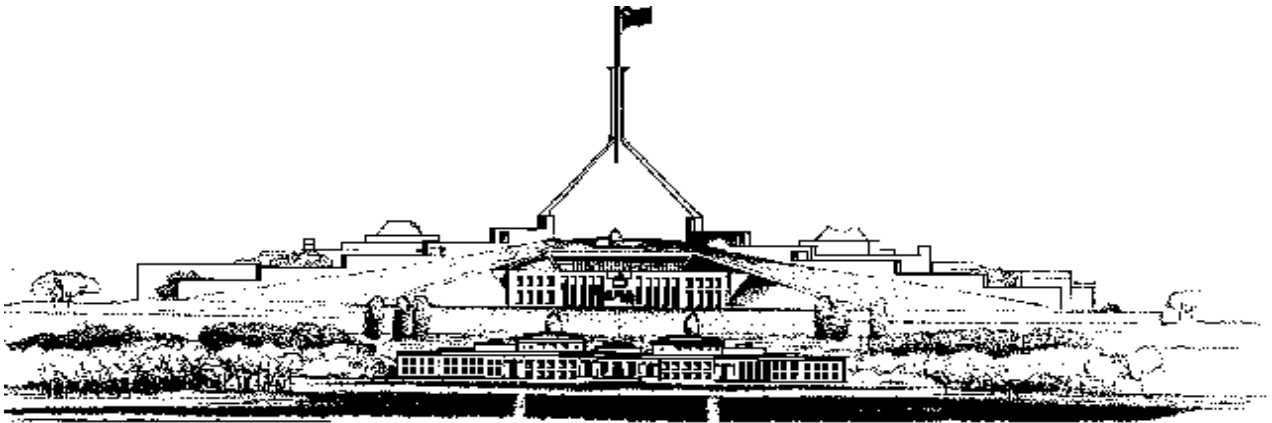




COMMONWEALTH OF AUSTRALIA

**PARLIAMENTARY DEBATES**



**SENATE**

**Official Hansard**

No. 15, 2002

**MONDAY, 2 DECEMBER 2002**

FORTIETH PARLIAMENT  
FIRST SESSION—THIRD PERIOD

BY AUTHORITY OF THE SENATE

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### SITTING DAYS—2002

Month	Date
February	12, 13, 14
March	11, 12, 13, 14, 19, 20, 21
May	14, 15, 16
June	17, 18, 19, 20, 24, 25, 26, 27
August	19, 20, 21, 22, 26, 27, 28, 29
September	16, 17, 18, 19, 23, 24, 25, 26
October	14, 15, 16, 17, 21, 22, 23, 24
November	11, 12, 13, 14, 15, 18, 19, 20, 21
December	2, 3, 4, 5, 9, 10, 11, 12

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<i>MELBOURNE</i>	1026 AM
<i>ADELAIDE</i>	972 AM
<i>PERTH</i>	585 AM
<i>HOBART</i>	729 AM
<i>DARWIN</i>	102.5 FM



**FORTIETH PARLIAMENT  
FIRST SESSION—THIRD PERIOD**

**Governor-General**

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

**Senate Officeholders**

*President*—Senator the Hon. Paul Henry Calvert

*Deputy President and Chairman of Committees*—Senator John Joseph Hogg

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

*Leader of the Government in the Senate*—Senator the Hon. Robert Murray Hill

*Deputy Leader of the Government in the Senate*—Senator the Hon. Richard Kenneth Robert Alston

*Leader of the Opposition*—Senator the Hon. John Philip Faulkner

*Deputy Leader of the Opposition*—Senator Stephen Michael Conroy

*Manager of Government Business in the Senate*—Senator the Hon. Ian Gordon Campbell

*Manager of Opposition Business in the Senate*—Senator Joseph William Ludwig

**Senate Party Leaders**

*Leader of the Liberal Party of Australia*—Senator the Hon. Robert Murray Hill

*Deputy Leader of the Liberal Party of Australia*—Senator the Hon. Richard Kenneth Robert Alston

*Leader of the National Party of Australia*—Senator the Hon. Ronald Leslie Doyle Boswell

*Leader of the Australian Labor Party*—Senator the Hon. John Philip Faulkner

*Deputy Leader of the Australian Labor Party*—Senator Stephen Michael Conroy

*Leader of the Australian Democrats*—Senator Andrew John Julian Bartlett



### Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	Tas.	30.6.2005	LP
Allison, Lynette Fay	Vic.	30.6.2008	AD
Alston, Hon. Richard Kenneth Robert	Vic.	30.6.2008	LP
Barnett, Guy <sup>(5)</sup>	Tas.	30.6.2005	LP
Bartlett, Andrew John Julian	Qld	30.6.2008	AD
Bishop, Thomas Mark	WA	30.6.2008	ALP
Bolkus, Hon. Nick	SA	30.6.2005	ALP
Boswell, Hon. Ronald Leslie Doyle	Qld	30.6.2008	NP
Brandis, George Henry <sup>(2)</sup>	Qld	30.6.2005	LP
Brown, Robert James	Tas.	30.6.2008	AG
Buckland, Geoffrey Frederick <sup>(4)</sup>	SA	30.6.2005	ALP
Calvert, Paul Henry	Tas.	30.6.2008	LP
Campbell, George	NSW	30.6.2008	ALP
Campbell, Hon. Ian Gordon	WA	30.6.2005	LP
Carr, Kim John	Vic.	30.6.2005	ALP
Chapman, Hedley Grant Pearson	SA	30.6.2008	LP
Cherry, John Clifford <sup>(3)</sup>	Qld	30.6.2005	AD
Colbeck, Richard Mansell	Tas.	30.6.2008	LP
Collins, Jacinta Mary Ann	Vic.	30.6.2005	ALP
Conroy, Stephen Michael	Vic.	30.6.2005	ALP
Cook, Hon. Peter Francis Salmon	WA	30.6.2005	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2008	LP
Crossin, Patricia Margaret <sup>(1)</sup>	NT		ALP
Denman, Kay Janet	Tas.	30.6.2005	ALP
Eggleston, Alan	WA	30.6.2008	LP
Ellison, Hon. Christopher Martin	WA	30.6.2005	LP
Evans, Christopher Vaughan	WA	30.6.2005	ALP
Faulkner, Hon. John Philip	NSW	30.6.2005	ALP
Ferguson, Alan Baird	SA	30.6.2005	LP
Ferris, Jeannie Margaret	SA	30.6.2008	LP
Forshaw, Michael George	NSW	30.6.2005	ALP
Greig, Brian Andrew	WA	30.6.2005	AD
Harradine, Brian	Tas	30.6.2005	Ind.
Harris, Leonard William	Qld	30.6.2005	PHON
Heffernan, Hon. William Daniel	NSW	30.6.2005	LP
Hill, Hon. Robert Murray	SA	30.6.2008	LP
Hogg, John Joseph	Qld	30.6.2008	ALP
Hutchins, Stephen Patrick	NSW	30.6.2005	ALP
Johnston, David Albert Lloyd	WA	30.6.2008	LP
Kemp, Hon. Charles Roderick	Vic.	30.6.2008	LP
Kirk, Linda Jean	SA	30.6.2008	ALP
Knowles, Susan Christine	WA	30.6.2005	LP
Lees, Meg Heather	SA	30.6.2005	IND
Lightfoot, Philip Ross	WA	30.6.2008	LP
Ludwig, Joseph William	Qld	30.6.2005	ALP
Lundy, Kate Alexandra <sup>(1)</sup>	ACT		ALP
Macdonald, Hon. Ian Douglas	Qld	30.6.2008	LP
Macdonald, John Alexander Lindsay (Sandy)	NSW	30.6.2008	NP
Mackay, Susan Mary	Tas.	30.6.2008	ALP
Marshall, Gavin Mark	Vic.	30.6.2008	ALP
Mason, Brett John	Qld	30.6.2005	LP
McGauran, Julian John James	Vic.	30.6.2005	NP
McLucas, Jan Elizabeth	Qld	30.6.2005	ALP
Minchin, Hon. Nicholas Hugh	SA	30.6.2005	LP
Moore, Claire Mary	Qld	30.6.2008	ALP
Murphy, Shayne Michael	Tas.	30.6.2005	Ind.
Murray, Andrew James Marshall	WA	30.6.2008	AD
Nettle, Kerry Michelle	NSW	30.6.2008	AG

## Members of the Senate

Senator	State or Territory	Term expires	Party
O'Brien, Kerry Williams Kelso	Tas.	30.6.2005	ALP
Patterson, Hon. Kay Christine Lesley	Vic.	30.6.2008	LP
Payne, Marise Ann	NSW	30.6.2008	LP
Ray, Robert Francis	Vic.	30.6.2008	ALP
Reid, Hon. Margaret Elizabeth <sup>(1)</sup>	ACT		LP
Ridgeway, Aden Derek	NSW	30.6.2005	AD
Santoro, Santo <sup>(6)</sup>	Qld	30.6.2008	LP
Scullion, Nigel Gregory <sup>(1)</sup>	NT		CLP
Sherry, Hon. Nicholas John	Tas.	30.6.2008	ALP
Stephens, Ursula Mary	NSW	30.6.2008	ALP
Stott Despoja, Natasha Jessica	SA	30.6.2008	AD
Tchen, Tsebin	Vic.	30.6.2005	LP
Tierney, John William	NSW	30.6.2005	LP
Troeth, Hon. Judith Mary	Vic.	30.6.2005	LP
Vanstone, Hon. Amanda Eloise	SA	30.6.2005	LP
Watson, John Odin Wentworth	Tas.	30.6.2008	LP
Webber, Ruth Stephanie	WA	30.6.2008	ALP
Wong, Penelope	SA	30.6.2008	ALP

- (1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
- (2) Chosen by the Parliament of Queensland vice Warwick Raymond Parer, resigned.
- (3) Chosen by the Parliament of Queensland vice John Woodley, resigned.
- (4) Chosen by the Parliament of South Australia vice John Andrew Quirke, resigned.
- (5) Appointed by the Governor of Tasmania, vice Hon. Brian Francis Gibson AM, resigned
- (6) Chosen by the Parliament of Queensland vice John Joseph Herron, resigned

### PARTY ABBREVIATIONS

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

### Heads of Parliamentary Departments

*Clerk of the Senate*—H. Evans

*Clerk of the House of Representatives*—I. C. Harris

*Departmental Secretary, Parliamentary Library*—J. W. Templeton

*Departmental Secretary, Parliamentary Reporting Staff*—J. W. Templeton

*Departmental Secretary, Joint House Department*—M. W. Bolton

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Minister for Transport and Regional Services and Deputy Prime Minister	The Hon. John Duncan Anderson MP
Treasurer	The Hon. Peter Howard Costello MP
Minister for Trade	The Hon. Mark Anthony James Vaile MP
Minister for Foreign Affairs	The Hon. Alexander John Gosse Downer MP
Minister for Defence and Leader of the Government in the Senate	Senator the Hon. Robert Murray Hill
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate	Senator the Hon. Richard Kenneth Robert Alston
Minister for Employment and Workplace Relations, Minister Assisting the Prime Minister for the Public Service and Leader of the House	The Hon. Anthony John Abbott MP
Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation	The Hon. Philip Maxwell Ruddock MP
Minister for the Environment and Heritage and Vice-President of the Executive Council	The Hon. Dr David Alistair Kemp MP
Attorney-General	The Hon. Daryl Robert Williams AM, QC, MP
Minister for Finance and Administration	Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry	The Hon. Warren Errol Truss MP
Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women	Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training	The Hon. Dr Brendan John Nelson MP
Minister for Health and Ageing	Senator the Hon. Kay Christine Lesley Patterson
Minister for Industry, Tourism and Resources	The Hon. Ian Elgin Macfarlane MP

**(The above ministers constitute the cabinet)**

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Minister for Fisheries, Forestry and Conservation	Senator the Hon. Ian Douglas Macdonald
Minister for the Arts and Sport	Senator the Hon. Rod Kemp
Minister for Small Business and Tourism	The Hon. Joseph Benedict Hockey MP
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Minister for Children and Youth Affairs	The Hon. Lawrence James Anthony MP
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Special Minister of State	Senator the Hon. Eric Abetz
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Minister for Revenue and Assistant Treasurer	Senator the Hon. Helen Coonan
Minister for Ageing	The Hon. Kevin James Andrews MP
Minister for Citizenship and Multicultural Affairs	The Hon. Gary Douglas Hardgrave MP
Parliamentary Secretary to the Prime Minister	The Hon. Jacqueline Marie Kelly MP
Parliamentary Secretary to the Minister for Transport and Regional Services	Senator the Hon. Ronald Leslie Doyle Boswell
Parliamentary Secretary to the Treasurer and Manager of Government Business in the Senate	Senator the Hon. Ian Gordon Campbell
Parliamentary Secretary to the Minister for Foreign Affairs	The Hon. Christine Ann Gallus MP
Parliamentary Secretary to the Minister for Defence	The Hon. Frances Esther Bailey MP
Parliamentary Secretary to the Minister for the Environment and Heritage	The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Finance and Administration	The Hon. Peter Neil Slipper MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry	Senator the Hon. Judith Mary Troeth
Parliamentary Secretary to the Minister for Family and Community Services	The Hon. Ross Alexander Cameron MP
Parliamentary Secretary to the Minister for Health and Ageing	The Hon. Patricia Mary Worth MP
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Shadow Minister for Innovation, Industry and Trade	Craig Emerson MP
Shadow Minister for Defence	Senator Chris Evans
Shadow Minister for Regional Development, Transport, Infrastructure and Tourism	Martin Ferguson MP
Shadow Minister for Population and Immigration	Julia Gillard MP
Shadow Minister for Economic Ownership and Community Security and Shadow Minister for Urban Development and Housing	Mark Latham MP
Shadow Minister for Reconciliation, Aboriginal and Torres Strait Islander Affairs, the Arts, and Status of Women	The Hon. Dr Carmen Lawrence MP
Shadow Attorney-General and Shadow Minister for Workplace Relations	Robert McClelland MP
Shadow Minister for Primary Industries and Resources	Senator Kerry O'Brien
Shadow Minister for Foreign Affairs	Kevin Rudd MP
Shadow Minister for Health and Ageing	Stephen Smith MP
Shadow Minister for Family and Community Services and Manager of Opposition Business in the House	Wayne Swan MP
Shadow Minister for Communications	Lindsay Tanner MP
Shadow Minister for Environment and Heritage	Kelvin Thomson MP

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

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Parliamentary Secretary (Manufacturing Industry)	Senator George Campbell
Parliamentary Secretary (Defence)	The Hon. Graham Edwards MP
Parliamentary Secretary (Northern Australia and the Territories)	The Hon. Warren Snowdon MP
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Parliamentary Secretary (Family and Community Services)	Senator Michael Forshaw
Parliamentary Secretary (Communications)	Christian Zahra MP
Parliamentary Secretary (Environment and Heritage)	Kirsten Livermore MP



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*Monday, 2 December 2002*

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

**RESEARCH INVOLVING EMBRYOS  
BILL 2002**

**In Committee**

Consideration resumed from 14 November.

The **CHAIRMAN**—The committee is considering the *Research Involving Embryos Bill 2002* and amendments (R2) and (R3) on sheet 2694 moved by Senator Barnett. The question is that the amendments be agreed to.

**Senator BARNETT (Tasmania)** (12.31 p.m.)—by leave—I request that consideration of these amendments be held over until such time as we can deal with the disallowance motion to be moved by Senator Collins. If we can sort through that particular matter, we can then come back to the consideration of the proper consent provisions. I think that dealing with these amendments further down the list is one way of saving time.

The **TEMPORARY CHAIRMAN (Senator Cherry)**—Do you want to move that consideration of the amendments be postponed?

**Senator BARNETT**—Yes. I move:

That further consideration of the amendments be postponed.

Question agreed to.

**Senator HOGG (Queensland)** (12.32 p.m.)—I move amendment (1) on sheet 2720:

- (1) Clause 9, page 8 (lines 1 to 4), omit paragraph (a), substitute:
  - (a) each such person has given written authority for the use of the human embryo for the sole purpose of harvesting the human embryonic stem cells consistent with the matters contained in paragraph 21(4)(b) and other than a purpose relating to ART treatment of the woman concerned, and the authority is in force at that time; or

The amendment proposes to change clause 9(2)(a) on the meaning of excess ART embryo on page 8 of the *Research Involving Embryos Bill 2002*. The specific changes are, firstly, to insert before the word 'embryo' the word 'human' so that we are dealing with a human embryo and, secondly, to replace the word 'purpose' with the phrase 'sole purpose of harvesting the human embryonic stem cells consistent with the matters contained in paragraph 21(4)(b)'. Paragraph (b) of clause 21(4) goes to the issue of licensing. In relation to the licensing system, division 4, 21(4)(b) states:

... the NHMRC Licensing Committee must have regard to the following:

(b) the likelihood of significant advance in knowledge, or improvement in technologies for treatment, as a result of the use of excess ART embryos proposed in the application, which could not reasonably be achieved by other means ...

The reason for my putting this amendment up in the first instance is that I believe the bill should reflect in its entirety the COAG agreement. I believe that the COAG agreement was specifically based on the issue of embryonic stem cells. If one changes clause 9 to read as I propose, it then relates to a specific use of embryonic stem cells as opposed to any other purpose that ART embryos may be considered for. That was never the purpose in the first instance of the COAG agreement. The COAG agreement was made in this area principally on the issue of surplus IVF embryos being made available for embryonic stem cell research and not for any other purpose. There was nothing in the debate that led to the COAG agreement or the debate that led to the bills that are now before this chamber, save for the Andrews report and the Senate Community Affairs Legislation Committee report, which mentioned the issue of excess ART embryos and their purpose—and their purpose being not other than for implantation but for research purposes. Those research purposes were for embryonic stem cells and not for a raft of other purposes which became obvious in the inquiry before the Senate Community Affairs Legislation Committee.

I will refer specifically to evidence cited in Senator Harradine's report to the Senate

Community Affairs Legislation Committee. In Senator Harradine's additional comments, he made reference to evidence given by Dr Morris of the NHMRC. Senator Harradine referred to the additional matters that now seem to be taken into account when one is considering the use of the excess ART embryos. These excess ART embryos, as I said in my speech in the second reading debate, were created in the first instance for the purpose of IVF. They were created for the purpose of the creation of life in a set of circumstances where a couple was unable to produce offspring. Whether one agrees with that or not, that was the stated purpose for which the IVF program was put in place. The IVF program was not put into place for other purposes, such as producing a by-product which can then be used in medical research. Whilst I am opposed to the bill, it looks as though, based on the numbers in this place, it is going to get up. In that case, one must look at using the excess ART embryos for the stated purpose, as I believe it was originally intended—and that was as a source of embryonic stem cells. On page 192 of the report of the Senate Community Affairs Legislation Committee, Senator Harradine outlined, from the evidence given by Dr Morris, a range of other issues which were to be considered for the use of these embryos:

The range of embryo research permitted by the Bill includes using human embryos to examine the effectiveness of new culture media used in assisted reproductive technology (ART) practice, to assist in understanding embryonic development and fertilisation, training clinicians in microsurgical ART techniques, transport, observation and storage of embryos, micromanipulation, lasering, cutting and dissecting, studies in genetic makeup and expression, quality assurance testing to ensure that pre-implantation diagnostic tests give accurate results, drug testing including toxicology studies on human embryos as well as the destructive extraction of embryonic stem cells.

That far exceeds the original proposal, as one understood from the debate surrounding the COAG agreement. Whilst this debate gets to the use of those excess ART embryos, one does not want to see that it is just going to be open slather, allowing these embryos to be used in a whole range of research areas that were not necessarily even advocated, or actively advocated, when this debate was tak-

ing place. One only needs to turn to the COAG communique itself and one will find that reference is made strongly to the issue of stem cell research—the focus not being on anything else other than human embryonic stem cell research. If one looks at paragraphs 6 to 8 of the communique, in the appendix to the report, one finds this:

6. The following principles should underpin nationally-consistent legislation:

6.1 legislation should ensure appropriate ethical oversight of research involving embryos based on nationally-consistent standards ...

So we are looking to nationally consistent standards for the research on these embryos. The communique goes on to say:

6.2 the nationally-consistent standards should be clear, detailed and describe the ethical issues to be taken into account, research which may be permitted and the conditions upon which it may be permitted ...

Given the way the current clause 9(2)(a) is framed, there could be a wide range of purposes for which the excess ART embryos could be used. That is the last thing that one would want to countenance, as far as I am concerned. I believe that clearly the issue was included for there to be a consistent approach, an approach for research. Whilst I do not necessarily subscribe to the research myself, the research would take place on the excess ART embryos. We will come to the issue of the limited number of excess ART embryos later on in this debate. The communique says, at paragraph 8:

Research with existing stem cell lines will be permitted ...

It goes on to say, at paragraph 10:

The ban on the development of embryos for purposes other than for assisted reproduction will be maintained and reviewed within three years taking into account the implications for therapeutic use of embryonic stem cells (as detailed in the Health Ministers' report, Chapter 4).

I am seeking with my amendment simply to ensure that there is the proper focus of the COAG agreement. The minister may well tell me that all of these other things are going to be excluded. But, from what I have read and heard, I do not believe that that is the case. I believe that there is a real necessity to ensure that the sole purpose, as I state in my

amendment, is for the harvesting of human embryonic stem cells consistent with matters contained in paragraph 21(4)(b), where there is a real chance and a significant likelihood that there will be an advance made as a result of the research. In other words, I am not about stopping the research; I want to see a proper definition put in place which will ensure the respect and the dignity that is appropriate to the excess ART embryos. I commend the amendment to the Senate.

**Senator NETTLE (New South Wales)** (12.45 p.m.)—I have a question for Senator Hogg. I am sorry if you answered the question in your explanation of the amendment. On the second part of your amendment, where you say ‘and other than a purpose relating to ART treatment of the woman concerned’, I wanted to ask whether you thought that your amendment, as is, facilitated the possibility of using embryonic stem cells for improving ART technology in itself other than for a purpose specifically related to the woman concerned, as is written in your amendment?

**Senator HOGG (Queensland)** (12.46 p.m.)—I did not give that a great deal of thought when I put the amendment together. As you can see, in framing the amendment all I did was insert the word ‘human’ in front of ‘embryo’; and then, in the existing proposal in the bill, instead of the word ‘purpose’, the words that I included were the words from ‘sole’ down to ‘21(4)(b) and’. So I tried not to disturb the intent that was there previously, but I tried to focus more on the issue that the excess ART embryos were for the purpose of embryonic stem cell research as opposed to necessarily a wider, more far-ranging group of other research activities that might take place—because I think that was the basic focus of this bill and the intent of that particular part of the bill.

**Senator STOTT DESPOJA (South Australia)** (12.48 p.m.)—I rise on behalf of all the Democrats to say that we will be opposing the amendment before us, which seeks to limit the use of excess ART embryos to deriving embryonic stem cells. For the information of the chamber—and because I suspect we are hoping to facilitate debate today, with so many amendments—out of courtesy

I thought I would inform the chamber of what we are doing in most cases. I would similarly inform Senator Barnett, who has an amendment—I think it is amendment No. 5—which attempts something similar, that we will also be opposing that amendment.

Based on Senator Hogg’s comments to the chamber, but also perhaps on broader debate on this issue, I suspect that this amendment is intended to reflect a claim that has been made in a number of submissions—and certainly in a number of submissions to the Senate Community Affairs Legislation Committee inquiry into this legislation—that the legislation went further than the intention of COAG. One of the reasons that has been put forward to support this view is the belief that COAG was only dealing with regulating access to embryos for the derivation of embryonic stem cells—but, the argument goes, the legislation is much broader than that, because it allows training, quality assurance, testing of culture media and so forth. The legislation does say that it is illegal for anyone to use any excess ART embryos unless they have a licence or unless it is an exempt activity. The real strength of this approach is that it seeks to avoid any loopholes and it treats all possible uses in an even-handed manner. This is one of the strengths of the legislation and something that we have certainly recognised before. The strength of this legislation is that it treats the uses of excess ART embryos even-handedly.

In a supplementary report prepared by Senator Webber, Senator McLucas and me, we have outlined in some detail that we believe that the bill is quite consistent with COAG, because there is nothing in the COAG communique that says it is only about embryonic stem cells. Just on that point, I note that, in Senator Hogg’s comments—and I am happy to be corrected—he talked about the idea that the COAG communique pretty much deals only with embryonic stem cells. If you refer to the communique—and certainly, in the committee report, we have done that—and particularly points 5 and 6, you will recognise that, indeed, it is broader than just dealing with the issue of embryos for the derivation of stem cells. That is covered in relation to point 8.

The derivation of embryonic stem cells is clearly discussed as one element in a general approach.

The amendment before us would effectively ban all research other than for the derivation of stem cells, including research that is non-destructive. It would also have a particularly negative impact on the IVF practice, because it potentially bans legitimate and longstanding research, quality assurance and training that involves the use of excess ART embryos donated by couples. For these reasons, the amendment is not supported.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (12.51 p.m.)—I thank Senator Stott Despoja for her brevity. The amendment seeks to confine permission to use excess ART embryos to the derivation of stem cells. COAG made no distinction between different types of research on excess ART embryos and it did not place restrictions on the types of research for which a licence may be sought. While the legislation does not limit the types of research for which a licence may be sought, it does include safeguards to ensure that trivial or inappropriate research involving embryos does not occur—that is, each application is to be considered and approved or rejected on its own merits.

This amendment would prevent couples from donating their excess ART embryos to IVF related research. Many couples want to donate their excess ART embryos for this type of research, in order to help other infertile couples to become pregnant. While the legislation does not limit the types of research for which a licence may be sought, it does include safeguards to ensure that trivial or inappropriate research involving embryos does not occur and that any application to undertake research involving excess ART embryos must be considered and approved by the Human Research Ethics Committee, according to a range of criteria set out in the NHMRC guidelines.

A similar amendment was moved in the lower house and was defeated. The bill that is now before this chamber and has been passed by the House of Representatives is nationally consistent with the approach de-

termined by COAG. It ensures appropriate ethical oversight, sets out clear standards underpinned by NHMRC guidelines, will be applied consistently throughout Australia, provides for public reporting and appropriately monitors compliance. All of those are outlined in the COAG communique at paragraph 6—6.1 to 6.5—as partially read out by Senator Hogg. I indicate that those who are supporting the bill will not be supporting this amendment.

**Senator CHRIS EVANS** (Western Australia) (12.54 p.m.)—On behalf of the formal Labor position, I indicate that we will be opposing the amendment for the same reasons as outlined by Senator Patterson and Senator Stott Despoja. I want to remind the chamber and anyone listening that in putting the official—

**Senator Patterson**—There is no-one listening.

**Senator CHRIS EVANS**—I am always surprised about how many people actually do listen.

**Senator Patterson**—We are not on air. They can read it.

**Senator CHRIS EVANS**—I know. They read and follow the debates very closely, as I found out when I was doing my shopping on Saturday morning, when someone bailed me up!

**Senator Patterson**—You're a SNAG, are you?

**Senator CHRIS EVANS**—I was shopping for my seven-year-old's birthday party that afternoon. I was after Chupa Chups and whipping cream. Let's get back to the subject—

**Senator Patterson**—And fairy bread?

**Senator CHRIS EVANS**—Yes, fairy bread—which was for me, not for the seven-year-olds! Returning to more serious matters, the Labor Party has a position in this debate where we will put a view on most amendments on behalf of the Australian Labor Party, but all Australian Labor Party senators will be allowed to exercise a conscience vote. I want to make that clear. But the formal position of the Labor Party is to oppose this amendment.

**Senator HOGG (Queensland)** (12.55 p.m.)—I am not going to drag this out; I know where the numbers lie on the issue. I obviously believe the point that I have put is correct—that is, quite contrary to what Senator Stott Despoja said, I do not think this is seeking to limit the use of excess ART embryos to responsible research. To me, it seems quite reasonable that this be done on the basis of where the argument came from. The argument originally arose out of the issue of using adult stem cell research to help to cure people's diseases versus the issue of embryonic stem cells. If anyone is under any illusion, the debate certainly did not reach any great depths or go to any great heights on the issue of excess ART embryos for other purposes. If there was a debate on that at all, it was a very silent debate; a debate in which few, if any, took part. The focus of the debate in this nation since the debate emerged has clearly been on the issue of whether embryonic stem cell research is better than adult stem cell or other forms of what I would think are responsible research. Having gone down that path, the whole COAG process involved people standing up and singing the virtues of embryonic stem cell research versus the advantages of using adult stem cell and other kindred forms of research.

Whilst there have been undertakings stated by the minister in her response to me today—and I believe the minister is sincere in giving those undertakings—one must be a little sceptical about how this debate will evolve in years down the track. When people look back at this debate and say that it was a wide-ranging debate, that will seem to be true, but people will have lost sight of the original stimulus for this debate taking place in the first instance in this nation—that is, it was clearly a debate on embryonic stem cells versus adult stem cells, in particular.

Whilst I concede that the minister quite rightly said that I did read only two of the sections of paragraph 6 of the COAG communicate, I did not mean to mislead. There is no doubt that the issue is raised there of research involving human embryos. It talks, as I said, of nationally consistent legislation being desired and that there should be an

appropriate ethical oversight and that the standards should be clear. The communicate also said:

6.3 these national standards should be applied consistently throughout Australia, recognising that jurisdictions may use different mechanisms to establish that proposals comply with the national standards;

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

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

I understand that we are going to do the bulk of that in the rest of this legislation, but it seems to me that, if we do not have the focus of the legislation correct in the first instance, certainly the purpose of the legislation will become broader and broader as time goes on. People often talk of the slippery slope, and it is my view that on this particular piece of legislation we are there already. As I said, the evidence contained in Senator Harradine's additional comments to the Senate Community Affairs Legislation Committee's report clearly outlines a vast range of uses, as seen by Dr Morris of the NHMRC, that one would not have ever even speculated on out there in the public when this broader debate took place. Chair, without using up more time in this valuable debate, I commend the amendment to the Senate. Whilst I do not think the numbers are there, I believe this is a just and proper amendment that should be moved at this time.

**The TEMPORARY CHAIRMAN (Senator Cherry)**—The question is that amendment (1) on sheet 2720 moved by Senator Hogg be agreed to.

Question negatived.

**Senator JACINTA COLLINS (Victoria)** (1.01 p.m.)—I seek leave to move together amendments (1) and (2) standing in my name on sheet 2693.

**The TEMPORARY CHAIRMAN**—Is leave granted?

**Senator HARRADINE (Tasmania)** (1.01 p.m.)—Before we grant leave, could I see where we are at? Senator Hogg has a second amendment on sheet 2720.

**The TEMPORARY CHAIRMAN**—No, we are up to amendments (1) and (2) on sheet 2693 to be moved by Senator Collins. She is seeking leave to move amendments (1) and (2) together.

**Senator HARRADINE**—Have we finished clause 10?

**The TEMPORARY CHAIRMAN**—No, we are in the middle of clause 10.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (1.02 p.m.)—I suggest that one way to help us may be to number the amendments—at least those on the first two pages. We could give them a subnumbering in order. That would mean that Senator Collins would be moving the fifth one and the ninth one, which are amendments to clause 10. Is that right? If we use the same nomenclature, we might be able to follow it. So it is the amendment in the middle of the page and the one at the end of page. Giving them subnumbers on the running sheet might help. I am calling them amendment (5) and amendment (9).

**Senator HOGG** (Queensland) (1.03 p.m.)—I think the nomenclature is very simple. If we call them amendments (1) and (2) on sheet 2693 that would be the simplest way for the purposes of Hansard and also for those many people who—as I, Senator Evans and others know—sit up on endless nights reading the *Hansard* of these proceedings.

**The TEMPORARY CHAIRMAN**—I think the minister can have her own numbering system and the rest of us will run off sheet 2693.

**Senator JACINTA COLLINS** (Victoria) (1.03 p.m.)—by leave—I move amendments (1) and (2) on sheet 2693:

- (1) Clause 10, page 9 (line 22), after “created”, insert “where the suitability of the embryo is determined only on the basis of its biological fitness for attachment”.
- (2) Clause 10, page 10 (after line 4), before the definition of *observation*, insert:

*diagnostic investigation*, in relation to an excess ART embryo, means any procedure undertaken on embryos for the sole purpose of diagnostic investigations for the direct benefit of the woman for whom it was created.

The background to these two amendments goes right back to the House of Representatives debate in relation to this bill, where Minister Andrews expressed concern about the exemption in the bill with respect to diagnostic investigations. He raised concern that this was something that had been considered by the Australian Health Ethics Committee. The basis of his concerns led me during the inquiry by the Senate Community Affairs Legislation Committee into this bill to seek further clarity from the Australian Health Ethics Committee. On that basis, I would like to thank Dr Breen for appearing at my request before the committee and for undertaking on notice to take back to the Australian Health Ethics Committee this specific question and to give us some clear guidance. Those of us who have been intimately involved with the progress of this bill will recall the advice that the NHMRC, under the signature of Assistant Professor Tobin, the Deputy Chair of the Health Ethics Committee, provided to the community affairs committee.

I should at this stage thank Senator Nettle, who has also picked up the issue in her amendments. Both of us have sought to adopt the advice of the Australian Health Ethics Committee on how to ensure that this exemption does not generate an unintended loophole that could cause future problems for what COAG has determined should be a strict regime.

I will take a moment to take the chamber back to the advice from the Australian Health Ethics Committee, again commending Dr Breen for his courage in bringing forward this statement. The position put was that members of the Australian Health Ethics Committee are not satisfied that this potential loophole has been removed and that two matters are still of concern. Senators need to be mindful that this was as a consequence of a discussion in the Senate committee where, if I recall correctly, Dr Breen said that, in the discussion of these sorts of things and in the consultation process, you give some ground in some places and you gain some ground in other places. I felt a bit uneasy at the time, when I was thinking, ‘Is this the way we conduct ethical debates on issues of princi-

ple?’ But Dr Breen took on board concerns raised and came back with the very strong position from the Health Ethics Committee that the consultation process that led to this bill had left them not satisfied that this potential loophole had been removed.

The two matters still of concern in the bill were that, firstly, the phrase ‘unsuitable for implantation’ is so broad as to allow a clinic, if it so wished, to deem any embryo—regardless of its biological condition—not fit for implantation and, secondly, the phrase ‘forms part of diagnostic investigations’ is similarly so broad as to allow a clinic to investigate embryos in ways which would constitute research as well as diagnosis. The letter then reads:

Several views were then expressed as to how this part of the bill might be redrafted so that it would deliver the strict regulatory regime for experimentation on embryos that it promises.

The first suggestion that came forward was that the wording of the bill could be improved: the phrase ‘unsuitable for implantation’ could be clarified so that the unsuitability of the embryo is determined only on the basis of its biology—for example, the poor physical appearance of the embryo. While in the AHEC advice this part is not in inverted commas as suggested wording, these are the words that Senator Nettle sought to adopt in her proposed amendment. Secondly, the phrase ‘forms part of diagnostic investigations’ could be clarified so that the investigation of the embryo is for the sole purpose of diagnostic investigations for the direct benefit of the woman for whom it was created—with the words starting from ‘is for the sole purpose’ clearly implying that this is the suggested wording of the Australian Health Ethics Committee.

In my amendments, especially since the words were in inverted commas, I adopted that into a definition of diagnostic investigation, which is clear in my amendment (2). I struggled a bit more with amendment (1) to try and give effect or meaning to the suggestions that had been raised by the Australian Health Ethics Committee. In regard to the suggestion in point 1, which is that the unsuitability of the embryo is determined only on the basis of its biology—for example, the

poor physical appearance of the embryo—and in contemplating biology and what interpretation might be put into this act in the future, certainly in my mind it was not clear that poor physical appearance gave a significant meaning to close a loophole. You then obviously ask what poor physical appearance really means.

That brings me back to my significant concern here. When we are talking about the biological issues involved in this exemption what we are really saying in my view is that the biological aspects of this embryo mean that it is not suitable for implantation because it would not lead to a viable or successful pregnancy—and that is all. We are not saying that, according to the biology, this embryo is carrying the cancer gene, so we will set it aside for research. We are not saying that, according to its biology, this embryo is female, so we will set it aside for research. We are not saying that, because of its biology, this embryo might have some form of disability, so we will set it aside for research. I think that most of us are pretty clear here that these are not the sorts of things we are saying. We are not providing a loophole which says that, for diagnostic purposes, anything other than the eugenically pure embryo is available for research.

With respect, while I am aware of some of the NHMRC advice on this issue and we are aware that it is only diagnostic investigation in relation to the particular woman involved, some of those arguments are quite circular, because AHEC have already told us that they do not think those factors are strong enough. They have already told us that we have to be more clear about why we are saying it is unsuitable for implantation.

Let me go back to why they say that. They say that the phrase ‘unsuitable for implantation’ is so broad as to allow a clinic, if they so wished, to deem any embryo—regardless of its biological condition—not fit for implantation. They are the words that AHEC suggested, and on this particular occasion I would not class it as stronger than a suggestion because, unlike in the second point where they give us precise words, on this occasion they just say to clarify it so that the unsuitability of the embryo is determined

only on the basis of its biology—for example, the poor physical appearance of the embryo. But we need to go one step back from that—they talk about its physical appearance or its biology, but for what purpose? The purpose really concerns whether it is biologically fit for implantation to survive a successful pregnancy.

The suggestion in my amendment (1) is stronger than Senator Nettle's on this point, because I go on to say 'where the suitability of the embryo is determined only'—and I stress the word 'only', which I am not sure is that clear in the further amendment but does come from the AHEC advice—'on the basis of its biological fitness for attachment'. I am also aware that some issues have been raised about the suitability of or how clear is the term 'attachment'. I am quite happy to change that word 'attachment' to 'implantation' in the amendment. I think the meaning or effect of that is quite clear.

**The TEMPORARY CHAIRMAN (Senator Cherry)**—Senator Collins, you can seek leave to amend that.

**Senator JACINTA COLLINS (Victoria)** (1.13 p.m.)—by leave—I move an amendment to opposition amendment (1):

Omit "attachment", substitute "implantation".

So it becomes very clear that we are talking about where the suitability of the embryo is determined only on the basis of its biological fitness for implantation. We are now not going down the path of its biological fitness for any other purpose. We are not talking about its biological fitness because it could be, if it were assessed or examined, identified that there was a gene or some other issue related to its fitness besides its ability or its fitness for implantation. In this way we avoid in this loophole going down the path of some of those very complex and difficult arguments about whether we should be determining the status of one embryo as regards another, aside from the issue of whether it is, in a sense, a viable life. We explore those issues in many other ethical debates, but in this particular case I really think that that is the crux of what this exemption was designed to achieve. We were told, 'We are having an exemption and that's okay because we are

really only going to use those embryos, those lives, that would not have been viable into the future.'

In thinking this through further, I was thinking that perhaps the example is that, if you were looking at whether to store or freeze these embryos, they might be the ones that do not end up being frozen because the determination is made that they were not ever going to be able to result in a viable pregnancy. These then, under these amendments, would be the only ones that would be available for diagnostic investigation. So these two amendments make the exemption much tighter. I think that is quite consistent with the advice from the Australian Health Ethics Committee. In fact, before some people get too caught up in exactly the words that the Australian Health Ethics Committee used, I have already noted that their first suggestion was simply that—a suggestion. It was not in inverted commas as the exact words that they would suggest, unlike their second suggestion.

But, if you read the next paragraph, they say, 'In addition, diagnostic investigations could become an activity requiring a licence.' This is not being proposed here. We are still accepting that an exemption could exist—albeit a very tight and strict exemption—but, unlike this additional issue raised by the Australian Health Ethics Committee, we accept that other problems could develop, if you go back and put them into the strict licensing regime. These two amendments accept that an exemption can occur but propose that it be as tight as possible and draw on the advice of the Australian Health Ethics Committee. I have sought to add some additional meaning to their first point that the unsuitability of the embryo is determined only on the basis of its biology—for example, the poor physical appearance of the embryo—but I have sought to express that in a way which gives clearer effect to the meaning, which is that we are talking about those embryos which, were they placed in the body of a woman, would be unlikely to lead to a successful pregnancy and it is only in those circumstances that they should be available for research. I will be interested to hear the discussion on these amendments. While I

understand that there is some support for Senator Nettle's amendment, I commend these amendments to the chamber. I think this is the more appropriate way to go, and I will be interested to hear senators' responses to these amendments.

**Senator STOTT DESPOJA (South Australia)** (1.18 p.m.)—I am happy to cover the amendments moved by Senators Collins and Nettle, and also Senator Hogg, for the purposes of facilitating the debate. My intention was always to listen to the arguments on the floor while acknowledging the benefits in both the amendments. Certainly, I think both Senator Nettle and Senator Collins have provided us with amendments that go to some of the concerns that have been raised by AHEC. I think the added commitment by Senator Collins in the chamber to amend her proposed amendment is most satisfactory and, therefore, we will be supporting Senator Collins's amendment.

In the course of the Senate inquiry, there was some discussion as to whether or not diagnostic testing should be an exempt activity and whether or not the wording contained in the legislation was in fact adequate. Part 2, clause 10 outlines the exempt uses of excess ART embryos including storage, removal from storage, transport of those embryos and diagnostic testing. The Democrats are satisfied that these are routine practices in ART clinics and that there are good reasons to make them exempt from requiring a licence. We also note that there is the capacity for the regulations to describe any other exempt practices, should they be identified. We think that is prudent. It is a reasonable provision, as it is not the objective of this bill to unreasonably impose on IVF routine, IVF practices. If I may have the indulgence of the committee to refer to Senator Hogg's proposed amendment to eliminate this capacity, while we may discuss that again, I flag to Senator Hogg—

*Senator Hogg interjecting—*

**Senator STOTT DESPOJA**—Okay, we will support that. Clause 10(2)(d) makes it quite clear that diagnostic testing can only be carried out by an accredited ART centre and the excess ART embryo is not suitable to be placed in the body of the woman for whom it

was created and the diagnostic investigations are specifically carried out for the benefit of that woman's treatment. We think the intent is quite clear that diagnostic testing should not be for general research and we are completely satisfied that such tests are a legitimate and routine part of the ART practice. Accordingly, we have indicated our concerns with Senator Hogg's amendment.

So that leaves us with Senator Collins's and Senator Nettle's amendments. Following discussion in the Senate inquiry between Senator Collins and Dr Breen from AHEC—to which Senator Collins referred in her remarks—the committee received advice on 18 October from AHEC that two matters are still of concern for AHEC. The phrase 'unsuitable for implantation' is so broad as to allow a clinic, if it so wished, to deem an embryo—regardless of its biological condition—not fit for implantation. And the phrase 'forms part of diagnostic investigations' is similarly so broad as to allow a clinic to investigate embryos in ways which could constitute research as well as diagnosis. AHEC suggested the wording of the bill could be improved thus:

The phrase 'unsuitable for implantation' could be clarified so that the unsuitability of the embryo is determined only on the basis of its biology, for example, the poor physical appearance of the embryo—  
which is essentially the text that Senator Nettle has relied upon in her amendment. AHEC further suggested:

Secondly, the phrase 'forms part of diagnostic investigations' could be clarified so that the investigation of the embryos is for the sole purpose of diagnostic investigations for the direct benefit of the woman for whom it was created.

Again, that is Senator Nettle's preferred wording. There may be a concern that Senator Collins's amendment is a little ambiguous in relation to the wording, in that 'biological fitness for attachment' raises the question: fitness for attachment to what? Certainly Senator Collins anticipated some of these queries and concerns, but I think both senators have recognised some of the outstanding problems and have taken into account AHEC's concerns. I acknowledge the com-

ments provided by Senator Collins and her amendments, which are satisfactory.

Finally, I observe that AHEC's contribution on this particular issue demonstrates that they take their responsibilities very seriously indeed, and I think that demonstrates that they warrant our confidence. This possibly stands in marked contrast to some adverse reflections on the NHMRC, and there have been attacks throughout this debate which should be corrected for the record. I think organisations such as AHEC are doing a good job under difficult circumstances. That is not to say that the Democrats would reject any attempts to further improve issues of transparency and accountability, but we certainly appreciate their feedback not only in the debate in the committee stage—particularly the interaction between Dr Breen and Senator Collins—but also more generally. We will be supporting the amendments moved by Senator Collins in preference to the one moved by Senator Nettle which is, indeed, still a good amendment.

**Senator HOGG (Queensland)** (1.24 p.m.)—In view of the comment by Senator Stott Despoja on my proposed amendment (2), whilst that is not before the chair I think it is appropriate that I make some comments on that now so that other speakers in this debate know what my position is. Senator Stott Despoja, I put that in, in the first instance, because there was no definition of 'diagnostic investigation'. My concern was, as it always has been in these pieces of legislation, that it was open to abuse. I welcome the amendments that have been put forward by Senator Collins and Senator Nettle. I will be supporting Senator Collins's amendment and, if Senator Collins's amendment is successful, I will then withdraw my amendment.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (1.25 p.m.)—I will not be supporting Senator Collins's amendments. I indicate, though, that if Senator Nettle is of a mind to move her amendment we will be supporting it. It fits more appropriately with the effect provided by AHEC, and I believe that the amendment proposed by Senator Nettle is preferable to that proposed by Senator Collins, even with her additional amendment to change 'fitness

for attachment' to 'implantation'. Given the time, I think that is all the reasoning I need to give. I will be supporting Senator Nettle's amendment over Senator Collins's amendment.

**Senator JACINTA COLLINS (Victoria)** (1.26 p.m.)—Thank you, Minister. I am sorry that I did not hear the first part of those comments. I am unclear because I have not received directly some of the advice other participants in this debate have, so perhaps you could put clearly on the record for me the advice you have received as to why you are opposing these amendments.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (1.26 p.m.)—Senator Collins's first amendment, like Senator Nettle's amendment, seeks to strengthen the wording of the exemption in clause 10 relating to diagnostic investigations. I do not consider Senator Collins's amendment to be necessary because I believe that the exemption is already very strongly worded and there is no potential for loopholes. The legislation provides a range of safeguards ensuring that general research activities cannot avoid licensing by relying on the exemption for diagnostic investigations. While I believe the criteria for exemption are sufficiently strong and provide for very limited exemption to allow valuable diagnostic work to be undertaken in the treatment of a particular woman, I am also aware that this exemption has been of concern to a number of people. In particular, I am aware of the advice of the Deputy Chair of the Australian Health Ethics Committee that the wording of the exemption could be strengthened by the inclusion of a few words.

As I indicated, I am prepared to support an amendment that gives effect to the advice provided by AHEC. However, I believe that the amendment proposed by Senator Nettle is preferable to that proposed by Senator Collins. Senator Nettle provides that the 'embryo is not suitable to be placed in the body of the woman for whom it was created, because of its biological condition, including poor physical condition'. This aligns with that suggested by the Deputy Chair of AHEC and, given the strong and central role AHEC

have had over the last five or more years, I believe that this would be a more appropriate amendment. As I said, I will be opposing Senator Collins's first amendment but propose to support the amendment proposed by Senator Nettle. Senator Collins's second amendment seeks to include a new definition of 'diagnostic investigation'. Again, given my support for the Nettle amendment, I will not be supporting this amendment.

**Senator JACINTA COLLINS (Victoria)** (1.28 p.m.)—I am somewhat surprised by the response of the Minister for Health and Ageing on this point, particularly the statement that there was not a loophole. What started me down this path was the second reading debate in the House of Representatives, in which Minister Andrews said that he still had concerns with the [Research Involving Embryos Bill 2002](#) as drafted and that this loophole would occur. I can only presume that the draft as presented is the consequence of the consultation process that the NHMRC went through. That is why, in the Senate Community Affairs Legislation Committee, I said to the Australian Health Ethics Committee: 'Are you happy with the result of this consultation process? Are you happy that concerns you raised were taken seriously and are you happy with the outcome?' On this particular issue the Australian Health Ethics Committee—quite courageously, in my view, given some of the practices I have become aware of over time—said, 'No, we are not.' Their letter said, 'Members of AHEC are not satisfied that this potential loophole has been removed.' I reinforce the point back to the minister and to the Senate:

Two matters are still of concern. The phrase 'unsuitable for implantation' is so broad as to allow a clinic, if it so wished, to deem any embryo, regardless of its biological condition, not fit for implantation.

Aside from the phraseology of this bill, what does that tell us about the confidence of the Australian Health Ethics Committee and how they think a clinic might seek to apply this exemption? I think there is a very strong warning in those words. Let me read them again:

The phrase 'unsuitable for implantation' is so broad as to allow a clinic, if it so wished, to deem any embryo, regardless of its biological condition, not fit for implantation.

I have already commended Senator Nettle for picking up the suggestion in this AHEC letter. When I first read it and took note of the fact that it did not have these words in inverted commas, as indeed it did have for the second element of their suggestion, I read it as their suggestion that we look at this and give some serious consideration as to how best to tie it up as much as we can, which is what I did. The letter continues:

The unsuitability of the embryo is determined only on the basis of its biology, for example the poor physical appearance of the embryo.

With respect to Senator Patterson, beyond simply a preference for wording something one way or the other I have not heard any significant reason why tightening this exemption to the biology of the embryo in terms of its viability for implantation is not satisfactory as a way of tightening this loophole in the view of the Australian Health Ethics Committee. On the basis of their response on the last occasion I raised this issue with them, I would be quite surprised to hear them come back and say, 'No, actually we think that is too strong; you have tightened it too strongly.' Their advice to us was, 'Tighten it; it needs to be tightened. We do not have confidence in clinics not using this phrase "unsuitable for implementation" to deem any embryo up for research.'

We already know from our hearings that some of these clinics are open to many things. A number of the senators on the committee were quite surprised to hear that Sydney IVF is doing gender selection, not for health related reasons or to do with genetic issues but simply for anyone who wants to use IVF as a means of determining that their next child be male or female. We do not want to see the consequences of this in terms of the handling of embryos under this exemption. The only embryos that should be available under this exemption are those that would not result in a viable pregnancy. No other biological reason should be a factor. I believe that Senator Nettle's wording still allows that possibility. We do not have the

further benefit of the Australian Health Ethics Committee's advice on this, but I think the intent of their response to my questions was quite clear: tighten it as much as you possibly can. In fact, they went one step further and said to put them into the licensing requirement—even though they then discounted that suggestion on the basis that other problems would eventuate. I can only suggest most strongly to the committee that we look at tightening this loophole as much as we can. I do not accept Senator Patterson's view that there really is not a problem here. In fact, I am surprised that that position has been represented to her.

**Senator NETTLE (New South Wales)** (1.33 p.m.)—I want to clarify my position on these amendments. I think that, as others have articulated in the chamber, Senator Collins and I are taking up the same concerns that have been expressed by the Australian Health Ethics Committee and we have different ways in which we are proposing to tighten the current legislation. I will be supporting Senator Collins's amendment because I feel that it goes even further than my own in terms of clarifying the tightness that we can put into this legislation. However, I will continue to pursue my own amendment in the event of Senator Collins's amendment not being supported.

**Senator CHRIS EVANS (Western Australia)** (1.34 p.m.)—I want to indicate that, while Senator Nettle is losing confidence in her amendment, I am going to support it. The Labor Party's official position is that we accept that both Senator Nettle and Senator Collins have sought to pursue an issue that some say represents a loophole. Certainly, we have seen advice from AHEC that says that the senator's concern is reasonable and that we need to look at this question. As we have argued previously, we have tried as much as possible to remain consistent with the COAG agreement. We have tried not to move too far away from that because of the unique process they went through, when they got the agreement of all the states and territories. We want to respect that as much as possible while still allowing the Senate to do its proper job of reviewing the legislation with some rigour. We are persuaded on balance

that Senator Nettle's amendment most accurately reflects the advice from AHEC and provides sufficient protection against the concerns raised. On behalf of the ALP—although senators will have a conscience vote—I indicate that we will be supporting Senator Nettle's amendment but opposing Senator Collins's and Senator Hogg's.

**Senator BARNETT (Tasmania)** (1.36 p.m.)—I stand briefly to indicate support for Senator Collins's amendments. I appreciate the comments made by Senator Nettle in support of Senator Collins's amendment, because it addresses the same issue. But there is an understanding, and I certainly support the view, that it does tighten the bill and eliminates the loophole that is in the bill at the moment. That has been identified by AHEC, as has been indicated already in the debate, and I am not going to go through it all again.

I acknowledge the comments made by Senator Stott Despoja. My understanding is that she supports the amendment of Senator Collins now that it has been slightly amended to tighten the bill, so we have support in that regard. I indicate to those who might be listening to this debate in their office or elsewhere that this does tighten the bill. The amendment will improve the bill. For those who may philosophically have a different view from my own, this amendment is essentially a technical one but it does tighten the bill and eliminate this loophole. There seems to be some consensus that the loophole needs to be eliminated; it is a matter of how best to achieve that, and this is the best way to achieve the elimination of that loophole.

**Senator HARRADINE (Tasmania)** (1.37 p.m.)—I think it is desirable to look at what COAG has said. COAG is very clear in what it is saying about the use of ART embryos. I read from the first page of appendix 3:

The Council agreed that research involving the destruction of existing excess ART embryos be permitted under a strict regulatory regime to enable Australia to remain at the forefront of research which may lead to medical breakthroughs in the treatment of disease.

Notice it says 'may lead'. It does not say that they are convinced about it, nor does it say

that there has been proof of concept of any treatment utilising excess ART embryos. What it does say—and I remind the Labor Party that this is what it says—is that there needs to be a strict regulatory regime. I will be referring to this along the way, because I do not think that this is a strict regulatory regime at all. The arguments have been put forward by both Senator Collins and Senator Nettle about the problems identified by the Australian Health Ethics Committee. Those arguments are indisputable. It is a question of whether we can have the strictest regulatory regime. It has been acknowledged by all around this chamber that the proposal put forward by Senator Collins is the strict regulatory regime that is being requested. That strict regulatory regime is being requested by COAG. The advice from Senator Nettle, who also thought of this as an amendment, as I heard her, was that the proposal by Senator Collins is stricter than hers and that she was supporting it. I see that as an indication to the chamber that the proposal by Senator Collins should be supported, and I do so.

Question agreed to.

Original question put:

That the amendments (Senator Jacinta Collins's) be agreed to.

The committee divided. [1.45 p.m.]

(The Chairman—Senator J.J. Hogg)

Ayes.....	38
Noes.....	<u>30</u>
Majority.....	8

AYES

Abetz, E.	Allison, L.F.
Alston, R.K.R.	Barnett, G.
Bartlett, A.J.J.	Bishop, T.M.
Boswell, R.L.D.	Brown, B.J.
Buckland, G. *	Calvert, P.H.
Chapman, H.G.P.	Cherry, J.C.
Collins, J.M.A.	Conroy, S.M.
Ellison, C.M.	Greig, B.
Harradine, B.	Harris, L.
Heffernan, W.	Hogg, J.J.
Hutchins, S.P.	Kemp, C.R.
Kirk, L.	Lees, M.H.
Lightfoot, P.R.	Macdonald, J.A.L.
McGauran, J.J.J.	Minchin, N.H.
Murphy, S.M.	Murray, A.J.M.

Nettle, K.	Ridgeway, A.D.
Santoro, S.	Scullion, N.G.
Sherry, N.J.	Stephens, U.
Stott Despoja, N.	Watson, J.O.W.

NOES

Bolkus, N.	Campbell, G.
Campbell, I.G.	Carr, K.J.
Colbeck, R.	Cook, P.F.S.
Crossin, P.M.	Denman, K.J.
Evans, C.V.	Faulkner, J.P.
Ferguson, A.B.	Ferris, J.M.
Johnston, D.	Knowles, S.C.
Ludwig, J.W.	Lundy, K.A.
Mackay, S.M. *	Marshall, G.
Mason, B.J.	McLucas, J.E.
Moore, C.	O'Brien, K.W.K.
Patterson, K.C.	Payne, M.A.
Ray, R.F.	Reid, M.E.
Troeth, J.M.	Vanstone, A.E.
Webber, R.	Wong, P.

\* denotes teller

Original question, as amended, agreed to.

**Senator NETTLE (New South Wales)** (1.49 p.m.)—Given the successful amendments moved by Senator Collins which have just been passed by the Committee of the Whole, I would now like to withdraw amendment (1) on sheet 2705 standing in my name.

**Senator HOGG (Queensland)** (1.50 p.m.)—I also indicate that, upon the success of the amendments just passed, I will withdraw amendment (2) on sheet 2720 standing in my name. I move amendment (3) on sheet 2720:

(3) Clause 10, page 9 (lines 31 and 32), omit paragraph (f).

The reason for moving this amendment—and it may well be, subject to how the debate proceeds on this, something that I might review later as part of this debate—is that it goes to the fact that we are being asked to give a blank cheque when we have yet to see any regulations. With amendment (3), I am seeking to remove clause 10(2)(f) of the **Research Involving Embryos Bill 2002**. Clause 10(2)(f) reads:

(f) the use is of a kind prescribed by the regulations for the purposes of this paragraph.

So we are looking at an exempt use. When read in conjunction with clause 10(2), 10(2)(f) reads:

(2) A use of an excess ART embryo by a person is an *exempt use* for the purposes of subsection (1) if:

... ..

(f) the use is of a kind prescribed by the regulations for the purposes of this paragraph.

I do not intend to spend a great deal of time on this other than to say that, as I understand it, there are no regulations at this stage and, more importantly, no regulations proposed for the future. In the future, even if there were regulations, this clause would give a blank cheque to a person gaining an exemption under this provision. I do not think that is warranted. Indeed, it is really buying a pig in a poke, so to speak. It really avoids parliamentary accountability. As I said, it is like handing over a blank cheque to the licensing committee. In the spirit of the COAG agreement, I believe there is a need for transparency and accountability and I think that this clause, as it is currently constructed before this chamber, should be deleted at this stage. I seek the cooperation of the chamber in seeing that that takes place.

**Senator STOTT DESPOJA (South Australia)** (1.53 p.m.)—The Democrats do not support this amendment. As it is, the legislation already has a significant impact on IVF practices, including increasing costs as routine practices such as training, quality assurance and testing the effectiveness of new culture media will now require a licence. We believe it is prudent and reasonable to allow for regulations that identify other practices that should legitimately be exempt but are unintentionally caught by the wording of this particular clause.

I understand that any additional exempt uses that may be recognised in future regulation will require the agreement of the states and territories and will come before the parliament. Accordingly, we are satisfied that this provision will not be used as a backdoor mechanism to describe activities as being exempt when they should require a licence.

**Senator HARRADINE (Tasmania)** (1.54 p.m.)—I wish to ask the minister a couple of questions, but if anybody wants to speak on this subject I will sit down and wait for her return.

**Senator Ian Campbell**—Ask the questions, Brian.

**Senator HARRADINE**—I think it is very vital. If you have a look at the whole regime of this legislation, you can see that it requires—and much is made of this in the COAG agreement—a licensing committee. Even if you do not, as I do, oppose the legislation you at least ought to stick to what the COAG agreement was. The COAG agreement envisages the use of excess ART embryos after a licence has been obtained from a specific licensing committee which is to be established under the act. This particular clause exempts certain experiments and research from those provisions. We just have to look at what the exemptions are. Clause 10(2)(d) states:

A use of an excess ART embryo by a person is an *exempt use* for the purposes of subsection (1) if:

... ..

(d) the use is carried out by an accredited ART centre, and ...

That is point No. 1. That accredited centre can do anything it likes. It does not have to ask for an agreement or a licence or anything else, provided it is an accredited ART centre. Who gives that accreditation? None other than the industry itself. If we have a look at the definition of 'accredited ART centre' on page 6 of the bill, it says:

*accredited ART centre* means a person or body accredited to carry out assisted reproductive technology by:

- (a) the Reproductive Technology Accreditation Committee of the Fertility Society of Australia ...

It is the industry; it is not an independent organisation at all. I want to ask the minister: what supervision is made of the body that gives this accreditation? You have this in the legislation; how do we know whether we should put all of our confidence into the hands of that accreditation committee when there is no legislation or other independent authority involved? Bear in mind that the accredited ART centre can simply give permission for the use of excess ART embryos for a whole range of purposes so that the researchers and others involved do not have to obtain a licence. In due course, I would

like to hear from the minister as to how that accreditation committee will be run and who will manage it. Is it simply an industry body?

I am surprised that the Labor Party would go along with this. I thought we were supposed to say, 'No, we're not giving willy-nilly support to the industry to set up an industry committee for this, that or the other thing.' You are playing into the hands of the industry. You are not protecting innocent life or the women who may be affected; you are just leaving it to an industry body. I do not accept that. I would not accept it in the trade union movement and I do not think you ought to accept it in respect of this particular area.

Progress reported.

#### QUESTIONS WITHOUT NOTICE

##### Finance and Administration: Leaked Document

**Senator SHERRY** (2.00 p.m.)—My question is to the Minister for Family and Community Services, Senator Vanstone. Can the minister confirm that the Department of Finance and Administration consulted with her department in preparing the secret agenda document for an ageing Australia, which was revealed in the media yesterday? Doesn't that document prove that the Liberal government is planning to increase the pension age?

**Senator VANSTONE**—I thank Senator Sherry for giving me the opportunity to yet again set the record straight. Senator Sherry, I think it has been pretty clear through the media—perhaps you are not in touch with mass communications; I do not know why—that the paper you refer to was prepared by the Department of Finance and Administration. I do not know whether anyone from there consulted anyone in my department.

**Senator Sherry**—They did.

**Senator VANSTONE**—It did not go to the Minister for Finance and Administration; it did not come to me. It was not sought by me, nor by the finance minister. Here is the bottom line, Senator Sherry: you wish, don't you, that you could have an issue to run on to attack the government?

**Senator Sherry**—Never, ever?

**The PRESIDENT**—Order! Senator Vanstone, would you address your remarks through the chair.

**Senator VANSTONE**—Mr President, he wishes that he had an issue he could attack the government on. Do you know why he wishes that? Because he has not got an issue to run on himself. His party have got nothing to say, no policies—

**Senator Sherry**—Never, ever?

**Senator VANSTONE**—other than I know that you are not too sure about whether you will protect Australians if they were under attack. You can have a few meetings about that and decide what you are going to do. So let me make it unequivocally clear for you, Senator: this proposition to which you refer is a no-goer—full stop.

**Senator SHERRY**—Mr President, I ask a supplementary question. Isn't it true that as recently as 20 November the Prime Minister, Mr Howard, alluded to changes in the pension when he said:

In maximising labour force participation, it is important that the skills and experience of older Australians are fully utilised and that the social safety net is focused on those in need, yet does not deter participation and self-reliance.

Why is the government so determined to make Australians work until they drop?

**Senator VANSTONE**—Senator Sherry will not get a job writing novels either, because that is just a bit too melodramatic. The Prime Minister's remarks stand. Of course some people are wanting to work longer and of course we are interested in people working longer—

**Senator Sherry**—And you want to make them do it; you want to force them.

**Senator VANSTONE**—but that is, as it has always been made clear, a matter of choice. Since Senator Sherry did not understand the first answer, let me repeat it to him: this proposition is a no-goer. It was not sought by the ministers, it is not being entertained and it is a no-goer.

**Senator Sherry**—Never, ever?

**The PRESIDENT**—Senator Sherry, I remind you that shouting across the chamber

is against the standing orders and is disorderly.

#### Health Insurance: Rebate

**Senator KNOWLES** (2.03 p.m.)—My question is to the Minister for Health and Ageing, Senator Patterson. Will the minister update the Senate as to the success of the Howard government's policies that have seen the pressure taken off Medicare and the public hospital system? In addition, is the minister aware of any recent statements calling for the abolition of the 30 per cent private health insurance rebate, and what impact would such a move have on Medicare and the public hospital system?

**Senator PATTERSON**—I thank Senator Knowles for her question and her interest in health issues over the time that she has been in the Senate. It is a shame that the Labor Party politicians on the other side do not have the same interest. When Labor were in government, the private health system, as I have said before, was dangerously and perilously close to being non-existent. The membership of private health insurance was running at about 33 per cent and even the then Minister for Health, Graham Richardson, said that it was totally unsustainable as it was. With our Lifetime Health Cover and with our rebate, we have brought it up to 44 per cent and we have seen a significant increase in membership and a significant increase in the use of private hospitals.

When Labor were in their last years of government, premiums were increasing by an average of eight per cent per year and Australians were dropping out of private health insurance at the rate of two per cent per year. We have restored the balance between the public and the private system in terms of hospitals. We have pursued policy options, and at every step along the way Labor have resisted them—basically motivated by their blind ideological opposition to private health care. They have been unable to acknowledge the success of our programs. Almost nine million Australians now have private health cover, and they all get and enjoy the benefits of the coalition's 30 per cent rebate. The rebate has been the cornerstone of our policies, and it has taken the pressure off Medicare and our public hospitals.

The latest figures from the Australian Institute of Health and Welfare, which are based on the figures provided by the states—I repeat: those figures are provided by the states—show that in 2000-01 public hospital admissions decreased by minus 0.1 per cent and private hospital admissions increased by 12 per cent. That is a massive 12 per cent increase compared with the decrease in public hospital admissions. This is before we even begin to see the real impact of lifetime cover, which will come in over a period of time. The figures are even more interesting when you look at the states one by one. In New South Wales, public admissions fell by 7,370 or minus 0.6 per cent and private admissions grew by 35,486 or 5.9 per cent. In Queensland, public admissions fell by 19,267 or minus 2.7 per cent and private admissions grew by a massive 73,903 or 16.3 per cent. In South Australia, public admissions were down by 2,961 or minus 0.8 per cent and private admissions grew by 24,511 or 15.3 per cent.

