

**JOINT SELECT COMMITTEE ON END-OF-LIFE CHOICES**

*Assembly's Resolution*

Message from the Assembly requesting concurrence in the following resolution further considered —

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution —

That —

- (1) A joint select committee of the Legislative Assembly and Legislative Council on end-of-life choices be established.
- (2) The committee inquire into and report on the need for laws in Western Australia to allow citizens to make informed decisions regarding their own end-of-life choices and, in particular, the committee should —
  - (a) assess the practices currently being utilised within the medical community to assist a person to exercise their preferences for the way they want to manage their end of life when experiencing chronic and/or terminal illnesses, including the role of palliative care;
  - (b) review the current framework of legislation, proposed legislation and other relevant reports and materials in other Australian states and territories and overseas jurisdictions;
  - (c) consider what type of legislative change may be required, including an examination of any federal laws that may impact such legislation; and
  - (d) examine the role of advanced health directives, enduring power of attorney and enduring power of guardianship laws and the implications for individuals covered by these instruments in any proposed legislation.
- (3) The joint select committee consist of eight members, of whom —
  - (a) four will be members of the Assembly; and
  - (b) four will be members of the Council.
- (4) The standing orders of the Legislative Assembly relating to standing and select committees will be followed as far as they can be applied.
- (5) The joint select committee report to both houses no later than 12 months after the committee has been established.

and requests the Legislative Council to agree to a similar resolution.

*Motion to Concur*

Resumed from 22 August on the following motion moved by Hon Sue Ellery (Leader of the House) —

That —

- (1) In response to Legislative Assembly message 15 the Legislative Council agrees to the Legislative Assembly's resolution for the establishment of a Joint Select Committee on End-of-Life Choices; and
- (2) the Legislative Assembly be acquainted accordingly.

**HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary)** [3.38 pm]: I rise to support the motion on the establishment of a Joint Select Committee on End-of-Life Choices. I welcome the opportunity to put my thoughts on the committee on the record and to contribute to the debate, because although there has been widespread debate on this motion, there are still a number of points for consideration I would like to recommend to the committee through this debate. In addition to that, irrespective of whether I think I have something new or different to add, I will not be gagged on this issue. I will not be gagged by those opposite suggesting that this debate has gone on and on. I have something to contribute and I will contribute, and no-one will tell me otherwise. In addition to that, I may cut short my contribution because other members are eager to participate, but I will do that only by my choice, not because of pressure from members opposite trying to gag me. This is not filibustering.

*Point of Order*

**Hon NICK GOIRAN:** Mr Acting President, can you confirm for the house whether it would be possible for us to provide the honourable member with an extension of time if she asks for one?

**The ACTING PRESIDENT (Hon Martin Aldridge):** It is not a point of order, but perhaps a point of clarification is that the house could agree to such a request.

*Debate Resumed*

**Hon ALANNA CLOHESY:** Thank you, Mr Acting President. I will not be accused of filibustering, as members opposite have accused those who spoke before me. I am not doing that; I have some points to make, and I will make them. I recognise that this debate causes a great deal of emotion, and that there are a great range of views on this issue. I have not had the opportunity to put my view on end-of-life choices before this Parliament or in the previous Parliament, in part because no bill came before the Parliament. I doubt whether any bill, or any other mechanism such as a joint select committee, would have got very far in the previous Parliament anyway. For the record, I support patient-centred end-of-life choice, but with appropriate safeguards. That is why I think it is really important that those safeguards and those choices are debated extensively in a forum in which some respect will be paid to those issues, and where the issues can be researched thoroughly and given the attention they deserve. I recognise that end-of-life choice is not for everyone, and there should be a continuum for people to choose from, ranging from palliative care through to other end-of-life choices.

There are a lot of reasons that I support this motion, but in part it is because of the public importance of this issue and also because of the relevance of the committee process—I will talk about that in more detail—and finally because of the breadth of the examination of issues. Being able to debate this issue without any attempts at ridicule or attempts to make members feel as though they should not be making a contribution is really important, and that is why I support this issue going to a committee. The political ploys that have been tried around accusing members of filibustering and making them feel that they should not make a contribution will not be tried in a select committee. I support committee processes and working collaboratively. Those who have worked on committees with me will recognise that I work in a very open and thorough way with all members on the committee. That is why I think a select committee is a good place for the discussion of these issues. I think that, on the whole, most members also enjoy working on committees and enjoy the collaborative approach that committee work brings.

