

Ms Katie Hodson-Thomas; Dr Geoff Gallop; Mr Terry Waldron; Mr Brendon Grylls; Mr Tony McRae; Ms Jaye Radisich; Ms Dianne Guise; Ms Sue Walker; Mr Rob Johnson; Mr Jim McGinty; Mrs Cheryl Edwardes; Mr Phillip Pendal

HUMAN REPRODUCTIVE TECHNOLOGY AMENDMENT BILL 2003

Second Reading

Resumed from 24 September.

MS K. HODSON-THOMAS (Carine) [9.59 am]: I am part way through my comments on the Human Reproductive Technology Amendment Bill that is before us today. As I was saying yesterday, having read the minister's second reading speech, I am pleased that the recommendations of the select committee will come to a conclusion. Yesterday, I was commenting on the recommendations of that select committee. As I said yesterday, our committee sat and took evidence for almost two years. By and large, the committee had some serious ethical and moral concerns. As I said, there were about 90 recommendations. I think there was only one minority recommendation, to which I alluded yesterday, and that was a recommendation by the member for Thornlie and Minister for Community Development, and the former member for Kalgoorlie.

One of the recommendations of the committee was that no clinic or practitioner be under any obligation to provide a service. I understand from the amendments that are proposed that that is a recommendation of several members in the Chamber. It is certainly a recommendation that was agreed to by the five members of the select committee.

Another recommendation was about pre-implantation genetic testing, to which I referred yesterday. That allows a couple to have an embryo checked to ensure that there is no genetic disease or abnormality. The committee's recommendation 7b states -

That pre-implantation genetic diagnosis (PGD) technology not be used for sex selection alone or for the determination of physical characteristics ("designer babies").

That use of PGD be restricted to clients whose future child would otherwise be likely to be affected by a genetic abnormality or disease as determined by the Reproductive Technology Council.

I commented on that yesterday and mentioned a young woman who has been to see many members in this place about pre-implantation genetic diagnosis. She has had four terminations as a result of not being able to use that technology.

Many good recommendations are in this select committee report. I will refer to them. I know that other members are obviously seeking to make comments today as well. The debate has been very considered. Recommendation 10b was -

That the Reproductive Technology Council, by way of Directions, establish a Code of Practice that will deal with matters of ethics, rules, procedures and guidelines.

I certainly believe that that is a very solid recommendation, as are many others.

Before I deal with that, I will talk about my concerns about stem cell research. As I said yesterday, I support the recommendations of the select committee. However, the stem cell research debate clouds the good recommendations made by the select committee. I hope that during consideration in detail or when the minister gives his summation of the second reading contributions, he will enlighten us about or give us some information on and clarification of the way in which a clinician or a researcher will apply for a licence to undertake research on any of the spare embryos about which we are talking. I understand that those spare embryos are roughly about five per cent of all embryos that are kept in storage. I hope that the minister will be able to explain to us what that process will be; that is, how a clinician or a researcher will apply for a licence. Will that be done through the Western Australian Reproductive Technology Council? How will those people apply to obtain a licence to undertake any research?

I also made some comments about the success rates of assisted reproductive technology. As I understand it, generally about nine eggs are harvested from a woman. They are ultimately fertilised. The guidelines are such that generally only one or two embryos are implanted in the uterus with the hope of some success. Guidelines are also set that do not allow for the further harvesting of any eggs until only two embryos remain in storage. It is fairly important for people to understand that there have always been strict guidelines about how many embryos are allowed to be created. Perhaps the minister will be able to provide us with some information on that, as well as on the success rates of assisted reproductive technology because, during the select committee's deliberations, it discovered that the success rates for assisted reproductive technology are quite limited.

Another recommendation was that reporting be mandatory and that clinics be expected to provide more complete information in a standardised format. It would be interesting to find out from the minister whether that will be embraced. I hope it will be encouraged.

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Before I forget, because I am known to often forget things when I stand in this place, I should indicate that the member for Kingsley and other members in this place referred to this State embracing the notion of establishing a cord blood bank. That is a good idea, and it would certainly be a positive outcome if this State were to go down that path; that is, to encourage people, when they have their babies, to have cord blood taken and frozen. That would be a very positive move.

[Leave granted for the member's time to be extended.]

Ms K. HODSON-THOMAS: The select committee also looked at counselling for couples. This is a highly invasive technology; it is not an easy technology. Obviously, infertile couples are very keen to start a family. Good, sound counselling should be provided to couples. It is not an easy thing for people to go down this path, particularly if they are unsuccessful. The committee's recommendation 16a was -

That Direction 5.2 which states that "the licensee must ensure that the cost of at least one hour with an approved counsellor for each IVF cycle begun, as well as an extra hour when the decision is being made to withdraw from further IVF treatment, is included in the overall cost of treatment" be endorsed and supported.

Certainly, we all supported that recommendation.

As I said at the outset of my comments yesterday, I find myself in a real dilemma. I will certainly support the recommendations of the Select Committee on The Human Reproductive Technology Act 1991, which reported in 1999. However, I have some major concerns about the stem cell research aspect of the proposed legislation. That is why I am seeking further clarification from the Minister for Health of how a practitioner, clinician or researcher will seek a licence. Who will issue licences for further research? What will be the guidelines and on what basis will they apply?

DR G.I. GALLOP (Victoria Park - Premier) [10.10 am]: I support the Bill. As Premier of this State, I was party to the Council of Australian Governments agreement of 5 April 2002 that led to these amendments. That meeting covered three main issues: an agreement to introduce nationally consistent legislation to ban cloning of whole human beings and other unacceptable practices in reproductive technology, an agreement to regulate human embryo research through a licensing scheme administered by the National Health and Medical Research Council and an agreement to adopt a nationally consistent approach to regulating clinical practice of assisted reproductive technology. That approach is based on providers of ART services being accredited by the reproductive technology accreditation committee, which, in turn, requires compliance with relevant NHMRC ethical guidelines.

In effect, this Bill emerges from the agreement of the Council of Australian Governments and from the bipartisan Select Committee on the Human Reproductive Technology Act 1991, which reported to this Parliament a number of years ago.

This Bill amends the Human Reproductive Technology Act, which, for a decade, has provided Western Australia with comprehensive and effective regulations and oversight of assisted reproductive technology practices. Those regulations have not been bettered in any other jurisdiction in Australia. Research based on a decade of data from the Reproductive Technology Register, which was established by the Act, has allowed Western Australia to lead the way with a publication in the *New England Journal of Medicine* last year of the unique research into the prevalence of birth defects associated with ART. This has occurred at a time of growing recognition of the need for such studies. In addition, each year the WA Reproductive Technology Council, as required under the Act, has provided the Parliament with detailed information from Western Australia's ART clinics, which includes information about the creation and use of all human embryos. This type of information will form an important baseline for monitoring practices in the clinics. It will address concerns such as those expressed by several members during the debate that passage of these amendments might encourage the indirect creation of embryos for research from oversupply of clinical needs.

As mentioned by several members, a restriction on the use of excess ART embryos created after 5 April 2002 for research will be implemented by the commonwealth legislative scheme. This Bill addresses the same concerns. COAG has yet to consider the early lifting of the restriction. However, at its recent meeting on 29 August, all the political leaders, including me, indicated their full confidence that when fully implemented the scheme will provide the strict safeguards that the Australian community demands. Although the Human Reproductive Technology Act already effectively prohibits all practices being amended in this Bill, these amendments update the language of the prohibitions to make them consistent with the national scheme.

I have been advised by the Minister for Health that a way has now been found to split the Bill to allow members to support the prohibitions. I am confident that this will address members' concerns.

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The central issue in this legislation is embryonic stem cell research. Many thoughtful speeches have been made by members. Their speeches provide ample evidence of the diversity of moral and ethical concerns that the amendments raise in our community, particularly those concerning the use of human embryos for research. People bring to debates of this nature different philosophical and theological concerns. Indeed, even theological views differ. A number of years ago I was given a copy of the debate in the House of Lords in Great Britain that dealt with the contentious issue of embryonic and adult stem cell research. I was struck by some comments made by the Bishop of Oxford. In the conclusion of his speech he says -

If we take a developmental view of the human person, as I believe the Western tradition did until the 19th century, the early embryo has a special, though not an absolute, status. That special status needs to be protected by law. This means that research should be done on it if it only is truly necessary and that research cannot be done any other way. That is why I shall certainly be supporting one of the two amendments now before us.

The Bishop of Oxford argued that the early embryo has a special status but that it needed to be put alongside what may possibly come out of research. Our own Archbishop of Perth, Dr Peter Carnley, has written on this subject. In a detailed discussion about the distinction between fertilisation and conception in the *Bulletin* of 16 April 2002, he concludes -

Stem cell research is therefore morally thinkable, for stem cells are harvested within the 14-day period before the completion of the process of conception.

