DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

26 FEBRUARY 1997

Wednesday, 26 February 1997

Wednesday, 26 February 1997

MR SPEAKER (Mr Cornwell) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

PETITION

The Clerk: The following petition has been lodged for presentation:

By **Mr Osborne**, from 14 residents, requesting that the Assembly vote against the passage of the Medical Treatment (Amendment) Bill 1997.

The terms of this petition will be recorded in *Hansard* and a copy referred to the appropriate Minister.

Medical Treatment Legislation

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly: that a bill to be presented before the Assembly, called the Medical Treatment (amendment) Bill 1997, allowing certain members of our community to prematurely end the life of others, does not have our support.
>
> Your petitioners therefore request the Assembly to: vote against the passage of the Medical Treatment (amendment) Bill 1997.

Petition received.

VISITORS

MR SPEAKER: I would like to welcome to this chamber pupils from St John Vianney's School who are undertaking local government study. Welcome, on behalf of all members.

TERRITORY PLAN VARIATION BILL 1997

MR MOORE (10.32): Mr Speaker, I present the Territory Plan Variation Bill 1997.

Title read by Clerk.

MR MOORE: I move:

That this Bill be agreed to in principle.

Mr Speaker, this Bill no doubt will become known as the Bill to abolish the Canberra B1 zone. I think it will be particularly interesting to people who live in North Canberra. As all members would know, the Territory Plan is a document that was enacted under the authority of two Acts, the Commonwealth's Australian Capital Territory (Planning and Land Management) Act 1988 and the Territory's own Land (Planning and Environment) Act 1992. The plan contains several land use classifications. The largest, of course, is residential land. In the plain residential zone, multistorey unit developments are not permitted. However, an area specific policy known as B1 allows three-storey unit development in specified areas.

Mr Speaker, these three-storey policies are effectively five-storey policies. We have seen that where they have been developed in places such as Torrens Street in Braddon, where there is a basement and an attic, and that basement can be well above ground level. The effect is that five-storey buildings can be built right next to ordinary residential homes. Large parts of Braddon, Turner, O'Connor, Lyneham and Dickson have been specified as B1 zones. As a result, we have seen several large unit developments appear in Braddon already.

This blanket B1 designation of large areas has been condemned by local residents. Making it possible for developers to obtain development approval on any block in any street empowers developers, whose objective is financial profit, to make Canberra's planning decisions. Mr Speaker, I have no problem about people's objective being profit, but I do have a problem about that being the only part of the consideration that leads to the final conclusion. What we have is a system that is not a system of planning at all; it is simply a system based on a free market. That is the antithesis of the design of Canberra.

The one avenue residents have remaining to them is to make objections based on design and siting and similar issues. It was pleasing to see a few weeks ago that two particularly objectionable developments on isolated blocks in Braddon had their approvals overturned on these grounds. Unfortunately, those were the last decisions of the now abolished Land and Planning Appeals Board. It seems that residents have now lost such accessible appeal rights. The Government, Mr Speaker, is to be condemned on that move, which was supported by the Labor Party in this Assembly. I will not go into that any further, Mr Speaker, because it certainly would be beyond me to reflect on a vote of the Assembly.

This Bill does not totally abolish the concept of B1 in the Territory Plan. Rather, it amends the plan's map so that the current application of this zone status to large parts of North Canberra is removed. The B1 zone will still apply to other places indicated on the plan map. Small areas in many suburbs, usually close to shops, currently have B1 classification, and there is a good planning case for B1 to be used in this way. If this zoning is limited to particular blocks, with the designation made on good planning grounds and after public consultation, it can be quite acceptable. Perhaps small parts of North Canberra might be acceptably designated as B1 in the future. In fact, we have areas that are currently so constructed. I referred to one of them earlier, in Torrens Street in Braddon. We simply could not change the zone because there is a B1 effect already there. Similarly, with the Bega and Allawah flats, Argyle Square and other areas in North Canberra. That is why it is that I have used this particular method. There may well be some debate as to what should or should not be included in this schedule at any given time, but the current blanket status is totally unacceptable.

Mr Speaker, in commenting on this Bill, the Parliamentary Counsel, Mr David Hunt, has expressed the opinion that this Bill may be beyond the power of the Assembly. I share that information with members so that they understand that there will be some debate on that issue. Indeed, Mr Hunt writes that he has formed this opinion based on the perception that the Australian Capital Territory (Self-Government) Act and the Australian Capital Territory (Planning and Land Management) Act reserve control of the Territory Plan for the Executive branch of government. I reject this point of view, Mr Speaker, although I certainly thank Mr Hunt for providing it for me. Mr Hunt, in writing to me, stated:

> Time constraints preclude me from providing you with a more expansive written account of the reasoning that underpins the view that I have expressed. However, I will be happy to elaborate orally should you so desire.

Of course, I will seek further elaboration. Mr Speaker, I have a great deal of time and respect for Mr Hunt, as, indeed, I know all members do; nevertheless, a legal opinion is exactly that, a legal opinion. On my own reading of relevant Acts, and having taken advice as well, it is quite plain to me that the Assembly has power to make enactments which control the plan and which control the Executive. In addition, I expect all members to agree that it is the Assembly which has ultimate authority over all legislative documents, including the Territory Plan. The Executive Government should never be immune from that authority. That is about accountability. So, Mr Speaker, I will continue to put that argument to members while this Bill remains on the floor of the Assembly.

This legislation brings about a change which the people of North Canberra are clamouring for. They see the current status of their locality in the plan as an appalling bureaucratic intrusion into their local affairs. It is a situation which serves the commercially-minded few to the severe cost of the great majority of residents. Mr Speaker, how members of the Assembly vote on this Bill will reveal to the people of Canberra which politicians have the interests of the community at heart and which do not. I look to members to ignore the

vested interests which their parties have traditionally served and look, instead, to their constituents. It is quite clear, under the Hare-Clark system, that individual members will be able to be held accountable for the way they vote on this issue, as on many other issues. I commend this Bill to the Assembly.

Debate (on motion by **Mr Humphries**) adjourned.

LANDLORD AND TENANT (AMENDMENT) BILL 1997

MS REILLY (10.39): I present the Landlord and Tenant (Amendment) Bill 1997.

Title read by Clerk.

MS REILLY: I move:

> That this Bill be agreed to in principle.

I am presenting this Bill because an anomaly has arisen in tenancy legislation in the ACT and I am sure that all of us here - particularly the Minister for Housing, as a responsible landlord and, in fact, the biggest landlord in the ACT - would like to address that issue. As the situation stands at the moment, we have the Landlord and Tenant Act of 1949, but one section of that specifically excludes ACT Housing from its conditions, and this is particularly important in relation to evictions. This has arisen through some cases that have come before the courts. In one particular case, referred to as Pearce and Little, in 1994, it was found that there was a lack of information. This was considered again before the Supreme Court.

What is important is ensuring that the public landlord in the ACT, ACT Housing, does not end up with broader discretions than a private landlord. I am quite sure that no-one here would want to have this difference. When a private landlord reaches a situation where he or she wishes to evict a tenant, for whatever reason, the private landlord is required to give the tenant reasons for the eviction. If you consider this, this is fair and aboveboard, because a tenant then is well aware of why the eviction procedure is commencing. Then there are several different legal processes that have to be gone through. But, if you look at ACT Housing and through that to the landlord, the Minister for Housing in the ACT, he or she is not required to give any reasons for eviction.

Mr Stefaniak: But they are told, Marion. You know that.

MS REILLY: They are not required to give reasons for eviction. The Minister, as landlord, can be justly proud that in most cases reasons are given. We are not looking, in this Act, at the internal processes of ACT Housing. In fact, some of the processes and procedures that ACT Housing work under are excellent. This is not looking at the public servants who work in Housing; we are looking at the legal processes, the requirements of the law, in relation to tenancy in the ACT for public housing. All that this amendment

will do is to bring ACT Housing and the public landlord under the same aspects of the law as the private landlord. This will ensure that, if ACT Housing wishes to evict a tenant, the tenant is given reasons for the eviction and is aware of the processes under which this will operate. This will ensure greater transparency of the whole process. This will also give the tenant greater understanding of what is going on.

There are efficiencies that can flow from this process through the fact that when it goes to court the tenant is already aware of the reasons, and there is no doubt about what is going on. At times there is misunderstanding, and the letters that are written by Housing do not spell out the reasons for eviction. For a number of tenants receiving these letters, the result is panic, understandably. A threat to one's house is a very basic threat. Housing is a very basic need. Consequently, when a number of tenants receive an eviction notice or a notice of intent to evict, they panic. In some cases they do foolish things, like leave the house or try to find ways of getting around the situation. If they were aware of what was going to happen, if they were aware of the reason for eviction, they would not need to panic and there would be better information on all sides.

It would also save time in the court. Everybody would be aware of the reasons for eviction when they get to court. In some cases the situation could be resolved before court action is taken. We are not just trying to change ACT Housing; we are also trying to provide more rights to tenants in public housing in the ACT. We are trying to reduce the amount of court time. The legal aid inquiry has shown that people who represent themselves often spend longer in court and have less success, so there is no equality before the law. We are also trying to save the very precious dollars available for legal aid. If there is less need for court action, there is less need to expend money through lawyers. So we are looking at improving efficiency in the process.

At this stage if you look at the number of actions started by Housing you are likely to find quite a number of cases before the court at any one time. Those are the people who know they can go and get legal assistance. There are a number of people who do not know that they can get legal assistance and do not take it, and these people are not receiving the same benefits as other tenants in the ACT. Further to that, there are benefits for ACT Housing through being able to resolve problems, in some cases being able to get back-rent and other arrears. Also, there is less chance of abandonment of property. In a number of instances, when people receive the notice of intent to evict, they are unaware of their rights and quite often they abandon the property. That creates other problems for Housing in terms of losing further rent and having vacant properties.

If you look at the Bill that is before you, it involves a change to sections 5 and 6 of the principal Act. The main thing is to bring ACT Housing into the same legal regime as all other landlords in the ACT. This would mean that ACT Housing would have no greater discretion than any other landlord. It would mean the greatest transparency for tenants and it would lead to a better outcome for tenants and landlords in the ACT. I commend the Bill to the Assembly.

Debate (on motion by **Mr Stefaniak**) adjourned.

AUTHORITY TO RECORD, BROADCAST AND PHOTOGRAPH PROCEEDINGS

MR SPEAKER: With regard to the next item of business, I would like to remind members of the Assembly's resolution of 19 February 1997, as amended on 25 February 1997, to permit the recording of proceedings with sound for the use of television networks and radio stations. There has also been a request by photographers to take still photographs and, if the Assembly gives leave, I intend to permit a photographer to take such photographs.

Leave granted.

MEDICAL TREATMENT (AMENDMENT) BILL 1997

Debate resumed from 19 February 1997, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

MRS CARNELL (Chief Minister) (10.49): Mr Speaker, this is an issue that many of us in this place have spoken on before. I personally wish that I had a religious conviction that made it easy for me to say yes or no on this Bill. That simply is not the case, as I have said before. Mr Speaker, this is a social issue, it is a cultural issue, it is a political issue, it is a legal issue and it is a moral issue. It is an issue on which nobody in this place can hide behind a political party or any particular ideology. It is an issue on which every single one of us has to come to grips with what we personally believe and think is right for us and right for the community more generally. This is about people's right to live and die with dignity. It is about quality of life. It is about a lot of the really basic tenets that I am sure everybody in this place believes in.

From my perspective, Mr Speaker, the difficulty of this legislation, as I have spoken about before, is the lines that it draws. It attempts to set into black-letter law something that is almost, in my view, impossible to set into law. It attempts to set into rigid guidelines - of course, law, by its very nature, must be rigid - something that has so many permutations and combinations of particular circumstances that it is simply impossible to legislate.

Mr Speaker, many people who have spoken on this issue have some absolutely amazing stories that would make anybody believe that voluntary euthanasia legislation must be enacted. We have heard how relatives have died in circumstances that are simply unacceptable. That does not necessarily lead though to this sort of legislation. What it should lead to - I think it has in the ACT and in other parts of Australia - is a much better approach and a more holistic approach to handling the terminal phases of terminal illnesses of people who are living and dying with lots of pain.

Mr Speaker, my concern in this area, as I have often said, is that people say, "Look, we simply cannot allow people to die in pain. We cannot allow people to die with no quality of life". The other side of that question is this: Is it all right to require people to live when their quality of life is not up to speed? Is it all right for people to have to live with pain? This Bill talks about only the terminal phase of a terminal illness. Assuming that we argue that people in a terminal phase of a terminal illness, whose quality of life is not up to the standards that they believe they should have, have a right to be assisted to die, what about all those people who are not in the terminal phase of a terminal illness, are living with pain but are in no imminent danger of dying and whose quality of life is not acceptable? Mr Speaker, these are the sorts of lines that I personally have a large amount of trouble drawing. For that reason, I believe that to set this particular issue into black-letter law is very difficult.

Earlier and in previous debates I said that for me the difference between our previous legislation, the Medical Treatment Act, and this Bill is that it changes the issue of intent significantly. In fact, there is a total change of approach. I support, and have supported in this place, a patient's right to adequate pain relief. I have no problems with pain relief being given, even if the dose of that pain relief is likely to bring forward death, if the intent of giving that pain relief is to do exactly that - to create a situation where the patient's pain is diminished or got rid of totally. The moment that same dose of that same drug is given to kill somebody, to terminate their life, I personally, as a health professional, have an enormous problem. Even though the dose is the same, the intent is totally different.

When Mr Moore and I sat on the committee that looked at this issue early in, I think, the last Assembly, it was very interesting to me to see how often this issue of intent came up. There is an absolutely fundamental difference, Mr Speaker, between intending to keep a patient comfortable, intending to relieve a patient's pain, intending to improve the quality of life of a patient, and, on the other hand, intending to terminate that patient's life. It is a line over which I personally cannot go. It is also true, as I said earlier, that there is difficulty in drawing that line to determine the terminal phase of a terminal illness and determine when it would be all right for active euthanasia to occur.

I accept that Mr Moore has lots of safeguards in this legislation, Mr Speaker. I think Mr Moore has done an enormous amount of work in an attempt to overcome all of those issues that tend to slip through, to try to close all of the loopholes; but the reality is that you cannot close all of the loopholes in this area. I believe strongly, Mr Speaker, that the Medical Treatment Act that we passed in this place could do with some tightening up. Mr Moore knows that I believe that. I believe that patients do have a right to adequate pain relief. I believe that patients do have a right to die with as much dignity as possible. But I do not believe that we can sanction a situation where a person assists in terminating the life of another individual.

Mr Speaker, one of the things we have not debated at length in this house in the past is the very real cultural issue that surrounds this subject. We have certainly debated the religious issues, the moral issues and the legal issues. This is a multicultural society. We have spoken at length about the importance of multiculturalism in Australia, and certainly in Canberra. We have all spoken about how we are one of the most multicultural cities in Australia. We have embraced that and I think everybody here should be very proud of that. I believe strongly that multiculturalism and different cultural beliefs are something that we need to take on board when we look at this legislation.

When we look at the people who make up the Canberra community we are not talking about just Anglicans, Catholics and people of other religious beliefs. We are also talking about people from very different cultural backgrounds that bring with them, I suppose, another layer of religious beliefs that are based upon history and all sorts of different things. When you look at some of the Buddhist beliefs and some of the Confucian beliefs, things like devotion and sacrifice for the wellbeing of others are an appropriate way to go. I am sure that we would all agree with that. Do devotion and sacrifice mean, in the end, saying, "Yes, we will use this legislation; we will be part of a voluntary euthanasia approach because we simply do not want to be a burden on the community any longer."?

I know that this is a difficult issue, but we do have people from the Japanese culture, people from the Indian culture, indigenous Australians, people from Buddhist backgrounds, Taoism, all those areas, Mr Speaker, who have very different and very definite beliefs on this subject that I do not believe have been taken on board. I believe very strongly that those people need to feel safe and secure in our society if we are to be a multicultural society.

Again, I believe that the Medical Treatment Act that we have already passed, even with some tightening up, is the appropriate way to go. It does give people the right to adequate pain relief. It does give people the right to die with dignity. It does ensure that doctors who are part of that death with dignity scenario, even if they give people doses of pain-killers that may bring forward death, are protected. At this stage to take the next step, I believe, Mr Speaker, is, firstly, not necessary, and, secondly, potentially very dangerous and may, just may, make a lot of people of different religious and cultural backgrounds in our society less comfortable. From my perspective, there would have to be a very good reason to do that. At this stage I do not believe we have given our Medical Treatment Act a chance to grow - to grow with our society and with medical science.

To sum up, Mr Speaker, I believe very strongly, as I am sure everybody here does, that everybody in our society should be given a right to die with dignity. Everybody in our society, when faced with a terminal condition, when faced with the situation that their quality of life is in many cases very bad indeed, must have access to appropriate services. I believe that that is the case in the ACT. We must have legislation in place to protect doctors and other health professionals who are part of providing that dignity with pain relief. We have that in place, Mr Speaker. To take another step at this stage, I believe, would create legislation that is simply too rigid and, if anything, would take away choices rather than give new choices.

MR BERRY (11.01): Mr Speaker, the debate, both here and around the country, has ensured that this issue has been addressed at least in some part by most people. I think that is a good thing. We in this Assembly began our consideration some years ago. That consideration, as I recall, had its origins in the policy which was developed by my party. I come from a position of being pro-choice in this matter, and so does my party. The choice in this circumstance is the choice of the individual to make decisions about their life. There are many different views about euthanasia. For me, it is about letting go; it is about letting an individual make their own decisions; and, importantly, it is about dignity.

We have seen how advances in medicine have changed society. Modern medicine can keep people alive longer than ever before. Too often advances have been accepted, I think, without consideration of their impact on either society or the individual. These advances are accepted without debate. Many of us have known people whose lives have ended because of an incurable illness, but it is hard for me to accept that their passing is not always controlled by their illness or their will to live or die but by the treatment they receive and the decisions of their medical advisers.

It troubles me that no other legal option might be chosen by the terminally ill. This Bill provides that option. What we are deciding here today is: Who makes the decision about when to cease treatment and who decides when the suffering is intolerable? I think it is not for me to decide. It is not for others to decide. It is for the individual to decide. This Bill is about allowing individuals to say, "This is my life. This is my suffering and I will say when enough is enough - not the medical profession, not the churches, not society and certainly not parliamentarians".

It is not up to us to say that euthanasia is right or wrong, no matter what our conscience tells us. It is up to the conscience of the individual. It is our responsibility to ensure that people or their carers will not be punished for an individual's decision to end their own life. This Bill provides that protection. It is also the responsibility of us, as legislators, to stop turning a blind eye to what is happening in the community. That euthanasia happens daily is a fact. Mrs Carnell drew our attention to that fact when she talked about the prescription of drugs to relieve pain. The administering of those drugs is known to have the effect of ending life. So, in effect, euthanasia happens without proper regulation. I think it is about time we acknowledged that fact and put into place the appropriate safeguards - safeguards for people who choose euthanasia and safeguards for those with the compassion to respect the wishes of the suffering.

I do not know whether I would ever consider euthanasia for myself, but my personal choice in this matter should not drive my judgment on this. What is at issue is that I act in a manner which will allow others to make the decision for themselves. I do not even consider trying to make that decision for them. It is not my decision to make. What I should do is leave others to make their choice, and I urge my Assembly colleagues to do the same. I have no doubt in my mind that few will use this law if it is passed. I think there will not be many people who will use it. The will to live is strong. It is only under intolerable suffering that people would consider an option such as that provided by this Bill.

I do not believe the fear campaign which is being run on this issue and which says that people will be coerced to undertake euthanasia by unscrupulous family members or medical staff. I think that is an outrageous fear campaign. It should be ignored and treated with contempt. This Bill contains protections. We have all had the opportunity over the last few years to consider this important issue. I have considered all the arguments and I have remained convinced that euthanasia legislation should be supported. I am happy to support the policy my party has developed and which I went to the last election in support of.

Another issue, I think, is important in the scheme of things. It has been suggested that we might postpone the decision or refer it to a referendum. I think it is important for us as representatives of the people of the ACT to send a strong message to those people in the Federal Parliament who are on the edge of making a decision about our right to make laws such as this. The best way to send that message is to pass this Bill today in principle. In fact, I think the only way to send a strong message is to pass this Bill in principle and to tell our fellow parliamentarians in the Federal Parliament that they ought not interfere with our right to pass legislation such as this. That right was given to this Territory in good faith and it should not be taken away by this sneaky backdoor move. That is what I think it is. There is an issue about whether this Territory has the right to make or not to make laws, which I think is one that all of us in this house support. If this Bill fails today or if it is deferred, we are really endorsing the Andrews Bill in the Federal Parliament.

I would like to return to the issue of euthanasia and repeat, Mr Speaker, that I think this is a piece of legislation which will be regarded by the overwhelming majority of the community as compassionate legislation. It gives us the chance to tell the community that we recognise the needs of those who might wish to make decisions to end their life, and that we view their decisions with compassion.

MR KAINE (11.09): Mr Speaker, for each of the last few years Michael Moore has asked this Assembly to pass a law which, however one may regard it, has the effect of decriminalising murder in certain circumstances. I know Michael to be a man of conscience and compassion, and I know he is of good intent; but equally I know that on this issue he is in error. I am not sure why this Assembly is having this debate today when, as Mr Berry has pointed out, in another place a Bill is soon to come to the vote and that Bill, if enacted, would deny this Assembly the power to enact Mr Moore's Bill and would invalidate laws of the Territories that decriminalise action by a medical professional to administer, at the request of an incurable patient, treatment to terminate not only the intolerable suffering which is afflicting the patient but also every other feeling of which that patient is capable. If that Bill does pass the Senate, and we can argue that, we are wasting our time here, whatever the outcome, and we would have done better to bide our time perhaps and await events across the lake before this debate took place.

Mr Speaker, we already have in the ACT a law expressed in terms very like those of Mr Moore's Bill. The Medical Treatment Act 1994 allows terminally ill persons suffering intolerable pain which the science of medicine has not yet learnt to alleviate to say, "Enough. Stop all treatment, or give me only what can make the suffering less intolerable and let nature have its way". That is a Bill that, in fact, Mr Moore introduced into this house, so he knows full well what it says. There is enormous compassion and dignity,

in my view, in that provision. The patient has the total determination of what treatment he or she will receive while approaching a natural death. Under present law, however, no person has the stigma of being obliged to take deliberate action to perform against another person that worst of actions which one human may take against another.

Mr Speaker, I am all for compassion and alleviation of suffering, for allowing people to end their lives with dignity, whatever the cause recorded on the death certificate. I do not support a measure that will allow the ending of a life to become a media circus, to distress not only the relatives of the suffering person but also the medical professional who in good faith and compassion supervised the termination, and I mean such a circus as we witnessed in the Northern Territory only a few short weeks ago.

I am all for invoking strict legal sanctions against any person who knowingly and deliberately takes the life of another, for any reason. This is a principle which civilised man has embraced for millennia, and we should not lightly cast it aside. Wiser heads than any in this place have contributed to the debates that gave rise to that principle.

I am all for making the final period of life as comfortable and tolerable as medical science and compassionate principles of management are capable of providing. If this Territory is to show leadership in the matter of comforting those whose lives are coming to their end, let it be leadership in developing palliative treatments and management practices that will bring care professionals here to learn from us.

I am all for doing nothing more to provide further material for ignorant media elsewhere in Australia to use in uninformed slanging of this Territory. I am not talking about Canberra bashing; that is a fact of life. What I am talking about is the kind of morbid attention that media would focus on us if this Assembly should pass Mr Moore's Bill and the Commonwealth does not invalidate it. Surely we have better things to do than fend off media beat-ups about decriminalised murder.