Having said that, in the last few years, community concern and interest in this issue has increased. It is not just, as has been suggested, a small group of people concerned about this issue; it is an issue that is the subject of widespread interest, and I have felt that through my electorate, and from the number of people who have contacted my electorate office from the time I first became a member of Parliament.

I have been contacted about an array of issues to do with end-of-life choices, not about any particular one issue. Since the debates took place in this Parliament during the thirty-eighth and thirty-ninth Parliaments, a number of issues have changed. Technology and people's views and experiences have changed. Members who have had personal experience of this issue will feel more inclined to contribute to the debate than if they have not. I hope to contribute to the debate based on my own personal experiences but within a broader public policy context.

As I said, views and practices have changed generally and have moved on since the earlier debates that were held in this place. That people still want the opportunity to die with dignity has not changed. They want the opportunity to do that in a way that does not compromise them, their loved ones or their health professionals. Dignity is the word. They want to be able to make that choice and to end their lives in a way that allows them some dignity and respect. I recognise that this is an emotive issue on all sides. Emotions run high around the issue of dying in any case, irrespective of whether there is an end-of-life choice. Death and dying are not matters that are easily experienced by anybody at a personal, family, institutional or, indeed, societal level, particularly in western societies. It is even more complex and difficult when there are end-of-life decisions to be made and either the person who is dying is no longer able to give direction about their care or, as in tragic or traumatic circumstances, they are unable to. That makes the decision-making even harder. I need to be frank; those decisions are being made already. End-of-life decisions are being made on behalf of people who are in the process of dying. Those decisions are being made through a slow increase in pain relief to a point that hastens end of life—that happens. There is clarity in the law for some physicians about how pain medication can be increased to hasten end of life but the scope is very narrow. Medical practitioners could find themselves compromised in a whole range of circumstances, but it goes on every day. This needs clarification and we need greater safeguards, not only for the person who wants to die with dignity and wants a choice about how they end their life, but also for the protection of medical practitioners and their staff in medical facilities. The slow increase in pain relief to a point that hastens end of life is not often talked about. It is something that I have experienced in my family. Families are not often given the chance to talk about that until that decision has to be made. That is not a good situation for anyone. It does not put the patient at the centre and it certainly does not put the supportive family around the patient. I know that we have end-of-life directives and, to a certain extent, they work well if a person can make those directives while they are still cognisant, but if a directive is put in place when a person is dying, there are still a number of concerns about the gaps that exist within them. When they work, they work well for people who use them. We also know that fantastic palliative care services are offered by physicians and organisations throughout Western Australia, including the fantastic organisation Palliative Care WA. Palliative care eases people's pain and assists them through the last part of their life. Palliative care is one part of what I see as a continuum for people to be able to

make choices about how their life will end. We make choices in our lives all the time, but it is not until we get to the end that those choices are taken away from us. One of the other continuum-of-care issues or issues around advance health directives is enduring power of guardianship. Very clear end-of-life directions can be made on behalf of people who have in place an enduring power of guardianship. However, that power is very limited and can only occur under certain circumstances. We need to consider a range of options for people.

One of the other things that I want to talk about is the relevance of the committee process to this issue. We saw on display a gamut of tricks and treats that can be performed within a parliamentary setting in order to make people feel uncomfortable about the debate and not participate in it. When we take the debate out of the theatre of the chamber, the issues can be looked at in surprisingly close depth and members can have discussions around issues that they would not necessarily be able to have whilst performing in the theatre of Parliament. That is one reason it makes good sense to discuss, debate, review and research this issue in a select committee. I would just like to talk about the breadth of the consideration. When we debate a bill, it is not a particularly broad debate because it is focused on the scope of the bill and that is as far as the debate can go. A really good reason for a select committee to look at this issue is that the debate, the review and the research can be much broader than the narrow debate about the scope of the bill. A really good and important reason for establishing a select committee is that its scope will be much broader. There is a need to look at the broad range of concerns and considerations in this issue. The terms of reference have been developed in such a way that they are necessarily broad, and that is a very good thing. As I said, it is really important that we look at a continuum or scope of end-of-life choices for people, including an advance health directive, an enduring power of attorney, an enduring power of guardianship and other issues that we have not had the time to debate or explore in this place. For example, what safeguards should be put in place to ensure that people with a serious physical illness are eligible for end-of-life choices? We need clear definitions in the debate about safeguards. Western Australia is not the only jurisdiction to grapple with this issue; many jurisdictions have grappled with this issue, particularly eligibility and who should be able to access end-of-life choices, such as people with mental illness. We are not the first jurisdiction to deal with that issue, and I think that issue will be dealt with very well by a select committee because it can look at the way the issues are being dealt with broadly in other jurisdictions.