He says further on -

We all agree that human life is sacred. What we should also be agreed about is that the rightness or otherwise of embryo research is certainly not to be arbitrarily decided on the basis of the level of scientific knowledge as it stood in the middle of the 19th century.

I quote those two distinguished theologians to indicate that the theological argument does not go only one way on this issue. It is contentious, as are most discussions about human life. People's points of view differ. Archbishop Carnley makes the point that we should consider stem cell research as morally thinkable. In other words, we must put it into the context of policy and regulation to work out when it changes from being morally thinkable to being morally acceptable. That is exactly what we have tried to do in this legislation.

Many members have spoken about the potential for embryo research to result in treatments and therapies for a variety of debilitating conditions. This is the central argument in favour of research. We do not know whether this potential will be met. However, the opportunity to explore this is an important area of scientific endeavour and one that I wholeheartedly support. These amendments will pave the way for new and important biotechnological developments in this State. We move from the morally thinkable to the morally acceptable when we consider the potential results that will come from this research, and that will impact on human life and human suffering in a potentially positive way. The potential to reduce human suffering is an overarching principle that should be accepted. It is the commonsense and humane approach to this issue. Hope is given to those who are suffering from stroke, spinal cord disorders and a wide range of degenerative diseases, including Alzheimer's disease, juvenile diabetes, motor neurone disease and Parkinson's disease. There is no doubt that many people with those conditions see this research as very important to their future. They would like to think that their society, community, researchers and Governments are doing all they can to enable them to look forward to a cure for their disease. In the past, theological constraints were placed on scientific research, which has held back the development of human knowledge. These constraints have held back our ability as a community to overcome human suffering. We are now at one of those junctures in human history. Strong arguments have been made by those who are against embryonic stem cell research. However, I ask them to consider the other side of the argument, which is the potential to reduce real human suffering being experienced now by real human beings who want hope in their daily lives.

To make embryonic stem cell research morally acceptable, there is no doubt that a proper regulatory regime should be implemented. All speakers in favour of the legislation have made that point very strongly. It is incorporated in the legislation and it is understood by all the political leaders who signed the Council of Australian Governments agreement that we need a regulatory regime. This legislation certainly provides for that.

To summarise this argument: theologians and scientists have established that embryo stem cell research is morally thinkable. I believe it becomes morally acceptable when we put it in the context of the potential it has to overcome human suffering and the regulatory regime that we will provide to ensure that there is no malpractice. The legislation before us sensibly balances concerns about the status of human embryos with the possibilities of

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valuable medical and scientific advances by imposing a strict regulatory regime that will allow some research using excess assisted reproductive technology embryos. I am pleased to support the amendments contained in the Bill which will allow for the genetic testing of embryos prior to implantation - with the approval of the Reproductive Technology Council - when there is a significant risk of a serious genetic abnormality or disease.

Finally, I am pleased to note that all the amendments contained in the Bill are in line with the recommendations of the bipartisan select committee that reviewed the Human Reproductive Technology Act and reported to the Parliament in 1999. One of the recommendations of the select committee was that there should be consistent national legislation regulating to human reproductive technology. The amendments in the Bill will achieve this aim and will bring Western Australia in line with the nationally agreed scheme of prohibiting human cloning and regulating human embryo research and clinical practice in assisted reproductive technology. The Commonwealth Government and the Governments of New South Wales, Victoria, South Australia, Tasmania and Queensland have already passed legislation to implement the scheme, and heads of government will sign an intergovernmental agreement that will ensure that this legislation remains nationally consistent.

I conclude my remarks by referring to Christopher Reeve's visit to Australia last year. Christopher Reeve is a well-known actor but he is now equally well known as a courageous individual who is working with an extreme disability. That disability, which is complete paralysis, was caused by a horse-riding accident in 1995. What is interesting about Christopher Reeve is that he has not only tried to deal with his own personal circumstances, but also he took an interest in and made a significant contribution to this debate when he was in Australia late last year. He has taken up the cause of embryonic stem cell research. He argues that it is wrong to prevent access to embryonic stem cells that would in any case be wasted. He said that when embryo stem cells were first isolated in 1988, he assumed that they would be rapidly deployed in the fight against a wide range of diseases. In some countries, of course, the issue was taken up with a degree of vigour. For example, Great Britain, Sweden, Finland, Switzerland, Israel and Singapore are well and truly involved in research on embryonic stem cells with active support from government. Mr Reeve noted that it did not happen as he thought it would. In fact, there has been wide-ranging debate in his community, Australia and the world on the ethical and practical issues associated with the research. Reeve said that initially he was very impatient with the debate and felt that it was holding back things that should be done. He remains strongly of the view that we should allow research on embryonic stem cells, but he acknowledges that the debate has been very useful because it has helped clarify the issues and has allowed us to come up with a regulatory regime that will meet the ethical concerns that we all share, even though some of us have ethical differences. The conclusion that Christopher Reeve reached is that the debate has been useful and has helped clarify the issues. Australia has embodied all those conclusions in the federal-state agreement and in the legislation that is before this Parliament today. The balance of the argument, I think, is on the side of research. I believe it would be wrong of us as a Parliament to hold up that research. It would be wrong of us as a community to say to people who have diseases that we will not give researchers the option of using embryonic stem cells to see whether they can find cures for those diseases.

I applaud the comments that have been made by Christopher Reeve. His understanding of the issues is quite extraordinary. He recognises the political and ethical issues that are involved. However, the time has come for us to move ahead. Throughout human history, theological constraints on research have held up human progress. We are now at one of those points. Many communities have already crossed that threshold and have engaged in extensive research, and already we are seeing promising results from that research. As yet that research has not produced the cures that it may produce, but it would be wrong of us to hold up that process. In the interests of combating human suffering and providing hope for many people who have debilitating conditions, we should support this Bill.

MR T.K. WALDRON (Wagin) [10.25 am]: The Human Reproductive Technology Bill 2003 facilitates extremely important public debate on the use of human embryos for research purposes and presents difficult ethical issues for many people. I have been listening with great interest to the many excellent speeches that have been made in this place. At a recent National Party state conference - the member for Avon will also mention this - delegates overwhelmingly supported the controlled use of excess embryos for stem cell research. In fact, there was also strong support for the State Government to establish a state-run blood bank. However, we now understand that Western Australia will become part of the national program in 2004.

I have spoken about this legislation with many people from within and outside my electorate, and I have received much correspondence about this matter, as have, I am sure, most members. After talking to people and weighing up the issues, I feel that the public is generally in favour of this legislation. People have some reservations about particular areas, but generally they are in favour of the legislation, given the possibility of great advances in health, in the treatment of diseases for future generations and in assisting parents who cannot have children.

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I support this Bill. Its effect is threefold: first, it introduces nationally consistent legislation to ban the cloning of whole humans and other related practices; secondly, it legislates to regulate human embryo research; and, thirdly, it adopts a nationally consistent approach to the regulation of assisted reproductive technology and clinical practice. It is important that we create a nationally consistent approach to these matters.

Like the majority of people, I oppose human cloning. I strongly support the continuation of the prohibition on human cloning. After listening to speeches in this place, it is clear that most members are opposed to human cloning. No-one who has approached me has been in favour of human cloning. I strongly believe that we should always encourage and support the further development of science and that we must support the people who have the skills in that area. We should support and encourage these talented people to further develop science and technology so that we can prevent disease and minimise the number of children who are born with severe disabilities. We must also assist those parents who cannot have children. There is a lot to be gained for the benefit of our community in future generations if we continue to explore the possibilities that science can deliver. However, I stress that that must be done in a strongly regulated and controlled environment. I believe that this Bill offers those safeguards.

The Bill is about finding new ways to improve the quality of life for many people. The Premier just mentioned such things as spinal cord injuries, Alzheimer's disease, juvenile diabetes and many others. We should never deny people with those problems an opportunity for future treatment. We must always closely scrutinise and manage advances in science and technology, but we should never stifle it when there is so much to be gained for people in the future. This Bill is about reducing human suffering, both now and, more importantly, into the future.

Recently I watched a television program on the history of blood transfusions. The program went right back to when people first started trialling blood transfusions, I think a couple of hundred years ago; I do not have the dates with me. It was extremely interesting to learn about the debate that took place all these years ago. The debate, which went on for a long time, was in the very early years when people were nearing a breakthrough in blood transfusion research. At that time people became so concerned about blood transfusions that they were banned and the research was shelved, and, for the next 100 to 120 years, no-one did any research on blood transfusions; it was completely taboo. We all know the importance and value of blood transfusions in our modern lives. I think most of the people who donate blood do so for that very reason. Over the years the lives of millions of people around the world have been saved and assisted by blood transfusions. I wonder how many people could have had their lives saved during those years when blood transfusions were banned and were a big no-no and when people were not able to continue with the research and development of blood transfusions.