On the face of this obvious and overwhelming success, the Labor Party maintain their opposition to private health care. We awoke to screaming headlines this morning on Labor's clear intent to dismantle the rebate. I said the other day here in the chamber that one thing we can guarantee is that private health insurance will be 30 per cent cheaper under the coalition. The fact that the Labor Party are going to take the rebate away—and they have now basically let the cat out of the bag—represents an attack on Australian families and pensioners. Last year, Labor went to the election promising to retain the rebate in full, and in February this year—this is their flip-flop on policy—the Leader of the Opposition said:

We've said that this is now a big part of people's budgets and we went to the last election retaining the private health rebate. We won't be changing that.

It is a bit like the l-a-w tax cuts that we had in the 1993 election. He said that on 5 February. Not quite a year on, the leader has now changed that—he is openly canvassing the idea of opposing it. The person he has given the task of reviewing Labor's policies is Jenny Macklin. She is quoted in the *Can-*

*berra Times*, saying that the rebate 'is a huge area of expenditure and a lot of people are figuring out that it isn't worth having'. Let me tell you that thousands of people who have actually had surgery undertaken in private hospitals when they would have been on a public hospital waiting list—(*Time expired*)

#### **DISTINGUISHED VISITORS**

**The PRESIDENT**—Order! I draw the attention of honourable senators to the presence in the gallery of a delegation from the Senate of Thailand, led by Dr Borwornsak Uwanno. On behalf of honourable senators, I have very much pleasure in welcoming you to the Senate and I trust that your visit will be both informative and enjoyable.

**Honourable senators**—Hear, hear!

#### **QUESTIONS WITHOUT NOTICE**

##### **Finance and Administration: Leaked Document**

**Senator SHERRY** (2.08 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Can the minister confirm that the leaked Department of Finance and Administration paper revealed in the media yesterday was prepared in April this year as part of the policy development for the Intergenerational Report? Can the minister confirm that, in addition to containing a number of measures already adopted by the Liberal government, the paper includes a proposal to increase the preservation age at which people can access their superannuation? Will the minister rule out an increase in the preservation age for accessing superannuation?

**Senator COONAN**—Thank you, Senator Sherry. I gather that what Senator Sherry is really asking is whether the government is planning any increase in the age at which superannuation benefits can be accessed. As honourable senators would know, the government provides substantial tax concessions for superannuation in order to promote self-provision in retirement. Appropriate restrictions on the release of superannuation monies are required. The government recently increased the preservation age from 55 to 60 on a phased basis between the years 2015 and 2025. This means that for somebody born before 1 July 1960 the preservation age

will remain at 55 years, while for someone born after 30 June 1964 the preservation age will rise to 60. This change aims to reduce the opportunities for people to double-dip—that is, to use their concessional tax superannuation benefits for non-retirement income purposes and then access the age pension. I am aware that a report was apparently prepared by a temporary employee of the Department of Finance and Administration which raised the prospect of increasing the age pension age. This paper has no official status.

**Senator SHERRY**—Mr President, I ask a supplementary question. I note the minister did not rule out a further increase in the preservation age. Is the minister aware that on 7 August 2002 the Treasurer stated:

More flexible working arrangements, training and re-training, and raising the preservation age for superannuation would all be positive moves to address this issue.

In light of this, when will you disclose your secret agenda to increase the preservation age for Australian superannuation?

**Senator COONAN**—The leaked Department of Finance and Administration report canvasses the issue, but it was prepared by somebody who was engaged temporarily, who is no longer with the department, and it represents the author's personal views. It is an internal working document only. It was prepared as a basis for internal discussion. The department does not endorse the views or proposals in the document. It has not undertaken work to develop the proposals. I do not know how much clearer I can be.

**Senator Sherry**—Rule it out! You won't rule it out!

**The PRESIDENT**—Senator Sherry, I remind you again that shouting across the chamber is disorderly.

##### **Budget: Mid-Year Economic and Fiscal Outlook**

**Senator SANTORO** (2.11 p.m.)—My question is directed to Senator the Hon. Nick Minchin, the Minister for Finance and Administration. Will the minister provide the Senate with an update on the performance of the Australian economy outlined in the Mid-Year Economic and Fiscal Outlook released

last week? Will the minister outline the benefits of the government's strong economic management? Is the minister aware of any alternative policies?

**Senator MINCHIN**—I thank Senator Santoro for his excellent question and acknowledge his very deep interest in matters economic, unlike those opposite. As Senator Santoro said, the mid-year update of the budget which the Treasurer and I released last week does show that the Australian economy remains in a very strong position. We have discounted growth by 0.75 per cent because of one of the worst droughts this nation has ever experienced, and we do have a relatively uncertain international economic environment. But the Treasury is still forecasting growth of three per cent in this financial year and four per cent in the following financial year, so we do continue to be one of the fastest-growing economies in the developed world.

The underlying cash surplus at the mid-year point is forecast to remain at \$2.1 billion for this financial year and to increase in the following year. Of course this is at a time when many of our competitor nations and comparative nations have very significant deficits. The unemployment rate is forecast to remain steady at six per cent, and inflation will remain in the band of two to three per cent. We have also announced additional counter-terrorism measures in the wake of the Bali tragedy and we have made provision for extra spending in relation to exceptional circumstances in the drought, in order to ensure that Australian farmers can cope with this very severe situation. I think the fact that we have been able to cope with the drought, September 11 and the Bali situation does demonstrate just how strong the current budget situation is and how good our economic management has been.

I was asked particularly about MYEFO and I take this opportunity to make some comments about accusations by those opposite that budget transparency has somehow been diminished, which is of course a very strange claim coming from a party that, when going to its last election in government, hid from the Australian people a \$10,000 million deficit—one of the worst

examples of hiding the true situation we have ever seen. We have revolutionised the transparency of the budget since Labor was in office. For example, the MYEFO document that we released last week was 168 pages of detailed information. When Labor was in office, the midyear update rarely exceeded four pages.

The public and the opposition have much more detailed information available to them now about the Commonwealth government's financial position than has ever been the case. We do now report the budget not only in cash terms but also in accrual terms. I think the problem is that the Labor Party has never understood accrual accounting and simply gets confused by all of the information we now make available to it. We release a detailed MYEFO, a final budget outcome document, monthly financial statements and a set of fully audited consolidated financial statements. When we had just cash budgeting under Labor, all we had given to the parliament from the government were the cash flows of the budget. They did not provide any information on the overall financial position of the government.

Labor has also raised the issue of special accounts. Of course, they are not new. We have had special accounts in one form or another since 1908, and their purpose has not changed. All of these accounts were endorsed by the parliament when they were established via legislation or determination, and Labor has not voted against any single special account created under our government. They are all audited by the ANAO. There were in fact more of these special accounts when Labor was last in office and there was more money in those special accounts when Labor was last in office. Under our government, the budget is as strong and as transparent as any budget in the Western world.

#### **Ministerial Conduct: Senator Coonan**

**Senator FAULKNER** (2.16 p.m.)—My question is directed to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Can the minister confirm that, according to the most recent information from the Australian Electoral Commission, her husband is enrolled to vote at a property in

Paradise Avenue, Avalon, on Sydney's Northern Beaches—a property which she and her husband have referred to as their 'weekender'? What is the effect of this enrolment on the liability for land tax and capital gains tax on this property?

**Senator Hill**—Mr President, I raise a point of order. I put it to you that the issue of property ownership or even of the enrolment of Senator Coonan's husband has no relevance to her portfolio whatsoever and the question should therefore be ruled out of order.

**Senator FAULKNER**—Mr President, on the point of order: I think a question to the Minister for Revenue about the liability for capital gains tax is very much in order and I would ask you to so rule.

**Senator Alston**—Mr President, on the point of order: as I understood the last part of the question, it was seeking legal advice as to liability in certain circumstances. That is not appropriate for question time, either, and Senator Faulkner well knows it.

**The PRESIDENT**—Given the remarks that have been made, Senator Faulkner, I think that perhaps you should consider rephrasing the question—in particular, the inquiry about a minister's husband.

**Senator FAULKNER**—Mr President, on the point of order: can you explain to me why I must reframe the question to the Minister for Revenue or, frankly, to any minister of the government? In this instance, I responded to a point of order that was made by Senator Hill. I did not go more broadly. Clearly, the minister is the Minister for Revenue. An impact on a federal tax—in this case, on the capital gains tax—surely is in order for the Minister for Revenue to answer. I suggest to you that it is not appropriate for me, nor is there any need for me, to reframe the question that I have asked.

**Senator Alston**—Mr President, on the point of order, which Senator Faulkner seemed unwilling to accept: I would have thought that even Senator Faulkner would accept that it would not be appropriate to ask the Minister for Revenue about the private affairs of other individuals, given that she is an adult and presumably does not have full

control over her husband's affairs. There is absolutely no reason for presuming that somehow she is aware of his financial circumstances or his liabilities. In other words, once you accept that she is not being asked about her own affairs and the impact they might have on her responsibilities, you ought to treat her husband just as you would treat any other citizen. I cannot for a moment imagine that even Senator Faulkner would suggest that it is appropriate to ask questions about ordinary citizens in this place.

**Senator FAULKNER**—Mr President, on the point of order: the question arises from comments attributed to Senator Coonan and Senator Coonan's husband in an article in today's *Sydney Morning Herald*.

**Senator Lightfoot**—Mr President, on the point of order: as everyone knows, revenue is, of course, state based. It is not within the jurisdiction of the minister to comment on revenue that arises in the state of New South Wales. With respect to the GST, that only comes about if there is a sale—and we have no idea whether there is a sale. Even then, we do not know—nor should we—whether that property is held in joint tenancy or tenancy in common, or whether in fact the Assistant Treasurer has any equity in that property whatsoever. I therefore put it to you, Mr President, that the question that was directed concerned the Assistant Treasurer's husband and has no validity in this chamber.

**The PRESIDENT**—I intend to rule the question out of order at this point and I will take advice. But, given the fact that you are asking a minister to answer questions on behalf of her husband, I do not believe it is relevant. I shall take advice on that.

**Senator Faulkner**—Are you going to call me for another question?

**The PRESIDENT**—You will get a question after Senator Ridgeway.

**Senator Cook**—Mr President, on the point of order, since you indicated that you intend to rule this way but have not yet ruled this way, why would you not allow the minister to answer the question if she so chooses? That has been a device that other presidents in this chamber have used when questions have been arguably marginal as to

whether they are within a minister's portfolio. Allow the minister to answer the question if she so chooses.

**The PRESIDENT**—Senator Faulkner, I would allow you to ask that question again if you were to ask a question that the minister can answer—in other words, as you would understand, you may ask her the parts of question that do not refer to an opinion on her husband.

**Senator FAULKNER**—Thank you, Mr President. I do not believe there is any need to reword the question but I will do so, regardless. My question is directed to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Has the minister checked her obligation in the Prime Minister's code of ministerial conduct in relation to the statements she has made on her property holdings? Specifically, can the minister confirm the statement reported in the *Sydney Morning Herald* today that renovations to her house in Woollahra were completed in April 2000—that is, nearly a year before her husband changed his enrolment? Is it also true that the New South Wales Office of State Revenue sent out land tax bills of new valuations in February and March 2001—

**The PRESIDENT**—Order! Time for asking the question has expired.

**Senator FAULKNER**—The clock was not put on. With respect, the clock was not put on this question for one minute, Mr President. The clock has not been on for over half a minute. The clock has not been on. Concluding my question, I ask whether this has nothing to do with renovations and everything to do with tax.

**Senator COONAN**—Mr President, I could not understand the question. As there was so much cavilling and going backwards and forwards on the question, I do not know what the question was. Quite honestly, I cannot tell what it was.

**Senator Brown**—Mr President, I rise on a point of order. It was difficult to hear that question. The senator says that she cannot answer that question because she could not hear it. Therefore, in the interest of the whole Senate, I ask that the question be put yet again.

**Senator FAULKNER**—Mr President, I ask a supplementary question. I ask the minister what the effect of her husband's enrolment was on liability for land tax and capital gains tax on the property at Paradise Avenue, Clareville. Can the minister confirm her statement in today's *Sydney Morning Herald* that the renovations to her house in Woollahra were completed in April 2000—that is, nearly a year before her husband changed his enrolment? Is it also true that the New South Wales Office of State Revenue sent out land tax bills of new valuations in February and March 2001, and did her husband change his enrolment within weeks? Isn't it obvious that this has nothing to do with renovations and everything to do with tax?

**Senator Hill**—I rise on a point of order, Mr President. That is a restatement of the question that you ruled out of order. It is asking the minister a number of questions about her husband's enrolment and his taxation liabilities. You correctly, I respectfully suggest, ruled that out of order as not being relevant to her ministerial responsibilities, and you should stand by that ruling.

**Senator Faulkner**—Mr President, on that point of order, the supplementary question I have asked is a restatement of the question I was invited by you to re-ask. I did re-ask it. If you check the *Hansard* record, I think you will find there is very little difference between that and the primary question I asked, which no-one took a point of order on and which you did not rule out of order. Surely, if that is the case, the supplementary question must be in order.

**Senator Brown**—Notwithstanding that, Mr President, you did not rule on my original point of order, which was that the question should be treated as the primary question, because the minister was not able to adequately hear it and therefore could not respond. This is a very important question, and the minister ought not be restricted to one minute in giving her reply. She should be given the full opportunity of the allocated four minutes to respond to that question.

**The PRESIDENT**—I do not believe there is a point of order, Senator Brown, but I do take note of the points you have made. Senator Faulkner, your supplementary ques-

tion was certainly different from the amended question you asked, and I rule the part that referred to Senator Coonan's husband out of order. I do not believe it is right that you should be asking questions about a person's—

**Senator Faulkner**—So is that one sentence out of order?

**The PRESIDENT**—It was certainly a different question from the first one you asked. Senator Coonan, do you wish to answer that part of the question which has not been ruled out of order?

**Senator COONAN**—Yes. I have complied meticulously with the ministerial guidelines. I have absolutely no interest, and never have had any interest, in any property at Clareville. The property at Clareville that seems to have excited so much interest from those opposite was owned by my husband before we were married, and we have been married for about 20 years. That means it cannot be subject to capital gains tax. The property was purchased many years before capital gains tax was introduced in 1985. As those opposite should be aware, capital gains tax does not apply to assets owned before 1985. The Labor Party should know this, because they introduced capital gains tax. There is no liability for capital gains tax, either now or when the property is sold—*(Time expired)*

#### National Security

**Senator BARTLETT** (2.29 p.m.)—My question is to the Minister representing the Prime Minister, Senator Hill. As the minister would know, on 16 October this year the Prime Minister ordered the Inspector-General of Intelligence and Security, Mr Blick, to assess all information received regarding possible warnings of the Bali bombings and to report to the Prime Minister on his findings. I note that on 26 November the Prime Minister told the bereaved father of one of the Bali bombing victims that Australian intelligence agencies did not receive any prior warning of the attack. Can the minister indicate whether the report from Mr Blick has gone to the Prime Minister? If not, when is it expected to be provided? Will the government be ensuring that the report

from Mr Blick be made public so that Australians can be informed as to whether the state of intelligence gathering and warnings regarding potential terrorist attacks are operating as effectively as possible?

**Senator HILL**—According to evidence given by Mr Blick to the estimates committees—and I am sorry that we did not seem to see many Democrats at the estimates committees on this occasion—he is undertaking his responsibility and conducting that inquiry, but I got the impression it will be a little time yet before it is completed. In relation to the question of making the results public, I answered a similar question from Senator Faulkner some time ago in which I said that I expect that there will be a public statement arising out of the report. How much of the report itself would be able to be made public will depend on that part that has to remain secret, for obvious reasons. Certainly it is important that the findings of substance as they relate to the issues are made public, and I am sure that would be the attitude of the Prime Minister.

**Senator BARTLETT**—Mr President, I ask a supplementary question. In light of the ongoing reviews of Australia's intelligence operations and their adequacy in the region that are being undertaken by the government, can the minister indicate whether that will include the widespread failings that were identified by the Senate Select Committee on a Certain Maritime Incident regarding the SIEVX sinking, and whether that will also include the inadequacies identified by the Australian National Audit Office into the coordination of our intelligence operations?

**Senator HILL**—The inquiry being conducted by Mr Blick is related to intelligence associated with the Bali bombing and not to any other issues. In saying that, I would dispute the assertion of failings in relation to SIEVX. I take the opportunity to commend the defence forces not only for their efforts in effectively protecting our boundaries but also for their significant effort in rescuing those at sea in another incident in which they were able to intervene. They take the responsibility of safety at sea extremely seriously, and I am rather disappointed that the Democrats wish to revisit that issue in a negative tone. It

would perhaps be a good idea for the Democrats to start to act a little more constructively.

**Ministerial Conduct: Senator Coonan**

**Senator FAULKNER** (2.32 p.m.)—My question is directed to Senator Coonan, the Assistant Treasurer and Minister for Revenue, and it follows on from the grudging answer to my previous question. Minister, isn't it true that the property at 16 Paradise Avenue, Clareville is recorded by the New South Wales Land Titles Office as being owned by Karnick Trustees Pty Ltd? Can the minister confirm that this company has been deregistered by ASIC under section 574 of the Corporations Act for failing to comply with statutory reporting requirements? Is it not true that property owned by deregistered companies is transferred to ASIC? As the minister in the portfolio with responsibility for ASIC, can the minister inform the Senate why ASIC has failed to notify the Land Titles Office that it is the owner of the Paradise Avenue property which she claimed in the newspaper was her weekender?

**Senator COONAN**—Thank you, Senator Faulkner, for keeping up the attempt! Senator Faulkner's question goes to the ownership of the property. I do not know. I have not searched the record. I believe it belongs to my husband. I do not know whether it belongs to interests associated with my husband. My husband has an adult family from his previous marriage. He has arrangements that cater for them. I do not know very much about this property, and I am really unable to help Senator Faulkner as to how it is registered.

Senator Faulkner perpetuates an absolute fiction that I have ministerial responsibility for ASIC and for corporate governance matters. That is a furphy, that is completely wrong, and Senator Faulkner knows that. My colleague Senator Ian Campbell has ministerial responsibility for ASIC and for corporate governance matters, and I answer questions on his behalf in this chamber.

**Senator FAULKNER**—Mr President, I ask a supplementary question. Perhaps the minister could explain, if she does not know about the ownership of the property, why she

gave her previous answer. I ask the minister, who does answer questions in relation to ASIC matters in this chamber, to explain the capital gains tax implications of a property which is transferred to ASIC due to the deregistration of the company owner. Can the minister confirm that her husband's failure to transfer this property into his own name once the family trust company was deregistered in March 1993 in fact has resulted in nine years of deferral of capital gains tax liability?

**Senator Hill**—Mr President, I raise a point of order. What is being sought is a legal opinion, which is improper in the first instance. Senator Coonan has answered in relation to her husband. She understands that he owns this property. What flows from that is her husband's business and not hers and has nothing whatsoever to do with her portfolio responsibility. Therefore, this question is out of order and should be so ruled.

**Senator Faulkner**—Mr President, on the point of order: again my question goes to what is the responsibility of the minister in this chamber in terms of those question which it is proper for her to answer. She answers questions in relation to ASIC. She answers questions in relation to the revenue implications of all matters relating to capital gains tax. There cannot be an argument that this question in its entirety is not in order. All Senator Hill is trying to do is to stop the question being asked. It is an obvious and transparent case of another cover-up by the government.

**The PRESIDENT**—Senator Faulkner, I believe that your supplementary question was very similar to the previous questions you have asked. It does go into similar types of principles that occur under a senator's declaration and a spouse's declaration, as you would be aware, and so I rule that out of order.

**Health Insurance: Rebate**

**Senator LEES** (2.37 p.m.)—My question is to the Minister for Health and Ageing, Senator Patterson. The minister is obviously aware, given her answer to Senator Knowles earlier in question time, of the fact that all state and territory governments have this weekend called for the private health insur-

ance rebate to be scrapped. Given that the rebate is costing over \$2.5 billion a year, if not over \$3 billion, and that a large percentage of this money goes to people who already had private health insurance and would still have it without the rebate, and given that the very small reduction in admissions to public hospitals that she mentioned earlier was back last year, in 2001—this year in the first half of the year, they have increased by around 1.6 per cent—I ask the minister whether she will consider abolishing the rebate and instead putting this money, \$2.5 billion to \$3 billion, directly into Australia's health system.

**Senator PATTERSON**—The answer is no.

**Senator LEES**—Mr President, I ask a supplementary question. As the minister has given us such a short answer, I take it she is not even prepared to consider that the benefits flowing through to the public health system would be considerably greater if that money went directly into it. Firstly, will the minister at least commit to a review of the impact of the private health insurance rebate on the health of the most vulnerable Australians—in other words, the sickest members of our community—and look specifically at whether it would be better to means test and cap the rebate? Secondly, will she commit to looking at other methods of 'restoring the balance'—and I quote from her answer to Senator Knowles—between the public and private health systems, such as a bed day subsidy for when private beds are actually used, so putting back the subsidy that the Labor Party scrapped some years ago?

**Senator PATTERSON**—Here is what the Labor Party and Mr Crean said about the rebate:

We've said that this is now a big part of people's budgets and we went to the last election retaining the private health rebate. We won't be changing that.

There is the Labor Party's position. Now they are talking about changing it. Let me say that thousands upon thousands of people who are waiting in queues to get into public hospitals for surgery and other procedures have been able to get into private hospitals—a 12 per cent increase in patients going into

private hospitals. The minus 0.6 per cent decrease in last year's figures—the AIHW figures that Senator Lees is referring to—is from a survey of, I think, 30 hospitals undertaken by the public hospitals association. The figures we are going on are last year's figures based on what the states give us, not on a survey of 30 hospitals undertaken by the public hospitals association. The rebate on private health insurance has actually made private health insurance sustainable in the future, enabling private hospitals to build more beds and deliver services to people who need them. (*Time expired*)

#### **Ministerial Conduct: Senator Coonan**

**Senator CHRIS EVANS** (2.40 p.m.)—My question is directed to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Can the minister confirm that she has recently listed her property in Woollahra in her 18 September 2002 declaration of interests as an investment property? Can the minister also confirm that this same property has been previously listed in her declaration of interests as her private residence? Can the minister explain the apparent change in usage of her residence?

**Senator COONAN**—That is a very easy question. It was purchased as an investment property, it was let for a while and then we moved into it to live in.

**Senator CHRIS EVANS**—Mr President, I ask a supplementary question. My question to the minister indicated that in her most recent declaration she had listed it as an investment property, after previously listing it as a private residence, so her explanation seems to be at odds with the sequence of events in her declaration. Can the minister please explain why in her declaration of interests this change has occurred and whether or not that address is in fact her residence? Can she also confirm that she is listed as being on the electoral roll at this address? When will the minister be updating the electoral information as to where she actually lives?

**Senator COONAN**—I live in Woollahra, and I have lived there for some years, apart from a short period whilst that property was being renovated. The property is actually in

two titles, but it is one property. It is the only property I own. I have paid all tax on it. I paid tax when it was let. It is my home, and I always intended to return to that home—even though I moved out, obviously, when the roof was off. It would have been a bit difficult to live there under those circumstances. Once it was habitable, I moved back. That is permissible under section 4 of the Electoral Act, and under section 99 a senator can enrol in any part of a subdivision of a division irrespective of where they live. I have always lived there, and that is where I stay.

### Drought

**Senator FERRIS** (2.43 p.m.)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Ian Macdonald. Can the minister outline what additional actions the Howard government is taking to assist farmers who are facing hardship in drought-stricken regions of Australia?

**Senator IAN MACDONALD**—I thank Senator Ferris very much for that question, which I thought the Labor Party would have been interested in today, as it is obviously a matter that is very severely affecting some 70 per cent of Australia. I am aware that Senator Ferris has recently been out west of Bourke and would have experienced firsthand the terrible impacts that the drought is having on agricultural industries and on families in that area. As Senator Ferris will know, virtually all of New South Wales is in drought, and some areas are experiencing their lowest rainfall in recorded history. I understand that where you were, Senator Ferris, they have not seen rain for some 2½ years.

The cost of the drought to Australian farmers and their families and the communities they support will be enormous at both an economic and a financial level. The Howard government well appreciate the difficulty being experienced in country Australia at the moment. We expect to provide an additional \$370 million over the next two years in exceptional circumstances drought payments for relief to farmers in the areas that we expect may qualify based on current rainfall data. As of today, more than 1,300 farmers in

four states are in receipt of Commonwealth EC drought relief payments. A further 1,000 are receiving welfare assistance under the Farm Help program.

In the last two weeks, more than 5,000 farmers have become eligible for interim exceptional circumstances assistance. On 13 November the Commonwealth declared Bourke and Brewarrina as an exceptional circumstances area, and five other regions have been, *prima facie*, designated for exceptional circumstances assistance. Interim income support is available to farmers in these areas. These regions include Peak Downs, Walgett, Coonamble, Grafton, Kempsey, the majority of the Western Division of New South Wales and also northern New England. For every \$1 that the states contribute towards exceptional circumstances, the Commonwealth contributes something like \$25. The effort from the Commonwealth is large. Regrettably, the states are still dragging the chain.

In addition, the Howard government has given \$5 million to the Farmhand appeal to help those in very needy circumstances. The Farm Management Deposit Scheme, which we are very proud of on this side of the chamber, has accumulated some \$2 billion, and that means the Commonwealth government will forgo something like \$470 million in revenue. Mr Howard announced the other day that there would be earlier access to those farm management deposits, and we are going to provide an exemption to the 12-month waiting period for access to the Farm Management Deposit Scheme for farmers in an EC drought declared area. We are also going to provide additional money through the Family and Community Services portfolio for personal counselling in drought affected areas. That will be up to \$2 million. We have committed \$10 million for drought funding under the Australian government Envirofund, a new program element to assist in recovery and to help with land, water, vegetation and the biodiversity resource base that affects drought. We have also provided additional money for pest animal management grants and we have given \$1 million to the Country Women's Association for emergency aid funding. (*Time expired*)

**Ministerial Conduct: Senator Coonan**

**Senator CONROY** (2.47 p.m.)—My question is to Senator Coonan, the Assistant Treasurer and Minister for Revenue. Can the minister assure the Senate that her husband's false enrolment was not designed to manipulate electoral outcomes but was instead designed—

**Senator Hill**—Mr President, I raise a point of order. The question is offensive and irrelevant.

**Senator CONROY**—I was wondering if I could finish the question before you made a ruling.

**The PRESIDENT**—I will hear the rest of the question, but the first part sounded out of order to me.

**Senator CONROY**—I had not even finished the first part.

**The PRESIDENT**—Let us hear it.

**Senator CONROY**—Thank you. I will start again. Can the minister assure the Senate that her husband's false enrolment was not designed to manipulate electoral outcomes but was instead designed to assist in the avoidance of tax? When her colleagues were fulminating in the Senate about false enrolments in Herbert, was she aware of her husband's change of enrolment? Did she discuss it with him? Did she try to dissuade him?

**Senator Hill**—Mr President, on a point of order: her husband's business is her husband's business, quite apart from the fact that the question is being phrased in an offensive way. I would suggest that you rule it out of order and that the opposition get on with something that is relevant to their task.

**The PRESIDENT**—I ruled earlier on the fact that Senator Coonan's husband's business is his business, so I rule that question out of order, Senator Conroy. Do you have a supplementary question?

**Senator CONROY**—I can rephrase.

**The PRESIDENT**—Okay.

**Senator CONROY**—Did the minister witness her husband's electoral enrolment at the—

*Government senators interjecting—*

**The PRESIDENT**—I have ruled the question out of order, but Senator Conroy is going to rephrase it, I believe.

**Senator CONROY**—Thank you, Mr President.

*Government senators interjecting—*

**Senator CONROY**—No, I didn't. I thanked him for inviting me to rephrase. Did the minister witness her husband's electoral enrolment at the Clareville weekender?

**Senator Hill**—Mr President, on a point of order: the question is totally out of order. The question of whether she witnessed an enrolment is not within her portfolio whatsoever. It has got nothing to do with her policy or portfolio responsibilities. It might be an interesting dirt-raking exercise for the opposition, but it does nothing for the standing of this chamber and it is contrary to the standing orders. I respectfully suggest that the question be ruled out of order.

**Senator Faulkner**—Mr President, on the point of order: as I think you would be aware, because you have been in this chamber a long time, presidents have consistently ruled in questions going to ministerial standards and propriety. For such questions—questions, I say to you, that have been asked in very similar form previously to ministers—I suggest you check the *Hansard*, for example, in relation to former Minister Parer. Questions similar in form to those that have been ruled in order previously have been ruled out of order by you today. As a general rule, issues or questions that go to standards of ministerial propriety have been allowed by the chair and they ought be allowed by the chair.

**Senator Alston**—Mr President, on the point of order: that may well be so, but it has got nothing to do with whether or not a spouse has behaved in a particular fashion. If Senator Faulkner's or Senator Conroy's point is that standards of ethics and propriety and integrity are somehow affected by someone witnessing a document, I cannot understand the logic of it. All you are doing when you witness a document is vouching for the fact that it is that person signing it. You are not somehow saying, 'I believe implicitly in what they say.'

**Senator CONROY**—Are you serious?

**Senator Alston**—Absolutely. Otherwise you would be a cosignatory to the document rather than a witness. It ought to be quite clear that this is nothing more than an attempt to smear. Guilt by association has nothing at all to do with the subject matter of Senator Coonan's responsibilities.

**Senator Robert Ray**—Mr President, on the point of order: I am not sure that you can ever have a supplementary question to one that has been ruled out of order, but I took it that you allowed Senator Conroy to rephrase his question. His question went to the propriety of the minister signing something. It is within the ministerial code of conduct—honest dealings. The minister was asked whether she signed the change of enrolment for her partner. That part of the question is in order and can be answered in terms of the ministerial code.

**Senator Alston**—Mr President, on the point of order: the question did not ask about signing; it asked about witnessing. There is a world of difference, as Senator Ray well knows.

**Senator CONROY**—Mr President, could you clarify for Senator Alston that the question was: did the minister witness her husband's electoral enrolment at the Clareville weekender? You should have been available for a number of people up in Queensland to argue the case you have argued.

**The PRESIDENT**—I think that particular part of the question is in order. Senator Coonan, do you wish to answer that question? It is asking you for a precise yes or no, I believe.

**Senator Faulkner**—Mr President, I rise on a point of order. You can make your own judgment, Mr President, but I say to you that your statement about what Senator Conroy was asking and what the answer should be is totally inappropriate. I am amazed that a member of the government did not take a point of order. The minister is entitled to answer the question as she sees fit. I ask you to rule in favour of my point of order and I ask you to withdraw what you said.

**The PRESIDENT**—I do rule in favour of your point of order. I did make a mistake,

and I ask Senator Coonan to answer the question.

**Senator COONAN**—What the question apparently goes to certainly does not establish any impropriety. The Labor Party are labouring mightily to try to establish a conflict of interest with my portfolio responsibilities or my ministerial responsibilities. There is not one single concrete fact that could ground a complaint of conflict of interest against me. The Labor Party have simply failed to establish that I had any interest at all in Endispute—that was last week—that required divestiture of my share, but I did it anyway. The Labor Party have failed to establish that I have ministerial responsibility for ASIC and for governance matters; I clearly do not. They will fail to establish that my husband is a consultant to ASIC. He was eight years ago and has not been since. Next there was an attempt to implicate my portfolio in relation to capital gains tax, but a simple search shows that this property can under no circumstances be liable to capital gains tax; so that horse will not run. There is not a shred of evidence that any area of my ministerial portfolio responsibilities is involved in any of these allegations, nor that my own conduct can be questioned. This attempted attack on me through my husband is as threadbare as it is vicious. Labor are fishing up a dry gully here. It will be seen for what it is: a desperate attempt to slur me to divert attention from their own pathetic lack of policy.

**Senator CONROY**—Mr President, I ask a supplementary question. I repeat: did the minister—who did not answer the question—witness her husband's electoral enrolment at the Clareville weekender? I draw to the minister's attention the statement where you sign on the enrolment form, 'I am satisfied that all of the details above are correct.' That is what is on the form. That is what is witnessed. Did you witness this enrolment form?

**Senator Hill**—Mr President, I raise a point of order. If the assertion is in any way correct, it would be the person signing the form who would be asserting that the facts are correct, not the witness asserting that the facts are correct, so I respectfully suggest

that in the supplementary question the honourable senator has misled the minister. Not only is it irrelevant—not only is it not within her portfolio—but also it has been put to her in an inaccurate form. I therefore suggest that the supplementary question should be ruled out of order.

**Senator Faulkner**—On the point of order, Mr President: how could you possibly rule a supplementary question out of order when no-one took a point of order and you certainly did not rule the primary question out of order? Surely the task here is for the minister to answer the supplementary question that has been properly asked by Senator Conroy and deserves a proper and considered answer from the minister?

**The PRESIDENT**—I did call Senator Coonan. She is about to answer the supplementary question.

**Senator COONAN**—I am sorry, I just could not hear anything.

**The PRESIDENT**—Senator Conroy, could you ask the supplementary question again.

**Senator CONROY**—I am happy to repeat it if she did not hear it, if that assists. The question I asked was this. The minister did not answer the original question, which was: did the minister witness her husband's electoral enrolment at the Clareville weekender? This is an electoral enrolment form, and in the witness section it states: 'I saw the applicant sign this form. I am satisfied that all statements in it are true.' Did you witness this electoral enrolment form?

**Senator COONAN**—I do not know, Senator Conroy. I would have to have a look.

#### National Security

**Senator BARTLETT** (2.58 p.m.)—My question is to the Minister representing the Prime Minister and the Minister representing the Minister for Foreign Affairs. I draw the minister's attention to the Prime Minister's comments suggesting pre-emptive strikes by the Australian government on people in other sovereign nations in order to prevent a possible terrorist attack. As the minister would be aware, the Prime Minister's comments have already received criticism from the Philippines, Indonesia, Thailand and Malaysia.

Will the Prime Minister withdraw or, at a minimum, clarify these damaging and aggressive comments which have clearly damaged perceptions of Australia in our region, or will he follow the extraordinary advice of the Minister for Foreign Affairs that nations that misinterpret what the Prime Minister has said 'have to live with the consequences of their misinterpretation'?

**Senator HILL**—I have the words of the Prime Minister here. He was asked, if people in another country were planning an attack on Australia, would he be prepared to act. He said:

Oh yes, I think any Australian Prime Minister would. I mean, it stands to reason that if you believed that somebody was going to launch an attack against your country, either of a conventional kind or of a terrorist kind, and you had a capacity to stop it and there was no alternative other than to use that capacity then of course you would have to use it.

I totally endorse what the Prime Minister said. I think it is the position that every reasonable Australian would support and I cannot actually think of any acceptable alternative. If the honourable senator or those in the Labor Party who have gone out and attacked this statement therefore indicate that a Prime Minister would have to turn aside until Australia was attacked, I think that is beyond comprehension. It is beyond any realistic interpretation of responsibility and comprehension. Instead, I suggest to the Leader of the Australian Democrats that he recognise this as a responsible answer to the question as it was put, endorse it and stand by the Prime Minister, who is prepared to act to protect Australians and Australian interests rather than look for a short-term free kick that he thinks in some way will advance his interests.

*Government senators interjecting—*

**Senator BARTLETT**—Mr President, I ask a supplementary question. I note the interjection from the government side saying, 'You are either with Australia or with Saddam Hussein'. It shows the level of debate we have from government senators on this issue.

**Senator Robert Ray**—Was that from Senator Lightfoot?

**Senator BARTLETT**—No, I think it was actually from the front bench. If this partly quoted response from the minister is so reasonable, so clear-cut and so defensible, why has it drawn such strong condemnation from four very important near neighbours?

*Government senators interjecting—*

**Senator BARTLETT**—I note also the comments from the government side by way of interjection that those countries can go jump and we will decide our own foreign policy rather than listen to them. Will the minister at least, by way of proper government approach, decide at a minimum to clarify these comments, or is the government basically going to stand by the interpretations that Thailand, Malaysia, the Philippines and Indonesia have taken of these comments, as aggressive, illegal, inappropriate 19th century comments? Will he clarify them and clear up these misconceptions? (*Time expired*)

**Senator HILL**—I cannot speak for third parties, but I can say that the Prime Minister will act to protect Australians and he will do so within the law. Mr President, I ask that further questions be placed on the *Notice Paper*.

#### QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

##### Ministerial Conduct: Senator Coonan

**Senator COONAN** (*New South Wales—Minister for Revenue and Assistant Treasurer*) (3.03 p.m.)—Mr President, in question time I was asked to clarify something in my senators' declaration of interests. I have had those sent over from my office, and I can confirm that the declaration of interests on 11 February correctly lists the purpose of my Woollahra residence as a residence—that is what it is. Subsequently, there has apparently been some typographical error, because I have never left there.

*Opposition senators interjecting—*

**Senator Faulkner**—Are you still laughing, you complete fool, Senator Abetz?

**Senator Abetz**—At your questions I am, yes.

**Senator Faulkner**—You are a complete fool!

**The PRESIDENT**—Order! Senator Coonan is trying to make a statement. Would you please be quiet.

**Senator COONAN**—I take these declarations very seriously. I want to put it on record as soon as I possibly can that the earlier one, which I directed my mind to very carefully because it was part of my ministerial guidelines, correctly lists the property as residence. Subsequently, my PA has apparently transcribed it incorrectly in relation to a declaration dated 16 September. That is to correct the record.

#### QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

##### Ministerial Conduct: Senator Coonan Finance and Administration: Leaked Document

**Senator FAULKNER** (*New South Wales—Leader of the Opposition in the Senate*) (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 opposition senators today relating to superannuation and to her financial interests.

I want to acknowledge at the outset that Senator Coonan has come in and indicated that she has made an error in relation to her pecuniary interest return. That is as it should be. It is proper for the minister to identify that as soon as possible. Of course, it could also be noted that Senator Coonan signed both those returns, which gives me little confidence in the level of diligence she applies to these tasks. However, having done that, I think there are a range of other issues on which Senator Coonan needs to respond appropriately and quickly to the Senate. Senator Coonan needs to understand that she is the Minister for Revenue and Assistant Treasurer in this country. That is the second most senior position in the administration of the Treasury portfolio and the tax office—one rung down from Mr Costello. Despite this crucial job, the Assistant Treasurer, through her family company arrangements and her property portfolio, is unable to satisfy the Senate about the taxation arrangements she is involved in.

In the last sitting week the Senate has already exposed the minister's tardy resignation from family company Endispute, which no doubt led to ASIC charging a late lodgment penalty against the company secretary, her husband, Mr Rogers. I asked Senator Coonan about those arrangements on 13 and 14 November. Mr Rogers's company report, lodged with ASIC on 15 November, reveals she resigned as company director on 24 December 2001—a month after becoming Assistant Treasurer—but the public lodgment of this resignation with ASIC had to wait 11 months. At best, this is extreme sloppiness on the part of the Assistant Treasurer, who is supposed to be in charge of answering questions about ASIC here.

The Senate has exposed a property supposedly owned by a deregistered company, Karnick Trustees, and the Assistant Treasurer ought to be well aware that the property of a deregistered company is vested in ASIC through section 576 of the Corporations Act. This Rogers family company seems to have been lax in its corporate reporting responsibility for some years now, with legal ownership seeming to reside with ASIC, which is of course a Commonwealth agency within the Treasury portfolio—more sloppiness from the Assistant Treasurer. Does this sloppiness attract a tax advantage? That is the question that is being asked. Karnick, owning this million dollar property, retained CGT-free status. But if the property had been transferred to Mr Rogers's own name when the company was deregistered in 1993, capital gains tax liability would have begun accruing from that date. These questions were asked of Senator Coonan today, and the Senate is entitled to expect an answer. What we are worried about is whether the failure to transfer the ownership has led to nine years of potential capital gains tax liability. This is something the Minister for Revenue and Assistant Treasurer should be able to answer.

There are further serious questions over Senator Coonan's husband's Pittwater weekender that have been raised in the *Sydney Morning Herald* and the chamber today. As soon as the unimproved land value rose sharply in March 2001, Senator Coonan's

family arrangements changed, with Mr Rogers declaring it his principal place of residence, thus possibly avoiding what the *Sydney Morning Herald* calculates as \$11,800 worth of land tax and leaving a lucrative question mark against any capital gains tax accrued if the property is sold. The *Sydney Morning Herald* relates Mr Rogers saying he lived there to avoid the inconvenience of renovations at the couple's Woolahra house—fair enough—and Senator Coonan through her spokesman said that the renovations began in September or October 1999 and finished in April 2000. But the renovations finished 11 months before Mr Rogers varied his enrolment—again, a proper question. We are asking the questions: what on earth is going on here; what is this all about? We do not know whether this is a case of wrongful enrolment for tax avoidance purposes. Senator Coonan needs to say to the chamber what the situation is. Senator Coonan needs to come clean.

**Senator IAN CAMPBELL** (*Western Australia—Parliamentary Secretary to the Treasurer*) (3.09 p.m.)—The unfortunate thing about Senator Faulkner's attack, if you could call it that, is that Senator Coonan has come clean. He has basically fired a few shots out of a locker that is bereft of any ammunition. In the last five minutes he has basically tried to associate Senator Coonan with some sort of impropriety. He has failed on each attempt. He has basically said that Senator Coonan's resignation from the family company was done in an improper way. That is the first charge that he seeks to make against Senator Coonan. She had in fact done exactly the right thing in accordance with all ministerial guidelines. In fact, on every single charge that Senator Faulkner has sought to make against Senator Coonan she has abided by the ministerial guidelines to the very letter of those guidelines.

What has he actually come in here to do today? He wants to attack a person who is outside this place, who cannot come in here and defend himself, who happens for his sins to be married to a minister of the crown and a senator in Senator Coonan, and of course Mr Justice Rogers will not be able to defend himself. People like Senator Faulkner and

Senator Conroy should walk the 15 to 20 yards outside that door and make the allegations they are prepared to make in here. But of course they will not, because the people opposite are spineless and gutless. They have no policies of their own. They have no policies to try and improve Australia or to improve the standing of the Australian Labor Party federally. What they do is come in here and try to attack a minister of the government, not because they can find anything that she has done wrong in the portfolio—in fact, she has done an extraordinarily sound job as the Minister for Revenue and Assistant Treasurer. What they do is try to attack her through her husband in a spineless and gutless way. They attempt to hurt her through her husband who, as I said, cannot defend himself in here.

Senator Coonan did resign from the family company, and she did so in good time. Having established that in the Senate, they start to have a look at the ownership structure of her husband's property in Clareville. And of course Senator Faulkner was hit for six over the boundary in Adam Gilchrist style when they found out that the property had in fact been owned for many years, that it was owned by Mr Rogers from a previous marriage and that Senator Coonan had no interest in that property. Having been absolutely hit for six over the boundary on that one they tried to then raise other issues about Mr Rogers's enrolment on the electoral roll.

What is the real motivation for this attack? They cannot attack Senator Coonan on tax policy or the administration of tax policy, because she has done an extraordinary job, and they cannot come up with a policy of their own. They cannot attack Senator Coonan in relation to the administration of superannuation or superannuation policy, because they have total confusion on their own side. They cannot come up with any sort of rational concept, discussion paper or even the commencement of an idea in relation to superannuation. So what do they do? Can they attack her on policy? No. Can they attack her on ministerial propriety? No. So what do they do? They attack her husband. It really is a pathetic and disgraceful attack.

I seriously suggest to Senator Conroy that, if he believes what he says in here, he uphold his own integrity, quite frankly, by walking outside and calling a press conference. You have representatives of the press who are now leaving the gallery in droves. You should call a doorstep, Senator Conroy, and repeat the allegations out there, if you believe them. If you believe them to be true, just say them outside. You are not even attacking a minister here; you are attacking a citizen, Justice Rogers. He cannot come in here and defend himself. But I will tell you what: if you go and make the allegations outside, you can then substantiate them. Rather than get up here as you are about to do and repeat all of the spurious, nasty, gutless, spineless—

**Senator Ferris—Sexist!**

**Senator IAN CAMPBELL**—and sexist, dare I say it, allegations against Mr Rogers, just walk outside—probably 25 yards or, in your step, probably 22 yards—repeat them outside and allow Justice Rogers to handle them before the courts of this country if he so chooses. I am quite certain that he will not do that, because it is a gutless and spineless attack. (*Time expired*)

**Senator CONROY (Victoria)** (3.14 p.m.)—What a tangled web we have seen weaved today by the Robert Dean of New South Wales politics. We have a situation where we asked a simple question of the Minister for Revenue and Assistant Treasurer: did she witness the enrolment form of Mr Rogers? Did she witness it or not? She has gone scurrying off to check to see whether her signature is on it. What the signature would reveal would lead to Justice Rogers having to explain the real reason that he transferred his enrolment well after, according to the *Sydney Morning Herald*, the renovations had finished.

*Senator Ian Campbell interjecting—*

**Senator CONROY**—The minister wants to stand up and say, 'This is where I lived. I have made a mistake in my forms. It is all my PA's fault.' The minister wants to say that, and what you have here is the minister who is in charge of tax revenue, the Assistant Treasurer—

**Senator Ferguson**—Federal tax.

**Senator CONROY**—Federal tax revenue. What we are seeing here, according to the *Sydney Morning Herald*, has not been denied today by the minister, who had every opportunity to do so. She could have been on her feet now. She could have been on her feet in question time—

*Government senators interjecting—*

**Senator CONROY**—clarifying that. In fact—

**The DEPUTY PRESIDENT**—Order! Senators on my right, you have had your chance. You will have further opportunity in the debate.

**Senator CONROY**—What matters here is whether or not the minister—

*Senator Ian Campbell interjecting—*

**Senator CONROY**—witnessed this enrolment form and knew whether it was a true enrolment form. That is what was asked; there is no aspersion there.

*Senator Ian Campbell interjecting—*

**Senator CONROY**—It is a very simple question.

*Senator Ian Campbell interjecting—*

**Senator CONROY**—Despite the interjections from the other side—who desperately do not want the truth to come out—why didn't the minister clarify this when she had the chance? Not once, not twice and not three times did she take the opportunity to set the record straight.

*Senator Ian Campbell interjecting—*

**Senator CONROY**—In the other place the Prime Minister, in question time—

*Senator Ian Campbell interjecting—*

**The DEPUTY PRESIDENT**—Senator Campbell, I have been very tolerant of your interjections. You have had your chance to have a say and you did have your say. There are others on your side who will continue the debate. Whilst you might not like or agree with what Senator Conroy is saying, he has the right to be heard in reasonable silence. I do allow reasonable interjections and I can understand, in a debate of this nature, that people will interject. But I ask you to desist

from the constant interjection that is taking place.

**Senator CONROY**—What the records show is that for the purposes of ASIC and for the purposes of filling out forms, when it is convenient for Justice Rogers to live in Woollahra the forms say he lives in Woollahra. But when it is convenient for tax purposes—

*Senator Ian Campbell interjecting—*

**Senator Hill**—Mr Deputy President, I rise on a point of order. I heard what you said, and it is true that in this business we have to be able to take an attack. But this is not an instance of Senator Coonan taking an attack; this is a personal and offensive attack against a third party, who happens to be her husband. That is obviously what is reasonably—I respectfully suggest—enraging Senator Campbell. I suggest to you, Mr Deputy President, that you suggest to the honourable senator that in his speech he concentrate his attack upon a senator rather than a person who is not here to defend himself. If he does so, I think he will be taking a step in the right direction in terms of his responsibilities as a senator.

**The DEPUTY PRESIDENT**—There is no point of order. I am listening closely to the remarks being made and, where necessary, I will draw the senator's attention to sticking to the debate.

**Senator CONROY**—I acknowledge the point you made, Senator Hill, but if you had actually listened to what I said amongst the shouted abuse coming from the other side, you would find that at no stage did I make any substantive allegation. I accept your point that it is important to be careful here, but I draw the chamber's attention to the following excerpt from today's *Sydney Morning Herald*, when the paper asked Mr Rogers whether he paid land tax on the property.

Asked whether he paid land tax on the property, Mr Rogers said: "I didn't pay for the period we were there because it was my principal residence.

The word 'we' involves the minister. 'We' means 'the minister and I'. So while it is convenient for tax purposes for Justice

Rogers to say, on the one hand, 'We lived in the weekender,' Senator Coonan stood up here and said, 'I have lived always, except for a very short period, in Woollahra.' That is the tangled web we have. The tangled web comes straight from this minister's behaviour. The minister should come in here, as the Prime Minister indicated she would in the other place in question time, and set this matter straight. Did she not live at Woollahra? Did she live in this weekender? Did she witness this enrolment form? Was tax being avoided? Was the sole purpose of this to register with ASIC because it was beneficial to be in Woollahra and register in the other place for land tax purposes? The Prime Minister expected her to clear this matter up in here today, and this chamber has seen absolutely nothing that clarifies this. It is very convenient—(*Time expired*)

**Senator FERGUSON (South Australia)** (3.21 p.m.)—It has been the hallmark of the opposition over the past six years plus to engage in grubby little exercises whenever they have nothing else of consequence that they can achieve in questioning the government. I think of previous ministers who have been attacked personally by Senator Faulkner, Senator Conroy and others when the only form of attack was personal abuse, and not always at the senator themselves but, as in this case, on the spouse of a senator, which is a totally improper use of Senate privilege.

It seems to me that the likes of Senator Conroy and Senator Faulkner only ever want to attack people who cannot defend themselves. I think that is despicable and grubby, and I think the tone of the questions by Senator Faulkner and Senator Conroy today in question time was about as grubby as you can get. Senator Conroy has made an art form of it.

**Senator Ferris**—But he won't stay and listen.

**Senator FERGUSON**—And then he leaves the chamber as soon as anybody dares to criticise him. Because those opposite could make no headway at all in questioning the performance of the Assistant Treasurer in her ministerial capacity over the past months, what do they do? They start to get personal;

they attack the senator and attack her spouse over matters she has adequately explained in the Senate today. The Assistant Treasurer has satisfied the Senate in relation to her taxation liabilities and has explained at every opportunity.

Senators opposite cannot even get their questions right. On at least four occasions today their first attempts at questioning were ruled out of order. That is how thin the ice was that they were skating on when it came to determining what their questioning of this minister was going to be or on any matters related to the minister. They did not relate to the minister's portfolio; in every instance the questions related to matters other than the minister's portfolio. So we had the situation where on at least four occasions their questions were ruled out of order by the President, and they were then given some leniency in order to rephrase the questions. I think they were given more than the required amount of leniency today. If you get it wrong once, maybe you should get a chance to rephrase the question; but if you continually get your questions wrong, you cannot expect the President to say, 'Listen, that is out of order; have another go.' On four occasions they were allowed to rephrase their questions, which I think is totally inappropriate and they ought to do their homework better.

Today Senator Coonan, in her role as a senator not as a minister, adequately answered those questions put to her in relation to her register of interests. She then came back as soon as possible at the end of question time and clarified any misconceptions there may have been. We all know that, in relation to her taxation liabilities, everything that had to be done has been done. Her husband's property in Clareville, which Senator Coonan has no interest in, cannot be subject to capital gains tax. That is the only tax that was referred to today that would have any bearing on the federal government. Every other taxation liability that was brought up today in relation to any properties that they might have, that Senator Coonan might have or that her husband might have were all New South Wales state government taxes, over which Senator Coonan has no responsibility whatsoever.

So if you are talking about Senator Coonan's portfolio responsibility, there is no way other than the capital gains tax issue that any of it has any bearing on her portfolio. As she said, the property has been owned for over 20 years and therefore is not subject to capital gains tax, which was introduced by the Labor Party in 1985. Land tax is a state tax; it has nothing to do with federal revenue or Senator Coonan's portfolio responsibilities. As a senator and as a minister she of course would not condone the non-payment of any properly assessed tax at either a state or a federal level. So Senator Coonan came into this chamber and answered the questions put to her by both Senator Conroy and Senator Faulkner.

We also know, of course, that Justice Rogers had been in contact with the Commissioner of Land Tax in mid-November, notifying him of a change of circumstances and seeking a land assessment in relation to his property at Clareville, before questioning of this issue ever arose from the opposition senators—who have nothing better to do on behalf of the Australian people than to personally attack Senator Coonan and her husband—and before any questioning was ever raised by the *Sydney Morning Herald* in today's newspaper. (*Time expired*)

**Senator SHERRY (Tasmania)** (3.26 p.m.)—Today when I posed a question to Senator Coonan, who is the minister responsible for superannuation policy in the Liberal government, I asked her quite directly not on one but on two occasions whether she would rule out on behalf of the Liberal government a further increase in the preservation access age for superannuation. The preservation access age for superannuation is the age at which Australians when they retire, either forced or voluntary, can access their superannuation for retirement purposes.

I asked the minister—I challenged her twice—to rule out a further increase in the preservation access age for superannuation. She declined to rule it out. All she did was point out that the Liberal government has already on one occasion increased the access age for superannuation for retirement purposes, from 55 to 60 years. We had a revelation of this government's secret agenda with

the leaking of a finance committee document that outlays a range of policy initiatives that it wants to pursue in tackling issues that surround the ageing population. This report by the Department of Finance and Administration was prepared in conjunction with the Intergenerational Report that the Treasurer, Mr Costello, handed down in the last budget. This government has just discovered that we have an ageing population.

What is very important about the preservation age is that Australians who are coming up for retirement do need some certainty. Australians need to know well in advance at what age they can access their superannuation if either they are forced into retirement or they voluntarily wish to go into retirement. The minister declined to rule it out not once but twice. I would have been surprised, in light of the leaked document from the finance department, if the minister had ruled it out. But if we look at statements made by ministers in this government in very recent times, we get a good idea about where the Liberal government are headed on retirement incomes policy. Because they do not have a decent retirement incomes policy, the Liberal Party answer in large part to resolving the problems of the ageing population is to make people work longer.

The Liberal government effectively want to force many Australians to stay in the work force at least to the age of 65 in respect of superannuation and probably to the age of 70. Their solution to the challenge of the ageing population and of providing decent retirement incomes for Australians is to make everyone work longer: force people to work to the age of 70. The Liberal Party want to force many Australians to work until they literally drop. Many Australians will not live far beyond the age of 70, and the Liberal government want them to work to that age. The Liberal government want Australians to work until they have got one foot in the grave. That is their retirement incomes policy: force everyone to work longer, to work to the age of 70. Never mind the dreams of Australians who want to spend 10 or 15 years in retirement, buying a caravan or participating in community activities. The government just want to force them to work

longer. In fact, the Treasurer, Mr Costello, as recently as 7 August 2002—and I asked the minister about this—said:

More flexible working arrangements, training and re-training, and raising the preservation age for superannuation would all be positive moves ...

The Treasurer has quite directly flagged a further increase in the preservation age or access age for Australian superannuation. No wonder Senator Coonan, in respect of superannuation policy, not once but twice refused to rule out a further increase in the preservation age. The Liberal government want Australians to work until they drop, until they have got one foot in the grave. That is their retirement incomes policy: to force them to work until age 70.

Question agreed to.

#### National Security

**Senator BARTLETT** (Queensland—Leader of the Australian Democrats) (3.31 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Bartlett today relating to pre-emptive military action.

Despite the fairly flippant response from the minister and the typical gratuitous gutter-trawling interjections from some of the government senators, this is actually a very important issue. I do not know why the minister did not think it was important, but the Democrats certainly think it is important that five very important countries in our neighbourhood have all taken great offence at the Prime Minister's statement. The minister, as usual, read out a part of the Prime Minister's statement that suited his argument. He did not read out the context of it, the question that it was responding to, nor the further comments from the Prime Minister.

The Prime Minister's comments were specifically linked—particularly his follow-up answer—to a question from Laurie Oakes. He was talking about the SAS being perfectly tailored to make a pre-emptive strike in another country. He was specifically talking about Australian troops being involved in a pre-emptive strike in another country in the context of potential terrorist attacks. Of course, every government has a responsibility

to do everything it can to prevent its citizens from being attacked. But when the Prime Minister suggests that part of Australia's repertoire should be the possibility of SAS troops being involved in some pre-emptive military action in another country in our region, it is not surprising that countries in our region would get very perturbed by his statement.

It is astonishing that the government and the minister did not take the opportunity to say, 'We did not say that at all.' I would have thought that there is no problem at all and that it would be completely appropriate and responsible for the government and the minister to take the opportunity to clarify that statement by saying to our neighbours, 'This was not the intention; this was not what we meant; this has been unclearly interpreted.' I would have thought that was a natural part of appropriate communications. Instead, we just get a continuation of the bluster. We have seen Minister Downer saying, 'If people misinterpret the Prime Minister's comments, that's their problem,' and specifically that those countries 'have to live with the consequences of their misinterpretation'. The people who will have to live with the consequences are the Australian people who will once again be perceived in a negative light across vast parts of our region. Basically, in his response to the question from the Democrats, the minister is saying, 'You are stupid for misunderstanding what the Prime Minister said; he didn't really say it.' That, by extension, is saying to the governments of Thailand, Malaysia, Indonesia and the Philippines: 'You're stupid as well; go get a life.'

That is the sort of approach they take to dealing with our neighbours. If we have learned one thing from the tragedy in Bali, surely it is that we need to be more sensitive than ever to how we are perceived in our region and more sensitive than ever to the possibility that we are perceived as an aggressive B-grade cowboy trying to be the US deputy sheriff in the region. We have seen these sorts of diplomatic gaffes before from the Prime Minister and from Minister Downer. Yet, not only do they not learn but, at a time when it is all the more crucial for the security of Australians that this sort of

impression is corrected, they increase that perception, refuse to clarify it afterwards and then tell everybody, 'If you misunderstand, that's your problem; you can live with it.' We have had the Thai government saying that no country should do anything like that which Mr Howard suggested. The Philippines national security adviser said that Mr Howard's comments were completely unacceptable, that this is the 21st century, not the 19th century. Malaysia's defence minister said that he will not allow foreign intervention in the fight against terrorism, and there was also criticism from Indonesia.

Despite some of the shallow jibes from the government, the Democrats are certainly not suggesting that we should allow our foreign policy to be run by other countries, although the government is quite happy for our foreign policy to be run by the US. But the Democrats do believe that, if you are not going to be sensitive to the perception of other countries in our region, if you are simply going to say to them, 'If you misunderstand us, that is your problem,' if you make statements such as the Prime Minister did, which clearly inferred possible involvement of SAS troops in a first strike in circumstances down the track, then you have got to expect this sort of response, and when you get this sort of response you have to at least clarify your comments. The Prime Minister should withdraw the statement and apologise, but at a minimum he should clarify the statement so that Australian people do not have to keep wearing being massively misinterpreted and misunderstood in our region. (*Time expired*)

Question agreed to.

#### CONDOLENCES

##### **Davidson, Mr Gordon Sinclair CBE**

**The PRESIDENT** (3.36 p.m.)—It is with deep regret that I inform the Senate of the death, on 25 November 2002, of Gordon Sinclair Davidson CBE, a senator for the state of South Australia from 1961 to 1981.

**Senator HILL** (*South Australia—Leader of the Government in the Senate*) (3.37 p.m.)—by leave—I move:

That the Senate records its deep regret at the death, on 25 November 2002, of Gordon Sinclair

Davidson, CBE, a former Liberal Party senator for South Australia, and places on record its appreciation of his meritorious public service and tenders its profound sympathy to his family in their bereavement.

Gordon Sinclair Davidson was born on 17 January 1915 at Adelaide in South Australia. He was from a farming family in the Strathalbyn area and his early working life was on the family farm, as a farmer and grazier. At a reasonably early age, he became interested in politics and he was elected to and served on the Strathalbyn district council from 1942 to 1950. That fostered further interest in politics and he first came to the Senate in September 1961, filling a vacancy for a three-month period. He came to the Senate again in February 1962 for a period of five months. He was elected as a senator in his own right in 1964, and served from 1965 until 30 June 1981.

In his first speech, former Senator Davidson spoke of water as being the lifeblood of any country, and of the need for water storage facilities and water management practices, particularly in relation to the River Murray in South Australia. Presumably, his interest in these issues would have resulted from his experience on the land not far from the River Murray. He served on several parliamentary delegations and committees in this place, and one of them particularly related to water matters: he was chairman of the Senate Select Committee on Water Pollution, whose inquiry was largely responsible for the introduction of a range of water management programs. I am not sure whether it was that committee or another committee which he also chaired that recommended a water commission for Australia, which, as I understand it, would have given the Commonwealth greater powers over management of waters such as the River Murray. Some of us think that there may still be a worthwhile case for that position, many years after it was suggested by the late Gordon Davidson.

He was vitally interested in education matters and he also served as chairman of the Education, Science and the Arts Committee of this place. In particular, he examined the need for a multicultural and multilingual broadcasting service. His role on many

committees earned him the reputation of being one of the pioneers and one of the champions of the Senate committee system. He served as a Temporary Chairman of Committees and was an active member of the Commonwealth Parliamentary Association. In addition to his parliamentary work, he served as president of the South Australian Royal Flying Doctor Service from 1965 to 1967. He was an active member and in fact a leader of the Freemasons in our state.

In his valedictory speech he referred to the motto of the Davidson clan, which when translated is 'wisely if sincerely'. I think that very much reflects the way in which he carried out his functions as a senator for South Australia. In January 1981 he was appointed Commander of the Order of the British Empire, for service to the parliament. Other matters that affected him greatly during his life included his Scottish heritage, to which he was totally committed—one could see it in his costume as he stood at the airport for his planes to Canberra. Another matter that affected him greatly was his Christian faith. He was a committed Presbyterian—in fact a leader of the lay church in South Australia. For many years—as I learned from his funeral last Friday—he had a radio program, known as *Presbyterian Corner*, which he used to educate and inform the South Australian community on Presbyterian matters. I mentioned his very deep commitment to his lodge and, as has been demonstrated by his public career, his commitment to the parliament through 20 years in this place. He was a member of the council of the National Library of Australia, which I think further demonstrates his commitment to education and to public information. He was also a member of the committee for South Australian libraries.

I took his place in the Senate, so I guess that in that way we had a special relationship and I have a special responsibility. He was a gentle, well spoken, elegant man. He gave a lifetime to public service and the community. He is survived by his widow, Patricia, to whom he was married for some 50 years. On behalf of the government I therefore wish to extend to Patricia and his other family mem-

bers and friends our most sincere sympathy in their bereavement.

**Senator CONROY (Victoria)** (3.43 p.m.)—On behalf of opposition senators, I wish to support the condolence motion moved by the Leader of the Government in the Senate. The opposition expresses its deep regret at the death of Gordon Sinclair Davidson, CBE, a Liberal senator from South Australia who served parliament from 1961 until 1981. Originally a farmer and grazier, Gordon Davidson also spent his life in public service in one form or another. He was, by all accounts, a devout man, and was a senior member of the Presbyterian Church in South Australia for many years. For 61 years, he was a member of the Grand Lodge of Freemasons, and he served in the late 1980s as a Deputy Grand Master. His political career, like those of so many here, began with local government. From 1942 until 1950 he was a councillor on the Strathalbyn district council and was an office holder of the then Liberal and Country League. In the 1960s, he was president of the South Australian Council for the Royal Flying Doctor Service, and he was for 20 years a senator.

He was a busy committee man and he chaired the Senate Select Committee on Water Pollution from 1968 to 1970. His first speech was mainly about water and population pressures along the Murray River system. It is an interesting snapshot of the dilemmas of the times, which continue to be pressing on governments of all persuasions today. In the 1970s he campaigned against changing the National Anthem and what he felt was the corrosive effect of television on children. He was made a CBE in the 1981 New Year's honours list. After leaving parliament he served on several distinguished committees, including the South Australian Libraries Board, the National Library of Australia, the Adelaide University Council and the national board of the Australian Inland Mission. Gordon Davidson gave service to his community all his life. South Australians in particular should remember his work. On behalf of the opposition in the Senate, we offer our most sincere condolences to his family.

**Senator BARTLETT** (Queensland—**Leader of the Australian Democrats**) (3.45 p.m.)—I rise to speak briefly on behalf of the Australian Democrats to associate ourselves with the condolence motion. As has been noted, former senator Gordon Davidson had 20 years in this chamber—or, to be more precise, the chamber in the old Parliament House, down the hill—which is a fairly long stretch of time, as those few who have been here for 20 years or a bit longer would certainly concur with. That in itself, I think, is a sign of the contribution and the distinction that he brought to the chamber. The 1981 election, when he departed, was the first time a Democrat from South Australia was elected, with Janine Haines coming into the new Senate in the second half of 1981. So, in that sense, while he was directly replaced by Senator Hill, his departure from the Senate linked in with the Democrats first getting an elected seat from South Australia in the Senate—although Janine Haines did serve here briefly at the end of 1977, filling a casual vacancy for six months.

It is worth noting in passing a couple of the comments from the valedictory speech that he gave on 12 June 1981. Some things stand out from that brief contribution at that time. He noted that his first speech back in September 1961 was all about Murray River water. From the context of his remarks, it sounds as though it was a topic that he returned to quite frequently. It would be interesting to hear what his views were these days on Murray River water, but it is obviously a topic that was important to him over 40 years ago and it is one that is occupying a lot of people's minds these days as well. It shows how some issues continue to need addressing.

In his final speech he also gave counsel to the Senate, in words that seem quite prescient, about the Senate committee system. At that stage it was somewhat in its infancy in terms of the way it was structured and the way it operated. He gave counsel to the Senate to look after the Senate committee system because, as he said:

I believe that system is going to be one of the greatest strengths of this important house of parliament.

