CHAPTER 15

PROPOSED REGULATORY SYSTEM

Introduction

15.1 There are a number of ways in which animal experimentation can be administered and those are examined in this chapter in the light of Australian and overseas experience. The various administrative systems mainly differ according to the level of government involvement.

15.2 At one end of the spectrum is a system in which there is no government control or intervention, with all decisions on animal experimentation being taken by institutions within which the experiments will be performed. Before 1985, a self-regulatory system similar to that described was in place. The only external control was a requirement by a number of funding bodies for experimenters and institutions to comply with the Code of Practice. However, monitoring by funding bodies for compliance with the Code of Practice was virtually non-existent. It was left to the integrity of institutions and their sense of responsibility to ensure that animal experimentation was performed in accordance with the Code of Practice. In many institutions, responsibility was largely devolved to the experimenters themselves.

15.3 At the other extreme, one can have a totally regulated system where government takes responsibility for approving protocols involving experiments on animals and for monitoring to ensure that stipulated standards of animal use and care are adhered to by experimenters and institutions.

Regulation or Not

15.4 Within most areas of animal welfare, the basic question which is always raised is whether to have some form of government regulation or none at all. Animal welfare organisations have generally advocated government regulation while users of animals have supported self-regulation with little or no government involvement.

15.5 Until recently in Australia, animal experimentation was conducted with virtually no interference from government authorities. Before the introduction of ethics committees, there was no mechanism for reviewing protocols to determine whether research projects were designed in accordance with the provisions of the Code of Practice.

15.6 The history of ethics committees in Australia, as evinced by the Committee, is one of varying levels of success, with some acting merely as a facade to keep authorities and the community at bay. Others have diligently applied themselves to the task of examining protocols to ensure that ethical standards are maintained and that protocols comply with the Code of Practice. There is no doubt, however, that in recent years there has been a marked change in attitude towards the functioning of ethics committees with the result that many more ethics committees now operate in accordance with the Code of Practice.

15.7 In its submission ANZFAS argued:

> In order to achieve uniformity throughout the country in such matters as the assessment of research protocols by AEECs, the issue of licences, animal care and husbandry etc, ANZFAS recommends a comprehensive network of monitoring bodies be established. This network would vest some control at state level while ensuring consistency between states through the establishment of a statutory national body.

> The monitoring network must include checks and balances to achieve the objective of rigorous monitoring of animal experimentation. The network would incorporate:
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> . institutional animal experimentation ethics committees (AEECs),
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> . State and Territory Advisory Panels,
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> . a National Assessment Panel, and
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> . an independent federal Inspectorate which would report to the National Assessment Panel.[1]

15.8 ANZFAS questioned the effectiveness of the ethics committees to review protocols and to monitor animal houses and research programmes. It acknowledged that some ethics committees fulfil their responsibilities but others do not. In order to ensure that a more consistent approach is taken among ethics committees, it recommended that a National Assessment Panel be established to conduct, among other things, site visits along the lines of those carried out by panels of the Canadian Council for Animal Care. It proposed that the aims of site visits should be to:

> ... review all facets of the use of animals in research, teaching and testing, to assess the procedures and facilities for animal care, to note and comment on situations that are not in compliance with the Guide and to report to the Council and the institution the panel's observations and recommendations. The concern of the assessment panel is to assist the local animal care committees and the administration in achieving and maintaining a high standard of animal care, use, management as well as procurement and expertise.[2]

The National Assessment Panel would be a division of a national statutory authority that ANZFAS had recommended in its earlier submission for the administration of animal welfare generally in Australia. Other functions of the National Assessment Panel include:

- to sponsor (from a budget which should be made available by the Federal Government) regional workshops to improve the function of Animal Experimentation Ethics Committees

- to ensure a significant annual minimum reduction in percentage terms of the number of live animals used in research

- to establish the educational standards required for researchers and other laboratory personnel

- to supervise the effective implementation and maintenance of national standards ... for animal experimentation by, inter alia, a system of site visits

- to disseminate information on non-animal alternative techniques to researchers, Animal Experimentation Ethics Committees and others

- to investigate at its discretion any matters relating to the conduct of research or supply or care of animals in any organisation

- to promote (from a budget which should be made available by the Federal Government) any research into non-animal alternative techniques

- to obtain expert advice relating to the discharge of its functions

- to make an annual report to the responsible Minister to be laid before Parliament

- to receive reports from the federal Inspectorate

- to receive reports from the State and Territory Advisory Panels.[3]

15.9 The federal Inspectorate would be another arm of the national statutory authority. ANZFAS proposed that inspectors appointed by the Inspectorate have wide powers to enter and inspect premises; and to remove, treat or euthanase animals. Inspectors would also have the right to recommend the suspension or revocation of licences.