An analogy can be drawn with this Bill. We must always look forward in these areas. That is why I will be supporting the legislation. I understand and respect the concerns of people about the Bill. However, I believe there is more to gain than to lose from the passage of this legislation. The Bill seeks to prohibit cloning. It seeks to allow the use of excess human embryos for specific agreed research purposes, and to allow embryonic screening to detect serious genetic abnormality or disease. We need to ensure that the Bill has in place sufficient checks and balances to appropriately regulate the use of excess human embryos for research purposes. I look forward to the debate during consideration in detail and am confident that we can finalise good legislation on this extremely important matter. I reiterate that I will be supporting the Bill.

MR B.J. GRYLLS (Merredin) [10.31 am]: I welcome the opportunity to speak on the Human Reproductive Technology Bill. I state from the outset that I will be supporting the Bill. The speech that I will be making today came to me yesterday as I watched the second reading debate take place in this House and saw in the public gallery a young Western Australian who was in a wheelchair. That young Western Australian had come to watch the debate unfold in the Parliament, and although I did not get a chance to speak to that young Western Australian, to me that is what this legislation is all about. This legislation is about providing hope for Western Australians who suffer from a degenerative disease, are in a wheelchair or struggle with pain and suffering, by ensuring that our very best scientists and doctors are able to do the research that may provide cures and provide a better life for those people in our community. I am sure there would not be one member of this House of the Western Australian Parliament who is not touched by disability or illness in some way. My brother-in-law has been disabled since birth, and we talk regularly in my family about whether research in the 1970s when he was born could have played a part in assisting him to have a better quality of life than he has today. That is just my example; my family lives with that every day. I would welcome it if the best researchers and doctors in the land had the ability to look closely at illnesses such as the one that my brother-in-law lives with, and also the illnesses that everyone in our community has to live with daily. I am sure every member of this House would have similar examples in their lives. From the debate that I have heard, it seems that there will be strong support for the Bill. I welcome that; it is a good thing.

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Some concerns have been expressed in the community about the Bill. I must admit that letters have come into my office opposing the Bill. However, there were not many of them, and they were mostly of the chain letter variety; that is, they were pro-forma letters that had been signed at the bottom. I did not receive one telephone call about this Bill. That shows the changing nature of society and its recognition that this research is important and necessary. The majority of the people to whom I have spoken about the Bill believe that we need the Bill and should support it. People do not sit around the dinner table debating this matter day and night, because they take it as a given that if people have the ability to conduct this sort of research and try to find cures, that is exactly what they should be doing. I think it is a move forward by society that that is the level of debate that this Bill has generated.

I want to put on the record the strong support from the National Party for embryonic stem cell research. A motion that was put at the National Party state conference, which was held in Busselton in August, was that the National Party support and positively encourage stem cell research, including human embryonic stem cell research. That motion was strongly debated by the 100 people in the room, and I am happy to report to the Parliament that there was not one dissenting voice on the motion. As members know, the National Party covers a wide range of age groups. I found it heartening that the older and more senior members of the National Party were as strongly in support of embryonic stem cell research as were the younger members. It sends a clear message about what we are trying to achieve in this Bill when a wide cross-section of National Party members can be unanimous in their support for embryonic stem cell research. Not one member spoke out strongly against it. The National Party even took it further, and we received quite a lot of media prominence, when we spoke about the idea of keeping umbilical cord stem cells in a bank for future research. The National Party has been prepared to go even further in the debate by promoting the idea that this may be a way forward for research to end the pain and suffering that many people in our community endure in their daily lives. It was excellent for me as a new member of the National Party, and of this Parliament, to know that the party that I represent is that forward thinking in representing the community and society in 2003. It was excellent that the National Party came to that conclusion at the state conference, and we look forward to continuing to develop the issues that were raised in that debate, because I believe they have widespread support.

An important issue that has been raised by members who are concerned about some aspects of this Bill is that checks and balances be put in place to ensure that the right thing is done. I believe the Bill will put those checks and balances in place. Amendments have been foreshadowed by some members of the House, and I look forward to that debate and to forming my decision on those amendments. I believe checks and balances should be put in place, but at no stage should we limit the ability of our very important researchers and doctors to move forward in the field of medical science and find solutions to these critical problems.

It is very simple as a member of Parliament to take a view on a matter when that matter does not touch one at home. In the debate so far there has been much recognition of individual cases to which we would like to find solutions. It is very important that we put a human face to this debate. It is easy when we are fit in mind and body to take an ideological line on this Bill. However, some people are not fit in mind and body. I refer to the young lady in the wheelchair who sat in the public gallery yesterday afternoon. I represent her and the community of Western Australia in this Parliament. I certainly could not stand before her and oppose legislation to give teams of senior doctors the potential to delve into medical research that could lead to that young Western Australian being able to stand out of her wheelchair and meet me face to face in the future.

The Bill represents important changes to the legislation, which I support wholeheartedly. I look forward to the debate on the foreshadowed amendments to the Bill at the consideration in detail stage. I put on record my very strong support for human embryonic stem cell research.

MR A.D. McRAE (Riverton) [10.40 am]: I put on record my support for this legislation and I do so aware of a range of views not only in my electorate but also in other electorates throughout the State. Listening to the members for Wagin and Merredin report on their perspectives from country and rural Western Australia has confirmed my understanding of the overwhelming support in the community for this legislation, albeit with reservations on a number of matters. Those matters in my view go to the issue of cloning; the method of regulation; the starting and stopping point for the use of harvested embryos; a general concern about the manipulation of the human genome and about what might emerge from the legislation as science and medicine advances, for which we as legislators have no answer yet. None of those matters causes me to come to a view that I should not support this legislation. The legislation will provide an opportunity to many people in the community and that opportunity is the overwhelming motive driving me to stand and indicate my support for the legislation.

Having received correspondence and phone calls from people on all aspects of the spectrum of this debate, I understand people's concerns. I respect the very strongly held views for and against the use of embryonic stem

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cells. I say to those in my community who have raised this issue with me that I fully understand their concerns on every level. I have made a decision on the basis of optimism for the future and that we must face honestly and courageously the challenges that science brings to us, and not shy away simply because of our concern about the human capacity to do ill to each other. We must not be driven by our fear; we must be driven by our optimism. Many people who are suffering today hold that optimism in the belief that we as legislators will properly allow the use of stem cells.

I too will listen to the debate on this Bill at the consideration in detail stage. I believe a number of amendments have been foreshadowed. I have yet to form a very firm opinion on whether any embryo created prior to 5 April 2002 should be allowed to be used for stem cell research and any embryo created after that date should not be allowed. That appears to be an arbitrary decision and I want to explore and understand that issue a bit more as we go through the debate. I approach the legislation with optimism, as I said, acknowledging the concerns that people have. However, we must be brave enough to face the future in such a way that we will determine the ways in which we can protect human life - the human genome - as they arise and to give optimism to those who are suffering for the possibility of change for the better in their life.

MS J.A. RADISICH (Swan Hills) [10.44 am]: I will make only a few comments today on the Bill. This is important legislation on the technological progression of humankind. I note that the community has a range of views and that in my electorate not everyone supports the legislation. It is very difficult for members of Parliament to represent the views of all their constituents. More often than not it is impossible, given the range of views in the community. I support the legislation, although I have had correspondence from a number of constituents outlining the reasons they would prefer me not to. Conversely, I have received correspondence from and had discussion with constituents who, like me, support the legislation.

Excellent arguments have been made in this debate by a number of my colleagues, including the members for Collie, Darling Range, Churchlands and Joondalup. Their arguments summarise the debate succinctly and I will therefore not go into a great deal of detail in making my few comments today. I am pleased that this is uniform legislation. It is important that such legislation exists uniformly throughout the federation so that people who move to another State can continue to study and research reproductive technology.

The main reason I support the legislation is to offer hope to people for the future. It remains to be seen whether medical researchers are able to achieve success in the cure of diseases. However, I am not prepared to eliminate that possibility. By supporting the legislation, I hope to assist people who become disabled or afflicted by terrible diseases in the future. I, like other members of the House, also oppose cloning in every way, shape and form. Often unforeseen circumstances arise in the lives of people, whether they be young or old, who want children. This legislation will allow medical researchers to make technological advances that may assist those people to develop and build a family in the future.

MRS D.J. GUISE (Wanneroo - Deputy Speaker) [10.48 am]: I will speak very briefly on the Bill and not go into detail. Other members who have spoken previously have presented their points of view well. Having worked in this place during the abortion debate, I must commend members for the way in which they have presented their arguments and for the understanding and compassion they have shown to each other and the community in addressing the various points of view.

I address the intent of this Bill. It is a result of the Council of Australian Governments meeting of 5 April 2002. The Commonwealth and States agreed that they would aim to introduce nationally consistent legislation to ban the cloning of whole humans and other related practices, legislate to regulate human embryo research through a licensing scheme and adopt a nationally consistent approach to the regulation of assisted reproductive technology. Those aspects are very important, and a nationally consistent approach is the way forward - we are one nation. Others have expressed their view about cloning. That argument is absolutely cut and dried. I have not met anyone anywhere who would support such a proposition. I will support the splitting of the Bill if that is the mood of this Chamber and it assists members to support that amendment. I give that proposition my support as a way forward.