I think his comments there have clearly been shown to be correct: 20 years down the track, it is clear that the Senate committee system has been and continues to be one of the great strengths of this house of parliament. In that sense, consciously or otherwise, it appears that the Senate has followed the counsel of former Senator Davidson.

According to his own words, his Davidson family motto is 'Wisely if sincerely'. It is in Latin, but I do not even attempt to pronounce Latin these days. But the interpretation is 'Wisely if sincerely'. Without knowing the man personally, I think that if any of us can leave this chamber feeling that we have acted wisely and sincerely then we have done very well. The Democrats also support this condolence motion. We pay tribute to the life of former Senator Davidson and in particular to his 20 years work in the Senate. We pass on and associate ourselves with the condolences to his family.

**Senator BOSWELL** (Queensland—**Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services**) (3.49 p.m.)—Gordon Davidson left in 1981 and I came here in 1983, and so I never had the good fortune to meet the former Senator Davidson. But today gives me the opportunity to join with Senator Hill, the Leader of the Government in the Senate, who is moving this condolence motion. He is moving it for someone he replaced, which is a unique situation. I am one of the few that have done 20 years in the Senate—I think Senator Hill and a few others around here have done 20 years; my 20 years comes up in March—and it is a long time. It was a long time for Gordon Davidson to have given to South Australia. He spent more time than that in local government, which is the breeding ground for federal government. He would have spent much of his time serving the people there too. He was awarded a CBE for his work for both federal and local government. I say to his family that we join with them in their sorrow. I support the motion of condolence that Senator Hill has moved.

**Senator HARRADINE** (Tasmania) (3.51 p.m.)—I should like to associate myself with the condolence motion which has been

moved by the government and supported by the opposition, the Democrats and the National Party. I was here for about six or seven years with Gordon Davidson. I always found him to have quite strong views, but they were always moderately expressed. They were certainly purposeful views. He got his point across very well on many occasions in a quiet way.

I would not say that he used committees; he was a servant of this chamber and realised the importance of the select committees, general purpose committees and legislative committees of this chamber and the important use that they had in gleaning views from the public on particular issues. He was a learned person. He was very keen on serving the particular cause of literacy. He was a member, as was said, of the Parliamentary Library—and, from recollection, I was also a member for a couple of those years. Besides being a devoted member of the Parliamentary Library, he became a member and later deputy chairman of the Council of the National Library.

He had a commitment to literacy. He served on a Senate select committee on literacy. He was interested in the effect of TV in relation to the learning difficulties of children. From recollection, another committee of which he was the chair dealt with that matter and came forward with a report. One of those committees tried to make sure that TV companies did not have children's programs, including cartoons et cetera, on early in the morning: he felt, as did the committee, that this distracted the attention of the young ones from being focused on other things, such as literacy and learning, which they could not get from the TV. That committee was also concerned about the time that children spent watching TV, including murder mystery programs, soapies and all the rest of it. These were concerns even at that particular time, and they still are.

He was a member of the Commonwealth Parliamentary Association. He was very clear about what happened along the way and the British traditions. He did not go overboard, but he was against the need to foist a new national anthem on the public of Australia. As has been said, he had a great

interest in the issue of water resources. I think it is very worth while to end with a quote and to see whether it was any different then from now. This is a quote from his maiden speech on 19 October 1961. We are talking about 41 years ago, I think—my numeracy is not too good! He said:

If there is one dominant characteristic that underlines the development of the history of any country and particularly our own, it is this element of a struggle to develop, a struggle to create, a struggle to give leadership. This element of struggle in our own history has found expression and exerted its influence in many ways throughout the years. We find it at the beginning in our communications and transport systems. We find it in our industrial development from time to time and, because of our situation, we find it in our relations with other nations. But the basic struggle of all of these and of our life generally is associated with the life blood of any country, and particularly of ours. I am referring, of course, to water.

Gordon was a member of the PCF, the Parliamentary Christian Fellowship. At one stage, he was also the administrator of the South Australian Presbyterian Church. I wish to convey my sympathies to his family and particularly to his wife, Patricia.

**Senator REID (Australian Capital Territory)** (3.58 p.m.)—I wish to join in supporting the motion put to the Senate by Senator Hill to mark the passing of Gordon Sinclair Davidson. I knew him well. I knew him first when I was a Young Liberal in South Australia and he was an active member of the Liberal Country League, as was his wife, Pat, who has been referred to. Other than at Liberal activities, I saw her because she had attended the same school as I had—the Methodist Ladies College in Adelaide—and throughout her life she remained an active supporter of the school and an active member of the Old Scholars Association. My association at the school, while I was a student and subsequently with Pat, was quite close as well.

It is interesting to reflect upon the lives of Gordon and Pat—lives of total service to their community at all times and certainly not just in the 20 years that Gordon was a member of the Senate. It started long before that and it continued after he served in the Senate. Gordon was 87 last January and the

whole of his life was devoted to his community. He and Pat did not themselves have children, and they took a great interest in young people. Gordon was, as has been mentioned, very committed to the issue of education, to libraries, to learning. He himself was a learned man and very well read.

There were very many organisations that Gordon Davidson belonged to. Reference has been made to the fact that he was a farmer at Strathalbyn in South Australia until 1952 and had in that area served on the district council from 1942 to 1950 and was deputy chairman of the Strathalbyn council from 1948 to 1950. Gordon Davidson was educated at Scotch College and throughout his life was an active member of the Presbyterian Church. It was very important to him. He was the organising secretary and administrator of the Presbyterian Church of South Australia from 1952 until 1964 and was editor of the *SA Presbyterian*.

Gordon Davidson was a member of the board of the Australian Inland Mission for some years from 1957 and put a great deal of his effort and expertise into the work of that mission. He was on the United Church board from 1959 until 1970. He served on the council of his old school, Scotch College, in Adelaide—as Senator Ferguson, an old scholar of the same school, would know—from 1955. Gordon Davidson was on the board of St Andrew's Presbyterian Hospital from 1953 until 1971. I think mention has been made that he was on the South Australian council of the Royal Flying Doctor Service from 1958 to 1970 and was president from 1965 to 1967. He was the foundation chairman of the Dunbar Presbyterian Homes for the Aged. All of these tasks he really committed himself to and was active on. These were not things he did just to have them on his CV so that it looked good. After Gordon Davidson left the Senate, he was very pleased to be able to attend the Second Assembly of the World Council of Churches that took place in Evanston in the United States of America in 1954. Gordon Davidson had a very full life throughout the whole of his 87 years.

Mention has been made of Gordon Davidson's committee service in the Senate. Talk-

ing about his Senate career, let us go back a bit. He first stood on a Senate ticket in 1958, but he was No. 3 on the ticket at that time and it did not quite get him there. He must have had doubts at times as to whether he would ever have a parliamentary career, having not been successful in 1958. In 1961, he was appointed to replace and serve the balance of the term of Senator Pearson, who had died. He then was selected to serve the balance of the term of Senator Butfield when she retired from the Senate. He finally was elected in his own right in 1964 and took his place here, from that election, on 1 July 1965 and then was re-elected in 1970, 1974 and 1975, retiring on 30 June 1981.

As I mentioned at the beginning of my speech, I knew Gordon Davidson when I was a Young Liberal. He was extremely supportive of all of the young people in the party who were participating during that time. Nothing was ever too much trouble: he would attend Young Liberal meetings, talk to people and advise. Certainly I knew him well during those years. In 1961, I was the Liberal candidate for Bonython in South Australia. He was extremely helpful to, and supportive of, me in that campaign, and I learnt a great deal. Gordon Davidson was very much a grassroots politician. He knew where the votes came from, and he knew that one managed to get votes by relating to people and by being concerned about the interests of those who were voting. I certainly enjoyed campaigning with him during that election.

I want to refer to Gordon Davidson's committee service. He was very committed to the role of the Senate—he spoke of that, on occasions—and had a very strong feeling for the concept of a second chamber and the role that it could play. His commitment to committee service was with a view to actually achieving something. As he had put it to me, it was a question of committees working together to find those things on which there was a common interest between those on the committee and to at least achieve that much. He did not have much time for the concept of extremes finishing up with dissenting reports that really achieved nothing at all out of the process. His view was that the basis should be committees working together to achieve

something for the electorate. That is what I came to the Senate believing, from the way that he had spoken to me about committee service, in which he believed. He did chair committees. He was involved with the education committee for a long time, and Senator Hill referred to his being chairman of the Senator Select Committee on Water Pollution from 1968 to 1970.

Others have referred to Gordon Davidson's maiden speech, and it is interesting to read it, especially at a time like this, when the country is covered with drought to the extent that it is, when the River Murray's mouth has been blocked recently and has had to be artificially opened for water to flow through. His speech referred to the Chowilla dam project in South Australia and the role of the Murrumbidgee. It bears re-reading at this time in these circumstances. Going on a fraction from the part that Senator Harradine read out—and others have referred to other parts of the speech that he gave—the speech read:

Water is always topical, water is always urgent, and its provision, its storage, and its distribution are very much matters of moment and very much matters of struggle.

It continues:

... if there is any one factor that has limited our development or limited us in any way, it is this position regarding water.

Others have referred to other parts of the speech that he gave. When I was elected to the Senate by a joint sitting of the Senate on 5 May 1981 there were no other South Australian senators to escort me to my place. That was done by Gordon Davidson, who was to retire from the Senate some seven weeks later, and by former Senator Peter Sim from Western Australia, whom I had also known for a long time through the Young Liberal movement. They were the two who escorted me to my seat at the back on the government side of the chamber in the old building, where I then sat for some time with John Martyr from Western Australia on one side of me and David MacGibbon on the other side. Every time I came into the chamber I would push the seat forward so that I could reach my desk and when they came in they would put their feet on the board under-

neath and push it back so that they were comfortable. But I learnt a bit from them as well.

Certainly for me it was a great privilege and a pleasure to be, if only for a short time, serving in the same chamber as a man of the integrity of Gordon Davidson. He was very committed, as has been mentioned, to the Parliamentary Library. He served on the Library Committee for, I think, the whole of his term in the Senate, and after that time he continued his involvement in that area through roles with the National Library and the South Australian Libraries Board.

After John Knight died in early 1981 there was of course a gap before a replacement could be appointed. I know that Gordon Davidson liaised with and contacted staff who were still maintaining former Senator Knight's office and was unobtrusively helpful to them with the things that still needed to be done. He was always available to talk about any issues that might be helpful. He was that sort of person. If something needed to be done, he would do it. He certainly was a gentleman. Someone used the word 'elegant', and I think that is right. There were times when he wore his flamboyant Scottish bow ties and looked extremely elegant doing that. He was friendly to those around him. He did have firm views, as Senator Harradine has mentioned, but never pushed them at people. He worked towards achieving the things that he believed in. He was an outstanding senator, and as a senator on the back bench he fulfilled the role of the Senate relating to the community in representing his community. I join with other senators in expressing my condolences—and those of my husband, Tom—to Pat and other members of the family and their friends.

**Senator CHAPMAN (South Australia)** (4.09 p.m.)—It is also my privilege to join in this motion of condolence for the late former senator Gordon Davidson CBE, who died last Monday aged nearly 88. I had the privilege of undertaking some part-time research projects for former Senator Davidson during 1975, in the months prior to my own election to the House of Representatives as the member for Kingston as a result of the December 1975 election. After that, of course, we be-

came parliamentary colleagues until former Senator Davidson's retirement in June 1981. While I came to know him much better during that particular period, I had already known him for some years prior to that through our mutual involvement in the Liberal Party and in his role as a senator. Indeed, he and his wife, Pat, were well known to my parents through their mutual interest in farming and church related activities, as well as through the Liberal Party and through being residents of Glenelg.

It would be accurate to characterise former Senator Davidson's life as one of continuous community service. That has already been alluded to by Senator Reid, Senator Hill and other speakers today. I think that encapsulates former Senator Davidson's life: continuous community service. From 1942 to 1950 he was a councillor on the Strathalbyn District Council—Strathalbyn being the area in which he farmed—and from 1948 to 1950 he was deputy chairman of that council. From 1952 to 1964 he was Organising Secretary of the Presbyterian Church in South Australia, a full-time position with the Presbyterian Church. This involved extensive work right around the state on behalf of the church and was a keen expression of Gordon's Christian faith. Of course, it was from there that he was elected for a 16-year period as a senator in 1964, taking his seat in July 1965. It is significant, as I mentioned, having already been Organising Secretary of the Presbyterian Church, that he was one of the founders of the Parliamentary Christian Fellowship, which was established in the parliament in, I think, 1966.

Before becoming a long-term senator in 1965, he had already served 2½ months in the Senate, having been appointed to replace the late Senator Rex Pearson in September 1961 but defeated at the December 1961 general election under the earlier different rules for Senate replacements at that time. He served in the Senate again—this time for five months, from February to June 1962—replacing former Senator Nancy Butfield. Senator Reid mentioned that perhaps Gordon wondered whether he might ever have a long-term parliamentary career. I recall when I was a member of the Liberal Senate team

for the 1974 double dissolution election—and I was No. 6 in a team of six at the time when the Liberal Party was expecting to win four or five of the seats—Gordon relating this earlier experience he had as a senator for a few months at a time and saying that it did not hurt to be first reserve in the early days; it could always lead to better things. And it certainly did—those few months of service for Gordon eventually led to, as I have said, 16 years of service, from 1965 to 1981.

During that long period he gave extended service as Chairman of the Senate Committee on Education, Science and the Arts. Over that time, the committee tabled a number of significant reports on education issues. They have been referred to by other speakers today. Certainly, education was a major priority for Gordon Davidson in his service in the Senate. He was also especially notable in his role as Chairman of the Senate Select Committee on Water Pollution, in the late 1960s.

As I said, Gordon's life can be characterised as one of community service. His retirement from the Senate in 1981 did not mean that he retired from community service. He served on the South Australian Libraries Board standing committee from 1984 to 1989 and on the Council of the National Library as well, again reinforcing the interest that he had in education and the spread of knowledge through the facilities that libraries can offer. He also served until 1988 on the Council of Scotch College, as well as being involved with other community organisations through the late 1980s and into the 1990s.

It has been my pleasure to have been able to maintain my friendship with the late Gordon Davidson and his wife, Pat, in the years following his retirement from the Senate. I have seen them both regularly at community functions—notably the annual Carl Linger Memorial Australia Day service, with which he maintained a close association over the years—and also at Liberal Party events, and here in Canberra when he regularly attended the retired members association functions. It has been said that Gordon was a gentle man, but he was also a powerful orator who commanded the attention of his audience. As a resident of the Kingston electorate, he was of great assistance to me

in my campaigns as a candidate and subsequently member for Kingston in the late 1970s and early 1980s. I certainly appreciated his support in those days. He was a kindly and courteous man with whom it has been a privilege to share a friendship. I therefore offer my condolences to his wife, Pat, with whom he shared 50 years and who was a wonderful supporter for him in his parliamentary and other community activities.

**Senator FERGUSON (South Australia)** (4.16 p.m.)—I rise to associate myself with the condolence motion that was moved by Senator Hill in relation to the late former senator Gordon Davidson. Gordon Davidson had three great loves in life: his church, his party and his community in South Australia. My father had a close association with the late Gordon Davidson, particularly through the church and the party. My father was a member of the state parliament during much of the period that Gordon Davidson was a senator. My earliest recollection of Gordon Davidson is listening to the radio on a Sunday afternoon. When Gordon Davidson was Organising Secretary of the Presbyterian Church he had a five-minute spot on the radio. Unknown to him, he had a voice that very closely resembled a well-known race caller of the day, and I can tell you that Gordon got more into his five minutes on the radio than any race caller ever got into a race because, being of Scottish heritage, I think he wanted to make sure he got his money's worth, even though he was getting it for free. That was my earliest recollection—every Sunday afternoon listening to this beautiful voice of Gordon Davidson, who was a very good orator, speaking on the radio.

Senator Davidson, as he later became, was very proud of his Scottish heritage. Those that have known him over the years will remember that, because Senator Reid has referred to his tartan bow ties and tartan waistcoats. And he had this longstanding interest in Scotch College, particularly because of its relationship with the Presbyterian Church. Senator Hill and I attended Scotch College—not at the same time as Senator Davidson, of course—and my father was there prior to his time. So he had all of his loves joined to-

gether in one main cause that he could serve on and work in for most of his working life.

You need only to read the biographical registers to know that his interests were widespread. As Senator Chapman and others have said, his whole life was devoted to community service in South Australia, whether it be as a member of parliament, as part of his church organisation or as representing the interests of various groups in South Australia, like the Royal Flying Doctor Service, the St. Andrews Presbyterian Hospital and all of these other things to which he willingly and voluntarily gave his time to serve the interests of his fellow man. It is with regret that we note the passing of former Senator Davidson, but those of us who knew him and those that were affected by his life will always remember the enormous contribution that he made to South Australians, to our Liberal Party in South Australia and to the Senate.

There are many who claim to have been Young Liberals when they first met Gordon Davidson. I was not a Young Liberal when I first met Gordon Davidson, because I joined the senior party when I was 20. I guess I have always been an old Liberal, and a lot of my colleagues would probably say that it shows. With the impact that Senator Davidson had in his 16 years as a backbencher in this parliament—the influence he had over the people that worked around him and that he worked with—he will always be highly regarded by those who understand the processes of the Senate. He was not even content to let it all be in the past when he retired, because he was also a very strong member of the former federal members association. Invariably, when they had their functions here in Canberra, we would see Gordon Davidson and his wife on the plane coming to attend the former federal members functions. He thought it was important to maintain those contacts. He loved the political life. He loved knowing what was happening currently and he also wanted to maintain contact with the many people that he knew. I join with others in offering my sympathy to his wife and family. I am very pleased to have been able to associate myself with the remarks on the passing of former Senator Gordon Davidson.

**The PRESIDENT** (4.20 p.m.)—I too am privileged to have met the late Gordon Davidson CBE on several occasions. As has been said, he visited Parliament House from time to time after completing his distinguished career in the Senate. I saw him on more than one occasion and shared a meal with him in the members dining room. He maintained a very keen interest in current affairs and in the workings of the Senate and was always a great champion of the Senate's role. I have written to his widow, Patricia, offering my condolences and those of all honourable senators. I would ask honourable senators to stand in silence to signify their assent to the motion.

Question agreed to, honourable senators standing in their places.

#### **INSURANCE AND SUPERANNUATION COMMISSION**

##### **Return to Order**

**Senator KEMP** (Victoria—Minister for the Arts and Sport) (4.21 p.m.)—by leave—I have a short statement to make on behalf of Senator Coonan, the Minister for Revenue and Assistant Treasurer, in response to a Senate order to produce documents. The order arises from a motion moved by Senator Ludwig, at the request of Senator Conroy, as agreed by the Senate on 19 November 2002. It relates to files held by Treasury and the Insurance and Superannuation Commission. Senator Coonan wishes to inform the Senate that, given the size of the request and the age of the files in question, she is unable to respond by the nominated date of 2 December 2002. I point out to the Senate on behalf of Senator Coonan that the files requested are now over 20 years old and were created by a body that no longer exists. The combination of these factors means that a number of files have had to be retrieved from the Australian Archives. The files relating to the request contain a large number of documents which are still being examined, and Senator Coonan will respond to the order as soon as possible.

**Senator CONROY** (Victoria) (4.23 p.m.)—by leave—I respond briefly to the comments by the Minister for the Arts and Sport. I was hoping that we would have something slightly more definitive. I appre-

ciate that the Minister for Revenue and Assistant Treasurer is distracted right now, but I was hoping that we would have something slightly more definitive as soon as possible. Senator Kemp, I hope you will pass that on to Senator Coonan. As I said, while I appreciate that she is a little busy, most of the documents that we are talking about have already been prepared and handed to a royal commissioner, so I would have thought that the vast bulk of them could just have been collected back, copied and given to us. But I do acknowledge that she has indicated that she will comply, and I welcome that.

Last sitting week, Senator Hill refused the order of the Senate to produce the final report by TFG International, and my colleague Senator Ludwig spoke passionately at the time reminding the Senate about this government's abysmal record on complying with returns to order. This morning's *Notice Paper* showed 14 orders for the production of documents which remain outstanding and a further 15 orders still current from previous parliaments. You may well shake your head, Senator Kemp, because we are doing much the same thing—shaking our heads. I do not wish to repeat what Senator Ludwig said; I only reiterate the importance of returns to order in enabling the legislature to carry out its function of scrutinising legislation and the performance of the executive. Unfortunately, this government rates accountability very low. It is part of ensuring a strong democracy and effective government, but something which the Howard government obviously does not really care about.

The Senate order made at my motion goes to the very heart of effective government. It concerns the proper supervision of the insurance industry by the Treasurer, both now and in the past, and seeks the production of certain documents in relation to FAI. The collapse of HIH has been attributed by some to the purchase of FAI by that company. My colleague Mark Latham has referred in the other chamber to the involvement of the Liberal Party's treasurer, Mr Malcolm Turnbull, in that transaction. However, the involvement of significant and powerful Liberal Party members in the fortunes and misfortunes of FAI predates that. The collapse of

HIH has caused severe hardship to many people. It is also a factor in the escalation of premiums for public liability insurance and professional indemnity insurance which, as all in the chamber know, has affected many other people. The collapse of HIH has had significant consequences, and we must ensure that we understand all of the reasons for the collapse so that this parliament can properly respond to them. The return to order in my name seeks to allow parliament to do this.

Information available to me indicates that, when the Insurance Act was passed, FAI had significant difficulties in getting approval to hold a licence. In fact, four FAI companies had to appeal the decision of the then Insurance Commissioner in the Administrative Appeals Tribunal. In the end, the AAT approved two of the licences and the Treasurer at the time approved the other two licences. That was not until 1979, some six years after the commencement of the Insurance Act, and the Treasurer then was Mr John Howard. The documents the Senate now seeks will go towards explaining on what basis Mr Howard approved FAI's licences.

Turning specifically to the order, paragraph (a) refers to:

... the Treasury files, as described in paragraph 10.1.4 of the report to Messrs Corrs, Chambers Westgarth from John Palmer ... entitled 'Review of the role played by the Australian Prudential Regulation Authority and the Insurance and Superannuation Commission in the collapse of the HIH group of companies' ...

Senator Kemp, these files have already been found, sorted and provided to Mr Palmer. It should be easy to provide them to the Senate. I would have hoped, in fact, that that first part could have been provided today. Mr Palmer advised in his recommendations to the royal commission that a full review of these files be made and documented to ensure that there is an accurate record of the circumstances under which the FAI companies were authorised and their condition at the time of authorisation. I think that parliament, and the Senate in particular, is an appropriate place for this to occur.

Paragraphs (b) and (c) are necessary because the AAT heard the matter of FAI's li-

censing applications in private—what a surprise!—and a transcript of the decisions was not made available by the AAT. It is possible, but not certain, that a transcript may be available from the National Archives. I take the point Senator Kemp made that some archival material had to be dug out. I appreciate that answer. However, I understand that it will require the approval of the government—in this case, the Attorney-General or his department—to search those archives. I think Senator Kemp was indicating that that has been given—I will take it that he was and, if I am wrong, I am happy for Senator Kemp to clarify that—but even then it may not be possible to locate the transcript, if there is one. However, if these Senate orders can be complied with and sufficient information provided that step may not be necessary.

This return to order, like all returns to order, is about ensuring that the processes of government are not being manipulated or used to the advantage of few and the disadvantage of many. It is about accountability to the Australian people and transparency of government dealings. The procedure by which the Senate can order the production of documents is an important one and should be respected by the government. At this point, the government has not shown proper respect for the Senate's orders in relation to a whole range of matters I have already mentioned. I look forward to the minister being able to furnish all of the requested documents by the end of the parliamentary year.

#### PETITIONS

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

##### Foreign Affairs: Iraq

To the Honourable the President and Members of the Senate in Parliament assembled.

We the undersigned in this Petition call on Members of the Senate to support the following.

1. Opposing Australia's involvement in pre-emptive military action or first strike, against Iraq.
2. We also call on the Government to pursue diplomatic initiatives towards disarmament in Iraq and worldwide.

3. We want to see the international community working together through the United Nations to achieve a diplomatic solution to the Iraqi question. It is important for the stability of the world that the authority of the United Nations and its Security Council is upheld, and individual Governments be discouraged from acting unilaterally.

This petition comes from concerned parishioners of St John the Baptist Anglican Church, Lilydale, Victoria.

by **Senator Calvert** (from 50 citizens).

#### **Foreign Affairs: Iraq**

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

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

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

by **Senator Bartlett** (from 20 citizens).

#### **Foreign Affairs: Iraq**

To the Australian Senate:

We the undersigned call upon the Australian Government not to involve Australia in a war against Iraq.

There is no clear evidence that Iraq poses an immediate threat to Australia or any of our allies. There is no established link, between Iraq and the shameful attacks of September 11, 2001.

Democracy in Iraq cannot be enforced by war. Australia must play a part in diplomatic and peaceful solutions to this conflict, and must help the Iraqi people move, towards democracy.

There is no need for Australia to support or be involved in this conflict. We call upon you to put the interests of peace and the world community above those of the United States.

by **Senator Brown** (from 245 citizens).

Petitions received.

### **NOTICES**

#### **Presentation**

**Senator Ludwig** to move on the next day of sitting:

That there be laid on the table, no later than immediately after motions to take note of answers on Thursday, 5 December 2002, the Commonwealth Government's submission to the Remuneration Tribunal's major review of judicial and related offices' remuneration.

**Senator Allison** to move on the next day of sitting:

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 the Victorian State Government to:
  - (i) fully implement its 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.

**Senator Watson** to move on the next day of sitting:

That the time for the presentation of the report of the Select Committee on Superannuation on tax arrangements for superannuation and related policy be extended to 12 December 2002.

**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 5 December 2002.

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

That immediately after prayers on 4 December 2002, Senator Santoro may make his first speech without any question before the chair.

**Senator Ridgeway** to move on the next day of sitting:

That the Senate—

(a) notes that:

- (i) Sunday, 1 December 2002, was the annual World AIDS Day, and sought to draw international attention to the need to refocus our efforts on:
  - (A) eliminating all forms of discrimination against people with, or suspected of having, HIV through education about HIV/AIDS,
  - (B) advocacy for people living with HIV/AIDS, and
  - (C) promotion of legal protection for people living with or affected by HIV/AIDS,
- (ii) the joint United Nations Program on HIV/AIDS (UNAIDS) and the World Health Organisation released the 'AIDS Epidemic Update 2002' in the week beginning 24 November 2002, drawing attention to the fact that the virus is fuelling a widening and increasingly deadly famine in southern Africa, where more than 14 million people are now at risk of starvation and more than 29 million people are already infected with HIV,

(iii) more than 90 per cent of the 42 million people who have HIV or AIDS live in developing countries, and only 2 to 3 per cent have access to antiretroviral drug therapies that are designed to stop or inhibit the spread of HIV,

(iv) the infection rate from HIV in Australia has remained relatively stable over the past few years, but in many countries around the world, particularly in southern Africa and parts of the Asia-Pacific region, the virus is spreading so rapidly that it is now a pandemic, and

(v) some 5 million people were infected worldwide during the past year;

(b) welcomes the decision at the recent meeting of World Trade Organisation ministers to endorse the developing world's better access to affordable medicines, including drugs used in the treatment of HIV/AIDS, but encourages further progress to be made, particularly in relation to access to affordability of antiretroviral drugs; and

(c) reminds the Australian Government that, as a signatory to the United Nations Millennium Development Goals, which includes a commitment to stopping the spread of the AIDS pandemic by 2015, Australia needs to do all that is financially and medically possible to assist those countries, especially our nearest neighbours, which are struggling to contain the spread of the virus and to care for those already infected.

**Senator Nettle** to move on Wednesday, 4 December 2002:

(1) That the following matters be referred to the Community Affairs References Committee for inquiry and report by 18 September 2003:

(a) the financial sustainability of the Pharmaceutical Benefits Scheme (PBS), including the assumptions of forward estimates of the cost of the PBS to the Commonwealth Government;

(b) the social and economic implications of increasing the co-payment for PBS-listed medicines, including the long-term implications for the health of Australians;

- (c) whether the cost of the PBS to the Commonwealth Government provides value for money to the Australian community in terms of health outcomes;
  - (d) alternative means of funding the PBS, including:
    - (i) abolishing the Private Health Insurance Incentive Scheme and using the budget savings to fund the PBS,
    - (ii) a less regressive direct payment system taking into account ability to pay, and
    - (iii) abolishing the co-payment and replacing it with an increase in the Medicare levy;
  - (e) ways to map the prescribing habits of doctors and possible strategies to improve the quality of prescribing;
  - (f) the transparency of the PBS listing process, including the cost-benefit analysis that is conducted for drugs proposed for listing;
  - (g) whether the Commonwealth Government is making the best use of price-volume agreements to obtain the best value for money;
  - (h) the extent of leakage and means to eliminate it;
  - (i) whether voluntary controls on industry marketing practices are adequate or should be replaced with legislative controls;
  - (j) pharmaceutical industry practices that undermine the PBS and possible measures to eliminate or constrain these practices;
  - (k) cost shifting of pharmaceutical expenses from the states to the Commonwealth and ways to improve co-operation between the jurisdictions; and
  - (l) implications of any agreements that seek to link trade restriction practices to the operation of the PBS.
- (2) That in conducting this inquiry, the committee is to invite public submissions and to conduct public hearings in all capital cities.

**Senator Nettle** to move on the next day of sitting:

That there be laid on the table by the Minister for Health and Ageing (Senator Patterson) and the Minister representing the Minister for Trade (Senator Hill), no later than 4 pm on 4 December 2002, all documents relating to the possible 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 Nettle** to move on the next day of sitting:

That there be laid on the table by the Minister for Health and Ageing (Senator Patterson), no later than 4 pm on 4 December 2002, all documents relating to the inter-departmental committee (IDC) 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.

**Senator BROWN (Tasmania) (4.30 p.m.)**—I give notice that, on Wednesday, 4 December 2002, I shall 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.

**Senator Robert Ray**—Which country is she a citizen of?

**Senator BROWN**—She is a permanent resident of Australia.

**Senator Robert Ray**—I am asking which country she is a citizen of; they should be looking after her.

**Senator BROWN**—You can look into that, Senator Ray.

I also give notice that, on Wednesday, 4 December 2002, I shall 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.

**Senator Robert Ray**—You are supposed to put some of these in writing—and there are others. That was the idea.

**Senator Brown**—We can change the standing orders, but I am within the standing orders. If there is to be a debate about that, let us have it.

**Senator Brown** to move on the next day of sitting:

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. *Parliamentary Commission of Inquiry (Bali Bombings) Bill 2002.*

## COMMITTEES

### Corporations and Financial Services Committee

#### Meeting

**Senator EGGLESTON** (Western Australia) (4.33 p.m.)—by leave—At the request of Senator Chapman, I move:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate today, from 6 pm, to take evidence in relation to its duties to inquire into, and report on, the activities of the Australian Securities and Investments Commission and to examine its annual report.

Question agreed to.

## NOTICES

### Postponement

Items of business were postponed as follows:

General business notice of motion No. 258 standing in the name of Senator O'Brien for today, relating to crises in rural and regional Australia, postponed till 5 December 2002.

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 3 December 2002.

General business notice of motion No. 272 standing in the name of Senator Nettle for today, relating to Bankstown Airport, postponed till 3 December 2002.

## COMMITTEES

### Treaties Committee

#### Reference

**Senator GREIG** (Western Australia) (4.35 p.m.)—I move:

That the Senate—

- (a) notes, with concern, indications by the Government that it is considering entering into an agreement with the United States of America (US), pursuant to which Australia would agree not to surrender US nationals to the International Criminal Court without the consent of the US; and
- (b) refers the proposed agreement to the Joint Standing Committee on Treaties for inquiry and report, with particular reference to the following matters:

- (i) whether the proposed agreement would breach the terms of, or be otherwise inconsistent with the spirit of, the Rome Statute which Australia has ratified,
- (ii) the effect of the proposed agreement, either itself or in conjunction with similar agreements between the US and other states, on the ability of the International Criminal Court to effectively fulfil its intended function,
- (iii) the implications of any extradition provisions in the proposed agreement and whether the proposed agreement would require the re-negotiation of existing extradition agreements to which Australia is a party, and
- (iv) the implications of the proposed agreement with respect to Australia's national interest.

Question agreed to.

#### **TRADE: IVORY**

**Senator STOTT DESPOJA** (South Australia) (4.35 p.m.)—I move:

That the Senate—

- (a) notes:
  - (i) with concern, that the 12th Conference of the Parties to the United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora, held from 4 November to 15 November 2002, passed resolutions allowing Namibia, Botswana and South Africa to sell a total of 60 000 kilograms of stockpiled ivory after May 2004,
  - (ii) that these resolutions are inconsistent with the international ban on the sale of ivory, which came into force in 1989, and
  - (iii) evidence suggesting that these resolutions are likely to increase the incidence of illegal poaching of elephants from other African states in order to meet the increased demand for ivory;
- (b) acknowledges that the Australian Government voted to oppose these resolutions; and
- (c) calls upon the Australian Government to maintain pressure on other states, both directly and through multilateral frameworks, to adopt a full trade ban on ivory.

Question agreed to.

#### **HEALTH: TOBACCO CONTROL**

**Senator GREIG** (Western Australia) (4.36 p.m.)—At the request of Senator Allison, I move:

That the Senate—

- (a) notes the report recently released by United States Congressman Henry Waxman which shows that:
  - (i) major tobacco companies continue to deny in court that smoking causes disease, despite public admissions on their websites about the harm caused by their products,
  - (ii) only Philip Morris Ltd does not contest the fact that smoking causes disease,
  - (iii) four of the five major tobacco companies, including British American Tobacco which operates in Australia, decline to admit that nicotine is addictive, and
  - (iv) all five major tobacco companies deny that second-hand tobacco smoke causes disease in non-smokers, despite the evidence of leading medical and scientific organisations;
- (b) urges the Federal Government to invest more in tobacco control, noting the significant savings that can be made in deaths, disabilities, suffering and cost to the health system of around one fifth of the Australian population being addicted to smoking;
- (c) congratulates the New South Wales Government on successfully taking court action against Philip Morris for breaching tobacco advertising laws at their stand at the Fashion's Future Designer Awards in Sydney; and
- (d) encourages the New South Wales Government to introduce tougher penalties for companies flouting tobacco laws.

Question agreed to.

#### **ENVIRONMENT: KYOTO PROTOCOL**

**Senator ALLISON** (Victoria) (4.37 p.m.)—I move:

That the Senate—

- (a) notes that, in the week beginning 17 November 2002, the Australian Medical Association called on the Federal

Government to ratify the Kyoto Protocol on climate change as an important first step in reducing greenhouse gas emissions;

- (b) calls on the Government to assess the future costs of predicted increases in disease from vector-borne diseases; and
- (c) again urges the Government to ratify the Kyoto Protocol and increase efforts to abate greenhouse emissions.

Question agreed to.

## DOCUMENTS

### Tabling

**The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald) (4.38 p.m.)**—Pursuant to standing orders 38 and 166, I present the documents listed on today's *Order of Business* at item 12, which were presented to the President, Deputy President and temporary chairs of committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised.

*The list read as follows—*

#### COMMITTEE REPORTS PRESENTED TO THE PRESIDENT SINCE THE SENATE LAST SAT

1. Environment, Communications, Information Technology and the Arts Legislation Committee—Report, together with the Hansard record of proceedings and documents presented to the committee, on the provisions of the Telecommunications Competition Bill 2002 (presented to the Deputy President on 22 November 2002).
2. Environment, Communications, Information Technology and the Arts Legislation Committee—Interim report—Inquiry into the provisions of the Renewable Energy (Electricity) Amendment Bill 2002 (presented to the Deputy President on 28 November 2002).

#### GOVERNMENT DOCUMENTS PRESENTED TO THE PRESIDENT SINCE THE SENATE LAST SAT

1. Mid-Year Economic and Fiscal Outlook 2002-03—Statement by the Treasurer (Mr Costello) and the Minister for Finance and Administration (Senator Minchin) (presented to the Deputy President on 28 November 2002).
2. Commonwealth Government of Australia—Consolidated financial statements for the

year ended 30 June 2002 (presented to the President on 29 November 2002).

3. Department of Health and Ageing—Annual report 2001-02—Erratum (presented to temporary chair of committees, Senator Brandis, on 29 November 2002).
4. Health Services Australia—Annual report 2001-02 (presented to temporary chair of committees, Senator McLucas, on 29 November 2002).

#### REPORT OF THE AUDITOR-GENERAL PRESENTED TO THE PRESIDENT SINCE THE SENATE LAST SAT

1. Report No. 18 of 2002-2003—Business Support Process Audit—Management of Trust Monies (presented to the Deputy President on 27 November 2002).

Ordered that the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the provisions of the Telecommunications Competition Bill 2002 be printed.

#### Response to Resolution of the Senate

**The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald) (4.39 p.m.)**—I present a letter received by the President from the Prime Minister, Mr Howard, responding to a resolution of the Senate of 22 October 2002 concerning military action against Iraq.

**Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.39 p.m.)**—by leave—I move:

That the Senate take note of the document.

I think it is appropriate to take note of the response to the resolution passed by the Senate on 22 October—a motion moved by my colleague Senator Stott Despoja. The Prime Minister has responded and I think it is appropriate that the Senate take note of that response. It was a pretty straightforward resolution concerning military action against Iraq and was supported, if my memory serves me correctly, by the Labor Party, the Greens and of course the Democrats. It basically outlined in a very straightforward way a request for the Prime Minister to rule out Australia's involvement in a first strike against Iraq or any other country without clear-cut evidence that that country's support for international terrorism, its weapons of mass destruction capability and its threats

represent a real and present danger to our collective security. In other words, it was a request for the government to rule out Australia breaching international law. That is pretty straightforward, one would have thought, and yet the Prime Minister refuses to respond to the thrust of the resolution.

Every time the question is raised, the Prime Minister makes lots of general statements and says: 'That's all hypothetical. We haven't been asked yet by the United States or anybody else. Therefore, I'll make a decision when that time comes.' The resolution of the Senate said, 'Fine, make a decision when the time comes, but make a statement now that Australia won't support any action that breaches international law.' That is a pretty simple thing but the Prime Minister refuses to do it. Despite what Mr Howard says about considering it at the time et cetera, we know what his response will be at the time any response comes from President Bush. If a call comes from President Bush, Mr Howard will say, 'Yes, we support you.' No-one in this country would think otherwise. So a decision about what Australia's response would be, in terms of support, has basically already been made. A decision might not have been made about the type of support, but there is no doubt that this government would support the United States of America if it chose to launch an attack on Iraq, even if it was pre-emptive military action against Iraq without clear-cut evidence that that country's capability represented a real and present danger to our collective security.

It is a simple thing but the Prime Minister refuses to make a clear statement that we will maintain and stay within international law. He also leaves us in the situation where how we act as a nation, in terms of supporting such an attack against Iraq, is dependent on a decision made by the leader of another country. I think that is an inappropriate situation for Australia to be in.

**Senator Ferguson**—If you sent someone to Foreign Affairs, you might be able to get some more information.

**Senator BARTLETT**—If you supported a Senate committee inquiry, the public would be able to get more information—that would

be much more useful. And if you provided us with more places on those committees then you also might provide more opportunity for the public to be aware of what is going on. As usual, Senator Ferguson tries to divert attention away from the real topic at hand, which is the Prime Minister's response to a resolution of the Senate—

*Senator Robert Ray interjecting—*

**Senator Stott Despoja**—From 1 January, Robert.

**Senator Robert Ray**—You've got two in the electorate—

**Senator BARTLETT**—I am happy to rectify that situation.

**Senator Stott Despoja**—He's happy to rectify that one.

**Senator Robert Ray**—So we can get an extra quorum member—

**Senator Stott Despoja**—I will make it to the quorum.

**Senator BARTLETT**—I will leave you to do that. I am being distracted terribly by the three-way interjections surrounding me. The point at hand is that the Senate made a simple resolution calling on the Prime Minister to rule out Australia's involvement in any pre-emptive military action. That is the view of the Senate. The Prime Minister, by way of response, did not even say that he disagreed; he just ignored the resolution altogether and continues to avoid the question. I think it is the issue of avoiding the question that is really the problem. If the Prime Minister wants to make a case as to why Australia should support or leave open the option of supporting pre-emptive military action then he should do so. He should not just keep dodging it and saying, 'Well, we haven't been asked yet. We'll decide that at the time,' and all those sorts of things. Everybody in the country knows that. You have only to look at the thousands upon thousands of people in the streets of capital cities around Australia over the weekend to see the level of public concern about this issue and the level of apprehension about where we are going to be led—or where the Prime Minister is going to allow us to be led, which is even worse. Let him make the case. Let him show some leadership, but not just sit back,

dodge the question and leave the future direction of our country to be determined by the leader of another nation.

The Democrats are not an anti-US party; we are a pro-Australian party. We believe we should be making our own decisions in our own national interest rather than subjecting ourselves to a situation where the direction of crucial foreign policy decisions will be determined by leaders of other countries. So it is a disappointing response from the Prime Minister. It does not go to the thrust of the resolution of the Senate. I think it is worth noting that there is a very real prospect that, by the time the Senate finishes sitting at the end of next week, our nation may well be at war. Our Prime Minister may well support our nation's involvement in war before we return.

**Senator Ferguson**—You're a scaremonger.

**Senator BARTLETT**—Again, all you get are shallow interjections from the government saying, 'You're a scaremonger.' There is a pretty real prospect of war out there. If Senator Ferguson is not aware that there is a prospect that we might be going to war, I think there are plenty of other people who are. That is why they are marching in the streets. That is why they want to make their voices heard in the same way that the Senate made its voice heard with this resolution. I think it is very disappointing that the Prime Minister has chosen not to respond to the heart of the resolution but to continue to dodge the question. Let us at least get a position clearly out in the open so the Australian public can be informed and so we can have a more informed debate rather than the toing-and-froing, the dodging and weaving and the backwarding-and-forwarding that we have from the Prime Minister and his foreign affairs minister.

We have had the Prime Minister not only ignoring this resolution of the Senate but over the weekend suggesting we actually need to expand the definition of self-defence under the UN charter. I do not think there is any clearer indication that the Prime Minister knows that the existing definition of self-defence under the UN charter would not justify an attack against Iraq. That is why he

wants to argue the case that the definition needs to be changed. This is a classic case of trying to change the rules after you have already made your decision—that is the Prime Minister's approach to this. It is very disappointing that he has chosen not to respond to the substance of the Senate's resolution on what is quite clearly one of the most fundamental questions facing the Australian people and the Australian parliament at this point in time.

We do welcome the Prime Minister's commitment over the weekend to have a parliamentary debate on this issue. But, again, we say that that debate should happen before a decision is made; we should not be asked to ratify a decision after it has been made. We also repeat our call that any vote on Australian involvement in a war on Iraq must be a conscience vote. Today we have already had the quite positive experience of witnessing a conscience debate and vote on stem cell research and the like. I do not have a problem with that; it is obviously an important moral issue for many people. But I do not think you get many moral issues bigger than going to war or having one's nation support a war. Certainly, there should also be a conscience vote in relation to any issue concerning military engagement in Iraq.

The Democrats will continue to try and get further examination of this issue in the parliament. We will try and pressure the government to take a stronger stand and show some leadership rather than just try to keep its head down and sneak Australia into war by default. We will continue to apply pressure in that regard, and I welcome others in the Senate who are also continuing to work to get this issue properly addressed by the government.

**Senator BROWN (Tasmania)** (4.48 p.m.)—I endorse what Senator Bartlett has said on this matter and congratulate the Democrats for giving the Senate the opportunity to resolve that the Prime Minister should be contacted. I find the Prime Minister's response lacking in a couple of particulars and I want to talk about those points. The first issue is the Prime Minister's failure to commit himself to the democratic process. Without any real precedent in this country,

the executive has developed a tendency to believe that the parliament is a subsidiary when in fact it is the other way around—the people elect the parliament and not the executive.

As Senator Bartlett has pointed out, we have had the Prime Minister reiterate over the weekend that he will determine when and if Australians are sent to Iraq at the behest of the Bush administration in the coming weeks or months. This is totally against the democratic principle that this parliament, and every member of it, is elected to deal with the important matters that confront this country. In the United States, the Congress has already debated this matter. What is more, it was done on the basis of informed debate. There were committee hearings, and then an informed parliamentary debate before Congress gave the President the authority. We have had no such process in this parliament. In fact, the first effort by the Greens to get a committee hearing into the potential destruction of Australia's interests—let alone those of Iraqi civilians, should there be an invasion of Iraq—went without support from any other component of the Senate.

**Senator Kemp**—You never come to committee hearings. The Greens never come.

**Senator BROWN**—Let me say this over the interjections of Senator Kemp and of other government members: this is a democracy. Power is invested in this parliament and it is quite arrogant and antidemocratic for the Prime Minister to assume for himself the power to involve Australians in a war before a debate has occurred and a vote has been taken in this parliament. Certainly, the Prime Minister is going to respond to President Bush much more clearly, quickly and directly than he will respond to public feeling in this country, should the eventualities of war become reality. The problem is that we are moving inexorably towards an invasion of Baghdad. Behind that invasion is a wish by United States corporations and the United States administration to get control of the Iraqi oil resources in an age when oil is an ultimate currency for the economic wellbeing of the United States in particular but the West in general.

This is a very dangerous road for Australia to be following the United States along. I point out that both ASIO and the CIA have warned that an attack on Iraq could well lead to increased terrorist activities against those who are involved in it. It is not some fanciful concern coming from people who are worried about standing up for the nation's interests; this is real information which has been presented to us as representatives and to governments in both Canberra and Washington and which ought to be taken note of. While I reiterate, because it is necessary to do so every time, what a brute Saddam Hussein is, I note that the Prime Minister has disagreed with those who say that Saddam Hussein is not directly connected with 9/11 or the Bali bombings through the al-Qaeda chain or whatever.

Nevertheless, this inexorable road to an invasion of Baghdad, with huge consequences—death and destruction—within and outside Iraq, is being undertaken by the Bush administration. They put maximum pressure on the United Nations, after Colin Powell explained to the President of the United States that the ramifications would be far more serious were the trajectory taken in the lead-up to an attack on Baghdad not to follow the United Nations path. Now that process has been undertaken, and the United States, with Britain and—although the pressure is much less—the Australian administration have put pressure to get the United Nations to sanction a resolution which effectively allows the United States to engage in an attack on Baghdad, whether or not the rest of the world wants it. We have this extraordinary persistence from President Bush and his advisers that, even if the United Nations countermands an attack on Baghdad, if it is in the United States' interest then they will do it. I tell you what: our Prime Minister will follow suit, because his interest, as he sees it, is with the Bush administration. But I follow Senator Bartlett in saying that is not necessarily at all in the interests of the Australian people, Australia's future, Australia's wellbeing or even the economy of this country.

I point out again that Nepal is currently undergoing an extreme period of terrorism with the Maoist uprising there, and the

United States has done nothing except tell American citizens to leave, further damaging the Nepalese economy. This is because the Nepalese have made this great error: they do not have oil. So they are off the agenda. Nepal is a country terrorised. I was in Katmandu some months ago, and people there are talking about Katmandu becoming the next Phnom Penh under Pol Pot. But the world is turning its back on that—and it must not, because that would mean duplicity and hypocrisy in the way in which the word ‘terrorism’ is used and the genuineness with which President Bush and, indeed, Prime Minister Howard say that we must tackle terrorism wherever it arises. Nepal is a friendly country to Australia. It has huge problems; it is one of the poorest countries on earth. Many Australians love the place—there are Australians there now—but we are doing next to nothing. I challenge any government member to get up and say what we are doing to assuage this terror stalking the lives of some 20 million Nepalese.

Finally, I want to talk about the pre-emptive strike business. On the weekend, Prime Minister Howard endorsed an earlier statement from Defence Minister Hill that Australia reserves the right to a pre-emptive strike on another country in the event that it sees there may be an attack by terrorists from that country. This was an unguarded, injudicious and damaging statement from the Prime Minister. The Prime Minister normally goes right out of his way to dismiss hypothetical questions put to him by senior journalists. On this occasion he engaged. He took the question up, and he did not give the necessary precautions as he thought aloud about an area of potential Australian engagement which should never be discussed by the head of state of this country. The Prime Minister made a mistake; the Prime Minister made a gaffe. The Prime Minister’s statement seriously damages this country insofar as its relationships with the neighbourhood are concerned, and he should withdraw it.

Prime Minister Howard is experienced enough in state affairs to know what the damage of leaving that statement hanging in the air, not properly qualified, will be as we go down the line in coming months and

years in seriously fraught situations of international tension. He has to be big enough, on behalf of this nation, to withdraw that statement. The explanations given by the foreign minister today compounded the problem. The foreign minister cannot explain away the statement the Prime Minister made yesterday. It is up to Prime Minister Howard to withdraw that statement in the interests of this country, to show that he has the statesmanlike capability to put his country first, not his own political interests. (*Time expired*)

Question agreed to.

### DOCUMENTS

#### Auditor-General’s Reports

##### Report No. 19 of 2002-03

**The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)** (4.58 p.m.)—In accordance with the provisions of the Auditor-General’s Act 1997, I present the following report of the Auditor-General: Report No. 19 of 2002-03—*Performance Audit—The Australian Taxation Office’s management of its relationship with tax practitioners.*

### PARLIAMENTARY ZONE

#### Proposal for Works

**The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)**—In accordance with the provisions of the Parliament Act 1974, I present a proposal by the Joint House Department for works within the Parliamentary Zone, together with supporting documentation, relating to the construction of additional security elements, including vehicular access gates and bollards, to prevent access to the ministerial entry by unauthorised vehicles.

**Senator KEMP** (Victoria—Minister for the Arts and Sport) (4.59 p.m.)—by leave—I give notice that, on Thursday, 5 December 2002, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the Joint House Department to construct additional security elements, including vehicular access gates and bollards, to prevent access to the Ministerial entry by unauthorised vehicles.

**RENEWABLE ENERGY  
(ELECTRICITY) AMENDMENT BILL  
2002**

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

**Senator EGGLESTON** (Western Australia) (5.01 p.m.)—On behalf of the Environment, Communications, Information Technology and the Arts Legislation Committee, I present the report of the committee on the provisions of the Renewable Energy (Electricity) Amendment Bill 2002, together with the *Hansard* record of proceedings, and documents presented to the committee.

**Senator Brown**—I want to take note of that report, and I will take your advice as to when is the right time to do that.

**The ACTING DEPUTY PRESIDENT (Senator McLucas)**—I am advised that you would need to seek leave, Senator Brown, and that leave is not usually given in this situation because you will have an opportunity to debate the report with the bill.

**Senator Brown**—I will save everybody's energy and wait for that opportunity.

Ordered that the report be printed.

**COMMITTEES**

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

**Report**

**Senator FERGUSON** (South Australia) (5.02 p.m.)—On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I wish to make an oral presentation, by way of a report, entitled *Review of Australia's preparedness to manage the consequences of a terrorist attack*. I am pleased to announce that the Joint Standing Committee on Foreign Affairs, Defence and Trade will be conducting a series of public hearings on Australia's preparedness to manage the consequences of a terrorist attack in Australia. The hearings will allow the committee to report to parliament on the state of Australia's preparedness to manage the consequences of a terrorist attack. The hearings are part of the committee's ongoing watching brief on Australia's involvement in the war

on terrorism and on related actions in response to terrorism.

The watching brief, which commenced in May 2002, has involved regular private briefings from diplomatic representatives, government officials, defence force personnel and other experts in the field of counter-terrorism. We have, for example, met with the United States Ambassador, His Excellency Mr Thomas Schieffer; Denis Richardson, the Director-General of ASIO; Hugh White, from the Australian Strategic Policy Institute; Clive Williams, the Director of Terrorism Studies at the Australian National University; senior officials in the Australian Defence Force; aviation security experts; and officials from the Protective Security Coordination Centre, the Commonwealth agency responsible for coordinating the national counter-terrorism arrangements and programs. Some members of the committee have also travelled to Kuwait, the Persian Gulf, Kyrgyzstan and Afghanistan to visit the defence forces deployed to the international coalition against terrorism. The report of this visit was tabled in parliament on 21 October.

To date the focus of our watching brief has been to develop an understanding of the nature and extent of Australia's current commitment to the international coalition against terrorism; the nature of the terrorist threat at home and abroad; and the measures in place, domestically and internationally, to counter the threat of terrorism. When we began these briefings we viewed them from the perspective of a world changed by the terrorist attacks in America on 11 September 2001. The bombings in Bali on 12 October 2002 have tragically demonstrated that the threat of terrorism is always present.

Most of our briefings have focused on identifying terrorist threats and discussing some of the preventative measures that have been put in place. Of necessity these briefings have been conducted in private session. While we have learned much about the work of our intelligence and law enforcement agencies and our defence forces, we have taken the view that public disclosure of some of this information would affect the government's capacity to protect Australian citizens

and their interests. The briefings have nevertheless been valuable, allowing the senators and members on the committee to develop a better understanding of these issues, to make informed contributions to parliamentary and community debate, and to oversee more effectively the government's counter-terrorism policy responses. Our briefings have highlighted the importance of maintaining a multifaceted counter-terrorism strategy involving close domestic and international cooperation to detect, apprehend and prosecute terrorists, and to degrade and destroy terrorist organisations and structures.

Identification and prevention of the threat is clearly important and is likely to remain a focus of government attention. But it is equally important to acknowledge that, no matter how sophisticated and well connected our intelligence and law enforcement operations, prudent planning must assume that further terrorist attacks will occur. While we must continue to do all we can to prevent an attack, we must also do all we can to prepare for the consequences of such an attack. It is this end of the spectrum—the capacity of our governments to successfully respond to a terrorist incident—which will be the focus of our new program of public hearings.

The hearings are scheduled to begin in Canberra on Monday, 9 December with a focus on the role of the Commonwealth government and its agencies in coordinating the immediate response to, and managing the consequences of, a terrorist attack. We will seek evidence from the Protective Security Coordination Centre, Emergency Management Australia, the Australian Federal Police, the Australian Defence Force and a number of non-government experts. We will then travel to a number of states and territories to hear from local coordinators of the national counter-terrorism strategy, police and emergency service agencies, health service providers and state based representatives of key Commonwealth agencies.

Key issues for us will be: the response and management capabilities in each jurisdiction; the capabilities that can be provided at short notice to supplement local resources; and the nature and likely effectiveness of the mechanisms in place to ensure a swift and well-

coordinated response. Our aim is to critically examine the state of our preparedness to respond to a terrorist attack, hopefully providing a measure of confidence to the community that appropriate arrangements are in place or, if they are not, making recommendations aimed at correcting any identified shortcomings.

It is likely that we will report to the parliament in the 2003 budget sittings. We will consider at this time whether to conduct any further public hearings on other aspects of Australia's involvement in the war on terrorism. This is an important series of events, and I look forward to the active support and cooperation of all relevant authorities.

#### **ASIO, ASIS and DSD Committee: Joint Report**

**Senator SANDY MACDONALD** (*New South Wales*) (5.08 p.m.)—On behalf of the Parliamentary Joint Committee on ASIO, ASIS and DSD, I present the annual report of the committee for 2001-02. I seek leave to move a motion in relation to the report.

Leave granted.

**Senator SANDY MACDONALD**—I move:

That the Senate take note of the report.

As a member of the Parliamentary Joint Committee on ASIO, ASIS and DSD, I am pleased to present the committee's first annual report to the Senate. The report, which has been authorised for publication by all three portfolio ministers, includes a review of the expenditure and aspects of administration of the three agencies for the period 2001-02, and a summary of the committee's activities in its first four months of operation.

Tabling of this report is an important step forward for the committee and the process of legislative oversight of the intelligence services of Australia. It marks the first time that the administration and expenditure of the three agencies have been subjected to comprehensive review by the Australian parliament. It is also the first time that a committee dealing with intelligence matters has been required to report to the legislature on its own activities. Both are reasonably modest steps but they are important milestones.

In preparing the report, the committee considered detailed submissions from each of the agencies on their administration and expenditure. It also held a full day's hearing, in camera, at which agencies were cross-examined on evidence provided to the committee, and it conducted a number of informal briefings with the agencies, with the Inspector-General of Intelligence and Security and with the Australian National Audit Office.

The annual report reflects the committee's satisfaction that information on each agency's expenditure is transparent and that the budgetary positions of the three agencies for the current financial year appear sound. Additional appropriations for each of the agencies under the 2002-03 federal budget have been earmarked by the government for new programs and should enhance operational capability within the Australian intelligence community.

The report includes two recommendations, which are aimed at improving external oversight of the agencies: firstly, the establishment of an efficiency adviser position within the office of the Inspector-General of Intelligence and Security to enhance his capacity to assess use of resources by the agencies; and, secondly, arrangements to enable DSD to provide separate, audited financial statements for review by the committee. Presently, they are embedded within those of the Department of Defence.

The report also contains a useful summary of the committee's activities to June 2002. These include the committee's intensive inquiry into and report on the [Australian Security Intelligence Organisation Legislation Amendment \(Terrorism\) Bill 2002](#), and participation by members in the International Intelligence Review Agencies Conference in London in May this year.

As the report makes clear, these are still early days for the committee and the process of agency review. Future reports will see refinements to the committee's methods and scope of investigation. The committee has already identified a number of areas for further work, such as: recruitment, training and retention of agency staff; the adequacy of contracting arrangements; and the imple-

mentation of internal audit and risk management strategies. Of course, the committee also has powers to request separate terms of review, which it may choose to pursue in the coming 12 months.

In conclusion, I would like to thank the other members of the committee, including: the presiding officer, the Hon. David Jull; my colleague Senator Alan Ferguson; Senator Robert Ray; the Hon. Leo McLeay; the Hon. Kim Beazley; and Mr Stewart McArthur. All of them show considerable interest in and commitment to the work of the committee. I would also like to thank the staff of the committee, who are particularly active and interested in the work that we do.

As I mentioned in my opening remarks, this is a new committee. It is developing its role at a time of heightened international and national interest in security and counter-terrorism. I think I share the view of every member of the committee when I say that we feel extremely privileged—if that is the right word—to be playing a part in protecting Australia and our citizens from the challenges of the present international environment. In time, the committee will play an increasing role in that task, but I think the Senate will see from the report as tabled that a very good start has been made. I commend the report to the Senate.

Question agreed to.

#### **Native Title and the Aboriginal and Torres Strait Islander Fund Committee**

##### **Membership**

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

**Senator PATTERSON (Victoria—Minister for Health and Ageing) (5.15 p.m.)**—by leave—I move:

That Senator Johnston be appointed to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund.

Question agreed to.

**FINANCIAL SECTOR LEGISLATION  
AMENDMENT BILL (No. 2) 2002**

**First Reading**

Bill received from the House of Representatives.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (5.15 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 PATTERSON** (Victoria—Minister for Health and Ageing) (5.16 p.m.)—I table a revised explanatory memorandum relating to the bill and 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—*

I rise today to introduce a bill which has been agreed to in the House of Representatives. The bill consists of a package of amendments to seven Acts dealing with the financial sector. These Acts are the:

- Australian Securities and Investments Commission Act 2001
- Banking Act 1959
- Corporations (Repeals, Consequential and Transitionals) Act 2001
- Corporations Act 2001
- Insurance Act 1973
- Superannuation (Resolution of Complaints) Act 1993; and
- Superannuation Industry (Supervision) Act 1993.

Most of the amendments are in the nature of minor technical matters that have no policy implications. Other amendments, such as those to the Banking Act have the effect of improving prudential regulation by the Australian Prudential Regulation Authority (APRA) of authorised deposit-taking institutions and ensuring that Australian regulation is in compliance with world's best practice.

Passage of the bill will enable the financial sector to operate more effectively and efficiently by improving the application and implementation of

the various Acts. The amendments will help to avoid confusion that currently exists in penalties, in definitions and in discrepancies with other legislation. The bill does not contain any controversial amendments and there has been wide consultation with industry and Government agencies where appropriate.

The amendments to the Banking Act largely reflect that it has not been updated for some time. They include provision for the application of a 'fit and proper' test to directors and senior managers of authorised deposit-taking institutions (ADIs) and authorised non-operating holding companies. Currently, there is no formal test of expertise and integrity of directors and senior management. This amendment will make Australia compliant with the requirement for a 'fit and proper' test as specified by the Basel Committee, which prescribes the international benchmark for banking regulation. These amendments will reduce the risk exposure faced by depositors arising from mismanagement. A three month transitional period will be applied to part of the 'fit and proper' test, which will especially benefit smaller institutions in implementing the test.

Amendments will also make the provisions in the Banking Act that deal with auditors consistent with the auditor provisions in the Insurance Act. The amendments will provide APRA with the means to remove auditors who fail to perform adequately and properly. This is essential for APRA to receive accurate information in carrying out its prudential regulation.

The Banking Act will also be amended to include the requirement for an ADI, authorised non-operating holding company of an ADI, and their subsidiaries to notify APRA immediately of any breaches of prudential requirements and any material adverse developments. This will enable APRA to more effectively monitor the position of potentially troubled organisations in order to seek earlier remedial action and will assist in protecting depositor interests. Penalties have been specified for breaches of this requirement. It will also improve compliance with the Basel Core Principles dealing with regular banking supervision.

Another amendment to the Banking Act will allow APRA to continue to apply prudential standards on a consolidated group basis. This is consistent with APRA's own conglomerate policy and also with the Basel Core Principles, which require that supervision of a banking group be on a consolidated basis.

The Banking Act will also be amended to provide additional grounds for APRA to revoke the authority granted to an ADI or non-operating holding company where the application for the

authority contained false or misleading information. Currently APRA must rely on uncertain national interest provisions. This amendment will remove the uncertainty. This is also a requirement of the Basel Core Principles.

Other proposed amendments to the Banking Act correct a discrepancy between the indemnity provisions of the Banking Act and the Australian Prudential Regulation Authority Act 1998. The discrepancy relates to the extent of protection available to APRA officers under these Acts. This will ensure that Australia is in compliance with the Basel Core Principles, which require that legal protection should be afforded to the supervisory agency and its staff against lawsuits when they have acted in good faith.

The information and data-gathering powers of APRA will be enhanced with amendments made to capture the provisions of the Financial Sector (Collection of Data) Act 2001 and to clarify the definition of 'information'. This will improve APRA's investigative capacity. These amendments are being made to both the Banking Act and the Insurance Act.

There are further proposed amendments to the Banking and Insurance Acts that will enable APRA to more quickly and easily direct the removal of directors of regulated institutions.

Amendments to the Insurance Act are required to allow APRA to discuss submissions from a director or senior manager who is being removed with third parties. This would mean that APRA could test the veracity of any material notwithstanding privacy or confidentiality concerns. This is a vital part of APRA's ability to apply the 'fit and proper' test to management.

A further amendment under the Insurance Act is the requirement that an insurance company must notify APRA of any breach of prudential standards, including any material developments that are detrimental to its financial position. This will allow APRA to deal earlier with potentially troubled institutions.

Another amendment deals with the incorrect specification of penalties. The penalty provisions in the Insurance Act need to be increased so that the penalty units applying to a body corporate are appropriate and consistent with penalty provisions specified in the Crimes Act 1914 that apply to bodies corporate.

Amendments to the Superannuation (Resolution of Complaints) Act will introduce flexibility in the time limits relating to complaints about disability benefits. This acknowledges the difficulty in assessing medical conditions over time and gives the Superannuation Complaints Tribunal

discretion in dealing with time limits, which are currently fixed.

Another amendment to the Superannuation (Resolution of Complaints) Act will act to strengthen, modernise and improve the conciliation powers of the Superannuation Complaints Tribunal. This will enable the Tribunal to require parties to attend conciliation, instead of the current voluntary system. There will be penalties for non-compliance. These amendments will make the use of conciliation in the Superannuation Complaints Tribunal consistent with other administrative tribunals.

A further amendment to the Superannuation (Resolution of Complaints) Act is required to remove redundant powers that deal with arbitration. There will also be further minor technical amendments which will have the effect of streamlining the application of the Act.

Amendments to the Superannuation Industry (Supervision) Act will allow the recognition of awards that were given under arbitration agreements and are still in force, even though the arbitration power has been removed.

Amendments to the Australian Securities and Investments Commission Act, the Corporations Act and the Corporations (Repeals, Consequential and Transitional) Act correct minor errors, grammatical mistakes and erroneous cross references and remove obsolete provisions. The Ministerial Council for Corporations has been consulted about the amendments and has approved them.

This bill builds on financial sector reforms already undertaken. They emphasise the commitment of the Government to ongoing reforms that ensure Australia is at the forefront of international best practice in financial regulation.

The financial sector is a key driver in the economy. These amendments will increase the efficiency of the financial industry and, through improving the operation of the Acts, assist the regulators in ensuring a stronger regulatory environment.

I commend the bill to the Senate.

Ordered that further consideration of this bill be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

**FAMILY AND COMMUNITY  
SERVICES LEGISLATION  
AMENDMENT (SPECIAL BENEFIT  
ACTIVITY TEST) BILL 2002**

**Report of Senate Community Affairs  
Legislation Committee**

**Senator McGAURAN (Victoria)** (5.16 p.m.)—On behalf of the Chair of the Senate Community Affairs Legislation Committee, Senator Knowles, I present the report of the committee on the provisions of the *Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002*, together with the *Hansard* record of proceedings and submissions received by the committee.

Ordered that the report be printed.

