

## The Conscience Vote and Abortion in Parliament\*

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And last of all, men, vehemently in love with their own new opinions, (though never so absurd,) and obstinately bent to maintain them, gave those their opinions also that revered name of Conscience, as if they would have it seem unlawful, to change or speak against them; and so pretend to know they are true, when they know at most but that they think so.

Hobbes, *Leviathan*, vii [31]<sup>1</sup>

The major parties in Australia rarely permit their parliamentary representatives to vote according to conscience where it speaks in a voice different from that of party policy. As McKeown and Lundie note in their widely cited research note, conscience votes, or free votes more generally, are infrequent in Australian parliaments.<sup>2</sup> What is somewhat less often noted is the strength of opposition to the practice by the leaders of the major parties when the issue arises.

One of the few issues on which a free vote is accepted as the norm is that of abortion and associated questions of reproductive matters. The parliamentary deliberation on ministerial power in regard to RU486 in late 2005 and early 2006 is the particular example

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<sup>1</sup> Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge University Press, 1991 [1651]), 48.

<sup>2</sup> Deirdre McKeown and Rob Lundie, Free Votes in Australian and some Overseas Parliaments, Current Issues Brief, 27 August 2002, available at <http://www.aph.gov.au/library/pubs/cib/2002-03/03cib01.htm>.

used in this paper. A free vote on the issue was sought and granted first in the Labor Party and then by John Howard.

An important feature of commentary and analysis of the RU486 deliberations was a focus on how the practice of a free vote affected the style of parliamentary conduct. That is, discussions of the free vote for the most part have focussed on the casting of the vote itself. However, it is less frequently noted that when parliamentary voting is unwhipped, *debate* also is at least comparatively unconstrained by party discipline. In the case of the RU486 proceedings, many parliamentarians and media commentators claimed that deliberations bore a different, and more desirable, tone and style.

For example, Anthony Marinac asked, “Is it possible the RU486 debate gave us a momentary, teasing glimpse of the democracy we might have had, and might still have if we had the courage to grasp it?” And he concluded, “True parliamentary democracy is there for the making and taking. Those who commented in their RU486 speeches on their pride in such a sincere, honest debate can have as much more as they dare to take”.<sup>3</sup> This question and the conclusion echoed the sentiments voiced in many of the backbench speeches on the bill, a pride in the maturity of the debate. Even the Prime Minister joined in this chorus, noting,

I am not somebody who shirks from free votes. They are good to have from time to time on these issues. I think parliament rises to its greatest heights when we have debates of this kind. A free vote encourages people to examine their beliefs, to reflect upon their experiences, values and attitudes, and to deal sensitively with a difficult issue.<sup>4</sup>

It might seem from the political and media commentary around the time of the RU486 parliamentary debate that there is a political and popular will to allow greater use of the

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<sup>3</sup> Anthony Marinac, “Imagining representative democracy”, *On Line Opinion*, 28 February 2006, available at <http://www.onlineopinion.com.au/view.asp?article=4202>.

<sup>4</sup> *Commonwealth Parliamentary Debates* [CPD] (House), 16 February 2006, 33.

practice of conscience voting, stifled only by neanderthal party discipline and its upholders, conscience voting on the issue of abortion has long been opposed by those arguing for reform in this area. This opposition seems to have evaporated in the face of the changing gender composition of parliament. Parliamentary voting remains significantly gendered on abortion and related issues, as the RU486 debate illustrates. Rather than revealing the undemocratic implications of party discipline, the RU486 debate instead reveals the emergence of new alignments at least in some areas of parliamentary life, specifically what seems to be an alignment on questions understood to be of particular interest to women.<sup>5</sup>

### **1. Conscience votes and the issue of abortion**

Both the Labor and Liberal-National parties have in the main permitted a conscience or free vote on abortion issues, and indeed both parties have tried to avoid having an explicit party platform on the question at all.

