



**ASSISTED
REPRODUCTIVE
TREATMENT
(POSTHUMOUS USE OF
MATERIAL AND DONOR
CONCEPTION
REGISTER)
AMENDMENT BILL**

The Hon. A. PICCOLO (Light) (11.59): I rise to speak in support of this bill. My remarks will be mainly regarding the Donor Conception Register. Before I make some comments on why I think this is a good bill and why it should be supported, I would like to provide a bit of a time line on the issue of donor conception in this state.

At the outset, I would like to thank Damian Adams, who provided me the information for this time line. Damian and his support group have been working on this issue for many years—in fact, many decades. I think it is appropriate, given this bill is now before us, that people fully understand the depth of emotion involved in this issue and what this bill means to a lot of people like Damian, the support group and others who they represent.

I will give a bit of a potted history, only because if I go through each entry that Damian has provided me with I would use up my 20 minutes quite easily and I would probably need more, because it has a long history, but I think that some parts need to be put on the record.

In terms of this issue of assisted reproductive technology it starts in 1988 with the Assisted Reproductive Treatment Act of South Australia allowing offspring the ability to access non-identifying information. That is where the journey, if you like, starts for some people. In December 2000, the South Australian Council on Reproductive Technology recommends to the Minister for Human Services that the code of ethical practice be changed to reflect the now generally held consensus that donor-conceived offspring should have access to identifying information on their

donors. That was December 2000 and we are now in February 2024, so it has been a long journey for a lot of people.

During 2004-05, Damian Adams begins lobbying, including correspondence with the then health minister, on trying to get changes to the bill. The minister did advise that the health department was considering a register and proposal in the not-too-distant future. In March 2005, the donor-conceived support group and Damian Adams write to the federal people—in fact, the chair of the human rights subcommittee—seeking clarification and support, with advocacy for a national register for people who are born through donor conception. The committee basically says their role is to educate rather than advocate so they would not be extending their role beyond that.

Undeterred, Damian writes to the health minister at the state level, who advises that funding priorities do not allow for the register to be implemented at this time—that is back in 2005. Again in 2005, Damian rights to the Hon. Tony Abbott MP, federal Minister for Health, seeking assistance from the federal government and, sadly, gets the response that the Australian government is not currently planning to act at a national level.

In 2006, the donor conception group meets with advisors to then Minister for Health, the Hon. John Hill, to see what his views and that of the government of the time are. Sadly, the matter did not progress that far. In 2006, Damian writes to a number of MPs, including Independent member the Hon. Bob

Such, who was a supporter of what they are seeking to do.

In 2007, Damian writes to the federal Attorney-General, Philip Ruddock, and the South Australian Attorney-General seeking changes to donor conception and a register. The Donor Conception Support Group then travel to Sydney to meet with the federal Attorney-General to discuss the issue of a national donor conception register, because clearly a national register is the best outcome, given that people can be the product of donations in one state or jurisdiction but conceived in another. So a national register would be best but, failing that, state-based registers are worthy as well, particularly if state-based registers are in unison with other states.

In 2009, a donor conception register bill, the Reproductive Technology (Clinical Practices) (Miscellaneous) Amendment Bill 2009, is passed and supported by then Minister for Health Jack Snelling. In 2009, the Donor Conception Support Group of Australia travel to Canberra for a meeting with then Senator Trish Crossin to discuss the possibility of a federal inquiry.

In 2010, Damian travels to Melbourne to present evidence before the Senate Legal and Constitutional Affairs References Committee. He also makes a submission to the Victorian Parliament's Law Reform Committee on access to information by donor-conceived people.

In 2011, the then Senate committee recommends that all donor-conceived people have access to knowledge of the donor and their siblings and that if a national donor

conception register is not achieved the committee recommended that each state and territory should put their own in place, and that is what is happening now. Fast-forward to 2015, Damian meets with the then shadow attorney-general, Vickie Chapman, and I have my first meeting with the donor conceived support group and also Damian, and that is when I was briefed on the issues involved.

