

# ANALYSING CONSCIENCE VOTES IN PARLIAMENT: DO CHURCHES INFLUENCE THE LAW?

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## Abstract

Recent public debates about same-sex marriage and women's right to abortion have challenged the party divide that normally forms the foundation for parliamentary voting. Instead of a clear party line dictating the way in which members of Parliament vote, such issues tend to be regarded as 'moral' issues warranting a vote of conscience. In the sometimes-heated public debates on these issues, Christian Churches and Church-based groups are vocal in stating their case and many members of parliament likewise express their position in terms of a Church view. Others however reject the role of the Churches in these debates, arguing instead that the argument is based upon the premise that for Parliament to be truly representative, members' decision-making of the Churches have no place in determining the rights of all Australian citizens. The latter n issues of conscience should not be beholden to Church views that are not representative of the community. This paper reviews the parliamentary debates of the last 10-15 years over the use of human embryos in stem cell research to ascertain whether, and the extent to which, it could be said that Christian Churches do indeed influence Australian law. It finds that while a variety of influences – Church and otherwise – can be said to influence individual voting on issues of conscience, whether there is an institutional Church influence is not clear-cut.

## I INTRODUCTION

The link between the institutions of Church and law was clear and overt in the early history of Australia: the relationship was transparent and indeed expected. In this historical context, Church meant the Christian Churches and tended to bring all denominations under the umbrella term. Australia has since changed. Religions other than Christianity

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are represented in contemporary Australia<sup>1</sup> and the percentage of the population claiming to be Christian has fallen from 96.1% in 1901, to 63.9% in 2006.<sup>2</sup> Only approximately 20% of the population is currently *actively* Christian.<sup>3</sup> This raises the question of the appropriateness of Church influence upon decision-making in the law.

It could be argued that it is appropriate that Christianity, as the dominant religion in Australia, should influence the law via Christian Churches in a representative society. On the other hand, the overall decline in Christian followers, the growth of other religions, and the high level of atheism in society generally may predicate against Church influence in the law.

In the federal Parliament, the population of active Christians exceeds the proportion in wider society. The Parliamentary Christian Fellowship, for example, while maintaining a level of concealment over its membership, in 2004 apparently had a membership of approximately 75 of the 226 Federal MPs.<sup>4</sup> This begs the question of the extent to which Parliamentarians are influenced by Church teaching, in carrying out their legislative duties.

This paper seeks to understand the extent to which parliamentarians are influenced by the teachings of Christian Churches to decide on their approach to legislation on matters of conscience, and whether this can be considered to constitute influence of the Churches themselves on Australian statute law. While there are contemporary examples of (non-representative) ideologies other than religion that infuse and

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<sup>1</sup> Representing 5.6% of the population in the 2006 Census, but growing faster than the fastest growing Christian church. See Australian Bureau of Statistics, *Census Shows Non-Christian Religions Continue to Grow at a Faster Rate* (27 June 2007) <<http://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/6ef598989db79931ca257306000d52b4!OpenDocument>>.

<sup>2</sup> Australian Bureau of Statistics, *Census Shows Non-Christian Religions Continue to Grow at a Faster Rate* (27 June 2007) <<http://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/6ef598989db79931ca257306000d52b4!OpenDocument>>.

<sup>3</sup> Australian Bureau of Statistics, *Religious affiliation and activity* (15 June 2004) <<http://www.abs.gov.au/Ausstats/abs@.nsf/1020492cfd63696ca2568a1002477b5/fa58e975c470b73cca256e9e00296645!OpenDocument>>.

<sup>4</sup> Brian Toohey, 'Politicians Focus on our Sinful Ways', *The Sydney Morning Herald* (online), 6 June 2004 <<http://www.smh.com.au/articles/2004/06/06/1086460161250.html>>.

influence parliamentary debate,<sup>5</sup> this paper focuses on the influence of Christian Churches in light of their traditional connection with institutions of government including the Parliament. It will therefore first outline this historic connection, before examining parliamentary debate on embryonic stem cell research over a five-year time period in Commonwealth and State Parliaments. In analysing the debates, notice will be taken of the language used, and any direct links parliamentarians make in their approach to law-making, to assess Church influence on their decision-making, and how that influence manifests.

## II THE CHRISTIAN CHURCHES IN AUSTRALIAN LAW

The interrelationship between law, politics, and Christianity existed at the time the First Fleet arrived in Australia in 1788. Richard Johnson, who built the first church in 1793, was the first chaplain<sup>6</sup> and also held the position of Magistrate in the colony.<sup>7</sup> Johnson was succeeded by Samuel Marsden who was also appointed as chaplain and Magistrate.<sup>8</sup> In 1810 Lachlan Macquarie, beginning his term as Lieutenant-Governor, supported the church by ordering ‘compulsory church attendance for convicts’,<sup>9</sup> and used that arena to announce government notices during services.<sup>10</sup>

As the federation movement gathered momentum in the 1890s, the Australian churches – of all denominations – unified in support of two clear objectives: recognised acknowledgement of religion’s (ie Christianity’s) position in the new Commonwealth, and assumption

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<sup>5</sup> See eg contemporary debate over climate change, featuring ‘climate change skeptics’ and those who adhere to climate science: Aaron M. McCright; Riley E. Dunlap, ‘Climate Change Denial: Sources, Actors and Strategies’ in Constance Lever-Tracy (ed) *Routledge Handbook of Climate Change and Society* (Routledge, 2010) 240; Juliet Pietsch and Ian McAllister, ‘A Diabolical Challenge’: Public Opinion and Climate Change Policy in Australia’ (2010) 19.2 *Environmental Politics* 217.

<sup>6</sup> Ian Breward, *Australia: The Most Godless Place Under Heaven?* (Beacon Hill Books, 1988) 3.

<sup>7</sup> Roger C Thompson, *Religion in Australia: A history* (Oxford University Press, 1994), 3.

<sup>8</sup> Ibid 4.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

of their position ‘in the moral and spiritual life of Australia,’<sup>11</sup> as they claimed to be the earthly representatives of the divine.<sup>12</sup>

The words of the *Australian Constitution* contain a late inclusion of the words in its preamble ‘humbly relying on the blessing of Almighty God’. This was seen as a conciliatory gesture against the possible dampening of popularity that excluding God might have caused.<sup>13</sup> There was a general concern to protect freedom of religion, and the inclusion of s116 prohibiting any law inhibiting the ‘free exercise of any religion’<sup>14</sup> was seen as a compromise between advocates and defenders of Church and state, one that was accepted for the sake of federation. The drafters of s116 were resolute to ensure that no single religious denomination was able to utilize political or legal measures to advance its cause, nor that any individual would be disadvantaged because they had allegiance to any particular religion, or indeed to none at all.<sup>15</sup>

In a later reference to Australia’s legal foundation, Windeyer J stated in 1966 that ‘our ancestors brought the common law of England to this land. Its doctrines and principles are the inheritance of the British race, and as such they became the common law of Australia’<sup>16</sup> and along with the English law, Australia acquired a long English, Christian, history. Forty years after Windeyer J’s comments, High Court Justice Keith Mason confirmed that our Australian legal system is still ‘replete with Biblical and Christian values.’<sup>17</sup> Indeed there is belief by some Christians that the Church is the moral gatekeeper of society.<sup>18</sup> Likewise, Australian Frank Brennan, Catholic priest, lawyer, and academic, stated that his denomination’s leaders claimed to be ‘the most definitive authority to give answers to moral questions.’<sup>19</sup>

Through all this, the idea of ‘the Church’ or of Christianity or particular

<sup>11</sup> Tom Frame, *Church and State: Australia’s Imaginary Wall* (UNSW Press, 2006), 50.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid 51.

