HOUSE OF ASSEMBLY

Wednesday, 16 November 2016

The SPEAKER (Hon. M.J. Atkinson) took the chair at 11:01 and read prayers.

The SPEAKER: Honourable members, I respectfully acknowledge the traditional owners of this land upon which this parliament is assembled and the custodians of the sacred lands of our state.

Parliamentary Committees

NATURAL RESOURCES COMMITTEE ALINYTJARA WILURARA REGIONAL FACT FINDING TRIP

The Hon. S.W. KEY (Ashford) (11:03): I move:

That the 117th report of the committee, entitled Natural Resources Alinytjara Wilurara Regional Fact Finding Trip, be noted.

On 4 to 7 April 2016, the Natural Resources Committee visited the Natural Resources Alinytjara Wilurara region as part of its schedule of visits to the state's eight natural resources management regions. On the visit with me were fellow committee members: the members for Napier and Flinders, the Hon. Robert Brokenshire MLC, the Hon. John Dawkins MLC, the Hon. Gerry Kandelaars MLC and the member for Elder, who has since resigned from our committee.

The visit provided us with an opportunity to meet with a wide range of Department for Environment, Water and Natural Resources (DEWNR) staff, AW NRM Board members, traditional owners and community members. Alinytjara and Wilurara are the Pitjantjatjara words for north and west respectively, reflecting the region's location in the state. With more than 11 million hectares, Natural Resources Alinytjara Wilurara comprises more than half South Australia's public land, and more than half the region's area is dedicated Aboriginal lands owned or in trust with three major land holding authorities: APY lands, the Maralinga Tjarutja lands, and Yalata.

Due to the large size of the region and the challenges and costs inherent in undertaking a visit to remote regions, the committee visited only the southern portion of the region on this trip. Three years ago, the committee visited the northern portion, the APY lands. The findings of that visit are contained in a separate report tabled in the House of Assembly on 24 September 2013.

Accompanying the committee on this visit and providing comprehensive background information and commentary were the AW NRM Presiding Member, Mr Parry Agius, and the NRAW Community Engagement Manager, Mr Bruce Macpherson. Over the course of this four-day visit the committee also meet with many other regional and community staff and board members, whose knowledge and presentations helped informed this report, and I extend my thanks to them.

The committee observed firsthand many excellent projects undertaken with support of the NRAW staff and the AW NRM Board. On day one, the committee saw the recently completed Oak Valley water supply system, comprising 28 kilometres of pipeline, installed by a team of 12 men from the community using a special cart designed and built at Oak Valley expressly for this project. Water is supplied through the new pipeline from six bores via solar pumps to a tank facility near the community, and the members were impressed to learn that this system replaced a truck, which had previously carted 2,700 litres of water into the community every day, a four-hour round trip.

As well as providing this critical water supply, the project provided training and paid meaningful employment to members of the Oak Valley community. The water supply project was implemented in partnership with SA Water's remote communities group, and funded through the state and federal governments. Later that day the committee flew to Maralinga, where we meet with the incoming village caretaker, John Harrison, and toured the area with the outgoing caretaker, Robin Matthews, who is a long-time resident of Maralinga and very knowledgeable about the area's history and culture.

The committee heard that, although local people were understandably still very wary of the area, their confidence and desire to be involved with telling the story of Maralinga was growing, underpinned by the support of the commonwealth, the state Environment Protection Authority, the AW NRM Board and rollout of the state's co-management policy. This desire was reflected in the decision to support a tourism venture, Maralinga Tours, run by Mr Matthews with traditional owners' permission.

On day two, the NRC members drove from Ceduna to Googs Lake via Googs Track. At the lakes camping area, the committee met with the local traditional owners and NRAW staff to hear about the remediation of public areas and how the introduction of a statewide co-management policy assisted the project. The committee also heard that combining AW and Eyre Peninsula NRM staff in a single Ceduna NRM office was also beneficial.

It was explained to us that the rehabilitation project at Googs Lake had helped reduce negative visitor impacts and reverse the damage already done to the project, the area's cultural heritage and environmental values. A community meeting to start the project reportedly resulted in a strong and diverse turnout, reflecting widespread support for the project from all sectors of the community.

The take-home message seems to be that the solutions are found within communities and that co-management works. The committee was impressed with the co-management in the AW region, and we strongly encourage its ongoing support. On day three, members visited Yalata community and Aboriginal Lands Trust, including the visitor centre at Head of Bight where tourists can view whales seasonally.

Over the last two years, the Aboriginal Lands Trust has invested over $250,000 in the cultural centre with support from the Indigenous Land Corporation and the state Department of Planning, Transport and Infrastructure. Improvements include a solar photovoltaic power system for reliable energy supply to the centre and caretaker's house, and the resealing of the car park and access road. A grant from the Indigenous Land Corporation funded the construction and refurbishment of the boardwalk and shelters which had degraded in the harsh weather.

Ms Colbung said there had been concerns about the effects of recent seismic testing on the whales in the Bight, with surveys indicating lower numbers of whales visiting the Bight while seismic testing was ongoing rather than in previous years. The committee heard that Curtin University had been engaged by the oil and gas industry to conduct analysis of whale migration to the Bight. Previous annual visits were about 160 whales, but the 2015 migration season had only seen about 90 whales. This was a record low. However, I am pleased to note that the Curtin University researchers have recently recorded a high number of whales returning in 2016 since the seismic testing concluded.

On day four, the committee visited the Murrawijinie Caves on the Nullarbor Plain where we heard about the tourism and protection of cultural heritage. Next, we visited the Bunda Cliffs and heard about a track rationalisation project which was improving the local environment and increasing visitor safety. Members then travelled back to Ceduna Aboriginal Arts and Cultural Centre for a comprehensive debriefing—and I might say, spent a lot of money in the cultural centre—before flying back to Adelaide.

I commend the members of the committee—the member for Napier, the member for Flinders, the Hon. Robert Brokenshire MLC, the Hon. John Dawkins MLC and the Hon. Gerry Kandelaars MLC, and former committee member the member for Elder—for their contributions to this report. I would like to emphasise the great work that has been done by the parliamentary staff, Mr Patrick Dupont and Ms Barbara Coddington, for their assistance. I commend this report to the house.

Mr TRELOAR (Flinders) (11:12): I rise to contribute today to the discussion of the 117th report of the Natural Resources Committee on the fact-finding mission to the AW NRM group. I was particularly pleased as a member of the NRC committee of this parliament to be a part of this trip because some of the electorate of Flinders is within the AW NRM region, even though it is much vaster than the far west of the state. As the Presiding Member, the member for Ashford, mentioned, Alinytjara Wilurara are the Pitjantjatjara words for north and west, so it aptly describes that part of the state with which we are dealing.

The Presiding Member has given an excellent summary of our trip, but it was particularly insightful for me because I was able to visit some parts of my electorate that I had not had the opportunity to visit previously. Others, of course, I revisited. I drove to Ceduna from my home on the southern part of Eyre Peninsula and met with the rest of the group.

Mr Pengilly: At what speed?

Mr TRELOAR: At 108 km/h, member for Finniss, of course. Why do you ask?

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr TRELOAR: This visit was part of a number of regional visits we had been undertaking as a committee. Our intention is to visit all of the AW NRM regions throughout the life of this parliament, and it is particularly insightful. We are a well-travelled committee, a hardworking committee. It is a pleasure to be on this committee and it is an honour to visit so many beautiful parts of this state.

We met in Ceduna, and the first part of the expedition was to visit Oak Valley. We hopped on a plane and flew to Oak Valley, where we inspected a newly installed water system which will aid that community. Some of the work at least was done by residents of the Oak Valley community. The water will be conducted through a pipeline from six bores now, five that are fresh and one mildly salty, via solar powered pumps to a tank facility some eight kilometres outside the community. The water is then treated and gravity-fed into the community from this point. Communities, of course, are much more sustainable if they have an ample supply of potable water.

We drove from the tanks on to the Oak Valley community, where we were met by community staff, including the Oak Valley Education Centre principal, Ineke Gilbert. It is interesting that Oak Valley was founded in 1985 as an outstation for Anangu people who were moved down from Maralinga as a result of the British atomic testing. Some of the Anangu people were moved to Oak Valley. Others, of course, were moved on to Yalata, which we visited later in the trip.

One thing that was highlighted to us was the lack of adequate housing at Oak Valley. There is no doubt that the people who live there are proud of their community and want to be there. The comment was made that the community is suffering somewhat from its own popularity, because it is a place where people want to live and want to be at. It was, as I said, the first opportunity I had had to visit this, and it was the first opportunity I had had also to visit Maralinga.

We flew on to Maralinga, and of course that particular site has very much been put into the Australian psyche because it was the spot where the British tested their atomic weapons back in the late 1950s and early 1960s. Just at this point in time, the Maralinga site is being opened up, particularly focused on attracting tourists. It is successful, although some parts of the area are out of bounds because they are still too hot, to use a technical term, for tourists to go. It is on the wish list of at least some of the grey nomads; more and more are going through Maralinga and ticking it off. There is a very enthusiastic push to attract tourists.

We were unable to visit the remediated atomic testing site, which is about 40 kilometres from the village, although it was visible. We were very much reminded there of the Indigenous history, not just the British or the Australian history, and of the relocation of the Anangu people down to Oak Valley and Yalata, which was not without its challenges.

We headed back to Ceduna and visited the Ceduna Natural Resources Centre and heard there about the office shared between the AW NRM staff and the Eyre Peninsula NRM staff. Of course there is overlap: as the local MP for some of the EP and NRM regions and some of the AW NRM region, I also have an office in the Ceduna township. I was bumping into a lot of people that I knew in that part of the world, and I can only compliment them on their dedication to environmental sustainability and whole-of-landscape management, and also the co-management part of management of the parks.

I had heard a lot about Googs Lake and Googs Track. Even though it is part of the electorate, I had not had the opportunity to visit. It requires a four-wheel drive. We had a bit of an expedition north. There were a few gates along the way but we stayed with the track. We left the cropping

country and travelled north into the scrub. It was an absolute delight to visit Googs Lake because, unusually, it had quite a bit of water in it as a result of the recent rains. There have been good rains over a lot of the continent and good rains throughout the pastoral country of South Australia. To see Googs Lake with a good amount of water in it was a real delight. It was also good to see the work the NRM board is undertaking there, really to manage the visitations, so that the impact of visitors is not too great on what is essentially a fragile landscape.

We went on to Yalata, the Indigenous protected area and part of the Yalata community. We met with Desley, whom the member for Ashford knew from some years ago, I think; is that right? They became reacquainted and renewed an old friendship. Yalata is not without its challenges.

The Hon. S.W. Key: No chairs.

Mr TRELOAR: No, that's right. Quite a bit of the discussion at that time was around the introduction of the debit card and how it was impacting on the people of the Yalata community. It is a somewhat transient community, but there are also those who are longtime residents. Even though I am the member for Flinders and Yalata falls in my electorate, I do not always have the opportunity to visit, so I was grateful for that.

We moved on to the Head of Bight Visitors Centre, which has gone ahead in leaps and bounds in recent years. Its focus is the viewing of the whales at Head of Bight. Numbers vary from year to year, and all sorts of reasons are given for that. Some are speculating that the seismic surveys may have had something to do with dwindling numbers—that may or may not be correct—but there were certainly better numbers this year. Once again, people from all over Australia are timing their visit to Head of Bight with the arrival of the whales, which is essentially through the winter season.

It is a really pristine part of our coastline and the visitors centre is very tastefully done. Of course, it was about that time that members of the Natural Resources Committee decided that they would start purchasing souvenirs in remembrance of their trip to the West Coast. We went down to the beach, a beautiful beach, as is much of the West Coast. We went to the Murrawijinie Caves on the Nullarbor Plain. I had the opportunity once before to visit a cave site not too far north of the Nullarbor Roadhouse, but this was further inland. We were told the story of how important these caves were to the Mirning people as a supply of water, as shelter and as a source of game.

The Mirning people are those people who inhabit the Nullarbor Plain in the far west of South Australia and into Western Australia. They are very much desert people. I also discovered for the first time that near Border Village, just this side of Eucla, there was a site where the local Mirning people sourced stone which was suitable for axes and arrows. This stone was traded throughout the desert country of inland Australia and was a very important part of the trade route. We all discover something and learn something new every day. It is a fascinating history to learn of the trade that was focused on the Nullarbor Plain.

Time expired.

Motion carried.

NATURAL RESOURCES COMMITTEE: ANNUAL REPORT 2015-16

The Hon. S.W. KEY (Ashford) (11:23): I move:

That the 118th report of the committee, entitled Annual Report July 2015-June 2016, be noted.

The year 2015-16 has been another busy year for the Natural Resources Committee. The membership of the committee is similar to that of the previous year. All members of the First Session of the Fifty-Third Parliament continued into the second session. Mr Chris Picton, the member for Kaurna, resigned on 8 February 2016 to take up a role as assistant minister/parliamentary secretary to the Treasurer, and the vacancy was filled temporarily by the member for Elder, Mrs Annabel Digance, on 9 February 2016. The member for Elder subsequently resigned her membership on 7 June 2016 after being appointed to the Joint Committee on Findings of the Nuclear Fuel Cycle Royal Commission.

As at the end of the reporting period the vacancy remains unfilled, so that has provided some challenges in making sure that we have a quorum for meetings and also for any of the field trips that we want to undertake and need to undertake as the Natural Resources Committee. The committee

staff, fortunately, have remained unchanged since the previous reporting period with research officer, Ms Barbara Coddington, and executive officer, Mr Patrick Dupont, continuing their excellent support of our committee.

Over the reporting period, the committee undertook 28 formal meetings, totalling 64 hours and 50 minutes, and took evidence from 64 witnesses. We had 10 reports tabled, including the Inquiry into Unconventional Gas (Fracking) Interim Report. We thought it was very important to have that interim report because we had had so many submissions and so many people talking to us about the prospect of unconventional gas (fracking) in the South-East.

We tabled the annual report from the year before, 2014-15, and the regional report that we had for March 2014 because, with the directive and also the feeling of our committee, it was important to make sure that we reported to the parliament on a regional basis as well as on what we were required to do through the committee's terms of reference. We also tabled seven reports on the natural resources management levy proposals for 2016-17.

Deputy Speaker, you can understand that this is a lot of work, and I really commend the members for their endurance in getting through it all, but I also particularly want to commend the staff, including our research officer, Barbara Coddington, for dealing with all of this work in the way that she has. She is a reasonably new research officer, and we were very pleased that she was able to do all of this work in such a short period of time after starting with us.

We also had meetings with the Minister for Sustainability, Environment and Conservation and the Minister for Agriculture, Food and Fisheries. We had meetings with the Clerk, Mr Rick Crump, and also with the Deputy Clerk, Mr David Pegram. These were meetings that we had without Hansard to try to deal with some of the matters that were before us and be as efficient as possible in the work that we do.

The committee has annual statutory responsibilities to consider natural resources management levy proposals. In this reporting period, many of the proposed NRM levy increases were greater than in previous years resulting in an increased number of witnesses raising concerns with the committee. Twenty-six witnesses presented on levies, including members in this house. I thank the members for MacKillop, Hammond, Chaffey, Finniss and Bragg. Former premier the Hon. Rob Kerin also made a submission to the Natural Resources Committee. The committee takes its NRM levy oversight responsibilities very seriously, and NRC members spent considerable time deliberating on how best to respond to the concerns raised regarding the proposed levy increases.

The committee also endeavours to visit all eight NRM regions over the course of its four-year parliamentary term in order to meet with NRM managers and community members and to observe firsthand the work done by regional NRM boards and the staff of the Department of Environment, Water and Natural Resources. During the reporting period, the committee visited the Adelaide and Mount Lofty Ranges (AMLR) and the Northern and Yorke (N&Y) NRM regions as part of its Pinery fireground fact-finding visit. Members also undertook a four-day extended visit to the AW NRM region. In addition to attending to its statutory responsibilities, the committee generally aims to undertake one or more inquiries.

For the 2015-16 period, the committee continued its inquiry into unconventional gas fracking, hearing from 32 witnesses, plus making fact-finding visits to Roma, Dalby and Chinchilla, in Queensland, talking to community members, councils and other people, as well as Robe in the South-East and Moomba in the Cooper Basin.

The committee also continued to gather evidence for its sustainable fishery management inquiry. We have had four witnesses so far, but I think this may be an ongoing inquiry as it is a very big issue. I want to acknowledge the support we have received from the Minister for Fisheries and his staff in trying to grapple with the very difficult issues that are concerned with sustainable fishery management.

We also received briefings from Biosecurity SA, in particular regarding South Australia's infestation of Russian wheat aphids. This is of particular interest to the Deputy Speaker, who has raised concerns about this issue in this place with the minister and certainly with me, so I am sure she will be pleased to know that we had at least two witnesses on this matter.

This reporting period also saw the Natural Resources Committee piloting the use of videoconferencing for its hearings. A total of six witnesses gave evidence to the committee via Skype. One witness was heard via teleconference and the remaining 57 witnesses presented to the committee in person. Having access to videoconference technology for interstate and overseas witnesses has been an excellent way to increase the range of expertise available to the committee in undertaking its inquiries.

I would like to acknowledge the valuable contribution of the committee members during 2016. I thank them for the cooperative manner in which they worked together. I have to say that I look forward to continuing in the coming reporting year. I would particularly like to commend the member for Napier, the member for Elder, the member for Flinders, the Hon. Robert Brokenshire, the Hon. John Dawkins and the Hon. Gerry Kandelaars for their contributions throughout the year. I would also finally like to thank the parliamentary staff: Mr Patrick Dupont, our executive officer, and Ms Barbara Coddington, our research officer. I commend this report to the house.

Mr TRELOAR (Flinders) (11:32): I speak today to the 2015-16 annual report of the Natural Resources Committee of the parliament. It is the 118th report of this committee. I would like to thank my fellow committee members for the way in which we were able to go about our work, and also the Presiding Member, the member for Ashford, for the way in which she chaired the committee in such a professional manner. I would also like to thank two staff, Patrick Dupont and Barbara Coddington, who so ably fulfilled their duties and made our task so much easier.

It is a busy committee, as members have just heard from the member for Ashford. Without a doubt, the inquiry into unconventional gas (fracking), has dominated our workload in this past year, and it continues on. We are certainly hoping to have a final report tabled sometime soon but, having said that, we did table an interim report earlier this year because of the volume of work we had already done and the number of submissions we had already received. That work continues. As I said, we have had a large number of witnesses. We have had visits to the South-East. Ultimately, we will be tabling a final report quite soon.

We also instigated an inquiry into aquaculture, which is particularly important in the electorate of Flinders. The particular reference of that inquiry relates to the environmental issues and concerns around the ecological sustainability of the industry which is at the core of all our primary production issues.

The Presiding Member indicated that we are developing an inquiry into marine scale fishery. It may broaden from that, but the challenges to that sector from an environmental, economic and sustainability perspective certainly need considering by the Natural Resources Committee, and I think would be welcomed by those who are involved in the sector. There is an opportunity for us to hear submissions and make some comments about how that might progress.

The Presiding Member mentioned some fact-finding missions we undertook through the year. As part of the fracking inquiry, we visited the Surat Basin in Queensland, where fracking has been occurring for some years now. The development of the fracking industry had been completed, much of the infrastructure had been established and they had moved to the production phase, which meant that fewer people were involved. We were able to see firsthand the impacts on the landscape, on the local population and on the towns themselves that have been required to provide services. There was a significant increase in services quite quickly in some instances. They then had to manage the resultant removal of population as the infrastructure build was completed.

The South Australian Murray-Darling Basin NRM region was visited in September 2015. I was not able to join the group on that expedition, but the report on this very important part of the state was significant. We also visited the Pinery fireground and the AW NRM Board region, which I spoke about earlier this morning. I did not quite finish my contribution on that matter so, with regard to that, I thank once again the committee and the staff.

I thank all the DEWNR NRM board staff in this state who welcomed us to their regions. including the presiding members and the board members. They are always very welcoming, very accommodating and only too pleased to share with us, as a committee of the parliament and as MPs, the work they are doing in their regions.

Mr PEDERICK (Hammond) (11:37): I rise to speak to the 118th report of the Natural Resources Committee, entitled Annual Report July 2015-June 2016. Generally, I think the Natural Resources Committee is one of the best committees in this place. I have never officially been on the committee, but I have always been welcomed along on trips. I salute the Presiding Member, the member for Ashford. It is a good, welcoming committee for other members to make their points and to be part of fact-finding visits.

One of the visits outlined in this annual report is the Pinery fire visit. The Pinery fire was an absolute act of devastation. It is pleasing to see that, bar hail damage and frost, things have improved markedly in the last cropping season for those people. We went to Pinery and viewed the damage, especially on some of the sandy ground towards Mallala, where some of the guys on the heavier ground were cultivating strips to try to stop the drift, and we really could not do anything but watch it blow, and it was devastating.

It reminded me of the bad old days in the Mallee where there is an old saying, 'No blow, no grow'. They would work the ground about a dozen times or more and tractors and sets of harrows were enveloped in dust, and it was not a good look and it is not a good look. We have had vicious winds and bad dust storms this season, but they are nothing compared with what we used to have in the old days, especially in the early growing stages of a crop, when the whole sky was blocked out. However, farming practices now are far better, not just for the farmers but for the environment and everyone concerned.

I presented to the committee on natural resources management (NRM) levies. Regarding natural resources management, my wife is an environmental scientist and, although she does not work in that field anymore, she did help set up the NRM, especially in the Murray-Darling area. She can speak for herself, but I know that she is frustrated with where things have gone.

I am frustrated with where things have gone in relation to natural resources management, as is the community, especially in relation to DEWNR making it a subsidiary—and not even a subsidiary. It has become a part of DEWNR (Department of Environment, Water and Natural Resources) so, essentially, any independence we thought might have been there has long gone. They are under the command and control of the minister down, and I certainly noticed that with the issue of the New Zealand fur seals, apart from other matters.

People are frustrated, and I think the frustration is mainly with the legislation around what has to happen under the act in relation to the renewal of reports. I believe—and I have seen it from the inside and I still hear about it—that there is far too much time spent renewing three yearly or five-yearly reports, and once that is done you do the next lot.

There are some great individual projects that get done on ground, I must say, but they are few and far between, and not enough money is reaching on ground. Far too much goes into the bureaucracy that just cuts down trees to print books, which I find offensive, and we are not getting the weed management and we are not getting the pest management that we used to have. Things definitely need to change.

The populace have switched off out there, especially in the farming areas. They do their own thing, and I have mentioned in this place before the matter of corella management. I know it is not an issue for the natural resources management board: it is a council issue. Then it becomes an issue of, 'Will council do it?' And then the police get involved because not all councils are as courageous as the Coorong council, which has a very good relocation policy around corellas, and some of them get relocated to a better place.

Ms Sanderson interjecting:

Mr PEDERICK: Yes, some go to a worse place: corella hell. If you are proactive and do things under the right guidelines, you can get some decent management. There has recently been some media around Mannum and what they are going to do about their corella issue. They have a hot-rod show there, and people are now refusing to bring their cars along because of the damage inflicted by the birds.

There has been damage throughout Murray Bridge, especially in the Riverglades area, and the Alexandrina Council area—whether it's through Strathalbyn, Langhorne Creek, heading down

towards Goolwa—and people need to work with the authorities. It disappoints me that the NRM does not want anything to do with it. It is a sensitive issue. I know the police in Murray Bridge certainly do not want a relocation program like the Coorong council has implemented, but there has to be a way to protect not just people's homes, livelihood and belongings but also the environment where the trees just get butchered.

In relation to what was put to the NRM Board, especially in the Murray-Darling Basin section, there was a proposed 10 per cent increase in the water levy, the division 2 levy, which went through, and a 150 per cent increase in the land levy, the division 1 levy, which went through. This is some of the angst that comes back to us as members of parliament as these levies are put onto local government, on their rates bills, and then local government cop the flak as well and come to us complaining about this impost that they have to deal with.

One that is a real angst is the base levy of $200, as a water levy. From what I have been told, this has been a 1,000 per cent increase on some people's base fee. I have had one very small cricket club write to me, and I have contacted the minister to see if we can get some relief. This is just the kind of bill where you might be only running one team, you might have a dozen or 15 players and a few supporters, and that is it. So, that small cricket club gets belted with this increase, and it has a huge impact, especially on people trying to access their regional sport. This is happening right across the state. It does not matter how big or small the sporting club is, but it obviously impacts the ones that have a smaller population using their facilities.

These imposts have been put in right across the state. One of the things that is most galling is that it is blatantly paying for DEWNR staff wages; something like 22 per cent of DEWNR wages come out of the levy instead of coming out of general revenue. That is totally wrong, in my opinion, and we see it in a whole range of fields now. Whether it is management fees around DPTI (Department of Planning, Transport and Infrastructure), or whether it is in the agriculture department managing concessional loans, millions are taken out just in bureaucracy, and we see it again here with these things that, in my mind, should be funded out of general revenue so that more money can hit the ground.

I note the report. I note that there are many inquiries that the Natural Resources Committee has undertaken. I believe we are not far off an outcome in regard to the fracking inquiry in the South-East. I acknowledge the committee receiving, on my request, a submission by Skype from Jeff Heller, who heads up a group of over 100 farmers in New York state who were very keen to access fracking in their country but who were denied because of a ban. I note that they have a different royalty system over there and that they are totally reliant on groundwater. I acknowledge and thank the committee for hearing his evidence. I think the use of technology for all committees is an excellent way to get information from right across the world. I endorse the report.

Motion carried.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION: WORK RELATED MENTAL DISORDERS AND SUICIDE PREVENTION

The Hon. S.W. KEY (Ashford) (11:48): I move:

That the 26th report of the committee, entitled Work Related Mental Disorders and Suicide Prevention, be noted.

I would like to take this opportunity to thank all those who have contributed to this report by making submissions and giving evidence. I thank all those individuals and not-for-profit organisations that are making a big difference to people struggling with mental health issues, often with very few resources. This has been a long and in-depth inquiry that has uncovered some more alarming statistics about mental disorders affecting workers and, ultimately, businesses and the South Australian economy. The inquiry also revealed opportunities for improvement, and these are reflected in the report and the recommendations.

Having had the honour of being on the occupational safety, rehabilitation and compensation committee as the Presiding Member in the last two sessions of parliament, but also as a new recruit into parliament, I would have to say that this inquiry into work-related mental disorders and suicide

prevention is one of the inquiries I will very much remember, along with the inquiry initiated by the former member for Mitchell, Alan Sibbons, when we looked at violence in the workplace.

That was a very frightening report to receive, and I think that the member for Reynell, when she was on the committee, will remember some of the evidence we heard in relation to violence in the workplace. I know that certainly in her time, when we started this inquiry into work-related mental disorders and suicide prevention, like me she was equally concerned about some of the evidence we were receiving. I would particularly like to acknowledge the work of the Hon. John Dawkins in the other place. He is the main reason we really wanted to support the great work that he has done over the years and bring that into an industrial relations work focus.

The prevention of psychological injuries arising from work falls within the scope of the Work Health and Safety Act, which places a primary duty of care on a person conducting a business or undertaking (PCBU) to, so far as reasonably practicable, ensure that workers are not exposed to health and safety risks. Work is good for many things, including a feeling of self-worth and identity. It provides opportunities to develop skills, to form social relationships and to plan for the future. Work is good for mental health and wellbeing. Although, I must say that in this particular occupation I would probably have to qualify some of those principles—just from my experience; I am sure other people have a more positive outlook.

Many people of working age will suffer from mental disorder at some time during their life, the disabling effects of which are broad and can include a loss of housing, employment and social skills, as well as support networks. Depression and anxiety are the most common work-related mental disorders and easily treatable, in most cases. It is estimated that 80 per cent of unproductive time and absenteeism is due to depression, which is a significant cost not only to the worker but also to employers and the economy, and it is estimated to cost over $17 billion annually. The World Health Organisation warns that by 2030 depression is likely to be the number one cause of disability in developed countries.

The committee's inquiry into work-related mental health disorders and suicide prevention considered legal and policy issues, examined data and the impact of mental disorders and suicide on workers, business and, obviously, their families and others. Consideration of prevention initiatives included training information and availability of support. These were of considerable interest to the committee because prolonged mental stress can contribute to serious physical and mental disorders.

We understand that mental disorders account for 4 per cent of all accepted work-related injuries, but are responsible for five times more in costs and absence from work. Workers mid-career, aged 40 to 59, account for 46 per cent of all the psychological injury claims. The most common causes of work-related mental disorders are work pressure, harassment and bullying, occupational violence and exposure to traumatic incidents. Female workers account for more than half of all mental disorder claims. There is a high frequency rate of mental disorders reported by teachers, nurses and police officers in the public sector, while in the private sector community service workers, personal carers and truck drivers feature.

The committee recommends that the Minister for the Public Sector explore ways to reduce psychological harm in the public sector, and that the Minister for Industrial Relations investigate the call for presumptive provisions for police and emergency services, given the predisposition of these workers to suffer PTSD after many years of exposure to traumatic and often violent incidents. I would venture to say that the committee would also extend this view to people who are in what is called the 'first responding' category of work.

The committee was impressed by the low frequency rate of mental disorders reported by paramedics, given the nature of their work, which often brings them into contact with traumatic events and traumatised people. The ambulance service is justly proud of its peer support program which has been in operation for over 20 years. The program provides staff with wellness and assistance services, which helps protect them from PTSD risk factors. Over the past decade, significant improvements have been made in the frequency of work-related physical injuries and fatalities by analysing data, undertaking research, providing design of equipment and facilities and monitoring performance.

It is possible to reduce the frequency of mental disorders by adopting the same focus on psychological hazards. For those who suffer a significant work-related mental disorder, a medical impairment evaluation can be undertaken by the psychiatrist under the Return to Work Act. The guide of evaluation of psychiatric impairment for clinicians is the mandated evaluation tool and is commonly referred to as the GEPIC. Several witnesses raised concerns about the GEPIC, which they said is not a reliable and valid measure of psychiatric impairment.

Witnesses raised concerns about the subjective nature of the test and that few workers with psychiatric injury are likely to be assessed at 30 per cent or above. Even those with lower levels of impairment are likely to be significantly impaired to the degree that they have difficulty functioning and managing self care. For this reason, the committee recommends that the GEPIC be independently reviewed.

Suicide is the leading cause of death in men and women of working age. More people die from suicide than are fatally injured on our roads. There is no recent or reliable data on work-related suicides and there is very little research into the connection between work and suicide, but the committee heard some devastating stories and shocking statistics about suicides in certain industries. More men in the construction industry die from suicide than from work-related injury, the cost of which is estimated to be in excess of $57 million to the South Australian economy. An apprentice is more likely to die from suicide in the construction industry than from a work injury. Police and emergency services are also high risk for suicide.

Statistics show that there is a high frequency of self-harm by females, which might indicate that many male occupations provide the means to complete suicide attempts. The committee recommends that the Minister for Police commission research into the suicidal behaviour of police officers and identify mitigation strategies. We believe the number of police psychological health programs should be evaluated for effectiveness. It shocked the committee to hear that the South Australian public sector had experienced five suicides in the past five years as a result of work pressure.

The committee acknowledges the good work of the Chief Psychiatrist but notes that resources are limited. Recommendations reflect a need for adequate resources to enable the Chief Psychiatrist to effectively consult, promote and develop suicide prevention strategies. It is important for everyone to work together to ensure that mental health disorders and suicide are prevented. Recommendations reflect the need to help business adopt mentally healthy workplaces and to encourage and support workers to provide resilience and help when needed.

I extend my sincere thanks to the members of the committee: the member for Schubert, the member for Fisher and, from the other place, the Hon. John Dawkins, the Hon. John Darley and the Hon. Gerry Kandelaars. My thanks goes to the committee's executive officer, Ms Sue Sedivy.

Debate adjourned on motion of Mr Knoll.

Parliamentary Procedure

VISITORS

The DEPUTY SPEAKER: Before I call the next speaker, I would like to acknowledge and welcome into the gallery today year 9 students from Renmark High, who are guests of the member for Chaffey. We hope they enjoy their time here with us today and thank them for the honour of this visit.

Bills

BIRTHS, DEATHS AND MARRIAGES (GENDER IDENTITY) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 2 November 2016.)

Mr KNOLL (Schubert) (12:00): I rise to give a contribution on this new, improved and amended Births, Deaths and Marriages (Gender Identity) Amendment Bill 2016, and to briefly go through the two changes that have been made from the previous bill that was defeated in this house

not that long ago. Those two changes are to move from the age of 16 to 18, the two different pathways by which people can seek to change their birth certificate, to change their sex or now, as we are expanding the definition, to include gender identity. The second thing that has changed in this bill is around who can access the information. That has been changed and it has just further clarified what I think was already potentially the aim and, as I am given to understand, will mirror the changes to be made in the parentage presumptions legislation that passed in this place earlier this year.

Interestingly, neither of those concerns addresses my central concerns. I am happy to lay out here this afternoon my complete position so that the house can understand it, given that this bill is likely to be quite tightly contested. Increasing the age from 16 to 18 is something that the proponents have done to try to garner more support for this bill but, in fact, works against my central understanding and the central concerns that I have.

Primarily those concerns are that there is evidence to suggest that in the vast majority of children who experience gender dysphoria at a prepubescent age, it essentially disappears or dissipates, or works its way through by the time the child hits puberty. Given that we are talking about some fairly permanent steps in terms of hormone therapy, in terms of surgery, and in terms of going through a counselling process to have a child consider the ability to change their sex or gender, I still do not agree that prepubescent children should be allowed to do that.

Given that the vast majority of children go through puberty by the time they are 16 I am more than happy for 16 to 18 year olds to be able to access the easier method that has been proposed now for 18 and up, which is getting signed off by a doctor and going to the registrar as opposed to having to go through a court process.

I am putting on the record that I will be voting for the second reading because I think we have now understood and fleshed out these issues well enough to have that debate on those few key issues in the committee stage. However, I am flagging that I will be voting against clause 29J which provides the process for under 18 year olds to have access via a magistrate and, obviously with the consent of their parents, to get their birth certificate changed. I will be voting against that clause. For me that is a threshold issue. If the parliament in committee votes that clause down that is one step closer for me voting for the bill in its third reading.

Especially when we are widening sex to include gender—so, we are now not just talking about invasive surgery and therapy, we are now talking about a different concept, a different pathway of including gender identity and therefore a non-invasive process where a child can get counselling to decide to change their sex—given how definitive and firm a decision like this is, caution should prevail and this process should be done post puberty. I hope the parliament agrees with me.

I have this morning proposed and filed another couple of amendments in regard to my second threshold issue to support the third reading of this bill. That is around what defines clinical treatment. Under the Sexual Reassignment Act, in the definition around how much is enough treatment, the operative words used are 'is receiving' or 'has received'. In the case of surgery, there are some fairly permanent surgical procedures.

In the case of hormone therapy or taking hormone blockers, that process is ongoing, so I can understand why the Sexual Reassignment Act uses the words 'is receiving' or 'has received'. I think that makes a lot of sense. However, we are now fundamentally changing what sexual reassignment means. It is no longer sexual reassignment. We are including gender identity as a separate term and as something we are going to recognise on the birth certificate. I have fundamental issues with that but I think that that debate has been run and lost, so we will move on.

Given that we are the widening the ability of people to change their birth certificate, I think it is incumbent upon us to have a look at clinical treatment again to understand what is appropriate. My first amendment provides for a prescribed minimum period for counselling for those who are undertaking non-invasive treatment before they change their birth certificate. The report of the Legislative Review Committee states:

> Heather Stokes [recommended that] any law reform option might specify that persons must be under the care of a mental health professional for a minimum period of time prior to being able to amend their birth certificate…

She went on to say that she considered that the minimum period of treatment would best be determined by medical practitioners. This amendment seeks to give effect to that minimum period that Heather Stokes talked about.

It is not necessarily up to us in this parliament to make the decision on how long that is but, if this amendment does get up, I would encourage the government, through regulation, to have that discussion with the psychiatric and psychological professions to determine a prescribed period. That helps to allay some of the fears that some people, including me, have expressed in this place around enabling someone to, for instance, have a single session, be signed off by a doctor and change their certificate, then have another single session and change back.

The reason that is operative is that, in a briefing last week in the other place, minister Hunter said to me that there is no way to close the gay marriage loophole. I felt quite vindicated by that statement because the member for Hammond and I stood up here when the last bill was before the house and brought that fact to this parliament and we received a bit of criticism for it. Many suggested that we were wrong but, indeed, we were not wrong.

It exists, and the fact is that it has actually existed under the Sexual Reassignment Act. The High Court has found that, where somebody under the old Sexual Reassignment Act 1988 reassigns, gets married and then reassigns again, that does not invalidate a marriage. In my view, if people have undergone two very difficult and painful processes to switch back and forth that take a long time, a lot of money and a lot of effort, we in this parliament should not be standing in their way.

I understand that there are difficulties. It is a difficult thing to go through and it is not up to us in that instance to make that decision, but what we are seeking to do here is no longer around invasive treatment. It is around non-invasive treatment—counselling and psychological sessions with a mental health professional. Now we are talking about a completely different thing.

Regarding my second amendment, in place of 'is receiving or has received' I did first contemplate putting in 'has completed', which means that they have to have completed a course of treatment before people are able to alter their birth certificate. That potentially works for surgery, it most definitely works for having completed the minimum prescribed period, but it potentially does not work for those who undertake hormone therapy, who never really complete. So I have changed that definition now, and in place of 'is receiving or has received' I want to substitute 'has undertaken a sufficient amount of'.

In my view, it will be doctors who make that decision, about whether someone 'has undertaken a sufficient amount of', but I think it just strengthens the wording. As this is a very serious and permanent change people are seeking to make, and given that the magistrate now no longer makes the decision around these things, it ensures that doctors are given a certain level of guidance to say, 'You need to ensure that the person you are administering clinical treatment to has undertaken a sufficient amount of treatment.'

I encourage the house to support these amendments. They are certainly not designed to kill the bill. In my view it is a sensible set of amendments that merely tries to grapple with the fact that we have fundamentally changed the nature of what the Sexual Reassignment Act was to what this Births, Deaths and Marriages Registration (Gender Identity) Amendment Bill now is, and to make sure that the new world of opportunity we have opened up is done in a responsible way, a way that can help garner confidence and support amongst the broader community for these changes.

They are my two threshold issues, new section 29J and these amendments. If the parliament is good enough to make a decision on those two then I would be more than happy, in fact I would be extremely glad, to be able to vote for this bill on the third reading, on the understanding that there is a central mischief here that we are seeking to fix, that those who are over 18 years old should not have the indignity of having to go to a magistrate in order to be able to change their sex and, in the case now of gender identity being included, that there is a broader range of people who quite probably will have greater access to being able to have a birth certificate that more accurately reflects what they know and feel in their heart.

Having voted against a second reading last time, I sought, in the way that all parliamentarians should, to gain a deeper understanding of the consequences of this bill so that we could find a way to make it work. I look forward to the support of the house in that regard, and I very much look forward

to a successful third reading vote, where we can help to alleviate the suffering and confusion that a lot of people are feeling, and so that people can feel they have a parliament, a government and a society that truly understands them and where they are coming from.

Mr PEDERICK (Hammond) (12:13): I rise to speak to the Births, Deaths and Marriages Registration (Gender Identity) Amendment Bill 2016. This is No. 171, and I note that the previous not quite identical bill, No. 142, failed in this parliament, with a tight vote of 19-all and the Speaker helping to vote it down. I have not changed my position on this legislation.

We are dealing with a suite of legislation this week on issues like this, and in the bigger picture I am concerned that we are spending a lot of time on some of this legislation when the state is in such a dire straits. We should be looking after the profitability of our state and its industries and getting on with the job. Be that as it may, I will certainly be voting against going into committee. I want to talk about a couple of bits of correspondence I have had in regards to the Births, Deaths and Marriages Registration (Gender Identity) Amendment Bill. The first one states:

> I am gravely concerned that if this bill is successful it will discriminate against real males and real females and will cause a far greater majority of people in South Australia to feel devalued and completely unsafe! Please vote against the Births, Deaths and Marriages (Gender Identity) Amendment Bill 2016, thank you!

This is another one that was circulated to all MPs, and I note that it is addressed to the Premier. It states:

> I would like to express my concern and vote against the Births, Deaths and Marriages (Gender Identity) Amendment Bill 2016. Birth Certificates should record the biological details and parentage of a newborn, not subsequent feelings about one's own 'gender identity'.
>
> Such a Bill would allow any biological male who identifies as female the right to access sex-specific spaces like bathrooms, domestic violence shelters and dormitories. Furthermore, the bill will provide a Trojan Horse for 'same-sex marriage' which I also disagree with, by allowing people to identify as the opposite sex in order to marry their same-sex partner.
>
> Thank you for noting and recording my concerns.

It is interesting that someone either wrote those words about a Trojan Horse themselves or they were the words I used in my speech on the initial bill, and I note that it got some coverage. I did not say it to get coverage; I said it because it is my concern, and I note the member for Schubert's concerns in relation to this. He went to the briefing with minister Hunter from the other place and, from what he was told, this does not close out the possibility of legalising gay marriage.

As I indicated in my previous speech on this bill, we have nothing to do with marriage. We are not responsible for marriage in this country; that is the federal parliament. I acknowledge the Liberal National Turnbull government's quest to have a plebiscite on same-sex marriage, but I think that has been killed. I think it has been killed because proponents of same-sex marriage knew that it would not get up. Be that as it may, we may never know the result of that plebiscite. It is not just me making comments such as these in this house; it is people who communicate to us, and we should take note of what people send into us. The member for Schubert was talking about what happens under the Sexual Reassignment Act 1988 and said:

> …reassignment procedure means a medical or surgical procedure (or a combination of such procedures) to alter the genitals and other sexual characteristics of a person, identified by birth certificate as male or female, so that the person will be identified as a person of a different sex and includes, in relation to a child, any such procedure (or combination of procedures) to correct or eliminate ambiguities in the child's sexual characteristics;

Compared with the previous bill, which collapsed in this place, there is no change to this bill. If one person in a gay couple decided, with a small amount of counselling, that they wanted to change their sex to the opposite of whatever they started with, that is fine as far as what they think, but that, in my mind, makes them eligible to marry their partner. For instance, if one person in a lesbian couple identified as a man, I would like to know what rules them out from getting married.

Members have been told in briefings that there is no way around it; that means it can happen. It is the same for two gay men if one identifies as a woman. As I said, it is not our jurisdiction to have anything to do with the Marriage Act in this place. It certainly concerns me. It concerns me that, with just counselling, people may decide to do that.

I understand where the member for Schubert wants to go, and I know that he is trying to make the best of this legislation, but in my mind I think we should just vote it down. I note that this current bill has changed where it goes through the process so that, instead of those 16 years of age and under needing parental consent for having a gender identifying change, it has now gone to 18 years; whether some listened to some of the contributions in this place, I do not know.

I mentioned the angst that could happen for parents of a child who is 16 and obviously not an adult. I know that the age of consent is 17, but they are not an adult and it could cause much angst in a home before they reach that legal age of 18, where a whole range of things come into play, like being able to serve our country and so on.

There are still concerns, and I note there are several adjustments to amendments throughout the bill. In that regard, if the bill does reach the committee stage, I will be asking some questions. I would be interested in other people's contributions, and I think we need to look at where this legislation is. It is like other legislation that comes into this place that needs to be amended multiple times, whether it be conscience votes or general legislation. I have seen it with the planning bill, where there were about 300 amendments, 200 of which were government amendments, that came through the process of the houses.

Then we see this where, in an attempt to get it through, the main amendment is around the age range for a child to go through this process, which has gone from the age of 16 to 18 years, and there are other slight changes around the recognition on certificates. At the end of the day, I will not be supporting this bill, but I acknowledge that people have different views and that it is a conscience vote in the house.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (12:22): I rise to speak on the Births, Deaths and Marriages Registration (Gender Identity) Amendment Bill 2016 and indicate that I will be supporting the same. I wish to raise a matter with respect to 29N, but let me say at the outset that we had the public and parliamentary debate in respect of gender identity and the rules that would apply for legal sexual reassignment back in the 1980s. Nearly 30 years later, it is reasonable that our committee of the parliament should revisit this matter, particularly in light of a private member's bill that was introduced, to modernise the structural and legislative arrangements around that.

The Legislative Review Committee, which reported to this parliament in April, confirmed what we all expected, that is, that there needed to be some contemporising of that process. I take no issue with the fact that there is a lawful process upon which people can register a gender with which they identify subsequent to certain events. Historically, when we had this debate in the 1980s, I was the mother of very young children myself, and it raises questions about the future of your own children.

It is fair to say that I had only sons and, to the best of my knowledge, they still want to be sons. However, we accept in our community that there are people who are trapped in the purgatory of living within a gender with which they do not feel comfortable or, indeed, feel very uncomfortable and distressed by being trapped within.

So, we have had that debate, and the thing that was identified in the Legislative Review Committee's examination of this was that there were three things that were largely outdated, inoffensive or unnecessary. They are my words, but in my view it is important to repeat them. One is that it is inappropriate that we should continue to require that a minister approve who, as medical practitioner, should undertake the sexual reassignment treatment. That, of course, was being looked at largely within the envelope of surgical treatment and some drug treatment, but largely we are talking about in modern terms the counselling and other psychological services that go with that.

It is completely unnecessary because we have medical practitioners and health professionals who work in this area who are highly regulated by their own medical boards and health professional boards and the like. It is unnecessary for that to occur, but it was new at the time and it was reasonable that it was there then, but now it needs to go. The second area was the significance of having ministerial approval of the hospitals that needed to carry this out. Just as when stem cell research and other innovative areas such as IVF were introduced, there were ethical considerations, it is important to decide now who is going to implement it and who is going to approve it. There have to be clear guidelines and a statutory process, and sometimes we need to keep that supervision.

Hospitals and health centres now are institutions which are highly regulated and similarly have a number of ethical boards from which they need to seek approval. In relation to IVF treatment, I have Repromed in my electorate. It is about the fastest growing industry in the state actually, because it seems that our young people are waiting longer to have children and have a higher demand for fertility treatment. Nevertheless, in its embryonic stage—pardon the pun—it needed to have very clear regulation and ethical standards put around it because we did not have the natural structures of revision, review and regulation within boards. That is now the case.

