

ADDITIONAL COMMENTS

SENATOR STOTT DESPOJA SENATOR WEBBER

1. The Inquiry by the Senate Community Affairs Committee into *Legislative Responses to Recommendations of the Lockhart Review* considered both Senator Patterson's Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 and an exposure draft of our Somatic Cell Nuclear Transfer (SCNT) and Related Research Amendment Bill 2006.
2. The Lockhart Committee delivered their report to the then Minister for Ageing, the Hon Julie Bishop MP, on 19 December 2005. In closed door discussions Cabinet summarily rejected the findings of the extensive, independent and expert review process that it instituted.
3. The way the report of the Lockhart Committee was treated suggested the Government had a pre-determined view and sought only to justify that view.
4. Senator Stott Despoja announced her intention on 24 March 2006 to sponsor a private member's bill to implement the scientific recommendations of the Lockhart Review¹. The exposure draft private members' bill was many months in the making and was intended to bring this debate out into the open where such an important scientific and ethical issue belongs.
5. We are glad to see that it has done so. After pressure from the Democrats, the Opposition, and Members of the Government's own backbench, the Prime Minister agreed to a debate and conscience vote on any legislation brought before Parliament intending to implement the recommendations of the Lockhart Review.
6. Following the Prime Minister's decision, Senator Patterson also announced that she would be tabling a bill to implement the Lockhart recommendations.
7. While acknowledging that the Government would be much more comfortable debating a bill from its own side, we persisted in tabling an exposure draft of our bill to enable the Community Affairs Committee to commence their inquiry with a complete bill.
8. The Community Affairs Committee has not made any judgement on the appropriateness or strength of either Senator Patterson's bill or our bill.

¹ *The Age*, 24/03/2006.

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9. In the interests of ensuring that Parliamentary debate focuses on the Lockhart recommendations and does not get bogged down by comparing two separate approaches to implementing them, we will not be tabling a final draft bill.
10. The Senate will focus on one bill only and we acknowledge the political reality that the Prime Minister would prefer to debate Senator Patterson's bill.
11. We will, however, be moving some amendments where we believe that our exposure draft bill affords a better approach or where the Committee process has highlighted key issues that should be addressed in any amended legislation. These include:
- Increasing the maximum penalty for all Division One offences to 15 years;
 - Reducing the maximum life of a warrant from one month to 15 days;
 - Replacing Schedule 2, Item 15, (referring to Subsection 20(1)) of Senator Patterson's bill with Schedule 2, Item 13 of our exposure draft bill. This will ensure that the legislation is not so prescriptive in what can be applied for with a licence that new techniques that might be developed fall outside the legislation. Our approach sets the overarching prohibitions but allows the NHMRC Licensing Committee some flexibility in awarding licences. Our view that this is a better approach has been supported by views offered during the Committee process suggesting that legislation has difficulty keeping pace with scientific change²;
 - Altering the clauses dealing with fresh ART embryos deemed unsuitable for implantation to include these embryos under the definition of 'excess ART embryos' – as laid out in Schedule 2, Item 5 of our exposure draft bill; and
 - Removing reference to human eggs in Schedule 2 of Senator Patterson's bill, so any amended legislation does not extend to activities with human eggs beyond the prohibitions listed in Schedule 1. We support the view of organisations such as ACCESS and the Fertility Society of Australia that NHMRC guidelines are a more appropriate means of regulating activity with human eggs than legislation³.

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² Canon Alan Nichols, *Submission 7*, p.2.

³ ACCESS, *Submission 176*, p.2; Fertility Society of Australia, *Submission 40*, p.2.