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Care For The Dying Consultation (Serial 155)

The following is the second reading speech made by Mr Neil Bell (Member for Macdonnell) on 15 March 1996 when introducing his private member's bill.

Bill presented and read a first time.

Mr BELL (MacDonnell): Mr Speaker, I move that the bill be now read a second time.

Earlier this evening, I moved the second reading of the Respect of Human Life Bill. At that time, I indicated that I would be moving the second reading of this Care of the Dying Consultation Bill. There are a number of issues that I want to raise in the context of this debate. I do not intend to focus, as I did in the previous debate, on the issues associated with the active voluntary euthanasia legislation and why I believe that it is important that that be repealed. I have addressed that issue.

This is a matter that should receive broad support in this Assembly. It is important to draw to the attention of members and of Territorians what has actually happened with the national debate on the question of the legislative, administrative and service framework associated with the care of the dying. We are all aware that, as a result of the improvements in medical technology, our generation has had to make complex decisions about care of the dying. I believe that it is important that we look at the experience of other jurisdictions in Australia. It is clear to me that the natural place to look is in South Australia. The reason for that is that the Natural Death Act, which is still on the statute books in the Northern Territory, was copied from South Australia. It was enacted in this parliament in 1988 and it copied the 1983 act of the same name in South Australia.

It is of serious concern to me that the report leading up to the so-called Rights of the Terminally Ill Act failed to make mention that the Natural Death Act had subsequently been repealed in South Australia. In South Australia, between 1989 and the subsequent enactment in 1995 of the Consent to Medical Treatment and Palliative Care Act, there was a thoroughgoing 6-year public debate, both within the parliament and with extensive public consultations. One of the results was the provision of some very important amendments to the policy that surrounded and had given rise to the Natural Death Act.

There were a number of key amendments. The first was the introduction of a medical power of attorney. This means that a person could give a power of attorney over medical decisions that affected them. That is something that is not available in the Natural Death Act. Secondly, the definition of 'extraordinary measures' was repealed and replaced by a definition of 'life-sustaining' measures.

A third key amendment was civil and criminal protection for health professionals who are involved in the Consent to Medical Treatment and Palliative Care Act. A fourth key amendment was the repeal of the consent to Medical and Dental Treatment Act and the Natural Death Act. A fifth consequential amendment was to the Guardianship and Administration Act 1993 which provided that the person with medical power of attorney under the Consent to Medical Treatment Act - I will refer to it in that shortened form - should take precedence only in respect of medical treatment. Where there was a person

who had adult guardianship responsibilities and a person who had medical power of attorney, the decision of the latter took precedence in medical matters. That had to be clarified. A sixth amendment was the provision that anticipatory directions, living wills, should be legally binding. If somebody who is terminally ill has already given an anticipatory direction that highly invasive procedures should not be carried out, that could be made legally binding.

I draw the attention of honourable members to the deliberations of the South Australian parliament's Select Committee on the Law and Practice Relating to Death and Dying. It's report and the 2 previous reports are of great importance. They indicate the way that we should be going in this regard. I have taken what I believe is a positive approach to this issue. I have spoken to a large number of health professionals. I must say that most of them are aghast at the prospect of the 1 July commencement of the so-called Rights of the Terminally Ill Act.

After I had spent 2 or 3 days in South Australia, I wrote to the minister because he had issued a press release relating to the so-called education process over the Rights of the Terminally Ill Act. I simply do not accept that the education process, which the minister has determined on, is adequate. I refer honourable members to the minister's press released of 10 April. It was a 2-page press release which commenced by stating: 'The Health Services Minister, Fred Finch, today released details of the Territory's education program for the Rights of the Terminally Ill Act'. The press release gave a contact number for the minister's press secretary. I rang the number to obtain some details of the education program. I thought there would be brochures, posters and other material available. I was very surprised to be told that the 2 pages of the minister's press release were it. It is less than 3 months from the commencement date of the so-called Rights of the Terminally Ill Act.

I was very concerned about that because, in Adelaide, I had the opportunity to speak to a number of people involved with palliative care and hospice services. I was particularly interested in the Western Palliative Care Service that is based in the Queen Elizabeth Hospital. It reports that many people of a non-English speaking background equate the use of morphine with active euthanasia and that there is generally a poor understanding and acceptance of its use in terminal illness. The result of that poor understanding has meant that people in those non-English-speaking background families do not use the hospice services. There has been an important process of education to ensure that they understand the essentially positive nature of the palliative care services that are provided there.