The Bill will provide people with the ability to undergo pre-implantation genetic diagnosis. We have all been moved by letters such as that from Sonja Jenkins, who outlined her situation and that of others in the community. Genetic testing for abnormalities and disease is to be commended. Scientific researchers and doctors working in this area are to be commended for their efforts. The research aspect of this is incredibly important.

The one area with which I would have had a serious problem related to the purposes for creating a human embryo. We are talking about life. If we were to in any way, shape or form suggest that this could be done for any purpose other than to achieve pregnancy in a woman, I would have a serious problem with the legislation. However, that issue has been addressed, and the provisions have my support.

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Before I conclude, I briefly return to the research. I know others still want to speak and we need to move on. Stem cell research is resulting in amazing breakthroughs. Members have given many examples, some very personal, about what the research means to them. I do not think many of us would go through life without coming across an instance in which further research would assist if not a family member, at least someone we are aware of. I am particularly interested in the embryonic stem cell research into lung disease. Unfortunately, my mother died from a respiratory disease. It is good to know that extensive research is being done in this area and that scientists at Melbourne's National Stem Cell Centre have turned human embryonic stem cells into lung cells. This is an amazing breakthrough that could help lead to cures for cystic fibrosis, mesothelioma, emphysema, chronic bronchitis and eventually lung cancer. These are amazing breakthroughs relating to serious illnesses. Members who have been with anyone who suffers from any of those illnesses know that it is not something they would wish upon their worst enemy. This research is resulting in an amazing range of breakthroughs, and that will continue.

For those reasons, I support the Bill. I will certainly support the splitting of the Bill. I am told that is achievable. A number of members have indicated that they will be a lot more comfortable with that, and I will give it my support. As this Bill proscribes certain practices, it sits comfortably with me; therefore, it has my support.

MS S.E. WALKER (Nedlands) [10.55 am]: This is a very significant Bill. I say at the outset that I approached this Bill with an open mind. I have received a handful - about six - letters from members of the electorate about aspects of the Bill. I have also received the letter from a young lady about pre-implantation diagnosis, to which the member for Darling Range referred yesterday. I will refer to those.

In considering this legislation, it was important for me to understand how the community finds itself in a position in which there are excess embryos. That is a dilemma and a concern. I would have preferred to have had a good look at how we are able to access all these human embryos.

For the purposes of my electorate, this Bill is part of a national legislative scheme to prohibit cloning and regulate research involving human embryos. It has been said in the federal Parliament that because the legislation requires complex moral and ethical judgments about an issue on which there are diverse attitudes, we have been given a free vote on it. As the Leader of the Opposition pointed out, Liberal parliamentarians are always entitled to vote against the party position, provided they give notice to their colleagues. I have been told that this free vote is a conscience vote. Some speakers have said that it means we can vote the way we feel, rather than how we think our electorates want us to vote. I take the view that my electorate expects me to conscientiously consider the issues and the legislation, and to form a view and vote on their behalf. As I have always said, that is what I believe I am paid to do. I approached this debate with an open mind because I believe in always searching for the truth. I have listened to and read all the speeches in this debate. I have read research papers and church papers. I referred to the second reading speech of Keith Wilson, the Minister for Health in 1991, on the Human Reproductive Technology Bill. I read the Prime Minister's second reading speech on the commonwealth Bill. He supported the legislation. I also read the speech of Tony Abbott, the federal Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service, who was opposed to the most contentious aspect of the legislation. I also read the media releases of the time in my best endeavour to inform myself on behalf of the electorate of Nedlands.

The Bill raised many questions, to which I believe I have found the answers. When reading the Bill, I noted a few questions. Why is it acceptable practice to regulate to allow human embryo research? How is it that as a community we have access to human embryos? Who owns the embryos? What constitutes a human embryo? Why were the embryos brought into existence? Will this Bill help humanity? Is there anything to support this? By what legal method can human embryos be created? Where are the human embryos stored? Who has access to them? How many excess assisted reproductive technology embryos are in existence in this State? According to the member for Kingsley, 70 000 excess embryos are in existence in Australia. From reading the speeches of other members who have done considerable research in this area, I also know that only eight embryos are needed to produce all the stem cells that are required. I am not sure whether that was for Australia or the world. What happens to unwanted embryos at the moment? Like me, members of the electorate will have absolutely no idea about this legislation or why the Parliament is in the position it is in at the moment in debating this Bill, or why researchers have access to these embryos. It is important for me to look at those issues and ask those questions because anyone who wishes to know how I formed my views on this matter will need to understand, firstly, how we, as a society, have access to these embryos.

I looked at the Human Reproductive Technology Act 1991, because the Bill now before the Parliament will amend that Act. The member for South Perth referred to that legislation and to the fact that 12 years ago this Parliament categorically rejected moving towards provisions such as those found in the Bill now before us. I

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thought that was interesting. Keith Wilson was the Minister for Health at that time. I have never met Mr Wilson, but I have read about him in the papers over the years and about his compassionate work in the area of mental health. I have a lot of respect for him and for the work he does in the community. I have compared the second reading speech of the Human Reproductive Technology Bill with the second reading speech of this Bill. Mr Wilson's speech, which was given on 22 November 1990, was very comprehensive. In it he stated -

In vitro fertilisation - IVF - was first performed in Western Australia in 1980. The first IVF baby was born in Western Australia in 1982, only four years after the first IVF baby in the world was born in the United Kingdom. The first Western Australian gamete intrafallopian transfer - GIFT - baby was born in 1986, the first frozen embryo baby was born in October 1986 and the first donor ovum baby was born in May 1987. By the end of 1987 nearly 300 babies had been born in WA as a result of IVF or GIFT treatment, and in 1988 alone, approximately 300 IVF/GIFT babies were born. By 1988 about 100 couples a month were commencing IVF or GIFT treatment cycles in the two WA clinics.

What is interesting about that Bill is that it was contentious. Mr Wilson further stated -

The nature of this legislation goes to the very heart of the structure of our society, for in this Bill we have had to consider the impact of reproductive technology on accepted social relationships, on the structure of the family, on the nature and status of the embryo and on those who seek the benefits and outcomes it offers. Such far reaching ramifications inevitably produce strong polarity of opinion, and with it deeply felt convictions.

I voted against the gay and lesbian law reform Bill. Part of my reason for voting against that legislation was a conversation I heard on the Liam Bartlett radio program with a young woman, who was born as a result of an IVF procedure, about the research that had been done - I think it was the only research that had been done in the world on IVF babies - and about the difficulties those children now face. What I am saying is that the decisions we make when we interfere with nature have far-reaching ramifications that become evident only in years to come. An example is the IVF children now. Mr Wilson further stated in his second reading speech -

It became clear during public consultations that widespread community concern exists about the practice of reproductive technology. Issues raised include the welfare of children born;

I have just referred to that matter. He further stated -

Other issues indicate the moral and ethical dilemmas associated with the technologies. These include research on embryos, the donation of ova, the use of selective termination to reduce high multiple pregnancies, cloning, creation of animal/human hybrids and so on, all of which are now, for the first time, technically possible.

Finally, he stated -

Strong arguments have been made for the unethical nature of human embryo experimentation. The Helsinki and Tokyo declarations of the world medical assemblies declare that -

In research on man, the interests of science and society should never take precedence over considerations relating to the well-being of the subject.

I also refer to the statement of the 21 Fellows of the Royal College of Obstetricians and Gynaecologists, including two former presidents, that human embryo experimentation -

... reduces the status of the human embryo to that of an experimental animal, contravenes the code of medical ethics and must be rejected.

I am raising that point so that the people to whom I will send my speech will understand how we have reached the position we are in today. On 20 September 2001, Mr Andrews, the member for Menzies, presented a report to the federal Parliament on behalf of the Standing Committee on Legal and Constitutional Affairs. That report was entitled "Human cloning: scientific, ethical and regulatory aspects of human cloning and stem cell research". Bearing in mind that legislation was enacted in Western Australia in 1991, it was not until 10 years later that Mr Andrews presented this report to the federal Parliament. He stated at the time -

In 1999 the minister for health asked the committee to review the 1998 report by the Australian Health Ethics Committee, *Scientific, Ethical and Regulatory Considerations Relevant to Cloning of Human Beings*. The committee has examined the many complex issues surrounding human cloning and stem cell research and has heard from many people with a wide range of opinions and expertise. On the one hand, the committee has been told of the wonderful possibilities that the research offers for people who suffer from diseases such as Parkinson's. We have also been cautioned about raising hopes prematurely and reminded that the harvesting of embryonic stem cells destroys the embryo.

