it is as part of the Tobacco Advertising Prohibition Act or whether it is via an amendment to the Trade Practices Act, the fact is that there is a label. There is a warning. It is there—it happens. So the argument in opposition to Senator Harradine’s amendment is simply not convincing.

The minister’s argument that it is impossible to go back and it is all going to be too cumbersome for the drug companies and whoever is in diametrical opposition to the arguments put yesterday that we have a very rigorous reporting regime under clause 29 of the bill, which says there has to be a database made available for the public that sets out the type of research that is undertaken under the operation of the act. Let us look at clause 29, which says:

(1) The NHMRC Licensing Committee must maintain a database containing the following information in relation to each licence (including a licence as varied):
   (a) the name of the person to whom the licence was issued;
   (b) a short statement about the nature of the uses of excess ART embryos that are authorised by the licence;
   (c) any conditions to which the licence is subject;
   (d) the number of excess ART embryos in respect of which use is authorised by the licence;
   (e) the date on which the licence was issued;
   (f) the period throughout which the licence is to remain in force.
(2) The database is to be made publicly available.

We wanted to improve and expand on that. That is the effort I made with my amendment yesterday: to expand on that database and the reporting process. But the minister is saying, ‘It is too hard to go back and find out about exactly the types of procedures that were undertaken or the drug testing that was done on the human embryo or human embryo stem cell.’ If the reporting procedures are adequate and rigorous, as put forward by the minister and those who are the proponents of this bill, surely the information would be available. Surely it is not that difficult to do.

In this country we have labelling for food, for drugs and for cigarettes. Why can’t we have labelling for drugs which, in the process of the manufacture or testing of those drugs, use human embryos or human embryo stem cells? Why not? It is not that difficult to do. I simply do not accept the argument of it being onerous or a rigorous and difficult process. There is no merit in that argument.

Let us use a couple of examples. One that I am particularly interested in is the Red Bull soft drink. It has a label on it that says it is not suitable for children, pregnant women or for people with diabetes. It is in small print, and I have a concern about the fact that it is so small that people are not able to see it and about the fact that it is freely available to children, people with diabetes and pregnant women—it is very easy to obtain. Nevertheless, there is a label because of the guarana, the caffeine, in the drink. The same applies to the Viking chocolate bar. It does have an impact. It should not be freely available to children and people with diabetes, because it can have health effects on those people; nevertheless, even for those drink products, there are labels. And here we are talking about human embryos. As I have said many times, each one of us was once a human embryo. We are talking about testing on a human embryo or a human embryo stem cell.

Senator Harradine made the helpful contribution about the recent changes to the labelling laws in New Zealand with respect to tobacco products and MSG—that they must be clearly notified in the labelling. We have labelling laws in this country and my understanding, from memory, is that they are soon to be upgraded—in December this year, I think—in terms of the rigorous nature of that labelling regime. That is good; we need a rigorous labelling regime. The whole thrust of this is a full, open and transparent process in terms of the consumers’ right to know. That has been discussed in this debate al-
ready. Why shouldn’t consumers know that there has been testing of these drugs on a human embryo? Of course they should know that. As far as it being difficult information to obtain, I simply do not go along with that—it is not valid. There is no valid argument against the amendment. All the arguments are for it. I have heard the minister’s points and I do not accept them. I urge senators to think through this particular amendment very carefully and to support it.

Senator McGAURAN (Victoria) (11.27 a.m.)—I also support this amendment. I have been listening to the debate. It is actually the first time, other than on the second reading, that I have spoken on this issue, but I am prompted to because of the absolute reasonableness of the amendment—in fact, the rightness of the amendment. I think we should come back to the touchstone that we began with on this legislation and the amendments. It is very rare for this parliament to initiate a conscience vote, as we all know. When we are released from our party disciplines and we are on our own with our conscience, we see some of the great moments and great times in the parliament. The last time was in 1997 for the euthanasia debate, and I would consider that one of the finest, most stimulating debates—not results—in the parliament. This is no different; it is just as crucial in its presentation. That is the significance of it.

We came in with a single-purpose piece of legislation. We all understood, when we came into this parliament, that we were in fact debating, as it is titled, the Research Involving Embryos Bill 2002—although some of us would call it the ‘Research Involving Human Embryos Bill’. That was the single intent. We all came in with good conscience and we were going to vote according to our conscience. The bill was supported on its second reading. For those who in conscience supported the bill on its second reading, their reasons were the great hopes and the great possibilities they believed were within this bill—the fact that human embryo stem cells could bring breakthroughs. Cures in the area of spinal cord injuries were the greatest ones that were presented, but they were presented in a whole lot of other areas, including diabetes and brain tumours. In conscience, they thought the possibilities were endless; therefore, the bill was accepted and passed. Those of us who did not support the basic single issue that was encapsulated in this bill believed that it was a false hope and that there were alternatives in human adult stem cells. Of course many, including myself, believed that in fact we were dealing with human life and its existence.

So that is what we began with and that is how the debate should really end—it should begin and end there. I do not think it escaped everyone, because we had 72 of the 76 senators here last night: most people stayed around late last night to vote on what was an absolutely critical amendment to the bill. What that amendment attempted to do was place a ban on pharmaceutical testing. It failed, just failed. My point about last night’s amendment failing is that what began as a single conscience issue has changed. The line has now shifted. We voted for almost a second bill, you might say. The line has now shifted to a second conscience vote. What began as possibilities of human embryo stem cell breakthrough medical cures has now moved to a point where, in essence, as far as I heard the debate last night, there is a second element to this bill. The second element is that under the law as it stands there can now be pharmaceutical testing on those embryos. Last night we had a conscience vote for the second time. The line has moved.

This amendment is simply asking, as you have heard in the debate, for those who could not accept in conscience the initial purpose of the bill and for those who could not accept last night’s failure of the amendment, that at least the Senate have labelling upon those products. It is infinitely necessary and reasonable—in fact, it is a right. It is not undermining the consciences of those who initially supported the bill. In fact, it is not even undermining the consciences of those who supported yesterday’s amendment, which I would call the second bill. As the other speakers have said, where is the argument? There is already necessary labelling on pharmaceutical goods, on food, on cosmetics—it is there on all manufactured goods. Consider a product on which human embryo
stems have been used. I do not understand the science of it, but would it be on the first case, second case or third case? No matter how far down the line that stem cell product has been used or experimented upon, consider those who in conscience are against such experimentation, and to a far deeper and greater level than people are against animal testing. There are people who, in conscience, are against that. But this goes one step deeper, I am sure of it. Consider the fact that they will be using that product uninforme. Give them the choice—that is all. Just give them the choice.

I appeal to the chamber. I appeal to the small ‘l’ liberals—I hate to use those words, which cover both sides of the chamber. If only I could think of another term. I appeal to those for the human rights aspect to implement choice in this legislation—nothing more, nothing less. The initial purpose of this bill is in no way undermined. You are simply more, nothing less. The initial purpose of this bill is in no way undermined. You are simply giving choice and consumer information—a basic right—nothing more, nothing less. It is a cliche—and so often we hear it in this chamber on so many other issues—to say, ‘If you don’t like it, don’t use it. Turn it off if you don’t want it.’ This choice is denied. This choice is denied to those who want nothing to do with or at least want to be informed in regard to products that have any connection at all with human embryo stem cells. As I say, it is a basic right for those who in conscience did not support the amendment last night, those who in conscience did not support the bill and, quite frankly, even those who in conscience supported the initial purpose of the bill. I cannot see your objection against this. Why wouldn’t you concede to consumer information? It is not too hard. I ask Senator Harradine to inform the Senate if this is true: apparently, within the amendment, the labelling would be inside the packet.

**Senator Harradine**—It can be.

**Senator McGauran**—It can be inside the packet on the script paper. This is not some cigarette advertising where it is stamped on the front cover: ‘Human embryos used here.’ No, it is for those with a nature of concern about this issue to ask the doctor, which they could, but the doctor of course would not know unless it is labelled and he has seen the product. But if it is labelled somewhere, outside or inside—modestly even—it introduces a choice for those who in conscience stand seriously against this. So I urge the Senate to consider this amendment and to support this amendment. It in no way undermines the initial vote. In fact, it is a slap in the face. It is saying, ‘There is more to this than when we first started off.’ We are already, before it even leaves the Senate, moving the line—something we have been warning against. This will at least show the bona fides of the initial conscience vote.

**Senator Jacinta Collins** (Victoria) (11.37 a.m.)—I thank Senator Patterson for acknowledging that perhaps in part the genesis of this amendment was her own comments to the effect that if people had such a strong objection to the use of embryos in this sort of work it would be interesting to see whether they maintained that objection once treatments were developed or related to the destruction of human embryos.

I support this amendment quite strongly because that is essentially the basis of my view. I take strong moral exception to our taking this step of utilising human life. It is a very utilitarian approach and a very dangerous approach. It is likely to have significant implications in the future and it is a step that we should not have taken. I am quite happy to face that challenge in the future. I am quite happy to be able to deal with the issue in the future as to whether I access treatment related to this type of research.

But the problem is that Senator Patterson’s response now to this amendment is to say, ‘Yes, I can accept that I did issue that challenge earlier on in the piece, but it’s going to be all too difficult to hold you to the challenge. It’s just all too difficult to do.’ I find that very difficult to accept. Senator Patterson. You have argued against Senator Harradine’s comments that this is not quite the same as smoking, and I agree with you on that point. I think the better analogy—even though it involves voluntary labelling—is probably the dolphin-free tuna example. People who have problems with consuming tuna that involves harming dolphins want to
see tuna cans labelled to indicate that point so that they will not consume that tuna. This is much the same point.

What we are doing here is establishing a regime for research on embryos, and this is where I do not think your argument that we should do this elsewhere, perhaps under trade practices legislation or the like, holds up either. If we are establishing a regime for research on embryos, then let us make sure that the information stays with it. Let us make sure that it is not too complicated in the future to be able to say, ‘This research involved the use of human embryos.’ Because, if we do not do it now, then you are right: perhaps we never will be able to do it. But if we do it now and, as Senator Harradine is suggesting, make it a requirement of the licensing process that the participants in this process ensure that if it does involve the destruction of human embryos then that information is available for the community as a whole, then it will happen. Then, Senator Patterson, you will in the future be able to hold me to your challenge. We are asking you to be able to do that.

With respect, the reasons that you have come up with as to why it is so difficult and complicated to do it do not stand up. If we require it now in the regime, that information will be available in the future. If we do it as part of the licensing process, that information will be available in the future. If we put it off onto trade practices or just say, ‘It’s all too hard,’ then of course the ethical perspective which is in my view much akin to this third-way ethical perspective—which is really more ethical fudginess—is what prevails in our community. I do not want to be fudgy on this, Senator Patterson. I want you to be able to hold me to my view in the future, which is that I find it quite abhorrent to start tampering with human life for the potential benefit of the community as a whole.

I did not make this contribution in last night’s debate, which went on for a very long time, as to where we are heading on this and whether we should perhaps just restrict this research to the extraction of stem cells. I want to take this moment to refer to an article from New Scientist that Senator Patterson herself referred me to, because I think this best emphasises the point. Here is an example of where some progress may be likely in the future in relation to stem cell work—that is, with animals, or cows, in this case. The article reads:

They ... injected blood-forming stem cells (which also give rise to immune cells) from the cloned fetuses back into the cows. One cow had its immune systems suppressed with drugs. They have had some success in this research. But the critical aspect of this research involving cloned cows is that the blood cells injected into the cows came from 100-day-old cloned foetuses. It was not possible to succeed with this research otherwise because for the cells that needed to be extracted—from the liver, I think—you needed the cloned foetuses to develop to the 100-day-old stage. The article in New Scientist goes on to say:

There is no question of allowing human cloned embryos to grow to that stage to harvest stem cells, but Lanza says ACT—which is Advanced Cell Technology—and others are trying to derive blood stem cells directly from embryonic ones.

But there is the question of what happens when we fail to get stem cells from embryonic ones or when elsewhere in the world, where we have more liberal regimes on cloning, we are able to look at examples where perhaps the argument becomes, ‘If we could just let a human clone be developed beyond 14 days to, let’s say, 20 days, we could have a liver that was advanced enough for us to be able to extract these cells, and it would have such a significant advance in relation to problems associated with immune deficiency.’

Where are we then? Are we then contemplating, or elsewhere in the world are they contemplating, that cloned human embryos be allowed to develop beyond this 14 days? This is why I am also not convinced about the 14 days issue in this bill. Those who say that the slippery slope argument has no validity simply do not understand what is happening in science here, and those who do not have a firm view in their mind about what are appropriate limits in this issue also do not understand.
For those who say things like, ‘If you are opposed to using humans under a utilitarian type perspective, for the common good, for research, then don’t use it yourself in the future,’ this is their chance to hold us to that. I must say I am surprised that Senator Patterson has not struggled further against the advice she is receiving and found some way of enabling the likes of me, Senator Harradine and a broad range of people to be able to say in the future, ‘This is why we found this problematic; this is why we never wanted to go down that path ourselves; this is why we have not accepted the results of that research ourselves.’ I want to be able to meet that challenge, Senator Patterson, and I am very disappointed that the government is not allowing us to be able to do that in the future.

Senator STOTT DESPOJA (South Australia) (11.46 a.m.)—So that we can assist the determination of numbers, I will not be talking, unless necessary to talk, for more than five minutes on amendments from now on, but Senator Boswell kindly invited me to give my views. I will not be supporting the amendment.

In relation to labelling generally, I think my stance and that of the Democrats is well known. We have not advocated the labelling of products or organisms, whether they be GMOs or tobacco, in ways that are unsuitable to the legislation, but certainly we have been strong proponents of labelling. I use the example that has been brought up by others, and that is why I repeat it. I think the Democrats were calling for the labelling of genetically modified foods from 1994 onwards. That labelling debate did not take place during the Gene Technology Bill; it took place in the ANZFA legislative debate, and that was the right place.

In the same way that we talk about smoking and other health warnings, I think the Therapeutic Goods Act is the place for that debate. I do not think this is the appropriate vehicle in relation to the legislation, and I do not know if the amendment deals with some of the specifics required. Is the labelling meant to include components of the product as well as the finished product? When manufacturers buy components to make their products, and of course they can have several hundred such components, will they be able to access the sort of information that the amendment requires? How exactly should information be detailed on this label? What sort of label exactly is required? I do not think those issues are dealt with adequately. While I think people in the chamber have some sympathy for the notion of labelling, we should get it right through the TGA and other legislation.

Senator STOTT DESPOJA—Chair, I was asked to make comment; I will leave my comments there. We will not be supporting the amendment.

Senator Boswell interjecting—

Senator STOTT DESPOJA—I think it is very frustrating to make contributions, when we are all trying to be quiet and judicious to ensure that the debate proceeds quickly, and have to deal with interjections, whether they are about your comments or not. I think there are opportunities for the government to explore this issue through other legislation. I would put on the record, too, that there has been a lot of debate—and I am not going to reflect on a vote of the Senate, as has been done—but in relation to the pharmaceuticals issue and drug testing, let us not forget that in our society there are drug trials, whether or not people have conscience views on those particular issues. I think some people would go so far as to suggest that drugs are actually tested on humans in this day and age already, whether that is an appropriate thing or not.

We are talking about this as if we are breaking new ground in relation to humans and drug testing. Obviously we are breaking new ground in other ways, and I acknowledge that, but this is not the place; the amendment is not specific enough; I think it is a good point and that it is designed for most people to react to it in a way that says, ‘Yes, this is reasonable, this is good; this is an amendment with which I can have sympathy.’ But this legislation is not the right place, and the amendment is not sufficiently detailed as to answer some of the outstanding questions that there would be from medical
practitioners, people in the community, a range of agencies and, of course, scientists.

The TEMPORARY CHAIRMAN (Senator Cherry)—Before I call the next speaker, I would encourage senators not to interject upon speakers, particularly when they are not sitting in their chairs. I would also remind senators that we are trying to keep this debate within constrained time limits.

Senator BROWN (Tasmania) (11.50 a.m.)—I very strongly support this amendment. The issue of labelling is extraordinarily important. I mentioned it last night and I will say it again: we are having a conscience vote. I think we, whatever our conscience is here, have the freedom to exercise that vote, which is a difficult one, but we must extend the same privilege to all Australians. That means that people who have objections to the use of embryonic stem cells for the development of pharmaceuticals or indeed cosmetics have a right to know when they go to their chemist or other shop to get those goods that they are free from testing on embryonic stem cells. That is what this amendment does.

Senator Stott Despoja has said that it does not cross the t’s and dot the i’s. We have a responsibility to see that it does if there is some shortcoming and not simply to say, ‘It’s inadequate; therefore, we don’t have any such regime.’ I think this is a very crucial amendment. It is about consumers’ right to know. It is a very deep ethical matter that consumers should be informed about. There has been a debate in the last week about consumers’ right to not be told they are getting low fat foods if in fact there is more than three per cent fat in what it is that they are buying, and we are regulating to ensure that is the case. People have a right to know the level of fat content that is in the food they eat, but who could say that they do not also have a right to know if there has been testing on embryonic stem cells in the development of the pharmaceuticals or the cosmetics they are about to buy? I remind members that last night this chamber voted against a move to prohibit testing not just on pharmaceuticals but also on cosmetics as far as embryonic stem cells are concerned.

Whatever we might think on this divide about the ethical nature of using stem cells for experimentation, I see a strong argument here that everybody in the Australian community also has their right to conscience. This amendment is about the right of everybody to conscience. I appeal to people who are strongly in favour of this legislation and who have few qualms, or perhaps no qualms, about testing on embryonic stem cells for pharmaceuticals to recognise that other people do have qualms and that it is their basic right to be informed. That is absolutely critical. There is some analogy with the famous French seer’s observation: ‘I might totally disagree with you, but I will defend your right to your opinion to the death.’ This is a very critical, deep-seated ethical matter, and we must not deny other Australians, as purchasers of products, their right to not be involved in the experimentation process on embryonic stem cells. They have a right to have those products labelled, and they have a right to be informed. The amendment of Senator Harradine’s should be supported for that reason.

Senator JACINTA COLLINS (Victoria) (11.54 a.m.)—I would like to pick up on a couple of Senator Stott Despoja’s comments, because we might have an analogous issue with the Prohibition of Human Cloning Bill 2002 that could resolve this issue. On that occasion, when it was argued that this was not the bill to deal with this issue, the government went away and said, ‘Yes. We acknowledge there is a problem here, and we are prepared to do it through Customs regulation.’ The point that Senator Stott Despoja made here is that the therapeutic goods process is probably the more appropriate way to deal with this, and she quite rightly made a number of points about detail that were relevant to how best to ensure that information related to the product would be available.

I do not see any reason why in this matter, especially given Senator Patterson’s comments about this not being the place to do it, the government could not give us an assurance that this information could be ensured to stay within the system through the therapeutic goods process. I would have thought that would be a fairly straightforward
way to resolve this issue—a way consistent with Senator Patterson’s earlier comments, ‘If you have such moral standards, let’s see you maintain them into the future.’ All we are asking for is that that information be maintained into the future so that we can be held to our position. If this is not the appropriate place to do it, let us do it through the therapeutic goods process. I thank Senator Stott Despoja for her advice.

Senator CHRIS EVANS (Western Australia)  (11.55 a.m.)—On behalf of the Australian Labor Party, I indicate that our formal position on this amendment of Senator Harradine’s is that we will not be supporting it, largely on practical grounds. Anyone of us who has had dealings with labelling issues would know that comments about the simplicity of it all, in particular Senator Barnett’s comments, are totally misplaced. We all remember the great debate about whether something was ‘Australian Made’, ‘Made in Australia’ or ‘Made from products grown in Australia’. We have tortured ourselves over that for years, as we have tried to work out the best way of accurately labelling goods. These issues are not simple; they are not easily resolved. That is not to say that they are not worth following up, and I accept there may be an argument for us to find some way of ensuring that those people who are aware of those issues and want products labelled are able to be satisfied. I do not have any difficulty with that principle.

In this attempt by the parliament to bring national regulation to the Research Involving Embryos Bill 2002, to regulate on a national basis this area for the first time and to bring under national law research that has already been occurring, we have been asked essentially by opponents of the bill—largely by those who opposed it on the second reading—to deal with everything else that they have concerns about. I understand that. They are legitimate concerns, they are a part of the debate and it is important that they be dealt with. But it is a question of whether we can deal with all of that in this bill, and we have had that debate on a number of occasions.

The issue of labelling is worth pursuing. It will get some attention in the parliament, if it is not carried today. We will have to work through it. But it is complex; it is by no means simple. It is not something that we are going to be able to resolve adequately in the context of the bill today. In another amendment of Senator Harradine’s, he suggested that people label their products to say that they had not been tested on embryos—I am not sure if he is still proceeding with that amendment. This amendment tries to go beyond what is practical for this bill. All around the chamber, we accept the message that we will have to deal with that. This is our first go at trying to regulate research in this area and to bring some national consistency and laws to the issue. I think much of the research is a way off yet, for commercial produce.

A review of the act is included in the bill. There are opportunities for us to pursue that issue but, at this stage, I do not think we are going to solve it by supporting Senator Harradine’s amendment. The impact, again, would be probably to scuttle the bill—because it is far more complex, as we have found on other issues, than some senators would have us believe. It is appropriate that we defeat this amendment at this time and that senators look to pursue how we appropriately deal with the labelling issue for any commercial products that evolve from this research. It is a live issue. I do not think Senator Harradine’s amendment gets us there today and, quite frankly, I do not think we are going to be able to adequately deal with that today. On those commercial grounds, Labor will be opposing the amendment.

Senator BROWN (Tasmania)  (11.59 a.m.)—I disagree with that, but Senator Evans did bring up the point that we had a long and difficult debate on the labelling of ‘Made in Australia’. You know what happened there, Chair: the commercial interests got their way. You can go to the supermarket now and buy a product that is labelled ‘Made in Australia’ but which is not made in Australia. You can get a bottle of jam where the jam is made overseas and the bottle is made in Australia but, because the bottle cost 50 per cent of the product, it is labelled ‘Made in Australia’. You are taking home jam you think is made in Australia but it is not; it is made in Chile or in Bulgaria. It is a decep-
tion of the public, because the commercial interests got their way. The only way you can be assured that a product is totally made in Australia is to look for the label ‘Product of Australia’, but very few consumers know that. Commercial interests won the day.

There are two reasons why this amendment should be supported. The first is that we need, right at the outset, to make it clear that we are not going to allow commercial interests to get the jump on us on this occasion. The second is that it is in their interests to have this amendment on the books, because they are looking at the profit line in embryonic experimentation. Let us be clear about that; that is the motivation. If they know that they are going to have to label products as being derived from genetic material experimentation, they will have to factor that in to what they are doing. In other words, it is fair to them. If this amendment is inadequate, then I have no doubt that further down the line there will be legislation to make it adequate. But it is a very important signal that we intend that products will be labelled. To vote this amendment down is a very important signal to the commercial interests that, once again, they will be able to prevent the labelling being proper, when the day comes. I am glad you brought that example up, Senator Evans, because it proves the point, I think, that we need to build this amendment into the Research Involving Embryos Bill 2002 now, as a signal to everybody, not just to the consumer but to the manufacturer as well.

Senator BARNETT (Tasmania) (12.02 p.m.)—I stand again to support Senator Harradine’s amendment and to respond to the comments of Senator Evans and, if I heard them correctly, of Senator Stott Despoja. Senator Evans, on behalf of the Labor Party, gave the clear impression that this matter is best dealt with in other legislation. That was the feeling. But it is a very important signal that we intend that products will be labelled. To vote this amendment down is a very important signal to the commercial interests that, once again, they will be able to get at us and prevent the labelling being proper, when the day comes. I am glad you brought that example up, Senator Evans, because it proves the point, I think, that we need to build this amendment into the Research Involving Embryos Bill 2002 now, as a signal to everybody, not just to the consumer but to the manufacturer as well.

There is agreement in this chamber that we have a problem here with setting up a regime, but some of the senators in this chamber believe that it would be best dealt with in other legislation. The minister has made the point that, with the tobacco legislation, the warning labels are fixed via the Trade Practices Act. At least they are fixed. That is the point: the warnings are on those tobacco products. What we are doing here today is designing a regime—according to COAG, a strict regulatory and legislative regime—for research on human embryos, which through this bill opens the door to drug testing on human embryos and on human embryo stem cells. Let us fix the problem. Let us have that commitment and that undertaking, if you are not willing to go with this amendment today.

We have not actually heard arguments against the amendment. I would recommend that the advisers provide some more arguments against it, other than saying that it should be dealt with elsewhere, in some other legislation. That is simply not persuasive. I would seek a response from the minister, in the same way as I have asked for one from Senator Evans, that there will an undertaking, a commitment, that within a certain period of time this will be dealt with and will be fixed. Surely we can do that as a minimum. If we all agree that this is an area that requires addressing, let us fix it. I say we should do it now, here in this chamber; but if your proposal is to deal with it elsewhere, can we put that on the record? That might alleviate some concerns. I hope it does.

This whole thing is like the consumer’s right to know and to have full disclosure. Drug testing on a human embryo is a controversial issue. It is like the situation with the importation of clothes—you want to know whether they were manufactured in an overseas country and whether slave labour or child labour was used. If that were the case, maybe you would not want to wear those clothes. Maybe that would be inappropriate and you would not feel right about that. Some perhaps would; some would not. Let us see if we can fix this. I would like to fix it
here and now. I think the amendment is a sensible one, but I would like to have an undertaking to fix it, if we cannot fix it today. We have an acknowledgment of a problem. It needs to be fixed.

Question put:
That the motion (Senator Harradine’s) be agreed to.

The Senate divided. [12.10 p.m.]
(The Chairman—Senator J.J. Hogg)
Ayes…………… 33
Noes…………… 42
Majority……… 9

AYES
Abetz, E.
Barnett, G.
Boswell, R.L.D.
Brown, B.J.
Calvert, P.H.
Collins, J.M.A.
Coogan, H.L.
Forshaw, M.G.
Harris, L.
Hogg, J.J.
Kemp, C.R.
Macdonald, J.A.L.
McGauran, J.J.J.
Murphy, S.M.
Nettle, K.
Scullion, N.G.
Stephens, U.
Vanstone, A.E.
Webber, R.
Watson, J.O.W.
Wong, P.

* denotes teller

Question negatived.

The CHAIRMAN—It is my understanding that we will now go back to the top of page 5 and proceed with Senator Harradine’s amendments (8), (9) and (12) on sheet 2696.

Senator HARRADINE (Tasmania)
(12.14 p.m.)—Mr Chairman, I wish to move amendment (8) now and amendments (9) and (12) together at a later stage.

The CHAIRMAN—We will deal with (8) separately and then you can seek leave at a later stage to move (9) and (12) together.

Senator HARRADINE (Tasmania)
(12.14 p.m.)—I move amendment (8) on sheet 2696:

(8) Clause 24, page 17 (line 28), omit “may”, substitute “must”.

Amendment (8) deals with clause 24, page 17, line 28 of the Research Involving Embryos Bill. I am seeking to omit the word ‘may’ and insert in lieu thereof the word ‘must’. These are provisions where a licence is subject to the condition that, before an excess ART embryo is used as authorised by the licence, certain things must occur. Sub-clause (5) of the bill states:

The conditions specified in the licence must include, but are not limited to, conditions relating to the following ...

It then lists them. I am proposing that the ‘may’ be replaced with ‘must’. The amendment would then say ‘The conditions specified in the licence must include’ and then list what is included already in the bill.

I believe that this amendment strengthens the legislation by limiting the discretion allowed to the NHMRC Licensing Committee as to the conditions that licences they issue will be subject. That is very important. You just cannot have the licensing committee saying, ‘We will not bother about requiring certain things,’ for example, the number of excess ART embryos whose use is authorised by the licence. This matter has been discussed in the chamber. In fact, Senator Bishop’s amendment last night, which was carried, was specifically about the need to restrict the number of human embryos in-
volved. I believe that this amendment strengthens that. It is no good having it just at the discretion of the licensing committee. There is a need to require certain things, including the one that I mentioned. It is also important to have the detail of persons authorised by the licence to use excess ART embryos, and there is a need to have information about a requirement to report what the program or schedule is for monitoring and so on.

I commend the amendment. I hope the government will see its way clear not to leave this to the discretion of a licensing committee. The licensing committee does have nominated people on it, but they are largely from the industry and are very heavily committed to the industry. In those circumstances, it is important that the requirements are legislative requirements rather than at the discretion of the committee.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (12.18 p.m.)—I indicate that I will not be supporting the amendment. Clause 24(5) of the Research Involving Embryos Bill 2002 details a number of matters in relation to which the NHMRC Licensing Committee may specify conditions of licence. The list is intentionally an indicative list rather than a mandatory or exhaustive list, recognising that the NHMRC Licensing Committee will receive a range of different applications which will present a range of issues. The NHMRC Licensing Committee must have the discretion to impose conditions as it sees appropriate on a case by case basis.

Senator Harradine’s amendment attempts to make the setting of the conditions on certain matters mandatory. I do not support the amendment and consider that it is imperative that the NHMRC Licensing Committee has a discretion to impose the conditions. I have mentioned on a number of occasions during this debate that there will be the opportunity for the public to scrutinise the conditions imposed by the NHMRC Licensing Committee, as these will be detailed on the publicly available database of licence applications. For these reasons, I will not be supporting the amendment.

Senator HARRADINE (Tasmania) (12.20 p.m.)—I will not press the amendment, if this is the way the minister is going to carry on. I will not say the government because, quite clearly, a large number of the government members are very concerned about this and are voting accordingly.

Senator Patterson—An indication that I am not. Every time you impugn motives; you infer a motive. I don’t do it to you, Senator Harradine.

Senator HARRADINE—Chairman, I have not inferred anything. All I am stating is that the minister is refusing even to change ‘may’ to ‘must’.

Senator Patterson—I gave you a reason; it is not a motive.

Senator HARRADINE—Frankly, I object to the statement that I am imputing a motive. I am not imputing any motive to the minister. If the minister wants a proper discussion on the matter, she should get off her high horse and deal with the matters accordingly. That is the way we can move things along in this chamber.

Senator Patterson—I have been.

Senator HARRADINE—I have not and do not—and it is not my practice to—impute any motive to anyone. I strongly object to that.

Senator Patterson—Well, I object too. So we’ll agree with each other.

Senator HARRADINE—Through you, Mr Chairman, what is she objecting to? Let the Hansard speak for itself when it comes out. I am proposing that the committee see the intransigence of the minister, on advice from the NHMRC. The NHMRC has a culture of secrecy, but I will deal with that at some other time. What I am doing is trying to make COAG work. I am trying to make it a strict regime. Surely, the reference to the conditions should have that word ‘must’. As subclause (5) says, the conditions are not limited to those mentioned in (a), (b), (c), (d) and (e). But surely they are of such importance that they must be part of the conditions, rather than separating them out and saying that they may be part of the conditions. I am not pressing this, but I thought I would point those matters out.
Question negatived.

Senator HARRADINE (Tasmania) (12.23 p.m.)—by leave—I move amendments (9) and (12) on sheet 2696:

(9) Clause 24, page 18 (line 2), after “monitoring”, insert “, including measures taken to comply with licence conditions”.

(12) Clause 24, page 18 (line 4) at the end of subclause (5), add:

: (f) any significant changes to the circumstances of the licence holder occurring after the issue of the licence are to be notified in writing to the NHMRC Licensing Committee.

Amendment (9) concerns clause 24 on page 18. I want to add the words ‘including measures taken to comply with licence conditions’ after the word ‘monitoring’. This amendment specifies that the licence conditions must include monitoring, including measures taken to comply with licence conditions. This again, I believe, strengthens the so-called strict regulatory regime by ensuring that the monitoring specified in the licence is more comprehensive. Paragraph 6.5 of the COAG communique states:

... the system should enable appropriate monitoring of compliance with the national standards and provide legislated penalties for non-compliance.

What I am doing in this amendment is ensuring that the COAG agreement is properly regarded and that the legislation reflects that. Amendment (12) again concerns clause 24. I am seeking to add another condition relating to the licence holder’s circumstances. I want a new paragraph as follows:

: (f) any significant changes to the circumstances of the licence holder occurring after the issue of the licence are to be notified in writing to the NHMRC Licensing Committee.

This amendment improves the bill by ensuring that the licence holder is required to notify the NHMRC Licensing Committee of any significant changes in circumstances. The minister may indeed have put on the record whether or not that is so under the current legislation.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (12.27 p.m.)—With reference to Senator Harradine’s amendment (9) on sheet 2696, as I indicated in relation to his amendment (8) on sheet 2696, the list of conditions outlined is intentionally an indicative list rather than a mandatory or exhaustive list. This recognises that the NHMRC Licensing Committee will receive a range of applications—I think I said this when I was speaking about the previous amendment—which will present a range of issues. The NHMRC Licensing Committee must have the discretion to impose conditions as it sees appropriate on a case by case basis.

In amendment (9), Senator Harradine suggests that the NHMRC Licensing Committee be able to impose conditions relating to monitoring, including ‘measures taken to comply with licence conditions’. I believe this amendment is not necessary. The NHMRC Licensing Committee may impose any conditions it thinks fit. As such, it is entirely unnecessary to amend the reference to specifically mention measures taken to comply with licence conditions. Amendment (12) on sheet 2696 seeks to make the following a condition of licence:

... any significant changes to the circumstances of the licence holder occurring after the issue of the licence are to be notified in writing to the NHMRC Licensing Committee.

As I indicated before on Senator Harradine’s other amendments to clause 24, the list of conditions to be specified in the licence is intentionally an indicative list rather than a mandatory or exhaustive list. I have no objections to the licensing committee applying conditions relating to the notification of significant changes that may impact on the licence or affect the licence holder’s capacity to comply with conditions of the licence. The legislation already provides that the NHMRC Licensing Committee may set any conditions that it sees fit and are covered by ‘reporting’. This may well be an issue on which conditions are made.
However, this is not quite what Senator Harradine’s amendment does. His amendment would require licence holders to notify ‘any significant changes to the circumstances of the licence holder’—not changes in circumstances that relate to the licence or the licence holder’s capacity to comply with conditions of the licence but any significant changes in circumstances. This may be well beyond the concern of the licensing committee and have absolutely nothing to do with the licensed activity. For these reasons, I will not be supporting Senator Harradine’s amendments.

Senator STOTT DESPOJA (South Australia) (12.30 p.m.)—The Democrats will not be supporting these changes, for many of the reasons that the minister outlined and we similarly outlined in our contribution to a previous amendment. As we have said, if there are any changes in a licence holder’s circumstances that affect their capacity to carry out the conditions attached to their licence, it is very much in their interests to notify the licensing committee so that they do not breach that licence condition. We do not think these amendments necessarily add too much, and therefore we will not be supporting them.

Senator HARRADINE (Tasmania) (12.30 p.m.)—I thank the minister for responding. I do not agree with her. It is just building a strong case that it is not a strict regulatory regime which is enforced by the licensing committee. In these circumstances where I cannot get any further sense out of this situation, I seek leave to withdraw amendments (9) and (12) on sheet 2696.

Leave granted.

Senator HARRADINE—I move amendment (10) on sheet 2696:

(10) Clause 24, page 18 (after line 4), after sub-clause (5), insert:

(5A) A report in accordance with paragraph (5)(c) must:

(a) be provided by 15 May and 15 November each year; and

(b) include details of the licence holder’s effectiveness in advancing knowledge or improvement in technologies for treatment.

This amendment is again about reporting requirements. It is an amendment to clause 24. The amendment would allow the NHMRC Licensing Committee to monitor a key requirement they must consider in deciding whether to issue a licence. Clause 21(4) of the bill states:

In deciding whether to issue the licence, the NHMRC Licensing Committee must have regard to the following:

(b) the likelihood of significant advance in knowledge, or improvement in technologies for treatment ... 

The amendment would ensure that licence holders are required to report to the committee on this key criterion. Paragraph 6.5 of the COAG communiqué states:

... the system should enable appropriate monitoring of compliance with the national standards and provide legislated penalties for non-compliance. 

So we are talking about the requirement on the applicants. This, I think, does strengthen the bill.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (12.34 p.m.)—This is one of five amendments that Senator Harradine has moved to this clause. These amendments have sought to mandate conditions of either licences that already exist or licences the details of which should be left to the discretion of the NHMRC Licensing Committee. This particular amendment would require licence holders to report to the NHMRC Licensing Committee on two specified dates every year.

I feel as if we have actually had this discussion on a previous occasion but, just to reiterate it, I will be opposing this amendment on the basis that the NHMRC Licensing Committee should have the discretion to require reports with the regularity and at intervals that the licensing committee considers appropriate based on the consideration of each licence application. For example, rather than requiring reports at two arbitrary dates in the year, the NHMRC Licensing Committee may wish to impose as a condition of licence that the licence holder provide a report within a certain number of days of the embryo being used or after a certain number of embryos have been used or within a cer-
tain number of days of a monitoring visit by
the inspectors appointed under the legisla-
tion. There may be other reasons that re-
porting might be more often than twice a
year. In some circumstances, the licensing
committee may require the licence holder to
report every month, as I think I have said on
a previous occasion while speaking on a pre-
vious amendment.

On an entirely practical administrative
level, the NHMRC Licensing Committee
may also wish to spread the due dates of re-
ports provided by different licence holders
over the course of the year so that all of the
reports are not received by the committee at
the same time and so that the work flow can
be better managed. Senator Harradine may
also understand that that could lead to closer
scrutiny. If rather than having all of the re-
ports coming at the one time they are coming
in phased over time because the NHMRC
have programmed them to fit the require-
ments of a particular licence—that is, that
they want to monitor after the use of every
embryo or for some other reason—and also
to manage their work flow better, I would
imagine they would then be more able to
scrutinise the reports.

The second part of Senator Harradine’s
amendment states that the reports to be pro-
vided on 15 May and 15 November each
year must ‘include details of the licence
holder’s effectiveness in advancing knowl-
edge or improvement in technologies for
treatment’. This may not be practical. For
example, if the licence was only issued in
April, how could the licence holder be ex-
pected to provide a report to the committee in
May and include details of advances in knowl-
dge when the embryos may not even have been used? Also, the time scale of scien-
tific research and reporting of such re-
search may be quite long in comparison to
the time scale of the licence. The work cov-
ered by the licence—that is, the work in-
volving the use of an excess ART embryo—
may be only a small component of the over-
all project. Again, this reinforces the need for
a level of flexibility and for the NHMRC
Licensing Committee to have responsibility
for imposing appropriate and practical con-
ditions given the circumstances of a particu-
lar case. For these reasons, I will not be sup-
porting Senator Harradine’s amendment.

Senator HARRADINE (Tasmania)
(12.37 p.m.)—The proof of the pudding will
be in the eating. It is interesting to see these
matters placed on the record now. They will
certainly be tested in some other forum. I
seek leave to withdraw my amendment (10)
on sheet 2696.

Leave granted.

Senator BROWN (Tasmania) (12.37
p.m.)—At the request of Senator Nettle, I
move Greens’ amendment (5) on sheet 2705:
(5) Page 18 (after line 11), at the end of clause
24, add:
(8) It is a condition of any licence that a
licence holder who receives Federal,
State or Territory government funding
must provide to the NHMRC Licensing
Committee:
(a) a copy of the deed of grant; or
(b) a copy of the service agree-
ment; or
(c) both;
between the licence holder and the rele-
vant government that provides the
funding.
Note: Failure to disclose this infor-
mation constitutes a breach of
licence conditions.

That is simply to make more transparent the
relationship between, in particular, com-
mercial entities that are getting a licence for ex-
perimentation with genetic material and the
money that they are also getting from state or
federal governments.

Question negatived.

Senator HARRADINE (Tasmania)
(12.39 p.m.)—I move amendment (7) on
sheet 2751 revised:
(7) Page 18 (after line 11), after clause 24, in-
sert:
24A Requirements before issuing a li-
cence
Before issuing a licence, the NHMRC
Licensing Committee must:
(a) publish every application for a li-
cence, including details of the pro-
posed research use to which human
embryos will be put, on the Internet
within one week of receipt; and
(b) allow 10 working days from the day when the application is placed on the Internet for the receipt of public submissions in relation to the application for a licence; and
(c) consider submissions lodged in accordance with paragraph (b) before issuing a licence; and
(d) report on its consideration and evaluation of those submissions in the publicly available database required by section 29.

The amendment is very important for transparency. It is very important for those who are interested in this whole question of transparency. COAG itself was saying that all of these things should be open and the information should be available to the public and so on. If we are going to be open about this to the public, as COAG recommended, the amendment would improve accountability, transparency, opportunity for public consultation and public scrutiny of licence applications by allowing the public to access and comment on licence applications before the NHMRC Licensing Committee makes a decision. This is consistent with paragraph 6.4 of the COAG communique of 5 April on which this bill is to be based. It states:

The system should provide for public reporting of research involving embryos so as to improve transparency and accountability to the public.