<sup>14</sup> *Australian Constitution* s 116.

<sup>15</sup> Frame, above n 11, 51-2.

<sup>16</sup> *Skelton v Collins* (1966) 115 CLR 94, 134.

<sup>17</sup> Keith Mason, ‘Law and Religion in Australia’ (Speech delivered at the National Forum on Australia’s Christian Heritage, Canberra, 7 August 2006).

<sup>18</sup> Breward, above n 6, 173.

<sup>19</sup> Frank Brennan, *Acting On Conscience: How Can We Responsibly Mix Law, Religion and Politics?* (University of Queensland Press, 2007), 8.

Church denominations remains somewhat unclear. This is borne out by the parliamentary debates themselves, in which parliamentarians frequently refer to ‘the Church’ without discrimination. For the purposes of this paper, the goal is to identify the influence, if any, of ‘the Christian Churches’ upon parliamentary decision-making. This recognises an institutional dimension to the question in that it is not individual conscience or notions of religion more generally that are of interest, but specific Church teaching. It likewise recognises that a number of Christian Churches are represented within the Parliament.

The Churches share in common a self-appointed role as gatekeepers of morality. As such, they are likely to have an opinion and to take leadership on issues they see as concerning morality. As non-representative institutions, such leadership in terms of law-making may call into question the representative nature of Parliament itself. One arena within which these values are laid bare is in the conscience votes of members of Parliament on ‘moral’ issues such as embryonic stem cell research.

### III CONSCIENCE VOTES

Traditionally, Australian parliamentarians predominantly vote along party lines. Independents, by definition, have no party line to follow. Liberals, Nationals, Democrats and Greens<sup>20</sup> are expected to follow their party but are officially free to follow their consciences on any issue, ‘unlike their Labor counterparts, who risk automatic expulsion if they vote against their party.’<sup>21</sup> The pledge taken upon membership of the Australian Labor Party states:

I hereby pledge myself not to oppose the candidates selected by the recognised political labor organization, and if elected to do my utmost to carry out the principles embodied in the Federal Labor Platform and on all questions affecting that Platform to vote as a majority of the Parliamentary Party may decide at a duly constituted caucus meeting.<sup>22</sup>

There are two instances when parliamentarians vote according to their consciences, namely by crossing the floor hence voting against their

<sup>20</sup> Deirdre McKeown and Rob Lundie, ‘Free Votes in Australian and some Overseas Parliaments’ (Current Issues Brief No 1 2002-03, Parliamentary Library, Parliament of Australia, 2002).

<sup>21</sup> Marion Maddox, *God Under Howard: The Rise Of The Religious Right In Australian Politics* (Allen & Unwin, 2005), 153.

<sup>22</sup> McKeown and Lundie, above n 20.

own party, or by the free (including conscience) vote allowed by a party. A conscience vote is generally a vote on a 'life or death' issue,<sup>23</sup> or, as John Howard defined it, a vote on things that 'go to the very essence of somebody's religious or philosophical or moral view'.<sup>24</sup> The act of conferring 'conscience' status upon a given issue could thus be seen as evidence of tension between the Christian Churches, insofar as it represents a moral issue, subject to the Churches' dogma, and the law. Conscience votes can be called for many reasons such as to accommodate party members' personal values that make adhering to the party line unachievable, or to obtain publicity or support for a given stance on a particular issue, thus encouraging constituents to lobby their MPs to vote in a certain way in a conscience vote.<sup>25</sup>

Christian Churches have been shown to be 'prominent amongst conscience vote advocates,'<sup>26</sup> ostensibly because they either believe that a conscience vote will produce a result that will align with their Christian values and teachings, or because the Churches expect the vote to present an opportunity to influence the law. Conscience votes expose two possible ways in which Christian Churches can exert influence over the law. Firstly, at a basic/grass roots level, the backgrounds of parliamentarians inevitably influence the way they vote in conscience votes because, as with any member of the public, their upbringing facilitates the structure of their moral values. Should those backgrounds involve a Christian Church, as many clearly do,<sup>27</sup> that Church will undoubtedly be able to exert an indirect influence on the way that parliamentarians will vote. Secondly, lobbying of MPs can effect changes to either their vote or, at the very least, result in alteration/amendment of the proposed legislation. The Churches, by virtue of their status in society, financial strength, and organisational prowess, are highly efficient lobbyists, fuelled by an inherent drive to increase their flocks.<sup>28</sup>

<sup>23</sup> Ibid.

<sup>24</sup> Maddox, above n 21, 154.

<sup>25</sup> McKeown and Lundie, above n 20.

<sup>26</sup> Maddox, above n 21, 154.

<sup>27</sup> For example, many federal members belong to the Parliamentary Christian Fellowship. See Maddox, above n 21; Simon Santow 'Leaders Turn to God for Political Inspiration' *The World Today*, 30 June 2009, <<http://www.abc.net.au/worldtoday/content/2009/s2612451.htm>>. While often referred to, no details of member numbers are available.

<sup>28</sup> L Skene and M Parker, 'The Role of the Church in Developing the Law' (2002) 28 *Journal of Medical Ethics* 215, 215.

Media conjecture from time to time has debated whether the pluralism of modern society requires parliamentarians to ‘purge their hearts and minds’ of religion when they enter the public sphere. Soutphommasane has claimed radical atheists and Christian believers alike recognise that there should be limits to parliamentarians’ religious convictions being vocalised in public office. While conceding that total eradication is unrealistic and unachievable, he maintains that a cautious approach is needed to avoid ‘undermining the legitimacy of public institutions.’<sup>29</sup> He asks whether it is realistic to expect political leaders to ‘check their faith at the door when they enter the parliamentary chamber’,<sup>30</sup> yet it also seems unacceptable for party members to openly voice their honest religious views. Evidence of this is to be found where, prior to the 2010 federal election, the Liberal party endorsed David Barker as the party candidate for the outer western Sydney seat of Chifley, but then disendorsed him and expelled him from the Liberal party after he said ‘I don’t know if we want at this stage in Australian politics a Muslim in the Parliament and an atheist running the government.’<sup>31</sup>

Historically, conscience votes have been held in Australian Parliaments concerning issues of the republic, abortion, euthanasia, homosexuality, sex discrimination, prostitution, and stem cell research. Embryonic stem cell research was the subject of Federal Parliamentary debate through both Houses twice in a four-year period, during which time the Senate changed composition,<sup>32</sup> and of State (New South Wales) debate at a similar time, thus providing scope for temporal and jurisdictional comparison. In addition, the heart of the issue encompasses other morally analogous ‘beginning of life’ issues, such as abortion and IVF, invoking substantial public debate by members of Parliament and by the Church, amongst others. Stem cell research also brings into play scientific argument due to the contention surrounding whether embryonic stem cells constitute a human individual. In spite of capturing a variety of issues of conscience, it is recognised that this debate represents but one aspect of conscience voting overall. It is therefore recognised that the conclusions of this paper are somewhat limited in their application

<sup>29</sup> Tim Soutphommasane, ‘Ask the Philosopher’, *The Weekend Australian* (Sydney), 27-28 February 2010, Inquirer 8.

<sup>30</sup> Ibid.