Finally, the requirement in the early days for anyone, adults included, who wanted to have any gender reassignment recognition had to get a magistrate's approval; that is archaic. I agree that it is archaic, and I think that it needs to be reviewed. A rewrite of this legislation, modernising it in a contemporary form, is highly necessary and it is appropriate that we deal with it. The discussion and deliberation of this has been enhanced, not only by the Legislative Review Committee's report—and I thank the members of the committee for that—but also by a number of people who have put submissions to us. I thank those members of the assisting minister's office who provided advice and material on this. I also thank the general members of the community.

More recently—this week, in fact—we have had the benefit of hearing from Ms Zoey Campbell and Ms Sarah Pinkie, who both had very different stories but gave us a very real description of some of the issues that they have to deal with. The first, Ms Campbell, told us of the difficulty of having to comply sometimes with current criteria under sexual reassignment. She highlighted to those of us who heard her presentation that simple matters like wanting to have sexual recognition but not being in a position either financially or from a health perspective to undergo full physical and surgical reassignment, or indeed being fearful of invasive surgery for transgender purposes, were impediments to those who actually undertake that course.

Obviously, it is a very individual matter for someone who wishes to be recognised but not to have to undertake physical surgery or other hormone treatment, and I think I have a greater understanding now of the importance of that and, therefore, how important it is that we deal with appropriate clinical treatment in a new light. For me, it is important that that be recognised as independent, and that ought to be supported as being adequate for the purposes of qualifying under the threshold because, of course, we still need to have a medical assessment of that—that is, a practitioner or a psychologist to certify that that has been undertaken and received.

The other very helpful and quite heart-wrenching contribution was by Ms Sarah Pinkie. Ms Pinkie has a transgender son, a really nice young man who has gone through the journey as a child, it was explained to us, feeling that he had been trapped in a female gender and that he wanted to be able to pursue life as a boy. That, obviously, can be confronting for parents and it can be confronting for the children. There are whole issues of rejection, potentially, by their immediate family and those who love them and, in fact, support them.

Remember, of course, that children are very vulnerable in these circumstances because they do not have a choice as to who else can be out there looking after them, nor are they able to look after themselves. They are children, and they are entitled to protection and support and to be able to continue that in a loving relationship. The potential fracturing of that needs to be considered. I thank them both for giving their presentations.

The government presented, via the Premier, the predecessor of this bill, and it failed. I think it failed for a number of reasons, but one reason was the insistence in that presentation of having a capacity for people under the age of 18 years (that is, between 16 and 18) to make that application without a magistrate's approval. I think that was a fatal flaw of that legislation. It never surprises me what the Premier does introduce in the parliament. He is from the old ambit claim world, I think, in his pre-legal days, and it is a matter of putting it all in there. What the Premier needs to understand is that there has to be a reasoned argument for the model of a bill brought into this parliament. It has to stack up, it has to be effective, it has to be enforceable and it has to be acceptable, not just to the parliament but to a large degree as something that the community will support.

Of course, there are very significant issues which split the community. I accept that, but that is what we are here to do, to make some hard decisions in that regard. In any event, that bill was

defective. It has been amended to the extent that it has been excluded under this bill, and I think that will assist its passage, with the support of others.

The second area of concern was the question of the Registrar of Births, Deaths and Marriages retaining the historical information which preceded the new gender recognition registration of identity being registered, for the purposes of that being retained and protected under privacy rules but still recorded. Again, I see that that was a severe defect, and I am pleased to see that the assistant minister in moving this bill has not pursued that same fault and has remedied it in this bill.

The issue I do want to raise is the question of proposed new section 29N, which is the use of an old birth certificate to deceive. I raise this because I am going to ask the assistant minister to provide to the parliament some explanation as to who wants this in the bill and why it is necessary. I have this week canvassed it with some of those who have been advocating for this reform and they say that it is not something they have asked for, nor do they have any identified reason about why it is necessary.

Last night, I spoke to Professor John Williams, who has been active in the South Australian Law Reform Institute's involvement in this area. He could not think of any reason that it needed to be there. He had not asked for it or recommended it. That does not mean it is a bad thing, but I make the point that it seems that this is something that has been translated from the old legislation without taking into account two things; one is that we have had significant advancement in relation to our discrimination laws, in particular our Equal Opportunity Act. We do not need to have this to try to provide a deterrent for a person, other than an applicant, who wants to cause mischief to somebody, and use old material. We do not need that anymore. We have that, it seems to me, in the equal opportunity law.

If this section is designed to be a deterrent by having a $10,000 fine or imprisonment for two years to keep the applicants in check, that is, to try to deter them from using their old birth certificates for a gender that they have rejected, it just seems to me ridiculous, absolutely ridiculous. This bill is supposed to be providing a modern approach to the process whereby people can lawfully adopt a new gender and be recognised in the community. It is not to be a punitive sanction, in my view, so I ask the government to revisit that section.

Finally, at first blush I did not think that the member for Schubert's amendment was really necessary, but actually I think it is, because we already have to have appropriate treatment by virtue of a medical practitioner or psychologist providing that. Whether that is a sufficient amount or over a sufficient time is yet to be determined. That is going to be left up to the regulations, apparently, if it goes through. I commend him for bringing it because I think it is a key thing to say that we are not just going to go up there and accept a psychologist report that says, 'Attended for a half-hour session, he or she is fine,' tick the box and then proceed with the application to the Registrar of Births, Deaths and Marriages.

Clearly, there is a message coming from this amendment from the member for Schubert that I think reflects, for those who say there may be a young person who might be influenced by others and may not really have made that consideration, that we still want the health professionals who are working in this area to take very seriously that responsibility to give assurance, when they give their certification, that the person has been thoroughly examined and that they understand the consequences. We all know that sometimes people will make a decision about their own future—a choice as an adult that they should be able to make—but they need to be apprised of all the consequences.

Yesterday, when I heard Ms Pinkie talk about her son having seen a documentary and then forming some fear about potential rejection of the family if he were to disclose that information, it resonated for me the significance of making sure that people understand what they could face, and how they might deal with it, so that this is a good experience going forward and they can have the life they want to have, rather than something that will plunge them into the despair that had not been brought to their attention. I commend the bill to the house, I commend the member for Schubert for giving some serious consideration to this, and I indicate that I will support bill.

The Hon. T.R. KENYON (Newland) (12:38): I rise very briefly to indicate my position on this bill. It has not actually changed a lot since we last debated a similar bill very recently, in that I

will be voting against the second reading. I am deeply uncomfortable with the notion of being able to nominate (and I understand that I am paraphrasing a little bit) a gender change and say, 'This is who I am now.' I understand that I have shortened the process considerably, but I am just explaining in shorthand my reservations about it.

Ms Hildyard: I am watching you.

The Hon. T.R. KENYON: I can feel the eyes of the parliamentary secretary burning into the back of my head.

The DEPUTY SPEAKER: Don't look this way.

The Hon. T.R. KENYON: And the Deputy Speaker. I am getting smashed from both sides. My understanding is that this bill will go through to the committee stage. I indicate that I will be supporting the member for Schubert's amendments. I am particularly concerned with the operation of the regime for under 18s. In fact, I am deeply uncomfortable with it.

I am already, as I said, uncomfortable with the way it would operate for over 18s, but when applying that to children, essentially, I think this is such a serious decision and such a difficult decision that it is reasonable for people to have to wait until they are an adult to make up their mind. Once they are an adult, it is a far more reasonable proposition and obviously they should have some say in that. It is a far more reasonable proposition to allow them to work their way through that decision as an adult; it is different as a child.

With those few remarks indicating my support for the member for Schubert's amendments and my general opposition to the bill, I will be voting against the second reading and voting for amendments in the event that it gets passed, and then we will see what happens.

Ms HILDYARD (Reynell) (12:41): Thank you again to everybody for their contribution. Thank you to the deputy leader for her insightful and very helpful questions. I know she is very thorough when looking into these matters. I also thank the member for Schubert, the member for Hammond and the member for Newland. Whilst I do not agree with their points, I appreciate that they believe very strongly in their point of view, and I am pleased that they bring their point of view into this place and speak about it openly. Thank you to everybody who has contributed to this debate. It gives me a great deal of pleasure and also I guess relief that we are now bringing this bill back to this house. I am very pleased to speak to close the second reading stage of this debate.

This important bill introduced by our Premier, of which I now have carriage—the Births, Deaths and Marriages Registration (Gender Identity) Amendment Bill 2016—forms a very important part of our government's very deep and genuine commitment to implementing the recommendations of the South Australian Law Reform Institute's work to eliminate all forms of discrimination against our LGBTIQ brothers and sisters. As I have said before, days in this place when you have the opportunity to help make life better for our fellow community members are the best days. This bill does just that, and that is why I am very proud to stand before you today and speak in favour of it.

SALRI has spoken with our community about this bill, and we hope that it broadly reflects what members of our community affected by it would like to see in our laws. As I have said in moving other bills developed as a result of the work that our government asks SALRI to undertake, the passing of this bill will only affect a small group of South Australians but, for those whom it does affect, it has a deep and significant impact on their lives and represents another step in our pathway to eliminating all forms of discrimination against South Australians and particularly our LGBTIQ brothers and sisters. As I did before in speaking to this bill, I also pay tribute to the important work of the Legislative Review Committee of this parliament.

Mr Odenwalder: Hear, hear!

Ms HILDYARD: On 12 April 2016, the committee, which clearly included the member for Little Para, released its Sexual Reassignment Repeal Bill 2014 inquiry report. This bill includes recommendations from that report as well as the SALRI report. That committee was very clear that work had to be done to change the current situation and, through this bill, we are doing just this.

The age of consent for various matters, as was mentioned in our debate about the relationships register yesterday, varies across and within jurisdictions. For example, the following

Australian states and territories legislate the age of consent for sexual interaction at 16 years: the ACT, New South Wales, the Northern Territory, Queensland, Victoria and Western Australia. South Australia and Tasmania set the age at 17.

In relation to medical consent laws, the South Australian Consent to Medical Treatment and Palliative Care Act 1995 allows children aged 16 and over to make medical decisions independent of their parents or guardians. Following extensive consultation with my fellow parliamentarians, two amendments have been rightly made to the original bill in preparation for its reintroduction. These changes are:

- the general age for changing sex or gender identity on a birth certificate being 18 rather than 16;
- for all children under 18 having to seek Magistrates Court approval before the registrar can register a change to their sex or gender identity registration (the original bill only required court approval for children under the age of 16); and
- a requirement for the registrar to retain all historical information preceding a change of sex or gender identity registration and limiting access to this information.

These are issues which have a significant impact on trans people in our community. Yesterday, as mentioned by the member for Bragg, and today, transgender South Australians have been watching this debate, waiting to see whether their members of parliament will agree to recognise their true gender and how they live their lives.

Mum, Sarah Pinkie, has written to members of parliament asking for recognition for her 17-year-old son, Ethan, when she recognised that the self-harming and depression that beautiful boy had experienced because he knew he was a boy started when he was three or four years old.

Transgender woman and South Australian Rainbow Alliance president, Zoey Campbell, who is sitting in the gallery today, has also appealed to members of parliament about how this law will benefit the mental health of the transgender community in South Australia. Zoey says:

> The current Sexual Reassignment Act is so restrictive that many transgender people will never be able to have their authentic selves recognised. This is a real problem and deeply hurtful. That can be because they have a wife they love like I had, or because their health doesn't permit surgery or hormone treatment, or because they can't afford treatment, or because they do not wish to undergo certain physical procedures. I am emotional about my birth certificate. When it is finally in my hands, it is entirely possible I will weep, because it will symbolise my journey and my truth.

The changes we make here today will have a deep and positive impact for members of our LGBTIQ community. It will make life easier for people who have tragically and wrongly been marginalised and oppressed for far too long. I am very proud to stand with our Premier and my colleagues and publicly state that we will not allow any members of our community to feel alienated by our laws. History shows that all progressive changes take time. The changes we are making this year are as a result of years of active community members working together to achieve results step by step.

In supporting this bill and commending it to the house, I pay tribute to the work of our LGBTIQ community, many of whom are in the gallery today, to achieve this outcome over so many years. I look forward to continuing to work alongside them to progress legislation that supports, empowers and includes all South Australians. I look forward to passing this bill as another step on the road to progress. The fights are not yet won, but each day we edge a little closer, and in passing this bill, we continue to move forward towards a community and legislation that is free of discrimination.

In closing, I again place on record my sincere thanks to those courageous community members, to SALRI for their work on this and the other bills that move us closer towards that place, to Lachlan Cibich, to Anna and Lee from the Human Rights Law Centre, and also to my staff, particularly Rhiannon Newman and Jonathon Louth.

The house divided on the second reading:

Ayes 28
Noes..... 16
Majority..... 12

AYES

Bedford, F.E.	Bettison, Z.L.	Bignell, L.W.K.
Brock, G.G.	Caica, P. (teller)	Chapman, V.A.
Close, S.E.	Cook, N.F.	Digance, A.F.C.
Gardner, J.A.W.	Gee, J.P.	Hildyard, K.
Key, S.W.	Knoll, S.K.	Marshall, S.S.
McFetridge, D.	Mullighan, S.C.	Odenwalder, L.K.
Piccolo, A.	Picton, C.J.	Pisoni, D.G.
Rankine, J.M.	Redmond, I.M.	Sanderson, R.
Weatherill, J.W.	Whetstone, T.J.	Wingard, C.
Wortley, D.		

NOES

Bell, T.S.	Duluk, S.	Goldsworthy, R.M.
Griffiths, S.P.	Hamilton-Smith, M.L.J.	Kenyon, T.R. (teller)
Koutsantonis, A.	Pederick, A.S.	Pengilly, M.R.
Rau, J.R.	Snelling, J.J.	Speirs, D.
Tarzia, V.A.	Treloar, P.A.	Vlahos, L.A.
Williams, M.R.		

Second reading thus carried.

There being a disturbance in the strangers' gallery:

The SPEAKER: The gallery will be quiet or I shall clear it.

Committee Stage

In committee.

Clauses 1 to 5 passed.

Clause 6.

Mr KNOLL: I move:

Amendment No 1 [Knoll–2]—

Page 4, after line 4 [clause 6, inserted section 29H]—After subsection (2) insert:

(3) For the purposes of this Part, clinical treatment constituted by counselling only cannot be regarded as a *sufficient amount of appropriate clinical treatment* unless the period of the counselling is equal to or greater than the prescribed period.

As I outlined in my second reading speech, this essentially provides for those who are using non-invasive treatment, so those who are seeking counselling or going to a mental health professional for treatment.

In her submission to the Legislative Review Committee, Heather Stokes stated very clearly that she thought there should be a minimum prescribed period for those people who were not going through a physical process but were seeking to use this new process. I have specifically not put a period in there because I think it is best left to the medical fraternity to discuss with the government what should be put into the regulations. I am taking it on good faith that, if this gets up, that is what will happen.

The amendment ensures that people have thought about this completely and fully, and that people undertake a prescribed course of clinical treatment when it comes to non-invasive clinical treatment. I urge the committee to support the amendment.

The committee divided on the amendment:

Ayes.....27

Noes..... 18
Majority..... 9

AYES

Atkinson, M.J.	Bell, T.S.	Chapman, V.A.
Duluk, S.	Gardner, J.A.W.	Goldsworthy, R.M.
Griffiths, S.P.	Hamilton-Smith, M.L.J.	Kenyon, T.R.
Knoll, S.K. (teller)	Koutsantonis, A.	Marshall, S.S.
Mullighan, S.C.	Pederick, A.S.	Pengilly, M.R.
Piccolo, A.	Picton, C.J.	Rau, J.R.
Sanderson, R.	Snelling, J.J.	Speirs, D.
Tarzia, V.A.	Treloar, P.A.	Vlahos, L.A.
Whetstone, T.J.	Williams, M.R.	Wingard, C.

NOES

Bettison, Z.L.	Bignell, L.W.K.	Brock, G.G.
Caica, P. (teller)	Close, S.E.	Cook, N.F.
Digance, A.F.C.	Gee, J.P.	Hildyard, K.
Hughes, E.J.	Key, S.W.	McFetridge, D.
Odenwalder, L.K.	Pisoni, D.G.	Rankine, J.M.
Redmond, I.M.	Weatherill, J.W.	Wortley, D.

Amendment thus carried.

Progress reported; committee to sit again.

Sitting suspended from 13:02 to 14:01.

Parliamentary Procedure

SITTINGS AND BUSINESS

Mr KNOLL (Schubert) (14:07): I give notice that on Thursday, 11 May 2017 I will move that this house (1) notes the extraordinary influence unions, and in particular the SDA, have over policy decisions of the state Labor government and (2) supports the changes to the Shop Trading Hours Act to allow families in Marion, Noarlunga, Tea Tree Gully, Port Adelaide and Munno Para to have access to similar shopping hours as families in the CBD and Glenelg.

Members interjecting:

The SPEAKER: The Treasurer is called to order.

The Hon. A. Koutsantonis interjecting:

The SPEAKER: The Treasurer, who is responsible for electorate staff, will not share home truths with the house. He has been undermining my authority since 1997.

The Hon. J.M. Rankine interjecting:

The SPEAKER: The member for Wright is called to order.

VISITORS

The SPEAKER: I welcome today the year 11 legal studies class from Mary MacKillop College with their teacher, Mr Ted Branson, and they are guests of the member for Dunstan. I also welcome year 9 students from Renmark High School, who are guests of the member for Chaffey, who is going to be conspicuously well behaved today.

PAPERS

The following papers were laid on the table:

By the Speaker—

Local Government Annual Report—
Cleve, District Council Annual Report 2015-16

By the Minister for Finance (Hon. A. Koutsantonis)—

Police Superannuation Board—Annual Report 2015-16

Ministerial Statement

STATE ADMINISTRATION CENTRE

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (14:15): I seek leave to make a ministerial statement.

Leave granted.

The Hon. A. KOUTSANTONIS: The sale of the State Administration Centre precinct has been the subject of a structured competitive sale process with full legal and probity oversight. As previously advised, on 26 November 2015 the government entered into exclusive negotiations with a preferred bidder, Commercial & General. Settlement was expected to occur on 25 October 2016. The state was ready to settle at that time. Settlement did not eventuate

Settlement was then expected to occur yesterday, 15 November at 11.30am. Officers from the government were present at the Lands Titles Office yesterday in anticipation of achieving settlement. However, the purchaser did not attend. The government understands that the purchaser has several outstanding issues to remedy prior to being in a position to settle. The government was ready to settle on 25 October 2016 and also yesterday. The state is considering its position. Given the commercial confidentiality of this transaction, no further details can be provided at this time.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

Mr ODENWALDER (Little Para) (14:17): I bring up the 34th report of the committee, entitled Subordinate Legislation.

Report received.

Mr ODENWALDER: I bring up the 35th report of the committee, entitled Subordinate Legislation.

Report received and read.

Mr ODENWALDER: I bring up the 36th report of the committee, entitled Subordinate Legislation.

Report received and read.

Mr ODENWALDER: I bring up the 37th report of the committee, entitled Subordinate Legislation.

Report received and read.

Mr ODENWALDER: I bring up the 38th report of the committee, entitled Subordinate Legislation.

Report received and read.

STATUTORY OFFICERS COMMITTEE

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister

for the City of Adelaide) (14:26): I bring up the fourth report of the Statutory Officers Committee, entitled Report on the Appointment of the South Australian Electoral Commissioner.

Report received and ordered to be published.

Question Time

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:26): My question is to the Minister for Transport and Infrastructure. Would the minister like a second chance to voice his support for the Premier's plan to create a nuclear waste dump in South Australia?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:27): I wonder whether the Leader of the Opposition would like a second chance to get into sync with his shadow treasurer in the upper house, who said today in his media release, 'The numbers that are contained in the royal commission report are a grotesque distortion,' whereas on radio this morning the Leader of the Opposition, when he was asked whether he repudiated the report, said, 'No, we welcome the Scarce report. We thought it was an excellent report.' The reason there is such confusion on the part of those opposite is that they are—

Mr TARZIA: Point of order: relevance, sir. This is completely irrelevant to the question.

Members interjecting:

The SPEAKER: I thank the member for Hartley for his point of order. It gives me a pause in which I may call to order the members for Morialta, Hammond, Finniss, Adelaide, Mitchell and the deputy leader, and warn the member for Morialta for the first time and for the second time. I will listen carefully to what the Premier has to say. Premier.

The Hon. J.W. WEATHERILL: We heard today in an extraordinary set of remarks from former senator, Sean Edwards:

> No higher authority than a royal commission has found it's demonstrably of economic benefit to South Australia, and you get these fringe-dwellers saying it's not.

Who are these fringe-dwellers? I know many of us have regarded the upper house as a fringe act, but could it be the Hon. Rob Lucas or, indeed, is it the Leader of the Opposition who the good former senator is speaking about? What we had yesterday was an embarrassing spectacle where they were exposed—

Mr PISONI: Point of order: the Premier is debating the issue, and straying from the topic.

The SPEAKER: The question was about the nuclear—

Members interjecting:

The SPEAKER: Well, support or otherwise for the nuclear royal commission findings and the idea of a referendum. Premier.

The Hon. J.W. WEATHERILL: This is very important because what was at the heart of the opposition's switch in position, the stated case, was the advent of the citizens' jury. Then, of course, that all blew up yesterday, and so then they moved to economics. Of course, what they said today on the economics, they rushed out today and they cited a report. They cited a report which apparently questioned the economics of the royal commission's report after the Leader of the Opposition said it was an excellent report—but let's just set that aside for one moment.

That same report that they are relying on to question the royal commission report contains this line: 'Informed decision-making will require a more extensive assessment.' So, what we have is this: their principal position is that it was the citizens' jury that caused them to do this. It's the same citizens' jury they said was a flawed process. They now rely upon a report—

Members interjecting:

The Hon. J.W. WEATHERILL: That's right.

Mr PISONI: Point of order, sir: the substance of the question was about the transport minister. The Premier hasn't mentioned the transport minister once, so I suggest that he is moving away from the substance of the question.

The SPEAKER: The member for Unley must surely know that a question without notice may be answered by any member of the ministry—and it is being answered.

Mr PISONI: Sir, I think you misunderstood my point of order. The point of order was about the Minister for Transport, yet we haven't heard, with just 30 seconds to go, a single mention of the Minister for Transport from the Premier in his answer.

The SPEAKER: The Premier may be answering the question in a way that is frustrating to the member for Unley, but it was a question about the nuclear royal commission and the referendum. Premier.

The Hon. J.W. WEATHERILL: Mr Speaker—

Ms CHAPMAN: Point of order.

The SPEAKER: If it is the same point of order, you will be leaving.

Ms CHAPMAN: Well, can I say on the question of relevance that in fact the question was about the government's position on creating a nuclear waste dump and doesn't mention the nuclear royal commission at all. So, I would ask you to—

The SPEAKER: I will see that the Premier confines himself to that question.

Ms CHAPMAN: Thank you, sir.

The SPEAKER: Consider the point of order upheld.

The Hon. J.W. WEATHERILL: Thank you, and I will join up the remarks. This is one of those rare issues where it necessarily requires bipartisanship, and so it is relevant. The chain of reasoning of the opposition is relevant to the future fate of this public policy issue. It has always been thus—indeed, those opposite have acknowledged it as the case. What we have—

Members interjecting:

The SPEAKER: Will the Premier be seated. The member for Morialta will leave for the next hour under the sessional order.

The honourable member for Morialta having withdrawn from the chamber:

The Hon. J.W. WEATHERILL: I had a bit of time chewed up, Mr Speaker, so I would crave your indulgence to have a few more moments from those opposite. What we have are two bases—

The SPEAKER: Time on granted.

The Hon. J.W. WEATHERILL: Thank you. What we have is, essentially, two reasons for why those opposite have sought to shut down discussion in relation to this issue: one is the citizens' jury, a process they described as flawed; the second, a report that actually says that you cannot rely upon it to reach that conclusion—the very report they rely upon to critique the economic case. And why is this happening? Why is this happening? Because there is great concern amongst the business community—

Ms CHAPMAN: Point of order.

The Hon. J.W. WEATHERILL: —and they are seeking to rebut those concerns by undermining the business case.

Ms CHAPMAN: Point of order.

The Hon. J.W. WEATHERILL: That is what they are seeking to do.

The SPEAKER: Will the Premier be seated. I love points of order; what I hate is points of clarification, so which is it?

Ms CHAPMAN: Well, it was certainly in the last four times I expressed it as a point of order, so I thank you for taking the point of order, and that is that not only has the time expired, and whilst I think I heard from your lips the words 'time on to continue' or something to that effect—

The SPEAKER: 'Time on,' yes.

Ms CHAPMAN: 'Time on,' I inquire, given that time has expired and parliament hasn't given leave to extend, as to what time you, sir, are extending it to?

The SPEAKER: I am glad the deputy leader has asked because under sessional order 8 the Speaker has discretion to extend the time for a minister's answer if the answer is interrupted. I have exercised my discretion.

The Hon. J.W. WEATHERILL: Can I conclude in this way—

Ms Chapman interjecting:

The SPEAKER: I don't have a linesman who can hold up the number of minutes of extra time.

The Hon. J.W. WEATHERILL: Thank you, Mr Speaker. Can I conclude in this way. There is growing concern in the business community in South Australia that a party that actually asserts itself as a business party and a party of free speech is closing down discussion on a business opportunity. I think those opposite are beginning to realise they have been led into error by the Leader of the Opposition.

Mr PISONI: Point of order: this question was about the Minister for Transport and the—

The SPEAKER: I have already ruled that it was about something a little broader than the Minister for Transport. Leader.

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:35): My question is to the Minister for Education and Child Development. Would the minister like a second chance to voice her support for the Premier's plan to create a nuclear waste dump in South Australia?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:35): Mr Speaker—

Members interjecting:

The SPEAKER: I call to order the leader and the members for Hartley, Flinders, Davenport, Chaffey and Schubert. I warn for the first time the members for Mitchell and Davenport. I warn the member for Mitchell for the second time, and I now require the member for Mitchell to withdraw for the next hour from question time.

The honourable member for Mitchell having withdrawn from the chamber:

Mr Whetstone interjecting:

The SPEAKER: And the member for Chaffey may now retire for the remainder of question time under the sessional order.

Mr WHETSTONE: Sir, I would like some clarification around the issue of warnings. I was on one warning and now you are kicking me out.

The SPEAKER: Yes, and you contumeliously continued to interject during—

Members interjecting:

Mr WHETSTONE: Sir, I was merely asking—

The SPEAKER: I'm sorry?

Mr WHETSTONE: Sir, I was merely asking for clarification from the Minister for Transport to have some spine and answer a question.

The SPEAKER: The member for Chaffey will withdraw or he will be named. He will withdraw under the sessional order for the remainder of question time.

The honourable member for Chaffey having withdrawn from the chamber:

The SPEAKER: Premier.

The Hon. J.W. WEATHERILL: Thank you, Mr Speaker. Why—

Mr PISONI: Point of order, sir: the Minister for Transport has answered this question. She shook her head and indicated she didn't support the nuclear waste dump. There is no need for the Premier to answer this question.

Members

MEMBER FOR UNLEY, NAMING

The SPEAKER: I name the member for Unley. Does the member wish to be heard in explanation?

Mr PISONI: I would like to apologise, sir, if I may.

The SPEAKER: Yes, you may. Thank you. I accept your apology.

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:37): I move:

That the apology be accepted by the house.

Motion carried.

The SPEAKER: Premier.

Question Time

NUCLEAR WASTE

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:38): Thank you, Mr Speaker. Why would they be so agitated on the other side? I think it has something to do with Business SA coming out today calling for the nuclear discussion to continue, in complete contradiction to the Leader of the Opposition. In fact, if you go to the report they rely upon to actually contradict the report of that great South Australian, Kevin Scarce, it contains words like:

> The Royal Commission process and the Project are innovative. The Jacobs MCM Report has sufficiently defined options and parameters for the Project to allow an initial assessment of Project economics.

The Jacobs report was the one that the royal commissioner relied upon. It further states:

> The scenarios developed in the Jacobs…Report show that under certain assumptions the project could be economically viable…[The report] provides a useful indication that the Project, a radioactive waste storage and disposal business in South Australia, could be profitable under certain conditions and assumptions.

That is the reason why it is rational for a discussion to continue about this matter. It is the reason why the very report they rely on says that informed decision-making—informed decision-making, not the sort of kneejerk political reaction to close down discussion, not the political correctness we have seen from those opposite that says that different points of view are not allowed to be expressed in the public debate. Whatever happened to the Liberal Party which was meant to be the pro development party in South Australia? Whatever happened—

Mr PISONI: Point of order: the Premier is entering into debate. By mentioning the Liberal Party, he is entering into debate.

The SPEAKER: I don't think the mention of the Liberal Party in an answer automatically renders the answer debate.

Mr PISONI: He is contrasting us to him. That's a debate.

The SPEAKER: Well, God forbid. The Premier is finished. Leader.

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:40): My question is to the Minister for Agriculture, Food and Fisheries. Would the minister like a second chance to voice his support for the Premier's plan to create a nuclear waste dump in South Australia?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:40): I think what most South Australians want is a mature debate on an issue of vital importance to South Australia. Even those with strongly held views against this believe that this is an issue of such gravity that it should be treated with respect and not with political stunts like the ones we have just seen outlined during question time.

I know they are searching around for points of difference between myself and my colleagues. I have been very open about the fact that there is a diversity of views on this side of the chamber, but we discuss and debate these issues using our own processes. The difference is that ours are all in public. We actually had a state convention and, if you had wanted to, you could have looked at it—

Members interjecting:

The SPEAKER: I call the member for Adelaide to order.

The Hon. J.W. WEATHERILL: I think we would have even sold them a ticket, Progressive Business would have sold them a ticket to come along and have a look.

The Hon. A. Koutsantonis: Marshall would be right at home amongst the unions.

The Hon. J.W. WEATHERILL: That's right.

The SPEAKER: The Treasurer is warned for using the Leader of the Opposition's surname, which is disorderly.

The Hon. J.W. WEATHERILL: We have discussed this issue, and we believe that the discussions should continue. I think it is alarming that the so-called party of free speech is depriving the people of South Australia of this discussion, won't allow the people of South Australia to make up their own mind about it. Apparently, the Leader of the Opposition knows better. He wants to tell South Australians what they—

Mr VAN HOLST PELLEKAAN: Point of order, sir: the question was all about the agriculture minister's support. The question was nothing about the Liberal Party's support; it was about the agriculture minister's support, so I believe the Premier is debating the substance of the question.

The SPEAKER: I don't uphold the point of order, and I uphold 90 per cent of opposition points of order. I don't uphold the point of order because the question was rhetorical and it's obtaining a proportionate, reciprocal answer. It is about the royal commission and the nuclear dump. Has the Premier finished? Leader.

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:42): My question is to the Minister for Regional Development. Would the minister like a second chance to voice his support for the Premier's plan to create a nuclear waste dump in South Australia?

Members interjecting:

The SPEAKER: The member for Adelaide is warned and the member for Davenport is warned.

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:43): As the business community in South Australia begins to realise that the Leader of the Opposition does not have the courage of his convictions, they are losing confidence in the Liberal Party in South Australia. Fundamentally, they understand that leadership, amongst all other things, is a character test, and in the last state election they saw a leader running away and refusing to face scrutiny. They saw a leader who, under pressure, folded, and they saw this week a leader—

Mr PENGILLY: Point of order, sir: I ask you to rule on whether the Premier is debating the substance of the question.

The SPEAKER: I have ruled on that point of order previously, and I refer you—

Mr Williams: It's a different question.

The SPEAKER: The member for MacKillop interjects that it's a different question. Well, it's the same question to a different minister.

The Hon. J.W. WEATHERILL: What we have here is a Leader of the Opposition who has demonstrated that, at the first sign of political pressure or opportunity, he will fold. I think people understand that's the sort of character of the person who is seeking to offer himself to represent the people of South Australia.

Mr VAN HOLST PELLEKAAN: Point of order, sir.

Members interjecting:

The SPEAKER: The Treasurer is warned for the second and the final time, and the point of order is?

Mr VAN HOLST PELLEKAAN: Surely, talking about the Leader of the Opposition's character in the context of the question is debate?

The SPEAKER: I would ask the Premier to move on. The Premier has finished.

Members interjecting:

The SPEAKER: The member for Unley is called to order.

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:45): Are you sure he has had no warnings? My supplementary is to the Minister for Regional Development. Given a nuclear dump is not a matter of supply or confidence, why is the minister unable to speak for himself?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:45): We have taken a position in relation to this question which is a united position. We have considered this deeply, and we also believed that we had bipartisan support in relation to this question. This doesn't just—

Members interjecting:

The SPEAKER: The member for Stuart is called to order.

The Hon. J.W. WEATHERILL: It doesn't just rely upon what the Labor Party's position is in relation to this matter, it relies—

Members interjecting:

The SPEAKER: The member for Hammond is warned.

The Hon. J.W. WEATHERILL: —it relies upon the attitude and the perspective of the Liberal Party in this state. It is necessary. It is a necessary precondition to furthering this issue. We know that this is a long-term discussion. We were seeking, in an open, honest and I would say courageous way, to put on the public agenda something that has been urged upon us by those opposite and by the business community in South Australia.

We always said that we would expose ourselves to the most detailed community consultation process available. We would experiment with innovative processes to establish what the community was thinking about these matters, but we always said that this ultimately was a matter for government and that we would make our own judgements about what the way forward was. We have had to take the disparate points of view, suffering the burden of the Leader of the Opposition—

The Hon. J.M. Rankine interjecting:

The SPEAKER: The member for Wright is warned.

The Hon. J.W. WEATHERILL: —suffering the burden of the Leader of the Opposition having a fit of panic at one stage during the process, and we have nevertheless decided to press ahead with the public discussion about this matter.

Mr VAN HOLST PELLEKAAN: Point of order, sir.

The Hon. J.W. WEATHERILL: I think there are significant sections—

The SPEAKER: Would the Premier be seated? This is getting like an Australian Union of Students conference, and I have very bad memories of those.

Mr VAN HOLST PELLEKAAN: I have never been to one.

The SPEAKER: The member for Stuart?

Mr VAN HOLST PELLEKAAN: Yes, sir: debate. Talking about the Leader of the Opposition again has no connection to the question about the Minister for Regional Development.

The SPEAKER: I have ruled on this several times already, and I am afraid I am not with the member for Stuart on the question of relevance.

An honourable member: It's actually National Union of Students.

The SPEAKER: No, it's been changed subsequently.

The Hon. J.W. WEATHERILL: That's right. What we have are juvenile question time tactics on an issue of gravity for not only the people of South Australia but the nation and indeed the world. This is not just an issue that the people of South Australia are watching. The international community are watching us and they are particularly looking at the attitude of those opposite. What was beginning to occur here is that there was international attention—

Members interjecting:

The SPEAKER: The member for Unley is warned.

The Hon. J.W. WEATHERILL: —international attention being paid to the way in which we were carefully constructing this debate about this most important issue. Those opposite have been asked this question, and they have been tested about whether they are up to participating in a mature debate about an issue of democracy—a really important issue that I said would test our democracy. Which political party demonstrated that they have failed the test of the democracy? The Liberal Party of South Australia.

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:48): My question is to the Premier. Given the Premier claims that he has the support of his entire cabinet, why won't he let any of them say so on the record?

The SPEAKER: My view is that the question is out of order because standing orders say that any minister may answer a question.

Mr Marshall: Well, they're not.

The SPEAKER: It may be that the Premier is taking the questions but that, in my view, is not an orderly question; however, if the Premier wishes to answer it, he may.

Mr van Holst Pellekaan: Why do they choose not to answer?

The SPEAKER: The member for Stuart is warned. Would anyone in the opposition like to ask a question?

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:49): My question is to the Premier. Does the Premier not believe that if he is seeking support for a proposal for the people of South Australia and for them to support that, then the people deserve to be assured that his ministerial colleagues, his cabinet colleagues, also support the proposition?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:49): I think that before the people of South Australia get an opportunity to consider this matter at a referendum, they would want to be assured that the Leader of the Opposition is providing his bipartisan support. We have heard two explanations as to why the Leader of the Opposition has withdrawn his bipartisan support: first, the citizens' jury that he himself described as a flawed process; and second, a report that says that you can't rely upon it to reach the conclusions he has reached. If this is the will of the Liberal Party as expressed by the Leader of the Opposition, where they have all been boxed into a corner, because he had a bit of a meltdown in an interview with—

Members interjecting:

The SPEAKER: The Treasurer is on two warnings.

The Hon. J.W. WEATHERILL: We all know that they have been embarrassed into this position. They don't want to be in this position but they were embarrassed into it because they were driven to the obvious conclusion that, if they didn't back him, he would have to resign. They knew—

Members interjecting:

The Hon. J.W. WEATHERILL: They have saved him, and that's fine—prop him up. That's fine, and I understand why you did it. It was very loyal of you to do that, to prop him up, but you are taking a horrible risk. What if we get another episode like the 2014 state election? What if it all turns to horror again on the first day?

Members interjecting:

The SPEAKER: The Treasurer is on thin ice.

The Hon. J.W. WEATHERILL: They are brave to back him up one more time. For those who are watching this and are thinking of perhaps putting their hopes and faith in the Leader of the Opposition, I will say this: don't rely upon this opposition to maintain their permanent position in relation to this matter. We saw how quickly it changed. We have seen the thin basis on which the only way the people of South Australia will get a true say in this is to stick with the Labor Party's position which allows them to have a voice in relation to this matter.

Members interjecting:

The SPEAKER: We have a very full gallery today because of the active voluntary euthanasia debate. I don't know what they make of the behaviour of the house today. I imagine they are not impressed. Leader.

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:52): My question is to the Premier. Is the real reason the Premier rejected the recommendation of the royal commission to remove the legislative constraint prohibiting an international waste dump being established in South Australia that he cannot get cabinet, caucus and Labor Party support for the move?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:52): The reasons—

Members interjecting:

The SPEAKER: The member for Kavel is called to order.

The Hon. J.W. WEATHERILL: —we are not providing any change are the reasons that have been advanced in the royal commission's report, our public position and all of the things that I have said publicly since.

Mr van Holst Pellekaan interjecting:

The SPEAKER: The member for Stuart is warned.

The Hon. J.W. WEATHERILL: Let's just go through them. The royal commissioner found in his own report that there needs to be broad social consent for such a change, and there is not such broad social consent for that change. He also suggested that there needed to be a deep and

abiding bipartisan position, and the Leader of the Opposition has withdrawn his bipartisan support for this position.

Members interjecting:

The SPEAKER: The member for Adelaide is, like the Treasurer, on thin ice.

The Hon. J.W. WEATHERILL: We have, of course, reflected on this intensive period over the last two years where we have sought to gain these views. Frankly, views have shifted very substantially in the public's mind. We now see a solid majority of people supporting, for instance, a low-level nuclear waste facility for the whole nation, something which would have been inconceivable a decade ago. We see a plurality of people—so more people than not, not a majority but more people than not—who support the continued discussion in relation to this matter. Those are things which would not have been regarded as even conceivable 10 years ago.

We also have a solid foundation of material around which further discussion continues in relation to this matter. What is extraordinary is that the Leader of the Opposition has, for opportunistic short-term reasons, decided to shut down the community discussion in relation to this matter.

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:54): My question is to the Premier. Will the Premier seek the endorsement of a special convention of the state branch of the Australian Labor Party for his referendum on a nuclear waste dump, or will he, as SA Union Secretary Joe Szakacs put it:

> …keep asking a different group of people the same question until he gets an answer that he wants.

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:54): I think those people riding around in their cars in country areas listening to the radio on that fateful day when the Leader of the Opposition gave that interview would have been staggered about the processes that the Leader of the Opposition used to arrive at his decision. Let's talk a bit about perspectives. We don't want to talk out of school, do we? We don't want to talk out of school, but there are very many different—

Members interjecting:

The Hon. J.W. WEATHERILL: Who are the quiet ones, Mr Speaker? All those people who woke up in the morning and saw *The 'Tiser* and wondered, 'Oh, we seem to have changed our position. I can't remember the party room meeting. I actually can't remember us discussing that.' So, don't lecture us about party processes when you box in your own caucus by embarrassing them into supporting you; and the only reason they are in this panic about supporting you is that they have no idea about where to turn to next.

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:55): My question is to the Premier.

The Hon. A. Koutsantonis interjecting:

The SPEAKER: The Treasurer's forced laughter will cease.

Mr MARSHALL: Can the Premier confirm whether the outcome of the referendum on his proposal for a nuclear waste dump will be binding as per a constitutional referendum or unbound as per a plebiscite?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:55): They are all intelligent questions to ask if we were at that stage, but, as the Leader of the Opposition knows, we are—

An honourable member interjecting:

The Hon. J.W. WEATHERILL: Well, it was a 38-year journey in Finland. I know those—

Mr Marshall interjecting:

The Hon. J.W. WEATHERILL: Those opposite are either wilfully or recklessly ignoring the remarks we have always made about this matter. We always said, as the royal commission did say,

that this was a journey which would be measured in decades—not in weeks, months or years; and, of course, we were going to indicate our preliminary view as we have about all of these matters and we were on a bipartisan position.

I extended the hand of friendship to the Leader of the Opposition and offered him a visit to Finland, which he could not resist but to play politics with. And then, despite that, I also offered him an opportunity to go back again and he did, and in some fit of jetlag managed to have an interview with an *Advertiser* journalist that has taken us to this position today. Let's be honest about what happened.

Mr Marshall interjecting:

The Hon. J.W. WEATHERILL: Let's be honest about what happened.

Mr Marshall interjecting:

The Hon. J.W. WEATHERILL: The reason you're sitting there taking this position is that he couldn't get himself organised in the lounge coming back from Finland. Ask yourselves that question. You all know it's true!

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:57): My question is to the Premier. Will the Premier admit that he would not be bound by the result of any referendum given that he has said that Aboriginal communities would be able to veto any proposal or decision?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:57): Well, this is an important question about the role that the citizens' jury played in uncovering what I think is a profound issue about our relationship with Aboriginal people in South Australia.

What we had was very powerful representations that were made from Aboriginal people where they called for the citizens' jury to stand up for them and represent their interests in protecting their land, and the citizens' jury, I am advised, was powerfully influenced by that.

I think what many Aboriginal people were surprised about, but pleasantly surprised, was the way in which non-Aboriginal people took their part and sought to represent their interests in that process. The truth is that Aboriginal people have many unfinished items of business with the broader non-Aboriginal community. You only need to look at the disadvantage and degradation in many Aboriginal communities to know that there is much more work to be done, and so their perspective is: 'You want something from us first, you have to resolve that unfinished business.'

I was also powerfully influenced by a delegation of Aboriginal people who came to meet me—especially those from lands that were directly affected by the nuclear industry, such as Maralinga—and said, 'We don't want to have to continue fighting this fight. We don't want to know that this is another generation where we're going to have to see off what they regard as a use of their land that they will simply never agree to.'

I was affected by that. I think that is an important observation, and I wanted to give them the surety that it would never happen without their consent. That is not to say that there won't be some Aboriginal communities that may not support such a measure; and certainly at that very meeting one of the Aboriginal representatives, much to the concern of the environmental groups that brought them along, said that, if it could be demonstrated that there were real benefits, they would want to have that discussion with us.

So, there is not a single voice that comes from all Aboriginal communities, despite the way in which it has been represented. I know that some people don't want to hear that, and I know some people don't like to represent the position that they hold about their community for fear of criticism by other communities. But that is the truth of the matter. It is what the royal commissioner found and it is certainly the evidence of my own experience with people speaking directly to me.

This is something that I think is important. I think this also is a bigger issue than the Nuclear Fuel Cycle Royal Commission. We are going to have to reconcile with Aboriginal South Australians if we are going to do many things which are about development on their lands. I think there are some important ways forward which are about looking at discrete Aboriginal nations and using the

Indigenous land use agreement process, which has yielded benefits (some better than others). But it has identified in many respects people who speak for country and can form a basis on which we can reach secure and lasting settlements with Aboriginal people which can form the basis for the growth of trust and form the basis for future investments with those communities.

NUCLEAR WASTE

Mr MARSHALL (Dunstan—Leader of the Opposition) (15:00): Supplementary, sir: can the Premier outline to the house what mechanism would be used to exercise a veto by an Aboriginal community?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (15:00): Once again, they are all good questions. We haven't resolved that question, but we do have the guidance of what happened in Finland. It was simply a majority of the governing council, in their case, in the part of Finland that governed this matter. The information that we have from the Finnish experience is that the existence of a veto in the hands of that local community gave them great trust in the process because they knew that at any stage—

Mr Marshall interjecting:

The Hon. J.W. WEATHERILL: Well, I have just tried to explain to the Leader of the Opposition, if he would listen, the Finnish experience—was that the governing council of the relevant community—

The Hon. T.R. Kenyon interjecting:

The SPEAKER: The member for Newland is called to order.

Mr Marshall interjecting:

The Hon. J.W. WEATHERILL: These would be good discussions if one was permitted to continue to have the discussions. These are the sorts of intelligent questions that could be asked if we had a bipartisan position and the Leader of the Opposition didn't seek to shut down that discussion in the community. He wants his cake and eat it. He actually wants to pretend to be interested in the opportunity, but we know that he is the person who has shut down discussion about these matters. There is a growing view that the Leader of the Opposition is representing the forces of shutting down, not being open minded. We need to be open minded in South Australia to all the opportunities that exist in South Australia.

Parliamentary Procedure

VISITORS

The SPEAKER: I welcome to parliament today two distinguished former members, the member for Reynell, Gay Thompson, and the member for Norwood, Vini Ciccarello.

Question Time

QUESTIONS

The SPEAKER: The arrangement I have tried to promote is that the opposition will have the lion's share of the questions in question time and we won't have alternate questions contingent on good behaviour and the opposition cooperating with a fluent question time with a high number of questions. But for the last half hour the leader has just interjected almost continuously while the Premier has answered.