We are talking about transparency and accountability. I believe that the minister should give serious consideration to this matter to see why this does not improve the bill. I believe it does improve the bill and, particularly, it improves the transparency and accountability to the public.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (12.43 p.m.)—

In the light of these proposed amendments, I think we need to go back over the history of the regulation of ART and research involving embryos in Australia and the scope and intent of the COAG decision as reflected in the legislation. Assisted reproductive technology has existed in Australia for approximately 30 years. Throughout that period, ART clinics have been using excess ART embryos that would otherwise have been destroyed for the purposes of training, quality assurance and research. In all states and territories, such activity since 1996 has been overseen by the human research ethics committees acting in accordance with NHMRC guidelines. In three jurisdictions, oversight has also been provided by regulatory bodies or committees where research that may destroy the embryo has been banned. In these three jurisdictions, applications for licences are considered by the relevant regulatory authority. There are no public consultation applications and only very limited public information is available. In all other jurisdictions, research, quality assurance and training, including uses of embryos which may damage or destroy the embryos, have been permitted, and currently there is no consolidated public information about the use of embryos that has been approved.

Progress reported.

MATTERS OF PUBLIC INTEREST

The DEPUTY PRESIDENT—Order! It being 12.45 p.m., I call on matters of public interest.

Western Australia: Shortage of Doctors

Senator EGGLESTON (Western Australia) (12.45 p.m.)—I want to talk today about the shortage of doctors—both of general practitioners and specialists—in Western Australia. This shortage was amply demonstrated by the results of an Australian Bureau of Statistics survey entitled Private Medical Practitioners, which was released in late October this year. Although the conventional wisdom, including that of the Australian Medical Workforce Advisory Committee—AMWAC—is that there is an overall surplus of GPs in Australia, with an oversupply of GPs in metropolitan areas and an undersupply of GPs in rural and remote areas and
outer metropolitan areas, a relatively recent Access Economics study commissioned by the Australian Medical Association has challenged this and asserted that there is in fact a national shortage of GPs. Using a demand model, the study estimated that there is ‘currently a shortfall of GPs of between 1,200 and 2,000’. Under a conservative scenario, Access Economics estimated that the ‘rural shortage is estimated at 700 FTE GPs and the urban area shortage at 500’. This study took issue with AMWAC’s benchmarking, stating that ‘most Australians do not share AMWAC’s view of adequate GP supply’ and that ‘AMWAC’s assumption of the acceptability of the benchmark is not backed up with any analysis or justification’.

Under the policies of the Howard government, the number of GPs in regional Australia has significantly increased. However, demand for increased numbers of GPs is expected to continue over the next decade, with the Australian Bureau of Statistics estimating that Western Australia’s population will rise by 13.1 per cent. Over the same period, the number of people aged 65 years and over in Western Australia is estimated to increase by 1.7 per cent. Elderly people generally consume more health care services than any other sector of the population and present with more complex health problems and with more chronic conditions that require management. Access Economics has estimated that the ‘demand for GP services based on an ageing population will increase by 1.27 per cent per annum over the next 10 years’.

The medical workforce problem has been alleviated somewhat by a reliance on overseas trained doctors. In 1993-94, there were 664 temporary resident visas issued to overseas trained doctors throughout Australia. By last year, this had risen to 1,923 such visas. Western Australia is very heavily reliant on temporary resident overseas trained doctors to fill positions in hospitals, general practice and locum services; for example, the WA state hospital system is heavily dependent on overseas trained doctors and, without these doctors, the WA state hospital system would undoubtedly collapse.

In 1997-98 temporary resident doctors comprised 14.9 per cent of the WA medical workforce, and 77.1 per cent of temporary resident overseas trained doctors were employed within metropolitan health services. Thirty-six per cent of Western Australia’s rural medical workforce are overseas trained doctors. There were 646 conditionally registered overseas trained doctors within Western Australia as at November 2001. This comprised: ‘unmet area of need’, 427; recognised specialist qualifications and experience, 90; foreign specialist qualifications and experience and undergoing further training, 11; temporary registration in the public interest, eight; conditional registration for rural and remote general practice, 50; supervised clinical practice, 24; postgraduate training, 32; medical teaching, one; and medical research, three.

In 2002, 456 temporary resident overseas trained doctors were approved to work in general practice positions in areas of need in Western Australia. By way of contrast, only 58 temporary resident overseas trained doctors were approved to work in general practice positions in areas of need in New South Wales—with a population of 6.5 million in 2001, compared with Western Australia’s population of just 1.9 million. The number of overseas trained doctors who were registered in the unmet area of need category has therefore increased by something like 380 per cent since 1996.

According to the Medical Board of Western Australia, the reliance placed on overseas trained doctors continues and it is considered that the number of locally trained doctors who take up appointments within the public health systems falls well short of meeting the needs of the community. As of September 2002, towns such as Broome, Collie, Donnybrook, Geraldton, Kalgoorlie and Mount Barker are all listed as areas of need with practice vacancies. The Access Economics report points out that due to competition with other countries, such as Canada, it will become increasingly difficult for Australia to recruit overseas trained doctors. The report notes:

As this competition intensifies, simple demand pressures will push up the remuneration that
Medical practitioners willing to move to the country will be able to demand. Making matters even worse, other countries with doctor shortages are trying to poach Australian medical practitioners.

A recent study by Monash University and Melbourne University researchers Lesley-anne Hawthorne and Bob Birrell has brought into question the qualifications and fitness to practise of some overseas trained doctors. This study had a particular focus on permanent resident overseas trained doctors and revealed that, in some cases, doctors are working in public hospitals and as GPs in areas of need without having had their skills formally accredited. Permanent resident overseas trained doctors have been required to have their skills accredited by the Australian Medical Council. However, according to this study:

... in recent years this policy has been effectively thwarted as State Medical Boards have provided 'conditional registration' to permanent resident OTDs who have not completed their accreditation or have failed in their attempt to gain this accreditation.

The study found that the great majority of temporary resident overseas trained doctors are from Britain, South Africa or other societies with medical skills similar to those in Australia. However, it found that the bulk of permanent resident overseas trained doctors:

... have graduated from non-Western medical schools in Asia, the Middle East and Eastern Europe. Their training varies greatly in quality, relevance to the kinds of health problems encountered in Australia and preparedness for the advanced technology they encounter in the Australian hospital environment.

These doctors can also experience difficulty in communicating with staff and patients. Surely it has to be said that English language skills are very important when it comes to practising medicine in Australia.

The President of the Rural Doctors Association of Australia, Dr Ken Mackey, has made the point that the skill levels of overseas trained doctors are variable and the continuity of care provided by the long-term general practitioner is lost. Similarly, the President of the Rural Doctors Association of Western Australia, Dr Graeme Jacobs, has said that there are some problems with overseas trained doctors and those problems are not only in clinical skills areas but also the social and cultural problems of putting overseas trained doctors into a remote area. For example, the WA Medical Board used to send overseas trained doctors to places like Meekathara in the Eastern Goldfields where there was no effective support or supervision, and the doctors concerned felt very vulnerable and exposed. It was hardly a prudent solution to the needs of such isolated towns and hardly fair to the doctors concerned, who felt they were being thrown in at the deep end.

All of this helps to demonstrate that over-reliance on overseas trained doctors is not in the overall best interests of the health and welfare of Australian patients; although in this regard it should be noted that, in response to concerns raised by hospitals, Western Australia has recently introduced an assessment procedure for overseas trained doctors seeking to be employed in unmet area of need positions in Western Australian hospitals in non-specialist and non-specialist training positions. The process is designed to reduce the potential for OTDs to be in a position where there is insufficient supervision and professional support.

The use of overseas trained doctors to fill medical work force shortages is essentially a stop-gap measure, and longer-term solutions are needed. One long-term solution would be to increase the number of Australian trained doctors. The University of Notre Dame in Fremantle has come to the conclusion that the only acceptable long-term solution to the doctors shortage problem is to increase the number of medical practitioners training and graduating in Western Australia. This is especially the case because the number of locally trained doctors who take up appointments within the WA public health system currently falls well short of meeting the demands of the community.

What is therefore required is an increase in the total number of medical school graduates produced in WA. Graduates produced in Western Australia will be more likely to practise within the state. Notre Dame University has pointed out that very few Eastern
States medical graduates are prepared to spend their working lives in Western Australia. For some reason, the Nullarbor proves to be an enormous barrier. It is feared that, if there is not an increase in the number of locally produced graduates and trainees in WA, WA will become increasingly reliant on overseas trained doctors. Accordingly, Notre Dame is giving consideration to the establishment of a medical school at its Fremantle campus, using the facilities of other locations in the metropolitan area for teaching purposes as well. Notre Dame University proposes to establish a four-year postgraduate course for a medical degree.

After meeting with the people involved in planning the format of the proposed medical school, I came away very impressed with Notre Dame’s case, not only on the grounds of the need to increase the number of doctors graduating in Perth but also because the focus of the curriculum will be on general practice medicine. Additionally, a new medical school would offer a choice of courses to WA students, the University of Western Australia being currently the only institution in the state that offers medicine. If Notre Dame medical school went ahead, it would be the first private medical school in Australia. It is proposed that the school develop partnerships to deliver its courses, with other universities, such as Curtin, delivering the basic medical science requirements in their curriculums. The school will also make use of the private sector for clinical placements in areas such as private hospitals, the aged sector and general practice.

It is proposed that the school will take 60 Australian students annually. If the school goes ahead, it will of course be some years before the first graduates are produced and even more before they complete postgraduate training and enter medical practice, but the importance of the initiative is that it will assist to provide a long-term solution to Western Australia’s doctor shortage problem rather than the bandaid fix represented by overseas trained doctors. It is said that from small acorns great oak trees grow and, just as the now very large and prestigious UWA Medical School had small beginnings back in 1957, I am sure that, once established, the proposed Notre Dame medical school will develop into an important Australian medical institution.

**Australian Security Intelligence Organisation Legislation: Committee Report**

*The ACTING DEPUTY PRESIDENT (Senator Collins)—I call Senator Boswell.*

*Senator BOLKUS (South Australia)—I rise today to speak on the report of the Senate Legal and Constitutional References Committee into the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002, which was tabled in this place late last night. I would like to make some—*

*The ACTING DEPUTY PRESIDENT—My apologies, Senator Bolkus.*

*Senator BOLKUS—I was not going to let you forget it at some later stage.*

*The ACTING DEPUTY PRESIDENT—I am sure you would not.*

*Senator BOLKUS—I could be confused with many in this place.*

*Senator Forshaw—You’ve been called worse!*
the controversial nature of the legislation that the committee was inquiring into. This legislation is, in many ways, unprecedented legislation which demands, and in fact demanded during the process, serious attention. It demands close critical analysis of a whole range of complicated legal issues and it also demands an appreciation of changing security demands in the new environment which has befallen the world over the last 12 months or so. For me, this has been one of the few examples where senators have, in essence, shed their political guernseys and approached the task and assessed the subject before us.

Senator Forshaw interjecting—

Senator BOLKUS—As far, of course, as that may be possible, Senator Forshaw. But I think that in this particular case, senators had real issues that they had to address, and those issues were addressed on their merits, as I said, with all people having shed their political guernseys in approaching the legislation.

On both sides of the Senate, in the evolution of this reference, individuals have found themselves making recommendations and taking positions that they would not necessarily have started with at the start of the process. The recommendations that senators from both major parties have made are not in line with the starting position of their respective parties. It is good to see, from my side of parliament, that Senator Faulkner has signalled an indication to pick up the report’s recommendations, even to the extent that they may have contradicted some pre-existing positions taken by the Labor Party. As I said, the unanimity expressed in the recommendations of this report, together with the substantive material in the report, provide a solid basis for further consideration—an outcome for the legislation that will be before the Senate over the next 10 days or so.

It was not an easy issue to focus on because of the highly charged environment in which this legislation and this nation find themselves at the moment. On one side—I suppose on the left side of politics—we have the traditional distrust of ASIO. ASIO is the perennial bogeyman in political life and, as such, there is a real capacity for misconceptions to be bred not just about the role of ASIO but also about the sorts of extra functions that the parliament is considering giving ASIO. It has not been helpful that those misconceptions have, I think, blurred the thinking of a number of people in the debate. To them I say, ‘We understand why you have those concerns, but we can’t forever hide behind the attitudes and sentiments that we developed in the sixties. The world has changed and it is important to see this nation, the policymakers of this nation and the role of ASIO in that new environment.’ The other hand, what was not helpful was the climate of fear and distrust of fellow citizens, which impacts enormously on public debate, and national debate in particular, on issues such as this. These factors do not help rational debate, but I think that it is fair to say that, if anyone was to read the report of the committee, they would come to the conclusion that the committee was able to put these sorts of environmental aspects aside and focus on some pretty important fundamental issues.

As I said, the committee process was comprehensive and exhaustive. We had over 400 submissions in a short period of time. It has to be recognised that all but the submissions from government agencies criticised the legislation, and they criticised it trenchantly and, I must say, forensically. From one-page submissions to theses, in essence, the committee was confronted with the broad range of issues. I do not want or seek to identify an exhaustive list of important and influential submissions. There was an endless list of that sort of submitter. But organisations from the Law Council to individual citizens found the opportunity to put their views to us. We had advice from people from universities and from people in the community who could very well see themselves as being those targeted by this legislation. For instance, the voices of Islamic communities, nationally as well as those from Sydney and Melbourne, were considered by the committee. People from those communities made solid and well thought out submissions. We had submissions from well-experienced people like Gavan Griffith, the former Australian Solicitor-General, who made some quite telling points and advised the committee on the basis of experience he had in cases be-
fore the High Court. We also had organisations such as the Public Defenders Office of New South Wales and similar community legal centre structures in Victoria who gave the committee advice from the perspective of the on-the-ground, practical solicitor or barrister who would have to handle the impact of this legislation.

It was not easy legislation. This has been controversial legislation. The fact that it is controversial is not something that has been generated during the course of this inquiry. This inquiry follows a direct parliamentary committee report—a unanimous report from that committee—which raised some fairly fundamental concerns in respect of the legislation that is being debated by the parliament. It was interesting to hear the chair of the committee, Mr David Jull MHR, make some comments urging sober consideration of the Senate committee’s report earlier this morning. In this climate, it is important for the Attorney-General—the chief law officer of this nation—to take his responsibilities as the chief law officer seriously and make a sober assessment of the report and the recommendations of that report. A knee-jerk reaction is not enough and has not fulfilled his responsibilities, as we saw in the early hours of this morning. It is important for the Attorney-General and his department to recognise that this legislation does seek some way to accommodate the government but, more importantly, does so within the spirit, history and tradition of the Australian democratic system of government.

I would like to thank my colleagues. I think that it is important in this particular instance to thank not just the staff but also colleagues who participated quite constructively in this. In particular, I would like to thank the deputy chair who spent hour after hour in the early deliberations on this legislation with the secretariat and me. I think all colleagues committed themselves to this process with enormous enthusiasm. I would like to thank the staff of the committee: Peter Hallahan, the secretary; Louise Gell; Noel Gregory; Rebecca Eames; Michelle Lowe; the administration staff; and a specialist staffer whom we adopted for this process from the Parliamentary Library, Nathan Hancock. They put hour after hour of not just physical application but also enormously sophisticated and high-quality mental application into this process. I suppose in thanking them I should also thank their families who have spent much of the last couple of weeks without their spouses and parents while they were deliberating on this report. I have also got to thank, I must say, government departments—the Attorney-General’s Department, the Australian Federal Police and ASIO—that came back a number of times. I think ASIO came back to us five times with the Attorney-General’s Department to help the committee in its deliberations.

There were probably two substantive threshold issues which were the driving force for the legislation. In short, the stated objective of the legislation was to enable government agencies to extract intelligence information that may substantially assist in the investigation of a terrorist offence and to extract that information with the main objective of avoiding that terrorist threat becoming reality. The information to be sought is not directed to be sought from persons suspected of being offenders, being terrorists, or being involved in a terrorist offence. The target people under this legislation are very much those who may have intelligence or knowledge, but who are not suspected of an offence. That is why this legislation is a bit different from the raft of legislation already available to government agencies. As I said right from the start in respect of this particular point, both major parties have acknowledged that this objective—one identified by the agencies and restated by the government—needs to be satisfied, and that objective was unanimously accepted by the committee.

The second threshold point and major structural point was that, once you recognise there needs to be a capacity to gather that intelligence, who is the best agency to perform that function? Here we were met with a number of options. People put to us a new ACCC or a royal commission model, although I think it is fair to say that all members of the committee thought that was an excessive response to this particular situation. Another model put forward by submit-
ters was the UK or Canadian model with the possibility of developing the offence of having knowledge but not imparting that to agencies. We thought, firstly, that that took the non-suspect into a realm that a particular person should not be in and, secondly, that it was not conducive to distilling the information. That course was not accepted.

Then it came to a question of competing agencies—AFP or ASIO. On the one hand, should we give the function to ASIO? It was not a function that ASIO traditionally conducted. But in recognising that it was not a traditional function, we also recognised that they had the expertise and the background intelligence knowledge. By giving it to ASIO, there would be enhanced accountability processes available to parliament, particularly, to see how the power was exercised. For the AFP, intelligence gathering we were told would be a new role—although that assertion really did not hold water after a number of submitters spelt out some of the intelligence gathering roles of the AFP. But for me in particular—and I think for other members of the committee—if the AFP were to perform this function, they would have to necessarily build an intelligence gathering capacity. They would probably have to go back to what we were warned about by Senator Ray some six weeks ago: setting up a special branch structure to ensure that they were fully equipped to perform the intelligence gathering and the questioning in particular. So I think it is fair to say that there was a unanimous report and that unanimous report on this particular point was that ASIO could perform the function. The AFP should be in the field, though, in terms of apprehending the particular person of interest, and ASIO’s role would be limited in essence to the examination using their enormous intelligence database to be able to do that properly.

Having decided to go down that road then of course the operational issues became important. How do you supervise the function? What sort of rights should accrue to the person of interest? What sorts of protection should that person get and under what detention regime should that person be kept? If one were to look at the recommendations of the Senate committee, the most striking aspect is that of 27 recommendations, 24 received unanimous support, with government senators having some partial qualification in respect of three of those. For three of the other 27 recommendations, one government senator dissented and the others supported the recommendations.

In essence, the committee proposes an oversight structure whereby much reliance is placed on retired judges of 10 years experience not only to issue warrants but also to supervise the questioning. At the same time, access to lawyers would be provided on the basis of legal assistance from government. There would also be access to interpreters. The detention regime would be tailored very much towards ensuring that once questioning was over, the need for detention would not continue. But the questioning regime would allow quite comprehensive questioning which, if modelled on the Commonwealth Crimes Act, would ensure that the Commonwealth agencies would have up to 20 hours of questioning under a first warrant.

This is a very well thought out and comprehensive report which should provide the basis for further consideration of this legislation by the parliament. I do urge the Attorney-General to both chew gum and think at the same time. I am sure it is within the capacity of government to do that. It is important for the Attorney-General to fulfill his responsibilities to treat this report soberly and to recognise the spirit in which it was developed by all sides of parliament. (Time expired)

Forestry: Tasmania

Senator MURPHY (Tasmania) (1.14 p.m.)—I rise to speak on what is a very important issue in my state: forestry. I start by referring to a letter to the editor by the Premier of the state on 1 November 2002. In that letter, the Premier said:

The truth is that the Tasmanian community has been attempting to find a balance between employment in a sustainable forest industry and conservation for years.

We had the Helsham inquiry back in 1987. There were at least 15 inquiries prior to that.

Then followed another nine, including the Forests and Forest Industry Strategy until 1997 when the Regional Forest Agreement was developed.
By anyone’s standards, this represents a scientific and measured approach to maintaining investment and jobs and at the same time protecting large areas of our forests.

In large part, I do not disagree with the Premier’s statement. But it concerns me that whilst we have had those inquiries and those reports, which have contained recommendations, and whilst we have a Regional Forest Agreement that sets down criteria for the management of the forests in both a commercial and preservation sense, the problem is that commitments to the recommendations are simply not there. I refer to the National Forest Policy Statement. It said:

That it is desirable to maintain and protect the extent and ecological integrity of native forests on public land.

Accordingly, the Governments will adopt the policy that further clearing of ... native forests for non-forest use or plantation establishment will be avoided or limited, consistent with ecologically sustainable management...

The reality is that all of the forests being cleared on native forest public land in Tasmania are being turned into plantations. It raises the question of what we are doing in terms of the obligations that we signed up to in respect of the National Forest Policy Statement that was the basis upon which the Regional Forest Agreements were developed. I want to quote an extract from the Forestry Tasmania Sustainable forest management report. At the bottom of page 5 it says:

What is sustainable forest management? The National Forest Policy Statement of 1992 provides the following definition:

The integration of commercial and non-commercial values of forests so that both the material and non-material welfare of society is improved, whilst ensuring that the values of forests, both as a resource for commercial use and for conservation, are not lost or degraded for current and future generations.

That was very interesting, because last Friday I asked Forestry Tasmania exactly where in the National Forest Policy Statement that quote could be found. They were unable to tell me. I suspect they were unable to tell me because it actually is not in there. What the National Forest Policy Statement said in terms of ecologically sustainable management is this:

The Ecologically Sustainable Development Working Group on Forest Use specified three requirements for sustainable forest use: maintaining the ecological processes within forests (the formation of soil, energy flows, and the carbon, nutrient and water cycles); maintaining the biological diversity of forests; and optimising the benefits to the community from all uses of forests within ecological constraints.

That is at page 47 of the National Forest Policy Statement. At page 15 it said:

Ecologically sustainable management of native forests for wood production involves maintaining a permanent native forest estate while balancing these uses.

It is not possible to do that if you turn a cleared native forest into a plantation. It is just not possible. That is one of the fundamental reasons that forestry continues to attract significant debate in Tasmania. Of course it does not end there. I am a former member of the executive of the Forests and Forest Industry Council. As indicated at page 17 of the Forests and Forest Industry Council’s 1990 report entitled Secure futures for forests and people, its mission statement said:

To responsibly and sensitively manage Tasmania’s forests in a way that:

1. Protects and conserves environmental values;
2. Provides long-term job security and additional job opportunities for employees;
3. Provides long-term security of resource for industry;

Again, essentially, none of those things is really being adhered to—none of them. You might say, ‘What about the jobs and what about the security for industry?’ The resource security is there in part but the jobs are being lost. Nobody can say that jobs in the forest industry in Tasmania are increasing. They are not. In terms of Crown forest management—that is, Crown forest; the native forest of Tasmania and public land—on pages 6, 28 and 34 of its report the Forests and Forest Industry Council’s further said:
Pulpwood—
that is, woodchip wood—
for export will now be strictly limited to that surplus to domestic needs—
of which we have none—and arising from the predominant sawlog strategy for public forests.

... it will be necessary to manage the majority of the public forest on an 80 to 85 year rotation (to optimise sawlog production) ... A combination of options mainly requiring an 80 to 85 year rotation for eucalypt sawlogs from wood production forests should be adopted with some areas identified for longer rotations for special timbers.

Is that happening? No, not at all. Further it says:
Crown regrowth forests that have sawlog potential will not be clearfelled for pulpwood supply except where:
• There are no economically feasible alternatives—and there are, and—
• It is for domestic pulp and paper production—
for which we have none, and—
• It occurs as part of a transition strategy to transfer domestic pulpwood productions for native forests to supply sourced primarily from specific plantations.

Again, all of those things are not being delivered. That is why we saw such an outcome in the last state election—despite the fact that the size of the House of Assembly in Tasmania was reduced, four Greens were elected. What does that do in terms of jobs for Tasmanians in the forest industry? It does nothing at all. Of course, we have had many promises regarding development of manufacturing or downstream processing in Tasmania. There have probably been 10 that I can think of during the course of the last 12 years, but none of them has been developed. We have seen all sorts of proposals from Forestry Tasmania, the forest managing body. The latest ones are the two proposed Southwood projects: one in the north-west and one in the south-east. They are proposed as an integrated milling process that also incorporates a biomass power plant.

I deal first with the biomass energy plant. Last Friday, I questioned Forestry Tasmania with regard to whether or not they had had any discussions with Hydro Tasmania or Aurora Energy about the purchase of the excess power that would be generated by these plants for integration into the electricity grid along with other electricity generated by Hydro Tasmania. They said that they had not. Yet all of the promotional material that you read suggests that this is a viable option; that this is part of the overall development of the Southwood projects. But the reality is that the biomass energy generated from the burning of eucalypt wood is, at this point in time, way too expensive even with renewable energy credits.

They are proposing a development that will have a power plant, generated by the burning of eucalypt as a biomass energy source, that will provide the power for the integrated sawmill, the rotary peeling plant et cetera, that is more expensive than power that could be sourced out of the power network. They also say that the additional power that will be generated by these power plants will be made available for sale in the state power network. Who will buy it? Why would Hydro Tasmania or Aurora Energy buy power that is more expensive than what they can get from elsewhere? When we get Basslink in place that will be even more the case. Why would they do that? They will not do it.

We come to the more recent practice, according to Mr Kim Creak of Forestry Tasmania, of exporting whole hardwood eucalypt logs to Korea and China. Everything in terms of the financial future of Forestry Tasmania, as Mr Evan Rolley put it, is ‘hanging on the Southwood projects’. That is the only way there is going to be any financial future for Forestry Tasmania.

In an article in the Mercury on 13 November entitled ‘Extra export value in logs with a peel’, Kim Creak, the General Manager of Operations for Forestry Tasmania stated:
... the logs would go to China and Korea for rotary peeling trials as part of an export market development program.
I can remember back in 1994 reading a similar sort of statement. Here we are eight years on and Mr Creak is saying these logs
will be sent there as part of a program to develop a market for rotary peeled veneer. Yet Forestry Tasmania will suddenly say in about 12 months or 18 months time, ‘No more logs; you have to buy the veneer.’ I really do not know who they think they are kidding. The reality is that neither the Chinese nor the Koreans are going to be buying rotary peeled veneer from Tasmania when they can access hardwood logs from around the globe, including from elsewhere in Australia, and peel them in a country where the wage economy is way below ours. Their own manufacturing costs are also far less than ours.

I do not know what it will take to wake up Forestry Tasmania and the state government to the reality that this proposal for the future will just not work. We had any number of proposals prior to this, including fibre form. The pulp companies, when they were under licence conditions for the export of woodchips, developed all sorts of proposals for downstream processing. Not one of those proposals has come to fruition.

The reality is that Forestry Tasmania is selling these logs overseas because it needs the cash; it is doing it for no other reason. That is very unfortunate because what it is doing in the process is destroying the future of the Tasmanian sawmilling industry. That has to be stopped. It is at a critical stage right now, because we are talking about a very short period of time. I hope—I am still an optimist—that the Tasmanian government will take this into account and do some proper research in this area, turn this around and protect the future remaining jobs in Tasmania’s sawmilling industry.

**Australia Post: Postal Services**

Senator MACKAY (Tasmania) (1.29 p.m.)—Today I would like to talk about the impact of the government’s planned reforms for Australia Post and the potential impact of the World Trade Organisation on the future of Australian postal services. It was revealed recently that Senator Alston has planned reforms for Australia Post, which were announced on 14 November. Those plans clearly revealed that the government is still intent on the deregulation agenda of Australia Post. The reforms that the minister has foreshadowed will for the first time effectively allow foreign competition for parts of Australia Post’s reserved service. It will be the first major incursion into the reserved service. The reform legislation, which the minister says will be introduced early next session, will weaken the Australia Post reserved service which for years has been protected by the Australian Postal Corporation Act.

The minister says that it is only—and I use his term—‘legitimising’ the current practice of document exchange, such as Ausdoc, which has been operating, he says, for a number of years. However, in order to ‘legitimise’ these document exchange businesses, the minister seems to think he has to cut into the reserved service of Australia Post. As the minister knows, by ‘legitimising’ this practice he will also be opening the door for foreign competitors, and therefore extending way beyond current document exchange companies, such as Ausdoc, which he has totally ignored. The minister will allow foreign competition into parts of Australia Post’s reserved service. That is the bottom line and that is the intent of this legislation.

We have seen the full deregulation agenda for Australia Post put forward by this minister twice before. The full extent of the coalition’s deregulation agenda was first revealed in the Postal Services Legislation Amendment Bill 2000. It was resoundingly rejected following a Senate inquiry and in the face of massive public opposition, particularly by regional Australia. The minister then had another go through the secret preparation of amendments to a second piece of postal deregulation legislation called the Communications and the Arts Legislation Amendment Bill 2001. It is fairly innocuously titled but there are major implications. Again the minister failed to get any support for his deregulation agenda. The recent announcement that he made is exactly the same deregulation agenda all over again, but this time the government is attempting it in a sneaky and underhanded manner, and the cavalier spin being promoted by the minister is that it is merely endorsing what currently happens. This is dead wrong. Regional Australians will not be fooled by this. It is important that
it starts to get a public airing so that people know what is happening.

This is deregulation of Australia Post by stealth. While the minister attempts to defend this, he is defending the indefensible. The government tried it once before and now they are using a direct approach by legitimising current document exchange providers to try and do it again. Extraordinarily, we have no idea what the impact of this proposed legislation will be on Australia Post, on Australia Post’s bottom line in terms of profit or on their services. We have no idea. When we asked Australia Post during estimates hearings they said that they had not even seen the draft legislation, they had done no cost-benefit analysis, they were not aware of it and they were not consulted.

We already know that big courier and international mail operators such as DHL, FedEx, UPS and TNT subsidiary Spring are poised to take a slice of the action. They are in there ready to go—foreign competitors coming in to compete in relation to this issue. The minister claims that Australia Post accept the government’s decision—that is what he says—because they have condoned the practice of document exchanges. In recent Senate estimates hearings—and he was talking on behalf of Australia Post; he was sitting right next to them—the minister said:

... they—
that is, Australia Post—

have no reason to believe that any of the proposals will have an adverse effect on Post. Australia Post then went on to tell us that they had not even seen the draft legislation. They had no idea whether it would or would not have such an effect. I find that extraordinary. They were just blindly nodding. What was made extremely clear was that it is a government agenda, not an Australia Post agenda. It is a government push by the minister which Australia Post have not been dealt into. The reality is that it will have an adverse effect on Australia Post. If you open up a section of the reserved service to foreign competition, of course it is going to have an impact on Australia Post, of course it is going to have an impact on Australia Post’s bottom line, and of course it will have an impact on services. This is the Minister Alston’s first strike on Australia Post’s reserved service area. He is a minister who is determined to get the deregulation of Australia Post up in any way that he can.

The long-term agenda for Australian postal services by this government is eventually to allow full competition from foreign companies to all postal services in Australia through the World Trade Organisation’s General Agreement on Trade in Services, known as GATS. This will have a devastating impact on Australia Post. The WTO is currently in negotiations regarding the General Agreement on Trade in Services. These negotiations are about the dismantling of trade restrictions in publicly provided services such as post, telecommunications and water supplies, amongst an extensive list of other areas. Today my focus is just on postal services, but I do want to emphasise that it is a very long list that is encompassed by the GATS and it is a very long list that the government is currently in negotiation about.

It was made very clear in the recent Senate estimates hearing on 20 November that Minister Alston, when directly challenged, would not rule out foreign competition for Australia Post’s monopoly on the delivery of standard letters—he just would not rule it out. I am very suspicious as to why, if there is no agenda, I call on him to rule it out. He would not rule out the effective deregulation of Australia Post under the guise of the General Agreement on Trade in Services. I am aware that the current round of WTO GATS negotiations will see extensive discussion on the liberalisation of postal services. These discussions will include a redefinition of the current WTO definitions of postal, courier and express delivery services, as well as clarification of the role of public and private providers. These seemingly benign discussions have very serious implications for the future of Australia Post.

As senators would be aware, the community and the parliament were locked out of the negotiations on the Multilateral Agreement on Investment some years ago. It is important, I believe, for us as parliamentarians to ensure that the negotiations on the
World Trade Organisation’s GATS are not the same and that they are transparent and open. The Australian public must be kept fully informed on each stage of the negotiations and fully informed on what the impact of the negotiations on the General Agreement on Trade in Services will be on their services. It is clear that the approach of the government is that this is ‘confidential’. It has no plans to make public any details of the position that Australia will take on the GATS before Australia signs up to the agreement.

During recent Senate estimates hearings, despite repeated questioning, the Department of Communications, Information Technology and the Arts and the Department of Foreign Affairs and Trade were unable to or would not give any details on the specific requests made in the current round of negotiations. It is outrageous that the representative minister at the Foreign Affairs estimates, Senator Hill, would not even give a commitment that the government would allow parliamentary scrutiny of Australia’s GATS negotiations before they were completed. The Australian public and the parliament are being completely left in the dark on this. GATS negotiations should be opened up to full public scrutiny and debate. I am raising these concerns so that, like the round of negotiations on the MAI, more Australian citizens are aware of what happens in international forums without their consent or without any analysis of what impact it is going to have on them directly.

This secrecy can be seen in regard to GATS and postal services in a discussion paper of the department of communications released earlier this year. This paper gave the impression of a government agency which has little concern for postal services and little concern for the forthcoming WTO negotiations. Whilst I am advised that the paper was designed to consult with industry on Australia’s response to these proposals, I am aware that there has been a big delay in that consultation and that there was no intention to consult more widely than with industry. I doubt that even industry is going to get much of a go. There were certainly no negotiations with the critical union in that area, the CEPU. Perish the thought that the government should actually talk to the people who work for Australia Post!

Even Australia Post itself was totally unaware of any developments in the WTO GATS negotiations that may affect postal services for some time. In fact, in Australia Post’s submission in response to the department of communication’s discussion paper, they made two points. First, they urged government to oppose any deregulation of the reserved service through the WTO and to support fair trading in postal and courier markets. Second, Australia Post recommended that the government discuss and agree on a new, clearer classification scheme for the sector to remove the distinction between postal and courier services.

I am also aware that the CEPU and the Post Office Agents Association Ltd, one of the small business organisations that represent people in the postal industry, located mainly in regional Australia, also made submissions that expressed very similar if not stronger views than Australia Post. So we have the union and the small business sector in the area saying the same thing.

Contrary to what the department’s discussion paper said, these proposals have the potential to seriously affect Australia Post and Australian postal services. This would be through the restriction of services that could be provided by Australia Post or through opening up access arrangements of Australia Post’s network to foreign companies—to its obvious disadvantage. The latter was precisely the mechanism that this government unsuccessfully sought to introduce to Australia Post as part of its deregulation agenda—when it was being open about the fact that it was a deregulation agenda, unlike now where we are seeing it being done by stealth.

Given that the Australian postal market is already open to extensive competition, the Australian government should not support any further liberalisation proposed under the WTO GATS negotiations. I would also argue for Australian parliamentary approval before any resulting WTO GATS agreements are made. Unfortunately, it appears that this will not be forthcoming if the estimate hearings
of a couple of weeks ago are anything to go by. Parliament, industry and the people of Australia have a right to be fully consulted and fully informed about any postal service proposals and negotiations.

Clearly, the WTO GATS negotiation process is emerging as a major motivation for governments to work towards the deregulation and privatisation of postal services throughout the world. A key development has been the release of the European Union’s proposals to a wide range of countries, including Australia, for the removal of a whole range of trade ‘restrictions’ in various industries, postal and courier services. The EU, representing 15 countries, has been asking Australia to include in the GATS negotiations all of our postal items and all modes of delivery ‘handled by any type of commercial operator, whether public or private’.

My understanding is that, although some GATS rules apply to all services, many apply only to those services which each government agrees to list in the agreement, and there is pressure on governments to add to the list of services that would fall under GATS provisions. Currently, GATS has rules which recognise the right of government to regulate services and to provide and fund public services, and I think the average citizen of Australia would be very thankful that that kind of regulation continues to exist in an increasingly global economic environment.

But in the current negotiations, all governments are being asked to increase the range of services which they agreed would be covered in GATS and to make changes to the rules of GATS which would in effect reduce a sovereign government’s right to regulate its own services. The EU’s proposals request that the Australian government take steps to open up domestic postal and courier services by allowing access to the Australian postal market for companies based in the European Union, and there are many of those.

Given that the only area of the Australian postal market which is not open to competition is the reserved service, I would say that this is obviously what the European Union is after. I am aware of what has happened in the European Union and Great Britain. I would encourage the government to make the WTO GATS negotiations open to parliamentary scrutiny and to at least advise the people of Australia what the impact would be. But what we have here is cloud of secrecy and a ‘no’ from the minister in terms of any information on what is happening with GATS. At the end of the day, the reality is that the decisions will be made without recourse to the parliament or to the people of Australia.

Women: Violence

Senator STOTT DESPOJA (South Australia) (1.44 p.m.)—I rise to speak about the issue of violence affecting women. In particular, I would like to look at some recent developments in my home state of South Australia and how these issues are affecting or are involved in wider debate about women and gender violence. As many people will know, last Friday marked the beginning of the global campaign called ‘16 days of activism against gender violence’. As I am sure this chamber is aware, violence is a reality for millions of women around the world, irrespective of their race, culture or age. Although there is evidence to suggest that violence against women is more prevalent among women and girls of lower socioeconomic status, we know that it affects women from every walk of life, whether they are wealthy or poor.

Recognising the global nature of violence against women, the ‘16 days of activism against gender violence’ campaign is global in scope. It is supported by more than 1,000 organisations around the world. A quick web site search, for example, reveals that this campaign will reach from Adelaide to Angola, Croatia to Cambodia, Israel to India and Rwanda to Russia. The campaign will highlight all forms of gender violence, sexual violence and physical violence: violence against mothers, violence against daughters, violence against women in their homes, violence in the community, violence by loved ones, violence by the state, violence against women in the armed forces, violence against refugees, violence in times of peace and violence in times of war.

The 16-day campaign incorporates four significant dates: 25 November was the In-
International Day Against Violence Against Women, which commemorates the murder of the Mirabal sisters by the Trujillo dictatorship in the Dominican Republic on 25 November back in 1960; 1 December, which we know as World Aids Day; 6 December, which marks the anniversary of the Montreal massacre, when, as you may recall, a man walked into a Montreal university and shot 14 women, engineering students, for being feminists; and 10 December, which marks the 54th anniversary of the Universal Declaration of Human Rights, in which nations around the world acknowledge that every human being has a right to life, liberty and security of person without distinction of any kind. The global campaign will utilise as many forms of media as the number of countries that are participating, from video clips, radio advertisements, documentaries, stickers, posters, billboards, calendars, marches, street theatre, visual arts, public debate, seminars, workshops and fundraisers to fair stalls.

In my home state, I was honoured to launch the South Australian chapter of this campaign on Friday last week, when people gathered at the Migration Museum for the launch. It chose to focus on the issue of adult survivors of childhood sexual abuse. The South Australian campaign seeks to increase community awareness of the prevalence of childhood sexual abuse and the secrecy that so often surrounds this issue. It seeks to increase the community’s capacity to respond appropriately to adult survivors, particularly those who choose to disclose their experiences. We know that in Australia one in three women and one in six men—these are horrifying statistics—have experienced this abuse. These numbers clearly identify this issue as a mainstream issue. However, as we know, Australians in the past have been willing to sweep this issue under the carpet or to at least leave it to the experts. Obviously, it is a very difficult issue with which to grapple. This issue is therefore the focus of the South Australian campaign. The slogan of the campaign is: ‘Listen. Believe. Make our journey easier.’

As I said at the launch, there are many things I could say about this issue. I could talk about the statistics more. I could talk about the evidence linking child sex abuse to mental illness later in life and what we could do to address this. I could talk about the flaws in the criminal justice system. I could talk about prevention strategies. But the bottom line—and this has come through in this campaign and from people we have talked to who have experienced childhood sex abuse—is simply that they want to feel confident that they can disclose their experiences, that they can be heard and that they can be believed. That is what the campaign is about: ensuring that our community is one in which people feel safe and secure to tell their experiences, a community that is aware of the prevalence of child sexual abuse and refuses to stigmatise those who have been abused. As a community, we have to be honest about this issue. By treating it as secret or taboo, we fail to give legitimacy to the claims of those who have been abused, we turn a blind eye to offenders and we breach our duty of care to future generations. Women’s Health Statewide, who launched this campaign, have been at the forefront of these issues in South Australia—among other groups, of course—and I congratulate them on their attempts to raise awareness of the prevalence of this issue and their attempts to increase the community’s capacity to respond.

Another issue which I wish to address is of a serious nature. It is of grave concern to me and many others. Mr Acting Deputy President Ferguson, being a South Australian yourself, you may know about this issue which is starting to dominate debate in our home state. I refer to the emergence of a group known as the Black Shirts in South Australia. The group started in Melbourne, with a view to spreading nationally. The Black Shirts web site states:

The Black shirts are dedicated to support any and all who crave to bring back the very term marriage and family and stand against any force or power bent on corrupting children or the dismantling of the family unit or the destruction of the marriage.

Some people may say that this sounds like a reasonable objective, but this stand has taken the form of picketing outside the homes and workplaces of women who are separated
from previous partners or who have begun a new relationship. The founder of the Black Shirts, Mr John Abbott, along with others who are similarly clad in black, with their faces and identities often masked, claim that they are working to support the sanctity of marriage and to strengthen the family through leafleting houses, lecturing via microphones or megaphones and visiting neighbours. They claim that the campaign is to alert neighbours and coworkers to ‘unsavoury actions’ and to shame ‘morally corrupt’ women.