The Liberal and National Parties, as well as the Australian Democrats and the Greens, do not make a *specific* exception for abortion as a conscience issue. In practice, however, the Liberal and National Parties generally concede that special status to abortion. For example, in May 1998, John Howard was asked his view on late-term abortions. Howard is one of the three coalition politicians still sitting who voted to restrict commonwealth funding for pregnancy terminations in the 1979 parliament (the others being Philip

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<sup>5</sup> I do not want to enter into debates about questions of what are “women’s issues”. I mean this only in the sense noted by the Prime Minister himself: “Every man who enters this debate should be conscious of the reality that abortion is something that has for women, and particularly those who have experienced it, a special impact and a special character. No man who enters a debate of this kind should forget that”: *ibid.*

Ruddock and Alan Cadman). In reply to Neil Mitchell's question about late-term abortions, Howard answered,

Well, I have a personal view. These things are always regarded as conscience issues in the Liberal Party and I'm, therefore, speaking as John Howard and I'm not speaking as the Leader of the Federal Government. Well, they make me profoundly uneasy, to say the least. I'm quite uneasy. I know this is not a popular view with probably the majority of the community, but I'm a conservative on these issues.... I know it's a very difficult social issue and I know the pressures that are placed on many women and men in relation to this and I don't seek to ram my own personal views of conscience down the throats of others.<sup>6</sup>

Six years later, in July 2004, Howard replied to a question about abortion in a radio interview in similar terms, noting,

My view on abortion is that it's a non party political issue. I personally have a very conservative view but I'm not somebody who runs around the country foisting his views on others. But whenever its come before the Parliament in the past I've voted in a quite conservative fashion. But I don't see it becoming a party political issue in this country, if it ever were to come up in the future I would always want the Liberal Party to allow its members a free vote.<sup>7</sup>

And in November 2004, when asked about the possibility of wide-ranging a debate on abortion, Mr Howard replied in similar terms:

There will be no Government-sponsored change at a federal level to current arrangements. It is always open, if somebody wishes to on an issue like this, to bring forward a Private Member's Bill and the Liberal Party for its part, and I'm sure also the National Party, would allow all of its members a free or open vote as we have in the past. These are not issues that can be determined in accordance with political philosophy. There are strong views on both sides and I respect those views.... But I stress there will not be any Government-sponsored change because we have a situation and inherently [sic] it is matter of a free vote and a matter of conscience.<sup>8</sup> (Howard 2004b).

However, it is the ALP that has wrestled most publicly and bitterly with the issue of conscience voting on the question of abortion. The Labor Party has allowed a conscience

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<sup>6</sup> John Howard, transcript of radio interview with Neil Mitchell, Radio 3AW, Melbourne, 1 May 1998.

<sup>7</sup> John Howard, transcript of doorstep interview, Adelaide, 9 July 2004.

<sup>8</sup> John Howard, transcript of doorstep interview, Canberra, 10 November 2004.

vote to its members on questions of abortion and the unborn since at least the early 1970s, with very rare exceptions. In 2005, for example, New South Wales Labor MPs were not permitted a conscience vote on the *Crimes Amendment (Grievous Bodily Harm) Act 2005*, in regard to the protection of pregnant women and the unborn against violence or road rage. Amendments to the law in this context were mooted after a case concerning Renee Shields, who lost her unborn child in a road rage incident in 2001. The changes were recommended in a review of the law of manslaughter,<sup>9</sup> and initiated in the wake of the case of Philip King's assault on Kylie Flick and her unborn child.<sup>10</sup> In regard to this law, the NSW Attorney-General framed the issue as a legal issue.<sup>11</sup>

The ALP national conference at Surfers Paradise in 1973 first expressly stipulated that abortion should be a conscience issue.<sup>12</sup> That decision was contested by women in the ALP at subsequent state and national conferences. For example, in 1976, the NSW Labor Women's Conference passed a resolution calling for the abolition of all laws against abortion (and prostitution), with the resolution adding, "No man is being asked to violate his conscience, but merely to cease oppressing women".<sup>13</sup> This remained the position of a majority of ALP women throughout the 1970s and 1980s: that is, that the issue of abortion was not one of "men's consciences" but of "women's bodies", and that it should be the subject of party policy and party discipline like any other issue. At the 1979 conference, there was another unsuccessful move to end the conscience vote, led by the Victorian

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<sup>9</sup> M.D. Finlay, *Review of the Law of Manslaughter in New South Wales* (2003), available at [http://www.lawlink.nsw.gov.au/lawlink/clrd/ll\\_clrd.nsf/pages/CLRD\\_manslaughter](http://www.lawlink.nsw.gov.au/lawlink/clrd/ll_clrd.nsf/pages/CLRD_manslaughter).