Those are the main issues that I wanted to bring to the attention of the select committee should this motion to establish a select committee be successful. I note that a select committee will provide unique interface within the community and will involve people who both support and do not support end-of-life choices, medical practitioners, religious organisations or individuals who have just experienced this in their life. The committee will have a great opportunity to open the doors of Parliament, if you like, to hear from those people and to talk to them to learn about their experiences and analyse and construct for the benefit of both houses a report that we can consider as a direction forward and into which members of Parliament and the community will have all had input and a say.

**HON MARTIN PRITCHARD (North Metropolitan)** [4.08 pm]: I am very pleased to have an opportunity to talk on this motion. I fundamentally disagree with those on the other side of the house on this issue: this is a very important opportunity for everybody in the chamber to put on the record how they feel about setting up the committee and what their thought processes will be over the next 12 months. The reason I say that is that if anybody thinks that we as members of this house will not be individually lobbied over the next 12 months, they are kidding themselves. This is a very hot topic in the community and many organisations, groups and individuals will endeavour to either entrench members' current views or dissuade members from their views. Without in any way, shape or form reflecting on how people in this chamber will vote, I make these points.

The Legislative Council of the fortieth Parliament is very interesting. I have not seen such a large diversity of views in previous Parliaments. That means there are opportunities for members of this house to support or not support or take a multitude of different views on issues. Should members take this opportunity to put on the record where they currently stand, that will, I think, convince the committee to do a very thorough job of reflecting the community's views on this issue. The committee will have to take into account that although it may have some notion of what could happen in the other house, it would be very foolish to take anything for granted in this house. Suggesting that we might just follow the party line in any way, shape or form disenfranchises the committee. I encourage every member in this place to stand, unless they have already made up their mind and will vote a particular way. As I said, that disenfranchises the committee.

**Hon Peter Collier:** This is not the committee. This is not the issue. We will have our say when the issue comes to this place.

**Hon MARTIN PRITCHARD:** I do not take interjections, but I will make a comment on that: I agree with Hon Peter Collier—100 000 per cent I agree with him. The committee will make a recommendation and this house, in conjunction with the other house, will ultimately make a determination. I am trying to say that the committee has to take that into consideration. I believe that will ensure that the committee will do a more thorough job, rather than, as I said, taking this house for granted. Every member of this house should stand and say not necessarily how they will vote in 12 months' time, because I hope members will be open to lobbying, dissuasion and persuasion and such, because at the end of the day I want the right outcome as sought by the majority—I have

to say the majority—of people within my constituency. I hope everybody here has exactly the same view. At the end of the day, we want to try to move with community standards. I have said that the make-up of this chamber provides a unique opportunity.

An amendment was moved earlier, and I supported one part of it but not the other. I did that for a number of reasons, one of which was that I thought the amendment was not necessary. I thought the original wording was sufficient. But I took my stance on the amendment on the basis that I wanted to send a message to the committee and my constituency that I am open to a good argument. I have listened to the arguments and I have been sitting back for a considerable amount of time and balancing my views on what has been debated. That is what I think we should all do. It was an opportunity to get on the record that I am open to listening to a reasonable debate.

I want to comment on the Labor Party and the conscience vote on this issue. Although I am sure that the Leader of the House will not appreciate it, I congratulate her on her conduct in ensuring that members on this side understand that they have a conscience vote. Irrespective of what I suspect to be her views on this issue, she has not in any way, shape or form tried to influence members on this side about making a contribution, not making a contribution or voting on either the amendment or the substantive motion. I congratulate her for that. The Leader of the House is a particularly persuasive person, and if she had turned her mind to it, she may have achieved at least some part of what she would maybe like to achieve. I congratulate her for showing that restraint. I appreciate it, and I want to put it on the record.

Debate interrupted, pursuant to standing orders.

[Continued on page 3158.]

*Sitting suspended from 4.15 to 4.30 pm*