One Melbourne demonstration involved the letterboxing of pamphlets which contained personal information about a family residing in that street and which referred to the woman involved by her first name. I am very worried about these campaigns. I think these are campaigns of harassment aimed at humiliating, undermining, ultimately controlling and potentially terrorising women. It is a signal to women that their choices and their lives are not their own.

At the same time as the Black Shirts nobly claim that their fundamental code is to stay within the bounds of the law, there is the potential of wholesale flouting of that law. Men are called on to ‘study the law and then decide if and when and what means to use to protect his own children’. There is a call for men to examine which laws to apply to them and to follow only those, while advocating that an individual accused of a crime be dealt with ‘by the letter of the law’ and not ‘restrained of their freedom on hearsay and innuendoes only to be denied of what is rightfully theirs’. ‘Rightfully theirs’—as we approach the end of 2002, women and children should not be referred to as the possessions of someone else, as the possessions of men. The Black Shirts say, ‘When it comes to protecting our children, the law must stop at the gate.’ I have been very careful to use the terminology that has been used by this group so as not to misrepresent them in any way.

An issue of great concern to the Black Shirts is the failure of the law to deal with adulterers. In relation to adulterers, Mr Abbott believes:

People should take them out, find the nearest branch and hang them for what they’re doing. But unfortunately the law does not allow that, and we are law-abiding. The question they need to ask is how long before the laws change ...

I hope we see no vigilante behaviour or changes to the law introduced in the near future in relation to this issue. I am sure that these kinds of views are news to the chamber. Marriage breakdown is a sad reality. Rarely is such breakdown the fault of one party. I will not elaborate on that. I think people have differing views but we have laws that reflect this reality. The Black Shirts are picketing in cases where marriage has already broken down, where parties have separated and are trying to move forward. Their aim must be to have women and children return to broken relationships and broken homes. Surely that is the objective if those are their actions. I understand that a meeting of the Black Shirts was held in Adelaide recently and that it was not well attended. I think that speaks well for our home state of South Australia and I hope that it is a signal to people to rethink their actions.

Another matter of concern in the last element of my contribution today also affects women in South Australia. It is the threat to their right to protest against war and other forms of violence. That right is currently being questioned. The Speaker of the House of Assembly in the South Australian parliament, the Hon. Peter Lewis, ruled last week that monthly vigils held by the Women in Black movement are too frequent and has declared that vigils every three months should be sufficient.

Women in Black is an international movement which utilises silent vigils to protest against things such as war, rape as a tool of war, ethnic cleansing and human rights abuses all over the world. Founded in 1988 to protest against Israeli occupation of the West Bank, Women in Black—speaking a variety of languages in a growing number of countries—now gather regularly in silent vigil. In New York City they meet weekly on the steps of the New York Public Library. I note that women also gather in Azerbaijan, Belgrade, Italy and England.

The Adelaide chapter of Women in Black have been holding monthly peaceful, silent
vigils on the steps of Parliament House in Adelaide for more than a year. However, it has now been claimed by the Speaker of the House of Assembly that these monthly gatherings are excessive and that allowing such forms of protest will result in a plethora of groups seeking to protest outside Parliament House and will ultimately lead to confrontation. I understand that Adelaide’s Women in Black are seeking a meeting with the Speaker of the House of Assembly to discuss this issue and in the meantime intend to silently and peacefully protest. I wish them well with their efforts to gain that meeting. I hope that the South Australian parliament will reconsider that decision. While I may not always share the views of all organisations or community groups, I certainly recognise their right to protest in a lawful manner and one that does not involve intimidation, harassment or terrorism of our citizens, whether they be men or women.

I put these issues on the record today not only because I and others feel strongly about them but because we are in the midst of the ‘16 days of activism against gender violence’. It is an appropriate time for us, in the 21st century, to reflect on how men and women are treated in this day and age. I hope that we see some movement from peace-loving individuals. In relation to the issue of the Black Shirts and their campaign, I hope that they be not successful.

Sitting suspended from 1.57 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Sport: Independent Review of Soccer

Senator LUNDY (2.00 p.m.)—My question is to the Minister for the Arts and Sport, Senator Kemp. Can the minister confirm reports that the government demanded and received undertakings from Soccer Australia that it must accept and implement all of the recommendations of the Crawford inquiry into soccer in return for a $700,000 advance from the Australian Sports Commission? Is it also true that the Sports Commission has demanded the power of veto over the appointment of Soccer Australia’s chief executive? What authorisation did the Sports Commission have from the government to make these demands? How can the Sports Commission possibly demand that Soccer Australia implement all recommendations of an inquiry which is still seeking submissions from the public and will not report until mid next year?

Senator KEMP—What a pleasure it is to get a question from Senator Lundy on sport. This is a rare and precious moment. I thank Senator Lundy for her question. I was to have a dorothy dixer on soccer today. If I give some advice to my colleagues, I think that can still go ahead. Let me turn to the substance of Senator Lundy’s question. When I announced the inquiry into Soccer Australia, I am pleased to say that Senator Lundy was very quick off the mark in welcoming the inquiry—it is not often I give credit to Senator Lundy, but this time I do. Senator, because you have not asked me a question, I have not had a chance to thank you for that and I am very pleased to do that. This is a very important inquiry that was, and I hope will continue to be, a bipartisan inquiry.

Let me turn to the matters Senator Lundy has raised. I am aware of the media reports today that obviously Senator Lundy is aware of. Senator Lundy, you will be pleased to note that I sought advice from the Sports Commission, and it advises that it has made its position very clear to Soccer Australia. The Sports Commission’s expectation is that Soccer Australia will make its best endeavours to implement reasonable recommendations of the Crawford inquiry. My understanding from the advice that I have received is that this has been accepted by board members. I think that is very important.

I make the point that we are a government that consults. We are a consultative government and we listen to people. Because we consult, this inquiry is undertaking widespread consultations with all stakeholders and with the public, and we are very confident that the recommendations that will be produced will lay the foundation for the way forward for soccer. Soccer is arguably one of Australia’s most popular sports. It is no secret that soccer has undergone very considerable difficulties in recent years. I put it to Senator Lundy that it is important that this
soccer inquiry be supported. I am very encouraged by the widespread support that we have from stakeholders. If I do not get a chance in the supplementary question that Senator Lundy is about to ask me, perhaps if one of my own colleagues could ask me a question later in question time I may be able to enlarge on that aspect.

Senator LUNDY—Mr President, I ask a supplementary question. Minister, given you have conceded that these serious allegations about the conduct of the Sports Commission are true, will you be comprehensively and independently investigating them? Does the government support all of the actions taken by the Sports Commission in relation to Soccer Australia?

Senator KEMP—I do not know who writes these supplementaries, I have to say. Can I provide some advice to Senator Lundy: could whoever writes them provide her with more assistance in the future. Senator Lundy, as you know, the Australian Sports Commission is an independent body. The Australian Sports Commission plays a very important role in sport in Australia—it has the interests of sport in Australia. There is no question that these are difficult times for soccer. I think it is a good thing, not a bad thing, that the Australian Sports Commission is taking an interest in soccer. Senator Lundy, it was an interest that you welcomed. Let me make this point to you: on the announcement of the inquiry, you immediately rushed out and supported it. And what happens? The first whiff of grapeshot and you run and duck for cover. (Time expired)

Small Business: Secondary Boycotts

Senator TIERNEY (2.06 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 what action the government is taking to protect Australian small business, their employees and their families from trade union initiated secondary boycotts? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Tierney for his genuine policy question on an issue that is of great concern to Australians. It is in such stark contrast to the sorts of questions we have had from Labor during the past week. They seem to suffer from policy phobia. It is to be regretted that Labor do not have the same aversion to grubby personal attacks on family members of senators and members as they do to policy.

Earlier this year the government introduced legislation that was designed to protect Australia’s 1.2 million small businesses from illegal restrictions of trade imposed by trade unions, but it was defeated because Labor preferred to sacrifice small business on the altar of union expediency. But there is some good news for small business. The government will continue to champion the cause of small business by reintroducing the legislation. So Labor will have the opportunity to put the needs of the millions of people employed in small business ahead of the needs of their union masters. This legislation is important because Australia’s small businesses cannot afford to defend themselves when they are the innocent victims of union-led secondary boycotts. It is no good having the law if small businesses cannot get access to it. This is quite rightly of great concern to the Howard government, to Senator Tierney and especially to the small businesses of the Hunter region.

We want to give the ACCC the ability to defend small businesses against these unlawful activities by taking representative action for damages on their behalf. The fact is that the vast majority of small businesses simply cannot take on the trade union movement in a legal case. They do not have the money or the time and are afraid of what the unions will do in the future. If the unions act lawfully then they have absolutely nothing to worry about. But Labor have been directed by their union masters to oppose protection for small businesses because they are worried—and Labor senators have every reason to be worried as well. A boycott by the unions on preselection day would see each and every one of them disendorsed. That of itself would not be a bad thing, but Labor senators should not be bullied by the union thugs. By voting against the Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2] Labor will encourage the unions to bring back the turmoil of the old national
stoppages—sympathy strikes they used to call them; coal workers striking in support of transport workers—which would only allow more strikes, industrial unrest and job losses.

This government is absolutely committed to Australian small businesses, their workers and their families. The only job Labor senators care about is their own and the only other thing they care about is their endorsement by the unions. Yes, 20 out of the 28 Labor senators are former union operatives. We as a government believe that jobs are more important than union power. The threat of unlawful secondary boycotts to Australian small business is real. It will not stop until Labor do what is in the nation’s interest and not the unions’ interests.

Business: Corporate Governance

Senator CONROY (2.11 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Does the minister believe it is ethical that executives who receive options and shares as part of an incentive scheme are able to use derivatives to lock in the value of those schemes—so-called protection deals—when shareholders are subject to both upward and downward movements in share prices? Does the minister agree that this entirely negates the claimed benefit of executive share and option schemes, which is to align the interests of management and shareholders? Why has the minister taken no action to prohibit the use of these protection deals? Why is the minister protecting the interests of the top end of town?

Senator COONAN—In answer to Senator Conroy’s question, ASIC, of course, is taking action. I understand that it has been announced that this issue has been referred to the Australian Stock Exchange for referral to the Corporate Governance Council for consideration. When these deliberations have run their course I will be in a position to announce the government’s position.

Senator CONROY—Mr President, I ask a supplementary question. Can the minister confirm that these protection deals are also a device to avoid disclosure to shareholders? Why wasn’t this addressed in the government’s CLERP 9 paper on corporate governance? Isn’t this just another case of this government letting greedy executives distort and disguise their remuneration packages at the expense of ordinary Australians?

Senator COONAN—I thank Senator Conroy for the supplementary question. I have already said that the matter is being addressed by ASIC, having referred the matter to the Australian Stock Exchange which is referring it to the Corporate Governance Council. That is an entirely appropriate process by which to consider this specific matter.

Defence: Border Protection

Senator FERGUSON (2.13 p.m.)—My question is to Senator Hill, the Minister for Defence. Will the minister inform the Senate how the Howard government’s strong stand on border protection has helped stem the flow of illegal boat arrivals? Is the minister aware of any alternative policies? What would be the financial implications if any of these policies were implemented?

Senator HILL—I thank Senator Ferguson for his question. I can advise the Senate that there have been no illegal entrants via people smugglers in the last 12 months, which is a great achievement in terms of the policy of the Howard government. I particularly wish to give credit to the Royal Australian Navy and the Customs Service through its Coastwatch organisation. This multitiered response has proven to be, at least at this time, 100 per cent successful. It is a great credit to the officials who have carried out this task in the field. I was given some figures that indicated that Customs Coastwatch, which of course operates 24 hours a day, 365 days of the year, expects to fly almost 22,000 hours of surveillance and patrol more than 350 million square kilometres of ocean this financial year.

What the government has done is rely on Coastwatch, through not only its intelligence but its assets in terms of ship assets and aircraft, to patrol the waters surrounding Australia. Further out, Coastwatch is complemented by the assets of the Royal Australian Navy—in particular, the 15 patrol vessels of the Royal Australian Navy and long-range surveillance aircraft. This has provided, as I
said, both the intelligence and the capability to address the issue. It has clearly proven to be an effective deterrent and the government and, I think, the people of Australia are obviously pleased that people smugglers, at least up to this time, have largely been effectively dealt with.

If the record in relation to this particular issue is one of 100 per cent success, how could that be improved upon? It was interesting that to that background Mr Crean, who has been pressed to come up with a policy, last week said that Labor has a policy which will be more effective than the government's in relation to border protection. More effective than 100 per cent successful? We thought: 'This will be interesting. Finally, a policy from the new Crean opposition—something that is new, novel and interesting.' And what did he offer? He offered a rehash of the old Beazley policy. One of the few policies of the last election of Mr Beazley was for a coastguard. And so Mr Crean, pressed to come up with a policy in his term as Leader of the Opposition, gave us a rehash of the Beazley coastguard.

What was it? It proposed: spend another $600 million by creating a new tier of protection somewhere between the Customs Service and the Royal Australian Navy; buy for them three ships and three helicopters and set up a whole new administration in law enforcement. Imagine the training of a whole new level of enforcement in terms of helicopter operations off ships, marining helicopters and buying the equipment! It was $600 million for three ships. What would three ships add to the 15 patrol vessels of the Royal Australian Navy? Absolutely nothing. It proposed three more ships, however, and a totally new administration. Spend $600 million and say that you have now got a policy that can achieve more than 100 per cent success! What a poor attempt—his first attempt at policy. If there were a spare $600 million, why wouldn't you buy three more ships for the Navy or three more ships for Customs? Surely Mr Crean can do better than this. 

Ministerial Conduct: Senator Coonan

Senator FAULKNER (2.18 p.m.)—I direct my question to Senator Hill, the Minister representing the Prime Minister. Minister, when was the Department of the Prime Minister and Cabinet asked to investigate the possible conflict of interest between Senator Coonan's ministerial responsibilities and the activities of the private company Endispute? When was the investigation completed and by whom was it undertaken? How did the department satisfy itself that Endispute did not engage in any activity involving Senator Coonan's responsibilities, which are described by the Treasurer as the 'development, implementation and administration of taxation policy, administration of APRA and the prudential regulation of superannuation and insurance'?

Senator HILL— I will refer the question to the Prime Minister and see if there is anything that he wishes to add to what he said yesterday. Yesterday, he said that he is satisfied—and he is the one that has to be satisfied—that there has not been a conflict of interest. Furthermore, I am not sure whether he said it but I know that he believes that Senator Coonan has been doing an exceptionally good job as a minister.

Senator FAULKNER—I rise to ask a supplementary question, Mr President. I thank the minister for taking that on notice. I can assure the minister that the Prime Minister did not avail himself of the opportunity to answer those questions about the details of when the department was asked to investigate those matters, so I ask the minister to check when the investigation was completed and by whom it was undertaken. Perhaps the minister, if he is going to take these matters on notice, could also request that the Prime Minister table—or he could agree to do so in question time today—the Prime Minister and Cabinet report in order to establish that Senator Coonan has no conflict of interest between her ministerial responsibilities and the interests of the company of her immediate family. Will the minister give a commitment to table the PM&C report?

Senator HILL—I have to say that this exercise has been one of the grubbier exercises that we have experienced in a long time. The implicit attack upon Senator Coonan, which suggests that in some way she has been party to an electoral act rort—
which has been totally fabricated by Senator Conroy—is one of the worst examples of abuse that I have witnessed in my 21 years in this place, and it is endorsed by Senator Faulkner and others of the leadership group of the Australian Labor Party. They did it in the House of Representatives as well. They knew that she had not witnessed it; they invented it and they implied it in this place. It breaches all the rules in relation to—

Senator Faulkner—Mr President, I rise on a point of order. I asked the minister a set of substantive questions. He has taken some questions on notice. In my supplementary question I asked the minister whether he would undertake to table the PM&C report. He should be directed to answer that question. If he cannot answer it now then perhaps he could take that on notice as well, but that is the question that was directed to him and I ask you, Mr President, to request the minister to answer the supplementary question.

The PRESIDENT—Senator Hill has 16 seconds to go, and I presume he is getting to an answer.

Senator HILL—I remind the Senate of an article in the Weekend Australian of 12 February 2000, which says:

Now, Faulkner is the type of fellow who can spot a misdeed where none exists.

He knows there has been no misdeed in relation to this matter. He knows there has been no abuse by Senator Coonan. He knows there certainly has been no abuse by her husband. (Time expired)

Immigration: People-Smuggling

Senator BARTLETT (2.22 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Minister, earlier this year the Commissioner of the Australian Federal Police, Mr Keelty, informed the Senate Select Committee on a Certain Maritime Incident that the AFP was conducting ‘ongoing investigations in relation to the criminal activities of those persons responsible for the organisation of the voyage of the SIEVX’, which resulted in the deaths of 353 people. Can the minister confirm that the AFP is preparing a homicide case against Abu Qussey, the people smuggler widely identified as being responsible for organising the boat known as the SIEVX? The minister may be aware that Abu Qussey is currently in prison in Indonesia and is due to be released on 1 January. Have there been, or will there be, any attempts by the Australian government to ensure that charges are laid against Mr Qussey, or to request his extradition to Australia?

Senator ELLISON—I can confirm that Mr Abu Qussey is a person of interest to Australian law enforcement and that, from current information, we understand he is in custody in Indonesia. There is a matter pending with the Australian Federal Police in relation to investigations in this matter. I will see what I can provide to Senator Bartlett without prejudicing any potential investigation or moves that we have afoot. Suffice to say that the government regards this as a serious matter, that Mr Abu Qussey is a person of interest and that we are monitoring this situation closely.

Senator BARTLETT—Mr President, I ask a supplementary question. I thank the minister for his answer. Can the minister at least guarantee to the Australian people and to the Senate that those investigations will be concluded before Mr Qussey is released from jail and able to abscond from justice? In addition, given the positive cooperation that has occurred between the AFP and Indonesian authorities to bring those responsible for the mass killings in Bali to justice, can the minister outline what cooperation has been occurring to ensure that those responsible for the mass killings of those on board the SIEVX are also brought to justice?

Senator ELLISON—I do not think I can take this matter much further than I have indicated. I will take this matter up with the Australian Federal Police and see what I can provide to Senator Bartlett; in fact, it may be that we can give him a briefing on the matter, albeit a confidential one.

Insurance: Public Liability

Senator JACINTA COLLINS (2.25 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer, and it is an insurance related question. What steps has the minister taken to promote the implementation of recom
mendation 57 of the Ipp report on the law of negligence, which recommends that the rules of court in every jurisdiction contain a provision requiring parties to personal injury claims to attend mediation proceedings with a view to securing a structured settlement?

Senator COONAN—I do thank Senator Collins for her newfound interest in insurance.

Senator Jacinta Collins—I chaired the inquiry.

Senator COONAN—She did chair a committee that came up with a whole lot of recommendations that had already been implemented through the ministerial meeting on public liability, which had been looking at these matters since before the committee got under way. So, by the time the committee reported, it came up with a whole lot of things that had already been considered in detail at the ministerial meeting on public liability and the ministerial meeting of health ministers, and that were considered and endorsed by COAG meetings throughout this year.

Nevertheless, the answer to Senator Collins’s question as to what have I personally done about the implementation of Mr Justice Ipp’s recommendations in relation to mediation and personal injury claims is very simple: absolutely nothing because the Commonwealth has no jurisdiction over personal injury matters. However, as I understand it, the state governments have endorsed in principle the recommendation of Mr Justice Ipp that, in relation to personal injury matters, a structured settlement or an order in relation to an amount for personal injuries over $2 million not be entered as an order unless there has been compulsory mediation. My understanding is that the states have all committed to that.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. Can the minister confirm that, if recommendation 57 is implemented, the use of mediation or alternative dispute resolution techniques would be compulsory in the conduct of every public liability insurance case across Australia? How would the national implementation of this recommendation affect the operations, the cash flow, and the viability of every practitioner and business providing commercial alternative dispute resolution and mediation services in Australia?

Senator COONAN—I thank Senator Collins for the supplementary question. It would not have any impact at all on the activities of Endispute. Endispute does not conduct any personal injury matters at all.

National Security

Senator BROWN (2.28 p.m.)—My question is to the Minister representing the Prime Minister. Following the Prime Minister’s politically culpable comments on Sunday, threatening a potential pre-emptive strike in the neighbourhood in certain circumstances, what has been the reaction from neighbouring governments, including those of Malaysia and the Philippines? What action is the government taking to mitigate the ongoing damage to Australia’s relationships with the neighbourhood? Which are the unfriendly countries to which the Prime Minister was referring when he made those comments? Finally, do you agree with the Prime Minister that there have not been damaged relationships with Asia as an outcome of his culpable comments?

Senator HILL—It would be helpful if Senator Brown would accurately reflect the statements that were made by the Prime Minister rather than invent something to suit his short-term political purposes. He could have said, for example, that the Prime Minister specifically said, ‘And there is no other alternative available.’ So it is an issue of protecting Australia and Australians when there is no other alternative available.

Secondly, he specifically went on to say that that situation has not arisen, because nobody is specifically threatening to attack Australians. When Senator Brown gets up here and asks which are the unfriendly countries to which the Prime Minister was referring, the Prime Minister was not referring to any particular country at all. I would have thought that that pulls the rug out from under the whole question. What we are wanting to do is to protect Australians from terrorists. The Prime Minister saying that
that is his commitment is something that most Australians would appreciate. If it can be done through peaceful means, through law enforcement means, obviously that is our preference.

Senator Brown mentioned a number of the regional countries. We have been pleased to work with those countries cooperatively, helping them to more effectively address terrorism within their own states. It is a sad thing if terrorists in Indonesia kill Indonesians, but others are also being killed, including Australians. That is why it is important that we work cooperatively to effectively address this issue. We are doing it with Indonesia. We have done it with other regional states through a whole range of methods. We are now better sharing intelligence, which is something that they have sought and that we have realised is useful. We are giving them the benefit of our quite sophisticated methods of policing. There is a whole range of different ways in which we are making progress towards effectively addressing this threat; but, by nature, terrorism is extremely difficult to effectively address, and we will continue the effort.

Senator BROWN—I ask a supplementary question of the minister. Haven’t the Prime Minister’s comments in fact been injudicious and led to a very negative reaction in the region? Minister, in light of the Prime Minister’s behaviour, what effort is being made to stop blundering heads in the government from exacerbating the situation, including by the comments from the Special Minister of State, who referred to a neighbouring head of government as ‘Prime Minister Muppeteer’ in this place on Monday? Will the government move to close down on that sort of comment and to turn around the damage being done—because of injudicious comments from cabinet ministers, including the head of cabinet, about our neighbourhood—to Australia’s reputation and relationships with that neighbourhood?

Senator HILL—If Senator Brown again refers to the actual question and answer, he will find that the question was put in the following terms to Mr Howard:

Does that mean that you ... if you knew that, say, JI people in another neighbouring country were planning an attack on Australia that you would be prepared to act?

Of course, the Prime Minister said, ‘I have a responsibility to protect Australians. I will do my best to protect Australians.’ That is what Australians would expect of him, I respectfully say to Senator Brown.

Taxation: Capital Gains Tax

Senator COOK (2.33 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Can the minister confirm that, under the Taxation Office capital gains tax guidelines, event E7, relating to the disposal to a trust beneficiary of an end capital right, is designed to address circumstances where a beneficial interest changes to a legal interest? Can the minister also confirm that, while an E7 event in which a pre-capital gains tax asset is disposed of will not trigger a tax liability, it will start the running of the clock on a capital gains tax liability from that date until another event, such as a sale?

Senator COONAN—Thank you, Senator Cook, for the question. It does, of course, require a legal opinion, which I am certainly not going to provide.

Senator COOK—It does not require a legal opinion at all; it could be an opinion from an accountant or anyone else familiar with the act, including the minister who has the job to administer the act. I ask a supplementary question—and maybe the minister can hazard an answer. Can the minister also confirm that the capital gains tax law provides that major capital improvements to an asset which was acquired before 20 September 1985, such as the demolition of an old house and the construction of a new one on the same site, will actually be subject to capital gains tax?

Senator COONAN—The same position applies; I am not going to provide some commentary that will provide a legal opinion on hypothetical events. We know what the Labor Party’s policy was on capital gains tax—and that was to start the clock running on every single asset since about 1998.

Sport: Independent Review of Soccer

Senator COLBECK (2.36 p.m.)—My question is to the Minister for the Arts and
Sport, Senator Kemp, and follows on from the question that Senator Lundy asked earlier. Will the minister now advise the Senate of the progress of the independent review into Soccer Australia? Will the minister advise the Senate of the support shown for the review by the soccer community and the broader public?

Senator KEMP—Thank you, Senator Colbeck, for that important question. Unlike Senator Lundy, Senator Colbeck is extraordinarily supportive of the Australian Sports Commission and, indeed, the soccer inquiry. Let me make it clear: the Commonwealth government is committed to assisting soccer—one of Australia’s most popular sports. We are going to assist it to get its house in order and to fulfil its potential both domestically and on the international scale.

I can report to the Senate that the review into soccer in Australia announced on 9 August is progressing well. It has been almost universally welcomed and encouraged. Indeed, at one stage it was even welcomed by Senator Lundy, because Senator Lundy at that stage recognised that there was a need for change, a need for reform, in soccer. I can report to the Senate that there is, I believe, a groundswell of support for reform of the game. To date, the Australian Sports Commission has received over 230 submissions to the review and has conducted, I am advised, over 70 face-to-face meetings with interested groups—stakeholders and other interested members of the public—all of whom want to see soccer succeed. In addition, I have personally received letters of encouragement from the general public in the last three days alone. I received one letter from a gentleman in New South Wales, who wrote:

Many believe that the inquiry can help build soccer into being a well-managed sport, thus enabling the game a robust and viable future for the involvement and enjoyment of all and enabling Australia to engage with the international community through the world’s most popular sport.

That was written to me by an interested member of the public. Just as important, however, has been the support shown for the review by the soccer community. On 29 November this year, the acting chairman of the board of Soccer Australia said:

The board of Soccer Australia unequivocally supports the terms of reference of the current review by the Australian Sports Commission and will provide whatever support is necessary to ensure integrity of the process.

Soccer, as I have mentioned, is an extremely popular sport in this country and the government is determined to help soccer get its act together. I believe all Australians want soccer to be a major force. I also received an email from a Victorian, who wrote:

It—

soccer—is exciting, has superstars, worldwide cross-gender appeal, and supporter intensity like any other sport. I love this country, I love soccer and I would like to say I love Australian soccer.

That was an email from a member of the public and I think it sums up the public sentiment rather well.

DISTINGUISHED VISITORS

The PRESIDENT—I draw the attention of honourable senators to the presence in the chamber of a delegation from the New Zealand parliament’s health committee, led by Mr Steve Chadwick, MP. On behalf of honourable senators, may I wish you a pleasant, informative and enjoyable visit to our country and to our Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Centrelink: Board Members’ Salaries

Senator FORSHAW (2.40 p.m.)—My question is directed to Senator Vanstone, the Minister for Family and Community Services. Can the minister confirm that Centrelink board members are paid an annual salary of $30,000, plus a further $10,000 for each subcommittee which they chair? Can the minister also confirm that these payments are made even if members fail to attend a meeting? On what basis have Centrelink executives received increases of between 25 per cent and 46 per cent over the past 12 months? Why does this government continue to deny wage justice to Centrelink employees, who have not received an increase for over 18 months?
Senator VANSTONE—I thank the senator for the question. The Centrelink board members do get paid something around $30,000. It might be a bit more or a bit less. I will check the details for you and get back to you. I think there is a supplementary amount for a subcommittee. I will get details of that for you. You ask whether they get paid if they fail to attend. Do you mean if they miss one meeting or if they do not ever attend? I am not sure what you mean by that, but I will have a look and see if someone has never attended ever, and see what I can tell you there. I will check about the varying levels of increase that you suggest are being paid to the Centrelink board—I presume that is what you mean when you say the Centrelink executives; it is not the terminology I would use. Is that what you mean: the board?

Government senators interjecting—

Senator VANSTONE—He does not know. He did not write the question. Someone else wrote the question, and he does not have a clue what he is asking me! Never mind. I was trying to be helpful. I did not mean to embarrass you. Believe me, if I am trying to embarrass you, you will know it. I will take that up for you too.

You give me the opportunity—or whoever wrote this question for the senator gives me the opportunity—to remind everybody what a great organisation Centrelink is. I think senators ought to know that last night they won two of the Prime Minister’s awards for excellence in the Public Service. They have a policy of continual improvement. They welcome criticism so that they can have the opportunity to further improve. These things do not happen as a happy accident. You need to have at the top—with the chief executive officer and the board—people who are absolutely committed to permanent improvement. If you do not have that, you end up with something like the old CES, which was not effective. We have changed that. We have a good board and an excellent chief executive officer, who are working very hard. It does not surprise me, given the union representation opposite, that you ask this question when we are in the middle of negotiations over a pay rise for the staff. I know of no staff in the Public Service that are happier with their conditions or have greater respect for the executive of their organisation than Centrelink staff are or have for Sue Vardon and her team.

Senator FORSHAW—Mr President, I ask a supplementary question. I thank the minister for being prepared to check out further the answers to the questions that I did ask. I might suggest, minister, that you start by having a look at the Hansard of the last estimates committee hearings. I would have thought that you, as the relevant minister, would at least already have the information and be able to provide it today, rather than have to take this on notice. Minister, is it not a fact that Centrelink agreed, in a memorandum of understanding earlier this year, that employees would be compensated in the current round of pay negotiations for implementing the government’s welfare reform program? Given the fact that Centrelink employees have increased productivity by 21 per cent in the face of massive job cuts and organisational change, will the minister direct Centrelink to grant wage justice and equity to its employees, instead of simply rewarding highly paid executives and board members?

Senator VANSTONE—Senator, I will check out what you tell me about MOU. I am not going to comment further in relation to these negotiations. They are under way and time will tell what Centrelink staff choose to do, as opposed to what you or any union might choose to tell them to do.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I would like to draw the attention of honourable senators to the presence in the public gallery of former distinguished senator and minister Peter Walsh. Welcome home.

Honourable senators—Hear, hear!

The PRESIDENT—I hope that you have observed the changes in the place since you left!

QUESTIONS WITHOUT NOTICE

Immigration: Asylum Seekers

Senator BARTLETT (2.46 p.m.)—My question is to the Minister representing the Minister for Immigration and Multicultural
and Indigenous Affairs, Senator Ellison. Given that the Australian government continues to use phrases such as ‘the need to safeguard the Australian community’ as a justification for trying to keep refugees out of Australia and for the continuation of the mandatory detention policy, can the minister confirm that security checks by the immigration department and ASIO were conducted on all of the 8,000-plus refugees who were given temporary protection visas? Can the minister also confirm that these security checks revealed that not one of those people was identified as presenting an adverse risk to Australia? Will the minister also confirm that the check of almost 14,000 files due to new information regarding nationality being received have resulted in the cancellation of just eight visas, with none of those cancellations having anything to do with terrorist links?

Senator ELLISON—I am not aware of the detail in relation to the second half of Senator Bartlett’s question on those visas. I will seek to obtain information about that and advise him. However, I am aware of the evidence that I think Dennis Richardson, the inspector-general of intelligence, gave at a Senate committee. He said that he did not believe that anyone had failed on security grounds in the checks that had been carried out. But I can say that, in relation to the question of detention of those people who come here illegally, it is essential that we continue with that policy. It is essential for a number of reasons, and security is but one of them.

There are also other checks that have to be carried out. The fact that to date it would seem that there has been not one concern does not mean that there might not be any in the future. In relation to health, we also have checks to be carried out. You also have to remember that, in many of the cases where people have come here illegally, they do not have identification with them. That is one of the first things that we have to verify: where they have come from and the identification of those people. We believe that the system we have in place facilitates that sort of investigation.

We also believe that the changes we have implemented have resulted in an expeditious consideration of the application for asylum by those people. I believe that 80 per cent of applications are sorted out in a matter of weeks for those people who seek asylum. All of that can be done adequately in the current regime that we have. So, despite what Senator Bartlett might say about the security aspects, we still believe that this is a policy which is essential to the interests of Australia.

Senator BARTLETT—Mr President, I ask a supplementary question. Given that the minister has confirmed that refugees who arrive by boat have been shown not to present any security threat to Australia or Australians, why does the government continue to utilise enormous amounts of resources by preventing people who are not a security threat from arriving in Australia and being processed here, rather than using those resources and targeting them towards people who are a security threat to Australians, such as terrorists and extremists?

Senator ELLISON—one of the aspects I mentioned was identity fraud and the establishment of a person’s identity. We have discovered a number of cases in relation to that. There have been newspaper articles on that very point. That is but one of the issues that we have to sort out. Identity fraud can mask all sorts of threats—be it security, a person’s criminal past, or someone coming from an area where there may be criminal activity or human rights abuses—and all manner of investigations have to be carried out, including security investigations. That is why it is essential that these people are in an area where those inquiries can be carried out.

**HMAS Westralia**

Senator CHRISt EV ANS (2.50 p.m.)—My question is directed to the Minister for Defence, Senator Hill, and refers to the Westralia fire. Can the minister confirm reports that the initial Navy board of inquiry into the Westralia fire was held before the ship’s engines had been stripped down and examined? How could that board of inquiry have thoroughly examined the causes of the fire if it did not have the report from the detailed engine inspection? Minister, have you seen the
detailed report on the engine inspection of the *Westralia*? Does it show that a number of faults other than the flexible fuel line could have caused the fire?

**Senator HILL**—I do not recall seeing that report, but I will pursue the issues that have been raised by the honourable senator and bring him a response.

**Senator CHRIS EVANS**—Mr President, I ask a supplementary question. I thank the minister for his answer, and I would appreciate that information. Can he also confirm that the Commonwealth representative at the coronial hearing this week into the *Westralia* fire argued that the hearing should not be held in public? Did you, as minister, authorise that submission and, if so, why? Doesn’t the public deserve to know what led to the deaths of those four young sailors in this tragic accident?

**Senator HILL**—I do not recall taking a position that it should be a hearing in camera, but I would like to check the record to see that that is correct.

**Senator Faulkner**—He said ‘not in public’.

**Senator HILL**—Or not in public. I think that there is a reasonable public interest in this issue. I monitored the implementation by Defence of the recommendations of the previous inquiry, and a large number of those recommendations have been implemented in part or in whole. Obviously, Defence is extremely anxious to avoid a recurrence of such an unfortunate event, with its consequential loss of life. If there is more to be learned from this coronial inquiry, we would obviously seek to act upon that as well. But, in relation to the detail of the questions that have been asked, I will check the record and, as I said, respond further to the honourable senator.

**Aviation: Security**

**Senator SANDY MACDONALD** (2.53 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Minister, will you update the Senate on the Commonwealth’s success with enhancing aviation security, especially the introduction of air safety officers for domestic flights? Further, will you inform the Senate about moves to extend this program to international flights?

**Senator ELLISON**—This is an important question for the travelling public in Australia and especially for people who are considering coming to Australia for the purposes of a visit. I acknowledge the importance of this question from Senator Sandy Macdonald, who has a keen interest in security matters. In the wake of September 11 last year, the Howard government have implemented important initiatives in relation to aviation security in this country. We have budgeted $128 million for increased counter-terrorism first response at major airports across Australia. Previously, this existed only at Melbourne and Sydney, and we are now extending that to airports such as Brisbane, Darwin, Cairns, the Gold Coast, Adelaide, Perth, Canberra, Hobart and Alice Springs. As well as that, I recently commissioned the final three explosive-detection dog teams, bringing to 18 the number of canine bomb detectors in Australia, as opposed to six prior to September 11. These detector dogs are essential in increasing aviation security at our airports. They have been bred and trained to detect no fewer than 19,000 explosive combinations.

Senator Sandy Macdonald also mentioned the question of our air security officers. That program was implemented at the end of December last year. We have seen that grow to where we currently have in excess of 70 air security officers working in Australian skies, and we have seen them work on thousands of domestic flights. I want to acknowledge the cooperation that we have had from airports across Australia and, in particular, the assistance that Qantas and Virgin Blue have given to us. We envisage having this program in place early next year, and we will have 110 officers who will be operating on our air security officer program. We have always said that we would like to see this extended internationally, and we are taking steps to do just that.

It is important to remember that there are a number of countries which have these programs already in place. Recently, the United Kingdom mentioned that it too was going to look at a sky marshal program, albeit that...
previously it had rejected such a proposal. The government are developing a program with the United States, Singapore and Indonesia. We are pursuing bilateral agreements on this important issue as a matter of priority. To that end, I visited the United States recently and met with senior officials to progress these negotiations. I can also inform the Senate that I intend to progress in talks later this month the issue of negotiating a bilateral agreement for Australian ASOs on flights to and from Indonesia and Singapore.

It is very important that we have an established air security officer program operating not only domestically but also internationally. We have developed a training program which is second to none, and we have had overseas interest in the program that we have developed. Our air security officers are flying on selected domestic flights, and they offer to the travelling public the assurance that we will have not only security but also safety in our skies. This is essential if we are to portray to the travelling public and those people coming to Australia that this is a safe place in which to travel. It also is a very important deterrent to any would-be hijacker or terrorist activity in relation to our skies. This is just part and parcel of enhanced air security in this country.

Taxation: Family Payments

Senator STEPHENS (2.57 p.m.)—My question is to the Minister for Family and Community Services, Senator Vanstone. Will the minister confirm that, between now and Christmas, approximately 140,000 Australian families will get a family payment debt letter or have their tax stripped? Can the minister confirm that, on the basis of reconciliations to date, over 600,000 families will incur debts—only a tiny reduction on the 670,000 families in the previous financial year? When is the minister going to make real changes to the system to end the debt trap?

Senator VANSTONE—I thank the senator for her question. Senator, you ask me for a calculation for between now and Christmas. I have not done a calculation from today’s date versus a week ago or two weeks ago. In any event, the rate at which it happens is not what is at issue; it is the proportion that is at issue. So I do not really know why you put in a rate question. But, in any event, there will again be some people who will get overpayments in the second year of operation of a new tax system for families that put $2 billion more into the pockets of families and that aligned the family benefits with the tax system. Most people, including on your side of the chamber, understand how the tax system works—namely, that some people at the end of the year get a cheque and some get an assessment saying, ‘You’ve got to pay more.’ This system works on the basis where you have an annual entitlement that at the end of the year families in the same circumstances would get the same amount of money. We think that is fair. Apparently, you have some other view, but we think that it is fair to say that at the end of the year families with the same income and the same number of children of the same age should get the same amount.

Some people—most people, in fact—obviously prefer to take the money during the year, and we pay them on their estimates of income. Some people have underestimated their income to the extent that they have then had an overpayment. However, it is important to note—I had better not say ‘none’ because there is always an exception somewhere, so let me put it another way—that everybody with an income of up to around $30,000 has paid the maximum rate. So for people on low incomes the question of whether they have got the assessment of their income right does not come into play. It is only people who have incomes over that amount who might have some concern. Then there is a second minimum rate level—another income area higher up the scale—where people are paid a flat rate, and then it starts to cut down.

I have to tell you, Senator, that one of the most depressing things I have to do in my office is to write letters back to people who have complained that they have had an overpayment on their family tax benefit when their family income was estimated to be, for example, around $80,000 or $90,000 and it went up to $110,000. I can tell you that the letters I send back are far more polite than I would actually prefer them to be. This is a
very generous country. The maximum rate is paid to families who have incomes under $30,000. There are two taper zones. Within that, as people increase their income, they get less. It is true that at the end of year, if you have overestimated your income or we have not given you enough, you will get a top-up—unlike the situation under the previous government, which did not top up. Of course, if you have earned more than another family in the same circumstances, you will have had an overpayment and we will expect it to come back, presumably by way of a reduction in your entitlement next year.

Senator STEPHENS—Mr President, I thank the minister for her response and ask a supplementary question. Does the minister deny that a lump sum debt at the end of the year is a serious problem for many struggling families and will the minister confirm that she will do nothing more to help these hundreds of thousands of families getting these year-end bills?

Senator VANSTONE—Struggling families are certainly not the families earning the higher incomes who, nonetheless, have no difficulty in writing to senators and members to say: ’I’ve got an overpayment. My income was $87,000 instead of $82,000.’ I do not regard those as struggling families, unless of course they have 14 children—and there are people who do have a lot of children. People earning under $30,000 do get the maximum rate. Senator, I encourage you to look at the Hansard and at the changes that were announced in July to see everything this government has done to give families even more choice in how they take these payments. That extra choice will give them greater opportunities to avoid an overpayment if they are unsure of what their income will be.

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

QUESTIONs WITHOUT NOTICE: ADDITIONAL ANSWERS

National Stem Cell Centre

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.03 p.m.)—Senator Murphy asked me a question yesterday about the patenting of human biotechnology products. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows:

Answer to Questions by Senator Murphy on 3 December 2002.

The patent system rewards useful innovation by providing patent owners with the exclusive right to exploit their invention for a limited period in return for publicly disclosing the innovation. In deciding whether or not a patent should be granted, IP Australia which encompasses the Patent Office, examines whether the invention concerned is new, inventive and useful. There are no specific requirements for considering human interest and public health implications when assessing patent claims.