So far in this debate, and in other previous debates, Mr Speaker, I have spoken in general terms about what we have, and what I support. I would now like to draw the attention of members to what other legislatures in other polities have concluded after searching inquiries into this subject. It is not a new subject at all. There have been three important inquiries undertaken within the last four years and none of them can be categorised as pro-life or tied to any religious denomination. They are the inquiry of the Select Committee on Medical Ethics in the House of Lords, which reported in January of 1994; a report by the New York State Task Force on Life and the Law, presented in May of 1994; and the report of the Canadian Special Senate Committee on Euthanasia and Assisted Suicide tabled in June 1995. By any measure, these reports merit close attention. I have referred to them in this Assembly in the past, and I will continue to do so if this topic ever comes before us again, because I consider them to offer a balanced view free of prejudice.

Each of those inquiries rejected the decriminalisation of euthanasia. Some members of the New York task force believed that providing a quick death can respect the autonomy of some patients and demonstrate care and commitment on the part of medical professionals.

However, those same members concluded that to legalise assisted suicide would be an unwise and dangerous public policy. There are grounds for believing that decriminalising euthanasia would breach a number of major international human rights agreements. The Universal Declaration of Human Rights of 1948, for example, states:

> Everyone has the right to life, and that all are equal before the law and are entitled without any discrimination to equal protection of the law.

The UN 1966 International Covenant on Civil and Political Rights states:

> Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

To pass a law that breaches that fundamental principle puts the relevant legislature, in my view, at risk of a formal challenge before the Human Rights Committee of the United Nations, and I think we need to think on that a bit. The House of Lords committee heard evidence from a professor of law at Oxford University to this effect:

> It would not be possible always to be totally confident that a request for euthanasia was truly voluntary and not the result of pressure or coercion.

Can we set that sort of comment aside lightly? All three inquiries found it was not possible to draft laws that would prevent negligence, for example, misdiagnosis, or to prevent the unscrupulous from killing the vulnerable and the weak. In its report, the House of Lords committee said:

> To create an exception to the general prohibition of intentional killing would inevitably open the way to its further erosion, whether by design, by inadvertence, or by the human tendency to test the limits of any regulation. These dangers are such that we believe that any decriminalisation of voluntary euthanasia would give rise to more, and more grave, problems than those it sought to redress.

Mr Speaker, without relying on any religious tenet, all three inquiries stressed the special worth of human life as forming the heart of civilised society. The House of Lords committee said:

> It is the fundamental value on which all others are based and is the foundation of both law and medical practice. The intentional taking of life is therefore the offence that society condemns most strongly.

Note that the House of Lords committee is saying that society condemns it. The members of that committee did not single out religious condemnation. They perceive the blanket of condemnation as covering society as a whole, whether agnostics, atheists or religious people.

The three inquiries emphasised that the appropriate response of civilised societies was not to kill the elderly, lonely, sick or depressed, but rather to commend the development and growth of palliative care services. None of them found killing to be an acceptable form of care. The Canadian inquiry looked at claims of public support for euthanasia. A majority of the members of that committee were "sceptical as to the validity of opinion polls often cited ... in favour of changes to the existing laws. They are concerned with the acceptance of such poll results at face value without close analysis of the questions asked and the knowledge of the respondents with respect to the issues raised". The professor of law and medicine at McGill University, speaking in Sydney in 1995, noted that, while North American opinion polls regularly indicated support in excess of 80 per cent for euthanasia, when it came to formal voting the highest percentage in favour was only 45 per cent. The comment is of great significance here and now because we are asked to make a decision in light of - and I use the term advisedly - similar local polling.

Mr Speaker, pollsters often frame their questions so as to get the answer they seek, and that is not news to anybody. For example, consider this question: If an incurable patient suffering great pain asks for a lethal dose from which they will not awake, should the doctor be allowed to give that lethal dose or not? Such a question loads the respondent with a collection of linked issues, some of them emotive, to all of which only a single yes or no answer is allowed. The words are emotionally loaded - "incurable", "great pain", "termination", "will not awake". We should not accept polls without careful study of how they were conducted, who were the respondents, and to what drum those commissioning the poll were marching.

The common law has long recognised that it is licit for a patient to refuse medical treatment. Our own law makes that licit. Legislation to give patients autonomy to make decisions about their medical treatment is unnecessary. Legislation to empower patients to request a medical professional to press a button or depress the plunger of a syringe to end life is not necessary either. Mankind has applied progressive levels of sophistication to the problem of terminal illness since it learnt to fashion tools and use fire. The ability of modern technology to let a person end his or her own life by touching a computer screen does not alter the fact that there has to be active precedent complicity by others in setting everything up to make the touch effective at the other end of the line.

That is significantly different from the sound principle of medicine that no person should be required to endure treatment which is futile or unduly burdensome. We have all heard about people being kept alive in hospital long after hope of recovery has passed, for the sake of the income to the hospital which that treatment represents. We should all abhor such practices while supporting the rights of patients and families to choose that course of action. In one American study, Mr Speaker, patients diagnosed as having "advanced cancer in its terminal stage" did not have cancer at all. In one American State a court ruled legislation permitting assisted suicide unconstitutional for, among other reasons, discriminating against the elderly, the infirm and others by not according them equal protection under the law. These are issues that we need to think about very carefully.

Mr Speaker, I have a few comments to make about the Bill itself. It requires that a person making a decision to receive euthanasia be of "sound mind". Exactly what does that mean? The *Diagnostic and Statistical Manual of Medical Disorders* does not mention it; nor does any modern psychiatric textbook or manual use the phrase. Do not just take my word for it. I am referring to an article in the Melbourne University *Law Review* in 1993 entitled "Medico-legal aspects of the 'Right to Die' legislation in Australia". We have other legislation in the ACT at the moment which is causing trouble because of the lack of definition of words used or not used in the medical profession. This is another beauty, is it not? You can imagine the litigation that is likely to go on over those two words "sound mind".

It is questionable whether even a 72-hour cooling-off period after the patient learns that the illness is terminal, followed by a further 24 hours after the statutory preconditions to the grant of a request for help to die are met, is sufficient. Illness is vulnerability at its most intense. The sufferer loses confidence in his or her own body and future. Patients bring the vulnerability of this time to their relationships with medical professionals who hold the knowledge that patients may desperately need. This adds to the dependence which characterises the doctor-patient relationship. In all, it is not a time in the patient's life when a rational decision is always possible. There is scope for mistakes on both sides. I am sure that Mr Moore does not wish mistakes of this kind to happen; but I warn him that, no matter how carefully his Bill is drafted, they can and will happen.

The Bill refers to palliative care and makes it a condition that the patient must be satisfied that palliative care is not satisfactory. The patient must get information from the medical practitioner about the illness, alternative forms of treatment and their consequences, including palliative care, and the consequences of remaining untreated and not receiving palliative care. Can we be confident, Mr Speaker, that even a patient apparently of sound mind, on getting this information, can make the right decision? It is not enough to rely on the Bill's requirements for that.

Medicine is an excruciatingly difficult science, practised by mere mortals who, while they may have access to all manner of modern diagnostic technology, are capable of making mistakes. At the least, the practitioner who provides the information to the patient needs to be a specialist in the disease which the patient is suffering. So too must the practitioner who carries out the obligatory second examination. *(Extension of time granted)* The Bill imposes an awesome burden on both of those practitioners. What if they disagree? Does this oblige the patient to go shopping for two who do agree, and what if the practitioners are not both familiar with the person? The practitioner may well read case notes, but in such a critical situation is it not essential that the practitioner also know the person whose life is under consideration, or are we considering just the carcass of an animal here?

Summing up, Mr Speaker, I do not believe that it is possible to draft legislation that would adequately protect people in the moment of their greatest vulnerability. The Bill is unnecessary as a matter either of law or of medical practice. The Bill says that, while we abjure capital punishment even for our most heinous criminals, it allows us to kill the depressed, the lonely, the disabled and those in pain. Mr Speaker, I have the most

enormous compassion for people suffering from terminal illness and pain that cannot be alleviated; but, as a matter of public policy, I do not see the Bill as providing the solution that Mr Moore wishes to achieve. Mr Speaker, it is for these reasons that I oppose the Bill.

MR WOOD (11.26): Mr Speaker, I first considered the question of euthanasia some 40 years ago. That was when, as a brash youngster in a youth group, I was allocated the pro side in a debate on "That mercy killing is acceptable". That was when, after my spirited support of the proposal, I learnt some of the complexities and all of the passion attached to the issue. Those two factors have remained constant in all the debates over the years, and especially now that the proposal has emerged in legislative form. In those 40 years, my views have not remained constant, fluctuating as I have been influenced by one argument or another. I mention this passage of time to indicate that my decision today, as it was on the last vote, has not been easily or hastily reached. It follows some study and much thought.

This Bill would establish a principle: That the state can sanction death. I have been a member of this Assembly now for eight years. I do not have the confidence in myself, or in this Assembly, to cede to us the power to determine life or death. I remain convinced that this is a power which the state must not have. The state, as for all of us, must nurture life. We must be responsive in attending to the sometimes tragic circumstances of people; but our actions must be based on promoting the interests of society generally, and those interests are not met by this legislation.

Some years ago, this Assembly introduced measures to allow, in some circumstances, for life-sustaining treatment to be withheld. Today, we are considering further measures to allow, on request, medical treatment to cause death. What might we consider tomorrow? After my last vote on this issue, I was challenged by the question, "Why do you, Mr Wood, presume to impose your conscience over mine?". The answer to that is clear. As a legislator, I am, with all members here, and through the democratic process, constantly imposing my conscience on others - seldom, of course, on so momentous an issue. In casting my vote today against this measure, I am confident that it is in the best interests of society.

MR HIRD (11.29): Mr Speaker, I rise to speak against the Medical Treatment (Amendment) Bill 1997, as tabled in this parliament by our colleague Mr Moore. I acknowledge that there are arguments for and against this proposed legislation; but, on balance, I believe that there are stronger arguments against it. Therefore, I am opposed to it, for many reasons, which I will outline. Firstly, Mr Speaker, I believe that the tabling of this Bill is ill timed. This parliament is in a no-win situation. As we all know, there is a Bill currently before the Senate, as Mr Berry and Mr Kaine indicated earlier in this debate, known as the Andrews Bill, which, if carried, will make the deliberations of this parliament a total waste of time. The Andrews Bill, which would override any legislation we put into effect, has passed through the House of Representatives. I know that that does not guarantee that it will pass through the Senate; but I believe that there is more than a fifty-fifty chance that it will.

It would have been more appropriate if Mr Moore had deferred presentation of this Bill until after the Senate's deliberations. I can only assume, Mr Speaker, that, by tabling the Bill now, Mr Moore is once again trying to write himself into the ACT record books with an exercise in political grandstanding. If that is what he wants, then I might be persuaded to change my stand and vote to have the Bill introduced for a trial period, if Mr Moore is willing to submit to being the first "victim" of his legislation!

Seriously, Mr Speaker, I do not believe that this parliament should be putting itself in a position where it is seen to be playing God - and that is what we are talking about here. Euthanasia raises serious religious, ethical and legal questions, as indicated by Mr Kaine. The treatment of the sick is a matter which ought to be resolved between the patient, his or her family, and their doctor. Doctors have an obligation to relieve pain, to keep their patients comfortable and, above all, to preserve life wherever possible. It is not for us, as a parliament, to be condoning doctor-assisted suicide. In an age when technology and the development of drugs are creating incredible breakthroughs in medical science, there is almost daily hope that diseases that a decade ago were considered incurable can be treated successfully. This proposed legislation, Mr Speaker, is just the thin end of the wedge. We should be asking ourselves: Where does it end?

The risks are too great. The lives of people are precious. The lives of people who are not competent to request lethal medication could be put at risk. Their request may not be truly voluntary. This Bill is certainly not just about people who are terminally ill being allowed to legally end their lives. Mr Speaker, you will recall that earlier this week the Standing Committee on Scrutiny of Bills and Subordinate Legislation identified flaws in the Bill itself. In particular, that committee drew the attention of the house to the provisions for witnesses under section 7, in paragraph 11(d). I am also concerned, Mr Speaker, in respect of patients in aged persons nursing homes. I know that a number of people in the community and some of my colleagues in this house are also concerned about those patients in that sort of situation.

Every adult in Australia has the legal right to decide whether or not they will allow themselves to undergo medical treatment. They have the same right to reject treatment. But what happens when a person is unable to make those decisions - when that person is no longer mentally capable of making decisions of this magnitude? Is it fair to ask family members to become substitute decision-makers? This Bill, if passed, will allow that situation to develop. There is always the danger that relatives, feeling the pressure of rising health care costs, coupled with the agony of seeing loved ones suffer, will be tempted to take advantage of this proposed legislation.

It is also interesting, Mr Speaker, that society today does not allow capital punishment for hardened criminals who commit murder and the like; yet we are trying, through the Moore Bill, to bring in the ability to do away with the very people that we care for in the family circle. I believe that, inevitably, such decisions, by virtue of the fact that we are all only human, will be regretted. Under Mr Moore's legislation, it will be too late. Mr Speaker, I do not know about other members of this parliament; but I, sure as hell, do not want to be the one that enables that to happen. Consequently, I will be recording my vote against this Bill.

MS HORODNY (11.35): Mr Speaker, 14 of us had this debate back in November 1995, and we have since been joined by three newer members to this Assembly who were not part of that debate and whose views on this matter are not yet clear. In November 1995, we had an in-principle debate, which I must say was very respectful of all the views presented. It was good that people did not interject and that we heard all views on the matter with great respect. Since that time there has been a new Bill drawn up with, I think, most of the amendments that Ms Tucker and I had worked on but which we were not able to discuss at that time because we were looking at the Bill only in principle.

I believe that the amendments that have been included in this Bill improve the safeguards immensely. They include such things as ensuring that the patient is of sound mind, that the medical practitioner is very familiar with the history of the patient and that the medical practitioner keeps very good records of information given to the patient on their choice in relation to palliative care. Also, a comprehensive report is to be prepared by the coroner to present to the Attorney-General, and the cooling-off period has been increased from 24 hours to 72 hours.

The commencement of the Bill will be no sooner than in three months' time. We originally proposed six months, but we have had discussions with Mr Moore about that and have agreed that three months is quite appropriate. The reason for having that minimum period was to allow for better awareness and education in the community regarding the precise details of this Bill, if it were to pass, so that people would be fully and properly aware of what is included in this Bill and what is not included and what their rights and responsibilities are, and also to allow for adequate training of medical practitioners. Another amendment that was included was the review of the whole legislation after two coroners reports have been presented. That is probably after a couple of years.

I noticed in the *Canberra Times* on 15 February an article written by Helen Verlander, who apparently is a staff member of Kevin Andrews's. She has written a quite detailed article explaining how, in her view, women would be more attracted to euthanasia, and earlier, and for reasons very different from those of men. She goes on to detail many instances of euthanasia being performed - mostly cases in America - where the euthanasia has clearly been abused. But I believe that this article actually adds further weight to the legislation that is being presented today. I believe that the legislation, in fact, would ensure that such cases of abuse as are detailed in this article do not occur. So, it is interesting to read the article and it is also interesting to realise that Ms Verlander has a very different agenda in mind.

There are interesting parallels, I believe, between this debate that we are having on euthanasia and the debate on the heroin trial. I believe that, in both debates and in both issues, there is a situation of abuse going on within our society, within the community, and in both cases there are proposals to regulate illegal activities and to restore some level of confidence in those activities and in the professions that are involved. In both cases, we have sectors of the community and politicians who choose to bury their heads in the sand, to ignore the reality, to ignore the potential to improve on the situation that exists. Instead, what we see is that strong personal views are being imposed in a situation where, I believe, the issue of community good should override that of people's personal views.

If the individuals in the Northern Territory who have now died peacefully - and, I believe, very gratefully - due to the legislation there, were still alive, they would still be suffering. We would still have a situation for them where there would be no peaceful end in sight. I believe that that is an untenable situation.

MR HUMPHRIES (Attorney-General) (11.42): Mr Speaker, about a month ago, the Chief Minister and I fronted up to the Legal and Constitutional Affairs Committee of the Senate to argue the case against the Andrews Bill, which has been much mentioned in today's debate. We argued a number of things about that legislation. We said that it was discriminatory, in that it was legislation targeted at the Territories but not at the States; that is, that the States could legislate for euthanasia but the Territories could not. We argued that it damaged the Commonwealth's relationship with the Territory - indeed, the Territories. We argued that the legislation abrogated a key principle of self-government, which is that matters of that kind, not expressly reserved to the Commonwealth, should be matters for the Territory to determine. We argued that the legislation itself may have unintended consequences, in particular with respect to the Territory's already enacted Medical Treatment Act.

Mr Speaker, we argued ultimately that the Territory had sufficient maturity to decide, soberly and calmly, after extensive communication with our electorate, on these issues, without the intervention of Federal Big Brother. Mr Speaker, I hope that that is what will happen today - that we will make a sober, sensible and responsible decision about the legislation to facilitate euthanasia in a way which reflects the requirements and the needs of a responsible society, without having to have the intervention of those in the Federal Parliament who believe that they know better. Mr Speaker, I believe and I hope that this Territory's Assembly will today reject the legislation which is before it and, in doing so, will facilitate the making of a sensible decision by the people of this Territory.

Why do I oppose euthanasia? I have strongly-held personal views which dictate, in some sense, my reaction to this legislation. The legislation affronts the values on which I believe all legislation in the Territory, all public policy, ought to be based. The subject matter of the Bill obviously concerns issues of life and death and pain and suffering, and those have deeply personal implications for all individuals in this place and outside it. The Bill goes to the most fundamental of ethical, moral and religious questions in our community, and it is understandable that the views should excite enormous antipathy in the community.

The nature of the proposal before the Assembly is one that would enable a medical practitioner to perform a positive act that results in the death of his or her patient. The legislation builds in so-called protections, such as a cooling-off period and various precautions; but, at the end of the day, where the requirements or conditions in that legislation are satisfied, a medical practitioner will be permitted to administer a lethal dose of a substance to end the life of another human being. It is that fact, above anything else, which drives me to oppose this legislation. I cannot support it, because I regard it as being contrary to the duty we all possess to uphold the sanctity of human life.

The termination of the life of a dying person, whether or not it is out of pity, whether it is carried out by a doctor or some other health professional, is a violation of the fundamental tenets of both my personal faith and sound public policy. Whether or not we profess to have particular religious convictions, whether or not we profess to be Christians, it remains true that Judaeo-Christian values and tenets underpin the basis of our society, including our obligations and rights as citizens to observe the law.

This issue has featured in debate here on at least three occasions. The views of members do not seem to change; only the membership of the Assembly changes. Mr Moore believes that active voluntary euthanasia is inevitable. In that respect, Mr Speaker, I believe that he is wrong. The concept of mercy killing is itself some centuries old and no doubt has been practised, with or without the protection of the law, for a very long period of time; yet only in the Northern Territory, alone on the world stage at this time, and only in very recent days, has legislation been enacted that would actually validate the practice of euthanasia in that particular place. We have to ask the question: Is this the first trickle from a floodgate, or is this a flash in the pan? I believe, Mr Speaker, that it is the latter, because I believe that those who support this legislation have not taken into account the advances in medical technology, which some others have referred to in this debate, which I think remove much of the reason - perhaps the emotional reason - for euthanasia.

In the debate about euthanasia a great deal is made of the highly emotive image of persons suffering unbearably in the final stages of life; yet this is a false image for the vast majority of terminal illnesses. The future promises fewer and fewer needing to suffer for want of appropriate relief. Once the diminished quality of life argument is outstripped by science, what is left of the emotional stock-in-trade of euthanasia?

Economic considerations may also extend to this kind of debate for those who seek, or have offered to them, the option of euthanasia. I think that there is a very real danger in this debate that the availability of euthanasia within our medical system could lead to a downgrading in the provision of palliative care services. I share the support of other members in this place for the quality of our own palliative care services in this city; but I have to say that a regime that provides for some members to be taken out of that arrangement into the option of terminating their lives must present a threat to the very high standards of palliative care which I think we have already achieved in this Territory.

I believe that the issue of patient suffering, the experience of intractable pain, is an issue in this debate that is highly emotive but has been highly exaggerated. One doctor put it to me that a medical practitioner who could not substantially relieve the pain of a terminal patient was not much of a doctor. It is wrong, I think, to link the issue of intractable pain to the availability of active euthanasia, even if there were such cases occurring on a wide scale. There is no way of limiting the principles inherent in this Bill simply to those who are suffering from intractable pain, rare as those individuals might be. The principles will be applied to those who seek it because of their state of mind, not just because of their state of body. I do not think, Mr Speaker, that, as we go about this debate, we can foresee where the limits of those principles will be. I will return to that argument in a moment.

Mr Moore and others in this debate have characterised the present law, which does not permit active voluntary euthanasia, as some kind of interference by the medico-legal system in a person's right to choose whether they live or die. The appeal to a Liberal, I think, of the philosophy of the right to choose is, in some circumstances, a telling one. Mr Moore says that, by refusing the option of euthanasia, we impose our values on other, suffering people. I think, Mr Speaker, that there is a misconception in that. Mr Wood, in his comments has drawn attention to that.

In some senses, we as legislators do indeed impose our consciences on other people, as Mr Wood has rightly said. But the other misconception is that euthanasia, as a concept, can somehow be slotted into our care and treatment regime in this city, indeed in this world, as if it were simply a new form of therapy or a new drug, and that its application has no other broader implications except on those people for whom it is applied. The reality is, Mr Speaker, that the concept of euthanasia confronts, in fact tears the fabric of, the ethical system of medical practice in general and of palliative care in particular. We cannot act in this way. We cannot promote euthanasia without bearing in mind the consequences for the rest of our ethical and medical system.

One of the elements of this legislation which disturbs me most fundamentally is the very consistent opposition of the medical profession itself to this concept. I appreciate that there are different views within the medical profession. Mr Moore, I know, has spoken publicly to some of those doctors who support the idea of euthanasia. It is my impression that the vast majority of doctors, though, do not support it, at least in the form of the legislation that has been talked about here and elsewhere. I have yet to meet face to face a doctor who takes the view that euthanasia is a principle that he or she would like to apply within their own daily practice.

It troubles me that we should be engineering a system which we as legislators might think to be praiseworthy and a great innovation and imposing it on a profession which actually has to administer it, when there is within that profession considerable concern about - indeed, strong opposition to - the very principles which underpin the thrust of the legislation. In fact, there seems to be some element of re-engineering here, with doctors being the subject of that push. I think we have seen from the Northern Territory experience that many doctors, perhaps the vast majority of doctors, are unwilling, to the point of refusal, to be involved in this process. I understand that, in a few cases, it has actually been impossible to find doctors who are willing to sign the necessary forms or even undertake the necessary actions. The attitude seems to be, however, that doctors in this case will simply have to fit in with this regime, even where most of the people in that profession do not believe that this is an appropriate imposition on the medical ethics that they work with. I believe that we should not go down the path of preferring the quality of human life to the sanctity of human life. For my part, it is contrary to the beliefs that make up the fundamental basis of our system of social values and the laws on which they are based.

The other argument, which has been put before and which, I think, still has some very great weight, is the "slippery slope" argument. I do not think Mr Moore, in addressing this debate or in previous debates on this issue, has actually addressed that particular issue, and I would appreciate his making some comments on that in his summing-up of this debate. I think it is a real issue. If doctors, with the full sanction of the law,

can administer lethal doses, as well as being able to administer life-preserving or life-extending drugs, then their very function changes. If they are seen differently by their patients and the broader community, and rightly so, what possibilities of extension of this concept are opened up?