15.10 The State Advisory Panels, which would be composed of equal numbers of experimenters and animal welfarists, would be responsible for the licensing system and would hear appeals from any member of an ethics committee against a decision of an ethics committee.

15.11 ANZFAS also recommended that both experimenters and institutions in which experiments are conducted on animals be licensed by the State Advisory Panels.

15.12 The monitoring network proposed by ANZFAS allows for a high degree of control over the conduct of experiments on animals, based on a blend of the strict controls imposed over animal experimentation in the United Kingdom and the system which has evolved in New South Wales, Victoria and South Australia. The Committee noted, however, that ANZFAS did not recommend the centralised protocol approval system in the United Kingdom. In that system, protocols are approved by the government Inspectorate. ANZFAS commented that a government Inspectorate did not have the flexibility of the system of ethics committees developed in Australia and questioned whether the Inspectorate had a broad enough expertise to assess protocols.

15.13 In its submission, the AVCC argued principally for a system of self-regulation:

> First, the fundamental issue concerned with animal welfare is that in each instance a decision has to be made whether to use animals in teaching and research and this involves resolution of conflicting ethical claims. The law can only be effective when the community has reached a moral decision or consensus. The limitations of the law, when this consensus does not occur, are exemplified by its failures to be effective in other areas of social and moral conflict.

> Second, legislation can act against good ethical concern. By embodiment of decisions within the law difficult issues are avoided. There is the danger that when actions are approved under legislation in the form of a license or a stamp of approval, the investigator may feel that as long as the law is not contravened there is no need for further ethical consideration of his actions.
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> Third, previous attempts at legislative control have proven to have serious limitations, and indeed to have been counter-productive ...'[4]

15.14 The AVCC went on to accept the need, in a system of self-regulation, for external monitoring to ensure accountability. Its preference was for this external monitoring to be conducted by a non-government organisation without legislative backing. It suggested a system similar to that developed by the Canadian Council for Animal Care. The AVCC commented:

> The Canadian model attempts to assure accountability first and foremost by an internal review committee and second by an external assessment panel. The mode of operation of both committees is to act primarily in an advisory capacity. The relationship of internal committees to the scientist is as the ethical adjudicate, the consultant and advisor. Similarly the external assessment panel operates primarily in an advisory capacity. However, both committees have considerable powers and can stop or modify animal-based research and can recommend removal of external funding if there is serious evidence of non-compliance ...
>
> Assessment by external advisory panels provides surveillance over animal use and care. Such assessment panels should be chosen from a pool of persons with expertise in a variety of fields, including animal production, care and use. Panels should be selected as far as possible with reference to the predominant research interests in the institution to be reviewed. Members of bona fide animal welfare organisations should be invited to join the site visit team.[5]

It therefore recommended that an autonomous Australian Council on Animal Care be established modelled on the Canadian system.

15.15 The proposed Australian Council on Animal Care has since been established as the Australian Council on Animal Research and Teaching (ACCART). The accreditation functions of the Canadian Council on Animal Care were omitted, however, from the constitution of ACCART. This function has been taken over by some State Governments.

15.16 Although the AVCC preferred non-government monitoring of animal experimentation along the lines of that conducted by the Canadian Council on Animal Care, the reluctance of some organisations involved in the establishment of ACCART to support an accreditation function for the Council and the action taken by three State Governments to legislate for government licensing and monitoring in their States have forced the AVCC to reassess their original position. Nevertheless, the AVCC remains firmly attached to the principle of experimenters and institutions assuming prime responsibility for their use of animals in experiments and are in fact accountable for such use.