The Premier's remarks may well be provocative, but it is a fundamental breach of the understanding I have been trying to reach, and so I would ask the opposition to refrain from interjections or we will just go back to alternate questions, in which case the opposition will have far fewer questions than it has under the current dispensation. The member for Torrens.

SOUTH AUSTRALIAN ECONOMY

Ms WORTLEY (Torrens) (15:04): My question is to the Premier. Can the Premier advise the house about recent visits the government has made to South Australian businesses and any new information about the performance of our state's economy?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (15:04): Just this week, we had another cabinet meeting outside the CBD. We have held 17 of them, and we are hosting our third country cabinet meeting this week in Whyalla. As I said on Monday, we were out at Mayfield Industries at Edinburgh, who told us about their growing business and how they are connecting to international markets by exporting switches to the Asia-Pacific region. They are also playing a massive role in the renewable energy industry—remember, that industry that those opposite wanted to shut down. This is another great opportunity for us.

The week before we were in the San Giorgio La Molara Community Centre, and we heard from La Casa Del Formaggio, who told us about the benefits that they are seeing from the WorkCover reforms and how they have grown a family business from about three people to 120 people, with further plans to grow over the next five years. What we also have seen just today is the release of the ANZ Stateometer, which says that South Australia's economy is performing above the national trend. It's also demonstrating that, on a long-term trend basis, South Australia has returned to trend growth and it's accelerating—and it's accelerating.

All this is at a time when we have had the federal Liberal Party drive Holden out of South Australia and pocket the $700 million subsidy that they had and not give any of it back for labour market adjustment programs, and we have had the dithering about the Future Submarines project, which has cost us dearly in relation to jobs. So, despite all those headwinds, we are now at trend growth and accelerating, creating 9,000 jobs in the last 12 months in the South Australian economy, despite those opposite and their lack of support. It would be good if they jumped on board to lever some of this $700 million out of the hands of the federal government that they have pocketed through the closure of Holden's and the lack of subsidies for the automotive transport assistance scheme.

One of the reasons we are seeing this is because of the extraordinary taxation, planning and WorkCover reforms, which have provided opportunities for South Australian businesses to grow their businesses, opportunities that are growing in a number of the growth sectors in the economy—the health industry, the food and wine industries, the renewable energy sector, our tourism sector and, of course, our international students. All these sectors of the South Australian economy are exciting and growing, and we are at trend—accelerating.

ROYAL ADELAIDE HOSPITAL

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:07): My question is to the Minister for Health. Is it the case that the rejection of the cure plan risks stopping Project Co. from completing the new Royal Adelaide Hospital, as they advised the Supreme Court this morning?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (15:07): I will not be making any comment about what is said in the Supreme Court, other than to say what I have already said, and that is that my independent legal advice to the government is that our contract is very, very strong and protects the interests of taxpayers and protects, most importantly, the interests of the patients who will move into the new hospital.

Mr Knoll interjecting:

The Hon. J.J. SNELLING: And, unlike the member for Schubert, who obviously wants me to pursue a plan where we just do whatever SAHP ask of us and cut corners and make mistakes that the Liberal government in Queensland made, where they forced the opening of a hospital to a political agenda, I won't be making that mistake despite the calls of the opposition, who would take a very wishy-washy, weak role when it comes to dealing with large multinational corporations. I will stand up for the rights of South Australian taxpayers and for the rights of the patients who will go to that hospital.

ROYAL ADELAIDE HOSPITAL

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:09): Supplementary to the Minister for Health: in his standing up for South Australians, can he assure them then that this issue in relation to the cure plan doesn't risk the viability of this hospital and its precinct?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (15:09): I don't know what the Deputy Leader of the Opposition means by the 'viability of the hospital'. The hospital will open, but it will open when—

Mr Marshall: When?

The Hon. J.J. SNELLING: 'When?' barks the Leader of the Opposition—when it is safe to do so, when I can be reassured that the issues that we have put to Project Co. have been addressed and that they have been fixed so that it is safe to move patients into the hospital. I won't be cutting corners, and I certainly won't take the 'wet tissue' approach of the opposition, who would have me just do whatever SAHP ask of me. I will assert the rights of South Australian taxpayers and of the patients who will move into the hospital.

JOB ACCELERATOR GRANT SCHEME

Ms BEDFORD (Florey) (15:10): My question is to the Treasurer. Can you provide an update to the house on the Job Accelerator Grant Scheme and its impact on business confidence?

Members interjecting:

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (15:10): Yes, they are. I thank the honourable member for her question. I know that she is a strong supporter and passionate advocate for small business in her electorate and in South Australia. We all know that small to medium-size enterprises are the lifeblood of our state. That's why every one of the government's economic policies is tailored to ensure that these businesses thrive and that South Australia becomes one of the best places in the nation to do business.

We make no apologies; we are unashamedly pro business. Despite the unprecedented challenges we are facing, with the closure of the Australian car manufacturing industry courtesy of the Coalition government, the global decline in mineral commodity prices and a gap in naval shipbuilding, there are many positive signs in our economy. We have added 8,900 jobs in the past 12 months to September 2016, and nearly 3,000 new jobs have been registered for the job accelerator grants since our $109 million Job Accelerator Grant program for businesses to employ additional staff was announced.

Businesses in this state are growing and hiring. With grants of up to $10,000 for each job created by eligible businesses with taxable payrolls of $5 million or less, and up to $4,000 for each new job created by small businesses, start-ups and other employers that are not liable for payroll tax, we are making things just that little bit easier for businesses to go out and employ new people. In fact, just this week my office received a call from an accountant informing us of a client who has recently employed 20 new staff in the western suburbs—

Mr Marshall interjecting:

The Hon. A. KOUTSANTONIS: —and how positively this grant had been received by businesses he deals with and by businesses generally in South Australia. I just heard the Leader of the Opposition say, 'Wow!' in a sarcastic tone, about a small business hiring 20 new people. This confidence is shared by the majority of businesses in this state, according to the latest NAB Monthly Business Survey, which found that South Australian businesses are the most confident in the country. The latest ANZ Stateometer notes that, as the Premier said earlier, South Australia's economy has been improving since late 2015, and highlights that this is the state's best performance since January 2015.

The report states that positive momentum in the labour market has driven this improvement. That's why they are confident. They are confident because they see an action plan by the state government. They understand that last year's state budget was about cutting taxes so that businesses are free to invest and grow. They have seen this government deliver the most comprehensive tax reform policy in this state's history by abolishing up to $670 million worth of state taxes that South Australian businesses do not need to pay anymore.

Of course, these were tax cuts that were derided by the Leader of the Opposition, and then he called on us to bring them forward. That sort of attitude should not come as any surprise because those opposite, and some members in this parliament—

Mr VAN HOLST PELLEKAAN: Point of order, sir.

The Hon. A. KOUTSANTONIS: —have rejected every single thing we have attempted to do.

The SPEAKER: Point of order.

Mr VAN HOLST PELLEKAAN: The Treasurer is entering debate.

The SPEAKER: I uphold the point of order.

The Hon. A. KOUTSANTONIS: Thank you very much, Mr Speaker. There are some members in the community who have always opposed things that the government has done. They opposed the Festival Plaza.

An honourable member: Waste.

The Hon. A. KOUTSANTONIS: A waste. They opposed the old RAH, the O-Bahn tunnel, of course the Adelaide Oval, of course the footbridge, the tram extension, the Oaklands crossing, the Torrens to Torrens, a CBD school, the Christmas Pageant, of course the police greys and the police band. This year's budget aimed, as a priority, to provide grants to help small businesses grow—$10,000 for every new job created by businesses. Businesses are embracing our policies, and howling at the moon won't change that business confidence is up.

GAMBLING ADDICTION TREATMENT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:14): My question is to the Minister for Communities and Social Inclusion. Can the minister rule out that her chief of staff and former secretary to the ALP, Mr Michael Brown, was in discussion with Quentin Black before the gambling addiction treatment contract went out to tender?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for the Status of Women, Minister for Ageing, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers) (15:15): Yes, I can.

GAMBLING ADDICTION TREATMENT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:15): Supplementary: can the minister assure the house that there were no discussions with any other members of her staff with Mr Quentin Black before the contract went out to tender?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for the Status of Women, Minister for Ageing, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers) (15:15): As I am advised, there has been no contact prior to that contract.

GAMBLING ADDICTION TREATMENT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:15): Supplementary: will you inquire and report back to the house?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for the Status of Women, Minister for Ageing, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers) (15:15): I have sought conversations that might have taken place, and I was assured none had.

Members interjecting:

The SPEAKER: The Treasurer is on two warnings. The member for Elder.

SMALL BUSINESS CENTRE

Ms DIGANCE (Elder) (15:15): My question is to the Minister for Small Business. Minister, can you provide details to the house on the Small Business Centre?

The Hon. M.L.J. HAMILTON-SMITH (Waite—Minister for Investment and Trade, Minister for Small Business, Minister for Defence Industries, Minister for Veterans' Affairs) (15:16): I thank the member for Elder for her question. There are a lot of small businesses in her electorate, and yesterday marked a very significant step forward for them and for the state government's commitment to increase support and information provided to small business because the new Small Business Centre, at 99 Gawler Place, was opened by the Treasurer and myself with over 100 representatives of the small business community present.

The Treasurer was approached by the commissioner last year with plans to bring together services and advice from the Office of the Small Business Commissioner, the Office of the Industry Advocate, and the Department of State Development. This is a one-stop shop for people who are time poor when it comes to dealing with issues that interrupt their endeavours, and it is bringing government services to the street and to the people who need them.

Small businesses are the cornerstone of the South Australian economy, and supporting small businesses to grow is critical to ensure that we become a more prosperous state. There are over 140,000 of them defined as those businesses employing less than 20 people that a minute ago the Leader of the Opposition disparaged, representing 98 per cent of total businesses in the state and accounting for approximately a third of the workforce.

The state government is strongly committed to creating a business environment where both start-ups and established businesses have the opportunity and the capability to grow and to create jobs for South Australia. The Office of the Small Business Commissioner provides services where disputes can be resolved with a minimum of stress as possible to the small business operators. The commissioner provides information to improve the capacity of those businesses to manage their affairs, and to inform their decision-making so disputes are less likely to occur.

Since the establishment of the office, it has gone from strength to strength, and in the past year staff have dealt with 3,219 inquiries (up 15 per cent); 279 formal cases (up 50 per cent); and total cases have increased from 116 to 238. As I mentioned, the new shopfront includes access to the Industry Advocate and to DSD. Ian Nightingale, as the Industry Participation Advocate, has made extraordinary progress. The number of businesses accessing government projects now has increased by almost 40 per cent, from 51 per cent to 90 per cent in 2014-15.

Small business is represented by some 60 separate state organisations, and many of those were represented at yesterday's opening. They will gather again in the first week of December for the eighth Small Business Roundtable, co-chaired by myself and the Treasurer. The round table will give these organisations direct access to senior ministers.

This government has a strong relationship with business across the state because it understands that business is looking for bold ideas and strong leadership. It is in sync with the sector, and that is why it was no surprise to Business SA when they released a statement last night backing the continuation of the nuclear debate—a direct slap in the face to the Leader of the Opposition and his 'dead and buried' line. Small business, too, are following this debate.

Business SA's position is clear, with its spokesperson emailing members to say that, unfortunately, one-upmanship has precluded the long-term methodical consideration of the opportunity. I notice that Senator Sean Edwards and adviser Yeates have also joined in the chorus of condemnation. I know there are members opposite who see this step as a visionary and important one for the state, but the leader risks looking like the captain of the 'do nothing' brigade in losing supporters in the Liberal Party's key demographic by closing down debate on such an important issue, which is important to small business, as it is to all South Australians. You have to have policies and ideas.

The SPEAKER: I think the minister is debating the matter.

PRIVATE MUSIC INSTRUCTORS

Mr TRELOAR (Flinders) (15:20): My question is to the Minister for Education and Child Development. Will the minister change the regulations in the Education Act to ensure that schools can choose to continue to allow private music instructors to tutor on their sites during the school day as they have been doing for thousands of children for many years?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (15:20): I felt that we had discussed this fully yesterday, but I am happy to keep talking about it. The regulations are not where the guidance on how music is to be taught in schools is held, so I could say that the simple answer is no because that is not the relevant place. More importantly, though, the question is about how we are going to ensure that students continue to have access to instrumental music teaching.

As I have explained, the consent decision that was handed down by the Industrial Relations Commission requires us to more stringently use the guidelines in terms of the cascade of how those decisions are made, starting at the beginning of the school year next year. During this term we have been working that through with the affected schools and we will continue to do so in order to make sure that those guidelines are adhered to, as the Industrial Relations Commission requires and also so that we do not disadvantage students in access to instrumental music.

PRIVATE MUSIC INSTRUCTORS

Mr PISONI (Unley) (15:21): Supplementary, sir: will the minister challenge the decision of the Industrial Relations Commission that removes the choice of parents to use private tutors for music during school hours?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (15:21): The advice I have from the department is that that would not be necessary because we will be able to accommodate the determination in a way that doesn't disadvantage students. That is the crucial test of the decision and we are working through that at present to ensure that that is the case.

FOSTER CARER AND KINSHIP CARER PAYMENTS

Ms SANDERSON (Adelaide) (15:22): My question is to the Minister for Education and Child Development. Will the minister adopt the Liberal Party's policy to extend foster and kinship carer payments to 21 years of age as recommended by the Nyland royal commission and the CREATE Foundation?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (15:22): I believe we have discussed before that a number of policy changes may arise from the Nyland royal commission and that we are in the process of finalising the government's response. In due course, that will come out.

E-CIGARETTES, ILLICIT PRODUCTS

Mr TARZIA (Hartley) (15:22): My question is to the Minister for Mental Health and Substance Abuse. Has the minister or her office received any correspondence to suggest that Adelaide retailers—

Mr Marshall: She's not here.

Mr TARZIA: Another minister will do. Perhaps the Attorney may be able to answer the question. Has the minister or his office received any correspondence to suggest that Adelaide retailers are involved in the supply and sale of illicit electronic cigarette products?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (15:23): I thank the honourable member for his question. I think this is an important matter. I will seek information from Consumer and Business Services who may have some information on that, and I will certainly also speak with my ministerial colleague. This is a serious matter and, indeed, I don't know whether members are aware of this but not only is there a

considerable question about whether these are a good thing to use but there is some quite disturbing film I have seen of a gentleman leaving a licensed premises, I believe, and one of these things exploding in his pocket. If anybody is interested in this, it is on the interweb—

An honourable member: YourTube.

The Hon. J.R. RAU: YouTube! This fellow is leaving a licensed—

Members interjecting:

The Hon. J.R. RAU: A friend of mine showed me this thing the other day—

Mr Marshall: Who, who?

The Hon. J.R. RAU: It was, in fact, the Premier, I can reveal. I was trying to keep him anonymous, but he knows how to use the equipment better than I do. He identified this image, and it was quite disturbing. This gentleman is leaving what appears to be licensed premises and then his pocket literally explodes. He is quite startled, as are other people. So, there is more than one risk to this habit.

COUNTRY HOSPITALS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:25): My question is to the Minister for Health. What is the current backlog in capital works in country hospitals, and how many country hospitals are affected?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (15:25): I would have to have a look, but without doubt there are country hospitals in South Australia that we need to do capital works on. We will work through those issues in the budget process, as we normally do.

MOUNT GAMBIER HOSPITAL

Mr BELL (Mount Gambier) (15:25): My question is to the Minister for Health. Can the minister confirm that a locum agency that provides doctors to Mount Gambier's emergency department has indicated it will be ceasing to do so due to safety concerns?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (15:25): Not that I recall being advised, but I am more than happy to have a look and get back to the member for Mount Gambier.

PASADENA HIGH SCHOOL

Mr SPEIRS (Bright) (15:26): My question is to the Minister for Education and Child Development. Now that Pasadena High School parents have voted against the closure of the school, can the minister give a commitment to this school community that their school will not be closed?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (15:26): Broadly, I can. Obviously from time to time schools go through a process of determining whether they will close themselves, or there might be an active ministerial review, but I have absolutely no intention of doing that, absolutely none. I support the decision they have made, that they have decided to stay, and I will work with them to make sure that the school becomes successful.

PASADENA HIGH SCHOOL

Mr SPEIRS (Bright) (15:26): A supplementary: what is the government's plan to reinvigorate Pasadena High School?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (15:26): What we need to do is sit down with the remaining parents, and there are very few people who have enrolled for year 8 next year at this stage, something like four—understandably, because a lot of parents in the community would have assumed it was going to close. What we need to do is work not only with the school governing council as it is at present, and the leadership, but also with the community to start to get more interest in sending kids to the school.

We will work with them to make sure that the curriculum offerings are sufficiently broad, through open access and so on, and make sure that the community understands that the school is here to stay and that they should be considering it as the option for their children. They are the initial steps in what we will be doing to make sure that Pasadena returns to being a strong and stable school.

Grievance Debate

AGRICULTURE SECTOR

Mr GRIFFITHS (Goyder) (15:27): I will be taking a few minutes of the chamber's time to talk about agricultural land use, where adjoining land uses are sometimes in conflict and the challenges that creates. I am not alone in this chamber in having been contacted by several landowners, including Mr Peter Grocke and Mr and Mrs Charles and Kirstin Teusner, who are concerned about the impact of land uses adjoining their broadacre operations.

In a broadacre sense, adjoining farms actually work quite well. People respect each other, there are rules about spraying operations, drift issues are controlled, and it works. However, where you have adjoining properties where conflicting land uses occur and management practices are challenged because of their not being supportive of each other, it has created some significant problems. Indeed, it is putting some significant financial pressure upon those property owners.

I have been to Mr Grocke's property, as I have been to Mr and Mrs Teusner's property. I have spoken to them and inspected what it is, and they have quoted examples of where, in a broadacre sense, they would normally spray to control weeds. With an adjoining broadacre farmer it would not impact upon them but, because vines are planted in the adjoining property, it is impossible because they run the risk of being sued. This is a real risk because, as part of the controls over the spraying operations, it talks about distances to adjoining crops and different styles.

He has taken an appropriate response because he is concerned about being sued, but his appropriate response is actually making it very challenging for him to have a viable financial operation when it comes to his broadacre farm—and that is what worries me. It has left him unable to ensure that the maximum benefit is achieved from his property. For our state's economy to be strong we need to ensure that farming is able to prosper and that farmers are able to work diligently to ensure that their yields are up and then, depending on what prices they might get for it, they get the best possible return.

By association, our economy is strong from it. I am aware that there is a working group that is involved in pursuing this. I have posed questions through the chief of staff of the Department of Agriculture about it. I have had a response from a departmental officer that says the group has focused efforts to date on potential conflict between neighbouring primary producers over chemical use and, in particular, requirements for downwind no-spray zones when using certain herbicide sprays adjacent to sensitive crops such as grapevines.

That is a real issue, and from it comes the need to consider what buffers need to be in place and the interface management, which is one of the key things. My hope is that this working group which has been considering the matter for some time, but for which I am unable to obtain a copy of the terms of reference, which is frustrating, or a time line and expectation of reporting and actions, works diligently.

If I can use the example of Mr Grocke, he is very concerned about the fact that, at the moment, he is required to continue to farm in that area, but he cannot make a profit because of the management practices and challenges that are in front of him. He has sons who want to continue the operation, but those sons are at that desperate time now when they have to consider their future, which is likely to be in a different form of operation where they are removed from the farm, which is a tragedy.

I want this working group to report. I want the Minister for Planning, who I asked questions of during the debate on the Planning, Development and Infrastructure Bill, to be responsible for actions. I want the Minister for Agriculture, who I have also asked questions of as part of questions on notice, to be responsible for actions, and I want all those involved in the working group, which is made up of councils, the landcare group, Grain Producers SA and a wide variety of people who have

skills in this area, to continue to work diligently to get the outcomes because these outcomes have to occur.

I know there are members in the other place who have spoken to Mr Grocke and Mr Teusner also. I know there are commitments that have been given as part of negotiations about a variety of things for actions to take place, from which nothing has occurred. I implore the government to work in respect of the fact that this needs to be taken care of and to ensure that, as part of development controls, adjoining property owners—who are not in an agricultural sense normally contacted, but in this case it is a significant change of land use—are given a chance to have input into it. If we do not have that, we will have people in far too many areas who see they have no future in agriculture.

I am from an agricultural area, and I want it to be strong, but controls need to be in place to ensure that, when diversification occurs—and I support the principle of that—if that diversification has such a dramatic impact upon an existing, long-term use of agricultural land in a broadacre sense, then really serious considerations have to be given to buffer distances and the interzones and interface between management practices.

I ask the government to work on this diligently. I hope there is an outcome within a reasonable time frame that gives not just Mr Grocke and Mr and Mrs Teusner an outcome that will assist them in ensuring that their farm remains within the family long term but, in all agricultural senses, gives a long-term commitment to give agriculture a future. If this does not happen, I have great fears about what the impact will be.

PURCELL, MR IAN

Ms BEDFORD (Florey) (15:32): Earlier this month, South Australia lost a true champion of equality, human dignity and community—a man of great charm, a man of great bravery and a man of great flair. I speak of Ian Purcell AM, a lion of the LGBTIQ community who died peacefully, aged 69, on Monday 6 November at 5.15am at the Mary Potter Hospice. I share in the sadness of Ian's husband, Stephen, his family and his many, many friends and that of the South Australian LGBTIQ community who have lost in Ian one of their most extraordinary community leaders.

Our Premier, Jay Weatherill, described Ian as 'a passionate leader in the ongoing campaign for equality for LGBTI South Australians'. I also have a quote from veteran rights activist Rodney Croome, who praised Ian as:

> …a role model for many people who today defend and celebrate the LGBTI community, both in Adelaide and beyond.

Rodney said:

> He was always uplifting of others when they were down, able to find a path forward when others were confounded and keen to instil hope in those who had lost heart.

He continued:

> His indefatigable optimism for the future and his perceptiveness about what is really happening today were always sources of inspiration and wisdom. With his passing Australia has lost an LGBTI human rights hero.

Ian was born in Unley on 21 December 1947 of a large family and was always a proud South Australian and Adelaidean. He was an outstanding educator who had a long and successful career as an English teacher, and many of his former students have been among those mourning his passing, but it his leadership and activism in and for South Australia's LGBTIQ communities over 30 years which will see him remembered fondly by so many.

Indeed, as reported by *The Advertiser* shortly after news of his death became public, he was often affectionately referred to as the godfather of Adelaide's gay community. His whimsy and drama in this moniker conferred upon him by his friends tell you so much about Ian himself and what he has meant to the LGBTIQ community for so long. It is an oblique and humorous reference to that most persistent of urban myths—the notion of a gay mafia that was secretly pulling strings when the prosaic truth was quite the reverse.

Ian was a consistent champion for equality, but he was also a true culture vulture, a real Renaissance man as it were. He was an avid historian and a man of letters, a thespian, a dramatist and a consummate impresario. He loved the arts and was the creator of acclaimed productions. His

activism was always theatrical, and he is well remembered for his two musicals about Adelaide's LGBTIQ history: *The Pink Files*, playing on the notorious police surveillance of homosexuals, once commonplace in this state; and *King of the West End*, the story of the openly gay interwar Labor MP, Bert Edwards, and his later prosecution for homosexual offences.

Ian brought that same sense of theatre into every community role he performed. He was active in the seven-year fight to end the legal discrimination against same-sex couples in South Australia as part of the Let's Get Equal campaign, through which I first met him. Along with Matthew Loader, my staff and office, and a group of dedicated community members and several of my wonderful parliamentary colleagues, we worked with Ian to seek legislative recognition for equal superannuation rights for same-sex couples ahead of wider statutory reform. It is extraordinary to think that we only managed to achieve this in 2007, and even now, as we work in this chamber this week to do extra wonderful things, we still have much unfinished business.

Let's Get Equal was only one of Ian's contributions. He was a founding member of the Uranian Society, a cultural forum for gay men, and the lobby group Lesbian and Gay Community Action which was formed to counter political and social conservatism at the height of the AIDS epidemic. He was a board member of Gay and Lesbian Community Services for 18 years, doubling as the manager of the gay and lesbian community library. At the same time, he was a founding member of the revived Adelaide Pride March, held 30 years after the first pride march held at the height of the public debate about the decriminalisation of homosexuality in 1973.

He was also an active contributor, curator and supporter of the Feast Gay and Lesbian Cultural Festival for 20 years. He was an inaugural member of the ministerial advisory council on gay and lesbian health and the SA Police Gay and Lesbian Liaison Committee, and a long-term member of the Parkstone Trust. Ian worked tirelessly to advance the cause of LGBTIQ communities and to fight discrimination, and he was one of only two people who have been honoured with membership of the Order of Australia for his services to that community. He was a state finalist for the Senior Australian of the Year in 2011.

It was a privilege to attend the celebration of his life at Centennial Park last Saturday with many hundreds of other mourners, including a number of current and former parliamentary colleagues, prominent South Australian academics and cultural icons, to celebrate his life and honour his legacy. Led by one of Ian's creations, Dr Gertrude Glossip, it was indeed a celebration. Ian and Will Sergeant collaborated to help Gertrude Glossip bring us her now famous heritage cultural walking tours of Adelaide's CBD held especially during the Feast festival.

A mentor to many and a much-loved and well-respected figure, I extend my condolences to Ian's husband of 25 years, Stephen Leahy, his family, his many close friends and all members of the LGBTIQ communities. May Ian's legacy continue to inspire us all.

KANGAROO ISLAND ABALONE INDUSTRY

Mr PENGILLY (Finniss) (15:38): The abalone industry on Kangaroo Island has been around for some 15 or 20 years. After a rather shaky start, it has developed into a mainstay of employment and investment and an extremely important part of the economy. It employs around 25 to 30 people, and the wider employment factor is around about 100 people. This has all been put at risk by KI Plantation Timbers' proposal to put in a port at Smith Bay on the north coast. It is totally and absolutely incorrect to put it there. I am all in favour of a port, and all in favour of harvesting the timbers and getting rid of them, but to put a large port in place immediately adjacent to an onshore abalone farm is a particularly stupid activity.

I am rather concerned at the amount of spin that has been generated by this activity, and I think it needs knocking off. I understand that tomorrow will be gazetted an application by the company to get major project status. It should not proceed there on that spot. It should not proceed, as it is the wrong place. They have fed out a fair degree of spin and rubbish, and I am most concerned about some who are involved with this. However, the fact is that some information on the opening page of their submission states:

> Preliminary discussions with Kangaroo Island Council indicate broad support for the proposal development of a port.

I have spoken to a couple of councillors and they have had no discussions whatsoever. They are not privy to it, there has been nothing in the council meetings and there is no motion, nothing. That is one point. Also, they claim that there is only one house overlooking Smith Bay in a sparsely populated rural area. Off the top of my head I know of about five, and I might point out that I have a property about five kilometres away. I cannot see the place, I might add, just for the record.

However, this concerns me. I think that members opposite ought to pick this up with the planning minister. Members of the environment committee ought to be having a look at this. I think that I will invite the Natural Resources Committee to go over and have a look. They need to look at this. It is going to be a long fight, as the local people will simply not tolerate that. They are out of touch with reality.

The proponents this morning told me the roads they wished to use and said that nothing much needed to be done to them. That is a load of nonsense. There is an alternative port at Ballast Head, which they say is not the right place for securing. They stated in the paper that they had acquired the trees and acquired the Ballast Head port site. When I asked some questions this morning and did some more research, they have not acquired it at all: they have a contract to purchase it and they need to get $50 million worth of investment.

I am all in favour of getting $50 million worth of investment and getting rid of the trees, but the port must not, should not and cannot be at Smith Bay because it puts that whole situation with the abalone farm there in jeopardy. They are talking about six to nine months of heavy construction phase, with 51,000 cubic metres of fill and 57,000 cubic metres of dredging required—dust, noise and light pollution. They claim that they can work adjacent to an abalone farm and that that happens elsewhere.

Let me point out that in Portland the nearest aquaculture is some 12 to 15 kilometres away and that at Port Lincoln it is up to 27 to 30 kilometres away and not immediately adjacent to the port. There are all sorts of possibilities of introduced species. Seafloor destruction and major disturbances are likely to happen, including dust and silt. Abalone are extremely sensitive shellfish and they simply could not survive. They claim that they can keep the dust down, but I do not believe that is right.

On top of that, some months ago a drilling company came in and drilled holes along the foreshore and the coastal lease with no permit and no licences. They were caught out. One of the managing directors said this morning that they had had discussions in the last six months with the immediately adjacent landholder. I contacted him and he has not spoken to them for well over a year, perhaps a year and half. He has a property there with a licensed aquaculture operation (which at this stage someone is showing a lot of interest in) adjacent to the existing abalone farm. That is licensed, and it has a pumping station, it has tanks, it has hatcheries—it has the whole lot.

It is blatantly absurd for this port to go in this place. I hope that members of the government are listening, and I will be following it through with parliamentary committees and doing all I can to make sure that we get some common sense about it.

INGENUITY 2016

Mr GEE (Napier) (15:43): Today, I wish to speak about a number of events that were recently held across Adelaide in the north involving some talented and committed locals. I was pleased to attend the Ingenuity event staged at the Adelaide Convention Centre by the University of Adelaide.

Ingenuity 2016 showcased the Faculty of Engineering, Computer and Mathematical Sciences through hundreds of displays by university students that highlighted their projects and associated research. One of the displays I saw was a portable wind turbine that you could put in the back of your ute or tow behind your car; you might hook it up to a vineyard or some other facility that needed portable power. No power was required. All you needed was wind, and just changing the size of the blades on the wind turbine determined how much power you could generate.

I encourage all members to attend this event in 2017. It was an amazing experience full of fantastic ideas that showcased great innovation in their efforts to address real-life issues. Ingenuity 2016 saw 5,000 attendees, including industry representatives, primary and high school students and

members of the university community. I would love to have stayed longer at this event, but I had to attend the opening of the Mezz.

The Mezz is a collaboration between the Northern Sound System and the Northern Adelaide Senior College. The Mezz is a cutting edge learning space, where students can explore music, gaming, multimedia learning and far more. The event started with speeches by students who had been involved in developing the centre, along with minister Close and a very good musical performance by one of the students. I have to mention Colleen Abbott, who is the principal of Northern Adelaide Senior College and a very visionary and dedicated educator. Without Colleen's leadership, many projects at the Northern Adelaide Senior College simply would not happen.

Yesterday was the Lyell McEwin Regional Volunteer Association AGM. The Lyell Mac volunteers, in their orange T-shirts or jerseys, are an essential part of the fabric of the Lyell McEwin Hospital. Last financial year, 600 volunteers contributed an amazing 137,000 hours to the association, which is an average of 228.5 hours per person. The volunteers' role will only increase as this hospital continues to expand to deliver for our growing northern community. The volunteers provide directions for patients and visitors, give access to in-room TVs and magazines, provide respite care, work in the Thrifty V shops and warehouse, and run the library trolley and gift shops, just to name a few of their roles.

Playford Alive is an area in my electorate that has many volunteers and community groups. Some of these groups were recently recognised through the Playford Alive Initiatives Fund. The fund, which is generated by a percentage of the sale of Renewal SA properties in the local area, provides grants to the community each year. This year's grants were awarded to Therapeutic Dog Services, the Northern Communities of Hope Church and their youth outreach program, the Northern Area Community & Youth Services, Habitat for Humanity and the Cooinda Over 50s Club. The programs that have been funded will benefit young people through the provision of craft supplies and outdoor game resources and equipment, and resources for ongoing programs including events, activities, mentoring camps and volunteer training for local young people.

The community across all ages will benefit from the creation of an attractive community space between the Swallowcliffe Primary School and the NACYS site and, also, through a new initiative to engage, train, educate and offer work experience opportunities to disadvantaged youth, long-term unemployed and disengaged community members. Senior members of the community will benefit from the purchase of a catering trolley and therapy dog and handler visits to local nursing homes and mental health and disability services.

An exciting event is occurring this Saturday at Munno Para. The 13th Playford Alive Community Fun Day will hit the Playford Alive Town Park at 10am, as over 6,000 people enjoy food, drink and fun before Timomatic parachutes in to complete a great day. I hope we can end this year with some good social reforms to put South Australia back at the forefront of progressive change, and head into another year with even more reform and even more quality governance.

POWER OUTAGES

Mr TRELOAR (Flinders) (15:48): I rise today to talk, once again in this place, about the impact of the significant power outage of last month on the electorate of Flinders. Much of Eyre Peninsula found itself without power and, even more importantly, communications for two, three and even up to four days, sometimes (in the case of landlines) even longer. In relation to the power outage, I decided to correspond with my entire electorate and sent out a letter and survey addressed to the householder talking about my take on the situation and also inviting constituents to return a survey on the back, either to a reply-paid address or via email. I gave them that option. I kept the survey quite simple, asking just four questions:

1. How did the outage affect your household or business?

2. Did you apply for the loss of power grant?

That required a yes or no answer.

3. Have you been able to find out information about the blackout and subsequent relief easily?

In the fourth question, I gave constituents the opportunity to put down their thoughts with regard to what action needs to occur to ensure our future energy reliability.

I have been overwhelmed by the response, to say the least. Only rarely does an MP have such extensive communication with the electorate. The office is receiving around 50 or 60 replies a day, and we have around 500 responses so far as of this morning. Those responses are still coming in; in fact, they are coming from all over the electorate of Flinders, which extends from Port Lincoln to Cowell to Ceduna and beyond, all the way to the Western Australian border. I would urge constituents to take part in the survey.

The opportunity is still there. If constituents did not get a survey form or would like to access another one, they can contact my Ceduna or Port Lincoln offices. Alternatively, they can access a form on my website. Many issues were raised. Particularly concerning were the issues raised by the elderly, who really felt that some of their health issues were brought to the forefront regarding having no power supply and no communications.

The landlines and mobile phone towers went out. After a period of hours, generally about six to eight hours, the battery supply runs out, so much of Eyre Peninsula was left without telephone communication. Of course, with that often goes internet access via phones or home computers, so there was very little opportunity for authorities to get good information out. People were not receiving good, timely and reliable information and felt vulnerable as a result.

The uptake of the government grants that were made available was significant. There were around 6,000 in the Port Lincoln area and close to a thousand near Ceduna. Of course, there is a vast area of some 400 kilometres in between, where people were stuck unless they were able to transport themselves. Also, of course, there was very little petrol or fuel supplies available because fuel stations rely on power supply. So, things were compounding and a lot of people did not get the opportunity to lodge the claim form. However, I understand that, for those who did, payments are being made as we speak; so those who were found to be in hardship or need will receive those payments.

There were some interesting ideas about what we could do in the future. We have two wind farms already on Eyre Peninsula: at Cathedral Rocks, west of Port Lincoln, and at Mount Millar near Cleve. Many constituents suggested that we make better use of those wind farms. That is contingent on a better transmission line being put in place, which would have the double effect of being able to make better use of existing generation supplies and also securing our connection to the national grid.

There was some talk about reopening the Port Augusta power station, either as coal or natural gas, for our government to subsidise battery storage or generators for homes and, of course, most importantly, increase maintenance of generators and the grid. There were lots of ideas and lots of good information feeding back. We have not even started on the price of power, but that will be significant for households and businesses as well.

REMEMBRANCE DAY

Mr PICTON (Kaurna) (15:53): It is fantastic to have a huge audience here for our grievance debate today, which is a bit different from the usual, when we are really just talking for the record.

The DEPUTY SPEAKER: Order! I understand they are giving marks out of 10, so get moving.

Mr PICTON: Do not worry, I am sure we will get to what you are here to listen to a bit later on. What I particularly want to note in the house today is that late last week we marked Remembrance Day on 11 November. This year, there were three important events in my electorate to mark Remembrance Day. As I do every year, I spent the morning with the very good veterans at the Port Noarlunga Christies Beach RSL Club at Port Noarlunga, where there was yet another moving ceremony to mark the occasion.

The ceremony was well attended by a range of different veterans and community groups as well as the police, firefighters and ambulance officers. It was also very positive to see representatives of local schools attend; in particular Christies Beach Primary School and Cardijn College sent delegations along to lay wreaths and take part in the ceremony.

Thank you to president Steve McInnes, and also all the members and executive at the RSL club for putting on a fantastic occasion to mark Remembrance Day. I should also note it was the last occasion for Father Dirk van Dissel from the local Anglican church, St Francis of Assisi, who always presides over services at the RSL club and often invites me and the member for Reynell to host his quiz nights at the church. He is retiring later this year, so this was the last occasion for him to preside over.

Secondly, at the same time (and therefore I was unable to attend but was able to send a representative from my staff) there was a ceremony at Seaford Secondary College to open their new memorial wall they have been able to establish on the school grounds to mark the centenary of ANZAC. This is a fantastic display of artwork that students have been involved in right from the very beginning. It is really going to be a great marker to teach those new generations about the spirit of ANZAC and the service of our veterans over the last 100 years and more. Full credit in particular to the art teacher, Ian McGregor, who has given up countless hours to work to see this project become a reality, and also the organising committee, which I understand involves a large number of students and teachers at the school. Congratulations to all of them.

Thirdly, along with the member for Reynell, as well as the federal member for Kingston, Amanda Rishworth, and a lot of local councillors, on the weekend I was at the Fleurieu Peninsula Family History Group event where they launched their book, *World War I ANZACs of the Fleurieu Peninsula: Stories from Pioneer Families*. An amazing amount of work has been put into collecting and publishing the stories of those World War I veterans who came from throughout the Fleurieu Peninsula, when electorates like mine, which are now largely suburbia, were at that time very small towns.

Towns like Aldinga, Port Noarlunga and Old Noarlunga were very small but, as per everywhere across the country, there was a great sacrifice of people willing to put up their hands to join the effort in Europe at that time during World War I. To get these stories down on paper and published is a fantastic achievement. There was a number of different veterans who were marked, including Lance Corporal Marshall Way, Private Arthur Mills, Temporary Bombardier Andrew Scott, Cadet Corporal Madeline Pudney, Cadet James Hill and Cadet Lance Corporal Corbin Donovan, whose stories were told to us and are all collected in that book.

A huge thank you to the ANZAC commemoration project committee, all volunteer historians in the local area: Kath Fisher, Jan Lokan, Judy Dowling, Lynette Gibson, Jenny Chapman, Mary Ann Minor, Joan Davies, Joy Nieass, Ros Dunstall, Heather Boyce and Kerry Edwards. They all contributed hugely to this book. Thank you as well to the 40 Army Cadets Noarlunga and their officer in charge, Darren Smedley, for their contribution to the beautiful service at the Port Noarlunga Arts Centre on the weekend, as well as all the Banner Party Cadets who played such an important role in that ceremony.

Mr KNOLL: Madam Deputy Speaker, I would like to draw your attention to the state of the house.

A quorum having been formed:

Bills

ELECTORAL (LEGISLATIVE COUNCIL VOTING) (VOTER CHOICE) AMENDMENT BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:00): Obtained leave and introduced a bill for an act to amend the Electoral Act 1985. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection

Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:01): I move:

That this bill be now read a second time.

The Electoral (Legislative Council Voting)(Voter Choice) Amendment Bill 2016 proposes to change the voting system used for Legislative Council elections and implement what is to be known as the 'voter choice' method of voting. Voter choice is a variant on the current system of voting used for Legislative Council elections. Voter choice would essentially work as follows: there would no longer be voting tickets in Legislative Council elections.

As is currently the case, voters would be able to vote '1' above the line for the party or group of their choice. This would be known as a 'group vote'. Unlike the current system, where the vote above the line is interpreted in accordance with the voting ticket lodged by the particular party or group, a group vote would be a vote for each of the candidates in that party or group in the order nominated by that party or group.

Below the line voting, or an individual vote, would be largely unchanged, although there is provision relating to the interpretation of ballot papers so that where a person just votes '1' for the lead candidate of a party or group below the line that would be interpreted as a vote for the party or group above the line. In other respects, the voting system for Legislative Council elections would remain largely unchanged. The methods of calculating the quota and transferring surplus votes remain the same.

The voter choice method of voting would limit the potential for parties to secure Legislative Council seats through preference harvesting. The proposal is intended to make it easier for people to understand the implications of their vote and to have control over their vote and preferences. Voters who cast a group vote above the line will be casting a vote for the members of that group or party and not for all candidates in the election in the order of the group's voting ticket, as is currently the case. Voters who cast an individual vote below the line will continue to be required to indicate a preference for all candidates.

I seek leave to insert the remainder of the second reading explanation in *Hansard* without my reading it.

Leave granted.

Turning now to the details of the Bill, the Bill makes amendments to the interpretation section of the *Electoral Act 1985* ('Electoral Act'). These include amendments to remove the definition of 'voting ticket square', amend the definition of 'voting ticket' so that it only applies to House of Assembly elections, and introduce the term 'group voting square'. The definition of 'group' is also moved from Part 13A of the Electoral Act into section 4(1) of the Electoral Act.

The Bill amends section 58 of the Electoral Act so that when Legislative Council candidates apply to be grouped together on the ballot paper, they may also request that a group voting square be printed on the ballot paper in respect of their group. Where such a request is made, a group voting square must be printed on the ballot paper. The Bill also amends section 59 to require that the names of candidates within a group must be printed on the ballot paper in the same order as they appear in the section 58 application.

In practice, the appearance of ballot papers will be largely unchanged. Group voting squares will replace the current voting ticket squares for what is commonly referred to as above the line voting. Candidates' names will be listed on the ballot paper below the line, and in the order in which they appear in the section 58 application (if any).

Currently, section 63 of the Electoral Act deals with voting tickets in both Legislative Council and House of Assembly elections. The Bill repeals section 63 and inserts new section 60A, which is in similar terms to section 63 but applies only in relation to House of Assembly elections. Consequential amendments are made to a number of sections in the Electoral Act to change references from section 63 to section 60A.

The Bill also amends section 66 of the Electoral Act to reflect the fact that there will no longer be voting tickets in Legislative Council elections.

Changes are made to the method of voting in section 76 to allow a voter to vote by marking a '1' in the group voting square that relates to the group that the voter prefers. That vote will be interpreted so that it is a vote for each of the candidates in that group, in the order nominated by the group under section 58. So, if there are 6 candidates in a group, a vote for the group will be a vote from 1 to 6 for each member of that group in the order nominated by the group.

The Bill makes amendments to the formality provisions in sections 92 and 94 to reflect the proposed new system of voting. In particular, section 92 provides that where a person just votes '1' below the line for the first candidate included in a group, that would be interpreted as an above the line vote for that candidate's group.

The Bill also contains changes to the scrutiny provisions to accommodate for the fact that above the line voting only provides a vote to a single party or group.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Electoral Act 1985*

4—Amendment of section 4—Interpretation

This clause makes consequential changes to definitions and inserts a definition of *group voting square*.

5—Amendment of section 53—Multiple nominations of candidates endorsed by political party

This clause makes an amendment to section 53 to reflect the fact that, under the measure, voting tickets would only be lodged in relation to House of Assembly elections.

6—Amendment of section 58—Grouping of candidates in Legislative Council election

This clause allows an application for the grouping of names on a Legislative Council election ballot paper to also request a group voting square for the group.

7—Amendment of section 59—Printing of Legislative Council ballot papers

This clause requires that a Legislative Council election ballot paper be printed such that the order of names of candidates within a group will be the order specified in the group's application under section 58.

8—Insertion of section 60A

This clause is consequential. Section 63 of the Act is repealed by clause 9 of the measure and relocated in the subdivision dealing with House of Assembly elections (because voting tickets would no longer be relevant in relation to Legislative Council elections under the measure). The wording of the provision has been altered to reflect the fact that it now applies only to House of Assembly elections.

9—Repeal of section 63

This clause repeals section 63 (see clause 8).

10—Amendment of section 66—Preparation of certain electoral material

This clause makes consequential amendments to reflect the fact that voting tickets would no longer be relevant in relation to Legislative Council elections under the measure.

11—Amendment of section 76—Method of voting at elections

This amendment replaces the reference to voting ticket squares on a Legislative Council ballot paper with a reference to group voting squares.

12—Amendment of section 92—Interpretation of ballot papers in Legislative Council elections

This clause amends section 92 to set out the manner in which Legislative Council ballot papers may be interpreted. Generally a voter would be required to mark a Legislative Council ballot paper by either placing a 1 in a group voting square (which is then interpreted as a vote for the members of that group in the order in which they appear on the ballot paper) or by numbering all the squares for individual candidates below the line. The provision, however, provides rules for interpreting ballot papers that have been marked in a manner that does not comply with these general requirements.

13—Amendment of section 94—Informal ballot papers

This clause makes consequential amendments in relation to informal ballot papers.

14—Amendment of section 95—Scrutiny of votes in Legislative Council election

This clause amends section 95 to reflect the change from voting ticket squares to group voting squares and make other consequential amendments to the scrutiny provisions.

15—Amendment of section 130A—Interpretation

A definition of *group* is deleted as this definition is now to be located in section 4 of the Act.

Debate adjourned on motion of Mr Treloar.

SUMMARY PROCEDURE (INDICTABLE OFFENCES) AMENDMENT BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:03): Obtained leave and introduced a bill for an act to amend the Summary Procedure Act 1921 and to make related amendments to the Bail Act 1985; the Correctional Services Act 1982; the Criminal Investigation (Covert Operations) Act 2009; the Criminal Law Consolidation Act 1935; the Criminal Law (Sentencing) Act 1988; the District Court Act 1991; the Evidence Act 1929; the Juries Act 1927; the Magistrates Court Act 1991; the Supreme Court Act 1935; the Work Health and Safety Act 2012; the Young Offenders Act 1993 and the Youth Court Act 1993. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:05): I move:

That this bill be now read a second time.

The Summary Procedure (Indictable Offences) Amendment Bill 2016 improves how major indictable matters are dealt with within the criminal justice system. The changes are designed to enable courts, police, forensic services and prosecutors to focus their resources where they are most needed and ease the pressures on our court system by:

- introducing a tiered prosecution disclosure regime that will allow for earlier disclosure of the primary evidence to defendants;
- requiring major indictable matters to be the subject of a charged determination by the Director of Public Prosecutions prior to the commencement of committal proceedings;
- giving the courts discretion to set realistic adjournment time frames that reflect the needs of individual cases and reduce unnecessary court appearances for major indictable matters when they are in the Magistrates Court;
- requiring case statements to be filed by prosecution and defence prior to a matter being arraigned in the District Court or Supreme Court to identify the matters that are genuinely in dispute in contested matters, thus enabling the courts, the police, forensic and prosecution resources to focus on those issues;
- changing the way subpoenas are issued in major indictable matters; and
- refining the discounts on sentence that already exist where guilty pleas are entered early and introducing a discount representing an incentive for cooperative conduct of the defence case.