I note that a very important proponent in this debate, the Northern Territory's former Chief Minister, Marshall Perron, has himself in recent days actually argued for a significant extension of the concept in his own legislation in the Northern Territory. He told that same parliamentary committee that the Chief Minister and I appeared before that he believed that there was a case "to expand the legislation to other categories". He gave the Legal and Constitutional Affairs Committee the example of a quadriplegic who might live for 20 or 30 years but be begging his carers daily for release. He went on to say:

> That leaves unanswered the misery and suffering which we see, and that I object to, in groups other than the competent terminally ill adult.

It seems to me, Mr Speaker, that, if the chief proponent of this concept in the Northern Territory is, even now, when the ink is barely dry on his legislation, prepared to argue for the extension of this concept into other fields, then that extension or the consideration of that extension is virtually inevitable should we open the door to this concept. I certainly have great fears about where that debate would end if we were to allow that extension.

Mr Speaker, I think that related to the debate about what kinds of options are opened up is the question of what message we send to the terminally or chronically ill or disabled, who are obviously amongst the most vulnerable in our society. *(Extension of time granted)* The Australian Medical Association has remarked upon the pressure that the possibility of euthanasia may place on a person with a terminal illness, who may feel some sense of guilt about being a burden on his or her family. We need to be conscious of the fact that the option of euthanasia itself influences the thinking of a terminally ill person. There is absolutely no doubt in my mind, and I do not believe that it is an exaggeration to say, that some people will feel a sense of duty to their families to seek assistance with euthanasia. Already, we have all heard talk about persons not wanting to be a burden on their families when they grow older. How much more real is that kind of pressure when they lie in a hospital bed and have explained to them, as a matter of law, the option available of euthanasia?

Nor can we ignore the possibility that economic considerations might play a part in the way that society approaches euthanasia. Once we embrace the concept of certain lives not being worth living, it is conceivable, with the pressures on health budgets - which we all know are enormous and widespread throughout this country and indeed throughout the world - that there would be a temptation to deny scarce resources to a person whose life is considered to be of poor quality, when it could be judged that resources are better spent on somebody with a better quality of life. I know, as a former Minister for Health,

that those pressures are there, that they are very real, that they do result in choices being made on a daily basis by doctors and others within our health system, and that to support legislation like this strengthens the conviction in those people that they need to make choices that sometimes discriminate against those who are infirm or disabled or, in this particular instance, dying.

Mr Speaker, let me say a couple of things before I close. I want to respond to a point Mr Berry made in his remarks about his being happy to go along with the policy of his party at the last election. I do not know what the policy of his party was at the last election, and I am not sure that most people who voted for the Labor Party knew what the policy of the Labor Party was at the last election. There is a provision in the Labor Party's policy platform, which you can buy for $20, which says something about euthanasia, as I understand it. There was also a statement before the last election that there could not be a decision about euthanasia until there was a much more extensive community debate.

Mr Berry: Did you see the plane flying around?

MR HUMPHRIES: No. I do not know where you secrete the information, Mr Berry, but it did not come to me. Assuming that this legislation is defeated, I think that, if any party goes to the next poll with a position on euthanasia, it ought to state that position in letters 10 feet high. Mr Moore, to his credit, did say what his position was and has always made his position very clear. Nobody voting for Mr Moore would be under any illusion about where he stood on euthanasia. But it is important, if political parties seek to adopt positions in these areas, that they state that very clearly up front.

Mr Speaker, the other option that has been discussed in recent days is a referendum on this issue. I would support that concept. I believe that there is an idea that such issues are too important to put to a broader, less structured public debate. I do not believe that people would always necessarily get the answers "right" from the point of view of me or somebody else who might take a strong view about what is right and wrong; but I believe that these are issues which are fundamentally of concern to the community and which the community ought to have a right to comment on. I also happen to believe that, once the issues are put very squarely before the community, a referendum to support euthanasia would be unlikely to succeed.

In conclusion, Mr Speaker, Mr Berry said that the best way to rebuff the Andrews Bill is to pass this legislation today in principle. I believe that the best way to show the Federal Parliament that we can take a responsible course of action without Federal intervention is to reject this legislation all on our own. The legislation should be rejected. It changes adversely the ethics of medical treatment; it dramatically corrodes the relationship between doctor and patient; and it is bad public policy. I want to end by quoting the same House of Lords select committee that Mr Kaine referred to:

> It would be next to impossible to ensure that all acts of euthanasia were truly voluntary, and that any liberalisation of the law was not abused. Moreover to create an exception to the general prohibition of intentional killing would inevitably open the way ... to test the limits of any regulation.

MR SPEAKER: I would like to acknowledge the presence in the gallery of the Year 10 legal studies group from Daramalan College. Welcome to your Assembly.

MR OSBORNE (12.03): Mr Speaker, I will be opposing this Bill. I thought I would start with that, just for Mr Moore's benefit.

Mr Moore: Damn! I thought I had you convinced.

MR OSBORNE: He nearly had me. I was very impressed with his speech last week, Mr Speaker. He nearly had me convinced, but not quite.

Mr Speaker, you have to admire Mr Moore's determination in again bringing forward legislation to allow the practice of voluntary active euthanasia in the ACT. Unfortunately, Mr Moore, like his Bill, has once again failed the people of Canberra. Shortly, I will explain why I believe that this is so. Before I do that, though, I would like to restate that the challenge for me in considering this Bill has been to look at the big picture. I have made no secret of the fact that I hold very strong personal views based on my own Christian beliefs, which naturally oppose this Bill. It would be very easy for me to get up here and just make a short statement based on those beliefs; but that would do nothing to convince those who do not have similar views. Instead, unlike Mr Moore, I will not be referring to any religious viewpoint during this debate and will concentrate instead on the obvious flaws within this Bill.

While on the point of making religious statements, Mr Speaker, I have at times been dumbfounded by some of the vitriolic attacks that Mr Moore has made over the past couple of years on those in this place who hold Christian beliefs. I cannot work out why Mr Moore supposes that he can instruct and ridicule those of us who hold Christian beliefs - beliefs which he does not hold himself - on how to live out our faith in day-to-day situations, when he is only observing from the sidelines. To me, that seems a lot like appointing him to the Super League judiciary. I would like to assure Mr Moore and his followers that those of us who hold religious beliefs are not genetically lacking, as he seems to suggest, in that our compassion gene has somehow been left out. On the contrary, Mr Speaker, I believe that the compassion of a religious person is heightened when they encounter human suffering and confront ethical boundaries such as those prescribed by this Bill.

Mr Speaker, when we are considering the possibility of bringing change to society, such as would be done by allowing active euthanasia, I think it is both necessary and important to examine the consequences of taking such an action, and I have tried to do this as objectively as possible. My first point, Mr Speaker, is that the legalisation of euthanasia sets up a range of pressures that bear upon the patient - no matter how long and hard Mr Moore and his friends deny it.

Care for the aged and terminally ill is an area of medical practice that is not in the limelight, and, unfortunately, too many doctors consider it to be unrewarding and not intellectually stimulating. It has been calculated in recent years that about one-third of our national health care expenditure goes to those older than 65. In the United States,

studies show that 30 per cent of health expenditure occurs in the last year of a person's life and 10 per cent in the second last year of their life. Mr Speaker, the billions of dollars that industrialised societies spend annually on care for the aged and other supposed medical "burdens" has gradually caused the development of a subtle antagonism towards them. The genuine assets of a society are its people; but, when economic principles are allowed to dominate, some of those assets can easily become the enemy. Consequently, there is a real danger that a person's consent to euthanasia may not, in fact, be a perfectly free and voluntary act.

This point is most important, as much of the talk about euthanasia focuses on the voluntary nature of the desire to die. This pressure is increased dramatically, Mr Speaker, by people like Professor Peter Singer, one of our nation's most vocal supporters of euthanasia and a longstanding - and, fortunately, unsuccessful - political candidate for the Greens in Victoria. Peter Singer - who openly advocates the killing of deformed babies, based on his belief that "killing a defective infant is not morally equivalent to killing a person", and the killing of the mentally disabled, based on economic grounds and his belief that they are "non-people" - is enough to get most people feeling nervous. Singer's philosophy, which encompasses this Bill before us today, specifically degrades, and is meant to degrade, the value of life of the aged, the terminally ill and the disabled. I do not know who among us today agrees with all that Peter Singer does, but the philosophy of this Bill is fundamentally the same as his - and that ought to be setting off alarm bells for all of us here in this place. Mr Speaker, Peter Singer has also stated that "there is a limit to the burden of dependence which any society can carry". Even if this is true, Mr Speaker, we have not reached that point in Canberra yet, thank goodness.

Mr Speaker, the aged and the terminally ill are vulnerable to pressure to "do the right thing", as they are already aware of the degree of their dependence and associated feelings of worthlessness. Our society must send a clear message to them that it is committed to ongoing sound moral values regarding their worth. It is up to us as legislators to reinforce this message by protecting this group and other vulnerable groups from becoming easy prey to economic exploitation.

I would like to briefly quote from a letter that I received recently. It said:

> The voluntariness of any case of legal euthanasia would always be in question. Legal euthanasia would inevitably lead to some people feeling pressure to put their hand up for "voluntary" euthanasia.
>
> You need only reflect on former Governor General Bill Hayden's comments a couple of years ago when he suggested that some residents of nursing homes were of no further use to society and that "there is a point when the succeeding generations deserve to be disencumbered - to coin a clumsy phrase - of some unproductive burdens".
>
> There is no doubt therefore that some people will not hesitate to suggest euthanasia to a vulnerable person. This pressure is a very real danger against which it is impossible to legislate.

My second point today, Mr Speaker, is that there is no possible way to legislate guaranteed safeguards for this form of euthanasia. Mr Bore - I mean Mr Moore, but it probably was not a slip-up, Mr Speaker - has tried hard in this Bill to provide foolproof safeguards; but he cannot absolutely guarantee them. This fact alone ought to be enough for us to turn our backs on this Bill today. Mr Moore and his supporters naively believe that, since some doctors and others already occasionally practise this form of euthanasia despite its being against the law, for some reason they will feel obliged to abide by this legislation should it become the law. According to Ria Hassan's 1992 study of euthanasia in conjunction with Adelaide's Flinders University, about one-third of Australian doctors had received requests from patients to take active steps to administer euthanasia. Of the 295 doctors surveyed, 19 per cent said that they had taken active steps to end a patient's life, but only half of them had done so at the patient's or family's request. In other words, Mr Speaker, these doctors had made the decision themselves.

Clearly, any doctors and others currently performing euthanasia against the law do so because they believe, as a personal judgment, that they know better than the law. Under a law allowing some instances of euthanasia, these people may well regard the legislation as validating their earlier actions, and will continue to use their discretion, whether it contravenes this Bill or not, because this is what they have always done. Unfortunately, Mr Speaker, as has been well documented, our current law does not stop doctors doing euthanasia. How on earth, then, can we expect that laws to regulate it will not also be flagrantly violated, as they are in the Netherlands?

I think, Mr Speaker, when I spoke two years ago I went over some details about some studies overseas; but, as Mr Moore has brought it up again, I feel that it is very important when considering the possibilities of bringing change to society, such as would be done by supporting this Bill, to examine both the findings of other jurisdictions that have considered such a step and the consequences of taking such actions. First, Mr Speaker, I will turn to considerations of the Canadian Law Reform Commission. The commission stated clearly that the legalisation of euthanasia is undesirable. It said:

> From both the legal and social policy points of view, we believe that legislation legalising voluntary active euthanasia would be quite unacceptable.

The commission was concerned about the possibilities of incorrect diagnosis, the subsequent development of new treatments or the refinement of existing ones and, principally, the possibility of abuses. Again, it said:

> There is a real danger that the procedure developed to allow the death of those who are a burden to themselves may be gradually diverted from its original purpose and eventually be used as well to eliminate those who are a burden to others or to society ... there is also the constant danger that the subject's consent to euthanasia may not really be a perfectly free and voluntary act.

I think, Mr Speaker, you would have to agree that this latter point is most important, as much of the talk about euthanasia focuses on the voluntary nature of the desire to die. However, the legalisation of euthanasia sets up a range of pressures that bear upon the patient - no matter how long and hard Mr Moore and his friends deny it. The patient is immediately susceptible to the view that they are a drain on the resources of society, that these resources would be better directed to someone who can recover, and that they should do the honourable thing by society and opt to end their life. People may also have less than honourable intentions for promoting euthanasia to their aged and infirm relatives. I am afraid, Mr Speaker, that this is an unfortunate trait of human nature.

So, even initially, given these few points, you would have to agree that there are reasonable grounds for concern that even professed voluntary decisions may not be genuinely so. This view was an important component of the report by the United Kingdom's Select Committee on Medical Ethics, which has been quoted earlier. It stated:

> It would be virtually impossible to ensure that all acts of euthanasia were truly voluntary and that any liberalisation of the law in the United Kingdom could not be abused. We were also concerned that vulnerable people - the elderly, lonely, sick or distressed - would feel pressure, whether real or imagined, to request early death.

Mr Moore himself was concerned by these issues. I would suggest that that is why he has taken some time to get to where he is at at the moment. However, with respect, such safeguards as he is claiming are in this legislation are virtually impossible to implement. Unfortunately, Mr Speaker, as has been well documented, our current law does not stop euthanasia.

The United Kingdom's Select Committee on Medical Ethics based its unanimous rejection of euthanasia on evidence drawn from the experience of the Netherlands. Euthanasia is not technically legal in that country, but has been allowed there for in excess of 20 years. Five criteria were laid down by the Dutch courts to be followed by physicians who were administering euthanasia. These criteria included that euthanasia must be by entirely free and voluntary request only; that this request be persistent; that the patient be suffering intolerably, with no chance of improvement, which all sounds very familiar, Mr Speaker; that euthanasia be a last resort; and that it be conducted by a physician in consultation with an independent colleague.

It is claimed by those over there that these criteria are sufficient to ensure the appropriate use of euthanasia and that the criteria are indeed adhered to by those responsible for carrying out euthanasia. Euthanasia, it is said, would only be voluntary and would not lead to other forms of medical killing which would violate the patient's autonomy or right to choose. Mr Speaker, it is a bit like saying that, because we have laws against speeding, no-one will drive over the speed limit. That is silly. Suspicions that doctors were taking the lives of their patients without need or request have been confirmed, according to research conducted by the Netherlands Government Committee to Investigate the Medical Practice concerning Euthanasia. I know how fond Mr Moore is of that report, and I am sure that he will stand up and try to convince us that this will not happen here - and no-one will slip through the net, will they?

Mr Moore: It will be different.

MR OSBORNE: "It will be different", Mr Moore says. I will quote a few figures for our three new members, which show that, in 1990, 14,691 people died in the Netherlands by involuntary euthanasia. In 45 per cent of these cases, not only the patient but also their families were not aware of what was being done. The deaths of 8,750 people were caused through the withdrawal of life-prolonging treatment, without knowledge, let alone consent. A further 5,941 lives were actively terminated through the administration of lethal doses of drugs. Of those undergoing involuntary euthanasia, 1,474 were fully competent, and in 8 per cent of cases other courses of action were still possible. As I said before, Mr Speaker, Mr Moore has been known to question these figures, and I look forward to hearing from him on it.

Before I move on, Mr Speaker, I think we need to realise two quick things. *(Extension of time granted)* First, with the legalisation of voluntary euthanasia, there is no doubt that over time the quality of medical treatment and care generally will deteriorate as killing rather than treating becomes an acceptable alternative in medical care. I would suggest that the resources of the medical community concentrate on eliminating the problem, not the person. Secondly, practical experience has shown that people will die unnecessarily as a consequence of allowing voluntary euthanasia. There can be no escaping this.

The next important area that I want to get onto, Mr Speaker, is the one of autonomy. It would seem to me that this is the main thrust of Mr Moore's argument. The question posed is whether this type of legislation is going to increase the autonomy of the seriously ill or whether it is going to diminish that autonomy. The way the pro-euthanasia lobby has presented it is that people should spend more time thinking about how they want to die. I certainly do not disagree. Mr Speaker, I agree that the individual should have more control and the practitioner should have less. The question is: How do we promote the individual's choice? I have heard some of these people say that, for the individual, choosing death should be a bit like a career choice - you decide how you want to die, where you want to die and when you want to die - and it will not have any adverse effect on other people's autonomy.

The reality, Mr Speaker, is that they simply misunderstand the nature of human choice. Human choice is not simply a matter of "I want this; I want that". What type of world would that be? If we look at our own lives, Mr Speaker, I am sure that we would all like to be something different. We would like to change things. I know that we would all like to have better jobs, perhaps. We would all like to be rich or famous - - -

Mr Moore: Just you.

MR OSBORNE: Just me, Mr Moore says. I would love to be still playing football, Mr Speaker; but, unfortunately, it is just not possible. All of these things are possibly things we would like to choose; but the reality is that society influences our choice, it constrains our choice and it puts us into positions we do not necessarily want to be in.

Mr Speaker, let us look at the situation for the terminally ill - the people at the forefront of this whole debate. These people are not at the height of their powers, as many of us are. They are languishing in positions where they feel that things are out of their control. These people are dependent on the medical care they receive and on things like the support of relatives and friends. There is no doubt that they are in a very vulnerable position. Simple things like refusing to visit a sick person can be the difference between their wanting to fight and their wanting to give up, between having a life worth living and having a life they want to end. What this legislation does is to enable relatives, for whatever reason, perhaps to think that the person should just let go.

Mr Speaker, to deny the sorts of things that make a person's life worth living in the late stages is to not give them an autonomous choice. Under this legislation, it could and probably will happen. Pro-euthanasia people will say that I am not being compassionate by denying people the right to take this option. People who take this line often reduce it all to the physical level. Obviously, that is a part of it. However, compassion is about walking side by side with people and trying to eliminate the problems, whether they be physical, emotional or spiritual. Being compassionate does not mean eliminating the person.

Mr Speaker, a 1993 survey would have it that around 75 per cent of our nation agrees with the opinion that, if a terminally ill patient suffering unbearably, with no chance of recovery, asks for a lethal dose so as not to awaken again, a doctor should be allowed to administer it. However, this reflects somewhat woolly thinking about the facts of euthanasia and palliative care. Mr Speaker, Dr Brian Pollard, a man who has had extensive first-hand contact with the suffering and their families, has reflected and written at length on euthanasia. He notes that cancer is the main cause of terminal illness. Good palliative care today is such that pain caused by cancer can be reduced to at least a tolerable level. He notes:

> What is often referred to as unrelievable pain may be, and usually is, what some doctor has not relieved or known how to relieve and that doctor has not consulted an expert for assistance.

So, those surveyed could have equally been asked: If a doctor is so negligent as to leave a terminally ill person in severe pain, for whatever reason, severe enough to drive that person to ask to be killed, should the doctor then be able to compound his negligence by killing his patient instead of seeking help? I see that Mr Moore likes it. I suggest, Mr Speaker, that these facts throw the whole debate into a new light.

Opinion polls have a deservedly bad name for the ease with which they can be manipulated, and, as I have demonstrated, the careful construction of a cleverly ambiguous or misleading question can easily influence the results. Opinion polls, including recently suggested referendums, are a distraction in the wider debate on euthanasia, however, as they are a misuse of ethical process. There are no criteria for an acceptable way to resolve this complex question of right and wrong by conducting a headcount among those whose knowledge of the issue is unknown and unknowable. Would these same people support a referendum on capital punishment? I would suggest not.

Mr Speaker, the last thing I am going to do is turn to the law and voluntary euthanasia. It is noteworthy, and by far the most compelling thing to me, that no code of ethics or law has ever suggested that anyone has a right to kill. This is the case, Mr Speaker, because, to state the obvious, the right to life is the most basic right we have. It is inalienable. It can be forfeited and should be forfeited only in the case of an unjust aggressor, be it an individual or a community. This ensures, according to the International Declaration of Rights of 1948, that we all have equality at law. However you cut it, however you try to pretend that it is not so, to legalise euthanasia you would have to say this: Innocent life can now be killed. This is essential to understand.

If we allow euthanasia on the ground that the quality of a person's life is such that it is no longer worth living, then all life as we know it is de facto threatened, because all life is lacking some quality - some more than others, Mr Speaker. We as human beings would no longer be equal at law. We would have a quality of life at law if this legislation goes through. Once we as an Assembly introduce a quality of life ethic, replacing the existing equality of life ethic, we have a whole new ball game, well beyond the point under discussion. *(Further extension of time granted)* You might argue, Mr Speaker, that I am taking a long shot in saying this; but the point is that, to an individual, that choice to be an autonomous individual is to do so in the community. To be is to belong. To say that autonomy is absolute is ridiculous. We are social by definition. To legalise voluntary euthanasia on the ground of quality of life is not just a matter of discussion or debate; it is a matter of fact. In February 1995 the Justice Minister for the Netherlands saw no reason why involuntary euthanasia should not be legalised and euthanasia extended to those with a terminal illness. It is a noteworthy fact, Mr Speaker, that the Patients Association set up a hotline to counsel patients concerned about the practice in their country. There are doctors in the Netherlands who advertise that they do not perform euthanasia. The elderly fear doctors and often fear taking medication.

In the Northern Territory, sensitivity to the indigenous people seems to have been forgotten, as many of the indigenous people fear approaching hospitals in light of the legislation up there. I find it ironic that legislation introduced on the ground of compassion threatens the most vulnerable. What is introduced in the guise of choice becomes expectation, and perhaps obligation. We should be doing more to undermine the stress that people - not only the patients, but also the doctors and the loved ones - suffer, and we should be looking at better funding for the ageing population.

Finally, Mr Speaker, what message are we sending to the young people of the ACT? Here we have a huge number of them unemployed; we see that the suicide rate per capita is the highest in the country amongst these people; and here we are considering legalising the killing of people who are innocent, simply because they lack a quality of life. Would they surely not see the hypocrisy a number of years ago of the moral outrage against nuclear testing in the Pacific as a threat to life as we know it, when the people who protested long and loud are the same ones who are in favour of the legalised killing of innocent people? Where is our consistency, Mr Speaker? We live in a real world, in which things are not perfect. Let us relieve the human being's distress rather than kill that human being.

Debate interrupted.

DISTINGUISHED VISITORS

MR SPEAKER: I inform members of the presence in the gallery of a delegation from Portugal led by the Secretary of State for the Portuguese Communities Abroad, His Excellency Dr Jose Lello. On behalf of members, I bid you all a warm welcome.

Sitting suspended from 12.29 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Pool and Leisure Centres

MR WHITECROSS: It is good to see Mr Humphries back for question time, Mr Speaker; but on this occasion my question is to the Minister for Sport and Recreation, Mr Stefaniak.

Mr Humphries: I need not have bothered; I will go home.

MR WHITECROSS: I will pause if you want to leave.

MR SPEAKER: Continue, Mr Whitecross.

MR WHITECROSS: Minister, on page 15 of the report of the Auditor-General "Contracting Pool And Leisure Centres", the Auditor-General said:

> a formal feasibility study was not conducted prior to letting tenders to ensure that outsourcing was the best option ...

Minister, why was this not done?

MR STEFANIAK: Mr Speaker, in answer to Mr Whitecross's question: If he ever gets to find out, if he ever becomes the government, governments are here to govern and make decisions in relation to a number of matters. Mr Whitecross might like to go back and look at the 1995-96 budget papers, where this option of contracting out a number of government facilities, including swimming pools, was well and truly flagged by this Government. This Government came to office, realising that a number of things in the Territory could be done considerably better than they had been done before.