**RESEARCH INVOLVING EMBRYOS  
BILL 2002**

**In Committee**

Consideration resumed.

**The TEMPORARY CHAIRMAN (Senator McLucas)**—The committee is considering amendment (3) on sheet 2720 moved by Senator Hogg. The question is that the amendment be agreed to.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (5.17 p.m.)—I apologise to Senator Harradine, but I think he will understand why I took five minutes out before question time. Just before question time, Senator Harradine expressed concern that certain activities are exempt. This is because the offence provisions were drafted very broadly to apply to all uses of excess ART embryos, not just research involving the destructive uses of ART embryos. This was intentionally done to ensure no loopholes were created. The exemptions were included to exempt routine ART clinical practice. This is entirely consistent with the COAG decision that expressly stated:

Accreditation by the Reproductive Technology Accreditation Committee (RTAC) of the Fertility Society of Australia should provide the basis for a nationally-consistent approach to the oversight of ART clinical practice in Australia, noting that compliance with the NHMRC/AHEC Ethical Guidelines on ART is a key requirement of the RTAC accreditation.

The COAG decision also states:

Individual jurisdictions may choose to mandate RTAC accreditation in legislation or supplement requirements for RTAC accreditation with an additional layer of oversight ...

Therefore, in response to Senator Harradine's question about who oversees RTAC and ART clinical practice, COAG clearly stated this is an issue for states and territories to mandate, should they see fit.

**Senator HARRADINE (Tasmania)** (5.19 p.m.)—I am raising this question of excess embryos being used in an exempt manner—not in an exemplary manner but in an exempt manner. That depends upon whether or not the use is carried out by an accredited ART centre. What I am raising with the minister is this: is it not purely and simply an industry organisation? Is not the Fertility Society of Australia, in effect, an IVF industry body? I would be obliged if the minister could show me where it is not an industry body. In fact, isn't it true that the Reproductive Technology Accreditation Committee is a committee of the Fertility Society of Australia? If you have a look at that disinterested body—this gatekeeper appointed by the government; it is to be imported into the bill by the government and it is going to end up in an act of parliament, so that is why I am raising this—it is to be appointed as the appropriate independent body to grant accreditation to IVF centres. This is a very important area because it means that this organisation, which is an industry body, can virtually give carte blanche approval to research activity on human embryos and that matter does not have to then go to the licensing committee.

I raise the question as to whether the minister understands that there are 16 members on the board of the Fertility Society and that three of the members are from Monash University and are associated with IVF. Monash is certainly not a disinterested organisation in the debate over the bill because, as you know, Madam Chair, two of these members gave evidence to the Community Affairs Legislation Committee, lobbying in favour of the draft legislation. Eleven of the members are representatives from for-profit IVF centres. Again, I emphasise that that is an industry body. This parliament has absolutely no control over this body, and yet you

are giving to this body power over exempt uses of human embryos and therefore the matter does not have to go back to the licensing committee.

In my description of the Fertility Society, I include the consumer representative. There is a consumer representative on the body of the Fertility Society, but guess what? That organisation, called Access, is 70 per cent funded by the industry. That came out of the information that was brought to the committee. I think that Senator Bishop asked various questions at that time and it was revealed that the consumer representatives are from an organisation which is 70 per cent funded by the IVF industry.

I ask you, as a member of parliament: is it appropriate to allow this organisation to undermine, if you like, the structure that was proposed by COAG? The structure was for the establishment of a licensing committee. Madam Chair, regarding what you quoted from the COAG decision, it does not say in that decision—as far as I know, and I have not seen it—that all of these exempt activities could take place. The key part of the COAG decision is appendix 3, which states:

The Council agreed that research involving the destruction of existing excess ART embryos be permitted under a strict regulatory regime to enable Australia to remain at the forefront of research which may lead to medical breakthroughs in the treatment of disease.

I suggest that we really need to have a response from the minister which shows how she and the government are to ascertain what sort of outside monitoring provisions for the ART body—that is to say, the accredited ART centres—are required. These should not be provided by the Fertility Society of Australia, because they are an interested group.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (5.26 p.m.)—I refer honourable senators to the last page of the communique, which refers to a nationally consistent approach to ART. I am not going to read through it but people can go through those three paragraphs. This is what COAG said:

The Reproductive Technology Accreditation Committee is a committee of the Fertility Society of Australia. RTAC has overseen ART clinical

practice for many years and COAG agreed that this was appropriate. However, the exemption for diagnostic investigations does not give *carte blanche*, rather there are four strict criteria which must be met. First, the embryo must be excess; secondly, it must be undertaken within an RTAC accredited ART clinic; thirdly, it must be for diagnostic testing; and fourthly, it must be for treatment of a woman for whom the embryo was created.

This is an entirely appropriate exemption in relation to routine ART clinical practice, which, as COAG agreed, should be overseen by RTAC and supported by legislation if the states consider this necessary.

**Senator HARRADINE (Tasmania)** (5.28 p.m.)—Is Sydney IVF a member of the Fertility Society of Australia?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (5.28 p.m.)—I do not know the answer to that question but the exemption for diagnostic investigations, as I said, does not give *carte blanche*. There are four strict criteria, which I have just emphasised, and I am not going to go through them all. One of them is that it must be undertaken within an RTAC accredited ART clinic.

**Senator HARRADINE (Tasmania)** (5.28 p.m.)—Precisely, but RTAC is a subcommittee of the Fertility Society of Australia. That is the industry body. You will have no ethics control whatsoever of that organisation apart from the oversight of ART clinical practice in Australia, noting that compliance with the NHMRC ethical guidelines is a key requirement for RTAC accreditation. But what about sex selection? Sydney IVF are doing sex selection. They are a member of the Fertility Society of Australia. Obviously, the ethical guidelines, as they are called, are inadequate to the situation. I am raising this situation because it is mentioned in the bill. Somewhere we should have some sort of control of these industry bodies. The consumer representative body is 70 per cent funded by the industry. I see there is no point in pursuing that here, but I suggest that along the track we will regret what we have done with respect to this.

I support the amendment moved by Senator Hogg to strengthen the regime as per COAG. Under clause 10(2)(d) it says:

... the use is carried out by an accredited ART centre, and ...

Then it goes on to (i) and (ii) and then (f) says:

... the use is of a kind prescribed by the regulations for the purposes of this paragraph.

That is asking us to buy a pig in a poke. Minister, will this regulation be a disallowable instrument?

**Senator HOGG (Queensland)** (5.32 p.m.)—I would have expected that that was a reasonably important issue to be addressed by the minister because I have an interest in knowing about that as well. As Senator Harradine said, this is just a blank cheque for further down the track. Can someone let us know whether the regulations are a disallowable instrument—that is terribly important—and who will be responsible for the making of the regulations?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (5.33 p.m.)—I would just like to clarify this because at one point we went slightly away from the amendment. I presume we are talking about the regulations in clause 10(2)(f)?

**Senator HOGG (Queensland)** (5.33 p.m.)—That is correct, Minister. The way in which it is described there is fairly bland. That is basically why I am seeking the deletion of that particular paragraph. It is inconclusive as far as I am concerned, and it is just an open door which people can exploit further down the track. Senator Stott Despoja, in her statement on this particular amendment that I have put forward, said it was not meant to be a backdoor use or opportunity. I think people will accept that but one needs some assurances because as it currently stands there is no assurance there whatsoever. Given that we are looking at a 'strict regulatory regime'—and those are the words used in the COAG agreement—one would hope that we are going to have that type of language used in the legislation that this chamber passes.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (5.34 p.m.)—

This regulation making power enables regulations to be made prescribing additional activities that should be exempt from licensing requirements. The reason this was included was to ensure that parliament did not unintentionally prohibit practices regularly undertaken by ART clinics which should not be subjected to the licensing scheme. The offence provision in clause 10 was drafted very broadly in order to ensure that there were no gaps or loopholes. The effect of the offence provisions is that all uses of all excess ART embryos must be licensed. It was therefore necessary to exempt from the licensing scheme certain routine uses of excess ART embryos such as transport, storage, removal from storage et cetera. It is for reasons of prudence and good administration that clause 10(2)(f), the regulation making power, has been included.

If any additional exempt uses are proposed to be included in the regulations it will require the agreement of the states and territories to ensure national consistency and it will be open to the scrutiny of parliament. These are very appropriate safeguards for ensuring that exemptions cannot just be dreamt up by a licensing committee or by applicants for a licence. It ensures that there will be no additional exemptions unless all states and territories and the Commonwealth parliament actively decide that there should be. For this reason I will be opposing Senator Hogg's proposed amendment to remove the regulation making power in clause 10.

**Senator HOGG (Queensland)** (5.35 p.m.)—Minister, I take it from the words 'parliamentary scrutiny' that you are saying that those regulations will be a disallowable instrument?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (5.36 p.m.)—Yes.

**Senator HARRADINE (Tasmania)** (5.36 p.m.)—What power, if any, has the minister or whoever will be in control of this area to ensure that there is not open slather on the use of—and I use the technical term—'excess ART embryos'? Take, for example, the testing of different culture mediums for growth and survival rates. That is an open field. I notice that COAG was very strict in

its view that there should be an overall restriction on the number of human embryos that are used as a result of this decision. How is that to apply, for example, to the provisions of clause 2(d) of the legislation? Unless I am mistaken, clause 2(d) permits the training of people in IVF techniques—which include dissecting, lasering, cutting, transportation and observation, as the minister mentioned—and studies in genetic make-up and expression et cetera. How will the principle that has been proposed by COAG—that is to say, the need to ensure that the number of embryos used is restricted—be applied? Is that a fair question? I think that even the supporters of the legislation, and obviously COAG, wanted to see some sort of restriction. You are proposing that that restrictive limit goes in at a later stage in respect of the human embryos that are going to be used as a result of a licence, but these are not licensed areas. Would that be in the new NHMRC-AHEC guidelines, perhaps? I think the current guidelines mention that there is such a restriction. Perhaps that is going to be done in the new guidelines.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (5.40 p.m.)—There must be a licence for the use of excess ART embryos, unless there is an exempt use. Exempt use is a current ART clinical practice which COAG agreed would not form part of this legislation but would continue to be governed by RTAC. As I mentioned before, there are four strict criteria that have to be met. Firstly, the embryo must be excess. Secondly, it must be undertaken within an RTAC accredited ART clinic. Thirdly, it must be for diagnostic testing. Fourthly, it must be for the treatment of the woman for whom the embryo was created. As I indicated before—and COAG agreed to this—this exemption should be overseen by RTAC and supported by legislation if the states consider this to be necessary.

**Senator HOGG (Queensland)** (5.40 p.m.)—I do not know about Senator Harradine, but I am satisfied with the minister's answers at this stage and therefore I am not going to proceed with my amendment. I seek leave to withdraw amendment (3) on sheet 2720.

Leave granted.

**Senator HOGG (Queensland)** (5.41 p.m.)—by leave—I move amendments (4) and (8) on sheet 2720:

(4) Page 10 (after line 7), after clause 10, insert:

**10A Offence—selecting a human embryo to be an excess ART embryo on the grounds of gender**

A person commits an offence if the person intentionally selects a human embryo to be an excess ART embryo on the grounds of the gender of the embryo.

Maximum penalty: Imprisonment for 5 years.

(8) Clause 9, page 8 (after line 7), at the end of the clause, add:

(3) For the purposes of subsection (1), a human embryo does not become an excess ART embryo solely on the ground of the gender of the embryo.

I am not going to speak at great length on this; nonetheless, these are fairly important amendments. Firstly, in respect of amendment (4), I am seeking to insert the description of a new offence. The words there are chosen reasonably carefully. It says:

A person commits an offence if the person intentionally selects a human embryo to be an excess ART embryo on the grounds of the gender of the embryo.

It has to be an intentional selection on the grounds of gender. Secondly, amendment (8), which relates to clause 9, also goes down the same path by saying:

(3) For the purposes of subsection (1), a human embryo does not become an excess ART embryo solely on the ground of the gender of the embryo.

'Intentionally' and 'solely' are very important words, because it would be a crying shame to believe that an embryo would be declared excess purely and simply by virtue of its gender, whether it be male or female. Of course, it could be that there are people who have different ideas as to whether or not they want a particular embryo declared to be excess purely and simply based on the gender of that particular embryo. That is really sex selection and I believe that that is ethically abhorrent and should be prohibited. I am not a legal person in this area, but I believe that it would contravene the Sex Dis-

crimination Act and maybe even the Convention on the Rights of the Child.

When I talk about sex selection, I am talking specifically in terms of research purposes. People should understand that. I am not talking about where there may be a suspected genetic disorder. That is a different set of circumstances, and that is not coming down to sex selection based on the sex of the embryo itself. It seems to me that amendments (4) and (8) on sheet 2720 just go to the point of ensuring that the selection is not made simply or intentionally on the grounds of the sex of the embryo. I think that that is a reasonable position to adopt. Obviously, others will have different views. Again, I do not see any need to spend a great length of time on this. They are very simple amendments and they make good commonsense.

**Senator BROWN (Tasmania)** (5.45 p.m.)—Senator Nettle and I support these amendments.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (5.45 p.m.)—Senator Hogg indicated that these amendments were meant to only apply to experimental processes. I may be wrong, and I will look over my shoulder to the lawyers who are advising me, but I have been advised that the amendments would cover matters that fall under the jurisdiction of the states and territories. The amendments seek to regulate the use of gender selection techniques. The states and territories have always been responsible for the regulation of ART clinical practice. That was confirmed by COAG in April this year. The purpose of Senator Hogg's amendments would be to prohibit gender selection and therefore dictate the conditions that must be satisfied for an embryo to be designated as excess to the needs of a couple undergoing IVF treatment. Gender selection is an appropriate clinical intervention in ART clinical practice where families have a history of a sex linked genetic disease. In IVF, when somebody has a sex linked disease, they choose the embryo which does not have it. Gender selection is most often used in ART clinical practice, as I said, as a means of screening for such diseases. I am advised that the inclusion of clauses that seek to inhibit such practices

would severely limit treatment options for infertile couples within Australia. I presume from what Senator Hogg has said that that is not his intention, but that is what I am advised will be the outcome of these amendments. For that reason, I will be opposing the amendments.

**Senator STOTT DESPOJA (South Australia)** (5.47 p.m.)—I indicate that I will be opposing these amendments. I have asked my colleagues to make up their own minds on these particular amendments and, so far, all but one have indicated to me that they oppose the amendments. Obviously, many people in this place would understand why the process of gender selection could appear distasteful, particularly if, as some media reports have it, it is some kind of fashion statement. But, as has been acknowledged by people—including the mover of these amendments and the minister—there are very good reasons why a couple would want to gender select—for example, to avoid passing on a gender specific inheritable disease. In these circumstances, I believe that gender selection is justifiable and legitimate.

As I understand it, these amendments do not ban gender selection per se, but they seek to make it an offence to allow gender selection as a criterion to designate ART embryos as excess. If the real issue here, and the real desire of Senator Hogg, is to ban gender selection per se or entirely, then I suspect that this is the wrong legislation in which to do that. As the minister has pointed out, it would need to be addressed in state regulation and the Reproductive Technology Accreditation Committee guidelines. As I have stated, there are good reasons why this practice is and should be allowed. There are perfectly legitimate reasons why genuinely excess ART embryos may arise because of gender selection. So I indicate, on behalf of myself and a number of my colleagues, that we will be opposing the amendments.

**Senator HARRADINE (Tasmania)** (5.50 p.m.)—This is a very important area and, without going near the question of the clinical practice—which is another matter of concern—but dealing with what is in front of us, we have a proposition whereby the amendments seek to take out sex selection

when it comes to defining an excess ART embryo. My goodness, if we cannot do that, we are really going down the slippery slope. To say that it is for the states to regulate this, we are opening the way for it here in this legislation. This legislation is going to go to the state parliaments for their consideration and endorsement, and they can either endorse it or otherwise. But I bet that most of the state parliaments will certainly not agree to a situation where sex selection comes into the equation as to whether or not there are excess ART embryos. I really am astounded.

**Senator HOGG (Queensland)** (5.52 p.m.)—I heard the minister's explanation and I thank her for that. I believe this is template legislation which needs to be put in place. I do not believe that the minister used an overwhelming argument to not adopt either amendment (4) or (8). I understand, Minister, there are occasions when there is a need to access the embryo in respect of the genetic disorders that may run in some families—as I said, that is not trying to exclude it.

If the basic intent is not opposed by the government, then I would be quite prepared to defer consideration of this matter to see if we can get a form of words that might meet the concerns. But it seems to me that where we are basically dealing with the selection of the gender of the embryo then that is quite repugnant indeed. I do not think that anyone wants to see that occur. But if we can accommodate that, then that is a reasonable position to be adopted in this legislation.

It is groundbreaking legislation in this country. It arises as a result of the COAG process, and it does not seem unreasonable that where there is something as significant and as important as that issue—that is, gender selection—in some way that critical issue cannot be accommodated in this legislation. I can count just as well as others around here and it does not seem as though there is support for the proposition as it currently stands. But, if the government can see their way clear, there may well be an alternative to amendments (4) and (8) which will find a reasonable place to sit in this legislation.

**Senator BROWN (Tasmania)** (5.54 p.m.)—Senators will know that I am making a late entry into this debate because I was

indisposed earlier. Senator Hogg's amendments are pretty clear to me, and I think I must be missing something here. The minister or Senator Stott Despoja or an opponent of these amendments might be able to explain it to me.

The definition of 'excess ART embryo' on page 10 of the legislation says that such an embryo is in 'excess to the needs' of the woman for whom it was created. The argument that I have heard here is that the woman for whom it was created might want to select an embryo of a certain sex to avoid a genetic disease or disorder. But we are not talking here about her selection for reproduction; we are talking about the embryos which are excess to that. I heard Senator Hogg say that where you have excess embryos they must not be sexually identified and selected for whatever purposes the excess embryo is going to be put to. I agree with that. It is perfectly clear that we are talking about excess embryos here and about not allowing gender selection of those excess embryos for the purposes of experimentation or whatever it might be. If I am not clear on that—and it seems pretty clear to me—I would like to know why. Because I came in late in the debate, I may have missed the point.

**Senator HARRIS (Queensland)** (5.56 p.m.)—I agree with Senator Brown. The amendments proposed by Senator Hogg in no way prohibit anybody in an IVF program from using gender selection, if that is their own personal choice. The amendments clearly say that any embryo in excess of that cannot be used in the ART program for any other purposes. So the claim by Senator Stott Despoja that they are opposing it based on the fact that it would prohibit the selection is of no merit. I would ask the other Democrat senators to have a close look at the intention of it. The intention is clear. If an embryo has been discarded or if it has been rejected based on gender selection, then it cannot be part of the excess ART program. I will put on record that One Nation will support Senator Hogg's amendments.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (5.58 p.m.)—I hope I have got this right. In amendment (9),

when we are talking about excess embryos, a woman or a couple may choose, because of a high risk of inherited disease in a certain sex—and we do not have the ability to identify that totally—not to use the embryos of that sex for that reason. If the high risk of inherited disease was in the male, then the male embryos would then be in excess of the needs of the woman, but you would know for the purposes of research that the excess embryos were all male. Senator Hogg's amendments would then be a problem in the sense that you cannot discriminate on the grounds of sex, but in this case you would just happen to have all these excess embryos from that person, and they would all be male. That is the issue. It does actually cover both areas. I may not have explained that properly but that is the gist of it. The amendments say that you cannot select an embryo to be excess based on gender. If the couple have two embryos, one male and one female, they may decide not to use one because it is male and may carry disease, and that embryo will then become excess. I have been advised that this would be an offence under the Hogg amendments.

**Senator JACINTA COLLINS (Victoria)** (6.00 p.m.)—Minister, I need to express my frustration at the statement, 'I am advised that this would be the effect,' because, like Senator Brown, I do not really understand how that would be the effect. This amendment deals specifically with embryos that would be regarded as excess, not embryos that are selected for the treatment of a genetic disorder. The other aspect of the argument raised earlier eludes me also; namely, that this area covers areas of state regulation. With respect, the whole bill does. I have seen this used as an argument against some other quite legitimate concerns in some of the advice that has been put forward. It is a furphy. To the extent that there may be a concern that an unintended consequence of this amendment might relate to gender selection in relation to a genetic disorder, I would like to see how we could deal with that. I do not think that we need to throw the baby out with bathwater, so to speak.

**Senator HOGG (Queensland)** (6.01 p.m.)—On the same issue, Minister, Senator

Collins has suggested that there may be a proviso that is included to state, 'Provided that this does not apply in the case where a genetic disorder is being looked at.' That would make it quite clear. As I have said, I am prepared to leave this and come back to it if the government are prepared to go away and look at that reasonably. I think that is a reasonable suggestion to put to the government in this debate. It covers off from the concern that has been raised. It specifically excludes the issue of gender selection, except in cases where it is clearly demonstrable that it applies to a concern where there is a genetic disorder. I think that is reasonable. If you look at the number of amendments that I have put up, you will see that I am not putting up a whole host of amendments just plucked out of the air willy-nilly. I am trying to put forward some amendments that I believe will make for better legislation when the bill finally passes through this chamber. If that is worthy of consideration and if we need to defer this for a few moments, I am prepared to do that.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (6.03 p.m.)—I have explained the issue fairly clearly and I think we should move on.

**The TEMPORARY CHAIRMAN (Senator Brandis)**—Senator Hogg, are you proposing that consideration of amendments (4) and (8) be postponed?

**Senator HOGG (Queensland)** (6.03 p.m.)—No, I am not. I just thought there might be a preparedness on the part of the government to entertain a reasonable proposition put forward by Senator Collins, which is that there be some provision, in respect of amendments (4) and (8), that would exclude them from those embryos which are being considered where there is a suspected genetic disorder. But, obviously, that does not seem to be the case and I think that is very disappointing indeed. I think it is a very crucial and critical area that could well have been addressed quite easily by the government in this piece of legislation.

**Senator JACINTA COLLINS (Victoria)** (6.04 p.m.)—While the minister is taking some further advice perhaps I could suggest to Senator Hogg that, in the absence of the

government taking this issue away and looking at it, he might seek to put such an exclusion into his amendment (4) before we vote on it. Certainly, in terms of the Acts Interpretation Act, the courts can take some level of interpretation from statements made by him as the mover of this amendment. He could perhaps strengthen that further by amending this provision so that it does not apply where an embryo has been selected or deselected—I suppose that is really what we are talking about—in the case of a couple where there is concern of a genetic abnormality where gender is a factor.

**Senator HARRADINE (Tasmania)** (6.05 p.m.)—There is no need for any amendment to the amendment. The amendment is very clear: it does not deal with the issue of clinical practice in this regard at all. We are dealing with the question of research involving human embryos. That is the long and the short of it. I am sure that there is no need to change what is being proposed.

**Senator HOGG (Queensland)** (6.06 p.m.)—I have heard Senator Collins's and Senator Harradine's comments. Unless there is some sort of positive indication from the government, I am not going to move any further amendment to my amendment at this stage. I think that would just use up the valuable time of the committee. It seems, though, that it is a tragedy that that option has not been taken up by the government.

Question negatived.

**Senator HARRADINE (Tasmania)** (6.07 p.m.)—I move amendment (2) on sheet 2751 revised:

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

**12A Offence—disadvantage or victimisation of persons conscientiously objecting to conducting research on human embryos**

A person commits an offence if the person:

- (a) disadvantages, victimises, threatens or discriminates against another person in the course of his or her employment, research or study because that other person conscientiously objects to being involved with re-

search on human embryos and human embryonic stem cells;

- (b) compels another person in the course of his or her employment or study to be involved with research on human embryos or human embryonic stem cells if that other person conscientiously objects to conducting research on human embryos or human embryonic stem cells.

Maximum penalty: \$10,000 for a body corporate or \$2,000 in other cases.

Note: A human embryo includes an excess ART embryo.

This is an extremely important matter relating to conscientious objection. This amendment proposes a new section 12A, which creates an offence if a person disadvantages or discriminates against persons conscientiously objecting to conducting research on human embryos.

The amendment will ensure that those who do not wish to participate in destructive experiments on human embryos will have their rights to a conscientious objection protected. It is a fundamental right not to be personally complicit in what one considers to be morally objectionable practices. People are entitled to basic freedoms of association, freedoms of conscience and to connect as one desires as long as no harm is done to others. The right not to be involved in practices that one considers to be morally objectionable is simply an exercise in the expression of those basic freedoms.

It is important, therefore, that individuals are not forced to be directly or indirectly complicit in acts or practices that they deeply believe to be ethically or morally objectionable. A person's act of professional engagement in destructive embryonic research in the workplace or in the educational setting can count, from that person's point of view, as moral complicity to the extent that it actively supports the conduct of the practice. It is not important that the practice in question is bad or immoral; it is rather that the person concerned genuinely and deeply believes it to be so. Therefore, it does not require that a person oppose the **Research Involving Em-**

bryos Bill 2002 in order to support this amendment.

It is generally agreed that in some cases a person's genuine and conscientious objection to engage in a particular activity is sufficient grounds for them to be exempted without penalty—for example, conscientious objection to military service on deeply held pacifist grounds. Where someone who is required to perform some duty or obligation is granted a conscientious exemption, it is usually because compliance by that person would involve a deep and grave violation of their moral integrity. In other words, they are exempted because complying would cause them significant moral and psychological distress, if not harm.

Conscientious objection is an important protection in the employment sector—and I address my remarks to the Labor Party through you, Temporary Chairman Brandis. It is very important for workers. Employment is a very basic social need and employment opportunities are limited. They are a limited resource even if the employer-employee relationship is, in many cases, a voluntary and a so-called private one. This calls into question just how voluntary an employee's relationship with an employer is. Most employees do not have the luxury of being able to move to a new job if a regime is imposed upon them to which they have a conscientious objection. Where complying with the employer's directives would cause significant moral and psychological distress, an employee should have the right to conscientious refusal. An employee has a right to a work environment that does not cause them harm or significant distress. The exercise of that right cannot justifiably be penalised. That is the case in this particular instance where there is a deliberate attempt to integrate adult stem cell research with human embryonic stem cell research.

Education is another area which I have sought to cover by this amendment, particularly with respect to those students studying biology and other university subjects. Education is a basic social good to which all are entitled. Moreover, people are entitled, arguably by moral right, to education in an environment that does not cause them moral

harm or significant psychological distress. In fact, it is often thought that one of the fundamental goals of an education is to enhance or at least facilitate moral and psychological development. Therefore, if students were required to engage in educational activities involving the destruction of embryos, even though they found this deeply morally objectionable, their rights of protection against harm and distress would be breached and the educational activity itself would probably run counter to the purposes of education. Conscientious refusal should be allowed to students without penalty or discipline with alternative educational and assessment tasks set.

This is a very vital amendment. The Prime Minister of this country has said that we all ought to have a conscience vote. It is very fine for us to give ourselves a conscience vote on a measure. What does this measure do? It opens the way for destructive experiments on human embryos. The fact of the matter is that there are researchers involved in adult stem cell research in other research areas within a particular institution and, in that case, they may be required to undertake certain research activities involving human embryos, even if it is not explicit or overt but part of a structure or a regime. If we are going down this path, I believe we have a responsibility to protect people's consciences. I know that it will be said that the NHMRC has in its guidelines—and again I emphasise that they are guidelines—the provision of conscientious objection. The guidelines say:

Those staff who conscientiously object to research projects or therapeutic programs conducted by institutions that employ them should not be obliged to participate in those projects or programs to which they object and they should not be put at a disadvantage because of their objection.

They are guidelines; they are not insisted upon by law. In fact, they do not cover the area of education, so we do need to have this up-front in this legislation so that everybody knows about it. It is a principle of justice and equity. I believe we should adopt my amendment.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (6.17 p.m.)—

Senator Harradine answered his own question or anticipated the way that I would reply by saying that it is appropriate that the NHMRC guidelines address this issue in a general sense. To include it as a criminal offence carrying a significant penalty requires more detailed consideration of a range of issues, including the Commonwealth's constitutional power to regulate in respect of individuals in this way, the nature of employee and employer relationships and the elements of the offence itself. The broad issues of conscientious objection are more appropriately dealt with in the guidelines issued by the NHMRC. We will not be supporting the amendment.

**Senator BROWN (Tasmania)** (6.18 p.m.)—No, they are not. Here we are dealing with legislation which is very specific to an outcome, which is experimentation on excess embryos. Senator Harradine is saying that this very clearly leads to the potential for people who have a conscientious objection to being involved in such experimentation being penalised because they do not undertake such work. I totally agree with Senator Harradine. When dealing with a specific issue like this, I do not think it is good enough for the government to say, 'Go and get another piece of legislation and amend that.' For one, Mr Temporary Chairman, as you very clearly know, that would mean Senator Harradine having to bring a piece of legislation in here, with all the difficulties of getting that brought forward for debate, and then it being sent to the House of Representatives, where in all likelihood it would be put aside and taken off the agenda. The place to deal with this is right here and now. I agree with Senator Harradine: it is a very important matter. We all know how difficult it is for us to make decisions on this matter. We must not leave people in the workplace to be denied the same ability to make a decision as we have here. I think Senator Harradine's argument on that is totally compelling.

I point out to fellow senators that we are having a free vote on this because it is a matter of conscience. The matter that Senator Harradine raises is not whether or not we are going to favour this bill or its content; it is whether or not we should remove from peo-

ple in the workplace—in a laboratory somewhere, coming down the line—the right to have a conscience. I believe that if we discount this amendment and say to Senator Harradine, 'Go and find some other way of implementing your wish here,' we are doing just that. This is, as Senator Harradine has pointed out, not a matter of whether we believe that we should support this legislation or components of it; it is a matter of whether we believe that other Australians should be able to follow their conscience on the matter. Who of us does not believe that is the case? I will certainly be supporting Senator Harradine's amendment.

**Senator STOTT DESPOJA (South Australia)** (6.21 p.m.)—I do not think that anyone in this chamber has a problem with the discussion, the debate or the principle of conscientious objection. What we are debating is whether or not, if you agree with that principle, this improves the legislation—that is, is this the appropriate place in which to put a reference to a conscientious objection? I belong to a party that believes strongly in conscience votes and conscientious objection, and we have registered that in a range of Commonwealth debates. One example concerns the issue of universal membership of student organisations and whether or not there should be conscientious objections. But we have also acknowledged that, whether or not you do that through disallowable instruments, through guidelines or through the actual legislation, it is a debate that needs exploration.

I do not know if the Minister for Health and Ageing can provide us with some of the precedents in relation to such an issue, bearing in mind that the broader issue of conscientious objection, including the issue of victimisation, is complex. I am not quite sure whether this amendment to the legislation will necessarily address some of the legislative and even constitutional issues that have to be dealt with in relation to employees and their employers. Presumably industrial law will also be involved, as well as—as I understand it—constitutional powers in relation to the regulation of the individual.

With respect to the chamber, I do not think this debate is about whether or not people are

standing up for the right to conscientious objection. I think it is about determining whether or not this is the right place and whether or not the guidelines are the appropriate way to deal with this very important and complex issue. I suspect that they are. Having said that, is this amendment in its current form the appropriate one to deal with the complexity of the issue? I suspect it is not. But that is not to say that other senators in this chamber have a problem with the principle, and I would hate to think that it is a reflection on them if they do not support the wording of this amendment.

I acknowledge Senator Harradine's point—and it is a good point—that whether people support or oppose the legislation does not prevent us from viewing each amendment on its merits and voting for amendments that actually value-add or improve this bill. I think anyone who has been a part of this debate would recognise that there is absolutely no predictability about anything in it. Without meaning to reflect on a vote of the chamber, the vote before lunchtime proved this. That will certainly go down as the most memorable vote for me in the last seven years. It goes to show that people are thinking about these issues, that we do have differences of opinion and that they do not necessarily relate to whether or not we simply support the legislation in its entirety.

I do support this principle but I am unconvinced that this amendment will address all those issues. If we do perhaps decide as a chamber that changes should be made to the law or that the guidelines are not sufficient, then we should actually take some time to ensure that the amendment is the right one. Then I suspect we should possibly have an inquiry to deal with a whole bunch of other laws that relate to conscientious objection and broader issues of discrimination, because I certainly have a list of issues that I would like to see included in federal legislation.

If the minister has any information which she can provide to the chamber in relation to the constitutional impact of the bill or to perceived problems in addition to those that she has outlined, I would like to hear it. If this is inadequate notice, I acknowledge that, but I

will put on record my personal views in relation to this debate.

**Senator BOSWELL** (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (6.25 p.m.)—I have listened to Senator Harradine's explanation of his amendment and I have listened to Senator Stott Despoja's explanation of why she does not want to support the amendment—

**Senator Stott Despoja**—I am questioning it.

**Senator BOSWELL**—or of why she is questioning the amendment. I think everyone in the chamber agrees that scientists, researchers or students who are doing their PhDs have a right to say, 'I simply don't want to do that.' If the boss were to say, 'You're going to do it,' the employee's fallback position might be, 'I've got guidelines.' That is all very good. You can have as many guidelines as you want to, but where is it in the law?

It reminds me of the time I was sailing to Gladstone. There was a cyclone coming down the coast and we were going up. We were sailing reasonably well and I said to the skipper, who wanted to go back, 'Is this up for debate?' He said, 'Yes, you can debate it all the way home.' Senator Stott Despoja, I think that is the reaction you would get if you showed the guidelines to a person who was in control of a scientific laboratory. They would say, 'So you've got a set of guidelines.' We have legislation before us here and we have to cast a conscience vote on the merits of that legislation, not on some other legislation that you may have in mind. Senator Brown raised the absolutely practical hurdles that would have to be overcome. If Senator Harradine did listen to you and wanted to proceed to get another piece of legislation on the program, get it through the Senate and then get it through the House of Representatives, he would have absolutely Buckley's chance.

**Senator Harradine**—It was Senator Brown who made that point.

**Senator BOSWELL**—I agree with what Senator Brown has said on this. I believe

Senator Harradine's amendment deserves support. It is a practical amendment. There are going to be hardship cases in various laboratories where people will be told: 'You will do this. If you do not want to do it, there's the door. You don't have to work here. I'm not making you work here.' I believe that Senator Harradine's amendment is a very practical way to overcome these problems and I think it deserves support.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (6.28 p.m.)—I do not disagree with the basic premise that people should not be victimised, and this is the position in the guidelines. Senator Brown said that it had been said to Senator Harradine that we can go away and do this in some other law. That was not said about this particular amendment, and I want to put that on the record. As I indicated before, this issue is dealt with in the guidelines. If we are going to make it a punishable criminal offence, as this amendment suggests, then one has to define what is meant by victimisation, how the law would interact with existing laws relating to unfair dismissal and the nature of the employer-employee relationship, whether the employment or study has to relate directly to research involving embryos and whether the victimisation has to relate directly to the conscientious objection.

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

**Senator HARRIS (Queensland)** (7.30 p.m.)—I rise to indicate to the chamber that One Nation will also support Senator Harradine's amendment. In supporting it, I would also like to raise the issue that, in relation to a person possibly being victimised for being a conscientious objector, the government has said that this could be covered by bringing a different bill into this chamber and moving amendments to it. This raises an interesting situation, because we have seen consistently in this chamber that, when the government brings a substantive piece of legislation in, it brings in at the same time what are referred to as consequential amendments. Yet here we have a bill that not only has the potential to impact socially and morally on the fabric of our society but also has the ability, if passed in its present form,

to victimise a conscientious objector to the use or provision of embryos for research. In the past, in the majority of instances, as well as bringing the primary bills into this chamber the government has brought in the consequential amendments. My question to the minister is this: why, in the face of such a substantive piece of legislation, has the government not indicated to this chamber the consequential amendments that it is willing to move and brought those into the chamber at the same time?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (7.33 p.m.)—Before I was so rudely interrupted by the dinner break—and it was the fault of nobody that I was rudely interrupted; I was quite glad to have a dinner break, but I could not believe it was half past six—I was in the middle of a speech. I might go back over all the problems about a proposed new offence and why it has to be made clearer. I said: does the victimisation have to relate directly to the conscientious objection? On the basis of the current draft the offence is created if a person is victimised and if they conscientiously object—and I want to emphasise the word 'if'—rather than because they conscientiously object. It does not need to be a causative connection between a dismissal and a conscientious objection.

The issue of victimisation is a very complex one and is not appropriately dealt with through the simple creation of a criminal offence detailed in a few paragraphs. As I mentioned before, in relation to the broader issue of conscientious objection, there are many other areas in research—for example, there are people who have a strong opposition to research on animals—where the guidelines have to cover people who have a conscientious objection. Those objections are more appropriately dealt with in the guidelines issued by the NHMRC.

**Senator Brown**—What are the guidelines that have been issued by the NHMRC?

**Senator PATTERSON**—Senator Harradine actually read them out. The NHMRC has guidelines on ethical matters for research involving humans—the *National statement on ethical conduct in research involving humans* 1999. Supplementary note 5, 1983, on

human foetus use and the use of human foetal tissue states:

In this, as in other experimental fields, those who conscientiously object to research projects or therapeutic programs conducted by institutions that employ them should not be obliged to participate in those projects or programs to which they object, nor should they be put at a disadvantage because of their objection.

That is what is indicated in the guidelines.

**Senator BROWN (Tasmania)** (7.35 p.m.)—I am sure Senator Harradine made this point, but the difference between Senator Harradine's motion and those guidelines is that one has the force of law and the other is indicative. Before dinner, we canvassed the importance of this matter and a person's right to be able to express conscience on it without being penalised. I think it is very compelling that we do not leave this to the whim of the employer and that it is not left to guidelines. It is an important matter and it should become a part of the law. Now is the time to make that determination.

**Senator CHRIS EVANS (Western Australia)** (7.36 p.m.)—I indicate on behalf of the Labor Party that we will be opposing Senator Harradine's amendment. I think this debate has got a bit off track. I think there is an agreement around the chamber that we ought to protect any scientist, health worker or anyone else involved in the field who might have a conscientious view about the work or research they are involved in. That has been long recognised in the NHMRC guidelines. They have a *National statement on ethical conduct in research involving humans*, which I think originated in 1999, which requires that staff who conscientiously object to research projects or therapeutic programs should not be obliged to participate in those projects or programs to which they object and that they should not be disadvantaged because of their objections.

Science has been dealing with these issues for many years. The fact that this parliament has got around to doing something about research involving embryos et cetera, many years after that research has been conducted, does not mean that we have to reinvent the wheel or the whole vehicle. There is a range of issues that science and research have been

dealing with for many years. This is one example where that research raises ethical and moral questions. Quite rightly Senator Harradine pointed to those areas, but there are other areas of research and scientific activity which raise those same issues.

Our view is that that range of issues has been adequately dealt with by the statement from the NHMRC on ethical conduct in research involving humans, and the guidelines issued with it. We argue that those address the concerns raised. I am not convinced of the need for us to include in this bill a specific provision that deals with those concerns. I accept the logic of the position taken but believe that the guidelines provide that protection to those people who are knowingly involved in this scientific research and to those employed by organisations involved in that research. Their ability to have a conscientious objection is protected. I think everyone around the chamber has respected that.

The question is whether you want to go the next step and enshrine in this legislation an amendment such as that proposed by Senator Harradine. Our advice is that there is a range of questions arising from that—even if we thought it appropriate—about unintended consequences and the Commonwealth's constitutional power et cetera. I am sure Senator Boswell has much more faith in the government's IR legislation than I have, so I was surprised at his concern that workers rights were not being protected. I hope that means he will be a convert to a more progressive IR position than he has previously held. I guess it suits him on this occasion to worry about workers rights, but it has not suited him on any other occasion. I will try not to be too inflammatory, but it was a bit galling. I take it that Senator Harradine's amendment is moved in good faith. He put the argument for it. I am indicating on behalf of the Labor Party that our view is that the issue is sufficiently dealt with by the NHMRC's guidelines and we do not need at this stage to legislate those provisions in this bill.

**Senator HARRADINE (Tasmania)** (7.40 p.m.)—That is totally incorrect. As I said when I outlined the issue before the chamber, and as has been said by Senator Brown, these

guidelines are just that—guidelines. No dinkum trade unionist would cop the suggestion, ‘These are guidelines,’ when they are not requirements. Where in the Workplace Relations Act have you got protection for conscientious objection?

**Senator Chris Evans**—In the union membership section.

**Senator HARRADINE**—You certainly do not have this type of conscientious objection there. This is an opportunity for the chamber—I insist, for the chamber—to do the right thing by workers and students. Senator Evans spoke about the guidelines and said that federal science has been dealing with this for many years. We have a situation here which is occurring for the first time. Doesn’t Senator Evans understand that we are, for the first time in the federal parliament, proposing a licence to kill? For the first time we are proposing a licence to take the life of a human embryo. That is what we are doing. That is very different from what you are saying. There has not been such a regime before in this country. Yet Senator Evans says, ‘This has been happening for many years; why are we introducing it now?’ We are introducing it now precisely because it has not been faced for many years. Around the chamber people are saying, ‘This is very good.’ I congratulate those who have stood up on the matter and have not succumbed to what the minister has been saying, on advice.

Let me deal with these questions. Everybody, including the minister, has had this amendment for two or three weeks. If these matters are of concern, let us have a look at them. But they are not of concern. The statement by the minister uses the word ‘victimisation’. According to the minister, that has doubtful connotations. If it has doubtful connotations, what about the Commonwealth legislation where the word ‘victimisation’ appears and where there are proscriptions of victimisation?

For example, the Parliamentary Services Act has a provision in respect of victimisation. The Complaints (Australian Federal Police) Act has an offence of victimisation. The Disability Discrimination Act also has an offence of victimisation. The minister should know this one: the National Health

Act has a provision in relation to an act of victimisation. The Superannuation Industry (Supervision) Act 1993 has a provision whereby ‘a person must not intentionally or recklessly commit an act of victimisation’. It goes on. I am not going to waste the time of the committee by reading more of them, but it is all there. There is precedent. So scratch ‘victimisation’ off your list, Minister—through you, Mr Temporary Chairman.

I was aware of the concerns of the minister, so I put belt and braces on. You will see it in my amendment, which reads:

**12A Offence—disadvantage or victimisation of persons conscientiously objecting to conducting research on human embryos**

A person commits an offence if the person:

(a) disadvantages, victimises, threatens or discriminates against another person in the course of his or her employment ...

If the minister had qualms about this matter, that has hopefully satisfied those qualms. The minister said it was not certain how this would operate in relation to other laws. What other laws? As I said, the minister and her advisers had this amendment for some considerable time. The minister started up by saying that she did not disagree with the basic premise. Even if she does not disagree, this very serious matter is not going to be dealt with over some time. The guidelines of the National Health and Medical Research Council do not help—unless, of course, the institution is receiving specific grants from the NHMRC, which would then be in the contract. So it is not covered. There is a real problem here, which is the possibility of persons with a conscientious objection being victimised.

The minister says that she has a problem with the word ‘if’. If she has a problem with the word ‘if’, just change ‘if’ to ‘because’. There is no problem in doing that. I will ask the minister to spell out again the problem if the word ‘if’ is retained in the amendment.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (7.48 p.m.)—I have indicated that I am of the opinion that the issue of conscientious objection is adequately covered under the NHMRC guidelines, and I will be opposing the amendment.

**Senator HARRADINE (Tasmania)** (7.48 p.m.)—The minister must advise the committee why she is saying that the guidelines of the NHMRC cover the situation. The guidelines do not cover the situation, apart from those institutions which are receiving an NHMRC grant. Secondly, there is nothing in the NHMRC guidelines about protecting university students, and this amendment covers it. Again, I offer the minister the opportunity of telling the committee why there is such a difference between ‘if’ and ‘because’. I quote from the amendment:

A person commits an offence if the person:

... ..

(b) compels another person in the course of his or her employment or study to be involved with research on human embryos or human embryonic stem cells if that other person conscientiously objects to conducting research on human embryos or human embryonic stem cells.

The minister says she objects to the word ‘if’ and wants ‘because’. I think it is fair for the committee to be advised why ‘if’ is such a problem: ‘if that other person conscientiously objects’. What really is the difference between that and ‘because that other person conscientiously objects’? What is the difference?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (7.50 p.m.)—I was explaining some of the concerns that I had about the amendments, but, given the fact that I am not supporting the amendments, I do not need to go into explanations about every detail. I believe that the NHMRC guidelines on ethical matters for research involving humans adequately cover it. They say:

In this, as in other experimental fields, those who conscientiously object to research projects or therapeutic programs conducted by institutions that employ them should not be obliged to participate in those projects or programs to which they object, nor should they be put at a disadvantage because of their objection.

I do not think I have anything more to add. We could go on debating this amendment forever. I suggest that the question on this amendment soon be put, because I am not going to be able to add any more to the debate other than that I believe the issue of a

conscientious objection is covered adequately by the NHMRC guidelines.

**Senator HARRIS (Queensland)** (7.51 p.m.)—Because of the importance of this bill and the importance of the amendment that is before us, I believe that it is totally out of place for the minister to relay to this chamber that she is not going to make any more comments. I have some concerns in relation to this particular section of the legislation and to Senator Harradine’s amendment. I ask the minister: what is a person’s redress under the regulation? How do they effect it? If they are an employee in a biotech lab and they object to being asked to carry out a certain function and their employer then decides that he is going to force the issue, how does that person then exercise their right under those regulations or guidelines? I do not believe there is a way. Senator Harradine’s amendment clearly gives that person a redress at law, and that is exactly where it should be.

Too often we are asked in this chamber to pass legislation that will require the drafting of regulations that we will not have seen, and this particular issue is so substantive that I believe it is the responsibility of this chamber to know what the actual outcomes and results are going to be. Too often when we pass legislation in this place, we are so bound up with the volume of it that we never even look back to see whether those pieces of legislation, those regulations or those guidelines are even having the effect that was intended by this chamber. I do not want to go into examples but there are a series of them that have had catastrophic effects on this nation and on our social life. I believe all of those will pale into insignificance compared to the impact that this legislation may have in the future. Senator Harradine is clearly setting out in this amendment a definition of a person’s legal redress. Through you, Chair, I think it is almost a requirement on the minister, given that she was saying that she was going to vote against this amendment, to at least give this chamber a clear and concise process under which a person will be able to access and implement at law those guidelines that she refers to.

**Senator BROWN (Tasmania)** (7.56 p.m.)—There is an important unanswered

question here that I have heard from Senator Harradine and Senator Harris, and that is: what will the impact of the guidelines be in the workplace? I will reverse that and ask: are there workplaces where stem cells from embryos which are not under the aegis of the guidelines that the minister has spoken about may be used? In that respect, Senator Harradine alluded to students in certain situations. The second very clear argument here is to turn it around the other way and say: if this is not inconsistent but is in fact redundant because it traverses the same ground as the guidelines then what is the objection? There is one simple difference that I see: the guidelines are guidelines without any penalty for those who breach them, except that maybe they will be marked down by the NHMRC for some research grant. If there is some other penalty or comeback, I want to hear of it.

Senator Harradine's amendment says that this is so serious that, if there is a breach of those guidelines, there is a penalty; this is going to make people think before they breach those guidelines. We are talking about a fundamental principle of liberty, freedom, difference and diversity in our community. We are not talking about whether or not we agree with experimentation on stem cells from embryos; we are talking about the right of other people to have their conscience recognised and not penalised on the matter. I have heard nothing tonight to say that the guidelines do what this amendment does. I have heard it said that the guidelines cover the area, but this amendment gives force to the implementation of those guidelines. It says that they should not be breached and that they are not simply guidelines of which no notice should be taken—they actually have the force of law. When we are talking about defending the right of people in the workplace to exercise their conscience on a matter as fundamental as this, I think that is important.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (7.58 p.m.)—The statement at the beginning of the 1999 National Statement on Ethical Conduct in Research Involving Humans says it is endorsed by the Australian Vice-Chancellors

Committee, the Australian Research Council, the Australian Academy of the Humanities, the Australian Academy of Science and the Academy of the Social Sciences in Australia and that it is supported by the Academy of Technological Sciences and Engineering. I say that because I was asked what organisations and institutions the guidelines apply to. All I can say is that I presume it is a pretty broad range of research institutions when you have the Australian Vice-Chancellors Committee, the Australian Research Council, the Australian Academy of the Humanities, the Australian Academy of Science, the Academy of the Social Sciences in Australia and the Academy of Technological Sciences and Engineering supporting the guidelines which I referred to before. We will have to agree to disagree.

Some people argue that the guidelines should be enforced in law. But there is a raft of legislation covering unfair dismissal and discrimination that people can resort to if they believe that they have been discriminated against on the basis of their conscientious objection to research projects or therapeutic programs conducted by the institutions that employ them. The guidelines are there and they are supported by a large number of institutions that are covered or do research within either universities or other institutions. I believe that that is sufficient. I find this whole debate quite difficult because I am often put in a situation—and I presume some other people in the chamber feel the same way—where my scruples, morals and intentions are being questioned. That is not the case. I believe that people should be able to conscientiously object about doing research, and I find it offensive to be put in a situation which makes me feel otherwise. I believe that these measures cover those people. There are people who conscientiously object but, to those people who are putting up the amendment, I say: do not come to this chamber and pretend that somehow you have the truth, because those of us on the other side feel very strongly that people should be able to conscientiously object. However, we believe that they are covered, so I am not going to sit here and tolerate people implying and impugning that I do not care about people conscientiously objecting. You might

wonder why I feel angry about it. I have been sitting here and I have been very calm. But to imply that those of us who are not supporting the amendment do not support those people who conscientiously object is wrong. We believe that their concerns are adequately covered by the guidelines and other legislation. I will not be supporting the amendment.

**Senator HARRIS (Queensland)** (8.01 p.m.)—In response to the minister, there is in no way any assertion in relation to the minister's moral standing or her support or lack of support for the conscientious objector. In objecting to Senator Harradine's amendment or indicating that she will vote against it, the minister was clearly asked to indicate to the chamber how a person at law can seek remedy in relation to the guidelines. The minister has read out the guidelines, and I thank her for that. It is one thing to know what the guidelines are, but how does the person who will eventually look at the debate on this piece of legislation know how they can implement their rights? The minister is saying she upholds their right to conscientiously object; we are asking the minister to clearly let us know how they do that.

**Senator BROWN (Tasmania)** (8.03 p.m.)—Could I just counsel against any of us getting angry when we are discussing a matter of such importance and deep ethical import as this. I did not ask Senator Patterson which institutions are covered; I asked her which institutions are not covered. What I am pointing out is that we do not seem to have that much area of dispute, because everybody is saying that people with a conscience should not be penalised. What we are pointing out, and what Senator Harradine has been so good as to bring forward, is not just a guideline but some teeth to go with that guideline. That is the difference.

**Senator HOGG (Queensland)** (8.04 p.m.)—Whilst the minister is getting some advice over there, I thought I might pursue the issue of guidelines. An interesting article has come into my possession from a publication titled *Clinical guidelines and the law: negligence, discretion and judgement* by Brian Hurwitz, a general practitioner in London and a senior lecturer in general practice

at the Imperial College of Science, Technology and Medicine. I think the extract I am going to read sums up the type of debate we are having here this evening. It goes to this issue of the operation of guidelines and how they interact with legislation. I will not take the senators laboriously through the whole page but it is interesting to go through the discussion that takes place on this issue. It refers specifically to a dialogue which took place during the Scott inquiry into the arms for Iraq affair and illustrates the appeal that guidelines hold to those attempting to enforce accountability upon professionals who have traditionally regarded their work as self-directed and generally free from outside interference. The debate that is quoted is between Ms Baxendale QC and Lady Thatcher and it goes along these lines:

Ms Baxendale QC: Some of the witnesses we have had have described these guidelines as a framework, within which to work ... Does that fit in with how you saw the guidelines?

Lady Thatcher: They are exactly what they say, guidelines, they are not the law. They are guidelines.

Ms Baxendale QC: Did they have to be followed?

Lady Thatcher: Of course they have to be followed, but they are not strict law. That is why they are guidelines and not law and, of course, they have to be applied according to the relevant circumstances.

Ms Baxendale QC: They are expected to be followed?

Lady Thatcher: Of course they have to be followed. They need to be followed for what they are, guidelines.

The issues raised in this exchange are also at the heart of the concerns addressed by this book: whether guidelines carry appropriate authority and in which circumstances they should be properly viewed as imposing mandatory obligations upon doctors. I do not see that as too remote from what we are discussing here. What effect in law do the guidelines have? Are they merely guidelines or are they an instrument of the law? If they are merely guidelines, it does not seem unreasonable in this circumstance, given the issue that I believe Senator Harradine is reasonably pursuing, that one should see the amendment that is being put forward by Senator Harradine being reasonably adopted.

It does nothing that alters the effect of the guidelines and it gives effect to the protection and the wellbeing of those who may want to conscientiously object to something.

I do not think this is a reflection on those who might be carrying the other point in this debate. Clearly, one of the major things that characterises many people in this place is that they look very rigorously to protect those who do have genuine conscientious beliefs on issues. I cannot see that this particular case is any different. There is a bit of lesson for us in the case I have just quoted from *Clinical guidelines and the law*. I ask the minister: do the guidelines have any force in law or are we in a similar set of circumstances to those that I have just quoted from the extract in that the guidelines are there as a matter of convenience but, where they do not suit, they are not mandatory and therefore do not have to be followed?

**Senator STOTT DESPOJA (South Australia)** (8.08 p.m.)—I have a great deal of sympathy for the views put forward by the minister in response to Senator Brown's comments about people getting angry. With all due respect, when there are certain allusions made to people's views based on their support or otherwise for an amendment, and especially in debates like this, it is quite understandable that people get quite angry. Through you, Chair, to Senator Harris: while I am not suggesting that you in any way were commenting on the minister's motivations or mine or anyone else's in the chamber who opposes the amendment before us, I do think that has been done. Having said that, I am quite happy to remain calm. I think it is quite obvious that people's motives for not supporting this amendment have been questioned. Our support for the principle of conscientious objection has been questioned in this place.

**Senator Hogg**—Mr Temporary Chairman, I raise a point of order. If that is a reflection on a member of this chamber then that should be withdrawn. If it is a reflection on me, I will stand and defend myself because I have spoken but once in this debate—just then. If Senator Stott Despoja is going to make those claims, it is improper to reflect on other senators. If one wants to be

robust in the debate then I can take and give as much as anyone else can. That is fair enough, but I do not think that those broad statements should be allowed to continue and reflect on senators in this chamber.

**The TEMPORARY CHAIRMAN (Senator Brandis)**—Senator Hogg, I did not understand Senator Stott Despoja's remark to be a reflection on you and I rule that there is no point of order.

**Senator STOTT DESPOJA**—I am happy to withdraw those comments because I think Senator Hogg quite rightly said that there should not be reflections on senators in the chamber. I accept that important and general principle. The arguments for and against this amendment have been put in detail. The general principle of conscientious objection has been supported in principle by a majority of senators in this chamber. The debate still remains, certainly in my mind, as to whether the conscientious objection principle is enshrined in legislation and whether it is made a criminal offence in relation to this particular bill. I thank Senator Harradine for providing precedence because that was my question earlier in the debate. I had broader questions in relation to the complexity of this issue: whether this amendment covered the complexity, including the definition of 'victimisation', and whether senators—both the proponents and opponents of this amendment—had thought through the constitutional implications of regulating the behaviour of an individual. I have heard precedence in response to that.

By the same token, this amendment has become the 'James Bond' amendment in terms of some of the lingo I have heard in the debate about the powers that have been made possible under this legislation. I wonder whether there are any examples from anyone in the chamber pointing out the current deficiencies—not in a theoretical sense but in a practical sense—in guidelines when it comes to scientists, students or anyone else for that matter in relation to scientific research and discovery. Obviously, preferred examples would relate to the issue of embryonic stem cell and adult stem cell research but what about other examples of research? I can get a lot more passionate at the moment

about the issue of whether students, scientists or researchers, for example, are able to conscientiously object to research on animals. I wonder whether this amendment is the precursor to more amendments in relation to scientific research, animal welfare or other parts of legislation. I suspect it is not, for the very reason that we have guidelines and until those guidelines are deficient or our current industrial laws or any other legal avenues are proved to be deficient, I wonder whether this is the place to make these changes. Would anyone like to provide examples of scientists? I am not suggesting that there are not any; I am just not aware of examples where the NHMRC guidelines, for example, or any other guidelines, have fallen down.

I endorse the comments made by the minister in relation to the general and wide ranging support for the guidelines from groups such as the Academy of Science and, in particular, the Australian Vice-Chancellors Committee. If those deficiencies are evident, please let us put them on the table now. If people decide that this is an amendment worth having but, like me, believe that this is not necessarily the time or the place because we do not have enough detail—we have not looked at the definition in relation to ‘victimisation’—then let us look at this either under the review that will come up or in a broader context where we look at other elements of science and research, whether it is to do with animal testing or anything else. I still have grave concerns about making this a new offence—a criminal offence. I have made two contributions in this debate; I agree with Senator Evans and Senator Patterson that we have had a long discussion, that the amendment at some point in the near future should be put and that these may be issues for the review that will naturally take place as a consequence of the package of this and the other legislation.

**Senator HARRADINE (Tasmania)** (8.15 p.m.)—I really could not understand that last intervention. I do not think it would be relevant here to propose a conscientious objection provision with regard to experiments on animals. We are dealing with the human embryo experimentation bill, not the animal embryo experimentation bill—if there were

one. Let that be decided there and then on that occasion. If Senator Stott Despoja is suggesting that we do not have the constitutional power to do what is being proposed here then why does she suggest that perhaps we ought to be dealing with animal experimentation as well? It is a non sequitur.

The plain fact of the matter is that the guidelines are not enforceable unless the institution is receiving money from the NHMRC and that then becomes part of the contract. Senator Stott Despoja says, ‘Give us an example of a researcher being victimised.’ I am trying to anticipate that situation in order to ensure that it cannot occur. Let me make it perfectly clear: this legislation does not come into effect for the period that is mentioned at the beginning of the legislation. The whole point about it is that this is the first time that the Australian parliament has proposed a licence to kill or a licence to destroy a human embryo for the purpose of, for example, extracting stem cells. Why, then, on this occasion do we not foresee what may indeed occur, not only amongst those scientists who are conducting adult stem cell research quite effectively at the moment but also amongst students? There is nothing, even in the guidelines that are laid down there, about the protection of the consciences of science students who may wish to do research on stem cells—because general research on stem cells is very important—derived from an ethical source, in their own view.

I took the opportunity of sending some explanation as to why this is so important to a number of my colleagues in the parliament. I also wish to take this opportunity to say that this is a basic matter of human rights. Just because I say this is a basic matter of human rights I do not want anybody to get up and say, ‘You’re saying that we’re not in favour of human rights.’ But, in fact, unless we do something like this we are potentially denying a fundamental human right relating not only to the integrity of an individual’s actions but also to the integrity of the individual person. The *Hansard* will show that, far from suggesting that the minister has no concern about the conscientious objection provision, I in fact restated that she had told

the committee that she does not disagree with the intention—and I am not sure what word she used—behind this particular measure. I was concerned about the raising of the question of victimisation, which has been answered, including the examples in Commonwealth legislation and the other amendments relating to the guidelines. Let us look at the word ‘if’. That has been deliberately provided in the amendment. The amendment says:

A person commits an offence if the person:

- (a) disadvantages, victimises, threatens or discriminates against another person in the course of his or her employment, research or study because that other person conscientiously objects to being involved with research on human embryos and human embryonic stem cells.

Paragraph (b) uses the word ‘if’ rather than ‘because’, and quite deliberately, because the first paragraph talks about the person committing an offence if the person disadvantages another person et cetera. Then paragraph (b) says:

- (b) compels another person in the course of his or her employment or study to be involved with research on human embryos or human embryonic stem cells if that other person conscientiously objects to conducting research on human embryos or human embryonic stem cells.

That is relevant to the action of compelling another person. The offence is to disadvantage or victimise the person who is conscientiously objecting.

So I maintain that this conscientious objection provision has been well researched. I have had the advice of very competent draftspeople in respect of this. As I have said, this has been available for some time now and, had there been those objections, they should have been brought to my attention. But they are irrelevant objections because I have answered them all. I am just very disappointed that the minister is not adopting it when she knows as well as I do that the guidelines are unenforceable unless there is money involved in respect of the National Health and Medical Research Council. I submit this to the parliament and hope that persons who are affected in their own consciences, by reason of the decisions

that we are making now, have the same rights as we are given to exercise our conscience in respect of these measures. There is a high degree of discrimination if we, as parliamentarians, give ourselves a conscience vote on this matter and deny those who are affected by the legislation their right to conscientiously object.

**Senator BARNETT (Tasmania)** (8.24 p.m.)—I rise to express perhaps another angle on this debate, which brings into play the whole status of the guidelines and where they sit in this legislation. Without getting into the detail, I want to go through a number of points. First of all, the concerns that Senator Harradine has with other senators in this chamber relate to the fact that this is in the guidelines; it is not enforced in law. But you would assume, and we can take it that it is the government’s position, that the guidelines are a condition of the licence. The licence must be abided by and, as a result of that, the guidelines must also be abided by. If there is a breach of the guidelines then there will be a breach of the licence conditions. An offence will necessarily flow from that if there is a breach under this bill, and breaches have penalties such as imprisonment for up to five years or a financial penalty.

The point that this leads us to is: what status do these guidelines actually have? As Senator Hogg says, in law they clearly have little to no status unless they become, as foreshadowed in an amendment by Senator Collins, a disallowable instrument or they come underneath the regulation as a disallowable instrument. I would like the government to seriously consider making the guidelines a disallowable instrument to give them some legal effect, otherwise you are basically saying, ‘You can be subject to a criminal penalty of up to five years imprisonment simply for the breach of guidelines which may change from time to time and for which there is no force of law.’ It is like signing a blank cheque. It is a very dangerous position to be in.

It is essentially very bad law, and very bad law making, to accept the fact that these are guidelines and that it is going to be covered, in any event, under those guidelines when they do not have the force of law and they

are not referred to this parliament in terms of being a disallowable instrument or having the status of a regulation. So I ask the government to carefully consider that and, in particular, consider also this bigger issue of giving these guidelines the force of law and making them a disallowable instrument, because that is another question. It needs very serious consideration, because there are a number of clauses, such as clauses 8, 11 and, I think, 21, where the bill refers to the guidelines in a very open-ended way. For example, clause 11(2) says:

(b) such other code or document as is prescribed by the regulations in addition to, or instead of, the code mentioned in paragraph (a), as in force from time to time.

For goodness sake, this is so open-ended, so open to abuse and so open to the infringement of the rights of the general public, that it is very concerning. These issues that I have foreshadowed need to be carefully considered and addressed as soon as possible by a response from the government which takes them into account. I have mentioned clauses 8, 11 and 21 and if the government could have a look at those, that would be good. I do support the amendment moved by Senator Harradine. It does make sense. It enshrines in legislation that which is fair, proper and reasonable. For the sake of brevity, I will leave it at that.

Question put:

That the amendment (Senator Harradine's) be agreed to.

The committee divided. [8.30 p.m.]

(The Chairman—Senator J.J. Hogg)

Ayes.....	28
Noes.....	34
Majority.....	6

#### 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.
Harradine, B.	Harris, L.
Hogg, J.J.	Hutchins, S.P.
Kemp, C.R.	Lightfoot, P.R.
Macdonald, J.A.L.	Mason, B.J.

McGauran, J.J.J.	Minchin, N.H.
Murphy, S.M.	Nettle, K.
Santoro, S.	Sherry, N.J.
Stephens, U.	Watson, J.O.W.

#### NOES

Allison, L.F.	Bartlett, A.J.J.
Campbell, G.	Carr, K.J.
Cherry, J.C.	Colbeck, R.
Cook, P.F.S.	Crossin, P.M.
Denman, K.J.	Evans, C.V.
Ferguson, A.B.	Ferris, J.M. *
Greig, B.	Johnston, D.
Kirk, L.	Knowles, S.C.
Ludwig, J.W.	Lundy, K.A.
Macdonald, I.	Marshall, G.
McLucas, J.E.	Moore, C.
Murray, A.J.M.	O'Brien, K.W.K.
Patterson, K.C.	Payne, M.A.
Ridgeway, A.D.	Scullion, N.G.
Stott Despoja, N.	Tchen, T.
Tierney, J.W.	Troeth, J.M.
Webber, R.	Wong, P.

\* denotes teller

Question negatived.

**Senator BOSWELL** (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (8.38 p.m.)—I move National Party amendment (1) on sheet 2702:

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

#### **12A Offence—export of human embryos, human embryonic stem cells or any product derived from human embryos**

A person commits an offence if the person intentionally or recklessly exports from Australia a human embryo, human embryonic stem cell, or any product derived from a human embryo except for the purpose of placement in the body of the woman for whom it was created.

Maximum penalty: Imprisonment for 10 years.

The effect of this amendment is to ban exports of human embryonic stem cells or any other derivative from human embryos. I move this amendment because, in effect, I want to bring the legislation on stem cells into line with what we are doing in Australia. In Australia it is illegal to clone and it is illegal to trade in human tissue. You cannot

trade in stem cells and you cannot trade in human tissue but there is no provision in this bill that would prevent exports of human stem cells into countries that do not have our high ideals and, in some cases, do not have any laws whatsoever to protect the stem cells or the derivatives of embryos.

If we were to export guns, uranium or any other dangerous product we would have an end user certificate that says, 'You can do this with this uranium but you cannot build an atom bomb; you can use these guns for defence but you cannot on-trade them.' We do not have any such thing in this legislation. Some companies that have associations with the National Stem Cell Centre have already set up a company in Singapore called ES Cell International. It is a company made up of Singaporean, Australian and Israeli money and it has some official tie-up with the stem cell centre.