The bill supports and builds upon recent changes made by the Criminal Law (Sentencing) (Guilty Pleas) Amendment Act 2012 (the guilty pleas act) and the Statutes Amendment (Courts Efficiency Reforms) Act 2012 (the courts efficiency act), which have already positively impacted on the timing of guilty pleas for major indictable matters.

It also refines changes made to the Statutes Amendment (Criminal Procedure) Act 2005 which introduced provisions relating to defence disclosure into the Criminal Law Consolidation Act 1935. The bill includes an amendment to the Summary Procedure Act 1921 to implement recommendation 182 of the Child Protection Systems Royal Commission. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Background

The latest data from the Report on Government Services 2016 indicates that notwithstanding the South Australian District Court had the second highest rate of criminal finalisations, 22% of the outstanding matters had been pending for over 12 months.

The Annual Report of the Office of the Director of Public Prosecutions for the 2014-2015 period shows that the reasons for vacated criminal trials in Adelaide across the Supreme and District Courts includes 35% that were vacated due to late guilty pleas. In addition, 14% were discontinued by the DPP, while almost 20% were vacated because there was no judge or court available.

The latter category is an unfortunate by-product of the practice of over-listing by the criminal courts. In the interest of efficiency, the court will list more matters than it can hear, based on the expectation that a number of listed criminal trials will resolve due to late guilty pleas and late withdrawals. However, there are often occasions where the number of matters resolving late is less than expected. This in turn means more trials are listed than there are available court rooms or judges to hear them, and some trials will have to be relisted to be heard on another date. These relisted trials then contribute to the backlog. They also contribute to stress and frustration for witnesses, and victims and the accused, and they represent wasted resources due to police, prosecutors, forensic services and defence practitioners preparing for a trial that is postponed.

It will not be possible to entirely eliminate the late resolution of matters in the criminal justice system. There will always be some defendants who delay the inevitable for as long as they possibly can, and only enter their plea on the doorstep of trial. There will always be some victims who decide at the last minute that they simply cannot face going to court.

However, the Government has committed to addressing backlogs within the Court system. Previous reforms have already begun, with success, to increase the number of guilty pleas being entered earlier in the process, rather than at the last minute.

The measures provided for in this Bill builds upon that success, and seeks to reduce the number of matters listed for trial only to resolve by late guilty plea or discontinuance by further encouraging the early resolution of major indictable matters and providing for the issues genuinely in dispute in a contested matter to be identified early. Early identification of the issues in dispute may shorten the overall length of a trial, and will provide greater certainty as to the expected length of a trial for listing purposes. As less matters are withdrawn or resolve late, it is anticipated that the need to 'over list' also reduces, thereby reducing the number of matters being vacated due to 'no judge available' and needing to be relisted in several months' time. It is anticipated that the backlog will reduce, and more trials will be heard the first time they are listed.

It is well known that if a matter is ultimately going to resolve by way of a guilty plea, it is better for victims, witnesses, the courts and all parties involved in the criminal justice system, for that plea to be entered as soon as possible. Late resolution creates stress and uncertainty for victims of crime and witnesses. This reform is intended to reduce that stress and uncertainty. It will also free up the resources of police, courts, the DPP and forensic services from attending court hearings and preparing for matters that do not ultimately proceed, so that they can focus on the matters that do.

Summary of the Bill

Changes to the Committal Process

The existing process of SAPOL arresting or reporting a suspect and appearing for the prosecution at the first court appearance will be retained. This will be known as 'pre-committal'.

The current system of scheduling court hearings in the lower court will be improved. Currently, it is commonplace for a hearing date to be scheduled and then for adjournments to be sought because more time is needed to gather evidence. This occurs even though it was known at the outset that certain types of evidence would not be ready by the scheduled hearing date.

The Bill introduces a system of tiered disclosure and charge determination by the DPP for matters commenced by SAPOL which are to be subsequently prosecuted by the State DPP. Both of these concepts were considered in detail, and recommended by the NSW Law Reform Commission in its report 'Encouraging appropriate early guilty pleas' tabled in the NSW Parliament in June 2015. The Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse suggested, in its Consultation Paper on Criminal Justice released in September 2016, that the approach recommended by the NSW Law Reform Commission is a model that governments might consider to encourage early and appropriate guilty pleas.

Under this system, SAPOL will inform the Magistrates Court at the first hearing of the time required to provide a preliminary brief taking into account the specific requirements of the case. The Magistrates Court will adjourn the matter for an appropriate amount of time to enable provision of the preliminary brief, plus four weeks to give time to the DPP to consider the preliminary brief and make a charge determination. This will reduce the need for multiple adjournments to enable evidence to be obtained in cases where it was known at the outset that material such as e-crime, forensic material, or telephone interception material simply could not be provided within the timeframes set.

The 'pre-committal' stage permits court oversight in relation to the 'holding' charge. This provides important protections to the defendant, such as ensuring reasonable timeframes for the collation of the preliminary brief, and as to the conditions of bail. As noted above, the defendant can still elect to plead guilty during this stage, thereby securing a higher discount (in the majority of cases), if they choose to do so.

The preliminary brief will contain the key evidence available to prove the elements of the offence alleged to have been committed. In some cases, this may include evidence that is not in a technically admissible form but which is available in a timely way, is reliable, and is sufficient for both the prosecution and defence to understand what evidence exists and is capable of being provided should the matter go to trial. The precise content of the brief is not prescribed under the Bill. This is intentional, as those requirements will vary between cases and types of cases. It is intended that the DPP will determine what evidence will be sufficient to make a charge determination. The DPP will provide training and guidance to SAPOL to ensure that the expectations are clear, and the two agencies will work together to ensure the efficiency of this process.

The DPP is required to consider the preliminary brief and make the charge determination before the committal proceedings can commence. The DPP will consider whether there is enough evidence to support the charge. Because this decision is not made until the preliminary brief has been provided, this ensures the charges better reflect the criminal culpability of the defendant. This should reduce the number of matters which are withdrawn later in the process. It should also reduce the number of matters where the charge is amended by the prosecution due to the late receipt of evidence. This in turn ensures that the defendant knows the charge has been reviewed by the DPP, and reduces any incentive to delay pleading guilty based on a belief that the prosecution is likely to amend the charges as the matter proceeds.

Currently, some defendants complain that they cannot consider whether to plead guilty early in the proceedings because of a lack of disclosure of the evidence against them. Under the Bill, the prosecution is required to provide a document containing a brief description of the allegations on or before the first court appearance. In most cases, this is likely to be the narrative portion of the Police Apprehension Report, which is currently provided as a matter of practice. The inclusion of this requirement in the Bill is in response to a request by the Law Society of South Australia and the South Australian Bar Association, to assist them in providing early advice to their clients.

In addition, under the Bill, the charges following charge determination are based on better, more complete information than is currently the case. The preliminary brief is provided to the defendant before the committal proceedings commence, as soon as practicable after it has been provided to the DPP. The only reason it is not provided at the same time is due to logistical impossibility, but the clear intention is that they will receive it as early as possible. This will give the defendant better understanding of the case against them by the time the charge determination is made. If they do not plead guilty at the committal appearance following the charge determination, the Magistrates Court will adjourn to enable provision of the committal brief, which will include further evidence that was not part of the preliminary brief, or which was provided but was not in a technically admissible form. Again, the Magistrates Court will consider the specific requirements of the case when setting timeframes to avoid unnecessarily adjourning matters later. After the committal brief has been provided, the defendant will be required to indicate whether they will plead guilty or not guilty.

If a defendant pleads not guilty, they will be committed to the District or Supreme Court for trial.

The Court will be able to vary these procedures as necessary to accommodate matters not commenced by SAPOL and prosecuted by the DPP, such as Commonwealth Prosecutions.

Case Statements

Before the first hearing in the District or Supreme Court (the Arraignment), both prosecution and defence will be required to prepare a 'case statement'. The prosecution has to provide their case statement first, at least 6 weeks before the Arraignment. It will set out a summary of the facts alleged against the defendant, a description of the evidence they rely on in relation to each 'element' of the offence, and other procedural matters such as which witnesses they intend to call at trial and other applications they will be making (this could include things like asking for a witness to give evidence via CCTV).

The defendant will be required to prepare a case statement in response, within four weeks of receiving the prosecution case statement. The defendant's case statement will set out any facts or elements they agree with based on the prosecution statement, indicate whether they consent to any of the prosecution applications, and set out whether they intend to raise various issues such as challenging the admissibility of a police search or a police interview, or whether they want the prosecution to prove 'routine' matters such as the chain of evidence on an exhibit. The defendant will also be required to set out any defences he or she intends to rely on.

If the defendant does not comply with the requirement to provide this information, they may not be permitted to lead evidence at trial inconsistent with their case statement. If they conduct their trial in a way that is contrary to the

position taken in their case statement, the court or a party to the proceedings may be allowed to make comment about that to the jury.

The concept of prosecution and defence case statements is not a new one. Other Australian jurisdictions have also implemented reforms based on these concepts. By way of comparison, NSW introduced mandatory disclosure provisions in similar terms to those contained in the Bill in 2013. Victoria and Western Australia also have provisions for the provision of prosecution summaries or statements, and corresponding defence responses.

As far back as 1999, the Standing Committee of Attorney's-General (SCAG) working group chaired by Brian Martin QC (as he then was) on criminal trial procedure, recommended the introduction of a form of prosecution and defence case statements. These recommendations were repeated by the Duggan Committee, which reported 'we accept that the right to silence which is based on the rule against self-incrimination is not diminished by a requirement to indicate certain specific defences which might be raised, what challenges are to be made to the prosecution evidence or what expert evidence might be adduced in support of the defence case. We do not agree that requirements to disclose such information could in any sense affect the burden of proof. The presumption of innocence which provides the rationale for the burden of proof would be similarly unaffected'.

In 2005, the Government introduced the S*tatutes Amendment (Criminal Procedure) Act 2005* to enact reforms recommended by the SCAG, the Duggan Committee and the Kapunda Road Royal Commissioner. That Act contained provisions which required defence disclosure prior to trial in relation to expert evidence proposed to be led, and inserted existing section 285BB into the CLCA. That section is discretionary. It provides that the court may make orders requiring the disclosure of specific defences of its own motion or on the application of the DPP. The orders may only be made if the court is satisfied that the prosecution has provided the defence with an outline of the prosecution case, and there are no existing but unfulfilled obligations of prosecution disclosure. The provision also provides for orders to be made for defence to advise whether it consents to the dispensing of calling of certain witnesses. The provision commenced on 1 March 2007 but is rarely, if ever, used. Clause 123 of the Bill replicates the effect of the existing s285BB. However, rather than requiring an application to be made before the provisions apply, it requires the provision of case statements as a matter of course, in a similar way to the provisions enacted in NSW.

Subpoenas

The Procedure Bill changes the way that parties can apply for a subpoena to obtain documentary evidence in major indictable matters. While a matter is in the Magistrates Court, if a party wants to issue a subpoena (other than a subpoena to call a witness to give evidence) they will only be able to do so if the prosecution and any party to whom the subpoena is directed agrees, or if a magistrate has considered the application. In the superior court, a subpoena may only be issued if the party seeking it has filed their case statement, and the parties (including the party to whom it is directed) agree, or a master or judge of the court is satisfied that the subpoena would be likely to provide material of relevance to matters that will be in issue at the trial. This will ensure that subpoenas are only issued in cases where there is a legitimate basis for doing so.

Sentencing Reductions

The Guilty Pleas Act commenced in March 2013. Its main objective was to improve the operation and effectiveness of the criminal justice system by reducing current delays and backlogs in cases coming to trial; by encouraging offenders who are minded to plead guilty to do so in a timely way.

In 2015 the Honourable Brian Martin AO QC reviewed the operation of the Guilty Pleas Act. His report was tabled in the House of Assembly on 17 November 2015. He found that the Guilty Pleas Act had had a significant impact on the number of guilty pleas entered in respect of major indictable matters at an early stage of proceedings, and that the increase in early pleas was improving the operation and effectiveness of the criminal justice system. The statistics reported to the Honourable Mr Martin by the Office of Crime Statistics and Research support that conclusion. In the three years prior to the commencement of the Guilty Pleas Act, the percentage of guilty pleas occurring prior to committal to the District Court ranged between 38% to 52%. This figure increased to 62% in the 12 months after the commencement of the Guilty Pleas Act.

There was an increase in the percentage of matters finalised within the first 4 weeks of the first appearance from as low as 4% to 6% in the three years preceding the commencement of the Guilty Pleas Act to 8.5% in the 12 months post commencement. There was a corresponding decrease in the number of matters finalised by guilty plea in the superior courts. For example, the percentage of major indictable matters finalised by guilty plea more than 12 weeks post arraignment ranged from 25% to 32.5% in the three years prior to the commencement of the Guilty Pleas Act. This decreased to 16% in the 12 months post the introduction of the discount scheme. These figures demonstrate the success of the reform in bringing forward those matters where a guilty plea is appropriate—shifting the timing from the 'doorstep of trial' to much earlier in the process.

Notwithstanding the success of that reform, the Hon Mr Martin recommended several small improvements in his report. The Government has considered those recommendations and, where appropriate, implemented them or responded to them in the Bill.

The Bill amends the *Criminal Law (Sentencing) Act 1988* (the Sentencing Act), including:

- amending the timing and quantum of sentencing reductions applicable in consequence of the reform package;

- introducing a maximum 10% reduction as an incentive for complying with pre-trial disclosure and for cooperative conduct of the defence case;
- ensuring that the court has regard to the timing of negotiations where those negotiations result in a different charge being laid to replace an earlier charge in respect of the same conduct; and
- setting out the process for applying the available sentencing reductions.

One particular issue that the Hon Mr Martin raised for consideration was the interpretation of the current discount scheme provisions by the Court of Criminal Appeal (CCA) as demonstrated in *R v Muldoon* [2015] SASFC 69. The original intention of the Guilty Pleas Act was to limit the availability of the maximum 40% discount to an offender who pleads guilty to an offence within the first four weeks after their first appearance. However, where negotiations have taken place much later than 4 weeks after the first appearance, and result in a different offence being substituted for the original offence, the CCA has held that the time limits re-start upon the filing of the new offence.

It was never the intention of the scheme to permit a defendant who declines to negotiate until the doorstep of trial to merit a 40% reduction on sentence if those very late negotiations result in a different charge being laid. Those negotiations should be taking place much earlier. To address this, the Bill includes a new provision that requires the court to consider, when determining the appropriate percentage reduction to apply, whether the defendant was initially charged with a different offence in relation to the same conduct, and whether (and at what stage in the proceedings) negotiations occurred.

Where negotiations result in a guilty plea to a different charge within a few weeks after the first appearance, the defendant could, in the ordinary course, expect the court to apply a reduction towards the upper end of the 40% discount range. Where a defendant who does not attempt to negotiate until the week before trial and ultimately pleads guilty to a *different* charge following those negotiations, they will be *eligible* for the maximum 40%. However, when the court considers the appropriate discount to apply, that defendant should expect to receive a discount significantly less than 40% in the ordinary course, to reflect the very late timing of their negotiations. Conversely, if a defendant offers to plead to an alternative charge early in the proceedings, but the prosecution does not accept that offer until the last moment, the court would be entitled to take that into account in the defendant's favour when determining the appropriate discount.

Provision has also been made to enable the court to take into account the situation where a defendant who has attempted to negotiate with the DPP has been unable to finalise those negotiations within the relevant time period for reasons outside of their control. This could include a situation where the prosecutor was unable to consult with a victim as required by the *Victims of Crime Act 2001* within the stipulated time period and was therefore unable to finalise negotiations.

Other changes to the timing of the relevant maximum discounts have been made to correlate to the process changes in the Bill. In addition, a maximum discount of 10% may apply where a defendant has not pleaded guilty, but is found guilty following trial, where the court is satisfied that the defendant complied with all the statutory or court ordered pre-trial disclosure and procedures, and has otherwise conducted their case in a cooperative and expeditious manner.

Creation of a 'Criminal Procedure' Act

The existing legislative provisions that govern criminal procedure are split between the Summary Procedure Act and the *CLCA*. The Bill shifts those parts of the CLCA that relate to purely procedural matters into the Summary Procedure Act. The Summary Procedure Act will be renamed the Criminal Procedure Act to reflect that it now governs criminal procedure generally. There have not been substantial amendments to those procedural provisions that do not relate specifically to this reform proposal; the 'shift' is purely to finally bring all of the criminal procedure provisions together. It is not intended that those provisions be reviewed at this time.

Recommendation of the Royal Commission

The Child Protection Systems Royal Commission recommended amendment of section 104 of the Summary Procedure Act to permit a transcript of a recorded interview with a child under the age of 14 years to be filed in committal proceedings where the transcript has been verified by a person in attendance other than an investigating officer.

This recommendation arose in the context of situations where there may be a forensic interview conducted during a Care Concern Investigation, where SAPOL may not yet be involved, but where a disclosure is ultimately made. It is intended that in those cases, the interview transcript should be able to be verified so that it is admissible at subsequent committal proceedings in a criminal matter. The report of the Royal Commission noted that it is not intended for the power to have someone other than a police officer verify the transcript to be used other than in special circumstances. Further, in some cases there may be a person in attendance who should not be permitted to verify the transcript, such as a support person or family member. The categories of person who may perform this role will be prescribed by regulation.

Conclusion

The government has been actively involved in improving the criminal justice system in recent years. Many of the problems currently faced by our criminal justice system are not unique to South Australia; indeed they are similar to problems faced in other Australian jurisdictions. In framing this reform, the government has considered reforms and

proposed reforms in other jurisdictions, with a view to learning what is working, and indeed, what is not working elsewhere. While it often seems that everyone has a view on how to improve the criminal justice system, it is clear that no one has come up with the perfect solution. It is a complex area, with competing rights, expectations, protections and objectives to be balanced. It is time to look at the recent reforms and build upon the successes. It is also time to revise practices that no longer serve their purpose or achieve the results that society expects, and to improve them. That is what these Bills do.

It is anticipated that given the remaining time in the Parliamentary calendar this year, debate on the Bill will not be completed until the 2017 Parliamentary sittings. This provides additional opportunity for those with an interest in the Bill to make contribution for consideration as the Bill progresses.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Summary Procedure Act 1921*

4—Amendment of long title

This clause amends the long title of the Act to remove the reference to the Magistrates Court.

5—Amendment of section 1—Short title

This clause amends the Short title of the Act to reflect the broadened scope of the Act by substituting the reference to 'Summary' Procedure with a reference to 'Criminal' Procedure.

6—Amendment of section 4—Interpretation

This clause inserts definitions in the principal Act for the purposes of the measure.

7—Substitution of Part 5

This clause substitutes Part 5 of the principal Act as follows:

Part 5—Indictable offences

Division 1—Informations

100—Informations charging indictable offences

The inserted section sets out the matters that an information must contain. It incorporates much of section 277 of the *Criminal Law Consolidation Act 1935*.

101—Laying of information

The provision substantially re-enacts section 101 of the principal Act.

102—Joinder and separation of charges

The proposed section substantially re-enacts section 278 of the *Criminal Law Consolidation Act 1935* and sections 102(1) to (4) and 103(4) to (5) of the principal Act.

103—DPP may lay information in superior court

The provision substantially re-enacts section 275 of the *Criminal Law Consolidation Act 1935*.

Division 2—Pre-committal hearings etc

104—Securing attendance in Magistrates Court

The provision substantially re-enacts existing section 103(1) of the principal Act.

105—Pre-committal hearings and documents

The provision substantially re-enacts section 103(2) of the principal Act. It also sets out the requirement for the defendant to be given notice of other matters at the defendant's first appearance in the Magistrates Court in relation to the charge and contains a new provision on adjournment of the defendant's first court appearance.

106—Indictable matters commenced by SA Police

The inserted section sets out the provisions to be followed in circumstances where SA Police have been the investigating authority but the matter is to be subsequently prosecuted by the DPP. The section deals with the provision of the preliminary brief by SAPOL, the making of the charge determination by the DPP and other matters relating to the hand-over of proceedings from SAPOL to the DPP.

107—Pre-committal subpoenas

The inserted section sets out the circumstances in which (and authority by which) a subpoena may be issued before committal proceedings have been completed.

Division 3—Committal proceedings

108—Division not to apply to certain matters

The provision substantially re-enacts current section 103(3) and (3aa) of the principal Act.

109—Committal proceedings generally

This inserted provision sets out the committal proceedings for an indictable offence. It also substantially re-enacts sections 105(3), (4) and (5) of the principal Act.

110—Committal appearance

The inserted provision sets out the processes to be followed during the defendant's committal appearance in the Magistrates Court according to whether the defendant admits the charge.

111—Committal brief etc

The inserted provision substantially re-enacts current section 104 of the principal Act. The provision also facilitates the making of witness statements in the form of an audio visual record or audio record in the case of certain witnesses and implements recommendation 182 of the Child Protection Systems Royal Commission Report relating to witness statements in the form of a record of interview.

112—Notices relating to committal proceedings

The proposed section provides that a defendant charged with an indictable offence may give notice indicating that the defendant intends to assert that there is no case to answer. The defendant may give notice requesting the oral examination of a witness in committal proceedings. The provision sets out the requirement to file a notice under the section.

113—Conduct of answer charge hearing

Proposed subsections (1) and (2) substantially re-enact current section 105(1) and (2) of the principal Act. Proposed subsection (3) provides that the Court need not consider the evidence to determine whether it is sufficient to put the defendant on trial for an offence where a defendant who is represented by a legal practitioner concedes that there is a case to answer in relation to the offence.

114—Taking evidence at committal proceedings

The inserted section substantially re-enacts current section 106 of the principal Act with the addition of proposed subsection (1)(d) which is consequential on the ability of a defendant to file a notice in accordance with proposed section 112(1).

115—Evaluation of evidence at committal proceedings

The inserted provision substantially re-enacts current section 107(1) to (3) and (5) and (6) of the principal Act.

Division 4—Forum for trial or sentence

116—Forum for sentence

The inserted section substantially re-enacts current sections 108 and 114 of the principal Act. The provision also provides that the Magistrates Court may sentence a person for a minor or major indictable offence in the same way as for a summary offence and that, in relation to sentencing of indictable offences, the Magistrates Court is to observe procedural rules specifically applicable to indictable offences.

117—Forum for trial

Proposed subsection (1) provides that a trial of a minor indictable offence (where the defendant has not elected for trial in a superior court) is to be conducted in the same way as a trial of a summary offence. Proposed section 117(2) substantially re-enacts current section 107(4) of the principal Act. Proposed section 117(3) substantially re-enacts current section 114 of the principal Act. Proposed section 117(4) substantially re-enacts current section 109 of the principal Act.

118—Change of forum

Proposed section 118 substantially re-enacts current section 110 of the principal Act.

119—Change of plea following committal for sentence

Proposed section 119 provides for a more limited ability for a change of plea following committal than exists in current section 111 of the principal Act so that a person who has been committed to a superior court for sentence in relation to a particular charge of an offence may only enter a change of plea in the superior court with the permission of the court.

Division 5—Procedure following committal for trial or sentence

120—Fixing of arraignment date and remand of defendant

Proposed section 120 sets out the matters that the Magistrates Court must have regard to when fixing a date for a defendant's arraignment after having committed the defendant to a superior court for trial.

121—Material to be forwarded by Registrar

The provision substantially re-enacts section 113 of the principal Act.

122—Prosecution may decline to prosecute

The provision substantially re-enacts section 276 of the *Criminal Law Consolidation Act 1935*.

123—Case statements

The proposed section sets out the requirement for the prosecution to present an information and a prosecution case statement once the Magistrates Court commits a defendant charged with an indictable offence to a superior court for trial. The provision sets out that matters that must be included in a prosecution case statement.

The proposed section sets out the requirement for a defendant committed to a superior court for trial on a charge of an indictable offence to file and give to the prosecution a defence case statement. The provision sets out the matters that must be included in a defence case statement.

124—Expert evidence and evidence of alibi

The proposed section substantially re-enacts sections 285C(1), (2) and (4) and 285C(1) to (3) of the *Criminal Law Consolidation Act 1935* but requires notice to be given in conjunction with the defence case statement.

125—Failure to comply with disclosure requirements

The provision sets out the consequences that may flow from a failure to comply with disclosure requirements (being the requirements applying under proposed section 123 and 124).

126—Subpoenas

The proposed section provides for the issuing of subpoenas after a matter has been committed to a superior court.

127—Prescribed proceedings

The provision substantially re-enacts section 275(3) and (5) of the *Criminal Law Consolidation Act 1935*.

Division 6—Pleas and proceedings on trial in superior court

128—Objections to informations in superior court, amendments and postponement of trial

The provision substantially re-enacts section 281 of the *Criminal Law Consolidation Act 1935*.

129—Plea of not guilty and refusal to plead

The provision substantially re-enacts section 284 of the *Criminal Law Consolidation Act 1935*.

130—Form of plea of *autrefois convict* or *autrefois acquit*

The provision substantially re-enacts section 285 of the *Criminal Law Consolidation Act 1935*.

131—Certain questions of law may be determined before jury empanelled

The provision substantially re-enacts section 285A of the *Criminal Law Consolidation Act 1935*.

132—Determinations of court binding on trial judge

The provision substantially re-enacts section 285AB of the *Criminal Law Consolidation Act 1935*.

133—Conviction on plea of guilty of offence other than that charged

The provision substantially re-enacts section 285B of the *Criminal Law Consolidation Act 1935*.

134—Inspection and copies of depositions

The provision substantially re-enacts section 286 of the *Criminal Law Consolidation Act 1935*.

135—Defence to be invited to outline issues in dispute at conclusion of opening address for the prosecution

The provision substantially re-enacts section 288A of the *Criminal Law Consolidation Act 1935*.

136—Right to call or give evidence

The provision substantially re-enacts section 288AB of the *Criminal Law Consolidation Act 1935*.

137—Right of reply

The provision substantially re-enacts section 288B of the *Criminal Law Consolidation Act 1935*.

138—Postponement of trial

The provision substantially re-enacts section 289 of the *Criminal Law Consolidation Act 1935*.

139—Verdict for attempt where full offence charged

The provision substantially re-enacts section 290 of the *Criminal Law Consolidation Act 1935*.

Part 6—Limitations on rules relating to double jeopardy

Division 1—Preliminary

140—Interpretation

The provision substantially re-enacts section 331 of the *Criminal Law Consolidation Act 1935*.

141—Meaning of fresh and compelling evidence

The provision substantially re-enacts section 332 of the *Criminal Law Consolidation Act 1935*.

142—Meaning of tainted acquittal

The provision substantially re-enacts section 333 of the *Criminal Law Consolidation Act 1935*.

143—Application of Part

The provision substantially re-enacts section 334 of the *Criminal Law Consolidation Act 1935*.

Division 2—Circumstances in which police may investigate conduct relating to offence of which person previously acquitted

144—Circumstances in which police may investigate conduct relating to offence of which person previously acquitted

The provision substantially re-enacts section 335 of the *Criminal Law Consolidation Act 1935*.

Division 3—Circumstances in which trial or retrial of offence will not offend against rules of double jeopardy

145—Retrial of relevant offence of which person previously acquitted where acquittal tainted

The provision substantially re-enacts section 336 of the *Criminal Law Consolidation Act 1935*.

146—Retrial of Category A offence of which person previously acquitted where there is fresh and compelling evidence

The provision substantially re-enacts section 337 of the *Criminal Law Consolidation Act 1935*.

147—Circumstances in which person may be charged with administration of justice offence relating to previous acquittal

The provision substantially re-enacts section 338 of the *Criminal Law Consolidation Act 1935*.

Division 4—Prohibition on making certain references in retrial

148—Prohibition on making certain references in retrial

The provision substantially re-enacts section 339 of the *Criminal Law Consolidation Act 1935*.

Part 6A—Appeals

Division 1—Appeal against sentence

149—Appeal against sentence

The provision substantially re-enacts section 340 of the *Criminal Law Consolidation Act 1935*.

Division 2—Other appeals

150—Interpretation

The provision substantially re-enacts section 348 of the *Criminal Law Consolidation Act 1935*.

151—Court to decide according to opinion of majority

The provision substantially re-enacts section 349 of the *Criminal Law Consolidation Act 1935*.

152—Reservation of relevant questions

The provision substantially re-enacts section 350 of the *Criminal Law Consolidation Act 1935*.

153—Case to be stated by trial judge

The provision substantially re-enacts section 351 of the *Criminal Law Consolidation Act 1935*.

154—Powers of Full Court on reservation of question

The provision substantially re-enacts section 351A of the *Criminal Law Consolidation Act 1935*.

155—Costs

The provision substantially re-enacts section 351B of the *Criminal Law Consolidation Act 1935*.

156—Right of appeal in criminal cases

The provision substantially re-enacts section 352 of the *Criminal Law Consolidation Act 1935*.

157—Determination of appeals in ordinary cases

The provision substantially re-enacts section 353 of the *Criminal Law Consolidation Act 1935*.

158—Second or subsequent appeals

The provision substantially re-enacts section 353A of the *Criminal Law Consolidation Act 1935*.

159—Powers of Court in special cases

The provision substantially re-enacts section 354 of the *Criminal Law Consolidation Act 1935*.

160—Right of appeal against ancillary orders

The provision substantially re-enacts section 354A of the *Criminal Law Consolidation Act 1935*.

161—Revesting and restitution of property on conviction

The provision substantially re-enacts section 355 of the *Criminal Law Consolidation Act 1935*.

162—Jurisdiction of Full Court

The provision substantially re-enacts section 356 of the *Criminal Law Consolidation Act 1935*.

163—Enforcement of orders

The provision substantially re-enacts section 356A of the *Criminal Law Consolidation Act 1935*.

164—Appeal to Full Court

The provision substantially re-enacts section 357 of the *Criminal Law Consolidation Act 1935*.

165—Supplemental powers of Court

The provision substantially re-enacts section 359 of the *Criminal Law Consolidation Act 1935*.

166—Presence of appellant or respondent on hearing of appeal

The provision substantially re-enacts section 361 of the *Criminal Law Consolidation Act 1935*.

167—Director of Public Prosecutions to be represented

The provision substantially re-enacts section 362 of the *Criminal Law Consolidation Act 1935*.

168—Costs of appeal

The provision substantially re-enacts section 363 of the *Criminal Law Consolidation Act 1935*.

169—Admission of appellant to bail and custody when attending Court

The provision substantially re-enacts section 364 of the *Criminal Law Consolidation Act 1935*.

170—Duties of registrar with respect to notices of appeal etc

The provision substantially re-enacts section 365 of the *Criminal Law Consolidation Act 1935*.

171—Notes of evidence on trial

The provision substantially re-enacts section 366 of the *Criminal Law Consolidation Act 1935*.

Division 3—References on petitions for mercy

172—References by Attorney-General

The provision substantially re-enacts section 369 of the *Criminal Law Consolidation Act 1935*.

8—Insertion of sections 175 to 180

This clause inserts section 175 to 180.

175—Proceedings other than State criminal proceedings

This clause allows for the making of rules of court modifying procedures in relation to proceedings for offences other than State criminal offences (which are defined as summary offences where SAPOL is both the investigation authority and prosecution authority and indictable offences where SAPOL is the investigating authority and the DPP is or may be the prosecution).

176—Overlapping offences

The provision substantially re-enacts section 330 of the *Criminal Law Consolidation Act 1935*.

177—Proceedings against corporations

The provision substantially re-enacts section 291 of the *Criminal Law Consolidation Act 1935*.

178—Defects cured by verdict

The provision substantially re-enacts section 294 of the *Criminal Law Consolidation Act 1935*.

179—Forfeiture abolished

The provision substantially re-enacts section 295 of the *Criminal Law Consolidation Act 1935*.

180—Orders as to firearms and offensive weapons

The provision substantially re-enacts section 299A of the *Criminal Law Consolidation Act 1935*.

9—Amendment of section 189B—Costs in committal proceedings

The clause amends section 189B to provide that costs will not be awarded against a party to committal proceedings for an indictable offence unless the Magistrates Court is satisfied that the party has unreasonably obstructed the proceedings.

10—Insertion of section 191A

This clause inserts a review provision in the principal Act (relating to new Part 5 Divisions 2, 3, 4 and 5).

Schedule 1—Statute Law Revision Amendments to *Summary Procedure Act 1921*

Schedule 1 makes amendments throughout the principal Act to the various references to 'Court' or 'court'. In doing so, it substitutes the various references so that they become references specifically to the Magistrates Court.

Schedule 2—Related amendments and transitional provisions

Part 1—Related amendment to *Bail Act 1985*

1—Amendment of section 3A—Serious and organised crime suspects

The amendment updates a statutory reference as a result of the amendments in Part 2 of this Act.

2—Amendment of section 6—Nature of bail agreement

This changes a reference to a 'preliminary examination' to a reference to 'committal proceedings'.

Part 2—Related amendment to *Correctional Services Act 1982*

3—Amendment of section 28—Removal of prisoner for criminal investigation, attendance in court etc

This changes a reference to a 'preliminary examination' to a reference to 'committal proceedings'.

Part 3—Related amendment to *Criminal Investigation (Covert Operations) Act 2009*

4—Amendment of section 30—Interpretation

This changes a reference to a 'preliminary examination' to a reference to 'committal proceedings'.

Part 4—Related amendments to *Criminal Law Consolidation Act 1935*

5—Amendment of section 5—Interpretation

This clause removes a definition that is now unnecessary due to the shifting of provisions from this Act to the *Summary Procedure Act 1921*.

6—Amendment of section 269E—Reservation of question of mental competence

7—Amendment of section 269J—Order for investigation of mental fitness to stand trial

8—Amendment of section 269X—Power of court to deal with defendant before proceedings completed

These 3 clauses change references to a 'preliminary examination' to references to 'committal proceedings'.

9—Repeal of Part 9 Divisions 6 to 12

10—Repeal of Part 9 Division 15

11—Repeal of Parts 10 to 11

12—Repeal of Schedules 1 to 3 and 10

The provisions repealed by these 4 clauses are largely reproduced in many of the provisions inserted by clauses 7 and 8 of this Act.

Part 5—Related amendments to *Criminal Law (Sentencing) Act 1988*

13—Insertion of section 7D

This clause inserts a new provision (mirroring content currently in section 285BC of the *Criminal Law Consolidation Act 1935*) on notice of expert evidence in sentencing proceedings.

14—Insertion of section 10AB

This clause inserts a new section 10AB providing for a reduction of sentence of up to 10% where a defendant has not pleaded guilty to an indictable offence but the sentencing court is satisfied that the defendant complied with all statutory or court ordered requirements relating to pre-trial disclosure and procedures and has otherwise conducted their case in a cooperative and expeditious manner.

15—Amendment of section 10B—Reduction of sentences for guilty plea in Magistrates Court etc

This clause reduces the scope of this section (so that indictable offences dealt with by an early plea in the Magistrates Court will now be dealt with under proposed section 10C), makes subsection (3) consistent with proposed new section 10C(4) and makes minor changes to the wording.

16—Substitution of section 10C

This clause inserts new section 10C dealing with sentencing for offences other than those to which section 10B applies. The clause provides for a range of sentencing reductions (up to a maximum of 40%) to apply to guilty pleas entered at different stages of a matter's progress through the courts. These stages link to stages set out in the new provisions to be included in the *Summary Procedure Act 1921*. Also inserted in new section 10D which explains how the sentencing reductions are to be applied.

Part 6—Related amendment to *District Court Act 1991*

17—Amendment of section 45—Non-application to criminal proceedings

The amendment updates a statutory reference as a result of the amendments in Part 2 of this Act.

18—Amendment of section 54—Accessibility to Court records

This changes a reference to a 'preliminary examination' to a reference to 'committal proceedings'.

Part 7—Related amendment to *Evidence Act 1929*

19—Amendment of section 21—Competence and compellability of witnesses

The amendment updates a statutory reference as a result of the amendments in Part 2 of this Act.

20—Amendment of section 34J—Special provision for taking evidence where witness is seriously ill

21—Amendment of section 34K—Admissibility of depositions at trial

22—Amendment of section 59IQ—Appearance etc by audio visual link or audio link

23—Amendment of section 67D—Interpretation

24—Amendment of section 67G—Interpretation and application

25—Amendment of section 69AB—Review of suppression orders

26—Amendment of section 71A—Restriction on reporting on sexual offences

These 7 clauses change references to a 'preliminary examination' to references to 'committal proceedings' (or an answer charge hearing).

Part 8—Related amendment to *Juries Act 1927*

27—Amendment of section 7—Trial without jury

The amendment updates a statutory reference as a result of the amendments in Part 2 of this Act.

Part 9—Related amendments to *Magistrates Court Act 1991*

28—Amendment of section 9—Criminal jurisdiction

29—Amendment of section 42—Appeals

30—Amendment of section 43—Reservation of question of law

31—Amendment of section 51—Accessibility to Court records

These 4 clauses change references to a 'preliminary examination' to references to 'committal proceedings'.

Part 10—Related amendment to *Supreme Court Act 1935*

32—Amendment of section 5—Interpretation

The amendment updates a statutory reference as a result of the amendments in Part 2 of this Act.

33—Amendment of section 131—Accessibility to court records

This changes a reference to a 'preliminary examination' to a reference to 'committal proceedings'.

Part 11—Related amendment to *Work Health and Safety Act 2012*

34—Amendment of section 230—Prosecutions

This changes a reference to a 'preliminary examination' to a reference to 'committal proceedings'.

Part 12—Related amendments to *Young Offenders Act 1993*

35—Amendment of section 17—Proceedings on charge laid before Youth Court

36—Amendment of section 17A—Proceedings on charge laid before Magistrates Court

37—Amendment of heading to Part 4 Division 2

38—Amendment of section 19—Committal for trial

These 4 clauses change references to a 'preliminary examination' to references to 'committal proceedings'.

Part 13—Related amendments to *Youth Court Act 1993*

39—Amendment of section 22—Appeals

40—Amendment of section 23—Reservation of question of law

These 2 clauses change references to a 'preliminary examination' to references to 'committal proceedings'.

Part 14—Transitional provision

41—Transitional provision

This clause provides that the amendments will only apply to proceedings commenced after the commencement of the measure.

Debate adjourned on motion of Mr Treloar.

SENTENCING BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:07): Obtained leave and introduced a bill for an act to make provision in relation to the sentencing of offenders in the criminal justice system; to repeal the Criminal Law (Sentencing) Act 1988; and for other purposes. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:08): I move:

That this bill be now read a second time.

When the Criminal Law (Sentencing) Act 1988 was passed in that year, the legal environment governing sentencing was very different to what it is now and what it will be. At the time, sentencing was very much the poor cousin of the criminal law so far as parliamentary attention and high judicial pronouncement was concerned.

The High Court had heard, in all the history of its existence, almost no sentencing cases at all. It had just decided Veen v The Queen (No. 2) 1988, perhaps one of the most difficult cases it ever had to decide on sentencing and marking the beginning of the current attitude of the High Court to sentencing appeals. By contrast, these days, sentencing appeals and pronouncements are a prolific part of the business of the High Court.

The provisions dealing with sentencing before 1987 were scattered about the statute book. A major objective of the Criminal Law (Sentencing) Act 1998 was then the consolidation of sentencing provisions for the convenient reference of practitioners, judges and the public.

Despite a great many amendments in the years since, the act is still a creature of the 1980s and the environment at that time in the development of public policy and sentencing doctrine and practice. Things have changed greatly in the decades since. Sentencing theory has developed, in general and in detail, under the guidance of many High Court pronouncements. The South Australian Court of Criminal Appeal has been even more active in decisions, too many to repeat here.

Not only has all that happened, but the parliament has also been active, more so in recent times, and there has been continual amendment and proposed amendment of the Criminal Law (Sentencing) Act annually—sometimes many times annually.

The changes since 1988 in every area of law—judicial, authority, legislation, public and parliamentary action—have been great and were not capable of being predicted then. The time has come to reassess and to start again. I seek leave to insert the remainder of my second reading explanation in *Hansard* without my reading it.

Leave granted.

The scope of this major reform means that the opportunity has been taken to review the entire Act and many have contributed to a re-assessment of many provisions. This reform will be a reform of the way in which the courts sentence offenders and the results of that process. To take a major example, in requiring that *'The primary consideration of a court in sentencing a defendant for an offence must be the protection of the safety of the community (whether as individuals or in general)'*, the legislation will require the court to de-emphasise the predominance of proportionality in fixing sentence (although it is still very relevant). To take another example, in introducing the sentencing option of intensive correction orders, the legislation de-emphasises immediate custodial orders in favour of community based correction for non-violent and non-dangerous offenders. The provision of a wider variety of sentencing options promotes alternatives to expensive and sometimes criminalising imprisonment.

Of course, the opportunity has been taken to tidy up the existing legislation by re-numbering clauses and placing them in a logical order and by updating the sometimes dated drafting. But the Bill proposes significant changes also.

The Reform of General Principles

The current Act contains a list of sentencing considerations. It is in s 10. It is just a huge list of everything that might be taken into account if possibly relevant (or not). It was an advance for its time. But it is not helpful, either to the courts or to the public. It is just a huge obscure shopping list. It is proposed that it be repealed.

The redevelopment of sentencing legislation has been the subject of many comprehensive reviews since 1988. The most recent, authoritative and comprehensive review was completed by the NSW Law Reform Commission in 2013 (Report 139). That authoritative review comprehensively discussed what are relevant sentencing considerations, what are not, what should be given emphasis and what should not.

The review of the general principles in the current Act therefore began with the detailed considerations of the NSW Law Reform Commission. But there are differences in the outcome. The most important of these can be found

in clause 4 of the Bill. That says that *'The primary purpose for sentencing a defendant for an offence must be the protection of the safety of the community (whether as individuals or in general)'*. Every sentencing purpose and principle in the Act and, therefore, in the sentencing process that it controls, must be subject to that overriding consideration. The provisions of the Bill emphasise the primacy of this purpose at every turn. Clause 10 provides the most obvious example.

The purposes secondary to this overriding purpose (but still relevant and operating as facts dictate) recommended are:

- punishment and making the offender accountable;
- denunciation;
- recognition of harm done to victim and community;
- deterrence, particularly by promoting the early and certain apprehension of offenders; and
- promoting rehabilitation.

In addition, the Bill lists the technical general principles of sentencing:

- proportionality;
- parity;
- totality;
- the *De Simoni* principle (an offender may not be sentenced on the basis of having committed an offence with which he was not charged);
- imprisonment as a last resort.

The next layer of the sentencing process is the relevant individual sentencing factors:

- the nature, circumstances and seriousness of the offence;
- the personal circumstances and vulnerability of the victim;
- the extent of any injury, harm, loss or damage resulting from the offence or any significant risk or danger created by the offence, including risk to national security;
- the defendant's offending history, age and physical and mental condition;
- the likelihood of the defendant re-offending;
- the extent of remorse for the offence having regard to evidence of acceptance of responsibility and acknowledgment of injury and damage caused and any reparation made; and
- the prospects of the defendant's rehabilitation.

In none of these lists is the order in which the factor or principle appears in the list significant. The first is as important as the last in general terms. Individual significance in any given case will depend upon the singular facts of that case.

Guilty Plea Discount Reforms

The *Criminal Law (Sentencing) (Guilty Pleas) Amendment Act 2012* commenced in March 2013. Its main objective was to improve the operation and effectiveness of the criminal justice system by reducing current delays and backlogs in cases coming to trial; by encouraging offenders who are minded to plead guilty to do so in a timely way.

In 2015 the Honourable Brian Martin AO QC reviewed the operation of the Guilty Pleas Act. His report was tabled in the House of Assembly on 17 November 2015. He found that the Guilty Pleas Act had had a significant impact on the number of guilty pleas entered in respect of major indictable matters at an early stage of proceedings, and that the increase in early pleas was improving the operation and effectiveness of the criminal justice system. The statistics reported to the Honourable Mr Martin by the Office of Crime Statistics and Research support that conclusion. In the three years prior to the commencement of the Guilty Pleas Act, the percentage of guilty pleas occurring prior to committal to the District Court ranged between 38% to 52%. This figure increased to 62% in the 12 months after the commencement of the Guilty Pleas Act. There was an increase in the percentage of matters finalised within the first 4 weeks of the first appearance from as low as 4% to 6% in the three years preceding the commencement of the Guilty Pleas Act to 8.5% in the 12 months post commencement. There was a corresponding decrease in the number of matters finalised by guilty plea in the superior courts. For example, the percentage of major indictable matters finalised by guilty plea more than 12 weeks post arraignment ranged from 25% to 32.5% in the three years prior to the commencement of the Guilty Pleas Act. This decreased to 16% in the 12 months post the introduction of the discount scheme. These figures demonstrate the success of the reform in bringing forward those matters where a guilty plea is appropriate—shifting the timing from the 'doorstep of trial' to much earlier in the process.

Notwithstanding the success of that reform, the Hon Mr Martin recommended several small improvements in his report. The Government has considered those recommendations and, where appropriate, implemented them or responded to them in the Bill.

This Bill contains some reforms to the guilty plea sentence reductions regime, including:

- amending the timing and quantum of sentencing reductions applicable in consequence of the reform package;
- introducing a maximum 10% reduction as an incentive for complying with pre-trial disclosure and for cooperative conduct of the defence case;
- ensuring that the court has regard to the timing of negotiations where those negotiations result in a different charge being laid to replace an earlier charge in respect of the same conduct; and
- setting out the process for applying the available sentencing reductions.

One particular issue that the Hon Mr Martin raised for consideration was the interpretation of the current discount scheme provisions by the Court of Criminal Appeal (CCA) as demonstrated in *R v Muldoon* [2015] SASFC 69. The original intention of the Guilty Pleas Act was to limit the availability of the maximum 40% discount to an offender who pleads guilty to an offence within the first four weeks after their first appearance. However, where negotiations have taken place much later than 4 weeks after the first appearance, and result in a different offence being substituted for the original offence, the CCA has held that the time limits re-start upon the filing of the new offence.