There is a wealth of evidence, too, Australia-wide of the best way of conducting facilities such as pools. The evidence certainly seemed to this Government to point to those facilities quite often being far better handled not by government. Accordingly, it was very much a Government decision, as a result of not just rather horrendous overruns in costs here, which meant nothing to you lot when you were in office. It was up to close on $1.8m that the pools were subsidised. We made some efficiencies, even before contracting out, which got it down to about $1.6m.

Despite that, there are still better ways of doing it. Because of factors in the ACT such as the fact that a lot of work had been done interstate, the Government decided, in the case of the swimming pools and, indeed, a number of other facilities, that it was best that they were, in fact, contracted out. It is early days yet, but initial indications seem to be that that certainly is the most sensible, cost-effective decision which we could have made. Results to date seem to vindicate that, although I do stress it is early days yet.

MR SPEAKER: Do you have a supplementary question, Mr Whitecross?

MR WHITECROSS: Thank you, Mr Speaker. Minister, how did the Government draw the conclusion that the pools could be far better handled, to quote you, "by contracting them out", when a formal feasibility study was never conducted to establish that that was the best option? Will you be adopting the same slapdash, intuitive approach to outsourcing the management of sporting grounds in the ACT?

MR STEFANIAK: That is hypothetical too, of course. Yes, I have had a quick look at the report and there are a number of things which I am very interested in, because in these reports there are always things which you can do better. In terms of a formal feasibility study, as I said, there was a fair bit of information available to the Government. The Government had a certain agenda in certain areas where it thought it could do things better. I reiterate that it was not just a case of saying, "Oh, this is a great idea", and getting nothing back in relation to that. A lot of work has been done; a lot of steps have been taken in other jurisdictions outside the ACT in relation to things such as pool management, which, quite clearly, indicate that is a very sensible way to go.

In the last Assembly my party might have been somewhat critical of, I think, Mr Berry, about the Tuggeranong indoor pool, because there were several private groups who were very keen to actually run that and who still maintain they could have run that a lot better than the Government could have. It was a decision of your previous Government to run that as a public utility. I accept that that is your ideological stance on these things. We on this side of the house, however, tend to think there are often better ways of doing things, and this was one of those occasions.

Political Parties - Change of Registered Name

MRS LITTLEWOOD: My question is to the Attorney-General. Could the Attorney-General outline to the Assembly what procedure is required of a party that wishes to change its name, abbreviation or registration details in the ACT?

MR HUMPHRIES: I thank Mrs Littlewood for the question. It is a very good question. I can advise members that the secretary of a political party may apply to the Electoral Commissioner to change particulars registered in relation to a party. The application shall be in the prescribed form and accompanied by a copy of the constitution. The commissioner may require further information. The commissioner must then publish a notice of the application in the *Gazette* and a daily newspaper.

The notice shall be in a particular form and shall seek any objections within 14 days, or a month in the case of the Commonwealth. If there is an objection, the party or the registered officer of the party responds. The commissioner can refuse an application on certain grounds, including that the party intends to use a name that comprises more than six words.

Mr Whitecross: On a point of order, Mr Speaker: It occurs to me that Mrs Littlewood's question appears to relate to provisions of the Commonwealth Electoral Act. I am just wondering whether it really falls within the purview of Mr Humphries to explain the provisions of the Commonwealth Electoral Act to the house.

MR HUMPHRIES: Mr Speaker, it was about the ACT's Electoral Act that the question was asked. Nonetheless, the procedure I described to the Assembly is identical for both Commonwealth and ACT legislation. Although I am commenting on the ACT legislation, of course, it is equally applicable to the Commonwealth.

MR SPEAKER: Then there is no point of order.

MR HUMPHRIES: Indeed. I do not know why Mr Whitecross is so nervous. Why is he shifting in his seat on this? Why are there little beads of sweat on his brow? What is the reason? I do not know.

To continue with the answer, Mr Speaker: If a party intends to use a name that comprises more than six words; if the words are obscene; if the name or an abbreviation or acronym of the party is the name of another party; if it comprises the word "independent" or similar combinations, then there is a discretion to refuse the application. Of course, many parties can use that provision if they wish to. I notice in fact that one party has. The Australian Labor Party has - - -

Mrs Carnell: No; that is what they used to be called.

MR HUMPHRIES: I am sorry; it is not the Australian Labor Party anymore. I read in the *Canberra Times* a notice by the Australian Electoral Commission, indicating that the Australian Labor Party ACT Branch wishes to now call itself, in its abbreviated form, the New Labor Party. Where was the funeral for the old Labor Party? I was not invited. Was the funeral on 18 February 1995? Was that the funeral date, or what was it?

Mrs Carnell: Maybe they did not like the old one.

MR HUMPHRIES: Perhaps they did not like the old one. It looks like Tony Blair has arrived in the form of Mr Whitecross in the ACT Assembly. I do not know what happened to the old Labor Party, but the new one does not seem to me to be particularly new at all. The only new thing I can see across there is Mr Corbell - and I do not know how new he is - but the rest of them all look pretty old, hackneyed and tired to me.

Mr Speaker, there is no new Labor Party in this place; it is the same old mutton dressed up as lamb, as far as I am concerned. People, of course, may, as Mrs Littlewood suggests in her question, change their name; but it takes a lot to change the stench that attaches to some people's political records; and more than a name change will be required to get rid of that surrounding the Australian Labor Party.

Pool and Leisure Centres

MR CORBELL: My question is to the Minister for Sport and Recreation, Mr Stefaniak. I note that on page 5 of the Auditor-General's Report No. 1 of 1997, "Contracting Pool and Leisure Centres", the Auditor-General states, in relation to savings made by outsourcing:

> The projected savings were based on the assumption that the losses under Government control would continue over the next five years. It may well be that if Bureau of Sport, Recreation and Racing managers had been given the opportunity of staff restructuring (including access to large amounts of redundancy moneys to pay out non-performing or unnecessary staff) similar savings may have been achieved.

Mrs Carnell: Are you suggesting getting rid of staff?

MR CORBELL: No, Chief Minister; that is the Auditor-General's comment. Minister, why was this option not considered?

MR STEFANIAK: That is amazing, Mr Speaker; that is the first time I have heard from this party for some time that they actually want to get rid of a lot of staff. I did not think, for starters, that you lot would have thought that would have been a terribly good idea, because the staff were employed under the Public Service Act and quite clearly - - -

Opposition members interjected.

MR SPEAKER: Order! Mr Stefaniak has the floor.

MR STEFANIAK: Thank you, Mr Speaker. I hark back to what I said to Mr Whitecross some time before. A long time ago all pools were run by councils or by governments. In more recent times, though, in most States and Territories, pools have been run by groups other than just governments, because that is more efficient.

Mr Corbell: What is the reason, Minister?

MR STEFANIAK: Because there are certain things, Mr Corbell, that governments can do, and do very well; and there are other things that can be done better by other groups.

Mr Corbell: On a point of order, Mr Speaker: The Minister is not answering the question. I specifically asked why the Government did not address the issue of staff restructuring. The Minister is not answering the question. I would ask you to direct him to do so.

MR SPEAKER: The Minister has confined himself, and he may answer the question as he sees fit, Mr Corbell.

MR STEFANIAK: Governments and government staff have some constraints, Mr Corbell - or have you not noticed? - on just how far they can actually go in terms of restructuring. It has been proven, Mr Corbell - and I suggest you lot might like to go and look at some of the Sydney pools, some of the Victorian pools and some of the Tasmanian pools and have a chat to people there, where pools have been run by other than government bodies - that greater efficiencies and better results can be achieved there and passed on to the community. Basically, this Government decided that it certainly would follow that course. I think it has been borne out, too. Even those figures indicate that the Government can quite properly make some significant savings, as a result of lower subsidies to these pools, by having them run in a more efficient way, and by the management of those pools being contracted out, which is exactly what we have done.

MR SPEAKER: Do you have a supplementary question, Mr Corbell?

MR CORBELL: Thank you, Mr Speaker. Minister, given that the staff restructuring option was not considered and that you did not consider it, would you agree that the decision to contract out the management of ACT pools was purely an ideological one?

MR STEFANIAK: I want to say, for starters, Mr Corbell, that one of the reasons why we looked at more efficient ways of running pools was the problems we did have in running them with government staff and the problems inherent in trying to alleviate that with government staff. It is not quite correct to say that was not considered at all. That was something that was certainly in our minds. I do not happen to be one of these people who actually feel that governments cannot do things better than the private or non-government sector in all instances. There are certain things which governments, quite clearly, have to do and which are not appropriate for the non-government sector to do. This is not so much a case - nor would it be, I do not think, throughout Australia either - of blind economic rationalist ideology; this is really a case of just commonsense. As I said, the results are starting to show themselves even now.

Marlow Cottage

MS TUCKER: My question is to Mr Stefaniak as Minister for Family Services. In answer to my question yesterday on the welfare of young people at Marlow Cottage, the Minister referred the Assembly to the Official Visitor's report in relation to Marlow Cottage and pointed out that Mr Aldcroft had been quite laudatory in his comments in relation to how that house is run and how there has been an improvement in the activities and control of children placed into care there. Why did the Minister fail to tell the Assembly that the Official Visitor, Mr Aldcroft, had subsequently written to the department? That letter was copied to Mr Stefaniak. I quote from it:

> I visited Marlow House on 15 December 1996 and I am most concerned with its material deterioration.

He then detailed his observations of the physical deterioration and deterioration in control over residents. He acknowledged recent riotous behaviour but said that the problems had been long term. He said:

> Initially I believed Richmond Fellowship offered a well controlled and safe situation for the children placed into care. Later I drew to the Minister's attention an apparent lack of support from the Police, the Courts and Family Services when the staff were confronted with the uncontrolled behaviour of a resident. It did appear to me that the situation at Marlow House began to deteriorate from that point, despite assurances in a letter from the Minister that all was well.

Mr Stefaniak, how could you stand here yesterday and support your argument to the Assembly that things are okay and improving at Marlow Cottage by referring to an earlier opinion of the Official Visitor when you knew that he had subsequently advised you in writing that things are abjectly not okay and are deteriorating?

MR STEFANIAK: It is interesting, Ms Tucker. Yes, I have indeed had some correspondence with Mr Aldcroft. If you read on in that letter, he has some very interesting ideas of how it should be fixed. Probably you would not agree with them ideologically because they involve, I think, a fair bit of discipline and changes to the Children's Services Act. I have certainly passed on his ideas to the department, because I think what he is suggesting makes a hell of a lot of sense. He is a very experienced man in terms of those problems, which, he says, are of long standing. They are. It goes back to when it was a government program. He has indicated that there were some problems. He indicated in his report, however, that a considerable number of improvements were made, especially in the day program which is still there. Ms Tucker, I think you should acknowledge that.

I was talking to the department today, and I am certainly pleased to say that in the last few weeks there have not been a huge number of great dramas there. The number of children there, I am advised - it has a capacity of six - is four or five. When there is need for extra staff that extra staff, in fact, has been put on. Steps have certainly been taken at that cottage to ensure that the kids get the best possible benefit.

Ms Tucker, I think I mentioned to you yesterday that there has been a history of problems. We are never going to completely overcome the problems. It was pleasing to see - and Mr Aldcroft refers to it in his report - that, because of the day program, which seeks to address individual client needs and alleviate unnecessary boredom, there had been improvements. He points out, as it is his job to point out when things change for the better or the worse, that there are certain things in the actual structure that need addressing in the long term. The department is looking at them and a few of the short-term things you mentioned in your question. I think it is important to put that in perspective.

It is also important to quote the relevant part of article 40 of the Convention on the Rights of the Child, because I said yesterday that you certainly have the wrong end of the stick. You certainly did there. That article was about the administration of juvenile justice. The two relevant parts are paragraphs 3 and 4. You partially quoted one of them. They state:

> 3. State Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law, and in particular:
>
> (a) the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
>
> (b) whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
>
> 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes - - -

Ms Tucker: On a point of order, Mr Speaker: I am quite happy to enter a debate on the interpretation of the protocol of the United Nations Convention on the Rights of the Child. That was not my question. He is referring to a question I asked yesterday. I am quite happy for the Minister to address that at a later point in the day if he feels the need to raise it in some other form such as a personal explanation or whatever. My question was particularly in regard to why he did not refer to the most recent communication from the Official Visitor yesterday when he referred to that report.

MR SPEAKER: Mr Stefaniak, in relation to that United Nations convention, you are at liberty to incorporate it in *Hansard* or read it into *Hansard* at the end of this question time if you wish. I would be happy to allow that.

MR STEFANIAK: Mr Speaker, I have only about three lines left. It might be sensible and it might be of benefit to the proceedings if I read them.

MR SPEAKER: I uphold the point of order taken by Ms Tucker.

MR STEFANIAK: Ms Tucker seems to have a thing about Marlow Cottage. The department would be delighted to take you out there and have a good chat to you. I would also ask you to contact the Chief Magistrate, who also knows a fair bit about these things, and perhaps have a good briefing from him as to how this works, because he is very experienced in these matters.

Finally, in relation to Ms Tucker's question in relation to this, I would point out that it is a shelter under the provisions of the Children's Services Act. The program is obliged to accept emergency referrals from authorised persons in accordance with section 73 of the Act. The program also accepts referrals from Family Services for three particular categories, including young offenders and kids on bail.

Ms Tucker: On a point of order, Mr Speaker: This is another statement. I already know about Marlow Cottage. I asked a specific question; I would like the Minister to answer it.

MR STEFANIAK: I have given you an answer, Ms Tucker. You asked me about that specific matter. I have given you a further update on what has been reported to me in the last couple of days. I will also just say that there will be times, with institutions like that, because of the difficult nature of the problems some of the kids have, when there will always be problems. I think I told you yesterday, Ms Tucker, that there were problems when it was run by the Government. I can recall a number of allegations being made of kids running wild and rampant there on various occasions. One thing we can bear in mind, Ms Tucker, is that the program at least is a lot fuller for those kids. If there are any problems in relation to how it is being run from time to time, it is for the department and, indeed, the Government to do the best it can to sort that out, which is something that we do.

MS TUCKER: I have a supplementary question, Mr Speaker. Does the Minister acknowledge that he misled the Assembly yesterday when he referred to only one report and not to more recent communication between the Official Visitor and himself?

MR STEFANIAK: I hardly think that is misleading the Assembly. What a lot of nonsense, Mr Speaker!

Pool and Leisure Centres

MS McRAE: My question is to the Minister for Sport and Recreation, Mr Stefaniak. Minister, on page 21 of "Contracting Pool and Leisure Centres", Report No. 1 of the Auditor-General, he says:

> ... the way by which the Education/Erindale College proposal was assessed the approach was deficient as the proposal was not assessed on an arm's length basis against the private sector proposals. Without an arm's length comparison, the relative strengths and weaknesses of proposals are often not fully tested. Instead,
>
> > the initial proposal (which probably could have been treated as a non-conforming bid) was not fully assessed by the Tender Assessment Panel;
> >
> > the Department of Education was provided with information on the amount of savings available from the best external tenderers prior to completing its final proposal;

> although having a chance to provide more information, the Education final proposal was ranked as being considerably below the best and, in any case, below all of the other private tenderers; and
>
> the decision by Department of Business, the Arts, Sport and Tourism to give the management of the Erindale Centre to Education was made on factors which other tenderers were not aware of and which they could not address in their proposals.
>
> Because of these issues, the community cannot be assured that the best value for money for the ACT has been obtained. As well, the private sector tenderers were put to unnecessary effort and expense in being asked to tender for Erindale Centre.
>
> If it was necessary for educational and practical reasons that the Erindale - - -

Mr Kaine: On a point of order, Mr Speaker: Could we ask the member to incorporate the whole report in *Hansard*, rather than have her read it out?

MS McRAE: I will start again, if Mr Kaine has lost the point. I will start from the beginning. He might listen a bit more carefully. If he listens, he could follow the text. I might start again.

MR SPEAKER: What page are we at?

MS McRAE: I quoted the page. I have never heard you call Ministers to order once on the ministerial statements they make, Mr Speaker. I severely object to this point of order and I hope you have rejected it.

MR SPEAKER: I think you are winding up, are you?

MS McRAE: The report continues:

> If it was necessary for educational and practical reasons that the Erindale Leisure Centre should be administered by the Department of Education through Erindale College, this factor could have been identified at an early stage and the Centre excluded from the tender process from the outset.

Minister, why did you allow this grossly unfair procedure to continue?

MR STEFANIAK: I thank the member for the question. Firstly, I am somewhat amused by this. To start with, I thought Ministers were not exactly meant to get involved in tender processing. Also, it is amazing, Mr Speaker, that we now have an opposition, which is very keen for the Government to own as many things as possible,

actually criticising - and they have not done it to date - the granting of a facility to a government instrumentality. All their criticism to date actually has been in relation to, I think, Leisure Australia. Having had a quick look through this report, which your committee is going to get, obviously, Mr Whitecross, to report further on, I note that there is nothing in there which says anything other than that the process was absolutely fair and proper in relation to that body. For the first time, we have them having a whinge about Erindale College actually getting that centre.

Mrs Carnell: Ministers do not interfere in tender processes.

MR STEFANIAK: Ministers do not interfere in tender processes. However, what governments do and what I should do in this matter is look very carefully at this report, look very carefully at what comes out of the Public Accounts Committee about the Government response and see where things can be improved in future, as is suggested by this report.

I note that you lot have certainly not accepted everything in an Auditor-General's report. I can recall two reports in relation to senior secondary colleges, for example, where the Auditor-General and his ideas were very much pooh-poohed by those opposite. However, if there are things that could be done better, if there are things in the process that were somewhat defective and should be taken on board to ensure things like that do not happen again, I will look at them. That is the role of this Government. That is my role as Minister, and that is certainly something I will be attending to.

I am advised - and I have had a chance to look briefly at this report - that all tenderers were aware that the issue of the co-location of the centre with Erindale College was being looked at concurrently with the tendering process. I am also advised that they were advised in the tender documents that the bureau would be considering in-house proposals concurrently with tenders. That, I am advised, was within the knowledge certainly of the other people who were tendering. I am further advised that the preferred tenderer had certainly expressed their satisfaction with the process and the decision to transfer the management to Education and Training.

Let us just put aside for this minute any problems with that process. That is certainly something I am concerned about.

Mr Whitecross: Let us just forget all about it.

MR STEFANIAK: No; actually, Mr Whitecross, that is not the position of this Government. We like to see whether we can do things better. If there are problems in the way things are done, we like to do them better next time. Maybe that is something you do not particularly like to do, but that is certainly something we are quite keen to do. That is why we look very carefully at these reports and see what we can take on board to ensure things are done better. Maybe it is something you lot should do if you ever become the government.

I do note in relation to Erindale College that the report then goes on to say that everything seems to be going along very well as a result of the college getting the tender. When you consider the complexities of the college needing to use the facility and the difficulty of the previous arrangements, there is certainly a lot of logic in that. I am not surprised that the report actually says things are actually progressing very well now. Yes, there are certain things which I have some concern about and which I certainly would be very keen for both departments to address and to make sure that, if these types of things occur again, they are done somewhat differently.

MR SPEAKER: Do you have a supplementary question, Ms McRae?

MS McRAE: Thank you, Mr Speaker. Mr Stefaniak, now that you have discovered that the Department of Education was provided with the information on the amount of savings available for the best external tenderers prior to completing its final proposal, what action will you take in regard to your department's activities in the tender process? Will you apologise to those private tenderers?

MR STEFANIAK: I have indicated that the private tenderers were aware of this at all stages. I do not necessarily know whether that is actually a particular problem.

Ms McRae: That is not what it says here.

MR STEFANIAK: Ms McRae, as I have indicated, I will look at that report. I and the Government will look at what comes out of the Public Accounts Committee report on the Auditor's report. There are already a number of points which I have certainly indicated to my departments are things to look at so that we take note of any problems in any process. I hark back to this report on the actual running of the Erindale Centre.

Ms McRae: That is irrelevant.

MR STEFANIAK: I do not think it is irrelevant. It has gone particularly well. Ms McRae, in all of the fuss you people have made about things like bubbles and that, I have not heard one word of complaint either from you or from anyone else who has used the Erindale Centre since it has been run by the Department of Education and Training. That, itself, is borne out by this report.

Palliative Care

MR MOORE: My question is to Mrs Carnell. I gave her about 10 minutes' notice that I would be asking a question to this effect. It is entirely appropriate that I should be asking a question about palliative care today, as we debate the issue of euthanasia. I approached your office last Friday, Chief Minister, to ask about the document "Palliative Care in Canberra"; the status of the document; and why it has not been made public. I have also asked your office what is happening about a director of palliative care in Canberra.

MRS CARNELL: I do not know that it was quite 10 minutes, but it was a little bit of notice.

Mr Moore: Eight minutes.

MRS CARNELL: Yes, maybe. The report that Mr Moore is talking about, "Palliative Care in Canberra", was commissioned, shall we say, by the ACT Hospice and Palliative Care Society and not directly by the ACT Government. It was funded, I think, under the Medicare incentive payments. It was actually funded by the Federal Government as well. The report that we are talking about was actually copyrighted to the ACT Hospice and Palliative Care Society in 1996. I understand, for Mr Moore's benefit, that the Hospice and Palliative Care Society have decided not to release the document involved.

The basis of this document, as I understand it, was to identify gaps and barriers in service delivery - and I will just run through the things that it was for - to identify and improve networks between agencies and individuals providing palliative care services, other appropriate agencies and consumers; to promote palliative care services to potential clients and providers who are not currently utilising mainstream services; and to develop reference material for users and providers of palliative care services. Mr Speaker, the basis of the report was, basically, to commission work to provide or improve a seamless palliative care service for the whole of the ACT.

I understand that the ACT Hospice and Palliative Care Society have decided that the report that was forthcoming would not achieve that end. In fact, I understand their view is that it could actually produce some very real problems in the palliative care area. I do understand, though, Mr Speaker, that areas of the report will be used in the improvement of palliative care services. I think it is a very appropriate day for palliative care services to be questioned in this place. Palliative care services in the ACT are obviously very important. I believe our palliative care services are very good but can definitely be improved. We will certainly be working with the ACT Hospice and Palliative Care Society to achieve that seamlessness of service, that holistic approach to palliative care that I am sure we all support. In fact, I know everybody in this place supports improved palliative care for Canberra. This report, though, does have some areas that the ACT Palliative Care Society have real problems with. It is their report, and it is certainly not up to me to release a report that is copyrighted to another association.

The last part of Mr Moore's question was with regard to a director of palliative care. A medical director has been appointed at the hospice, and that is Dr Frank Long. What has not happened is that he is not the director of palliative care for the whole of the palliative care services across the ACT. The reason, Mr Speaker, is that, after more than one effort of advertising the position, an appropriate person who can look after the whole of palliative care, who has the appropriate academic and medical qualifications, at this stage has not been found; but efforts will continue to be made. On the basis of not finding somebody who was appropriate for the whole palliative care job, I understand Dr Frank Long was appointed as medical director at the hospice to fill that position.

MR MOORE: I have a supplementary question, Mr Speaker. Chief Minister, I understand that he is a general director of palliative care. Palliative care goes well beyond the very good things that happen in the hospice. I must say it is worth while for any member to visit the hospice. When we are talking about the overall director of palliative care, I understand that advertisements have been placed in Australia. Considering the scarcity of people who fit the sorts of categories, why is it that you have not advertised internationally if, indeed, my understanding is correct that you have not? Will you now proceed to do so?