15.17 The Australian Society for Medical Research argued in its submission for self-regulation without external monitoring but stated that if external monitoring were considered necessary, it should be done by the NHMRC. However, a representative of the Society supported a position beyond external monitoring by the NHMRC. In answer to a question on the incorporation of codes of practice into government regulations, Dr I.L. Campbell told the Committee:

> This is a good move as long as the people who are involved in policing these regulations are fully qualified and fully aware of scientific procedures and animal use in animal experimentation. We would welcome any

> regulations that improve the use of animals in animal experimentation and oversee the ethical and humane use of animals. We have no objection. We welcome that sort of legislation.[6]

15.18 A similar view was expressed by the Australian Society for Laboratory Animal Science in its submission:

> We believe that the control of the use of animals in research should be in a uniform manner. Where possible we believe a system of self-regulation is preferable but recognise that this may need to be embodied in State legislation. Nevertheless uniformity of intent and standards of practice should apply.[7]

15.19 There was general agreement during the inquiry that neither self-regulation nor a totally regulated system was desirable. It became instead a question of the extent of government regulation and the nature of the administrative structure to control animal experimentation.

15.20 Although the Committee received a wide range of views in submissions and oral evidence at public hearings, there was general endorsement of a number of key elements in a control system for animal experimentation.

15.21 As clearly enunciated in the draft revised Code of Practice and generally supported in evidence, primary responsibility for animal use and care rests with the senior experimenter. The senior experimenter is responsible for the design of the project, the conduct of the experiments and the care and welfare of the animals used in the experiments. A senior experimenter who is conscious of his ethical responsibility towards the use of animals will achieve more for animal welfare than what can be achieved by the most stringent of monitoring or

supervising systems. Conversely, an uncaring senior experimenter can cause much unnecessary pain and distress to animals, even in a system where monitoring occurs. It is vital, therefore, to instil in experimenters early in their careers an ethical, responsible and caring approach to the use of animals in experiments.

Ethics Committees

15.22 The use of ethics committees to consider and approve protocols also received widespread support during the inquiry. Although there were differences of opinion expressed about the operations and membership of ethics committees, the concept was generally acceptable. There was virtually no support for the British system which required government inspectors to approve protocols. As pointed out by ANZFAS, this system lacks flexibility. There was concern that government inspectors do not have the breadth of expertise to make decisions on protocols covering a diverse range of proposed projects.

15.23 The Committee discusses aspects of ethics committees in Chapter 16. It is suffice to say here that ethics committees need to operate properly for the system to be effective. This means that the committees must meet to consider and make decisions on protocols. It is not acceptable for ethics committees to delegate that responsibility to sub-committees or individuals or to fulfil that function by correspondence. The Committee is pleased to note that the draft revised Code of Practice requires ethics committees to conduct its deliberations along these lines.

15.24 There has been a reluctance on the part of institutions to appoint non-scientists to ethics committees. With few exceptions, ethics committee membership has included the minimum number of animal welfare or community representatives. Yet the

institutions which have appointed representatives of animal welfare organisations to their ethics committees spoke favourably of the positive contributions made by those representatives.

15.25 The Committee examined the Swedish system of regional ethics committees. The Swedish system differs markedly from the Australian system in many respects. In Sweden, there are only six regional ethics committees and an additional one for military research. The committees are large, with two having had 45 members. They consist of equal numbers of researchers, animal technicians and lay people. They are advisory but their advice on protocols has generally been accepted. Protocols are considered initially by sub-committees of three people, one from each of the three categories of membership.

15.26 The Swedish system has not been without its critics. The criticism has centred on the performance of lay people, many of whom have been hostile towards the use of animals in experiments. The prolongation of debate, both in sub-committees and in the regional ethics committees, has caused delays in the approval of protocols and this has been a source of frustration to some members of the ethics committee. This has had the effect of dissuading many researchers and technicians from volunteering for membership of the ethics committees. The large size of some committees has accentuated the problem because it had facilitated delaying tactics where they have been pursued by lay members.

15.27 The Committee believes that the institutional ethics committees in Australia have more flexibility and are less cumbersome than the Swedish ethics committees. The Australian system places greater emphasis on individual responsibility and peer pressure. This helps to inculcate in experimenters desirable ethical attitudes to animal use in experiments. It is also desirable that the ethical committees make the decisions rather than act just as advisers to a government department or authority.

15.28 With few animal welfare or community representatives appointed to ethics committees in Australia, there has been little opportunity for intransigence on philosophical lines. The potential for that type of problem is considered to be minimal in Australia. In the first place, the institutions select the members of the ethics committees. People with inflexible views towards animal experimentation will not be chosen to sit on ethics committees. Institutions can always have members of ethics committees removed if they are unreasonably obstructive.