<sup>31</sup> Jean Kennedy, ‘Sacked Liberal Stands by Anti-Muslim Comments’ (25 July 2010) ABC News <<http://www.abc.net.au/news/stories/2010/07/25/2963485.htm>>.

<sup>32</sup> On 30 June 2005.

without a wider examination of influences on parliamentary decision-making. In spite of this, it is the juxtaposition of nuances within the topic of stem cell research that has potential to highlight the impact, if any, of the Churches' teaching upon parliamentarians' decision-making.

#### IV DEBATING ISSUES OF HUMAN EMBRYOS

Embryonic stem cell research attempts to find ways to replace or transplant damaged or diseased cells with tissue developed from stem cells, and to develop drugs or other therapies to control and direct cell differentiation. Although research exists on adult stem cells and mouse stem cells, the use of embryonic stem cells, derived from embryos, presents ethically as the most contentious form of research.<sup>33</sup> The predominant ethical issue concerns whether destructive research on embryos is acceptable, particularly considering the moral status of an embryo. The question is whether an embryo has the equivalent moral status of a live human which, if answered in the affirmative, then leads to the issue of actively facilitating death. Parliaments have on more than one occasion debated legislation concerning the use of excess, stored human embryos.<sup>34</sup>

Before the parliamentary debates themselves, the view of the Catholic Archdiocese of Sydney on this question was made clear in the submission it made to the Lockhart Review in 2006, where it contended that 'human beings are to be valued precisely because of the kind of entities they are. All human beings are equal in dignity and this dignity is intrinsic and does not depend on any accidental characteristics such as maturity or presently exercised capacities.'<sup>35</sup> It claimed that 'the moral significance of embryonic human beings is derived from what they *are* – very young human beings.'<sup>36</sup>

<sup>33</sup> Natasha Stott Despoja and Jan McLucas, 'Supplementary Report in Favour of the Legislation' (14 September 2006) Parliament of Australia <[http://www.aph.gov.au/senate/committee/clac\\_ctte/completed\\_inquiries/2002-04/emb\\_cloning/report/d02.htm](http://www.aph.gov.au/senate/committee/clac_ctte/completed_inquiries/2002-04/emb_cloning/report/d02.htm)>.

<sup>34</sup> See overview in *Genes and Ingenuity: Gene Patenting and Human Health* Australian Law Reform Commission Report (2004) 99/15 <<http://www.alrc.gov.au/publications/15-stem-cell-technologies/stem-cell-research-australia>>.

<sup>35</sup> The Life Office Catholic Archdiocese of Sydney, Submission to the Australian Senate Community Affairs Committee, *Legislative Responses to Recommendations of the Lockhart review*, 4 October 2006, 4-5.

<sup>36</sup> Ibid 5.



While these comments are taken from public submissions to a parliamentary review, they represent the way in which a Church may influence the decision-making of Parliament. This occurs also on the floor of the House. A reading of Hansard debates on embryonic stem cell research reveals frequent references to statements by Church leaders and of Church teachings. It is these references that form the basis of analysis of Churches' influence on parliamentary law-making.

### A. Methodology

In this analysis, parliamentary debates in both New South Wales and the Commonwealth were explored through an in-depth textual analysis, extrapolating emergent themes in terms of apparent influences on parliamentarians' conscience. In doing so, the text was searched using a constant comparison method.<sup>37</sup> Such an approach involves searching for similarities and differences through systematic comparisons within and across texts. In this way, the reader is constantly searching for and identifying how one statement compares with another and in this way is able to tease out the themes.

In identifying a theme – in this case, an expression of adherence to Christian or Church teaching, for example – the reader asks whether this theme is of the same kind or exists to the same extent as any preceding theme.<sup>38</sup> Over the course of this analysis, macro and micro themes may emerge to provide both a larger view and one that might be more nuanced. This nuance was assisted through the complementary technique of 'missing data'<sup>39</sup> – identifying within the text whether the *absence* of mention of a key theme (such as Christian teaching or the Church) may give rise to an interpretation of influence.

It is recognised that within this analysis, an understanding of the context of language used imports additional meaning otherwise unapparent. For example, use of 'religion' or 'religious' is taken to indicate Christian religion – on the basis that this is the dominant religion. As such, it tends not to take on a qualifier in such a context. Likewise, use of 'the' Church may refer to that parliamentarian's particular denomination, or

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<sup>37</sup> Gerry W Ryan and H Russell Bernard, 'Techniques to Identify Themes in Qualitative Data' (2003) 15(1) *Field Methods* 85, citing B G Glaser and A Strauss *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Aldine, 1967).

<sup>38</sup> *Ibid*, 91.

<sup>39</sup> *Ibid*, 92.

it may represent a broad understanding of a cohesive Christian morality that underpins the dominant Australian culture.

Three distinct Hansard debates were analysed: Commonwealth 2002, Commonwealth 2006 and New South Wales 2007. To assist with the analysis of missing data, additional texts providing context for these debates were also scrutinised. Notice was taken, for example, of the declared religious affiliation of parliamentarians to help in assessing whether failure to mention their Church, or indeed denial of Church influence, can be accepted on its face or requires interrogation.

In terms of the debates, in late 2002, the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 was debated through Federal Parliament. Both Prime Minister John Howard, and Leader of the Opposition, Simon Crean, supported the Bill and both party leaders allowed a conscience vote. The 2002 legislation was enacted, and it mandated an independent review of the legislation to be conducted within three years, in order to assess technological, moral, and therapeutic developments. That review, the 'Lockhart Review' mentioned above, was debated federally in the House of Representatives and Senate in 2006.

The Human Cloning and Other Prohibited Practices Amendment Bill 2007 (NSW) was debated in New South Wales, though it gained significant national coverage due to public comment by Catholic Archbishop of Sydney, Cardinal George Pell.<sup>40</sup> The Bill mirrored the legislation passed federally in 2006.

On a constant comparison reading of these texts, three 'macro' themes emerged: politicians whose speech could be considered not to represent the teaching of any particular Christian Church ('unaligned'); those whose speech appeared to represent the teaching of a Christian Church – and yet this was either denied or masked in some way ('covert influence'); and those who openly acknowledged that their vote would be made based on the teachings of a Christian Church ('influenced'). In exploring these categories more fully, the measure of influence of a Church upon parliamentary decision-making is considered to be the extent to which a parliamentarian aligns themselves with the teachings of a Church – or indeed, as some claim, 'the' Church.

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<sup>40</sup> George Pell, 'Question of Conscience', *The Sunday Telegraph*, (online), 10 June 2007 <<http://www.dailytelegraph.com.au/news/opinion/question-of-conscience/story-e6frezz0-111113712980>>.

The number of speakers in each debate is summarised in the table in Appendix One. As an overwhelming majority of members spoke on the bills, for the purposes of this paper, a selection of speakers only has been sampled. The following sections provide an overview of this textual analysis in each debate, using examples from each of the three categories.

### B. 'Unaligned' with a Church

The parliamentarians quoted here, considered to be 'unaligned,' are representative of many who cited a range of influences on their vote, none of which reflected the teaching of any particular Christian Church. Importantly also, the parliamentarians cited here are not known for their membership of a Church. On the face of it, it is unlikely that they have been influenced by Church teaching, or that they are but have simply not said so publically.

These speakers frequently cited the possibility of curing illness and saving human lives in the future through embryonic stem cell research as their motivation for voting in favour of the Bill. Many made mention that the embryonic stem cells proposed for the research were excess to requirements, and were to be disposed of anyway: hence it made sense to use them for some good.