MRS CARNELL: I understand that quite significant efforts have been made and, as Mr Moore would be aware, I understand that it is Calvary Hospital that is actually advertising for that position. For all of that, I understand that efforts have been made. If we have not advertised internationally - which I am not sure that we have not, by the way - I think we definitely need to. The issue of finding somebody who has both the academic and the medical qualifications to take this job is very difficult. Obviously, there have been some applicants but they have not been of the standard, I understand, that those who are interviewing believe is appropriate for the ACT service. We will continue to work very hard to have a director of palliative care for the whole service - a service, Mr Speaker, that I know everybody in this house supports.

Pool and Leisure Centres

MR BERRY: My question is to the Minister for Sport and Recreation, Mr Stefaniak. It relates to the ongoing debacle over the leasing out of the pools. Minister, on page 17 of "Contracting Pool and Leisure Centres", Report No. 1 of the Auditor-General, he quoted this specific ACT Government purchasing policy:

> "A Tender Assessment Panel is a committee comprised of ... three members with the chairperson being a member of the Senior Executive Service ... Of the other members, one is to represent the program area requiring the goods or services, and another is responsible for protecting the commercial interests of the Territory".

The Auditor further commented:

> The audit found that the Tender Assessment Panel did not include an SES officer.

It did not include an SES officer as required. He continued:

> The panel was chaired by the Manager of Facilities (Senior Officer Grade B). Under the Policy Manual the Panel should have been chaired by the Chief Executive of the Bureau of Sport, Recreation and Racing.

Minister, why did you not ensure that the proper requirements were met? Will you accept that you have not carried out your responsibilities as Minister?

MR STEFANIAK: I certainly will not accept the latter. That is a fairly technical point. It is noted that the assessment panel did not include an SES officer; it included a SOGB. If you look further into the report, if you go through the report, it states on a number of occasions that the panel was a good broad panel; that all relevant interests - and you would expect that - were actually on the panel; and, in fact, that that part of the process was done exceptionally well. The only problem with the panel seems to be that it was chaired by a SOGB rather than an SES officer.

Mrs Carnell: Shock, horror!

MR STEFANIAK: Shock, horror, indeed, Chief Minister.

Mr Whitecross: So, why is it in the manual?

MR SPEAKER: Order! Mr Stefaniak has the floor.

MR STEFANIAK: Really, you lot are quite amazing. Is the new Labor Party now trying to get stuck into us for contracting in rather than contracting out? Yes, according to the actual rules, if the strict rules were applied - in fact, section 7.6.2 - the chairman should have been an SES officer. That is something, no doubt, that everyone in this Government will take on board next time, to ensure that, whatever else we might seek tenders for, there is an SES officer on it. I thank the Auditor-General for pointing that out. I thank you for pointing it out, too.

MR BERRY: Mr Speaker, I have a supplementary question. Minister, this is surprising. Did the Minister at any stage in the procedure review the procedures undertaken to rid the ACT of its pools? Did you review any of the procedures, did you just let it happen or did sheer ideological will override commonsense? You just take your money. Do you not do anything - - -

MR SPEAKER: Order! This is a supplementary question, Mr Berry.

MR BERRY: Do you not do anything in your office? Did you ever review it?

MR SPEAKER: Sit down. This is a supplementary question.

MR BERRY: Did you ever review it?

MR STEFANIAK: The composition of the panel, in terms of the personnel and what they actually represented, was certainly known to me and the Government. It was, as my colleagues and I found it, quite satisfactory. If we have erred, I am awfully sorry. If we have erred because we have had a SOGB chair the panel instead of an SES officer, I am awfully sorry. You are sorry about that, too, are you not, Chief Minister? This report actually says they did a very good job.

Yarralumla Nursery

MS HORODNY: My question is to Mr Kaine, the Minister for Urban Services. He has had considerable notice of this question. You may be aware, Mr Kaine, that last August there were some media reports about staff cuts at the Yarralumla Nursery because of the Government's drive to commercialise the operations of this nursery. I directed a question then to Mr De Domenico, who confirmed that some 10 per cent of the propagation stocks of the nursery were being contracted out to private nurseries. I have since been contacted by constituents who are concerned about the future of the nursery and the impacts of this commercialisation both on jobs there and on the provision of free plants to new householders. Could you tell us exactly how many jobs have been cut at the nursery since the contracting out began - as voluntary redundancies or through not filling jobs of people who have left - and how many jobs are planned to be cut in the future with further contracting out?

MR KAINE: Ms Horodny did give me notice of this question yesterday. In fact, she sought an answer yesterday, but when I told her that I could not possibly answer the question off the top of my head she graciously agreed to wait until today so that I could get a comprehensive answer to it. I appreciate that.

The facts are that last year there was a review of the operations of the Yarralumla Nursery carried out by consultants, specifically Coopers and Lybrand. August last year was significant because that was just after the recommendations of that review had been put into effect. That consultants' report highlighted opportunities to improve efficiency and achieve considerable savings, which was the objective of the review, by outsourcing some tube stock production to local specialist propagation nurseries. The point about that is, of course, that the jobs have not left Canberra; they have just been taken on by the private sector instead of the public sector.

As a result of that exercise, six positions were notified as being potentially excess to the requirements of the nursery. Five of the officers concerned were offered voluntary redundancy, and one was relocated to another area of the Department of Urban Services. This was done with the agreement of the AWU and the AMWU as part of the current enterprise bargaining agreement. All nursery staff were made aware of the review and given regular progress updates. There is no question of the thing being done in some underhanded way or without the agreement and cooperation of the unions and of the staff. As a result of that exercise, the nursery now has a commercially competitive structure. That being achieved, of course, no further staff savings are planned or intended.

As a footnote, Mr Speaker, in relation to the operation of that nursery since the subsidy ceased in 1995-96, the nursery has achieved the objectives of the Government. It has expanded its sales into northern New South Wales, Sydney, the ACT region and Victoria; it has made an operating profit; it has increased tree production by 50 per cent, and shrub production by 15 per cent; it has received the Excellence in Public Administration Award for the ACT region from the Institute of Public Administration of Australia; and it has achieved full certification as to quality systems under ISO9002.

I think those achievements in the very short time since the nursery was put onto a commercial basis are significant. I think they should be commended for it. All of that was achieved with the agreement of the unions and without any undue concern on the part of the employees involved.

MS HORODNY: Mr Speaker, I have a supplementary question. Mr Kaine, does this mean that the Government plans to maintain this nursery as a government operation, or are there plans to privatise the nursery in the future? What will happen to the community service obligation to provide the free plants?

MR KAINE: Mr Speaker, there are no further changes to the manner of operation and the management of this organisation proposed by the Government. We set out to achieve some substantial improvements in efficiency. Those were achieved. There is no intention to make further change there in any way, neither to the way it operates nor to what it does.

Pool and Leisure Centres

MS REILLY: My question is to the Minister for Sport and Recreation, Mr Stefaniak.

Mr Stefaniak: What page?

MS REILLY: Page 25 is where my question comes from. Do you want to turn to that now? In "Contracting Pool and Leisure Centres", Report No. 1 of the Auditor-General, he says:

> Contracts for the management of leisure centres and pools have not been formally executed despite the hand over of operations.

Why is this the case?

MR STEFANIAK: Ms Reilly, on this point I am advising you that formal contracts as such were in place from the time the letters of acceptance were issued. You might like to ask the ACT Government Solicitor to give an opinion on that, because that is exactly what you will be told. The letters of acceptance, Ms Reilly, contain the words:

> Until contract execution the request for tender, your offer, negotiating and clarifying correspondence between the dates of your offer and this letter and this letter of Acceptance shall evidence a contract.

I understand that is standard wording and leaves a contractor in no doubt that a formal contract exists from the date of the letter of acceptance. Ms Reilly, I think that indicates that formal contracts are in fact in place, and any lawyer can tell you that. It is just a matter of fact.

In terms of a final contract, the process also does involve the drafting of a single contract document by ACT Contracts and Purchasing. It contains contract clauses and attachments which combine the information contained in the various documents that initially constitute the contract, such as the tender document, the tender, any letters of clarification and the letter of acceptance. This process has taken longer than anticipated, due to the requirement to seek agreement to the document from various sources, including contractors, the Government Solicitor's Office and the bureau, and due to the relatively complex and unusual nature of the contractual arrangements. In terms of the single contract document, ACT Contracts and Purchasing are doing that.

I am advised, Ms Reilly, that currently the correct legal status is that formal contracts were in place from the time the letters of acceptance were issued. If you do not believe me, go and have a chat with the ACT Government Solicitor about it, because that is what they will tell you.

Mr Whitecross: The Auditor-General is wrong again?

Mrs Carnell: Yes, often.

Mr Whitecross: Mr Speaker, on a point of order: Mrs Carnell said that the Auditor-General is often wrong, and I just thought I should get that on the record.

MR SPEAKER: Order! I did not hear the interjection. I do not know what the point of the point of order is, because there is no point of order. Ms Reilly, did you have a supplementary question?

MS REILLY: Yes, Mr Speaker. I am trying to work out what the Minister just said. From reading page 26 of the Auditor-General's Report - - -

MR SPEAKER: Ask your supplementary question without preamble.

MS REILLY: I am just making sure we know - - -

Ms McRae: It is a direct follow-on from his answer, Mr Speaker.

MR SPEAKER: In which case, she does not have a supplementary question, does she, and I will call Mr Osborne.

Ms McRae: Mr Speaker, on a point of order: Her question was a direct follow-on from what the Minister said, which is entirely consistent with the standing orders. If it is a direct follow-on from what the Minister said, she is entitled to follow through and ask a supplementary question.

MR SPEAKER: There is no point of order. Ms Reilly, I suggest that you ask your supplementary without preamble; otherwise, I will call Mr Osborne.

MS REILLY: In relation to contracts, at page 26 of "Contracting Pool and Leisure Centres", Report No. 1 of the Auditor-General, he says:

> The Australian Capital Territory Purchasing Manual (7.8.2) states that "work under a contract should not normally commence before a signed acknowledgment is received. This acknowledgment completes the contract".

Mr Kaine: On a point of order, Mr Speaker: For a non-preamble, this is a long preamble.

Ms McRae: It is not a preamble.

MR SPEAKER: This is a question. I explained. Ask the question.

Ms McRae: It is a question.

MS REILLY: How does the Minister explain this?

Ms McRae: Have you got the question?

MR STEFANIAK: I do not want to give you a legal lesson, Ms Reilly. I have indicated that a contract is an agreement. I have indicated that we have a legal and binding arrangement, and that is according to the Government Solicitor. The Auditor-General is referring to contracts. I referred to a single contract document that is being prepared.

Ms McRae: That was not the question.

Mrs Carnell: Mr Speaker, on a point of order: Ms McRae has interjected throughout the whole of question time. I think it is about time you pulled her up.

MR SPEAKER: If she does not want her colleagues to hear the answer, I suppose that is their problem; but I would call you to order, Ms McRae, and ask you not to interject.

MR STEFANIAK: Ms McRae, I think you need to differentiate between the single contract document that is being prepared by Contracts and Purchasing and the one that the Auditor-General is referring to. It would have been lovely if that had been available. However, that does not mean that we do not have a contract in place. Legal advice indicates that we do. That refers, I think you will find on pages 25 and 26, to that single contract document being prepared by ACT Contracts and Purchasing.

Tuggeranong Schoolhouse

MR OSBORNE: My question is to the Minister for Arts and Heritage, Mr Humphries, and is about a topic that is very close to my heart, the Tuggeranong Schoolhouse in Chisholm, which you may have read about in today's *Valley View*. The Tuggeranong Schoolhouse was built in 1880, which makes it one of the oldest buildings in Canberra. Although the school closed in 1939, the buildings and two acres of land have since been available for lease. In fact, the last tenants left the property in the middle of last year, after a 10-year lease, in what can be described only as an advanced state of neglect. As you will be aware, Minister, a conservation and management plan was developed for this property in 1984. From what I can tell, its recommendations have never been followed. Mr Humphries, my question is quite simple. Is your Government interested in the preservation and restoration of this historic building so that it can once again be used by the public as a community facility? If so, how do you propose to go about this? Can you give an assurance that any resulting management plan will be adhered to?

MR HUMPHRIES: I thank Mr Osborne for his question. I think it is his maiden or inaugural question to me as Arts Minister, so I am pleased to be able to answer it. I do have in front of me a copy of the article in the *Valley View* of today. I have not visited the Tuggeranong Schoolhouse before, so Mr Osborne might like to take me down there and show me it at some stage. I can indicate that the schoolhouse came under the jurisdiction of the Bureau of Arts and Heritage in October last year. In that time some things have happened, including the advice to a number of local residents and to the Tuggeranong Community Council that we intend to start a consultation process about the use of the building. A number of different uses are possible, including an activity centre, a health facility or a park including also a child-care centre. I am told that the grounds are being cleaned and urgent maintenance action has been undertaken. The buildings have been rewired already for electricity, and new plumbing is about to be installed. I am also told that the bureau has actually selected a tenant to occupy the building.

Members will be aware of the arrangement for the Tuggeranong Homestead. An article about the tenant there appeared, I think, in the *Canberra Times* a few days ago. We are proposing a similar arrangement for this tenant. I hope that, for this location, that will prove to be equally successful. I am told that the Tuggeranong Community Council is very happy with the work so far of the tenant at the homestead. I hope that they will be similarly happy with the work of the tenant we have selected for the schoolhouse. There will be a landscape master plan developed. We are reviewing in that process the conservation requirements identified in the 1984 report Mr Osborne referred to. There will be a call very soon, I understand, for expressions of interest from suitable people to take over the property and run it in accordance with the directions indicated by the community, although, of course, we need to see what the community wants before we can make that decision. I can assure members that we are very keen to see that the house is both restored and used for something appropriate in the context of the Tuggeranong community. I hope Mr Osborne and other members for Brindabella will contribute to that process.

Nature-based Tourism

MR HIRD: Mr Speaker, my question is to the Minister for Tourism, Mr Kaine. What measures are you, as Minister responsible for tourism, undertaking to address the cause of nature-based tourism in the ACT?

MR KAINE: I thank Mr Hird for the question. Mr Hird and other members of this place will know that this is a matter that I have had a great deal of interest in for a long time. For example, Mr Wood and I have done a great deal of research into this subject. I am pleased to be able to comment on it. Nature-based tourism is an aspect of tourism which is growing in importance in Australia. More and more people seem to want to have a look, particularly, at those areas that have been set aside for posterity - national parks and the like. It is all very well to set them aside, but a lot of people want to have access to them today. That, of course, presents two dilemmas. The first dilemma it presents is: How do you develop areas that have been set aside as potential tourism sites? Secondly, if you do, how do you retain the very characteristics that have determined that those areas should be set aside and that they should not be allowed to degrade?

The ACT Government has long been aware of the potential of our national parks, nature parks and the like as a tourist attraction. The Parks and Conservation people, on the one hand, and ACT Tourism, on the other, have been working closely together for quite some time to determine how we can accommodate the needs of people who want to go and look at these places and at the same time protect them. The latest product of that work was the recently launched ACT nature-based tourism strategy, which was published only quite recently. It is a major document setting the directions for future growth, based on the ACT's unique appeal to incoming tourists and positioning us as a specialist destination for this kind of tourism product. First of all, we have to decide which aspects of our natural resources people will want to go and see. We know there are some. We know that the Murrumbidgee Corridor, for example, is used extensively. We know that Tidbinbilla Nature Reserve is one of the more popular tourist attractions outside of the Parliamentary Triangle. We know that there are some areas that people do want to go and see. We do not actually have an Uluru or a Kakadu, but it is clear that there are natural features out there which are easily accessible and relatively close to high-quality accommodation, and that people do, in fact, want to go and see them.

Until now we have depended more on people wanting to see our national man-made structures, such as Parliament House, the War Memorial, the National Gallery, the National Library, the High Court and so on. But in our own commercial interests we should be securing tourists for other reasons. Our aim should be, and is, to encourage visitors to stay even one extra day and take the time to go out and see the natural resources in addition to the man-made ones. The research suggests that for every one per cent of visitors who stay just one extra day we earn an extra $1.85m a year. It is not an insignificant amount. We are working, and have been working for some time, to determine how to exploit this natural resource that we have, while at the same time ensuring that it is not degraded. We have done a lot of work. We have not seen a great deal of pay-off yet, because the means are not yet in place to ensure that we can control what happens there; but I am sure that in the next few years we will see substantial use of those resources which are largely lying idle at the moment. That would generate considerable revenue for the ACT.

MR HIRD: Mr Speaker, as a supplementary question: Can you, Minister, give an undertaking that such tourism initiatives will not be undertaken at the expense of the environment?

MR KAINE: Through you, Mr Speaker: Yes, I can give that assurance. The whole thrust of the move to use those natural resources better has been predicated on the necessity to balance, on the one hand, the desire of people to go and see them and, on the other hand, the necessity to maintain that environment in its present state so that it is not degraded. That was the principal thrust of the report of the Economic Development and Tourism Committee, a report submitted by the committee when I chaired it. The objectives were shared by Mr Wood, I know, and Mr Osborne, who is not here at the moment.

The objective, of course, is to set in place the proper controls. That requires, first of all, that management plans be in place for each of these regions so that we know exactly what we are prepared to allow to happen and what we are not prepared to allow to happen. That will be supplemented by a system of licensing and accreditation of tour operators, for example, who want to go into those areas. They will have to be accredited; they will have to be licensed; and they will go into these areas only under strict conditions as to what they can do, how many people they can take there and what they can do when they are in there. I think we can guarantee that the environment will not suffer as a result of allowing tourists to go and see them.

Pool and Leisure Centres

MR WOOD: Mr Speaker, in posing my question to Mr Stefaniak, can I take as long as Mr Kaine did?

MR SPEAKER: Just proceed, Mr Wood, and do not provoke me.

MR WOOD: Mr Stefaniak, the Auditor-General has queried the procedures followed to hand over the management of the Dickson pool to former employees. I quote from page 22 of his report:

> As a result of the tender evaluation the management of Dickson Pool was awarded to Messrs Kennedy and Graham who are former employees of the Bureau of Sport, Recreation and Racing. The employees worked in the management of the pools for the Bureau and were made redundant following the outsourcing of the management of the pools.
>
> The review of the tender process found that the two referees for the former employees' tender were:

> the Chief Executive of the Bureau of Sport, Recreation and Racing, and
>
> the person who was Chairman of the Tender Assessment Panel and Manager of Facilities for the Bureau.
>
> One of the crucial aspects of tender processes in relation to government activities is complete independence. For the community to have confidence that independence has been achieved, officers should at all times maintain the appearance of independence.

Minister, while it may be appropriate for former employees to tender, do you believe it was a fair process? That is my question, Minister - nothing else that is in front of you in your briefings. Do you believe it was a fair process when the referees for the successful tenderer were either involved in or close to that process?

MR STEFANIAK: Mr Wood, I do not think you will find anything in there which indicates that, in terms of that pool, it was anything other than a fair process. The Auditor-General quite clearly says he has some problems with the Erindale Centre; but in relation to the other four pools, including Dickson, he feels it was a very fair process. He comments in other parts of the report on the make-up of the tender panel, which included a representative from ACT Swimming. I hear what you say. I have read that part of the report. Again, Mr Speaker, I think it is perhaps a little like the SES officer situation. Perhaps that is something that, taken at its strictest, could have been done better, but I do not think anyone is implying anything against Mr Nielsen, the general manager, who sat in on the tender process; nor would they necessarily imply anything if it had been Mr Owens, the SES officer. It is six of one and half-a-dozen of the other; what you lose on the roundabouts you pick up on the swings. He was an SES officer and he was given as a referee by these people. I would indicate - and it is probably borne out in the documents - that the successful tenderer for Dickson also put in for the Civic pool. It did not get that; somebody else did.

There is nothing in there and nothing in what the Auditor-General says that indicates that that process was other than very fair and properly done. However, he does indicate one technical problem in terms of the Dickson pool and in terms of one of the people on the panel being given as a referee. That is certainly something that the Government has noted, but I do stress that the Auditor-General is at pains to indicate, certainly in relation to the four pools, including Dickson, that it was a very fair process. In fact, he commends the make-up of the tender panel.

Mr Wood: Mr Speaker, the Minister's and the Government's revealed attitude both to the tendering process and to the Auditor-General causes us much alarm.

MR SPEAKER: Is that a question or a statement?

Mr Wood: It is a statement.

Mrs Carnell: I ask that all further questions be placed on the notice paper.

Ambulance Service

MR HUMPHRIES: Mr Speaker, I want to provide more information about a question asked yesterday. Mr Whitecross asked about the number of ambulance crews operating on shifts. I want to table a breakdown of those shifts showing the number of operational crews operating during each shift. As members will see, during the month of February a fifth ambulance crew operated on all day shifts, with five day shifts having an extra crew member available.

In light of questions asked by Mr Whitecross, I sought a review of the rosters of all night shifts during the month of February. It was a manual review rather than the computer-based one from which the figures were originally drawn. The figures I had available to me yesterday concerning crew deployments were based on the number of crews that started the shift on duty. In some cases, a crew did not necessarily complete a shift, because a crew was held back from the previous shift. A check of the figures against the rosters showed that it is necessary to revise the figures I produced in the Assembly yesterday. I apologise for the slight inaccuracy in what I tabled.

Mr Whitecross asked about particular dates. In relation to the dates in February, I advise that on the 7th, the 9th, the 10th and the 20th there were 4½ crews available and that on the 19th there were, in fact, five crews available, contrary to what Mr Whitecross suggested.

Mr Whitecross: I asked.

MR HUMPHRIES: The question, I would suggest, was a suggestion rather than just a question. Mr Speaker, yes, the figures I gave were inaccurate, although what I told the Assembly yesterday about the total availability of five ambulance crews throughout the month was still substantially true. I said to the Assembly that there were five crews available on 80 per cent of the shifts during the month of February to date, but the revised figures I now table indicate that there were five crews available on only 79 per cent of the available shifts during the month of February. I was out by one per cent, and I regret that very sincerely.

Mr Whitecross: Just under 50 per cent of the night shifts, though.

MR HUMPHRIES: The information list that I provided yesterday was accurate, except for that proviso.

Mr Whitecross: It was not 80 per cent of night shifts; it was 80 per cent of all shifts.

MR HUMPHRIES: Since Mr Whitecross still presses that point, let me make a couple of points. When I say that there were five crews available, that is not necessarily strictly accurate. On some occasions when we have recorded five crews, in fact there were more than five crews.

MR SPEAKER: Order! We are responding to questions and not having a debate across the chamber. Proceed, Mr Humphries.

MR HUMPHRIES: There were in fact 5½ crews or even six crews operating on particular nights. The Government tries to build in some surplus to account for situations where the number of crews falls below the required number. To summarise, in February we averaged a day shift crewing establishment of 5.1 crews and an average night shift of 4.7 crews. That meant that, instead of delivering five crews as we had promised in last year's budget, we delivered only 4.9 crews on average throughout February. I regret the inaccuracy in what I had to say, but I do not regret in any other way having to indicate that information.

Mr Whitecross: Do you regret the misleading statistics you are now quoting?

MR HUMPHRIES: Mr Whitecross says that it misleads. We promised five crews and we delivered 4.9 crews. You promised five crews and you delivered only four.

Mr Whitecross: How many times were there actually five ambulances on the roads in February?

MR HUMPHRIES: Which party in this place deserves more condemnation from the electorate, Mr Whitecross?

Mr Berry: We did not milk the community for a $15 road rescue fee.

MR HUMPHRIES: Perhaps you might have paid for the crews you promised if you had, Mr Berry. You promised them. You should have found some way of paying for them.