15.29 All members of an ethics committee have a responsibility to act constructively to ensure that protocols are designed in accordance with the Code of Practice. That does not prevent any member from drawing attention to or arguing against protocols which do not seem to comply with the Code of Practice. Often it is a matter of fine judgement whether a protocol is considered to be in compliance with or in breach of the Code of Practice. All members should in those circumstances strive to achieve consensus.

15.30 Apart from the approval of protocols, ethics committees have other important functions to perform. They are required to monitor approved projects within their institutions to ensure that the projects are conducted in accordance with their approvals. This includes monitoring the number and species of animals used and the type of procedures carried out on those animals. Ethics committees are or should be accountable for the conduct of animal experimentation within their institutions to the government units which have responsibility for the legislation.

15.31 Ethics committees also are responsible for ensuring that animal facilities and standards of animal care are maintained in their institutions. Members of ethics committees must regularly visit animal houses and animal holding areas to ensure that everything is in order. Ethics committees must also keep in close

contact with animal house staff to ensure that experimenters adhere to ethics committee approvals and the provision of the Code of Practice. If the director or senior technician of an animal house is not a member of the ethics committee, he should at least attend their meetings.

15.32 It is much more satisfactory for all concerned if problems are dealt with properly within institutions rather than action having to be taken later by inspectors or accreditation panels. Ethics committees need to remain alert for breaches of standards or of the Code of Practice and take swift action to resolve any problems.

15.33 Ethics committees need to keep full records of all decisions made and of animal breeding, purchase and use. These records must be available for inspection by inspectors at any time. The keeping of comprehensive animal house records should not be regarded as an imposition. They are essential for efficient animal house management. Such records, where possible, should be computerised.

Code of Practice

15.34 Although differences of opinion were expressed in evidence on specific provisions in a code of practice, there was general agreement that there should be a national code of practice. A code of practice sets out principles, administrative systems and general standards covering the use and care of animals. In the draft revised Code of Practice, the responsibilities of experimenters, institutions and ethics committees are clearly defined.

15.35 Witnesses argued for a national code of practice so that uniform standards would apply throughout Australia. The Committee believes that this is desirable provided that there is no diminution in standards of animal welfare in order to gain

consensus. However, it would still be within the power of a State or Territory Government to impose stricter conditions in regulations to supplement the code of practice should a Government believe that the current Code of Practice does not provide enough control over animal experimentation. The New South Wales Government considered such a course of action after it received a copy of the draft revised Code of Practice early in 1988. Subsequently, the draft revised Code of Practice was amended to bring it more in line with a draft code of practice prepared by the New South Wales Government.

Enforcement and Accountability

15.36 In the following discussion on enforcement and accountability, it should be remembered that under the Commonwealth Constitution, animal experimentation is primarily a State and not a Commonwealth matter, except where it is being conducted by Commonwealth authorities. The Commonwealth maintains some involvement in animal experimentation through funding by Commonwealth bodies such as the Australian Research Council, the NHMRC and others.

15.37 Until recently, State Governments did not assume administrative control over animal experimentation. In 1985 and 1986, the Governments of New South Wales, Victoria and South Australia enacted legislation and established administrative units within their Governments to control animal experimentation. The Australian Capital Territory and Queensland Governments are presently moving towards revised legislation in this area.

15.38 The Committee received various views on the roles of funding bodies and State and Territory Governments in the administration of animal welfare. It is clear, however, that as the States and Territories are moving to take control of the

administration of animal experimentation, as is their constitutional right to do so, primary responsibility for overseeing animal experimentation should rest with them and not funding bodies.

15.39 Funding bodies still have a role to play in that all protocols for external funding are considered by those bodies and their referees. Where a protocol obviously does not comply with the Code of Practice, the funding body has a responsibility to withhold funds for the project until compliance is achieved. However, the funding bodies do not have a role to set up specific administrative structures to enforce the Code of Practice. Their role is to fund research and in some cases to provide advice to government in accordance with their charters. If funding bodies encroach on the legitimate role of government to administer animal experimentation, it would only cause confusion and be a waste of scarce resources. Of the funding bodies, only the NHMRC has had a direct role in the compilation and revision of the Code of Practice. As it funds only a small percentage of all projects involving the use of animals in Australia, it is anyway not in a position to take over responsibility for enforcement of the Code of Practice.

Legislation

15.40 Each State and Territory should have legislation to control animal experimentation modelled on legislation already enacted in New South Wales, Victoria and South Australia.