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Great contention surrounds the use and destruction of embryos to obtain stem cells. On 5 April 2002, the Council of Australian Governments agreed at federal and state level to introduce nationally consistent legislation. As a result, the federal Parliament passed two Acts - the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002. I have had the benefit of reading news reports of the time. It is interesting to see what was happening in the Labor States when the federal Liberal Government was debating this legislation. The decision to set a nationally consistent framework was abandoned by the federal Government in favour of allowing the States to decide whether researchers should cultivate IVF embryos. That is how we come to debate this Bill today. I turn to a news release by Sean Parnell of 26 March 2002, which states -

PRIME Minister John Howard has retreated from his bid to introduce uniform stem cell laws and will instead allow the states to decide whether researchers should cultivate IVF embryos.

The Council of Australian Governments meeting next week was intended to set a nationally-consistent legal framework on stem cell research and cloning.

But Cabinet has split on the issue and Mr Howard is instead expected to urge state and territory governments to set their own laws.

Minister for the Ageing, Kevin Andrews, who was given the task of advising Cabinet on the proposed legal framework, recommended laws banning the use of excess IVF embryos in stem cell research.

Victoria, South Australia and Western Australia already have laws which ban the destruction of IVF embryos, therefore preventing embryonic stem cell research.

It is interesting to see how other parliamentarians and I come to be discussing this issue in this place. We are being asked today whether, as a community, we should give parents - or the State if the parents cannot be found - the right to be granted permission to allow research to be conducted on their live but rejected genetic offspring.

Three main issues arise from this Bill, but I will also speak about subsidiary issues. The three main issues, which have been mentioned by other members, are cloning, pre-implantation diagnosis, and research on excess live human embryos. I do not support cloning. Therefore, I will support the part of the Bill that seeks to reject that. I support pre-implantation diagnosis. I refer to the letter of Sonja Jenkins, which was delivered to all members of Parliament. In my view, this is an overpowering example of why, for me, the scales are tipped towards allowing parents to have the choice about whether to implant embryos in the womb of the mother following pre-implantation diagnosis. I will set it out for the purposes of my electorate. Sonja wrote to us and said -

Over the past eight years my husband and I have tried to conceive a healthy baby. However, I am a carrier of Becker Muscular Dystrophy and the chances of passing this fatal genetic disorder onto our offspring has proven very high.

Under current legislation we are unable to have any tests for this disorder until I am twelve weeks pregnant. It is then that we are given the choice as to the outcome of that pregnancy. Tragically in the past my husband and I have been in this situation four times and each time I have been found to be carrying a boy, with Muscular Dystrophy.

For someone in that position, the choice to terminate, considering the inevitable outcome, is incredibly difficult and heartbreaking. She has also seen other male members of her family faced with that decision. Currently, Sonja can go over east. I will support the aspect of the legislation that deals with this issue. In this example, we can see where the benefits of pre-implantation genetic diagnosis lie. Therefore, I will support that.

The last issue is research on live human embryos. At this stage I do not know whether I will be in a position to support this part of the Bill. Before I go into this - because I have done some research - I should indicate that I believe there will be many amendments to this Bill. Regardless of how I vote, I understand that the Bill will go through. I will support the splitting of the Bill, although I do not know whether that will help people who oppose cloning and support pre-implantation genetic diagnosis but do not at this stage support research on live human embryos. I do not know how the splitting of the Bill will help people in that position, because I presume the last two issues will be in the one Bill.

I have looked at the proposed amendments of the member for South Perth and those of other members. I do not support research for cosmetic use, although that does raise the issue in my mind of someone who is horribly disfigured. I do not know. So many questions are unanswered on this issue. I will support the reinsertion of a cut-off date, although one wonders about that.

[Leave granted for the member's time to be extended.]

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Ms S.E. WALKER: I ask myself, if only eight human embryos are needed, why do we need a cut-off date for the 70 000 embryos? These are all questions to which I will spend time finding answers in the consideration in detail stage. I will support equal funding. At this stage I have not got on to the fact that considerable research is done on adult stem cells, and that has proved very fruitful. I will also support the transparency clause.

I refer to the research on human embryos. At this stage of the second reading debate, I do not believe a case has yet been made out that would encourage me to vote for research on human embryos. I suppose to that extent I support the federal minister Tony Abbott. I rather like what he says on this issue. I listened to what you said, Madam Deputy Speaker, and I will listen to find out whether there has been any research on the scale mentioned by the member for Kingsley regarding the benefits of adult stem cell research, which is completely different from experimentation on live human embryos. I have not yet read all the speeches. However, I am yet to hear someone come up with a powerful case that will cause me to give my support to this.

I am in favour of adult stem cell research. I refer to an interesting paper entitled "The Debate on Human Cloning and Stem Cells in Australia" by Dr Nicholas Tonti-Filippini, dated 2003, which is some time after the decision of the federal Parliament. I find this paper interesting for my electorate. Dr Nicholas Tonti-Filippini is a consultant ethicist at the University of Melbourne. He stated -

In relation to the human embryo, there is a scale of views in the community. At one end, there are those who hold that human embryos only have value because they have utility or are valued by someone, such as the parents or the researcher. In the middle ground, there are those who recognize that the human embryo has some *inherent* status because of their potential to develop to human adulthood.

I was interested to read what Tony Abbott said. You, Madam Deputy Speaker, were a human embryo at one stage, as were all of us in this Chamber. All of those human embryos can develop into a human being. They are human beings. Regardless of what other people have said about when an embryo becomes a human, my belief is that the point of creation and conception is when the egg meets the sperm. Dr Tonti-Filippini continues -

At the other end, there are those who hold that an embryonic human being possesses inherent human dignity as a member of the human family and has equal and inalienable rights

Something was of interest to me in this issue. When a person is undergoing in-vitro fertilisation, how many eggs are fertilised, and why are they fertilised before being implanted in the womb? Why are so many fertilised? Why are they all sitting there? I was surprised to learn that if they are not used by the prospective parents, they succumb - that is the word used; they die. They are left to go to room temperature and die. My question is: are we saying in this Bill that we want research to be done on human embryos when they are dead? No, we are not saying that. Under this Bill, the research would be done when they are live. That was a big issue for me.

I pay tribute to our Prime Minister. Although I may not in the end agree with what he said, I respect the way that he respected other people's views. A few people who debated this issue seek to justify their position by belittling opposing views by suggesting that, first, those people are Catholics, or, secondly, they are pro-lifers. In my view, that belittles and demeans other people's arguments. In this issue, it is very important that people be respected for their views. I am not a Catholic or a pro-lifer. I attend church very irregularly. I am a logical thinker, and throughout this debate I have been asking questions. I will continue to ask questions until the third reading, because I am very uncomfortable about this legislation. A case has not yet been made out for me to fall over the line on this issue.

In Dr Tonti-Filippini's paper, he refers to the problems with the legislation. He is now looking at the Australian legislation and commenting on it. He said that there is a problem. We should look at this. We tend to get involved in whether we should be cutting up or experimenting on human embryo cells. However, in my view, we need to look at where all of this will lead and what the legislation will do. Dr Tonti-Filippini stated -

There is a problem now that it is clear that embryonic stem cells can be used reproductively by generating ova that might then be fertilised by sperm in an in vitro fertilisation procedure. The legislation does not restrict the use of stem cells and under the legislation they can be sold or exported to jurisdictions that might allow them to be used reproductively.

Under the legislation the couples consent to the use of their embryos for their research but that have no say over embryonic stem cells derived from those embryos once they are donated. The embryonic stem cells are de-identified and may be imported, exported, bought and sold. The couples are not informed about the uses of the stem cells, once they are separated from the embryos, and they lose all connection with them.

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Wow! Does this legislation do that? This is another issue to which I would like to know the answer. Before people undertake an IVF program, must they indicate whether they will allow unwanted embryos to be available for research? Will they be required to give an indication of that in future? It is an important point. Another important question is whether, having given their permission for research, people can state what papers will go to the body that grants the applications for research. If they cannot, they will never know what happens to their genetic offspring. Will this Bill enable cells to be exported, which could result in people's offspring being born in another country? Those are important questions.

Dr Tonti-Filippini says -

One would imagine that the couples would be concerned that children could be produced without their knowledge using eggs developed from their embryos. To know that they might have a child somewhere in the hands of strangers would be very upsetting to many.

There is strong pressure on the supply of eggs. Human eggs are hard to obtain as they can normally only be obtained from women surgically . . . The legislation places no restriction on the use of eggs generated in that way.

I refer to the member for Kingsley's speech and the wonderful progress on adult stem cell research. I do not think the difference between adult and embryonic stem cells is well understood in the community. A great amount of research and work has been done.

These issues are weighing on my mind. As a non-Catholic, non-pro-lifer, I am an ordinary person who likes to think about issues such as these in a logical way. I am in favour of adult stem cell research.

Mr M.F. Board: I like the lovely way you put that.

Ms S.E. WALKER: I am glad the shadow Minister for Health liked that!