I want to raise one further issue. I am concerned that in the discussion of this issue in the media the Opposition has sought to raise something of a political football, the individual case of a person who sought ambulance assistance last week. Mr Wood outlined in a media release details of the response to this patient's case. I am disappointed that Mr Wood chose to raise this case at a time when the family were coming to terms with the death of a loved one. The family is, of course, very concerned about the death of their relative and that that particular fact has become a political football.

I think all of us in this place owe that family an apology for putting them through this at a time when they are coming to terms with their own grief. For my part, I am sorry that the family had to see and read about their relative in the media without knowing that was going to be the case. I certainly regret my part in having left this as an issue on the agenda, although I should put on the record that I did not raise it in the first place. I hope Mr Wood will similarly express regret about having raised that case in the media.

Mr Berry: You are the one who announced the review.

MR HUMPHRIES: The review that Mr Berry has just referred to must be allowed to proceed. I indicated on Monday that any incident like that which occurred last week is viewed with the utmost seriousness by this Government. I can assure members that the processes will be reviewed and any issues addressed quickly. In the meantime, the Ambulance Service will continue its process of training and recruiting officers to run the fifth crew on a full-time basis. We are supportive of the service in that endeavour.

MR WOOD: Mr Speaker, I seek leave to make a short statement following Mr Humphries's invitation.

Leave granted.

MR WOOD: Mr Humphries, no doubt following an approach, apologised to a family for any distress they may have suffered following an incident we have been pursuing this week involving ambulances. If indeed there has been distress, as there has been, I am as sorry as Mr Humphries that there has been that distress. I might point out, by way of amplification, that I made no specific comment on any one incident until Mr Humphries himself had done so.

Mr Humphries: It is in your press release, Bill - 21-minute response.

MR WOOD: Mr Humphries made a comment to cameras. Subsequent to that, I issued a press release; but I share the view of Mr Humphries. I think he stepped carefully and I believe I stepped carefully to avoid making this a political football.

MR HUMPHRIES: Mr Speaker, I need to make a personal explanation.

MR SPEAKER: Proceed.

MR HUMPHRIES: Mr Speaker, I understand from what Mr Wood said that the press release he referred to was in response to a general release we put out about the fifth ambulance service.

Mr Whitecross: To what you said on camera.

MR HUMPHRIES: I have responded to Mr Wood's press release. Before I went on camera on Capital, I was shown the release that Mr Wood had issued. My press release on this subject followed my interview with Capital, and that followed Mr Wood's press release. I suggest that Mr Whitecross check with the journalist concerned. That is the case, Mr Speaker. Mr Wood may shake his head and he might like to push different lines, but the fact is that that is what happened. The first case where this particular incident was put on the public record was Mr Wood's press release.

Gungahlin - Licensed Club and Enclosed Oval

MR HUMPHRIES: Last Thursday Mr Wood asked me a question concerning the tender process recently conducted by the Gungahlin Development Authority for a licensed club in the Gungahlin Town Centre. In particular, Mr Wood asked:

> Can you inform us at what point in the process Woolworths agreed to pay the $700,000 for stormwater and sewerage works as a result of the change in the location of the proposed sports precinct? Can you also inform us whether all the tenders were advised of Woolworths' agreement to pay for those capital works?

Mr Speaker, I can tell the Assembly that those arrangements agreed with Woolworths for stage 1A have nothing at all to do with the change in the location of the sports precinct. In fact, there has been no change in the location of the sports precinct, only a change in the location of various facilities in the precinct, including the enclosed oval. This will have no effect on the agreement with Woolworths, which was negotiated before the need to relocate the proposed oval was identified. The authority has advised me that Woolworths are required, under their lease and development conditions, to provide all access roads and services to their site in stage 1A. Most of these services - hydraulic, electricity, gas and telephone services - will need to be connected to their site from systems being brought into the town centre by the Government as part of the construction of the entrance road to the town centre.

Woolworths are required to prepare a stormwater master plan for stage 1A. They must construct adequate stormwater works. Woolworths must also bring sewerage services to stage 1A, which requires the construction of a trunk sewer from Gundaroo Drive to the Gungahlin Town Centre. The trunk sewer will also service - this might have been the cause of Mr Wood's confusion - the recreation, education and entertainment precinct. Sewer services to individual blocks and all other services required for sites within this precinct will need to be constructed by the developers of sites within the precinct or the Government as required. That depends on who exactly is doing the developing. For the development of the sites within the whole precinct, the servicing requirements remain substantial and therefore the provision of separate advice to any proponent on the specific servicing proposals for stage 1A was not considered necessary.

Marlow Cottage

MR STEFANIAK: Mr Speaker, during question time I started reading article 40 of the United Nations Convention on the Rights of the Child and you upheld a point of order in relation to that. I seek to make that point now. It relates to exactly what Ms Tucker was going on about yesterday. I will read paragraph 4 again. I was in midsentence when the point of order was taken. Paragraph 4 states:

> A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be

> available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

I have now carefully read that convention. I fail to see how Ms Tucker can establish any breach by saying that there are children on bail placed at that shelter. Article 40 of the convention quite clearly talks about the right of every child alleged to have infringed the law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth. I have read what paragraph 3 of the article talks about, which is the need for the state to establish laws and procedures, and authorities such as the Children's Court, specifically applicable to these children, by the establishment of a minimum age for criminal proceedings and measures for dealing with children without resorting to judicial proceedings. Contrary to what Ms Tucker says, the convention does not require separate facilities for children on bail, if that is what she is on about. These are children who have actually been charged with offences and not necessarily convicted.

The small number of children on bail who were placed in the shelter were placed there primarily because of their need for care and protection, not because they were on bail. They could not have gone home, because of those issues. They were treated according to the convention, in a manner consistent with their dignity and worth. That is hardly in breach of the convention. I think it is entirely in the spirit of the convention. If they had not been sheltered at Marlow, where could they have gone? If they could not have gone home, where could they have gone? Should they have spent a night on the streets or perhaps gone to Quamby? Quite clearly, Quamby was held by the courts not to be applicable in those instances. The juvenile justice bail supervision program is very successful. It is estimated that from July 1995 bail supervision has prevented 60 young people from being held in custody. Only one out of 147 young people in the program received a custodial sentence when their matters came to court, clearly justifying their need for supervision rather than custody. Of all the young people in this program, only eight needed accommodation at Marlow.

Mr Speaker, I do not know whether I indicated this yesterday, but the courts regularly order that a child placed in care reside at the order of the director of welfare, or on occasions specifically state where a child should reside whilst on bail or whilst in care. I personally, both as a defence solicitor and as a prosecutor, have had a number of cases in which children have been remanded to that particular shelter. I am certainly aware of some court orders in the past specifically remanding children on bail to Marlow Cottage or its predecessor, Kaleen Youth Shelter.

I also started reading out the admission criteria for Marlow Cottage. It is a shelter under the provisions of the Children's Services Act and the program is obliged to accept emergency referrals from authorised persons in accordance with section 73 of the Children's Services Act, which deals with children in need of care. In addition, the program accepts referrals from Family Services workers for children who have been assessed to be in need of care under the provisions of the Children's Services Act,

who may have had a series of placement changes and need emergency accommodation, who have behavioural disturbances that prevent immediate placement in foster care, or for whom other program options are not immediately appropriate or available; young offenders under a "reside as directed" order under section 47(1)(i) or a conditional discharge order under section 47(1)(b); and young people on bail where no alternative accommodation can be found and placement is on a voluntary basis.

Quite clearly, the interests of the children are paramount. I think the spirit of the convention is well and truly taken up with how the Bureau of Children's, Youth and Family Services operates, and also the way our courts operate in placing children with a variety of problems, be they children at risk, children in need of care, or indeed young offenders or young people on bail. I think Ms Tucker is quite clearly barking up the wrong tree in relation to article 40 of the UN convention.

AUDITOR-GENERAL - REPORT NO. 3 OF 1997
1995-96 Territory Operating Loss

MR SPEAKER: I present, for the information of members, Auditor-General's Report No. 3 of 1997, namely, the 1995-96 Territory Operating Loss, pursuant to section 17 of the Auditor-General Act 1996.

MR HUMPHRIES (Attorney-General) (3.49): I ask for leave to move a motion authorising the publication of the Auditor-General's report.

Leave granted.

MR HUMPHRIES: I move:

> That the Assembly authorises the publication of Auditor-General's Report No. 3 of 1997.

Question resolved in the affirmative.

PAPERS

MR HUMPHRIES (Attorney-General): For the information of members, and pursuant to standing order 83A, I present two out-of-order petitions lodged by Ms Horodny and Mr Hird from 4,000 and 34 citizens, relating to ACT Emergency Services and euthanasia, respectively.

LAND (PLANNING AND ENVIRONMENT) ACT LEASES
Papers

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning): Pursuant to the Land (Planning and Environment) Act 1991, I present the schedule of lease variations and change of use charges for the period 1 October 1996 to 31 December 1996 and the schedule of leases granted for the same period. I have a short statement to make. I seek leave to have that incorporated in *Hansard*.

Leave granted.

Document incorporated at Appendix 1.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 8 of 1996 - Government Response

MR STEFANIAK (Minister for Education and Training) (3.50): Mr Speaker, for the information of members, I present the Government's response to Report No. 23 of the Standing Committee on Public Accounts entitled "Review of Auditor-General's Report No. 8, 1996 - Australian International Hotel School", which was presented to the Assembly on 3 December 1996. I move:

> That the Assembly takes note of the paper.

Mr Speaker, I am pleased to table the Government's response to the PAC's recommendation on the Australian International Hotel School made in response to the Auditor-General's report on the school. As members will remember, the Government has already undertaken substantial and decisive action on both the Auditor-General's report and the Public Accounts Committee recommendation. Legislation to establish the AIHS as a statutory authority separate from the Canberra Institute of Technology was tabled by the Government and passed by this Assembly in December of last year. That legislation included both the establishment of a permanent board of management for the school and a requirement for regular operational and financial reports to be provided to me as Minister for Education and Training. As well, the school is now subject to the Financial Management Act 1996 and the Annual Reports (Government Agencies) Act 1996, bringing it into line with routine Territory authority financial and reporting arrangements. These improved reporting requirements enable the Minister and this Assembly to monitor the school's progress.

The Government is of the view, Mr Speaker, that the AIHS cannot compete in a commercial environment without a sound financial structure. To this end, a range of reforms are being developed and put into place. A capital structure that involves retiring or converting all or part of the school's debt is currently being developed, and the Government has requested that the new board of management establish a business plan aimed at addressing areas of concern highlighted by the Auditor-General.

The board has responded to this request, Mr Speaker, by developing strategies to boost student numbers, improve marketability, broaden programs and services and establish links with Australian universities.

As a means of improving student numbers, the hotel school's degree will be made more competitive, with a revised fee structure beginning this year. A renewed approach to marketing will see several initiatives investigated, including capitalising on the current Australian demand for hospitality qualifications, negotiating articulation arrangements with other tertiary institutions and investigating new overseas markets, including Thailand and China. Mr Speaker, in a bid to enhance the school's academic standing, several avenues of affiliation with Australian universities are being investigated. Links with an established institution should further improve the recognition of an AIHS degree, particularly by Australian students.

Within the context of considering all the hotel school's debts, the Government is reviewing affiliation arrangements between the school and Cornell University. Fees payable to Cornell have been underestimated, and negotiations with the university are under way regarding outstanding fees. As part of the board's business plan, unit costs and overheads have been closely examined. This involves separating the hotel, student accommodation and school finances in line with the Auditor-General's findings. Accurate cost data will lead to the elimination of inefficiencies and lay a firm base for future financial decisions that are supported by objective data analysis.

Mr Speaker, the hotel school legislation took effect on 1 January this year, and it provides the basis for a new and strategic approach in managing a hotel school. I commend to the Assembly the Government's response to the Public Accounts Committee recommendation on the Australian International Hotel School.

Question resolved in the affirmative.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Further Report on the Acton-Kingston Land Swap - Government Response

MRS CARNELL (Chief Minister): I ask for leave of the Assembly to make a ministerial statement on the Government's response to the Standing Committee on Planning and Environment Report No. 23 on the Acton-Kingston land swap.

Leave granted.

MRS CARNELL: Mr Speaker, since I last spoke to the Legislative Assembly about the Acton-Kingston land swap in December 1996, the same day that the Planning and Environment Committee tabled its further report, things have certainly moved pretty quickly. Indeed, it was only the day after, on 13 December, that the Prime Minister announced that the National Museum would be located on the Acton Peninsula. After decades of uncertainty, we finally have a commitment from the Commonwealth Government to the construction of the museum, and we will be holding the Commonwealth to this commitment.

Mr Speaker, the Planning and Environment Committee asked me to address a number of questions. Although some of these - the future of Acton, for example - have been answered in other forums, now would be an appropriate time for me to inform the Assembly of progress. In order to provide the Commonwealth with the land for the museum, we have been negotiating with the National Capital Authority to formalise the land swap. Both governments are obviously keen to see the museum built in time for the Centenary of Federation, but this Government was not prepared to accept a quick outcome at the expense of a good outcome. I am pleased to announce that we have now formalised the land swap with the Commonwealth, and I table a letter from Warwick Smith which finalises the agreement.

In summary, we agreed that both governments will clean up contamination on their own land at Kingston, noting the provision of section 51 of the Australian Capital Territory (Planning and Land Management) Act 1988. We agreed that the Territory will demolish all buildings on Acton except the hospice, the hospital cottage, the ADFA cottage and the former dining room of Sylvia Curley House. After we have removed asbestos from the Acton buildings and cleared the site, the Commonwealth will be responsible for all contamination on that site. We agreed to hand over the hospice and hospital cottage to the Commonwealth, which will issue an occupancy agreement until June 1999, with possible renewal at that time.

Mr Speaker, I think I should clarify a misconception that appears in the Planning and Environment Committee's report. I was a bit concerned to read that the committee believed that my officials have told it that "no land swap agreement exists at the present time". This is a misconception that needs to be clarified. I will not quote from the transcript, as it is only a draft, but I do suggest that members have a look at it. It was made quite clear that there was broad agreement between the ACT and the Commonwealth to swap the land.

Mr Moore: We did not consider that a land swap agreement.

MRS CARNELL: I understand. The agreement between the two governments and the Commonwealth's clear intention for Acton mean that there is no question of pursuing the separate development of the Acton and Kingston sites. We understand that the Commonwealth intends that the National Museum will be open in time for the Centenary of Federation celebrations in 2001. This would mean design work in 1997-98, with most of the construction to occur between 1998 and 2000. Demolition of the former Royal Canberra Hospital and other buildings will take place this year. In fact, some of that demolition work has already started. The ACT has been invited to sit on the Museum Construction Coordinating Committee, along with the chairs of the National Museum, the Australian Institute of Aboriginal and Torres Strait Islander Studies and the National Capital Authority.

As members are aware, the design competition for the Kingston foreshore development was launched in January 1997. Winners will be announced in June this year. Following the completion of the design competition, second stage assessment of the main entries will occur in the months through to September 1997. It would then be prudent to assume that any draft variation of the Territory Plan would be considered by the

new Assembly following the 1998 election. The actual development would then occur after the Assembly had agreed to the necessary variation. It would be expected to take five to 10 years before the most substantial part of the redevelopment occurred, but of course we think that some of that development will happen quite quickly.

Finally, Mr Speaker, the committee asked me to detail the advantages and disadvantages of the land swap. The advantages are quite clear. After decades of delay, Canberra will at last have a National Museum. That is a very definite advantage. It may not be where we expected it to be, but at last it will be built. The land swap will end uncertainty over the future of Acton Peninsula - again a very definite advantage. There is no possibility of residential leases limiting public access to the peninsula. We now know that Acton will be open to the whole community. While the National Capital Authority had planning control over the peninsula, Acton was worth very little to the Territory. The land swap means that, while we may not own Acton anymore, we know it will be used for a purpose that will benefit both the Territory and the nation. Acton is not lost to Canberrans; it will not be towed out to sea or somehow lost as some people have said - quite the opposite. Acton Peninsula will now be a site that all Canberrans and all Australians can be very proud of with the National Museum there. It will become an important cultural site for our whole nation.

Another real advantage will be the freeing up of land at Kingston for development. With the transfer of the Commonwealth blocks, we will have a consolidated site of 37 hectares close both to the Parliamentary Triangle and to Manuka and Kingston. That part of Kingston has the potential to be transformed from an industrial wasteland to an exciting waterfront development. We heard yesterday how we have had some 200 expressions of interest from people interested in showing us how that exciting transformation could occur.

Mr Speaker, what will the disadvantages of proceeding with the land swap be? That is another question that was asked. I suppose you could say the Territory will no longer own Acton Peninsula. The reality is that, once it was no longer used for hospital purposes, there was very little we could actually do with it. The Territory will no longer own one of the most aesthetically pleasing bits of land in Canberra. That is certainly the case, but having the National Museum on that site, I believe, is absolutely essential. The land swap will, of course, mean that the old Canberra Hospital buildings will be demolished. I know that there are many Canberrans who will see this as a disadvantage. Many Canberrans have an emotional attachment to Acton, but the reuse of the building has been ruled out by the National Capital Authority because of the need to clear the site for the National Museum.

Mr Speaker, in short, the Government believes that the disadvantages of the land swap are outweighed significantly by the advantages. We are guaranteed the construction of the National Museum; we can now move ahead with a vibrant, mixed use waterfront precinct at Kingston; and, with the construction of the museum, Acton Peninsula will again become a place shared by the whole community. I would have trouble believing

that the whole of Canberra would not support a situation where we will finally have the National Museum. Think of all the jobs involved in building that museum and all the jobs involved in the Kingston foreshore redevelopment and, from that time on, all the tourists who will inevitably come to Canberra to see the museum and to enjoy the waterfront development.

I present the following paper:

> Planning and Environment - Standing Committee - Report No. 23 - Further report on the Acton/Kingston land swap - Government response - ministerial statement, 26 February 1997.

I move:

> That the Assembly takes note of the paper.

MS McRAE (4.04): I will speak only briefly, because I realise people are anxious to get on with the next debate. I thought I might use this opportunity to pose a couple of questions to the Chief Minister to seek clarification about things that are not quite clear in this report. Chief Minister, I believed that in the original land swap we were going to hang on to the hospice and the hospital and then negotiate for the takeover in 1999, and that the current lease would apply. If I am reading the detail right, Acton is going to be handed over after the Commonwealth has given a lease agreement for them to stay until 1999. That is quite a shift in emphasis. I wonder what caused that, why it is that that has been done and what we are getting in return. The Commonwealth has given two nice little bits of land somewhere else in return for the land that they will now have from the hospice and the cottage that were not part of the original agreement. We really need to know what has happened to cause that change of intent from the original agreement.

The other part that is not clear - perhaps I am misreading it, although I do not think so - is the very curious sentence in the letter from the Hon. Warwick Smith. He says:

> With regard to the issue of contamination on the Kingston Foreshore site, both the Commonwealth and the Territory have conducted professional environmental testing and are aware of the extent of contamination found and the requirements of environmental clean-up.

Then he says:

> The Territory will be responsible for the clean-up on its land to this extent.

As far as I understood, our land is Acton Peninsula. We do not have any - - -

Mrs Carnell: Most of the land at Kingston is ours as well.

MS McRAE: Are we now going to clean up the land that becomes ours? Why is the Minister instructing us to clean up something that was always ours to clean up? I do not understand why it is being referred to. If we owned the land at Kingston in the first place, then it should never have been the consideration of the Minister. If we did not own that land and we now own that land, are we suddenly responsible for its clean-up? I find that a very curious sentence. I think it needs some pretty strong clarification, because it seems to me that it is open to the interpretation that land that has become ours will now be our responsibility.

I realise that there are some caveats on all of that, but the way that sentence reads - "land to this extent" - puts a very curious spin on possible interpretations. I am still very concerned about what we are actually going to end up cleaning up. As I said, if we own the land already, then why is Mr Smith saying anything about it? It opens up the question of whether, if he is taking an interest in this, it means that he is distancing himself from a potential problem. I would very much like to hear the Chief Minister's explanation of that. It does not seem satisfactory at all.

Now that this has taken effect, I would also be curious about the timescale of the procedure and whether the Chief Minister has a guarantee that the ongoing funds for the National Museum of Australia are actually in hand. The Prime Minister's announcement last year was that it was on the basis of budget pressures permitting. After the Prime Minister's generosity with the Grants Commission yesterday, I wonder whether budget does permit or whether that is the extent of his generosity. There is no indication at the moment that the money has actually been granted for the full development of the National Museum of Australia. I am really uncertain about what we have given away our little bit of hospice and hospital land for. I am also very concerned about the implications of the contamination clean-up. Mr Speaker, I would be very grateful if, with your indulgence, those questions could be addressed.

MR SPEAKER: Mr Moore, did you wish to make a comment?

Mr Moore: No; Ms McRae made the ones that I would have made.

MRS CARNELL (Chief Minister) (4.08), in reply: Mr Speaker, with regard to the contamination, the agreement states that it is the responsibility of the ACT to clean up the land that we currently own at Kingston. That land has been part of the contamination studies. The studies have been done over the whole of the Kingston site, and it has been determined that the contamination is at a minimal level. All of the information is that contamination is minimal on the Commonwealth site. There is not any particular exposure. There is agreement on that contamination; but, as you see in the document, if there is contamination that we do not know about - in other words, if we have more than minimal contamination - then section 51 of the Australian Capital Territory (Planning and Land Management) Act will apply. It might be interesting for members if I table section 51. It states:

> (1) The Commonwealth shall indemnify the Territory, and keep the Territory indemnified, against any action, claim or demand brought or made against the Territory in respect of any act done or omitted to be done by or on behalf of the Commonwealth, being an action, claim or demand that, apart from this Act, could be brought or made against the Commonwealth.
>
> (2) The indemnity extends to damages, expenses and costs arising from, connected with or consequential upon such an action, claim or demand.

What we are saying, Mr Speaker, is that the Commonwealth will indemnify the ACT against any contamination that has not been picked up on Commonwealth land that will now come across to the Territory. I understand that is exactly what the Assembly was after. Ms McRae, does that clarify it?

Ms McRae: Yes, thank you.

MRS CARNELL: I table section 51, for your interest. With regard to the hospice and the land around the hospice, as you would be aware, Acton Peninsula is Commonwealth land that has been available for ACT use, so it actually is not - - -

Mr Berry: It is ACT land.

MRS CARNELL: It is Commonwealth land designated for ACT use.

Mr Whitecross: It is ACT land.

MRS CARNELL: No, it is Commonwealth land designated for ACT use. As we have an agreement for the hospice to be used or to stay there only until 1999, it seemed significantly more sensible for the Commonwealth to take control over the whole block of land on the basis that they give an undertaking to keep the hospice on that land until the end of their lease and an undertaking to negotiate a new lease if that land is not required for the museum. I think that gave us everything that we particularly needed. There was absolutely nothing the ACT could do with that land on that site; so it seemed a much cleaner approach, because we got an immediate undertaking from the Commonwealth that they would respect the hospice's right to stay on that block of land until their lease terminates in 1999. I think it is also very useful to have an undertaking that, if the land is not needed at that time for the museum, the Commonwealth will look at negotiating a new lease.

With regard to timeframes and intricate knowledge of what might be in the Commonwealth's budget, Ms McRae would know very well that I have no capacity to pre-empt the Commonwealth budget. One of the important things in the agreement with the relevant Commonwealth Minister, Warwick Smith, is that they require the demolition to be completed by 31 December this year. The reason for that is that they are looking at starting work on the site at about that time, as I am told. Obviously, the plan is to stage the museum over a number of years.