<sup>10</sup> *R v King* [2003] NSWCCA 399, and *R v King* [2004] NSWCCA 444.

<sup>11</sup> Gerard Noonan. "No conscience vote on new crime law", *Sydney Morning Herald*, 5 May 2005, 4.

<sup>12</sup> Ian Frykberg, "Four leaders help defeat abortion move", *Sydney Morning Herald*, 6 July 1977, 9.

<sup>13</sup> "Call for abolition of some sex laws", *Sydney Morning Herald*, 29 March 1976, 2.

branch.<sup>14</sup> In 1981, the first National Labor Women's Conference called for a policy of abortion on demand and an end to the conscience vote on the matter (as well as calling for a refusal to take part in Right to Life questionnaires or debates).<sup>15</sup>

After a change in party rules, women participated in greatly increased numbers at the 1982 Labor national conference, leading to fears that pressure on the abortion issue could split the unity of the party and spoil its electoral chances.<sup>16</sup> At the ALP National Conference in 1984, the Labor Party platform on women was amended to include "the particular right of women to choice of fertility control", to which was added "including abortion".<sup>17</sup>

Although at the time there was much concern that this would mean an end to the conscience vote on abortion, it was decided that the new platform would not be binding on all members. Senator Pat Giles at the conference sought to introduce a motion requiring allowing only members elected or preselected before the conference to abstain from votes on the question; the motion was defeated 58 to 35.<sup>18</sup>

Opposition to the imposition of party discipline on the issue of abortion came not only from the Right of the Labor Party, but also from supporters of wider access to abortion within the party. In 1977, for example, the then leader of the federal opposition Gough Whitlam, the NSW Premier Neville Wran, the SA Premier Don Dunstan, and Bill Hayden,

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<sup>14</sup> "Free vote retained", *Sydney Morning Herald*, 20 July 1979, p 10. See also "Victorian ALP votes to relax law on prostitution", *Sydney Morning Herald*, 2 April 1979, 3 (noting Victorian ALP decision to ask federal ALP to end conscience vote on abortion), "South Australia: Sharp Reaction to Abortion Vote", *Sydney Morning Herald*, 19 June 1979, 2.

<sup>15</sup> "Labor women back abortion on demand", *Sydney Morning Herald*, 27 January 1981, 2.

<sup>16</sup> Maximilian Walsh, "An issue that may abort unity", *Bulletin*, 11 May 1982, 27-28, and Paul Kelly, "Abortion sets the ALP a battle with its conscience", *Sydney Morning Herald*, 16 April 1982.

<sup>17</sup> Amanda Buckley, "Right to abortion gets party backing", *Sydney Morning Herald*, 13 July 1984, 1.

<sup>18</sup> Amanda Buckley, "Party retains conscience vote on abortion", *Sydney Morning Herald*, 14 July 1984, 6.

the likely successor to Whitlam, combined to intervene against a motion from the ALP Health, Welfare, Repatriation and Migrant Affairs Committee to legalise abortion, which would have bound party members. All four were in favour of abortion but argued that it should be a matter of individual conscience. The motion was defeated 25 to 18, with 6 abstentions.<sup>19</sup> Dunstan opposed the abolition of the conscience vote on abortion because of his assessment of his electoral chances: “I don’t want to go to an election faced with the fact that I am going to lose three Cabinet ministers at least before an election over an issue like this”.<sup>20</sup> For Dunstan, retention of the conscience vote was the primary way of insulating the ALP from retaliation to the party as a whole if any of its members were to propose abortion reform in parliament.