#### 1. Commonwealth 2002

Stephen Smith<sup>41</sup> in his opening sentence made it clear from the outset that he was outlining a rationalist argument, referring to 'spare and excess embryos'.<sup>42</sup> While acknowledging the argument against research, he quashed it based on the fact that 'this parliament has and state and territory parliaments have'<sup>43</sup> found that IVF is an appropriate procedure. From that, he argued, it follows that spare and excess embryos from IVF not be destroyed but rather be used for research to see 'whether research on those embryos can save existing life, extend existing life or make debilitated life better.'<sup>44</sup>

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<sup>41</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 20 August 2002, 5249 (Stephen Smith).

<sup>42</sup> Ibid.

<sup>43</sup> Ibid 5250.

<sup>44</sup> Ibid 5252.

Improving debilitated life was also argued by Simon Crean,<sup>45</sup> who chose to support the legislation because it did ‘the right thing—the right thing for the people with debilitating illnesses and for the health of future generations; the right thing for our scientific community and our future as a knowledge economy.’<sup>46</sup> He was clear in his mind ‘that the arguments in favour of using embryonic stem cells for medical research’<sup>47</sup> were overwhelming.

The scientific benefits were cited also by Mark Latham<sup>48</sup> who referred to living in an era of ‘constant technological change,’<sup>49</sup> with ‘some of the greatest advances in the history of humankind’<sup>50</sup> happening in our lifetime. Like Simon Crean, he supported embryonic stem cell research and its suggestion of ‘curing some of the world’s most debilitating illnesses, such as Parkinson’s disease, diabetes, Alzheimer’s disease and spinal injuries.’<sup>51</sup> He too addressed the argument against the Bill, but rather more forcefully than most, calling it ‘one of the most stunningly illogical, irrational and ultimately inhumane propositions to come before this House,’<sup>52</sup> and could explain it only as being ‘religious fundamentalism.’<sup>53</sup> Mark Latham concluded by indicating his desire to do ‘good things... for the future, particularly when it comes to solving illness and disease.’<sup>54</sup>

George Campbell<sup>55</sup> disputed the view widely held by opponents of the Bill that the Bill was based on questions concerning when life begins. He claimed the debate was about much more than that, rather it was about ‘life per se ... about life’s quality, its value and its spirit. It is also about death, death from illnesses for which medical science might

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<sup>45</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 20 August 2002, 5242 (Simon Crean).

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 21 August 2002, 5342 (Mark Latham).

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid 5343.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid 5347.

<sup>55</sup> Commonwealth, *Parliamentary Debates*, Senate, 12 November 2002, 6069 (George Campbell).

hold the key.<sup>56</sup> Yet he did engage in the debate about beginning of life, disputing that at the stage the cells would be used for research they took the form of a human. He claimed that they would not yet be individualised nor growing a body part, with their potential for human life being unrealised. He concluded that the research made possible by the passing of the Bill may not ‘hold all the answers’<sup>57</sup> but ‘we will never know unless we try.’<sup>58</sup>

Joe Hockey<sup>59</sup> famously took a clear stance against perceived Church intrusion and affirmed he did ‘not believe, as do some of my colleagues, that it is the role of government to preach and legislate morality. This is not a church, and I am not standing in a pulpit.’<sup>60</sup>

Ian Macdonald<sup>61</sup> succinctly declared his decision was reached because the ‘embryonic stem cells will otherwise be destroyed.’<sup>62</sup> He stabilised his argument, stating his belief that if there was any chance the research could lead to cures then it was ‘well worth taking.’<sup>63</sup> He further noted he believed the legislation also contained ‘adequate safeguards’<sup>64</sup> and thus he was comfortable supporting the Bill.

## 2. Commonwealth 2006

In the 2006 Commonwealth debates, Ian Macdonald<sup>65</sup> maintained his stance from 2002. He indicated this time that the issue for him was balanced and not one ‘inordinately influenced by one’s religious convictions or lack of them.’<sup>66</sup>

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<sup>56</sup> Ibid 6070.

<sup>57</sup> Ibid 6071.

<sup>58</sup> Ibid.

<sup>59</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 21 August 2002, 5332 (Joe Hockey).

<sup>60</sup> Ibid 5333.

<sup>61</sup> Commonwealth, *Parliamentary Debates*, Senate, 12 November 2002, 6071 (Ian Macdonald).

<sup>62</sup> Ibid 6072.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

<sup>65</sup> Commonwealth, *Parliamentary Debates*, Senate, 6 November 2006, 209 (Ian MacDonald).

<sup>66</sup> Ibid.

Warren Entsch<sup>67</sup> felt the crux of the debate was about balance, ‘balancing the need of our scientific research community in its quest’<sup>68</sup> to better understand and treat debilitating disease and injury and the corresponding hope this provides victims, with the ‘need to protect the sanctity of human life.’<sup>69</sup> He expressed his astonishment that ‘opponents of such research use the lack of medical breakthroughs to date as one of the key justifications’<sup>70</sup> against the Bill, but instead he was prepared to ‘stand condemned’<sup>71</sup> for holding out false hope, stating that ‘as parliamentarians we have no right to rob these people and their families of hope.’<sup>72</sup>

### 3. New South Wales 2007

The context of the debate was different when the New South Wales Parliament voted in 2007, because the public stance of Cardinal George Pell drew the majority of parliamentarians into an acknowledgement of Church teachings. The day of Pell’s media statement coincided with the commencement of three days of debate in the New South Wales Parliament. Of the 12 parliamentarians who spoke on the Bill that day, two exhibited what appears to be a truly unaligned stance. Ray Williams<sup>73</sup> voted against the Bill because he claimed the central activity permitted in the Bill was the ‘deliberate creation of cloned human embryos for research purposes involving their destruction.’<sup>74</sup> and that for him that meant that ‘in order to save lives we will have to destroy life.’<sup>75</sup>

Conversely, Carmel Tebbutt<sup>76</sup> supported the Bill, for two reasons. Firstly, she was convinced by the ‘weight of scientific evidence of the

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<sup>67</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 4 December 2006, 177 (Warren Entsch).

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid 178.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid 179.

<sup>73</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 5 June 2007, 782 (Ray Williams).

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 5 June 2007, 789 (Carmel Tebbutt).

potential'<sup>77</sup> for advances in medical research. Secondly, she felt she had a responsibility to those suffering from debilitating diseases to do what she could to 'allow research that may advance our ability to find a cure or improve treatments'.<sup>78</sup>

These speakers give all indications that their decisions were unaligned with teachings of any Christian Church. They tended to focus on scientific knowledge and community health, arguing on a range of bases excluding Church teaching upon which they made a decision on a moral issue. While it is possible only to *assume* the ideological or ethical stance of these members through their words, other members routinely demonstrate their adherence to teaching of a Christian Church and proclaim its influence on their lives – including their parliamentary lives.

### C. 'Covert' Church Influence

'Covert' alignment with the teaching of a Christian Church is used here to refer to parliamentarians who are candidly actively Christian, yet who choose not to explicitly mention religion or their Church as an influence on their decision to vote in a particular way in Parliament. It is true that 'a person's stance on a particular matter should not be labelled invalid simply because it is based on his or her faith.'<sup>79</sup> In the case of these members, however, it is possible that they seek to distance themselves from their religion and, in doing so, are attempting to avoid being discredited as mere religious fanatics, dutifully following their Church. Their stance could thus seek a wider community support base, avoiding 'alienating a potentially wider secular constituency'<sup>80</sup> by arguing on issues of humanity instead of an explicitly stated particularly Christian argument.