It was never the intention of the scheme to permit a defendant who declines to negotiate until the doorstep of trial to merit a 40% reduction on sentence if those very late negotiations result in a different charge being laid. Those negotiations should be taking place much earlier. To address this, the Bill includes a new provision that requires the court to consider, when determining the appropriate percentage reduction to apply, whether the defendant was initially charged with a different offence in relation to the same conduct, and whether (and at what stage in the proceedings) negotiations occurred.

Where negotiations result in a guilty plea to a different charge within a few weeks after the first appearance, the defendant could, in the ordinary course, expect the court to apply a reduction towards the upper end of the 40% discount range. Where a defendant who does not attempt to negotiate until the week before trial and ultimately pleads guilty to a *different* charge following those negotiations, they will be *eligible* for the maximum 40%. However, when the court considers the appropriate discount to apply, that defendant should expect to receive a discount significantly less than 40% in the ordinary course, to reflect the very late timing of their negotiations. Conversely, if a defendant offers to plead to an alternative charge early in the proceedings, but the prosecution does not accept that offer until the last moment, the court would be entitled to take that into account in the defendant's favour when determining the appropriate discount.

Other changes to the timing of the relevant maximum discounts have been made to correlate to the process changes proposed in the *Summary Procedure (Indictable Offences) Amendment Bill 2016*. In addition, a maximum discount of 10% may apply where a defendant has not pleaded guilty, but is found guilty following trial, where the court is satisfied that the defendant complied with all the statutory or court ordered pre-trial disclosure and procedures, and has otherwise conducted their case in a cooperative and expeditious manner.

The provisions of this Bill in relation to sentencing discount reductions are identical to those which have been introduced in the *Summary Procedure (Indictable Offences) Amendment Bill 2016*. This has been done because there are likely to be differing implementation time-frames, principally because this Bill may not come into force before the Fine Enforcement provisions are replaced and a consequential amendments Bill is introduced and passed. Parliamentary time is best used if the sentence reduction amendments are debated in the context of the *Summary Procedure (Indictable Offences) Amendment Bill* and not this Bill. Officers and Parliamentary Counsel will ensure that the results match according to debate and amendments (if any).

New Sentencing Options

The Bill mostly repeats the core provisions of the recently passed *Statutes Amendment (Home Detention) Act 2015,* but proposes some changes that were suggested during the consultation process, in part arising from experience gained in the short time since the Act was proclaimed and came into operation. Those changes are:

- It has been provided that a home detention order may not be made if it would lead to a lack of public confidence in the administration of justice;
- The Bill now provides essentially that home detention is not an available sentencing option in any case where a suspended sentence would not be available. The provisions recently enacted to curtail access to a suspended sentence have been carried over to qualify the availability of home detention as well;
- The conditions of a home detention order mandated by the Act have been changed so that liberty to attend remunerated employment, and attendance at a course of education, training or instruction are conditional on approval by a home detention officer;
- The Bill now provides a mandatory condition of electronic monitoring;

- It has been made clear that a sentence of home detention is to be treated as a custodial sentence;
- The provisions have been changed so that a home detention sentence is not in the form of an otherwise suspended sentence;
- The court must be satisfied that the site of the home detention is suitable and that adequate resources exist for the proper monitoring of the defendant; and
- The Bill explicitly provides that if a person breaches a home detention order, time spent in compliance with the order must be taken into account in the term of any consequent custodial sentence.

In addition, the Bill includes new provisions providing for two new sentencing options; a community based order and an intensive correction order.

- an intensive correction order will be available, at the discretion of the sentencing judge, in cases where a person is considering imposing a short custodial sentence, and would instead result in the offender serving their sentence of imprisonment in the community subject to certain strict conditions. The emphasis is explicitly on rehabilitative purposes and outcomes. Again, reference is made to the primacy of the safety of the community.
- a community based order will be available, at the discretion of the sentencing judge, in cases where a person is not sentenced to imprisonment, but is ordered to be released into the community subject to strict conditions (not including home detention).

The intensive correction order has a maximum duration of two years but the term actually imposed should reflect the proposed term of imprisonment.

The intensive correction order cannot be made if the court decides to suspend the sentence of imprisonment. The court is directed to assess the likelihood of the offender re-offending balanced against the prospects for rehabilitation in and out of a custodial environment.

The intensive correction order has the following mandatory conditions:

- the offender must be subject to a good behaviour condition;
- the offender must report to community corrections within 2 days of the order being made;
- the offender is under the supervision of a community corrections officer;
- the offender must not possess a firearm, parts of a firearm or ammunition, and must, on direction, submit to testing for gunshot residue;
- the offender must tell his or her assigned community corrections officer of any change of address or employment within 2 days after the change;
- the offender must not leave the State except with the permission of a community corrections officer;
- the offender must comply with:
  - regulations made for the purpose of this provision; and
  - all lawful directions of the CE and a community corrections officer;
- if a court has not ordered the offender to reside at a specified place or wear a monitoring device, the CE may, by written notice given to the offender, require the offender to reside at a specified place or wear a monitoring device for a period (but only for a period not exceeding 28 days);
- the offender must undergo assessment and treatment for misuse of alcohol or drugs or submit to medical, psychological or psychiatric assessment and treatment;
- the offender must undertake treatment programs as directed;
- if the offender is unemployed, then the offender must undertake specified hours of community work.

The Bill contains a list of optional conditions which include:

- that the offender to reside at a specified place or wear a monitoring device;
- that the offender undertake an intervention programme;
- that the offender submit to drug or alcohol testing;
- that the offender not consume or purchase alcohol;
- that the offender not consume or purchase a drug other than for therapeutic purposes.

The consumption of a drug is to be regarded as therapeutic if:

- the drug is prescribed by, and consumed in accordance with the directions of, a medical practitioner or dentist; or
- the drug:
  - is a drug of a kind available, without prescription, from registered pharmacists; and
  - is consumed for a purpose recommended by the manufacturer and in accordance with the manufacturer's instructions.

The consequence for breaching an intensive correction order is that a court may confirm or vary (including extend) the order for minor or trivial breaches, but, in the case of the offender committing further offences, revoke the order and order the offender to serve a term of imprisonment. The offender will be under the supervision of DCS and therefore breaches are to be reported to the police, to be then dealt with by the court.

The new community based order has very similar mandatory conditions as the intensive correction order. It is designed to give courts the maximum flexibility to tailor orders suiting the needs and circumstances of these comparatively minor offenders.

Other changes

In summary, the major changes contained within the Bill are as follows.

1. The statement of general sentencing factors, principles and considerations previously the subject of extensive consultation has been included, as modified by the results of extensive public consultation (outlined in more detail above).

2. The provisions on sentencing guidelines have not been retained (they have never been used).

3. The provisions dealing with victim impact statements have been amended to ensure that consideration may be given to the statement without the need for it to be read out in court.

4. The special provision dealing with the sentencing of Aboriginal and Torres Strait Islanders now contains a sub-clause stating that the court is given discretion to order a sentencing conference.

5. The set of provisions dealing with life prisoners thought to be 'dangerous offenders' has been deleted. They have never been used.

6. Provisions dealing with the enforcement of orders for the payment of pecuniary sums have been omitted as irrelevant to sentence. They will find a new home somewhere else. This will be a separate exercise.

7. Similarly, the provision dealing with the limits to the jurisdiction of the Magistrates Court will be relocated in the *Magistrates Court Act 1991*;

8. Provisions dealing with the addition or substitution of certain penalties have been modernised.

9. New sentencing options for intensive correction orders and community based orders have been added (outlined in more detail above).

10. Reform to the guilty plea discount provisions was dealt with in a separate exercise and has been included here. The details of this are discussed above.

11. A new (optional) system for the taking into account of other offences at sentence has been added. It is the current NSW 'Form 1' provisions with the addition that the schedule of offences to be taken into account should be provided by the prosecution.

12. The recently enacted home detention provisions have been inserted with some minor non-substantive changes to fit into the style of the new Bill and some major substantive changes suggested during consultation, particularly in light of experience in implementing the new option. These are outlined in more detail above.

13. Numerous other, more minor changes have been made, including:

(a) the serious repeat offenders provisions now contain a reference to repeat terrorism offences;

(b) the serious repeat offenders provisions have been amended so that on conviction of the triggering offence, the offender will be taken to be a serious repeat offender (without any need for a declaration process) and should be sentenced as such, unless the offender can satisfy the court, by evidence given on oath, that there is good reason not to impose a particularly severe sentence in order to protect the community.

(c) References to the ERD court will be moved to the ERD legislation in a separate exercise.

(d) A change to the bond provisions has been made in accordance with a request from the DPP.

(e) The existing discharge without penalty provision has been changed in accordance with a request from the Magistrates Court to remove an anomaly.

(f) The provisions dealing with serious firearm offenders have been amended at the urging of a recent Supreme Court judgment to remove an anomaly (*Coulthard* [2016] SASCFC 47).

(g) The definition of serious repeat offender contains a transitional provision.

(h) The provisions dealing with the presence of an offender at sentence have been modified to include current practice of presence by audio-visual link.

(i) The provisions dealing with treatment of mentally ill offenders have been modified to ensure reference is made to suitable treatment.

(j) A number of consequential and editing changes to the current Act have been made including changes to references to gender in accordance with a recent request by the Premier.

Legislative Policy

There is a tension in this area of law, perhaps more than most, between general principles of legislation and unfettered judicial discretion to decide the particular case. Principles of legislation can be stated by saying the criminal law and its close relative, sentencing, should be easy to find, easy to understand, cheap to buy and democratically made and amended.

Being easy to find means that the basic rules can be published in a book. The public can buy the book and read it. A good and simple commentary will soon become possible. But more than just that is involved. Society expects all of its citizens to know the law. How can we expect the citizen (and the multitude of commentators in the media) to know the law, let alone try to understand it, debate it and contribute to its change or defence if it is scattered all over the statute book and hidden in hundreds of volumes of law reports?

The criminal law should be accessible so that it is written in language that is capable of being understood by citizens of reasonable literacy. That means that it must address not only an audience of lawyers, but also an audience of average citizens.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

Division 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Division 2—Sentencing purposes

3—Primary sentencing purpose

The primary purpose for sentencing a defendant for an offence is to protect the safety of the community (whether as individuals or in general).

4—Secondary sentencing purposes

The secondary purposes for sentencing a defendant for an offence are:

- to ensure that the defendant—
  - is punished for the offending behaviour; and
  - is held accountable to the community for the offending behaviour;
- to publicly denounce the offending behaviour;
- to publicly recognise the harm done to the community and to any victim of the offending behaviour;
- to deter the defendant and others in the community from committing offences;
- to promote the rehabilitation of the defendant.

Nothing about the order in which the secondary purposes are listed implies that any 1 of those secondary purposes is to be given greater weight than any other secondary purpose.

Division 3—Interpretation and application of Act

5—Interpretation

This clause defines words and expressions used in, and for the purposes of, this measure. Many of the defined terms contained in this clause are taken from the *Criminal Law (Sentencing) Act 1988* (the *repealed Act*) which is to be repealed by this measure (see Schedule 1).

6—Application of Act to youths

This clause makes provision in relation to the application of this measure to the sentencing of youths and the enforcement of a sentence against a youth in substantially the same terms as section 3A of the repealed Act.

7—Powers conferred by this Act are additional

This clause combines sections 4 and 5 of the repealed Act. The clause provides that, subject to this measure, the powers conferred on a court by this measure are in addition to, and do not derogate from, the powers conferred by another Act or law to impose a penalty on, or make an order or give a direction in relation to, a person found guilty of an offence and that nothing in this measure affects the powers of a court to punish a person for contempt of that court.

8—Court may not impose bond except under this Act

This clause provides that a defendant may not enter into a bond except under this measure and is substantially in the same terms as section 36 of the repealed Act.

Part 2—Sentencing purposes, principles and factors

Division 1—Purposes, principles and factors

9—Primary purpose to be considered

This clause reiterates the principle that the primary purpose for sentencing a defendant for an offence must be the paramount consideration of a court when determining and imposing the sentence.

10—General principles of sentencing

This clause provides that, subject to this measure or any other Act—

- in determining a sentence for an offence, a court must apply (although not to the exclusion of any other relevant principle) the common law concepts reflected in the following principles:
    - proportionality;
    - parity;
        - totality;
        - the rule that a defendant may not be sentenced on the basis of having committed an offence in respect of which the defendant was not convicted; and
    - a court must not impose a sentence of imprisonment on a defendant unless the court decides that—
        - the seriousness of the offence is such that the only penalty that can be justified is imprisonment; or
        - it is required for the purpose of protecting the safety of the community (whether as individuals or in general).

11—Individual sentencing factors

This clause provides that a court must take into account, when determining the sentence for an offence, such of the listed or other factors as are known to the court relating to various matters as may be relevant. This clause may be compared with section 10 of the repealed Act.

Division 2—General sentencing provisions

Subdivision 1—Procedural provisions

12—Determination of sentence

This clause provides that, for the purposes of determining sentence, a court—

- is not bound by the rules of evidence; and
- may inform itself on matters relevant to the determination as it thinks fit; and
- must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

This clause is substantially the same as section 6 of the repealed Act.

13—Prosecutor to provide particulars of victim's injury etc

14—Victim impact statements

15—Community impact statements

16—Statements to be provided in accordance with rules

17—Pre-sentence reports

Clauses 13 to 17 substantially restate sections 7 to 8 of the repealed Act.

18—Expert evidence

This is a new idea and provides for a scheme that governs how expert evidence must be dealt with if a defendant is to be sentenced for an indictable offence and expert evidence is to be presented to the court by the defence.

19—Court to inform defendant of reasons etc for sentence

20—Rectification of sentencing errors

Clauses19 and 20 substantially re-state what is provided for in sections 9 and 9A of the repealed Act.

21—Presence of defendant during sentencing proceedings

While substantially restating section 9B of the repealed Act, this clause also makes provision for the presence of a defendant during sentencing proceedings by an audio visual link or audio link.

22—Sentencing of Aboriginal and Torres Strait Islander defendants

This clause sets out the procedure for convening a sentencing conference in relation to the sentencing of an Aboriginal or Torres Strait Islander defendant that is substantially the same as in section 9C of the repealed Act but with the addition of a subclause giving the sentencing court discretion about whether or not to convene such a conference.

Subdivision 2—General sentencing powers

23—Discharge without penalty

This clause provides that if a court finds a person guilty of an offence but finds the offence so trifling that it is inappropriate to impose a penalty, the court may—

- dismiss the charge without recording a conviction; or
- on recording a conviction, discharge the defendant without penalty.

If a court finds a person guilty of an offence in respect of which the only penalty prescribed is a fine and the defendant has already spent time in custody in respect of the offence, the court may, if satisfied that there is good reason not to impose any further penalty—

- dismiss the charge without recording a conviction; or
- on recording a conviction, discharge the defendant without further penalty.

A court may exercise the powers conferred by this clause despite any minimum penalty fixed by an Act or statutory instrument.

24—Imposition of penalty without conviction

This clause provides that, if a court finds a person guilty of an offence for which it proposes to impose a fine, a sentence of community service, or both and the court is of the opinion—

- that the defendant is unlikely to commit such an offence again; and
- that, having regard to various matters, good reason exists for not recording a conviction

the court may impose the penalty without recording a conviction. This clause is substantially the same as section 16 of the repealed Act.

25—Court may reduce, add or substitute certain penalties

This clause combines sections 17 and 18 of the repealed Act while updating the language and penalties to reflect the language of and penalties included in this measure.

26—Sentencing for multiple offences

This clause makes provision for the sentencing of a defendant for multiple offences and is substantially the same as section 18A of the repealed Act.

27—Non-association or place restriction orders may be issued on sentence

28—Intervention orders may be issued on finding of guilt or sentencing

29—Deferral of sentence for rehabilitation and other purposes

30—Mental impairment

Clauses 27, 28, 29 and 30 substantially re-state what is provided for in sections 19AA, 19A, 19B and 19C of the repealed Act.

Subdivision 3—Taking further offences into account

31—Definitions

This clause sets out the definitions necessary for the purposes of this Subdivision which provides for a new, optional system for the sentencing court to take into account other offences when sentencing a defendant.

32—Prosecutor may file list of additional charges

This clause provides for a formal scheme whereby the prosecutor may file in court a document that lists additional charges with which the defendant has been charged but not convicted, being offences that the defendant has indicated should be taken into account when sentencing the defendant for the principal offence before the court.

33—Outstanding charges may be taken into account

If the court considers it appropriate to do so and the defendant wants the court to take outstanding charges into account in dealing with the defendant for the principal offence, the court may take into account such further offences. The clause sets out some limitations on the court's power in respect of certain offences or as a consequence of jurisdictional restrictions.

34—Ancillary orders relating to offences taken into account

The court may make such ancillary orders as could have made had it convicted the offender of the offence when it took the offence into account, but may not impose a separate penalty for the offence.

35—Consequences of taking offences into account

This clause sets out the consequences of taking any further offence into account under this Subdivision. If a further offence is taken into account under this Subdivision—

- the court is to certify, on the list of additional charges, that the further offence has been taken into account, and
- no proceedings may be taken or continued in respect of the further offence unless the conviction for the principal offence is quashed or set aside.

This clause would not prevent a court that has taken a further offence into account when dealing with a defendant for a principal offence from taking the further offence into account if it subsequently imposes a penalty when sentencing or re-sentencing the defendant for the principal offence.

An admission of guilt made for the purposes of this Subdivision is not admissible in evidence in any proceedings relating to—

- the further offence in respect of which the admission was made; or
- any other offence specified in the list of additional charges.

An offence taken into account under this Subdivision is not, merely because of its being taken into account, to be regarded for any purpose as an offence of which a defendant has been convicted.

In or in relation to any criminal proceedings, reference may lawfully be made to, or evidence may lawfully be given of, the fact that a further offence has been taken into account under this Subdivision in imposing a penalty for a principal offence of which a defendant has been found guilty if, in or in relation to those proceedings—

- reference may lawfully be made to, or evidence may lawfully be given of, the fact that the defendant was found guilty or convicted of the principal offence; and
- had the defendant been found guilty or convicted of the further offence so taken into account, reference could lawfully have been made to, or evidence could lawfully have been given of, the fact that the defendant had been found guilty or convicted of that further offence.

The fact that a further offence has been taken into account under this Subdivision may be proved in the same manner as the conviction for the principal offence.

Subdivision 4—Sentencing reductions

36—Reduction of sentences for cooperation etc with law enforcement agency

37—Reduction of sentences for cooperation with procedural requirements etc

38—Reduction of sentences for guilty plea in Magistrates Court etc

39—Reduction of sentences for guilty pleas in other cases

40—Application of sentencing reductions

41—Re-sentencing for failure to cooperate in accordance with undertaking under section 36

42—Re-sentencing for subsequent cooperation with law enforcement agency

These clauses reproduce in this measure the amendments made to the repealed Act by the *Summary Procedure (Indictable Offences) Amendment Act 2016*.

Part 3—Custodial sentences

Division 1—Imprisonment

43—Commencement of sentences and non-parole periods

44—Cumulative sentences

Clause 43 and this clause are substantially the same as current sections 30 and 31 of the repealed Act.

Division 2—Non-parole periods

45—Application of Division to youths

46—Duty of court to fix or extend non-parole periods

47—Mandatory minimum non-parole periods and proportionality

This Division (comprising clauses 45 to 47) is substantially the same as Part 3 Division 2 (comprising sections 31A, 32 and 32A) of the repealed Act, but with a consequential amendment to clause 46 relating to intensive correction orders.

Division 3—Serious firearm offenders

48—Interpretation

49—Serious firearm offenders

50—Sentence of imprisonment not to be suspended

This Division (comprising clauses 48, 49 and 50) is substantially the same as Part 2 Division 2AA (comprising sections 20AA, 20AAB and 20AAC) of the repealed Act.

Division 4—Serious repeat adult offenders and recidivist young offenders

51—Interpretation and application

52—Serious repeat offenders

53—Sentencing of serious repeat offenders

54—Declaration that youth is recidivist young offender

This Division (comprising clauses 51, 52, 53 and 54) is substantially the same as Part 2 Division 2A (comprising sections 20A, 20B, 20BA and 20C) of the repealed Act.

Division 5—Offenders incapable of controlling, or unwilling to control, sexual instincts

55—Application of this Division

56—Offenders incapable of controlling, or unwilling to control, sexual instincts

57—Discharge of detention order under section 56

58—Release on licence

59—Appropriate board may direct person to surrender firearm etc

60—Court may obtain reports

61—Inquiries by medical practitioners

62—Parties

63—Service on guardian

64—Appeals

65—Proclamations

66—Regulations

This Division (comprising clauses 55 to 66) is substantially the same as Part 2 Division 3 (comprising sections 21 to 29) of the repealed Act.

Division 6—Sentencing standards for offences involving paedophilia

67—Sentencing standards for offences involving paedophilia

This Division is substantially the same as Part 2 Division 5 (comprising section 29D) of the repealed Act.

Division 7—Community based custodial sentences

Subdivision 1—Home detention

68—Purpose of home detention

This clause sets out the purpose of a home detention order, which is to allow a court to impose a custodial sentence but direct that the sentence be served on home detention. The paramount consideration of the court when determining whether to make a home detention order must be to protect the safety of the community (whether as individuals or in general).

69—Home detention not available for certain offences

This clause makes it clear that the powers vested in a court by this Division are exercisable despite the fact that an Act (or statutory instrument) prescribes a minimum penalty but are not exercisable in relation to—

- murder or treason; or
- any other offence in respect of which an Act (or statutory instrument) expressly prohibits the reduction, mitigation or substitution of penalties or sentences.

70—Home detention orders

This clause provides that, subject to this clause, if—

- a court has imposed a sentence of imprisonment on a defendant; and
- the court considers that the sentence should not be suspended under Part 4 Division 2; and
- the court considers that the defendant is a suitable person to serve the 35 sentence on home detention,

the court may order that the defendant serve the sentence on home detention (a *home detention order*).

The following provisions apply to a home detention order:

- a home detention order must not be made if the court considers that the making of such an order would, or may, affect public confidence in the administration of justice;
- a home detention order must not be made if the defendant is being sentenced—
    - as an adult to a period of imprisonment with a non-parole period of 2 years or more for a prescribed designated offence; or
    - as an adult for a serious and organised crime offence or specified offence against police; or
    - as an adult for a designated offence and, during the 5 year period immediately preceding the date on which the relevant offence was committed, a court has sentenced the defendant to home detention for a designated offence; or
- a home detention order must not be made unless the court is satisfied that the residence the court proposes to specify in its order is suitable and available for the detention of the defendant and that the defendant will be properly maintained and cared for while detained in that place;
- a home detention order must not be made if the home detention is to be served concurrently with a term of imprisonment then being served, or about to be served, by the defendant;
- a home detention order should not be made unless the court is satisfied that adequate resources exist for the proper monitoring of the defendant while on home detention by a home detention officer.

The court must take the following matters into consideration when determining whether to make a home detention order:

- the impact that the home detention order is likely to have on—
    - any victim of the offence for which the defendant is being sentenced; and

- any spouse or domestic partner of the defendant; and
- any person residing at the residence at which the prisoner would, if released, be required to reside;
    - the pre-sentence report (if any) ordered by the court;
    - any other matter the court thinks relevant.

The definitions of terms used in this section match the definitions used in clause 95 for the purposes of suspended sentences.

71—Conditions of home detention order

This clause provides that each home detention order is subject to the following conditions:

- a condition requiring the person subject to the order to remain at the residence specified by the court throughout the period of the home detention order and not to leave that residence at any time during that period except for the following purposes:
    - attendance at such remunerated employment at such times and places as approved from time to time by the home detention officer to whom the person is assigned during the period of the home detention order;
    - urgent medical or dental treatment for the defendant;
    - attendance at a course of education, training or instruction or any other activity as approved or directed by the home detention officer to whom the defendant is assigned;
    - any other purposes as approved or directed by the home detention officer to whom the defendant is assigned;
- a condition requiring the person to be of good behaviour;
- a condition requiring the person to be under the supervision of a home detention officer;
- a condition requiring the person to obey the lawful directions of the home detention officer to whom the person is assigned;
- a condition prohibiting the person from possessing a firearm or ammunition or any part of a firearm;
- a condition relating to the use of drugs by the person other than for therapeutic purposes; and
- a condition requiring the person to submit to such tests (including testing without notice)—
    - for gunshot residue; or
    - relating to drug use,

as a home detention officer may reasonably require;

- a condition that the defendant be monitored by use of an electronic device approved under section 4 of the *Correctional Services Act 1982*; and
- such other conditions as the court thinks appropriate and specifies in the order.

72—Orders that court may make on breach of condition of home detention order etc

This clause is similar to section 33BD of the repealed Act. However, if a court revokes a home detention order and orders that the balance of the sentence be served in custody, the court—

- must direct that the following periods be taken into account:
    - the period of compliance by the person with the conditions of the home detention order;
    - the period spent by the person on home detention or otherwise in custody pending determination of the proceedings under this section; and
- may, if it considers that there are special circumstances justifying it in so doing, reduce the term of the sentence of imprisonment; and
- may direct that the sentence be cumulative on any other sentence, or sentences, of imprisonment then being served, or to be served, by the person.

73—Court to provide CE with copy of home detention order

This clause provides that if a home detention order is made in respect of a person, or the order or conditions of the order are varied or revoked, or a further order is made in respect of the person, the court must notify the chief executive of the administrative unit of the Public Service that is responsible for assisting a Minister in the administration

of the *Correctional Services Act 1982* (the *CE*) of the terms of the order, variation, revocation or further order, as the case may require.

74—CE must assign home detention officer

The CE must, on receiving a copy of a home detention order (and may after then from time to time) assign the person to whom the order relates to a home detention officer and ensure that the person is so notified. It is the duty of a home detention officer to endeavour to ensure that any person assigned to the officer complies with the conditions of the order.

75—Powers of home detention officers

This clause provides that a home detention officer may, at any time, for the purpose of ascertaining whether or not a person to whom the officer has been assigned is complying with the home detention order and conditions—

- enter or telephone the person's residence; or
- telephone the person's place of employment or any other place at which the person is permitted or required to attend; or
- question any person who is at that residence or place as to the whereabouts of the person.

76—Apprehension and detention of person subject to home detention order without warrant

This clause is substantially the same as section 33BE of the repealed Act.

77—Offence to contravene or fail to comply with condition of home detention order

This clause is substantially the same as section 33BF of the repealed Act.

Subdivision 2—Intensive correction

78—Purpose of intensive correction order

This clause provides that the purpose of an intensive correction order is to provide a court with an alternative sentencing option for a defendant where the court—

- is considering imposing a short custodial sentence of 12 months or less; and
- considers there is a genuine risk that the defendant will re-offend if not provided with a suitable intervention program for rehabilitation purposes; and

The court should not impose an intensive correction order on a defendant unless the court considers that, given the short custodial sentence that the court would otherwise have imposed, rehabilitation of the defendant is more likely to be achieved by allowing the defendant to serve the sentence in the community while subject to strict conditions of intensive correction.

Despite the preceding subsections, the paramount consideration of the court when determining whether to make an intensive correction order must be to protect the safety of the community (whether as individuals or in general).

79—Intensive correction not available for certain offences

This clause provides that the powers vested in a court by this Division—

- are exercisable despite the fact that an Act (or statutory instrument) prescribes a minimum penalty; but
- are not exercisable in relation to any offence in respect of which an Act (or statutory instrument) expressly prohibits the reduction, mitigation or substitution of penalties or sentences.

80—Intensive correction orders

This clause provides that, subject to this clause, if—

- a court has imposed a sentence of imprisonment on a defendant of a term that is 2 years or less; and
- the court considers that the sentence should not be suspended under Part 4Division 2; and
- the court determines that there is good reason for the defendant to serve the sentence in the community while subject to intensive correction,

the court may order that the defendant serve the sentence in the community while subject to intensive correction (an *intensive correction order*).

The court may determine that, even though a custodial sentence is warranted and there is a moderate to high risk of the defendant re-offending, any rehabilitation achieved during the period that would be spent in prison is likely to be limited compared to the likely rehabilitative effect if the defendant were to spend that period in the community instead while subject to intensive correction.

The clause sets out the provisions that apply to an intensive correction order and the matters that a court must take into consideration when determining whether to make an intensive correction order.

81—Conditions of intensive correction order

This clause provides that each intensive correction order is subject to the following conditions:

- a condition requiring the person to be of good behaviour;
- a condition requiring the person to be under the supervision of a community corrections order;
- a condition requiring the person to obey the lawful directions of the community corrections officer to whom the person is assigned;
- a condition requiring the person to report to a specified place not later than 2 working days after the date of the order unless, within that period, the defendant receives a notice from the CE to the contrary;
- a condition prohibiting the person from possessing a firearm or ammunition or any part of a firearm;
- a condition requiring the person to submit to such tests (including testing without notice) for gunshot residue as a community corrections officer may reasonably require;
- a condition that the person undergo assessment or treatment (or both) relating to the person's mental or physical condition;
- a condition requiring the person to report to the community corrections offence to whom the person is assigned any change of address or employment, not later than 2 working days after the date of the change;
- a condition that the person must not leave the State for any reason except in accordance with the written permission of the CE;
- if the defendant is unemployed—a condition requiring the person to perform a specified number of hours of community work;
- a condition requiring the person to comply with the following:
  - (i) regulations made for the purposes of this clause;
  - (ii) the lawful directions of the CE;
- such other conditions as the court thinks appropriate and specifies in the order.

An intensive correction order may also be subject to any number of other conditions that the sentencing court thinks fit. A person subject to an intensive correction order will, unless the order is earlier revoked, remain subject to intensive correction in the community until the order expires.

82—Orders that court may make on breach of condition of intensive correction order etc

This clause makes provision in similar terms as those in clause 72 in relation to home detention orders, with necessary modifications relating to intensive correction orders.

83—Court to provide CE with copy of intensive correction order

This clause (which mirrors clause 73) provides that if an intensive correction order is made in respect of a person, or the order or conditions of the order are varied or revoked, or a further order is made in respect of the person, the court must notify the CE of the terms of the order, variation, revocation or further order, as the case may require.

84—CE must assign community corrections officer

This clause mirrors clause 74 and provides that the CE must, on receiving a copy of an intensive correction order (and may after then from time to time) assign the person to whom the order relates to a community corrections officer and ensure that the person is so notified. It is the duty of a community corrections officer to endeavour to ensure that any person assigned to the officer complies with the conditions of the order.

85—Provisions relating to community service

The following provisions apply to an intensive correction order that includes a condition requiring the performance of community service:

- the court must specify the number of hours of community service to be performed by the person to whom the sentence relates, being not less than 15 or more than 300;
- the court must not specify a number of hours of community service to be performed by a person who is already performing, or is liable to perform, community service, where the aggregate of that number and the number of hours previously specified would exceed 300;

- the court must specify a period, not exceeding 18 months, within which the community service is to be performed;
- the person is required to report to a specified place not later than 2 working days after the date of the order unless, within that period, the person receives a notice from the CE to the contrary;
- the person is required to perform community service for not less than 4 hours each week and on such day, or days, as the community corrections officer to whom the person is assigned may direct;
- the person may not, except in circumstances approved by the Minister for Correctional Services, be required to perform community service for a continuous period exceeding 7.5 hours;
- if on any day a period of community service is to exceed 4 continuous hours, the next hour must be a meal break;
- the person may not be required to perform community service at a time that would interfere with the person's remunerated employment or with a course of training or instruction relating to, or likely to assist the person to obtain, remunerated employment, or that would cause unreasonable disruption of the person's commitments in caring for the person's dependants;
- the person may not be required to perform community service at a time that would cause the person to offend against a rule of a religion that the person practises;
- the attendance of the person at any educational or recreational course of instruction approved by the Minister for Correctional Services will be taken to be performance of community service;
- the person will not be remunerated for the performance of community service under the order;
- the person must obey the lawful directions of the community corrections officer to whom the person is assigned.

This clause does not apply in relation to the performance of community service by a youth (which is governed by the *Young Offenders Act 1993*) and is substantially the same as section 47 of the repealed Act.

86—Court to be notified if suitable community service placement not available

This clause (which has a similar effect as section 45 of the repealed Act) provides that if the CE, on being notified that a court has included in an intensive correction order a condition requiring the performance of community service, is of the opinion that suitable community service work cannot be found for the defendant because of the defendant's physical or mental disability, the CE must give the court written notice of that fact, on receipt of which the court may revoke the condition or discharge the intensive correction order (as the case may be) and require the defendant to appear before the court for further order.

87—Community corrections officer to give reasonable directions

This clause is substantially the same as section 50 of the repealed Act in respect of persons required to perform community service.

88—Power of Minister in relation to default in performance of community service

If the Minister for Correctional Services is satisfied that a person who is required to perform community service has failed to obey a direction given by the community corrections officer to whom the person is assigned, the Minister, instead of commencing proceedings for breach of order, may, by notice in writing served personally, increase the number of hours of community service that the person is required to perform. If the Minister does so increase the hours of community service to be performed, the intensive correction order will be taken to have been amended accordingly. The number of hours of community service may not be increased by the Minister by more than 24 in aggregate, but such an increase may be made despite the fact that its effect is to increase the total number of hours to be performed beyond the normal limit.

If the Minister for Correctional Services is satisfied that a person has failed to comply with a condition of an intensive correction order requiring performance of community service, the Minister may, by notice in writing served personally or by post, suspend the operation of the order until proceedings for breach of the intensive correction order have been determined.

89—Apprehension and detention of person subject to intensive correction order without warrant

This clause mirrors clause 76 and provides that if the CE suspects on reasonable grounds that a person subject to an intensive correction order has breached a condition of the order, the person may be apprehended, without warrant, by a police officer or community corrections officer and detained in custody for the purposes of proceedings relating to the suspected breach under clause 82 before the court that imposed the order.

90—Offence to contravene or fail to comply with condition of intensive correction order

This clause mirrors clause 77 and provides that it is an offence for a person subject to an intensive correction order to contravene or fail to comply with a condition of the order, punishable by a fine of $2,500 or imprisonment for 6 months.

Subdivision 3—General

91—Court may direct person to surrender firearm etc

A court may, when imposing a sentence on a person to whom this section applies, direct the person to immediately surrender at a police station specified by the court any firearm, ammunition or part of a firearm owned or possessed by the person. This provision applies to the following persons:

- a person subject to a home detention order under Part 3Division 7Subdivision 1;
- a person subject to an intensive correction order under Part 3Division 7Subdivision 2.

Division 8—Effect of imprisonment for contempt

92—Effect of imprisonment for contempt

This clause is substantially the same as section 33C of the repealed Act.

Part 4—Other community based sentences

Division 1—Purpose, interpretation and application

93—Purpose of Part

The purpose of this Part is to provide a court with an option to impose a non-custodial community based sentence on a defendant.

94—Interpretation and application of Part

This clause defines a reference to a *bond under this Act* (that is a bond under section 95 or 96, as the case requires. The powers vested in a court by this Part—

- are exercisable despite the fact that an Act (or statutory instrument under an Act) prescribes a minimum penalty; but
- are not exercisable in relation to—
  - murder or treason; or
  - any other offence in respect of which an Act (or statutory instrument under an Act) expressly prohibits the reduction, mitigation or substitution of penalties or sentences.

Division 2—Bonds, community service and supervision in community

95—Suspension of imprisonment on defendant entering into bond

This clause is substantially the same as section 38 of the repealed Act, with the addition of the statement set out in section 42(a1) of the repealed Act which directly relates to bonds under this clause.

96—Discharge of other defendants on entering into good behaviour bond

This clause mirrors section 39 of the repealed Act.

97—Conditions of bonds under this Act

This clause is similar to section 42 of the repealed Act, however, with the exception of subsection (a1) which has been relocated appropriately into clause 95, and the addition of 2 other conditions.

98—Term of bond

This clause provides that, subject to this measure, a bond under this Act is effective for the term that is specified in the bond.

99—Guarantors etc

This clause mirrors section 41 of the repealed Act.

100—Court may direct person to surrender firearm etc

This clause is substantially the same as section 42A of the repealed Act.

101—Court to provide CE with copy of court order

102—Variation or discharge of bond

Clause 101 and this clause are substantially the same as sections 43 and 44 of the repealed Act.

103—Court to be notified if suitable community service placement not available

104—Provisions relating to community service

105—Provisions relating to supervision in the community

106—CE must assign community corrections officer

107—Community corrections officer to give reasonable directions

108—Powers of community corrections officer relating to probationers on home detention

109—Variation of community service order

110—Power of Minister to cancel unperformed hours of community service

111—Power of Minister in relation to default in performance of community service

Clauses 103 to 111 have the same substantive effect as Part 6 of the repealed Act.

Division 3—Enforcement of bonds, community service orders and other orders of a non-pecuniary nature

Subdivision 1—Bonds

112—Non-compliance with bond

113—Orders that court may make on breach of bond

Clause 112 and this clause mirror sections 57 and 58 of the repealed Act.

Subdivision 2—Community service orders and other orders of a non-pecuniary nature

114—Community service orders may be enforced by imprisonment

115—Other non-pecuniary orders may be enforced by imprisonment

116—Registrar may exercise jurisdiction under this Division

117—Detention in prison

Clauses 114 to 117 mirror sections 71 to 71B of the repealed Act.

Part 5—Financial penalties

118—Maximum fine if no other maximum provided

This clause substantially reflects section 34 of the repealed Act.

119—Order for payment of pecuniary sum not to be made in certain circumstances

120—Preference must be given to compensation for victims

121—Court not to fix time for payment of pecuniary sums

Clauses 119, 120 and 121 reflect sections 13, 14 and 14A respectively of the repealed Act.

Part 6—Restitution and compensation

Division 1—Restitution and compensation generally

122—Restitution of property

This clause provides that if the offence of which the defendant has been found guilty, or any other offence that is to be taken into account by the court in determining sentence, involves the misappropriation of property, the court may order the defendant, or any other person in possession of the property, to restore the property to any person who appears to be entitled to possession of the property. Any such order does not prejudice any person's title to the property.

123—Compensation

This clause provides that, subject to this clause, a court may make an order requiring a defendant to pay compensation for injury, loss or damage resulting from the offence of which the defendant has been found guilty or for any offence taken into account by the court in determining sentence for that offence—

- either on application by the prosecutor or on the court's own initiative; and
- instead of, or in addition to, dealing with the defendant in any other way.

If a court finds a defendant guilty of an offence, or takes an offence into account in determining sentence, and the circumstances of the offence are such as to suggest that a right to compensation has arisen, or may have

arisen, under this clause, the court must, if it does not make an order for compensation, give its reasons for not doing so.

Compensation under this section will be of such amount as the court considers appropriate having regard to any evidence before the court and to any representations made by or on behalf of the prosecutor or the defendant.

If any property of which a person was dispossessed as a result of the offence is recovered, any damage to the property while it was out of the person's possession is to be treated for the purposes of this clause as having resulted from the offence.

The power of a court to award compensation under this clause is subject to the following qualifications:

- no compensation may be awarded for injury, loss or damage caused by, or arising out of the use of, a motor vehicle except damage to property;
- no compensation may be awarded against an employer in favour of an employee or former employee if—
  - the offence arises from breach of a statutory duty related to employment; and
  - the injury, loss or damage is compensable under the *Return to Work Act 2014*;
- the Magistrates Court may not award more than $20,000 (or if a greater amount is prescribed—the prescribed amount) by way of compensation.

Compensation may be ordered under this clause in relation to an offence despite the fact that compensation may be ordered under some other statutory provision that relates more specifically to the offence or proceedings in respect of the offence. Any amount paid to a person pursuant to an order under this clause for compensation for injury, loss or damage must be taken into consideration by a court or any other body in awarding compensation for that injury, loss or damage under any other Act or law.

124—Certificate for victims of identity theft

This clause provides that a court that finds a person guilty of an offence involving the assumption of another person's identity, or the use of another person's personal identification information, may, on application by a victim of the offence, issue a certificate that gives details of—

- the offence; and
- the name of the victim; and
- any other matters considered by the court to be relevant.

Division 2—Enforcement of restitution orders

125—Non-compliance with order for restitution of property

This clause provides an authorised officer with the necessary powers to take action under this clause where an order requiring property to be restored to a person has been made but not complied with.

Part 7—Miscellaneous

126—Power of delegation—intervention program manager

This clause provides the intervention program manager with a power of delegation in accordance with the provisions of the clause.

127—Regulations

This clause provides the Governor with the power to make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this measure.

Schedule 1—Repeal and transitional provisions

Part 1—Repeal of *Criminal Law (Sentencing) Act 1988*

This clause repeals the *Criminal Law (Sentencing) Act 1988*.

Part 2—Transitional provisions

This clause makes provision for transitional arrangements consequential on the enactment of this measure.

Debate adjourned on motion of Mr Treloar.

LOCAL GOVERNMENT (BOUNDARY ADJUSTMENT) AMENDMENT BILL

Introduction and First Reading

The Hon. G.G. BROCK (Frome—Minister for Regional Development, Minister for Local Government) (16:11): Obtained leave and introduced a bill for an act to amend the Local Government Act 1999. Read a first time.

Second Reading

The Hon. G.G. BROCK (Frome—Minister for Regional Development, Minister for Local Government) (16:11): I move:

That this bill be now read a second time.

The Local Government (Boundary Adjustment) Amendment Bill 2016 seeks to reform the legislative provisions that govern how council boundaries can be changed under the Local Government Act 1999. While significant amendments have been made to the local government legislative framework to strengthen local government accountability and governance, strategic planning, financial and asset management and community consultation, the framework that governs the operations of council boundary changes has not been amended since the act's commencement in 2000.

At the commencement of the act the Boundary Adjustment Facilitation Panel was established as an interim body to refine council boundaries following the council amalgamations and boundary alterations that occurred in South Australia in the late 1990s. Since that time there have been very few significant boundary changes to councils in this state.

Following the abolition of the Boundary Adjustment Facilitation Panel through the Review of State Government Boards and Committees, I made a commitment to review the provisions of the act relating to council boundary changes. Reforming the legislative provisions that govern how council boundaries can be changed has been a significant item for discussion at the Premier's State/Local Government Forum meetings. The legislative framework underpinning the bill is based on the review work undertaken by the Local Government Association and the Office of Local Government, as overseen by the forum.

The bill is based on a discussion paper released last year by the Local Government Association on a proposed legislative framework for boundary reform endorsed by the LGA board in November 2015. The framework sets out principles for local government boundary reform and a process for boundary adjustments that have been endorsed by the LGA board and the forum. I would like to thank the LGA for its work in preparing the discussion paper and for the input it has provided for this review of the legislative framework.

A draft bill on these reforms was released for public consultation on 4 August 2016. The original closing date for submissions was 30 September 2016; however, I extended the consultation period by two weeks to allow interested people more time to make a submission. Submissions closed on 14 October 2016. A total of 29 submissions were received, and I am pleased to note that the submissions were generally supportive of the bill.

I now turn to the key elements of the bill. The first of these is the introduction of a simplified pathway for administrative proposals, those that are made to correct historical anomalies in council boundaries, to allow for development that is approved elsewhere, or for other, largely administrative, reasons. Under the current provisions, these proposals are subject to the same processes as proposals for more significant boundary change. These procedural requirements are cumbersome and unnecessarily complex for what can be considered straightforward matters. The bill creates a simpler and more flexible process for both initiating and deciding these proposals.

The bill also clearly recognises the importance of significant boundary changes and the need for there to be much freer debate on these. A key change the bill proposes is to allow proposals for boundary changes to be initiated by a single council or the Minister for Local Government. Currently, significant changes cannot be formally considered unless all councils involved agree that the proposal should go forward. Opening up this initiation process will encourage discussion on structural reform opportunities that could bring real benefit to our communities. It is essential though that a

greater ability to initiate proposals is matched with an independent assessment of their merit. The bill therefore establishes an independent commission to oversee the assessment of all proposals.

For significant proposals or, as the bill calls them, 'general proposals', the commission can appoint one or more investigators to undertake a detailed inquiry into the proposal. However, the commission must appoint investigators when a general proposal is referred to them by either the minister or by resolutions of either house of parliament.

The intent of this requirement is to ensure that the close analysis of significant proposals for boundary change is undertaken by people with expertise and knowledge that is specific to each proposal and that there is consultation with the affected councils. The bill also provides appropriate flexibility in appointing investigators. More significant proposals will require a number of investigators, whereas relatively straightforward processes may only require a single investigator.

At the conclusion of an inquiry, the commission must prepare and publish on a website a report that includes the commission's recommendations. The requirement for the commission to publish the report ensures that the commission's advice to the minister and the decision-making that then follows is fully transparent.

The bill provides for the minister to send the report back to the commission for reconsideration in accordance with any directions by the minister. However, if this does occur, the commission must then publish an amended report and provide a copy of the amended report to the minister. The minister may then determine whether a proposal recommended by the commission should proceed.

Given the crucial role of the commission, the question of which body would be best placed to undertake this work was a particularly important matter to resolve. In the consultation on the draft bill, the Local Government Grants Commission was overwhelmingly nominated as the preferred body to undertake this role due to its knowledge, experience and role across all local government finances and services, and also the general high esteem in which the commission is held across the local government sector.

The bill therefore amends the South Australian Local Government Grants Commission Act 1992 to enable the Local Government Grants Commission to perform these functions and to have the support necessary to do so. The bill also includes an amendment to enable the South Australian Local Government Grants Commission account to receive amounts related to and be applied towards the commission's functions.

I emphasise that the functions relating to the boundaries role will be a separate piece of work for the commission. This additional role will not compromise the Local Government Grants Commission's current important function of delivering federal funding as required by the South Australian Local Government Grants Commission Act 1992. I have confirmed this in a letter to the federal Minister for Local Government and Territories, Senator the Hon. Fiona Nash. Further, any federal funding for councils will not be used for boundary commission purposes.

