



Speech by

Hon. K. LINGARD

MEMBER FOR BEAUDESERT

Hansard 6 December 2001

GUARDIANSHIP AND ADMINISTRATION AND OTHER ACTS AMENDMENT BILL

Hon. K. R. LINGARD (Beaudesert—NPA) (12.38 p.m.): I rise to speak on the Guardianship and Administration and Other Acts Amendment Bill 2000 on behalf of the shadow Attorney-General and member for Southern Downs who, as I have already indicated, is taking his father home after a heart operation. This bill relates to the withholding or withdrawal of life-sustaining measures when the commencement or continuation of those measures is inconsistent with good medical practice. The act relates to adult patients who cannot make their own decisions—for example, if they are unconscious. As all members are aware, this issue is problematical and fraught with many delicate, moral and ethical concerns.

I congratulate the minister on approaching this issue with sensitivity and consulting widely with concerned citizens. This bill moves to clarify the jurisdiction of the Guardianship and Administration Tribunal and the ability of a guardian or attorney, commonly known as next of kin, to consent to life-sustaining measures being stopped or not being commenced in accordance with good medical practice. Legal concerns have been raised that, as it stands, the act necessitates all cases of stopping special life-sustaining measures to go before the Guardianship and Administration Tribunal. We share the minister's concern that this situation would be unworkable. Where there is agreement between both the doctor and the next of kin that the cessation of treatment is proper and in accordance with good medical practice, there is no necessity for the tribunal to be consulted. If the tribunal had to be consulted in all cases, its workload would become impractical and would result in unacceptable delays for sensitive cases. The issue can and must still be able to be taken to the tribunal or the Supreme Court if there is any dissent.

We are satisfied that in acute medical emergency decisions the stopping of artificial nutrition and hydration are not included, yet I would ask the minister to again confirm this. In acute emergency situations, the doctor, in accordance with good medical practice, may stop or not commence special life-sustaining measures. In such cases, artificial nutrition and hydration decisions are not emergency and allow time for consultation. I also await the minister's clarification and amendment to the comment in the explanatory notes regarding the United Kingdom case of Airedale NHS Trust and Bland. Considerable concern has been raised that this case changes the status quo in the cessation of treatment. We have been assured that that is not the intention, and I ask the minister to confirm this on record. Also, the addition of the term 'in the best interests of the patient' has raised some concerns. It has been raised that this term may not be needed in light of the existence of the term 'good medical practice' and that the best interest of the patient is the continuation of life.

I remind the backbencher who took a point of order against me today on a practicality and who is talking to the minister now that we are supporting this bill and it is extremely indecent of him to sit there and talk to the minister. He took a point of order against me today yet he sits next to the minister now and talks. Returning to the bill before the House, it has been raised that this term may not be needed in light of the existence of the term 'good medical practice'. I ask the minister to clarify the reasons for the addition of this term. Lastly, I am glad to see that the right of the guardian or attorney, commonly known as the next of kin, to be consulted and give consent to these important decisions will be legislated.