The reservation of a conscience vote for abortion has some basis in a respect for differing deeply-held views on the issue, but it is also founded in the claim that popular retribution will be visited on politicians for their support of abortion reform. I have argued elsewhere that a “mythology” has grown up around the issue of abortion and parliaments, a central claim of which is that the public will take electoral revenge for pro-abortion votes by politicians. This is a tenacious claim even though a substantial majority of Australians supports very liberal access to abortion, and this has been the case for at least the last 30 years.

After the 2004 federal election, at the time when various Liberal and National MPs were re-opening the debate on abortion, a Newspoll taken on 17-19 December 2004 found that 50% of Australians supported access “under any circumstances”, with a further 39%

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<sup>19</sup> Ian Frykberg, “Four leaders help defeat abortion move”, *Sydney Morning Herald*, 6 July 1977, 9.

<sup>20</sup> Ian Frykberg, “Four leaders help defeat abortion move”, *Sydney Morning Herald*, 6 July 1977, 9.

supporting access “if it is proven the pregnancy will cause psychological or medical harm to the mother” (that is, the test of the lawfulness of abortion in Victoria, New South Wales and Queensland). These figures were almost identical to those in a Newspoll taken eight years before, on 20-22 September 1996.<sup>21</sup> From the early 1970s on, no poll has found a majority of Australians opposed to abortion under any circumstances.

In this context, however, it is striking that the beliefs of parliamentary candidates differ *significantly* from public opinion. The Australian Election Studies show that while Australians across party lines support liberal access to abortion, there are significant differences by party affiliation among parliamentary candidates. Labor candidates were more in favour of wide access than were Labor voters, but Liberal or National Party candidates were considerably less in favour than Liberal voters.<sup>22</sup>

## **2. Gendered consciences?**

Throughout the 1970s and into the 1980s, many Labor women identified the conscience vote as perhaps the major obstacle to abortion law reform. They argued against the continued framing of abortion as an issue of conscience, and maintained that the Labor Party should adopt a policy, and subject its members to the ordinary processes of party discipline, on the matter. Without the engine of party initiation and backing, it was argued, no reform would be contemplated, or successful. In the almost complete absence of specific party commitments, and the reluctance to impose party discipline, on this issue,

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<sup>21</sup> P. Karvelas, “Majority stays pro-choice”, *Australian*, 29 December 2004, 2.

<sup>22</sup> K. Betts, “Attitudes to Abortion in Australia: 1972 to 2003”, *People and Place*, 12, 4 (2004), 25-26.

the voting intentions and actions of parliamentarians on abortion become subject to individual commitments, often of a religious character.<sup>23</sup>

However, opposition by ALP women to the granting of a conscience vote on abortion is now muted, in part given the much greater representation of women in parliament. For example, the reform of abortion law in Western Australia in 1999 came about through a free parliamentary vote, following the introduction of a private member's bill.<sup>24</sup> This was followed in 2001 by Tasmanian reform through the *Criminal Code Amendment Act (No 2) 2001* (Tas),<sup>25</sup> and by important legislative bouts in the Australian Capital Territory, in

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<sup>23</sup> For a useful survey of the religious allegiances of politicians, see John Warhurst, "Religion in 21<sup>st</sup> Century Australian National Politics", Australian Senate Occasional Lecture Series, 5 May 2006, available at [www.aph.gov.au/Senate/pubs/occa\\_lect/transcripts/050506.pdf](http://www.aph.gov.au/Senate/pubs/occa_lect/transcripts/050506.pdf). It seems possible that religious convictions are more aligned with the position on abortion of parliamentarians than are the religious convictions of Australians as a whole, although why this should be so is not clear.