15.41 It is worthwhile to compare some of the main provisions of the revised legislation in New South Wales, Victoria and South Australia. Although the three Acts provide a similar framework, there are distinct differences in approach and in specific requirements. ACCART did a simple comparison and this was incorporated in the Committee's Hansard transcript of evidence.[8]

15.42 The New South Wales Government decided to enact separate legislation to control animal experimentation while the Victorian and South Australian Governments included such provisions in their prevention of cruelty to animals legislation. Similarly, the New South Wales Government established an Animal Research Review Panel, separate from the Animal Welfare Advisory Council, to control animal experimentation in that State. In Victoria and South Australia, the Animal Welfare Advisory Councils have responsibility for animal experimentation as well as for other areas of animal welfare.

15.43 The Committee prefers separate legislation to regulate animal experimentation, along the lines of the New South Wales approach, to get away from the notion of prevention of cruelty and substitute one of care of and respect for animals. Although some experiments cause pain or suffering to animals, deliberate cruelty to animals undergoing experiments in Australia is rare. It seems incongruous to include animal experimentation in legislation which is designed primarily to prevent cruelty to animals.

15.44 In many areas of animal welfare, local government or non-government organisations have responsibility for upholding legislation. However, in animal experimentation, State Governments are directly involved in accreditation; licensing; monitoring; preparation of legislation, regulations, guidelines and codes of practice; and consideration of many complicated and contentious ethical issues. Government involvement in animal experimentation is much deeper than in most other animal welfare issues. Although these other issues can reasonably be brought together and considered by a general advisory committee, it is much harder to do this satisfactorily in the case of animal experimentation. One or two members representing scientific interests on an advisory committee would not necessarily have the breadth of expertise or experience to enable the advisory committee to give government the best advice on animal experimentation.

15.45 Although the Committee prefers separate advisory committees for animal experimentation, it believes that a single animal welfare unit within the State bureaucracy should administer all animal welfare functions as happens in New South Wales, Victoria and South Australia.

15.46 A major difference among the three updated State Acts is the matter of licensing or accreditation of institutions. The Victorian and South Australian Governments adopted the approach of licensing institutions and appointing inspectors to visit institutions from time to time to check whether facilities are of the appropriate standard and whether other requirements of legislation and the code of practice are being met.

15.47 The New South Wales legislation provides for licences for institutions and for the appointment of inspectors. Once Regulations are issued, licences will be issued to institutions after they have undergone a process of accreditation.

15.48 Accreditation in New South Wales will be no perfunctory exercise. In its submission, the New South Wales Government stated that accreditation 'incorporates peer review of practices and procedures and therefore mandates critical and informed review and appraisal'. A little later, it went on to say:

> There is no doubt that to be effective the agent/agency responsible for external monitoring must have sufficient knowledge to evaluate the practices and procedures and must be able to reflect in its judgement a 'balanced community view'. Assessment by a panel of persons with appropriate and relevant expertise and including community representative, should achieve this.[9]

15.49 This process will involve some members of the Animal Research Review Panel and other scientists doing a thorough review of animal and experimentation facilities, inspection of records and examination of ethics committees' decisions to ensure compliance with the provisions of the Code of Practice. As several members of the accreditation group will have expert knowledge in various areas under review, a more thorough review

compliance with the provisions of the Code of Practice. As several members of the accreditation group will have expert knowledge in various areas under review, a more thorough review of the self-regulatory performance of the institution will be done compared with the occasional visits by inspectors to institutions in systems which do not accredit institutions.

15.50 Another advantage of accreditation from the point of view of the scientific community is that it will install peer review in the control system at a second level and not just at the level of ethics committees. Accreditation teams will contain a number of senior scientists who will provide scientific expertise to the teams. Monitoring will not be done just by government inspectors who may not have a scientific background and who are not fully familiar with scientific method, experimental techniques and the subtleties of animal experimentation.

15.51 The inclusion of animal welfare or community representatives on accreditation teams will make the monitoring process more publicly accountable. It will also help to allay suspicion on the part of animal welfare organisations that experiments are being conducted in accordance with the Code of Practice and housing and other facilities for animals are of an appropriate standard.

Monitoring

15.52 A system based on the principles of enforced self-regulation depends largely on self-regulatory practices; government controls are not meant to be too intrusive. However, legislation without enforcement soon becomes seen to be ineffective and is treated accordingly. A balance has to be struck between self-regulation and government controls to ensure that the former works without too much interference from the latter.