I have other papers to which I will refer in the third reading stage. I am concerned that the human embryo will be alive when research is undertaken. That would cheapen the value and sanctity of human life, albeit I could be swayed otherwise if I heard that safeguards were in place. In his speech to the federal Parliament, Tony Abbot said -

The distinction between allowing to die and active killing is at the heart of our moral order. It is one of the fundamental ethical underpinnings of Western civilisation and it was absolutely central to the euthanasia debate which this parliament had just a couple of years ago. It is the distinction at the heart of the euthanasia debate. Taking an embryo out of storage is akin to turning off life support. Deliberately destroying an embryo, for whatever reason, is akin to giving a lethal injection. So I say that it is wrong to destroy embryos because every one of those embryos, under the right conditions, with the addition of nothing more than food and shelter, could become a human being just like us. And if we allow those embryos to be degraded, we degrade our very humanity.

I agree with that. Before I can vote in favour of this legislation, I will need to know that the benefits to humanity are sufficiently great to justify the destruction of human embryos. As adults, we have had our chance at life after conception, developing in the womb and being born. Members of Parliament represent the community and must represent their feelings about the conception of human life. I have spoken to my constituents since becoming aware of these issues. Some people were horrified to learn that this Parliament is debating a Bill that will allow experiments on live human embryos. Whether I support that is a dilemma I face and I put on notice now that that is one of the issues with which I will have difficulty. I will seek some answers during consideration in detail.

MR R.F. JOHNSON (Hillarys) [11.25 am]: The member for Nedlands' speech was extremely well researched and I compliment her and the many other members who have spoken on this Bill so far. When the question is put, hopefully, at a later stage, the House will divide; nonetheless, members' contributions have been tremendous. As has been said, all members will vote according to their conscience. For the benefit of their constituents, it is important that members put their views on record. I would like to see the House support the second reading stage of the Bill so that the clauses can be debated during consideration in detail. The information that will come to light then will allow members to decide whether to support the whole Bill. Many amendments will be moved that I have not seen yet. However, I look forward to examining them to see whether they will improve the legislation and ensure that it will benefit Western Australians. I am sure more members will speak during this second reading stage. I am pleased that the contributions made during this debate do not reflect the anger shown during the abortion debate. The House divided during the vote on the second reading stage of that Bill, not on political grounds but based on people's conscience, religion, ethics or morals. I voted against the abortion Bill not only because of my Christian beliefs but also because the ultimate version of that

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Bill provided Western Australia with the most liberal approach to abortion in the world. I do not agree with abortion on demand. However, as I said in my speech during that debate, I accept that termination of pregnancies is necessary in certain cases. Every child born into this world has a right to enjoy a good standard of life. I do not believe it is ideal for children to be born with tremendous difficulties due to disease or inherent genetic problems that do not assure them quality of life. I appreciate that it is easy to say from a position of reasonable health that I would not want to be born if I suffered any dreadful defects and could not have quality of life. Before I emigrated to Australia I was the mayor of a London borough and in that role I visited many institutions where people with tremendous deformities were cared for. I think I indicated in my speech on the abortion debate that one of those people was a 40-odd year-old woman who was born deaf, dumb and blind. She was also severely mentally retarded. She lived in a cot, wore a nappy and was spoon fed. The only contact she had with human life was by touch. She had a dreadful life. I would not want to be in that position. I would sooner not be on this earth if I had to live in that state, because it provides no quality of life.

I have Christian beliefs and I try to live my life as a Christian. However, like the member for Nedlands, I rarely attend church and do so only for christenings and funerals. I occasionally go to church at Christmas, but that does not mean that I do not have Christian beliefs, because I do. My family also has Christian beliefs. To be Christians, people must live their lives as Christians and they must have the values and morals that we look for in society. When I initially considered this Bill I thought that we would be interfering with human life, because I believe that life begins before a baby is born. I do not exactly know at what stage life begins. We have been told that it is 14 days after an embryo is formed. I have to accept that, because I do not know differently.

The two major parts of this Bill will probably be split into two Bills, and I do not have a problem with that. One part relates to cloning, and I do not think that any member in this House believes that human cloning should ever take place. As much as I might have tremendous vanity, I think 100 Rob Johnsons running around the place would be too much to force on society. I am sure members would hate to see that happen.

Mr P.G. Pandal: You have unanimity on that!

Mr R.F. JOHNSON: Exactly. I would probably vote with the member for South Perth on that issue because I am sure that I am not the best person in the world.

I do not believe in human cloning. However, one part of human cloning may be overlooked in this Bill. I was talking to a medical professional yesterday, and when I explained my views about human cloning, he said I should think about the fact that a form of human cloning could be of benefit to humans. If an embryo is produced by a person who later suffers terrible brain damage, a mental defect or spinal cord injury, it is more beneficial to use the stem cells from embryos that are a part of the cloning process. For example, for bone marrow transplants it is better to have the nearest possible tissue and cells that relate to the person receiving the implantation because they would stand a much better chance of overcoming the tremendous difficulties. That is something I will explore when we move into the consideration in detail stage. I do not know the answers and that is why I believe it is essential that members have the benefit of health experts telling us these things when they are sitting at the Table of this House. I have many questions for them. I am opposed to human cloning; I cannot foresee how I could possibly support it. I think every member of the House feels the same way.

Another area that has been touched on by members is pre-implantation diagnosis. That is an important aspect of the Bill and one that certainly attracts my support. As I said earlier, I too received the letter that many members received from a particular Western Australian lady who does not want to give birth to a child who will be born with muscular dystrophy. Babies can be born with many diseases, genetic deformities and serious disabilities, which are not cosmetic. The decision to have pre-implantation diagnosis is one that both the mother and father would have to make. It seems a much more sensible and responsible way to go, especially for people using in-vitro fertilisation. The decision to terminate a pregnancy after finding out that an unborn baby has a genetic disease must be a dreadful trauma for not only the mother but also the father. We must assist people so that they do not have to make that dreadfully traumatic decision. They should not have to undergo that experience.

The other area that this Bill covers is stem cell research, particularly using embryonic stem cells. Once again, the medical professional with whom I spoke only yesterday told me that a lot of research is going on with adult stem cells. I congratulate the scientists and medical professionals who are doing that research. I congratulate the Minister for Police and Emergency Services for directing the WA Road Safety Council to fund, yet again, \$500 000 to the neurotrauma research unit, which desperately needs it. We are going forward with our research on stem cells. That is not a bad thing, because it is designed to help a tremendous number of Western Australians achieve a better health position than the one they are currently in. The neurotrauma research unit has carried out successful tests on rats and mice in which spinal cords have been rejuvenated and rejoined. The unit is looking at doing human trials in 2005. Many individuals and their families and extended families hope to get back to a more healthy and normal way of life. This issue affects thousands upon thousands of Western

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Australians. I thank the Minister for Police for giving that direction; it was a good decision. I am glad that she listened to the plea that I made before Christmas to carry on that funding.

I accept that research is essential and that that is why we are living longer. In England in the 1800s autopsies were against the law; if a person performed an autopsy, the act was punishable with tremendously serious penalties. However, when it became possible for doctors and scientists to carry out autopsies, they discovered a great deal about the human body, and those discoveries have allowed us to live longer. As one of my colleagues in the House said the other day, they discovered things like antibiotics, which help people with some medical problems. By carrying out autopsies, doctors and scientists can determine what has caused the problem with a person's heart or whatever part of the body has failed and resulted in that person's death. Some people say that perhaps they should not do that because it is against the law of nature and that it is not the Christian thing to do because they are touching a human being or altering a human's body. Quite frankly, if those things are not done, there could be horrific consequences. I accept the decision in the United Kingdom to allow autopsies. It was a good decision and one from which humanity has benefited.

I turn to the difficult area of embryonic stem cell research. I accept that it is a dilemma for some people, including me, because of their view of when life begins. Does life begin when a sperm conjoins with a woman's egg? Does life begin 14 days after an embryo is formed, or is it further down the track? I do not know the answer and I am hoping to find out more about that when we are in the consideration in detail stage. Stem cell research is important to many people in our society, and we should do all we can to encourage that research.

It is important to know the medical facts, because it is only people from the medical profession who can tell us when a life begins. I obviously have my own Christian beliefs about when a life begins. As I have said, I think it is before a child is born, and I believe many people would agree with that view. The question that we need to ask, and make a decision about, is what should society do with all of the frozen embryos that will never be used. I heard this morning that there are about 70 000 frozen embryos in Australia. If any research is to be done on embryonic stem cells, I believe the parents of those embryos must give their permission for that to occur. I have put on my drivers licence that I am willing to be an organ donor, not that anyone would necessarily want my organs, but if any people do want any spare parts from my body, they can have them once I have gone - I would prefer it to be once I have gone, obviously. However, they may not be of much use by the time I expire from this life.

Mr R.N. Sweetman: There will be no warranty!