The bill provides for the commission to recover reasonable costs incurred in respect of an inquiry in relation to a general proposal by a council or councils. This will assure councils that the investigations of these proposals are not delayed through limited resource allocations. The cost recovery provisions will also ensure that councils undertake a business case analysis prior to proceeding with the general proposal to determine whether it will result in benefits to their community. Costs related to work needed on proposals initiated by the minister will be the responsibility of the state government.

It is proposed that the legislation commence on 1 January 2019, following the 2018 local government elections. The intervening time will be used to draft guidelines that will set out procedures for inquiries, including the process by which the commission will determine costs.

Guidelines will also be prepared that specify consultation requirements, including consultation with the community, councils affected by proposals and entities that represent the interests of council employees affected by any proposal. The development of the guidelines will be further discussed at the forum meetings and the LGA and unions will be fully consulted on their content.

Finally, the LGA has requested additional amendments to the act to support the development of effective regional governance models in local government. The bill therefore amends section 8 of the act to outline the objects and principles of regional collaboration and partnerships. Further, as part of the council boundary reform framework, the principles for boundary change will also include consideration for regional activities.

The bill also amends the act to include a requirement for councils or other regional bodies to demonstrate the potential benefits of regionalisation that have been assessed as part of long-term planning. In this way the bill supports the effective future of local government in this state, be this through regional service delivery or consideration of council boundaries that best reflect the needs and aspirations of communities across South Australia. I commend the bill to members. I seek leave to have the explanation of clauses inserted into *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Local Government Act 1999*

4—Amendment of section 4—Interpretation

The *Commission* for the purposes of Chapter 3 Part 2 is the South Australian Local Government Grants Commission.

5—Amendment of section 8—Principles to be observed by a council

An additional principle to be observed by councils relating to regional collaboration is inserted.

6—Amendment of section 26—Principles

The principles relating to proposals are amended to insert a principle relating to regional collaboration being considered as an alternative to structural change. Other amendments are consequential.

7—Substitution of Chapter 3 Part 2 Divisions 4 to 7

A new scheme relating to proposals for boundary changes is proposed to be inserted:

Division 4—Procedures for proposals

27—Preliminary

Definitions are set out for the purposes of the Division. A key definition relates to the *proposal guidelines*, which the Commission must publish for the purposes of proposals.

28—Commission to receive proposals

Provision is made relating to the referral of proposals to the Commission.

29—Commission to deal with proposals

Procedures relating to how the Commission is to deal with proposals are provided for.

30—Inquiries—administrative proposals

Provision is made for the Commission to inquire into and make recommendations to the Minister in relation to administrative proposals (which are defined). The provision also governs the process relating to the Minister forwarding proposals to the Governor.

31—Inquiries—general proposals

Provision is made for inquiries to be conducted into, and recommendations to be made in relation to, general proposals (which are defined). The Commission may appoint an investigator to conduct an inquiry and report to the Commission on the matter or the Commission may conduct the inquiry itself. The provision also governs the process relating to the Minister forwarding proposals to the Governor.

32—Notification of outcome of inquiries

The Commission is required to give notice of the outcome of inquiries.

32A—Powers relating to inquiries

Powers that may be exercised in the conduct of an inquiry under the Division are set out.

32B—Costs

Provision is made for the Commission to recover the reasonable costs of an inquiry in relation to a general proposal referred to the Commission by a council or councils under the Division as a debt due from the council or councils.

32C—Inquiries—independence of Commission etc

It is provided that the Commission or an investigator appointed by the Commission is not subject to Ministerial direction in relation to an inquiry or a recommendation or report under the Division (except as provided by the Division).

8—Amendment of section 34—Error or deficiency in address, recommendation, notice or proclamation

This amendment is consequential.

9—Amendment of section 110—Code of conduct for employees

This amendment is technical in nature.

10—Amendment of section 122—Strategic management plans

An amendment to the provisions governing strategic management plans relating to regional collaboration is inserted.

11—Amendment of Schedule 5—Documents to be made available by councils

This amendment is consequential.

Schedule 1—Related amendments and transitional provision

Part 1—Related amendments to *South Australian Local Government Grants Commission Act 1992*

1—Amendment of section 5—The Account

Section 5(2) of the *South Australian Local Government Grants Commission Act 1992* is amended so that amounts may be paid into the Account for the purposes of the Commission's functions under any other Act. A similar amendment is made to section 5(3) relating to the application of the funds of the Account.

2—Amendment of section 14—Staff

The provision relating to the staff of the Commission is extended to include staff for the performance of the Commission's functions under any other Act.

3—Amendment of section 15—Functions of Commission

This amendment allows the Commission to perform functions provided for under any other Act.

Part 2—Transitional provision

4—Transitional provision

A transitional provision is inserted for the purposes of the measure.

Debate adjourned on motion of Mr Treloar.

INDEPENDENT COMMISSIONER AGAINST CORRUPTION (MISCELLANEOUS) AMENDMENT BILL

Final Stages

The Legislative Council agreed to the bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1. Clause 4, page 3, line 23 [clause 4, inserted subsection (2)(b)]—

Delete 'the public authority concerned' and substitute 'a public authority'

No. 2. New clauses, page 5, after line 8—After clause 8 insert:

8A—Amendment of section 18—Organisational structure

Section 18—after subsection (4) insert:

(5) Where this or any other Act confers a power on the Office or requires that the Office perform any function (including requiring that the Office make a determination, or form an opinion, as to any matter)—

(a) the power or function may only be exercised or performed by a person who is authorised to do so on behalf of the Office by the Commissioner; and

(b) the exercise of that power or the performance of that function by a person so authorised will be taken to be the exercise of that power or the performance of that function by the Office.

8B—Amendment of section 23—Assessment

Section 23(1)—delete 'recommendations must be made to the Commissioner accordingly' and substitute:

a determination made as to whether or not action should be taken to refer the matter or to make recommendations to the Commissioner

No. 3. Clause 11, page 6, after line 11—After subclause (2) insert:

(3) Section 36(7) and (8)—delete subsections (7) and (8) and substitute:

(7) The Commissioner may at any time—

(a) revoke a referral to a public authority; or

(b) revoke or vary directions or guidance given to a public authority or give further directions or guidance,

as the Commissioner sees fit.

(8) If—

(a) a referral of a matter by the Commissioner under this section included a requirement that the public authority submit a report or reports on action taken in respect of the matter; and

(b) the Commissioner is not satisfied that a public authority has duly and properly taken action in relation to the matter,

the Commissioner must inform the authority of the grounds of the Commissioner's dissatisfaction and give the authority an opportunity to comment within a specified time.

No. 4. Clause 15, page 7, lines 23 to 31 [clause 15(1)]—Delete all words in these lines

No. 5. Clause 15, page 7, after line 32 [clause 15(2)]—Insert:

(1a) The Commissioner must not—

(a) prepare a report under this section setting out findings or recommendations resulting from a completed investigation into a potential issue of corruption in public administration unless—

(i) all criminal proceedings arising from that investigation are complete; or

(ii) the Commissioner is satisfied that no criminal proceedings will be commenced as a result of the investigation, in which case the report must not identify any person involved in the investigation; or

(b) prepare a report under this section setting out findings or recommendations resulting from a completed investigation into a potential issue of misconduct or maladministration in public administration that identifies any person involved in the particular matter or matters the subject of the investigation unless the person consents.

No. 6. Clause 20, page 9, after line 24 [clause 20, inserted section 54(3)]—After paragraph (b) insert:

(c) the information relates to the person and is disclosed by the person to a close family member of the person.

No. 7. Clause 20, page 9, after line 25 [clause 20, inserted section 54]—After subsection (3) insert:

(4) For the purposes of subsection (3)(c), a person is a *close family member* of another person if—

(a) 1 is a spouse of the other or is in a close personal relationship with the other; or

(b) 1 is a parent or grandparent of the other (whether by blood or by marriage); or

(c) 1 is a brother or sister of the other (whether by blood or by marriage); or

(d) 1 is a guardian or carer of the other.

No. 8. Clause 21, page 9, line 31 [clause 21, inserted subsection (1)]—Delete 'under this Act' and substitute:

in relation to suspected corruption, misconduct or maladministration in public administration

No. 9. Clause 21, page 9, line 33 [clause 21, inserted subsection (1)(a)]—

Delete 'under this Act' and substitute:

in relation to suspected corruption, misconduct or maladministration in public administration

No. 10. Clause 21, page 9, line 40 [clause 21, inserted subsection (1)(b)(ii)]—After 'action' insert:

in relation to suspected corruption, misconduct or maladministration in public administration

No. 11. Clause 21, page 10, lines 2 and 3 [clause 21, inserted subsection (1)(b)]—

Delete 'as the investigation under this Act'

No. 12. Clause 21, page 10, lines 5, 6 and 7 [clause 21, inserted subsection (1)(c)]—

Delete 'obtained by the exercise of powers under this Act and not' and substitute 'not obtained'

No. 13. Clause 21, page 10, line 9 [clause 21, inserted subsection (1a)]—

Delete 'under this Act' and substitute:

in relation to suspected corruption, misconduct or maladministration in public administration

No. 14. Clause 23, page 13, line 7 [clause 23, inserted Schedule 3, clause 4(6)(b)]—

Delete 'Commissioner' and substitute 'claimant'

Consideration in committee.

The Hon. J.R. RAU: I bring glad tidings. I move:

That the Legislative Council's amendments be agreed to.

In circumstances that I do not encounter that often, I report that I am delighted with the work of the other place and I accept all of their amendments—

Members interjecting:

The Hon. J.R. RAU: —in relation to this particular matter.

Members interjecting:

The CHAIR: Order! If there is no further debate, deputy leader.

Ms CHAPMAN: I would like to endorse the remarks of the Attorney in appreciating the good work of the Legislative Council in dealing with this matter. There is no question that our Independent Commission Against Corruption is an important entity and its commissioner has made a number of recommendations to the parliament which, in this instance, have been accepted by the government and progressed. It is disappointing that important areas of reform recommended by the commission, including the right for the public to go to public when there is no action by the government, has not been heeded but we will fight on to another day.

Motion carried.

BIRTHS, DEATHS AND MARRIAGES (GENDER IDENTITY) AMENDMENT BILL

Committee Stage

In committee (resumed on motion).

Clause 6.

Mr KNOLL: If I could seek some clarification. I refer to the second set of amendments in my name, amendments Nos 2 through to 9.

The CHAIR: We are going to look first at schedule 3 and your amendment No. 1, which you would like to move. This is your new amendment, schedule 3.

Mr KNOLL: Do I need to do the third round first or do I deal with the second set?

The CHAIR: We are telling you that it is schedule 3, the new one, and you would like to move your amendment No. 1?

Mr KNOLL: Yes.

The CHAIR: Correct. You are moving it?

Mr KNOLL: Yes, and this is to give effect to remove new section 29J. I move:

Amendment No. 1 [Knoll-3]—

Page 4, lines 17 to 39—Delete all words [29J]

Page 5, lines 1 to 9—Delete all words [29J]

This is essentially, as I spoke about in my second reading contribution, around the issue of those under 18 having access to this process.

The CHAIR: Is there any discussion on schedule 3, amendment No. 1?

Ms HILDYARD: This is just for clarification. I just want to check that what the member for Schubert is doing now is to move his amendment that removes all of the wording in 29J? So, we are dealing with 29J. I imagine a couple of other people might have questions.

The CHAIR: Do you have this piece of paper?

Ms HILDYARD: Yes, I do now.

The CHAIR: Does everybody have a copy of schedule 3, because that is what we are dealing with? If you do not have a copy of schedule 3, please come and get one. It is amending clause 6. We are all looking at schedule 3, amendment No. 1 in the name of the member for Schubert which amends clause 6, page 4 lines 17 to 39 and page 5 lines 1 to 9 to delete all words (29J). Does everyone understand where we are? The member for Colton.

The Hon. P. CAICA: I have a question to the assistant minister. Everyone in this house in the committee stage has a right to do this, but I am a bit confused. It seems to me that, by voting for this, it could be—and this is what I want confirmation of—taking away what has been an existing provision for an extended period of time.

Ms HILDYARD: Thank you to the member for Colton, my good friend, for his question. This morning in closing the debate in relation to this bill, I spoke about why this bill is so important. This bill is incredibly important because it actually focuses on removing longstanding discrimination against our LGBTIQ brothers and sisters in our South Australian community.

I spoke about how proud I was to stand with my colleagues to take a step forward to remove that discrimination. When we contemplated all of the legislation that arises out of the South Australian Law Reform Institute's work, out of its recommendations, we developed legislation that takes us forward, that removes discrimination, that makes our South Australian community more inclusive, more equal, more fair, more respectful of our LGBTIQ community members. Nothing about the work we have done is about taking us backwards. This amendment would, absolutely, take us backwards. This amendment takes out a right that has existed in the Sexual Reassignment Act 1988, so for almost 30 years we have provided this right to LGBTIQ South Australians.

Because we are repealing the Sexual Reassignment Act in order to put these new provisions into this Births, Deaths and Marriages Registration (Gender Identity) Amendment Bill, in removing those provisions both from the Sexual Reassignment Act and this new bill we would be absolutely taking an unprecedented step backwards, not the step forward that we are trying to take together here for equality. To do so, would be absolutely unconscionable in terms of the agenda we have as South Australians to include all South Australians in all aspects of community life.

Mr KNOLL: To respond with an upward inflection, the first thing I would say is that under sexual reassignment, obviously invasive procedures need to be undertaken. By changing the definition, as we have in this bill, to include gender identity, in my view we have fundamentally changed how this process works. So, I think there does need to be new contemplation about how we deal with it.

I would much prefer for this to be 16 because my argument, in previous second reading speeches and this afternoon, has been that, according to the research I have dealt with, in the majority of children who experience gender dysphoria, the dysphoria rights itself through the act of puberty. What I am simply saying here is that we should give children the chance to have that opportunity before they make a permanent change.

We do not allow children to drink alcohol until they are 18, to vote until they are 18 or to do a whole host of things. This is a very serious thing that we are asking children to do, and I contend that there needs to be a level of emotional maturity and, also, the time, as the research says, to let these issues right themselves, if they can, and, if they do not, certainly they should be open to that much easier process.

I would be much happier if the definition was merely the changing of sex because I think that is a long-term process that would take quite a number of years, anyway. We have widened the definition now to include gender identity, so I think there needs to be a lot more caution now that we have broadened it in that way. Again, I repeat that the chief mischief that we are all here trying to fix is making the process easier for adults so that they do not have to go in front of a magistrate, but I remain deeply concerned about children making this decision, in my mind potentially prematurely. So, I urge members to support this amendment.

Mr PEDERICK: I support the amendment by the member for Schubert because, obviously, the proponents of the bill worked out that they needed to fix the issue around whether it was the age of 18 or 16 for children, so they have moved that into this bill. I concur that, when you change gender identity, it is completely different from reassignment., so I concur with the member for Schubert.

The committee divided on the amendment:

Ayes 19
Noes..... 26
Majority..... 7

AYES

Duluk, S.	Goldsworthy, R.M.	Griffiths, S.P.
Hamilton-Smith, M.L.J.	Kenyon, T.R.	Knoll, S.K. (teller)
Koutsantonis, A.	Pederick, A.S.	Pengilly, M.R.
Piccolo, A.	Rau, J.R.	Sanderson, R.
Snelling, J.J.	Speirs, D.	Tarzia, V.A.
Treloar, P.A.	van Holst Pellekaan, D.C.	Vlahos, L.A.
Williams, M.R.		

NOES

Atkinson, M.J.	Bettison, Z.L.	Bignell, L.W.K.
Brock, G.G.	Caica, P. (teller)	Chapman, V.A.
Close, S.E.	Cook, N.F.	Digance, A.F.C.
Gardner, J.A.W.	Gee, J.P.	Hildyard, K.
Hughes, E.J.	Key, S.W.	Marshall, S.S.
McFetridge, D.	Mullighan, S.C.	Odenwalder, L.K.
Picton, C.J.	Pisoni, D.G.	Rankine, J.M.
Redmond, I.M.	Weatherill, J.W.	Whetstone, T.J.
Wingard, C.	Wortley, D.	

Amendment thus negatived.

Mr KNOLL: I move:

Amendment No 2 [Knoll–2]—

Page 5, line 1 [clause 6, inserted section 29J(5)(c)]—Delete 'is receiving or has received' and substitute:

has undertaken a sufficient amount of

Amendment No. 2 essentially builds on amendment No. 1, which passed earlier. Again, I think 'is receiving or has received' was appropriate in the Sexual Reassignment Act, but now that we have again widened the definition of changing sex using an invasive procedure, either hormone therapy or surgery, now to include counselling, I believe that it is appropriate to change the wording from 'is receiving or has received' to 'has undertaken a sufficient amount of'. How that is administered would be up to the doctor to undertake, whether a sufficient amount of treatment has been undertaken.

Again, given that sexual reassignment is now being widened to include gender identity, I think that this is appropriate to make sure that full weight is given to the severity and the seriousness of the difficult changes people will seek to undertake when this is enacted. By way of further clarification, I was potentially looking at 'have completed' to replace 'is receiving or has received'. I think that potentially works for surgery and clinical treatment, but it does not work for hormone therapy, where people continue to take hormone blockers. I would not want that to get in the way of somebody being able to rightly access a change of gender or sex under this bill. That is why there is a different set of words that encompasses all three forms of clinical treatment and tries to make the best balance between those three different methods.

The committee divided on the amendment:

Ayes.....43
Noes.....3
Majority.....40

AYES

Atkinson, M.J.	Bell, T.S.	Bettison, Z.L.
Bignell, L.W.K.	Brock, G.G.	Chapman, V.A.
Close, S.E.	Cook, N.F.	Digance, A.F.C.
Duluk, S.	Gardner, J.A.W.	Gee, J.P.
Goldsworthy, R.M.	Griffiths, S.P.	Hamilton-Smith, M.L.J.
Hildyard, K.	Kenyon, T.R.	Knoll, S.K. (teller)
Koutsantonis, A.	Marshall, S.S.	McFetridge, D.
Mullighan, S.C.	Odenwalder, L.K.	Pederick, A.S.
Pengilly, M.R.	Piccolo, A.	Picton, C.J.
Pisoni, D.G.	Rankine, J.M.	Rau, J.R.
Redmond, I.M.	Sanderson, R.	Snelling, J.J.
Speirs, D.	Tarzia, V.A.	Treloar, P.A.
van Holst Pellekaan, D.C.	Vlahos, L.A.	Weatherill, J.W.
Whetstone, T.J.	Williams, M.R.	Wingard, C.
Wortley, D.		

NOES

Caica, P. (teller)	Hughes, E.J.	Key, S.W.

Amendment thus carried.

Mr KNOLL: The remaining amendments are consequential. Accordingly, I move:

Amendment No 3 [Knoll–2]—

Page 5, line 13 [clause 6, inserted section 29K(a)]—Delete 'is receiving or has received' and substitute:

has undertaken a sufficient amount of

Amendment No 4 [Knoll–2]—

Page 5, lines 24 and 25 [clause 6, inserted section 29K(b)(ii)(B)]—Delete 'is receiving or has received' and substitute:

has undertaken a sufficient amount of

Amendment No 5 [Knoll–2]—

Page 5, line 31 [clause 6, inserted section 29L]—Delete 'is receiving or has received' and substitute:

has undertaken a sufficient amount of

Amendment No 6 [Knoll–2]—

Page 7, line 12 [clause 6, inserted section 29O(2)(b)]—Delete 'is receiving or has received' and substitute:

has undertaken a sufficient amount of

Amendment No 7 [Knoll–2]—

Page 7, line 36 [clause 6, inserted section 29P(3)(b)]—Delete 'is receiving or has received' and substitute:

has undertaken a sufficient amount of

Amendment No 8 [Knoll–2]—

Page 8, line 8 [clause 6, inserted section 29P(5)(c)]—Delete 'is receiving or has received' and substitute:

has undertaken a sufficient amount of

Amendment No 9 [Knoll–2]—

Page 8, line 17 [clause 6, inserted section 29Q]—Delete 'is receiving or has received' and substitute:

has undertaken a sufficient amount of

Amendments carried; clause as amended passed.

Schedule and title passed.

Bill reported with amendment.

Third Reading

Ms HILDYARD (Reynell) (16:50): I move:

That this bill be now read a third time.

As I said when I closed the second reading debate, thank you to all my colleagues who have contributed to this debate. I particularly offer my thanks to the deputy leader for her very constructive questions that have certainly helped us through this debate. I did speak at length when I closed the second reading debate, so I will not speak at length again other than to acknowledge my colleagues and also all the members of the LGBTIQ community who have been such supporters of this bill, so constructive in their input and so dedicated to the cause of equality for their fellow South Australians.

There is one person I did not mention before. Shayne Glasgow, who is the President of Pride of the South in my own community, has been a relentless advocate in our southern community and also more broadly in South Australia. Thank you very much to Shayne and again thank you to all the community advocates who have participated so strongly in this debate and all the supporters of this bill.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (16:52): I rise to speak on the third reading of the Births, Deaths and Marriages Registration (Gender Identity) Amendment Bill 2016. I indicate that my concerns remain on the continuation of new section 29N, which is the penalty clause that makes it a criminal offence to use an old birth certificate to deceive.

I raised two matters. The first was whether we continue to need it, given that it is carried over from the existing 1988 legislation and we now have comprehensive equal opportunity law, if this is designed to in some way be punitive towards applicants who wish to register a change of gender. Secondly, we have very clear provisions in our Criminal Law Consolidation Act and other criminal statutory provision to deal with the illegal use of a document for the purposes of committing an offence.

That may not be just deception. It may relate to a fraud or even a larceny. It does concern me that this remains because it is very punitive. It relates to any person causing mischief against someone who has changed their gender or someone who is causing mischief who is actually applying to change their gender through this new process. This is old-world legislation. It should be removed.

I again ask the assistant minister to revisit the situation between the houses. I am disappointed that neither in committee nor in her response to the third reading, or even on the third reading, has she made any reference to this. I ask her again, 'If you want to come into the 21st century, get this right and get rid of it.'

Mr KNOLL (Schubert) (16:55): Very briefly, in my second reading speech I indicated that the removal of new section 29J from the bill was a threshold issue, but I feel that we have had the debate, we have had the committee, and the parliament has made its decision. I do not want to be the one who puts seeking perfection, as I see it, in the way of very good work, and I am happy to vote for this bill in the third reading.

Bill read a third time and passed.

STATUTES AMENDMENT (SURROGACY ELIGIBILITY) BILL

Committee Stage

In committee.

(Continued from 15 November 2016.)

The CHAIR: Members will recall we had the relationships bill, which we cut into two bills. This is the second part we are dealing with, the parts removed from the original bill: part 2, clause 2; part 5, clause 5(4); part 6, clauses 21 to 27. These are now in what we are calling the Statutes Amendment (Surrogacy Eligibility) Bill 2016.

Schedule 1, part 2, clause 2.

The CHAIR: This is an amendment to the Assisted Reproductive Treatment Act 1988.

Ms CHAPMAN: Before I ask anything I want to say that I will be asking questions as outlined in a document titled Statutes Amendment (Surrogacy Eligibility) Bill 2016, which is also described as 'unofficial and prepared by the House of Assembly, chamber only'. I say that because I believe we are in the rather unique situation where, much as I am grateful to the chamber office of the parliament for attending to this, we do not actually have a bill.

I say that because we have passed a motion in this parliament yesterday to sever sections of the former Relationships Register Bill 2016. I understand why, and we were very supportive of that; I do not think there was any dissent from the house to doing that. I was told at the time that there were no new issued bills that had been prepared by parliamentary counsel to cover that, as we had not passed a motion. Frankly, we never deal with bills until we go to the reading, so we need to have a process where a bill is before us.

We are being asked today to deal with this severed second part of the original bill, which now has this new description, to deal with those components consistent with that motion. We are now about to deal with an aspect of a former bill, which we have all resolved to sever. I am not complaining about that, but I make the point that we should not be dealing with this in committee or anywhere else without a properly prepared bill for that purpose. They are numbered. They have a title.

Whilst we have passed a motion to approve a bill, I do not think there is anything so far that confirms that this is now a legitimate bill called the Statutes Amendment (Surrogacy Eligibility) Bill 2016, because in fact it clearly is not. It actually just reprints bits of an old bill and it is not in proper form. That is a matter that can be taken up with parliamentary counsel or the assistant minister's office to make sure this does not happen again.

We do not sever bills very often. It was quite right for her to put it to the parliament and for us to deal with it separately. It was smart, actually. Perhaps she should have done that in the first place, but I make the point that, for the purpose of anyone who follows this debate in the future, how

on earth they are going to deal with an unofficial draft document is beyond me. It should not happen, and it should not happen again. Having said that, I will now look at the front page which reads 'Contents, Part 2, Part 5, Part 6.' I assume you are not going to deal with that at all and it is just going to be assumed to exist in some kind of ether.

The CHAIR: I am advised that we need to agree to the parts severed from the original bill to be this bill. Yesterday, we moved, on this piece of paper which we all remember, to remove these parts, and now we are going to agree to have them here.

Ms CHAPMAN: With respect, I think we have to move to accept parts 2, 5 and 6 of the former bill to now be dealt with.

The CHAIR: That's right. If I have expressed that clumsily, I apologise, but it is what we tried to say. We are back to the question that schedule 1, part 2, clause 2 stand as printed. Does anyone wish to speak to that question?

Mr PEDERICK: Yes, Chair. This first amendment at schedule 1, part 2, clause 2(1), after paragraph (b), inserts (ba), which is a condition of registration in regard to the amendment to the Assisted Reproductive Treatment Act 1988. Paragraph (ba) reads:

> (ba) a condition prohibiting the person from refusing to provide assisted reproductive treatment to another on the basis only of the other's sexual orientation or gender identity, marital status or religious beliefs.

In regard to that, we have come into committee without second reading speeches directed to this split-off bill. As I said in my contribution on the Register Relationships Bill, I was involved in the Social Development Committee when we dealt with surrogacy several years ago now, which was and is a passion of the Hon. John Dawkins in another place. It certainly was not his intent that same-sex couples at the time have access to any assisted reproductive treatment, and that is how we followed on with the legislation.

At the time, we certainly saw parents—and I am talking about couples, married couples, de facto couples—who could not access surrogacy arrangements in this state who at times were spending $50,000 plus to go to Victoria to access surrogacy arrangements so that they could have children. I am opposed to this clause; it certainly was not part of the original discussion around surrogacy in this state. It talks about prohibitions, about refusing to provide the service. My first question is: in relation to this clause, what penalty is there if a specialist doctor refuses to provide that service?

Ms HILDYARD: If I have heard your quite long question correctly, should that circumstance arise that particular couple's provider would be in breach of the Equal Opportunity Act. As with all Equal Opportunity Act matters, whether they relate to breaches in a workplace, in seeking accommodation, in all sorts of settings, seeking goods and services, etc., there are particular penalties and remedies that the Equal Opportunity Commission sets out in relation to each of those cases of a breach of the Equal Opportunity Act.

Mr PEDERICK: That may be so, but obviously with the surrogacy legislation in place in this state now people can operate quite safely, from what I understand, without providing this service to same-sex couples and not be in breach of the Equal Opportunity Act.

Ms HILDYARD: We are actually talking about assisted reproductive treatment at the moment, not about surrogacy. I am not quite sure if I understand the member's point or question.

Mr PEDERICK: The split-off bill is entitled the Statutes Amendment (Surrogacy Eligibility—

An honourable member interjecting:

Mr PEDERICK: Yes, I understand that, but it is a little bit confusing when these bills come in like this. I have been a whip and tried to understand how this place works, but this just adds another degree of difficulty. Again, in regard to our assisted reproductive treatment laws, what is the penalty if someone does not give assisted reproductive treatment to same-sex couples?

Ms HILDYARD: I think I have already answered this question, but perhaps I can provide some information in a different way, from when I used to represent workers in workplaces at the

Equal Opportunity Commission. Should their employer or a prospective employer or an ex-employer have been in breach of the Equal Opportunity Act in terms of discrimination in relation to either employing that person or treating them in a particular way in the workplace, what happens in relation to those issues in a workplace would be similar to what happens in relation to these issues here.

That is, that person who was discriminated against in terms of seeking assisted reproductive treatment would make a complaint to the Equal Opportunity Commission. The commission would hear that complaint, it would talk to the provider and it would make a determination about how it deals with that particular breach. It would go to that body to hear that matter and make a determination about how it is dealt with.

Mr PEDERICK: What is the legislation now around people's sexual orientation or gender identity, marital status or religious beliefs in relation to same-sex couples receiving assisted reproductive treatment under the current act?

Ms HILDYARD: The current situation is that assisted reproductive treatment is not considered a service for the purposes of the Equal Opportunity Act. If you go to the next clause in the bill we are dealing with, you will see that, through this bill, we are inserting provisions to make sure that, when a person seeks assisted reproductive treatment services, under the Equal Opportunity Act they cannot be discriminated against in seeking the provision of those services as a result of their sex or gender identity. The very next clause actually changes that so that it is covered.

Mr PEDERICK: You can tell me if I am wrong, and I am happy to be told that I am wrong, but I believe that goes against what you said earlier, when you said that it was already going to be a breach of the Equal Opportunity Act, but it is only in breach because currently it would not be in breach of the Assisted Reproductive Treatment Act 1988 at the moment and would only be in breach if this Equal Opportunity Act amendment went through. For information of the house, can you state for me what people at the moment can use assisted reproductive treatment under the current act?

Ms HILDYARD: First of all, member for Hammond, just to make it clear, as I said in my last answer, this bill ensures that a person seeking assisted reproductive treatment services will now be covered by the Equal Opportunity Act should discrimination occur.

Mr Pederick: Not yet, though.

Ms HILDYARD: Will be, and that is what I am trying to distinguish. I am trying to make that really clear for you. Also, if I understand the second part of your question, currently a woman who is medically infertile can seek assisted reproductive treatment services. With this bill, we are changing that definition so that a woman who, in their circumstances, is unlikely to become pregnant is able to seek reproductive treatment services. It is that difference between medically infertile and a person who, in their circumstances, is unlikely to become pregnant. That is the difference.

Mr PEDERICK: I am not trying to be hard to get on with, but I believe that this is an attempt to amend significant legislation. I must say that, in regard to surrogacy, we had a social development inquiry into it, so it is not something that we should deal with in five minutes.

Ms Hildyard: We've got all night.

Mr PEDERICK: That's right, and I am happy to stay. Is it restricted to de facto couples, married couples? Can single women access it? I want to have the full gamut of people who can access assisted reproductive treatment at the moment so that the committee can fully understand the changes you are making here.

Ms HILDYARD: The current act, if that is your question, only talks about a woman who is infertile. That is the current act.

Mr KNOLL: I want to clarify a few things for the house as to how we got here. Certainly, at least on my side of the aisle, a lot of members are struggling to understand how we got here with this separate piece of legislation.

First, I want to say that the Relationships Register Bill was put to parliament and created a process whereby we can register relationships that are outside the Marriage Act and also do some other things around death certificates and recognising overseas marriages of various forms, and

what those forms are will be clarified through the regulations. The original bill went on to do a whole series of other things.

The reason I think this parliament is confused is that, when one wants to understand the background of a bill, one reads the second reading speech. I have read through the second reading speech a number of times now and everything that the second reading speech did in the beginning was talk about the part of the Relationships Register Bill that we split off earlier and voted on yesterday.

With all these other changes to the Assisted Reproductive Treatment Act, the Equal Opportunity Act, the Family Relationships Act and also in relation to surrogacy (which is now packaged up in a thing called the Statutes Amendment (Surrogacy Eligibility) Bill), there is not really mention, bar one small reference to some of the recommendations of the South Australian Law Reform Institute—it says that the reporting encapsulates SALRI's review of equal recognition of relationships and parenting rights and surrogacy in South Australia, and that is the only reference I can find—to this now new bill which has been hived off.

The cynic in me would suggest that, although these changes are explained in the explanation of clauses, those of us who are not lawyers in the room sometimes struggle to understand what they mean. Certainly, the member for Hammond's questioning I think says that some of us are looking for plain answers as opposed to some of the legalistic language that is used in bills and legislation. It is difficult for this house to understand what this next bill seeks to do. This has not been fleshed out. The other issue is that, because the bill was split off in committee, we do not have second reading speeches to get better and deeper understandings of where things are.

Again, I do not want to impute motive, but the fact that these two bills were split suggests to me that some more controversial things were trying to be hidden in what I think was a very noble part of the original Relationships Register Bill. The Relationships Register Bill passed without dissent in this house, and I think that is testament to good progressive change and good forward-thinking legislation that is sensible, it is common sense and it helps to give recognition to those who deserve recognition.

This new Statutes Amendment (Surrogacy Eligibility) Bill in its current form was only presented to members today. Also, given that, there is basically no mention in the second reading speech by the member for Reynell about the fact that there have not been second reading speeches so that members can attempt to more deeply understand the totality of changes in this bill. I think we are now at a very difficult stage.

Again, this is made much more difficult by the fact that this is a conscience vote. It means that we have a breakdown of the party structure, as we saw in one of the previous votes. Some of them are tight, some of them are overwhelming and some of them are ridiculously overwhelming. We are now in a situation where I think we are testing the ability of the house to appropriately deal with legislation. For those reasons, I will certainly be opposing the third reading of this bill in its entirety because we need time to go back to look at this bill much more deeply and in its entirety, and given that not much information was given at the second reading. I do struggle when—

The CHAIR: This is a committee, so if you have a question on the clause—

Ms Hildyard: I am happy to address it.

The CHAIR: Well, let's hear the question.

Mr KNOLL: Would the member for Reynell like to explain?

Ms HILDYARD: Absolutely, I would love to explain. Thank you very much, member for Schubert. I absolutely reject the point that we have not provided adequate information about both parts of the now split bill. The original bill, with both the relationships register part and this part, was circulated to all members of parliament a number of months ago. We invited all members of parliament to, from memory, three separate briefings, and the member for Schubert was absolutely one of the most active and lively participants in those briefings, asking several questions and requesting further information.

So, to say that there has not been enough information provided about the content of this bill I think is just nonsense, frankly. At each of those briefings, my staff and I provided very detailed written briefings to accompany what was being spoken about. We also made several offers to speak further with parliamentarians and to answer any of their questions. I just wanted to make those points. I think we had very lively discussions in those briefings.

It was following those briefings and a number of questions that came up during the briefings that we made the decision to split the bill. Whilst the original bill was developed as a result of the SA Law Reform Institute's report on relationships and parentage/surrogacy issues—it certainly covered all of those issues—when we looked at the bill further through extensive consultation with members of parliament, it became really clear that there were different questions and different issues being raised about each part of those bills. Hence, we made the decision to split them.

I think that was a good decision because there were certainly very different conversations happening about each set of issues. Again, to propose that there was not adequate information provided is quite unfair. As I said, I welcomed the member for Schubert's very active participation at those briefings, his subsequent questions, and also his acceptance of the written material about these issues provided to him a couple of months ago.

The CHAIR: Member for Adelaide, you have a question about the content of the bill?

Ms SANDERSON: Yes, about the content of the bill and how it works. I believe a couple has to be in a 'registered relationship', the definition of which was only passed yesterday. Is that correct?

Ms HILDYARD: What for? To access what? Assisted reproductive treatment or surrogacy?

Ms SANDERSON: Both.

Ms HILDYARD: There are quite different answers in relation to assisted reproductive treatment and who it refers to and the surrogacy part of the bill. In terms of access to assisted reproductive treatment, that speaks only about a woman being able to receive assisted reproductive treatment. In relation to accessing or applying for a surrogacy agreement, the bill talks about people who are in a registered relationship, but it also talks about a couple who are in a qualifying relationship. That sets out things like a couple who are in a marriage or a domestic partnership.

I take your point about the registered relationship part being approved yesterday—that was part of the whole bill—but it also talks about a couple who are in a qualifying relationship. I think you do have to separate the issues in terms of who assisted reproductive treatment refers to, and who surrogacy refers to. The other part in relation to surrogacy is that this new bill talks about single parents being able to commission a surrogacy agreement. However, my understanding is that there are some amendments to that aspect of this bill that we will probably hear shortly.

Ms SANDERSON: The qualifying relationship we approved yesterday was in relation to adoption, and that is five years that you have to be in a qualifying relationship. How long does a couple in a registered relationship need to have been together? If IVF applies just to a woman, then would that be a single woman, or does that woman need to be in a marriage, a domestic relationship, or a qualifying relationship as well, and for how long?

Ms HILDYARD: The assisted reproductive treatment part of the bill simply refers to a woman being able to access assisted reproductive treatment. In relation to a registered relationship and any qualifying period (this is what we debated yesterday), a registered relationship is designed to give people similar rights to register their relationship, and be afforded particular rights in relation to that registration, as you might should you enter into a marriage. For instance, in registering a relationship on what we set up yesterday, effectively, on the South Australian relationships register, just like in the case of a marriage you would have to give 28 days' notice of the intention to register your relationship, and just like a marriage a registered relationship has no qualifying period. Somebody could go out and meet somebody this evening.

Mr Marshall: Don't look at me when you say that.

Ms HILDYARD: I was looking at you. I did not know which one of you to look at, and I went for you, Steven. For example, the leader could go out this evening and meet somebody and decide

that that is the person he either wants to marry or register a relationship with, and tomorrow he could give 28 days' notice that he wants to register the relationship or he wants to marry that person.

Mr PEDERICK: I assume we are dealing with the whole of part 2, clause 2, and all the subclauses?

The CHAIR: Yes. Unfortunately, we have not moved very far.

Mr PEDERICK: That is fine; I have plenty of time. In regard to section 9(c), you are going to delete subparagraphs (i) and (ii). I will quote them:

(i) if a woman who would be the mother of any child born as a consequence of the assisted reproductive treatment is, or appears to be, infertile;

(ii) if a man who is living with a woman (on a genuine domestic basis as her husband) who would be the mother of any child born as a consequence of the assisted reproductive treatment is, or appears to be, infertile;

I would like the assistant minister to explain to me—and this gets down to the next clause, but I want to talk about it under assisted reproductive treatment as well, and it has to flow into surrogacy under the arrangement I am going to give now—if two gay men want to have a child, what are their arrangements? Do they have to find a surrogate? What are we dealing with here?

Ms HILDYARD: I wonder whether it is better to deal with that particular question when we talk about surrogacy because your question actually relates to the surrogacy part of the bill rather than to the assisted reproductive treatment part of the bill. I think it may be neater to talk about it then with that question, unless you want to move on past this section.

Mr PEDERICK: I am asking that question because the conditions of registration, and if this turns into law, there will be—

Ms HILDYARD: For assisted reproductive treatment.

Mr PEDERICK: That is right. The clause states:

a condition prohibiting the person from refusing to provide assisted reproductive treatment to another on the basis only of the other's sexual orientation or gender identity, marital status or religious beliefs.

If this is going to be so broad (I certainly understand that blokes cannot have babies, so I am making that really simple). All I am saying, and call me a farm boy from Coomandook—

The Hon. M.J. Atkinson: Never do that.

Mr PEDERICK: No, never do that.

The CHAIR: Order!

Mr PEDERICK: This is all-encompassing as it is worded. It encompasses people according to their sexual orientation or gender identity and marital status, but I know the practical application will not work with two gay men.

Ms HILDYARD: What that subclause is speaking about is the provider of assisted reproductive treatment services. The purpose of that subclause is to stop providers from discriminating against people in accessing assisted reproductive treatment services.

Mr PEDERICK: That is what I just said.

Ms HILDYARD: Yes, so I am not sure what your question is. If the question is: is that what we are doing? yes, we are stopping providers of those services from discriminating against people on the basis of those particular characteristics, attributes and criteria that are set out in that clause. That clause is very similar to clauses you would find in a raft of legislation that prohibits discrimination against people, as I said before, whether that is in their workplace, in the provision of goods and services, in seeking accommodation, in trade, etc. I hope that clarifies your question.

Ms SANDERSON: My question is whether this would be paid for by Medicare, whether people pay for it themselves and whether any cost estimates have been done on the effect of this bill.

Ms HILDYARD: I presume that you are talking about accessing assisted reproductive treatment. My understanding is that generally it is a very hefty bill for those people who seek that kind of treatment, but I would have to clarify whether there is any public funding in relation to the provision of services. I do know, certainly from friends and many people I know who have accessed assisted reproductive treatment, that it is a very costly process. Whether there is any public provision of funding, I can check that for you and come back to you.

Schedule 1, part 2, clause 2 passed.

Schedule 1, part 5, clause 5(4)

Ms CHAPMAN: Can the assistant minister explain why we actually need this? We come back to this question of 'just to make it absolutely clear'. I have made it clear in this house before that I do not agree with that. Is there some piece of common law, case law or the like that has actually threatened the interpretation of this to justify its determination?

Ms HILDYARD: Currently in the Equal Opportunity Act, the provision of assisted reproductive treatment services is expressly exempt in terms of allowing discrimination against somebody who seeks those services. Given the changes we are making in this bill, we did think it was necessary to make sure that providers cannot discriminate against people on the basis of their sex or gender identity when they seek assisted reproductive treatment services.

Ms CHAPMAN: Again, what we are doing is deleting subsection (2) anyway which is the prohibition. Therefore, we have got rid of it. We do not need to have another statement replacing it that says 'to be absolutely clear' or, in this case, 'however, to avoid doubt'. This is lazy drafting at best and, frankly, if we wanted to avoid doubt on everything, we would just have this in every clause. It is just not really sensible law-making, in my view, and will only add to confusion. Why can we not just delete subsection (2) and not add this in?

Ms HILDYARD: What we are attempting to do is amend the definition of service to which ART is currently exempt. It is trying to provide some cover. I do take your point, but that is what we are trying to do in this clause.

Ms CHAPMAN: On the question of insurable cost for this treatment, this raises the question of cost overall. I have Repromed in my electorate. It is one of the many services—not the only one but obviously a premier service in South Australia—that provide fertility treatment. My understanding is that there is quite a significant cost for access to services for fertility purposes, that is, IVF. The amount is in the thousands, in fact.

The prospective parents have to go through the physical process, which is sometimes painful for them, especially if the fertilised egg does not hold or develop and they may have to go through it multiple times. It is obviously a roller-coaster of hopeful expectation with dashed hopes and sometimes, of course, a wonderful outcome.

I am not certain but I understand that at present some cost associated with this can be claimed on health insurance. Is there any impediment under our federal laws to a same-sex couple, who will now be able to access this process, in respect of the insurable cover for this cost?

Ms HILDYARD: I would have to take that question on notice and find out how federal law interacts with that particular provision.

Ms CHAPMAN: Again, we are dealing with the fertility component of a service that has been removed, and I am dealing with it under part 5. In respect of the treatment itself, is there any proposed regulation to go with this to deal with assisted insemination and assisted reproductive treatment, or is that simply going to rely on the definitions within the Assisted Reproductive Treatment Act 1988?

Ms HILDYARD: SALRI did not go further than what is currently in that act, so there certainly has not been a discussion about that intention. I think you make a very good point about what could be discussed in the future.

Schedule 1, part 5, clause 5(4) passed.

Schedule 1, part 6.

Clauses 21 and 22 passed.

Clause 23.

Mr ODENWALDER: I move:

Amendment No 1 [Odenwalder–1]—

Schedule 1, Part 6, clause 23 [clause 23(1)]—Delete subclause (1)

I am advised that this is a test clause. If it fails my other amendments are consequential; if the first amendment fails, the other amendments fail consequentially.

Essentially, this amendment is an attempt to alter the bill so that it achieves what I think are its primary aims. I will not go on about it, but essentially it removes references to single people of any gender or persuasion being able to access surrogacy. This is in no way a reflection on single parents, of course; I have been a single parent myself, but generally I do not think it is people's first choice as to their family arrangements.

Be that as it may, I want to be clear that I see this bill as trying to achieve some loosely related things. To my mind at least, I see that there is a hierarchy of things this bill is trying to achieve, and my fear is that in our attempt to push through a bill which, as some people have pointed out, puts together some things which at first sight do not quite sit together, we will lose some important reforms aimed at addressing some unnecessary discrimination. This amendment and the consequential amendments take out references to single people accessing surrogacy.

To my mind, at the top of the hierarchy I am talking about those couples, of any gender or sexual orientation, who want to start a family but who, for whatever reason, cannot. In the first instance, I am specifically thinking of a lesbian couple accessing IVF. We all know of the ridiculous lengths they have to go to now, the cost involved in travelling to, generally, Victoria or New South Wales to access these things. For me, that is the main or primary aim of this bill, not discounting the important reforms below that in the hierarchy.

These amendments are an attempt to see that we do not lose some good reforms in pursuit of other reforms for which there may be less demand. My sincerest intention with these amendments is to see this bill pass, that is my sincere intention, and so approach this issue in a more incremental fashion. There may be bills later, and I may vote for them, but I want to approach it in a more incremental, rather than have an all or nothing approach that could leave us with nothing. I urge members to vote for my amendment—

The CHAIR: Your amendment amends clause 23.

Mr ODENWALDER: Yes, so I urge you to vote for amendment No. 1.

Ms CHAPMAN: If subclause (2) of clause 23 is deleted, thus removing the opportunity for a single parent to commission a prescribed international surrogacy agreement, you would be left back with commissioning parents. As the member says, the purpose of this is to exclude the right for a single person, being a single parent, going through a surrogacy process as a commissioning parent. They could not commit a couple from Thailand, for example, to provide for them a child for the purposes of them acquiring the legal parentage of that child, as I understand it.

Mr ODENWALDER: Yes, I think so. They are not in a qualifying relationship.

Ms CHAPMAN: A commissioning parent who was single at the time of entering into a contract for surrogacy could be in a circumstance where they had lost their partner through death, they had another child, or they had lost the fertilised eggs that were sitting in the Flinders Medical Centre and died when we had a blackout recently. Now we are hearing that some of those parents are of course concerned because they are now of an age when they are unlikely to be able to have a healthy fertilised egg again. There are those sorts of circumstances.

It is a bit like saying that no child could ever be terminated in vitro, yet Ireland was asked how you would deal with a young woman who was raped or was pregnant as a result of incest. Should she be forced to have a child? There are clearly circumstances. Are there any circumstances in which you consider it would be reasonable for a single parent to be able to enter into a contract for a surrogate child?