Maybe some people would have preferred Yarramundi, but I know that everybody in this place supports the museum.

Mr Berry: It will be second rate.

MRS CARNELL: No, the National Museum. I mean a new museum. I am confident that everybody in this place supports a National Museum on Acton Peninsula. I am confident that nobody in this place would say, "No, we do not want the museum, thank you very much, Prime Minister. Take it away. We do not want anything unless we can have it on Yarramundi". The fact is that this Government certainly will not be going that way.

We need to be very careful that we do not let the Commonwealth off the hook now. They have committed to this project. The Prime Minister himself has committed to the project as one of the major parts of the 2001 celebration. We in this place must not hold this up for one day. They are currently putting together the Federal budget. The message I want to send from this place - and I am sure most people in this place agree with me - is that the ACT will be doing its bit. It will be doing its bit on time, and there will be no excuses for the Federal Government not having appropriate money in their budget.

Question resolved in the affirmative.

SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION - STANDING COMMITTEE
Report and Statement

MR WOOD: I present Report No. 2 of 1997 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I seek leave to make a brief statement on the report.

Leave granted.

MR WOOD: Mr Speaker, Report No. 2 of 1997 contains the committee's consideration of the Holidays (Amendment) Bill 1997. The report is provided today as Mr Berry's Bill, which this is, will be debated tomorrow. I can advise the Assembly that there is no comment on this Bill.

MEDICAL TREATMENT (AMENDMENT) BILL 1997

Debate resumed.

MR WHITECROSS (Leader of the Opposition) (4.15): Mr Speaker, I rise to resume debate on the Medical Treatment (Amendment) Bill 1997. I want to reiterate for the record that the Labor Party has a conscience vote on this issue. In speaking on this issue, Mr Speaker, I am speaking as an individual member of the Assembly rather than as the leader of a political party. We are debating at present the in-principle position in relation

to this legislation and in due course, other matters not intervening, will discuss the detail stage if it is passed in principle. There may be details of the Bill that I would like to come back to and talk about if the debate proceeds that far, but at this stage I wish to focus on the in-principle debate.

Mr Speaker, in focusing on the in-principle debate I want to say that I believe that in debating this matter and in voting on this matter we ought not to be governed by any judgment one way or the other of the politics surrounding the Andrews Bill. It has been the contention of a number of members of this parliament that this Assembly is competent to debate and decide on these matters for itself. Consistent with that decision that this Assembly can debate and decide one way or the other on this issue, we ought to do that, debate the issue, and not become caught up in the politicking of the Federal Parliament.

As a member of this place since the last election, I have been involved in a previous debate on a version of this legislation. I and my colleagues were happy to see the debate brought on again today, although the Bill was introduced only last week, because we understood that the three new members of the Assembly, including two members from the Labor side, had had sufficient time, and had indicated that they had had sufficient time, to consider the matter and so to debate the matter in principle today. That is the basis on which we have proceeded with the debate today.

Mr Speaker, I want to talk about this matter under three headings. I want, first, to make some personal reflections about my thoughts on voluntary euthanasia; I want to discuss briefly some of the objections that are raised; and then I want to stand back a little and talk about the role of the law and how that applies to the question we are considering today. The first thing that we have to understand and be very clear about, because not all previous speakers have been clear, is that we are talking about people who are dying. We are not talking about all the other categories of people that have been discussed along the way, such as the disabled or the old; we are talking about people who are dying, people in the terminal phase of a terminal illness.

We are all familiar with stories about the circumstances that some individuals find themselves in when they are in the terminal phase of a terminal illness. They find themselves in significant pain which cannot be alleviated to their satisfaction. They find themselves in situations of significant indignity and significant mental anguish. In their own minds they make a choice; they decide that they have reached a point in the progress of the terminal phase of their terminal illness where they want to bring it to a conclusion. They want to end it. They want to die. Mr Speaker, it is my belief that that is a choice that must be made by the individual concerned. It seems to me that it is perilous for us to seek to put ourselves in another person's position and imagine their pain and their suffering and say, "I would endure it. I would not want it to end". I think it is also dangerous for us to say, "I am not going to try to imagine the circumstances of others and I am not going to try to consider what my response would be". Mr Speaker, I believe very strongly that this is a choice that individuals have to confront. I understand that this is a difficult problem and many of the speakers today have noted the difficulties that are created by this choice. It is my view that, in confronting these kinds of moral dilemmas, in contemplating these difficult decisions, we achieve the higher levels to which human beings are able to ascend. In avoiding moral dilemmas and ducking difficult decisions, I believe that we debase ourselves as humans.

Mr Osborne, in his address, talked about compassion being a great motivator of people like me who support the right of people to choose voluntary euthanasia if they want to. There is no doubt that compassion is an element of my motivation. But another element of my motivation is respect. Mr Speaker, I believe that the dignity of the dying, respect for their autonomy as human beings, is just as important. I believe that, in contemplating the moment of death, if we are to achieve the full measure of our humanity, we ought to have the opportunity to have around us a supportive environment; people with whom we can discuss the dilemmas that we confront and from whom we can get proper advice, control over our lives and control over the manner of our leaving. These are the reasons why I believe that the choice must be left to the individual. I do not necessarily say, Mr Speaker, that it is a choice I would make, but I have not got there yet.

This is one of a number of measures that have been taken where we as a legislature have confronted the reality of the choices which advances in medical technology have put in front of us. On a previous occasion, Mr Speaker, we have talked about the issue of withholding medical treatment. We have talked about the administration of pain relief in a way which could shorten life. These two measures are part of our response to the moral choices which face us because of advances in medical technology and the acceptance by us as legislators of the responsibility to regulate the making of those choices. The legislation before us today extends choices to another group. It extends choices in a way which I think is consistent with the way we have approached the previous groups. It extends them in a way which expands appropriately the operation of those laws. I do not accept the distinction that is made by some between a choice to undertake an action which we know will result in death and the taking of an action which we know will result in death. To me, they are both the same moral decision. The choice to turn off a machine or to provide drugs which will cause death is the same moral decision.

Mr Speaker, a number of objections have been made in relation to voluntary euthanasia in the public debate. Some of them have been repeated here today. One which is frequently introduced is the notion of the sanctity of life. Mr Speaker, I was brought up to cherish life, to love life, but not to fear death. I was brought up to believe that death is not generally something to be welcomed, but neither is life something to be clung to at any cost. I do not believe that we can pursue the notion of life to the exclusion of other values which are equally important to us as human beings. Autonomy, the ability to think for ourselves and the ability to choose for ourselves are equally important values. When we look at things like the International Declaration of Human Rights which was referred to earlier, certainly the sanctity of life is an issue which is considered to be important. But so too are a range of other values which go to the quality of our life. We cannot pursue arbitrarily one value at the expense of all others. We cannot say that we are upholding the sanctity of life by leaving people to die while suffering physically, mentally, emotionally and spiritually. I do not believe that that is upholding the sanctity of life.

We are told that to support voluntary euthanasia is to turn our back, in some sense, on the triumph of medical technology. We are told that medical technology can solve every problem; that it can overcome every obstacle; that voluntary euthanasia is simply unnecessary. I do not believe that the facts support those claims, and I do not believe that

the practical experience of a great many dying people can be ignored in some sort of triumphalist view of medical technology. Only last week I read in the paper the reflections of a palliative care specialist who conceded that on occasions it is not possible to alleviate pain. His solution to this problem was to provide drugs which would render the person into a sleep and during that sleep their breathing would be suppressed to the point where fluid would build up in their lungs, they would acquire pneumonia and they would die. I do not believe that that is a triumph of medical technology; that is just an abrogation of moral responsibility. I do not believe that in an ethical sense that decision to put someone into a sleep during which they acquire an infection and die can be described as being any different from providing a lethal injection. I do not believe that that is in any sense a triumph of medical technology.

Another objection which is often raised is the notion that somehow or other voluntary euthanasia will lift the lid on all the evil motivations and ill will which abide just below the surface in the hearts of the medical profession and the family and friends of the suffering patient; that the choice available to the dying person of bringing an end to their suffering of their own volition will somehow cause their loving and caring friends and medical professionals to abandon that affection and to replace it with an earnest desire that they take their own life. I simply do not accept that that is a true reflection of what happens. As I said last time this subject was debated, it is, generally speaking, the family and friends who are the last to accept the death of the individual. *(Extension of time granted)* Almost invariably, the family and friends are the last to accept that the person is going to die. It is invariably the medical profession who are the last to want to see their patient die, and I do not think that there is any substantial justification for this. A variation of this argument goes along the line that the dying person will want to end it in order to cease to be a burden on family, on friends, on taxpayers and on others.

Mr Speaker, I do not deny that the existence of this option creates an element of choice for the person. No-one can deny that the giving of an extra choice will have any effect other than to cause some people to contemplate that choice. It cannot be other than that. Some people may factor into that choice the kinds of considerations that people have suggested. I do not know how likely that is, but it cannot be ruled out. Mr Osborne was keen to say that advocates of voluntary euthanasia denied that there was any pressure on people to die. Of course some people who are dying feel some pressure. How can we deny that? But, as I said before, confronting these difficult decisions, grappling with these moral dilemmas, is the essence of life, the essence of being a human being. For the sake of avoiding presenting to some this difficult decision, I do not think we can deny others who wish to make this choice the opportunity to do so. I would hope that family and friends, medical practitioners, counsellors, priests and others would provide positive encouragement to people in their suffering, so that they would not feel unnecessary pressure. I believe it is a moral responsibility on others to do the right thing by the dying.

Another furphy which has been around and which was raised again this morning is that, somehow or other, voluntary euthanasia imposes an unfair burden on the conscience of practitioners. It was suggested this morning by, I think, the Archbishop of Canberra and Goulburn that practitioners may be obliged to advise people of this option in order to avoid medical negligence actions, and that if they fail to do so they could be liable to be sued. Mr Speaker, if we get to the detail stage of discussing this Bill,

I can assure members here that I will be moving or supporting, as the case may be, whatever amendments are necessary to ensure that nobody is obliged to advise the dying of an option that they do not wish to advise people of.

Mr Humphries: It might not be possible to do that.

MR WHITECROSS: We will see when we get to the detail stage. Mr Speaker, I want to finish by talking briefly about the role of the law. Some view the law as a moral code by which we should all live. They say that it should specify all the choices that we should make in life. Mr Speaker, I do not think that is an acceptable view. I do not think that is a realistic view of the law. The law provides boundaries for society. It is not a strict code as to how we should behave. This legislation is designed to provide some of those boundaries.

Others, Mr Speaker, have argued that there are certain things which are too complex to be dealt with by legislation and that voluntary euthanasia is one of them. We cannot take that view. We are involved. We have banned voluntary euthanasia and it is therefore our responsibility to change the law if we want to allow these choices to be made. There are a lot of complex issues that we deal with in law. There are a lot of difficult and vexed problems that we deal with in law. Whether it is removing children from their parents, or whether it is assistance to victims of violence, there are a lot of difficult dilemmas that are faced in this society and law-makers have to grapple with those problems. That is our responsibility.

Mr Speaker, in voting on this I do not believe it is good enough for individual legislators to take a personal view. Our responsibility is to make laws for the peace, order and good government of the Territory. We must make laws which we believe will properly regulate society. The fact is that deaths occur deliberately involuntarily in hospitals without the consent of people. They happen in Australia, not just in Holland as Mr Osborne would like us to believe. This legislation provides an appropriate regulation of the manner and the opportunity for people to make use of the decision to use euthanasia.

Mrs Carnell, in her address, talked about multiculturalism and seemed to advance an argument that the diversity of opinion in our community about issues surrounding death and dying, and the additional complexity of that diversity added by our multicultural society, was somehow an argument against leaving these choices to the individual. Mr Speaker, in my opinion, Mrs Carnell's argument is exactly the opposite. It is an argument that these choices must be left to the individual because there is no one overarching moral imperative to which we all subscribe.

Mr Speaker, in conclusion, this is a choice which I believe must be made by the individual. Only the individual knows where the boundaries of tolerance lie. The objections, in my opinion, have been simplistic and have tended to debase the human condition rather than elevating it. I believe that this law is necessary because we have a responsibility to regulate, not just to prescribe, and this law provides appropriate boundaries in which decisions can be made in an open and honest way rather than in a closed backroom way which denies dignity and respect to the dying.

MR STEFANIAK (Minister for Education and Training) (4.39): Mr Temporary Deputy Speaker, Mr Moore has certainly run this argument and similar Bills in the past, and I do not think there would be anyone here who would not agree that he does it for what he sees to be the very best of reasons. I think everyone would acknowledge that. This Bill is quite different from the Commonwealth Bill. We debated Mr Andrews's Bill and issues in relation to that prior to Christmas. I think this Assembly was fairly unanimous in terms of the main issue in that Bill. As far as this Assembly was concerned, it was one of the Territory's rights, and the Territory's right is to bring in such laws as it sees fit without the Commonwealth overriding that law. I think that is something that crossed party boundaries and crossed, I suppose, individual boundaries, too, in terms of the substantive issue of whether you support euthanasia or not.

Mr Moore's Bill is different from the Commonwealth Bill. It is properly brought in this Territory and it is, indeed, for us to decide. As I said when I spoke briefly in relation to the question of Mr Andrews's Bill, whilst I did not think that was an appropriate Bill to be brought because of the issue of Territory rights, I indicated then that on this substantive issue of euthanasia, if it were brought to the Assembly - and Mr Moore has done that in his Medical Treatment (Amendment) Bill 1997 - I would be voting against it, and I will.

This is a difficult question. A number of very good points have been made by all sides in this debate. I can certainly see where Mr Moore is coming from, the deep-seated belief he has and the compassion in his views on this issue. Similarly, I can see the deep-seated beliefs and the compassion that people who are very much against what Mr Moore is trying to do also have. I have read with interest a number of letters that have been presented to me, as they always are during this debate, and I will refer to two of them, one on each side of the fence. One relates to a survey of nurses by a postgraduate student in favour of euthanasia, and the other one is from the Catholic Education Commission containing an attachment of a speech on euthanasia by Katrina Lee, part of which I will also refer to.

When Mr Moore brought this in he indicated that he had spoken to a number of people who really were faced with this issue of euthanasia, although he had not seen it first hand. Whilst I suppose I have not seen it first hand, given that I had two very elderly parents, one of whom died only last year and the other some time before that, I suppose it has brought home to me the situation of what if a Bill such as this had been in at the time my father died and my mother died. My father died at the age of 75 in 1986. He had his wits about him. In fact, the day he died he got up from his sick bed - he had had a bad cold - and toddled off, as he always did, to the White Eagle Club, the Polish club. I picked him up after work and told him what a silly old bastard he was as he should not have gone off with a bad cold. My father would always bite at any argument like that, but he was strangely subdued. It concerned me a bit. I went home with him and went back to my house. In the early hours of the morning my mother rang and said he had been taken off to hospital in an ambulance and had died. When I spoke to the hospital they said, "We almost could have saved him, but he would have been a vegetable". If that had happened, I suppose it would have brought into play the very question that Mr Moore is posing. I think I know what my father would have wanted then. He would have wanted, if there was still some chance, to stay alive.

My mother, who died last year, was a different kettle of fish. She did not keep her mental faculties right up to the date of her death. For, I suppose, the last two years of her life she had fairly well advanced Alzheimer's disease and a number of other conditions, and mentally she certainly was not the formidable lady she was up until two years before she died. I can recall her decision-making processes in those 12 months leading up to her last nine to 10 months on this earth. Superficially, she could make decisions and she could have the same conversations; but, really, I think you would have to query whether she was able to actually appreciate something. Medically, when the certificate of death came in, I think it was quite painfully obvious that she would not have been, even though to all intents and purposes she was compos mentis and was able to make decisions. Had she been in great pain, I wonder whether she could have made a proper decision when faced with this situation. Perhaps that is something that might well be a loophole in this type of legislation.

In her last seven months, when she rapidly deteriorated physically, I do not think she had too much of a quality of life. I used to go there and wheel her around in the wheelchair. I used to take her out into the sun from Kankinya Nursing Home, but you could not have the same conversation. She was very frail and very thin. Still, there was that quality of life there. She still appreciated it the day she died. She vaguely knew, I think, that she was going off on a picnic. That is where she died and I think she died happy. I wonder whether someone in her situation, at some stage in those two years when she could make a decision, might have raised one of the legal problems associated with this Bill that several other members have referred to. Mr Temporary Deputy Speaker, I have looked at a number of documents. There is one document from the lady who did the survey of nurses. On page 3 she refers to ACT nurses and a majority basically were in favour of euthanasia in controlled circumstances. She surveyed various categories of nurses and stated:

> The ACT nurses' attitudes were found to be significantly related to various nurse characteristics (age, religion, experience with the terminally ill, area of speciality, years in the profession and interest in the euthanasia debate). Support for a change in the law to allow AVE -

active voluntary euthanasia -

> tended to be lower for older nurses, nurses of the Catholic religion, nurses with increased experience caring for the terminally ill, nurses working in the areas of palliative care, nurses working longer in the profession of nursing and nurses who have taken a lot of interest in the euthanasia debate. However, the only subgroup of nurses who did not have a majority in favour of AVE was that of nurses working in palliative care. There were no gender differences in attitudes.

That is interesting. Overall, apart from those in palliative care - that in itself is a very telling point, I think - of nurses in those other areas dealing with terminally ill patients, nurses working longer in the profession, and nurses who actually had a lot of interest in the euthanasia debate, those in favour narrowed much more. There were more nurses against than there were nurses who were not in those categories. Perhaps that in itself is a telling point.

The Catholic Education Commission wrote to me on several occasions. In a letter dated 25 October 1995 they stated a fairly predictable point. I will read it because there were some interesting comments in it. They said this:

> Every human being has the right to live and die in dignity. It is not dignified, compassionate or just to kill a person with a terminal disease but it is dignified, compassionate and just to provide:
>
> . excellence in medical treatment;
>
> . palliative care;
>
> . pain relief even if the dosage required does shorten life;
>
> . treatment for depression where appropriate.

They went on to say:

> People with diagnosed terminal illness have always had the right to refuse or discontinue burdensome or futile life-prolonging treatment and this right must be protected. The choice to commence, continue or discontinue such treatment must be that of the person concerned or of the immediate family.
>
> It is morally and ethically unacceptable to permit an individual or group, by direct intervention, to terminate a person's life, with or without that person's approval.

The second last paragraph, I think, is an interesting one. They wrote to me later on, in fact only last week, in relation to their opinion, and also gave me an extract of a talk given by Katrina Lee, of the archdiocese of Sydney. Some of the points she raised also are interesting in relation to this debate. She said this:

> So what is euthanasia?
>
> Almost everybody believes that this issue is about turning off machines. The current debate has nothing to do with turning off machines, nothing to do with discontinuing treatment, nothing to do with providing the best pain relief, even though that could lower resistance levels which might mean the person dies earlier than they might have otherwise.
>
> The current euthanasia debate is about whether doctors should be allowed to provide patients with lethal injections.
>
> There is a simple test which will always tell you whether or not you are dealing with euthanasia. That is to ask: "What would you do if the person lived?"

> If you discontinue treatment and the person keeps living then you keep caring for them. If you provide a pain killer which risks hastening death and the person is still alive then you don't provide further doses unless they are required for more pain. But if it is euthanasia and after giving a lethal injection, for some reason the person is still alive, then you give a higher dose immediately and continue to do so until the person is dead. Because that's the objective you're trying to reach.
>
> Euthanasia is when the cause of death is not the illness or condition, but the doctor.
>
> Euthanasia always involves a second person. That's why it can never be seen as a simple issue of individual rights. If it only involves an individual then by definition, it is not euthanasia. Euthanasia is about how we respond as a community to the person who asks for a lethal injection.
>
> The fact that there is more at stake than choice is easily shown by considering two situations.

She went on to say this:

> The first person is young, healthy, and without disability. The second person is old, dependent on continuing treatment, and has a disability. If both people go to the doctor and request a lethal injection what will the responses be?
>
> Under every proposal for legalised euthanasia the first person who is young and well will be told that they are being irrational and that society can help the person through this. The second person who makes the exact same request but is elderly and unwell will be told that they have made a sensible decision and that society will help them do this.
>
> The difference between who has their value reaffirmed and who is put down does not depend on who makes the request. In both cases the request is the same. This debate always involves a value judgment by certain doctors, that the lives of people who are unwell, elderly, or who have disabilities in some way lack value, lack worth, lack dignity.
>
> When someone is suicidal our response should always be to try to improve the context of someone's life. When someone feels worthless, we try to convey the value that we see in them and help them in any way we can. These are compassionate responses. There is nothing compassionate about telling someone who feels worthless that they are worthless.

> Accepting a system where people who are suicidal can ask a doctor to kill them involves crossing a line which no Parliament in any other country of the world has been willing to cross.

I am not too sure that she is quite right there, because of the Netherlands situation. She continued:

> Only a selfish society would formally treat its most vulnerable members as a burden.
>
> It is a law that can be easily extended, it has its most devastating impact on the most vulnerable, it creates a new and terrible pressure on people who are dying and it has already resulted in some of those who desperately need health care, refusing to be treated because of fear.

Those are just a couple of the letters that I received. I do not necessarily accept everything in either of them. Indeed, opinion polls often can be manipulated, but there are some interesting points raised in relation to that, Mr Temporary Deputy Speaker.

Our society places great value on life. It is something, I suppose, that is part of our Judaeo-Christian beliefs which is still fundamental. It is a fundamental tenet running through our society even though we are a very multicultural society now. I think that has shown itself in the fact that we have not had capital punishment here for about 30 years. One of the reasons for that is that on occasions there was a real concern that an innocent person who had been wrongly convicted was hanged. That was one of the real concerns. I think some proof of that led to capital punishment being repealed in Great Britain. It also was a significant factor, I think, in terms of ceasing capital punishment here.

Just as our society baulks at the legislature taking the life of a criminal, I think our society also has very grave reservations in terms of doctors or somebody else taking a life through voluntary euthanasia. If things can go wrong with capital punishment, things also can go wrong, because of the human error factor, with legislation for voluntary euthanasia. A number of speakers have pointed out already a few problems in Mr Moore's Bill that do cause those loopholes which I think should give us great cause for concern.

A number of other factors are relevant, I think. Whilst the Northern Territory has enacted a Bill, the ACT tends to be sick of being used as a social experiment laboratory, and there is certainly still an element of that in this. I think that is something that our community has great concern about. I do have some significant concerns about Mr Moore's legislation. I accept that there could well be loopholes there. There could well be further problems with this Bill, despite Mr Moore's very honourable and decent intention to alleviate suffering, as he sees it. I think there could be a lot of unforeseen circumstances emanating from this Bill if it became law. There are those other moral factors, too, which I do not think we can underestimate in terms of this issue as well. Accordingly, Mr Temporary Deputy Speaker, as I indicated earlier, I will be voting against Mr Moore's Bill.

MS TUCKER (4.54): My position on euthanasia has not changed since we debated the issue last, and I support this Bill. As I said last year, I have taken this issue very seriously, as I am sure all members have. There are very few issues that require you to confront very fundamental questions about life and death, and underlying values and ethics of our society. I am not going to take a lot of time today, because I think it is already on the record how and why I came to my decision to support this legislation.

I believe that this legislation is not only compassionate; it also is about bringing more accountability into practices which are already occurring. I believe it is about choice. The right to choose to end one's life because of unbearable suffering in the terminal phase of a terminal illness is a reasonable right to be given by society to its citizens. We know that those with power and influence are able to exercise that choice already. I do not accept the slippery slope argument - that we shall end up taking the lives of people without their consent, based on quality of life or economic reasons which are totally out of control. I believe that society can make moral distinctions which would prevent such a progression of events. Obviously, there must be careful monitoring of how this legislation works in practice. Of course, the discussion will move on. People may well argue that this right should be extended to others, but that is not a reason to reject this particular proposal. We must look at issues as they arise.