If they are concerned about education programs under those circumstances, we should be triply concerned because there are now Aboriginal people who are reluctant to go to hospitals. I am advised of this by medical practitioners. For example, some people are reluctant to go to the Alice Springs Hospital. One patient said: 'We are concerned about that killing needle business'. That quote was conveyed to me by a medical practitioner. Under those circumstances, there has to be serious doubts about the education program that is to be commenced. That education program ought to be part of the brief of the proposed Consultative Committee on Care of the Dying. Opinions have been expressed around this country that, even if you agree with it, the so-called Rights of the Terminally Ill Act was enacted far too quickly without adequate community consultation and without adequate information being provided to the Territory community. It is clear to me that the proposed committee has a real role to play in ensuring that we have good facilities available for terminally ill people in the Territory.

Turning to the bill itself, I have deliberately cast it in this fashion. I have not tried simply to import the results of the South Australian consultation. Regardless of their view on active voluntary euthanasia, all

members know that this is a very sensitive issue. We owe it to our constituents to inform them fully on what is possible. For that reason, I have set up a statutory consultation arrangement. I gave consideration to moving for the establishment of a select committee. However, I believe that having a bill in this form will provide something for people to access readily. They will be able to find out what is going on.

There is nothing particularly exceptional about the establishment or membership of the committee. The functions of the committee reflect those of the South Australian parliamentary committee. It is to examine: the extent to which both the health services and the present law provide adequate options for dying with dignity; whether there is sufficient public and professional awareness of pain relief and palliative care available to persons facing prolonged pain in a terminal illness; whether there is sufficient public and professional awareness of the Natural Death Act and, if not, what measures should be taken to overcome any deficiency; to what extent, if any, community attitudes towards death and dying may be changing; and to what extent, if any, the law relating to dying needs to be clarified or amended.

I think that is a sensible process. In respect of public and professional awareness of the Natural Death Act - I believe this parliament has been negligent in that regard. I draw honourable members' attention to the report of the inquiry by the Select Committee on Euthanasia of May 1995. There is a mere 2 paragraphs on the Natural Death Act. I refer members to page 30 of the report:

It became clear to the committee, as it moved around the Territory taking evidence, that there was very little awareness of the provisions under the Natural Death Act 1988. Many people were unaware that they were entitled to make advance directives under this act, specifying that extraordinary measures should not be taken to maintain life in circumstances where the patient is suffering a terminal illness.

The Natural Death Act 1988 allows passive euthanasia, whereby medical services may be withdrawn or withheld where the patient's condition is terminal.

That is all it said. There is no mention of the fact that the Natural Death Act has been repealed in South Australia. To be kind to the admittedly hard-working members of that committee, the parliament and the people of the Northern Territory were not adequately informed in that regard. I think that we must go back to the drawing board in that regard.

That brings me to the vexed question of the polls about voluntary euthanasia. Some government members, in particular, have been beguiled by this poll response that 80% of Territorians support voluntary euthanasia. We had it repeated again in the media recently. `The Australian' reported that, as I remarked in my letter to the minister. It is high time that some effort was made, and I believe it will be one of the committee's tasks to ensure that there is a clear understanding in the minds of Territorians about what is meant by active versus passive voluntary euthanasia - the difference between turning off a life-support system and giving people a poisoned jab. I am strongly opposed to active voluntary euthanasia. It concerns me that we have legislated in an atmosphere of ignorance in the Territory community, and I believe that it is important that this committee be established.

In concluding, I want to pay tribute to a number of people. I would like to pay tribute to the people in the Coalition Against Euthanasia. I note Tom Kiely from that group is with us in the Chamber this evening. I appreciate the interest he has taken in the broad issue. Likewise, I appreciate Chris Wake's interest. He first drew my attention to the changes in South Australia. I would also like to give thanks to Mrs Jennifer Cashmore, a former Liberal member of the House of Assembly in South Australia. I thank her for her

assistance, and the assistance of the Palliative Care Council in South Australia in directing me to the various practitioners. I could name a large number of other people, but I should give particular thanks to Professor Ian Moddocks, the foundation Professor of Palliative Care at Flinders University. They have an ongoing relationship in providing multi-disciplinary courses in that area in the Territory, and that is of particular importance here.

With those comments, I commend the bill to honourable members. I indicated that I was in 2 minds about making this bill cognate with the Respect for Human Life Bill. I will be interested in the views of other members in that regard. Some members may support this bill who may not necessarily support the Respect for Human Life Bill. I make no commitment in that regard.

Debate adjourned.

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