Mr ODENWALDER: Personally, yes, I do think there would be circumstances where that would be reasonable but, for the purposes of passing this bill, the amendments I am making, as far as I am aware—and I can be corrected by the sponsors of the bill—revert back, in this instance, to the current situation. The people you refer to do not have that opportunity now. Subsequent bills could address that, but not this one.

The Hon. S.W. KEY: I am seeking some clarification because I understand there has been some agreement that these amendments will be supported on the basis of support for the whole bill. I think the member for Little Para has made it clear that—

Mr Pederick: No-one has cut a deal with me.

The Hon. S.W. KEY: No? Okay, good. I just wanted to clarify that issue. I would like a little bit more information on why we should discriminate against single people. I know a number of single people who would be offended by the fact that they have been taken out of what I consider to be a series of equal opportunity pieces of legislation that we have been dealing with. All of a sudden, we are now going to cut them out of it because they are single. I just think this does not make sense of the legislation that we are trying to put through.

Mr ODENWALDER: I am not aware of any formal agreement, but I completely understand what you are saying. As I said in my earlier remarks, my sincere intention is to see this bill passed. I am concerned that some very important reforms will be lost in the pursuit of a whole suite of reforms which could be pursued individually. We all know, and people on the other side have pointed out, that this bill has come to us in quite an unusual fashion. That was the reason it was split in the first place—because there were things that were completely incongruous. I think that it could be separated out again. I am perfectly happy to deal with this at another time and perhaps would vote for it, but I think the amendment is in the interest of passing some of those other important reforms.

The committee divided on the amendment.

Ayes.....35
Noes 8
Majority 27

AYES

Bell, T.S.	Bettison, Z.L.	Bignell, L.W.K.
Brock, G.G.	Cook, N.F.	Digance, A.F.C.
Duluk, S.	Gee, J.P.	Goldsworthy, R.M.
Griffiths, S.P.	Hamilton-Smith, M.L.J.	Hildyard, K.
Hughes, E.J.	Kenyon, T.R.	Knoll, S.K.
Koutsantonis, A.	McFetridge, D.	Mullighan, S.C.
Odenwalder, L.K. (teller)	Pederick, A.S.	Pengilly, M.R.
Piccolo, A.	Picton, C.J.	Rankine, J.M.
Rau, J.R.	Snelling, J.J.	Speirs, D.
Tarzia, V.A.	Treloar, P.A.	van Holst Pellekaan, D.C.
Vlahos, L.A.	Weatherill, J.W.	Whetstone, T.J.
Williams, M.R.	Wortley, D.	

NOES

Atkinson, M.J.	Caica, P. (teller)	Chapman, V.A.
Close, S.E.	Key, S.W.	Pisoni, D.G.
Redmond, I.M.	Sanderson, R.	

Amendment thus carried.

Mr ODENWALDER: I move:

Amendment No 2 [Odenwalder–1]—

Schedule 1, Part 6, clause 23 [clause 23(2)]—Delete subclause (2)

Amendment carried; clause as amended passed.

Progress reported; committee to sit again.

Sitting suspended from 17:58 to 19:31.

Parliamentary Procedure

STANDING ORDERS SUSPENSION

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (19:31): I seek leave to move the motion in an amended form.

Leave granted.

The Hon. J.J. SNELLING: I move:

That standing and sessional orders be and remain so far suspended as to enable consideration of the Death with Dignity Bill to take precedence over Government Business, Orders of the Day, forthwith.

Motion carried.

Bills

DEATH WITH DIGNITY BILL

Second Reading

Adjourned debate on second reading.

(Continued from 15 November 2016.)

The Hon. M.J. ATKINSON (Croydon) (19:32): My father died the kind of death described by James Joyce in the opening pages of *Ulysses*. It is a novel about 24 hours in the life of the city in which my father was born and was published the year before he was born, 1922. It was a death in which, for the last 12 hours, I wished every breath would be his last. Yet he wished to recover and to live, and about 24 hours before he died he tried to get out of his bed in the oncology section of the Royal Adelaide Hospital, pull on his trousers and walk onto North Terrace, where, in his rugby playing days, he had been a patron of the Botanic Hotel.

He was, of course, heavily sedated, and I will never know what he felt in those final hours. In the final hour, in what I regard as a miracle, the rostered nurse was from my father's home neighbourhood of Dún Laoghaire. It was he who administered the last dose of morphine, which depressed my father's respiratory system and caused his death swiftly. Should we always 'choose life', as the T-shirts say? Not always. I would not have wanted my friend, Frank Clappis, who was dying of mesothelioma, to go on any longer. Indeed, it would have been merciful if his life had ended days earlier.

As members of parliament, we are influenced in the debate about physician-assisted suicide, or active voluntary euthanasia (AVE), by our experience of death. Not long after my father died I was elected to parliament, and in my first term I served on a two-year select committee on the law and practice relating to death and dying. No-one who gave evidence to the committee argued that we choose life in all circumstances and at any cost. We on this committee called this position, which no-one held, 'vitalism'. Until I heard the member for Schubert's contribution on 20 October, I did not know anyone embraced it.

In my second term in parliament, I served on another long inquiry, this time the Social Development Committee euthanasia reference. In my three years working on euthanasia references, I found the dementia and motor neurone cases most troubling. Who knows whether a person with terminal dementia is suffering in his or her deep, end-stage psychotic state.

I have read the book that Andrew Denton and Go Gentle are circulating, and most of the stories make a strong case for physician-assisted suicide, although one story I read revealed unwittingly that palliative care had not been applied. One current member of the house mentioned,

in supporting a previous euthanasia bill, that a loved one had refused pain relief in her illness. Our 1999 Social Development Committee report states:

> Many of the survivors of this medical revolution now live with the chronic and degenerative conditions that come with old age...Demands are likely to increase and put greater pressure on the health systems as society ages.

Evidence to our committee was presented that more money is spent by the health system in the last year of a person's life than in all his or her preceding years.

If the bill is passed, especially if the member for Ashford's bill is passed, a future South Australian minister for health would make savings, not that the current minister would welcome savings obtained this way. Those who want AVE say they want personal autonomy in the manner of their death, yet they require the state to create and fund a vocation whose job it will be to terminate life.

The people threatened by the ambitions of the AVE movement are the poor and the lonely and those otherwise vulnerable, those who can be influenced by a society in which AVE is common into thinking that they should end their life because they have become a burden to others. Families are stressed by the older generation living longer than oldies could ever have expected in their childhood, with families of four living generations now common and oldies not dying swiftly of the infections and heart and pulmonary weaknesses common in the first half of the 20th century. The older generation might employ the words of Charles II of England: 'I am sorry, gentlemen, for being such a time a-dying.'

Some conclusions of the Social Development Committee have stood the test of time:

1. the ineffectiveness of palliative care in some situations;

2. the ignorance of the public about what active euthanasia entails, and the prevalence of the misconception that active voluntary euthanasia involves turning off machines or other currently legal practices;

3. the majority of dying patients' pain can be relieved with therapy and drugs, about 10 per cent of patients need more concentrated drug treatment for pain relief, and a small percentage of patients suffer from intractable pain;

4. the potential damage the legalisation of active voluntary euthanasia might have on doctor/patient relationships; and

5. the law envisaged would not just control the practice of active voluntary euthanasia but was likely to confirm and encourage it.

The latter point is grasped by both sides of this debate, and the AVE advocates know that, if they can change the law first, then they can change minds and take the law in the direction they ultimately want it to go.

I do not think that Christianity in its scriptures compels opposition to the bill. There are theologically reasoned exceptions to the commandment, 'Thou shalt not kill.' In more than 30 years of going to churches across all denominations, I cannot recall a homily preached against it. It is a pity then that so many supporters of AVE resort to pre-war Australian sectarianism in debate as though Australians who happen to be Catholics or Orthodox do not have full citizenship and the right to organise and advocate for the position they conscientiously believe. If my opposition to AVE is based on ancient wisdom, it is not that of Jesus of Nazareth but Hippocrates of Kos, who lived some 350 years before.

Although Mr Denton holds that people who pray are merely talking to themselves, as he is entitled to do, just how the member for Newland's organising prayers about the bill is a threat to the integrity of our polity, as Mr Denton told the Adelaide media, is not apparent to me. Mr Denton is redolent of the approach to state-church relations in Warsaw Pact countries. Of course, the media reaction to my saying that will demonstrate the degree to which criticism of a television celebrity is the new blasphemy. The Adelaide media, with one honourable exception—Matt and Dave—refuse to give equal time to the two sides and pretend that there is no secular opposition to the legislation and caricatures opposition to the bill by having only religious opponents of the bill on their programs.

The member for Morphett was wrong when he told the house, 'The bill we have today is the result of months and months of negotiation on behalf of the member for Ashford.' The member for Ashford moved a doctrinaire bill in the house that did not restrict AVE to people with a terminal illness and made the test of suffering wholly subjective and unreviewable by a doctor or anyone else. The Australian Medical Association (South Australia) has put a compelling case about that bill and highlighted the slapdash approach to formulating the bills and consultation on them.

The Attorney-General, hitherto an opponent of AVE, was so concerned by the member for Ashford's bill that he used the resources of his department to draft a series of amendments to it that rendered it capable of being supported by a majority of members. As the member for Ashford's bill slid towards defeat a month ago, the members who rescued the AVE proposal in this parliament were members from my part of the Australian Labor Party, some of whom conscientiously believed in a limited form of euthanasia and others who were opposed to it.

What united us was a belief in procedural fairness and fair play, wholly absent from those who played the sectarian card via the member for Bragg's untruthful one-minute outburst at the end of the debate in October. The member for Morphett's second reading speech was, in my opinion, so lame because he was not familiar with its provisions. It had been drafted on the order of the Attorney-General. There were no clause notes.

The bill before us is not what the AVE movement wants. It prefers the bill the member for Ashford moved, and it would much prefer to the member for Ashford's bill the law as it applies in Holland and Belgium, where children can be euthanased, people with mental illnesses can be euthanased, and where the law, such as it is, is routinely ignored by doctors, especially the reporting requirements.

We are faced with a fine judgement. We could oppose all AVE bills on the assumption that, once passed, any restrictions will be removed one by one by civil disobedience and then by legislative amendment, as society becomes accustomed to the state providing death on demand, or we could support the member for Morphett's bill, put it into committee, make further amendments with a view to preventing it going on the trajectory of Holland and Belgium and offer relief to those for whom palliative care is ineffective. It is a very fine judgement.

Parliamentary Procedure

VISITORS

The DEPUTY SPEAKER: Before I call the next speaker, I would like to acknowledge in the gallery tonight the family of Kylie Monaghan—her parents, Greg and Shirley; her aunt and cousin, Sue and Christine—and an esteemed guest, former chief minister from the Northern Territory, Marshall Perron; and, of course, the many activists on both sides of the debate today. The member for Hartley.

Bills

DEATH WITH DIGNITY BILL

Second Reading

Debate resumed.

Mr TARZIA (Hartley) (19:43): It is the duty of us all in this parliament put here by the grand architect of the universe to make laws for the betterment of the community. When I consider a bill, I consider the impact of the bill on every single citizen—from the strongest to the most vulnerable.

This is a bill I have taken very seriously. In speaking on it, I have certainly consulted my electorate again since the last bill on this topic, and I have still come to the conclusion that voluntary euthanasia laws are a dangerous step and we have one shot at rejecting this. There is nothing in the bill that prevents public policy dilemmas, dilemmas like what happens if vulnerable people, such as the weak, the frail and the sick, who do not have the family support mechanisms around them, do not have anyone to protect them?

I cannot support a bill that would potentially allow suicide to become a business. From my reading, that is what has happened in countries like Switzerland, and that is not right. Those in favour

of the bill want to pontificate that they represent the most vulnerable in our society. Allowing this bill to get through will certainly be a slippery slope. More often than not, when the activists out there have a cause, when they raise a view, there is an opposing view. Some of them are the first to say that those who are against them, with logic, are misinformed, that we use fear. It is not right.

Every member of this place is free to express a view. Their view should be respected. I am voting the way I am to especially protect those who are too vulnerable themselves to speak. Everyone has a right to engage with their electorate on this issue, engage in debate and analyse the issues in their own conscience. It is disappointing to see parts of the Labor Party, as we have seen this week, being dragged to the left every day. It is unfortunate that bills like this are clogging up the agenda, when we should be using the resources of this very parliament for much more constructive purposes for the good people of South Australia.

I want to address some of the claims that have been made in regard to the bill. It has been said, as early as this morning on radio by a member of the pro euthanasia lobby, that 'every opinion poll shows that somewhere between 70 to 80 per cent of Australians support a law for voluntary euthanasia, even amongst Catholics and Anglicans'. I have gone back to my electorate and sought feedback. Let me say that between 70 and 80 per cent of the Catholics and Anglicans in my electorate do not support this bill. It is just not the case, especially in my electorate. My data does not come from grabs on the radio. My data comes from the electorate, not from any activists who may, in fact, sometimes even have a vested interest in making sure that this bill gets up.

The Death with Dignity Bill 2016 is the second attempt to allow euthanasia law in South Australia. Whilst I acknowledge some of the public support for the idea of euthanasia, I am concerned and, unfortunately, can still see significant dangers and risks in this new bill before us today. It is imperative that we consider what this bill will allow, rather than focus purely on those it is designed for. Too often, I see advocates for this bill play on the public perception that euthanasia would only ever be for a few hard cases. From the evidence I have seen, this is simply not the case.

By the way, sometimes the polls get it wrong, but who will stand up for the silent majority? There is definitely a silent majority on this issue. It is imperative that we consider what this bill will allow. I refer to countries, such as Canada, where euthanasia laws now exist. I note the significant underestimation of the number of people expected to utilise the new euthanasia measures. I reference Dutch journalist van Loenen, who once observed about euthanasia in his homeland:

> Making euthanasia and physician-assisted suicide legal started a development we did not foresee. The old limit 'thou shalt not kill' was abandoned and a new limit is yet to be found.

If you look at a country like Holland, you will notice that once you allow euthanasia you open the door to much, much more. Once the equal protection of the law for every citizen from acts of homicide to assisting in suicide is gone, it will be that much harder to draw the line next time similar issues regarding assisted suicide arise, hence the slippery slope.

As I mentioned earlier, in a recently released report on the operation in Canada of Quebec's euthanasia and assisted suicide law, three times the expected number of deaths were reported for the first seven months, with 8 per cent of cases not compliant with the law. In that instance, 18 of the 21 cases that failed to meet the legal regulations were situations where the independence of the second confirming doctor was in question. The response of the minister at the time to this was to consider making some adjustments to ease the obligation of seeking a second opinion from an independent doctor.

This, I believe, is the next debate that will open the door if we are to pass this bill before the house. This is dangerous thinking. My main concern therefore with this bill is the slippery slope and the move from euthanasia for a few hard cases to more and more cases, involving those who cannot competently ask for it and children without the capacity to give consent. I do believe there are advocates of euthanasia who want a limited rule, but unfortunately I do not believe that will change the reality of what would follow. Putting moral beliefs aside, and putting what the electorate wants aside, I believe it is plainly obvious that the practicalities also have to be considered. I do not believe we should pass this bill, which impairs the inalienable right to life.

I ask that activists consider that this is a bill we have all taken very seriously, that this is a bill where we have all had to listen to hours and hours of consultation in our electorates. However, I

cannot stand here in good conscience and allow this bill for the legislated killing of our citizens in South Australia to go through. I will be opposing it.

There being a disturbance in the strangers' gallery:

The DEPUTY SPEAKER: Order! I must remind the gallery that we do not normally clap or tap.

The Hon. G.G. BROCK (Frome—Minister for Regional Development, Minister for Local Government) (19:50): I would also like to contribute to the Death with Dignity Bill 2016. I have to make it quite clear from the start that this is a bill I would prefer not to have to vote on, but we as legislators have to consider what is the best for our electorates. Whichever way we vote in this house we will not please everybody. This is an issue that is deep in my heart as well as of others here, and I know from people I have spoken to that this weighs heavy on their hearts.

As we are aware, this subject has had many attempts to pass through the parliament of South Australia but it has not, to my knowledge, been successful in getting to the committee stage. The late Bob Such, bless his soul, was very passionate about this subject, as were other members in this chamber, current and past.

As members in this place we have a conscience vote on this issue, which means we can vote whichever way we consider is the best direction, moving forward, for our electorates in particular. When voting on such an issue we, as legislators, should and must consider the points of view of our electors but, even in doing this, we will never have 100 per cent in favour of whatever decision we make. Everyone has their personal, religious and various other views and I totally respect those views, as we in this chamber should respect each other's views when we are voting.

As I indicated before, this is a very emotional issue, with many people having witnessed their loved ones or their friends having to go through some terrible suffering towards the end of their life. I must also make it very clear that I know our palliative care facilities across the state, and their very dedicated staff, do a tremendous job caring for patients in pain, trying to ensure that their end-of-life journey is made as comfortable as it can be. Doctors all across Australia also do a tremendous job with medication, and the religious fraternity also does everything it can to ensure a person's ending is as comfortable as possible.

This is a subject I have witnessed personally from family as well as friends and associates. All of us in this chamber and in this state are aware of the recent journey of Kylie Monaghan in my own city, what she went through and her dedication to the very subject we are discussing tonight. I have personally seen people going through the last stages of a terminal illness, they and their family being aware of the time that the medical fraternity has given them.

I have had what I consider the best opportunity to better understand the views of the people I represent during the past 12 months, in particular, by endeavouring to communicate with my electors to the best of my ability. I have gone out to my electors on six occasions asking for their views, assisting them in understanding the proposed legislation so that they have the best information available, communicating with them and ensuring their questions are answered.

I have communicated not only via the newspaper but also via TV, radio, website, social media, my bulletin, and of course people stopping me whilst out shopping, watering the garden or at numerous events. These people have felt quite comfortable confiding to me their reasons, their experiences with family or friends, and they have also been very candid about why they do not favour this bill. I have had numerous people stop at my home, call in and discuss the subject. When people can do that, and have the confidence in their local member to be able to talk frankly about it, I believe this is an issue we really need to take further.

My constituents have responded to my numerous calls for their views on the issue, and to date I continue to receive emails and phone calls daily from people wanting to add their position to this issue on my database. I, like other members in this house, have received hundreds of emails from all over the state, and actually internationally, from people and organisations expressing their views on this very important topic. Even this week, as I am communicating with my electorate office in Port Pirie, we continue to receive over 100 emails or contacts every day.

I have had discussions with various religious groups, the medical fraternity, the nursing fraternity, the disability fraternity and the general public to canvass their thoughts, suggestions and views. To better understand the views of the people who are living in my electorate, I maintain a database with the views of the people of Frome, separate from other areas, to specifically concentrate on the views of the electorate's constituents. I have explained to everyone who has communicated with me that their communication will remain private, and by ensuring them of this I believe they were more relaxed in coming forward with their names and addresses.

I have received nearly 4,000 responses, with nearly 2,000 from my own electorate, with nearly 70 per cent of those responding asking for this bill to be further debated and voted on. If I took into account the total responses received—that is, the total from all over South Australia and internationally—the count would be nearly 6:1 in favour. By the way, I have not included activists in this database.

As has been mentioned by previous speakers, I do not feel comfortable having to make a decision on this issue, but to my recollection we have not had the opportunity to go into committee. By allowing it to go into committee, we will have the opportunity to get more detailed information. I also understand that several amendments are being proposed to the bill currently before us; I understand there could be 44 amendments. The only way to fully debate this very emotional subject is to allow the amendments to be fully debated and progressed.

As mentioned previously, I have had not only numerous emails and letters but also on numerous occasions, whilst out shopping at Woolworths, Coles or anywhere, people have come up to me and expressed their views, both for and against this very emotional subject. They are not afraid to talk about it. They are not afraid to come forward. Even if I just go to get a litre of milk in the supermarket, it is two-hour journey. This very emotional subject deserves to go for further debate, and as other speakers have indicated, to be able to be further expanded to better understand the final opportunity for a decision to be made by members of this parliament.

Again, I wish I did not have to vote on this. I have been told that I do not have to vote and I could just abstain; I cannot do that. I think we have a responsibility in here to represent the people out there. We have to make decisions in here that are sometimes very hard. I have lost my wife, my brother (to suicide) and my little grandson. They were very quick, but I have also seen, as I mentioned earlier, some people in that last stage of the trauma and the pain, and it is unbelievable until you have actually been through that personally. I believe this subject should go into committee for further progress, and again, I hope people in this chamber will make the right decision.

The Hon. J.M. RANKINE (Wright) (19:58): This is probably one of the most important pieces of legislation we as members of parliament are asked to consider and vote on. It is a huge responsibility, and one that weighs heavily on me and, I know, my colleagues. Many people have strong views on both sides of this argument, and in the main I think they reflect very much our own personal experiences. I am no different. I will not be supporting this bill brought in by the member for Morphett, and I do not support the bill brought in by the member for Ashford, which has been adjourned and remains on the *Notice Paper*.

I do not support these bills because no matter how carefully or thoughtfully these bills are drafted, they cannot ensure vulnerable people will not be pressured or coerced into choosing euthanasia and, importantly, neither the independence nor the quality of the medical profession involved in the process of approving someone's death can be guaranteed. Just like other countries where euthanasia has been introduced, this is simply the first step. If people think this is the end of the journey as far as euthanasia is concerned, they are kidding themselves; this is just the start. This bill was not the preferred option. We will see bit by bit the loosening of criteria and safeguards.

My concern is always ensuring that euthanasia is not the first port of call, that it is not something people can feel pressured into accepting as they feel they really do have no other choice. This legislation gives me no assurance or comfort that this will not be the case. No-one wants to see unnecessary suffering—people suffering unbearable pain and suffering unbearable anguish as end of life nears. There are circumstances where families and loved ones face the cruellest of circumstances. Our priority should be ensuring that expertise, skill and funding are available to all those who need it when faced with debilitating medical conditions which are ending their lives.

This bill does not promote or require palliative care as a first option. It simply requires that the two doctors assessing the request for euthanasia explain the palliative care options that are reasonably available. There is nothing in these bills which actually requires doctors assessing an applicant for euthanasia to have any real in-depth knowledge of palliative care. There is nothing in this bill that requires either of the doctors to have any specialisation. They can be any GP, anywhere.

My concerns were reinforced when, during a briefing provided by the palliative care association, the comment was made by a senior doctor that, in all professions, there are different standards and expertise. That really goes to the heart of the matter. It goes to the heart of my fears and my concerns. With the greatest of respect, I do not trust that the processes that are meant to occur will actually occur, nor will they occur with the thoroughness required. There is no requirement that doctors actually have the necessary information in fact to provide the advice envisaged in this legislation.

The second medical practitioner who does the follow-up assessment is required to be independent of the first doctor, yet there is nothing that specifies how they must be independent. Is it just a different doctor? Perhaps a country town with two GPs? Would they really be independent? Could it be someone of the same practice with a different billing number? Could it be the neighbouring practice and they refer to each other?

We already have legislation which requires independent assessment by two doctors, and I can tell you from bitter experience it can simply be a 'tick and flick' exercise. Two doctors are working independently. A senior doctor alters a junior doctor's recommendation. The senior doctor does not fulfil his legislative responsibility. A third and fourth doctor are made aware of this and not one of them is prepared to overturn the decision. There is much harm and distress caused because no-one is prepared to stand up and change a decision, so please do not tell me doctors act independently.

This bill tries to ensure that any person wanting to access euthanasia is doing so of their own free will, that they are of sound mind and are not coerced into choosing euthanasia. Yet, while the bill stipulates a person must be of sound mind to make an application, it also states that 'a person may fluctuate between having impaired decision making capacity and full decision making capacity'. They are not precluded if they are incapable of retaining information merely because the person can only retain the information for a limited time. What is that limited time? A few minutes, an hour, a day, a week?

The bill precludes advanced age, disability and mental health conditions as eligible criteria. Dementia is a terminal illness. It inevitably kills you, it is incurable and, depending on the stage the sufferer is at, they fluctuate in and out of reasoned thinking. It would be really easy to pressure and coerce or confuse someone in this situation to choose to die. Who is going to assess what phase they might be in when they sign an application: the doctor with limited knowledge of both dementia and palliative care, or the witness or a local JP?

What expertise does this legislation require of those making the assessments of people requesting to die? What teaching or training is required? The answer is none. The criteria for a person requesting euthanasia require that the person's death has become inevitable by reason of the terminal medical condition. It provides no time frame. I well remember a woman who had chosen to end her life. The issue was being promoted by Dr Nitschke. Luckily for her, her diagnosis was reviewed prior to her taking her life. It turned out she never had a terminal illness at all.

It is naive in the extreme to think that old people will not be pressured and coerced when it serves a purpose. The pressure can be subtle, but it happens now in relation to many things. Elder abuse is an increasing concern. What do people really think will happen? The legislation requires an applicant for euthanasia to be suffering a terminal medical condition, yet suffering has no objective standard. The legislation provides for the revocation of a request for euthanasia. The request can be revoked in writing, orally or through any other indication of revocation. To whom is the revocation made? How is it recorded? What guarantee is there that it will be recorded appropriately if given orally?

This is the compromise legislation. It is the first step, not the last. If this bill is passed by this parliament, the next step will be to weaken the constraints. There will be a push for those with dementia, stroke victims and people with a disability to be accessing euthanasia. If we are serious

about ensuring all options are truly available to people suffering terminal illness, this legislation should have ensured that patients are fully informed of all available options and that the information is provided by people with expertise in this area, not the vague or general knowledge of general practitioners.

The Consent to Medical Treatment and Palliative Care Act allows for palliative care sedation and palliative care pain relief. It makes it clear that doctors are not obliged to continue life-sustaining treatment for people approaching death, and there is no restriction on the use of pain and other relieving medications, even if this hastens death.

I had this debate with my youngest son some years ago. He is a nurse by training. We were at a function and I was talking to a senior oncologist at one of our public hospitals. My son bounded up and said, 'Sir, mum and I have been discussing euthanasia. What do you think?' He looked at my son and said, 'I want my patients to think I'm fighting to keep them alive, not trying to kill them.' Make no mistake, this legislation will forever change the doctor-patient bond.

Mr WILLIAMS (MacKillop) (20:06): This is, indeed, a vexed question. If it were not a vexed question, it would have been resolved a long time ago. When I look at this, I look at it with the same view that I look at every matter and every question that comes before me as a legislator in this state. I ask myself, firstly: what is the ill that needs curing and is the proposed solution a reasonable and sustainable solution to that ill? When I look at what the ill is, I tell myself that nothing has changed in recent times from what we have had since time immemorial.

Unfortunately, every one of us is mortal. We all face death and we all fear it—not all, as I have known some people who have strong religious beliefs that have enabled them to face death with comfort and ease. Personally, I do not understand how they do that. I do not understand where they get that strength from because it is not something I have, but I do, to some significant amount, fear death and my own mortality. I have lived long enough to see a lot of people suffer and a lot of people die. Notwithstanding that, when I ask myself: what is the ill we need to cure? I am not convinced that we need to bring in specific legislation at this point in the history of our species to cure something which we have lived and died with forever.

The second part of my analysis is: is the proposed solution something that will work? I think the proponents of this measure are saying that there are some very vulnerable people and that we need to help and support them. Indeed, there are some very vulnerable people and, as I said, they face their final demise with fear and often in great pain. accept that. But does the solution proposed solve that problem or does it create other problems? The way I have looked at this is that I think the proposed solution creates more problems than it proposes to solve.

We had a bill brought to the parliament a little while ago, and obviously there is a lot of discussion that happens around the corridors in this place. Some people say, 'I might support it but for this,' and that conversation goes on and on. I believe that the bill we are now looking at is that original bill with 41 amendments—no fewer than 41 amendments—designed to appease those who had some reservations about the original bill. That says to me that the people who are proposing this are not quite sure whether their proposal does indeed cure the ill they perceive.

I happen to have been around this place and observed the way we make law and the way that law is utilised in our society as we go forward, and one of the things I have observed is that quite often the best intentions of those of us in here are thwarted. Notwithstanding what we believe we are putting into the statutes of this state, the interpretation, once it leaves this place, is quite often somewhat different. Indeed, as an example from a very different part of our statutes, I have on the *Notice Paper* a matter to try to resolve an issue with the Stamp Duties Act.

In 1993, this house was assured that a particular clause had never been and would never in the future be used for a particular purpose, yet in 2000—seven years later—the crown law office of this state advised the then minister, or the department of revenue, that they believed they could defend what the parliament was told would not happen, and the law was basically changed outside of this house. That matter has not been debated by the government since March this year. All I am trying to do is put back what this house was guaranteed would be the situation in 1993.

That is but one example. In spite of our best intent, I have no confidence that the supposed safeguards in the bill before us will stand up. Indeed, I have even less confidence, if we open this gate, that the safeguards we put in place now will remain into the future. The reality is that, if we look at the few other jurisdictions around the world where they have opened the gate, we can see quite clearly that the safeguards which were put into the original legislation are slowly being watered down.

Somebody might put an example to ask about three years later or five years later—I am concerned about what might happen in 20 or 30 years if we open this gate. If we apply our minds to the worst outcome of state-sanctioned killing it is certainly not beyond my imagination to see great evil emanate from this measure—great evil. I cannot even support this going to committee because no matter what safeguards and no matter how strong we believe we make the legislation at this point, that will not be the way it is interpreted in the future. It will have opened the gate and our attitude to this matter as a community will have changed, and changed forever.

Once we open this gate, there is no going back. There is no U-turn. There is no going back and closing the gate. If we make a mistake now, we have made it forever. That is the problem. The most vulnerable people in our society, in my opinion, are not those whose protection or ease is sought through this measure. I believe that the most vulnerable people in our society would be put under greater threat by this measure, so I cannot support this even at the second reading stage.

The other thing that really concerns me is the message we would send to our medical profession, from top to bottom. We have a fantastic medical profession dedicated to supporting our health and wellbeing. What sort of message would we be sending to the medical fraternity if we suggested to them that there is a quick and easy way out of every problem that walks through their door? Unfortunately, there are not a lot of easy shortcuts. Life is to be endured, unfortunately.

The Hon. A. PICCOLO (Light) (20:16): In the 10 minutes I have to make a contribution to this very important piece of legislation, it is almost impossible to do justice to the issues and, more importantly, to the people who have made representations. However, I would like to thank all of those people who have taken the opportunity to express their views to me, whether they support the proposed legislation or not. At the outset, I acknowledge that whichever way I vote on this bill, I will disappoint some. Equally, I respect the different and at times opposing views expressed in this chamber irrespective of their moral or ethical basis. All have a valid place in our democracy. Our democracy is diminished when we try to lock out people from engaging in the public sphere.

In an endeavour to do this proposal some justice, and if for no other reason than as a sign of respect for those who have devoted many hours in bringing this matter before this chamber for our individual consideration, I have spoken with a range of people with quite diverse views. Additionally, I have tried to read widely on the topic to explore what has been the experience in other jurisdictions where some version of voluntary euthanasia exists. As I understand the issues, those supporting the bill believe consenting individuals of sound mind and who are in unbearable pain as a result of a terminal or physical illness should have the choice of ending their pain by ending their own life.

In short, autonomous people should have the right to control their own lives. This is classic social liberal or libertarian philosophy supported by Australian philosophers and ethicists like Peter Singer. It also takes a very utilitarian approach, in that voluntary euthanasia does more good than harm and harms no other person than the one giving consent. In a liberal democratic society now largely dominated by social liberal ideology, that is a reasonable position to adopt. In my personal view, there is nothing particularly left wing about this bill; not all progressive politics has a foundation in left wing or social democratic values.

Supporters of this bill argue that it fulfils these principles and that for a small number of people traditional medicine cannot relieve their pain and suffering. They also genuinely believe that the safeguards can be put in place to ensure that vulnerable people are not subject to abuse or the proposed laws are not misused. They further argue that the existing legal framework does not provide health practitioners with sufficient scope or protection to provide patients with a terminal illness the appropriate care. Additionally, they assert that the current laws are discriminatory and lead to unintended effects where people take their own lives rather than prolong their suffering.

Proponents, with some justification, also rely on the results of opinion polls that indicate majority support for some form of voluntary euthanasia laws. But, like any change in society, it is up to the proponents to make the case. Those who do not support voluntary euthanasia do so for a range of reasons and from various moral and ethical positions or bases. I will briefly summarise them based on my understanding.

For some, their religious beliefs lead them to hold the view that, since it is their god who gives them life, only god can end it. Those who work in health care are concerned that voluntary euthanasia could undermine the doctor-patient relationship, and, at some point in time, may require them to actually administer an act of euthanasia against their wishes on the grounds that it may offend some anti-discrimination law.

Of the greatest concern I have heard, both in the community and in this place, is that once we have crossed the Rubicon there will be pressure to expand the availability of euthanasia to a greater range of people in the community. This concern is usually referred to as the 'slippery slope' argument. Many in the community believe that no safeguards can be devised to protect vulnerable people from abuse or misuse of the proposed law. Palliative care workers believe that by improving the quality of, and access to, palliative care, there will be no need for voluntary euthanasia.

What is the evidence for the views expressed by those either for or against euthanasia? Katrina George, writing in the University of Western Sydney Law Review states:

> Research confirms the significance of autonomy for patients at the end of their lives. The strongest determinants of the desire among patients for assisted death stem not from unrelieved pain, but from anxieties about autonomy: losing control, being a burden, being dependent and losing dignity.

She goes on to assert:

> …for an action to qualify as autonomous it must…be sufficiently free from internal and external constraints.

Whether they are external, like strong family and cultural influences, or internal, with mental health issues, drug and alcohol abuse etc. She concludes:

> …there is reason to be concerned that some populations are vulnerable to controlling influences that undermine the autonomy of their choices for assisted death. A patient's physical and psychological vulnerability at the end of life might be compounded by features of his or her context that belie the rhetoric of choice: economic disadvantage, social marginalisation or oppressive cultural stereotypes.

This concern is supported by a report prepared the Oregon Health Division, which states:

> …the most frequent end of life concern cited by people requesting assisted suicide is not pain but ‘loss of autonomy’ (91.5%), followed by decreased ability ‘to engage in activities making life enjoyable’ (88.7%), ‘loss of dignity’ (79.3%), ‘losing control of bodily functions’ (50.1%) and ‘burden on family, friends/caregivers’ (40%), and only then ‘inadequate pain control [is elicited by only 24% of respondents]…

A study in Switzerland in 2014 found that assisted suicide was more likely in women than men, those living alone compared with those living with others and those with no religious affiliation compared with Protestants or Catholics. In older people, assisted suicide is more likely to be in the divorced compared with the married; in younger people, having children is associated with a lower rate.

Victoria Hiley, in her very readable doctoral thesis, quoting Dr Diego De Leo, the Head of the Australian Institute for Suicide Research and Prevention at Griffith University in Brisbane suggests that:

> [The desire to die sooner]…may well reflect contemporary society's failure to retain a sociable place for its elders...Even healthy older people may feel so emotionally excluded…that their lives are meaningless.

Dr Brian Pollard, a retired anaesthetist and palliative care physician, when asked about euthanasia on Radio National had the following to say:

> At the outset, I wish to point out that believing that euthanasia would be a socially desirable practice and making safe law about it are totally different things. As a pioneer of palliative care medicine in Australia, I have had the intimate experience of treating many dying patients and their families…Many of those, however, don't relate specifically to the patient's illness, but to their isolation and neglect, or lack of love and support, factors for which families and the community are primarily responsible.

When referring to a number of inquiries held both in England and Scotland, where to date both have rejected attempts to legalise voluntary euthanasia, Dr Pollard goes on to warn:

> Each of them found that it would not be possible to make a safe euthanasia law, because the so-called safeguards can't be guaranteed to work in practice…Most dangerously, many of the resultant abuses would be difficult, if not impossible, to detect.

While public opinion is a very important consideration in formulating public policy, some care must be used when trying to extrapolate results from a general question to a specific public policy. A number of researchers have raised doubts about the veracity of some opinion polls, as they are influenced heavily by the way the questions are framed and the respondent's understanding of the issue being addressed. Writing in the *Journal of Medical Ethics*, J. Hagelin et al conclude:

> Our hypothesis was the outcome of questionnaires might be affected by the survey instrument used. The present study confirms this hypothesis. These results further show the difficulties of making direct comparisons of answers to questions with different wording and response alternatives in a population with similar characteristics. Answers to questions on whether to legalise euthanasia may thus be modified by the way in which the questions and possible responses are phrased.

Researcher Lynn Parkinson, from the University of Central Queensland concludes, in her study:

> Though the majority of participants supported the idea of euthanasia, patient views varied significantly according to the question wording and their own understanding of the definition of euthanasia.

If public policy is going to be driven by opinion polls, then we must, as legislators, be prepared for the many unintended consequences. Professor David Jones, in an article in the *Southern Medical Journal*, warns of the possible impact on society generally of legalising euthanasia. He concludes:

> Legalizing PAS [physician-assisted suicide] has been associated with an increased rate of total suicides relative to other states—

this is in America—

> and no decrease in non-assisted suicides. This suggests that PAS does not inhibit…non-assisted suicide, or that it acts in this way in some individuals but is associated with an increased inclination to suicide in other individuals.

Opponents of voluntary euthanasia rely heavily on the slippery slope argument. I actually do not share that view because, in my opinion, once you have legalised voluntary euthanasia, it is a natural progression to broaden its application. There is nothing slippery about it; it is a natural progression to broaden its application. That is the experience in other jurisdictions, and there is no sound reason to limit its scope to a broader range of people who are suffering.

In short, if you support this bill, you should be prepared to extend its application or else you would be repudiating the basic principles upon which this bill is based. Should this bill be defeated today, we cannot stand still and need to find another way to address the concerns raised by the proponents of the bill. Both sides of the argument need to find ways to advance the debate and explore other models to address the issue.

The Hon. S.C. MULLIGHAN (Lee—Minister for Transport and Infrastructure, Minister for Housing and Urban Development) (20:27): I start by congratulating the member for Morphett on introducing this bill. It is a bill which responds to a lot of the concerns that a broad cross-section of members had with the other bill that was before this parliament, introduced by the member for Ashford. This bill, the member for Morphett's bill, is, in my view, far closer to the community's conception of voluntary euthanasia than the previous bill from the member for Ashford.

This bill deals with the scenario of a terminally ill person, suffering intolerably, being able to request that their life be ended earlier than might otherwise occur from the ongoing deterioration of their physical health. This bill is clear that this person must have exhausted all medical treatments as well as palliative care options. This bill establishes a detailed regime for the making of a request for voluntary euthanasia, including a regime of medical assessments, psychiatric assessments, witnessing and a revocation of a request.

This bill also sets out how voluntary euthanasia is to be administered, a protection from liability, prescribing the appropriate cause of death on a death certificate, a reporting regime and a control regime for the administration, prescription and storage of drugs. It seeks, in some detail, to address the risks that are present in the existence of such a regime. My understanding is that this bill is an amalgam of other legislative instruments in effect in other international jurisdictions. This bill has the benefit of selecting those parts of those laws that attempt to best reflect the South Australian community's expectations when it comes to a regime for voluntary euthanasia.

This bill appears a more balanced, tighter and more conservative regime than those in operation in parts of Europe, in particular the Netherlands and Belgium. To my mind, that is a good thing. In my view, any attempt to legislate for a voluntary euthanasia regime should be very precisely targeting that small number of people in our community who are close to the end of their lives, who are suffering from a terminal and incurable illness, who have exhausted every medical and palliative care option reasonably available to them. These people, who are not only getting to the end of their life, are also at the end of their tether. They are suffering—and suffering unbearably.

Any legislation, in my view, should be firmly targeted towards these people and these people only. It should be a restrictive regime, and it should be exclusive to all those outside the predicament I have just outlined. There needs to be stricter requirements not just on who can make a request and what their medical circumstance is. There also needs to be stringent requirements on the process, the procedure, and the requirements of the request, and the assessments and the checks in place. This rigour is vitally important to the regime, and this is for a very good reason.

By legislating for a voluntary euthanasia regime, we are providing an extremely rare authority for the state to sanction the killing of one of its citizens by another. The Speaker, in his comments earlier, was absolutely correct: this is a very fine judgement for MPs to arrive at one way or another. It is a judgement that we have not made, and we do not make, in nearly any other circumstance under the laws of this state. It must only be allowed and authorised in the most narrow of circumstances and with the most stringent of requirements.

To that end, I must note this bill in its current form has some deficiencies. Please do not let me be misunderstood. This bill as it stands is a vast improvement on the previous bill, which is still, remarkably, before the parliament. For me to feel comfortable supporting this bill, the member for Morphett's bill, it requires substantial further amendment to ensure that it provides the necessary rigour of the process to which I have just alluded.

I am pleased to say that a substantial amount of work has been done by a range of members to draft amendments for consideration at the bill's committee stage should it pass at second reading. Many of these amendments satisfy some of my key concerns. However, we will all need to see which of these amendments succeed and make our own judgements about whether the bill at that point in time is sufficiently robust to support at the third reading. It is my view that if enough amendments pass, if enough of these issues are satisfactorily addressed, the bill could be strong enough to support by a majority of members, and I have to say that it is no easy task to get such a bill into that sort of shape.

I have spoken previously to this parliament about why parliaments, including this one, struggle to pass laws to allow voluntary euthanasia. From members' perspectives, there are those who object to voluntary euthanasia because it conflicts with their religious, ideological or even ethical beliefs. As I have said previously, in my view that is absolutely fine. Those members should have just the same right to express those views as any other members have the right to express their opposing views. There should be no criticism of people who oppose these bills, these measures and these laws based on their own personal beliefs.

There are also those members, perhaps like me, who are deeply concerned about the prospect of sanctioning killing in our community. Members like me, I believe, need detailed and specific safeguards within a bill to minimise the chance of any regime being accessed in circumstances where we believe it certainly should not be. Of course, there are those members who have always been in favour of voluntary euthanasia, indeed even some who have sought to push regimes which extend far beyond to those people beyond those whom this bill is aimed at.

Trying to deliver a bill which can mediate those concerns and satisfy enough people to become successful is incredibly challenging, and indeed may not succeed in this instance. I have to say that even this evening, let alone in the previous discussions I have had, I have learnt an enormous amount from the views, opinions and contributions of other members that have been expressed in the chamber and around the corridors.

Those opposed cite the challenging nature of the issue. How do we justify sanctioning killing in our community in this particular instance? Those opposed also cite the inherent risks in providing such a regime and the concerns, of course, that such a regime may be misused against vulnerable

people. In my view, all of these are entirely valid concerns. The challenge for this parliament is to address these concerns and to try to demonstrate that there can be a workable regime with sufficient safeguards.

To my mind, the issue is no clearer than this: if you believe that there is currently a small number of people in our community, people who are suffering terribly as a result of incurable terminal illness, people who have exhausted every reasonably available medical intervention and people who have exhausted every reasonable palliative care option, people who despite going through that are still suffering intolerably who cannot bear their predicament who, if given a choice towards the very end of their life, would choose to hasten their death to die and to do so as far as they can on their own terms, should they not have that ability?

As a parliament, should we not prescribe a robust regime with as many checks, safeguards and protections that we can determine? I believe those people in that predicament should have that ability, and I believe that in this parliament we should provide that opportunity for them if we can, and that is why at the second reading I will support this bill.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (20:36): I rise to speak on the Death with Dignity Bill 2016. Whilst I think it is rather a misnomer of description of what we are about to do, I indicate that unlike all preceding bills in the time I have been in the parliament that have offered this sanction and protection, I will be supporting the second reading. I indicate to you that, whilst the detail has been outlined by a number of members, to me, the thing that is impressive and distinctive about this bill is the proposal to reform our current laws.

Firstly, it allows adults of sound mind to formally request that their suffering be ended at a time of their choosing. Secondly, it ensures that the participation in the making of that request for voluntary euthanasia and the administration of the same be in accordance with strict requirements so as not to amount to a criminal offence or cause a person to suffer any other discrimination or liability. Thirdly, it ensures that the participation in the administration of the voluntary euthanasia in accordance with the rules is not to amount to a criminal offence itself. Finally, it protects those persons who decline to be involved in the making of requests for and the administration of voluntary euthanasia.

It is fair to say that although the Death with Dignity Bill is described in that way, in my view, death is far from dignified. It is permanent, it is ugly, it is something which none of us aspire to. We frequently see people we love in the throes of death, and there is nothing pleasant about it. Of course, we aspire for those we love to have as peaceful as possible a passing, but the reality is that it is not something that any of us want to see or in fact participate in. It is inevitable, but it is far from dignified.

Any sane, civilised human being would want to ensure that any of their colleagues in any form is able to have as peaceful and painless a passing as possible. We would not be a civilised community if we did not expect that, but that is not what has motivated me in considering this matter; therefore, you are not going to hear a rendition from me of the number of people I have sat with as they have died, as close as they were, whether a brother or a husband or parents, because we all experience that.

It is unpleasant—that is the kindest way you could describe it—but we all have to deal with it. For me, I think to be persuaded by the personal experience of any of those things would leave me deficient as a member of the parliament. You can say it is a humane approach, but the reality is that we have to look at what we are actually being asked to do and consider whether it is warranted and acceptable, and whether this legislation is going to be robust enough to implement what we aspire to in these objectives, with sufficient protection against the concerns.

In short, because I am usually fairly blunt on these things, this is an act to sanction the statutory killing of another person, and essentially we are asking health professionals to do that. I will come to that in a moment, because to me we ought to be looking at the consideration of that in what I call a collision between the development of our criminal laws and what we expect at one level, and what we then expect those in the health world to provide for us. Take away the personal aspect of this and actually understand the collision of two important developments in our law and in the practice that we operate as a humane and civilised community.

Firstly, let us look at the criminal law. In South Australia, it is largely codified in the Criminal Law Consolidation Act. It is supplemented by our common law. Under section 11 of that act, any person who deliberately kills someone can be convicted of murder and obviously can face life imprisonment with a minimum 20-year non-parole period. There are a number of other ancillary offences in relation to conspiracy, confederacy, or soliciting to commit murder, and they have corresponding penalties, but essentially it is about deliberately killing someone else.