In Australia, biotechnology inventions are patentable, provided the invention meets the requirements of the Patents Act. The raw data obtained from the mapping of the human genome, that is the total human DNA, is not patentable. However, patents may be granted for inventions involving human DNA and gene fragments or human cell lines that are new, inventive and useful. Not all inventions in the field of biotechnology are patentable. Subsection 18(2) of the Patents Act expressly excludes the patenting of human beings and the biological processes for their generation.

The Government recognises that patenting in the human biotechnology area is both a sensitive and important issue, raising fundamental concerns that include moral and ethical issues, the impact on freedom of research in Australia and ensuring Australians have access to the latest health technology and health care. Without patent protection, neither foreign nor Australian enterprises will be encouraged to manufacture medical innovations and make them available in Australia.

In light of recent concerns regarding patenting in the human biotechnology area the Government is giving active consideration to a review of this issue. The Government is currently considering the Terms of Reference for a review to be conducted by the Australian Law Reform Commission on gene patenting.

RULING FROM THE CHAIR

The PRESIDENT (3.03 p.m.)—In question time yesterday I was asked to reconsider a ruling I made on a supplementary question put by Senator Wong to the Minister for Revenue and Assistant Treasurer, Senator Coonan. While her original question asked about Senator Coonan’s statements and
therefore had some relationship to the minister’s ministerial responsibility, Senator Wong’s supplementary question was entirely about the tax liability of the property owned by Senator Coonan’s husband. It also asked for Senator Coonan’s opinion about those matters. As such, the question was out of order and I so ruled. The question had no reference to the minister’s ministerial responsibilities.

Senator Cook asked me to consider rulings that he said were made by President Beahan about questions concerning the relatives of senators when a matter involving Senator Richardson was under consideration. Senator Cook appears to be thinking of questions which were asked in 1992 about an allegation that Senator Richardson, while a minister, had pursued private interests with public resources. The questions at that time related to Senator Richardson’s actions as a minister. The questions were therefore allowed. There were no rulings by the President of the kind referred to by Senator Cook. On the contrary, President Sibraa stated that the questions were allowed on the basis that they went to the conduct of the minister.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Ministerial Conduct: Senator Coonan

Senator CONROY (Victoria) (3.04 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) to questions without notice asked by Senators Conroy, Collins and Cook today relating to her pecuniary interests.

I wish to specifically take note of Senator Coonan’s answer to my question on executive remuneration, particularly the use of protection deals by executives. These protection deals are outrageous. Executives are using derivatives to lock in the value of shares and options granted to them as part of their remuneration package and so avoid any fall in the share price. Shareholders, unfortunately, are not able to avoid any fall in the share price—falls which can often be attributed to bad management. So executives are protecting their interests but putting at risk the investment of shareholders. That is what this latest scam is about: taking the risk out of it for some but leaving all of the risk in the hands of the poor mug shareholder who knows nothing about it. This is wrong and the Minister for Revenue and Assistant Treasurer should have been prepared to say so, but she did not. Now she goes scurrying out of the chamber and will not stay to debate the issue. She had the chance to say, ‘This is unethical, this is wrong, and I’ll do something about it.’ But no, she is running out of the chamber.

The minister’s inaction and silence on this matter is condoning these protection deals. If the protection deals had not been exposed in the press, I am sure that the minister would have been happy to let these greedy executives keep doing exactly what they had been doing. It is totally inadequate that more action is not taken. ASIC have simply written a letter. They have stated that the practice of protection deals is undesirable—not illegal, just undesirable. It is clear then that this is a problem calling for a legislative response. ASIC have written to the ASX Corporate Governance Council. If we are lucky, that council may prescribe some voluntary guidelines. That is the form of Senator Ian Campbell, Senator Coonan and the Prime Minister in dealing with corporate greed: ‘Just a bit more self-regulation, boys; she’ll be right. Greed is good.’ That is the message from Senator Ian Campbell; that is this government’s preferred response. But executives have shown, through the use of these protection deals, that they cannot be trusted. These deals have come up under self-regulation, under the ‘We’ll look after ourselves, don’t you worry about us’ culture.

Australian investors need strong regulation. They need to know that their investments are safe, that management are acting in the best interests of the company. The minister and the Howard government, however, do not want to repose any restraints on the big end of town. We all know why it is—because Senator Ian Campbell, deep down, is nothing more than the spivvy real estate agent he has always been. Deep down, he is just a spivvy real estate agent.

The DEPUTY PRESIDENT—Order! Senator Conroy, you should withdraw that comment.
Senator CONROY—Spivvy?

The DEPUTY PRESIDENT—You should withdraw the comment which is a reflection on the senator.

Senator CONROY—I withdraw. The minister and the Howard government do not want to impose any restraints on the big end of town. Small business know that big business are closer to government than they are. Big business concerns are listened to; small business concerns are ignored. Australian investors and Australian workers are being more than ignored: their retirement incomes are being jeopardised by these protection deals which this minister and parliamentary secretary will not act against. Executives receive shares or options so that their interests are aligned to the interests of shareholders.

Senator Ian Campbell—You’ve got $32 million of taxpayers’ money in your back pocket.

Senator CONROY—Protection deals completely undermine this. It is not good corporate governance but unethical, and it should be stopped.

Senator Ian Campbell—You are a mob of thieves.

Senator CONROY—Executives already receive exorbitant salaries—an average of $1.68 million per year. But that is not enough for some executives: some executives want to make sure that the value of their shares—

Senator Ian Campbell—$32 million is not enough for you, you thief?

The DEPUTY PRESIDENT—Senator Conroy, resume your seat. Senator Ian Campbell, withdraw that comment. That again is a reflection on a senator. You should withdraw that comment.

Senator Ian Campbell—I would be happy to withdraw it if he pays back the $32 million he—

The DEPUTY PRESIDENT—Senator Ian Campbell, I am not asking for any qualification.

Senator Ian Campbell—I withdraw.

The DEPUTY PRESIDENT—Thank you. You should be in your own seat when interjecting.

Senator CONROY—As I said, $1.68 million is not enough for some of these greedy executives. They want to make sure that the value of their share and option package is secured—not through working hard for the company but through entering into one of these protection deals. They want to distort the very corporate governance practices put in place to ensure that they work in the best interests of the company and the shareholders and then they want to have a system of corporate governance that relies on self-regulation. This government supports them 100 per cent in this approach.

The minister has said that a letter has been written and that she will wait for deliberations to conclude before she announces the government’s position. But this situation will not go away without more action, without more resolve from this government to get tough on the big end of town—the greedy executives. Unfortunately, that will not happen with this government. It is sadly lacking in determination to deal with the big end of town. (Time expired)

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (3.10 p.m.)—I wish to speak on the motion moved by Senator Conroy in taking note of answers to questions on matters affecting Senator Coonan. In particular, I wish to speak about the constant barrage of slurs and defamatory statements about Senator Coonan and about conflicts of interest that arise. In that context, I think it is very important that the Senate be aware of a classic example of misuse of parliamentary position for personal gain. This relates to Senator Faulkner’s ongoing battle with Sydney Water. I referred this matter to ICAC because it did raise some matters of very serious concern to the public interest and I was advised as follows. If Senator Faulkner’s property involved a sewer lead-out being constructed for a customer where the adjoining property was in different ownership, construction of the extension to the border of the property would be at Sydney Water’s cost. However, the practice at that time was that Sydney Water sought payment from the customer. Where the customer rejected this and made a reasonable case, Sydney Water
would then comply with the policy and assume responsibility.

It appears from interviews with Sydney Water officers that when asked to pay for the extension in this instance Senator Faulkner complained vigorously to a number of people in Sydney Water but did so in a personal capacity. Can anyone in this Senate believe—

— that Senator Faulkner rang up a number of people and said: ‘I’m just ringing in a personal capacity. My name is Senator John Faulkner, just in case you did not know, but I am ringing in a personal capacity. That, presumably, means that I shouldn’t be regarded as trying to lean on you’? What then happened was Sydney Water, of course, accommodated him, and the answer I was given—after preliminary inquiries were made but not an investigation held—was that Senator Faulkner was treated in the same manner as any customer that complained vigorously. In other words, Sydney Water has a policy of treating some pigs in a different manner to others, which is classic—

Senator Cook—What?

Senator ALSTON—That is George Orwell, if you do not know Animal Farm—some pigs are more equal than others. In other words, ordinary, decent citizens who were asked to pay money cough up without realising—

Senator Ludwig—Have you read it?

Senator ALSTON—Yes, many years ago. They cough up without realising that if they kicked up enough of a fuss they could avoid paying—as in Senator Faulkner’s case; from memory, in excess of $25,000—many thousands of dollars. Senator Faulkner managed to put himself in a position where he did not have to pay an amount asked of him because he jumped up and down—as they say, ‘complained vigorously’—to a number of people and he did so in a personal capacity. If that is not a classic example of a conflict of interest where a member of parliament is using his position to avoid a payment of a sum of money—a privilege that is not accorded to ordinary citizens, who get an account rendered and pay up without realising that they can carry on a treat and avoid paying—then I do not know what is. If the Labor Party are serious about these sorts of issues, they ought to ask Senator Faulkner to take a good hard look at himself and to explain on what possible basis he can make vigorous representations which one of the officers actually noted on the file as ‘As a matter of urgency, i.e. political influence, work has been started today’. The officer said in explanation that he was aware that the works were being carried out for a senator who had made complaints and he made his own assumption that political influence was behind the expedition of the works.

Senator Cook—Mr Deputy President, I raise a point of order. This is a scurrilous attack upon a senator who is not present—not to his face but behind his back when he is absent from the chamber. There is a convention in this place that if senators are going to mention in unfavourable terms another senator and he is not likely to be present they should notify him directly so that he can defend himself. That convention appears not to have been observed in this particular case. On the point of order further, the attack is unjustified and unwarranted, because in the minister’s own submission he says that he referred the matter to ICAC and ICAC cleared Senator Faulkner.

Senator ALSTON—Mr Deputy President, on the point of order: I think the Senate ought to be aware that Senator Cook has been in this chamber from the beginning of my contribution. He sat there and listened and deliberately chose not to intervene. If he were really acting in Senator Faulkner’s best interest, he would have been on his feet at the outset. He was not. I think Senator Faulkner will be very grateful to you for allowing all that matter to be put on the record. It is very plain that Senator Cook is simply going through the motions on this, and he is not making a serious point of order.

Senator Cook—I waited for anything of relevance to come forward from Senator Alston. Of course, nothing did. I waited for anything improper to be highlighted by Senator Alston. Of course, nothing was. I waited for Senator Alston to rise out of the sewer that he was talking about, but he never did. It then became appropriate to make a point of order.
The DEPUTY PRESIDENT—There is no point of order. I remind Senator Alston that the issue before the chair is the motion moved by Senator Conroy, and I ask you to address your remarks to that, please.

Senator ALSTON—I am delighted to do that in the short time available, Mr Deputy President. Senator Faulkner is here. He understands the line of questioning, because he has presumably been responsible for it all week. It is all to do with the propriety of the actions of a senator and the conflict of interest that he and others in this place and in the House of Representatives have been carrying on about ad nauseam all week—making no progress, I might say, but nonetheless absolutely determined to make these sorts of allegations. I am simply putting on the record a classic example of someone in a position of influence as a very senior parliamentarian being able to wriggle out of a very substantial debt by making enough complaints to enough people and then pretending that he did it in a personal capacity. I would like to know if it is Labor's official policy that members of parliament can do whatever they like; as long as they say it is in a personal capacity, then we should not be critical of them. I am delighted to hear it and I would like Senator Faulkner to confirm that that is the view Labor takes.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.17 p.m.)—I only heard the tail end of Senator Alston’s contribution. I thank those who drew my attention to it. As senators would realise, Senator Alston has now spoken about this at quite considerable length in this chamber. I think there have been two matters of public interest speeches, each of 15 minutes duration. Senator Alston made many a grand claim and he referred this matter to the ICAC in New South Wales. I am not aware of the document that Senator Alston refers to. I am of course aware of all those documents, which he has referred to again, that were tabled in the Senate a considerable time ago—I think in mid-2001. As I have said before, I behaved absolutely properly in this. Senator Alston did accuse me previously of using my public position to exert political influence for private gain. I have got no idea what happened after the reference to ICAC. Apparently they have responded to Senator Alston.

I do know this—and I would refer anyone who is interested to it. I doubt anyone is, because Senator Alston has been spectacularly unsuccessful in interesting anybody in this. That is because when people look at the facts of this particular matter they are absolutely satisfied that not only did I act properly but I acted at great personal cost. This matter ended with an excavation for a sewer line under my house that caused persistent flooding. I personally spent over $20,000 to fix this particular problem. I have indicated to the Senate and shown the two journalists in the press gallery in this parliament who are interested my personal documents in relation to this. I took out a second mortgage on my home to fix a problem that should never have arisen.

Senator Alston is still speaking about it in this chamber 6½ years after the event. That is his right. I said at the time that I could not care less who he referred this matter to and I still do not, even though I am not aware of the outcome of any of those particular references. I made it very clear from day one in relation to this particular matter—and I do not know how it relates to the matter that is being discussed in the chamber today—that I paid my contribution to that work. I do not think Senator Alston understood it at the time. As far as I know, he still does not understand it. Of course I did not pay Sydney Water; I paid the contractor. I paid my contribution towards the extension of that sewer line under my house. The sewer line should never have been built—but it was—and has never been used. It remains an extension to a vacant block. I was informed as recently as two months ago that there has never been any intention for anyone to use it at any stage. I am also told, for what it is worth—

Senator Alston—Mr Deputy President, I rise at this late point on a point of order, otherwise I think Senator Faulkner will talk the matter out. I want to make it plain that, as Senator Faulkner himself has said, he has not heard what I have said, so he should take a considered opportunity to respond and not treat this as the end of the matter.
Senator Cook—Point of order!
Senator Alston—Just a moment.

The DEPUTY PRESIDENT—Resume your seat, Senator Cook. I will take this point of order first.

Senator Alston—ICAC said to me that it was their policy to require the payment to be made by the customer but where people complained loudly enough they changed their mind. That is what they said in relation to Senator Faulkner. For Senator Faulkner to simply say—

The DEPUTY PRESIDENT—Order! What is the point of order?

Senator Alston—For Senator Faulkner to say that he paid certain moneys has nothing to do with it. I am simply saying on the point of order that Senator Faulkner should not regard this as a sufficient response to a matter that he did not hear.

The DEPUTY PRESIDENT—Senator Alston, through that I did not find a point of order being raised by you. I heard ‘debate’ and that is why I asked Senator Cook to remain silent for the moment.

Senator Cook—My point of order has now been ruled on by you, Mr Deputy President, but the point of order was—

The DEPUTY PRESIDENT—If it has been ruled on, Senator Cook, let us proceed. There is no point of order.

Senator Cook—If I may, Mr Deputy President, there was no intention by Senator Alston to raise a point of order at all. He never addressed the chair in the appropriate manner and he never referred to a reference in the standing orders. He abused the institution of a point of order to engage in a diatribe and to restate a smear. He should have been sat down immediately it became obvious that there was no such point of order. That is my point of order.

The DEPUTY PRESIDENT—Senator Cook, on your point of order, there is no point of order. I was listening very closely to what was being said by Senator Alston in his point of order and I was hoping that at some stage he would come to a point of order. I did not hear a point of order. I ruled that there was no point of order. I would ask Senator Faulkner to proceed.

Senator FAULKNER—Of course, I did not know that Senator Alston was going to address this matter and I did not hear all his remarks, but I can again say absolutely clearly to anyone in the press gallery who is interested—and I doubt anyone is—that they can get in touch with me and they can look at all the documents. I want to say this, and I will say it to the Senate very clearly: anyone who is interested in this matter is entitled to look at all my financial records—all records. I categorically deny any allegation by Senator Alston or anyone else that I used political influence in relation to this matter. I did not. Senator Alston has never had any return from his efforts on this matter. As I have said before, if I had influence, that sewer line would never have been extended under my house. I certainly would not have had to pay thousands of dollars towards it, and I certainly would not have had to pay in excess of $20,000 to fix the problem that was caused by it. I accepted the decision; I put the sewer line through. There was no political influence and this is an outrageous slur. I am more than happy to answer any questions in relation to this matter. If any journalist— (Time expired)

Senator ABETZ (Tasmania—Special Minister of State) (3.25 p.m.)—What a stark contrast! For a whole week Senator Faulkner, as the Leader of the Opposition in this place, and his fellows behind him have been using question time to trawl the gutter to try to raise allegations against Senator Coonan. But, as soon as the blowtorch is slightly turned towards Senator Faulkner—and he is now racing out of the chamber—he cannot take it, like a glass jaw.

In his contribution, Senator Faulkner said that if there were anything of concern with his sewage pipe he would invite people to look at the documents before they make allegations. Isn’t that in stark contrast to what Senator Faulkner and his troops did to Senator Coonan when they falsely alleged in this place in question time that Senator Coonan had made a fraudulent enrolment? They had not seen the document but they made the assertion. Indeed, Senator Faulk-
The form and the document have now been presented. Senator Coonan’s signature is not on it. Have we received an apology from either the Leader of the Opposition or the Deputy Leader of the Opposition? No—because there is no grace when it comes to the Leader of the Opposition or the Deputy Leader of the Opposition in this place. They will trawl the gutter and if they end up in a dry gully, in a dead end, what do they do? They just drop it and move to another smear. They do not even have the decency to apologise and say that they have used parliamentary privilege—indeed, abused parliamentary privilege—in an inappropriate way.

The Australian Labor Party, during these past few days, have been fumbling around like a Dad’s Army trying to get some questions to make some mud stick on Senator Coonan. Those of us on this side who have the privilege to know Senator Coonan will vouch for her integrity each and every day. I know that Senator Coonan, for example, would not sit in a ministry that allowed the $36 million Centenary House rort which benefits the Australian Labor Party. And when I say it is a $36 million rort, that is $36 million above and beyond the market value of the property. Just in case people cannot remember, in the dying days of the Keating Labor government, the government entered into a contract with Centenary House—a Labor Party operation—to force the Auditor-General in there with a 15-year lease at exorbitant rates, which was completely and utterly uncommercial. At the end of the 15-year lease period, the Australian Labor Party, above and beyond what would be a fair and normal market rate, will have scooped $36 million into Labor Party coffers.

We know that sort of history; we know it as fact—and Labor have not denied it—yet we on this side have to listen to the galling exposition from the Deputy Leader of the Opposition asserting that somehow we on this side say that greed is good and that we look after ourselves. ‘Action speaks so much louder than words,’ I would say to Senator Conroy and his party. Their actions with Centenary House—for which they have never apologised and for which they have never sought to remediate—show that they are greedy, that they are unprincipled and that they look after themselves.

It is most unfortunate that the opposition in this nation have no policy to put before the Australian people and therefore think they can avoid criticism by the media for that by trawling the gutter and trying to raise allegations against the minister—none of which have stuck. I remind the Senate of an article in the *Sydney Morning Herald* on 9 April 1998 by Kate McClymont as to what happened in a royal commission when a certain senator wished to have his name repressed because of his relationship—(Time expired)

Senator GEORGE CAMPBELL (New South Wales) (3.30 p.m.)—I also rise to take note of the answer by Senator Coonan. In so doing, I simply make a couple of points about the scurrilous and low attempt at a defence of Senator Coonan by both Senator Alston and Senator Abetz. Senator Faulkner has quite clearly shot to pieces the claims made by both Senator Alston and Senator Abetz in his response to them; but he went further than that. Senator Faulkner has said in this chamber that he is prepared to make available all his documentation with respect to his case to anyone who wants to have a look at it to prove that he is beyond reproach on this issue.

Had Senator Coonan made the same offer, the issue of her matters would not have lasted for two days in this chamber; but she did not. Never at any stage did Senator Coonan make the same offer to this chamber as Senator Faulkner did in relation to his matter. Senator Coonan herself has contributed substantially to the mystery surrounding the issues that have quite properly been raised here in question time in relation to her ministerial responsibility. I do not think we need to go any further with the matter than that—to put clearly on the table what Senator Faulkner has offered in his defence and the lack of any offer from the other side concerning the issues raised with Senator Coonan.

I raise the issue of the answer given by Senator Coonan on the question of corporate governance. Since this government came to
power in 1996, we in this chamber have seen legislation consistently brought in aimed at trying to curtail, run over the top of or restrict the operations of the trade union movement—to reduce the capacity of the trade union movement to represent the interests of workers in wages and working conditions. But have we seen the same urgency displayed on corporate governance issues? Of course not. Have we seen this government show any concern about the rip-off that has been occurring at the big end of town with executive salaries? Of course not.

In fact, it is interesting to note the contrast. When those issues get raised, senators on the other side of the chamber immediately jump up to defend the big end of town. We have seen some shocking examples of exorbitant executive salaries being paid in this country in the past few years. They have all been in the public arena and people are aware of who the individuals have been—people like Peter Bartels at Coles Myer, George Trumble at AMP and a whole raft of others.

Senator Ian Campbell—You didn’t mention Nick Whitlam, did you?

Senator GEORGE CAMPBELL—Nick Whitlam is one and David Murray at the Commonwealth Bank is another. If you want me to list them I will list them all, Senator Campbell—because they are all well known. The rip-off that is occurring at that level is well known. It is argued—you have argued it and your government has argued it—`We have to do that so we do, because we need creative executives in this country. We need to be able to attract the best.’

Senator Ian Campbell—What about the $32 million you’ve got in your back pocket? Pay back the $32 million!

Senator GEORGE CAMPBELL—I make the point—I put it on the public record, Senator Campbell—that there was a royal commission held into Centenary House.

Senator Ian Campbell—And it said it was a shonky lease.

Senator GEORGE CAMPBELL—There was a royal commission held into Centenary House, and it cleared the Labor Party—

Senator Ian Campbell—It did not; it said it was a shonky lease!

Senator GEORGE CAMPBELL—Why don’t you hold a royal commission into Greenfields? Why don’t you pay your dues in respect of Greenfields? You won’t do it, because you know that it is a shonky deal.

The DEPUTY PRESIDENT—Senator George Campbell, resume your seat. Senator Ian Campbell, it is disorderly to shout across the chamber. If you want to participate in the debate, you are entitled to put yourself on the speakers list.

Senator Ian Campbell—Mr Deputy President, I raise a point of order. The point of order is that Senator George Campbell is yelling across the table, pointing his finger at me and yelling at me. I am trying to get him to focus on the fact that the Labor Party has stolen $32 million from the people of Australia in Centenary House, and he is reacting by yelling across at me. I would like Senator George Campbell to be called to order.

The DEPUTY PRESIDENT—Senator Ian Campbell, you are now debating the issue. There is no point of order. If you had listened to what I said, you would have heard that I called both Senator Campbells to order. Senator George Campbell should continue his remarks.

Senator GEORGE CAMPBELL—I was trying to get to the point with executive salaries that we are seeing—and anyone who looks at this morning’s newspapers will see—the networks that exist between these chief executives who are ripping off the system, the members of the boards of directors and the Liberal Party. There are charts in the newspaper this morning. (Time expired)

Question agreed to.

Immigration: People-Smuggling

Senator BARTLETT (3.37 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Justice and Customs (Senator Ellison) to a question without notice asked by Senator Bartlett today relating to the sinking of a boat now identified as ‘Suspected Illegal Entry Vessel X’.

The question related to what is being done by the Australian Federal Police in relation
to the people responsible for people-smuggling activities in the lead-up to the SIEVX vessel and the sinking of that vessel with the loss of 353 lives. It is important to the Democrats to ensure that better scrutiny is undertaken of those involved in forcing such a huge number of people onto that vessel. It was confirmed by the minister, as was indicated to the Senate committee earlier this year, that the Australian Federal Police were investigating potential charges against people involved in organising that. In the evidence given by those people who were on the boat and survived, which is a small number of people, there is a very common story not only of being misled about the vessel but of being forced onto the vessel at gunpoint and being prevented from getting off. There is also all of the talk about Indonesian officials being in the vicinity or onshore at the time of the boat being loaded up with the many hundreds of people who were soon to meet their fate.

It does seem particularly important to the Democrats, given some of the other allegations that have been made about the SIEVX, that we ensure those who were responsible are brought to justice. Given the large number of people who died and Australia’s link with the vessel, and particularly given the expected location of where the vessel sank—which was in international waters—then it is appropriate that Australian authorities be involved in investigating the matter. The Australian Federal Police have admitted a number of times that they are involved in, or are aware of, so-called ‘disruption activities’ in Indonesia in relation to people who are contemplating getting on a vessel with the intent of coming to Australia. Given Australia’s long-standing involvement in those activities, I think it is particularly important that as much as possible is done to ensure that all information is made available about who was involved, and in what way, in the SIEVX in particular.

The person who has been identified as being significantly involved, indeed as the organiser of the boat that sank, Mr Abu Qussey, who was identified on Australian television some time back as a key organiser of that vessel, has been in jail in Indonesia for a short period on various offences but will be out of jail by the end of this year. Given the minister’s statement that Mr Qussey is a person of interest, it is particularly important from the Democrats point of view that whatever interest there is from the Federal Police be exercised fully before Abu Qussey gets out of jail at the end of the year and is able to disappear back into the community—or indeed to leave Indonesia altogether, given that, as I understand it, he is not a national of Indonesia and possibly not even an authorised resident. He would obviously be a crucial person to be able to question further and for more information to be made public about all that was involved—how many people were involved, in what way and how—in the lead-up to the SIEVX tragedy.

Three hundred and fifty three people is a lot of people. From the Democrats point of view, this is a major tragedy that has not been adequately recognised. As is completely appropriate, in relation to the hundreds of people who died in the Bali bombings Australian authorities, including the Federal Police, have been working very hard and diligently in trying to ensure that those involved and those responsible are being brought to justice. From all reports, the cooperation between Australian authorities and the Indonesian authorities has been progressing relatively well in a short period. The SIEVX tragedy is now well over a year old, and there certainly does not appear to have been the same degree of urgency or the same degree of intensive investigation in a cooperative way between Australian and Indonesian officials. There is a real risk that a key person involved in that tragedy, which resulted in the deaths of so many people, may be able to walk free in a short period and that the information he holds may not be able to be confirmed or examined. (Time expired)

Question agreed to.

COMMITTEES
Scrutiny of Bills Committee
Report
Senator MACKAY (Tasmania) (3.42 p.m.)—On behalf of Senator McLucas, I present the 15th report of 2002 of the Senate Standing Committee for the Scrutiny of

Ordered that the report be printed.

Senator MACKAY—I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—

On 19 November 2002, I tabled on behalf of the Committee a special Alert Digest, No. 14 of 2002, the purpose of which was to comment on the Research Involving Embryos Bill 2002. Those comments related to the delegation of legislative power and the incorporation of material as in force from time to time. The Committee wrote to the Minister about these comments.

The Minister has now replied to the Committee’s letter in time for it to finalise its consideration of this bill and to report on it today. The Committee is most grateful for the Minister’s prompt response, which was of considerable assistance in its non-partisan scrutiny.

It is at this point that I should briefly describe the Committee’s response when scrutinising provisions of bills which appear to delegate legislative power. The first step is to determine that the power in question is actually legislative and not administrative. For instance, in the same Research Involving Embryos Bill the Committee looked at some provisions for guidelines which it concluded were administrative. In such cases, the Committee under its terms of reference scrutinises the administrative provisions to ensure that the power is suitably defined and limited.

Assuming that the powers are in fact legislative, the next step is to ascertain whether it is appropriate to delegate the powers, or whether the powers are so significant that the bill itself should provide for their exercise. In relation to the Research Involving Embryos Bill the Committee made no comment under this head of its terms of reference.

The final step is then to determine whether the delegated legislative power is subject to adequate parliamentary scrutiny, which in most cases will mean that it will be subject to disallowance. It is in this context that the Committee scrutinises provisions which provide for the incorporation of extraneous material as in force from time to time. It is one thing for a bill to incorporate, say, a single discrete set of guidelines with legislative effect. It is quite another to provide that those guidelines may be amended with continuing legislative consequences. In this situation there may be a compelling case for full parliamentary control of each exercise of the power. The Acts Interpretation Act recognises this in the case of regulations, providing that they may incorporate existing extraneous material but not such material as existing from time to time. This provision may, however, be negatived by an express provision in primary legislation and I will come back to this later.

Applying these principles to the Research Involving Embryos Bill, the Committee identified two provisions for the delegation of legislative power. In both these cases, power was given to issue guidelines and codes of practice which, being legislative, it appeared should be subject to parliamentary scrutiny by possible disallowance. In both cases there was the additional consideration that the power included not only the initial legislative guidelines or codes, but also amendments as made and in force from time to time.

Clause 8 of the bill provides for the issue of guidelines with legislative effect, defining “proper consent” firstly by the Ethical Guidelines on Assisted Reproductive Technology issued by the NHMRC in 1996. That provision alone would have been acceptable, because those guidelines were identifiable and not subject to alteration. However, paragraph (b) then provides for the NHMRC to specify further guidelines, apparently from time to time, which will have continuing legislative effect but which will not be subject to parliamentary disallowance.

Clause 11 creates an offence of using an embryo which is not an excess ART embryo. Breach of this provision carries a penalty of up to five years’ imprisonment, so it is clearly a serious matter. The Committee’s comments on clause 11 relate to the definition of ART program, which is an integral part of the offence. Subclause 11(2) defines ART program as one which is carried out under a Code of Practice issued by the Reproductive Technology Accreditation Committee of the Fertility Society of Australia, as in force from time to time. Alternatively, the subclause provides that an ART program is one carried out under any other code or document prescribed by the regulations, as that code or document is in force from time to time.

Clause 11 therefore effectively delegates legislative power initially to the RTA Committee, who are given authority to issue variations of the Code of Practice from time to time, each of which will, as noted above, form the basis of an offence punishable by a substantial term of imprisonment. It appears that none of these subsequent Codes of Practice will be subject to parliamentary scrutiny. The alternative power in clause 11 is for the regulations to prescribe any other code or docu-
ment at all, produced by any person at all, and which will be in force as different versions are made from time to time. In this case the regulations are subject to disallowance, but the object of the provision is to subdelegate continuing legislative power which will not be scrutinised and controlled by Parliament.

The Minister’s response to the Committee’s comments on clause 8 advised that another Act required all NHMRC guidelines to be tabled within 15 sitting days of being made. The Committee report, however, concludes that while this is a substantial safeguard, it does not provide the same level of parliamentary control as possible disallowance.

The Minister also gave reasons why the guidelines should not be subject to disallowance. Firstly, the Minister advised that only a small part of the relevant guidelines would address matters related to the bill, to which the Committee replied that it would be possible to disallow only that part. Next, the Minister suggested that disallowance may affect the independence of the NHMRC, but the Committee did not agree that full parliamentary scrutiny of a continuing legislative power would do this. Lastly, the Minister advised that it would be unusual for guidelines made for the purposes of one Act to be disallowable for the purposes of another. The Committee noted, however, that something may be unusual but nevertheless be appropriate.

The Minister’s response to the Committee’s comments on subclause 11(2) provided helpful background information on the provision. The response, however, also advised that the Code of Practice itself cannot be made disallowable because it is made by a non-government body. The Committee makes no comment on this, but notes that the same result could be effected by the current formula in subclause 11(2), under which the regulations prescribe the code or other document, although not as in force from time to time. The regulations are then subject to full scrutiny. The Committee’s report on the subclause concludes that as presently drafted the constituents of an offence provision punishable by up to 5 years’ imprisonment may be determined by non-government bodies without parliamentary oversight or even knowledge.

The other main bill in the report is the Trade Practices Amendment ( Liability for Recreational Services) Bill 2002, which concludes a scrutiny during which the Committee wrote twice to the Minister for advice. The Committee has now finished its consideration of this bill, which provides for corporations to exclude liability for death or injury in relation to the supply of recreational services. The Committee accepts that there are problems in this area which need to be addressed, but the question is to what extent these should affect the personal rights of those who use such services. The Minister’s advice and the Committee’s comments on it in the report present what I believe is a good survey of these difficult issues. Finally, I would like to remind honourable Senators of the usual end of year breakfast sausage sizzle at which Senators and Ministers get together with Committee members in an informal way to celebrate another year of legislative scrutiny by the Committee and the Senate. It is, I believe, a measure of the non-partisan nature of the Committee and its work that we can hold such an event year after year. It illustrates that the Committee is interested only in personal rights and parliamentary propriety. On behalf of the Committee I would like to see as many of you as possible at the function, to which you have all received invitations.

Legal and Constitutional References

Committee

Report

Senator HARRIS (Queensland) (3.43 p.m.)—by leave—I move:

That the Senate take note of the report tabled on 3 December 2002.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

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 Transport Safety Investigation Bill 2002 be extended to 10 December 2002.

Senator Watson to move on the next day of sitting:

(1) That the following matter be referred to the Select Committee on Superannuation for inquiry and report by the last sitting day in June 2003:

The facilitation of superannuation investment in rural and regional Australia.

(2) That, in conducting the inquiry the committee is to:

(a) evaluate the current structure of investment from superannuation
funds in rural and regional Australia, compared with capital cities;

(b) evaluate investment flows offshore from superannuation funds to determine whether the level of flows is appropriate, and whether the taxation and regulatory framework provides adequate and appropriate incentives for investment onshore rather than offshore;

(c) review and evaluate any current or previous measures designed to facilitate public or private investment in rural and regional Australia by the Commonwealth Government, state governments and the private sector;

(d) identify any factors inhibiting the investment of superannuation monies in rural and regional Australia;

(e) identify opportunities for the Commonwealth Government, state governments and the private sector to facilitate or direct investment to rural and regional Australia; and

(f) identify and evaluate options available for increasing investment opportunities in rural and regional Australia.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the truck blockade on the Hume Highway on 3 December 2002,
(ii) that the purpose of the blockade was to call attention to the lack of safety standards and a national code of conduct for long distance truck drivers,
(iii) that the primary cause of long-distance truck driver death is driver fatigue,
(iv) the concern of the long-distance truck industry that unreasonable driving hours are partially a result of demands made by shippers,
(v) the concern of the long-distance trucking industry that transport rates are so low that increased driving hours are increasingly necessary in order for long haul truckers to remain economically viable; and

(vi) that these pressures to drive longer hours create a threat for drivers and the broader community; and

(b) calls on the Government to implement national safety standards and an enforceable code of conduct for long-distance drivers in consultation with that industry.

Senator Hill to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Crimes Act 1914 and other legislation relating to criminal law or law enforcement, and for related purposes. Crimes Legislation Enhancement Bill 2002.

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

That, on Thursday, 5 December 2002:

(a) consideration of general business and consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) not be proceeded with;
(b) the routine of business from not later than 4.30 pm till the adjournment shall be government business only; and
(c) divisions may take place after 6 pm.

Senator Brown to move on the next day of sitting:

That the Senate calls on the Council of Australian Governments meeting in Canberra on Friday, 6 December 2002, when addressing the critical issue of water, to commit to the following outcomes:

(a) the restoration of the Murray River to good health;
(b) an end to broad scale land clearing; and
(c) a national structural adjustment package, linked to binding environmental outcomes.

Senator HARRIS (Queensland) (3.44 p.m.)—I give notice that on Wednesday, 11 December 2002, I shall move:

(1) The disposition of the documents seized under warrant by Queensland Police in the office of Senator Harris on 27 November 2001 shall be determined in accordance with this resolution.

(2) The Senate appoints Mr Stephen Skehill, SC, or, if Mr Skehill is not available, another independent person nominated
by a subsequent resolution, to examine the documents.

(3) The Queensland Police shall provide to the person appointed under paragraph (2) the documents described in paragraph (1).

(4) The person appointed under paragraph (2) shall examine the documents and determine whether any of the documents are not covered by the warrant or are immune from seizure under warrant by virtue of parliamentary privilege, having regard to the Parliamentary Privileges Act 1987, relevant court judgments relating to the interpretation and application of the Act, relevant sections of Privileges Committee reports dealing with protection of documents of senators and such other matters as that person considers relevant.

(5) The person appointed under paragraph (2) shall divide the documents into two categories, those not covered by the warrant or immune from seizure and those not immune from seizure, and seal them into two packages identified accordingly. Those documents that are not covered by the warrant or are immune from seizure are to be returned to Senator Harris and those not immune from seizure are to be forwarded to the Queensland Police.

(6) Before sealing the package of documents not immune from seizure the person appointed under paragraph (2) shall cause such documents to be copied and the copies of the documents shall be forwarded to Senator Harris at the same time as the originals are forwarded to the Queensland Police.

Senator Ian Campbell—Mr Deputy President, I rise on a point of order. This is an extremely long notice. I do not want to interrupt Senator Harris but, if the notice is much longer, could I suggest that he just hand it to the Clerk, because it will have the same effect. Senator Harris, you can actually lodge these notices in writing and they have exactly the same effect.

The DEPUTY PRESIDENT—Senator Harris, I draw your attention to the fact that due to a motion that was passed earlier today there is a cut-off in respect of a certain debate at 4 o’clock.

Senator HARRIS—I am fully aware of that. I was in the chamber and voted on the motion.

The DEPUTY PRESIDENT—that is all right. Continue with your notice of motion.

Senator HARRIS—

(7) For the purposes of paragraph (5), where documents are included with other documents in electronic form on a disk or tape, the documents shall be printed out, only printed copies of such documents shall be placed in the package of documents not immune from seizure, and the disks or tapes shall be placed in the package of documents not covered by the warrant or immune from seizure.

(8) The person appointed under paragraph (2), on completion of this task, shall provide the President of the Senate with a brief statement that the task has been completed and the President shall table that statement in the Senate.

(9) The person appointed under paragraph (2) shall be paid such fee as is approved by the President after consultation with senators.

Senator COOK (Western Australia) (3.48 p.m.)—I give notice that, on the next day of sitting, I will move a motion which is quite a long one, and I do not propose to read it. It is a motion which effectively congratulates the journalist from the Australian, Natalie O’Brien, who has won the 2002 Press Club award for her story in November last year entitled ‘Overboard incident never happened’. This journalist was also awarded an honourable mention for the same story in this year’s George Munster Award for Independent Journalism.

The DEPUTY PRESIDENT—Senator Cook, I think you should lodge that with the Clerk in the normal process.

Senator COOK—Sorry, I was just giving a summary of what the notice contained.

The DEPUTY PRESIDENT—There is no need to give a summary. Just lodge the notice with the Clerk.

Senator COOK—That is fine. I thought the Senate should be aware of what I was proposing to do, but if this is in order I will
do it this way. I give notice that, on the next
day of sitting, I shall move:
That the Senate—
(a) congratulates Ms Natalie O’Brien for
maintaining the highest standards of
Australian journalism in reporting the
fact that the ‘Children Overboard’
incident never happened and on
receiving the Perth Press Club Award, an
honourable mention at this year’s George
Munster Award for Independent
Journalism and a nomination for, and an
honourable mention in, this year’s
Walkley Award for journalist of the year; and
(b) notes that:
(i) in reporting her award the Australian
stated that, ‘the story broke through
the wall of official misinformation
surrounding the “children overboard”
affair. The resulting furor became a
major factor in the 2001 federal
election campaign. The story forced
the Prime Minister to release the
video of the episode and sparked a
departmental enquiry’,
(ii) the Select Committee on A Certain
Maritime Incident records, at 6.194 of
its report, that Ms O’Brien’s article
reported comments from Christmas
Island residents claiming that HMAS
Adelaide crew members had said that
children had not been thrown
overboard,
(iii) the report notes at 2.53-4 that the
strictly centralised control of
information through the Minister’s
office meant that:
(A) Defence was unable to put out
even factual material without
transgressing the public affairs
plan,
(b) the instruction that no information
was to be released to the media by
Defence personnel was explicitly
reinforced on the day after Minis-
ter Reith had been told by Air
Marshall Houston that no children
were thrown overboard from SIEV
4, and
(c) as Mr Humphreys said, ‘no public
 correction to information could be
made unless the Minister agreed to
those misrepresentations being
corrected.’,
(v) consequently, legitimate inquiries by
the media were not answered and, by
Ministerial directive, were required to
be referred to the Minister who did
not answer them, and
(vi) the publication by the Australian of
Ms O’Brien’s article played a
key role in bringing to light the
truth about the alleged children
overboard incident.

COMMITTEES
Selection of Bills Committee
Report
Senator McGauran (Victoria) (3.49
p.m.)—On behalf of the Chair of the Selection
of Bills Committee, Senator Ferris, I
present the 13th report of 2002 of the Selection
of Bills Committee and move:
That the report be adopted.
Senator Knowles (Western Australia)
(3.49 p.m.)—I move:
At the end of the motion, add “and, in respect of
the Medical Indemnity Bill 2002 and related bills,
the provisions of the bills not be referred to the
Community Affairs Legislation Committee”.
Senator Brown (Tasmania) (3.49
p.m.)—I oppose that motion. I realise time is
short, but Senator Knowles knows that there
are problems for medical indemnity organi-
sations, particularly in Tasmania and Western
Australia. We believe that they ought to be a
matter of scrutiny.
Senator Knowles—Not in Western Aus-
tralia they’re not. Don’t include Western
Australia.
Senator Knowles—You have had your
opportunity. Please give me mine.
Senator Knowles—I have not, but I will.
Senator Brown—The fact is that
Senator Knowles is wrong in moving to
amend this Selection of Bills Committee re-
port. We should be having an investigation
into the matters as listed, because that would
help sort out some otherwise quite big prob-
lems looming as far as the government’s
medical indemnity legislation is concerned.
Senator Knowles—Can I respond to that?
The DEPUTY PRESIDENT—No. You
would need to seek leave to respond.
Senator Knowles—I seek leave to respond to Senator Brown’s comments.