<sup>24</sup> *Acts Amendment (Abortion) Act 1998* (WA). See *WAPD*, 10 March-21 May 1998 passim. Also see Cheryl Davenport, "Achieving Abortion Law Reform in Western Australia", *Australian Feminist Studies*, 13 (1998), 299-304, D. Black and H. Phillips, "A Bicameral Case Study: The 1998 Western Australian Abortion Legislation", *Legislative Studies*, 13, 2 (Autumn 1999), 7-29, J. Brankovich, "Constructing a Feminist Morality in the Western Australian Abortion Debate, 1998", *Journal of Australian Studies*, 67 (2001), 86-94, 220-221, L. Teasdale, "Confronting the Fear of Being 'Caught': Discourses on Abortion in Western Australia", *UNSW Law Journal*, 22, 1 (1999), 60-99, M. Kirkby, "Western Australia's New Abortion Laws: Restrictive and Reinforcing the Power of the Medical Profession and the State over Women's Bodies and Lives", *Australian Feminist Studies*, 13 (1998), 305-312, and M.J. Rankin, "Recent Developments in Australian Abortion Law: Tasmania and the Australian Capital Territory", *Monash University Law Review*, 29, 2 (2003), 317-326.

<sup>25</sup> See *TPD*, 19 December 2001 (House of Assembly), and 20 December 2001 (Legislative Council), passim. Also see M.J. Rankin, "Recent Developments in Australian Abortion Law: Tasmania and the Australian Capital Territory", *Monash University Law Review*, 29, 2 (2003), 317-326.

1998 with the *Health Regulation (Maternal Health Information) Act 1998 (ACT)*,<sup>26</sup> and in 2002 with the *Crimes (Abolition of Offence of Abortion) Act 2002 (ACT)*.<sup>27</sup>

That conscience voting should now serve pro-choice positions seems to rest on the changing composition of parliaments: that women's consciences as well as men's consciences have increasingly come into contention in the debate and the vote. When the House of Representatives voted against the Lusher Amendment in 1979, there were no women members in the House. At that time, while there was no majority for a restriction of access to abortion, it seemed that there was also no majority (or an uncertain one) for its widening. The gender balance of the parliament had changed decisively in both the House and the Senate by 2005.

In 2005, a private member's bill was introduced into federal parliament, in order to transfer the approval of the abortifacient RU486 from the Minister of Health to the Therapeutic Goods Administration.<sup>28</sup> The bill was introduced in the Senate in December 2005 by Fiona Nash (Nat, NSW) and on behalf of three other women senators: Judith Troeth (Lib, Victoria), Claire Moore (ALP, Queensland), and Lyn Allison (AD,

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<sup>26</sup> See *ACT Legislative Assembly Debates*, 26 August 1998 ff. See also Rankin 2001: 249-251. In 2001, the Executive issued the *Maternal Health Information Regulations Repeal 2001 (ACT)* to repeal the 1999 Regulations to the Act attempting to mandate the inclusion of foetal pictures in the pamphlet required to be given to women contemplating abortion: M.J. Rankin, "Recent Developments in Australian Abortion Law: Tasmania and the Australian Capital Territory", *Monash University Law Review*, 29, 2 (2003), 329.

<sup>27</sup> See *ACT Legislative Assembly Debates*, 12 December 2001-21 August 2002. Also see M.J. Rankin, "Recent Developments in Australian Abortion Law: Tasmania and the Australian Capital Territory", *Monash University Law Review*, 29, 2 (2003), 327-335.

<sup>28</sup> *Therapeutic Goods Amendment (Repeal of Ministerial Responsibility for Approval of RU486) Act 2006 (No. 5, 2006)*, available at [http://www.austlii.edu.au/au/legis/cth/num\\_act/tgaomrfaor486a2006822/](http://www.austlii.edu.au/au/legis/cth/num_act/tgaomrfaor486a2006822/).

Victoria),<sup>29</sup> and was then referred to a Senate Committee.<sup>30</sup> Senator Allison had originally proposed the amendment, before the Prime Minister agreed to a conscience vote on the issue.

In tabling the Senate report, the Chair of the Committee, Senator Gary Humphries, pointed to the difficulty of the question of approval of the drug on the grounds that “Who makes that decision is inexorably tied up in the question of what’s your view about abortion, what’s your view about this abortion-inducing drug”. Senator Humphries pronounced himself as anti-abortion and in favour of the approval power remaining with the Minister for Health, and thereby “accountable to the Australian community”.<sup>31</sup> Even though the ensuing parliamentary debate did not directly concern questions about the legality of abortion, it did take place against the backdrop of the wider debate on that very question that had begun after the 2004 election, focussing in particular around the question of the allegedly high number of abortions in Australia. The most prominent proponents of that debate were Tony Abbott, John Anderson, De-Anne Kelly, Christopher Pyne, Bruce Baird, Alan Cadman, and Ron Boswell.<sup>32</sup> Moreover, many of the speakers *against* the

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<sup>29</sup> See Carol Nader, “United across the trenches”, *Age*, 9 February 2006, 17, for profiles of the bill’s sponsors.