Mr R.F. JOHNSON: Absolutely! It is good that we can bring a bit of humour into this debate, because although this is a serious issue, we must take a balanced outlook. As I have said, I am happy to elect to be an organ donor. The decision to be an organ donor is, in some ways, similar to the decision that the parents of an embryo need to make.

[Leave granted for the member's time to be extended.]

Mr R.F. JOHNSON: If my child was on life support and I was told that technically my child was still breathing but was brain dead and would never come out of a coma, I would have to make a decision about whether I would allow an organ from my child to be used to help someone else. That must be one of the hardest decisions that anyone can make. I am happy to give away my own organs, but I hope I will never need to make a decision about giving away the organs of one of my children. That is the sort of dilemma that members will have to face when they consider that part of the Bill that deals with embryonic stem cell research. Even though parents may no longer require their frozen embryos because through IVF they have fulfilled their wish to have a child, we still face the dilemma of what to do with the 70 000 or 80 000 frozen embryos in Australia. I am sympathetic to the view that we should not just allow those frozen embryos to succumb, which is basically to thaw them and let them die, if they can benefit a person who is in desperate need of a derivative from those embryos. Perhaps that can be considered in a similar way to donating an organ from a child. These are the questions that we need to ask ourselves, and these are the questions to which I will be asking the minister to get responses from the medical experts who will be at the Table of the House. I am quite desperate to have a successful outcome from stem cell research, so I will certainly be looking closely at that part of the Bill to see how it can help my family members.

MR J.A. MCGINTY (Fremantle - Minister for Health) [11.45 am]: The debate on the Human Reproductive Technology Amendment Bill has reflected what I think we all know to be a very wide range of views in the community about the creation and use of human embryos. The purpose of the Bill is to build on the Human Reproductive Technology Act 1991 and to align Western Australian legislation with federal legislation and that of the other States and Territories passed since the Council of Australian Governments' decision in April 2002. In closing the second reading debate today, I acknowledge the foresight of the number of members of this

Ms Katie Hodson-Thomas; Dr Geoff Gallop; Mr Terry Waldron; Mr Brendon Grylls; Mr Tony McRae; Ms Jaye Radisich; Ms Dianne Guise; Ms Sue Walker; Mr Rob Johnson; Mr Jim McGinty; Mrs Cheryl Edwardes; Mr Phillip Pandal

Chamber who were on the select committee that reviewed the Human Reproductive Technology Act 1991 and who recommended all of the amendments to the Act that are incorporated in this Bill. I also acknowledge the efforts that all members from both sides of the House have made to inform themselves about the complex issues that are being addressed by this Bill and the way in which they have translated that information and knowledge to the House as part of this debate.

As many members have noted, the highly technical nature of the issues addressed by the Bill has created some confusion, particularly with regard to the detail of current Western Australian legislation. I take this opportunity to clarify some of those key areas. The Human Reproductive Technology Act 1991 contains all of the prohibitions included in this Bill. Members have been clear in their condemnation of human cloning and the creation of human embryos for purposes other than potential pregnancy. These things are clearly prohibited under current legislation, and that would not change through this Bill. Much of the discussion has centred on stem cell research. The Bill is not intended to regulate stem cell research per se. It is the destructive use of embryos that is covered by this Bill. Some members have referred to the uncertainty around the science of stem cell research, and others have pointed to the benefits of adult stem cells. As legislators, we cannot predict what advances will be made in research in either of these areas. It is inappropriate, therefore, that we legislate against either; rather, it is vital that we ensure through legislation that strict controls are in place to regulate the approval of research in such areas. The commonwealth legislation and this Bill put in place a regime by which an eminent and qualified group of people will be given the task of assessing and licensing appropriate research proposals in the light of current scientific and ethical information. It is important to note that both the commonwealth legislation and this Bill limit the use of embryos for research by requiring the licensing committee to approve such research only if the advance in knowledge could not be achieved through any other means. Thus, should a particular piece of research be possible using any other means, including adult stem cells, the committee could not approve the use of embryonic stem cells. The Bill also builds on the current legislation to provide appropriate checks and balances with regard to clinical reproductive technology practices such as the creation and storage of embryos, and extends those controls to areas such as the genetic testing of embryos. This includes strict monitoring and reporting requirements.

Another area of confusion raised by members is the use of embryos created before 5 April 2002. These provisions are not missing from the Bill, as has been suggested, but are contained in clause 37 in proposed sections 53ZB(3)(b) and 53ZE(3) and 53ZV. Those provisions precisely reflect the corresponding sections of the commonwealth Research Involving Human Embryos Act 2002. A specific number of amendments to the Bill have been foreshadowed in the debate. I have not yet seen the detail of those amendments, although I have been made aware of their broad thrust. I will therefore not comment on them at this stage.

The member for Carine asked how a researcher would apply to use for research excess embryos produced through assisted reproductive technology. The answer is that all applications by researchers will be made and determined directly by the National Health and Medical Research Council's licensing committee. The member also asked about a range of recommendations made by the select committee that are not addressed in the Bill. The answer is that the Bill focuses on a decision of the Council of Australian Governments, which was done at the direction of Cabinet. The other select committee recommendations are yet to be considered and are not contained in this legislation.

Members have also recommended that the Bill be split in two to allow members a separate vote on the substantive provisions relating to human cloning and other prohibited practices. I am pleased to say that a mechanism has been found by which this can be achieved, and I will support the splitting of the Bill after the second reading. It is important in this debate, which we have agreed is a matter of conscience, that members in a completely unencumbered way are able to properly have their votes reflect their views on the substantive issues. It is important that we do everything we can to provide a mechanism to enable members to properly inform the public of their views on this legislation. I am very pleased that we have been able to work through a mechanism that will enable this House - I suspect unanimously - to continue the total prohibition on cloning and to enable members, who for reasons of conscience object to some or all of the research provisions, to vote against those provisions.

This is the sort of Bill that called out for an accommodation to be made and to be presented in a form that will not only enable that to occur, but also foster in an unencumbered way that free expression of voting right. Although the Bill will be given a second reading, I am pleased to say that it is clearly on the basis that the mechanism to split the Bill that we have agreed to will enable members who oppose some parts of the Bill to vote for the provisions with which they agree and against the provisions with which they do not agree. That is a very sensible way to deal with the Bill. The essential vote on this legislation will then become the third reading vote so that members who are opposed to some provisions can vote yes to some provisions and no to the

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Ms Katie Hodson-Thomas; Dr Geoff Gallop; Mr Terry Waldron; Mr Brendon Grylls; Mr Tony McRae; Ms Jaye Radisich; Ms Dianne Guise; Ms Sue Walker; Mr Rob Johnson; Mr Jim McGinty; Mrs Cheryl Edwardes; Mr Phillip Pandal

provisions to which they object. I thank the Clerk and the other staff who facilitated that mechanism to enable the Bill to be split. It is my understanding that at the conclusion of the second reading vote, the member for Kingsley will move a motion that will be agreed to - certainly by me - to split the Bill along the lines that have been described.

I also place on record my appreciation for the considerate and tolerant way in which the issues raised by the legislation have been addressed by members. It is very important that the debate respect each other's point of view. It has been valuable to hear the broad and strongly held opinions of members on the creation, storage and use of human embryos. It is now appropriate, Madam Deputy Speaker, that we move to the second reading vote on this Bill.

Question put and a division taken with the following result -

Ayes (33)

Mr C.J. Barnett	Dr G.I. Gallop	Ms S.M. McHale	Mr D.A. Templeman
Mr M.J. Birney	Mr S.R. Hill	Mr A.D. McRae	Mr T.K. Waldron
Mr M.F. Board	Mr M.G. House	Mr N.R. Marlborough	Mr P.B. Watson
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. Marshall	Mr M.P. Whitely
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr B.K. Masters	Dr J.M. Woollard
Dr E. Constable	Mr R.C. Kucera	Mr M.P. Murray	Mr R.F. Johnson (<i>Teller</i>)
Mr J.H.D. Day	Mr F.M. Logan	Ms J.A. Radisich	
Mr J.P.D. Edwards	Mr J.A. McGinty	Mr E.S. Ripper	
Dr J.M. Edwards	Mr M. McGowan	Mrs M.H. Roberts	

Noes (13)

Mr P.W. Andrews	Mrs C.L. Edwardes	Mr P.G. Pandal	Mr R.N. Sweetman (<i>Teller</i>)
Mr D.F. Barron-Sullivan	Ms K. Hodson-Thomas	Mr J.R. Quigley	
Mr A.J. Dean	Mr W.J. McNee	Ms M.M. Quirk	
Mr J.B. D'Orazio	Mrs C.A. Martin	Ms S.E. Walker	

Pairs

Mr C.M. Brown	Mr J.L. Bradshaw
Ms A.J. MacTiernan	Mr P.D. Omodei

Question thus passed.

Bill read a second time.