Leave granted.

Senator KNOWLES (Western Australia) (3.51 p.m.)—I only respond from the point of view that Senator Brown has been offered a thorough briefing on the situation about medical indemnity in Tasmania by the minister. He said that he would take that up. There is no problem with medical indemnity—

Senator Brown—No, I did not. That is misrepresentation.

Senator KNOWLES—Maybe you should take it up, because it is a very generous offer, Senator Brown. Therefore the committee decided that, because the Greens do not attend such hearings, they were not going to conduct an inquiry for another party that does not attend meetings.

Senator HARRADINE (Tasmania) (3.52 p.m.)—I also wish to raise the question of indemnity organisations in other states, particularly in my state of Tasmania, as has been mentioned by Senator Brown. This is the states house, and I believe we do have to ensure that there is justice done in this particular area—I just flag that particular point because of the time. I realise that we have only a very short time before the guillotine falls or, rather, before the arrangements that have been proposed by the Manager of Government Business in the Senate take place. I want to take every opportunity that is available to insist that senators and the Treasury take note of the grave concerns of medical practitioners and others in my state, including those to do with the issue of midwives throughout Australia.

Question agreed to.

Senator Nettle—I would like to have my no vote recorded.

Original question, as amended, agreed to.

Senator McGauran (Victoria) (3.55 p.m.)—I seek leave to have the 13th report of the Selection of Bills Committee incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 13 OF 2002
1. The committee met on Tuesday, 19 November 2002 and Tuesday, 3 December 2002.
2. The committee resolved to recommend—
   (a) the provisions of the following bills be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 10 December 2002 (see appendix 1 for statement of reasons for referral):
      Medical Indemnity Bill 2002
      Medical Indemnity (Consequential Amendments) Bill 2002
      Medical Indemnity (Enhanced UMP Indemnity) Contribution Bill 2002
      Medical Indemnity (IBNR Indemnity) Contribution Bill 2002; and
   (b) the following bills not be referred to committees:
      Aviation Legislation Amendment Bill 2002
      Charter of United Nations Amendment Bill 2002
      Commonwealth Volunteers Protection Bill 2002
      National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2]
      Taxation Laws Amendment (Venture Capital) Bill 2002
      Taxation Laws Amendment Bill (No. 7) 2002
      Venture Capital Bill 2002
      Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002 [No. 2].

The committee recommends accordingly.
3. The committee deferred consideration of the following bills to the next meeting:
   Bill deferred from meeting of 20 August 2002
   Bill deferred from meeting of 22 October 2002
   Corporations Amendment (Repayment of Directors’ Bonuses) Bill 2002.
Bills deferred from meeting of 12 November 2002
Plastic Bag Levy (Assessment and Collection) Bill 2002

Bills deferred from meeting of 19 November 2002
Workplace Relations Amendment (Award Simplification) Bill 2002
Workplace Relations Amendment (Choice in Award Coverage) Bill 2002
Workplace Relations Amendment (Termination of Employment) Bill 2002.

Bill deferred from meeting of 3 December 2002
Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002.

(Ann Ferris)
Chair
4 December 2002
Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Medical Indemnity Bill 2002
Medical Indemnity (Consequential Amendments) Bill 2002
Medical Indemnity (Enhanced UMP Indemnity) Contribution Bill 2002
Medical Indemnity (IBNR Indemnity) Contribution Bill 2002

Reasons for referral/principal issues for consideration
• exclusion of midwives from arrangements for medical indemnity insurance;
• impact of IBNR levy on patient costs, in particular bulk billing
• expected length of time that the Commonwealth will underwrite premiums of certain specialists and pay costs of high cost claims;
• fairness of premium subsidies
• impact of high cost claims subsidy on compensation payouts
• implications for compensation of changes to regulatory regime

Possible submissions or evidence from:
AMA; Royal College of Midwives; Department of Health and Ageing; Doctors Reform Society; Australian Prudential Regulation Authority; Department of Finance; ACCC; Medical Protection Society of Tasmania.

Committee to which bill is referred:
Community Affairs Legislation Committee

Possible hearing date: Friday, 6 December 2002/Monday, 9 December 2002
Possible reporting date(s): Wednesday, 11 December 2002

(signed)
Senator Kerry Nettle
Whip/Selection of Bills Committee Member

NOTICES
Postponement
Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Nettle for today, relating to the reference of matters to the Community Affairs References Committee, postponed till 6 February 2003.

General business notice of motion no. 267 standing in the name of Senator Allison for today, relating to the use of photovoltaic energy, postponed till 5 December 2002.

COMMITTEES
Employment, Workplace Relations and Education References Committee

Extension of Time
Senator MACKAY (Tasmania) (3.54 p.m.)—At the request of Senator George Campbell, I move:

That the time for the presentation of the report of the Employment, Workplace Relations and Education References Committee on the education of students with disabilities be extended to 10 December 2002.

Question agreed to.

Economics Legislation Committee

Meeting
Senator McGauran (Victoria) (3.55 p.m.)—At the request of Senator Brandis, I move:

That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 5 December 2002, from 4 pm, to take evidence for the committee’s inquiry into the provisions of the Financial Sector Legislation Amendment Bill (No. 2) 2002.

Question agreed to.
PARLIAMENTARY COMMISSION OF INQUIRY (BALI BOMBINGS) BILL 2002

First Reading

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

That the following bill be introduced:

A Bill for an Act to provide for a Parliamentary Commission of Inquiry in relation to the operation and effectiveness of Australian security and intelligence services relating to the Bali terrorist outrage on 12 October 2002

Question agreed to.

Senator BROWN (Tasmania) (3.56 p.m.)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator BROWN (Tasmania) (3.56 p.m.)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

On October 12th terrorists set off bombs in Bali which killed nearly 200 people, including more than 80 Australians. Many others were injured and the suffering continues to be immense.

There has been public conjecture that shortcomings in intelligence and security operations led to insufficient warning for Australians that such an outrage was possible.

This bill proposes a Parliamentary Commission of Inquiry into the Bali bombings which is similar to the inquiry set up by Congress to investigate matters leading up to the terrorist attacks on September 11th, 2001.

A Parliamentary Commission of Inquiry is the best avenue for satisfying concerns that either the events in Bali might have been mitigated, or that government agencies have been unfairly criticised. The findings of the inquiry would also help ensure that the potential for a future terrorist attack is minimised.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

CHILD PROTECTION

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.57 p.m.)—At the request of Senator Allison, I move:

That the Senate—

(a) notes that Australians Against Child Abuse and the Child Abuse and Family Violence Research Unit at Monash University undertook a study in Victoria of mandatory reporting of child abuse and, in October 2002, released their report entitled, A Study in Confusion—Factors which affect the decisions of community professionals when reporting child abuse and neglect; and found:

(i) a lack of confidence in the statutory child protection system leading community professionals to sometimes feel reluctant to make a child abuse report,

(ii) that 54 per cent of respondents would not report children whom they judged to be at considerable or extreme risk,

(iii) that for 88 per cent of respondents, their decision about whether or not to report a child was influenced by their view of the anticipated outcomes for the child, and

(iv) more than half of the respondents believed the outcome would not be positive for the child (56 per cent) or for the child’s family (63 per cent); 

(b) urges that action be taken on recommendations within the report to:

(i) fully implement mandatory reporting legislation, extending mandatory reporting to all professional groups,

(ii) evaluate the extent to which mandated professionals are currently complying with the legislation, and

(iii) increase funding to statutory child protection services to more effectively investigate reports of child abuse; and

(c) urges the Federal Government to work with all state governments to develop a national approach to improving the ways in which abused children are protected, including national minimum standards of care, uniform child protection legislation, a national independent research program and a federal system of children’s services commissioners to
subject all child welfare systems to regular and rigorous review.

Question agreed to.

McCulloch, DR LESLEY

Senator BROWN (Tasmania) (3.57 p.m.)—I move:

That, regarding Australian permanent resident Dr Lesley McCulloch, now imprisoned in Aceh, Indonesia, the Senate calls on the Minister for Foreign Affairs (Mr Downer) to:

(a) seek an explanation from Indonesia for the delay of Dr McCulloch’s trial from 27 November to 19 December 2002;
(b) have Australian representatives visit Dr McCulloch and give her any reasonable assistance; and
(c) ensure Dr McCulloch and her rights, including consular access, are not compromised by moves to declare or impose martial law in Aceh.

Question negatived.

Senator Brown—I ask that Senator Nettle and I have our yes vote recorded.

TASMANIA: PLANTATIONS

Senator BROWN (Tasmania) (3.58 p.m.)—I move:

That the Senate—

(a) notes that:

(i) Gunns Ltd owns 170 000 hectares of freehold land in Tasmania, of which approximately 100 000 hectares is plantations and 70 000 hectares native forest, including old-growth eucalypt forests and rainforests,

(ii) approximately 70 000 hectares of Gunns' existing plantations were established under managed investment schemes which give tax concessions to investors under the 13-month prepayment rule,

(iii) Gunns intends to establish a total of 200 000 hectares of plantations on its own land and via joint ventures and considers the tax concessions essential for its plans,

(iv) the tax concessions will promote the clearing of 70 000 hectares or more of native forests by Gunns, and

(v) based on figures provided by the Minister for Revenue and Assistant Treasurer (Senator Coonan), the value of tax concessions for 70 000 hectares of plantations is $129 million; and

(b) calls on the Government to abolish those tax concessions, including the 13-month prepayment rule, which promote clearing of native forests and other native vegetation.

Question negatived.

Senator Brown—Again, I ask that both Senator Nettle and I be recorded as voting yes.

Senator Bartlett—Without causing undue excess work for Hansard, I would appreciate it if they could note the Democrats’ vote in favour as well.

PHARMACEUTICAL BENEFITS SCHEME

Return to Order

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.59 p.m.)—I seek leave to make a short statement in relation to orders of the Senate which were successfully moved by Senator Nettle on 2 December. In view of the time, I think it might assist if I seek leave to incorporate it and provide Senator Nettle with this copy.

Leave granted.

The document read as follows—

On 2 December Senator Nettle moved that the Minister for Health and Ageing lay on the Table by 4 p.m. 4 December 2002 all documents relating to the Inter-Departmental Committee examining the effectiveness of the Pharmaceutical Benefits Scheme, including but not limited to submissions received by the IDC, the IDC’s recommendations to the Minister, and any response by the Minister to those recommendations. The Minister has advised that unfortunately, it will not be possible to meet this request within the timeframe proposed by Senator Nettle. There were 35 submissions received from stakeholding organisations by the IDC, and consultation with each of them will be necessary before their submissions could be released. The Minister wishes to assure Senator Nettle that her Department is dealing with the request as a matter of priority and a response will be provided at the earliest opportunity.

On 2 December Senator Nettle also requested that the Minister for Health and Ageing and the Minister for Trade lay on the Table by 4 p.m. 4 December 2002 all documents relating to the possi-
ble inclusion of the Pharmaceutical Benefits Scheme as an item for discussion in negotiations for an Australia-United States Free Trade Agreement, including but not limited to correspondence between the Australian and United States governments, recommendations to the Australian Government and/or any Commonwealth Government minister, and any Australian Government response to those recommendations. Senator Patterson has advised that neither she or her Department hold any documents falling within the scope of Senator Nettle’s request.

Senator BROWN (Tasmania) (4.00 p.m.)—Mr Deputy President, Senator Nettle wanted to seek leave to have her remarks recorded so that she could speak at a later date. I ask the Senate to accord her that opportunity.

Senator NETTLE (New South Wales) (4.00 p.m.)—by leave—I move:

That the Senate take note of the statement.
I seek leave to continue my remarks later.

Leave granted; debate adjourned.

RESEARCH INVOLVING EMBRYOS BILL 2002
In Committee
Consideration resumed.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (4.01 p.m.)—Madam Temporary Chairman, I had the chance to speak to Senator Harradine during the formal notices period and I tried to speak to Senator Brown, but he was bobbing up and down and moving motions very vigorously. I say to all senators that the Minister for Health and Ageing, Senator Patterson, is required to be before the ERC for a period. We tried to rearrange it but were unable to do so.

Senator Chris Evans—She’d rather be here, I’m sure.

Senator IAN CAMPBELL—She would rather be here. I have agreed to take the debate until she returns. She should not be too long; they are pretty ruthless in there. She will be back fairly shortly, so if honourable senators would put up with me for a little while I would appreciate it.

The TEMPORARY CHAIRMAN (Senator Knowles)—The committee is considering the Research Involving Embryos Bill 2002, as amended, and amendment (7) on sheet 2751 revised, moved by Senator Harradine. The question is that the amendment be agreed to.

Senator HARRADINE (Tasmania) (4.02 p.m.)—Just to enlighten—if that is the word—the Manager of Government Business as to where we are at, I have moved amendment (7) on sheet 2751 revised. That amendment requires a new clause to be added, and it is listed in the documents that you have before you on page 2751. I believe the amendment would improve accountability and transparency and, of course, it is consistent with paragraph 6.4 of the COAG communique about the need for the system to provide for public reporting of research involving embryos so as to improve transparency and accountability to the public. If we are going to have accountability to the public, I believe that the public is entitled to know and to be able to have a say, even if only by way of submission to the NHMRC Licensing Committee, about the suitability or otherwise of the application for a licence to access excess—and I hate that word but I am using the technical term—ART embryos.

The minister has come back and talked—and it is really a non sequitur—about the history of the assisted reproductive technology of IVF. I did not really understand what that meant, given that my amendment is clearly designed to deal with applications for licences for ART embryos. The response from the minister did not go to the question as to why the public should not have a right or an opportunity to comment on an application. I am proposing this amendment so as to allow 10 working days from the day that the application is placed on the Internet for the receipt of public submissions in relation to the application for a licence. I think that is consistent with COAG and transparency. Through you, Madam Temporary Chair, I am putting that suggestion to the Manager of Government Business: why not allow a period—and I have suggested 10 working days—for the public to make submissions to the NHMRC Licensing Committee about the propriety or otherwise of the proposal?

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the
Treasurer) (4.06 p.m.)—I have been handed the notes in relation to this, and apparently when we adjourned prior to question time today the minister was about halfway through reading that. From what I can understand of Senator Harradine’s question and from what I have read of these notes, I think they will go some way to answering the question, so I will put them on the record. I apologise for reading the notes; I know that it is not particularly good Senate practice and that it is pretty boring but I will give it a go.

When COAG made their decision that an additional layer of oversight should be provided on a national level by the NHMRC Licensing Committee, they recognised the changing environment, including that brought on by the potential benefits, that may be gained through the derivation and use of stem cells. COAG did not say, ‘The existing system is fundamentally flawed,’ or ‘Not only must HREC and the NHMRC Licensing Committee consider all applications, but so must all members of the public.’ Nor did they say, ‘All applications and all assessments must be made publicly available.’

However, recognising both the desirability and importance of public accountability and the frustrations that many people have felt about the absence of information about approved uses of embryos in Australia, the bill includes a requirement for the establishment of a publicly available database of information about licences. The database will include the following information: firstly, the name of the person to whom the licence was issued; secondly, a short statement about the nature of the uses of excess ART embryos that are authorised by the licence; thirdly, any conditions to which the licence is subject; fourthly, the number of excess ART embryos in respect of which use is authorised by the licence; fifthly, the date on which the licence was issued; and, finally, the period throughout which the licence is to remain in force.

The extent of the information that will be provided is significant. Not only is it the first time that such information will be available in Australia—I might note, after approximately 30 years of ART clinical practice—but the level of information provided to the public is, to my knowledge, unparalleled anywhere in the world. For example, in the United Kingdom the Human Fertilisation and Embryology Act 1990 does not require the release of any detailed information to the public, nor the maintenance of a publicly available database of the type that we are proposing. The only information that the HFEA—that is, the Human Fertilisation and Embryology Authority—publish is in their annual report, which includes a one- to five-line summary of the types of research approved. It includes no detail of licence conditions or licence periods. The system proposed for Australia already provides significant disclosure and opportunity for public scrutiny. That is the reason why I will not be supporting Senator Harradine’s amendment.

The TEMPORARY CHAIRMAN (Senator Knowles)—Before I call Senator Harradine, I advise honourable senators that we are just completing the amendment moved by Senator Harradine prior to the lunchbreak, which has to be disposed of prior to moving to the group of amendments that are listed for debate after 4.00 p.m.

Senator Harradine—I am not too sure whether I understood that.

The TEMPORARY CHAIRMAN—As you know, Senator Harradine, we are dealing with the amendment that you moved prior to the lunchbreak, which has to be disposed of prior to moving to the group of amendments that are listed for discussion between 4.00 p.m. and 5.00 p.m. They will commence with Senator Barnett’s amendments (R2) to clause 8 and (R3) to clause 11.

Senator HARRADINE (Tasmania) (4.10 p.m.)—In response to Senator Campbell’s comments, all I have to say is that, by the time that that information is provided, the horse will have bolted. All the decisions will have been made. The public will not even have an opportunity to offer their views as to the relevance, or otherwise, of the application. It has been said that all of the matter had been through the human research ethics committee of the institution. I dealt with that last night. The whole point about it is that, if you are a drug company and you want to use human embryos to test drugs and so forth,
you send it to your ethics committee appointed by the institution, which has been appointed by the drug company. That ethics committee is not going to be terribly much of a barrier, as it has been appointed by the applicant. As I said, the horse will have bolted by the time this information is provided. I am seeking to give the people an opportunity to have their say. If it is to go to the NHMRC Licensing Committee and to be decided by that, so be it. I would rather it were done in a different way, but that is the structure of this legislation.

Question negatived.

The TEMPORARY CHAIRMAN—We move now back to page 5, and I call Senator Barnett to move his amendments.

Senator Barnett (Tasmania) (4.13 p.m.)—I postpone moving my amendments (R2) and (R3). The running sheet is a little bit skewed. Amendment (R2) to clause 8 relates to the definition of proper consent, and I wish to postpone dealing with that until after the debate we will be having on the disallowance of the guidelines, as per page 7. I would like to come in immediately after that debate with my amendments (R2) and (R3) on sheet 2757 to clauses 8 and 11.

Senator Boswell (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (4.14 p.m.)—Amendment (1) on sheet 2718 listed in my name, on labelling, was dealt with under Senator Harradine’s amendment. I now withdraw that amendment. I move amendment (R1) on sheet 2702 revised:

(R1) Page 11 (after line 5), at the end of Division 2, add:

12A Offence—International trade in human embryos, human embryonic stem cells or any product derived from human embryos

(1) A person commits an offence if the person engages or seeks to engage from Australia in international trade of human embryos, human embryonic stem cells or any products derived from human embryos except for the purpose of placement in the body of the woman for whom it was created.

Maximum penalty: Imprisonment for 10 years.

On Monday night, there was a discussion between the minister and me on cloning. I gave an explanation which was incorrect, and the minister pointed that out to me. I would now like to correct the record and state that the claims that human embryonic stem cells could be used in the cloning process have a scientific basis. Firstly, like any other cells in the human body, embryonic stem cells may be fused with an egg, in the ‘Dolly’ process known scientifically as somatic cell nuclear transfer. Secondly, there are reports of mouse experiments in which a mouse was wholly derived from embryonic stem cells.


These reports on animal experiments indicate that it would be possible to derive a human embryo wholly from embryonic stem cells. This possibility was noted by the Australian Health Ethics Committee of the National Health and Medical Research Council in its December 1998 report to the Commonwealth health minister on human cloning, at section N220, referring to uncertainty about the potential of individual ES cell lines and quoting the article by J.A. Thomson et al entitled ‘Primary embryonic stem cells’:

It is not known whether human ES cells could form a complete viable embryo by any method, but this possibility has raised the greatest concern about the derivation of human ES cells.
In the same paragraph that they refer to the Thomson article, AHEC also cite the article by Andras Nagy et al in which there is a description of the production of a completely ES cell-derived mouse. AHEC describes these tetraploid embryos as being incapable of progressing through to development themselves, but as being able to provide an environment in which ES cells could do so. Given that embryonic stem cells have produced embryos in mice and marmoset monkeys, there would appear to be a good chance that human ES cells could, if suitably manipulated, develop into embryos. The history of research in this field would certainly imply that extensive studies of a variety of approaches would be required before one could dismiss this possibility with any confidence whatsoever.

I mention that because during the debate I was assured by many scientists that it was possible to actually use a stem cell to clone. Unfortunately I gave the minister the wrong reference, which she pointed out to me. That is not the only reason that I am moving this amendment. The amendment is to prevent us from trading in embryonic stem cells or human embryos or any derivatives from those. The reason I put it forward is that in Australia we have certain standards according to which we treat embryos, stem cells and human tissue. We have an AHEC, which is the ethical standards association, and we have a number of NHMRC guidelines. It is illegal to trade in human tissue. I think that would be a position that most Australians would agree with. But it is no good for us, as senators, to say that we will set up strict guidelines and strict regimes for human tissue in Australia if, when these embryos or embryonic stem cells are moved from Australia, we then have no control over them at all.

I pointed out in my last speech that, if we sell guns or some types of radioactive material, we always sell them overseas with a rider that says that you cannot on-sell these products and you can only use them in certain ways—you cannot develop an atom bomb; you can use this particular uranium in a certain way. It is called an end-user certificate. But we do not have any such thing in Australia for this case. At the Senate committee that investigated the evidence on this, I asked on a number of occasions what happened to embryonic stem cells that went out of Australia. At the Senate Community Affairs Legislation Committee on 29 August, Ms Matthews said:

The results of the research would be able to be sent overseas. If you are talking about the embryonic stem cell lines and whether they could be sent overseas, yes, the embryonic stem cells could be sent overseas.

If stem cell lines are subsequently sent to Singapore, the use of these stem cell lines is permitted in accordance with Singaporean law.

Dr Morris said:

The licence would only apply to the work undertaken in Australia. If something is exported to another country, the laws of that country would apply.

Ms Matthews said:

Leaving aside the customs regulations, under this bill there is no prohibition on the export of the products of embryos, such as embryonic stem cell lines and other products.

The NHMRC provided additional responses to the Senate committee. The response to questions raised indicated that the bill does not directly regulate the exportation of an excess ART embryo and the exportation of human embryonic stem cell lines. It said:

It should be noted that COAG did not address the matter of exportation of human embryos from Australia. It is proposed that the NHMRC, in consultation with the Department of Health and Ageing, Customs and other relevant agencies, develop further advice...

It clearly states there that there is no provision to regulate the use of our Aussie embryos and embryonic stem cells that are sent overseas.

On the cloning bill last week or the week before or whenever it was—time get confused—we all voted down cloning in Australia. It was a unanimous vote of both houses of parliament. Yet here we have today, a week or so later, that we can actually send stem cells over to Singapore. BresaGen and ES Cell have said that they will operate a company in Singapore. They will open an office in Singapore to develop embryonic stem cell lines. I pulled off the net this
morning a news report from the ALS news entitled 'Singapore backs embryo cloning'. It says:

The Singapore government will allow the cloning of human embryos for certain research projects giving the island state some of the world’s most liberal guidelines for stem cell research.

Singapore hopes the guidelines will allow local firms to take a leading role in stem cell research that could lead to both profits and cures for disease.

I have established that animals have been cloned from stem cells—both monkeys and mice. I now establish that the Singapore government does allow cloning. It is well established that ES Cell and BresaGen are opening an office in Singapore.

I want to say that it is no good us passing a bill that says that we prevent cloning in Australia, which was carried unanimously by both houses of parliament, and then turn our backs and say that we can send embryonic stem cells to Singapore—or to anywhere in the world, for that matter—and from then on, once they are out of the hands of the Australian law that we set up on trading in human tissue, it is a freewheeling, laissez-faire situation out there, where you can expect anything from any country that does not have our high ethical standards. I said in my previous speech that we cannot say that we have done the right thing, that we can sleep easily in our beds tonight and that we have put down guidelines and legislation that will prevent cloning and then turn our backs when embryonic stem cells go out of Australia.

I am very concerned about this. I think there are two very important issues in this bill. One is the testing of drugs and the other is the export of embryos and embryo stem cells. I just cannot think how we can say with any justice, any conscience or any degree of morals or ethics, ‘Let’s look after our Aussie embryos in Australia; but, when they go overseas, it is up for grabs.’ I do not think that anyone believes that. I do think the punters out there—the voters—believe that. I think they would say that, if it is good enough to put in very strict regimes in Australia for Australian grown stem cells, then surely the same rules and the same regulations must apply when those stem cells go overseas.

Unfortunately, I must have asked about this half a dozen or a dozen times, and no doubt Senator Harradine will back me up on this; and we were told constantly and honestly—and I thank them for that; there was no obfuscation—that, once they are out of Australia, anything goes. The only way I can see that you can stop this is to support the amendment that I am putting up, which says that you cannot trade in human embryos overseas. Otherwise we are really hypocritical. We would be hypocrites to pass legislation in Australia but walk away from it when the embryos go overseas.

I would like the people who are listening in to this debate and watching it on the screens in their offices to give this very careful consideration—not just to come down here and say, ‘I voted on this side and I’m going to continue to do so; I’m going to lock in to that.’ I am asking them to think about this, to think about what will happen and whether they believe that the people who elected us would want that to happen. I know there are a great many people in Australia who find this repugnant. There would be a great many people in the conservative churches, or any churches, who find this repugnant. Not only the people who have a religious commitment but all people would find repugnant our walking away and washing our hands of embryonic stem cells so that Singaporean companies and governments can make a profit. I must admit that they were honest: they want to make a profit. That is a great motivation; I am a person who likes to think in terms of making a profit, but not at the expense of ditching every ethic that we have. (Time expired)

Senator HARRADINE (Tasmania) (4.31 p.m.)—I will be very brief, because it is almost five o’clock. We have this and two other matters to deal with by then, as I understand it.

Senator HARRADINE—The issue is that this legislation prohibits the export of
embryos; the bill, though, allows for the export of embryonic stem cells. As was explained by the minister previously, they must get the approval of the donors if stem cells are to be derived. The fact of the matter is that the donors do not have any control over where the stem cells go. They have control over the embryo but once they give consent to the dissection of the embryo for the purpose of extracting embryonic stem cells they have no way of having control over them. Under those circumstances, the extraction may take place and those embryonic stem cells may be sent overseas.

The other night, the issue was whether or not a human embryo could be derived from that embryonic stem cell. If it is the case that an embryo can be derived from the treatment of an embryonic stem cell, that is using that embryonic stem cell to create a clone of the donor couple who gave the approval. In the debate the other night, the minister was asked whether or not that was possible. I am asking a question, but before the response I want to let you know this: the National Health and Medical Research Council, in paragraph 2.20 of the Scientific, ethical and regulatory considerations relevant to cloning of human embryos report, which was sent to Dr Michael Wooldridge on 16 December 1998, says, ‘Yes, there are examples where embryonic stem cells have been placed on a bed of tetraploid embryos. This happened in the mouse example and, yes, a mouse embryo developed and then developed into a mouse.’

Senator Boswell—And a monkey.

Senator HARRADINE—And a marmoset monkey, as my friend here said. That was stated in paragraph 2.20 of the NHMRC document. I am very surprised that the other night the minister was told something contrary to this, presumably by the NHMRC, when in their own document they have said that this is a possibility. It has not occurred with humans to the present moment, but what happens to a stem cell donated by a couple here if it is able to be developed in a country that does not have the ban on cloning that we have? You could have a clone of the donor couple. The question is: should that be allowed? Clearly, in my view, we should not allow that. As Senator Boswell says, it really undermines the purpose of the bill that was adopted unanimously—that is, the Prohibition of Human Cloning Bill 2002, which bans the cloning of human embryos.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (4.35 p.m.)—There are a number of things I would like to respond to in the remarks made by Senator Boswell and Senator Harradine. Senator Boswell pleaded to our colleagues, who are glued to their monitors following this debate—I do not mean to sound sarcastic—to listen to the arguments. I think it is fair to say that most senators have probably concentrated more on this debate than any other debate in recent times. Certainly, because of my role as Manager of Government Business in the Senate, I have had to speak more than just about anyone else in this place to the supporters of the bill and those who are opposed to this bill. I think that there is a very deep understanding of many of the issues that are being discussed. That clearly means that the outcome will be representative of the views of the Senate as a whole, ultimately. I join with Senator Boswell in his plea—not to the extent of suggesting that people are not concentrating on the debate but to pay tribute to the level of interest that there has been in the debate.

I know, from coming in here for divisions, that senators do not always know exactly the amendment that we are dealing with at the time, but overall they have been following this debate very closely. I do not think it is fair to pretend or to even assert that all senators are not following it or taking an interest in it. I think we are all taking it very seriously. Some senators, such as Senator Harradine, Senator Boswell and others, are living it and breathing it, amendment by amendment. Not everyone is as interested. I think we should be all proud as senators that the debate has been well informed and that most people are paying attention to those areas that are of particular concern to them. I know that Senator Patterson, for example, is approached regularly by colleagues saying, ‘What is the amendment? Do you have details?’ Everyone is trying quite hard to make
informed decisions, and I think that generally the debate in this place has been of a significantly better quality, as in most cases, than the debate in the other place.

I turn to Senator Boswell’s and Senator Harradine’s particular remarks—and I have been provided with these notes by the ministers and officers. Senator Boswell did cite a paper by James A. Thomson and others, a co-author of which was John Hearn, who gave evidence before the Senate Community Affairs Legislation Committee. The paper was one of the original papers describing the isolation and culture of embryonic stem cells. The paper did not show that embryonic stem cells could form embryos. Rather, when cultured at a high density, these cells formed embryoid bodies. These are collections of cells of different lineages but they have no ability for organisation, as occurs in an embryo. The ability to form embryoid bodies was evidence that the stem cells were pluripotent. John Hearn, who is from the Australian National University, has advised that human embryonic stem cells do not have the capacity to form advanced embryoid bodies, as described in the paper for marmoset stem cells.

Senator Boswell has indicated that the reason he moved this amendment—which was, as Senator Boswell would agree, defeated in a slightly different form earlier—was the concerns that embryonic stem cells could be used to create human embryos or could be used in cloning experiments overseas. They are obviously very legitimate and sound concerns. In relation to this, yesterday Senator Boswell provided the minister with citations from three peer review journals which he says support his claim that a mouse has been wholly derived from embryonic stem cells. The minister has obtained expert advice on these articles and can assure the chamber that this is not the case.

The articles cited by Senator Boswell relate to work that was undertaken about a decade ago. That work was undertaken prior to the discovery of the technique known as somatic cell nuclear transfer, or SNCT, which was used to develop and create Dolly the sheep. The work reported in these journals shows that, when the mouse stem cells were mixed with certain other mouse cell types in culture and the combination of cells was placed in a mouse uterus, it was possible to achieve a viable mouse embryo. The technique reported was cumbersome and had a very low success rate in mice. As a technique for the cloning of animals, this research was overtaken by the development of SCNT, which has been used successfully, albeit with a low success rate and significant health problems, in resultant cloned animals in a range of mammals, from mice to cows.

However, in relation to the concerns raised by both Senator Boswell and Senator Harradine regarding the possibility that human embryonic stem cells could be used in the cloning of human embryos, this is theoretically possible. The technique of SCNT, whereby the nucleus from any cell of the body excluding sperm and eggs—for example, skin, liver, muscle, brain and theoretically any stem cell, be it embryonic or adult—is transferred into an egg which has had its nucleus removed, could theoretically be used to clone a human embryo. However, in this respect a human embryonic stem cell has no advantage over any other human cell that has a full human genome. Any human cell can be used in the SCNT procedure, along with a healthy human egg.

Under the Prohibition of Human Cloning Bill 2002, this technique, or in fact any other technique that may be developed to clone human embryos, is banned with strong penalties. The export and import of prohibited human embryos is also banned and, as announced during debate on the Prohibition of Human Cloning Bill, the government is banning the export of all human embryos and the import of viable products of human embryo clones through changes to the customs regulation. In relation to Senator Boswell’s concerns that human embryonic stem cells will be taken overseas and used in the cloning of human embryos, I hope I have explained that human embryonic stem cells are not unique in this regard. Senator Boswell wants to prohibit international trade in embryonic stem cells, and I can see that this concept will get some support. However, this bill is not the appropriate forum in which to address such concerns.
I say in parenthesis that Senator Harradine, in the introduction to his remarks, said that this bill allows this to occur. It is not actually this bill that allows it to occur; that is not quite specifically accurate. I think Senator Harradine and Senator Boswell would agree with me that they would like this bill to not allow it to occur. This bill does not particularly change the situation, and we are saying that this is not the bill to address those concerns. I think it is also fair to say that the government, during the debate on the cloning bill, did in fact give an undertaking to ban the trade in materials from related human cloning and to review it in 12 months. So I think it is fair to say that the government have shown their bona fides in relation to this issue and the concerns about the trade in human embryonic stem cells that Senator Boswell and Senator Harradine have raised.

This amendment is outside the scope of the Research Involving Embryos Bill 2002. Of the two bills considered, it would have been more appropriate for such an amendment to be moved to the Prohibition of Human Cloning Bill. In fact, such an amendment was discussed but not supported. I mentioned during the debate on the Prohibition of Human Cloning Bill that the Prime Minister has undertaken to amend the Customs (Prohibited Exports) Regulations 1958 to provide for a 12-month prohibition on exporting human embryos, during which time the government will determine the most appropriate way of regulating such exports. I have also stated the government’s intention to amend the customs regulations to implement a ban on the import of viable materials derived from human embryo clones, and again this bill will be reviewed after 12 months.

With regard to Senator Boswell’s revised amendment, considerable work is required to understand the ramifications of such a proposal and to work out the details, if it is considered desirable. Some of the details to be considered would include, firstly, whether the proposed ban would be extended from embryonic stem cells to other human tissues, given that any human tissue could be utilised in cloning techniques. I understand that such an arrangement, for example, may prevent the transfer of human tissues required for transplant. Secondly, would the proposed ban only cover trade where money is exchanged? What about where cells are given freely to colleagues in other countries? Such an arrangement would set a dangerous precedent, as the international scientific community relies on collaborative research programs that depend on international sharing of resources in order to extend global research efforts.

If these proposals were to gain support it could result in the Australian research and medical communities being isolated from international counterparts. Such a result would have disastrous effects on Australian research efforts and, therefore, on the future health and wellbeing of Australians. It is also fair to say it would have a disastrous effect on the development of world-wide leading edge research. Therefore, it would have an effect on the attraction of scientists and medical researchers to develop their careers in Australia or in fact to enter into those careers in the first place. I am sorry for delaying the Senate for so long, but I think Senator Boswell and Senator Harradine in particular would appreciate the detail we have gone into in responding to their concerns and also the sympathetic nature with which the government has viewed similar concerns in relation to its consideration of these trade issues with regard to the Prohibition of Human Cloning Bill. For these reasons, we will not be supporting this amendment.

Senator STOTT DESPOJA (South Australia) (4.47 p.m.)—I certainly thank Senator Campbell for his contribution. He raised some good points, including the notion of free trade—that is, the free exchange of materials—which I suspect he might get questioned on in a moment. I think that is an interesting point to put on the record. In relation to Senator Boswell’s comments—and I think once again there has been reference to examples that were raised in the previous debate on a similar amendment—I want to put on the record the proposition that embryonic stem cells are in fact totipotent. I will use the definition in the House of Representatives human cloning report. It states that
totipotent ‘describes a cell or structure that can produce all cell types including placentas’. That means one that is capable of giving rise to an organism. That notion is not proven and that was the point I made in my contribution to the debate on Senator Boswell’s previous amendment.

The evidence that we have to date suggests overwhelming that that is not the case. As I alluded to when speaking about the previous version of this amendment, I acknowledge that there is a case of mice embryonic stem cells giving rise to an embryo, and I described some of the circumstances involved in that at the time. It is very important to remember that in this experiment, as I pointed out last time, the ES cells were on a bed of embryos. It is important to note that we do not know exactly what it was that gave rise to the embryo, whether it was the embryos or whether it was the ES cells. I think it is important to note that, in the evidence to the committee, Dr Tonti-Filippini qualified very carefully any claims that this experiment proves that ES cells are totipotent.

The point that I want to emphasise is that the whole proposition is highly speculative and I suppose we acknowledge that, by virtue of it being an innovative field, science is speculative. Presumably we want to guard against things that we perceive as dangerous, and we want to regulate for things that may or may not happen. But I think this is a very difficult and inappropriate area at the moment. I think that, if there is evidence that ES cells are totipotent, we should come back and amend the legislation. But I do not think this highly speculative proposition and discussion should result in the amendments before us. I do not mean to have ‘Groundhog Day’ on this matter. I understand that there was some allusion to the comments that were put on record, but I advise the chamber that the Democrats will not be supporting the amendment.

Senator BOSWELL (Queensland) (Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (4.51 p.m.)—I thank Senator Ian Campbell. He conceded that it was possible to clone if you put any sort of isolated nucleus from an embryonic stem cell or any stem cell into an egg. I think that is what he said. This is a well-thought out amendment. I have said ‘trade’ and trade means commerce, and it means trading. It does not mean exchanges in science; it means getting a commission, a remuneration or a consideration for what you have done. This is why I changed it. It means that someone must make money. Someone must get a commission or a remuneration out of it. I very clearly said it is only human embryos, human embryonic stem cells or any product derived from human embryos. It is nothing to do with blood or any other human tissue that may have to be exchanged. That should put down the fears of Senator Ian Campbell.

AHEC, which is the ethical committee of the NHMRC, were so concerned about these papers that they put a report in to the minister at the time. That shows that it can be done and they were concerned. They are part of the NHMRC and they were so concerned that they reported these papers to the minister at the time. That shows that it can be done and they were concerned. They are part of the NHMRC and they were so concerned that they reported these papers to the minister at the time.

We only have five minutes and I do not know whether anyone else wants to speak. I refute what you have said, Senator Ian Campbell. I know you said it with goodwill but in effect you conceded my point. You conceded it could happen although you said it was remote. You conceded that it happens in animals. To our knowledge, there has never been a human clone in the world so you cannot say, ‘It has not been done with people,’ because cloning has never been done with people. Cloning has been done from stem cells with monkeys and mice. The next step could be human cloning but no-one has ever done that. It is illegal around the world except in Singapore. The two partners of the stem cell centre are setting up in Singapore, where cloning is legal.

Senator HARRIS (Queensland) (4.54 p.m.)—I will speak briefly in support of Senator Boswell. As I said last night, there has been a startling admission made by Professor Carl Wood, who said:

... at one stage despondency about the techniques persuaded the team to try for fertilisation of a
human egg and sperm cell and embryo growth in a sheep.

This is not overseas; this was here in Australia, in Victoria, carried out by Australian scientists. However, they go on to say:

In some ways we were relieved at the failure of the experiment as it may have been difficult to convince the community that the sheep was an appropriate place for human fertilisation and early human development.

I would like to place on record that One Nation supports the amendment.

Question put:

That the amendment (Senator Boswell’s) be agreed to.

(The Chairman—Senator J.J. Hogg)

Ayes............ 29
Noes............ 40
Majority........ 11

AYES

Abetz, E. Alston, R.K.R.
Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Brown, B.J. Buckland, G.
Calvert, P.H. Chapman, H.G.P.
Collins, J.M.A. Ellison, C.M.
Ferguson, A.B. Forsshaw, M.G.
Harradine, B. Harris, L.
Heffernan, W. Hogg, J.J.
Hutchins, S.P. Johnston, D.
Lightfoot, P.R. Macdonald, J.A.L.
McGauran, J.J.J.* Minchin, N.H.
Murphy, S.M. Nettle, K.
Scullion, N.G. Stephens, U.
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.
Cook, P.F.S. Crossin, P.M.
Evans, C.V. Ferris, J.M. *
Greig, B. Hill, R.M.
Kirk, L. Knowles, S.C.
Lees, M.H. Ludwig, J.W.
Lundy, K.A. Macdonald, I.
MacKay, S.M. Marshall, G.
Mason, B.J. McLucas, J.E.
Moore, C. Murray, A.J.M.
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.
Tchen, T. Tierney, J.W.
Troeth, J.M. Vanstone, A.E.
Webber, R. Wong, P.

* denotes teller

Question negatived.

The CHAIRMAN—Order! It being past 5 p.m., the time allotted for the consideration of amendments to part 1 and divisions 1, 2 and 3 of part 2—that is, clauses 1 to 19—has expired. I will put the questions for the remaining amendments.

Senator Murphy—Given that we did not start on this block of amendments at 4 o’clock, as was stated—

The CHAIRMAN—The resolution of the Senate today was that at 5 p.m., when the time allotted for the consideration of the amendments in the parts that I have just read had expired, the Senate would move to the questions that were not resolved at that time. The outstanding amendments to be considered are amendments (1) and (2) on sheet 2763 revised, standing in the name of Senator Murphy, and amendment (13) on sheet 2751 revised (2), standing in the name of Senator Harradine.