I welcomed the minister's decision the other day to prevent embryos from being traded or exported overseas and, on some occasions, imported. It was a good step. I am not sure that people are aware of the fact that you can use stem cells to clone. You can use embryos to clone and you can use stem cells to clone. That is not widely known. I have evidence from a lot of scientists but let me just quote from the library—

**Senator Knowles**—You're not meant to quote the library in anything.

**Senator BOSWELL**—Let me just quote from some advice that I have from the library. The library defines the use of embryonic stem cells as therapeutic cloning. It states:

This technique involves cloning human embryos not for the purpose of allowing them to develop until birth, but to extract certain cells—so-called embryonic stem cells—from them, grow them into tissues for development of therapies ...

You can, in effect, clone from stem cells. You can clone from embryos and you can clone from stem cells. Surely the status of an embryo is that it cannot be exported or imported, and that status is acknowledged by the government, the Prime Minister and the minister. Stem cells, I believe, can be cloned and used for other things.

We are opening this up. We have put forward a cloning bill, which both houses of parliament voted against. We all congratulated ourselves on our high ethics and the fact that we would not allow cloning in Australia. Yet we are prepared to allow stem cells to go overseas to countries that have no standards and no legislation that would prevent them from doing things. In fact, anything can go when stem cells are exported.

I am suggesting that this amendment would only bring this bill into line with the legislation that was passed to prevent cloning and the use of human tissue in Australia and that it would set the same standards for anything that was exported to overseas countries. On numerous occasions I have asked the NHMRC whether anything in the legislation would prevent exports. I was told on a number of occasions that there was no measure in place to prevent the export of Australian embryo products, such as stem cells and other derivatives, to places where cloning is allowed. Embryo stem cell lines may be exported and then manipulated for various uses.

When we originally debated this, we were told about cures. Many people believed that the thought of cures was the motivation to vote for this legislation. But the general public were never told about trading in embryos, stem cells and embryo derivatives. I am sure that there would be no great enthusiasm in the general population for the commercialisation of stem cells. If people had been asked, 'Would you vote for this for a cure?' they would have answered yes. But when it comes to commercialisation—trading in stem cells and human tissue—I think the general population would give it the thumbs down.

This has been a difficult debate and it has been very difficult to get information out there. But there is no doubt in my mind that people would not support the commercialisation of stem cells to be traded as human tissue, particularly when we do not allow that to occur in Australia. How can we not allow it to occur in Australia and then just wipe our hands of it and say, 'When it goes outside the country you can do what you like.' I do not think that is acceptable to peo-

ple and it should not be acceptable to parliament.

The same standards are required in Australia for our embryos, our derivatives from embryos and our stem cells. We want those same standards for those derivatives from embryos to apply in Australia and outside of Australia. We do not want a separate law for what happens in Australia and another law for what happens outside Australia. I ask people to support this amendment. I believe it is an amendment that would have the general support of the public. I ask that people do think about it very seriously when they vote on the issue.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (8.47 p.m.)—I would like to ask a question of Senator Boswell. He made the statement that you can clone from stem cells. Because this is a conscience vote, I do think that people should have full information. I have read widely in this area, although I do not claim to be an expert in it. I do not believe that there is evidence to date—and I have sought advice and had this advice supported by asking people from NHMRC—of any possibility that you can clone a human embryo from a stem cell, and any cells that are derived in Australia would be derived under the regulations that have been agreed to by COAG.

I am sure senators will remember the discussion that we had regarding a similar amendment to the [Prohibition of Human Cloning Bill 2002](#). I indicated on that occasion that I was not necessarily comfortable with the issue and I asked that it be deferred so that I had time to go to the Prime Minister. We addressed the issue and at that time I said that the Prime Minister had given an undertaking 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. In addition, during discussions on the [Prohibition of Human Cloning Bill 2002](#), the government also undertook to amend the Customs regulations to implement a ban on the import of viable materials derived from human embryo clones. I will not be supporting this amend-

ment and advocate that people who are supporting the bill not support this 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) (8.49 p.m.)—The Minister for Health and Ageing asked where I got my information from. I got it from a number of scientists, but I am not relying on that. One source that I thought could be relied on is the Parliamentary Library, which is absolutely straight down the middle and has no bias either way. I have asked a number of scientists and I have affirmation that you can clone from stem cells, but tonight I will read the advice that I got from the library—and this backs up what I had been told by eminent scientists. The advice states:

So-called therapeutic cloning: the technique involves cloning human embryos not for the purpose of allowing them to develop under birth but to extract certain cells. The so-called embryonic stem cells from them grow them into tissues for developing therapies for adults suffering. For certain diseases, the embryos are created by nucleus substitution using nuclear from the adult patient, thus the stem cells are clones for the patient and have potential to grow into any types of tissue and disease. The removal of stem cells results in the destruction of the embryo.

Let us not just rely on that information. It is an important issue but there are more important issues. We should apply the same standards on the use of embryos and stem cells outside Australia as we apply in Australia. In Australia we do not allow trade in human tissue; we do not allow the commercialisation of many things—for instance, blood. We ban trading in human tissues and we ban cloning. Once those stem cells or embryos are exported overseas, Australia has no control over the use of those products with respect to mixed cloning or whatever.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (8.52 p.m.)—Just for clarification, the implication in Senator Boswell's initial contribution was to 'clone'—I think he used that word—from stem cells. I want to clarify whether he has information that I do not have. What he has read out from the Parliamentary Library does not in any way indicate that you can create a

human embryo from a stem cell. That is the issue. Senator Boswell may have additional information of which I am not aware—that is possible, although, as I said, I do read widely in the area because it interests me—but I would think that it is appropriate for anybody listening to the debate and for senators making a decision to know that. That is not what the Parliamentary Library's information indicates. I want to be doubly sure that Senator Boswell does not have information to which I am not privy, because I would be concerned about that. I showed good faith last time, when I was concerned about the export of embryos, in that I went to the Prime Minister. I will not be supporting the amendment, but I have restated and outlined the Prime Minister's compromise.

**Senator HARRADINE (Tasmania)** (8.53 p.m.)—I think there has been a little misunderstanding. The material that was read out by Senator Boswell is 100 per cent correct, as we all acknowledge. I think the confusion has been about some people describing SCNT as developing and culturing the embryonic stem cell in tissue and then using that tissue for transfer for therapeutic purposes. That is sometimes incorrectly called 'therapeutic cloning', and that is a misnomer that has been recognised in the report of the community affairs committee. Senator Patterson is correct, and Senator Boswell is correct in stating what his advisers have told him. The technique of cloning is the same whether the resulting embryo is for transfer to the body of a woman or for the harvesting of stem cells—it involves the destruction of that human embryo. As everyone around here knows now, although it was not evident in the House of Representatives debate at all, the cloning technique, the somatic cell nuclear transfer process, is the same whether the resulting embryo is transferred to a woman or whether it is harvested for its stem cells to be cultured for so-called therapy. It is not very therapeutic for the embryo, I suppose.

I support the amendment. I think it is very important for a number of reasons. The commercial area is an important reason. We are coming to that particular issue in the debate. It is in one of the following amend-

ments, and there will be a number of other amendments. As Senator Boswell has said, once the embryonic stem cell leaves the country, there is no way that we have any control over what happens to that human embryo. I ask the minister: could the licensing committee, for example, impose a requirement on the applicant that stem cells derived from the excess ART embryos are not sent overseas? Is it possible for the licensing committee to exercise that function? Would the licensing committee be able to make that a condition?

**Senator STOTT DESPOJA (South Australia)** (8.58 p.m.)—This amendment, which seeks to ban the export of human embryonic stem cells or stem cell products, is not supported by the Democrats. We know that trade in prohibited embryos is already banned under the [Prohibition of Human Cloning Bill 2002](#), which we dealt with previously. A similar amendment was defeated in the Prohibition of Human Cloning Bill, which is where such offences properly belong, in my opinion—not under this bill.

In the debate on the cloning bill, the Minister for Health and Ageing indicated that the government would subsequently amend the Customs regulations to implement a ban on the import of viable materials derived from human embryo clones. That was a comprehensive debate where we saw views change on the floor of the chamber, and the minister and the government—to give them all due credit—went away and negotiated a change which I believe was seen as satisfactory by all here.

This amendment explicitly goes beyond COAG, which did not ban the export of stem cell lines. I believe that is a perfectly legitimate activity for scientists. I have no problem with the export of stem cell products. I thank the minister for raising her query in relation to Senator Boswell's contribution. I was similarly curious to hear his comments in relation to cloning from stem cells. I also have to thank Senator Harradine because I think he clarified the matter for the benefit of the chamber. This is obviously going to be an ongoing area of debate, but I believe my understanding and that of the minister are the same.

I do not think we have explicit evidence that demonstrates that cloning from stem cells can be or has been done. I think the only evidence that has been provided to us in the committee stage of the bill concerned an example—I am not sure how many years ago; the advisers of the minister may be able to assist—in relation to stem cells bedded on top of a bed of embryos, resulting in the production of an embryo. But I am not quite sure whether scientists know whether that was produced as a consequence of the stem cells or whether it was a consequence of the embryo. I look forward to the continuation of the debate about whether stem cells are totipotent as opposed to pluripotent—but perhaps not tonight.

I thank Senator Harradine for his contribution. If Senator Boswell did have anything further on that issue, I am sure we would all be keen to hear it, but I think we have resolved that we are not dealing with the issue of cloning embryos from stem cell lines. Having said that, I indicate again that the Democrats will not be supporting this amendment. We believe that the trade on prohibited embryos has been satisfactorily dealt with under the previous legislation that we have debated. Secondly, the indication from the government that the Customs regulations will be amended is satisfactory to us.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (9.02 p.m.)—In all of this debate—and this does not relate to embryos being sent overseas but to stem cells; I have to concur with what Senator Stott Despoja has said—I think we have to remember that the donor has the right to say, ‘I do not want any derivative of my embryos going overseas,’ if they do not want them to be exported. There is an element of consent for each aspect, for every change that is going to happen to that line from the donated embryo.

In this debate, I think we keep forgetting the overriding fact that the individual, if they feel strongly enough about it, can actually say that they do not want the derivatives of their donated embryo to be used or to be sent overseas. I cannot add any more to what I have said. I am of the opinion that the concession that was given before in terms of

addressing the export of human embryos and also including a ban on the import of viable materials derived from human embryos covers this aspect, as it did in the Prohibition of Human Cloning Bill 2002. I will not be supporting the amendment.

**Senator HARRIS (Queensland)** (9.04 p.m.)—I rise to place it on the record that One Nation will support the amendment moved by Senator Boswell. If we look at Senator Boswell’s amendment in context—in division 2 of the **Research Involving Embryos Bill 2002**, under the section entitled ‘Offences’, which is totally in order—it does not amend any section of the government’s amendment, so it is not deleting or altering what the government has brought forward in the bill. I believe the amendment very concisely and clearly adds to the bill by clarifying that it will be an offence to export a human embryonic stem cell or products derived from human embryos.

Senator Stott Despoja mentioned the **Prohibition of Human Cloning Bill 2002**. It is quite possible to produce a human embryo without resorting to cloning in any way. Again, earlier I spoke of the problems arising from the government bringing in this legislation without bringing in any consequential amendments. I believe we have the Minister for Health and Ageing indicating that the government has the intention of altering the Customs legislation. I would just seek clarification from the minister to ensure that I did not misunderstand her. So one piece of consequential legislation is going to come in as a result of this legislation. Why isn’t it here now? The government has had considerable time to look at the implications of this legislation.

So Senator Boswell’s amendment does not take away from the government’s legislation. I believe it adds to it. It brings absolute clarity that, under any circumstances whatsoever, it is an offence to export a human embryo, embryonic stem cell or product. What doesn’t the amendment do? It does not in any way prohibit the production of adult stem cells. I believe it does not prohibit in any way the ability of researchers to develop adult stem cell lines. Therefore it is only impacting on embryonic stem cells. I have re-

ceived, as all senators in this chamber would have received, enormous amounts of correspondence in relation to this legislation. It has overwhelmingly called on this chamber to reject, except for IVF purposes, experimentation on or trade in human embryos. In conclusion, I indicate that One Nation will be supporting Senator Boswell's amendment.

**Senator BROWN (Tasmania)** (9.08 p.m.)—I rise to support the amendment. We do not have an international agreement in this area, and this legislation is not reflecting an international code of ethics or conduct for experimentation with embryos or human embryonic cells. Without that, there is no safeguard that can be applied to the export of these entities to another country. They can export them on, which could have them put to a different use. We are hearing from the government assurances that within this country there will be quite clear policing and overseeing of the use of embryos and embryonic material for experimental purposes. We are not having—and we cannot have—any such safeguards applying to exported material. We know that exported materials from Australia are simply not going to have those safeguards in place. That, to me, is the case. If we had another country which had mirror legislation to this then a dual arrangement could be arrived at, but we do not. Until we do, I will support this amendment.

**Senator HARRADINE (Tasmania)** (9.10 p.m.)—I wish to indicate my support for the amendment. This happens to go to a very important matter that will come forward in the next amendment, relating to trading in embryonic stem cells. The real problem here is the issue that was raised in support of this amendment—that is, there is no way you can keep track of where embryonic stem cells are going to end up or for what purpose they will be used in another country. Singapore has been used as an example.

The other matter is that in the Senate Community Affairs Committee meetings and hearings it was acknowledged that this legislation does not prevent the selling of embryonic stem cells derived from human embryos to their destruction, to the highest bidder overseas. That is the real problem, if you are going to talk about the availability of

possible cures in Australia, because it is going to cost you. It is only going to be the people who have the money who will be able to pay for it. That is it in a nutshell. I do not believe they are going to miss out on much because, as we know and as was presented to the committee, there is no proven principle about the efficacy of the so-called utilisation of embryonic stem cells for therapy. I support this amendment and I also support the points that have been made.

On the matter that Senator Boswell raised, I think that we are clear all round. I have heard, however, of the possibility—and it is only a possibility—that, instead of having somatic cell nuclear transfer, in fact it would be embryonic cell nuclear transfer. But for what purpose, unless it was for the testing of drugs and so on? The push for cloning will come from those sources which realise that the use of embryonic stem cells in therapy is nonsense for a number of reasons, not least of which is that they are histo-incompatible with the DNA of the patient. They think, 'How will we get around this? We'll get around this by taking a somatic cell from the patient and placing that into an enucleated egg, having an electrical charge and Bob's your uncle'—or Bob's your embryo! It is gross. I was very interested to hear what the minister said about the approval aspect, and I hope that the NHMRC might make it a condition to explain to the donor all the options that the donor has for requiring that their embryos or the products therefrom will not be exported.

**Senator CHRIS EVANS (Western Australia)** (9.15 p.m.)—I indicate on behalf of the Labor Party that we will be opposing Senator Boswell's amendment for many of the reasons that Senator Stott Despoja outlined and because we had this debate during the debate on the [Prohibition of Human Cloning Bill 2002](#)—which was the place to have it. The Senate took a view then about that matter and we see no reason to change our view.

**Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services)** (9.16 p.m.)—We did have that de-

bate and we clearly came down on the side of not trading in human tissue. I thought that what applied within Australia in terms of trading in human tissue is what would have been required in terms of sending stem cells overseas. We cannot trade in human tissue in Australia and therefore I would have thought that we should not have been able to trade in Aussie embryos overseas.

Question negatived.

**Senator HARRADINE (Tasmania)** (9.18 p.m.)—by leave—I move amendments (1) and (R4) on sheet 2751:

- (1) Clause 7, page 4 (after line 18), after the definition of *human embryo*, insert:

*human tissue* includes a cell, cells or cultured cells that have a human genome or an altered human genome.

- (R4) Page 11 (after line 5), at the end of Division 2, add:

**12C Offence—commercial trading in human tissue, human eggs, human sperm or human embryos**

- (1) A person commits an offence if the person intentionally receives, or offers to receive, valuable consideration from another person for the supply of human tissue (including the person's own tissue).

Maximum penalty: Imprisonment for 10 years.

- (2) A person commits an offence if the person intentionally gives or offers valuable consideration from another person for the supply of human tissue.

Maximum penalty: Imprisonment for 10 years.

This issue is a very vital one. It goes to the question of the trading in that which comes from a human. It really has to do with the commercialisation of the human body and the tissues derived therefrom. I am proposing that there be an offence of commercial trading in human tissue, human eggs, human sperm or human embryos. I am proposing that the definition of 'human tissue' include 'a cell, cells or cultured cells that have a human genome or an altered human genome'.

This amendment would make it an offence to trade in human tissue, human eggs, human sperm or human embryos and would support

state laws by plugging a possible loophole in the law. Trade in human tissues is prohibited in every state of the Commonwealth. The production of human cell cultures derived from human cells or cultures, especially stem cell cultures, would provide alternative ways of deriving stem cells and tissues that may not be considered human tissues in state laws because they were not obtained by removal from a human body.

There is a need to ensure that the medical procedures made lawful by the bill do not serve to avoid this important element of existing state law. The prohibition of trade in human tissue is important and has facilitated the existence of relatively inexpensive, efficient and universally available blood bank and organ transplant services. The creation of the lawful possibility of trade in human cells and tissues, and thus a market for them, would prevent a similar development occurring in relation to human tissues and human cells derived by culturing human cells. Such commercialisation would restrict access to human tissues and cells arising from cell cultures to those who could afford them. I would be interested to hear what the Labor Party has to say about that.

The prohibition on trade in human tissue has been an admirable feature of Australian society. The blood bank and organ transplantation services are part of Australia's social capital and the envy of the world for their low cost, high standard, efficiency and universal availability. Trade in human tissue and blood parts is thought by many to involve disrespect for the social and moral significance of humans. I ask the chamber to support this amendment and to support it for the reasons that I have suggested, but also to block a possible loophole in state laws in respect of the process we are endorsing under this legislation.

**Senator HARRIS (Queensland)** (9.24 p.m.)—I rise to indicate to the chamber that One Nation will support Senator Harradine's amendments relating to it being an offence to trade in human tissue, human eggs, human sperm or human embryos. I would like to share with the chamber something from the *Sydney Morning Herald* web site. It is very

pertinent to what Senator Harradine is talking about. It says:

Of course you have to regulate scientific exploration. Just because something can be done, doesn't mean it should be done. Look at where the 'scientific knowledge' took us when it created the nuclear bomb, chemical/biological weapons etc. How do we know that human cloning isn't going to be used in a similar light. I'm not saying that human cloning is bad ... my point is that no scientist should be left to their own devices, because their discoveries will affect us all, and we all deserve a say in what should be allowed and not allowed.

I also want to quote from an AFP article titled 'Cloned human to be born in January', which says:

Controversial Italian gynaecologist Severino Antinori said a woman carrying a cloned human embryo should give birth in early January.

He told journalists the woman's pregnancy was in its 33rd week, and the male foetus, which weighs 2.7 kilograms (six pounds), is healthy and has 'more than a 90 percent chance' of being born.

The gynaecologist also confirmed that two other women are pregnant with cloned embryos—one of them in the 28th week and the other in the 27th.

He refused to name the country or countries concerned or provide further details, but said all three women are 'in the same geographical zone.'

The article goes on further, but I will conclude it there. This is the reason why we need to very clearly set out what is acceptable and what is not acceptable in the way of scientific experimentation. Senator Harradine's amendments also go to the definition of the human embryo: 'human tissue includes a cell, cells or cultured cells that have a human genome or an altered human genome'. It has been indicated that Italy is moving towards legislation that will ban human cloning. Ultimately, scientists are going to be looking for the availability of human sperm, human eggs or already-created human embryos. I believe that Senator Harradine's amendments clarify and totally exclude that possibility from ever emanating from Australia. I will be supporting Senator Harradine's amendments.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (9.21 p.m.)—I indicate that I will be opposing Senator Har-

radine's amendments for two reasons: firstly, the regulation of human tissue is beyond the scope of the COAG decision and this legislation; and, secondly, all states and territories currently have legislation that already bans trading in human tissue. I know that Senator Harradine may not be satisfied with that and the existing legislation of the states and territories, but I do not think this is the appropriate forum to address that concern. I know that a number of jurisdictions are currently reviewing or intend to review their existing human tissue legislation, and they are the appropriate place for those issues to be covered.

**Senator HARRADINE (Tasmania)** (9.29 p.m.)—I did not catch that last comment. Am I to understand that at the Commonwealth level there is a proposal to examine current bans on trade in human tissues? Or is it that the states are considering it?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (9.30 p.m.)—All states and territories currently have legislation that already bans trading in human tissue, but I am aware that a number of jurisdictions are currently reviewing or intend to review their existing human tissue legislation.

**Senator HARRADINE (Tasmania)** (9.30 p.m.)—Minister, what aspects of this state legislation are under consideration? Is it thought that there will be a change and that there will be trade in human tissue in the various states? Is it about trade in human tissue?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (9.31 p.m.)—I have been advised that all states and territories currently have legislation that already bans trading in human tissue. I also believe that a number of jurisdictions currently have this legislation under review. I do not know the details of those reviews. When we were having a discussion before, Senator Harradine—and I would not normally disclose discussions but I think it is appropriate to say this—you were concerned that tissue should be treated like blood and not be traded in that sense. I believe that the state and territory legislation banning trading in human tissue covers these concerns and that it is appropri-

ate that that be done at state and territory level.

We also need to remember that up until now the situation was very unclear: different states had different legislation and you could not get a grasp of the legislation. By getting the states to be uniform in their approach, it is much easier to monitor what the states are doing. If a state wants to then change something, to be part of a team and to get other states involved in it, that state will need to come in at that three-year review. I believe it makes this much more open and transparent, rather than having a state doing something without the rest of the country understanding what they are doing. The states have agreed, through COAG, that this is of such importance that we have to have cooperative federalism. Very rarely have we seen this happen, that the states have come to a point where they are prepared to agree to bring state legislation into line. This will make it very obvious if a state steps out of line over trading in human tissue, for example. Before this, it was not as clear. Because of this agreement, I believe we will have a much more transparent system. It will be much easier for the public to be more informed about what is happening, rather than having a state being able to go off on a frolic of its own.

**Senator STOTT DESPOJA** (South Australia) (9.33 p.m.)—I thank the minister for her comments. While acknowledging her point that the states and the territories have legislation that already bans trade in human tissue, I am presuming that the definition under that framework does not capture stem cell lines. I am wondering specifically if the minister could advise us as to the implications of this legislation for stem cell lines. I recognise that the proposed definition of ‘human tissue’ in amendment (1) includes ‘cultured cells that have a human genome or an altered genome’. I am wondering if this really will involve the issue of banning trade in stem cell lines and stem cell products. Is the government aware of that or is my interpretation incorrect?

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (9.35 p.m.)—As I understand it, the amendment would ban

not only trade in human tissue but also trade in stem cell lines.

**Senator HARRADINE** (Tasmania) (9.35 p.m.)—It is obvious that amendment (1) defines ‘human tissue’ to include ‘a cell, cells or cultured cells that have a human genome or an altered human genome’. There was no attempt to hide that. It is perfectly clear that this is about human tissue, human sperm, human eggs or human embryos and includes, because of the definition, human embryonic stem cells. It is required in this legislation, I believe, because this will be template legislation, and this is a chance for the states to make sure that this is observed in the various state legislation. Let me remind honourable senators that we are talking about procedures which a lot of people are placing false hope in and which, because of commercialisation, will only be available to those who can afford them. So embryonic stem cell cultures, if they are going to be of any use at all, will be only available to those who can afford them.

As I pointed out, we are talking about state laws here. It is important because, according to a number of state laws, the human tissue is defined as being obtained by removal from a human body. The question is whether the human embryo would be regarded as a human body for the purposes of this legislation. That is why there is a need to ensure that the medical procedures that would be facilitated and made lawful by this proposed act of parliament avoid the problems of existing laws.

In regard to trading, the payment of reasonable expenses is taken as being approved. Reasonable expenses obviously need to be paid. This proposed amendment would not prohibit that aspect at all. We are not talking about valuable consideration here. I am trying to prevent valuable consideration being paid because valuable consideration—in relation to the supply of human tissue by a person—includes any inducement, discount or priority in the provision of service to a person but does not include the payment of reasonable expenses incurred by the person in connection with the supply. So, if you adopted my amendment, it would still enable—and this may apply to Senator Stott

Despoja in respect of her question to the Minister—the payment of reasonable expenses that are incurred by the person in connection with the supply of embryonic stem cells.

I will leave that to the committee and I think it is very important not only for the states, but also in order to maintain the attitude within Australia where these products are available for the health of this nation. The blood bank is a very good example of this. If you go to America, people are absolutely amazed that we have a free blood bank. They pay hand over fist for blood there, but here we do not and I would like to see that principle maintained in this proposed legislation.

**Senator STOTT DESPOJA (South Australia)** (9.41 p.m.)—I thank Senator Harradine for his additional comments and understand his point to me in relation to reasonable expenses but, based on my question to the Minister and her response, my understanding is that this amendment and the definition can include stem cell lines. I am wondering through you, Chair, directly to Senator Harradine: is the intent of your amendment to ban trade in stem cell lines?

**Senator HARRADINE (Tasmania)** (9.42 p.m.)—Yes, because that is what is going to allegedly be used in these experiments. That is, to take the stem cell lines and culture them in the medium such that they will develop tissue which then theoretically would be transferred to the patient with all the problems that we know about in regard to histo-incompatibility. Certainly it is meant to do that.

**Senator HOGG (Queensland)** (9.43 p.m.)—Minister, an interesting point has just been raised by Senator Harradine in response to Senator Stott Despoja's question. They are talking about the issue of trade in embryonic stem cell lines. What is the current position on adult stem cell lines? Is trade currently permitted for adult stem cell lines under state legislation—yes or no? It would seem that the answer would give a reasonable indication of where we might go on this issue.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (9.44 p.m.)—I

cannot answer that question. I do not have the information but we are actually ringing somebody to find out the answer.

**Senator HOGG (Queensland)** (9.44 p.m.)—I think I have raised a fairly important point, because it gets down to the nub of the issue that has been discussed by Senator Harradine. Minister, how long will the officers take to get the information on this? In the interests of progressing this debate, I ask that we might defer this for a few moments while an answer is received and return to it at a later stage. I think that that might help the progress of the debate. Are you prepared to do that?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (9.45 p.m.)—I have just received some other advice. When I indicated that some of the jurisdictions were reviewing their legislation there was apparently some question as to whether some of the states' existing human tissue legislation—and we have to remember that the states are agreeing with the thrust of the legislation, to try to get uniform legislation—may not cover embryos and embryonic stem cell lines and trading in embryonic stem cell lines. That is why it is being reviewed. Apparently that is one of the issues that has been discussed at an implementation level with the various officials.

**Senator HOGG (Queensland)** (9.45 p.m.)—Minister, you are now seeking some advice on the question of adult stem cell lines. My suggestion is that we defer any debate on Senator Harradine's amendment until you have that advice to enable us to progress other amendments on the running sheet—that is all.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (9.46 p.m.)—The bill is about research involving embryos, not embryonic stem cells. The advice is equivocal about the state legislation and that is why some states are reviewing their legislation.

**Senator HOGG (Queensland)** (9.46 p.m.)—I understood from your answer to me that you were referring to embryonic stem cells as such, whereas I was referring to adult stem cells. I understood you to say that an

officer had gone out to make a call to get some information. If that information has arrived we can proceed with this part of the debate. If it has not arrived then I am suggesting to you that we defer Senator Harradine's amendment until the position is clear, and get on with something else.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (9.47 p.m.)—I asked Professor Pettigrew from NHMRC. Another adviser has indicated to me that the issue regarding adult stem cells is similar to that involving embryonic stem cells and that is why the states are reviewing their legislation.

**Senator HOGG (Queensland)** (9.47 p.m.)—Under those circumstances, it is definitely an issue I would like clarified. Adult stem cells have been around for a substantial period of time and the derivatives of adult stem cells—bone marrow, for example—have been around for a substantial period of time and it would seem to me that the states must have formed a view or have legislation which reflects a view that they have adopted on this issue over a period of time. I am not trying to be difficult, Minister, but it is a fairly key issue. It seems to me that when this issue is properly clarified we should be able to proceed with Senator Harradine's amendment.

**Senator HARRADINE (Tasmania)** (9.48 p.m.)—In view of that, I am prepared to seek leave to postpone consideration of this amendment until a later hour of the day. I am seeking the views of the committee.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (9.49 p.m.)—We must not lose sight of the debate. We are debating the **Research Involving Embryos Bill 2002** and now we are talking about the trade in adult stem cell lines. The bill is about research on excess ART embryos. We have to get back to that. We are sliding off onto other issues. Whatever the answer is, I will not be supporting the amendment. It really is on the side of the debate. We are talking about research involving embryos, not trade in adult stem cell lines.

**Senator BROWN (Tasmania)** (9.50 p.m.)—I will be supporting the amendment. Senator Harradine's reference to the supply of blood in Australia is an extremely good one. We should comprehensively apply that to the supply of human tissue, whatever its derivation. While it is interesting to find out what the current situation is regarding adult stem cells, this amendment has the power of a good argument and I would not like to see it set aside even if it does turn out that there is trade in adult stem cells. In fact, if that were the case, it would be a very good thing if a stop was put to it.

One of the concerns I have overarching this legislation is that a driving power for the legislation is commercial interest. That is totally inappropriate to the outcomes that are being predicted by those who most strongly support this legislation—that is, it is being pushed for the purpose of getting curative outcomes for humans who have illnesses or problems of one sort or another. I am concerned that that is really in some cases subsidiary to the commercial advantage that corporations and others can see coming out of stem cell experimentation. Whether it be adult or embryonic stem cells, I do not think we should have provision for that. I support this amendment.

Question put:

That the amendments (**Senator Harradine's**) be agreed to.

The committee divided. [9.57 p.m.]

(The Chairman—Senator J.J. Hogg)

Ayes.....	29
Noes.....	<u>38</u>
Majority.....	9

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.
Colbeck, R.	Collins, J.M.A.
Eggleston, A.	Ellison, C.M.
Ferguson, A.B.	Harradine, B.
Harris, L.	Heffernan, W.
Hogg, J.J.	Hutchins, S.P.
Kemp, C.R.	Lightfoot, P.R.
Macdonald, J.A.L.	McGauran, J.J.J.

Minchin, N.H.  
Santoro, S.  
Watson, J.O.W.

Nettle, K.  
Stephens, U.

## NOES

Allison, L.F.  
Bolkus, N.  
Campbell, I.G.  
Cherry, J.C.  
Crossin, P.M.  
Evans, C.V.  
Greig, B.  
Kirk, L.  
Lees, M.H.  
Lundy, K.A.  
Mackay, S.M.  
Mason, B.J.  
Moore, C.  
O'Brien, K.W.K.  
Payne, M.A.  
Ridgeway, A.D.  
Stott Despoja, N.  
Tierney, J.W.  
Webber, R.

Bartlett, A.J.J.  
Campbell, G.  
Carr, K.J.  
Cook, P.F.S.  
Denman, K.J.  
Ferris, J.M. \*  
Johnston, D.  
Knowles, S.C.  
Ludwig, J.W.  
Macdonald, I.  
Marshall, G.  
McLucas, J.E.  
Murray, A.J.M.  
Patterson, K.C.  
Ray, R.F.  
Scullion, N.G.  
Tchen, T.  
Troeth, J.M.  
Wong, P.

\* denotes teller

Question negatived.

**Senator HOGG (Queensland)** (10.00 p.m.)—I move amendment (R5) in my name on revised sheet 2720:

(R5) Clause 16, page 13 (line 28), at the end of subclause (3), add:

- ; (c) be satisfied upon receipt of a written declaration by the member proposed to be appointed that the member proposed does not have a direct or indirect pecuniary interest in a body that undertakes uses of excess ART embryos, being an interest of a kind that could conflict with the proper performance of the member's functions.

This amendment adds a new subclause (c) to clause 16(3). The amendment deals specifically with the issue of conflict of interest of people being appointed to the NHMRC Licensing Committee. Clause 16(3) specifically states:

Before appointing a member, the Minister must:

And there are presently two criteria there, namely:

- (a) seek nominations from the States and from such bodies as are prescribed by the regulations for the purpose; and

(b) consult, and have regard to the views expressed by, the States on the proposed appointment.

My new subclause (c) states:

(c) be satisfied upon receipt of a written declaration by the member proposed to be appointed that the member proposed does not have a direct or indirect pecuniary interest in a body that undertakes uses of excess ART embryos, being an interest of a kind that could conflict with the proper performance of the member's functions.

The amendment seeks a declaration in writing such that, if there were a challenge to the bona fides of the person seeking membership and the judgment of the minister is brought into question, the written declaration would be available for perusal. That is something that is a must. And, of course, a person being considered for the position needs to have no conflict of interest by way of any pecuniary interest, whether it be direct or indirect. I believe that it is a reasonable amendment. I believe that there is a degree of support around the chamber for this revised amendment as circulated. So, in the interests of time, I commend the amendment to the chamber.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (10.03 p.m.)—Senator Hogg's amendment would require each person nominated for membership of the NHMRC Licensing Committee to make a declaration that he or she does not have any financial interests in the body that undertakes:

... uses of excess ART embryos, being an interest of a kind that could conflict with the proper performance of the member's functions.

The legislation already includes a number of safeguards for ensuring that appropriate people are appointed to the NHMRC Licensing Committee. The minister must call for nominations from a range of organisations, the states and territories must be consulted in relation to the nominations and a majority of the states and territories must agree on the appointment of the chair. In other words, the Commonwealth minister and also all states and territories will be examining the credentials of potential nominees to the NHMRC Licensing Committee and ensuring that they do not have a conflict of interest that would

preclude them from working on the NHMRC Licensing Committee. Also, all potential members who are to be appointed to NHMRC committees must fill out a form and make a declaration accepting membership nomination and declaring any conflicts of interest. This occurs before recommendations relating to appointments are finalised and ensures that the minister and, in the case of the chair of the NHMRC Licensing Committee, the states and territories have all the relevant information available to them regarding the interests of the people who have been nominated. As these issues are already covered through existing NHMRC procedures, I do not think that Senator Hogg's amendment is necessary. However, I will not be opposing it.

**Senator BROWN (Tasmania)** (10.05 p.m.)—I will be supporting the amendment. I think that it is a good one.

**Senator MURPHY (Tasmania)** (10.05 p.m.)—With regard to the issue of conflict of interest in respect of Senator Hogg's amendment, can the minister tell me whether she believes that Professor Trounson or Ms Dianna DeVore would have a conflict of interest in this instance?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (10.06 p.m.)—I am not going to speculate about individuals. I have indicated that the legislation already includes a number of safeguards to ensure that appropriate people are appointed to the NHMRC Licensing Committee and that there are measures to ensure that they declare any conflict of interest. I believe that they are adequately covered, although, as I said, I am prepared to support Senator Hogg's amendment.

**Senator MURPHY (Tasmania)** (10.06 p.m.)—I appreciate what the minister has just said, but I would like to know what circumstances would formulate a conflict of interest. I will not mention names but, if circumstances were such that people who were, for instance, appointed as directors of the National Stem Cell Centre had private interests that were directly related to their responsibilities in association with the work that the National Stem Cell Centre might do, would that be a conflict of interest?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (10.07 p.m.)—I would just like to clarify that we are talking about the licensing committee. Senator Hogg's amendment says:

(c) be satisfied upon receipt of a written declaration by the member proposed to be appointed that the member proposed does not have a direct or indirect pecuniary interest in a body that undertakes uses of excess ART embryos, being an interest of a kind that could conflict with the proper performance of the member's functions.

**Senator CHRIS EVANS (Western Australia)** (10.08 p.m.)—I indicate formally that the Labor Party will be supporting Senator Hogg's amendment (R5).

Question agreed to.

**Senator HOGG (Queensland)** (10.08 p.m.)—I now move amendment (R6) on 2720 revised:

(R6) Clause 16, page 14 (after line 8), at the end of the clause, add:

- (7) For the purposes of this Division and Divisions 4 and 5 of this Act, regulations must be made prescribing matters that may constitute a conflict of interest for a member of the NHMRC Licensing Committee.

Having just adopted that important proposal that there is no conflict of interest, I think it is also equally important that there be regulations prescribing matters that may constitute a conflict of interest for a member of the NHMRC Licensing Committee. This is new ground; it is new law and it seems to me that in the first instance it is not an unreasonable situation to request, through legislation, that regulations be made in respect of the issue of conflict of interest. This legislation is not going to be a burden. Undoubtedly regulations will be made and, in the fullness of time, like all regulations, they will be a disallowable instrument. The fate of many disallowable instruments or regulations in this place is that very few of them fail indeed. So it seems to me that it sends out a very strong and a very solid message for having a strict regulatory regime.

In my view, that was at the nub of the COAG agreement. The COAG agreement was very strong in that sense in talking about a strict regulatory regime. It seems to me that

this is not an unreasonable request or an unreasonable issue to be put into this piece of legislation. It is not going to detract from it in any way. It is simply going to lead to clarity, to certainty, to transparency and to accountability. On all those grounds I think it is a reasonable proposition for the chamber to adopt.

**Senator HARRADINE (Tasmania)** (10.11 p.m.)—This matter has been properly and logically canvassed by Senator Hogg. I think it is important to ensure that in these matters there is absolutely no question of conflict of interest. That is why he has put forward this amendment, and I support it.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (10.12 p.m.)—I will not be supporting Senator Hogg's amendment, but once the licensing committee has been established and they have had an opportunity to review the existing NHMRC committee procedures then, if I consider it necessary, I will undertake to bring forward regulations on the issue for consideration.

I will not be supporting Senator Hogg's amendment for a number of reasons. The amendment to clause 16 of the bill requires that regulations must be made prescribing matters that may constitute a conflict of interest for a member of the NHMRC Licensing Committee. Senator Hogg may be aware the bill before us provides that the NHMRC Licensing Committee is to be taken to be a principal committee of the NHMRC for the purposes of National Health and Medical Research Council Act 1992. The reason this was done in this way is that many of the administrative provisions that apply to other principal committees of the NHMRC, such as the Australian Health Ethics Committee, can also apply to the NHMRC Licensing Committee.

In accordance with the requirements of the NHMRC Act, the NHMRC has issued procedures relating to the disclosure of interest in the event that an issue arises as part of a committee's consideration of a matter. These procedures that currently apply to all of the existing principal committees of the NHMRC will also apply to the NHMRC Licensing Committee. Once the NHMRC Li-

censing Committee has been established and has had the opportunity to review the procedures, it may wish to detail additional procedures. Provision has therefore been made in the legislation for this to be addressed through the making of regulations—and I refer senators to clause 13(4) of the bill.

There is, however, a big difference between including a clause in legislation stating that regulations may be made if necessary and Senator Hogg's amendment that states that regulations must be made. I am advised by the Office of Parliamentary Counsel that it is entirely inappropriate to compel the Governor-General to make regulations. In effect, this amounts to binding the sovereign to a particular course of action. This is contrary to the Acts Interpretation Act that refers in section 48 to an act conferring a power to make regulations rather than a requirement that such regulations be made. Furthermore, to our knowledge, this approach is unprecedented in Commonwealth legislation or in regulation making powers of which the Office of Parliamentary Counsel is aware are permissive.

**Senator HOGG (Queensland)** (10.14 p.m.)—I have heard what the minister had to say. That is not the advice that I have been given. I respect the advice that you have been given, Minister, but the amendment says:

... regulations must be made prescribing matters that may constitute ...

It is mandatory to make the regulations but it is prescribing the matters that may constitute a conflict of interest. I do not think that is an unreasonable request. I do not believe, from the information that I have been provided from around this place, that that is groundbreaking in terms of legislation, and I commend the amendment to the Senate.

**Senator CHRIS EVANS (Western Australia)** (10.15 p.m.)—I indicate on behalf of the Labor Party that we will not be supporting the amendment. We think that the minister's assurance that regulation relating to conflicts of interest will be made addresses the concern raised by Senator Hogg, and on that basis we will oppose the amendment.

**Senator STOTT DESPOJA (South Australia)** (10.16 p.m.)—For the interest of the chamber, so that people have a sense of where the vote may go, I indicate on behalf of the Democrats that, similarly, we will not be supporting this amendment. The previous amendment, which had a degree of reasonableness about it, especially after it had been honed or made more specific by Senator Hogg, obviously had the approval of the chamber. I think the minister's reasons are quite legitimate. If there is a further need for such regulations, we will find out. In the interim the Democrats will not be supporting further changes.

Question negatived.

**Senator HARRADINE (Tasmania)** (10.17 p.m.)—by leave—I move amendments (1), (2) and (3) on sheet 2696:

- (1) Clause 13, page 12 (lines 18 to 20), omit subclause (4).
- (2) Clause 16, page 14 (after line 4), after subclause (5), insert:
  - (5A) The Minister must not appoint as a member a person who has a continuing personal, professional or pecuniary conflict of interest with the functions of the NHMRC Licensing Committee.
- (3) Page 14 (after line 8), after clause 16, insert:
 

**16A Disclosure of interests**

  - (1) A member who has a conflict of interest in relation to a matter being considered or about to be considered by the NHMRC Licensing Committee must disclose the matters giving rise to that conflict to the NHMRC Licensing Committee as soon as possible after becoming aware of the conflict.
  - (2) The member must not take part in the deliberation or the making of a decision by the NHMRC Licensing Committee in relation to the matter.
  - (3) For the purposes of this section, a member has a conflict of interest in relation to a matter being considered or about to be considered by the NHMRC Committee if the member has any interest, personal, pecuniary, professional or otherwise, that could conflict with the proper performance of the member's functions in relation to that matter.

- (4) A member who contravenes subsection (2) ceases to hold office as a member at the time of the contravention and is ineligible for reappointment.
- (5) A conflict of interest, disclosure of interest or contravention of subsection (2) is a detail relating to the operations of the NHMRC Licensing Committee which must be reported in accordance with subsection 18(1).

In the interests of time I would like to briefly explain these amendments. The minister may be able to indicate to the chamber what is proposed or what is the situation now in respect of each of those matters, and maybe under those circumstances I need not press the amendments. These are amendments to clause 13 and clause 16 of the legislation.

Before I deal with the amendment to clause 14, I point out that it was submitted to the Senate Community Affairs Legislation Committee that it was entirely inappropriate for the NHMRC, who is a player in the research area, to be an umpire for the game. I think there is some validity in that. The NHMRC must take a very good look at itself and have a look at what it has been doing to see whether or not it has ensured that weight is given to the ethical questions that are involved in a number of research proposals which are funded by the NHMRC. This is certainly not to question the intentions of the NHMRC but members of parliament have received a certain missive from the University of Tasmania about the treatment that Tasmanians have been getting from the NHMRC because of the round robin effect of a number of these grants. The same people are getting the same grants and are being assessed by people in similar institutions and so on. The question really does need to be looked at.

Let us go to the amendments. I raised with the minister amendment (1), which says:

Clause 13, page 12 ... omit subclause (4).

This amendment deletes a section of the bill which in part states:

The regulations may make provision for and in relation to the disclosure of members' interests ...

Amendment (3) sets out the requirements for disclosure of interest in legislation rather than leaving this very important issue to

regulations. On the conflict of interest clause, amendment (2) on sheet 2696 seeks to add after subclause (4) the words:

The Minister must not appoint as a member a person who has a continuing personal, professional or pecuniary conflict of interest with the functions of the NHMRC Licensing Committee.

The amendment that I am moving has the effect that a person may not be appointed to the NHMRC Licensing Committee if there is a continuing personal, professional or pecuniary conflict. There are many examples of similar protective provisions in Commonwealth legislation. I mention just four of them: the National Environment Protection Measures (Implementation) Act 1998, the Trade Practices Act 1974, the Australian Tourist Commission Act 1987 and the Australian Film Commission Act 1975.

The third amendment on sheet 2696 is the addition of clause 16A. The background of this proposal is that, if a conflict of interest arises for a member of the NHMRC Licensing Committee, it must be disclosed and the member cannot take part in deliberations in relation to that particular matter. There are numerous examples in Commonwealth laws of disclosure of interests that are required. Again, the proposed amendments are consistent with precedent—for example, the International Air Services Commission Act 1992 requires that a member must disclose any interest, whether monetary or otherwise, that would conflict with proper performance of functions and must not further take part in proceedings except with the consent of other members and parties, if any.

The Australian Film Commission Act provides that a person is not eligible for appointment if there is a conflict of interest, which is in similar language to the proposed amendment and is also referred to above. As I said, it is a very important area. I am sure that the minister appreciates, as I do, that COAG did make a point of agreeing to the need for strict regulatory provisions. Of course, this whole question of conflict of interest is one which I am sure those honourable senators in the chamber and those senators who are not here, who are involved in transparency and accountability for the actions of parliament, would agree. I put that

forward in the hope that the minister might be able to enlighten me as to what the current situation is. It may well be that the current situation covers it and, if it covers it better than these amendments, please tell me.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (10.25 p.m.)—For the same reasons that I opposed Senator Hogg's amendment (R6) on sheet 2720 revised, I will be opposing Senator Harradine's amendments (1) and (3) on sheet 2696.

The NHMRC already has procedures in place relating to conflict of interest, which have worked effectively for a considerable period of time. The NHMRC Licensing Committee will be subject to the same procedures relating to conflict of interest as are all other members of the National Health and Medical Research Council and all of its committees. The NHMRC committee procedures, which are available on the NHMRC web site, provide:

A member who has an interest in a matter being considered or about to be considered by a committee at a committee meeting or otherwise must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a committee meeting or, if the matter is to be decided before a committee meeting takes place, to the chairperson. A member who has disclosed an interest must not, unless the chairperson otherwise determines,

- (a) be present when the committee considers the matter; or
- (b) take part in any discussion of the committee in relation to the matter.

A member's disclosure at a meeting must be recorded in the minutes of that meeting and a member's disclosure to the chairperson must be recorded in the minutes of the first meeting after the disclosure. Disclosure of interest should be a standing agenda item for all committee meetings.

While I believe that it is entirely appropriate that these procedures apply to the NHMRC Licensing Committee, the **Research Involving Embryos Bill 2002** also enables regulation to be made relating to conflict of interest. As I have already undertaken, regulations will be brought forward if, once the NHMRC Licensing Committee is established, it is considered that different procedures would be appropriate. The parliament will, of course, have the opportunity to scru-

tinise the regulations setting out any additional requirements relating to conflict of interest. I consider that this is a reasonable approach; therefore, I do not support Senator Harradine's proposed amendments.

I will also be opposing amendment (2) on sheet 2696, because we have already agreed to Senator Hogg's amendment that addresses the issue of declarations of conflict of interest prior to appointment.

**Senator STOTT DESPOJA (South Australia)** (10.28 p.m.)—The Democrats will not be supporting the amendments. Firstly, I acknowledge the arguments put forward by the Minister for Health and Ageing, particularly the fact that we know that the legislation can provide for regulations as required in relation to this issue. But I ask the minister, or indeed perhaps Senator Harradine, about the wording of amendment (2) and particularly sub-clause (3) of amendment (3), which defines a conflict of interest as 'any interest, personal, pecuniary, professional or otherwise, that could conflict with the proper performance' et cetera. Presumably this broad ranging definition could encapsulate any sort of relationship or interest, such as an acquaintance or someone—themselves or perhaps their spouse—who had an IVF treatment.

I am wondering if my interpretation is too broad, or is my impression correct that the broad ranging nature of this definition could leave itself open to that interpretation, in which case I would be curious to know who could possibly meet such a criterion. Is it not a possibility that it may be very difficult to find someone who would meet that criterion, especially someone who has the expertise in IVF and stem cell science? We could be looking at a licensing committee with no expertise in stem cell science or ART, while recognising that the purpose of the licensing committee is precisely to make informed judgments about licensing applications which necessarily means that they should have that expertise. I know that Senator Harradine provided the precedent but, given the unique nature of this legislation, I am wondering whether or not it is the case, in my interpretation of the broad ranging definition, that we might find it very difficult to find the

appropriate people to serve on the licensing committee.

**Senator HARRADINE (Tasmania)** (10.30 p.m.)—I am not sure that I understand what Senator Stott Despoja means, but if she is asking me the question I would answer by saying that these clauses were drafted in accordance with the accountability and transparency provisions of a number of pieces of legislation. They were all brought together by the drafts person from a range of legislation. That is about all that I can say about it. In respect of the purpose of this section, if you look at clause 3, the key words there are 'that could conflict with the proper performance of the member's functions' in relation to that matter. If you look at the proper performance of the member's functions in respect of whether 'interest' has a definition of its own in the legislative sense, it is not just a case of, 'Yes, I've got an interest in this subject.' But you have a point there. I must follow up on the meaning of 'personal'. You do have a point there and, for my own satisfaction, I will find out the reason for that word. I cannot help you any further. I do not wish to pursue these amendments.

**The TEMPORARY CHAIRMAN (Senator McLucas)**—Senator Harradine, are you seeking leave to withdraw those amendments?

**Senator HARRADINE**—In the interests of time and having regard to what the minister, Senator Patterson, has said, I seek leave to withdraw amendments (1), (2) and (3) on sheet 2696.

Leave granted.

**Senator HARRADINE (Tasmania)** (10.33 p.m.)—If I move the next amendment, we will go on to clause 18, but I want to ask a couple of questions about clause 16 whilst we are on the subject. Regarding the constitution of the NHMRC Licensing Committee, clause 16 says:

- (a) a member of AHEC;
- (b) a person with expertise in research ethics ...

What are 'research ethics'? I am interested to know what 'research ethics' are. It then says:

- (c) a person with expertise in a relevant area of research ...

I would be interested to know what is meant by 'relevant area of research'. It goes on to say:

(d) a person with expertise in assisted reproductive technology;

(e) a person with expertise in a relevant area of law ...

Does that mean patents? What does it mean? It then says:

(f) a person with expertise in consumer health issues relating to disability and disease ...

I do not have a question on that, but then it says:

(g) a person with expertise in consumer issues relating to assisted reproductive technology ...

I want to ask a specific question about that. Would that exclude a person from a consumer organisation which is substantially funded by the industry? If that is so then how can you possibly have the situation where that person is going to support the industry? I will be specific. In the examination by the community affairs committee, a person admitted that the organisation called ACCESS, the so-called consumer organisation for assisted reproductive technology, was I think 70 per cent funded by the ART industry—the IVF industry. If we are going to have a licensing committee that is competent in that regard in more ways than one, we should have answers to those questions.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (10.36 p.m.)—I have just been looking at the membership of the licensing committee. Senator Harradine has raised these issues, but we need to look at clause 16(3). It says:

Before appointing a member, the Minister must:

(a) seek nominations from the States and from such bodies as are prescribed by the regulations for the purpose; and

(b) consult, and have regard to the views expressed by, the States on the proposed appointment.

It is very typical for other committees, when we are appointing them in legislation, to have a person with expertise in consumer issues. I am not sure that we have ever prescribed in legislation what should occur if a consumer comes from an organisation that happens to be funded by an industry with

direct interests. For example, I know some disease groups are funded by pharmaceutical companies and I do not know that that would preclude a consumer from being on a board or a committee. As we have just discussed, there are safeguards against a person who has a direct pecuniary interest being appointed, but my opinion is that it is clearly outlined that these are the sorts of people who ought to be on the committee. Having the states agree would actually be another safeguard to ensure that the appropriate people are appointed under each of those categories.

**Senator HARRADINE** (Tasmania) (10.38 p.m.)—I want some further information about that. I do not think that is good enough. The Minister for Health and Ageing says that some person is going to be on a board or a committee that is funded by drug companies. If that board is dealing with issues relating to drug companies, it is quite improper for that person to be a member of such an organisation, committee, licensing board or whatever it is. With this legislation you are proposing to allow access to excess ART embryos. I am not sure that you went as far as to say that that is quite appropriate and proper, but it may well be that it should preclude a person whose organisation is funded substantially by the very industry to which you are going to give access to excess ART embryos. I do not think that is an appropriate circumstance. For a person who has expertise in ART, at least that is up-front and we know what that person's views are. I also raise the question: if this licensing committee is to determine the applications for the use of excess ART embryos—that is to say, where their use is not exempt—how does the person with expertise in ART get a guernsey and why? That is the question to the minister: how does the person described in clause 16(1)(d) as 'a person with expertise in assisted reproductive technology' get a guernsey for that? They have already got their human embryos. They can have access to excess ART embryos under the exempt use provisions of this bill.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (10.41 p.m.)—With all due respect to the honourable sena-

tor, this bill has been to a committee for four full days. Is that correct, Senator Knowles?

**Senator Knowles**—Five hearings.

**Senator PATTERSON**—Five hearings. We do not actually have any amendments before us on this issue. I believe that there are sufficient safeguards here with regard to consultation with the states and the views expressed by the states on the proposed appointment, and I believe there are sufficient safeguards in here to ensure that we will have a committee which will undertake the task of being an appropriate NHMRC Licensing Committee. As I said, if people have a direct pecuniary interest, that has been taken care of. I think it might be helpful if we actually moved on to discuss the amendments that are before us. We do not have an amendment before us on this matter. There has been ample opportunity for this area to be raised. It has not been raised before. I have no further comment to make.

**Senator MURPHY (Tasmania)** (10.43 p.m.)—I have another question with regard to clause 24, 'Licence is subject to conditions'. I would like to ask a question in question time about this. The conditions that are set out—

**The TEMPORARY CHAIRMAN (Senator McLucas)**—Senator Murphy, clause 24 is a fair way from where we are now.

**Senator MURPHY**—I know it is. I am just conscious of the time and I would like an answer tonight so I can try to determine whether or not I might get an amendment drafted tomorrow. That is all.

**The TEMPORARY CHAIRMAN**—Senator Murphy, please continue.

**Senator MURPHY**—I want to know whether it was intended or whether any thought was given to whether or not the licence conditions ought to take account of the Patents Act.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (10.44 p.m.)—I am advised that those issues are dealt with under the Patents Act, and this bill is about the issues surrounding the use of human embryos in research on human embryos.

**Senator MURPHY (Tasmania)** (10.45 p.m.)—I thank the minister for her answer. I know that; I understand that. But there will be issues of patentability arising from that. I am wondering whether or not—and if not, why not—the licence conditions set out in this bill refer to the Patents Act. Why wouldn't it be subject to the conditions of the Patents Act as well?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (10.45 p.m.)—I am advised that this does not override the Patents Act and that it will operate in parallel.

**Senator MURPHY (Tasmania)** (10.46 p.m.)—I am pleased that you have that view, Minister, but it does not say anything about that in here. I am wondering if there were a particular reason that it did not. You might be able to tell me that. If it is the case that you think that the Patents Act just does not override it, have a look at the Patents Act, with the greatest respect—although I am not an expert in this area either. It seems to me that there are significant weaknesses in the Patents Act insofar as this particular research is concerned. That is why I asked the question. I am now more concerned by the fact that there is no reference to the Patents Act at all. I am further concerned that the Patents Act is somewhat deficient in this area.

**Senator STOTT DESPOJA (South Australia)** (10.46 p.m.)—As a process issue, I am wondering whether Senator Murphy should just draft his amendment and then we could have this debate at another point in time. I also want to put my views on the record. I did not have time to anticipate what Senator Murphy was referring to. Senator Murphy says that the Patents Act does not deal with this or that there may be deficiencies in relation to this area of research. Of course the Patents Act is, by necessity, general. It is a broad-ranging piece of legislation. The characteristics which define your success in an application for a patent are 'novel' and 'inventive'. I think, off the top of my head, that is the actual wording in the law. I am not sure that it necessarily has to specify any particular type of research or scientific discovery. I imagine it works in parallel with the Patents Act. I am not quite sure about the

issue of it being overridden, but perhaps that is something we can get advisers to look into.

But I would still imagine that anyone would have to satisfy the criteria of inventiveness and novelty under patent law. Hence the argument of some of us that genes and gene sequences are, by their very nature, unique and novel and therefore they should not be patented. That is not to say, as I have said previously, that the processes by which you derive information about a cure or the purposes for which you use those genes cannot be patented, because that is novel and inventive or unique. But our actual genes and our gene sequences should not be patented at all. I would be curious to get some information on this, but my understanding is that it should not necessarily hold up this debate per se, because I am not quite sure if the implications for the Patents Act are such that they need necessarily hold up the debate in relation to clause 24 on licensing or indeed clause 18 now. With all due respect, if Senator Murphy wants to draw up the amendment and have a debate, bring it on. I think it would be a very interesting one. I would be more than happy to amend the Patents Act, as I have said many times before.

**Senator PATTERSON** (Victoria—Minister for Health and Ageing) (10.49 p.m.)—I make the comment that there are a number of acts that operate in parallel with this act. I have referred to the industrial relations act and legislation about unfair dismissal. There are other acts which run in parallel. We do not always refer to the acts in the current legislation. I think I would agree with Senator Stott Despoja: if Senator Murphy has an amendment, we should have the amendment and we should debate it. Otherwise, it will become totally unruly with everyone jumping up asking questions about various clauses. We have a program before us. We have now had five committee hearings and we have had umpteen hours of debate. If we are going to do it in an orderly way, we should at least have an amendment before us so we can actually systematically go through it.

**Senator HARRADINE** (Tasmania) (10.50 p.m.)—I am the next cab off the rank

according to the running sheet, but my amendment deals with what should be contained in the report. I believe that is to be dealt with by Senator Bishop and Senator Barnett. I would like consideration of this amendment to be deferred to a later hour of the day.

**The TEMPORARY CHAIRMAN** (**Senator McLucas**)—You can be called later, Senator Harradine, in relation to amendment (14) on sheet 2696. I suggest we do that after the next two amendments.

**Senator MARK BISHOP** (Western Australia) (10.51 p.m.)—I move amendment (R3) on sheet 2689 revised (2):

(R3) Clause 19, page 14 (after line 28), at the end of the clause, add:

- (3) The NHMRC Licensing Committee must cause a report to be tabled in either House of Parliament on or before:
  - (a) 30 June of each year;
  - (b) 31 December of each year; and
  - (c) any other time required by either House of Parliament;
 that must include information about:
  - (d) the operation of this Act; and
  - (e) the licences issued under this Act.

Very briefly, for the benefit of the chamber, the accountability of the NHMRC was questioned during the Senate committee's inquiry into this bill, and concerns were raised that information made available regarding the operation of the act might not be adequate for serious or proper parliamentary oversight of the operation of the legislation. Clause 19 of the bill states:

The NHMRC Licensing Committee may at any time cause a report about matters relating to the Committee's functions to be tabled in either House of the Parliament.

This amendment seeks to extend this reporting capacity to an obligation on the committee to report every six months, not merely on its own initiative. This will ensure parliamentary review, an assessment of the research and regular consideration of the operation of the act in the light of up-to-date information before the parliament. The amendment simply requires that the NHMRC Licensing Committee must cause a report to be tabled in either house of parlia-

ment on or before 30 June each year, 31 December of each year and at any other time required by either house of parliament.

That report must include information about the operation of this act and the licences issued under this act. It is another reporting requirement. It results in additional information being tabled in either house of parliament. It will be done on a regular basis and it will allow for parliamentary oversight of the activities of the NHMRC Licensing Committee. I understand that there will not be serious opposition to this amendment. Accordingly, I commend it to the chamber.

**Senator CHRIS EVANS (Western Australia)** (10.53 p.m.)—I indicate on behalf of the Labor Party that we will be supporting Senator Bishop's amendment, partly due to the brilliance of his argument but mainly due to the brevity of his argument.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (10.53 p.m.)—It has been proposed that the legislation be amended to require the NHMRC Licensing Committee to report to parliament every six months, and at any other time required by either house of parliament. The NHMRC Act currently provides that the NHMRC must make an annual report to parliament and this bill provides in clause 18 that, as part of that general NHMRC report, information must be included about the operations of the NHMRC Licensing Committee. Clause 19 of the bill also provides an opportunity for the NHMRC Licensing Committee to table reports relating to the committee's functions in either house of parliament and to give a copy of such reports to the minister and to each state and territory.

This provision is broadly framed to enable the NHMRC Licensing Committee to report to parliament at any time on any matter relating to its activities. Any such report would be in addition to the committee's reporting requirements via the NHMRC. In addition, clause 29 of the bill requires the NHMRC Licensing Committee to maintain a publicly available database, which will include all relevant details of each licence issued, which will be updated whenever any licence is issued or varied. The requirement will make

the reporting under this bill amongst the strongest and most transparent in the world.

I believe these mechanisms are adequate to ensure regular and ongoing scrutiny of the NHMRC Licensing Committee activities by the parliament and any member of the public. But I have been listening to the concerns raised by some of the senators in this chamber and, while I believe that such an amendment is unnecessary and may inappropriately tie up the resource of the NHMRC Licensing Committee, I am prepared to support the amendment moved by Senator Bishop. My understanding is that this amendment will require the NHMRC Licensing Committee to report every six months. In addition, if a resolution is passed by either house of parliament, a report must be provided which provides information about the operation of the act and the licences issued under the act.

**Senator BARNETT (Tasmania)** (10.55 p.m.)—I acknowledge the comments of the minister and the good grace and goodwill shown to Senator Bishop and others in this chamber who support a very open and transparent process in terms of reporting. Senator Bishop's amendment is entirely consistent with my amendment (R4), apart from clause 3(f), which says that the research conducted under licences issued under this act and the outcomes of that research should also be part of the reporting procedure.

Nevertheless, I support entirely Senator Bishop's amendment. I note that it is consistent with the COAG agreement in clause 6.4, which says:

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

That is the whole point and that is the philosophy that we are trying to inject into this bill. That is why this amendment is a very good one. The minister referred to tying up the resources of the NHMRC. Under clause 29 they are required, in any event, to ensure that this information is provided in a database. If that is the case, there will not be too much effort required to pull the information off the database and report the information and details to the parliament twice yearly, which is required under this amendment.

This amendment supports full disclosure and it supports a reporting process. I also note that there may be an argument against it that says, 'We can get this information through Senate estimates or questions on notice.' But this simply brings the information into the parliament. So, in light of the goodwill shown by the minister and the Labor Party towards Senator Bishop's amendment, I foreshadow the withdrawal of my amendment in lieu of Senator Bishop's amendment. I will give that amendment my full support.

**Senator STOTT DESPOJA (South Australia)** (10.58 p.m.)—I have to congratulate Senator Bishop on his convincing abilities.

**Senator Chris Evans**—Peace has broken out.

**Senator STOTT DESPOJA**—Not quite. One of the highlights of this debate was moving an amendment on sheet 1539 with Senator McLucas. At the opposite end of that is now, when I am one of the few people who do not necessarily think this is an appropriate amendment. I congratulate Senator Bishop; I can see the numbers in the chamber. It is not that I have a problem with open, accountable and transparent processes; I just think six months is quite onerous and prescriptive. I think I share some of the concerns that the minister alluded to.

**Senator Patterson**—It will be on the Net.

**Senator STOTT DESPOJA**—It will be on the Net and it will be accessible et cetera. While no examples spring to mind at the moment—I suspect that is due to the hour of the day—there have been cases put to us in recent times where there have been six-monthly reporting requirements and the government has said that it makes more sense to make them annually. I am out of sync with everyone on this. I am quite happy for this to be a Democrat conscience vote, but I am pretty confident that Senator Bishop has the numbers on this one. Well done.

Question agreed to.

**The TEMPORARY CHAIRMAN (Senator McLucas)**—I understand that Senator Barnett's amendment (R4) on sheet 2694 is not going to be moved. We now go to Senator Harradine's amendment.

**Senator HARRADINE (Tasmania)** (10.59 p.m.)—My amendment was as follows:

(2) The NHMRC Licensing Committee must give written details relating to its operations, including:

- (a) its supervision of licence holders;
- (b) details of licenses issued and their conditions;
- (c) the occurrence and details of breaches of licence conditions;
- (d) action taken in response to breaches of licence conditions;
- (e) the suspension, revocation or surrendering of licences.

I have had a good look at the amendment proposed by Senator Bishop that was just carried and the similar one by Senator Barnett. I think the amendment that was carried encompassed my points, and I therefore withdraw my amendment.

**Senator BROWN (Tasmania)** (11.00 p.m.)—At the request of Senator Nettle, I move amendment (R1) on sheet 2713 revised:

(R1) Page 15 (after line 2), before clause 20, insert:

**19A Licences to be issued after the establishment of the National Public Human Stem Cell Bank**

The NHMRC Licensing Committee must not issue a licence in accordance with this Division until the National Public Human Stem Cell Bank has been established and is operational.

The revision is that the word 'bank' was missing from the first version that was circulated.

**Senator Chris Evans**—Oh, that was the trick; I couldn't work out what was happening.

**Senator BROWN**—We were not trying to set up a cell; we were trying to set up a bank. The Australian Greens are proposing a national stem cell bank. It should be established before any licences are issued under the proposed licensing system set out in the [Research Involving Embryos Bill 2002](#). The aim of our two amendments on sheet 2713 is to ensure that the stem cell bank is estab-

lished. We are seeking support for this amendment because it is stronger than that proposed by Senator McLucas and Senator Stott Despoja for the review of the legislation to consider whether a national stem cell bank should be established. The review in their alternative amendment will commence two years after the act receives royal assent. It may take 12 months—the bill does not include a reporting date—and the report of the review is to be presented to the Council of Australian Governments with no requirements for COAG to act and no mechanism to bring the matter before the Commonwealth parliament again. Providing for the review to examine this matter in two years time means that it could take three or four years before a stem cell bank is operational for the nation. There are really compelling reasons to establish that bank now, and through this amendment parliament should provide the mechanism for doing so.