Maddox, for example, suggests that this is a deliberate strategy as 'the right's God is most powerful just below the surface.'<sup>81</sup> Maddox has observed that in the Federal debate of the Euthanasia Laws Bill

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<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Commonwealth, *Parliamentary Debates*, Senate, 18 March 1997, 1735 (Barney Cooney).

<sup>80</sup> Maddox, above n 21, 39.

<sup>81</sup> Ibid.

1996,<sup>82</sup> there was a ‘relative sparseness of religious argument’<sup>83</sup> in those opposing euthanasia. She concluded that the proponents of the Bill (those opposed to euthanasia) ‘tended deliberately to avoid mention of their religious motivations,’<sup>84</sup> and that they did so as it was ‘tactically advantageous to suppress references which might link them to any organised activity.’<sup>85</sup> In spite of no ‘overt’ claim to influence by a Church teaching however, these speakers were *in fact* influenced by their Church in reaching their position on these issues of conscience in the Parliament. On this basis, these parliamentarians’ Churches are considered to have a ‘covert’ influence on law-making.

An interesting example of the covert influence of a Church’s teaching arose in the 2011 valedictory speech of Senator Julian McGauran.<sup>86</sup> Reflecting upon a 1989 speech, he revealed that

[f]ollowing the speech I recall sitting down and one of my colleagues quizzically asking, ‘What was that all about?’ I guess I was a little vague about the deeper meaning of what I was saying, but I did it for a particular reason. Well, now I have the courage to say what I did not then. So where I said ‘good fortune’ in that speech, I meant miracle. I was meaning in the speech what we Catholics sensed at the time: the fulfilment of the promises of the apparitions of Fatima in 1917...

This illustrates the tension that may be felt by parliamentarians in engaging with their religious convictions in the public forum of Parliament, and also that there is indeed the possibility for covert Church influence.

### 1. Commonwealth 2002

On 11 August 2002, in preparation for the parliamentary debate, four Federal MPs, including John Anderson, John Murphy, and Brian Harradine, and three Church leaders, including Sydney’s Catholic Archbishop, George Pell, and his Anglican counterpart, Peter Jensen, addressed a rally in Sydney against the use of human embryos in stem

<sup>82</sup> Otherwise known as the Andrews Bill, which attempted (and succeeded) to overturn the Northern Territory *Rights of the Terminally Ill Act 1995*.

<sup>83</sup> Marion Maddox, ‘For God and States’ Rights: Euthanasia in the Senate’ (1999) 14.1 *Legislative Studies* 51, 53.

<sup>84</sup> *Ibid* 55.

<sup>85</sup> *Ibid* 58.

<sup>86</sup> Commonwealth, *Parliamentary Debates*, Senate, 11 June 2011, 42 (Julian McGauran).



cell research. The MPs and Church leaders hoped ‘to make an 11<sup>th</sup> hour exhortation to a crowd of about 950 to lobby their MPs to vote against the bill in a conscience vote later that month.’<sup>87</sup>

Engagement in this public rally, so closely connected to the parliamentary debates to follow, indicates a close alignment by these MPs with these Churches. In spite of this, none of the MPs chose to speak of any Church influence when delivering their decisions later in Parliament. All of them, however, opposed the Bill – as was the intent of the Church leaders at the public rally.

Also inside the Parliament, John Murphy,<sup>88</sup> in his only mention of (presumably Christian) religion, stressed ‘this debate is fundamentally an ethical debate; it is not a religious one.’<sup>89</sup> Similarly, John Anderson<sup>90</sup> stated that the issue ‘is often painted as a religious debate but it is not, in my view.’<sup>91</sup> In what appears to be an attempt to negate religious – and here Christianity is assumed – influence in his reasoning, he relied on the conclusions of Kristine Kerscher Keneally of the *Sydney Morning Herald*, referring to her not as ‘scientific’ (though her investigations involved scientific reasoning), nor simply as a ‘writer,’ but as a ‘non-religious writer.’<sup>92</sup> John Anderson concluded his rejection of research using embryos with the question ‘is there any sound reason ... for our not regarding each human embryo as deserving care, respect and recognition?’<sup>93</sup> These words perhaps carry with them ‘an echo of the (Christian) religious position’<sup>94</sup> he had represented the previous evening. Likewise, Brian Harradine<sup>95</sup> said his ‘approach to the establishment of public policy is to rigorously research the facts and apply them against a framework of the pursuit of a free, equal and life-affirming society.’<sup>96</sup>

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<sup>87</sup> McKeown and Lundie, above n 20.

<sup>88</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 22 August 2002, 5465, (John Murphy).

<sup>89</sup> Ibid.

<sup>90</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 20 August 2002, 5245 (John Anderson).

<sup>91</sup> Ibid 5247.

<sup>92</sup> Ibid.

<sup>93</sup> Ibid 5249.

<sup>94</sup> Channel Nine, ‘Hillsong; Songs of Praise - and Politics’, *Sunday*, 3 July 2005 (Jana Wendt).

<sup>95</sup> Commonwealth, *Parliamentary Debates*, Senate, 12 November 2002, 6131 (Brian Harradine).

<sup>96</sup> Ibid.

In a similar attempt to shift the framework of the debate to a secular one, Tony Abbott<sup>97</sup> stated he believed life began at conception and the reason for this belief was ‘founded not in religion, not in faith, but on the logic of the matter.’<sup>98</sup> Using this framework, he sought to respond to an argument in the chamber that opponents of embryonic stem cell research were ‘the victims of theology’<sup>99</sup> and that there was a ‘Catholic conspiracy against progress,’<sup>100</sup> by announcing that he did ‘not do anything because the Church says so,’<sup>101</sup> but rather that he supported things ‘because they are true.’<sup>102</sup> He quoted Cardinal Newman who claimed that ‘if truth and Catholicism conflict, either it is not really true, it is not really Catholic or there is no real conflict.’<sup>103</sup> Tony Abbott was unable to successfully divorce himself from his Church’s influence as his vernacular echoed poetically ‘this parliament cannot legislate for virtue and it cannot outlaw sin.’<sup>104</sup>

Rather than identifying the debate as one about a Church or religion more broadly, Tony Abbott<sup>105</sup> stated what he felt the debate was *not* about: namely ‘not about science, not about medicine, not about health.’<sup>106</sup> Instead the debate was ‘about life itself and the respect that we accord to our common humanity.’<sup>107</sup> He suggested another framework for thinking about the issue, namely the boundaries of who determines what is morally or ethically appropriate, saying ‘we simply will never know what is going on in someone else’s laboratory ... who knows what moral boundaries are going to be crossed in the name of science?’<sup>108</sup>

Again seeking to distance the debate from any Church, Geoffrey Buckland<sup>109</sup> said that ‘in the debate we should all dismiss the idea

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<sup>97</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 21 August 2002, 5303, (Tony Abbott).

<sup>98</sup> *Ibid* 5304.

<sup>99</sup> *Ibid*.

<sup>100</sup> *Ibid*.

<sup>101</sup> *Ibid*.

<sup>102</sup> *Ibid*.

<sup>103</sup> *Ibid*.

<sup>104</sup> *Ibid* 5306.

<sup>105</sup> *Ibid*.

<sup>106</sup> *Ibid*.

<sup>107</sup> *Ibid*.

<sup>108</sup> *Ibid*.