Division of Bill - Motion

MRS C.L. EDWARDES (Kingsley) [12 noon]: I move -

That the Bill be divided into two separate Bills, being -

- (1) The *Human Reproductive Technology Amendment Bill 2003* consisting of -
 - (a) a title "A Bill for an Act to amend the *Human Reproductive Technology Act 1991*";
 - (b)
 - (i) clauses 1 to 6;
 - (ii) clause 7 except for, in subclause (2), the proposed insertion of new subsection (2) in section 4 of the principal Act;
 - (iii) clauses 8 to 35, except for 19(c) and 20(2)(d); and
 - (iv) clauses 37 to 41;of the Bill currently being considered by the Assembly; and
 - (c) the deletion of references to "Part 4A" as follows -
 - (i) clause 5(12)(a), delete "4A or";
 - (ii) clause 37, in proposed section 53ZG(2), delete " , Part 4A"; and in proposed sections 53ZP(1), 53ZQ(1)(c) and (2) and 53ZR, delete "or Part 4A".

Ms Katie Hodson-Thomas; Dr Geoff Gallop; Mr Terry Waldron; Mr Brendon Grylls; Mr Tony McRae; Ms Jaye Radisich; Ms Dianne Guise; Ms Sue Walker; Mr Rob Johnson; Mr Jim McGinty; Mrs Cheryl Edwardes; Mr Phillip Pandal

- (2) The *Human Reproductive Technology Amendment (Prohibition of Human Cloning) Bill 2003* consisting of -
- (a) a title “A Bill for an Act to further amend the *Human Reproductive Technology Act 1991*”;
- (b) the following clauses -
- “
- 1. Short title**
- This Act may be cited as the *Human Reproductive Technology Amendment (Prohibition of Human Cloning) Act 2003*.
- 2. Commencement**
- This Act comes into operation immediately after the *Human Reproductive Technology Amendment Act 2003* comes into operation.
- 3. The Act amended**
- The amendments in this Act are to the *Human Reproductive Technology Act 1991**.
- [*Act No. 22 of 1991.
- For subsequent amendments see Western Australian Legislation Information tables for 2002, Table 1, p. 177.].*
- 4. Section 3 amended**
- Section 3(2) is amended by inserting before “4B” —
- “ 4A or ”.
- 5. Section 4 amended**
- After section 4(1) the following subsection is inserted -
- “
- (2) The particular objects of Part 4A are set out in section 53A.
- ”.
- ”.
- (c) clauses 19(c), 20(2)(d) and 36 of the Bill currently being considered by the Assembly; and
- (d) the following clauses -
- “
- 9. Section 53ZG amended**
- Section 53ZG(2) is amended by inserting after “law” -
- “ or Part 4A ”.
- 10. Sections 53ZP, 53ZQ and 53ZR amended**
- Sections 53ZP(1), 53ZQ(1)(c) and (2) and 53ZR are each amended by inserting after “Part” —
- “ or Part 4A ”.
- ”.

The intent of the motion is very clear: to split the Human Reproductive Technology Amendment Bill into two Bills, one of which will be named the Human Reproductive Technology Amendment (Prohibition of Human Cloning) Bill. As the Minister for Health has indicated, that will provide the opportunity for this Parliament to send a very clear message that there is unanimous agreement on the prohibition on human cloning. I thank the minister for his assistance in allowing the Bill to be split. I also thank his staff and those of the Department of Health, who have been most considerate and willing to assist, as well as Greg Calcutt, Peter McHugh and the staff at Parliament House for achieving what was thought could not be done. It is very much appreciated.

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MR P.G. PENDAL (South Perth) [12.02 pm]: I support the motion moved by the member for Kingsley. This action replicates that which the Parliament took 12 years ago, when it banned cloning in Western Australia. We were one of the most advanced jurisdictions in the world in that respect. Of course, there is confusion about why, through this legislation, we will ban human cloning when we have already banned it. The best explanation I heard came from parliamentary counsel, who used the least legalistic of terms. However, they allowed most people to understand what we were doing. In 1991 we banned human cloning through the parent Act. The question is: if we have done that, why do we need to do it 12 years later? That most non-legalistic explanation is that today's move to continue the prohibition on cloning is effectively a Rolls Royce method, held up against the perhaps Mini Minor method of 12 years ago, and is needed because the complexity of cloning has increased.

As was reflected in the second reading debate today, a group has been meeting which has had as its agenda the splitting of the Bill. As has been mentioned, such a move would mirror the decision of the federal Parliament and what the South Australian Parliament did under the leadership of the Labor Government. A vote to split the Bill would mean that despite whatever else we cannot agree on, we can agree that the Bill needs to be split. I imagine that we will not need to spend a great deal of time on the Bill relating to cloning, although at least one member has raised issues that he wishes to pursue a little further.

This is an important decision. I am disappointed with the result of the second reading debate. However, we live in a parliamentary democracy and that has been reflected here today. Notwithstanding that disappointment, it would send a magnificent message if there were a unanimous vote to split the Bill. People sometimes underestimate what we do in this relatively isolated and small, at least in population terms, jurisdiction. Mark my words, what goes on here today will be spread around the world by lobbyists in favour of or against the issues before us. Twelve years ago the Parliament was at the very forefront of the political debate when it entrenched in law the provisions contained in the original Bill. Many other jurisdictions, including in Australia, could not come to grips with it. It is ironic that one of the reasons for this Bill is that the Commonwealth, by way of the Council of Australian Governments, took over the agenda because a number of jurisdictions could not come to grips with these issues. Western Australia came to grips with them 12 years ago. I think that at that time we dealt with the issues in a better way than we are doing now. Nonetheless, this jurisdiction has been prepared to make decisions. Those decisions have been made and I do not intend to reflect adversely on them. This motion at least means that we will be able to move to a parliamentary discussion that focuses on some of the refinements that I think are needed to what will be the second Bill. It also means that we will be close to being able to lay aside the cloning Bill, which a positive vote on this motion will separate from this Bill.

I congratulate the member for Kingsley on her motion. For the reasons I have expressed, I am very pleased to support it. I thank the Minister for Health for his agreement to split the Bill. He rightly said in his summing up that this is a matter of personal conscience to many people. This motion will at least make the debate a little easier to deal with. I also thank those people, including the private members' parliamentary draftsman, Judy Eckert, who has been involved in the division of this Bill under the most difficult of circumstances. I urge all members to vote unanimously on this, if they are able, to send around the world - I said earlier that that is not overstated - the message that benchmarks will be set in this place today and in the weeks ahead. I support the motion.

MS S.E. WALKER (Nedlands) [12.08 pm]: Before I make some comments, students from the only high school in my electorate, Perth Modern High School, are in the gallery. I welcome them to Parliament today. Perth Modern High School is a great school and very innovative. I have been to some fabulous concerts there. Welcome, Perth Modern High School students.

I support the splitting of this Bill. As I said earlier, I am only sorry that it will not be split into three Bills: one that allows us to vote on cloning, one that allows us to vote on pre-diagnostic research and one that allows us to vote on research on live human embryos. Although the Bill will have been split, those of us who wish to vote to allow pre-diagnostic research will have to vote against it so that we can vote against research on live human embryos. Had I been as deft of foot as the member for Kingsley, I would have done so.

The splitting of the Bills took a lot of work. I congratulate Judy Eckert, who just a few weeks ago put in an enormous amount of work on the State Administrative Tribunal Bills. I can only imagine what must have been going on with parliamentary counsel over this Bill. I wanted to put that on record, because it still may present a dilemma to politicians who do not believe that they should vote for research, at this stage, on live human embryos.

Question put and passed.

Pro Forma Amendments - Motion

On motion by Mr J.A. McGinty (Minister for Health), resolved -

Ms Katie Hodson-Thomas; Dr Geoff Gallop; Mr Terry Waldron; Mr Brendon Grylls; Mr Tony McRae; Ms Jaye Radisich; Ms Dianne Guise; Ms Sue Walker; Mr Rob Johnson; Mr Jim McGinty; Mrs Cheryl Edwardes; Mr Phillip Pandal

That in relation to Human Reproductive Technology Amendment Bill 2003, the amendments listed on the Notice Paper standing in the name of the Minister for Health be made pro forma.

Amendments agreed to pursuant to the foregoing resolution -

Clause 16.

Page 18, line 15 - To delete “33(2)(ea)” and substitute “33(2)(e)”.

Clause 36.

Page 42, line 15 - To insert after “into” the following -
the State from a place outside

Page 42, line 17 - To insert after “from” the following -
the State to a place outside

Clause 37.

Page 49, line 27 - To delete “intentionally”.

Page 51, line 9 - To delete “Despite section 72 of the *Justices Act 1902*, a” and substitute “A”.

Page 51, line 23 - To delete “intentionally”.

Page 51, line 24 - To delete “, knowing that the conduct” and substitute “that”.

Page 51, lines 26 and 27 - To delete “, or reckless as to whether the conduct contravenes a condition of such a licence”.