Madam Temporary Chairman McLucas, as you know the House of Lords report earlier this year supporting the establishment of a human stem cell bank in the United Kingdom stated that it would lead to fewer embryos being used for stem cell research than would be the case without such a bank. That is a desirable outcome of itself. The UK bank would be a repository for existing and new, adult, foetal and embryonic stem cell lines. An Australian stem cell bank would address the concerns of researchers about not having access to stem cell lines because the institutions and/or companies that discover stem cells and develop stem cell lines obtain intellectual property rights over them.

The bank would also address the patenting of human stem cells, which concerns the Australian Greens and clearly other members of the Senate, judging from the debate that we heard just a moment ago. Human stem cells should not become the property of private corporations or institutions. Let me reiterate that, because that is a very strong point as far as the Greens are concerned: human stem cells should not become the property of private corporations or institutions. If they should be found to enable the development of therapies that improve the quality of life for people with serious, debilitating diseases

or conditions then access to them to develop therapies should not be constrained because of private rights. The bank would provide access for accredited researchers to the stem cell lines.

It is not necessary to wait until the British stem cell bank—which was, as I earlier indicated, announced in September—is operational to begin work on establishing an Australian human stem cell bank. We do not need to take the British model and apply it wholly to our country, but of course we can draw on it to formulate our own model. Waiting two years, as the alternative amendment would do, to begin examining whether we should have a stem cell bank may enable the patenting of human stem cell lines in the meantime in a bid to beat the establishment of the bank. This could undermine the purpose of the bank, which is to ensure that human stem cell lines are held in a public repository and are available to all accredited researchers.

We think that the Australian Health Ethics Committee is the most appropriate body to undertake an investigation into the establishment of the bank. It has the expertise in the area, it is operational and it would obviate establishing a new body to undertake the investigation. We want that investigation to be public, and that is provided for in our amendment. We are proposing that the report of the investigation be made public by being tabled in parliament, and we have set a date for it—1 July 2003—to ensure that it happens. We have given some guidance on what the bank should do—for example, provide a repository for human stem cell lines and make human stem cell lines available to accredited bodies for approved research. Of course, it may have additional, related functions depending on the investigation's outcome.

As far as we know, only the UK is moving to establish such a bank, and that is not operational as yet. We acknowledge that this is a new field, but the bank is a vital component of our perception of any regulatory regime dealing with human stem cell research. It will be critical to our evaluation of this legislation once we get to the third reading stage. We are confident that Australian ex-

perts, in consultation with the public, can develop the arrangements for the bank so that Australia can ensure that market forces and profit motives do not constrain this area of research and the promise it may hold. I strongly commend to the Senate this first amendment of Senator Nettle's.

**Senator STOTT DESPOJA (South Australia)** (11.07 p.m.)—It is particularly appropriate, Senator McLucas, that you are in the chair, given your advocacy of this issue through amendments to this and the other legislation, the fact that you were involved in a Senate committee and that you put this in our report, and that this is also a line of questioning that we both pursued during that committee process. As a consequence of that process, I—and I will not presume to speak on your behalf, Chair—was certainly convinced of the merits of investigating the applicability of a stem cell bank for Australia. I think that the idea of establishing a national stem cell bank in this country has merit. It deserves closer investigation, hence the recommendation by Senators McLucas, Webber and me in the Senate committee report. In the debate on the prohibition of human cloning, this chamber overwhelmingly supported an amendment, moved on behalf of Senator McLucas and me, to require that the independent review examine the applicability of a national stem cell bank. As I referred to earlier, the high point for me was the voting process, with 53 senators in favour of that amendment, and I hope that that level of support will continue.

Senator Nettle's amendment presupposes the establishment of a stem cell bank, either through the process that the Senate has already agreed to or through some yet to be debated mechanism. On that point I will say—through you, Chair—to Senator Brown: I want to pick up one point that you made about the review going to COAG. The legislation has been amended: the review gets tabled in parliament. So I say to those people who are not aware that that change has been made: that was an amendment that was successfully made to the legislation.

One thing we do have to bear in mind of course is that we are dealing with different regulatory environments and different intel-

lectual property environments. We do not know about the suitability of a stem cell bank in relation to Australia. We do not know if the UK model is the most appropriate. My great concern is that there has not really been an examination of the IP environment relating to stem cell sciences. This is a point that has been touched upon not only in debate tonight, prompted by Senator Murphy, but also in many other debates on this and other legislation. I think it is premature to simply assume that a stem cell bank is the best option. I like this option and I want it investigated. But, having been involved in the debate on patents in relation to genes and on the issues of gene technology and having actually looked at legislation—or the lack of it—not just in Australia but in other parts of the world since I got into the Senate, I know that we cannot just cook up an answer overnight, especially when there has been minimal—if any; I would argue negligible—investigation of the current IP environment in relation to these issues in Australia. Hence the second reading amendment that I moved on behalf of the Australian Democrats requesting a new reference to the ALRC and to AHEC to examine patenting issues and IP issues in stem cell sciences.

It may well be that such an examination results in an IP regime that makes a key rationale for establishing a stem cell bank entirely redundant—that is, access for bona fide researchers to unencumbered stem cell lines. In addition, a consequence of this amendment is to delay the issuing of licences by at least 12 months and possibly two to three years, even if we assume of course that a stem cell bank will in fact be established. I think a number of people have concerns about that in relation to the issuing of licences; certainly some people would not mind.

But in relation to the general debate on patents, and specifically in relation to genes, I am very concerned that we are looking for a literally overnight solution to much more complex issues about intellectual property. It has been mentioned tonight that there needs to be an examination of/or—in Senator Murphy's terminology—possible amendments to the Patents Act. I do not know how much of

that we can and should be doing in the context of this legislative debate. On the one hand, I am gratified to hear people talking about these issues but, on the other, I do remind honourable senators that every attempt by me over the last five years to establish a Senate select committee into these patenting issues has been opposed and lost. That is apart from Senator Harradine's support, which I acknowledge here again, two or three times in relation to not only the prohibition of cloning but the broader debate about genetic technology. At the time I was producing amendment bills and private member's bills, the government's argument to me, which I am probably throwing back at everyone now, was, 'Look, you have got to examine these issues properly.' I was gratified to see that we got an ALRC inquiry into, for example, genetic privacy, and I ask in the Senate tonight: how many senators here have put in a submission to that inquiry? I do not doubt people's concern about this issue. Through you, Chair: Senator Evans, have you?

*Opposition senators interjecting—*

**Senator STOTT DESPOJA**—Right, because I was about to stand corrected. Obviously, we are all busy and we have different portfolios and different responsibilities, but you only have to look at that first report that has been tabled by the ALRC to recognise that these are complex issues. I like the idea of a stem cell bank; otherwise, I would not have supported Senator McLucas not only in her comments but in an amendment that we have cosponsored. But I am not going to pretend that the establishment of a stem cell bank should happen overnight, and that should not be read by anyone in the community, given that we are apparently now broadcasting, or by anyone else in this chamber as a lack of interest in the broader issues in relation to patents and intellectual property rights. I challenge anyone in the chamber to show where there has not been extensive research by me on behalf of the Democrats on this issue, so let us investigate it.

If the issue is a delay in the licensing, through you, Chair, to Senator Brown and Senator Nettle: if you are talking about de-

lay, whether that is an unintended consequence or an intended consequence let us perhaps talk about that. Should the licensing provisions be delayed? Certainly I have spoken to other senators who believe that. I am not suggesting that is my personal opinion. But let us do this right, because we may find another model. If people are going to refer to the UK legislation then let us refer to it, because it is quite different from the legislation we are debating. In fact, as you know, the stem cell bank proposal was not legislated for, as I understand it. Certainly, as Senator Brown said, it came out through the House of Lords inquiry; it was a recommendation. It was established on 9 September, a very good day I should acknowledge.

I think that we should be very wary of this one size fits all approach. We have not adopted legislation that is exactly the same as in other parts of the world, and there is good reason for that. I do not think we can take on exactly the same model that applies in the UK without comprehensive investigation. That was the intent of the amendment to the last bill; it is the intent of Senator McLucas and my belief of what should happen with this bill. As I say, please do not read that as a lack of support for the notion or the concept, but I do not believe that this amendment is correct. On behalf of the Democrats, I indicate that we will not be supporting this model and I appeal to those senators who supported us on the previous amendment to support the concept.

**Senator PATTERSON** (*Victoria—Minister for Health and Ageing*) (11.15 p.m.)—The amendment moved by Senator Brown in the name of Senator Nettle is proposing a new clause, 19A. It states:

The NHMRC Licensing Committee must not issue a licence in accordance with this Division until the National Public Human Stem Cell Bank has been established and is operational.

I have to express my concern that such an amendment is being proposed in the absence of first considering the merits and feasibility of establishing a national stem cell bank in Australia. The establishment of a stem cell bank is likely to raise a number of difficult and complex issues which will take some time to resolve. The process should not be

hurried. While I will support an amendment to this bill requiring that the review of legislation include a consideration of the feasibility of establishing a national stem cell bank, I do not support delaying the implementation of legislation until such a bank is established, if indeed it is determined to be necessary to establish one at all. One of the effects of this amendment of which Senator Nettle may not be aware is that, if the licensing committee cannot issue any licences before the establishment of a national stem cell bank, this will effectively ban all ART related research, including non-destructive research. None of the ART training and quality assurance activities that rely on the use of excess ART embryos have anything to do with the derivation of stem cells or associated issues of access and intellectual property. Yet all would be prohibited until the establishment of the national stem cell bank. This would effectively bring ART clinical practice to a standstill.

I wanted to indicate that Professor Pettigrew indicated to me that there are international discussions on stem cell banks. This is being organised by the Medical Research Council in the United Kingdom, with an invitation being extended to the CEO of the NHMRC to participate. Other countries which have been invited include the USA, Canada, Israel and some European countries. Obviously this is an issue which has brought international concern and involvement. I think that the establishment of a human stem cell bank in Australia ought to be considered in the light of the international discussions as well. I thought honourable senators in the chamber would be interested to know that there is international discussion about stem cell banks. I will not be supporting the amendment.

**Senator BROWN (Tasmania)** (11.18 p.m.)—The point of the amendment is to meet many of the concerns that senators, including Democrat senators, have expressed about the complex and difficult ethical and social issues that come out of the experimentation with stem cells. We have got a back-to-front argument that says we cannot stop this process, that we have to allow it to continue before we put in place or find the

best safeguard which is easily identifiable, is expert and is able to handle those issues. It is back to front. What the Greens are saying is that we should have a national stem cell bank that will regulate and license the use of stem cells. This will prevent patenting, which will allow that research to be driven by commercial gain, or will shut out other potential benefits coming from it. If this bank is not supported then we go without that benefit. This is a matter that we will have to continue debating in the morning—I am aware that there are only 15 seconds left in this debate. Let me say that it is a crucial matter as far as I am concerned. Some members have been talking about amendments to this bank idea, so let us have them. But I think it is a centre point of assuaging my concerns with the whole legislation.

Progress reported.

#### ADJOURNMENT

**The DEPUTY PRESIDENT**—Order! It being 11.20 p.m., I propose the question:

That the Senate do now adjourn.

#### Building and Construction Industry

**Senator LUNDY (Australian Capital Territory)** (11.20 p.m.)—In 2001, the Minister for Workplace Relations, Mr Tony Abbott, announced the establishment of a royal commission into the building and construction industry. Union leaders were rightly incensed by the move. Clearly Mr Abbott was using the industry as a political football. In establishing the royal commission, the Howard government has sought to implement an industrial agenda that will curtail the rights and entitlements of workers in the Australian building and construction industry. In light of significant indications that anti-union legislation will be introduced into parliament early next year, I want to reflect on this war of words.

The Royal Commission into the Building and Construction Industry, the Cole commission, was set the task of examining matters relating to the building and construction industry. A special mandate to include any unlawful or otherwise inappropriate practices focused the commission on eradicating corruption and coercion within the building industry. This appears a noble task, with the

CFMEU having reported serious issues of corruption in the industry in 2001. In fact, there are a range of matters in the building industry that require government attention. These include a series of large-scale GST scams in the industry, which have threatened the security of workers' entitlements, and occupational health and safety standards that are being dangerously disregarded at the cost of workers' lives and health.

These are serious issues that affect Australian families. They must be addressed by government. Yet the Howard government, with Minister Abbott leading the charge, are far more concerned with political point scoring and fulfilling their economic agenda at the expense of workers' wages, rights and conditions than they are in cleaning up the building industry. Immediately prior to the establishment of the Cole commission, Mr Abbott heralded it as:

... a real chance, a once-in-a-lifetime chance, to clean up this very important industry, this industry that has been a hotbed of industrial and economic trouble. It's the last bastion of old-fashioned, ultra-militant, bloody-minded and quasi-Marxist unionism.

This gets to the bare bones of the issue—Mr Abbott's focus is not cleaning up the industry but rather a new round of union bashing.

In contrast, Labor politicians have argued consistently at state and federal levels that there are many real issues that need redressing in the building and construction industry. Predictably, in the midst of general antiunion rhetoric from the coalition, the real focus of Mr Abbott's attention is those traits of the CFMEU, proud traits of militancy and conviction—the union working with, and standing up for, its members. A unionised and militant work force contradicts the coalition's conservative agenda, which places private profit above the rights of ordinary Australians.

The Cole commission has been set the task of legitimising what John Sutton, the National Secretary of the CFMEU, Construction Division, predicts will be a raft of legislative changes which would seek to undermine the strength and rights of the CFMEU. These legislative changes may well include the possible deregistration of the

union. The effect of this would be disastrous for the hundreds of thousands of building and construction workers around the country. The deep concern and anger felt by building workers is in evidence through the rallies held and attended by thousands of building workers from across the country outside the Cole commission hearings. Their feelings were summed up well by Peter Lewis from Worker's Online, when he said:

... ordinary building workers—  
realise that—

their jobs will be more dangerous and less secure as a result of the Abbott-Cole agenda. They're the ones who are going to get hurt and they are beginning to realise that it is them, not just their union, who is being set up for the biggest sucker punch in recent political history.

In retaliation to this, Minister Abbott claims:

... the problems of this industry are costing taxpayers, they are costing consumers, they are costing the economy and they are costing jobs.

This is aimed purely at arousing antiunion sentiment by attempting to lay the blame where it does not belong. Mr Abbott has consistently made these claims in the context of job productivity in the building industry, arguing that corruption and coercion on the part of the union in relation to industrial action are driving up the costs of construction in Australia. However, statistics fly in the face of these claims. One of the most recent discussion papers produced by the Cole royal commission, the Tasman economics paper, warns:

... reducing strike activity is not a panacea for improving productivity.

Workers whose rights are legislated against, in denying their rights to organise and to strike, will not kowtow to business demands of increased productivity. Also, these claims of the need to increase productivity are also questionable—labour productivity in the Australian industry ranks near the top of OECD nations. An Access Economics report from 1999 placed only the United Kingdom in front of Australia. This means that productivity in Australia ranks higher than that in the United States, which has far more restrictive trade union regulation than Australia, and so supports the suggestions of the Tasman economics paper that stamping on

the rights of workers to organise will not increase productivity in the industry. Mr Abbott's focus goes against statistical and historical evidence, and belies a dogged ideological opposition to the rights of workers to organise. And costing consumers? What of this question? John Sutton rightly pointed out that this claim was made against the very industry that delivered the grounds and infrastructure for the 2000 Sydney Olympic Games before time and under budget.

In Melbourne, where Mr Abbott and the Cole commission's most vicious arguments have been levelled, there is wide acknowledgment that:

... despite union agitation, the—  
Melbourne—

CBD skyline has continued to boom under the Bracks Labor Government.

One of the most proud and militant unions in the country, the Victorian Branch of the CFMEU, has worked with the Bracks government, which has no irrational ideological opposition to trade unionism and continues to ensure workers are accorded decent pay and conditions to get the job done.

It is not the union, or building and construction workers, that are costing Australian taxpayers, the economy and consumers. It is the Cole commission itself. The Cole commission has to date cost Australian taxpayers almost \$50 million. The victims of corruption in the building and construction industry are overwhelmingly workers and their families, yet the Howard government has moved prior to the handing down of the commission's report to establish a task force with the aim of weakening their union representation. The government is not sticking up for these workers, and at the same time it is weakening the union that is trying to stick up for them. If the government were serious about these protections, far more would be invested in eradicating corporate crime which in the past couple of years has left thousands of Australians jobless. The government, in funding a witch-hunt aimed at legitimising its own unpopular industrial agenda, is costing taxpayers and consumers the most.

I will not support any proposed legislation that seeks to implement the coalition's anti-

union agenda at the expense of Australian working families. I passionately agree that there are issues that need to be addressed urgently and with government action in the building industry. Most notably, the implementation of occupational health and safety standards in the industry must be ensured for the protection of building and construction workers across the country. Workers' entitlements must be protected and corruption eradicated from the industry. Unlike Mr Abbott, however, I see trade unionism as a means of ensuring these conditions for Australian workers. Unionism is part of the Australian tradition and Australian values—mateship, a fair go and working together to make things better. As John Sutton said in his speech to the National Press Club on this issue:

Australia is founded on principles of collectivity and it will take more than a Liberal Government with a zealous industrial relations agenda and a kangaroo court at its disposal to change that.

**Senate adjourned at 11.29 p.m.**

## DOCUMENTS

### Tabling

The following documents were tabled by the Clerk:

Aboriginal and Torres Strait Islander Commission Act—Regulations—Statutory Rules 2002 No. 275.

Aged Care Act—

Approval of Care Recipients Amendment Principles 2002 (No. 1).

Classification Amendment Principles 2002 (No. 1).

Flexible Care Subsidy Amendment Principles 2002 (No. 1).

Air Force Act—Regulations—Statutory Rules 2002 No. 276.

Australian Meat and Live-stock Industry Act—Australian Meat and Live-stock Industry (Sheepmeat and Goatmeat Export to the European Union—Quota Year 2003) Order 2002.

Australian Prudential Regulation Authority Act—Instrument under section 51—Instrument fixing charges to be paid to APRA, dated 16 November 2002.

Civil Aviation Act—Civil Aviation Regulations—

## Airworthiness Directives—Part—

105, dated 6 [4], 8 [4], 11, 12 [2], 14 [7], 15 [6], 18 [8] and 19 [5] November 2002.

107, dated 4, 14 and 18 November 2002.

Civil Aviation Amendment Order (No. 16) 2002.

Exemptions Nos CASA EX34/2002, CASA EX37/2002 and CASA EX 39/2002 and CASA EX40/2002.

Instrument No. CASA 740/02.

Class Rulings CR 2002/80-CR 2002/82.

Corporations Act—Regulations—Statutory Rules 2002 No. 282.

Defence Act—Regulations—Statutory Rules 2002 Nos 277 and 279.

Defence Act, Naval Defence Act, Air Force Act and Defence Forces Retirement Benefits Act—Regulations—Statutory Rules 2002 No. 278.

Diplomatic Privileges and Immunities Act—Diplomatic Privileges and Immunities Regulations—Certificates under regulation 5A, dated 1 November 2002 [2].

Federal Court of Australia Act—Rules of Court—Statutory Rules 2002 No. 281.

Higher Education Funding Act—Guidelines for electronic communications with students, dated 12 November 2002.

Motor Vehicle Standards Act—Road Vehicle (National Standards) Determination No. 3 of 2002.

Naval Defence Act—Regulations—Statutory Rules 2002 No. 280.

Primary Industries (Customs) Charges Act—Regulations—Statutory Rules 2002 No. 293.

Primary Industries (Excise) Levies Act—Regulations—Statutory Rules 2002 Nos 274 and 294.

Primary Industries Levies and Charges Collection Act—Regulations—Statutory Rules 2002 No. 295.

Privacy Act—Determinations under section 80A—Temporary Public Interest Determinations Nos 2002-1 and 2002-1A.

Product Rulings PR 2002/132-PR 2002/134.

Safety, Rehabilitation and Compensation Act—Declaration of corporations eligible

to be granted a licence—Notice No. 20 of 2002.

Taxation Determination TD 2002/25.

Telecommunications Act—Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 3 of 2002).

Therapeutic Goods Act—Exemption of Therapeutic Goods 2002, dated 12 November 2002.

Veterans' Entitlements Act—Instruments under section 196B—Instruments Nos 71-82 of 2002.

### QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

#### Health: Pharma-Foods

**Senator PATTERSON (Victoria—Minister for Health and Ageing)**—On 19 November 2002 (*Hansard* page 6451) Senator Stott Despoja asked me the following questions on Pharma-Foods:

My question is addressed to the Minister for Health and Ageing and continues on from my question yesterday about pharma-foods. Given there are several biopharmaceutical companies in Australia—including the federally funded CRC for bioproducts—that are actually conducting research on pharma-foods, can the Minister tell us if the Government has any protocols or measures in place in relation to biopharmaceutical research and the potential application, sale and use of those technologies and techniques? Specifically, can the Minister assure us as to what the Government is doing to make sure that the technologies and techniques are not used for illicit purposes, such as the production, sale and consumption of illicit drugs or drugs that would otherwise require a prescription? Also, can we find out what the Government is doing to ensure that the technologies that are being developed are not used by organisations for terrorism purposes?

I ask a supplementary question. I thank the Minister for the offer, again, to take it on notice. I ask when the Minister believes when she will have that information available for the Senate, and if she can include information as to what exact research is taking place in relation to biopharmaceuticals in Australia, particularly in relation to those that are receiving federal funds through the CRC. Can the minister also undertake to advise the Senate when protocols and measures will be in place, as well as her analysis as to whether the Gene Technology Act and the former ANZFA regulations are appropriate? I think that the Minister should have at least known by today what

applications were available. I look forward to hearing from the Minister.

I will incorporate the answer to the senator's questions of 18 November 2002, into the answer to the questions of 19 November 2002.

There have been recent media reports highlighting concerns about so-called "Biopharming" in the United States. Biopharming is an outgrowth of genetic engineering where scientists insert genes that instruct a plant to make a specific chemical compound. By introducing novel genes, plants are in effect turned into pharmaceutical factories that express the desired drug in their leaves or seeds or fruit. This is seen as a potentially cheaper way of manufacturing vaccines and drugs.

In Australia, the Gene Technology Act 2000 (the Act) provides for the regulation of genetically modified products. The object of the Gene Technology Act 2000 is to protect the health and safety of people, and to protect the environment, by identifying risks posed by, or as a result of, gene technology and by managing those risks through regulating certain dealings with genetically modified organisms (GMOs). The Act commenced on 21 June 2001.

The term 'deal with' a GMO is widely defined under the Act to mean: conduct of experiments; produce or manufacture; breed; propagate; manufacture, culture and includes the possession, supply, use, transport or disposal of a GMO. Thus, genetically modified (GM) biopharmaceutical research and associated activities involving GM plants and animals are subject to the Act.

Dealings with GM biopharmaceuticals that involve intentional release to the environment are prohibited under the Act unless they are licensed. No field trials involving a pharmaceutical-producing GM food crop have been approved in Australia. Any organisation that wishes to conduct a field trial or undertake a commercial release of a GM biopharmaceutical must apply to the Gene Technology Regulator (Regulator) for a Dealing Involving Intentional Release licence for the genetically modified organism of concern. To be eligible to apply for a licence an organisation must first be accredited by the Regulator under the Act. A key criterion is having, or having access to, a properly constituted and resourced Institutional Biosafety Committee.

For every application, the Office of Gene Technology Regulator (OGTR) prepares a comprehensive risk assessment/risk management plan (RARMP). The preparation of this plan involves consultation with the States and Territories, the

Environment Minister, prescribed other Commonwealth agencies, such as Food Standards Australia New Zealand, the Gene Technology Technical Advisory Committee, and relevant local councils. The RARMP, including draft licence provisions, is then released for public consultation. Industry and the public are invited to make submissions to the OGTR. Following consideration of all submissions, the Regulator makes a decision whether or not to grant the licence, with or without conditions.

A commercial release of a GM biopharmaceutical would not be contemplated unless there had been extensive field trials under limited and controlled Australian conditions. A key feature of the trials would be to demonstrate whether or not there are any risks posed to human health and safety and the environment could be managed in the Australian context.

To date, the Regulator has not received an intentional release (trial or commercial) licence application for a GM biopharmaceutical.

GM biopharmaceutical research that does not involve the intentional release of a GMO into the environment is required to be notified to the Regulator by the Institutional Biosafety Committee. Such research must be conducted in a physical containment facility (eg. laboratory or glasshouse) certified by the Regulator for that purpose under the Act.

There have been approximately 1700 notifications to the Regulator of which only a very small number involve GM biopharmaceutical research.

Some examples of contained research work currently underway include joint research by the Queensland Department of Primary Industries, the Queensland University of Technology and University of Southern Queensland who have been working on developing vaccines in plants for oral delivery in edible plants. The Bureau of Sugar Experimental Stations has been working on developing biodegradable plastics from sugarcane, and Murdoch University has been working on producing proteins to control rabbit infertility in grains and legumes. Also, Genetics Australia, Monash University and the Department Natural Resources and Environment have been working to produce GM calves with an extra bovine casein gene to produce more protein in milk at proof-of-concept stage with prospects to substitute other proteins.

The Co-operative Research Centre (CRC) for Bioproducts has a focus on developing commercially valuable materials produced by plants and other living organisms. The research includes a project "Biopharmaceuticals" which evaluates the

potential of emerging biopharmaceutical technology based on plant cell culture. Further information in relation to biopharmaceuticals receiving funding through the CRC for Bioproducts would be available from the Department of Education, Science, and Training.

A dealing with a GM biopharmaceutical involving intentional release to the environment without, or in contravention of, a licence is a criminal offence. In the case of an aggravated offence, the penalty is 5 years prison or \$1.1 million per day fine. For a lesser offence, the penalty is 2 years prison or \$55,000 per day fine. In some instances the offences are based on strict liability.

In respect of gene technology being used for terrorism purposes, the Regulator has extensive enforcement powers under the Act. These powers relate to searches and seizures related to offences, to search premises and anything on the premises for evidential material, and emergency powers for dealing with dangerous situations. In addition, the Act empowers the Federal Court to issue injunctions, and also contains a forfeiture provision.

With regard to the approval of GM biopharmaceutical products for human consumption and sale, the Gene Technology Act only provides

approvals where no other statutory product approval authority exists. In regard to any Pharma-Food products wishing to make a medicinal claim such as a vaccine prevention or protection claim, such claims and the safety, quality and efficacy of the product would need to be evaluated by the Therapeutic Goods Administration to assess quality, safety and effectiveness, before they may be supplied or marketed in Australia.

If an organisation wished to market their products as foods they would be regulated under the Food Standards Australia New Zealand Act 1991. In relation to the safety of pharma-foods, both the modified animals and crops used to produce such foods and the foods thus produced, must be fully compliant with the requirements of the Food Standards Code, prior to being sold in Australia. The relevant standards include, not only all those applicable to conventional foods, but also the recently adopted Standards governing genetically modified foods and novel foods. The latter two Standards require that all genetically modified and novel foods undergo a rigorous scientific assessment and must be at least as safe as the conventional counterpart foods.

### QUESTIONS ON NOTICE

The following answers to questions were circulated:

#### Roads: Funding (Question No. 49)

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 February 2002:

- (1) Further to the answer provided to question on notice no. 3531 (Senate *Hansard*, 20 August 2001, pp 26019-22), what funding has been allocated to specific projects on each of the roads identified in answers (4)(a) to (d).
- (2) (a) What is the nature of each of the above projects; (b) what is the level of funding allocated to each of the above projects; (c) over what period has funding been allocated to each of the above projects; and (d) in what category of funding does each of the above projects appear.
- (3) Is the above information relating to specific projects for all roads identified in answers (4)(a) to (d) provided to each state government or state transport department; if so: (a) how often is this information provided to each state; and (b) when is the above information provided to each state.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) and (2) The following table sets out the budgeted expense for each project for the years 2002-03 to 2005-06, cost to the Commonwealth of each project, the nature of the projects, and road funding category. The information in the table is based on the updated roads program for the years 2002-03 to 2005-06 provided to the States and Territories following the 2002-03 Commonwealth Budget. The Minister's answer tabled previously in response to question on notice no. 3531 of 20 August 2001 was based on the then current roads program covering the years 2001-02 to 2004-05 as announced in the 2001-02 budget.

The Commonwealth's commitment is to provide funds to meet expenditures by the States up to the approved cost of the project and actual payments may differ from the amounts shown.

PROJECT	COST \$m	02-03 \$m	03-04 \$m	04-05 \$m	05-06 \$m
NEW SOUTH WALES					
National Highway					
Sydney Urban					
Cumberland Hwy - Widen to 6 lanes	30.10	1.30			
Western Sydney Orbital	300.00	60.90	60.90	60.90	60.90
Nth Sydney Study	2.80	2.40			
F3 Freeway					
F3 - widening	86.00	18.50	43.00	24.00	
Hume Highway					
Albury upgrade	187.00	4.10	20.00	50.00	70.00
Coolac Bypass	100.00	4.00			
Mittagong subsidence	31.00	19.00			
Southern Hume Planning Study	0.30	0.10			
New England Highway					
F3 to Branxton (planning)	24.00	4.00	8.00		
Muswellbrook bypass	50.00	0.10	1.50	1.50	20.00
Devil's Pinch realignment	15.50	9.00	6.00	1.60	
Belford to Golden Hwy duplication	20.00			0.20	2.00
Duval Creek bridge	7.70	0.50	7.20		
Sunnyside	8.50			0.30	3.20
Newell Highway					
Moree heavy vehicle bypass	30.00	2.00	15.00	10.80	
Coonabarabran bypass	34.00		2.00	7.00	15.00
Trewilga realignment	10.00		0.20	0.80	9.00
Upgrading program	40.00	8.00	10.00	4.80	3.20
HML Bridges - Newell Hwy	13.28	6.75			

PROJECT	COST \$m	02-03 \$m	03-04 \$m	04-05 \$m	05-06 \$m
Bogan to Goobang Package Works - Newell Hwy	33.00	0.50	0.50	3.50	12.20
Bridge widening	17.75	4.10	5.00	4.40	3.00
Causeway replacement	10.40	2.00	2.10	2.00	2.80
Widening	40.40	5.30	8.00	5.00	6.90
Sturt Highway					
Sandigo realignment	3.40	0.30	3.00		
HML Bridge upgrading - Paddy's River	0.50	0.50			
Asset Preservation					
Program Maintenance		100.48	88.48	120.48	104.48
Safety and Urgent Minor Works		20.00	12.12	12.12	12.12
Total National Highway		273.83	293.00	309.40	324.80
Roads of National Importance					
Pacific Highway	600.00	43.04	67.48	67.48	61.91
Summerland Way	20.00	4.50	4.00	0.50	
Main Rd 92	34.00	2.25	0.40	4.00	10.00
Great Western Hwy	100.00	40.00	13.00	5.00	
Princes Hwy - Nth Kiama Bypass	34.00			17.00	17.00
Visy roads	5.00	0.50	0.50		
Hume Hwy - Albury internal relief route	40.00	0.50	1.50	6.00	20.00
Alstonville Bypass	40.00	2.00	6.00	4.00	
Bucketts Way	12.00		2.00	5.00	5.00
Mudgee - Orange Road	20.00		1.00	2.00	
Grafton Airport Road	0.30		0.30		
Total RONI		92.79	96.18	110.98	113.91
TOTAL NH & RONI - NSW		366.62	389.18	420.38	438.71
VICTORIA					
National Highway					
Urban					
Western Ring Road Safety Works	12.00	5.00			
Hume Highway					
Albury/Wodonga	100.00	2.00	10.00	30.00	30.00
Craigieburn link to Western Ring Road	306.00	45.00	50.00	107.60	65.90
Donnybrook Road grade separation	22.00				5.00
Western Highway					
Widening - Kiata - Nhill & Kaniva	20.00	1.00			
Armstrong - rail underpass (Western)	12.90	6.10			
Goulburn Valley Highway					
Hume to Nagambie duplication	53.00	0.20	0.20		
Murchison East Deviation	94.00	30.00	30.00		
Nagambie Bypass study	2.00	0.30			
Goulburn Valley Hwy future upgrading	35.00				15.00
Asset Preservation					
Program Maintenance		25.13	22.13	30.63	27.63
Safety and Urgent Minor Works		5.73	5.73	5.73	5.73
Total National Highway		120.46	118.06	173.96	149.26
Roads of National Importance					
Pakenham Bypass	100.00		4.90	30.10	35.00
Geelong Road	120.00	60.00			
Carlsruhe section (Calder Hwy)	25.00	14.00			
Albury Relief Route	30.00	0.50	7.50	20.00	1.50
Scoresby Freeway	445.00	68.40	63.30	63.00	50.00

PROJECT	COST \$m	02-03 \$m	03-04 \$m	04-05 \$m	05-06 \$m
Total RONI		142.90	75.70	113.10	86.50
TOTAL NH & RONI - Vic		263.36	193.76	287.06	235.76
QUEENSLAND					
National Highway					
Bruce Highway					
Yandina - Cooroy duplication	110.00	32.50	26.50		
Caboolture Motorway	220.00				
Cooroy-Gympie Duplication - Planning	1.00	1.00			
Gympie Safety Improvements	3.10	2.50			
Burdekin Safety Works	5.00	3.50	0.00		
Southern Cairns	13.50	7.00	6.50		
Warrego Highway					
Gatton Bypass	46.00	15.00	26.60		
Toowoomba (Preconstruction)		4.13	6.00		
Barkly Highway					
Inca Creek Bridge	18.00	1.93	6.01	3.00	
Georgina River Bridge	14.50	5.00	5.50		
Buckley, Johnson, Nowraine Bridges	30.70		8.50	10.00	
Mt Isa - Camooweal Widen and Rehab Network	13.60	2.67	8.00	3.00	
Bris-Sydney Widening and Rehab	30.00	3.00			
Bris-Melbourne Widening and Rehab	30.00	3.00			
Bris-Cairns Widening and Rehab	30.00	6.00			
Bris - Darwin (excluding Barkly) - Widening and Rehab	53.00	3.00			
Urban / Ipswich Motorway					
Ipswich Motorway Upgrade	200.00	1.00	1.00	24.00	33.00
Urban Link planning (Kessels Rd)	1.00	2.00			
Gateway Arterial Planning	2.75	0.75			
Asset Preservation					
Program Maintenance		54.61	48.61	61.61	54.61
Safety and Urgent Minor Works		10.10	10.10	10.10	10.10
Flood Repairs					
Total National Highway		158.69	153.32	111.71	97.71
Roads of National Importance					
Pacific Highway	150.00	0.00	0.00	50.61	16.87
Port of Brisbane access road	48.60	12.21	11.49		
Douglas Arterial	33.40	9.90	20.00	3.50	
Gladstone port access	7.50	5.00	2.50		
Peninsula Development Rd	5.00	0.80	1.00	3.20	
Chicory Project roads	1.00	0.50	0.50		
Total RONI		28.41	35.49	57.31	16.87
TOTAL NH & RONI -Qld		187.10	188.81	169.02	114.58
Note: The 2002-03 funding total for Qld does not include \$31.1m for widening of the Caboolture Motorway being provided under the Federation Fund.					
WESTERN AUSTRALIA					
National Highway					
Great Eastern Highway					
Sawyers Valley to Lakes	34.00	1.00	10.00	21.89	
Tammin to Walgoolan Widening and Rehab	45.26	5.70	4.50	8.30	17.90
Northam Bypass	40.00	0.10			
Eyre Highway					

PROJECT	COST \$m	02-03 \$m	03-04 \$m	04-05 \$m	05-06 \$m
Widening & Rehab program (Stage 2)	50.00	4.90			
Great Northern Highway					
Replace single lane bridges (Ord, Bow, Fitzroy, Dunham Rivers)	60.00	13.00	0.10		
Lennard St to Muchea	21.20	5.00	4.00	4.50	6.70
Bindoon Hill realignment	7.20	3.50			
Miling to Wubin - widen and realignment planning	1.00	0.47	0.50		
Network					
NH Planning Studies	1.40	0.30	0.30		
Rehabilitation Perth-Adelaide/Perth-Darwin	20.00	5.00			
Bridge Upgrading	6.70	1.20			
Asset Preservation					
Program Maintenance (Including reseal program)		23.90	21.90	25.90	23.90
Safety and Urgent Minor Works		4.10	4.10	4.10	4.10
Total National Highway		68.17	45.40	64.69	52.60
Roads of National Importance					
Roe Hwy	76.00	10.00	15.00	51.00	0.00
Total RONI		10.00	15.00	51.00	0.00
TOTAL NH & RONI - WA		78.17	60.40	115.69	52.60
SOUTH AUSTRALIA					
National Highway					
Adelaide Urban					
Main North Road - Widen Grove Way to Kings Rd	12.00			3.00	
Main North Road - Widen Kings Rd to Montague Rd	20.30			6.00	8.50
Portrush Rd - Magill to Greenhill Rd	42.00	8.35	8.00		
Gepps Cross - Grade separation	40.00				5.00
Salisbury Hwy - Virginia access controls	6.20	1.50	1.40	1.50	
NH Northern Adelaide - Planning	2.50	1.00			
Dukes Highway					
Shoulder sealing	8.00	2.00	2.00	2.00	
Sturt Highway					
Truro Hills realignment	15.00		0.50	6.90	6.00
Riverland Passing Lanes	18.00	2.00	2.00	6.00	8.00
Adelaide to Port Augusta					
Shoulder sealing	5.00	2.00	1.00		
Passing lanes	16.00	3.00	3.00		
Eyre Highway					
Penong to Ceduna Widen and Rehab	6.50	3.20	3.30		
Asset Preservation					
Program Maintenance		19.40	19.40	19.40	19.40
Safety and Urgent Minor Works		4.47	4.47	4.47	4.47
Total National Highway		46.92	45.07	49.27	51.37
Roads of National Importance					
Port River Expressway	26.67	6.00	7.50	10.00	
Total RONI		6.00	7.50	10.00	0.00
TOTAL NH & RONI - SA		52.92	52.57	59.27	51.37

PROJECT	COST \$m	02-03 \$m	03-04 \$m	04-05 \$m	05-06 \$m
<b>TASMANIA</b>					
National Highway					
Midland Highway					
Bridgewater Bridge replacement	100.00	1.60	5.00	15.00	15.00
Midland Highway - Powranna crossing	4.00	0.30			
Bass-Midland					
Junction upgrading	5.00	0.70	0.70		
Bass Highway					
Port Sorrel Rd to Devonport duplication	16.00	11.00			
NH Planning Projects	1.00	0.20	0.20		
Bridge upgrading	4.30	0.50			
Asset Preservation					
Program Maintenance		5.71	5.71	5.71	5.71
Safety and Urgent Minor Works		0.87	0.87	0.87	0.87
Total National Highway		20.88	12.48	21.58	21.58
Roads of National Importance					
Arthur Highway	3.60	2.50	1.10		
Lilydale - Scottsdale Road	10.00	0.00		5.00	5.00
Total RONI		2.50	1.10	5.00	5.00
TOTAL NH & RONI - Tas		23.38	13.58	26.58	26.58
<b>NORTHERN TERRITORY</b>					
National Highway					
Stuart Highway					
Bridges - Hugh, Finke, Palmer & Manton Rivers	17.30	6.00	5.30		
Noonamah to Cox Peninsula Rd	3.50		3.50		
Victoria Highway					
Widening and Rehabilitation NT	16.90	4.00	1.00		
Bridge Upgrading (HML)	1.90	0.50	1.00	2.00	
Asset Preservation					
Program Maintenance		15.15	15.15	15.15	15.15
Safety and Urgent Minor Works		2.57	2.57	2.57	2.57
Total National Highway		28.22	28.52	19.72	17.72
TOTAL NH & RONI - NT		28.22	28.52	19.72	17.72
<b>ACT</b>					
National Highway					
Barton Highway					
Duplication	18.00	4.00			
Asset Preservation					
Program Maintenance		0.60	0.60	0.60	0.60
Total National Highway		4.60	0.60	0.60	0.60
Roads of National Importance					
Queanbeyan Bypass	2.00			2.00	
Total RONI		0.00	0.00	2.00	0.00
TOTAL NH & RONI - ACT		4.60	0.60	2.60	0.60

- (3) Yes. (a) and (b) The States and Territories are advised of their works program for the new budget year and the following three years shortly after the Commonwealth Budget is brought down. Variations to each State's works program are addressed on a case by case basis in consultation with the relevant State road authority.

**Heritage: Property Values  
(Question Nos 61 to 76)**

**Senator Allison** asked the Minister representing the Minister for the Environment and Heritage, upon notice on 13 February 2002:

- (1) (a) When did the department last conduct an audit of heritage values in its properties; and (b) can that report be made available.
- (2) Does the department have policies, protocols and/or guidelines for the protection of heritage values in its properties; if not, why not.
- (3) (a) What is the budget for maintenance and conservation works in the department for the 2001-02 financial year; and (b) how does this compare with each of the previous four financial years.
- (4) Which properties has the department sold over the past five years that have heritage values.
- (5) Which of these are listed on the Register of the National Estate.
- (6) Which of these have state government and local government protection.
- (7) What are the department's policy, protocol and/or guidelines for archiving documents.
- (8) (a) Does the department have a collection of artworks and/or artefacts, including documents, of heritage value; (b) are these documented; and (c) is there a budget for acquisition or conservation of such work.
- (9) Does the department use the National Culture-Leisure Industry Statistical Framework prepared by the Cultural Ministers' Council in compiling data; if not, why not.
- (10) For those services contracted out, what arrangements, guidelines and requirements are in place to safeguard records for archiving.
- (11) (a) What, if any, historical guides and publications on heritage were prepared by the department in the 2000-01 financial year; and (b) what is the budget for this purpose in the 2001-02 financial year.

**Senator Hill**—The Minister for the Environment and Heritage has provided the following consolidated answer, on behalf of the ministers, to the honourable senator's question:

**DEPARTMENT OF THE PRIME MINISTER AND CABINET**

- (1) (a) and (b) The Department has not conducted an overall audit of the heritage values in the properties for which it is responsible.  

The Department is a tenant in the heritage listed 4 Treasury Place building located in Melbourne. The Department of Finance and Administration, the building owner, is ultimately responsible for maintaining the heritage values of the property. The Department's other tenancies are privately owned commercial buildings of no heritage significance.

In the case of The Lodge and Kirribilli House, the Department cooperates closely with the Official Establishments Trust, which meets quarterly. Heritage values are reviewed regularly by the Trust. (See also answer to 8, below).
- (2) (i) The Lodge, Canberra, and Kirribilli House, Sydney: Both The Lodge and Kirribilli House have conservation management plans in place. Works carried out at the official residences are undertaken in consultation with the Official Establishments Trust and the Australian Heritage Commission.  
 (ii) 3-5 National Circuit, Barton, ACT: This building is owned by ISPT Pty Ltd. The Department and ISPT Pty Ltd consult regularly on the management and maintenance of the building. (It is not considered necessary to have a stand-alone policy for one building.)
- (3) (i) The Lodge, Canberra, and Kirribilli House, Sydney: Maintenance and conservation budget in:  
 2001-02: \$600,000  
 2000-01: \$554,000  
 1999-00: \$600,000  
 1998-99: \$701,660  
 1997-98: \$430,000

- (ii) 3-5 National Circuit, Barton, ACT: There is no budget for conservation as such. Expenditure on repairs and maintenance was:
- 2000-01: \$ 99,986
  - 1999-00: \$160,508
  - 1998-99: \$118,711
  - 1997-98: \$164,329
- (4) No properties have been sold.
- (5) Not applicable. See answer to question 4.
- (6) Not applicable. See answer to question 4.
- (7) The Department strictly follows the National Archives of Australia guidelines for archiving documents.
- (8) (a), (b) and (c) The Department does not maintain a collection as such, and there is no specific budget allocated to acquiring and conserving heritage artworks or artefacts.
- (i) The Lodge, Canberra, and Kirribilli House, Sydney: A number of artworks, artefacts and items of furniture with heritage value are located at The Lodge and Kirribilli House. These items are on loan from the National Gallery of Australia and The Australiana Fund (The Fund). The Gallery and the Fund maintain schedules of items on loan and undertake inventory stocktakes. Any conservation work needed would be undertaken by the Gallery or the Fund rather than the Department.
- (ii) 3-5 National Circuit, Barton, ACT: The Department is responsible for a small number of heritage items. Examples include the Great Seal of Australia and some furniture of historical interest. Their provenance and status is documented.
- (9) No. The Department has no direct responsibility for the provision of cultural or leisure goods or services.
- (10) Contracts provide that upon expiry or termination of a contract, the contractor will deliver to the Department copies of all documents in which Commonwealth material is embodied. Such documents as are delivered are dealt with in accordance with the National Archives of Australia guidelines for archiving documents.
- (11) (a) and (b) Nil.

#### **DEPARTMENT OF TRANSPORT AND REGIONAL SERVICES**

- (1) (a) Blundell's Cottage Precinct Conservation Management Plan (Four volumes), Freeman Collett & Partners Pty Ltd, October 1994.
- Valuation of Blundell's Cottage Collection, October 2000, Michael C. Jones (Assessor).
- Former ACT Hospice building, former Medical Superintendents House, and Limestone House, Acton Peninsula were all included in the Environmental and Conservation Management Plan for Acton Peninsula completed by National Environmental Consulting Services in 1998.
- The 'Lobby' building, Parkes. Although not strictly considered of Heritage Value per se, this building is within the Parliament House Vista which is on the register of the National Estate. Any external works affecting this building are required to be referred to the Australian Heritage Commission and also require the approval of Parliament under Section 5 of the Parliament Act 1974.
- Jervis Bay: No audit of heritage values in properties has been conducted. However all renovations have been conducted in consultation with the Australian Heritage Commission.
- Indian Ocean Territories: A heritage audit of the Cocos (Keeling) Islands was undertaken in 1996 by Allom Lovell Marquis Kyle.
- A heritage audit of Christmas Island was undertaken in 1998 and 1999 by Godden Mackay Logan.
- (b) Yes. Reports for Jervis Bay and Indian Ocean Territories are available through the Island Administrators.
- (2) On airports, the Airports Act 1996 addresses the way in which the areas of heritage values should be protected. Developments that may affect the heritage values are referred to the Australian Heritage Commission for advice.

For the National Capital Authority these are incorporated in the Conservation Management Plans. The Authority follows the Burra Charter in dealing with all properties that have heritage values. As the Blundell's Cottage is also listed on the Register of the National Estate it has associated statutory protection afforded it by the Australian Heritage Commission Act 1975.

- (3) (a) and (b) The Airport Lessee Companies fund maintenance and conservation works of the heritage areas on airports.

The National Capital Authority advises that the level of conservation and maintenance funding varies depending upon requirements. The figures below represent the budgeted amount for the 2001-02 financial year and the actual amounts for the previous four financial years.

Financial Year	Amount\$
1997/1998	78,990
1998/1999	48,470
1999/2000	20,275
2000/2001	30,060
2001/2002	7,975

Norfolk Island: The Kingston and Arthur's Vale Historic Area (KAVHA) had a Commonwealth contribution towards the conservation and maintenance of the area for 2001 – 02 which was \$476,000. The allocation for the restoration of the Government House interior in 2001–2002 was \$44,000.

Commonwealth Expenditure for Kingston and Arthur's Vale Historic Area:

Financial Year	Amount \$
1997/1998	392,000
1998/1999	392,000
1999/2000	392,000
2000/2001	469,000
2001/2002	476,000

Expenditure for Government House

1999 – 2000 was the first year of this project and \$30,000 was allocated,

2000 – 2001 \$96,000 was spent.

Indian Ocean Territories: There is no specific budget allocation for maintenance and conservation works on heritage properties in the Indian Ocean Territories. The matters are addressed as part of the asset management programs on the Islands.

To provide a breakdown of maintenance and conservation expenditure in the Indian Ocean Territories over the past four financial years would be a long and exhaustive process that would require the use of many resources.

- (4) Several of the airports that have been sold by the Government over the past 5 years have heritage values. These are Canberra, Perth, Jandakot, Hoxton Park, Sydney, Alice Springs, Coolangatta, Archerfield, Essendon and Melbourne. Hobart Airport has a site listed at State level.

Indian Ocean Territories: The following properties with heritage values on Christmas Island were sold in the last 5 years:-

Bungalow 702, Drumsite

MQ 702, Drumsite (known as Jap House) - Loc 256 - sold 1/4/98

The Poon Saan Group, Poon Saan

Union of Christmas Island Workers Office, Poon Saan - Loc 457 - sold 9/2/98

Properties located within the Settlement Precinct listed on the Register of the National Estate, that were sold in the last five years:

MQ 17, Settlement - Loc 142 - sold 20/10/97

MQ 28, Settlement - Loc 171 - sold 18/2/98

Old Power Stn & Freezer, Settlement - Loc 447 - sold 18/2/98

MQ 27, Settlement - Loc 375 - sold 1/4/98

Loc 337, Settlement - sold 11/11/99

Old Hospital & Nurses Quarters, Settlement - Loc 424 - sold 11/2/99

Rumah Tinggi Tavern and Dongas 107-109 & 125-132, Settlement - Loc 423 - sold 24/12/99

Laundry and Laundry Quarters, Settlement - Loc 190 and Loc 439 - sold 6/7/00

Dongas 110-113, Settlement - Loc 215 - sold 22/8/00

Instrument Repair and Aircon Workshop, Settlement - Loc 232 - sold 22/8/00

Dongas 121-124, Settlement - Loc 207 - sold 18/01/01

Electrical & Plumbing Workshop, Settlement - Loc 568 - sold 21/8/01

Dongas 101-106, Settlement - Loc 213 & Loc 214 - sold 28/8/01

Carpentry Shop, Settlement - Loc 571 - sold 31/8/01

Old Police Quarters (Barracks), Settlement - Loc 539 - sold 8/11/01

The following properties with heritage values on Cocos (Keeling) Islands were sold in the last five years:-

Locations 106, 107 sold to Bureau of Meteorology in 1996

Locations 121, 122, 129, 181 sold at auction in 1997

Locations 134, 191, 214 sold at auction in 1999

Locations 110, 117 transferred to other Commonwealth departments in 2001

Oceania House sale currently being finalised

- (5) There are properties on the Register of the National Estate. These are Canberra Airport, Perth Airport, Jandakot Airport, Hoxton Park Airport, Sydney Airport, Alice Springs Airport, Coolangatta Airport, Archerfield Airport, Essendon Airport and Melbourne Airport. These range from historic artefacts and buildings to areas of environmental and cultural significance.

Jervis Bay: The whole of the Jervis Bay Territory, excluding the Wreck Bay Community land was listed on the Register of the National Estate on 22 June 1993 (Database No 102512), on the basis of its natural heritage values. The majority of land in the Territory is now owned by the Wreck Bay Aboriginal Community and a large percentage of this land has been leased back to the Commonwealth (Environment Australia) to be jointly managed as a National Park (Booderee National Park). HMAS Creswell is also listed for its historic values.

Indian Ocean Territories: All of the properties listed above are listed on the Register of the National Estate.

- (6) State government protection is not applicable to heritage listed properties in the Indian Ocean Territories.

No local government heritage lists exist, although upon receipt of a development application affecting heritage properties both the Christmas Island Shire Council and the Cocos (Keeling) Islands Shire Council are obliged to refer the application to the Australian Heritage Commission in accordance with section 30 of the Australian Heritage Commission Act 1975.

- (7) Archives management is detailed within the Department of Transport and Regional Services Records Management Policy and Procedures Manual. The principal aim is to ensure efficient and economical management of records/files by promptly destroying records no longer needed for legal, fiscal, administrative or other reasons and preserving those records which must be retained permanently or for a designated period.

Records/files that are at least five years old and no longer active are sentenced by Records Management within the provisions of the Archives Act.

Sentencing is the process of examining the contents of individual record items or files against authorised Disposal Authorities and documenting the results. This process may result in the immediate destruction of records or files, destruction at a specified date in the future or the permanent retention of records or files.

In sentencing records/files, the Department is obligated to use Administrative Functions Disposal Authority (AFDA) - used for records common to all agencies and Records Disposal Authority

(RDA) - used for records unique to an agency. They identify classes of records and nominate how long and where these records need to be retained.

The Archives Act 1983 includes a 'NAP' provision which allows for some destruction without formal authorisation. NAP usually occurs because the information is duplicated (eg. hand-written draft or information copy), unimportant (eg. telephone message slips), of short term facilitative value (eg. compliments slips, or some ADP test data) or any combination of these.

Lists of records/files that have reached their official destroy date are further reviewed by functional areas (if clearly attributed) to confirm destruction.

The National Capital Authority advises that the Agency has no documents with any heritage value. All other documents are archived in accordance with the statutory requirements of the Archives Act 1983.

- (8) (a) and (b) Yes.  
 (c) Yes. The National Capital Authority does not have a specific budget earmarked as being for acquisition or conservation of heritage artworks or artifacts. However, the Authority is funded for the management of land and the things which sit upon it (including artworks, memorials and monuments). They are not funded for acquisition.
- (9) No. The Australian Bureau of Statistics has advised it is still in draft form and has not widely publicised its existence. A representative of the Department of Communications, Information Technology and the Arts has since advised that because of the small number of assets under the Agency's control it would not be appropriate for the Agency to use the framework.

Norfolk Island: In relation to the Kingston and Arthur's Vale Historic Area (KAVHA) the National Culture - Leisure Industry Statistical Framework is not used. Rather the area is the subject of a Memorandum of Understanding (MOU) between the Commonwealth and Norfolk Island Governments that acknowledges the need, inter alia, for ongoing conservation and maintenance of buildings and structures in the area. The MOU also establishes the KAVHA Management Board whose functions include providing advice, in accordance with the KAVHA Conservation Management Plan, to the two governments. The Board is comprised of two representatives nominated by the Commonwealth Minister with responsibility for Norfolk Island matters and two representatives nominated by the Norfolk Island Government.

- (10) The Department is currently reviewing its Records Management Policy and Procedures which will include National Archives of Australia's record keeping requirements in relation to outsourcing ie Archives Advice 12 and GDA25. At present appropriate provisions for record keeping and archiving are built into contracts and MOUs with Records Management awareness provided to contractors as required. The Department's Standard Form Agreement also requires for the service contractor to comply with all relevant legislation of the Commonwealth, or of any State, Territory or local authority.

The National Capital Authority advises that the standard Authority contracts contain general conditions that require the contractor to deliver all material to the Commonwealth. Further, the title to and ownership of intellectual property (including copyright) in all contract material will rest with the Commonwealth. Once received, the material is archived in accordance with procedures pursuant to the Archives Act 1983 (refer question 7).

- (11) (a) The National Capital Authority did not produce any historical guides for Blundells' Cottage in 2000-01 although it produced a promotional flyer. No other guides were produced.  
 (b) Budget for the printing of the promotional flyer in 2001-02 is \$5,000. Other material is not specifically budgeted for and would be printed using the Agency's publications budget which is \$59,000.

#### **DEPARTMENT OF THE TREASURY**

- (1) (a) and (b) The Department does not own any properties.

The Treasury building was designed and constructed in stages over a period of 10 years, from 1960 to 1970. The original design brief required the building to be similar in form, mass, colour and appearance to other public buildings in the Parliamentary Triangle. The building was constructed during a period of rapid growth in Canberra, part of the first phase of major capital works by the then newly established National Capital Development Commission (NCDC).

The recent complete refurbishment of the Treasury building has produced a building featuring a modern office amenity, which maintains the heritage attributes of the original Treasury building design - the façade and the internal public spaces – which are representative of good quality 1960's government architecture.

- (2) to (6) Not applicable.
- (7) The Department follows the National Archives of Australia guidelines for archiving documents.
- (8) (a) The Treasury library holds a bound collection of "Orders in Council" of the Federal Executive Council of the Commonwealth of Australia for the period 1901/2 to 1986. These volumes contain papers (often referred to as Executive Council Minute Papers) that document Treasury issues discussed and decisions made at meetings of the Federal Executive Council. The collection also includes a register of orders made from 1946 to 1963. This collection is considered to be of heritage value and is one of a very small number of such collections known to be still in existence. The Department also holds a small collection of artworks.
- (b) The "Orders in Council" collection is recorded in the Treasury Library Catalogue. The artworks are listed on the Asset Register.
- (c) There is no budget for the acquisition or conservation of such works.
- (9) No, the Department has no direct responsibility for the provision of cultural or leisure goods and services.
- (10) No such services are currently contracted out.
- (11) (a) The Centenary of Treasury 1901-2001; 100 years of public service.
- (b) There is no budget allocation for this purpose in 2001-2002 financial year.

#### **DEPARTMENT OF DEFENCE**

- (1) (a) and (b) The Department has not conducted a single comprehensive audit of heritage values for the properties for which it is responsible (some 25,000 assets). The department is currently undertaking a review of its heritage management practices to support the implementation of a more strategic approach to its heritage obligations and opportunities. This will include the development of a methodology for identifying and recording the significance of heritage places across the Defence Estate. Heritage issues have tended to be handled on an individual basis, relating to various capital works, maintenance and property disposal activities. Heritage information resides within a myriad of Environmental Management Plans and Conservation Management Plans for individual Defence sites across the country.
- (2) Yes, the Department has overall policy documents and some guidelines for the protection of heritage values that are consistent with the Environment Protection and Biodiversity Conservation Act 1999 and the Australian Heritage Commission Act 1975. The intention is to build on these arrangements with the implementation of the strategic approach to heritage management mentioned in the answer to (1) (a) above.
- (3) (a) and (b) Conservation and maintenance works on heritage properties is not differentiated in the department's general operating expenses. A component of the department's consultancy, works, and Estate maintenance budgets would be supporting heritage outcomes. It is anticipated that in the future, Defence will be developing specific heritage identification and conservation programs with the appropriate supporting budgetary processes.
- (4) The following heritage properties were sold in the last five years:
- 1996/1997: Newington Stores Depot, Holker St Silverwater, NSW;  
 Moreton Naval Establishment, Methyr Rd, New Farm, QLD;  
 Yeronga Military Hospital, Kadumba St Yeronga, QLD;  
 Netherby Administration Facility, Queens Rd, Sth Melb, VIC;  
 Turriff Administration Facility, Carpenter St, Bendigo, VIC;  
 Richmond Training Depot, Gipps St, Richmond, VIC;
- 1997/1998: Tresco Representational Home, Elizabeth Bay, NSW;  
 Grosvener Administration Facility, Queens Rd, Sth Melb, VIC;  
 Beaumaris House, Training Depot, Sandy Bay Rd, Hobart, TAS;

- 1998/1999: Ascot Married Quarter, Dutric St, Randwick, NSW;  
 Archina Married Quarter, Avoca St, Randwick, NSW;  
 Jenner House Office Accommodation, Macleay St, Potts Point, NSW;  
 Tighnabruaich Representational Home, Clarence Rd, Indooroopilly, QLD;  
 Charsfield Accommodation, St Kilda Rd, Melb, VIC;  
 Albion Explosives Factory, Deer Park, Melb, VIC;
- 1999/2000: Kelvin Grove Training Depot, Ramsgate St, Kelvin Grove, QLD  
 East Melbourne Drill Hall, Powlett St, East Melb, VIC;  
 Bendigo Temple, Finn St, Bendigo, VIC;  
 Dilhorn Museum, Lord St, Perth, WA;  
 Bomera/Tarana Office Accommodation, Wilde St, Potts Point, NSW;
- 2000/2001: Leederville training Depot, Vincent St, Perth, WA;  
 Victoria Street training Depot, Victoria St, Melb, VIC; and
- 2001/2002: Torrens Training Depot, Kintore Ave, Adelaide, SA.

- (5) All of the properties detailed in (4) are listed on the Register of the National Estate.
- (6) Newington, Tresco, and Jenner House are on the NSW Heritage Register. Moreton, part of Yeronga, Tighnabruaich and Kelvin Grove are on the QLD Heritage Register. Richmond and the Bendigo Temple are listed with Heritage Victoria. Leederville is listed with the WA Heritage Council. Beaumaris House is listed with the Tasmanian Heritage Council. Torrens is listed with Heritage South Australia. Netherby, Turriff, Grosvener, Charsfield, and Albion have local listings.
- (7) The Records Management policy is currently under review. The revised policy, like the one it is replacing, has been drafted in accordance with the Archives Act 1983 and associated legislation. The Records Management Policy provides the framework within which the record disposal authorities are drafted.

Documents created by Defence are currently disposed of under either the Administrative Functions Disposal Authority (AFDA) or one of the Defence Specific Record Disposal Authorities (RDAs). Together the AFDA and the RDAs provide a range of classes into which a document may be placed for disposal. Depending on its class, a document may be retained by Defence, sent to the National Archives of Australia (NAA), or be destroyed.

In appraising a document, the current policy manual, Polman 3, provides that a document will have permanent archival value if it:

- (1) identifies important aspects of either Department or Defence Force operations or administrative arrangements in terms of origin, changes or role and functions;
- (2) shows policy decisions taken by the Department or Defence Force;
- (3) reveals procedural or operational methods; or
- (4) reveals;
  - (i) economic and financial management;
  - (ii) internal politics;
  - (iii) international politics;
  - (iv) research and scientific information; or
  - (v) social, statistical or other conditions with which the Department or Defence Force has dealt with since it was established.

If any of the above items are found in a document, that document is considered one of permanent archival value.

Under the revised policy, disposal authorities identify which documents should be retained permanently based on the guidelines and directions issued by the NAA.

The Directorate of Records Management Policy is currently developing functional based disposal authorities to replace the existing RDAs. When completed these will be consolidated with the AFDA to form the Defence Functions Records Disposal Authority (DFRDA).

- (8) (a) The department has a huge number of artworks and/or artefacts, including documents, of heritage value. They are primarily managed by the Army, the Navy and the Air Force and reside within a large number of Service museums, ships, messes, unit locations etc.
- (b) The Army, the Navy and the Air Force are currently documenting the existence, location, interpretation and value of these assets on an ongoing basis. There are several million items involved.
- (c) Each Service incurs direct or indirect costs to support these activities. The Army and the Air Force operate official museums within their bases. These are predominantly funded by the respective Services and supplemented by public and visitor donations/entry fees. The museums are often stocked with obsolete or discarded military equipment that has been transferred or donated by the Service authority. Whereas the Navy does not have an 'official' public museum as such, it does have an official repository for its 'Historical Collection' on Spectacle Island in Sydney Harbour. This repository is staffed and funded by the Navy and supplemented by donations received from visitors. The Navy is presently conducting a review of its museum arrangements.
- (9) No. The Department has no direct responsibility for the provision of cultural or leisure goods or services.
- (10) Where Defence utilises contractors or consultants in building works or contracts out its asset maintenance services, arrangements are put in place to safeguard appropriate records and documentation in the standard contract templates.
- Defence has a published Record Management Manual. This manual stipulates Defence policy for all record management activities. These policies are based on International Standards Organisation 15489 and National Archives of Australia guidelines. If Defence contracts out services, the resulting records remain under Defence ownership. The service provider is, therefore, expected to adhere to Defence policy in regard to record management.
- (11) (a) No historical guides and publications on heritage were prepared by the department in the 2000-01 financial year.
- (b) No element of the budget has been specifically allocated for this purpose in the 2001-02 financial year.

**DEPARTMENT OF COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS**

- (1) (a) The Department of Communications, Information Technology and the Arts has responsibility for two heritage listed buildings: Old Parliament House and the building at Acton, ACT occupied by ScreenSound Australia. The Department does not have responsibility for other buildings of heritage character. A Heritage Conservation Management Plan was undertaken in 1995 for ScreenSound Australia and in 2000 for Old Parliament House (including the National Portrait Gallery).
- (b) The Conservation Management Plans for ScreenSound Australia and Old Parliament House can be made available.
- (2) Yes. Both Old Parliament House and ScreenSound Australia have Conservation Management Plans that set out the principles and policies that govern conservation management. In the case of Old Parliament House the Plan is supplemented by a series of heritage studies that cover all areas of Old Parliament House.
- (3) (a) and (b) ScreenSound Australia building: In 1998 substantial extensions were undertaken to this building and these are not heritage listed. ScreenSound Australia does not maintain separate information on maintenance and conservation expenditure in the heritage and non-heritage areas of the Acton building.

Old Parliament House is a heritage building undergoing ongoing refurbishment, as well as routine maintenance. Many items of plant and equipment are being or have been replaced and much of the building fabric is in need of conservation or refurbishment. All works are carried out in the context of the heritage significance of the building and thus many of the "normal" construction and maintenance costs in Old Parliament House have a heritage conservation factor. Several areas of Old Parliament House expenditure may therefore be fully or partially attributed to heritage maintenance and conservation works.

Maintenance and conservation budgets for the 2001-02 (estimated) and previous four financial years are as follows:

	2001-02 Estimate (\$)	2000-01 Budget (\$)	1999-2000 Budget (\$)	1998-99 Budget (\$)	1997-98 Budget (\$)
ScreenSound Australia					
Repairs & Maintenance (ii)	239,000	168,000	115,000	213,000	564,000
Capital Works (ii)	385,000	1,170,000	1,030,000	Nil	1,395,000
Old Parliament House Heritage Management (I)	105,000	100,000	65,000	30,000	No separate allocation
Repairs & Maintenance (iii)	380,000	400,000	380,000	337,000	350,000
Relevant capital works (i)	232,000	251,000	Nil	Nil	Nil

(i) Fully attributable to heritage maintenance and conservation.