<sup>109</sup> Commonwealth, *Parliamentary Debates*, Senate, 11 November 2002, 5982 (Geoffrey Buckland).

that there is church influence in any of this. If the church could have influenced anyone in this debate more than anyone else it would have been me.’<sup>110</sup> He claimed to have spoken at length to the Archbishop of Adelaide and the Bishop of the Diocese of Port Pirie, yet concluded by saying ‘this is a very scientific argument that is based on scientific facts, and the scientific facts do not support, in any form, the passing of this legislation.’<sup>111</sup> This again illustrates an apparent distancing from the teaching of any Church in this debate, a theme continued in the 2006 debates.

## 2. *Commonwealth 2006*

In 2006, Tony Abbott<sup>112</sup> pursued his 2002 approach of setting the boundaries of ethical practice and distancing the debate from Christian teaching. Again, he argued that the debate was not about the importance of research, not about finding cures, certainly not about religion, but was rather about the ethical boundaries within which research should take place. He quoted the National Health and Medical Research Council in an attempt to prove that his views were ‘not the scaremongering of the church and its more zealous supporters.’<sup>113</sup>

In a slightly different approach, Bob Katter<sup>114</sup> sought to argue that the Church and science are not binary opposites. He took particular exception to the implication by the supporters of the Bill that all who opposed the Bill were ‘dastardly people who want to see these poor people continue to die these terrible deaths and somehow we have some spiritual belief system that obviates scientific objectivity.’<sup>115</sup> He then provided examples of great scientists who had a Christian belief: Voltaire, Galileo, Mendel, and Einstein. Based on this argument, scientific reasoning does not necessarily exclude Christian beliefs, and scientific reasoning may in fact be influenced by Christian beliefs. That is, the two are not necessarily mutually exclusive.

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<sup>110</sup> Ibid 5984

<sup>111</sup> Ibid.

<sup>112</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 6 December 2006, 12 (Tony Abbott).

<sup>113</sup> Ibid 13.

<sup>114</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 6 December 2006, 35 (Bob Katter).

<sup>115</sup> Ibid 37.

### 3. New South Wales 2007

In the New South Wales Parliament, Kristina Keneally,<sup>116</sup> practising Catholic and holder of a degree in Catholic theology,<sup>117</sup> opposed the Bill. She did not cite her Church as having played a part in her decision-making. Instead, she deliberately distanced herself from the comments of Cardinal Pell. She confirmed that she had taken on the view of several people including ‘people with debilitating conditions’,<sup>118</sup> researchers, and ‘several people on the other side of the debate’,<sup>119</sup> but adamantly proclaimed ‘one person to whom I did not speak was Cardinal George Pell.’<sup>120</sup> In what can be seen as an attempt to suppress references which might link her to any organised Church activity, and thus avoid being discredited, she referred to Cardinal Pell’s comments and claimed ‘I make it clear that his remarks played no role in my decision on this legislation.’<sup>121</sup>

In spite of this distancing, Ms Keneally’s close identification with the Catholic Church is considered to position her within the group of parliamentarians who are indeed influenced by the Church – even if covertly. Maddox suggests that for parliamentarians who seek to represent their Church’s teaching in Parliament, it is safer to omit religious terminology from the language used, and instead ‘talk about family or tradition or heritage or values or mainstream’<sup>122</sup> or other terms that ‘carry with them an echo of the religious position that they have become a kind of secular shorthand for.’<sup>123</sup> Arguably, when Greg Smith<sup>124</sup> opposed the Bill by relying heavily on science and legislative process in his speech, while opening with ‘I hope and pray that anything I say will be taken in the right spirit’,<sup>125</sup> he is covertly showing his religious beliefs through this ‘secular shorthand’.<sup>126</sup>

<sup>116</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 6 June 2007, 862 (Kristina Keneally).

<sup>117</sup> *Ibid* 864.

<sup>118</sup> *Ibid*.

<sup>119</sup> *Ibid*.

<sup>120</sup> *Ibid*.

<sup>121</sup> *Ibid*.

<sup>122</sup> Channel Nine, above n 94.

<sup>123</sup> *Ibid*.

<sup>124</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 6 June 2007, 880 (Greg Smith).

<sup>125</sup> *Ibid*.

<sup>126</sup> Channel Nine, above n 94.

### *D. Influenced by a Church*

If it is accepted that some parliamentarians do not disclose the influence of a Church on their decision-making, there is a contrasting group that appears to embrace a more transparent approach to their disclosure of the role of their Church in forming their voting intentions. Numerous MPs in all three debates took the opportunity in Parliament to openly acknowledge the influences on their vote, and for some that influence was their Church. What is interesting about these members in particular though, is that while they acknowledge this influence, their votes did not always align with their Church's position. Christian Churches may well have influence, but not consistently in favour of their (sometimes diverse) preferred legislative outcomes.

#### *1. Commonwealth 2002*

The 2002 Commonwealth debates contain clear evidence that various Christian Churches influence contemporary Australian law. Peter Dutton<sup>127</sup> acknowledged advice from professors, scientists, people with committed religious beliefs, and many constituents in his electorate. He then explained his thought process had included a:

natural influence from, and consideration of, my own religious beliefs, having been christened in the Church but raised through an Anglican school. I consider myself to be a person of Christian faith, but I consider it is that belief, that faith, which has ultimately influenced my decision to support this bill.<sup>128</sup>

He concluded that embryonic stem cells could provide 'hope for children with diseases where adult stem cells could not,'<sup>129</sup> and therefore voted in favour of the Bill. This is one of many examples where a Church's position may be contrary to the Bill, but its own teachings more broadly, in this case promoting a general 'humane' perspective, influence parliamentarians in favour of it.

The debates also highlighted the different approaches taken by different Churches. Peter Lindsay<sup>130</sup> framed the question in terms of the beginning of human life, a 'question largely raised by Catholics, who believe

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<sup>127</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 27 August 2002, 5847 (Peter Dutton).

<sup>128</sup> Ibid.

<sup>129</sup> Ibid 5848.

<sup>130</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 21 August 2002, 5347 (Peter Lindsay).

that conception occurs when sperm and ovum first combine.’<sup>131</sup> He disagreed with the Catholic position, instead being ‘particularly guided by the views of Dr Peter Carnley, Primate of the Anglican Church of Australia and Archbishop of Perth,’<sup>132</sup> concluding that ‘conception is now known to be not at a moment but a process that takes some 14 days.’<sup>133</sup> Since he felt no human life was being destroyed, Peter Lindsay supported the Bill so that the embryos could be used ‘for the good of all mankind.’<sup>134</sup>

Christopher Pearce<sup>135</sup> similarly voiced a religious basis for his decision, but with a scientific lean. His Christian conscience guided him and he could not ‘believe that God would wish the means of improving the health of future generations to be withheld from the scientific community when the alternative is the destruction of the embryos involved.’<sup>136</sup> He qualified his loyalty to his Church, assuring his support did ‘not signal that I would support other legislation on which the Church and the scientists disagree.’<sup>137</sup>

Phillip Lightfoot<sup>138</sup> admitted he had ‘been guided by the Church to vote against this bill,’<sup>139</sup> whereas Kay Patterson<sup>140</sup> supported the Bill and confirmed that some Senators indicated they had exercised their vote ‘on the basis of their religious beliefs.’<sup>141</sup> She continued, saying that ‘as a Christian and a frustrated Anglican on occasions, with the hierarchy of my Church and their intrusion into politics, I have also brought to bear my moral views and my moral conscience on this.’<sup>142</sup>

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<sup>131</sup> Ibid.

