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EDITORIALS

Vote with conscience

Next week British Members of Parliament, according to their conscience, will decide on two pieces of legislation concerning human reproduction. One will be a straightforward vote on embryonic research, the other a complex of votes on the upper age limit for termination of pregnancy.

On April 23 the Commons will vote on clause 11 of the Human Fertilisation and Embryology Bill, dealing with the creation of a statutory body to oversee research on human embryos up to 14 days after fertilisation. The Commons vote will establish the key principle of the legislation and the subsequent committee stage will look at the other clauses. The Bill itself is the outcome of a long and thoughtful debate, which began with the Warnock Committee,[1] went on to a white-paper,[2] and culminated in March this year in a free vote in support of the Bill in the Lords.

The Medical Research Council, the Royal College of Obstetricians and Gynaecologists, and the Interim Licensing Authority for human in-vitro fertilisation and embryology all support research and advocate the use of the term pre-implantation embryo (or pre-embryo) to describe the conceptus in the first 14 days after fertilisation.[3] This term defines the stage between "the process of fertilisation [and] the establishment of the unique biological identity of one individual, ie, the appearance of a single primitive streak" and underscores the unique attributes of this stage of development: until the primitive streak is formed there is no scientific way to tell whether the conceptus will give rise to one individual or to twins, and without the certainty of individuality, personhood or ensoulment is debatable. The Australian Roman Catholic theologian Fr Norman Ford[4] lately argued the case for using the emergence of the primitive streak to mark the beginning of the human individual. However, both Fr Ford and the church hierarchy maintain "legislation should give life the benefit of the doubt and protect the human organism from the time of fertilisation".[5]

The RCOG and MRC support research, with appropriate regulations, because of the potential of such research to help infertile couples, to enhance investigations into genetic disorders, to provide insight into the mysteries of spontaneous abortion, and to improve methods of contraception. The MRC Reproductive Biology Unit in Edinburgh is studying the possibility of a contraceptive vaccine directed at the zona pellucida; this work involves human pre-embryos and is a good example of research that can only be conducted on our own species.

If the principle of embryo research is accepted by the Commons as a whole on April 23 the committee stage will still be left to discuss several critical details—eg, anonymity of donors, funding, and whether to include GIFT (gamete intrafallopian tube transfer) under the legislation. A case can be made that pregnancy from a donated egg is sufficiently different from the adoption of a child to justify absolute protection of the donor's identity. One suggestion is that the Licensing Authority could be funded by fees from centres: this would amount to a tax on infertile couples and might force the few NHS centres who offer in-vitro fertilisation to abandon their efforts. The RCOG, the Bourn Hall Clinic, and the lobbying group Progress (whose members include the British Medical Association and the Medical Women's Federation) all support the addition of GIFT to the bill. The Bar Council has asked for more explicit treatment of the difficulties posed by surrogate parents.

On April 24 the Commons will decide on the upper age limit for termination of a pregnancy. The 1967 Abortion Act set no such limit but depended on the 28-week definition included in the 1929 Infant Life (Preservation) Act. The choice of whether to limit abortion to 12, 18, 24, or 28 weeks is an inescapably arbitrary decision. The 1929 Act maintains that at 28 weeks there is prima facie evidence an infant is "capable of being born alive". In 1988 a House of Lords Select Committee on the Infant Life (Preservation) Act interpreted this phase as breathing independently of the mother, not as artificially assisted respiration. Nevertheless, in February of this year Mr Justice Brooke ruled that a 27-week fetus would have been capable of being born alive[6] and a month later the lobbying group Life called in Scotland Yard to investigate a therapeutic abortion carried out at 27 weeks for a case of Klinfelter's syndrome.[7]

Earlier this year, the House of Lords also gave an unopposed third reading to Lord Houghton's private members Abortion (Amendment) Bill, which limits abortion to the first 24 weeks of pregnancy, except in cases of serious mental or physical damage to the mother or a substantial risk of physical or mental abnormalities in the fetus. The RCOG believes "that 24 weeks is a logical limit at which the fetus can be considered viable and capable of sustained survival" and points out that, although technical advances

are likely to improve the present poor survival of very premature babies, they are unlikely to lower the threshold of extrauterine survival substantially.[8] Clearly, a strong intellectual and moral case can be made for amending the 1967 Act[9]—although none for linking such a change to the Embryology Bill. Moreover, the problem has largely solved itself: in 1988 (the last year for which statistics are available) 1·7% of all terminations were over 20 weeks and there were only twenty-three abortions after 24 weeks. In Scotland, where the Infant Life (Preservation) Act does not apply, there was only one abortion after the 24th week. Of the few very late terminations that still take place a proportion will be for reasons that will continue to fall under the exceptions cited in the proposed amendments.

Earlier this month the Government secured a guillotine motion to ensure voting on a series of more than twenty amendments which take off from Lord Houghton's bill but have landed on the Embryology bill. A unique series of "pendulum votes" will be introduced: the first will be on an 18-week limit, the second on 28 weeks, the third on 20 weeks, and so on. This is a tiresome process, but at least the decision will be made by the Commons as a whole and there will be no separate committee discussion before the Bill comes back for the report stage.

The way to stop late abortions is not by legislation but by reducing the need for late operations. Access to early abortion still needs to be improved.[10] Poignantly, one reason for late abortions could well be removed by research on pre-embryos, since techniques may be perfected to detect gene defects such as Duchenne muscular dystrophy at the sixteen-cell stage.

Unfortunately, a minority have turned an important but difficult area of decision making into a screaming match. The Rev Gordon Dunstan of Edinburgh has spoken of the obligation to keep the tension of the abortion debate "wound up",[11] but this is different from accusations of murder or arguments that if Parliament permits embryo experimentation society "will suffer incalculable harm".[5] Such a conclusion is as unsubstantiated and misleading as it would be to assert that Nicolae Ceauşescu, Adolf Hitler, Joseph Stalin, and Ayatollah Khomeini were all pro-life because they reversed previously liberal abortion laws—which indeed they did.

54% of British citizens in 1987 believed that a woman should not be forced to carry a child she does not want, and 94% supported abortion if the pregnancy seriously endangered the woman's health.[12] 75% of gynaecologists believe the Abortion Act is working satisfactorily,[13] and the clinical record is excellent.[14] At the same time, it is perfectly reasonable to maintain that life should be regarded as sacred from the time of fertilisation and, to paraphrase John Stuart Mill, even if only one person held this point of view it would be imperative to protect that person's liberty to act on his beliefs. Thus the 1967 Act contains a clause stating "no person shall be under any duty . . . to participate in any treatment authorised by this Act to which he has a conscientious objection".

Cardinal Hume, discussing the Embryology Bill and whether the conceptus is a person "already endowed with an immortal soul", concludes that this issue involves "philosophical and theological questions which science and legislation are in no position to determine". Revealingly, the USA Supreme Court used philosophically identical language when arguing the case for legal abortion: "When those trained in the respective disciplines of medicine, philosophy and theology are unable to arrive at any consensus [when life begins] then the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to an answer" (Roe *v* Wade, 1973). Clearly, the ethical status, and therefore the legal protection society gives to the early stages of human development, is not a matter of scientific observation but of philosophical determination, personal conviction, and religious belief and should be treated as such by Parliament. In the 16th century, Christendom tore itelf apart over different religious assertions about life after death, before it discovered that modern society can only be built on a foundation of individual conscience and religious tolerance. A philosophically similar tolerance in practice may be equally desirable when it comes to religious assertions concerning life before birth.

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