(ii) Partially attributable to heritage maintenance and conservation.

(4) None.

(5) and (6) Not applicable.

(7) The Department, including ScreenSound Australia, Old Parliament House and the National Portrait Gallery, complies with National Archives of Australia Government guidelines for archiving documents.

(8) (a) Yes. ScreenSound has a National Collection of audiovisual materials and associated documentation and both Old Parliament House and the National Portrait Gallery have collections of artworks and/or artefacts of heritage value.

(b) Yes. ScreenSound material is accessible on-line through the MAVIS (Merged Audio-Visual Information System) collection management database. Old Parliament House has a collection of Old Parliament House furniture, fittings and associated objects. The furniture collection is assetted and cataloguing of all the collections is ongoing. The National Portrait Gallery has a collection of portraiture artworks, which is assetted and catalogued.

(c) Yes, ScreenSound Australia, Old Parliament House and the National Portrait Gallery have conservation and acquisition budgets for their collections.

(9) Yes.

(10) Not applicable.

(11) (a) In January 2001, Old Parliament House published Building History: Mildenhall's Early Images of Old Parliament House, a selection of photographs of the construction, opening and early years of the provisional Parliament House, taken by government worker William Mildenhall. In 2000-01, the National Portrait Gallery published a brochure on John Webber's 1782 Portrait of Captain Cook RN, which the Gallery purchased in July 2000.

(b) Neither Old Parliament House or the National Portrait Gallery has any set budget for historical guides and publications on heritage for the 2001-02 financial year.

#### **DEPARTMENT OF FOREIGN AFFAIRS AND TRADE**

(1) (a) DFAT has not conducted an overall audit of heritage values of properties for which it is responsible. DFAT's tenancy in Canberra is a modern privately owned commercial building of no heritage significance. The same applies to its offices in Sydney, Melbourne, Brisbane, Darwin, Perth, Adelaide and Hobart. The Department's residence on Thursday Island is owned by DFAT but does not have any heritage significance.

(b) Not applicable.

(2) DFAT does not own any heritage properties.

(3) (a) DFAT has not allocated a budget for maintenance and conservation works in relation to heritage property for 2001-2002. (b) DFAT has had no budget for maintenance and conservation works in relation to heritage property in any of the previous four financial years.

(4) None

- (5) and (6) Not applicable.
- (7) The Department complies with the Archives Act 1983 and guidelines on disposal and transfer issued by the National Archives of Australia. It employs qualified contractors to sentence departmental files, both in Canberra and overseas and has engaged qualified personnel to develop a comprehensive functional disposal authority for Central Office records, in accordance with National Archives guidelines.
- (8) (a), (b) and (c) The Department holds some archival material of heritage value, including the Treaty Collection, some historical photographs and archival papers of former Ministers, Governors-General, Secretaries and diplomats. The Treaty Collection is fully documented and the photographs are being recorded on a computerised database. None of the archival collections have been documented and there is no budget for their listing or conservation.
- (9) Not applicable. DFAT has no direct responsibility for the provision of cultural or leisure goods or services.
- (10) Where applicable, DFAT follows the guidelines provided by the National Archives for the handling of records documenting contracted-out services.
- (11) (a) and (b) During 2000-2001, the Department published a volume of documents entitled Australia and the Indonesian Incorporation of Portuguese Timor, 1974-1976 and worked on the preparation of two volumes of documents for publication in 2001-2002, Documents on Australian Foreign Policy, 1937-49. Volume XVI: 1948-49 and Documents on Australian Foreign Policy. The ANZUS Treaty 1951. Also in preparation was an historical volume undertaken to mark the Centenary of Federation entitled Facing North. A Century of Australian Engagement with Asia Volume 1 1901 to the 1970s. The budget for production of historical publications during 2001-2002 is \$300,000.

#### **DEPARTMENT OF EMPLOYMENT AND WORKPLACE RELATIONS**

- (1) (a) The Department has not conducted an overall audit of heritage values in the properties for which it is responsible. The Department owns three staff houses, none of which are heritage listed. The Department is a tenant in a number of privately owned commercial buildings of no heritage significance.
- (b) Not applicable.
- (2) The Department does not lease or occupy any property with any heritage value within its portfolio. The department has an outsourced Property Manager (KFPW) who would hold the responsibility of identifying if such property were up for consideration when undertaking new leasing action.
- (3) (a) and (b) Not applicable.
- (4) None.
- (5) and (6) Not applicable.
- (7) The Department operates in line with National Archives of Australia (NAA) guidelines for the control of Commonwealth records as required under the Archives Act 1983. All Commonwealth records, including documents, are assessed for retention based on accountability, efficiency and possible social heritage implications. If they are retained they are either transferred to NAA or stored in a purpose built storage facility. The Department has issued the "Corporate Information Management Practical Guide" for the guidance of departmental staff and this sets forth the department's compliance with the NAA guidelines.
- (8) (a) The Department does not have a collection of artworks or artefacts of heritage value. However, the Department maintains a large number of records containing documents of heritage value. (b) All records retained for accountability or heritage value are documented. (c) The Department has funds allocated for control and storage of Commonwealth records.
- (9) No, not applicable to Department's operations.
- (10) Secondary storage contractors are required to meet the Australian Standard 4390 (Records Management) and the NAA guide 12 "Outsourcing, accountability and recordkeeping".
- (11) (a) There were no historical guides or publications on heritage prepared by the Department in the 2000-01 financial year. (b) In the 2001-02 financial year, \$16 555 has been spent on the production of a booklet, display and computer interactive to mark the Centenary of the Australian Public Service. No more is due to be spent in this financial year.

**DEPARTMENT OF IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS**

- (1) (a) The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) has not conducted an audit of heritage values in the properties for which it is responsible. The Department is a tenant in almost all buildings in which it resides. The buildings DIMIA does own are not of heritage value.  
(b) Not applicable.
- (2) Not applicable.
- (3) (a) As the department does not own any heritage valued properties, it does not have a budget for the maintenance and conservation of such properties. (b) Not applicable.
- (4) None.
- (5) and (6) Not applicable.
- (7) DIMIA's recordkeeping practices are designed to meet Australian Standard AS 4390: Records Management. This Standard was developed by Standards Australia and adopted by the Federal Government as the standard that all agencies must meet.  

DIMIA archives documents in accordance with agency-specific and Commonwealth-wide disposal authorities issued by National Archives of Australia. Once records are no longer needed for business, they are managed to more cost-efficient storage media for the duration of the retention period. Archived records are held by DIMIA in consultation with the National Archives of Australia and archived documents that are classified for permanent retention are transferred to the National Archives of Australia. This does not include electronic documents.

Once the retention period lapses, the disposal action specified in the disposal authority is performed. If records do not need to be held permanently, they are normally destroyed.
- (8) (a) No.  
(b) Not applicable.  
(c) No.
- (9) No. The Department has no direct responsibility for the provision of cultural or leisure goods, or services.
- (10) All archiving services that are contracted out are managed by the Department through clearly set guidelines for archiving work and conducting quality assurance checks throughout any sentencing project activities. The Department has a National Records Manager who provides overall management of the Department's records and is available to provide advice and support for archiving activities. All contracted agencies must comply with the Australian Standard AS 4390.
- (11) (a) None.  
(b) None.

**ATTORNEY-GENERAL'S DEPARTMENT**

- (1) (a) and (b) The Attorney-General's Department has not conducted an overall audit of heritage values because it does not own any properties which are of heritage value. The Department is a tenant of a number of buildings including the heritage listed Robert Garran Offices (ie the original part, the former Patents Office) located in Barton, ACT. The Industry Superannuation Trust Fund, the building owner, is ultimately responsible for maintaining the heritage values of this building.
- (2) Yes. The Department gives full consideration to the requirements of the Australian Heritage Commission Act 1975 in relation to the Robert Garran Offices when making recommendations or requests to the building owner for any changes to the building. The building owner has confirmed that all heritage issues are addressed if and when changes to the Robert Garran Offices are undertaken.
- (3) (a) and (b) Funds have not been specifically allocated for maintenance and conservation works in the Department for the 2001-02 financial year. (b) Funds have not been specifically allocated in previous financial years.
- (4) None.
- (5) and (6) Not applicable.
- (7) Department strictly follows the National Archives of Australia guidelines for archiving documents.

- (8) (a) and (b) The Department does not have a collection of artworks and/or artefacts, including documents, of heritage value. (c) There is no budget allocation specifically for the acquisition or conservation of artworks or other artefacts.
- (9) The functions of the Attorney-General's Department are such that it has no requirement to compile data relevant to the National Culture-Leisure Industry Statistical Framework.
- (10) No such services are contracted out.
- (11) (a) None.
- (b) Expenditure of \$58,838 has been incurred to date in 2001-02 on design, printing and editing of the history of the Attorney-General's Department, published to celebrate the Department's centenary.

#### DEPARTMENT OF FINANCE AND ADMINISTRATION

- (1) (a) The Department has not conducted an overall audit of heritage values in the Commonwealth owned non-defence domestic property portfolio for which it is responsible. Over a long period of time, various individual properties in the portfolio have been the subject of studies to identify environment and heritage values, and of conservation management plans addressing identified values. (b) See answer to question (a).
- (2) Yes. The Department gives full consideration to the measures necessary to meet its obligations under the Australian Heritage Commission Act 1975 in relation to the properties for which it is responsible.
- (3) (a) Works relating to the conservation of heritage values in properties for which the Department is responsible may be undertaken in the context of general repairs and maintenance, minor new works and/or major capital works such as building refurbishment. Expenditure on such conservation works is not necessarily specifically identified in asset management budgets. (b) see answer to question (a).
- (4) Heritage values may be variously defined and ascribed by different parties including the Australian Heritage Commission (AHC), State/Territory heritage authorities and non-government bodies such as the National Trust. The answer to this question is confined to properties with heritage values formally recognised under statute. Over the past five years the Department has sold the following properties with heritage values recognised by listing in a heritage Register by either the AHC or a State/Territory heritage authority:

#### PROPERTIES SOLD THAT ARE ON THE REGISTER OF THE NATIONAL ESTATE AND/OR STATE REGISTER 1997-2002

Settled	Property	Address	Town	State	RNE	State/Local Govt Register
06/03/1998	Acton House		Acton	ACT	Yes	Yes
04/05/1998	Fremantle C'wlth Offices	2 Henry Street	Fremantle	WA	Yes	
31/07/1998	Queenstown Office	34 Orr Street	Queenstown	TAS	Yes	No
07/10/1998	Shaftston House	113 Dalrymple Road	Garbutt	QLD	Yes	Yes
18/12/1998	29 Liddle Street	29 Liddle Street	St Marys	NSW	Yes	No
22/01/1999	Broome Customs House	Cnr Frederick & Carnarvon Streets	Broome	WA	Part	Part
01/02/1999	Part Old Brisbane Airport		Brisbane	QLD	Yes	Yes
12/02/1999	300 Queen Street	300 Queen Street	Melbourne	VIC	Yes	Yes
15/02/1999	Frosterley House	2 Dummond Street	Carlton	VIC	Yes	No
22/04/1999	Casselden Place	(Package 6)	Melbourne	VIC	Part	No
22/04/1999	Edmund Barton Building	(Package 6)	Canberra	ACT	Yes	No
31/05/1999	Geelong Customs House	Cnr Moorabool & Brougham Streets	Geelong	VIC	Yes	Yes
27/08/1999	Mackay Customs House	Cnr River & Sydney Streets	Mackay	QLD	Yes	Yes

Settled	Property	Address	Town	State	RNE	State/Local Govt Register
05/11/1999	Port Pirie Commonwealth Offices	60-62 Florence Street	Port Pirie	SA	In Conservation Area	No
16/11/1999	Harricks Cottage		Keilor	VIC	Yes	No
17/11/1999	Portland Customs House	Gawler Street	Portland	VIC	Yes	Yes
30/11/1999	Explosives Store		Pialligo	ACT	Yes	
13/12/1999	Former High Court Building	450 Little Bourke St	Melbourne	VIC	Yes	Yes
20/12/1999	Geraldton Customs House	7 & 9 Francis Street	Geraldton	WA	Yes	Yes
02/02/2000	Cameron Offices	Chandler Street	Canberra	ACT	Yes	No
01/03/2000	Maryborough Bond Store		Maryborough	QLD	Yes	Yes
01/03/2000	Maryborough Customs House & Residence		Maryborough	QLD	Yes	Yes
31/03/2000	25 Liddle Street	25 Liddle Street	St Mary's	NSW	Yes	No
22/05/2000	Avian Quarantine Station & P1 Residential Land		Torrens Island	SA	No	Yes
30/05/2000	Launceston Customs House		Launceston	TAS	Yes	Yes
09/06/2000	Hobart Commonwealth Offices	188 Collins Street	Hobart	TAS	No	Yes
21/07/2000	Thursday Island Customs House	Victoria Parade	Thursday Island	QLD	No	Yes
31/08/2000	South Solitary Island			NSW	Yes	No
10/11/2000	Newcastle Customs House		Newcastle	NSW	Yes	Yes
04/04/2001	Cottage	40 Liddle Street	St Mary's	NSW	Yes	No
21/09/2001	Old Brisbane Airport		Eagle Farm	QLD	Yes	Yes
31/10/2001	Coronation House			QLD	Yes	Yes

(5) and (6) See answer to question 4.

- (7) The Department's policy on records management is stated in its Chief Executive Instructions (CEIs) and associated operational guidelines. The CEIs require adherence to National Archives of Australia policies and protocols.
- (8) (a) Yes, the department has in its possession a small number of original Australian artworks. The age of the artworks range from 1989 to 1997. It also has, for display purposes and on loan from the National Archives of Australia, one bound volume of early Commonwealth financial records dating back to the early 1900's. (b) Yes, the artworks and volume have been documented. (c) No, there is no specific budget for the acquisition and conservation of the artworks.
- (9) No. The Department has no direct responsibility for the provision of cultural or leisure goods or services.
- (10) The Department's service contracts include obligations to comply with the Department's CEIs, which require adherence to National Archives of Australia policies and protocols.
- (11) (a) A booklet titled "Legends and Ledgers" was published for the Department of Finance and Administration in the 2000-2001 financial year. It was launched as part of the Department's open day for the Centenary of Federation celebrations on 20 June 2001.
- (b) The total cost of production of the booklet was \$13,002, comprising \$9,042 for design and printing and \$3,960 for editing.

**DEPARTMENT OF AGRICULTURE, FISHERIES AND FORESTRY - AUSTRALIA**

- (1) (a) The Department has not conducted an overall audit of heritage values of the properties for which it is responsible. The department owns two properties with neither being listed on the Register of the National Estate Database. The Department's other tenancies are either leases or sub-leases of other Commonwealth agencies or privately leased. (b) Not applicable. Refer (1)(a).
- (2) Yes, the Department's outsourced service provider is required to give full consideration to the requirements of the Australian Heritage Commission Act 1975.
- (3) (a) The Department has no specific budget for the conservation of such buildings. (b) Not applicable. Refer (3)(a).
- (4) None.
- (5) and (6) Not applicable.
- (7) The Department strictly follows the National Archives of Australia policies, products, guidelines and standards based on the Australian Standard AS 4390 to implement the new record-keeping strategies and archive records, including appraisal and disposal, according to the Archives Act 1983.
- (8) (a) No. (b) and (c) Not applicable.
- (9) No. The Department has no direct responsibility for the provision of cultural or leisure goods or services.
- (10) The Department has outsourced a number of activities relating to the storage and retrieval of archive records; these are performed in accordance with National Archives of Australia guidelines. (refer 7).
- (11) (a) and (b) None.

**DEPARTMENT OF FAMILY AND COMMUNITY SERVICES**

- (1) (a) No audits conducted as Department of Family and Community Services (FaCS), Social Security Appeals Tribunal (SSAT), Child Support Agency (CSA), The Australian Institute of Family Studies (AIFS) and Centrelink are tenants of privately owned commercial buildings. Centrelink has 29 staff houses that have no heritage value. (b) Not applicable. See response to Question 1 (a).
- (2) and (3) No. See response to Question 1 (a).
- (4) 300 Queen Street, Melbourne (also reported by DOFA).
- (5) 300 Queen Street, Melbourne.
- (6) 300 Queen Street, Melbourne.
- (7) The Department strictly follows the National Archives of Australia guidelines for archiving documents.
- (8) (a), (b) and (c) No.
- (9) No, not applicable to department's operations.
- (10) No such services are contracted out.
- (11) (a) Nil. (b) Not applicable.

**DEPARTMENT OF EDUCATION, SCIENCE AND TRAINING**

- (1) (a) The Department has not conducted an overall audit of heritage values. The Department leases office accommodation. The accommodation leased is modern or renovated and is not heritage listed. Staff residences owned by the Department are not heritage listed.  
(b) See answer to question 1(a).
- (2) and (3) Not applicable.
- (4) Nil.
- (5) and (6) Not applicable.
- (7) The Department is required by legislation to follow the Archives Act 1983, including the 'e-permanence regime', a new record keeping regime. The Act and instructions are administered by the National Archives of Australia (NAA). The NAA issues policy, procedures and instruction to all Commonwealth Agencies which the Department follows. The Department is currently working through the NAA's DIRKS framework – a Manager's Guide to the Strategic Management of Rec-

ords and Information (formerly known as Designing and Implementing a Record Keeping System), and is also managing the transition from a paper environment to an electronic one through an internally developed DEST Universal Records and Information Framework (the DURIF Endeavour). This is being used as the driving mechanism to change work practices.

The Department will continue to hold the same format for files and documents as previously applied in the paper environment, including that virtual files and electronic documents will be added to files which hold the thread to the subject matter.

- (8) (a) Nil. (b) and (c) Not applicable.
- (9) The Department has had no reason to use the National Culture-Leisure Industry Statistical Framework prepared by the Cultural Ministers' Council to date.
- (10) The Department has a contract with Allied Pickfords Pty Ltd trading as Pickfords Records Management to provide "Sentencing of Commonwealth Records, the Storage of Short Term Temporary Value Commonwealth records and Related Services 1998-2007" nationally. The Department's Records Manager is responsible for the administration of the Pickford Contract, including coordinating the sentencing programme to ensure all safeguards are in place for the records to be actioned in accordance with the NAA guidelines under the Archives Act 1983. This includes, as a minimum, keeping records for the length of time required for business functions, and activities with relevant stakeholders and the Australian community, for historical and research purposes (the records can at any time be kept longer than originally deemed). The Department's Records Manager liaises with relevant work groups in the Department to ensure that requirements of the Archives Act 1983 are met.
- (11) (a) Nil.

(b) Not applicable.

#### **DEPARTMENT OF HEALTH AND AGEING**

- (1) (a) The Department of Health and Ageing has not conducted an overall audit of heritage values of the properties for which it is responsible. The Department is unaware of possible heritage values in any of the properties it uses or occupies, except "Guardian House" which is located at Block 61, Section 8, Phillip, ACT. This property has been nominated for heritage listing by the Institute of Architects.
- (b) Not applicable.
- (2) Not applicable.
- (3) Not applicable.
- (4) Nil.
- (5) and (6) Not applicable.
- (7) The Department strictly follows the National Archives of Australia e-permanence guidelines for Record Keeping in the Commonwealth.
- (8) (a) The Department leases its artworks and/or artefacts from Art Bank. The Department's publication collection and the Corporate Memorabilia Collection are considered to have heritage value. (b) The Department's publication collection has been catalogued since 1925. The Corporate Memorabilia Collection was started in 2001 and the items are currently being catalogued. (c) The publication and memorabilia collections are added to as the Department publishes new material. There is currently no budget for the conservation of the collections.
- (9) No. The Department has no direct responsibility for the provision of cultural or leisure goods or services.
- (10) No such services are contracted out at this time.
- (11) (a) In 2000-2001, the Department produced two publications relating to its history. A series of 10 posters featuring photographic montages of historical items documenting the Commonwealth's role in health since 1901 were produced, with accompanying fact sheets. The Department commissioned an historian to prepare a book detailing the Commonwealth's role in health from 1901 to the present. (b) \$189,677.

**DEPARTMENT OF INDUSTRY, TOURISM AND RESOURCES**

- (1) (a) The Department of Industry, Tourism and Resources does not own any properties with heritage values and therefore has not conducted an audit. (b) There is no report to make available.
- (2) No, the Department does not own any properties.
- (3) (a) Nil; (b) The budget for the previous four years is nil.
- (4) None.
- (5) and (6) Not applicable.
- (7) The Department follows the National Archives of Australia guidelines for archiving documents.
- (8) (a) No. (b) No. (c) No.
- (9) The Department does not use the National Culture–Leisure Industry Statistical Framework in compiling data. The only section of the Department to which this framework may have been applicable is the Tourism section. However, most of the statistical data used there is sourced from the Bureau of Tourism Research (BTR) and the Australian Bureau of Statistics (ABS). The ABS's Tourism Statistics Framework is the more relevant framework on which to base these statistical series. It is considered that the BTR and ABS tourism statistical collections conform, in the main, to the concepts and standards of this Framework.
- (10) No such services contracted out at present.
- (11) (a) and (b) In 2000-01 the Department prepared no historical guidelines or publications on heritage. There are no monies budgeted for publications on heritage in the 2001-02 financial year.

**Kennedy Electorate: Programs and Grants****(Question No. 264)**

**Senator O'Brien** asked the Minister for the Arts and Sport, upon notice, on 18 April 2002:

- (1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Kennedy.
- (2) What was the level of funding provided through these programs and/or grants for the 2000-01 and 2001-02 financial years.
- (3) Where specific projects were funded: (a) what was the location of each project; (b) what was the nature of each project; and (c) what was the level of funding for each project.

The Question was also asked of the Minister for Communications, Information Technology and the Arts as Senate Question No. 252.

**Senator Kemp**—The answer to the honourable senator's question is as follows:

- (1) to (3) The Department of Communications, Information Technology and the Arts has provided the following funding and grants in relation to the arts to the electorate of Kennedy.

Further details, on these and other programs administered by the Department, are available on the Department's website; <http://www.dcita.gov.au/>

**ARTS***Grants for Tours to the Electorate of Kennedy*

RECIPIENT	PROJECT	START	AMOUNT	BENEFICIARY
Contemporary Music Touring Program.				
This program, administered by the Department of Communications, Information Technology and the Arts, provides funding for musicians to tour Australia.				
Gai Bryant Quartet	Gai Bryant Quartet	21/07/01	\$11,442	Mt Isa
Lenko!	Lenko	15/03/01	\$8,000	Innisfail, Mareeba
Playing Australia.				
This is the Commonwealth Government's national performing arts touring program. It is designed to assist the touring of performing arts across State and Territory boundaries where this is currently not commercially viable and there is a demonstrated public demand.				
Arts on Tour - NSW Ltd	The Adventures of Snugglepoot and Cuddlepoot	4/05/02	\$184,210	Mt Isa
Australian Chamber	Concerts -QLD	24/05/01	\$40,712	Ingham

RECIPIENT	PROJECT	START	AMOUNT	BENEFICIARY
Orchestra				
Australian Presenters Group	Art	12/03/01	\$880,401	Mt Isa
Circus Australia Ltd	Circus Oz	11/03/02	\$202,796	Mt Isa
Co*Opera Inc	Midsummer Night's Dream, Magic Flute, La Boheme, Cosi	16/03/01	\$224,854	Innisfail
Co*Opera Inc	The Marriage of Figaro (2)	5/04/02	\$82,150	Charters Towers, Ingham
HIT Productions	Girl Talk	10/10/00	\$50,000	Charters Towers, Mt Isa
HIT Productions	Love Child	13/08/01	\$48,699	Mt Isa
Melbourne International Comedy Festival	Melbourne Comedy Roadshow	26/04/01	\$110,000	Mount Isa
Melbourne International Comedy Festival	Melbourne Comedy Roadshow (A)	26/04/02	\$100,000	Mt Isa
Northern Regional Arts Centres Association Inc	Australian Possum Magic	9/10/00	\$58,901	Mt Isa

## ARTS

*Grants for Tours to the Electorate of Kennedy*

RECIPIENT	PROJECT	START	AMOUNT	BENEFICIARY
Playing Australia.				
Opera Australia	Rigoletto	5/08/01	\$136,779	Mt Isa
Terrapin Theatre Ltd	Puppet The Big Friendly Giant	25/03/02	\$124,732	Mt Isa
Visions of Australia.				
This is the Commonwealth Government's national touring exhibitions grant program which assists the touring of cultural exhibitions across State/Territory boundaries. Funding is provided principally to assist with exhibition touring costs, with some funding for project development.				
Australia Post	Kangaroo & Map 1901 - 1913: Beyond Federation	15/01/01	\$79,800	Longreach
Australian War Memorial	Me- Forging the nation	1/12/00	\$50,003	Charters Towers, Longreach
Cooloola Shire Gallery	Public Cowgrrls.com.au	5/03/01	\$13,900	Charters Towers, Cloncurry, Longreach, Mt Isa
National Library of Australia	of Bunyips	24/01/01	\$68,630	Longreach
Powerhouse Museum	Women with Wings: Images of Australian women pilots	3/07/01	\$17,355	Charters Towers
Australian Sugar Industry Museum	In- Refined White	19/01/01	\$46,700	Multiple electorates:- Kennedy, Brisbane, Dawson, Herbert, Hinkler, Maranoa, Page, Melbourne and Werriwa

## ARTS

*Grants to organisations in the Electorate of Kennedy*

RECIPIENT	PROJECT	START	AMOUNT	BENEFICIARY
Festivals Australia.				
This is a Commonwealth Government grant program designed to assist the presentation of arts and cultural activities at Australian regional and community festivals. The emphasis is on supporting a project which adds to the quality and diversity of the arts and cultural programming of a festival.				
Australian Festival Association	Italian Con Amore! Three Chinese Tenors	10/05/02	\$17,500	Kennedy

RECIPIENT	PROJECT	START	AMOUNT	BENEFICIARY
Inc				
Australian-Italian Festival Association Inc	La Visione del Verdi nella Campagna (The Vision of Verdi in the Country)	11/05/01	\$16,396	Kennedy
Mareeba Multicultural Festival Committee	Bridging the Gap	1/07/00	\$4,075	Kennedy
Mount Isa Skills Association Inc	Youth Bands	26/08/00	\$5,000	Kennedy
Mount Isa Skills Association Inc	Food, Wine and Arts Fest 2001	23/03/01	\$7,000	Kennedy
Tableland Folk Festival Association Inc	Expanding the Horizon	27/10/00	\$4,200	Kennedy
Tableland Folk Festival Association Inc	Motivating Muses	26/10/01	\$6,667	Kennedy
Tableland Folk Festival Association Inc	Funny Folk	25/10/02	\$9,225	Kennedy
The Drover's Camp Association Inc	Drover's Camp songwriting and instrument workshop	3/07/00	\$10,500	Kennedy

**ARTS**

*Major Federation Fund All projects were part of the Queensland Heritage Trails Network.*

RECIPIENT	PROJECT	DATE	AMOUNT	BENEFICIARY
Arts Queensland	Cardwell Heritage Centre	15/10/99	\$500,000	Local/ Regional Community
Arts Queensland	Cardwell Echo Creek/King Ranch Heritage Centre Presenting the Wet Tropics	15/10/99	\$198,800	Local/ Regional community
Arts Queensland	Tully Visitor Centre Presenting the Wet Tropics	15/10/99	\$90,000	Local/ Regional community
Arts Queensland	Atherton Hou Wang Temple	15/10/99	\$1.3 m	Local/Regional Community
Arts Queensland	Chillagoe FNQ Mining Precinct	15/10/99	\$2 m	Local/Regional community
Arts Queensland	Charters Towers - The World	15/10/99	\$2.5 m	Local/Regional community
Arts Queensland	Richmond Marine Fossil Museum	15/10/99	\$1m	Local/Regional community
Arts Queensland	Mt Isa Heritage Mining Centre	15/10/99	\$3 m	Local/Regional community
Arts Queensland	Atherton Hasties Swamp Presenting the Wet Tropics	15/10/99	\$172,412	Local/Regional community
Arts Queensland	Atherton Hallorans Hill Presenting the Wet Tropics	15/10/99		Local/Regional community
Arts Queensland	Palmerston Canopy Walk Presenting the Wet Tropics	15/10/99	\$1m	Local/Regional community
Arts Queensland	Wet Tropics Walking Tracks - Presenting the Wet Tropics	10/15/1999	\$988,196	Local/Regional community
Arts Queensland	Malanda Heritage Centre - Presenting the Wet Tropics	15-Oct-99	\$800,000	Local/Regional community
Arts Queensland	Ulyssess Walking Track - Presenting the Wet Tropics	15-Oct-99	\$107,500	Local/Regional community

**Aviation: BAe 146 Aircraft  
(Question No. 398)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 July 2002:

- (1) Since January 2000, how many reports have been lodged with the Civil Aviation Safety Authority (CASA) relating to air contamination in BAe 146 aircraft operated by National Jet Systems.
- (2) In each case: (a) When was the report lodged; (b) Who lodged the report; and (c) What action was taken by CASA in response to each report.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority has provided the following advice.

- (1) Airworthiness Directive AD/BAe146/86 mandated reporting of cabin air contamination to CASA. As at 27 September 2002, 51 reports of cabin air contamination have been received since the issue of Airworthiness Directive (AD) BAe146/86 on 3 April 2001.

Prior to the issue of the AD by CASA, there was no specific requirement for National Jet Systems (NJS) to report to CASA on incidents of air contamination. It is not possible to accurately identify such incidents among the major defect reports submitted under general reporting requirements for the period January 2000 to 2 April 2001.

In addition to the reporting requirements referenced in AD/BAe 146/86, CASA has received four formal reports from the Australian Transport Safety Bureau (ATSB) concerning cabin fume contamination incidents in BAe 146 aircraft operated by NJS.

- (2) (a) In the event of cabin air contamination, AD/BAe146/86 mandates a set of corrective actions (based on British Aerospace Service Bulletin 21-150) to be taken before the next flight. Each of the 51 reports referred to in (1) above was submitted to CASA following completion of the maintenance actions required by the AD.

With respect to the formal reports lodged by the ATSB: (The Occurrence Dates below relate to information provided in respect to QoN 399 in Hansard on 19 August 2002.)

- Occurrence Brief 200002431 (Occurrence Date 30 April 2000) was entered into the CASA correspondence management system on 10 November 2000;
- Draft Air Safety Occurrence Report 200102467 (Occurrence Date 31 May 2001) was entered into the CASA correspondence management system on 16 May 2002, and Air Safety Occurrence Brief 200102467 was entered into the CASA correspondence management system on 27 June 2002;
- Draft Aviation Occurrence Brief 200103696 (Occurrence Date 7 August 2001) was entered into the CASA correspondence management system on 16 May 2002, and Aviation Occurrence Brief 200103696 was entered into the CASA correspondence management system on 27 June 2002;
- Draft Air Safety Occurrence Report 200102292 (Occurrence Date 24 May 2001) was entered into the CASA correspondence management system on 5 August 2002, and Air Safety Occurrence Report 200102292 was entered in the CASA correspondence management system on 11 September 2002.

- (b) The reports required by AD/BAe 146/86 were lodged by technical staff of NJS; and the formal reports were lodged with the Authority by the ATSB.

- (c) CASA reviewed each report following lodgment and found the actions taken by NJS in response to each event of air contamination to be appropriate to the problem and consistent with the relevant requirements of AD/BAe146/86.

The reports received from the ATSB were reviewed by the Authority and as the reports numbered 200103696 and 200102467 referenced actions undertaken by the operator in accordance with AD/BAe 146/86, CASA deemed that appropriate action had been taken.

In response to the report numbered 200102292, CASA requested the ATSB to include the fact that the operator had complied with the requirements of the AD when it became apparent that the aircraft may have been having a fume event. The action taken by the operator was considered adequate.

In response to the report numbered 200002431, as the report stated that the company's maintenance personnel did not initially find any evidence of contamination and that the subsequent replacement of the Auxiliary Power Unit appeared to have rectified the problem, no further action was taken by CASA.

**Agriculture: Drought Investment Allowance**  
**(Question No. 553)**

**Senator O'Brien** asked the Minister representing the Treasurer, upon notice, on 20 August 2002:

- (1) What was the total cost of the drought investment allowance.
- (2) What was the total cost, by State and Territory, of the drought investment allowance in the following financial years: (a) 1995-96; (b) 1996-97; (c) 1997-98; (d) 1998-99; (e) 1999-2000; and (f) 2000-01.
- (3) How many primary producers or lessors of property to primary producers have gained a benefit under the drought investment allowance.
- (4) How many primary producers or lessors of property to primary producers, by State and Territory, gained a benefit in the following financial years: (a) 1995-96; (b) 1996-97; (c) 1997-98; (d) 1998-99; (e) 1999-2000; and (f) 2000-01.
- (5) What are the details of any programs that provide taxation benefits for the purchase of drought mitigation property by primary producers after 1 July 2000.

**Senator Minchin**—The Treasurer has provided the following answer to the honourable senator's question:

- (1) The cost of the drought investment allowance is detailed in the Tax Expenditure Statement.
- (2) Total costs for each year are detailed in the Tax Expenditure Statement.
- (3) Based on taxation data, 13,360 primary producers gained a benefit under the drought investment allowance in the period 1996-97 to 2000-01.
  - There is no data available on the number of primary producers who benefited from this scheme in 1995-96.
  - There is no data available on the number of 'lessors of property to primary producers' who gained a benefit from this scheme.
- (4) 1996/97 3,493  
1997/98 3,247  
1998/99 3,093  
1999/00 2,216  
2000/01 1,311  
No data is available on the number of primary producers who benefited from this scheme in 1995-96.  
This data does not include 'lessors of property to primary producers' who gained a benefit from this scheme.
- (5) This question was answered by the Minister representing the Minister for Agriculture, Fisheries and Forestry in response to Question on Notice No. 552 from Senator O'Brien on 15 August 2002.

**Customs: Bay Class Vessels**  
**(Question No. 564)**

**Senator Chris Evans** asked the Minister for Justice and Customs, upon notice, on 19 August 2002:

- (1) In relation to the activity of the fleet of Bay Class Vessels (BCVs), for each of the 2000-01 and 2001-02 financial years: (a) how many seagoing days were achieved; (b) how many days maintenance were required to keep the fleet operational; and (c) what was the target for seagoing days for the fleet.
- (2) Can information be provided of the costs associated with the following aspects of the BCVs: (a) initial value (ie. purchase price paid for each BCV); (b) average annual maintenance costs since introduction (include any automatic payments made to contractor for ongoing maintenance, as well as additional costs for any irregular or extra repairs that have been needed); (c) daily running

- costs (on a seagoing day); and (d) daily crew costs (ie. a breakdown of salary, on-costs, training etc.)
- (3) Please describe what sea state the BCV fleet: (a) usually operates in; and (b) is capable of operating in, and what this description means in practical terms.
  - (4) Can the Minister confirm that the BCVs are not capable of operating in all parts of the Australian Exclusive Economic Zone (EEZ), and describe in general terms where these parts are (eg. Torres Strait, Heard and Macdonald Islands, the Australian Antarctic Territory etc.).
  - (5) Other than the BCVs, does Customs loan any assets to Coastwatch, or have assets that are tasked by Coastwatch (eg. outboards or smaller vessels).
  - (6) In relation to Coastwatch, can the following information be provided for each of the 1999-2000, 2000-01 and 2001-02 financial years: (a) the number of vessels intercepted; and (b) the number of vessels apprehended (including an indication of the illegal activity suspected).
  - (7) In each of the 1999-2000, 2000-01 and 2001-02 financial years how many times was a suspected illegal vessel sighted by aerial surveillance in circumstances in which there were not the resources available to intercept the vessel.
  - (8) (a) How many flying hours in total did Coastwatch undertake (ie. task) in each of the 2000-01 and 2001-02 financial years; and (b) of these, in each financial year, how many were provided by Defence.
  - (9) Do any of the civil aircraft used by Coastwatch have: (a) radar equipment; and (b) any specialist patrolling or surveillance capability; if the answer to (b) is yes, describe briefly what this capability is, if the answer to either (a) or (b) is yes, how does the capability differ from that of P3-C Orions.
  - (10) Can a list be provided of: (a) the contractors, if any, that provided seagoing vessels to Coastwatch in each of the 2000-01 and 2001-02 financial years; (b) how many hours each was contracted to supply; and (c) how much Customs paid under the contract.
  - (11) In relation to Coastwatch's relationship with relevant state and territory agencies, what formal arrangements are in place to ensure the timely communication of information.
  - (12) What is Surveillance Australia's annual average for staff turnover for each of the financial years since 1995-96, to the end of the 2001-02 financial year.
  - (13) When was the last revised performance measurement system for contractors used by Coastwatch implemented.

**Senator Ellison**—The answer to the honourable senator's question is as follows:

- (1) and (2) In the 1997-98 Budget Customs received funding of \$58.4 million over a ten-year period, to acquire a new marine capability that resulted in the Bay Class fleet of eight vessels. In relation to the activity of the Bay Class vessels, for the 2000-01 and 2001-02 financial years:

	2000-01	2001-02
(a) Sea days	1038	1356
(c) Target Sea days	1,125	1200
(b) Maintenance days	250	276
(b) Annual survey	40	40
(2) Total Marine Unit Expenditure* including	\$21,718,460	\$28,553,072
- Maintenance	\$ 1,548,285	\$ 2,543,731

\* Customs does not account for costs on the basis of the requested breakdown.

- (3) The Bay Class fleet usually operates in sea states up to and including sea state five. In sea state five the significant wave height is 2.4 to 3.6 metres (1 in 20 waves reach twice the stated amplitude). The vessels are designed to survive sea state 7 (significant wave height of 7.0 to 12.2 metres).
- (4) The Bay Class fleet is capable of patrolling out to, and sometimes beyond, the 200 nautical mile Exclusive Economic Zone around Australia's 37,000 kilometre coastline. This includes Ashmore Islands, Lord Howe Island and Torres Strait. The Antarctic and Sub-Antarctic territories are excluded.
- (5) No Customs assets are loaned to Coastwatch. The Bay Class vessels are managed by the Customs National Marine Unit and are deployed in response to a diverse range of Federal, State and Local

Government agency taskings. Strategic tasking of the fleet by Federal client agencies is co-ordinated through existing Coastwatch planning processes.

- (6) Coastwatch coordinates civil maritime interceptions and apprehensions of vessels, apart from within the Operation RELEX Area of Operation, where Coastwatch and the Customs National Marine Unit operate in support of the Australian Defence Force for Suspect Illegal Entry Vessel (SIEV) related activities. The Australian Defence Force/Customs approach to maritime surveillance and response activities is a collegiate one and thus the interception of a vessel is not always directly attributable to one agency. The following information therefore is a summary of total vessel interceptions and apprehensions by Customs and the ADF.

	1999-2000	2000-2001	2001-2002
Vessels intercepted <sup>1</sup>	77	144	187
Vessels apprehended (Total)	149	120	123
- People Smuggling	76	53	23 <sup>2</sup>
Prohibited Imports (drugs)	1	1	2
- Illegal Fishing	72	66	98

<sup>1</sup>The figures for vessels intercepted are the totals of vessels apprehended in respect of legislative breaches, and those for which cautions have been issued or other administrative actions have taken place. It does not include routine boarding of vessels.

<sup>2</sup> The 2001-02 figure for people smuggling includes Suspect Illegal Entrant Vessels intercepted under Operation RELEX arrangements and turned around or otherwise taken under ADF or Customs control.

- (7) Coastwatch records sightings of vessels suspected of illegal activity and passes the information to the relevant client agency. That agency then determines whether a surface response is required and, if so, requests that Coastwatch coordinates that response. Coastwatch will then contact the asset provider, either the Australian Defence Force or the Customs National Marine Unit to determine whether an asset can be allocated to undertake the response. Figures on asset availability are therefore available only in respect of those vessels for which a surface response was requested.

Response requests by clients and availability of response resources	Jan-June 2000*	2000-2001	2001-2002
Total response requests	64	172	181
Response requested and no resources available from either Defence or Customs	11	25	37

\* Figures not available for the period July to December 1999

Customs and Australian Defence Force assets were unavailable to respond to requests for the following reasons:

- Higher priority tasking
- The nearest potential response vessel too far away to intercept the target vessel within a reasonable time
- Insufficient fuel to undertake the task safely
- Crew unavailable to work a vessel that was laid up unmanned in reasonable proximity to the target vessel

- (8)

Coastwatch Flying Hours	2000-2001	2001-2002
Total hours	18 305	20 808
Defence hours	250	101

- (9) (a) A number of civil aircraft used by Coastwatch employ radar equipment. The five Dash 8 and three Reims F406 aircraft employ the SV-1022 surveillance radar. This Radar is superior to the older P3-C Orion APS-115 radar, but less capable than the new M-2022 radar as fitted to the new AP3-C.

- (b) All surveillance aircraft employed by Coastwatch have been optimised to suit their individual mission tasks.

- The five Dash 8 aircraft are fitted with radar, Forward Looking Infra Red (FLIR) and Daylight TV (DTV) turret. The Bell 412 helicopter has a FLIR/DTV capability as well as an Infra Red spotlight and NiteSun spotlight. This gives the DASH 8 and the Bell 412 the ability to identify contacts during both day and night sorties. The FLIR/DTV are both superior to the older P3-C Infra Red Detection Set (IRDS), and similar in capability to the newer FLIR/DTV employed on some modified P3-C Orions.
- The Reims F406 and the Bell 412 employ Night Vision Goggles (NVG's). NVG's give these aircraft the ability to identify contacts at night, although the ranges will be less than those achieved using FLIR. The P3-C Orions are not equipped with NVGs
- All civil surveillance aircraft are fitted with a specialist communication suite of:
  - 2 x High Frequency (HF) radio's
  - 2 x Very High Frequency (VHF) radio's
  - 2 x Ultra High Frequency (UHF) radio's
  - 1 x Satellite phone

While the P3-C Orions have similar radios the civil surveillance aircraft suite has been optimised to ensure communications with Coastwatch and selected client agencies.

(10)

Seagoing Vessel Contractors Contractor	Date	Hours Supplied	Cost
Western Australia Fisheries	March 2000	24	\$3,100
Barefoot Marine	October 2001	72	\$13,420

(11) Coastwatch coordinates civil maritime surveillance and response activities on behalf of a range of Commonwealth agencies, each of whom has a Memorandum of Understanding with Coastwatch. At a national level, communication with state and territory agencies is conducted through the relevant Commonwealth client agency.

At a Regional level, in Western Australia (Broome and Fremantle), Queensland (Brisbane, Cairns and Thursday Island) and the Northern Territory (Darwin), formal communication arrangements are achieved through regular meetings, either monthly or two-monthly, of ROPAC (Regional Operational Planning and Advisory Committee), which discuss Coastwatch client related planning and operational issues. State and Territory agencies that participate in ROPAC meetings include the Queensland, NT and WA Police Forces; Queensland Boating and Fisheries; Queensland Parks and Wildlife Service; WA Fisheries, NT Conservation Commission, WA Conservation and Land Management; NT Department of Primary Industries and Fisheries; Queensland Department of Primary Industries, Queensland Premier and Cabinet; and Queensland Transport.

Guidelines on timely communications with relevant State and Territory agencies in the specific circumstance of an illegal landing of a Suspect Illegal Entrant Vessel on Australian Territory are also formalised in a multi-agency MOU and associated guidelines.

(12) Customs does not hold this information, nor can it require Surveillance Australia to provide the information under the terms of its contract.

(13) July 2000.

### **Treasury: Superannuation**

#### **(Question No. 605)**

**Senator Sherry** asked the Minister representing the Treasurer, upon notice, on 30 August 2002:

For each department within the Minister's portfolio, how is superannuation calculated (ie. is the superannuation entitlement calculated on base salary and other income payments, such as overtime allowance or performance bonuses, or on base salary alone).

**Senator Minchin**—The Treasurer has provided the following answer to the honourable senator's question:

Employee superannuation is calculated on base salary and regular salary allowances including First Aid Allowance, Higher Duties Allowance and Departmental Liaison Officer Allowance. It does not include overtime or performance bonuses.

**Australian War Memorial: London**  
**(Question No. 675)**

**Senator Mark Bishop** asked the Minister representing the Minister for Veterans' Affairs, upon notice, on 23 September 2002:

- (1) Did the Office of Australian War Graves, in its evidence to the Foreign Affairs, Defence and Trade Legislation Committee on 22 February 2002, claim that the tight time frame for the completion of the war memorial in London was the reason for not openly tendering for the selection of a fountain designer.
- (2) Is the failure of that selected designer the reason for the delay in the construction of the project by 12 months.
- (3) Will tenders be called for a replacement designer; if so: (a) what are the tender specifications; (b) have tenders been called; (c) when do tenders close; and (d) when will the likely replacement be selected.
- (4) With reference to the Minister's press release of 20 August 2002, which states that tenders will be called for design and construction: Is this intended to be one contract.
- (5) In addition to the now cancelled contract with Mr Woodward: (a) what other contracts for design were entered into; (b) with whom; and (c) at what cost.
- (6) Have other contracts been terminated; if so: (a) under what conditions; and (b) at what cost to the budget.
- (7) Is there any legal action in train or pending; if so: (a) from which parties; and (b) on what grounds.
- (8) What provision will be made in the design to recognise other joint war efforts between Australian and British servicemen, including the Boer War and south-east Asia.
- (9) Will any recognition be made of the hundreds of thousands of Australian horses sent, never to return.

**Senator Hill**—The Minister for Veterans' Affairs has provided the following answers to the honourable senator's questions:

- (1) As stated in the evidence given to the Committee on 22 February 2002, the tight time frame for the completion of the war memorial resulted from the commitment to be part of the Stage One development of Hyde Park Corner in order to acquire the site and the projected completion date of April 2003. While a by-invitation limited-entry design competition could have been an appropriate selection method for a project of this nature, it was concluded for reasons of timing and established international reputation that Mr Woodward was the Australian fountain designer best qualified to undertake the design of the water wall.
- (2) The delay in the opening of the memorial, as a result of the decision to re-tender for a new design, will be six months rather than twelve. This decision did not result from any failure of the previous design since London authorities approved the design for construction. Rather, it was concluded that the previous design could not be satisfactorily completed because of contractual difficulties arising as a result of the evolutionary nature of the design and the complexity of the project.
- (3) No. Rather, expressions of interest were sought from twelve selected architectural firms and all twelve firms responded positively. The Selection Panel then chose four firms to compete in an eight-week design competition that will conclude 24 October 2002. When endorsed by the Australian Government, the winning design will be submitted to London authorities for approval expected late February 2003.
- (4) No.
- (5) (a) One other agreement for work associated with the design of the memorial existed with Artarch, Melbourne.  
(b) Members of Artarch were Les Kossatz, sculptor, Robert Sinclair and Robert Watson, architects.  
(c) Payments made to Artarch total \$227,500. Their final costs can not be determined until after the receipt and settlement of outstanding claims.
- (6) No.

- (7) No legal action has been commenced in the courts in relation to the decision not to proceed with the previous design. The Commonwealth is currently considering claims for outstanding professional fees and disbursements from both Mr Woodward and Artarch for the work undertaken on the previous design.
- (8) None. However, the purpose of the memorial is to commemorate the service and sacrifice of those Australians who fought alongside Britons in two World Wars and in that respect, does include South-East Asia.
- (9) No.

### **Trade: Genetically Modified Exports**

#### **(Question No. 689)**

**Senator O'Brien** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 September 2002:

- (1) Does the Australian Quarantine and Inspection Service (AQIS) currently issue certificates to Australian Exporters in relation to the genetically modified (GM) content of their exports; if so, with which international trade standards does the current practice comply.
- (2) How many such certificates has AQIS issued in the past 5 financial years.
- (3) Can details be provided of the procedural framework currently used by AQIS to certify to overseas markets that produce is free of contamination from GM material.
- (4) Is AQIS currently developing a code of practice that will be able to meet international standards in relation to GM content in exports and provide a level of security that can be certified by AQIS for export purposes.
- (5) With which agencies is AQIS negotiating in developing this code of practice.
- (6) When will the code of practice be released for industry and/or public comment.
- (7) What period of time will be available for the industry and/or public to comment on the code of practice.
- (8) When is the code of practice scheduled for completion and final approval.
- (9) With which international trading standards or regulations will the code of practice comply.

**Senator Ian Macdonald**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

- (1) In accordance with the provisions of the Export Control Act 1982, the Australian Quarantine and Inspection Service (AQIS) certifies exports of agricultural products and commodities from Australia against the requirements of importing country governments in accordance with the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organization (the SPS Agreement). When the government of an importing country has a requirement for the certification of the genetically modified (GM) status of a product or commodity and that requirement is consistent with the SPS Agreement, AQIS attaches to its export certification a statement from the Office of Gene Technology Regulator that there has been no commercial release of a GM form of that product or commodity in Australia.
- (2) AQIS has attached the statement from the Office of the Gene Technology Regulator to 264 certificates for agricultural products and commodities.
- (3) AQIS relies on the advice of the Office of the Gene Technology Regulator on the genetically modified status of agricultural products and commodities in Australia. When the government of an importing country has a requirement for the certification of the genetically modified (GM) status of a product or commodity and that requirement is consistent with the SPS Agreement, AQIS attaches to its export certification a statement from the Office of Gene Technology Regulator that there has been no commercial release of a GM form of that product or commodity in Australia.
- (4) AQIS is not responsible for the development of codes of practice to enable exporters to meet international standards in relation to GM content in exports of agricultural products and commodities. AQIS certifies exports of agricultural products and commodities in accordance with the requirements of the Export Control Act 1982 on the basis of verifiable data that the export meets the requirements of the importing country government.
- (5) Refer to answer to question 4.

- (6) Refer to answer to question 4.
- (7) Refer to answer to question 4.
- (8) Refer to answer to question 4.
- (9) Refer to answer to question 4.

**Health: Pharmaceutical Benefits Scheme  
(Question No. 702)**

**Senator Lees** asked the Minister for Health and Ageing, upon notice, on 26 September 2002:

- (1) What was the percentage increase in Commonwealth spending on the Pharmaceutical Benefits Scheme (PBS) for each month from January to July 2002.
- (2) What was the total percentage increase for the period January to July 2002.
- (3) What new drugs have been listed on the PBS in the 12 months from September 2001.
- (4) What is the estimated cost to the PBS of the new drugs listed in the 12 months from September 2001.
- (5) What is the estimated cost of each of these newly-listed drugs.
- (6) What drugs approved by the Therapeutic Goods Administration (TGA) in the past 12 months have not been listed on the PBS.
- (7) Given that the diabetes drug *Avandia* has been approved by the TGA but has not been listed on the PBS, what impediments are preventing the listing of this particular drug.
- (8) Why have the rheumatoid arthritis drugs *Enbrel* and *Remicade* which have been approved by the TGA, not been listed.
- (9) For each of the past five years (1997 to 2001 inclusive) can the following details be provided:
  - (a) the average number of drugs listed on the PBS each year; and
  - (b) the average number of submissions made to the Pharmaceutical Benefits Advisory Committee.
- (10) What is the estimated annual cost to the PBS of the drugs approved by the TGA but still awaiting listing.

**Senator Patterson**—The answer to the honourable senator's question is as follows:

- (1)&(2) Monthly changes in Commonwealth spending on the PBS from January 2001 to June 2002 are as set out in the following table. The table represents cash figures for Concessional and General PBS prescriptions and does not include payments made under the Section 100 arrangements:

	2001	2002	Change	
	\$	\$	\$	%
Jan	375,413,640	426,065,760	50,652,120	13.49
Feb	250,642,182	286,177,816	35,535,634	14.18
Mar	335,073,495	310,484,450	-24,589,046	-7.34
Apr	308,275,114	335,104,906	26,829,793	8.70
May	339,266,314	371,762,986	32,496,672	9.58
Jun	307,719,907	334,996,902	27,276,996	8.86
Jan-Jun	1,916,390,652	2,064,592,821	148,202,169	7.73

- (3)-(5) The estimated annual expenditure on new PBS listings and extensions to existing listings during the period from September 2001 to October 2002 is set out below. The figures represent first full year costs (for example for a drug listed from 1 February 2002, the estimated cost is for the financial year 2002-03). The estimates are net costs, that is the cost of listing each drug less, where relevant, the reduction in expenditure on other PBS drugs for which it is substituting. The estimates exclude a number of listings where expenditure on the drug concerned is expected to be fully offset by reductions in expenditure on other PBS drugs.

Name of Drug	Estimated Annual Cost (\$million)
Abacavir Sulfate with Lamivudine and Zidovudine	0.082
Imatinib Mesylate (brand name Glivec)	28.949
Dorzolamide Hydrochloride with Timolol Maleate	1.425
Lopinavir with Ritonavir	3.78
Soy Protein and Fat Formula with Vitamins and Minerals Carbohydrate Free	0.100
Zoledronic Acid	0.272
Bisoprolol Fumarate	5.990
Peginterferon alfa-2b	0.209
Tenofovir Disoproxil Fumarate	8.100
Kindergen	0.150
Oxaliplatin	1.800
Valganciclovir HCl	0.170
Carvedilol	1.700
Letrozole	2.700
Risedronate	1.800
Cyclosporin	1.600
Pegylated Doxorubicin	0.885
Lenograstim/Filgrastim	0.815
<b>TOTAL</b>	<b>\$60.527</b>

- (6) The following new drug approvals and extensions to existing approvals provided by the Therapeutic Goods Administration (TGA) in the twelve months to the end of September 2002 are not listed on the PBS:

Agalsidase alfa	Pegfilgrastim
Agalsidase beta	Rasburicase
Artemether	Riluzole
Bimatoprost	Sibutramine hydrochloride monohydrate
Drotrecogin alfa (activated)	Sulesomab
Eflornithine hydrochloride	Tegaserod maleate
Ertapenem sodium	Tiotropium bromide monohydrate
Fondaparinux sodium	Unoprostone isopropyl
Inactivated influenza vaccine (surface antigen)	Yaldecocixib
Modafinil	Yoriconazole
Olapatadine hydrochloride	Zaleplon
Olizumab	Ziprasidone hydrochloride
Parecoxib sodium	

- (7) Rosiglitazone (brand name Avandia) has been recommended for listing on the PBS by the Pharmaceutical Benefits Advisory Committee (PBAC). There have been delays in finding an acceptable pricing outcome for this product with the company concerned. Because the estimated cost to the PBS of listing Avandia exceeds \$10 million per annum, Cabinet consideration is also necessary.
- (8) Before a drug can be included on the PBS it must be assessed by the PBAC. The Committee is required to take into account a drug's medical effectiveness, cost-effectiveness and safety compared with other treatments.

The Committee has not to date been provided with adequate evidence to support the listing of new rheumatoid arthritis treatments like etanercept (brand name Enbrel) and infliximab (brand name Remicade). The Government is unable to subsidise a medicine under the PBS without a positive recommendation from the PBAC.

The Committee is continuing to work with clinicians and the companies concerned to try to develop a suitable basis for listing of these products.

- (9) (a) The number of new drug listings and extensions to existing listings on the PBS in recent years is as follows:

Year	Number
1997	38
1998	45
1999	37
2000	34
2001	34
2002	31

- (9) (b) On average, the PBAC receives around 90 submissions each year for new drug listings and extensions to existing listings.

(10) It is not possible to provide this figure. PBS listing has not yet been sought for some of the drugs and the listing arrangements for some others have not yet been resolved.

### **Trade: Live Sheep Exports**

#### **(Question No. 725)**

**Senator O'Brien** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 4 October 2002:

With reference to the statement, 'Moratorium on Live Sheep Exports from Portland', issued by the Minister on 1 October 2002:

- (1) What was the name of the livestock vessel that left Portland during 28-29 September 2002 carrying sheep.
- (2) How many sheep were carried by the vessel.
- (3) On what date, and at what time, did the vessel depart Portland.
- (4) Who owns and/or operates this vessel.
- (5) Has the vessel and/or its owner and/or its operator been involved in any prior incidents of reportable livestock export deaths; if so, what are the details of these deaths, including the date, type and number of animals involved, and the results of any investigations into these deaths.
- (6) (a) On what day, and at what time, did the inspection of the shipment by the Commonwealth Chief Veterinary Officer and the veterinary team occur; (b) where did the inspection take place; (c) what did the Chief Veterinary Officer and the veterinary team inspect; (d) what was the duration of the inspection; and (e) what was the cost of the inspection.
- (7) (a) Which department, agency or company incurred costs in relation to the inspection; and (b) if the costs were shared in any way, can a breakdown of the shared costs be provided.
- (8) (a) Who determined that an inspection by the Chief Veterinary Officer was necessary or desirable; (b) was the Minister consulted on the decision to engage the Chief Veterinary Officer in this task; and (c) when was the decision to engage the Chief Veterinary Officer made.
- (9) Was the Chief Veterinary Officer present in Portland prior to this decision being made; if not, when was the Chief Veterinary Officer called to Portland, and from where was he called.
- (10) Did a local Australian Quarantine Inspection Service (AQIS) officer or agent inspect the shipment prior to the inspection led by the Chief Veterinary Officer; if so, when did this inspection occur.
- (11) Did a local AQIS officer or agent make a recommendation about the vessel's departure; if so: (a) what are the details of this recommendation; and (b) which department or agency received this advice.
- (12) Did the Chief Veterinary Officer approve the vessel's departure.
- (13) Who comprised the team of 'expert veterinary officers' that accompanied the Chief Veterinary Officer?
- (14) Did all members of this team approve the vessel's departure.
- (15) What 'additional conditions' applied to its departure.
- (16) What existing conditions did these additional conditions supplement.
- (17) Will any special conditions apply during its journey; if so, what are these conditions and how will they be monitored.

- (18) Will the vessel dock at any ports during this journey; if so, what are the expected docking locations and dates.
- (19) Will any sheep be loaded onto or unloaded from the vessel prior to its final destination; if so, can details be provided of the number of sheep expected to be loaded and/or unloaded, the ports concerned, and the expected dates of these events.
- (20) (a) At what port will the vessel end its journey; (b) when is the vessel expected to reach its destination; and (c) what is the final destination of the sheep on board this vessel.

**Senator Ian Macdonald**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

- (1) Al Kuwait
- (2) 50,216
- (3) Sunday 29 September 2002 at 19:30.
- (4) The owner and operator are the same company - Livestock Transport and Trading Company (Kuwait).
- (5) The operator has been involved in shipments since July 2002. There were three incidents of reportable mortalities.

	18 July 2002	6 August 2002	1 September 2002
Vessel	Al Shuwaikh V20	Al Messilah	Al Shuwaikh V21
Port of loading	Portland, Fremantle	Portland, Fremantle	Portland
Destination	Kuwait, Bahrain, Jebel Ali, Oman	Kuwait, Bahrain, Oman	Kuwait, Bahrain, Dubai, Oman
No. exported	85,974 sheep	77,158 sheep	74,740 sheep
No. died	5,800	2,173	2,304
% died	6.8%	2.8%	3.08%
Principal identified cause of death	Feedlot-associated salmonellosis Shy feeding Hot weather in Gulf	Feedlot-associated salmonellosis Shy feeding	Feedlot-associated salmonellosis Shy feeding Bad weather in Australian Bight

- (6) (a) Thursday 26 September between 14:00-18:00 and Friday 27 September between 08:00 – 09:30. (b) Portland. (c) The Chief Veterinary Officer and his team inspected sheep, the feedlots and the vessel. (d) 5.5 hours. (e) The cost to the Commonwealth was \$3,408.44 for airfares, accommodation for 3 officers and car hire.
- (7) (a) The Department of Agriculture, Fisheries and Forestry – Australia (AFFA) incurred the costs to the Commonwealth. (b) Costs were not shared.
- (8) (a) As the responsible review officer, the Secretary of AFFA sought advice from the Chief Veterinary Officer on the suitability of the consignment for export. (b) The Minister was kept informed during the entire process. (c) 25 September 2002.
- (9) The Chief Veterinary Officer travelled to Portland from Canberra, departing at 06:30 on Thursday 26 September 2002.
- (10) An AQIS veterinary officer inspected the sheep on Wednesday 25 September 2002.
- (11) No.
- (12) The Secretary of AFFA determined that a Direction that an export permit not be granted to the exporter, should be revoked.
- (13) Dr David Adams, Prof Ivan Caple, Mr Hugh Millar, Mr Martin Holmes
- (14) Team members gave advice to the Chief Veterinary Officer, which he considered in making his recommendation to the Secretary of AFFA.
- (15) The additional conditions were rigorous selection of sheep for export, supervised by AQIS; the consignment to be stocked at approximately 15% less than normal; a veterinary epidemiologist to accompany the vessel from Portland to Fremantle; an AQIS-approved veterinarian to accompany the vessel from Fremantle to the Middle East.

- (16) These additional conditions supplement stocking density and veterinary supervision of the consignment.
- (17) No special conditions apply additional to those described in (15).
- (18) The vessel docked at Fremantle on Friday 4 October 2002.
- (19) 49,004 sheep were loaded onto the vessel at Fremantle on Friday 4 October. The vessel sailed from Fremantle on Saturday 5 October 2002.
- (20) (a) The vessel completed its journey at Jebel Ali (UAE). It discharged sheep first at Muscat, then Bahrain, then Kuwait, then Jebel Ali (UAE). (b) The vessel reached its final destination and finished discharging sheep on 26 October 2002. (c) The final destination of sheep is the ports listed above.

**Exercise Minotaur**  
**(Question No. 733)**

**Senator O'Brien** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 4 October 2002:

With reference to the Minister's answer to question on notice no. 594 (Senate *Hansard*, 26 September 2002, p. 4787), and specifically parts (1), (3), (5), (7) and (8):

- (1) (a) When will the final cost of the exercise to the department be known; and (b) which other Commonwealth departments have borne costs in relation to the exercise.
- (2) Can the full details of the indicative budget be provided.
- (3) Which countries expressed interest in attending Exercise Minotaur.
- (4) How was each country informed of the decision to permit or deny observation status.
- (5) (a) Can details of the draft schedule for the 2002/2003 post-exercise schedule be provided; and (b) when will the schedule be finalised.

**Senator Ian Macdonald**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

- (1) (a) The final cost to the Department of participation in Exercise Minotaur will be available by the end of November. The Department is awaiting some final invoices from suppliers. The total costs will include all directly attributable costs to simulation activities.
- (b) The following Commonwealth Departments and agencies, which participated in Exercise Minotaur, are likely to have incurred some expenses in relation to the development and operation of the exercise:

Attorney General's Department; represented by Emergency Management Australia  
 Department of the Prime Minister and Cabinet  
 Centrelink  
 Department of the Environment and Heritage  
 Department of Family and Community Services  
 Department of Finance and Administration  
 Department of Foreign Affairs and Trade  
 Department of Health and Ageing  
 Department of Industry, Tourism and Resources  
 Department of Transport and Regional Services  
 Department of the Treasury

- (2) The following are the components of the indicative budget:

Expenditure Item	2001-2002	2002-2003
Overseas Observer travel and related expenses	\$ 0	\$64,000
Information technology	\$20,000	\$3,000
Exercise development, control and communications	\$68,000	\$107,000
Specialist emergency management trainer/planner	\$28,000	\$47,000

Expenditure Item	2001-2002	2002-2003
National memorandum of understanding development	\$40,000	\$80,000
Simulation technical scenario drafting	\$26,000	\$20,000
<b>TOTAL</b>	<b>\$181,999.00000</b>	<b>\$320,999.0000</b>

(3) and (4)

The following countries expressed interest in attending Exercise Minotaur:

- (a) Many countries that attended the May 2002 General Session of the Office International des Epizooties (OIE) indicated interest in observing the exercise. Additionally, expressions of interest were received at the meeting of the OIE Regional Commission for Asia, Far East and Oceania. These countries were advised by the Australian representative at the meetings that this was not possible for practical and logistical reasons but that Australia would be prepared to provide a detailed briefing on the exercise and its outcomes. Such a de-brief process is currently being scheduled.
- (b) Japan, the Netherlands, Korea, Taiwan, Argentina and Uruguay requested, either through contact with overseas posts or in bilateral meetings, to observe the simulation. All were advised that rather than observe a desk top simulation, there would be more value in having a full debrief so that they could learn from our experiences and we could learn from them.
- (c) Specialists or experts in key areas were invited to participate in the exercise. They were:
- two participants from North America who are simulation planning experts and had worked with AFFA in the initial stages of Minotaur planning. They were also involved in the planning of the North American Tripartite exercise conducted in 1999;
  - a senior officer from the United Kingdom who brought broad policy and whole of government experience (as a result of the FMD outbreak in the UK);
  - a representative from OIE (world organization for animal health - the Deputy President of the OIE Regional Commission for Asia, the Far East and Oceania - representing the Director General of the OIE) who considered matters on a broad animal health perspective; and
  - a senior official representing New Zealand who participated to provide advice on whole of government arrangements as well as the common interests between Australia and New Zealand.
- (5) The following is the draft schedule for the briefing of other countries on the development and operation of Exercise Minotaur.

Countries	Possible Timing and Location
1 Europe (United Kingdom, the Netherlands and the European Community)	4 November 2002, Brussels, Belgium
2 South East Asian FMD countries plus observers	March 2003, Jog Yakarta, Indonesia
3 Quadrilateral group	March 2003, New Zealand
4 OIE Regional Meeting – Asia, Far East and Oceania	November 2003, New Caledonia
5 OIE General Session	May 2003, Paris, France
6 Japan and Korea	Early 2003
7 Argentina, Uruguay (possibly other South American countries)	2003 – yet to be identified although a visit to Australia most likely

**Dairy Regional Assistance Program: Australian Solar Timbers  
(Question No. 735)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 4 October 2002:

- (1) (a) What assessment was made by the Department of Transport and Regional Services of an application made through the Dairy Regional Assistance Programme to fund the construction of a short floor manufacturing project for Australian Solar Timbers; (b) when was that assessment completed; and (c) what were the findings of that assessment.