15.53 In New South Wales, accreditation will provide a thorough review of the performance of the institution, its ethics committee, experimentation and facilities at specified intervals of between one and three years. In addition, in all three States which have revised legislation there is provision for the appointment of inspectors. Their powers and functions are detailed in the relevant legislation. Basically, they have powers to enter premises, check facilities and records and give directions in accordance with the provisions of legislation.

15.54 Inspectors have an important role to play in the system of enforced self-regulation. They need to have had experience in laboratory animal science or relevant veterinary science so that they are familiar with the operations of animal experimentation and animal care. They must be sufficiently experienced to detect non-compliance with codes of practice or other regulations but have qualities of discretion and commonsense to take appropriate action. Often advice or a warning will be preferable to more serious action. They must gain the respect and confidence of the scientific community with which they have dealings. The importance of attitude in animal experimentation is the key to the correct approach being taken by experimenters. With a positive attitude towards ethical use and care of animals, humane treatment is a ready result. Inspectors have a role to play in helping to inculcate the right attitude among experimenters. As is the case in other areas of life, laws are made to prevent exploitation. This is true too for animal experimentation. Most people who believe a law is fair and just will respect it but there will always be someone who will try to circumvent the law for his or her own benefit. It is that person on whom the efforts of inspectors must be concentrated.

Accountability

15.55 On occasions, it is understandable for institutions and experimenters to become defensive and secretive, particularly in the face of violence or malicious allegations of misconduct or cruelty. However, resort to secrecy should be avoided wherever possible. The best defence is full public accountability. The community supports animal experimentation which is conducted within normal humane limits. The community will not support violence against institutions where it can be shown that normal standards of use and care have been followed. In those circumstances, violence would be counter-productive.

15.56 All people and bodies involved in animal experimentation and in its administration and control need to be accountable for their actions, otherwise the system may be brought into disrepute. Each person or body in the system must carry out its function and keep proper records of action taken.

Summary

15.57 The Committee RECOMMENDS that the system of controlling animal experimentation in New South Wales, Victoria and South Australia be extended to the other States and Territories. This system is based on upgraded legislation; incorporation of a code of practice in regulations; the accreditation and licensing of institutions in which animal experimentation is conducted; and the appointment of inspectors to monitor the work of ethics committees, animal house facilities and practices, and the conduct of animal experimentation.

Commonwealth Government

15.58 At the Commonwealth level there have been some problems recently about the administration of animal experimentation which attracted media attention.

15.59 In the first case, the NHMRC tried to monitor research being done by CSIRO with NHMRC grants for compliance with the Code of Practice. The Committee does not wish to become too embroiled in the details of the case but merely comments on aspects which impinge upon the control of animal experimentation at the Commonwealth level. The Committee has already discussed the question of monitoring for compliance with the Code of Practice. It has recommended that, in the States and Territories, the State and Territory Governments do the monitoring under their own legislation in accordance with their constitutional responsibilities. Consequently, funding bodies would not monitor for compliance unless there was doubt arising from consideration of a protocol or other application for a grant that the Code of Practice might not be complied with. The NHMRC would therefore not have the power to demand inspection of CSIRO facilities. In any event, it seemed to the Committee odd that the NHMRC would make such demands on a co-sponsor of the Code of Practice.

15.60 Another case where media attention focussed on animal experimentation was in 1988 when allegations were made about the use of uranium isotopes on penguins and also about other research being conducted in Antarctica. This issue was the subject of a government inquiry which has recommended various procedures to obviate future problems with control and monitoring of experiments on animals in Antarctica. Some of the recommendations of the report on the incident do warrant comment. The Working Party which produced the report concluded that the existing Code of Practice was unsuitable for experiments on animals in Antarctica and recommended that a separate code of practice be prepared for Antarctic research. The Committee believes that the

Working Party has misunderstood the purpose of the Code of Practice. The Code of Practice is meant to cover all experiments on animals, irrespective of whether the experiments are conducted in a laboratory or on wildlife in the field - in the blistering heat of inland Australia or in the cold of Antarctica. The code is a set of principles and administrative arrangements. It is not a set of detailed guidelines for experiments on specific species of animal.