A few months later, the first Australia-wide conference of donor-conceived people was held in Melbourne, which I attended and where I learnt about and got a better idea of the issues involved but also the experience of donor-conceived people and the difficulties in their lives in lacking information about who their father is, both from a medical point of view and an identity point of view. That conference was very successful and also provided a great deal of momentum right across the country to seek changes to the laws required.

Fast-forward to January 2017 and Professor Sonia Allan's report. Professor Sonia Allan was commissioned by the then Minister for Health, Jack Snelling. She was a speaker at the conference in Melbourne, and she was highly recommended as a person to inquire into this matter. The minister commissioned the inquiry and Professor Allan's report made a whole range of recommendations to which the government then tabled the response some months later, indicating that a register would be created in South Australia but also looking at the possibility of providing identifying information about donors.

A number of other meetings took place, and then in late 2017 the donor support group met with the then Minister for Health, now the Premier, who indicated that he was very keen to get some of the recommendations from that report put into place. Then unfortunately, in 2018, we lost government. Since 2018, while some things have happened on the key issue of the register and the key issue of providing an opportunity for donor-conceived people to get identifying information, it was put on the backburner and nothing happened for four years.

Late during the period when we were in opposition, the donor conceived support group met with myself and the now Minister for Health, the Hon. Chris Picton, who indicated that if we were to win government we would revisit this matter with a greater deal of empathy for the lives and experiences of people who are donor conceived. In 2019, there were some changes to the legislation as a result of a private member's bill moved by the Hon. Connie Bonaros in the other place and which my party, the Labor Party, supported.

Undeterred, Damian Adams and seven other Australian donor-conceived people attended and presented at the United Nations in Geneva on the 30th anniversary of the UN Convention on the Rights of the Child. The UN Convention on the Rights of the Child make it very clear that children have rights to information about their biological and also their cultural history.

In March 2022, just prior to the state election, the now Premier met with the donor conceived support group and made it very clear that if

we won the March election we would introduce and support a bill to give effect to some of the recommendations in Professor Allan's report, in particular enabling donor-conceived people to access identifying information about themselves—where it exists, it is important to say. Unfortunately, because of the history of this issue, not all that information may be available, but it is important to do that. In terms of the timeline, on 30 August 2023 the now health minister tabled this bill in parliament, which was gratefully welcomed by the donor-conceived community.

That is a bit of a potted history of where we are at. I did that deliberately because this is not just some thought bubble by this minister or by a group of people: this matter has been debated, looked into, inquired about and investigated at length. In the meantime, we have a group of people in our community who just want to know who they are. It is simple: they just want to know who they are, and part of that is knowing where they come from. That is important.

If you need to understand that, just look at the amount of money people spend with organisations such as Ancestry and others to find out their biological origins. It is important to people's identity, and it is important to people's cultural understanding of who they are. It is also important in terms of their own personal health. The reality is that we are a product of our history, and it is important that this group of people know their history.

The community has moved on, and I do not think the concerns raised by the opposition in this current

debate are shared by many people. I accept that some people will not be happy with this decision but my view, overwhelmingly, is that if the rights of the child are paramount then they are paramount, and we actually make those rights paramount by law. That is what this bill seeks to do.

The child had no say in how they were conceived, the child had no say in what information was available to them or not. In my opinion, the child now does have a right to have that information available to them.

The opposition states they will bring balance to this bill by changing that provision where, if I remember correctly, prior to 2004 people who did not previously have identifying information, that that should remain secret, for lack of a better word. That does not provide balance to this: that actually guts this bill, and removes an important provision. Providing balance means you can tweak or enhance a bill; you do not enhance the intentions of this bill, the intentions of the donor-conceived support group, or the rightful aspirations of those people born through donor conception to know who they are.