<sup>132</sup> Ibid.

<sup>133</sup> Ibid.

<sup>134</sup> Ibid 5350.

<sup>135</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 21 August 2002, 5402 (Christopher Pearce).

<sup>136</sup> Ibid 5403.

<sup>137</sup> Ibid.

<sup>138</sup> Commonwealth, *Parliamentary Debates*, Senate, 12 November 2002, 6117 (Phillip Lightfoot).

<sup>139</sup> Ibid 6119.

<sup>140</sup> Commonwealth, *Parliamentary Debates*, Senate, 12 November 2002, 6134 (Kay Patterson).

<sup>141</sup> Ibid 6135.

<sup>142</sup> Ibid.

## 2. Commonwealth 2006

Several members, while not specifically confessing their Church's influence on their own decision, did confirm that the Church could be an influence on decisions made in the chamber. Michael Hatton<sup>143</sup> professed each member had to 'make up their own mind and stand their own ground and be truly representative.'<sup>144</sup> A determination had to be made on the balance of research and responses 'to whatever stimuli there are, whether it is to your constituents or interests within the community from the Churches, ethical groups, and the scientific community.'<sup>145</sup> Similarly, Dr Carmen Lawrence<sup>146</sup> sensed that the crux of the debate was the issue of when life could be said to begin, an issue that she felt inevitably produces 'disparate responses in the community, in part because of differing judgments, many influenced by religious teachings.'<sup>147</sup>

Christopher Bowen<sup>148</sup> identified that much had 'been made of the influence of religion in this debate, and there is no doubt that some honourable members and senators have been influenced by their religion when coming to a decision on this matter.'<sup>149</sup> While asserting there was a separation between Church and State, he claimed that there could be 'no separation between religion and conscience.'<sup>150</sup>

His views gained passionate support from Danna Vale<sup>151</sup> who vehemently rejected the Bill based on Christian ideology. She felt the core of the debate was 'how we as a society, as a parliament, as a modern, educated, industrial, self-indulgent, consumer-driven Western society of the 21<sup>st</sup> century, value human life.'<sup>152</sup> She quoted Professor Father Frank

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<sup>143</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 6 December 2006, 64 (Michael Hatton).

<sup>144</sup> Ibid 65.

<sup>145</sup> Ibid.

<sup>146</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 6 December 2006, 19 (Carmen Lawrence).

<sup>147</sup> Ibid 20.

<sup>148</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 30 November 2006, 37 (Christopher Bowen).

<sup>149</sup> Ibid 38.

<sup>150</sup> Ibid.

<sup>151</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 5 December 2006, 83 (Danna Vale).

<sup>152</sup> Ibid 85.

Brennan<sup>153</sup> who had said ‘once we cross the moral contour prohibiting creation of human life only for experimentation and destruction there is no other coherent dividing line to draw.’<sup>154</sup> Danna Vale asserted that the proposed amendment was ‘set to change those very certain moral values by crossing Father Frank’s moral contour,’<sup>155</sup> indicating she felt he was the gatekeeper of morality. She continued that it was ‘from the principles and ethics of the Christian faith that we derive our awe, respect and wonder for human life, simply because it is a human life made in the image of God.’<sup>156</sup> The consequences of ignoring this were that ‘we neglect the civilising influence of Christian beliefs and values at our peril...into the valley of utilitarianism’<sup>157</sup> where ‘all human life and dignity will no longer be protected by the values of the uniquely love based Christian world view.’<sup>158</sup> She fervently opposed the Bill rejecting ‘it for the shibboleth that it is and for the moral bankruptcy that drives it.’<sup>159</sup>

Recognising the diversity of conclusions reached upon a Christian influence, John Howard<sup>160</sup> opposed the Bill but acknowledged, as ‘somebody who comes from what might loosely be called the mainstream of Protestant Christianity,’<sup>161</sup> that ‘Christian people of good conscience can reach diametrically opposed views on this legislation.’<sup>162</sup> In admitting it was not an easy task, he chose to concur with Anglican Bishop Tom Frame who said ‘I’m still unable to come to a conclusion that sits comfortably with my conscience. I’m not convinced that scientific experimentation on embryos is morally acceptable, but I’m sensitive to the needs of those who might benefit from the outcomes of the research.’<sup>163</sup>

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<sup>153</sup> From the Australian Catholic University.

<sup>154</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 5 December 2006, 86 (Danna Vale).

<sup>155</sup> *Ibid.*

<sup>156</sup> *Ibid* 87.

<sup>157</sup> *Ibid* 88.

<sup>158</sup> *Ibid.*

<sup>159</sup> *Ibid.*

<sup>160</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 6 December 2006, 117 (John Howard).

<sup>161</sup> *Ibid* 118.

<sup>162</sup> *Ibid.*

<sup>163</sup> *Ibid.*



Alan Ferguson<sup>164</sup> explained that ‘there are a number of reasons why I intend to support the Bill, but I preface those remarks by saying that I am a Christian and a regular churchgoer.’<sup>165</sup> He felt it relevant that ‘on the Lockhart Committee there were also a number of regular churchgoers who came to the unanimous position that they did at the end of their deliberations.’<sup>166</sup>

Carol Brown<sup>167</sup> believed that, in debates such as this, ‘the Church plays a healthy role when it challenges science,’<sup>168</sup> but that the Church had ‘to make its case and show good reason why science should not proceed.’<sup>169</sup> On this occasion, in her opinion, the Church failed to make the case. She showed how some law-makers are able to evaluate and resist making decisions blindly based on Church-based religious beliefs.

Similarly, Kevin Rudd<sup>170</sup> argued that ‘the Christian Churches are as entitled to engage in this debate as anyone else in the community,’<sup>171</sup> but that the ‘Christian Churches do not have a monopoly’<sup>172</sup> when it comes to fundamental ethical questions. The issue, he said, can indeed be ‘shaped by a range of theological and philosophical traditions.’<sup>173</sup>

### 3. *New South Wales 2007*

The context for the New South Wales debate differed significantly from the earlier debates, in light of the extraordinary outburst upon the New South Wales legislative process by Cardinal George Pell. In a newspaper article preceding the New South Wales debate, he declared ‘certainly, every Catholic politician who voted for this bill should think twice and examine his or her conscience before next receiving Communion,’<sup>174</sup> a statement viewed as a veiled threat to withdraw

<sup>164</sup> Commonwealth, *Parliamentary Debates*, Senate, 6 November 2006, 169 (Alan Fergusson).

<sup>165</sup> Ibid 170.

<sup>166</sup> Ibid 170.

<sup>167</sup> Commonwealth, *Parliamentary Debates*, Senate, 6 November 2006, 200 (Carol Brown).

<sup>168</sup> Ibid 204.

<sup>169</sup> Ibid.

<sup>170</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 6 December 2006, 119 (Kevin Rudd).

<sup>171</sup> Ibid.

<sup>172</sup> Ibid.

<sup>173</sup> Ibid 120.