Senator Murphy—With respect, the resolution also said that at 4 o’clock we would start on amendments moved by Senator Barnett, followed by amendments moved by Senators Boswell, Murphy and Harradine, which we did not do. As I understand it, it is within the power of the Senate, if it so decides, to seek to deal with amendments not dealt with in the allotted time of the resolution of the Senate. I seek leave to have amendments (1) and (2) on sheet 2763 revised to be considered at a later time, together with opposition amendment (R8) on sheet 2693 revised, standing in the name of Senator Collins.

Senator Murphy—With respect, the resolution also said that at 4 o’clock we would start on amendments moved by Senator Barnett, followed by amendments moved by Senators Boswell, Murphy and Harradine, which we did not do. As I understand it, it is within the power of the Senate, if it so decides, to seek to deal with amendments not dealt with in the allotted time of the resolution of the Senate. I seek leave to have amendments (1) and (2) on sheet 2763 revised to be considered at a later time, together with opposition amendment (R8) on sheet 2693 revised, standing in the name of Senator Collins.

The CHAIRMAN—I understand the point you are now making, Senator Murphy. That is a reasonable point.

Senator Chris Evans—While I am not seeking in any way to interfere with the effect of the guillotine resolution, I had indicated to Senator Murphy that there was some
sense in his debate being held jointly with that of Senator Collins, because it goes to the same issue. I would have no objection to us doing that in the next section in the debate about patents, which is what he is seeking leave to do. I think Senator Harradine was also going to seek leave to speak for—

**Senator Harradine**—Five seconds.

**Senator Chris Evans**—five seconds or one minute, depending on which version you have, and we are prepared to allow that, as well, if he seeks leave. Certainly, in Senator Murphy’s case, the debate will occur around the issue of patents in the next section and it did not seem to do us any harm to defer his amendment until then and have the debate once. I think there was general goodwill around the chamber for that to occur. As I understand it, Senator Harradine has the numbers for his motion, so we are prepared to let him speak briefly to that.

Leave granted.

**The CHAIRMAN**—That leaves one further amendment to be considered. The question is that Senator Harradine’s amendment (13) on sheet 2751 revised (2) be agreed to.

The amendment read as follows—

(13) Clause 1, page 1 (line 16), after “Involving”, insert “Human”.

Question agreed to.

**The CHAIRMAN**—We now move to amendments to division 4 of part 2—that is, clauses 20 to 28. I draw senators’ attention to the fact that there is now a revised running sheet 9.

**Senator HARRADINE (Tasmania)** (5.08 p.m.)—I move amendment (11) on sheet 2696:

(11) Clause 26, page 18 (lines 27 to 31), omit the clause, substitute:

26 Suspension or revocation of licence

The NHMRC Licensing Committee may, by notice in writing given to the licence holder, suspend or revoke a licence if:

(a) the Committee believes on reasonable grounds that a condition of the licence has been breached; or

(b) the Committee has evidence that there has been insignificant or no advances in knowledge or improvement in technologies for treatment.

Clause 26 of the bill deals with the suspension or revocation of licences. I am proposing to omit the clause and to substitute a new clause 26. This amendment would allow the NHMRC Licensing Committee to require performance from the licence holder on a key requirement that the committee must consider when deciding whether to issue a licence. Clause 21(4) of the bill states:

In deciding whether to issue the licence, the NHMRC Licensing Committee must have regard to the following:

... ... ...

(b) the likelihood of significant advance in knowledge, or improvement in technologies for treatment ...

Quite simply, my amendment would ensure that licence holders who are not performing against this criterion could have their licence suspended or revoked. I would have thought that that is reasonable enough. It is not really adding to the legislation; it is reinforcing that requirement. This is consistent with Commonwealth legislation, and there are a number of examples of that. I refer to section 106 of the Safety, Rehabilitation and Compensation Act, which states:

Suspension or revocation of licences at the instance of the Commission

(1) If the Commission considers it appropriate to do so, the Commission may, by written notice given to the licensee:

(a) suspend the licence for a specified period; or

(b) revoke the licence.

(2) Before taking action under subsection (1), the Commission must follow such procedures, if any, as are specified in the Minister’s directions as preliminary to the suspension or revocation of a licence at the instance of the Commission.

I am simply referring to that, and there are a number of other examples in legislation. Accordingly, the existing clause and the proposed amendment are certainly not controversial. I move the amendment accordingly.

**Senator STOTT DESPOJA (South Australia)** (5.12 p.m.)—The Australian Democrats will not be supporting Senator Har-
radine’s amendment. Clause 26 allows the licensing committee to revoke a licence if a licence condition has been breached. We have discussed or alluded to that on a number of occasions during the committee stage of this bill. This amendment is obviously intended to add an additional criterion for revoking the licence, in relation to this notion of ‘insignificant or no advances in knowledge or improvement in technologies for treatment’.

I understand the intention behind this. I would certainly describe it as well intended, but I suspect that, scientifically, it is potentially naive. Any judgments on the results that are obtained may not be assessable before that project is completed. And how do we make a determination as to whether or not the results constitute a significant advance in knowledge? I think that is incredibly difficult. This is a very difficult provision, in a scientific sense, to apply to the licensing committee. On a practical note, by the time the lab work is complete and written up, the licence probably will have expired anyway. There are problems with this amendment. While I acknowledge the intention behind it, I think that it is a very difficult thing to assess in practical terms and, once again, I am sure that our views as to what constitutes a significant advancement could vary substantially as well.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (5.14 p.m.)—Senator Harradine’s amendment seeks to amend clause 26 to include an additional ground on which the NHMRC Licensing Committee may suspend or revoke a licence, and that is if the committee has evidence that there has been insignificant or no advances in knowledge or improvement in technologies for treatment. I will be opposing the amendment because I am of the opinion that the licensing committee should have discretion to set conditions and make decisions on the basis of the merits of each case.

Firstly, it would be difficult to judge any project before it is completed with respect to whether or not it led to a significant advance in knowledge, and the NHMRC Licensing Committee would only cover the work involving the use of an embryo and not all other aspects of the research project. At the stage in a research project when the benchwork has been completed and the results written up and published—at which point it may be possible to judge the outcomes of the work—the licence will have already expired. Therefore the amendments suggested by Senator Harradine would at best lead to a judgment being made after the licence has expired; at worst it may lead to projects being judged and terminated prematurely.

To illustrate how this would operate in the context of the legislation, I will go through a hypothetical scenario. A person applies for a licence to use an ART embryo to undertake certain research and satisfies the NHMRC Licensing Committee that there is likely to be a significant advance in knowledge which could not reasonably be achieved by other means. Assuming that the licensing committee is satisfied that all the other requirements for the issuing of a licence have been met, the committee then issues a licence for the use of the embryo for the purpose detailed in the application. The licence holder subsequently uses the embryo and fulfils the reporting requirements in accordance with the conditions of licence. The NHMRC Licensing Committee then decides that the results of the research do not constitute a significant advance in knowledge. Given that the embryo has been used and the licence is no longer in operation, what then would be the point in suspending or revoking the licence, because the embryo would already have been used for the purpose described in the application and in accordance with the licence conditions? I believe that this is an important area in which the licensing committee should have discretion to make decisions on the basis of the information available to them, and for these reasons I will not be supporting the amendment.

Senator HARRIS (Queensland) (5.16 p.m.)—I rise to indicate that One Nation will support Senator Harradine’s amendment. The reason for that is that both the minister and Senator Stott Despoja have referred to clause 26 of the bill having the head of power to revoke the licence, because the embryo would already have been used for the purpose described in the application and in accordance with the licence conditions? I believe that this is an important area in which the licensing committee should have discretion to make decisions on the basis of the information available to them, and for these reasons I will not be supporting the amendment.
licence ceases to exist. I do not believe that that is technically correct. A licence can be to use multiple embryos. If a person has not been able to show that there is a significant improvement in knowledge and technology then that would be a reason for that licence to be revoked—and Senator Harradine’s amendment will very clearly do that.

If the conditions set down by the NHMRC do not actually have in them a requirement for that experiment to improve technology then there is no head of power under clause 26 under which they can revoke it. So, firstly, licences can be issued for multiples of embryos and, under clause 26, unless the licence explicitly says that one of the requirements of the licence has to be for the improvement of knowledge, there would be no way that the NHMRC could revoke that licence. The requirement that Senator Harradine’s amendment brings in is that there must be a significant improvement in technology. Therefore One Nation supports Senator Harradine’s amendment for those reasons.

Question negatived.

Senator MARK BISHOP (Western Australia) (5.19 p.m.)—My understanding is that the subsequent amendment to be moved by Senator Barnett achieves essentially the same purpose as the amendment moved in my name. It is somewhat less stringent but I understand it will have the support of both the government and the opposition. Accordingly, I seek leave to withdraw my amendment (5) on sheet 2689 revised.

Leave granted.

Senator BARNETT (Tasmania) (5.20 p.m.)—I move amendment (1) on sheet 2759 revised:

(1) Clause 26, page 18 (after line 31), at the end of the clause, add:

(2) If a licence holder is convicted of an offence under this Act or the Prohibition of Human Cloning Act 2002, the NHMRC Licensing Committee must, by notice in writing given to the licence holder, revoke each licence held by the licence holder.

I thank Senator Bishop for his comments and for the manner in which he made those comments. I think Senator Bishop’s amendment is slightly more stringent, but this amendment is a good one and I would just like to make a few comments about it before allowing the minister and the Labor Party to respond.

This is about an automatic revocation of the licence by the licensing committee if a serious offence has been committed and a conviction has been incurred. It is an offence under not only the Research Involving Embryos Bill 2002 but also under the Prohibition of Human Cloning Bill 2002. The NHMRC Licensing Committee must by a notice in writing given to the licence holder revoke each licence held by the licence holder. That basically makes it an automatic revocation of that licence.

The penalty provisions in the bill are set out in clauses 10, 11 and 12 in division 2. They are for serious offences with penalties of up to five years imprisonment. We are not talking about being late with the reporting of an annual report or something like that; these are where there has been, in many of these cases, an intentional or reckless disregard for the licensing regime or the legislative or regulatory regime. So we are talking about serious offences. Indeed, it is only appropriate that there should be an automatic revocation of the licence. There will be an argument that the NHMRC, or the licensing committee at least, needs a level of discretion in terms of the suspension of a licence and the types of conditions and sanctions that may be imposed on the licence holder. But this is about penalties where convictions have taken place. We are talking about serious offences.

I draw the chamber’s attention to the report of the Community Affairs Committee, of which I was a member. I asked this question of the witnesses on many occasions and it seemed to me that, for serious offences, a number of them supported an automatic revocation of the licence. I make the point again that it is relevant not only to this bill but also to an offence or a conviction made under the Prohibition of Human Cloning Bill 2002.

I have had some discussions with the minister’s office and I want to thank the
minister for the good grace and the manner in which those discussions have taken place and for what I understand will be her response in not opposing the amendment. I look forward to that. The only question that I have is with regard to the time period. It is an automatic revocation and it must be by notice in writing. A response stating how quickly that is to happen might be helpful. Obviously, they will use their best endeavours, and you can only assume that that will happen after the conviction has been incurred.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (5.24 p.m.)—Although I do not think the amendment is necessary I will not be opposing it.

Question agreed to.

Senator JACINTA COLLINS (Victoria) (5.24 p.m.)—As I foreshadowed in the debate on the first component of the Greens’ amendments dealing with the establishment of a stem cell bank—although the government threw out the recommendations from Senator Stott Despoja and Senator McLucas in relation to establishing a stem cell bank that the review occur—I thought it was important that we deal with the issue of the horse bolting on the commercialisation of stem cells extracted from human embryos. The way that came to my mind that this might be achieved was by picking up on some of the evidence brought before the committee on how the Europeans deal with commercialisation. Whilst this particular model might not suit us in the long term, it is a relatively simple way of ensuring that the horse does not bolt in relation to stem cell lines until we achieve a measure to deal with commercialisation that suits our particular circumstances.

I have accepted in part the concerns raised by Senator Stott Despoja that a stem cell bank per se, and certainly the British model of a stem cell bank, may not be ideal for Australian circumstances and our regime here. I made the point quite forcefully on the last occasion that that is not an excuse to do nothing. In particular, where we have COAG, the Premiers and the Prime Minister saying we have a strict regulatory regime, principal in the ethical position that many people take is that this work should occur for humanitarian purposes and not for profit or for commercially related purposes and that we should follow the lead of the many countries that have found a variety of different means of curtailing the profit or commercial motive in furthering this research.

Amendment (R8) seeks to do that by saying that, essentially, a licence holder would lose their licence if they sought a patent in relation to unmodified stem cells. I think it is necessary to make this point too, because I know that some of the responses to my amendment have said that this would have a substantial impact on investment and that this research should go ahead. With respect, that ignores what most other regimes established to deal with this type of research have put in place in their own circumstances and it maintains the position that we should just do nothing until somewhere in the never-never we might come up with something appropriate to our particular circumstances. Under a strict regulatory regime, we should have something that prevents the horse from bolting until, if we have not got it ready now, we have the appropriate system in place to deal with these commercial interests suitable to Australia’s particular circumstances.

As I have said, I looked at the European model, which we heard evidence about in the Senate inquiry. I raised this in the earlier debate but I will repeat it for senators who may not have attended at that time. In his submission to the inquiry, Mr Ilyine from Stem Cell Sciences, even though they are part of, in a sense, the commercial interests in this area, said they supported the establishment of a stem cell bank. The interesting component when I started questioning Mr Ilyine was that he had some knowledge of the UK and the European models for dealing with commercial interests and in fact advocated that such should occur. When he spoke about the European model he said:

The unmodified human stem cell line in Europe, it would be argued, comes from nature and therefore should never be patented because a patent granted in this domain would be so broad as to be hugely inhibiting to discovery, because any discovery made on the back of that would have to relate to the original patent holder. So the European position is to say that discoveries made
when using such cell lines are indeed patentable when they have novelty and all of the factors that go into making a patent. However, the unique biological material itself should not be patented because it is of human nature.

There are two issues bound up in that quote. Firstly, there is the ethical position and, in part, even a sociological position that human nature itself should not attract patents. Some of that quote prompted Senator Stott Despoja’s earlier remarks in relation to genes and gene sequences. As well as that, they said that there are good commercial reasons why this should not occur either. Mr Ilyine said that if we allow patents on stem cell lines themselves then we will create problems commercially because the patents will end up being so broad as to capture any further work in relation to those stem cells, and that will inhibit commercial work. That is an important point, too, because some of the arguments have been that this will damage commercialisation. Here is Mr Ilyine saying quite clearly that certainly from a European perspective the contrary is the case: you might inhibit research by, in a commercial sense, allowing commercial value to reside where perhaps it should not. I do not think that there is a great deal more that I want to say about this matter at this stage.

I am happy to deal with amendments (R8) and (R9) together. Amendment (R9) is part of that package. It essentially would ensure monitoring powers in relation to, at least, the Australian patent system. I accept that some concerns have been raised that internationally it might be difficult to keep tabs on whether someone who should not be seeking a patent has done so in Hong Kong, the US or the like. But, in a competitive industry, I think that if that does occur the industry itself can probably ensure that that information becomes available to the licensing committee. In the sense and terms of the limitations of our jurisdiction, that is probably the best we can do. At this stage, I seek leave to move amendments (R8) and (R9) together.

Leave granted.

**Senator JACINTA COLLINS**—I move: (R8) Clause 26, page 18 (after line 31), at the end of the clause, add:

(2) If a licence holder, or an associate of the licence holder, applies for a patent under the **Patents Act 1990** or for a patent under patent legislation in any other jurisdiction, for any unmodified stem cells from human embryos, the NHMRC Licensing Committee must, by notice in writing given to the licence holder, revoke each licence held by the licence holder.

(3) In subsection (2): associate in relation to a licence holder, includes:

(a) any employee, employer, principal, officer, trustee, agent or contractor, however described, of the licence holder; and

(b) any other person as prescribed in the regulations.

(4) Subclause (2) ceases to operate when the review required by section 47 of this Act is completed and the Commonwealth Parliament enacts legislation regarding commercial interests.

(R9) Clause 36, page 26 (after line 26), after paragraph (f), insert:

(g) obtain during normal business hours from the Register of Patents information regarding any application for a patent by a licence holder.

The **TEMPORARY CHAIRMAN** (Senator Bolkus)—I call the minister.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (5.33 p.m.)—I will obviously take some time to respond because this is an important issue. Senator Collins has moved an amendment to clause 26 of the bill which would require the NHMRC Licensing Committee to revoke automatically a licence if the licence holder applies for a patent under the **Patents Act 1990** ‘for any unmodified stem cells from human embryos’. I think we could all agree
that the patenting of biological lines raises difficult political, ethical and commercial issues. We discussed some of these matters last night, but I want to put them back together on the record.

Patents law is a complex matter which cannot be addressed in an ad hoc way through this legislation. Any possible amendments should only be contemplated after very careful and detailed consideration to ensure that they do what is intended. This is a matter, as I have indicated before, much better dealt with in the context of a separate review process. The legislation was never intended to regulate stem cells; it only regulates the use of embryos. Any move beyond that would take the legislation far beyond the original intent of COAG. It is not absolutely clear to me what Senator Collins means by the term ‘unmodified stem cells’. My understanding is that patents will be granted if inventions meet the statutory patentability requirements such as novelty, inventive merit, industrial application and adequate disclosure of the invention in the patents specification.

The amendments only catch a very limited class of people and therefore lead to inconsistencies and an unequal playing field. For example, what would be the impact on people who are not licence holders under the bill? Making amendments to this bill will not stop people who are not licence holders from seeking a patent. If these amendments were supported, we could have the situation where a licence holder had completed their initial research on embryos, the licence period had expired and the researcher would then be free to apply for a patent. It would also not stop people overseas registering patents in Australia. A number of years ago, the US issued a patent known as the Thomson patent through the Wisconsin Alumni Research Foundation for the commercial application of certain stem lines. WARF also filed for a patent in Australia but subsequently allowed the application to lapse. The point is that any amendments restricting what licence holders can do and what they cannot seek a patent for would have absolutely no impact at all on this scenario and the capacity of a US organisation to seek a patent in Australia. This reinforces the need to avoid ad hoc changes to this legislation and to address the matter at the source, as I said, through Australian IP legislation. In a similar vein, Senator Collins’s amendments do not appear to deal with existing patents but rather only revoke licences from those who apply for new patents. This seems to be rather anomalous. Licence holders who make new patent applications will have their licence revoked and will be unable to continue the research. However, licence holders with existing patents will not be affected.

Further, under the amendments, a company that is a licence holder would still be able to grant IP rights under a patent—for example, an exclusive licence to another company to continue the work started by the original licence holder. There is nothing to prevent the company to whom the IP rights have been transferred from being granted a licence from the licensing committee, provided, of course, that it meets the criteria in the legislation. I would add that IP licensing arrangements such as these are extremely common. I am aware of a number of Australian companies that hold licences from organisations who have patented certain processes overseas and it would appear that they would not be affected by the amendments. All of the issues regarding the patenting of biological material apply equally to embryonic stem cells, adult stem cells and all other cells and tissues.

During the debate on this bill there has been much discussion about the developments that have occurred as a result of the use of adult stem cells. The therapies which were developed as a result of the use of adult stem cells would not have been possible without commercial investment and accompanying IP protections providing the capacity for companies to market the therapies. The same opportunities should be considered in relation to embryonic stem cell research.

On the basis of the debate in the Senate it is clear that we all want to see the potential of stem cells being turned into therapeutic products which can help people—we might have a disagreement about whether they are embryonic or adult stem cells—but this must
be done properly. To do this properly, to undertake extensive studies and trials and properly test the efficacy and safety of the therapies, takes significant investment. The size of the investment required simply cannot be met solely by governments and academic institutions, and therefore it must be supplemented by private investors. The fact is that private investors will not invest unless they stand to make a return on their investment, and they can do that only with proper intellectual property arrangements.

Senator Collins has attempted to include a sunset clause to repeal the operation of her amendment if the review under clause 47 is completed and parliament enacts legislation regarding commercial interests. It is ambiguous as to what type of amendments would need to be passed to give effect to the sunset clause. The term ‘commercial interests’ is very broad and it would be difficult to know as a matter of legal interpretation whether or not the sunset clause has become operative. It is very unusual to repeal a provision, and I am sure that lawyers would have to exercise their minds about that.

I want to add an important development that has occurred, but it has not just happened as a result of the bill; it has been under way for some time. I announce that today the Prime Minister has agreed to a proposal by the Attorney-General for the Australian Law Reform Commission to undertake an inquiry into intellectual property. This is very important for those people who have a concern about the patenting issue. I would like senators who are listening in their rooms to take heed of what I am saying. For those of you who have half an ear on the debate, I would like you to really concentrate at this point because some people have a concern about the patenting issue.

I reiterate that today the Prime Minister has agreed to a proposal by the Attorney-General for the Australian Law Reform Commission to undertake an inquiry into intellectual property issues raised by genetic information. The proposal arose out of a joint Australian Law Reform Commission and Australian Health Ethics Committee reference on the protection of human genetic information. The inquiry will focus on human health issues, including the impact of current patenting laws and practices relating to genes and genetic and related technologies, the conduct of research, and the Australian biotechnology sector. The inquiry will also focus on any problems with current laws and practices, with the aim of encouraging the use of intellectual property to further the health benefits of genetic research. Biotechnology Australia advised that stem cells would be in the scope of the review.

As I argue now and have argued earlier, it is vital that this be dealt with not in an ad hoc way but in an overall way, taking into account the fact that this bill is about embryos and not stem cells, and the fact that it does not cover adult stem cells. Therefore, I will be opposing the amendment, because I consider that it would pre-empt the outcome of the review. The government has already made a commitment to review the patenting arrangements of genetic material in Australia. To act on this bill in an ad hoc, knee-jerk way is simply not appropriate. I will be opposing Senator Collins’s amendment.

Senator JACINTA COLLINS (Victoria) (5.41 p.m.)—Perhaps I should take this moment, if the minister has managed to attract the attention of people watching this debate, to respond to a few of those issues, because I think that they deserve a response now. The minister says that she is not clear on what is meant by ‘unmodified’, yet that was the evidence that we received in the committee as to how the European model works. So I am a bit confused about why she is not aware of what seems to be a clear history of dealing with ‘unmodified’ versus ‘value adding’ or developments in relation to the stem cell lines themselves.

Moving on to other issues, the other day we covered the issue of the distinction between adult stem cells versus embryonic stem cells. The difference—and why many of us believe that we need to be very careful about what commercial interests we involve in relation to embryonic stem cells—is the simple fact that to create them involves the destruction of human embryos. If you have the ethical position that you want to restrict how many of these embryos are destroyed to create stem cells, you seek to limit the com-
commercial interests to create more. That is the issue. If you have, as COAG told us, a strict regulatory regime, you do not leave dealing with this issue for 'ron' when you might hear the result of an ALRC review. You do not wait that long; you have something in place that will prevent the horse from bolting now.

Senator Patterson, I have not claimed that what you refer to as my 'ad hoc process' is perfect. I have sought to draw on the experience that has occurred elsewhere in the world, and the principal areas that we can rely on are Europe and the UK. The proposal that we look at a stem cell bank has arisen from the UK experience. Senator Stott Despoja and others have raised many valid issues about why we should not necessarily go straight down that path now in the form that they have and that it would benefit us significantly to see how it has operated in the UK. With respect to the European experience, we have a reasonably straightforward way of at least introducing some constraint in this area.

While Senator Patterson says that it is ad hoc and that it should not be in this legislation, and a variety of other excuses, we already know that if the Prime Minister is serious about an issue he can give us a commitment that he will deal with it in another area. If that is really the only stumbling block then the Prime Minister will say, 'We'll deal with it through customs regulations, for instance,' in that case.' So the message that the Senate clearly gets from your contribution is that we are happy to leave the horse unbolted; we are happy to let the horse out.

You may say to us that establishing this review is significant and should impact on other senator’s minds but, with respect, Senator, when will the result of that review happen? I do not think that you gave the Senate the benefit of the advice of how quickly that review will occur and when we might have the recommendations of it. But if it is not within the six-month period, then the horse will bolt. It is as simple and as straightforward as that.

One of your claims was that a licence holder could simply pass the stem cells on to somebody else who could seek a patent. That is why we have the word ‘associate’ in the amendment. We are saying ‘a licence holder or an associate’. A licence holder is not going to pass these stem cell lines on to somebody else if they risk losing their licence. You did raise one valid issue in relation to what could happen once the research has been concluded and a licence is no longer necessary, but the point of the matter is that there is—as you referred to it, and I am glad that you reminded me—the sunset clause here. The sunset clause will mean that this restriction will not apply once an appropriate regime is established and in place.

Maybe I am being far too optimistic here. But I would hope, given the nature of research in this field, given how long it is going to take for the licensing arrangements to get up and into operation, given a myriad of other factors, that the government would get its act together on the alternative regime before research projects are being licensed, concluded and then traded. Seriously, Minister, if we are waiting that long then maybe we should have something far more significant here. Perhaps you are suggesting to all senators listening that they should really be favouring Senator Murphy’s amendments rather than mine because you are just not serious.

If the government is serious about this review, it will accept that it is important to prevent the horse bolting now and at least establish an appropriate minimum line, which is that the stem cells themselves should not be patented. We have good evidence from Europe that says that there are commercial impacts of allowing that to occur anyway. If you pick up the argument that perhaps it is not going to be meaningless anyway because the patenting regulation would just deal with value itself on top of these stem cells, then your argument about the supposed large commercial impact of doing this is a bit circular. In fact, it is quite circular. On the one hand you cannot argue that there are going to be dire commercial implications of putting this restriction on commercialisation and on the other hand say that the commercial limits involved here are really so significant as to be meaningless. You cannot run both arguments. It is not logically coherent.
I am interested in how other senators respond to this issue but I can only reinforce the point that this is an interim step. Of course it is ad hoc, but the Prime Minister’s sunset clause in this bill is ad hoc. There are many other ad hoc provisions in this bill. This amendment seeks to ensure that we are serious about this being a strict regulatory regime. For those senators who accept the ethical position that there is a middle way here but we are still concerned to ensure that human embryos will not be used willy-nilly, this is a way of trying to ensure that commercial interests will not prevail in utilising more embryos than might be necessary.

Senator MURPHY (Tasmania) (5.48 p.m.)—I will begin my response to Senator Collins’s amendment by reading part of an answer given to a question I asked yesterday, which was incorporated by Senator Minchin today. The answer stated:

In Australia, biotechnology inventions are patentable, provided the invention meets the requirements of the Patents Act. The raw data obtained from the mapping of the human genome, that is the total human DNA, is not patentable. However, patents may be granted for inventions involving human DNA and gene fragments or human cell lines that are new, inventive and useful. Not all inventions in the field of biotechnology are patentable. Subsection 18(2) of the Patents Act expressly excludes the patenting of human beings and the biological processes for their generation.

The Government recognises that patenting in the human biotechnology area is both a sensitive and important issue, raising fundamental concerns that include moral and ethical issues, the impact on freedom of research in Australia and ensuring Australians have access to the latest health technology and health care. Without patent protection, neither foreign nor Australian enterprises will be encouraged to manufacture medical innovations and make them available in Australia.

In light of recent concerns regarding patenting in the human biotechnology area the Government is giving active consideration to a review of this issue. The Government is currently considering the Terms of Reference for a review to be conducted by the Australian Law Reform Commission on gene patenting.

The Minister for Health and Ageing, Senator Patterson, did raise that by saying that the terms of reference have now been issued to the Australian Law Reform Commission, and I am pleased about that.

With respect to my own amendment, I had given some thought to going down the same line that Senator Collins has proposed in her amendment, but I had some concerns that amending this legislation in that way would create some difficulties. That is one of the reasons why I suggested that the effective date of operation of this legislation be delayed until the Patents Act is amended. The Patents Act is the legislation that must ultimately be amended to give the type of protection that we need for potential investors in this area and in order to ensure that any therapeutic, medical or remedial findings that come about as a result of stem cell research, particularly embryonic stem cell research, are going to remain affordable to Australians who are in need of them from a health point of view.

The government’s vision for biotechnology—and this in the explanatory memorandum which I circulated with my amendment—states:

... consistent with safeguarding human health and ensuring environmental protection, Australia captures the benefits of biotechnology for the Australian community, industry and the environment.

That is an admirable goal, but what I cannot understand is that, given that the biotechnology age has been around for a little while, we have not proceeded to deal with one of the fundamental issues.

Senator Stott Despoja—Are you really surprised?

Senator MURPHY—I should not respond, because this is a very serious issue, but I am not really surprised. I take that interjection from Senator Stott Despoja. I know why she made it, and I think it was justified. But we are now proceeding with a piece of legislation that is going to allow more research that will offer up opportunities for patents to be claimed. Let us look at what has happened thus far in respect of patents in this area. Most of them have been claimed by overseas companies. How is that really going to assist Australian industry?
Why should it be the case that, at some point down the track, as a result of patents claimed now, patents which have been claimed previously or patents which are likely to be claimed in the future by overseas companies, particularly large pharmaceutical companies, Australians get to pay through the neck for the medical remedies and therapeutic services that might be provided to them through medical findings? Why should it be the case? I know we have all heard the minister in respect of the cost of the PBS. By way of an example in terms of the types of cost, a UK hospital received demands for $US6,000 to use a gene for cystic fibrosis which was employed to screen patients for that disorder. Is that the sort of process that we want to allow ourselves to be caught in? I would think not. I think that at the least we ought to be setting down some rules in respect of patentability. We ought to put them in place before we allow more research to be considered.

I have heard Senator Patterson say, ‘This is all about stopping the bill.’ This is not about stopping the bill. That simply is not the case. The Patents Act could be amended very quickly, and it could be amended by next February next year. There will not be any significant advances, given that nothing has really happened in respect of embryonic stem cell research anyway, but we should proceed to put in place the rules of the game first. Would such an amendment—be it mine or even Senator Collins’s—have any impact on investment? Yes, it would. It would actually assist it.

The same sorts of rules apply in the UK, in France and in Germany as I have proposed in my amendment. They are exactly the same. The only difference is this: they apply across the board. They do not choose between embryonic stem cells, for instance, and adult stem cells. I am happy for that to be the case, because I think ultimately the Patents Act should probably be amended to take account of that. It should have that broad coverage. But there is a difference—and I think Senator Collins has referred to this difference—when you look at it from an ethical point of view. The ethical issue is that you actually have to destroy the embryo to extract the stem cells. That is why I restricted my proposal to embryonic stem cells. I think it is fundamentally important, given what has happened with the National Stem Cell Centre and given the evidence that has been drawn out in the course of the committee hearings in respect of who is in which position with which company, located where, et cetera.

It is of fundamental importance that we make sure with this type of research that we have got the laws in place to ensure, as I said and as the government said, that, consistent with safeguarding human health and ensuring environmental protection, Australia captures the benefits of biotechnology for the Australian community. That is what this has to be consistent with, and that is what we should be doing. If we do not do that, we will be back here saying, ‘Woe is us; the PBS is confronted with another massive blow-out,’ because all the things that we have discovered—and in part publicly funded, I might add—have been patented somewhere else in the world. If you look at the patenting that is happening around the world, there is a trend towards more patenting of upstream research. That is the basic research area. In terms of the issues that I was looking at in the US, for instance, it has been estimated that over 90 per cent of current US patents—and I think I put this in the explanatory memorandum—are never exploited. That tends to suggest one thing—that is, that they are to block other people from using them.

In the US they have what is known as the Bayh-Dole Act, which deals with licences on a case by case basis and which sets down very substantial restrictions and intellectual property sharing requirements. I do not think that we want to do that but, if you look at what has happened in the US with regard to the restrictions that they have alone and the type of investment that has occurred since those things have been in place, you can see it has not hindered it; in fact, it has enhanced it. I am suggesting a very simple, straightforward approach. It is consistent with the WTO requirements on the TRIPS agreement. It is consistent in part with what happens with the US, only it is a different approach. It is consistent with those laws in the UK, France and Germany. The UK act states:
An invention of a method of treatment of the human or animal body by surgery or therapy or of diagnosis practised on the human or animal body shall not be taken to be capable of industrial application.

The Patents Office manual sets out the definitions of surgery, therapy, diagnosis et cetera. In France, the Intellectual Property Code says:

Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practiced on the human or animal body shall not be regarded as inventions susceptible of industrial application within the meaning of Article L. 611-10. This provision shall not apply to products, in particular substances or compositions, for use in any of these methods.

I am talking about something that is already in place in other countries in the world. It is as straightforward as that. I do not want to take up any more of the committee’s time, because I know we have our backs to the wall in terms of time. But I want to say that this is imperative; we do not have time for an Australian Law Reform Commission review that could take 12 months or longer. Then it could take another six months to begin developing legislation or amendments to the Patents Act. These things can be done very quickly. If they had any effect on the timing and operation of this act it would be very minimal. As I said, I am sure, given the legislation that exists around the world, that a legislative draftsman could come up with a proposition that would be more than adequate to deal with these issues so that this parliament could pass the legislation in the first two weeks of next year. That would have no effect on the research that is proposed to be allowed under this particular bill.

Senator CHRIS EVANS (Western Australia) (6.00 p.m.)—I want to address some remarks to both Senator Collins’s and Senator Murphy’s amendments. In doing so, I will place on the record Labor’s formal view about these issues of commercialisation and patents. I will try to be brief because I know other senators want to speak in the time available. The first point I want to make is that the bill does not deal with the issue of patents and intellectual property, as it is intended that existing intellectual property and patent laws will apply to research involving embryos just as they apply to all other forms of research. A number of senators have moved amendments that are directed towards ensuring that research involving embryos which has been approved by the licensing committee cannot be patented or, alternatively, that if a patent is applied for then the licence will automatically be revoked. I think that raises fundamental issues about the purposes of patent law.

It might be worth while to set out the basis for Australia’s laws and why we have patent laws at all. Patent law has the main aim of increasing the general pool of knowledge by encouraging researchers to disclose the outcomes of their research. In return for disclosing their research and to make it worthwhile for researchers to do so, the Patents Act grants the researcher certain rights during the period of the patent—currently 20 years for a standard patent. In this way, patent laws encourage research to proceed. Substantial effort and substantial investment are put into research with the aim of saving and sustaining lives. Without the protection of the Patents Act, which is offered for the benefits of the research, much of that research would not take place.

The purpose of the bill is to regulate the circumstances in which research involving embryos may proceed. At its core is a fundamental commitment to that research going ahead. I know a number of senators in this chamber do not want that research to go ahead. That is their view, but for those of us who are arguing for the research to go ahead the patent laws will provide some comfort and a part of that approach. Amendments which seek to cut off from stem cell research the rights which the Patents Act affords to all other research would fundamentally detract from that core purpose of the bill, which is to support continued stem cell research subject to the strong safeguards and protections contained in the bill.

At COAG the Prime Minister and each of the premiers agreed that properly regulated research involving embryos may proceed. At its core is a fundamental commitment to that research going ahead. I know a number of senators in this chamber do not want that research to go ahead. That is their view, but for those of us who are arguing for the research to go ahead the patent laws will provide some comfort and a part of that approach. Amendments which seek to cut off from stem cell research the rights which the Patents Act affords to all other research would fundamentally detract from that core purpose of the bill, which is to support continued stem cell research subject to the strong safeguards and protections contained in the bill.

At COAG the Prime Minister and each of the premiers agreed that properly regulated research involving embryos should proceed. I think these amendments are inconsistent with that clear intention. I also think that there is a problem in that we all know patent law is a complex area. Senator Murphy has
further convinced me of that through his contribution. It is complex and it is difficult, and ad hoc changes to complex areas of law can create more problems than they solve. If stem cell research did throw up new issues which challenged the adequacy of existing patent law, Labor would prefer to see a considered approach which is well grounded and which seeks to preserve the balance between researchers and the community.

In the majority report of the Senate committee that inquired into this bill it was suggested that the ALRC and the Australian Health Ethics Committee could be well placed to inquire into and deal with the issues raised. That report noted that the ALRC and the AHEC were already undertaking a comprehensive review of the issues relating to the protection of genetic information, and it recommended that it would be appropriate to give them another reference to consider the issues of patenting, intellectual property and stem cell science and that this reference should feed directly into the review of legislation. That seemed to me to be a most sensible suggestion from the committee and one that would allow us to deal with the issues in the appropriate place. I am very pleased to see that the minister has tabled a letter from the Prime Minister which does authorise that referral to the Australian Law Reform Commission.

Senator Patterson—I have not tabled the letter.

Senator CHRIS EVANS—I have a copy of the letter. I presume the minister will seek to table it. I think that would be useful. It is a letter from the Prime Minister to the Attorney-General agreeing to the reference of these issues to the ALRC, and I think that is helpful. Labor welcomes that commitment and believes that it is the most appropriate means by which the complex issues relating to intellectual property and patent law should be properly further considered.

Senator HARRADINE (Tasmania) (6.05 p.m.)—Senator Evans has really said, ‘Go ahead; put the cart before the horse,’ and Senator Collins has said, ‘Let’s let the horse bolt.’ Just for your information, this chamber did express its view as far back as 12 years ago when I moved to amend the patents legislation. As a result of that the patents legislation says that ‘human beings and the biological process for their generation’ are not patentable inventions. I really was not aware of the existence of stem cells at that time and I am not sure that too many people were. Clearly, however we look at it, that was the intention of the legislation. If you look at the debate at that time, the intention was clearly to exclude that area of human life.

I am mindful of the time, although I would happily go on for quite a while dealing with this question of patents, because it is an area that I have been interested in for some considerable time. I was successful on at least that particular occasion, for what it is worth, in getting the Patents Act amended. I support the proposals that have been put forward by Senator Collins and Senator Murphy. I think that they are not mutually exclusive—in other words, both can be supported, and I support both of them.

Senator STOTT DESPOJA (South Australia) (6.08 p.m.)—First of all, it is possible to agree with comments that have been made by both those in favour of and those against the amendment. I say that because I begin by acknowledging the complexity of the Patents Act. I think it was really interesting that, in response to Senator Murphy’s question, Senator Minchin provided reference to the section of the Patents Act—the section that Senator Harradine was involved in—that refers to human beings and the biological processes for their generation as not being patentable inventions. I wonder, therefore, whether there is a legal interpretation that suggests that what Senator Collins is attempting to do might actually already be covered. I suspect that it would be a very grey area. As senators would know—and certainly Senator Harradine would know—that section of the act does not exclude the patenting of genes and gene sequences.

I do not think the Patents Act is sufficient; I think it needs to be changed. I welcome the Prime Minister’s announcement that there will be an inquiry—essentially a recommendation in my second reading amendment. I also echo, though, the concerns raised by Senator Collins in relation to the time frame. I think we need more specifics on this one.
Certainly, people who have been debating the Patents Act since 1990—including some of us who have been debating it since 1995—want better assurances. It is a good win; it is a good announcement by the government—I do not mean to detract from that. But I also know that the ALRC and AHEC have full plates. I know that they are in the midst of the genetic privacy inquiry, which has taken a long period of time—mind you, it has been comprehensive and far-reaching, and I hope it will result in not only valuable recommendations but also legislation. That inquiry is perhaps the best example of how long these processes can take—yes, because they are complex but also, on the other hand, because they require political will.

Absent from a debate about Patents Act reform has been political will. No matter how many times people stand up in this place and acknowledge that we all have sympathy, we all have concerns, we all have ethical debates—and it has been from people who have voted time and time again against changes to the Patents Act; I do not mean to detract from the complexity of the debate, I do respect the deeply held views of everyone in this chamber and I am not impugning anyone—the voting record shows that previous attempts to change the Patents Act to stop the patenting of things that occur naturally, such as biological materials and parts of a human—and I talk specifically about genes, gene materials, genetically engineered organisms, genetic engineering, genomes, altered organisms, progeny of genetically engineered organisms et cetera—have been stymied.

This debate says three important things to me today: yes, we are ready for a debate about patents; yes, we are ready for a long overdue inquiry into the Patents Act; and, yes, there is finally the political will to change it. In the same way that Senator Collins is calling me on this one—I acknowledge that; Senator Collins knows my views and knows that I support her amendment—and now that I have heard other people’s views, I am going to call her and them right back. In 1986, 1984, 1990—September 1990 was one of the attempts to change the Patents Act—

**Senator Jacinta Collins**—Do you want me to argue for another conscience vote?

**Senator STOTT DESPOJA**—Indeed. I do not want a conscience vote; I want the political parties to adopt these changes. I say that through the temporary chairman to Senator Boswell. Senator, in 1990 you voted against changes to get rid of the patenting of genes and gene sequences, but I can tell that that was not your view. I know that from personal discussions with you, and I want you to convince your caucus to that effect. I want the National Party and the coalition out there ready to make these changes. Maybe political parties will be, after this inquiry.

I acknowledge the difficulties, but I also wish to acknowledge a point that I think Senator Evans made well to the people in the chamber—that is, when we talk about the horse bolting, we have to acknowledge that research is taking place now. Just because we have just got around to dealing with some of the jurisdictional or regulatory issues in Australia in relation to, firstly, prohibiting human cloning and, secondly, dealing with research involving human embryos does not mean that this is not already going on. I understand that it has implications for our scientists and our researchers. I understand that it has implications in terms of intellectual property and whether or not there is the same incentive for people to get involved in the research. But it works in other ways, too; it works from the opposite perspective. I asked back in 1996:

Will the patenting of genes and gene sequences—you can insert Senator Collins’s references to unmodified stem cells in here as well—inhibit the free flow of information on which science and the advance of science ultimately depends?