- (2) What assessments of the above application were made by the Department of Agriculture, Fisheries and Forestry or any other federal or state agency; and in each case: (a) who did the assessment; (b) when did the assessment commence; (c) when was the assessment completed; and (d) what were the results of the assessment.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) (a) The application was assessed against the Dairy RAP guidelines. (b) 24 April 2002. (c) The project was recommended for funding.
- (2) (a) None. (b) Not Applicable. (c) Not Applicable. (d) Not Applicable.

**Dairy Regional Assistance Program: Australian Solar Timbers  
(Question No. 736)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 4 October 2002:

Was an application, or any assessment, or any other material relating to an application through the Dairy Regional Assistance Programme to fund the construction of a short floor manufacturing project for Australian Solar Timbers provided to the Minister for Agriculture, Fisheries and Forestry or his office by the Department of Transport and Regional Services; if so: (a) when was that material sent to the Minister, or his office; and (b) what was the purpose of providing details of this application or its assessment to the Minister or his office.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

Yes. (a) 29/4/02. (b) To inform the Minister of project approval.

**Dairy Regional Assistance Program: Australian Solar Timbers  
(Question No. 737)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 4 October 2002:

- (1) Has work commenced on a proposal funded through the Dairy Regional Assistance Programme to construct a short floor manufacturing project for Australian Solar Timbers.
- (2) When did work commence on the construction of the plant.
- (3) If the construction of the plant has been completed, what was the date of completion.
- (4) If there was a variation in the estimated costs of the construction of the plant and the actual cost what was the level of the cost variation.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) Yes.
- (2) 31 July 2002.
- (3) The Department has not been advised by the proponent that the project has been completed.
- (4) The proponent has not advised the Department of any changes in estimated costs following the approval of Dairy RAP funds.

**Dairy Regional Assistance Program: Australian Solar Timbers  
(Question No. 738)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 4 October 2002:

- (1) How many direct and indirect jobs were estimated to result from the provision of \$715 000 through the Dairy Regional Assistance Programme to help fund a short floor manufacturing project for Australian Solar Timbers, and what was the anticipated duration of these jobs.
- (2) (a) What was the basis of the above job creation estimates; and (b) who made the estimates.

- (3) Was there any review or analysis of these estimates as part of the application assessment; if so: (a) who did that assessment; and (b) what was the result of that assessment.
- (4) (a) What assessment was undertaken of the capacity of the proposal to improve the skills base of the region; (b) who undertook that assessment; and (c) what was the result of that assessment.
- (5) (a) What assessment was undertaken of the capacity of the proposal to tackle the disadvantage and encourage growth in the region; (b) who undertook that assessment; and (c) what was the result of that assessment.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) 26 new direct jobs and 28 indirect jobs will be created. It is expected that these jobs will be sustainable.
- (2) (a) The estimation of job creation outcomes was outlined by the proponent in their application. (b) The proponent.
- (3) Yes. (a) The Department. (b) The project was approved.
- (4) (a) The project was assessed against the DRAP guidelines, which identifies, 'improving the skills base of a region', as a target area for Dairy RAP funding. (b) The Department. (c) The project was approved.
- (5) (a) The project was assessed against the DRAP guidelines, which identifies, 'tackling disadvantage and encouraging growth in a region', as a target area for Dairy RAP funding. (b) The Department. (c) The project was approved.

**Dairy Regional Assistance Program: Australian Solar Timbers  
(Question No. 739)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 4 October 2002:

- (1) When was an application made through the Dairy Regional Assistance Programme to fund a short floor manufacturing project for Australian Solar Timbers lodged with Australia's Holiday Coast Area Consultative Committee.
- (2) Who lodged the application.
- (3) What date was the application lodged.
- (4) Can a copy of the original application for assistance, and all related documentation, for this project from the programme be provided.
- (5) (a) What was the funding sought through the application; and (b) what was the level of funding approved.
- (6) When was funding for the project approved.
- (7) What was the total cost of the proposal and what commitment was given by the applicant to meet at least 50 per cent of these costs.
- (8) Did this proposal contain an evaluation process to ensure that agreed project outcomes were met; if so, can a copy of the evaluation details be provided; if not: (a) were details of any proposed evaluation mechanism sought; and (b) was this material provided; if not, why not.
- (9) If such an evaluation process was not included in the application, why was the application approved.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) 9 May 2001.
- (2) The proponent, Australian Solar Timbers Pty Ltd
- (3) See question (1) above.
- (4) The application and related documentation contains Commercial-In-Confidence information.
- (5) (a) The application sought \$1,000,000 (GST exclusive). (b) \$650,000 (GST exclusive).
- (6) 26 April 2002.

- (7) The total cost of the project is \$2,051,000 (GST exclusive). The Commonwealth will provide cash of \$650,000 (GST exclusive), the proponent has committed to provide \$780,000 (GST exclusive) cash, and \$621,000 in kind.
- (8) Yes. Provided below are the details of the evaluation process:
- Bimonthly and final reports – report materials provided by management with assistance from independent groups, eg, accountant/auditor/tax agent.
  - Independent review oversighted by Project Manager.
  - Independent evaluation on project completion against project plan, objectives and performance indicators provided by the proponent.
- (9) Not applicable. See Question (8) above.

**Holiday Coast Area Consultative Committee  
(Question No. 740)**

**Senator O'Brien** asked the Minister for Transport and Regional Services, upon notice, on 4 October 2002:

- (1) What is the membership of Australia's Holiday Coast Area Consultative Committee (ACC).
- (2) (a) When was each member appointed to the ACC; (b) what is the occupation of each member; and (c) what are the qualifications of each member.
- (3) Has any member of the ACC held any public office since January 2000, including appointments by local government, the New South Wales Government and the Commonwealth Government; if so, please advise: (a) the title and nature of office held; (b) the term of office; and (c) the method of election or appointment.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable member's question:

- (1) The membership of the Australia's Holiday Coast Area Consultative Committee (as at 10 October 2002) is as follows:

Mr Don Phillips (Chairperson)  
 Mr Peter Newman (Deputy Chairperson)  
 Mr Richard O'Leary (Secretary)  
 Mr Emlyn Van Brussel (Treasurer & Public Officer)  
 Mr Duncan Campbell  
 Mr Gordon Meggatt  
 Mr Edward Robinson  
 Ms Julie Jardine  
 Ms Sue Nash  
 Ms Bea Ballangarry  
 Mr Steven French

(Source: AHCACC website: [www.ahcacc.com.au](http://www.ahcacc.com.au)).

- (2) (a)-(c)

Mr Don Phillips - was first appointed as a committee member in November 1994. He acted as Chair from September 1998 to March 1999 and was appointed to the Chair's position on 9 March 1999. Mr Phillips is the Managing Director of Office Data Systems in Taree. He is also the Chairman of Manning/Great Lakes/Gloucester Business Enterprise Centre and a member of the ATO Small Business Advisory Group, the Rotary Club Taree and the Taree Chamber of Commerce.

Mr Peter Newman - was first appointed as a committee member in May 1999. Mr Newman works for Training Initiatives and Consultancy Services, North Coast Institute of TAFE in Port Macquarie.

Mr Richard O'Leary - was first appointed as a committee member in April 2000. Mr O'Leary is a partner of O'Leary Partners in Kempsey. He is also a member of Kempsey West Rotary Club.

Mr Emlyn Van Brussel - was first appointed as a committee member in November 1994. Mr Van Brussel works for the Hastings District Trades and Labour Council in Port Macquarie.

Mr Duncan Campbell - was first appointed as a committee member in September 1995. Mr Campbell is a Banana farmer in Bowraville. He is also a member of the Banana Growers Association and a Member of the Agribusiness Regional Group.

Mr Gordon Meggatt - was first appointed as a committee member in May 1999. Mr Meggatt is the Regional Manager for Mid North Coast of Australian Business in Port Macquarie.

Mr Edward Robinson - was first appointed as a committee member in April 2000. Mr Robinson is a Beef farmer in Gloucester and a Director of the Manning/Great Lakes/Gloucester Business Enterprise Centre.

Ms Julie Jardine - was first appointed as a committee member in March 2001. Ms Jardine is the Managing Director of Thermal Electric Element Pty Ltd. She is also the Chair of the Board of Coffs Harbour Future Development Corporation and a member of the Aged Care Steering Group.

Ms Sue Nash - was first appointed as a committee member in March 2001. Ms Nash is a Councillor at Nambucca Shire Council and a member of Women in Dairying.

Ms Bea Ballangary - was first appointed as a committee member in March 2001. Ms Ballangary is involved in community development and is a member of Gumbayngirr Nation.

Mr Steven French - was first appointed as a committee member in September 2001. Mr French works for Raleigh Truss and Timbers in Urunga and is a member of the Coffs Harbour Tech Park committee.

(Source: AHCACC, including their website: [www.ahcacc.com.au](http://www.ahcacc.com.au))

Note: Under the Associations' Incorporation Act 1984, Section 21A, the NSW Government must keep a register of committee members. The Public Officer of the associations is the keeper of this information and must make it available to the public. The Commonwealth does not have this material on record.

- (3) To the Department's knowledge (as of 10 October 2002), only one member of the current Australia's Holiday Coast Area Consultative Committee has held public office since January 2000. (a) Ms Sue Nash is currently a councillor with Nambucca Shire Council. (b) The terms of office for councillors are not recorded by the Department. (c) Ms Nash was elected in local government elections under the conditions prescribed in the NSW Local Government Act 1993.

#### **Dairy Regional Assistance Program: Australian Solar Timbers**

#### **(Question No. 741)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 4 October 2002:

- (1) Were the terms of an application made through the Dairy Regional Assistance Programme to fund the construction of a short floor manufacturing project for Australian Solar Timbers varied in any way after the initial application for funds was lodged; if so: (a) what was the basis for these variations; (b) when was each variation lodged; and (c) did the assessor of the application accept these variations.
- (2) Can a copy of the varied application for assistance for this project from the programme be provided.
- (3) (a) What level of funding was sought through the amended application; and (b) what was the level of funding approved.
- (4) What was the total cost of the amended proposal and what commitment was given by the applicant to meet at least 50 per cent of these costs.
- (5) Did this amended proposal contain an evaluation process to ensure that agreed project outcomes were met; if so, can a copy of the evaluation process be provided.
- (6) (a) If the amended application does not include an evaluation process, why not; and (b) was this material sought as part of the approval process; if not, why not.
- (7) If such an evaluation process was not included in the application, why was the application approved.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) Yes. The application was revised. (a) the application was varied to address issues raised during the assessment. (b) 2 January 2002 and 12 April 2002. (c) Yes.
- (2) The application contains Commercial-In-Confidence information.
- (3) (a) \$650,000 (GST exclusive). (b) \$650,000 (GST exclusive).
- (4) The total cost of the project is \$2,051,000 (GST exclusive). The Commonwealth will provide cash of \$650,000 (GST exclusive), the proponent has committed to provide \$780,000 (GST exclusive) cash, and \$621,000 in kind.
- (5) Yes. Refer QoN 739, question 8.
- (6) Not applicable.
- (7) Not applicable.

**Dairy Regional Assistance Program: Task Force**  
**(Question No. 752)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 8 October 2002:

- (1) When was the Commonwealth/state taskforce referred to in the Dairy Regional Assistance Programme (DRAP) guidelines, dated 13 July 2000, established.
- (2) (a) What is the membership of that taskforce; (b) who appointed the taskforce members; and (c) on how many occasions has the taskforce met since it was established.
- (3) (a) On how many occasions has the taskforce reported to the Minister for Transport and Regional Services; and (b) on how many occasions has the taskforce consulted with the Minister for Agriculture, Fisheries and Forestry, either directly or indirectly.
- (4) (a) When did the taskforce commence its review of eligible regions at the end of the first year of the programme, referred to in the DRAP guidelines; (b) when was the review completed; and (c) when were the findings of the review provided to the Minister for Transport and Regional Services and the Minister for Agriculture, Fisheries and Forestry.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) 3 March 2000.
- (2) (a) State and Commonwealth representatives. (b) Members were drawn from a working group established in December 1999 by Commonwealth and State agriculture Ministers. (c) Six times.
- (3) (a) Nil. (b) Once, as part of the Agriculture and Resource Ministers' Council of Australia and New Zealand.
- (4) (a) Not applicable, see question 4 (b). (b) The need for the review was obviated by the report *The Australian Dairy Industry – Impact of an Open Market in Fluid Milk Supply* released by the Australian Bureau of Agriculture and Resource Economics (ABARE) in January 2001. (c) Not applicable, see question 4 (b).

**Dairy Regional Assistance Program: Procedure**  
**(Question No. 753)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 8 October 2002:

- (1) Have all successful applications for assistance through the Dairy Regional Assistance Programme (DRAP) been initially assessed by state offices of the department in accordance with the administration procedures for the programme referred to in the programme guidelines; if not, why not.
- (2) If some successful applications were not initially assessed by state officers of the department, in accordance with the published programme guidelines: (a) which applications were assessed in this manner; (b) when was each application assessed; (c) how was each application assessed; and (d) why were these applications not assessed in accordance with the programme guidelines.

- (3) Were any successful applications referred directly to the department's national office; if so: (a) which applications were referred directly to the national office; (b) when were they referred to the national office; and (c) why were they referred directly to the national office.
- (4) Were all of the above successful applications then referred to the Department of Agriculture, Fisheries and Forestry; if not: (a) which applications were not referred; and (b) in each case, why were these applications not referred.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) Yes.
- (2) Not applicable. See question 1 above.
- (3) Not applicable. See question 1 above.
- (4) No.
  - (a) Every application.
  - (b) The DOTARS departmental delegate approves all projects then the Minister is advised of the outcomes.

**Dairy Regional Assistance Program: Area Consultative Councils**  
(Question No. 754)

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 8 October 2002:

- (1) How many Area Consultative Councils (ACC) have applied directly for funding through the Dairy Regional Assistance Programme (DRAP).
- (2) In each case: (a) when the application was lodged; (b) what was the proposal for which the funding was sought; and (c) when was the funding approved.
- (3) If any applications for funding by ACCs were rejected, in each case: (a) when was the application rejected; and (b) what was the basis for the rejection.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) 10.
- (2)—

Area Consultative Committee	Date application lodged	Project	Funding approved
Australia's Holiday Coast	11/1/2001	Provision of a Dairy RAP Facilitation Officer.	2/2/2001
Australia's Holiday Coast	10/1/2002	On-going employment of a Dairy RAP Facilitation Officer.	29/4/2002
Hunter	12/1/2001	Provision of a Dairy RAP Facilitation Officer.	8/2/2001
Hunter	15/1/2002	On-going employment of a Dairy RAP Facilitation Officer.	29/4/2002
Northern Rivers	15/1/2001	Provision of a Dairy RAP Facilitation Officer.	15/2/2001
Northern Rivers	21/1/2002	On-going employment of a Dairy RAP Facilitation Officer.	29/4/2002
Shoalhaven	19/1/2001	Provision of a Dairy RAP Facilitation Officer.	21/2/2001
Shoalhaven	13/2/2002	On-going employment of a Dairy RAP Facilitation Officer.	29/4/2002
South East NSW	22/12/2000	Provision of a Dairy RAP Facilitation Officer.	21/2/2001
South East NSW	Jan 2002	On-going employment of a Dairy RAP Facilitation Officer.	29/4/2002

Area Consultative Committee	Date application lodged	Project	Funding approved
Southern Inland Queensland	2/3/2001	Provision of a Dairy RAP Facilitation Officer.	29/3/2001
Central Murray	14/7/2000	Provision of a Dairy RAP Facilitation Officer.	17/10/2000
Central Murray	26/3/2001	On-going employment of a Dairy RAP Facilitation Officer.	17/9/2001
Gippsland	14/7/2000	Provision of a Dairy RAP Facilitation Officer.	17/10/2000
Gippsland	29/3/2001	On-going employment of a Dairy RAP Facilitation Officer.	17/9/2001
Gippsland	26/9/2002	On-going employment of a Dairy RAP Facilitation Officer.	24/10/2002
Greater Green Triangle	28/7/2000	Provision of a Dairy RAP Facilitation Officer.	17/10/2000
Greater Green Triangle	4/4/2001	On-going employment of a Dairy RAP Facilitation Officer.	17/9/2001
Greater Green Triangle	19/9/02	On-going employment of a Dairy RAP Facilitation Officer.	24/10/2002
South West	10/8/2000	Provision of a Dairy RAP Facilitation Officer	17/10/2000
South West	13/8/2001	On-going employment of a Dairy RAP Facilitation Officer.	17/9/2001

(3) Not applicable. All applications were approved.

### Dairy Regional Assistance Program: Coordinators

#### (Question No. 755)

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 8 October 2002:

- (1) In relation to the grant of some \$214 172 under the Dairy Regional Assistance Programme (DRAP), announced on 11 April 2001 in round three of the programme, to fund the employment of DRAP coordinators to be located in the Australia's Holiday Coast, Hunter, Northern Rivers, Shoalhaven and South East New South Wales regions: in each case, when were the coordinators appointed.
- (2) (a) What level of funding was provided to each of the above regions; and (b) for what period has the funding been provided.
- (3) In relation to the above positions, in each case: (a) what evaluation process and performance indicators were included in each application; (b) what were the project outcomes identified by the applicant; and (c) what is the duration of each appointment.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) The Australia's Holiday Coast facilitator was appointed 1/2/2001.  
The Hunter facilitator was appointed 1/2/2001.  
The Northern Rivers facilitator was appointed 1/2/2001.  
The Shoalhaven facilitator was appointed 1/3/2001.  
The South East New South Wales facilitator was appointed 1/3/2001.

(2)

Area Consultative Committee Facilitator	Funding	Contract Period
Australia's Holiday Coast	\$48,000	1/2/2001-31/1/2002
Hunter	\$38,000	1/2/2001-31/1/2002
Northern Rivers	\$38,000	1/2/2001-31/1/2002
Shoalhaven	\$33,198	1/3/2001-9/4/2002
South East New South Wales	\$39,974	1/3/2001-9/4/2002

- (3) (a) Each application contained an evaluation process whereby the relevant Area Consultative Committee would prepare a final evaluation report against the project plan and its impact in assisting dairy dependent communities.
- (b) The project outcomes for each of the facilitator projects were to support dairy-dependent communities to initiate, develop and seek funding for projects under the Dairy Regional Assistance Programme and other funding alternatives within their region.
- (c) The duration of each appointment is detailed as the 'Contract Period' in question two above.

**New South Wales: Steel Profiling Plant, Moruya**

**(Question No. 756)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 8 October 2002:

With reference to the answer to questions on notice nos 503 and 504 (Senate *Hansard*, 25 September 2002, pp 4683-4):

- (1) Can a copy of the details of the evaluation process included in the application for funding by Moruya Decking and Cladding Pty Limited for a steel profiling plant at Moruya, New South Wales, be provided.
- (2) Has an independent evaluation of the project, against the project plan and the objectives and performance indicators contained within, now been conducted; if so: (a) who undertook the evaluation; (b) when did it commence; (c) when was it completed; and (d) who has assessed the findings of the evaluation.
- (3) Did the proponent of this project provide monthly progress reports in accordance with section 1.17 of the Dairy Regional Assistance Programme (DRAP) guidelines for project proposals; if so, how many progress reports were lodged and when were they lodged; if not, why not.
- (4) On how many occasions did officers from the state office of the department visit the above project in accordance with section 1.18 of the DRAP guidelines for project proposals.
- (5) (a) Has the proponent submitted a completed evaluation form, including audited financial statements; if not, why not; and (b) what action has been taken to ensure the proponent complies with the DRAP.
- (6) What evidence has the proponent of this project provided to the department that the project has been completed in the specified manner.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) Yes. Provided below are the details of the evaluation process:
- Bimonthly and final reports – report materials provided by management with assistance from independent groups, eg, accountant/auditor/tax agent.
  - Independent review oversighted by Project Manager.
  - Independent evaluation on project completion against project plan, objectives and performance indicators provided by the proponent.
- (2) No.
- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.
- (d) Not applicable.
- (3) The proponent provided a bimonthly report, as per Dairy RAP Information Guide to the Application for Funding, which stipulate the requirements for bimonthly reporting for projects of 5 to 9 months duration. Two progress reports were lodged, 30 April 2002 and 3 July 2002.
- (4) Once.
- (5) (a) No. The proponent is still to finalise reports.
- (b) Refer to questions three and four above.

- (6) No evidence has been provided as the proponent has not completed the project.

**New South Wales: Steel Profiling Plant, Moruya**

**(Question No. 757)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 8 October 2002:

With reference to the answer to question on notice number 512 (Senate *Hansard*, 25 September 2002, p. 4688):

- (1) What was the methodology applied by the proponent of the project funded through the Dairy Regional Assistance Programme (DRAP) in calculating the creation of 14 to 16 direct, full time equivalent jobs.
- (2) Why was there no estimate of indirect jobs to be created by this project as required by section 1.10 of the document, Commonwealth Dairy Regional Assistance Programme (Dairy RAP) Information Guide to the Application for Funding.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) The methodology to calculate employment outcomes from this project was contained in the proponent's application.
- (2) The Commonwealth Dairy Regional Assistance Programme (Dairy RAP) Information Guide to the Application for Funding requires an estimate of "direct/indirect impact on employment" and does not specifically stipulate both must be provided.

**Defence: Capital Equipment Projects**

**(Question No. 767)**

**Senator Chris Evans** asked the Minister for Defence, upon notice, on 9 October 2002:

- (1) How many capital equipment projects are currently being funded.
- (2) In terms of their approved total budget, how many fall within each of the following bands: (a) \$0 to 10 million; (b) \$11 to 20 million; (c) \$21 to 50 million; (d) \$51 to 100 million; (e) \$101 to 200 million; (f) \$201 to 500 million; (g) \$501 million to 1000 million; and (h) more than \$1000 million.

**Senator Hill**—The answer to the honourable senator's question is as follows:

- (1) There are currently 447 funded approved capital equipment projects that have a requirement for funding in Financial Year 2002/03 and beyond.
- (2)

	Major Capital Equipment Projects	Minor Capital Equipment Projects
(a)	41	217
(b)	27	28
(c)	41	0
(d)	38	0
(e)	19	0
(f)	19	0
(g)	5	0
(h)	12	0
Total	202	245

**Environment: Fibre-Optic Cable**

**(Question No. 772)**

**Senator Brown** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 10 October 2002:

- (1) Is the Minister aware of the environmental damage caused by the laying of fibre-optic cable across Mr Metherall's property in Springhurst, Victoria.

- (2) What damage mitigation principles were adhered to in the process of laying the cable on Mr Metherall's property.
- (3) After being forewarned of the potential damage that would be caused to Mr Metherall's water spring, why did the work continue without consideration of suitable alternative routes.
- (4) What access does Mr Metherall have to federal government funding to repair the water spring damage with an estimated cost of \$70 000.

**Senator Alston**—The answer to the honourable senator's question is as follows:

- (1) I am aware of Mr Metherall's particular concerns. However, I am informed that Mr Metherall has commenced court proceedings in relation to his concerns and therefore it is inappropriate for me to make any specific comments on matters that may affect the outcome of the court proceedings.
- (2) It is inappropriate for me to comment on Mr Metherall's particular case. However, I can advise that telecommunications carriers seeking to install cables pursuant to Commonwealth legislation are required to comply with rules of conduct that are set out in Schedule 3 to the Telecommunications Act 1997 (the Act) and to the Telecommunications Code of Practice 1997 (the Code).

The Act and the Code places requirements on telecommunications carriers to conduct their activities in a way that responds to the rights of individual landholders, concerns of the broader community about environmental issues and the possible effects on heritage areas. In particular, the Code requires that carriers provide (subject to limited exceptions) at least 10 days prior notification to land owners and occupiers of their intention to inspect land and to install facilities, take all reasonable steps to cause as little damage as practicable and take all reasonable steps to restore land on completion of the work. The notice must state that compensation may be payable if a person suffers financial loss or damage because of anything done by the carrier and it must also explain the arrangements under the Code for making objections to the carrier's activity.

Affected landowners and occupiers can make a written objection to a carrier regarding a proposed activity. If, after consultation, agreement cannot be reached, objectors can request that carriers refer unresolved objections to the Telecommunications Industry Ombudsman (TIO).

Compliance with the Act and the Code are standard carrier licence conditions (Part 1 of Schedule 1 to the Act). If a carrier has not met the requirements of the Act or the Code, a complainant may raise the issue with the Australian Communications Authority (ACA).

- (3) It is inappropriate for me to comment on this issue whilst it is subject to legal action.
- (4) It is inappropriate for me to comment on this issue whilst it is subject to legal action. However, clause 42 of Schedule 3 to the Act provides that if a person suffers financial loss or damage caused by a carrier whilst carrying out the inspection of land, the installation or maintenance of telecommunications facilities within the Commonwealth's jurisdiction, the carrier is required to pay reasonable compensation as agreed between the parties, or failing agreement, as determined by a court of competent jurisdiction.

### **Telecommunications: Internet Services (Question No. 773)**

**Senator Brown** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 14 October 2002:

- (1) Is the Minister aware that, at Sandford, Tasmania, 30 minutes out of the central business district of Hobart, Telstra has informed residents that they will not be given access to high-speed Internet services for an indefinite period of time.
- (2) Is the Minister aware that this is hindering the efforts of residents to establish home-based small business operations.
- (3) What does the Minister intend to do to remedy this situation.

**Senator Alston**—The answer to the honourable senator's question is as follows:

- (1) Telstra has advised that one particular type of high speed service, ADSL, is not currently available in the Sandford area and it is not planning to provide ADSL in this area in the near future. Telstra has also advised that all Sandford customers have access to high speed services via ISDN and/or satellite technology and that generally customers who make inquiries regarding the availability of

a particular technology would be informed about its availability and the availability of alternative technologies.

- (2) The Government is aware of the value of access to high speed data services for people wanting to operate home-based small business operations. High speed data services are generally available through a range of technologies including cable, ADSL, ISDN and satellite.

Technical limitations and commercial considerations mean that not all high speed data service technologies are appropriate for all regions of Australia. However, one and two way satellite services are available nationally.

- (3) The Government has established an open competitive regulatory framework which actively facilitates entry into the broadband market by providers through both infrastructure deployment or through reselling arrangements.

The Government recognised that broadband will not become available everywhere immediately due to the technical limitations and commercial considerations. It has therefore introduced the Digital Data Service Obligation (DDSO) to act as a safety net. The DDSO guarantees a data speed of 64Kbps to all Australians via an ISDN. For the 4 per cent of Australians who cannot receive ISDN services, an equivalent satellite service is provided with a subsidy for part of the cost of installation under the Special Digital Data Service Obligation (SDDSO).

Looking to the future, the Government has established a Broadband Advisory Group to advise on broadband development initiatives. The Group will provide high level advice and coordinate stakeholder views on both supply-side and demand-side issues. It will work in close consultation with key stakeholders in industry, small business, major service providers and key sectors such as the health, education and the community sectors.

**Kalaba, Mr Lazar**  
**(Question No. 774)**

**Senator Brown** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 14 October 2002:

- (1) Is the Minister aware of the case of Mr Lazar Kalaba and his claim for compensation from the Hungarian Government following the loss of his family's property during the Second World War.
- (2) Is the Minister aware that, through the course of Australian Government involvement in Mr Kalaba's application for property compensation, on official Australian documents, the name of the concentration camp Mr Kalaba was interred in was changed from Sarvar to Sirvir and his year of incarceration was changed from 1942 to 1943, hence rendering his application to the Hungarian Government invalid.
- (3) What will the Minister do to amend this inaccuracy so that Mr Kalaba can continue to pursue his compensation claim.

**Senator Hill**—The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

- (1) I am aware of the case of Mr Lazar Kalaba and his claim for compensation from the Hungarian Government. My department has been exchanging letters with Mr Kalaba about his claim and what he needed to do to pursue it for 17 years.
- (2) My Department has checked Mr Kalaba's claims and there is no evidence to support his allegation that the Australian Government had erroneously recorded information which had rendered his application invalid. In January 1991 Mr Kalaba's lawyers sought assistance with his claims through the Centre for Human Rights in Geneva and at that time advised the Centre that Mr Kalaba had been incarcerated at a camp called "Sirvir" rather than "Sarvar". This was not based on any advice from my Department. While a document held by my Department makes reference to a period of incarceration from 1941 to 1943 the Government did not convey advice on the periods of incarceration to any authority with an interest in Mr Kalaba's claim.
- (3) My Department has provided Mr Kalaba with considerable information over the years with regard to his claim including contact details for relevant authorities who might be able to assist him.

We have recently learnt that the International Organisation for Migration, those appointed to administer the German Compensation Programme for World War II, advised Mr Kalaba in October

2001 that it had received Mr Kalaba's claim for property compensation and they will process his claim in due course.

**Regional Solutions Program: Projects**  
**(Question No. 784)**

**Senator Cherry** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 16 October 2002:

- (1) (a) How many projects have applied for approval under the Regional Solutions Program;
  - (b) how many have been approved; and
  - (c) how many have been rejected.
- (2) For each federal electorate:
  - (a) what was the total number of projects applied for and the total value of grants applied for;
  - (b) what was the total number of projects approved and the value of those grants; and
  - (c) what was the total number of projects rejected and the value of those grants.
- (3) What projects has the Minister approved which were not recommended for approval by the advisory committee.
- (4) What projects has the Minister rejected which had been recommended for approval by the advisory committee.
- (5) What projects were approved by the Minister without reference to the advisory committee.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) (a) As at Friday, 18 October 2002, a total of 1652 projects have applied for approval under the Regional Solutions Programme.
  - (b) Of these, 550 have been approved.
  - (c) A further 707 have been rejected.
- (2) (a) For each federal electorate, the total number of projects and total value of the grants applied for are as follows:

Electorate	Number of Applications	Value of Bids
Adelaide	0	\$0
Aston	1	\$108,636
Ballarat	18	\$5,325,881
Banks	0	\$0
Barker	36	\$4,991,360
Barton	0	\$0
Bass	16	\$2,294,755
Batman	0	\$0
Bendigo	25	\$4,158,815
Benelong	0	\$0
Berowra	0	\$0
Blair	15	\$1,546,568
Blaxland	1	\$36,364
Bonython	5	\$915,445
Boothby	0	\$0
Bowman	2	\$156,596
Braddon	12	\$2,577,147
Bradfield	0	\$0
Brand	5	\$328,946
Brisbane	3	\$563,068
Bruce	0	\$0
Burke	5	\$1,176,440
Calare	18	\$2,745,073
Calwell	0	\$0
Canberra	1	\$41,350

Electorate	Number of Applications	Value of Bids
Canning	9	\$5,631,465
Capricornia	37	\$5,988,266
Casey	1	\$154,545
Charlton	3	\$253,545
Chifley	1	\$231,818
Chisholm	0	\$0
Cook	0	\$0
Corangamite	8	\$660,166
Corio	3	\$676,817
Cowan	0	\$0
Cowper	42	\$9,288,554
Cunningham	3	\$839,330
Curtin	0	\$0
Dawson	46	\$7,273,805
Deakin	0	\$0
Denison	2	\$422,237
Dickson	1	\$200,000
Dobell	2	\$21,419
Dunkley	2	\$705,000
Eden-Monaro	50	\$9,779,412
Fadden	4	\$1,387,205
Fairfax	31	\$5,037,755
Farrer	35	\$4,805,556
Fisher	10	\$1,730,565
Flinders	1	\$117,272
Forde	8	\$1,809,022
Forrest	40	\$6,501,954
Fowler	0	\$0
Franklin	4	\$398,287
Fraser	2	\$2,189,223
Fremantle	0	\$0
Gellibrand	0	\$0
Gilmore	18	\$2,799,074
Gippsland	38	\$7,798,818
Goldstein	0	\$0
Grayndler	0	\$0
Greenway	0	\$0
Grey	59	\$9,814,208
Griffith	0	\$0
Groom	10	\$1,570,059
Gwydir	65	\$10,657,051
Hasluck	0	\$0
Herbert	13	\$2,761,356
Higgins	0	\$0
Hindmarsh	1	\$14,775
Hinkler	17	\$2,935,901
Holt	0	\$0
Hotham	0	\$0
Hughes	0	\$0
Hume	16	\$2,051,824
Hunter	10	\$1,462,086
Indi	26	\$4,688,988
Isaacs	1	\$104,400
Jagajaga	0	\$0
Kalgoorlie	75	\$10,025,145
Kennedy	36	\$6,240,224
Kingsford-Smith	0	\$0

Electorate	Number of Applications	Value of Bids
Kingston	0	\$0
Kooyong	0	\$0
La Trobe	0	\$0
Lalor	0	\$0
Leichhardt	18	\$2,377,479
Lilley	0	\$0
Lindsay	1	\$77,580
Lingiari	47	\$6,632,098
Longman	4	\$775,214
Lowe	2	\$7,000
Lyne	38	\$6,405,414
Lyons	31	\$3,762,986
Macarthur	0	\$0
Mackellar	0	\$0
Macquarie	3	\$663,878
Makin	0	\$0
Mallee	38	\$3,705,904
Maranoa	62	\$11,792,512
Maribyrnong	0	\$0
Mayo	3	\$309,618
McEwen	14	\$2,355,055
McMillan	16	\$2,350,506
McPherson	2	\$537,654
Melbourne	5	\$837,720
Melbourne Ports	0	\$0
Menzies	0	\$0
Mitchell	0	\$0
Moncrieff	2	\$136,200
Moore	1	\$70,268
Moreton	0	\$0
Murray	32	\$4,159,288
New England	52	\$8,288,046
Newcastle	13	\$2,160,865
North Sydney	0	\$0
O'Connor	82	\$10,978,018
Oxley	5	\$861,318
Page	36	\$4,045,942
Parkes	46	\$7,500,199
Parramatta	0	\$0
Paterson	11	\$1,687,549
Pearce	26	\$3,396,363
Perth	0	\$0
Petrie	1	\$144,090
Port Adelaide	0	\$0
Prospect	0	\$0
Rankin	18	\$4,583,530
Reid	0	\$0
Richmond	20	\$3,471,544
Riverina	24	\$4,487,168
Robertson	6	\$1,001,559
Ryan	0	\$0
Scullin	0	\$0
Shortland	0	\$0
Solomon	7	\$1,046,684
Stirling	0	\$0
Sturt	0	\$0
Swan	0	\$0

Electorate	Number of Applications	Value of Bids
Sydney	1	\$134,545
Tangney	0	\$0
Throsby	5	\$2,435,949
Wakefield	18	\$2,339,861
Wannon	30	\$5,193,374
Warringah	1	\$50,000
Watson	0	\$0
Wentworth	0	\$0
Werriwa	0	\$0
Wide Bay	38	\$5,875,160
Wills	0	\$0
Totals	1652	\$272,631,714

- (2) (b) For each federal electorate, the total number of approved projects and total value of the grants approved (exclusive of GST) are as follows:

Electorate	Approved Projects	Value of Grants
Adelaide	0	\$0
Aston	0	\$0
Ballarat	8	\$1,471,442
Banks	0	\$0
Barker	12	\$827,934
Barton	0	\$0
Bass	3	\$556,000
Batman	0	\$0
Bendigo	8	\$750,353
Bennelong	0	\$0
Berowra	0	\$0
Blair	3	\$323,712
Blaxland	0	\$0
Bonython	1	\$150,000
Boothby	0	\$0
Bowman	0	\$0
Braddon	4	\$260,316
Bradfield	0	\$0
Brand	2	\$102,773
Brisbane	1	\$250,000
Bruce	0	\$0
Burke	0	\$0
Calare	5	\$367,211
Calwell	0	\$0
Canberra	0	\$0
Canning	2	\$182,953
Capricornia	14	\$1,593,983
Casey	0	\$0
Charlton	1	\$100,000
Chifley	0	\$0
Chisholm	0	\$0
Cook	0	\$0
Corangamite	3	\$97,727
Corio	0	\$0
Cowan	0	\$0
Cowper	10	\$924,799
Cunningham	0	\$0
Curtin	0	\$0
Dawson	13	\$1,086,648
Deakin	0	\$0
Denison	0	\$0

Electorate	Approved Projects	Value of Grants
Dickson	0	\$0
Dobell	0	\$0
Dunkley	1	\$205,000
Eden-Monaro	12	\$1,120,188
Fadden	0	\$0
Fairfax	13	\$1,363,871
Farrer	12	\$609,031
Fisher	0	\$0
Flinders	0	\$0
Forde	3	\$580,655
Forrest	18	\$1,885,587
Fowler	0	\$0
Franklin	2	\$24,250
Fraser	1	\$2,000,000
Fremantle	0	\$0
Gellibrand	0	\$0
Gilmore	9	\$612,183
Gippsland	14	\$1,420,388
Goldstein	0	\$0
Grayndler	0	\$0
Greenway	0	\$0
Grey	20	\$1,083,601
Griffith	0	\$0
Groom	2	\$533,181
Gwydir	29	\$3,138,462
Hasluck	0	\$0
Herbert	3	\$242,241
Higgins	0	\$0
Hindmarsh	0	\$0
Hinkler	6	\$704,826
Holt	0	\$0
Hotham	0	\$0
Hughes	0	\$0
Hume	4	\$315,021
Hunter	4	\$189,174
Indi	9	\$1,226,151
Isaacs	0	\$0
Jagajaga	0	\$0
Kalgoorlie	24	\$1,413,472
Kennedy	13	\$1,084,480
Kingsford-Smith	0	\$0
Kingston	0	\$0
Kooyong	0	\$0
La Trobe	0	\$0
Lalor	0	\$0
Leichhardt	7	\$474,909
Lilley	0	\$0
Lindsay	0	\$0
Lingiari	21	\$2,505,373
Longman	0	\$0
Lowe	0	\$0
Lyne	11	\$578,726
Lyons	10	\$291,491
Macarthur	0	\$0
Mackellar	0	\$0
Macquarie	2	\$463,983
Makin	0	\$0

Electorate	Approved Projects	Value of Grants
Mallee	16	\$1,035,540
Maranoa	24	\$2,844,581
Maribyrnong	0	\$0
Mayo	2	\$130,545
McEwen	8	\$426,274
McMillan	6	\$478,927
McPherson	0	\$0
Melbourne	0	\$0
Melbourne Ports	0	\$0
Menzies	0	\$0
Mitchell	0	\$0
Moncrieff	0	\$0
Moore	0	\$0
Moreton	0	\$0
Murray	9	\$495,335
New England	19	\$1,684,877
Newcastle	3	\$167,790
North Sydney	0	\$0
O'Connor	29	\$2,639,550
Oxley	1	\$4,545
Page	11	\$466,509
Parkes	19	\$1,785,514
Parramatta	0	\$0
Paterson	4	\$218,500
Pearce	11	\$399,077
Perth	0	\$0
Petrie	0	\$0
Port Adelaide	0	\$0
Prospect	0	\$0
Rankin	0	\$0
Reid	0	\$0
Richmond	6	\$537,244
Riverina	9	\$1,212,742
Robertson	1	\$25,000
Ryan	0	\$0
Scullin	0	\$0
Shortland	0	\$0
Solomon	3	\$142,829
Stirling	0	\$0
Sturt	0	\$0
Swan	0	\$0
Sydney	1	\$50,000
Tangney	0	\$0
Throsby	0	\$0
Wakefield	6	\$374,586
Wannon	9	\$1,210,281
Warringah	0	\$0
Watson	0	\$0
Wentworth	0	\$0
Werriwa	0	\$0
Wide Bay	13	\$1,051,698
Wills	0	\$0
Totals	550	\$50,494,039

- (2) (c) For each federal electorate, the total number of projects rejected and total value of the grants applied for are as follows:

Electorate	Rejected projects	Value of bids
Adelaide	0	\$0
Aston	1	\$108,636
Ballarat	7	\$3,030,334
Banks	0	\$0
Barker	15	\$2,409,121
Barton	0	\$0
Bass	9	\$1,620,873
Batman	0	\$0
Bendigo	11	\$1,903,028
Benelong	0	\$0
Berowra	0	\$0
Blair	9	\$1,100,639
Blaxland	1	\$36,364
Bonython	3	\$260,900
Boothby	0	\$0
Bowman	1	\$94,090
Braddon	7	\$2,045,013
Bradfield	0	\$0
Brand	1	\$24,000
Brisbane	2	\$108,523
Bruce	0	\$0
Burke	3	\$998,940
Calare	10	\$1,664,677
Calwell	0	\$0
Canberra	0	\$0
Canning	5	\$1,934,500
Capricornia	13	\$2,005,538
Casey	1	\$154,545
Charlton	1	\$4,545
Chifley	1	\$231,818
Chisholm	0	\$0
Cook	0	\$0
Corangamite	4	\$200,166
Corio	2	\$222,272
Cowan	0	\$0
Cowper	26	\$5,813,427
Cunningham	1	\$136,364
Curtin	0	\$0
Dawson	23	\$3,440,398
Deakin	0	\$0
Denison	2	\$422,237
Dickson	1	\$200,000
Dobell	2	\$21,419
Dunkley	1	\$500,000
Eden-Monaro	25	\$5,141,708
Fadden	3	\$1,079,432
Fairfax	11	\$1,590,706
Farrer	13	\$2,202,885
Fisher	5	\$670,170
Flinders	1	\$117,272
Forde	3	\$813,634
Forrest	15	\$2,012,187
Fowler	0	\$0
Franklin	2	\$52,425
Fraser	1	\$189,223
Fremantle	0	\$0
Gellibrand	0	\$0

Electorate	Rejected projects	Value of bids
Gilmore	8	\$1,486,891
Gippsland	11	\$1,872,203
Goldstein	0	\$0
Grayndler	0	\$0
Greenway	0	\$0
Grey	24	\$4,031,611
Griffith	0	\$0
Groom	7	\$866,878
Gwydir	23	\$4,086,495
Hasluck	0	\$0
Herbert	5	\$633,888
Higgins	0	\$0
Hindmarsh	0	\$0
Hinkler	6	\$957,567
Holt	0	\$0
Hotham	0	\$0
Hughes	0	\$0
Hume	10	\$1,324,305
Hunter	5	\$1,152,381
Indi	15	\$2,211,195
Isaacs	1	\$104,400
Jagajaga	0	\$0
Kalgoorlie	26	\$4,513,485
Kennedy	15	\$3,606,775
Kingsford-Smith	0	\$0
Kingston	0	\$0
Kooyong	0	\$0
La Trobe	0	\$0
Lalor	0	\$0
Leichhardt	4	\$638,869
Lilley	0	\$0
Lindsay	1	\$77,580
Lingiari	15	\$1,953,860
Longman	2	\$599,277
Lowe	0	\$0
Lyne	13	\$1,718,164
Lyons	15	\$2,017,412
Macarthur	0	\$0
Mackellar	0	\$0
Macquarie	1	\$199,895
Makin	0	\$0
Mallee	12	\$1,351,562
Maranoa	21	\$5,259,066
Maribyrnong	0	\$0
Mayo	1	\$166,618
McEwen	2	\$920,545
McMillan	7	\$1,262,014
McPherson	1	\$500,000
Melbourne	2	\$184,545
Melbourne Ports	0	\$0
Menzies	0	\$0
Mitchell	0	\$0
Moncrieff	2	\$136,200
Moore	0	\$0
Moreton	0	\$0
Murray	14	\$1,854,373
New England	19	\$3,209,525

Electorate	Rejected projects	Value of bids
Newcastle	6	\$1,553,679
North Sydney	0	\$0
O'Connor	34	\$4,153,793
Oxley	2	\$339,273
Page	22	\$2,269,350
Parkes	18	\$3,048,000
Parramatta	0	\$0
Paterson	4	\$424,619
Pearce	7	\$1,422,005
Perth	0	\$0
Petrie	1	\$144,090
Port Adelaide	0	\$0
Prospect	0	\$0
Rankin	16	\$3,820,856
Reid	0	\$0
Richmond	12	\$2,586,147
Riverina	10	\$1,860,826
Robertson	3	\$732,920
Ryan	0	\$0
Scullin	0	\$0
Shortland	0	\$0
Solomon	3	\$522,491
Stirling	0	\$0
Sturt	0	\$0
Swan	0	\$0
Sydney	0	\$0
Tangney	0	\$0
Throsby	5	\$2,435,949
Wakefield	7	\$616,830
Wannon	12	\$1,997,186
Warringah	0	\$0
Watson	0	\$0
Wentworth	0	\$0
Werriwa	0	\$0
Wide Bay	15	\$2,592,566
Wills	0	\$0
Totals	707	\$123,980,169

- (3) As at Friday, 18 October 2002, there are eleven projects that Ministers approved, which were not recommended for approval by the Regional Solutions Programme Advisory Committee (RSPAC). Projects are as follows:

Account No	Group Funded	Project Title	Sum Granted (GST Inc)
111	The Hut Community Information and Resource Centre Inc	Aldgate Railway Station	\$137,000
457	Bowen Collinsville Enterprise Group Inc	Bowen Shire e-Commerce Centre	\$440,000
1182	Gippsland Timber Development Inc	Forests for the Future	\$330,000
161	National Rose Garden of Australia Inc	National Rose Garden of Australia	\$81,400
460	Southern Downs Steam Railway Assoc Inc	Steam Locomotive Refurbishment, Boiler Rebuild and Recommissioning	\$400,000
1101	Scone Shire Council	Scone Medical Centre	\$275,000
1689	Diamantina Shire Council	Resolving the School Transportation Crisis in Central Queensland	\$44,000
1690	Isisford Shire Council	Resolving the School Transportation Crisis in Central Queensland	\$44,000
1620	Barcoo Shire Council	Resolving the School Transportation	\$44,000

Account No	Group Funded	Project Title	Sum Granted (GST Inc)
897	Council of the City of Blue Mountains	Crisis in Central Queensland The Blue Mountains World Heritage Cultural Centre contribution towards building costs	\$500,000
1034	Pyrenees Shire Council	Avoca Exhibition and Convention Centre - Stage 3	\$440,000

Note: In preparing the response to Question (3), two additional projects have been identified which should have been included in the answer to Question on Notice RDG 10 asked at Budget Estimates 29 - 30 May 2002. It should be noted, however, that details of both projects, numbers 897 and 1034, were listed on the Department of Transport and Regional Services' website, [www.dotars.gov.au](http://www.dotars.gov.au) and [www.regionalsolutions.gov.au](http://www.regionalsolutions.gov.au) under Approved Projects for the Regional Solutions Programme.

- (4) As at Friday, 18 October 2002, the following eight projects were recommended by the RSPAC but not approved by Ministers.

Account No	Applicant Group	Project Title	Bid Amount
746	District Council of Barunga West (SA)	Community Development Officer	\$94,092
1138	Crookwell Shire Council	Coordination of the future of Crookwell Shire	\$46,136
917	Wagga Wagga City Council	Rebuilding Community Capacity	\$97,564
575	Northern Areas Council	Strategic Planning Officer for Commu- nity and Economic Development	\$100,000
1144	Rotary Club of Narrabri Inc	Narrabri Skateboard Park	\$40,760
1292	Moirra Shire Council	Moirra Regional Community Revitalisa- tion Programme Stage 2	\$66,450
1106	Cummins and District Enterprise Com- mittee	Community Liaison Coordinator Project	\$84,990
1359	Perenjori Shire Council	Shared Community Development Offi- cer Project	\$100,000

- (5) As at Friday, 18 October 2002 there are nine projects that have been approved by the Ministers without reference to the RSPAC.

Account No	Group Funded	Project Title	Sum Granted (GST Inc)
1084	St Phillips College	Fred Mackay Centre	\$275,000
1057	Ballarat City Council	Ballarat Retail Development Program	\$330,000
1066	North East Telecommunications Co-operative Ltd	Centre for On-Line Regional Excellence (CORE)	\$330,000
1251	Central Goldfields Shire Council	Central Goldfields Rural Plan Business Cluster Improvement Implementation	\$110,000
1597	Mackay Tourism and Development Bureau Ltd	Mackay's Artificial Reef Project	\$304,150
1678	Shoalhaven City Council	Catering Vehicle for Shoalhaven Rural Fire Service	\$18,000
1679	Shoalhaven City Council	Shoalhaven Rural Fire Service Paging System	\$100,000
1680	Council of the Municipality of Kiama	Microfiche Digitiser for the Kiama Fam- ily History Centre	\$20,000
1738	Frontier Services	John Flynn Foundation	\$25,000

Note: Projects where the value of the bid is less than \$10,000 (GST exclusive) and the recommended funding is under \$10,000 (GST exclusive) are not required to be referred to the RSPAC before being put forward for the Minister's consideration. Hence, details of such projects have not been included in the response to Question Five.

**Immigration: Detainees****(Question No. 826)**

**Senator Nettle** asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 24 October 2002:

- (1) How many detainees previously held in immigration detention centres are currently held in state prisons.
- (2) Who are these detainees.
- (3) Where are they being held.
- (4) How long will they be held in prison.
- (5) Why have they been transferred.
- (6) What is the legal basis for this imprisonment

**Senator Ellison**—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator's question:

- (1) As at 13 November 2002, there was one detainee, who previously was held in an immigration detention centre, in a state prison.
- (2) It would not be appropriate, for privacy reasons, to identify this detainee. However, my Department is prepared to provide this information in a private briefing.
- (3) The detainee was being held in the Adelaide Remand Centre, South Australia.
- (4) The detainee has been detained in the Adelaide Remand Centre since 11 September 2002. Travel documentation has been received and it is likely that this detainee will be removed from Australia shortly.
- (5) The detainee was not transferred from an immigration detention centre to a state correctional facility. The person was detained in a state facility following a visa cancellation in accordance with section 109 of the Migration Act 1958 (the Act). The detainee had been held on a previous separate occasion in an immigration detention facility.
- (6) The person was held in a correctional facility under section 189 of the Act. The definition of immigration detention in the Act includes being held by, or on behalf of, an officer in a prison or remand centre of the Commonwealth, a State or a Territory. Employees of correctional services departments and employees of corporations engaged by State or Territory correctional services employed at correctional service facilities in all States and Territories are authorised by Ministerial instrument to be "officers" for the purposes of the Act. These provisions allow for the lawful detention of unlawful non-citizens in state or territory correctional facilities.

**Austrade: Forest Industries****(Question No. 827)**

**Senator Brown** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 24 October 2002:

- (1) When did Austrade commence discussions with the association regarding its involvement in indirectly supporting the trade fair?
- (2) What was the opportunity cost to Austrade of the 184 hours of staff time spent on the Papua New Guinea forestry exhibition?
- (3) Does Austrade consider the association to be the peak body promoting eco-forestry in Papua New Guinea; if so, why?
- (4) Do the association's members include eco-forestry companies; if so, who.
- (5) Is Austrade aware that the largest member of the association is the Malaysian logging company, Rimbunan Haijau.
- (6) Does Austrade consider Rimbunan Haijau an eco-forestry company; if so, why; if not, why not?
- (7) Which Australian companies exhibited at the trade fair.
- (8) What 'eco-forestry' products and services were showcased at the trade fair?
- (9) What does Austrade define as constituting 'eco-forestry'?

- (10) Were there any speakers at the association conference from the Papua New Guinea eco-forestry forum; if not, why not?
- (11) What benefits resulted from Austrade's involvement in the trade fair?

**Senator Hill**—The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

With reference to the Papua New Guinea Forest Industries Association Forest Investment Seminar held in Port Moresby, March 2002:

- (1) Austrade commenced discussions with the PNG Forest Industries Association (PNGFIA) in June 2001.
- (2) If Austrade had not spent time on the 2002 PNG Forestry Trade Fair, the time would have been spent seeking to win business for Australia in potentially less prospective sectors.
- (3) No.
- (4) Although not specifically labelled as such, many of the 35 PNGFIA member companies are involved in eco-forestry activities.
- (5) Austrade is aware Rimbunan Haijau (RH) is a member of the PNGFIA.
- (6) In the context of the 2002 PNG Forestry Trade Fair, Austrade defines the term eco-forestry as small-scale environmentally sustainable forestry work.

The RH group of companies is not small scale as it is one of the largest rural investors in PNG. In relation to being environmentally sustainable – all PNG forest activities must abide by the relevant laws and allied regulations such as the Logging Code of Practice.

- (7) Savannah Australia; Shady Creek Nursery; Shepherd Systems; Austimber; Michael Weinig; Narapela Wei; Pacific Associates International; and FARMSET.
- (8)
  - Savannah Australia – promotion of plantation development initiatives through using Australian made silvicultural equipment.
  - Shady Creek Nursery – grower of seedlings suitable for reforestation work in PNG
  - Narapela Wei – promotion of portable sawmills and training provider services to PNG landowner groups.
  - Pacific Associates International – promotion of portable sawmills to PNG landowner groups.
  - FARMSET promotion of portable sawmills and training provider services to PNG forest resource owners.

- (9) In the context of the 2002 PNG Forestry Trade Fair, Austrade defines the term eco-forestry as small-scale environmentally sustainable forestry work.

- (10) No, there were no speakers from the PNG eco-forestry forum.

Austrade is advised by the PNGFIA that the Association extended an invitation to the eco-forestry forum to attend the 2002 PNG Forestry Investment Seminar and Trade Fair, however no official representative from the forum attended.

- (11) As a direct result from the inaugural 2002 Forestry Trade Fair Austrade assisted Shepherd Systems win business in the PNG market, arranged export orders for Shady Creek Nursery, identified potential buyers for Savannah Australia, and provided export opportunities and in-market customer contacts to five other exhibitors.

Other benefits included raising the awareness of Australian products and services relevant to the business needs of more than 60 visitors from PNG forestry-related companies and landowner groups.

**Civil Aviation Safety Authority: Western Australian Police Air Support Unit  
(Question No. 845)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

- (1) Has the Minister received any complaints regarding the operation of the Western Australian Police Air Support Unit; if so: (a) when was each complaint received; (b) what action did the Minister take following each complaint; and (c) when did the Minister take that action.
- (2) If the Minister referred the above complaints to the Civil Aviation Safety Authority (CASA): (a) when was each complaint referred to CASA; (b) how was each complaint referred to CASA; and (c) to whom in CASA was each complaint referred.
- (3) Did CASA undertake an investigation following the referral of each of the above complaints from the Minister; if so: (a) when did each investigation commence; (b) who undertook each investigation; (c) when was each investigation completed; and (d) who was provided with a copy of the report of the findings of the above investigations.
- (4) Did any of the above reports recommend any changes to the operation of the unit; if so, in each case: (a) what were the changes recommended; (b) when were those recommendations communicated to the unit; (c) did the unit implement all of the recommendations; and (d) when were these changes implemented by the unit.
- (5) If the unit did not implement all of the above recommendations, why not, and, in each case, what follow-up action was taken by CASA in response to this failure to implement the recommendations.
- (6) If the Minister, or his office, was provided with a copy of the report of the above investigations: (a) when was each report provided to the Minister or his office; and (b) what action was taken following the receipt of the above reports.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) to (6) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Pilot Qualifications  
(Question No. 846)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

With reference to Civil Aviation Safety Authority (CASA) instrument number 53.99/00, the Approval under Civil Aviation Order section 82.0, issued on 12 January 2000:

- (1) What qualifications were required by Pilot Special Constable Pek Ha [ARN 537160] to perform the functions delegated to him.
- (2) Specifically, what qualifications and experience are required to carry out pilot emergency training and testing under Civil Aviation Order 20.11 Appendix IV.
- (3) (a) What processes were followed by CASA officers to satisfy themselves that Constable Pek Ha was appropriately qualified; (b) who undertook those checks; (c) when were the checks undertaken; and (d) what were the results of those checks.
- (4) What were the other company standards for operations conducted under the company's Air Operators Certificate (AOC) referred to in the above instrument.
- (5) What qualifications and experience are required to satisfactorily perform these other company standards for operations conducted under that AOC.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) to (5) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Mr John Brown**  
**(Question No. 847)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

- (1) Prior to the Civil Aviation Safety Authority (CASA) suspending the medical certificate of Mr John Brown of Bibra Lake, Western Australia, what action did CASA take to establish Mr Brown's medical condition and its impact on his ability to meet the conditions of his licence.
- (2) (a) How many medical practitioners were consulted by CASA in relation to Mr Brown's condition; (b) what were the names of those medical practitioners; (c) what were their qualifications; and (d) in each case, where were they practising medicine.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) and (2) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Mr John Brown**  
**(Question No. 848)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

- (1) When did the Civil Aviation Safety Authority (CASA) suspend the medical certificate of Mr John Brown of Bibra Lake, Western Australia.
- (2) (a) What was the basis for the suspension; and (b) what procedures did CASA officers follow prior to the suspension of the medical certificate.
- (3) Was a notice to show cause issued to Mr Brown prior to the suspension of his medical certificate; if so: (a) when was that notice to show cause issued; and (b) what actions were then undertaken by CASA following the issue of that notice to show cause; if no notice to show cause was issued, what was the process followed by CASA that led to the suspension of Mr Brown's medical certificate.
- (4) Did Mr Brown advise CASA that he was on sick leave prior to the suspension of his medical certificate; if so: (a) on what date was that advice provided to CASA; (b) which CASA officer was provided with that information; (c) where was that officer located; and (d) what was his or her position within the authority.
- (5) (a) What action was taken by the CASA officer in receipt of the advice from Mr Brown; (b) when was the action taken; and (c) when was the decision to suspend Mr Brown's medical certificate taken.
- (6) If the matter was referred to other CASA officers before the decision to suspend Mr Brown's medical certificate was taken, which other officers were involved in the assessment of Mr Brown's circumstances and the decision to suspend his certificate.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) to (6) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Chief Pilot**  
**(Question No. 849)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

- (1) What medical and other checks are required before the Civil Aviation Safety Authority (CASA) can suspend a chief pilot's medical certificate.

- (2) Where a decision is made to take the above action and suspend a chief pilot, is that pilot first issued with a notice to show cause why he or she should not have his or her medical certificate suspended.
- (3) If the issuing of a notice to show cause is not the only process followed by CASA to suspend a chief pilot's medical certificate, what other courses of action are available.
- (4) In relation to actions other than issuing a notice to show cause available to CASA to suspend a chief pilot on the grounds of ill health, in each case: (a) what is the basis for the course of action; and (b) what rights of appeal are available to the chief pilot.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) to (4) While these questions are general in nature, they arise from the questions tabled by Senator O'Brien relating to CASA's actions with respect to the WA Police Air Wing as referenced in questions 845-856. The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Chief Pilot  
(Question No. 850)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

- (1) Is a chief pilot required to hold all appropriate licences, endorsements or ratings to cover operations authorised by an Air Operators Certificate (AOC) for which he or she is responsible; if not, in what circumstances is a chief pilot not required to hold such qualifications.
- (2) If a chief pilot does not hold all necessary qualifications to cover the terms of an AOC, how does the Civil Aviation Safety Authority satisfy itself that the organisation has the necessary qualifications and experience to ensure it is able to comply with the terms of its AOC.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) and (2) While these questions are general in nature, they arise from the questions tabled by Senator O'Brien relating to CASA's actions with respect to the WA Police Air Wing as referenced in questions 845-856. The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Western Australian Police Air Support Unit  
(Question No. 851)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

- (1) In relation to the Western Australian Police Air Support Unit, was the Civil Aviation Safety Authority (CASA) advised of the appointment of a new Officer in Charge in January 1999; if so, how did CASA satisfy itself that the officer appointed to the position had the appropriate qualifications and experience to ensure he could meet his responsibilities under the terms of the unit's Air Operators Certificate; if not, why not.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Western Australian Police Air Support Unit  
(Question No. 852)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

- (1) With reference to the Western Australian Police Air Support Unit operations manual and its Air Operators Certificate: (a) On how many occasions since January 1998 has the District Flying Operations Manager (DFOM) raised concerns with the Officer in Charge about the safe operation of the unit; and (b) in each case: (i) what was the nature of the concern, (ii) when was the concern raised, (iii) how was the concern raised, and (iv) what action followed the concern raised by the DFOM.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Western Australian Police Air Support Unit  
(Question No. 853)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

With reference to the Western Australian Police Air Support Unit operations manual and its Air Operators Certificate:

- (1) On how many occasions since January 1998 has the unit been the subject of an audit, scheduled or unscheduled, by the Civil Aviation Safety Authority (CASA).
- (2) On how many occasions during those audits were the qualifications of officers checked against those required by the Air Support Unit Operations manual to ensure the safe operation of the Air Support Unit.
- (3) In each of those audits, on how many occasions were the qualifications of officers not in compliance with the requirements of the operations manual.
- (4) In each case: (a) what action did CASA take; (b) when was that action taken; (c) who took that action; and (d) what was the result of that action.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) to (4) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Western Australian Police Air Support Unit  
(Question No. 854)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

In relation to the Western Australian Police Air Support Unit request to amend its Air Support Unit operations manual and for its Air Operators Certificate to be reissued by the Civil Aviation Safety Authority (CASA) in early 1998:

- (1) (a) What were the aviation qualifications required at each level of the structure provided for by the operations manual prior to its amendment; and (b) what were the aviation qualifications required at each level of the structure provided for by the operations manual under the proposed amendments.
- (2) (a) How many properly qualified pilots were included in the structure provided for in the operations manual; and (b) how many pilots were provided for in the amended version of the operations manual.

- (3) (a) How many chief pilots were provided for in the unamended operations manual; and (b) how many chief pilots were provided for in the amended version of the manual.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) to (3) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Western Australian Police Air Support Unit  
(Question No. 855)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

In relation to the Western Australian Police Air Support Unit's request to amend its Air Support Unit operations manual and for its Air Operators Certificate to be reissued by the Civil Aviation Safety Authority (CASA) in early 1998:

- (1) If there were concerns held by CASA officers about the proposed amended arrangements, what was the nature of those concerns.
- (2) Did the CASA officers who raised concerns about the amendments to the operations manual refer those concerns to their superiors within the authority; if so: (a) who were those concerns referred to; (b) when were those concerns referred; and (c) how were those concerns referred.
- (3) If those proposed amendments to the operations manual were eventually approved: (a) who finally approved the amendments; (b) how was that information communicated to the unit; and (c) what was the name of the police officer to whom the communication was addressed.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) to (3) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Civil Aviation Safety Authority: Western Australian Police Air Support Unit  
(Question No. 856)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 November 2002:

- (1) Did the Western Australian Police Air Support Unit lodge an amended Air Support Unit operations manual and a request for a re-issue of the Police Support Wing Air Operators Certificate with the Civil Aviation Safety Authority (CASA) for approval in early 1998; if so: (a) what was the exact date of the lodgement of the amended manual; and (b) which CASA office received the application.
- (2) Were the proposed amendments approved; if so: (a) who approved the amendments; and (b) on what date were the amendments approved.
- (3) If the amendments were not immediately approved: (a) what were the concerns with the proposed amendments; (b) who raised those concerns; (c) when were those concerns raised with the unit; and (d) how were the concerns raised.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

- (1) to (3) The matters referred to in the question are currently the subject of a Coronial Inquiry. It would be inappropriate and prejudicial to the conduct of the inquiry to respond to questions which are central to its proceedings.

**Defence: United States Navy Sea Swap  
(Question No. 874)**

**Senator Chris Evans** asked the Minister for Defence, upon notice, on 8 November 2002:

With reference to the Sea Swap arrangement which has been put in place with the United States (US) Navy:

- (1) Will there be any community liaison by the Australian Defence Force (ADF) or the US Navy prior to the Sea Swap taking place.
- (2) What community involvement will there be in assessing the impacts of the Sea Swap on the local community.
- (3) What is the length of time the ships will be in Fremantle.
- (4) How many ships and aircraft will be involved.
- (5) How many US naval personnel will be transferred.
- (6) What support will be provided by the ADF to assist with the transfer.
- (7) What ADF facilities will be used by the US Navy during the transfer.

**Senator Hill**—The answer to the honourable senator's question is as follows:

- (1) No additional community liaison by the ADF is intended since Sea Swap is a US Navy initiative. During an earlier site survey in August 2002, the US Navy visited Western Australia to discuss the Sea Swap concept with several State Government Departments as well as the Lord Mayor of Perth and the Mayor of Fremantle. As far as I am aware, the US Navy does not intend any further community liaison prior to the first Sea Swap ship arrival since the visit is essentially managed and conducted like any other routine port visit to Australia.
- (2) The impact of the Sea Swap on the local community is assessed as being no different to that of a regular US Navy routine rest and recreation port visit. Dedicated community involvement in assessing the impact of Sea Swap on the local community is, therefore, considered unwarranted.
- (3) Sea Swap is a single ship activity. The initial activity will occur in January 2003 and the ship involved will be in port for approximately 15 days. Subject to the success of this activity, the US Navy may seek a further similar Sea Swap later in 2003.
- (4) Sea Swap is limited to one conventionally powered destroyer and, where embarked, one or two helicopters.
- (5) Sea Swap will involve the rotation of a ship's crew of approximately 400 personnel.
- (6) and (7) Requested ADF support is limited to:
  - (a) facilitating over a few days the staging of a US military transport aircraft at RAAF Base Pearce for the change over of two naval helicopters; and
  - (b) accommodating the majority of the US destroyer replacement crew at LEEUWIN Barracks.Cost recovery for services provided to the US Navy will apply for the duration of the visit.