15.61 It has been acknowledged by the NHMRC and other bodies that guidelines need to be compiled on specific species or particular procedures to supplement the Code of Practice. This is a task for ACCART, specialist societies (e.g. the Primate Society) or other expert bodies. The Antarctic Division should arrange with people with experience in dealing with animals in Antarctica to draw up guidelines for future projects involving experiments on Antarctic animals. However, the Code of Practice is still appropriate for overall control of experiments on animals in Antarctica.

15.62 There are organisations at the Commonwealth level which have some involvement in experiments on animals, either as funding bodies or in an experimental capacity. The controversy over the experiments on animals in Antarctica serves as an example to show the lack of co-ordination of experiments in animals at the Commonwealth level.

15.63 There is another dispute simmering, between CSIRO and State Governments, over the constitutional control of a Commonwealth statutory authority which has activities within a State. One or two State Governments have claimed that CSIRO staff working in their States have to obey State laws. CSIRO, on the other hand, has received legal advice from the Commonwealth to the effect that its staff are not bound by State laws. Despite this constitutional impasse, CSIRO has voluntarily agreed that its staff should comply with State laws and regulations.

15.64 In a submission to the Committee the CSIRO argued for the enactment of Commonwealth legislation to put the question of constitutional authority beyond doubt. The CSIRO stated:

> The Act should aim to provide a mechanism by which all members of the community become aware of their duty of respect for animals and of the necessity for humane treatment of them. As such it should go well beyond the conventional notion of aiming such legislation at the prevention of cruelty of animals.[10]

15.65 The CSIRO went on to say in its submission that the legislation would:

- ensure that standards of animal care and use are uniformly high in Commonwealth research and teaching establishments throughout Australia,
- facilitate administration within Commonwealth departments and research funding bodies,
- provide a clearly defined uniform scheme within which Commonwealth researchers and teachers are legally protected, and
- facilitate good relationships with State and Territory animal welfare authorities.[11]

15.66 The Committee notes that most tertiary institutions, such as universities, colleges of advanced education and colleges of technical and further education would continue to come under State or Territory legislation.

15.67 The legislation proposed by the CSIRO would cover all activities of Commonwealth staff irrespective of whether their work is carried out in Commonwealth or State facilities. However, observance of State legislation would be advisable by staff if they are working in State facilities with non-Commonwealth staff to prevent any unnecessary friction between Commonwealth and State authorities.

15.68 The enactment of Commonwealth legislation would enable all Commonwealth staff located throughout Australia to be subject to the same legislative and regulatory provisions. This would obviate possible confusion about the terms of legislation and regulations applying to them by staff moving among the States and Territories. It also helps an organisation such as the CSIRO with research programmes in all States and Territories to promote a uniform set of standards and rules within the whole Organisation.

15.69 The Committee RECOMMENDS that the Commonwealth Government enacts legislation to remove any doubt that the conduct of animal experimentation by Commonwealth employees comes under the control of Commonwealth authorities.

15.70 In Chapter 15, the Committee recommended the establishment of a Commonwealth AWAC responsible to a neutral Minister who had been given responsibility for animal welfare matters by Cabinet. The AWAC would be served by a unit within the Minister's department.

15.71 The Committee considered the question of co-ordination and control of animal experimentation at a Commonwealth level. The Committee believes that control should be vested in the Minister who would seek advice from the Commonwealth AWAC and also from an inter-departmental committee (IDC) consisting of representatives of the various departments and authorities which have an interest in animal experimentation at the Commonwealth level. The animal welfare unit within the department would also serve the IDC.

15.72 Both the Commonwealth AWAC and the IDC could draw upon ACCART for technical advice on animal experimentation and the care of animals.

15.73 The IDC would act as a co-ordinating body under the chairmanship of the head of the animal welfare unit. It would discuss new practices, policies, standards, regulations and legislation and examine problems faced by any of the departments or authorities. Some of the bodies would also be represented on the Commonwealth AWAC which would facilitate communication of the views of the IDC to be considered by the AWAC when issues relating to animal experimentation were raised in that forum.

15.74 The IDC would advise the Commonwealth Minister responsible for animal welfare on animal experimentation matters within the Commonwealth jurisdiction and on other animal experimentation matters which would be the subject of discussions with State and Territory ministers.

15.75 The Committee RECOMMENDS the establishment of an inter-departmental committee consisting of the various departments and authorities which have an interest in animal experimentation at the Commonwealth level to co-ordinate and oversee the conduct of animal experimentation to ensure that it is carried out in accordance with the Code of Practice.