On the issue of the morality of this legislation, I have to say that I do not see the moral distinction between passive and active euthanasia. Both have as their intention relief of pain and suffering, and both have as their consequence death. The moral jump, if that is what it is seen to be, has already occurred in this Assembly when it passed passive euthanasia. This legislation today is about voluntary choice in the terminal phase of a terminal illness to end one's life. That is for people who are dying already. This is important to remember. This proposal is not based on suffering or quality of life only. It is based on suffering in the terminal phase of a terminal illness.

Mr Temporary Deputy Speaker, as I said in my earlier speech, I have had many meetings with proponents and opponents of this legislation. I have heard both sides use the Netherlands data to support their arguments. I have heard tragic stories of people who, out of compassion, have tried to assist their loved ones to die - sometimes successfully, sometimes not. I ask members to think of just what that experience would be like. I have heard of botched attempts at suicide unassisted. I ask members to also think of how that must be, not only for the person who attempted to end their life unsuccessfully but also for their loved ones; and also for their loved ones even if it was successful - that they had to resort to that length to end what they saw as unbearable. Of course, we also know that patients are being euthanased by their doctors now anyway, without any legislation.

One of the proponents of the legislation for whom I have great respect is Dr Philip Nitschke. Dr Nitschke was in Canberra a couple of weeks ago. I found his reports of the cases in the Northern Territory, where he has assisted people to die in the terminal phase of a terminal illness, extremely moving. He spoke honestly of how stressful it was for him to assist these people to die. He spoke also of how one doctor eventually supported a request for euthanasia once he saw the condition of the patient.

That doctor, who had to witness the degree of suffering before he could move away from his political position, made a very brave step. I wonder how many other people who oppose this legislation, if confronted by the reality, would maintain that line?

I have also talked to a palliative care doctor. I notice that Mr Humphries claimed that he had never spoken to a doctor who supported it. I have spoken to several in the last few months alone. This palliative care doctor from South Australia spoke about the limitations to palliative care, and he acknowledged that it is not always possible to relieve the suffering. I have also spoken to bishops, to the Right to Life groups and to others who fear for the overall impact on the community of such legislation. I respect their views and I understand their concerns. However, I am not able to agree with them on this issue because, as I said, I believe that already this practice is occurring; that already people with influence and money can access this choice. There must be careful monitoring, obviously; but I believe this is a worthy attempt to bring compassionate legislation into this area. We do need to ensure accountability in the process. We must not make it so prescriptive, though, that we are just inflicting further suffering on those seeking relief under the legislation.

Debate interrupted.

ADJOURNMENT

MR TEMPORARY DEPUTY SPEAKER (Mr Wood): Order! It being 5 o'clock, I propose the question:

That the Assembly do now adjourn.

Mrs Carnell: I require the question to be put forthwith without debate.

Question resolved in the negative.

MEDICAL TREATMENT (AMENDMENT) BILL 1997

Debate resumed.

MS TUCKER: I believe that the amendments which Ms Horodny and I put up in the last debate and which Mr Moore has incorporated into this Bill will increase accountability but still allow a workable piece of legislation. Dr Nitschke spoke of the tragedy of Max Bell, who was dying from terminal stomach cancer and drove from Broken Hill to Darwin to take advantage of the legislation in the Northern Territory. As Dr Nitschke explained, false claims by the AMA that there would be some form of legal penalty visited on those doctors who cooperated with the legislation and the last minute change to the regulations that made it mandatory to enlist the services of a Territory specialist made it impossible for Max, and he drove out of Darwin saying he would use the last of his strength to get out of the Territory, and he died a lonely, horrible, out of control death back in Broken Hill. I do not know that legislators in the Northern Territory should feel proud of the way they interfered with the process at that point.

Our amendments that Mr Moore has incorporated in this present Bill basically required that much more detailed information be given to the coroner, including all palliative care options offered to the patient. This will be an incentive for medical practitioners to seek advice from palliative care experts if necessary. They also made it a requirement for the medical practitioner to whom the request to terminate life is made to be familiar with the medical history of the person making the request, especially in relation to the history of the illness which has led to the terminal phase. Continuity of care is obviously an essential element in good health care.

The purpose of the amendment regarding medical records was twofold. Accountability is increased by the requirement that the medical practitioner keep a separate written record of details regarding the request for euthanasia, and this record must go to the coroner. It is to be signed by the patient as well as the medical practitioner. The coroner would also be required to give the Attorney-General more detailed information on the operation of the Act.

Mr Temporary Deputy Speaker, in conclusion, I would like to remind members that the issue of euthanasia is a conscience decision in the Greens. I have, accordingly, made a decision to support this legislation according to my conscience after reading extensively, after listening to people from all sides of the debate and after deliberating over the issue for many hours.

MS McRAE (5.03): My position on euthanasia is known. I have spoken in this debate before. My party's position on euthanasia is known, and I was elected with many people knowing both my party's policy and my position. However, I guess that it is still important to just reiterate some of the key points as I see them, given that the debate has moved from our small chamber into the national arena. I feel that it is important that those people who are willing to support these Bills actually state their position, particularly since it is a conscience vote, where each comes to the decision for different reasons and considering different aspects of life and death, as we do so.

I begin by putting on record my respect for the people who do not support my position and do not support legalising euthanasia. I have a deep respect for that position. I believe that they are motivated by the same deep respect for life as I have. The trouble with the debate as it has gone thus far is that it has polarised us and put some people on the side of the devil and others on the side of the good. I think it is grossly unfair. I think that all people involved in the debate are grappling with the same complex issue and are motivated, in most cases, by the deepest of concern, both for the individuals involved that we talk about and for the principles involved. So, I in no way want to be categorised as having no respect or no concern for people who choose to be on the other side of this debate.

However, where I am willing to go is driven by a deep concern for the autonomy and dignity of individual human beings and for their right to that dignity. I do not accept that this debate is about palliative care. I give my commitment, here and now, that I will do all I can to ensure that palliative care is always well funded and readily available to those in the ACT. I find it grossly offensive to be put in the position, by supporting this Bill,

of somehow wanting to diminish palliative care. I think that is an unfair labelling of a lot of people and it has nothing to do with the debate. Palliative care is there. It should be readily available, and freely available, to all who want it. It has nothing to do with this debate. What this debate has to do with is the dignity and individuality of people and their right to choose.

Mr Temporary Deputy Speaker, we can know about death only through grieving, through the shock of losing someone. That is how we understand death, because we are alive. We know the impact of death on only ourselves and our friends. We experience death through watching it in respect of other individuals; but we as individuals know it only through grieving, and thus can imagine death only by its impact on the people that we most love and the people that we have most contact with. I think that that is forgotten and, again, in the course of the debate, people are put into a category of somehow being wrong to be concerned about the people who will remain after you have died when you are deciding whether to live or die when you have a terminal illness.

I absolutely and fundamentally respect the right of each of us to be more profoundly concerned about those who are left behind than about ourselves, because that is what we know of death. We know individually what happens when somebody that we care about deeply dies. Because we know that, because we live as a network of interconnected, sharing human beings, we cannot walk away from that understanding of what our personal pain and suffering and our closeness to death are doing to other people. I do not accept that somehow it is improper or wrong or bad for anyone to be considering their illness, their situation, in the context of those that are around them. I think that people who choose not to go through prolonged and undignified suffering have the right to do that, on the basis that they know what the impact of that is on the people that they care about most.

For many people, the dignity and focus of their entire lives has been what they could do for others. It has been how they could best support, give, share and ensure that others around them are able to live their lives fully. Those people must have the right, when facing death, to continue in their own way, to die as they have lived - with greater concern for everyone else than for themselves. During the course of the debate I find that that has been belittled, and I want to put on record how important I believe that aspect of this debate should be.

I believe that this Bill deals with some fundamental tenets of what being a deeply caring human being is about. That means that it puts some responsibilities on those who care for people with terminal illnesses to actually accept what is in front of them - which is profound and undignified suffering, which is a situation that the terminally ill person does not seek to be in - and accept the responsibility, as an observer, that maybe they have some role in alleviating that extent of suffering. As I said before, I hope that, in at least 99.99 per cent of those cases, that responsibility is played out in the way that it is played out now with very good palliative care. But the reality of life and death is that that is not the situation for every individual. I think that part of our responsibility as human beings is facing that awesome responsibility of what you do when someone is in a situation of profound suffering.

So, we come down to the two fundamental questions that we are all facing today, that have to be faced as individuals when we choose to vote on this Bill. The first is the choice that individuals should have in terms of their own lives, how they choose to live them, how they choose to face a terminal illness and how they choose to deal with that suffering. The other is whether we have the right. So, one is the question of whether we do have that choice and should be allowed that choice of dealing with a terminal illness by seeking to end it more readily than the normal course of events may allow. The other, very fundamental question is: Do we have the right to ask someone else to facilitate that quick end? That, of course, is the most difficult of the questions, because we are asking of someone else something that I have described before as the most profound act of sympathy, the most profound act of giving, that I could ever imagine.

My answer is that people do have the right. People are infinitely varied in their individuality, in their response to death and suffering, in their response to other human beings and in their response to life. In accepting that individuality and that complexity and myriad of differences, I believe that I should grant people that right to seek death when they are in a situation of intolerable suffering at the end of a terminal illness. That then instantly implies that I give people the right to help that individual face that end. That is not given lightly.

I think that Mr Moore has considered this deeply, and the Bill, inasmuch as responsible legislators can ever put it in place, deals with that, so that the person who is actually involved in that final act of grace for another individual does it in circumstances where it is quite clear that that is the mutual contract between those people; that it is, in actuality, fulfilling the wish of someone else. I think that that cannot be underestimated as a gift, that we can give those assurances to people who are going to be facing the end of their terminal illness. As I have said before, I believe that the mere enactment of this, the mere actuality of that legislation being there and enabling this end to be faced in this way, will mean that a lot of people will not choose that option. Because it is there, it is not so fearful. They know that, if the worst comes to the worst, the option will be there, and so the will to fight can stay all that longer. People can test themselves all that longer.

I do not accept in any way that we are opening floodgates or any of the nonsense that has accompanied this debate. I think we are coming down to these two fundamental questions - do we give individuals the right to determine it for themselves, when at the end of a terminal illness they have reached a point where they can tolerate no more suffering, on their own terms, for their own reasons; and are we able to enable another individual to facilitate that end under very specific and careful circumstances?

I believe that I can say yes to both of those questions in clear conscience. But I think what this debate has done for the community and for us all in the years during which it has been going on has been to raise some very serious questions about our collective attitude to life and death. We have to rethink the overwhelming pressure we put on doctors to perform heroic acts and some of our dishonesty in terms of facing death and suffering. I think, if this debate does nothing else, it should give us a platform to look at all of those issues, to strengthen the hand of palliative care, and to come at an honest appraisal of our attitudes to life and death and the rights of individuals to choose their going in their own way. I commend the Bill to the Assembly.

MR CORBELL (5.15): Mr Speaker, the issues surrounding euthanasia are complex. The balance between the rights of the individual and the responsibilities of our community is a fine one, and in this place we must ensure that we strike that balance in every area in which we have an impact. In relation to the issue of euthanasia, I believe strongly that the individual's right to choose outweighs any imposition on that right which the community may seek to apply. I believe very strongly that that right of choice works both ways. By this I mean that, when a person faces death as a result of being in the terminal phase of a terminal illness, the community must respect and support that individual in whatever choice they make regarding the manner and nature of their death and whether they choose to live or to die. Just as a person who chooses palliative care until death makes an individual choice as to how to face their death, so too does someone who requests to end their life through euthanasia. I do not believe that I can impose my belief on their opportunity to make that decision. I cannot deny them that choice. This is a position that has been held by my party and a majority of members in my party for over five years now and it is a position I firmly support, even though on this issue a conscience vote is allowed to Labor members in this Assembly and Labor members across the Territory.

In my short time in this Assembly I have been deeply disappointed by the level of misinformation I have heard from residents of Canberra in letters and other representations on this issue. One resident wrote to me saying that she would be afraid to enter hospital because her doctor could choose to end her life without her consent. This was not for a terminal illness; this was just going into hospital for some form of operation or treatment. This claim, as anyone who has read the Bill understands, is simply untrue. It is also worse than untrue; it is a misleading and deliberately fear-evoking proposition. I regret that in this debate the views of those who choose to oppose this Bill through misrepresentation and fear are all too vocal. Those who argue against the Bill on principle or belief are, of course, entitled to do so, and it is entirely appropriate that they do. But I do not believe that it is appropriate to suggest to old and elderly people that the Bill will allow doctors to euthanase them at will.

Unfortunately, this example is indicative of the tactics adopted by some - and I stress some - parties to this debate. It also, however, highlights the growing fear in our community that governments and large institutions such as hospitals and nursing homes, in their preoccupation with a purely economic viewpoint, have lost sight of the value of human dignity and of the importance of an individual's experience and beliefs. I agree that this is a central concern in our community at present, as services are put at risk through efficiency drives, purchaser-provider models and other euphemisms for economic rather than humanistic decision-making.

Clearly, from the letters I have received, people in our community are afraid that our society considers them a burden. This perception is brought about not by the introduction of this Bill but by the policies that refuse Canberrans the right to have a say in the decisions that affect their lives and that place their need for employment, education, community services and health care below that of the budget bottom line. I believe that it is the right of all citizens to have access to health and community services, and support for adequate and effective palliative care. Services to support the frail, the ill and the aged must never be jeopardised, and I will continue to work to ensure that these services are not eroded and are, indeed, improved.

In supporting this Bill, I would like to state very strongly - and I hope all the members supporting this Bill would agree - that it is based on a deep respect for individual dignity and humanity. Consequently, any moves to allow doctors, health professionals or any other person to impose treatment on an individual without their consent, such as has been claimed by the opponents of this Bill, is completely in contradiction to the principles of it. Any moves to amend the Bill to allow this or any sign that it is being practised, either now or after the passing of this Bill, I am sure would be rigorously opposed.

Mr Speaker, this Assembly has the clear authority to make this law. The citizens of this Territory should not be denied the opportunity to make a law which could legitimately be made in any of the States of Australia. In debating this Bill, I firmly believe that we must remember that at the heart of it is the right of a person who is terminally ill and whose suffering is unbearable to them. It is about their right to choose, according to their own conscience and belief, how they face their suffering. I personally believe that it should not be something dictated to us by the state, by churches, or by any one person's individual belief.

A request for assistance to die is one that can be made only by the individual. I am confident that the safeguards that are provided in this Bill ensure that that choice is made freely and in an informed manner. Mr Speaker, as a member of this Assembly, I feel strongly that we cannot deny those who suffer a terminal illness - a situation no-one in this Assembly has faced - the opportunity to choose how they will die, in what manner and at what time. This Bill provides for that, and I urge members to support the Bill.

MS REILLY (5.23): I rise to speak in support of this legislation. This is the first time I have spoken about this matter in this place, even though it has been discussed before. This issue is not a new one for me because, as other members of my party have mentioned, it has been a part of our policy for a number of years and there have been a number of discussions about it. It is not an issue that has been treated lightly; it is an issue we have looked at very carefully, and we have considered what the consequences of its introduction will be. I wish the interest in how I am going to vote on this that has come from various sections of the community and the media was sometimes shown in relation to other issues, because this is only one small issue in the community in the ACT. Unfortunately, we do not seem to be able to show an interest in the broad aspects of life.

In looking at the issue before us today, I want to point out several things. This Bill considers and strengthens the rights of the terminally ill, and that is really important. It is the rights of the terminally ill that are important, not just the issues surrounding doctors or relatives or other people. This legislation will give these people some say about what happens to their medical treatment, and I think that is important. This moves it away from "doctor knows best". The issue is broader than just looking at pain. A lot of the discussion about euthanasia and the issues surrounding it is about the alleviation of pain, but we are also talking about choice - the choice people have about treatment, how they want to organise their lives, how they want to live their lives, and when they decide to die. It is about access - access to information, access to the best ways of making decisions about various aspects of your life. It is also about control.

It is about who is controlling the situation in relation to treatment. Does a doctor or the institution a person may be living in have control over what is happening, or is the patient or the person who is terminally ill the centre of any decision-making situation? Often, it is not the terminally ill who get any say in what happens.

We need to take away some of the myths about the time of dying. It is almost fallacious, at the end of the twentieth century, to talk about a time to die and about not interfering with this natural process. In fact, we have gone beyond natural death in a large number of circumstances. Medical technology has changed forever the meaning of natural death. In the discussions in the community, in information that has been sent to me and in the debate here today, there has been very little mention of medical technology and the impact it has on death at this stage of the twentieth century. Medical technology allows the prolonging of life beyond its capacity to have any quality or dignity, and we have to recognise this. I find quite shocking how little discussion there is about the introduction of various medical technologies. This is the major ethical issue we need to consider now, but we seem to concentrate on euthanasia instead of looking at all the aspects of death. It is not just a matter of pain relief; it is a matter of looking at the way in which people die. There are now many interventions that can change the process of dying from the way our forebears looked at it.

The other view that is often put is that voluntary euthanasia will become involuntary euthanasia. It is said that the safeguards in the legislation will not be sufficient, that euthanasia will become involuntary just through usage or slackness. We need to accept that involuntary euthanasia is happening now in our community, often through the actions of medical practitioners and others in the field. In some cases, it is left to the families to make the decision, leaving them open to possible future legal action. It is an unfair decision for any family to have to make.

I mention a study by Singer and Baume that replicated the Netherlands study done in about 1991. This was discussed on Radio National last week, and it has been printed in the *Medical Journal of Australia*. In the replication of the Netherlands study, 3,000 doctors in Australia were sent a questionnaire. The doctors were chosen on the basis that they had something to do with people who were dying. They worked with people in nursing homes, in hospitals, in palliative care, so they were doctors who had experience of death, which I think is an important part of the consideration of the results of the survey. The study found that 30 per cent of deaths in Australia were hastened in some way, and there were a variety of ways in which they were hastened. The finding of most interest to me was that in respect of 3.5 per cent of these deaths there was no request from the patient for the death. This figure is five times the involuntary euthanasia figure for the Netherlands, which is presented as the ogre, as though the introduction of legislation in the Netherlands has resulted in substantial involuntary euthanasia taking place. In Australia, we have no legislation, but we still have medical practitioners deciding when people should die through the actions they take. We have to ask: Who is making the decision in these situations? The medical practitioner is making the decision. Is that the person who should be making the decision? What about the rights of the individual, the rights of the terminally ill? This legislation looks at that and gives those rights back to the terminally ill person. That is an indication that this legislation will stop involuntary euthanasia in Australia. It provides protections; it provides safeguards.

One of the issues that have been mentioned is the pressure on older people, on people living in nursing homes. Let us consider those people and the legislation as it stands. Being old is not a terminal illness, necessarily. It is a fact of life that most of us will get old at some stage, and I do not see why we believe that people who are elderly have fewer rights than others. Those who suggest that there will be pressure on people in nursing homes to accept voluntary euthanasia have not visited many nursing homes in recent times. A number of people who are living in nursing homes now would not fit the criteria of this Bill. One of the problems for those working in nursing homes is the number of people with dementia, who do not fit the criteria of this Bill for making a decision to participate in voluntary euthanasia. So you cannot use the old people living in nursing homes as an excuse not to introduce this Bill.

Another consideration is the view that good-quality palliative care will resolve all the issues in relation to people with terminal illnesses. Palliative care is certainly a means by which a number of people manage the situation when they are in the last stages of a terminal illness. In many circumstances, palliative care addresses very well the pain associated with some terminal illnesses, but this is only one part of the dying process. No matter how good the palliative care, no matter how caring the people working there, some pain is not able to be relieved through palliative care.

We will not be able to put in the dollars that will change that situation. It comes back to what I mentioned previously about the changes in medical technology. We are seeing the development of cancers following previous treatment. People have managed to get treatment for the first series of cancer, but the second ones are more painful and result in more difficult deaths. We need to address this issue as a community, and this is one way of doing that. We also need to consider that, when people are in the final stages of a terminal illness, physical pain is not the only issue. We need to consider their mental suffering and listen to what they are saying about their needs. Pain relief may not be the only answer. With some forms of pain relief, there are side effects that create problems. It is not just a matter of saying that if you give certain types of drugs it will be all right.

In relation to palliative care, doctors do recognise that the various drugs that are available cannot always fix the physical pain. There is evidence from doctors that one way of overcoming this is to give patients considerably more of the drugs so that they go into a deep sleep, which often leads to death because of the associated illnesses that develop. Of course, they say that this is not euthanasia. I am not sure of the difference between giving a person the right to make the decision, which is voluntary euthanasia, and a doctor deciding the amount of medication he or she will administer. It still leads to death, but we do not use the word “euthanasia” in that situation. We quite often leave the person suffering for several more days until the other infections that develop take their course. I wonder whether that is a caring way of addressing the situation.

There is no doubt that some of the discussion in the community about terminal illness, about death, is an indication of the problems we as a society have in handling death. Other members have talked about what we do not know about death, and I think it is a fact that fear of the unknown affects the way we look at it. We do not know how much we will suffer through the death of a loved one, but we cannot decide not to go ahead with this legislation because we are scared. We have to look at the rights of the individual. They are the ones who have to make the decision.

There should be the opportunity to choose voluntary euthanasia for those who wish to choose it. We are talking about a very small group in our community, but that is no reason why they should not have the opportunity and the access if that is what they require. They also need to have access to information, and it is important that we provide all the information people want and that those safeguards are in the legislation. In the end, the decision has to be made by the individual, and it should be made with as much freedom as possible and without censure.

If we introduce this legislation, we will move to a situation where it is the individual who will be making the decision; it will not be the decision of the medical practitioner, without consultation with the individual. Our community will be strengthened through empowering individuals to make decisions about their lives. This Bill will give individuals the choice to make decisions about how their lives will end, in the circumstances set out in this Bill. I encourage members to support the Bill.

MRS LITTLEWOOD (5.37): I move:

> That the debate be adjourned.

I seek leave to speak briefly to the motion.

Leave granted.

MRS LITTLEWOOD: Mr Speaker, I find myself in a very difficult situation. Only eight days ago I was sworn in to this Assembly. Today I have before me a Bill of enormous magnitude, one that will have great impact on the life or, as it may be, death of people. During the time I have been here, I have heard from both sides of the argument. Those views have come from the lobby groups and, like Ms McRae, I respect both sides. However, I do not believe that at this particular point I am properly informed, and I would like to look at various alternatives before I make my decision. I would like to talk to the people in my electorate and I would also like to investigate the possibility of a referendum. I do not believe that at this point I have enough knowledge to make the decision, and I do not wish to be forced into making a decision I would regret, Mr Speaker.

Question resolved in the affirmative.

ADJOURNMENT

Motion (by **Mr Humphries**) proposed:

That the Assembly do now adjourn.

Medical Treatment Legislation

MR MOORE (5.39): I would like to put on record the respect that I believe all members have for each other in the issue we debated today. The issue may well come back into this house, depending on the outcome of Federal legislation. I know that throughout the day, as opinions have waxed and waned on what might be the outcome of this debate, members I have spoken to have all said that the most important thing is to respect individual members' rights to make up their own minds on the issue. I believe that that is a very important part of what we are trying to do with the debate in its full context.

Question resolved in the affirmative.

Assembly adjourned at 5.40 pm