In fact, we would be going backwards in some ways, because this bill makes it very clear that this is now possible. If we were to support the Liberal opposition's amendment to take that away we would be dragging the carpet out from underneath their feet and forcing these people to fall to the ground once again. It would be a cruel act to inflict on them.

In terms of supporting the bill, I mentioned earlier that Professor Sonia Allan was commissioned by then minister the Hon. Jack

Snelling to produce a report on this matter. She is a highly credentialled professor, highly regarded in both health and the law, and she undertook extensive consultation on this matter. Professor Allan produced a very substantive but also very thoughtful report, and provided some very practical advice on what needs to be done to address this. One of the key recommendations was that, subject to appropriate mechanisms, donor-conceived people have access to identifying information.

The register I mentioned currently holds information on donors, the recipient parent of the donated human reproductive materials, and any person born as a result of the donated material. The bill seeks to enable the donor conception register to function retrospectively. I understand why some people may have some anguish about it being retrospective, but I think in this case the bill's retrospectivity is justified. It is justified because it actually corrects a wrong, which is imposed on a whole generation of children who are now, in the main, adults and who have children of their own. That is also important because it enables these adults to share their history with their children and grandchildren.

In doing so, South Australia will join jurisdictions including Victoria, New South Wales and Western Australia that all have donor conception registers available to donor-conceived people and will follow Victoria in legislating the retrospective disclosure of a donor's identifying information for donor prior to 2004. In this regard, while this is new ground for South Australia, it is not new ground for Australia. What we are doing is both

practical and right. It is not some radical thought, but something which is worthy of support, and we would be following Victoria.

The bill will allow donor-conceived people to access information about their donor, irrespective of when they were born. Where the information is verified, the identity of the donor will be disclosed providing donor-conceived people with the right to their genetic parentage. It is recognised that historical donors made donations on the understanding they would remain anonymous. However, it is important to note that these amendments place no requirement on any donor to have contact with a donor-conceived offspring. I think that is an important safeguard in the current bill. That is where the balance is: the balance is in this bill already. The bill does not need to be amended to remove that balance.

The government has given careful consideration to legislate a retrospective donor conception register. The government has sought expert input and has undertaken extensive consultation with those this legislation will impact, including the donor-conceived community, our state's fertility clinics and stakeholders across Australia. This consultation has included the SA donor conception reference group and the national advocacy group Donor Conceived Australia who have supported the development of this bill and helped ensure the model proposed for South Australia is workable and allows disclosure of personal information in a safe, respectful and ethical manner.

I would like to reaffirm that this bill provides the proper process for this

information to be provided with the proper supports. The alternative is people just keep searching or there is Ancestry.com and other similar things around the world where people find the information but there are no supports or safety nets. This bill provides a safety net and supports at the right time.

The increased access to and use of home DNA testing and services including AncestryDNA have also contributed to donor-conceived people being able to find out the identity of their donor. However, this approach does not provide the systems, support and assurances that would be present under the proposed regulatory system for South Australia.

As human beings, we love to get an understanding of how we fit into this world. We like to know who our parents are, who our grandparents are, our history and how we got to where we are today in our lives and experiences. That identity is important if you are born in Australia and it is also important for people born overseas, who migrate and who lose contact with families, and it is particularly important for people who do not have that clear historical connection because of the lack of information. This bill helps to ensure that information is available to this group of people.

In recognising the particular impacts that may be felt by the pre-2004 donors, the government will make important counselling and intermediary support services available to this group, which is a really important part of this bill. Through this bill we are getting the balance right. The reality is if people get information from other sources, there are no support mechanisms and there are more opportunities

for conflict and emotional harm for both the donor and the donor-conceived child.

With those comments, I fully support this bill. I would like to thank the donor-conceived support group for their work. I would also like to thank the officers in the department with whom I have had a number of meetings, and also the donor group, who have worked cooperatively to understand both the lives of donor-conceived children and the legislative framework. I think this bill is the right response and has been achieved by extensive consultation and engagement with the people involved.