5. In what circumstances should the patient's agreement be necessary;

6. Whether third parties can provide valid agreement in circumstances in which the patient is incapable of providing it; and

7. Whether children can provide valid agreement, and whether there are any public policy limits on the autonomy of children.

While the latter part of this bill, and particularly sections 16 and 17, also purport to deal with these matters, I do not intend at this time to discuss them or the issues they raise because they are similar to the provisions of Bill C-203, an act to amend the Criminal Code, which will be known as the terminally ill persons act, and they will be discussed by others in the committee hearings on Bill C-203. I would just point out that these fundamental issues are not addressed by the provisions in the latter part of this bill.

I am here more concerned with the voluntary euthanasia provisions of this bill, and in this connection some background information may be useful. The bill is remarkably similar to the voluntary euthanasia legislation bill which was debated in the English House of Lords in December 1936 when second reading was moved and lost. This bill had been introduced in the House of Lords, it had never been debated in the House of Commons. The bill has been briefly summed up as follows: "The English Bill of 1936 requires that the patient shall be twenty-one years old (the age of majority at that time), of sound mind, and suffering from a fatal and incurable disease, accompanied by severe pain. A formal application is to be signed by the patient in the presence of two witnesses and submitted to the euthanasia referee, an official appointed by the minister of health, together with two medical certificates, one from the attendant doctor and the other from a specially qualified practitioner. The referee is to conduct a personal interview of the patient and establish that he fully understands what he is doing. Euthanasia is to be administered by a licensed practitioner in the presence of an official witness, such as the minister of religion or a justice of the peace. The bill sponsored by the Euthanasia Society of America is very similar, but provides for application to the courts for a certificate, the courts being empowered to appoint a committee of physicians and others to investigate the case."

This bill was severely criticized at the time and, as indicated earlier, never became law. Citing again from the same author: "This approach to euthanasia has been criticized as cold bloodedly formal and cumbrous, and Dr. Glanville Williams, who was the noted English academic authority on criminal law, has suggested that a more acceptable proposal would be to provide that no medical practitioner should be guilty of any act done intentionally to accelerate the death of a seriously ill patient unless it is proved that the act was not done in good faith with consent of the patient and for the purpose of saving him from severe pain in an illness believed to be of an incurable and fatal character".

• (1830)

Dr. Glanville Williams' advice was subsequently adopted in the voluntary euthanasia bill, which was introduced in the House of Lords in March 1960. As was the case with the 1936 bill, it was rejected on second reading.

The bill we have before us for debate is the 1936 English bill, with the addition of the good faith protection for medical practitioners, which in the 1960 bill replaced the earlier, more formal approach. Bill C-261 has thus been cobbled together with two English bills which were never debated in the English House of Commons and which did not obtain second reading in the House of Lords.

The only concession to Canadian content has been to replace the minister of health with the Attorney General of Canada as a person with the dubious privilege of designating the official to be known as the euthanasia referee.

Another difference is that in this bill, there is no requirement for official witnesses to the administration of euthanasia.

Most of this bill was prepared before World War II and its application is not restricted to the terminally ill. It applies to what is termed an "irremediable condition", which is defined as "an incurable illness, disease or impairment". This definition would include mentally disordered persons as well as persons with developmental handicaps and physical disabilities.

An hon. member: Even ageing.

Mr. Horner: Do not tell me that, please. It reflects an attitude by some that persons in these conditions were a burden to society and would no doubt wish society to help remove the burden if it were possible to do so in a legally valid manner. To put it bluntly, this English bill was part of another era and we need to devise a modern solution to modern problems. Importing a bill which was