<sup>30</sup> The Committee received 2500 submissions, but made only one recommendation, on education: “The Committee recommends that increased financial support be provided to improve sex education, including better education on responsible human relationships; wider availability of information about and access to contraception and other fertility control techniques; ensure independent professional counselling for women considering a termination of pregnancy, counselling post termination and counselling for relinquishing mothers as required; greater social support for women who choose to continue with their pregnancy; and increasing the availability and affordability of child care.”

<sup>31</sup> ABC World Today, 8 February 2006.

<sup>32</sup> M. Grattan and D. Wroe, “Abortion out of control, says minister”, *Age*, 2 November 2004, 4, P. Karvelas, “Female Nat MP calls for review of abortion law”, *Australian*, 6 November 2004, 4, and L. Dodson, “Cabinet to start with full-scale abortion debate”, *Sydney Morning Herald*, 13 November 2004, 13.

RU486 bill understood the debate to be about abortion, and chided the bill's supporters for obfuscating the true nature of the question at hand.

There were certain complicating factors that do not allow a straightforward reading of the RU486 vote as *simply* a vote on abortion. Some Liberal and National Party members, notably Alexander Downer and Jackie Kelly, did not phrase their positions in whole or in part in terms of abortion at all, but in terms of the power of parliament. Other factors that may have come into play in voting preferences were a sense of party loyalty, either to the Minister for Health, or to the Prime Minister (who was known to oppose the bill), and also some personal antipathy to the Minister for Health in the case of certain members (on both sides of the parliament).

Nevertheless, some patterns are clear. Table 3 sets out figures for the Senate vote on the third reading of the bill on 9 February 2006, and the House of Representatives vote on the second reading of the bill on 16 February 2006. In the Senate, the second reading had passed by 45 to 26 votes, after which two sets of amendments were put in the Committee stage of the debate, the first set on behalf of Senators Barnett and Humphries, which was lost by 28 to 44 votes, and the second on behalf of Senators Colbeck and Scullion, which was lost by 33 to 41 votes. In the House, amendments proposed by Jackie Kelly were defeated 49 to 96 votes, as were amendments proposed by Andrew Laming, 56 to 90 votes. The third reading of the bill in the House was passed on the voices, so final voting figures are not available in that case.

**Table 3: Voting on the RU486 legislation in the Senate (3<sup>rd</sup> reading, 9 February 2006) and House of Representatives (2<sup>nd</sup> reading, 16 February 2006)**

	Senate Yes	Senate No	Senate Abstain/ Absent	HR Yes	HR No	HR Abstain/ Absent
Lib/Nat men	8	19	3	32	38	1
	27%	63%	10%	45%	54%	1%
Lib/Nat women	8	1		10	6	1
	89%	11%		59%	35%	6%
ALP men	10	5		33	5	1
	67%	33%		85%	13%	2%
ALP women	11	2		19		
	85%	15%		100%		
AD + Green men	3					
	100%					
AD + Green women	5					
	100%					
Family First men		1				
		100%				
Ind men				1	1	1
				33%	33%	33%
TOTAL	45	28	3	95	50	4

No ALP women in the House, and only two ALP women Senators, voted against the bill. In parliament as a whole, ALP men were significantly more strongly in favour of the bill (80%) than were Liberal/National Party women (70%). By far the group most opposed to the bill were Liberal/National Party men, with only 40% of the total members of this

group in parliament voting for the bill. The figures for this last group suggest that neither gender nor party affiliation *in itself* provides a sufficient explanation of voting patterns on issues like abortion.