<sup>174</sup> Pell, above n 40.

communion.<sup>175</sup> He further affirmed that ‘all Catholics who continue to reject important Catholic teachings ... should expect to be confronted, gently and consistently, rather than comforted and encouraged in their wrongdoing.’<sup>176</sup> In a television interview,<sup>177</sup> Cardinal Pell explained the vote was a ‘serious moral matter, and Catholic politicians who vote for this legislation must realise that their voting has consequences for their place in the life of the church.’<sup>178</sup> In response, Prime Minister John Howard said on ABC radio that it would be exaggerating to say Cardinal Pell<sup>179</sup> was trying to direct MPs on political matters.<sup>180</sup>

In spite of Mr Howard’s comments, there seems to be little doubt that Cardinal Pell was indeed seeking to influence the passage of the Bill by requiring strict adherence by Catholic MP’s with Catholic Church dogma. Jillian Skinner<sup>181</sup> said she thought it was ‘wrong for the church to try to influence members of Parliament in this way.’<sup>182</sup> She also believed Pell was attempting to ‘strongarm or pressure politicians into rejecting this legislation.’<sup>183</sup> Perhaps Pell’s adamant stance also had the opposite effect of causing MPs to rebel against it. New South Wales Premier Morris Iemma and Deputy Premier John Watkins, both Catholic, voted in favour of the Bill, to allow embryonic stem cell research, in spite of Cardinal Pell’s directive. Reba Meagher<sup>184</sup> supported the Bill vehemently pronouncing ‘I was christened a Catholic but if today’s media reports are correct and I am no longer welcome by the Catholic Church, so be it.’<sup>185</sup> The conscience vote in the Lower House passed convincingly, 65 votes to 26.

<sup>175</sup> ABC, ‘Abbott Refuses to Condemn Archbishop over Stem Cell Threats’, *Lateline*, 5 June 2007 (Tom Iggulden).

<sup>176</sup> Pell, above n 174.

<sup>177</sup> ABC, ‘Abbott Refuses to Condemn Archbishop over Stem Cell Threats’, above n 175.

<sup>178</sup> *Ibid.*

<sup>179</sup> And Perth Archbishop Barry Hickey.

<sup>180</sup> Alexandra Smith, ‘Pell Regrets Stem Cell Bid’, *The Sydney Morning Herald* (online), 7 June 2007 <<http://www.smh.com.au/news/national/pell-regrets-stem-cell-bill/2007/06/07/1181089203964.html>>.

<sup>181</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 5 June 2007, 775 (Jillian Skinner).

<sup>182</sup> *Ibid.*

<sup>183</sup> *Ibid.*

<sup>184</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 5 June 2007, 782 (Reba Meagher).

<sup>185</sup> *Ibid.* 784.

Cardinal Pell's comments were mentioned in Parliament by several MPs, such as Nathan Rees,<sup>186</sup> who felt that Cardinal Pell had attempted 'to engage in emotional blackmail of members of this Parliament,'<sup>187</sup> and that his hypocrisy was 'world-class. No government would seek to influence church teachings when providing taxpayer funds for the refurbishment of St Mary's Cathedral, ... of Catholic schoolchildren or ... to subsidise Church rate exemptions.'<sup>188</sup> Kristina Keneally,<sup>189</sup> openly Catholic,<sup>190</sup> reacted to the threat by stating 'I also note that if the Cardinal's approach is to start ex-communicating Catholic members of Parliament he might want to know that I support the ordination of women.'<sup>191</sup>

However, some MPs, such as Chris Hartcher<sup>192</sup> took the opportunity to support Cardinal Pell and reject the Bill.

I am proud to declare my support for Cardinal Pell and his comments on this legislation. I am proud to acknowledge my religious beliefs and to share the beliefs expressed by both His Eminence the Cardinal and the Anglican Church Diocese of Sydney in relation to this legislation.<sup>193</sup>

Federal Health Minister Tony Abbott said 'Cardinal Pell is the official head of the Catholic Church in Australia, and he speaks for the Church. Whether individual Catholics or the rest of the community obey him, that's really entirely up to them.'<sup>194</sup> When asked about Cardinal Pell's

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<sup>186</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 6 June 2007, 874 (Nathan Rees).

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

<sup>189</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 6 June 2007, 862 (Kristina Keneally).

<sup>190</sup> See later comments by Kristina Keneally during the New South Wales Parliament debate of the Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2) (NSW).

<sup>191</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 6 June 2007, 864 (Kristina Keneally).

<sup>192</sup> New South Wales, *Parliamentary Debates*, Legislative Assembly, 5 June 2007, 784 (Chris Hartcher).

<sup>193</sup> Ibid.

<sup>194</sup> ABC, 'Abbott Refuses to Condemn Archbishop over Stem Cell Threats', above n 175.

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threat to withdraw communion, Mr Abbott said it was ‘Premier Iemma’s decision as to what he’s going to make of that.’<sup>195</sup>

## V CONCLUSION

While there may be a popular conception that Christian Churches exercise an institutional influence upon parliamentary decision-making on matters of conscience, this analysis suggests that this conclusion is far from clear-cut.

In spite of a long-standing connection between the Churches and the law in Australia, contemporary parliamentary debates reveal a far less cohesive approach to adopting any particular Church position. On the one hand, it is easy to identify parliamentarians who proclaim their decision-making based upon their Church’s teachings. This suggests a close connection between Church and the law, so far as these votes are concerned. In a similar vein, there are a number of parliamentarians who likewise hold no particular Church view and who make their decisions on matters of conscience upon other bases.

More problematically, from the perspective of a transparent parliamentary process, there are a number of parliamentarians who may seem to base their decisions upon one set of criteria, but who in light of their adherence to Church teaching (revealed elsewhere) may in fact be representing a Church view in their parliamentary vote.

This represents no clear dichotomy between Church and non-Church views in parliamentary voting.

Further complicating this is the observation, born out by this analysis, that there is not necessarily a cohesive Church view, nor a non-Church view. It is by no means clear that all Christian churches are against stem cell research. Even if a Church taught against stem cell research, its teachings on compassion for human suffering (for example) may influence a parliamentarian to vote in favour of stem cell research. This parliamentarian could in fact be said to be ‘influenced’ by the Church – but not in a way that would be expected on a simplistic understanding of the nature of Church influence.

Given the high percentage of parliamentarians who are actively Christian, it is perhaps surprising that the amount of overt influence appears to be so small. While this raises a question as to whether the Australian public is adequately informed of the influences bearing

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<sup>195</sup> Ibid.

upon the votes of elected parliamentarians, this is by no means limited to Church influence.

This perhaps indicates two things. The first is that measurement of religious influence is extremely difficult. The indicators used here, on a textual analysis, are a blunt instrument with which to assess the inner workings of a religious conscience active in the Parliament. In addition, the contemporary variation in dogma renders a clear conclusion difficult. However in spite of suspicion in some quarters about the appropriateness of Churches' involvement in political debate, and their influence on parliamentarians (and therefore on law) the methodology of this paper does not reveal clearly an institutional Church influence on contemporary Australian law-making. If this is the case, the Churches are no different from any other community lobby group and their traditional overtly close association with the law has in fact weakened.

## APPENDIX 1

### Number and proportion of members who spoke to each Bill

Year	House	Month	Day	No of speakers	Total who spoke	No of possible speakers	Percentage who spoke	
2002	HOR	AUG	20	9				
			21	26				
			22	20				
			26	4				
			27	23				
			26	24	106	150	71%	
	SEN	NOV	1	28				
			2	20	48	76	63%	
2006	HOR	NOV	30	22				
			DEC	4	21			
				5	30			
				6	34	107	150	71%
			SEN	OCT	19	0		
NOV	6	39						
	7	13			52	76	68%	
2007	NSW	JUN	5	12				
			6	35				
			7	1	48	93	52%	
Overall					Total 361	545	66%	