If you have free access and availability, there is an argument that you encourage research. I do not want scientists and researchers to not be compensated for the work that they do, and that is where the debate comes in about whether you own the particular biological substance, the organism, the cell, the gene or whatever, as opposed to the processes involved in coming up with the products, inventions or what have you. There is a distinction which I think has been recognised in
the past that says, ‘Yes, intellectual property rights are important, and so is compensation.’ So in that respect I do acknowledge the argument that scientists could go offshore. I do not want that to happen, hence my support for this legislation.

I am probably in a difficult position. Senator Evans made reference to those people who do not support this legislation but who may be supporting this amendment—not as to their motive, I acknowledge. There may be people who do not support the legislation but who support the amendment, but I am one of the people who are passionate about having some legislation in place and so having a regulatory environment. At the same time I am in favour of embryonic stem cell research and adult stem cell research going ahead. That is on record. That, hopefully, is well known by now. But at the same time I cannot resile from the fact that there is one thing I believe strongly—that is, you do not patent those biological processes, those aspects of humanity. There are reasons for that. They may be inspired among us by religious or spiritual beliefs. They may be personal reasons. It may be simply the abhorrence that human life should be owned in any way. It may be because commercial exploitation of humans is something that we strongly oppose. It may be because of those research implications and the fact that the free flow of information is potentially inhibited by commercial interests or people owning these substances.

It is not so much with mixed feelings that I support Senator Collins’s amendment, because I support the intent of it, but I make it very clear too that this has been a long time coming and I will be moving very soon to see that we have a general business debate on the Patents Amendment Bill 1996, moved by me in this place on behalf of the Democrats. If we are going to do this properly, then let us talk about real patents reform that better reflects the ethics and the spirit not only of this debate but of our nation. Then we will be in line with the Inter-Parliamentary Union meeting in Madrid in 1995—I think it involved 114 national parliaments—which called for the prohibition of the patenting of human genes. The resolution underlined the ‘urgent need to ban the patenting of human genes’ and ‘prohibit all financial gain from the human body or parts thereof, subject to exceptions provided for by law’. Obviously there are going to be arguments for exception, and I am sure that debate will happen through the ALRC-AHEC inquiry.

I acknowledge the Prime Minister’s letter—I have seen a copy of that, and when it is tabled I am sure there will be more debate—and I appreciate the Prime Minister and the government taking on board those concerns in the ideas for the terms of reference outlined in the second reading amendment. I recognise all the other qualifications and arguments from all sides in this debate, because I do think Senator Evans and Senator Patterson made a good point about ad hoc reform. But, when there is an issue such as this and there is a core philosophical debate, I will support that debate.

I hope that the legislation is successful and I hope that, with the opportunities over the next two years as we review this legislation, and certainly in the short term, when we will have the broader AHEC-ALRC inquiry, we will come up with better ways of addressing patent reform issues. But for now I am called on this amendment: it is an issue—as I have said repeatedly ad nauseam, I have no doubt—that I have been more passionate about than just about anything in this place, so I welcome the opportunity to perhaps get that into law for the first time.

But this is only the beginning, and again I put on notice those other senators who have expressed their concern about patents. When the gene sequences bill or the next patents amendment bill comes up and I move amendments on behalf of the Australian Democrats, I will be looking for support, particularly from Senator Boswell on behalf of the Nationals. Senator Harradine’s support has been there on this issue for a long time, so I know where he will be voting. Senator Murphy, your view is quite evident from your amendment. I think your amendment is quite broad ranging. I think its implications for not only the processes involved in research but also obviously the results of that research are quite far ranging. I am not sym-
pathetic to having such a change to patents
law unless we talk about it in the context of
other changes to the Patents Act. It is not the
same philosophical, easy, ‘vote for me’ re-
sponse, inasmuch as any of these debates is
easy. Having said that, I hope in no way to
hold up this legislation but I do see this as an
opportunity to make a significant philoso-
phical change to Australian law.

Senator HARRIS (Queensland) (6.20
p.m.)—In rising to support both Senator
Collins’s and Senator Murphy’s amend-
ments, I will firstly speak very briefly on
Senator Murphy’s amendment. I believe that
it does have merit and that it also has practi-
cal application. Just recently I spent some
time on the north coast—that is, the Sun-
shine Coast in Queensland—and members of
the CSIRO were able to relate to me that one
of the reasons that they could actually carry
out the research and developments in tech-
nology that they were doing was that they
could access intellectual property that was in
the public domain. If they had had to take
into account the paying of royalties in rela-
tion to either the technology or the samples
that they required, that would have impacted
on their ability to carry out that research. I
support Senator Murphy’s statement that he
believes that, by not allowing the patenting
of developments or actual samples deriving
from embryos, we will encourage the actual
research.

Senator Collins’s amendments will pro-
vide for a licence to be automatically re-
voked if a person applies for a patent as a
result of holding an NHMRC licence. The
minister pointed out that there are problems
in respect of an amendment that is not
strictly designed to achieve that end. How-
ever, there is a considerable history in this
place, even during the 3½ years I have been
here, of legislation being brought in, which
has had an impact on aspects other than
those relating to the relevant bill. If it was
the government’s intention to eventually
amend the Patents Act, all they would have
to do is bring in a consequential amendment
to delete the relevant section from the legis-
lation. During the interim, the amendment
will have carried out its purpose with clarity.
It would neither hold up this legislation, nor
detract from the assessment of the Patents
Act.

In conclusion, I express One Nation’s
support for the amendments. The intellectual
property right that is derived from any em-
broyo research—and I believe that that should
be only in relation to IVF—should stay in
the public domain. There should be no com-
mercial gain derived from a human being in
that respect. Senator Murphy’s amendment
can coincide with that of Senator Collins and
it would merely require the government to
bring in a consequential amendment when
they alter the Patents Act.

Senator BARNETT (Tasmania) (6.24
p.m.)—I support this very important
amendment. It sets out the terms and condi-
tions relevant to a patent under the patents
legislation for any unmodified stem cells
from human embryos. It is good sense. The
arguments have been put, and I urge the
many senators who are sitting in their rooms
to think through those arguments and to sup-
port these amendments.

Question put:
That the amendments (Senator Jacinta
Collins’s) be agreed to.

The committee divided. [6.30 p.m.]
(The Chairman—Senator J.J. Hogg)
Ayes............ 34
Noes............. 36
Majority........ 2

AYES

Abetz, E. Alston, R.K.R.
Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Brown, B.J. Buckland, G. *
Chapman, H.G.P. Collins, J.M.A.
Conroy, S.M. Coonan, H.L.
Eggleston, A. Ellison, C.M.
Ferguson, A.B. Forshaw, M.G.
Harradine, B. Harradine, W.
Heffernan, W. Heffernan, W.
Lightfoot, P.R. Lightfoot, P.R.
McGuran, J.J. Murphy, S.M.
Murphy, S.M. Nettle, K.
Nettle, K. Santoro, S.
Sherry, N.J. Scullion, N.G.
Stott Despoja, N. Sherry, N.J.

Aye
Senator MURPHY (Tasmania) (6.33 p.m.)—by leave—I move:

(1) Clause 2, page 2 (table items 1 to 4), omit the table items, substitute:

1. Sections 1 to 48 and anything in this Act not elsewhere covered by this table

(2) Clause 2, page 2 (after line 8), after subclause (1), insert:

(A) A Proclamation under item 1 of the table must not specify a day that occurs before the day of commencement of amendments to the *Patents Act 1990*, which provide that no diagnostic, therapeutic or surgical methods arising from human embryo and human embryonic stem cell research can be considered patentable inventions for the purposes of that Act.

I want to be brief because I spoke in support of the amendments I have proposed during the debate on Senator Collins’ proposed amendments. I want to pick up on some of the points that were made during the debate. Firstly, Senator Evans says that the Patents Act provides protection—yes, it does. It provides protection for patent claimants but it does not provide protection for the Australian community, from a health point of view, in findings that might go to therapeutic, surgical and other remedies. It does not provide protection to ensure delivery to the Australian community of those things in an affordable way. That is what it does not do.

I am not suggesting ad hoc changes. As I said, there is ample legislation around the world in countries like the UK, France, Germany and Canada—and even take account of what exists in the US—for a smart drafts-person to give consideration to this in a very considered way, not in an ad hoc way, and to develop legislation and to determine the shortcomings if there are shortcomings in the application of legislation overseas. That is not going to take a long time. If you read the Senate report you will see that medical treatment applications from embryonic stem cell research are yet to be made. We are not holding anything up here. What Senator Collins suggested in her amendments was very valid. Why should we proceed to put legislation in action that allows for research and subsequently allows for patents to be claimed? As I said, there is a tendency now for patents to be claimed more and more on the basic, upstream research and that is the fundamental problem. I do not want to see an ad hoc approach.

I welcome what the minister has said in respect of the Australian Law Reform Commission inquiry. That is great. But why now? It seems that this is a response to the circumstances that have arisen out of the debate on this bill. Yes, the Australian Law Reform Commission and AHEC may have made some recommendations that this needs to be further considered. But even the NHMRC guidelines, which have been around for a while, say that more consideration needs to be given to this. Why is it that we suddenly decide we should do something about patents right now?

Senator Patterson—that didn’t happen.

Senator MURPHY—Minister, I read out the answer that was tabled by Senator Minchin today, and he says:

In light of recent concerns regarding patenting in the human biotechnology area the Government is giving active consideration to a review of this issue.

Well, that is great. But, you see, actively considering a review is not going to solve the
problem following the proclamation of this piece of legislation and the research that will occur shortly thereafter. Nor will it solve the problem of the potential for patent claims to be made. If the government were really serious about ‘safeguarding human health’ and ensuring that ‘Australia captures the benefits of biotechnology for the Australian community’, as was stated in the government’s vision for biotechnology, then it would not allow this research to take place until it had put in place the types of patent laws that are necessary. I say to Senator Evans that there need to be patent laws that will enhance the investment in this area, not stop it or discourage it. I note that Senator Stott Despoja, although she is not here at the moment, said that this has been a long time coming. Yes, it has, and we should not allow legislation to pass through this parliament and to become active without doing this first. This is not a question of ad hocery. This is a very serious matter. This is about protecting the national interest from a human health point of view. That is what we should be doing.

As I said at the outset of this debate, I do not have a philosophical or ideological position with regard to research involving embryos; I really do not. But I think the objective of this parliament should be to ensure that the legislation that we pass passes in a sound way and has the capacity to operate in the public interest. That is what is important and that is why the amendments that I have proposed should proceed. They do not stop the effect of this bill overall, but they will ensure that the right foundation in terms of patents laws is in place to make sure that we really do get the Australian public interest at the forefront and not on the back foot.

Senator HARRIS (Queensland) (6.40 p.m.)—I will be very brief. In speaking in support of the amendments, I would just like to very quickly run through a list of the countries world wide that not only have prohibited patenting but have even prohibited research. In Austria, stem cell research on human embryos is prohibited. In Belgium, stem cell research on embryos is prohibited. In France, research on embryos is prohibited. In Germany, stem cell research, the use of spare embryos and the production of spare embryos are prohibited. In Hungary, the life of the unborn child must be protected from the time of conception. In Ireland, the right to life of the unborn child is equal to that of the mother; stem cell research on human embryos is banned; and the production of spare embryos is prohibited. In Italy, in 2002, the lower chamber of parliament passed a bill that proposed to ban human cloning, experiments on human embryos and the freezing of embryos. Norway prohibits research on embryos and bans their use for any purpose other than reimplantation into the donor. In Poland, under law introduced on 7 January 1993 and amended in 1996, the life of the unborn child must be protected from its conception. In Switzerland, the constitution prohibits the use of medically assisted reproduction for research purposes and the fertilisation of more ova than are capable of being immediately implanted.

If there is this perceived problem that Australia is out of step with the rest of the world and that the rest of the world will run off and put all the patents in place, I say that there is a list of countries whose position is the same as Australia’s. I believe that the inability to patent technology or products from embryos would assist the research world wide. I place on record One Nation’s support for Senator Murphy’s amendments.

Question negatived.

Senator HARRADINE (Tasmania) (6.43 p.m.)—I move amendment (13) on sheet 2696:

(13) Page 19 (after line 3), after clause 27, insert:

27A Custody of excess ART embryos following suspension, revocation or surrender of licence

Where a licence authorising use of excess ART embryos is suspended, revoked or surrendered, all excess ART embryos in the custody of the licence holder must be returned to the ART practitioner from whom they were obtained within 7 days of the suspension, revocation or surrendering of the licence.

That is self-explanatory. What happens to the embryos if the licence holder just gives up the licence, for example? Where do they end up? Can we have a quick response from the
minister? This is a very important area. Where do they end up? If you follow COAG, you are talking about knowing where the embryos end up.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (6.45 p.m.)—I will be opposing Senator Harradine’s amendment. It is seeking to make it a requirement that excess ART embryos in the custody of a licence holder be returned to the ART practitioner from whom they were obtained should the licence be suspended or revoked. It ignores the fundamental principle of the consent of the couple, which is integral to the current bill, as well as to ART clinical practice. The amendment requires that the embryos be returned to the clinic irrespective of the wishes of the couple who have already made the decision to donate the embryos to research. Under the bill, a couple can independently decide that they no longer require their ART embryos for the purposes of achieving pregnancy and then decide to donate their embryos to research. They would then decide whether to give consent to use their embryos in a particular licensed research project. As part of that process of obtaining consent, the couple will be given a number of alternatives to consider. One option will be to donate their excess embryos to research. Another will be to let their excess embryos succumb.

I want to be very clear on one point. As part of ART practice, couples must make difficult decisions about what is to be done with their embryos once they have finished their program. It is something that should not be taken lightly. Thousands of embryos succumb every year as part of the normal ART practice. I understand that the figure in South Australia alone is some 4,000 a year. The decision to allow an embryo to succumb is made by people often at the end of their ART treatment. Once a couple have made the decision to donate their embryos to research, I think that it is problematic to try and return these embryos to the couple—which is the only reason I can see for Senator Harradine requiring the ART clinic to take them back. Couples will make what they think is a final decision, only to be told later that the decision was not given effect to and that they have to make more decisions about their embryos. I am also concerned that Senator Harradine’s amendment appears to impose a continuing legal obligation on the clinics, even though those clinics may not be licence holders in relation to those embryos and have no existing relationship with those embryos. It is not apparent what these clinics would be expected to do. I also note that, in many cases, it will be the ART clinic which will be doing the research under a licence and it is not clear how Senator Harradine’s amendment would work in that situation. For those reasons, I will not be supporting the amendment.

Senator HARRADINE (Tasmania) (6.45 p.m.)—Because of the time, I will just say it would be an interesting exercise at sometime in the future to point out the gobbledegook that has been provided in that response.

Question negatived.

Senator JACINTA COLLINS (Victoria) (6.48 p.m.)—I seek leave to withdraw amendments (3) to (5) on sheet 2696 revised. For the benefit of the Senate, the reason is that those amendments formed, I suppose, the origin of discussions that have occurred about how we should deal with the guidelines. I will not go into the detail of why there have been quite a number of different types of problems related to the guidelines here, but they have been the subject of considerable discussion, in the Senate Community Affairs Legislation Committee stage, the committee stage of this debate and in the Senate Scrutiny of Bills Committee. I understand that there is a generally resolved position that Senator Barnett is able to move, although, as I understand it, there is still some level of contention. However, there is a recent report of the Senate Scrutiny of Bills Committee that senators might want to take into account as well.

Leave granted.

Senator BARNETT (Tasmania) (6.49 p.m.)—by leave—I move amendments (R2) and (R4) on sheet 2757:

(R2) Clause 8, page 7 (lines 4 to 7), omit paragraph (b), substitute:

(b) if other guidelines are issued by the NHMRC under the National Health
and Medical Research Council Act 1992 and prescribed by the regulations for the purposes of this paragraph—consent obtained in accordance with those other guidelines, rather than the guidelines mentioned in paragraph (a).

(R4) Clause 21, page 16 (line 13), after “NHRMC”, insert “under the National Health and Medical Research Council Act 1992 and prescribed by the regulations for the purposes of this paragraph”.

I will be very brief on this. As Senator Collins has indicated, I have an understanding that these amendments will not be opposed by the minister. These relate to the establishment of guidelines and the guidelines sitting under the bill. We are making sure that they are disallowable instruments so that they must be prescribed by regulations. This relates to clauses 8 and 21. Clause 8 includes the definition of proper consent, and clause 21 relates to the determination of application by the committee and the NHMRC issuing any relevant guidelines or relevant parts of guidelines. We are making sure that they are disallowable instruments. We are the body that is responsible for that. I am not going to debate that further. I want to focus on amendment (R3). I support these amendments.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (6.50 p.m.)—I will quickly say that I have listened to the concerns raised by senators on these issues, and I am particularly aware that the AHEC Ethical guidelines on assisted reproductive technology are under revision and that the consultation draft will not be released until after the legislation is passed through parliament. I will not be opposing Senator Barnett’s amendment (R2) to paragraph (b) of clause 8, on the definition of proper consent, which would make the revised ART guidelines be prescribed by the regulations for the purposes of this legislation. I will not be opposing Senator Barnett’s amendment (R4) for the same reasons. These amendments will allow parliament the opportunity to scrutinise the regulations, and I hope that this will allay the concerns expressed by some senators during the debate.

Question agreed to.

Senator BARNETT (Tasmania) (6.51 p.m.)—I move amendment (R3) on sheet 2757:

(R3) Clause 11, Page 10 (lines 16 to 25), omit subclause (2), substitute:

(2) In this section:

ART program means an assisted reproductive technology program carried out in accordance with regulations as prescribed from time to time.

Amendment (R3) is extremely important. As far as I am concerned, it is consistent with amendments (R2) and (R4). It relates to clause 11 of the bill and is the subject of very close consideration by the Senate Scrutiny of Bills Committee, of which I am a member. The Scrutiny of Bills Committee issued its 15th report of 2002 this afternoon. I draw it to the attention of senators and, specifically with respect to clause 11, I draw the attention of senators to the following:

In relation to the Minister’s advice about the provision itself, the Committee confirms its earlier comments that the subclause provides for the continuing exercise of legislative power without parliamentary scrutiny. The incorporation of material into Commonwealth legislation, whether such material is government or non-government, is not exceptional. However, it is cause for comment when it is incorporated as in force from time to time with no parliamentary oversight.

In this case proper parliamentary scrutiny of the incorporated material could be effected by the current formula in paragraph (b) of the subclause, which is that a code or document must be prescribed by regulations. Regulations are subject to parliamentary scrutiny and possible disallowance and this would in the usual course ensure suitable oversight. However, provision for the incorporation of material as in force from time to time dilutes this safeguard.

The Committee notes that paragraph (a) of the subclause does not even include this protection, that is, the Reproductive Technology Advisory Council—

to issue codes of practice directly from time to time.

The result is that under paragraphs (a) and (b) of subclause 11(2) the constituents of an offence provision punishable by up to five years’ imprisonment may be determined by non-government
bodies without parliamentary oversight or even knowledge.

The Committee continues to draw the Senators’ attention to the provision…

I think that sums it up. I really urge senators to think this one through as carefully as they possibly can. The Scrutiny of Bills Committee has provided a good report. It is on the public record. We are saying that, if the bill goes through as it is and the amendment is not successful, then you are establishing a regime that sets up a non-government body to establish a code which can change from time to time without any parliamentary oversight and which can set up an offence of up to five years imprisonment. That, with respect, is bad law. It is bad for the Senate and for parliament in any legislature to set up a regime where you can have a non-government body providing such advice and consequences.

I urge all senators to support this amendment which will have the effect of basically omitting subclause (2) and saying that the ART program means an assisted reproductive technology program carried out in accordance with regulations as prescribed from time to time. It is quite simple. It is set out in the regulations, which are a disallowable instrument in the Senate. They can be prescribed from time to time. It is simply a matter of drawing out of the code what is there now and writing the regulations, and you can set them up in a matter of days or weeks or months, however quickly you would like to do it and it is done—bingo, finished. And we have parliamentary scrutiny pursuant to clause 11. So I urge the senators to support this and I certainly urge the minister to do so as well, and I will leave it there for now.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (6.55 p.m.)—As honourable senators know, I have had long-standing membership of the Scrutiny of Bills Committee and the Standing Committee on Regulations and Ordinances and have a great regard for what they do. If the regulations were not made, the amendment would ban all uses of non-excess ART embryos. Non-excess ART embryos are those that are used for ART clinical practice. So by saying that these cannot be used, we are banning ART clinical practice. I am confident this was not Senator Barnett’s intent, but on the basis of advice from the Office of Parliamentary Counsel, this would be the effect. So I will not be able to support the amendment.

**Senator BARNETT** (Tasmania) (6.56 p.m.)—I have been advised based on the advice that you have been given by your advisers and that is on the basis that you do not have any regulations. That advice is based on no regulations being in place. This bill does not come into effect until 29 days after the royal assent. You have time to get your regulations in place, with the utmost respect. I urge all senators to consider carefully this particular amendment. If those regulations are in place, the advice that the minister has just provided is totally irrelevant and incorrect. She is correct, based on the advice given, if the regulations are not in place. The amendment puts it very clearly. It sets it out. Whatever is in the code now, you can just pull out and put into the regulations, and that is parliamentary scrutiny at its best. Let’s go for it. This is a way to tighten the bill and it is consistent with COAG in terms of setting up a strict regulatory regime.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (6.57 p.m.)—I would like to defer consideration of this. I know it is going to fit outside the arrangements but we have done it once before for Senator Murphy and I would like time to think through and read the Scrutiny of Bills Committee report, which I have not had time to do. That is not saying that I will concede anything, but I would like time to read it. I have a great regard for those two committees, one of which is the most powerful committee in the place—though those in the other house do not realise that. The Scrutiny of Bills Committee has a long record and I would like to look at that report. There may be an alternative but overnight I will have a look at that and when we resume in the morning we can deal with this amendment.

**Senator HOGG** (Queensland) (6.58 p.m.)—Given the minister’s statement there—I do not know whether this is the correct place to defer it to—on the running sheet at page 9 it refers to a number of things and
any remaining amendments to be considered at 12.05 p.m. on 5 December. It seems to me that if that is the appropriate place then that is when it should be deferred to.

The TEMPORARY CHAIRMAN (Senator Knowles)—That is quite satisfactory, Senator Hogg.

Senator CHRIS EVANS (Western Australia) (6.58 p.m.)—I think that the minister sought leave for this amendment to be considered in the batch of amendments we consider first in the morning, and I think that is the appropriate time to do it. I do not think that is quite right but I am happy with that as well. We did it for Senator Murphy and I am happy to do it for this as well. That means it will fit into that group that we deal with in the first section in the morning. I think that was the intention.

The TEMPORARY CHAIRMAN—If that meets with everyone’s agreement, that is where it will be placed for tomorrow morning. We now move to Senator Barnett’s amendments (R2) and (R3) on sheet 2694 revised.

Senator BARNETT (Tasmania) (6.59 p.m.)—Amendments (R2) and (R3) on sheet 2694 revised read as follows:

(R2) Clause 8, page 6 (line 26) to page 7 (line 7), omit the definition of proper consent, substitute:

proper consent has the meaning given by section 8A.

(R3) Page 7 (after line 20), after clause 8, insert:

8A Meaning of proper consent

(1) In this Part:

proper consent, in relation to the use of an excess ART embryo, means:

(a) consent obtained in accordance with the Ethical Guidelines on Assisted Reproductive Technology (1996) issued by the NHMRC; or

(b) if the Chairperson of the NHMRC Licensing Committee specifies, by notice in the Gazette, other guidelines issued by the NHMRC—consent obtained in accordance with those other guidelines.

(2) It is a condition of proper consent that the donor:

(a) receives independent counselling; and

(b) receives written notification of, understands and consents in writing to the specific application to which the ART embryo will be put; and

(c) has a cooling-off period of 7 days.

(3) At all times a donor is to have access to the information about the use to which that donor’s embryos were put.

In light of the time—I realise that we have 30 seconds left or something like that, so I am extremely disappointed—all I can do on this is to seek leave to incorporate the arguments in support of my amendments. I realise the position on that and I am doing that because I realise that we will not have the time. They concern the regimes for those consent provisions.

The TEMPORARY CHAIRMAN (Senator Cook)—Is leave granted for Senator Barnett’s arguments in support of his amendments to be incorporated into Hansard?

Leave granted.

The document read as follows—

This amendment specifies some elements of the nature of the ‘proper consent’ that this Bill will require be obtained from all responsible persons (parents, gamete donors and their spouses) in relation to an excess ART embryo before such an embryo may be used for research under a licence from the licensing committee. The Bill refers to the present Ethical Guidelines on Assisted Reproductive Technology 1996. The consent provisions in these guidelines primarily deal with consent of participants to ART treatment. They do not adequately address the very different consent to the use of excess embryos for research.

The Guidelines allow for counselling (in relation to ART treatment) to be carried out either within the clinic where the treatment will be received or independently. This amendment specifies that counselling must be independent. Couples undergoing ART treatment at a clinic often form very complex relationships with clinic staff as they go through the emotional roller coaster ride of successive attempts at IVF treatment. It seems a better safeguard for ensuring fully free and informed consent for counselling in relation to the use of excess embryos to require it to be independent of both the clinic and the researchers seeking to obtain the embryos.
Legislation relating to organ donation similarly requires that discussion regarding such donation be conducted by a person independent both from the clinical team treating the patient and from the transplant team. The amendment requires the responsible person be notified in writing, and that they understand and then consent in writing to the research. The amendment further requires a cooling off period of seven days. As the embryos that may be used in research as ‘excess embryos’ will be in frozen storage and research projects require substantial planning time there seems to be no valid reason not to allow people sufficient time for reflection before they consent to the irreversible destructive research of embryos for which they are responsible persons. Cooling-off periods are standard for all sorts of contracts involving things less weighty than agreeing to destructive research on human embryos. Finally the amendment provides that each responsible person be given access to information about what actually happens to their embryos. This is similar to the needs of donor families who are given information about the outcome of the donation. Not every responsible person will want to follow up on this, but those who do desire information about these things should have the legal right to obtain it.

The TEMPORARY CHAIRMAN—It being 7 p.m., the time allotted for consideration of amendments of division 4 of part 2—that is, clauses 20 to 28—has expired. The question is that amendments (R2) and (R3) sheet 2694 revised be agreed to. Question negatived.

Senator JACINTA COLLINS (Victoria) (7.02 p.m.)—I withdraw amendment (7) on sheet 2693.

The TEMPORARY CHAIRMAN—It being after 7 p.m., I propose to report progress.

Senator HARRADINE (Tasmania) (7.03 p.m.)—The decision taken this morning was that at 7 p.m. on 4 December, when time allotted for consideration of amendments to division 4 of part 2 had expired, questions were to be put on any remaining amendments. I was advised that the committee stages of this legislation would continue until 7.20 p.m., when the adjournment question is put.

The TEMPORARY CHAIRMAN—Thank you, Senator Harradine. My advice is that the decision today did not override the normal provision for government documents. As a consequence, I proposed that we report progress. However, I am also advised that with the leave of the committee we could pursue this until 7.20 p.m., if that was the will of the committee.

Senator HARRADINE—I seek leave for the proceedings on the bill to continue till 7.20 p.m.

Leave granted.

The TEMPORARY CHAIRMAN—We now move to amendments to divisions 5 and 6 of part 2—that is, clauses 29 to 32.

Senator Barnett—Based on the advice that I had received, I incorporated my arguments into the Hansard because we would be concluding at 7 p.m. and I would not have adequate time to argue that particular amendment. I see that it is a done deal, but I am just making that point.

The TEMPORARY CHAIRMAN—Thank you, Senator Barnett. I understand what you have said, but there is no point of order. I now call for clause 29 amendments to divisions 5 and 6 of part 2.

Senator HARRADINE (Tasmania) (7.07 p.m.)—I move amendment (8) on sheet 2751 revised 2:

(8) Clause 29, page 20 (lines 17 and 18), omit subclause (3), substitute:

(3) The database must be kept and made publicly available in electronic form, including being made available for inspection on the Internet.

There has been considerable reference to the COAG report and to the fact that COAG has been very concerned that the system should provide for public reporting of research involving embryos so as to improve transparency and accountability. The purpose of amendment (8) is just that. As mentioned,
the bill gives the NHMRC Licensing Committee the discretion to make available to the public a database of licences in electronic form. This amendment that I have moved strengthens that provision by ensuring that the database is made available on the Internet for public inspection. It ensures that this occurs so that timely advice or information is provided to the public in accordance with the decisions of COAG.

Senator HARRIS (Queensland) (7.10 p.m.)—Very briefly, the conditions that Senator Harradine requests be amended are very similar to those that were amended in respect of the Office of the Gene Technology Regulator. The decisions of that body are available on the Internet for public scrutiny. I believe that that is a step in the right direction. One Nation formally supports amendment (8) as moved by Senator Harradine.

Senator BARNETT (Tasmania) (7.11 p.m.)—It would be very disappointing if we did not have from the minister a response to this amendment. I am hoping that she will not oppose it. We are setting up a public database so it will be on the public record. Amendment (8) is a very sensible one. It sets up the electronic database and puts it on the Internet. For the life of me I cannot think why anybody would want to oppose it. If there is a possible reason, I would certainly like to hear about it.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (7.11 p.m.)—I will not be supporting the amendment because, again, I do not think it is necessary. The clause makes it clear that the database must be made publicly available. The obvious way to do this is via the Internet. I have every confidence that the database will appear on the web site of the NHMRC, just as all other public documents of the NHMRC appear. As minister, I am prepared to give that undertaking: it will appear in that way.

Senator HARRADINE (Tasmania) (7.12 p.m.)—Having regard to that undertaking, I seek leave to withdraw amendment (8).

Leave granted.

Senator HARRADINE (Tasmania) (7.12 p.m.)—by leave—I move amendments (8A), (8B) and (8C).

(8A) Clause 29, page 20 (line 10), after “licence”, insert “and the reasons for the decision to issue a licence”.

(8B) Clause 29, page 20 (before line 8), before paragraph (a), insert:

(aa) the membership of the HREC which approved the activity for which a licence was granted.

(8C) Clause 29, page 20 (after line 20), at the end of the clause, add:

(5) Information mentioned in subsection (1) must be made available on the NHMRC Licensing Committee Internet site within 30 days of the HREC assessment.

These amendments have been devised having regard to discussions that have taken place over the life of this committee stage of the bill. There is a regime, which has been established in this legislation—and I use the terms used in the legislation—for the use of excess ART embryos for the purposes of experimentation or research, whichever word you prefer. That whole structure is based upon two rocks. We have been told, ‘Don’t worry, these applications for a licence to destroy human embryos are to go through a human research ethics committee.’ That is the principal foundation of the whole structure: ‘Don’t worry about things that go through this particular committee.’ There is another foundation of this whole process and that is accountability and information. The bill does not provide for this information. In fact, it is a secretive approach because the decisions and the evaluation of an application for a licence from the NHMRC Licensing Committee are withheld and kept secret from the public.

I know that the NHMRC has had a culture of secrecy over a period. That has been loosened up a little bit, perhaps over the last two years. Before that, there was a culture of secrecy and I fear that elements of that are still there, and this is one of them. The human research ethics committee will not provide the information as to why it has decided to approve or reject an application. Let me again give an example: a drug company, or a scientist who is involved with a drug company, seeks to use embryos or embryonic stem cells to test drugs. Where does the application go? It goes to the human research
ethics committee. Who appoints the human research ethics committee? The institution—the drug company. The minister will say, ‘But it’s been established according to the NHMRC guidelines.’

I do not have time tonight to go through all those NHMRC guidelines, but the fact of the matter is that the committee is predominantly research oriented. Two people from the community will be appointed under the guidelines, but preferably they will be from a community very close to the institution. I put it to you that it is not appropriate to have a situation where that organisation is not accountable to anybody. It is certainly not accountable to the public, because the public does not know and is refused the information as to why the committee has acted as it has about an application. I propose to ensure that at least that information is made available to the public.

I am concerned about the fact that the committee is appointed by the institute that makes the application for a licence. That creates many problems. In addition, these sorts of committees very often do not have the resources that are needed to give a truly independent evaluation of the research project for which a licence is required from the National Health and Medical Research Council Licensing Committee. I raise these matters and I would like some response in the first instance to the question: is the government going to do something to ensure that information is made available to the public in the interests of accountability and transparency?

Progress reported.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! It being 7.20 p.m., I propose the question:

That the Senate do now adjourn.

Trade: Middle East

Senator PAYNE (New South Wales) (7.20 p.m.)—Tonight I want to address some aspects of the trade relationship between Australia and the Middle East and the growth of that relationship. It is one of Australia’s more important trade relationships. In the year 2000, a parliamentary report on Australia’s trading relationship with the Middle East was tabled. Since then, an enormous amount of work has gone into fostering relationships and into identifying and engaging in new parts of the Middle East market. Recently, members of the Joint Standing Committee on Foreign Affairs, Defence and Trade participating in a visit to the Australian forces deployed to the international coalition against terrorism also spent some very valuable time in Dubai and received a number of briefings on Australia’s success in trade with the Middle East and the Gulf region. For example, through groups such as the Australian Business in the Gulf group—known by the acronym ABIG, and which is now helping about 200 Australian companies to negotiate the trading environment of the Gulf region—and Austrade and in myriad other ways, we are taking great advantage of the opportunities that exist.

During the time that we spent in Dubai, members of the committee owed much to Consul-General Peter Linford and his team, including Paul Morgan and Alex Fraser, who gave us a very interesting overview of our success in engaging in the Emirates market. The Emirates are consistently among Australia’s top three markets in the region, and that is a steadily growing level of trade. Two-way merchandise trade between Australia and the UAE has risen by almost 60 per cent over the last two years, from $1.3 billion in 1999-2000 to $2.0 billion in 2001-02. Australian exports to the UAE grew by 43 per cent over the period and imports from the UAE rose by 87 per cent, so this is a very dynamic area.

The UAE is our second-largest Middle Eastern market after Saudi Arabia, but I think its importance extends beyond those statistics. It is the region’s major transport hub and plays a key role in facilitating our flourishing trade relationships with the entire region. In fact, that two-way trade relationship between Australia and the Middle East grew by almost 50 per cent between the years 1999-2000 and 2001-02. It is an interestingly popular regional base for Australians. I myself have friends living there, and more than 4,000 Australians live in the UAE. Over 70 Australian companies have offices there.
I also want to remark upon the important development of the growing diversity of our exports to the UAE. Traditionally, we have been well known in the region as a supplier of quality foods and raw materials but it is good to see that manufactured products are now matching that success. Between 1995 and 2001, Australian-manufactured exports to the UAE grew on average by over 25 per cent per annum and the share of total Australian exports to the UAE rose from under 18 per cent to what is now around 30 per cent. These are creditable figures.

It must be acknowledged that that impressive growth is largely due to the outstanding success of our motor vehicle exports. These exports only began in 1996, but by 2001-02 they had grown to a value of over $200 million. Australian-built Camrys, Chevrolets and Magnas have succeeded in the UAE because of their high quality, strong price competitiveness and ability to meet the requirements of that local market. These attributes also underpin other Australian-manufactured exports to the UAE such as industrial machinery, ships, medicines, scientific equipment and furniture.

Australian exports to the Emirates in 2001 were valued at $1.2 billion while total imports were valued at $930 million. The major exports include alumina, motor vehicles and agricultural products. However, the really dynamic and great opportunity for Australia is the expanding market for Australian educational, architectural and other professional services. If we can make the most of that market, it will be of enormous benefit for Australian business. Petroleum products account for most of the imports.

This is not success that happens by itself. It is the result of a very concerted effort by the Minister for Trade, Mark Vaile, and his predecessor, Tim Fischer, to improve our trade performance in that part of the world. One good example is a problem that was identified in the timely allocation of tourist visas from the region, an issue which was raised with us on our visit and included in the committee’s report. After discussions from Minister Vaile and others, and of course our diplomatic representatives in the region, I understand that DIMIA will allocate a permanent full-time migration officer to the post in Dubai in February next year. It is hoped that that will facilitate a more effective distribution and allocation of visas as appropriate.

As the committee’s report mentioned, the delegation visited two very impressive facilities, the Jebel Ali Free Zone and the Dubai Aluminium Ltd smelter. The port in Dubai is quite mind-blowing. It is a large, modern deep-water port, with 19 cranes capable of moving 12,000 containers every day. That is a better rate of container processing than that which is achieved in either Singapore or Hong Kong. The free zone provides a tax-free operating environment for businesses, like those made available under our government’s manufacturing-in-bond legislation. Businesses operating in the zone have access to a range of support facilities and services, and the important thing to note from Australia’s point of view is that 20 of our own companies are located there.

The delegation also visited Dubai Aluminium Ltd, known as Dubal, which is the largest single-site aluminium smelter in the world—I have to add that, from close inspection, it is probably one of the cleanest. The smelter’s location is very important for Australian suppliers of aluminium because it services markets in Europe, Asia, the Far East and America with equal ease. It is important to note that most of the alumina used by Dubal is purchased from Australia and that they use more than one million tonnes of Australian sourced alumina per year, so it is a very important market for us.

The Dubai experience mirrors the success that Australia is enjoying across the Gulf region. The Middle East, which includes North Africa in this case, was the fastest-growing regional market for Australian exports in 2001-02. Indeed, it is fair to say that that market is a pacemaker in terms of both growth and diversification—and has been for some years. Minister Vaile has been an advocate of the region’s potential for some time and has visited the region on a number of occasions since he became the Minister for Trade in 1999.

For example, in the last six months alone, Minister Vaile has led two trade delegations
to the Middle East to emphasise the importance that the government places on trade with the region and to underline that, despite the uncertainties that may exist, Australia is approaching the region on a business as usual basis.

The first of these two trade delegations, in July, was to Libya, where new opportunities for trade have arisen since the suspension of UN sanctions in 1999. It was a very broad-ranging delegation with representatives from the agricultural, industrial, oil and gas, technological and services sectors. The wide-ranging discussions held by the minister in Libya identified further areas where we could provide both products and services. Substantial progress was achieved on the sale of agricultural produce, oil and gas exploration equipment and services and veterinary pharmaceuticals.

More recently, in September this year the minister led an Australian delegation which attended the ninth meeting of the Australia-Iran Joint Ministerial Commission. During that visit the minister met with President Khatami, former President Rafsanjani and a range of the economic ministers in Iran. That created the opportunity of reinforcing existing commercial ties and of opening new areas of cooperation. There were 53 members in that delegation, which represented 39 separate companies including AWB Ltd, BHP Billiton and Woodside.

It is also interesting that Minister Vaile’s efforts in boosting our trade profile have generated positive media coverage in Iran. Australia is depicted as a modern, technologically advanced economy and a valued supplier of wheat and other primary commodities. Iranians have expressed strong support for Australian investment in Iran, and we now have agreement to negotiate an Investment Protection and Promotion Agreement between the two countries.

We have recently had the opportunity to help exporters achieve some important trade wins in Iran. For example, the AWB has confirmed a major contract for over half a million tonnes of wheat to Iran. The Australian company Seaspray has secured a deal to supply Iran with two Incat-designed ferries valued at $US12.2 million. Mr President, I know that will impress you, as a Tasmanian senator. That construction is to take place in Iran but, importantly, most of the materials and technologies are supplied from Australia. We also have the example of a South Australian company which has been contracted by Iran to provide a package of services designed to promote Iran as a tourist destination and for them to do that themselves. The package includes training, infrastructure development, tourism development, tourism planning and marketing advice.

Across the board, we have had very strong successes—successes which can only grow. It is important to look, for example, at education; that is an enormous opportunity for Australia’s quality educational institutions to form a very strong presence. We need to further our investment links, particularly in trade-creating sectors. We have a number of measures in place to do that, and I can only comment favourably on a range of those and say that it is very important that, as well as focusing on our own region and on traditional trading partners, Australia makes the effort to develop our potential in areas such as the Middle East. That is certainly the leadership that the trade minister is providing.

Grey Electorate: Student Essay Competition

Senator BUCKLAND (South Australia) (7.30 p.m.)—I would like to speak tonight about two young people I have had the pleasure of having with me in Canberra this week. They are in the advisers box here tonight, which is a great joy. These young folk, Alice Krige and Rehaan Bharucha, are year 11 students who entered and won a competition I conducted for all year 11 students in the South Australian electorate of Grey. The competition required the students to write a 750-word essay about an issue of national interest and of interest to the Australian parliament. The students were also required to express an opinion in those essays. My understanding from feedback is that the length of the essay made it very difficult, but my view was that a longer essay would have made it easier, given that I was not so much looking for an academic paper as testing their ability to convey a message and a view.
Rehaan, a student from John Pirie Secondary School at Port Pirie, wrote about ‘Islamophobia’, drawing a comparison between the teachings of the Islamic faith and the Christian faith. Alice, a student of St Joseph’s School at Port Lincoln, wrote about citizenship. The judging was undertaken in two stages. The first stage of judging was undertaken by my staff, who checked for accuracy of fact and other things, like relevance to a federal issue rather than a state based issue. The final stage of judging involved a panel of four judges consisting of representatives from the state education department, Catholic Education and independent schools, and me. The twist here was that we had no knowledge of the author or the school they were from, to avoid any biases or favouritism. It was, if you like, a blind judging not unlike a blind wine-tasting. On this occasion, however, we got it right. The prize for our winning entrants was a week in our electorate office in Adelaide and a week with us in Canberra.