The voting patterns in the RU486 debate are consistent with those evident in the abortion reforms in the state and territory parliaments noted above. That is, votes in parliament on such matters are moving into closer alignment with public opinion. Without the evidence of a post-debate election to draw upon, it is premature to say that there is no electoral cost to politicians who took a less conservative stand on these issues. However, it is noteworthy that there is no mention of the issue in media coverage of the lead-up to the 2004 election or in anecdotal polling of reasons for voting intentions in that election.

Perhaps the most striking outcome of the RU486 debate, however, is not the particular numbers of votes for and against, but rather that the issue was debated and voted upon, which makes it clear that it is not the alleged conservatism of voters that stands in the way of abortion reform.

### **3. A future for conscience voting, and deliberation?**

Australian popular opinion has remained in favour of liberal access to abortion over the last 30 years. The voting intentions of parliamentarians, at least at the federal level, now seem to be more closely aligned with popular opinion on this issue. The practice of conscience voting on abortion and reproductive matters, once considered by many women's groups as a serious obstacle to abortion reform, now seems much less so, given the greater numbers of women in parliament, who – across party lines – are

overwhelmingly in favour of easier access to abortion and broadly pro-choice in regard to related issues.

Less obvious however, is the way in which the conscience vote on RU486 shaped not only the outcome, but also the way in which the parliamentary debate was conducted. As an unwhipped vote, the practice of conscience voting means that the order and length of speeches is much less controlled by party imperatives, and can be subject to more cross-party negotiation. An example of this is the negotiations in the Senate at the Committee stage.<sup>33</sup>

The outcome of a conscience vote does not directly affect confidence in the government. For that reason the number of speakers on conscience votes can potentially be much larger. As speeches are also unwhipped, greater latitude is allowed for freer debate. I am not quite sure how this would be measured or what comparative measure could be used to gauge the difference in *quality* of debate. However, as I noted above, that the RU486 debate was of a different quality was claimed by the Prime Minister on down, by parliamentarians, and by political and media commentators. Senator Nash introduced the bill in these terms, as inaugurating a new parliamentary era:

This is not about party policies. This is about four senators in this place as individuals, with enormous support, who believe, regardless of belonging to different parties, that passing this bill is the right thing to do. I am advised that this is the first time in the history of this place that four members of different parties have co-sponsored a private senator's bill. I think it brings great strength to the bill that, regardless of our individual philosophies and ideologies, we are united in our belief that passing this bill will be of benefit to people in this country.<sup>34</sup>

And a typical example of media hyperbole was Kerry-Anne Walsh, who noted,

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<sup>33</sup> *CPD* (Senate), 9 February 2006, 109-110.

<sup>34</sup> Senator Nash, *CPD* (Senate), 8 February 2006, 89.

Imagine a world in which MPs treat each other with respect and dignity, dissect and analyse life-altering moral issues and adopt positions based on their life experiences, consciences, the merits of the arguments and their constituents' wishes . . .

Hang on – that was Federal Parliament last week.

The rare glimpse of independent thought was afforded by a conscience vote on legislation to hand the power of veto over abortion pill RU486 to medical experts, instead of vesting it in the Health Minister.

There was pathos, passion, intelligence and humanity showcased in the debate, from the intensely personal airing of private experiences to intellectual dissertations on ethical concerns.

Despite the gravity of the question before them, our elected representatives had the jubilant air of men and women relieved of the boredom of party political life.<sup>35</sup>

There were few dissenting voices to this dream.<sup>36</sup>

And yet, the congratulatory tone of parliament was quite belied by the bitterness of the debate across party lines. What was new was not cross-party harmony, but the emergence of a perhaps fleeting consensus on the grounds of gender. That is, the RU486 debate allowed by a free vote revealed not the absence of partisan attachments, but the presence of some new alignments within the parliament.

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<sup>35</sup> Kerry-Anne Walsh, “Real debate, that’s what we want from our pollies”, *Sun Herald*, 19 February 2006, 31.

<sup>36</sup> See for example, Peter van Onselen and Wayne Errington, “With consciences to the fore, politics gets uglier”, *Canberra Times*, 20 February 2006, 11.