Senator Boswell—What was second prize?

Senator BUCKLAND—Senator Boswell, I was thinking of first prize being a ride in my Volkswagen, but there was a bit of opposition to that! During the week in Adelaide, Rehaan and Alice accompanied us on various visits to industry and the state parliament. We showed them what the majority of senators in this place would be doing in their electorates. I think the highlights were the visits to the forensic science centre; a visit to Bedford Industries, a workplace and training centre for people with disabilities; and a discussion with a lawyer who represents detainees of the Woomera and Baxter detention centres. My staff also explained their roles and gave an overview of the various types of constituent inquiries that are dealt with by a Senate office.

While in Canberra this week, Rehaan and Alice have been shown the way the parliament operates and had the legislative process explained. To that end, I should place on record my thanks to the Black Rod’s office, the Parliamentary Library and other Parliament House staff who have been of assistance to us during that period. Alice and Rehaan will also be visiting other places of significance such as the National Gallery, the National Museum and Old Parliament House.

It has been a great privilege for me to have spent time with two young people of this calibre. They are both wonderful ambassadors for their schools and their respective cities. I think their parents can take pride and comfort in the exceptionally bright and accomplished children they have raised, and I think Alice and Rehaan have exceptional futures before them. My understanding is that Alice is interested in pursuing a career in pathology and Rehaan has a great interest in archaeology. There may be some likenesses there. They have been an inspiration to me, and I think they will be an inspiration to many others. I look forward to hearing of their achievements as they go through life. I also look forward to comparing their views of the Australian parliament and politicians after their time with us with the views that they expressed prior to spending time with us.

In closing, I must particularly thank two of the staff from my office—Rosie Falco, who has become a surrogate mother, and Paul Marcuccitti, who has become a big brother—for the efforts they have made to make this program work. Hopefully, the success of this program may be extended to other senators. I seek leave to table the essay entries by Rehaan and Alice. I showed these to the government whip, Senator Ferris, prior to entering the chamber and she had no difficulties with them.

Leave granted.

Business: Corporate Governance

Senator WATSON (Tasmania) (7.36 p.m.)—Tonight I wish to place on record some aspects of good corporate governance. Following a number of spectacular corporate collapses both in Australia and overseas, corporate governance issues have recently been the subject of intense focus, including a report by the Joint Committee of Public Accounts and Audit of the federal parliament. Mr Ian McPhee of the Australian National Audit Office says:

The profile given to corporate governance in the public sector has been one of the most positive
stimuli for change and better performance in the last decade.

Congratulations, I say. Mr McPhee goes on to say:

It may not have received top billing among the specific reform agenda items but it has always been seen as a front row contributor to a highly performing Australian Public Service (APS) that has universal application to all Commonwealth bodies.

The Prime Minister now wishes to extend the APS performance through a high-level inquiry into Australian statutory authorities, with the announcement of a review into corporate governance. This review will be undertaken by the distinguished business leader and former chairman of Rio Tinto and Westpac, Mr John Uhrig AC. A specific focus of the review will be on a select group of agencies with critical business relationships, including the Australian Taxation Office, the Australian Competition and Consumer Commission, the Australian Prudential Regulation Authority, the Reserve Bank, ASIC, the Health Insurance Commission and Centrelink. In addition to analysing existing governance arrangements, the review will address the selection process for board members and office holders, the mix of experience and skills required by boards, the development requirements of boards and their relationship to government.

The _Australian Financial Review_ reported in September on the results of a study commissioned by Horwath New South Wales and conducted by the Newcastle Business School. It was a study of the corporate governance practices of the top 250 Australian companies. The report rated 29.2 per cent of the companies as inadequate in terms of corporate governance—including 5.2 per cent which were rated as ‘seriously deficient’. Those are alarming figures. The study noted that one of the most significant issues was that a number of companies employed non-executive directors who failed to meet the key independence criteria necessary for good corporate governance.

The Joint Committee of Public Accounts and Audit has been at the forefront of examining these sorts of issues, having completed the following reports in recent times: report 372, _Corporate governance and accountability arrangements for Commonwealth government business enterprises_, and report 391, _Review of independent auditing by registered company auditors_. The committee’s most recent report stated:

... effective corporate governance is an essential part of the modern corporate entity. Public and private sector organisations will ultimately be judged by how well they direct, control and deliver their corporate activities.

Corporate failures during the 1980s and early 1990s in particular have brought to the attention of the public the need for efficient, effective and responsible corporate governance. Shareholders and governments have had to pay dearly in cases where corporate entities have failed to apply effective corporate governance and accountability arrangements. Further interest in the topic has been generated by the onset of the Asian financial crisis. Poor corporate governance in both the public and private sectors is considered to have been a contributor to the financial decline of South-East Asian economies during 1997.

Corporate governance is not about power. It is about finding ways to ensure that decisions are made effectively and it is about putting monitoring and control mechanisms in place. It is about the way corporate entities are governed, as distinct from the way that they are managed. The OECD has stated:

If countries are to reap the full benefits of the global capital market, and if they are to attract long-term capital, corporate governance arrangements must be credible and well understood across borders. Where companies do not rely primarily on foreign sources of capital, adherence to good corporate governance practices will help improve the confidence of domestic investors, may reduce the cost of capital, and ultimately induce more stable sources of financing.

I will now move on to the important issue of risk management. It is important that boards understand the degree of risk and areas of risk and are able to distinguish between what I call ‘pure risk’ and ‘speculative risk’. Further, boards should have plans to manage the different levels of risk. In the superannuation area, where I have a particular interest, Deloitte’s national superannuation partner, Mr Richard Rassi, believes that the most signifi-
A significant area of governance requiring improvement is the area of risk management, with boards needing to be aware of all key strategic and operational risks facing their funds.

Audit committees, of course, are an important ingredient of corporate governance. The membership should all be independent directors, as many failed corporations have got into trouble with the chair coming from either the chief executive officer or the chief financial officer. Audit committees comprising independent directors are an important element in corporate governance arrangements. Some common better practices associated with audit committees include: operating to an approved charter which clearly sets out its authority and lines of responsibility; having unfettered access to both the internal and external auditor functions and having in place processes for regular communication with the internal and external auditors; having unfettered access to executive management; and having access to all correspondence between the auditors and management, in particular all audit reports and responses thereto. In addition, the audit committee must set out and agree to the CEO’s remuneration.

What about the role of ASIC in corporate governance? This role is increasingly important, and I think the increased influence of ASIC in this area is a reflection of the lack of interest from the major accounting bodies, which should cover aspects of good corporate governance in their audit reports. The Chairman of ASIC, Mr David Knott, whom I greatly respect, recently stated that ASIC has been vigorous in enforcing good corporate governance. In the last four or five years in relation to accounting issues, ASIC has successfully achieved restatements in company accounts of more than $3 billion—a great amount of money.

Looking at recent corporate history, we have had the corporate failures of HIH, NRMA, One.Tel, Pasminco, Harris Scarfe, Centaur and Ansett in Australia, and the big one of Enron in the United States, just to name a few. In the last three years in Australia alone, 69 people have been sent to jail in relation to corporate offences. Last year 19 people were imprisoned—11 of them company directors—and currently 111 defendants are on criminal charges.

I found it extraordinary that, on the back page of today’s Financial Review, there appeared to be an implied attack on Mr David Knott for being too hard on at least one corporate person who had certainly failed in his duties in terms of good corporate governance. The paper seemed to take the attitude that it was a situation of overkill. I think that it is an appalling indictment of a newspaper for it to print that sort of rubbish, because we have to raise our standards and not be apologists for these sorts of people who have ripped off millions of dollars from innocent people.

Following public concern, the Australian Stock Exchange has set up the Corporate Governance Council. The council should be good both for companies and for the ASX. Corporations are now increasingly being called upon to have governance systems extending beyond their traditional focus to cover such areas as consumer protection; the rights of individuals, including employees; and environmental impacts and sustainability. Environmental and social sustainability management has now been firmly placed on the corporate governance agenda, and this is a good development.

Companies are being pressured to adopt higher standards of non-financial reporting and to provide more economic, environmental and social performance information. This is in order to provide more insight into the vision and effectiveness of management in anticipating a wider range of risks and opportunities in the marketplace. The focus on corporate governance is driven not just by the corporate failures of the past but also by the challenges of the future. I trust that our current interest in the issue of corporate governance is not cyclical—it does seem to come and go—and that it will be a permanent feature of good accounting practice in this country.

Senate adjourned at 7.46 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:
Australian Rail Track Corporation Limited (ARTC)—Report for 2001-02.
Bankstown Airport Limited—
  Report for 2001-02.
Camden Airport Limited—
  Report for 2001-02.
Commissioner of Taxation—Data-matching program—ATO’s interaction with the program—Report for 2001-02.
Hoxton Park Airport Limited—
  Report for 2001-02.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Foreign Affairs: Sponsorship of Journalists**

(1) How many journalists were sponsored in 2002.
(2) What was the total cost of the program in 2002.
(3) What was the total cost of the program in 2001.
(4) What was the purpose of the sponsorship.
(5) Which journalists were sponsored.
(6) What is the basis on which journalists are selected.

**Veterans: Gulf War**

(1) When will the health survey of Gulf War veterans be made publicly available.

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to trips to Indonesia, sponsored by the department, for Australian journalists:

(1) Five journalists were sponsored during financial year 2001-2002.
(2) The total cost of the program in financial year 2001-2002 was $44,660.
(3) The total cost of the program in financial year 2000-2001 was $44,791.

The Journalist Scholarship program of the Australia-Indonesia Institute (AII) is designed to encourage Australian journalists to learn more about Indonesia. The AII provides funding support to Medialink for exchanges between Australian and Indonesian journalists. The program offers placements for Australian media personnel to work in an Indonesian newsroom and Indonesian journalists to experience working in Australia for a minimum of three months. The program is coordinated by the Asialink Centre at the University of Melbourne.

(5) Peter Kerr (Sydney Morning Herald)
Farah Farouque (The Age)
Claire Harvey (The Australian)
Jerry Galea (freelance photojournalist)
Paul Cleary (Australian Financial Review)
Natalie Larkins (ABC News and Current Affairs)
John van Tiggelen (Freelance Writer, Good Weekend)
Michael Ware (South Pacific Correspondent, Time)
Nicholas Gentle (The Canberra Times)
Sian Powell (The Australian)
Ginny Stein (SBS)

(6) Applications are requested in public advertisements and on the AII website. Successful applicants for the AII Journalist Scholarship program are selected by the Board of the AII. Applicants must be Australian citizens, and must demonstrate the scholarship’s relevance to their current employment.

The selection process for the Medialink fellowship is coordinated by the Asialink Centre, University of Melbourne. Applicants are chosen by a selection committee drawn from members of the news media, business, academia and the arts. Selection is based on applicants’ level of professional experience, interest in Asia, adaptability, flexibility and cultural sensitivity.

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 4 October 2002:

(1) When will the health survey of Gulf War veterans be made publicly available.
(2) (a) What is the current mortality figure for those veterans; and (b) what were the causes of death.
(3) What vaccinations were given to Gulf War veterans before and after deployment, for: (a) those who served with the Royal Australian Navy; and (b) those who were seconded to other forces.
(4) What other drugs were administered to personnel during the deployment.
(5) How many of those who served have been discharged: (a) fit; or (b) medically unfit.
(6) How many are in payment of a disability pension under the Veterans’ Entitlements Act 1986, by percentage groups and disability type, and how many are totally and permanently incapacitated.
(7) How many have been paid a lump sum for disability under the Military Compensation and Rehabilitation Scheme, and of those how many have also claimed a pension under the Act.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) The team from Monash University expect that they will complete their report at the end of November. The Scientific Advisory Committee (SAC) will then need to analyse the report and following approval by the SAC the report will be delivered to the Minister. This is expected to be in late 2002 or early 2003. It will be made available to the public after that.

(2) (a) and (b) This information will be provided in the Mortality Section of the report from Monash University, when it is completed.

(3) The Department of Defence has advised that Vaccination schedules were as follows:

(a) For members of Australian Defence Force Task Group deployment only common and widely used vaccinations were administered, all approved by the Therapeutic Goods Administration for use in Australia.
(b) A small number of ADF personnel seconded to other forces were vaccinated against anthrax and botulinum. This included those who deployed with the United States and the United Kingdom units.

(4) Pyridostigmine bromide was administered as a prophylactic against nerve agent attack during periods of heightened alert. Doxycycline was taken as chemoprophylaxis against malaria, followed by a primaquine eradication course on return to a non-malarious area.

(5) The Department of Defence has advised that 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 may have a negative effect on the efficient operation of the Department.

(6) 164 veterans are in payment of a disability pension for disabilities, which are causally related to the Gulf War. Pension rates are shown below:

<table>
<thead>
<tr>
<th>Disability pension</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>25</td>
</tr>
<tr>
<td>20%</td>
<td>11</td>
</tr>
<tr>
<td>30%</td>
<td>27</td>
</tr>
<tr>
<td>40%</td>
<td>15</td>
</tr>
<tr>
<td>50%</td>
<td>15</td>
</tr>
<tr>
<td>60%</td>
<td>12</td>
</tr>
<tr>
<td>70%</td>
<td>4</td>
</tr>
<tr>
<td>80%</td>
<td>10</td>
</tr>
<tr>
<td>90%</td>
<td>4</td>
</tr>
<tr>
<td>100%</td>
<td>18</td>
</tr>
<tr>
<td>Intermediate rate</td>
<td>1</td>
</tr>
<tr>
<td>Temporary special</td>
<td>4</td>
</tr>
<tr>
<td>Special rate (TPI)</td>
<td>19</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>164</strong></td>
</tr>
</tbody>
</table>

Each of the 164 veterans is in receipt of a pension for at least one condition which has been accepted as being due to Gulf War service. The Minister advised that the total rate of pension paid in most cases does not relate to Gulf War service only.

There are 315 accepted conditions arising out of Gulf War service. The breakdown of accepted conditions is shown below:
Body system Percentage
Spine and limbs 28.2%
Ear, nose and throat 24.8%
Psychiatric 19.7%
Skin 10.2%
Gastro-intestinal 7.9%
Eyes and vision 3.2%
Miscellaneous 6%

(7) Prior to 7 April 1994, deployments covered under the Veterans’ Entitlements Act 1986 were not covered under the Safety, Rehabilitation and Compensation Act 1988. Therefore, no veteran has received a lump sum payment under the Military Compensation and Rehabilitation Service for a disability due to Gulf War service.

Defence Service Homes
(Question No. 801)

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 16 October 2002:

(1) How many house insurance policies has Defence Service Homes (DSH) held, by state, in each of the past 5 years.
(2) For each state: (a) how many claims have been: (i) received, and (ii) paid, in each of the past 5 years; and (b) what was their range and average value.
(3) Of the claims rejected, what were the reasons for rejection in each case.
(4) In how many cases has the advice of the claims assessor been rejected.
(5) In how many cases have alternative and additional assessments been made of individual claims.
(6) What appeal or review mechanism exists for rejected claimants.
(7) For each state: (a) how many cases of fraud have been investigated in each of the past 5 years; and (b) how many prosecutions have been pursued.
(8) (a) How are claims assessors engaged; and (b) what qualifications are required.
(9) For each state, how many claims assessors are currently used.
(10) For each state, how many assessments have been conducted by departmental staff in each of the past 5 years.
(11) If departmental claims assessments have been made, what qualifications are required of the assessors.
(12) What percentage return does the DSH profit represent on total insured value in each of the past 5 years.
(13) What benchmarking is undertaken with private sector insurance with respect to costs and margins.
(14) Has consideration ever been given to the outsourcing of the DSH insurance function; if so: (a) when; and (b) why was it not pursued.
(15) (a) How many: (i) staff, and (ii) contractors, are currently engaged by DSH on house insurance; and (b) what are the current estimated overheads for that function for the 2001-02 financial years.
(16) Has there been any fraud investigation into the activity and conduct of DSH staff members in the Brisbane office of the department; if so: (a) what were the findings; and (b) what action has been taken.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answers to the honourable senator’s question:

(1) The number of house insurance policies held by the Defence Service Homes by state for the past 5 years is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>NSW</th>
<th>QLD</th>
<th>VIC</th>
<th>WA</th>
<th>SA</th>
<th>TAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001-2002</td>
<td>34,239</td>
<td>25,638</td>
<td>24,066</td>
<td>11,235</td>
<td>10,381</td>
<td>2,930</td>
</tr>
</tbody>
</table>
Year  NSW   QLD   VIC   WA   SA   TAS
1999-2000 37,659 26,504 26,175 12,221 10,590 3,301

Note: The Australian Capital Territory is included in New South Wales figures and the Northern Territory is included in Queensland figures.

(2) (a) and (b) The number of claims received and paid by state each of the past 5 years including their range and average value is as follows:

### New South Wales

<table>
<thead>
<tr>
<th></th>
<th>20/10/97-19/10/98</th>
<th>20/10/98-19/10/99</th>
<th>20/10/99-19/10/00</th>
<th>20/10/00-19/10/01</th>
<th>20/10/01-19/10/02</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount Paid $</td>
<td>Number of Claims</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0.01-99</td>
<td>455</td>
<td>314</td>
<td>245</td>
<td>196</td>
<td>142</td>
<td>1,352</td>
</tr>
<tr>
<td>100-499</td>
<td>2,497</td>
<td>1,866</td>
<td>1,528</td>
<td>1,715</td>
<td>1,386</td>
<td>8,992</td>
</tr>
<tr>
<td>500-999</td>
<td>964</td>
<td>694</td>
<td>545</td>
<td>777</td>
<td>693</td>
<td>3,673</td>
</tr>
<tr>
<td>1000-4999</td>
<td>769</td>
<td>678</td>
<td>524</td>
<td>855</td>
<td>721</td>
<td>3,547</td>
</tr>
<tr>
<td>5000+</td>
<td>111</td>
<td>299</td>
<td>100</td>
<td>236</td>
<td>145</td>
<td>891</td>
</tr>
<tr>
<td>Total Claims</td>
<td>4,796</td>
<td>3,851</td>
<td>2,942</td>
<td>3,779</td>
<td>3,087</td>
<td>18,455</td>
</tr>
<tr>
<td>Total amount</td>
<td>4,827,479</td>
<td>8,239,325</td>
<td>4,057,925</td>
<td>5,674,386</td>
<td>6,338,578</td>
<td>29,137,693</td>
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<tr>
<td>Average paid per claim</td>
<td>1,007</td>
<td>2,140</td>
<td>1,379</td>
<td>1,502</td>
<td>2,053</td>
<td>1,579</td>
</tr>
<tr>
<td>Number of claims not paid</td>
<td>1,024</td>
<td>771</td>
<td>660</td>
<td>845</td>
<td>1,084</td>
<td>4,384</td>
</tr>
<tr>
<td>Total number of claims made</td>
<td>5,820</td>
<td>4,622</td>
<td>3,602</td>
<td>4,624</td>
<td>4,171</td>
<td>22,839</td>
</tr>
</tbody>
</table>

Note: The Australian Capital Territory is included in the New South Wales figures.

### Victoria

<table>
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<tr>
<th></th>
<th>20/10/97-19/10/98</th>
<th>20/10/98-19/10/99</th>
<th>20/10/99-19/10/00</th>
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<th>Total</th>
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<tr>
<td>Amount Paid $</td>
<td>Number of Claims</td>
<td></td>
<td></td>
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<tr>
<td>0.01-99</td>
<td>476</td>
<td>402</td>
<td>317</td>
<td>210</td>
<td>145</td>
<td>1,550</td>
</tr>
<tr>
<td>100-499</td>
<td>1,613</td>
<td>1,540</td>
<td>1,427</td>
<td>1,400</td>
<td>1,178</td>
<td>7,158</td>
</tr>
<tr>
<td>500-999</td>
<td>463</td>
<td>416</td>
<td>476</td>
<td>511</td>
<td>426</td>
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<tr>
<td>1000-4999</td>
<td>327</td>
<td>277</td>
<td>269</td>
<td>301</td>
<td>242</td>
<td>1,416</td>
</tr>
<tr>
<td>5000+</td>
<td>32</td>
<td>32</td>
<td>31</td>
<td>38</td>
<td>25</td>
<td>158</td>
</tr>
<tr>
<td>Total Claims</td>
<td>2,911</td>
<td>2,667</td>
<td>2,520</td>
<td>2,460</td>
<td>2,016</td>
<td>12,574</td>
</tr>
<tr>
<td>Total amount</td>
<td>2,053,176</td>
<td>1,810,277</td>
<td>1,990,455</td>
<td>2,598,505</td>
<td>1,843,501</td>
<td>10,295,914</td>
</tr>
<tr>
<td>Average paid per claim</td>
<td>705</td>
<td>679</td>
<td>790</td>
<td>1,056</td>
<td>914</td>
<td>819</td>
</tr>
<tr>
<td>Number of claims not paid</td>
<td>504</td>
<td>451</td>
<td>443</td>
<td>471</td>
<td>766</td>
<td>2,635</td>
</tr>
<tr>
<td>Total number of claims made</td>
<td>3,415</td>
<td>3,118</td>
<td>2,963</td>
<td>2,931</td>
<td>2,782</td>
<td>15,209</td>
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</table>
Queensland

<table>
<thead>
<tr>
<th>Amount Paid ($)</th>
<th>Number of Claims</th>
<th>20/10/97-19/10/98</th>
<th>20/10/99-19/10/00</th>
<th>20/10/00-19/10/01</th>
<th>20/10/01-19/10/02</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.01-99</td>
<td>653</td>
<td>618</td>
<td>471</td>
<td>315</td>
<td>278</td>
<td>2,335</td>
</tr>
<tr>
<td>100-499</td>
<td>2,219</td>
<td>2,269</td>
<td>1,962</td>
<td>2,075</td>
<td>1,635</td>
<td>10,160</td>
</tr>
<tr>
<td>500-999</td>
<td>405</td>
<td>445</td>
<td>405</td>
<td>465</td>
<td>402</td>
<td>2,122</td>
</tr>
<tr>
<td>1000-4999</td>
<td>357</td>
<td>370</td>
<td>348</td>
<td>307</td>
<td>215</td>
<td>1,597</td>
</tr>
<tr>
<td>5000+</td>
<td>60</td>
<td>31</td>
<td>33</td>
<td>37</td>
<td>19</td>
<td>180</td>
</tr>
<tr>
<td>Total claims paid</td>
<td>3,694</td>
<td>3,733</td>
<td>3,219</td>
<td>3,199</td>
<td>2,549</td>
<td>16,394</td>
</tr>
<tr>
<td>Total amount paid</td>
<td>2,637,824</td>
<td>2,147,906</td>
<td>1,975,993</td>
<td>1,717,833</td>
<td>2,225,800</td>
<td>10,705,356</td>
</tr>
<tr>
<td>Average paid per claim</td>
<td>714</td>
<td>575</td>
<td>614</td>
<td>537</td>
<td>873</td>
<td>653</td>
</tr>
<tr>
<td>Number of claims not paid</td>
<td>765</td>
<td>739</td>
<td>670</td>
<td>715</td>
<td>793</td>
<td>3,682</td>
</tr>
<tr>
<td>Total number of claims made</td>
<td>4,459</td>
<td>4,472</td>
<td>3,889</td>
<td>3,914</td>
<td>3,342</td>
<td>20,076</td>
</tr>
</tbody>
</table>

Note: The Northern Territory is included in the Queensland figures.

South Australia

<table>
<thead>
<tr>
<th>Amount Paid ($)</th>
<th>Number of Claims</th>
<th>20/10/97-19/10/98</th>
<th>20/10/99-19/10/00</th>
<th>20/10/00-19/10/01</th>
<th>20/10/01-19/10/02</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.01-99</td>
<td>284</td>
<td>216</td>
<td>184</td>
<td>152</td>
<td>117</td>
<td>953</td>
</tr>
<tr>
<td>100-499</td>
<td>1,077</td>
<td>825</td>
<td>799</td>
<td>702</td>
<td>509</td>
<td>3,912</td>
</tr>
<tr>
<td>500-999</td>
<td>245</td>
<td>220</td>
<td>210</td>
<td>208</td>
<td>174</td>
<td>1,057</td>
</tr>
<tr>
<td>1000-4999</td>
<td>149</td>
<td>110</td>
<td>172</td>
<td>171</td>
<td>134</td>
<td>736</td>
</tr>
<tr>
<td>5000+</td>
<td>17</td>
<td>12</td>
<td>13</td>
<td>11</td>
<td>10</td>
<td>63</td>
</tr>
<tr>
<td>Total claims paid</td>
<td>1,772</td>
<td>1,383</td>
<td>1,378</td>
<td>1,244</td>
<td>944</td>
<td>6,721</td>
</tr>
<tr>
<td>Total amount paid</td>
<td>969,703</td>
<td>691,678</td>
<td>835,433</td>
<td>861,767</td>
<td>876,962</td>
<td>4,235,543</td>
</tr>
<tr>
<td>Average paid per claim</td>
<td>547</td>
<td>500</td>
<td>606</td>
<td>693</td>
<td>929</td>
<td>630</td>
</tr>
<tr>
<td>Number of claims not paid</td>
<td>276</td>
<td>241</td>
<td>219</td>
<td>173</td>
<td>265</td>
<td>1,174</td>
</tr>
<tr>
<td>Total number of claims made</td>
<td>2,048</td>
<td>1,624</td>
<td>1,597</td>
<td>1,417</td>
<td>1,209</td>
<td>7,895</td>
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</tbody>
</table>

Western Australia

<table>
<thead>
<tr>
<th>Amount Paid ($)</th>
<th>Number of Claims</th>
<th>20/10/97-19/10/98</th>
<th>20/10/99-19/10/00</th>
<th>20/10/00-19/10/01</th>
<th>20/10/01-19/10/02</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.01-99</td>
<td>456</td>
<td>386</td>
<td>273</td>
<td>160</td>
<td>146</td>
<td>1,421</td>
</tr>
<tr>
<td>100-499</td>
<td>1,771</td>
<td>1,936</td>
<td>1,667</td>
<td>1,315</td>
<td>1,361</td>
<td>8,050</td>
</tr>
<tr>
<td>500-999</td>
<td>491</td>
<td>576</td>
<td>529</td>
<td>451</td>
<td>607</td>
<td>2,654</td>
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<tr>
<td>1000-4999</td>
<td>199</td>
<td>243</td>
<td>234</td>
<td>265</td>
<td>255</td>
<td>1,196</td>
</tr>
<tr>
<td>5000+</td>
<td>17</td>
<td>51</td>
<td>22</td>
<td>12</td>
<td>14</td>
<td>116</td>
</tr>
</tbody>
</table>
## Tasmania

<table>
<thead>
<tr>
<th>20/10/97-19/10/98</th>
<th>20/10/98-19/10/99</th>
<th>20/10/99-19/10/00</th>
<th>20/10/00-19/10/01</th>
<th>20/10/01-19/10/02</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount Paid $</td>
<td>Number of Claims</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0.01-99</td>
<td>170</td>
<td>163</td>
<td>120</td>
<td>79</td>
<td>59</td>
</tr>
<tr>
<td>100-499</td>
<td>297</td>
<td>246</td>
<td>228</td>
<td>201</td>
<td>171</td>
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<tr>
<td>500-999</td>
<td>43</td>
<td>53</td>
<td>52</td>
<td>45</td>
<td>52</td>
</tr>
<tr>
<td>1000-4999</td>
<td>22</td>
<td>17</td>
<td>25</td>
<td>19</td>
<td>26</td>
</tr>
<tr>
<td>5000+</td>
<td>5</td>
<td>-</td>
<td>2</td>
<td>1</td>
<td>4</td>
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<tr>
<td>Total paid Claims</td>
<td>537</td>
<td>479</td>
<td>427</td>
<td>345</td>
<td>312</td>
</tr>
<tr>
<td>Total amount paid</td>
<td>232,507</td>
<td>133,720</td>
<td>150,109</td>
<td>310,154</td>
<td>127,857</td>
</tr>
<tr>
<td>Average paid per claim</td>
<td>433</td>
<td>279</td>
<td>352</td>
<td>899</td>
<td>410</td>
</tr>
<tr>
<td>Number of claims not paid</td>
<td>105</td>
<td>114</td>
<td>118</td>
<td>123</td>
<td>157</td>
</tr>
<tr>
<td>Total number of claims made</td>
<td>642</td>
<td>593</td>
<td>545</td>
<td>468</td>
<td>469</td>
</tr>
</tbody>
</table>

## Australia Total

<table>
<thead>
<tr>
<th>20/10/97-19/10/98</th>
<th>20/10/98-19/10/99</th>
<th>20/10/99-19/10/00</th>
<th>20/10/00-19/10/01</th>
<th>20/10/01-19/10/02</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount Paid $</td>
<td>Number of Claims</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0.01-99</td>
<td>2,494</td>
<td>2,099</td>
<td>1,610</td>
<td>1,112</td>
<td>887</td>
</tr>
<tr>
<td>100-499</td>
<td>9,474</td>
<td>8,682</td>
<td>7,611</td>
<td>7,408</td>
<td>6,240</td>
</tr>
<tr>
<td>500-999</td>
<td>2,611</td>
<td>2,404</td>
<td>2,217</td>
<td>2,457</td>
<td>2,354</td>
</tr>
<tr>
<td>1000-4999</td>
<td>1,823</td>
<td>1,695</td>
<td>1,572</td>
<td>1,918</td>
<td>1,593</td>
</tr>
<tr>
<td>5000+</td>
<td>242</td>
<td>425</td>
<td>201</td>
<td>335</td>
<td>217</td>
</tr>
<tr>
<td>Total paid Claims</td>
<td>16,644</td>
<td>15,305</td>
<td>13,211</td>
<td>13,230</td>
<td>11,291</td>
</tr>
<tr>
<td>Total amount paid</td>
<td>12,228,099</td>
<td>15,980,646</td>
<td>10,527,219</td>
<td>13,380,696</td>
<td>13,060,975</td>
</tr>
<tr>
<td>Average paid per claim</td>
<td>735</td>
<td>1,044</td>
<td>797</td>
<td>1,011</td>
<td>1,157</td>
</tr>
</tbody>
</table>
The reasons for being rejected vary from case to case. However, in all cases, claims are rejected if they are not covered by the insured perils as listed in the Statement of Conditions booklet every policyholder receives.

The role of the assessor is to attend the site related to the claim and prepare a report on the circumstances of the loss. An assessor’s report should only contain factual details of the event, which is then considered by the Defence Service Homes Insurance claims officer. On the basis that the assessor is not asked to give advice or make assumptions, there is no reason why an assessor’s report should be rejected.

Detail on the range and nature of reports other than from the assessor are not recorded, however, it would only be an unusual circumstance when an “alternative” assessment is requested for a claim. It is not unusual, however, in the event of a significant claim, for Defence Service Homes Insurance (DSHI) claim staff to request additional reports, as the circumstances of the event unfold. For example, DSHI claim staff may request the assessor to obtain Police reports, take Statements, supply further particulars of damage, etc once the initial cause of loss is known. It is the role of the claims officer in State Office to take into account the full range of issues surrounding the claim (assessor’s report, other reports from police where relevant, client claims history, policy limits etc) in making a determination on the claim.

At the same time the policyholder is formally advised that the claim is not accepted, he or she is advised of their rights to dispute the decision through the Internal Dispute Resolution (IDR) process, a process that is endorsed by the General Insurance Code of Conduct. The IDR involves the details of the claim, and the ensuing decision, being reconsidered by a nominated senior Defence Service Homes Insurance (DSHI) staff member. If, in the event that the policyholder is not satisfied with this outcome, he or she is able to take the matter to the Insurance Enquiries & Complaints Ltd (the IEC). The IEC is independent and will negotiate with all parties in an attempt to achieve a satisfactory resolution.

The Defence Service Homes Insurance (DSHI) has in place procedures to identify fraud claims. This process is undertaken on a monthly basis using recently resolved claims as a base. To date only one claim for fraud has been identified that emanated from the Queensland DSHI Office in 1998. This matter was finalised through a process of mediation involving a Queen’s Counsel (rather than litigation).

Each State Defence Service Homes Insurance (DSHI) branch selects a panel of qualified assessors to act on behalf of DSHI. This is done by a select tender process, and reviewed every two years. Only those assessing companies that meet national accreditation standards are considered for the tender process. The procedure to appoint assessors to the panel is pursuant to the General Insurance Code of Conduct, which is monitored by the Insurance Enquiries & Complaints Ltd. The procedure ensures that selected assessors are properly and adequately qualified, determines the hourly rate/fees, sets up the standards by which the assessor must represent DSHI and includes key performance indicators by which DSHI staff are able to ensure the quality of the assessor’s work.

The number of claims assessors currently used by Defence Service Homes Insurance by State is as follows:

<table>
<thead>
<tr>
<th>State</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>14</td>
</tr>
<tr>
<td>Queensland</td>
<td>17</td>
</tr>
<tr>
<td>Victoria</td>
<td>4 external &amp; 1 internal</td>
</tr>
<tr>
<td>Western Australia</td>
<td>10</td>
</tr>
<tr>
<td>South Australia</td>
<td>6</td>
</tr>
<tr>
<td>Tasmania</td>
<td>6</td>
</tr>
</tbody>
</table>
Specific detail of the number of desktop assessments undertaken by Defence Service Homes Insurance claims staff is not kept. Claims staff follow prepared guidelines to ensure there is a proper balance between the use of an external assessor and the viability of an internal desktop assessment. For example in some claims (eg minor damage such as broken windows or glass) it does not make business or financial sense to instigate a full external assessment. Guidelines are provided to staff to cover such instances.

With respect to desktop assessments, these are undertaken by qualified insurance/claims Defence Service Homes Insurance (DSHI) staff. Currently, there are no formal qualifications required by the Insurance industry. A qualified staff member refers to a senior staff member who is experienced and capable to undertake his or her duties within their job description, in an insurance environment. Appropriate DSHI Staff are Code compliant (pursuant to the General Insurance Code of Conduct) and by March 2004, all DSHI staff will be accredited in line with the requirements of the Financial Services Reform Act.

The percentage return as it relates to profits and total sum insured is not a measure that provides any meaningful indicator of an insurance company’s business. A more meaningful measure to look at profit as a percentage of premium income.

‘Total premium income’ is the sum of all payments by individual policy holders during the financial year. ‘Profit’ figures in the following table represent the overall surplus after adding revenue receipts from all sources (including premiums, interest and agency commission) and deducting all expenses (including claims and administration expense).

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Premium Income $000</th>
<th>Profit $000</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>21,942</td>
<td>5,026</td>
<td>22.9%</td>
</tr>
<tr>
<td>2001</td>
<td>22,100</td>
<td>2,651</td>
<td>12.0%</td>
</tr>
<tr>
<td>2000</td>
<td>24,008</td>
<td>3,985</td>
<td>16.6%</td>
</tr>
<tr>
<td>1999</td>
<td>25,305</td>
<td>2,963</td>
<td>11.7%</td>
</tr>
<tr>
<td>1998</td>
<td>26,052</td>
<td>5,105</td>
<td>19.6%</td>
</tr>
</tbody>
</table>

Within each Defence Service Homes Insurance (DSHI) branch regular surveys of similar (local) insurance products are carried out by DSHI staff. In addition and on a national basis, DSHI participates in industry created benchmarking surveys. These are undertaken regularly by independent bodies such as Tillinghast-Towers Perrin and the Insurance Council of Australia (ICA).

A review was conducted in 1993 to canvass options for the future direction of Defence Service Homes Insurance, including outsourcing this function. This option was not pursued, as it was considered not to be financially advantageous.

There has been one investigation of alleged fraud into the conduct of Defence Service Homes Insurance (DSHI) staff members in the Brisbane office. The Departmental National Fraud Control Unit (NFCU) and the Director of Commonwealth Public Prosecutions (DPP) Brisbane conducted investigations and no action was deemed necessary.

Veterans: Transport

(Question No. 822)

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 22 October 2002:

1. Can the Minister confirm that veterans and war widows requiring transport to medical appointments are now required to order their own taxis, pay for them, and then seek reimbursement from the department; if so: (a) when was this new policy announced; (b) does it operate in all states; (c) is it part of the tender exercise conducted for new transport providers; (d) what savings are estimated from the new procedure; (e) for each state, what is the current average reimbursement time for such claims; (f) what evidence that the travel was legitimate is required prior to reimbursement; (g) what administrative costs have been incurred by the department; (h) for each state, how many complaints from veterans and widows have been received since the introduction of the new scheme; and (i) does the policy apply to hospital visits.

2. Did the Minister issue a media release advising veterans of the matter; if not, why not.
Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) The Department of Veterans’ Affairs (DVA) has not changed the way in which veterans and war widows access taxi services when travelling for treatment under the Repatriation Transport Scheme (RTS). While the Department is currently investigating ways in which to improve Booked Car with Driver services to the veteran community, there has been no final decision on any new arrangements at this stage. Therefore, the long standing arrangements continue to apply. Under current arrangements, the Department may arrange and pay directly for taxi travel to specific treatment locations as part of the Booked Car with Driver services. These specific treatment locations include:

- a former Repatriation General Hospital;
- providers of prosthetics, surgical footwear and orthotics;
- Office of Hearing Services accredited providers;
- admission to the nearest suitable hospital; or
- specialised treatment not readily available in the community.

Travel to all other treatment locations requires a veteran to make their own arrangements and seek reimbursement from the Department.

(2) and (3) No, as there has been no change in policy.

(4) (a) and (b) DVA does not record this level of information about transport undertaken. Consequently, this information is not available.

(5) (a), (b) and (c) While DVA is aware of a small number of individual cases, there is no requirement for the Department to be advised if a veteran is required to see a different treating specialist than usual. Therefore this information is not available.

(6) See part (2) and (3) above.

Attorney-General: Copyright
(Question No. 823)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 23 October 2002:

(1) How many offences under the Copyright Act 1968 relating to piracy have resulted in: (a) a conviction; (b) a maximum penalty fine of $65 000 being imposed; and (c) imprisonment.

(2) Can information be provided on individual cases where prosecution of these crimes have led to conviction, financial penalties and/or imprisonment.

(3) In cases where piracy was found to have occurred, what happened to the copying devices used to pirate movies and/or sound recordings.

(4) In each conviction for piracy of movies and/or sound recordings, did the Director of Public Prosecutions make a submission on behalf of the Government during the trial, or sentencing phase, which requested that the court take into consideration the quantity and value of the items seized; if so, what was the court’s comment or finding in each case in relation to this submission.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) (a) According to the DPP’s records, there have been 115 prosecutions conducted by the DPP pursuant to section 132 of the Copyright Act 1968 resulting in conviction. Offences against the Copy-
(b) In no prosecution has a maximum penalty against an individual of $60,500 been imposed. (c) A sentence of imprisonment was imposed in 1 matter and suspended sentences of imprisonment were imposed in 3 matters.

(2) These cases date back to 1986. The amount of information retained in each case varies.

(3) Copying devices do not feature in all cases prosecuted pursuant to section 132 of the Copyright Act 1968. Section 133(4) of the Copyright Act 1968 provides the court may order that a device or recording equipment used or intended to be used for making infringing copies be destroyed or delivered up to the owner of the copyright concerned or otherwise dealt with in such manner as the court thinks fit. Orders under this section would usually be sought where copying devices were seized during the investigation.

(4) The DPP does not hold records to answer this question. These matters are relevant to the sentence imposed and would generally be taken into consideration on sentence.

**Tasmania: Brighton Incinerator**

(Question No. 922)

Senator Brown asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 14 November 2002:

(1) What are the basis and criteria upon which TEST Energy’s proposed Brighton incinerator in Tasmania qualified for major project facilitation (MPF) status in October 2002.

(2) Is documentation concerning the MPF status of the incinerator proposal public information; if so can a copy of the documentation be provided; if not, why not.

(3) Is the incineration of residual plastics considered a renewable source of energy.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) MPF status was granted to the Brighton Waste to Energy Project proposed by TEST Energy Limited on the basis that the project met the relevant criteria:

- Involves capital investment in excess of $50 million;
- Requires Commonwealth approvals in order to proceed; and
- Has sufficient financial resources to complete approvals processes and demonstrated reasonable commercial viability.

(2) The documents relating to the Project’s assessment for MPF are not public information as they are classified as Commercial-in-Confidence.

(3) Waste is to be sorted to separate recoverable glass, plastic, metal and paper prior to delivery to the plant. The plant will employ state-of-the-art emission control technology conforming to European standards, among the highest in the world. The combustion of municipal solid waste has been accepted as a source of renewable energy under the Mandatory Renewable Energy Target under the Renewable Energy (Electricity) Act.