There are circumstances where it can be reduced, allowing for a manslaughter conviction and a corresponding reduced sentence, or indeed to have complete protection, such as in a self-defence situation, to be acquitted of such a charge. Then we have the criminal neglect charges and offences we have developed in this parliament in the time I have been here. It is sobering to look at that again because, whilst that legislation was born in an environment where children were left neglected in their homes, it is also to deal with the vulnerable, and they include the aged. That is often what we are talking about within this debate. That carries a 15-year penalty.

Then there is suicide. Suicide is not something which you can punish a successful person for doing, because they are dead, but there are very serious offences for those who aid and abet someone who takes their own life or attempts to take their own life. Again, multiple years of imprisonment apply. Then there are special provisions in our legislation where attempting to procure an abortion outside a legal time period—the killing of a child in vitro—can attract an imprisonment term of life, whether you are trying to kill your own child or assist somebody else to do it. These are very serious offences, not to mention concealment of the death of a child at birth.

We have established a very severe and clear level of criminal law which prohibits us taking the life of another. I am not going to go through all the exceptions that allow the killing of others in warfare and certain circumstances—of course there are always exceptions with those things—but we demand, in a civilised community, that you do not kill each other. That is the requirement; that is fundamental. On the other hand, we have our health professionals, particularly medical practitioners and nurses, but there are a number of other health professionals in this category.

Can I put them as a general group—I hate to generalise, but I will on this occasion—and firstly say to them: thank you for the work that you do in trying to assist us, from birth to death, as best you can, to provide us with a healthy life and recover and intervene when required. We do thank you for that. We also need to appreciate that, especially with the capacity to intervene in the health of a person, the development of anaesthetics, the surgical techniques and the provision of drug intervention have enabled us to not just prolong life but, obviously, to ask our health professionals to intervene on a regular basis.

We do that in a circumstance where, if we instruct them to do that and provide them with the authorised and informed consent, they are able to actually conduct procedures on us which can result in our death, and sometimes that happens; in fact, it happens on a daily basis. We give consent for health professionals to intervene to be able to undertake surgery, for example, in circumstances where there is sometimes a reckless indifference to the outcome, but also to a circumstance where the health professional knows and will advise of the very serious risk of death or disability arising out of a procedure of intervention to which the patient has consented.

We now have a situation where we have an expectation from the health professionals to provide us with the best possible, healthy and pain-free life that we can have, in a collision course with a very severe criminal sanction arrangement. I think it is incumbent upon us to look beyond the personal pain that we might individually suffer and say to ourselves, 'Can we allow this to continue in a circumstance where the lines have been blurred?'

I ask this sometimes of the health professionals: how do you deal with a neonate who is born with major disability? How can you provide for that protection? In my view, we need to explore this bill and obviously make it as robust as we can with the amendments that have been foreshadowed. It will have my support in passing the second reading.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (20:46): I will be as brief as possible on this matter because it is not very

helpful for me to repeat things that have been said by others and, like the member for Bragg, I do not think there is any profit in my going through personal experiences.

I would say, though, to those who are listening to this debate today, whether they be in the parliament or whether they be elsewhere, that hopefully this debate does demonstrate one thing beyond all question: when members of parliament come to this place, from wherever they come, from whatever background they come, at important times they are prepared to bring a great deal of personal ethics, reflection and thought to the important business of the parliament.

If there is one thing that struck me from the contributions of everybody so far this evening, whether or not I agree with what they have said, it is the degree of reflection that those speakers have brought to what they have had to say, and I think it is to the credit of the parliament that in a circumstance as important as this, the parliament does not let down the people. I would particularly like to acknowledge the efforts of the member for Ashford, the member for Morphett and the member for Kaurna in attempting to resolve this matter into a form that is capable of being processed here in a meaningful way.

I place on the record that, were we voting on the first bill, I would have had no hesitation whatsoever in voting no on the second reading. I am, however, aware of there having been a great many amendments suggested to this second bill, particularly by the member for Kaurna. Whether or not I support a second reading of this bill will depend largely on an indication as to whether or not all of those amendments are acceptable. If they are not, it is my personal view that we are going to be left in a position where we will be here for an eternity, and we will wind up with a hotchpotch of amendments—some accepted, some not accepted—and we will wind up with a complete mess.

For me to consider the matter proceeding to a second reading, I would like to be satisfied that it proceeds to a second reading on the basis that, at the very least, the additional amendments the member for Kaurna has proposed are understood to be, in effect, part and parcel of the bill that we will be taking to committee. If that is not the case, then my view is that the bill is still not sufficiently close to being capable of being resolved through the committee of the house process we are in now, and it should probably be dealt with in the way that the legislation was dealt with many years ago, and I think the Speaker spoke about this when it was referred off to a committee. Martyn Evans was the Chair of that committee and it was thought through very thoroughly.

So, if we are not going to get to that place, that is my view about it. I think we would be wasting everybody's time. We would be giving artificial comfort or concern, depending on people's points of view in the gallery, and we would achieve, ultimately, nothing except to have yet another failed attempt to finally resolve this matter. Whatever happens, I have to say that I hope the resolution of this matter this evening puts this to bed for a period of time one way or the other, and I would like us all to think about other things afterwards.

I was very impressed by the remarks made by the member for Lee. I agree very much with what he had to say, subject to the modifications I might have just articulated. The member for Bragg did a very good job of going through the legal and ethical conflicts that are sitting here. Some might find this unusual, but I do not always agree with the member for Bragg, but this evening I thought she helped us with her contributions.

Mr Marshall: Could we have that in writing.

The Hon. J.R. RAU: On this matter. For my part, there are two elements that, even if all the member for Kaurna's propositions are accepted, still give me cause for concern. The first one, which the member for Wright touched upon, is the in and out of competence problem. That is a conundrum I am still a bit uncomfortable about. The second is that the Minister for Health kindly organised the other day to have a briefing here from palliative care people. I still have a concern that the present structure, even with the member for Kaurna's amendments, may not necessarily adequately exhaust the option of palliative care to explore whether or not that can deliver a satisfactory and relatively pain-free and suffering-free outcome.

I put those things on the table but, to make it clear, my personal view is that if all the amendments the member for Kaurna is putting up are not ultimately acceptable to the mover and to the group of people who are supportive of the mover's bill, then my inclination would be to say that we are not ready, that we have not done enough work and that we should go back to the drawing

board. That does not mean we scrap it, and I certainly do not mean to be in any way critical of the member for Morphett, who has done an enormous amount of work on this, and the member for Ashford, and the member for Kaurna.

They have moved this much further than I have seen it moved in the entire period of time that I have been in this place. The member for Morphett and I have been here for the same period of time and he knows exactly what I am talking about. So, I wait with interest to see how we wind up.

Mr SPEIRS (Bright) (20:53): I was not going to make a contribution tonight on this bill, having spoken at length on the previous version of the bill, but after some consideration I thought it was worthwhile putting some of my views regarding the bill and my general concerns about voluntary euthanasia in general on the public record.

I want to cover a couple of topics tonight: my concerns regarding the impact of voluntary euthanasia on the medical profession; the inevitable broadening of the legislation, which we have seen occur in other jurisdictions; the supposed popularity in the wider community of voluntary euthanasia, something that I would dispute; and the unintended impact that voluntary euthanasia could have on people who are particularly vulnerable in our society.

Firstly, I would like to put on the public record my thanks to those who have advocated for this bill, particularly my colleagues the members for Morphett and Ashford, who have worked diligently for a long time, much longer than I have been in parliament. I have appreciated their decency. They know that I am not predisposed to agreeing with this sort of legislation, but they have answered my questions, they have talked me through specific aspects of the bill and they have given me the opportunity to respectfully have my say during this process as well. I do want to thank them for that and also thank many of the people in the community who have respectfully lobbied me one way or the other with regard to their views about voluntary euthanasia and whether it should or should not be brought into law in South Australia.

In many ways, voluntary euthanasia and the ability to come to the end of one's life in a dignified way with minimal pain and suffering makes a lot of logical sense. We have heard many stories during this debate, both on this bill and on the previous bill, about when we, as people elected to represent our communities, have in our personal lives been impacted by people's end-of-life journeys. While that is important, I think that we have to be very careful not to let the emotions of those personal circumstances be too final in helping us come to a conclusion.

Death is inevitable and suffering on earth is inevitable. While it should shape us, in many ways I do not think that it should be the definitive reason, one way or the other, that we should or should not support voluntary euthanasia. Too often, I have received emails from people saying that a brother, a husband, a wife, a sister or a grandparent has experienced interminable suffering. That has been unhelpful to me in coming to a conclusion around this legislation. I do not think it is useful to throw those anecdotes into this debate because, as I say, while we are shaped by our personal experiences, at the end of the day we are lawmakers and we have to look at the possible consequences of this legislation now and down the track.

I want now to work through a few quick points as to why I have particular concerns about voluntary euthanasia in general and also about this legislation. Firstly, I want to talk about the medical profession. There is no doubt in my mind—and this was discussed very effectively by the member for Wright earlier this evening—that the medical profession, in order to cope with the introduction of voluntary euthanasia, has to undergo a transformative experience.

The whole medical ethics system has to be turned on its head. In Australia today, medicine is about the preservation of life. If you add the option of the legalised ending of life, as some people say and as I have quoted before, state-sanctioned killing—I know that is strong language, but that is what this is—into the medical profession, you create a range of complexities that are very difficult to deal with.

I also think that the palliative care sector, in particular, is hugely impacted by the introduction of voluntary euthanasia. We should be very proud of where palliative care is in Australia at the moment. We have seen significant research and development undertaken in palliative care over several decades, but particularly in recent times. We have got to a place where, in most

circumstances—not in all circumstances, but in most circumstances—palliative care should be able to comfort people when they are in significant pain and adding voluntary euthanasia into the mix negates the need to invest in palliative care, there is no doubt at all about that.

I have said quite a few times that I am concerned about the slippery slope that is introduced when voluntary euthanasia is legislated for, and I found it interesting when the member for Light described that more as the inevitable broadening of legislation rather than calling it a slippery slope, when you see the legislation in other jurisdictions expanded and expanded and expanded. That does happen, there is absolutely no way you can get away from that. It does not stay tight.

In other jurisdictions, when there has been the opportunity to broaden this legislation, we have seen that occur. We have seen it occur particularly in European nations, and I have said here before that Belgium and the Netherlands are specific examples of that, where children can now be euthanased. There is no getting away from that; I am not scaremongering by saying that children can be euthanased in Holland and Belgium.

A couple of weeks ago the euthanasia advocates in this parliament put on a panel which was held in Old Parliament House, where people were explaining why they supported voluntary euthanasia. I went along to that and posed a question to the panel, asking them whether, if we passed this legislation, they would put down their tools, go off on holiday and find other pursuits rather than being advocates of voluntary euthanasia, or would they seek to broaden it. I thought they would humour me, I thought they would say to me, 'Look David, we are very happy to see this legislation introduced and that will be that,' but actually they did not. They said that they would, in many circumstances, like to see the broadening of the legislation—and that was it, admitted to.

We have also seen broadening of the legislation already happen in what I see as the crystal ball into the future, which was the first piece of legislation introduced into this parliament at the beginning of 2016. It clearly showed what the advocates for voluntary euthanasia in this state want, and that is that much broader and, in my view, more dangerous legislation. I believe that is the future of voluntary euthanasia legislation in South Australia if this is passed this evening.

There is the problem of vulnerable people, in particular. In my view, ideologically I believe that government is here to catch the most vulnerable people, to protect them, to give them the best chance in life. That is the role of government. So, when it comes to people with mental illnesses but also terminal illness, or suffering from a disability but also suffering from a terminal illness, or moving in and out of cognitive function, how do we capture those vulnerable people? How do we protect them from this legislation? In the worryingly expanding sphere of elder abuse, which is very much top of mind in policy-making in Australia at the moment, people who are subject to elder abuse are also at risk when it comes to voluntary euthanasia being legislated.

Finally, I want to talk about its supposed popularity in the broader community. I just do not think that is the case at all, and I do get sick of people saying that 80 per cent of South Australians or 80 per cent of Australians support voluntary euthanasia. In a quick phone poll, yes, they do, but when you have informed decision-making, when you have informed discussion about this through focus groups and processes like the citizens juries that are often advocated by the Premier, that sort of informed decision-making, this support falls away. It falls away dramatically and ends up below 50 per cent, and the research shows that is the case.

Capital punishment for murderers and paedophiles is supported by more than 50 per cent at first glance, but that falls away as well, and this is very similar. I cannot support this legislation at second reading, and those are just some of the reasons that is the case.

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (21:04): Some years ago a friend of mine died quite suddenly. He was in his 60s. He was an only child whose mother had died some time earlier, and he left behind his father, who was aged in his 90s and from whom he had been estranged for many years. However, late in his life there had been a reconciliation between father and son. As he was without any other family, my family and other friends of this person adopted Robert, which was his name, as an honorary grandfather, and Robert survived my friend by two or three years.

Robert was an avowed supporter of voluntary euthanasia, and in fact had told his neighbours in the units where he lived that he had pills and that, should the time come, he would take those pills

and see himself off. When he made an advanced care directive, he made it clear that should euthanasia be legalised in South Australia his express wish was that he be euthanased. He was in and out of hospital. He was very elderly and he deteriorated quickly after his son died.

The last time he went into hospital, he went into the Royal Adelaide Hospital, a scan was done which showed that his whole body was riddled with cancer and he was very close to death. He was very frightened at that stage and, much to my surprise, when the doctor spoke to him about a treatment regime, instead of saying that he wanted to go, that he did not want any treatment, he was adamant that he wanted absolutely everything thrown at him to try to keep him going. I was shocked that this gentleman, who had been such a passionate supporter of euthanasia and had made it so clear that he did not want anything, in this moment, when confronted with the reality of his mortality, wanted everything thrown at him.

Over the next few days, as we worked through the issues together, he decided that it was not going to be pleasant for an elderly gentleman in his 90s to be subjected to radio and chemotherapy. He came round to the view that palliative care was what was best going to suit him. He died a very beautiful death. I do not agree with the Deputy Leader of the Opposition that all deaths are horrible, ugly, traumatic things. He died, I would say, a beautiful death, looked after beautifully by the palliative care team at Modbury Hospital. In fact, watching this team look after Robert made me immensely proud to be Minister for Health.

The reason I tell this story is that the person nearing death goes through a range of emotions and at any one time they could have completely contradictory thoughts about what they may or may not want done to them. My concern about this legislation is that it is not hard to imagine someone in the depths of despair, knowing that their end is very near, opting for euthanasia. Whatever safeguards there may be, it is not hard to imagine people in those circumstances—indeed, those members who joined me for a briefing by Palliative Care SA know that they said that when people request euthanasia, or request assistance in dying, overwhelmingly it is not because of uncontrollable pain, it is because of other issues: despair, loneliness, all of those sorts of things which the dying person has to confront.

Dr Peter Allcroft, a respiratory physician who looks after patients at the Repat hospital with motor neurone disease (and anyone who is familiar with it will know what a terrible condition that is), described how he cares for his patients who are at the end stage of motor neurone disease, where they are unable to breathe for themselves. They have a PAP machine, basically a respirator, which assists them with breathing. He explained the process he goes through with motor neurone disease patients who have had enough and who do not want to continue to be provided with artificial assistance in breathing.

He said this is a long process. This is not a decision that is taken lightly, but the process he goes through once he is convinced, as the treating doctor who has built a relationship with the patient over many years, is that he sedates the patient, the respirator or PAP machine is turned off and the patient quickly succumbs.

The process he goes through in assisting his patients with motor neurone disease is a long way from what is proposed by the member for Morphett in his legislation where there is no requirement for the patient to have a relationship with a doctor who signs off on this. It is not scaremongering to suggest that there will be doctors who will be prepared to sign off on these requests, and they will be the go-to doctors for euthanasia.

They are not doctors who are going to have a relationship with the patients who are requesting euthanasia, and they are not going to be in a position to make a decision about the state of mind and where the dying person is in the process and whether this really is the decision. It is a very different process proposed by the member for Morphett to that that Dr Allcroft goes through with his patients at the end stage of motor neurone disease, and that is what seriously concerns me about this bill. I also want to say something about palliative care because, without doubt, there are South Australians who die in pain, but the reason why they die in pain is not because of failings in palliative care.

They die in pain because, for a number of reasons, good palliative care is not made available to them. To the extent as health minister I have not fixed that, that is to my great shame. It is partly

availability but, to a large extent, it is also knowledge of our doctors and their knowledge of what is available through palliative care and the extent to which palliative care can alleviate suffering. Too many of our doctors are just not aware of what can be done for the dying person to alleviate suffering, and they do not refer palliative care when they should.

Doctors are human beings like the rest of us. They are not necessarily aware of the full suite of services that are available to their patients. To suggest that, when you already have a situation where so many of our doctors are not aware of what palliative care is available to patients, those same doctors, with their limited knowledge, can just the same sign off on a euthanasia request would be a grave mistake. You have these doctors who already have limited knowledge about what is available, and to expect these same doctors to be signing off on cases of euthanasia I think would be incredibly detrimental to good quality health care in our state.

Finally, I understand that many members of this house are attracted to euthanasia on the basis of personal autonomy: essentially, someone should be able to do with their own body what they wish. There are some rights that are what we call inalienable; that is, even if you want to give them up, as a state, we do not allow you to give them up.

An example of that is slavery. We do not give people the right to sell themselves into slavery. Why don't we? Because to do so would be to compromise the rights of everyone else in the community, and the same goes with the right to life. We do not allow people to expect another person to take away their life because it would compromise the rights of all those people in our community.

It is not scaremongering to anticipate a situation where an elderly person near death, feeling like he or she is a burden to their family, requests euthanasia. Even in the most loving and caring of families, it is not unusual for the dying and suffering person to feel themselves to be a burden or to feel, however wrongly, that they are whittling away the inheritance of their children. It is not scaremongering to suggest that, under the member for Morphett's bill, those people are inevitably going to request euthanasia.

Ms DIGANCE (Elder) (21:14): I rise tonight to share reflections on this bill from which many complex conversations and considerations have arisen. These issues and considerations are, rightly so, compounded by deep belief and deep emotion and, for many, profound conviction. I acknowledge the ultimate outcome of this bill being to facilitate an imminent passing as chosen by an individual, enabled through a process of a very personal deed of an individual acting on their own wishes.

In the main, the bill before us proposes a framework of laws to guide and enable a compassionate society on a journey. This bill is unique as it asks all parliamentarians to face issues of mortality, ethics and values, while balancing the wishes of differing viewpoints in the community. It asks every MP—all of us—to reflect, debate and challenge our role, representation and beliefs, while challenging a dialogue of a civilised, mature and compassionate society.

I thank those who have driven this process on both sides of the debate for their dedication and commitment, and also those in this place for the conviction and work on the voluntary euthanasia bill over the years; namely, the late Dr Bob Such and the current members for Ashford and Morphett.

I pay tribute to the humility of my professional nursing and midwifery colleagues, who on a daily basis care and support those at the end of life to the most dignified and personal end possible. I am proud to be a South Australian, part of a society that is committed to a passionate and robust dialogue, all the while and in the main, underpinned by respect.

I also make note and am respectful to those who have taken the time to write individualised letters, talk with me and share their individual stories, reflections, views and platforms and their most personal recounts and thoughts. While, like most in this chamber, I have personal stories and experiences around death and dying, I also have professional stories which inevitably return to the core of what it means to be human and are thus personal by default.

I also wish to acknowledge that my decision is not simply about what I believe and subscribe to, but is also, at best, a representation of those whose voices I am charged with. My professional experience has presented me with some very challenging situations that for one family became public through despair and helplessness.

A beautiful young family woman around the age of 40 had such a severe form of muscle neuron disease that it meant she lay on a waterbed for 24 hours of every day. She was contorted, with no movement in her limbs, and fixed in a twisted posture. Not able to sit, let alone stand, all she could do was lie. It would take four nurses to turn her frail frame and to gently manage her shrivelled limbs and painful spine to the alternate position. She still developed horrific bedsores, no matter how often and carefully we turned her and tended her paper thin skin.

She could not hold a spoon to feed herself. She could not hold a straw to drink water. She could not wash herself, use her bowels without help or brush her teeth without help. She could not hold a book or magazine to read. All she could do was lie in this bed, breathe—and that became more and more laboured—and depend on those around her to do absolutely everything for her. Her husband visited every day without fail, but they had stopped her children from visiting as she found it far too painful and upsetting, with the guilt and hurt overwhelming.

She was a beautiful, grateful young woman who had lost her dignity and who, every day, every hour, every minute and every second, waited and prayed for death to ease her intolerable situation and for all who cared and she cared for. Her burden was excruciating. Her pain was extraordinary. She was trapped in a body that gave her such grief and sorrow as she waited, hoped and prayed for the end, not just for her own relief but for that of her young family and husband. She knew, and we all knew, that that day would come.

For her, this bill would have given her that safety net of relief, that safety net that she had choice. To turn a blind eye to those so distressed at the end of their life that they take their own life under a cloud of guilt and stealth, seeking eternal apology, is not, in my view, a hallmark of a compassionate and caring society. While I am a strong proponent of palliative care, it is oftentimes not available or, indeed, offered to all South Australians and oftentimes seen as a simple administration of pain relief only in which an increased dose will help the patient simply slip away.

Palliative care is in fact so much more than this. It is the treatment of pain and other difficulties, physical, psychosocial and spiritual, integrating psychological and spiritual aspects of patient care, offering a support system to help patients live as actively as possible until death, offering a support system to help families to cope during the patient's illness and in their own bereavement using a team approach to address the needs of patients and families, including bereavement counselling. We, as MPs, must champion this robust universal system and make death and dying at home, where possible, the norm.

I would promote that this bill before us work as a proponent, an impetus to strengthen palliative care services and ensure a robust and accessible system for all South Australians, with clear support and explanation to the patient and those surrounding the patient. I know there are many MPs like me in this place who hold this conviction and wish to champion this. However, this does not take away an individual's right for choice. Tonight in this place, we are faced with an extraordinary responsibility and a grave duty, and I for one am humbled by the faith and trust that South Australians place in all of us here as their representatives. I welcome this debate and the pending vote.

Mr PICTON (Kaurna) (21:21): There is no doubt that the policies and laws regarding the end of life are very important but also very difficult issues for parliament and individuals to deal with. It is a melting pot of ethics, spirituality, choice, care, risk and fear. There is a variety of views and perspectives and almost all of them are valid.

I have heard from many people in my electorate who have contacted me about this issue. They are mostly very passionate either for or against this bill. I have closely considered the opinion of each of those constituents and also met with them if they wanted to be heard to discuss their concerns directly. I have also met and listened to people from both sides of the argument and I have tried to seek out some of the opinions of doctors, nurses and other experts in this area who do not have an ideological view to push.

This issue, perhaps more than any other, is for many people a black or white, yes or no question. I can understand that viewpoint but I believe that there are many areas of grey. There are people who would support or oppose a euthanasia bill without concern for the drafting. I am not one of those people. The initial bill that we were asked to consider on this subject was not fit for purpose

in my opinion. If it is put to a vote, since it is still on the *Notice Paper*, I would be unable to support that bill in any way.

The reasons for this have been well articulated by many of the speakers in that debate. However, suffice to say that it was far too broad and without the safeguards that I believe the community would expect. This new bill has now been introduced and addresses a number of the significant concerns that have been raised about the previous bill. However, I am still not satisfied that it is yet carefully enough drafted or provides adequate protections. I am very disappointed with the process that led us here to the point of debating this bill without what I believe is the full evidence or expertise before the parliament, or the full consideration of all the other very important end-of-life care issues and palliative care issues.

As a point of comparison, the other parliament considering voluntary euthanasia at present is Victoria. In that state, the parliament decided to establish a select committee which spent over a year researching, debating, studying and interviewing witnesses to arrive at a lengthy report proposing dozens of recommendations covering both voluntary euthanasia as well as the full spectrum of other important issues at the end of life and palliative care. That is now being considered by the government, which will report back to the parliament, drafting a bill that will inevitably be debated by their parliament with full access to the information. Therefore, I do not believe that this process compares favourably at all with what is happening in Victoria.

This is not an issue that I have had on my agenda. I have been concerned about our ability to construct laws that provide adequate safeguards, and the antics of the likes of Dr Nitschke have always made me cringe over the last couple of decades. It should be noted that we do have a strong record in South Australia for concern for end-of-life issues and the work of Martyn Evans and many others in leading to advance care directives and the Consent to Medical Treatment and Palliative Care Act should be considered in this debate and held in very high regard by everybody in our state.

Over the last few months, though, I have spent a long time listening, reading and considering this matter. There are rational arguments on both sides that need to be considered, but I am concerned about the pain and suffering of a small number of people right at the end of their life, in pain with hopeless medical outlooks, for whom the range of legal options do not currently suffice. My view differs from the views of many, in that I think it is a relatively small number of people and for a relatively short amount of time.

For everybody in this house and the community, it is hard for this not to be a personal issue. I have had family members who have died long, painful deaths. This has been traumatic not only for them obviously but for the rest of my family. This experience brings me to consider ways in which the legal system could be improved for the end of life, but I would also want to make sure that any action we take to reform the law in this area is not going to cause loved ones harm or allow something to happen that is not in their wishes. This is about loopholes and safeguards and managing risk.

With that in mind, I have considered the bill before us. While it is an improvement on the original bill brought to the house, in my view it still needs significant amendments before I would consider supporting it. In particular, I have looked at the legislation in Oregon and considered a number of protections in that act to be superior to what has been proposed in this bill. I have attempted to review the bill to identify and to remedy the areas of greatest risk. I have drafted some amendments to try and address those concerns.

Over the past few weeks, I have discussed these amendments with some of the key proponents and opponents of the bill in this place. My amendments, as circulated, are aimed to make this a safer, more cautious and less risky proposition. This is obviously my best attempt at this, and I do not claim to be the fount of all wisdom, and I certainly will be looking forward to seeing what other members have to say in the debate. I will outline some of the amendments I have tabled.

Amendment No. 1 covers telehealth. Currently, the bill proposes that any of the consultations with doctors or a psychiatrist should be able to be conducted via telehealth. This has been of concern to a number of doctors who work in palliative care, who argue that these types of consultations are difficult, lengthy and require the doctor to be present in person. Therefore, I propose that telehealth be limited to only those people who are in a remote location. People for whom it is practicable to see a doctor in person should do so.

Amendment No. 2 covers euthanasia equipment. Currently, the bill proposes that euthanasia equipment would be legal for sale. This is contradictory, in my view, to the provisions of the bill that are about the provision of a drug rather about than the use of any equipment. I would therefore propose the removal of this provision so that various suicide-assisting devices would not become legal.

Amendment No. 3 covers subjective tests. In my view, euthanasia should only be an option after a reasonable effort at palliative care and medical treatment and where the pain is actually insufferable. As currently drafted, these areas have subjective tests attached to them which I am concerned would currently block a doctor's role to properly assess this matter; therefore, I propose to amend these. This would make sure that palliative care and medical care would have to be the first option before anything else were considered.

Amendment No. 7 covers terminal illness definition. It is my belief that the option under this bill should only be considered truly at the end of life for that small number of people. However, the current provisions specify that terminal illness should not be held to involve any particular time period. This is inconsistent with other similar acts around the world, and I recommend that we should adopt a requirement for a prognosis of six months or less of life, which is consistent with the Oregon legislation.

Amendments Nos 8, 13 and 15 deal with psychiatric assessment. This is an important provision. Currently, the bill only requires an assessment from a psychiatrist when referred from a doctor. I believe that it would be a much more careful approach for parliament to say that a psychiatrist should provide a check of a person's state of mind before the request is certified. I note that the member for Morphett has also made such an amendment, albeit to broaden the definition to include other mental health professionals.

Amendments Nos 9 and 10 deal with expiry and renewal. Currently, the bill does not involve any expiry request. I believe it would be prudent for a check-in every month with the person's treating doctor to ensure that the status of the request has not changed from when it was first made, including that there is no duress that the doctor is aware of. This would be done every 28 days by just that one treating doctor.

Amendments Nos 11 and 14 cover medical expertise. Currently, a doctor providing the assessment of the patient could be any doctor. It significantly worries me that we could see specialist euthanasia doctors, such as Dr Nitschke. Apparently, the early evidence from Canada is of doctors such as fertility doctors or gynaecologists being some of the first, bizarrely, to authorise euthanasia. I have recommended that the doctor have a specialty or expertise in the area of the person's terminal illness.

Amendments Nos 16 and 17 cover witnesses, where I propose that there should be a restriction that only one of the witnesses could be a relative and that, while we already have a restriction on employees of hospitals, there needs to be an extension to apply for healthcare professionals outside of that. Those are the amendments I have proposed; I believe they would make this a more cautious approach to this legislation. Ultimately, my vote will be determined by considering what bill this process delivers tonight, whether it is cautious and considered, whether it is likely to help address that small number of people in great need, and whether it limits the risk of this bill ultimately causing harm.

Mr WINGARD (Mitchell) (21:31): I would like to add to this debate and say that I listened very closely to my community on this issue. I have listened to both sides of the argument, and I thank the people that have contacted me about this. I have also listened to the people who have spoken in this place on this bill. I was here until the close last night, and again I have listened to what everyone has had to say this evening, and I thank them for their contributions. What I would say on the previous bill put forward by the member for Ashford is that I would not have supported it through the second reading stage, but I have been engaged in listening to what people have had to say on this bill.

I think this is the toughest decision that we will have to make in this place and obviously it is not one to be taken lightly. I have imagined someone with a terminal illness that would be confronted by this issue that we have before us and what they might be thinking. I have also had strong

consideration for the vulnerable—someone who is alone and not with the loving support that most of us here in this place would have—and how they might also confront this issue.

I have read the amendments put forward by the member for Kaurna as he has just outlined very eloquently, and I thank him for that, and I see that he has looked to tighten this bill immensely. That is a big part of the debate that has a great deal of interest to me. I have discussed with him at length a number of the issues he has raised. To me, they would need to be addressed for this bill to move forward. With those few comments, I would like to say that I have listened, and these amendments that the member for Kaurna and other members have put forward need to be addressed if this debate is to go to committee stage, from my perspective.

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (21:33): I rise on this bill, as I have many times over my 18 years in the parliament and this, I understand is, how many attempts to legalise?

The Hon. S.W. Key: Fifteen.

The Hon. A. KOUTSANTONIS: There have been 15 bills to legalise euthanasia and I have been in parliament since 1997 and every time we have had, I think, very thoughtful debates. The debates always centre around a number of issues and, predominately, those issues include whether people should suffer at the end of their lives. It is like asking 'Do you love your mother?' Of course, I do not want anyone to suffer at the end of their life.

I know that the member for Morphett—who I think is a very good and decent man and someone I have a lot of time for in this parliament—is doing what he thinks is right on behalf of people who are terminally ill. I know that he is a man of goodwill and I know that there are people who are supporting him today, such as the member for Ashford. The work the member for Ashford has done over 15 years has been done because she does not want to see anyone suffer either.

The question that I ask myself is: can we do this safely? I think, fundamentally, given the things that the member for Kaurna has said, we probably could. We probably could institute a system of euthanasia where we could probably limit it to people who are terminally ill, suffering, and not receiving the palliative care they need. The question is: can palliative care deal with all those issues? I tend to agree with the health minister that we have let ourselves down terribly when it comes to palliative care.

The second question I ask myself every time this debate comes before us is: will people lose their lives against their will? Will people feel a burden, will they opt for this issue, and can we in any way minimise that type of error? Maybe we could. Maybe we could do that. Fundamentally, we probably could design a system where you could do all that, and you could have people pass through all sorts of assessments by their treating doctors, by people who have known them their whole lives, about this issue. It gets back to my first point: should people suffer?

Then the fundamental question that is being raised here today, I think it was in the member for Lee's contribution, is: should we allow one citizen to take the life of another? This is the fundamental question here. The argument of the member for Lee and, I think, people who will be supporting this legislation is, 'In almost every situation, no, other than this one situation.' I fundamentally disagree with that assessment because I believe all human life is precious.

Despite all the safeguards we can put in place to make sure that the people who want to be euthanased are the only ones who are euthanased, that the people who will have access to this are only the ones who are terminally ill and palliative care cannot serve them and that the people who are suffering at the end of their lives receive this recourse, which is basically an end of life, either through some form of medication or whatever the procedure might be, the fundamental and overarching principle here is: as a state, should we allow that to occur, and what happens if we do?

It has been my experience over 20 years that once we liberalise a law it is not the end. If this bill passes this house tonight for the second reading, as I suspect it will, then the member for Kaurna's amendments, which I think are very reasonable for people who support this legislation, are exactly the types of amendments that you would want to have in place. Good on the member for Kaurna for coming up with them—excellent.

However, this will not be the last time that we debate this bill because, as night follows day, future parliaments will come in here and attempt to liberalise it even further. This is because the arguments that we are dealing with today to bring forward this debate, to legalise euthanasia—there will be just as many arguments about the cohort of people who are not eligible, and we will have debates about them. Then that will pass and it will grow. As I have seen over my time in parliament—and it is only a short time, I would like to think, 18 years—

An honourable member interjecting:

The Hon. A. KOUTSANTONIS: I apologise, 19 years. I can only imagine, in the parliament in 2040, what future generations will be doing about treatment. Fundamentally, it gets down to this: are we spending enough government resources, in a country as wealthy as ours, on the treatment of people who are terminally ill? Are we doing everything we possibly can to alleviate their pain and suffering? If we are not, then we should. Only then, after we have exhausted every single opportunity to make sure that they are fully funded and fully informed, to make sure that no one does suffer at the end of life, should we ever consider something like this.

Again, after 19 years, my vote will be no. I know that within my electorate this is overwhelmingly popular. Everywhere I go, when people talk to me about this issue, the same thing is said to me by my constituents, 'We want you to support legalised euthanasia.' I understand why. I understand why they think about this issue because, again, we will all go through it. We are all going to see someone who we know and love come to the end of their life, and not all will have good deaths, but there are good deaths. Some will have very terrible deaths and, of course, we all want to alleviate that suffering.

In every election, I have made my views on these issues of life and death very, very clear, and I am returned. I say to my community and the people of this state: you do not want politicians voting for what is popular; you want politicians voting for what is right and within their conscience, and that is the difficult part about being lawmakers. I have to say that this debate gets very emotional. It does get caught up in the day-to-day political atmosphere and, of course, there is a lot of pressure brought to bear on members of parliament.

My cautionary tone for those who are considering voting for the second reading speech is that this is not the end of the debate; this is the beginning. Once this bill passes, this will not be the last time we hear debate on this bill. It will happen again and again and again. We will get to a point when we cannot turn it back. We will have created a society that we did not intend to when we started at this moment, so every vote is important. This vote is crucial. If it passes this house and if it passes the third reading, it will pass the upper house and it will become law, and in the next parliament there will be more amendments to this bill, and it will not end there.

So, if you want to stop this, stop it now. Do not think that this will be just enough for people to go away and stop talking about it. This is just the beginning. This is not the end. Again, I do understand the work the member for Kaurna has done. I understand the goodwill of the people who want to do the right thing here, but I say to them and I say to all of you: look at past experiences about what occurs when we do liberalise laws and ask yourself do you really believe this as far as it will go?

The Hon. L.A. VLAHOS (Taylor—Minister for Disabilities, Minister for Mental Health and Substance Abuse) (21:41): I had not planned on speaking tonight. I heard many speeches while I have been sitting in my room upstairs after the break. When I came to this place in 2010, I came to this place being pro euthanasia. Over that time, I have changed my story. I remember listening to another member in the chamber yesterday talking about his journey in this space. I came from the nineties thinking that it was the right thing to do, having been a coder dealing with death certificates and cancer registration, living next to a morgue in a hospital, regularly going up and down with bodies in bags and knowing the smell of death in cancer wards.

I thought that it would be merciful to let people end their life simply and have a way out. However, as a legislator, the more I have dug into this topic the more I have grave concerns for the many frail and vulnerable people I have met in the course of my duties as a normal MP in the northern suburbs of Adelaide. Through oncologists, I have been spoken to about when families are affecting

the decision-making of frail and vulnerable people. I listened to the guilt and turmoil the member for Elder spoke about before with the woman who was frail and ill.

Now I stand here as the Minister for Disabilities. Recently, I heard stories about women and men with disability and how they feel neglected and locked out by our society and about the degenerative nature of some of their conditions. I also work with people with mental health issues. When I have the privilege to go into the homes of people who are living in group homes, not one of them has spoken to me about the right to die with dignity. They talk about the right to live a life and to have hope.

Despite having grave illnesses, they all talk about the quality of life they want and aspire to. Today, we have the chance, as the Treasurer (the member for West Torrens) said, to stand the line and make a decision about what sort of society we wish for. Do we want to have a society where life is valued or do we start pulling back the tide and allowing, bite by bite, people to start disappearing from this place, this state, and not protecting them when they are frail and vulnerable? I, for one, cannot do that and I urge you to vote against this bill.

Ms WORTLEY (Torrens) (21:44): Tonight, we have heard from so many in this chamber from both sides of the voluntary euthanasia bill debate. I have read the many letters I have received, both for and against, from members of my community. I have spoken to so many of my constituents—health professionals, doctors, nurses, carers, members of community sports clubs, Rotary, Neighbourhood Watch groups, my family and extended family, and advocates from so many representative groups—both for and against voluntary euthanasia.

Like everyone here, I bring my own personal experiences. I have read the many articles written with great passion by those on both sides of the debate. I have discussed the bill with colleagues on both sides and spent many hours considering the previous bill and the one we now have before us. Whatever the outcome of this debate, the decision we make must not be one that puts vulnerable people at risk. The previous bill I could not support. Tonight, I will support this bill through the second reading and consider the amendments and the impact on the final bill.

Ms COOK (Fisher) (21:45): I rise with pride to speak in support of the Death with Dignity Bill. This has weighed very heavily on me for some time now in parliament under the previous iteration presented by the member for Ashford as a voluntary euthanasia bill. I have not prepared a speech. I thought what I would do is run through some of the things that I have been presented over the past 12 months by people in my electorate—people statewide, nationwide and internationally—and how I have managed to use my own thought processes and my experience through my nursing of over 30 years—yes, over 30 years is a long time—with patients in various types of settings.

One of the settings that comes to mind has done so because of the member for Elder's heartfelt contribution. For some years, I looked after people in an institution who were profoundly disabled. Not all people who are disabled have a deficit with their cognitive ability to rationalise where they want to be on this earth either. Many of them are profoundly physically disabled because of an illness or a degenerative medical condition which leaves them in a situation where they cannot care for themselves.

I could stand here and give you a very specific and colourful description of the reality of what their space is in a bed where they can do nothing for themselves anymore but lie there. They cannot use their bowels themselves and they cannot even do that lying in bed. They have to be elevated up into a position of gravity so that it helps to force this from their stomach. My point of telling you that colourful description, which I hope you can get out of your head before you go home, is that dignity is subjective. Pride is subjective. Suffering is subjective.

It is not for me to say the level of suffering that you are going through and it is not for me to say where your level of dignity lies, but I know from talking to hundreds of people while caring for them, while sitting with them, that there is a point at which dignity for them no longer exists. If they are in the throes of a condition which is going to leave them in a state of death at some point in the forseeable future, where they are struggling to breathe, they cannot rise their chest enough to get the air in—and the Minister for Health described the ventilator used to help people with muscular and skeletal deficit to breathe.

It is a pressure machine called BiPAP or CPAP, which blows into your throat to keep your airways patent so that oxygen exchange can take place. You lie there as a patient with that machine on, unable to move and at the mercy of that machine to keep your airways open with the fear that at any minute that could become disconnected or that at any minute you would lie there and suffocate. Suffocation for these people is one of the most terrifying sensations that they must go through, the fear of that inability to breathe when secretions build up in the chest and you feel like you are drowning. I have had these descriptions given to me over the years.

I listen to and I respect fully people's experiences they share about death, a beautiful death and a peaceful death. They do happen, and they happen, thank God, due to palliative care. Palliative care is amazing. It is not that we want to undermine, reduce or eliminate what palliative care is, but it does not always work. It is not always there for people to stop that feeling of suffering and to take away that sense of loss of dignity. Again, it is not for us to judge, it is for the people who are experiencing that themselves.

I have been challenged by people accusing us of a lack of consultation on this bill and a lack of consultation on this process. Well, goodness me, this is the 15th time it has come in front of this parliament. There has been consultation after consultation. As the Treasurer rightly points out, potentially it will come back to the house again. Somebody may well want to change what is happening with that bill. I hope it gets through, with some of the very measured and reasonable amendments from the member for Kaurna. We are all prepared to look at those things.

If it does come back here, though, I do not attest that it is always going to be to reduce what it is, in a way. Somebody might want to escalate euthanasia. They might want to make it easier. I can tell you that I can put my hand on my heart and say I cannot make it easy for people. It is not that we want it to be easy for people. We have to have the tests and we have to have the measures. It has taken us this long to get to this point. Do you really think that if someone brings an escalated bill to the house in the next few years, that it is going to be passed?

Do you really think that is going to happen? If you do, I am really sorry for the space that you find yourself in and the fear that you have about that because I do not believe that is the case. We have found it so very hard to get to this point. I do not believe that we, as a society, will accept this notion of 'slippery slope', or whatever it is that you dream up that you think is going to happen, because I just do not buy it. Like I said, this is the 15th iteration. I have watched as a member of the public and as a nurse, and I stand here, along with the member for Elder, representing our sisters and brothers in nursing.

For the people who doubt the population numbers, who doubt the level of support for euthanasia in a measured and safeguarded form, I am sorry, but you are wrong. The nursing profession is one of the most trusted professions in our world. We are the ones who sit there with patients as they suffer, as they lose their dignity, as they express to us where they are in that space of their illness. I guarantee that these people exist, that their family members exist and that the public exists. As a nurse, I go out to dinner with them and they discuss all sorts of interesting things, such as digestive system issues and the like.

But also as a nurse, over the years people have discussed euthanasia. Euthanasia is a very real and very desired place to be for some people who are suffering, people who are frightened, people who are nearing the end of their life anyway. They are not people who will be on this earth in the next 12 months. They are people who are at the end of their life, they are suffering, they want to take control of their destiny and they want dignity. Nothing we throw at them is going to change their medical condition. It is not going to make them survive.

I want to leave you with a letter I am going to read on behalf of a man called Lawrie Daniel, who, at the age of 50, was stricken with MS. He was a father of two. I am going to read part of the letter, but I am not going to read all of it. Some of you may have heard it before. He writes:

My dear Rebecca, if you are reading this it is probably because I have made an attempt at voluntary euthanasia and I sincerely hope I have been successful.

I am so sorry for putting you and the children through this, but it has been nine years since my first physical MS symptom in 2007 and you know what I have been living with all this time and what will happen in the next horrifying stages of this disease.

If I was just dealing with incontinence, or just paralysis, or just my feet and legs feeling like they are burning with cold fire all the time, or just the physical deformities from life in a wheelchair, or just the musculoskeletal pain, or just the neuropathic pain, or just the weakness in my arms and hands…spasms, or just the total mind-and-body exhaustion, I think I might have had a fighting chance, but I am dealing with all of this at once, and it is unrelenting. You and I have done everything we could possibly think of for so long now to slow or reverse this process, and I am losing the battle.

Lawrie goes on to talk about how he saved up his medication to a point where he knew it would end his life. He continues:

I had to wait until you went on respite, because I needed six to twelve hours undisturbed (closer to 24 hours if possible) and I couldn't risk you or the children—

and he had two children aged about 9 and 12—

coming into my room after I had taken the [tablets], and calling an ambulance. It's 15 hours between the carers coming so that was my best chance. I'm sorry to everyone for having to do it that way. I didn't want to involve the carers, but I felt I had no other option.

My arms and hands have been getting worse as you know, and I had to be able to do this for myself. I have been having trouble peeling a mandarin even, and my hands could go completely at any time. I couldn't know when next I would have close to 24 hours where I was undisturbed. It may have been sooner than necessary, but I felt I had to do this now.

If we had a compassionate voluntary euthanasia process in this country, none of this would have had to happen in the way that it has. I'm so sorry I had to do this, and that you are going to have to deal with the aftermath of me having to end my life and having to end it in this way. I hope you can forgive me, and that you and the children won't see this as selfish, but as self-care and...compassion, in a country where I have no alternative but to turn to self-help. I hope that this letter helps to explain why and how I took this step. Please show it to any relevant person/authority if you feel it necessary.

It continues:

I love you, I love our children. I am so sorry I have had to leave you all and end my life in this way, but I could see no other option available to me in the circumstances. I ask for everyone's compassionate understanding, and I ask you all to please forgive me. You and our children helped me every day during nearly a decade of my life with this illness, with infinite loving kindness. Thank you for everything.

Rest in peace, Lawrie. He should not have had to do it by himself.

Sitting extended beyond 22:00 on motion of Hon. S.E. Close.

The Hon. T.R. KENYON (Newland) (21:57): I do not think anyone in this chamber, even those in the gallery, will be surprised by my position on this bill. I should take a moment to thank members of the public in the gallery, all the galleries, for coming in. Looking up there, I think I probably agree with about a third of you and disagree with about two-thirds of you, but you have made the effort to come in, you are playing your part in democracy, you are a participant in our democracy and I wish there was more of it, so thank you.

I start my opposition to the bill and to euthanasia in general because I should make very clear that I will not be voting at the second reading and I will not be voting for this bill at the third reading; in fact, there is no bill that I would vote for because I have a fundamental opposition to euthanasia. It is partly informed by my faith—I have never been afraid to admit that—but not perhaps in the way people would expect. It is more in the way my faith informs my view of human nature.

I have some fundamental, for want of a better word, secular principals in which I believe. First, I do not believe that the state should be involved in the killing of its citizens. I believe that from abortion to capital punishment, to euthanasia, and anywhere in between. I make only one exception, and that is where law enforcement officers are acting to protect the life of other people—highly undesirable, but acting in the defence of others and themselves, I think, is defensible.

The other concern I have—and this comes back to human nature, as I raised before—comes back to the way where, when we talk about safeguards, there are two parts of safeguards. The first part of safeguards is their structure, the way they are written, the processes behind them, that are easily observable and written into legislation, regulation, process or policy of a hospital or care facility. The second part is their application by human beings: doctors, nurses and caregivers. This is where human nature comes into play because for safeguards to work effectively all the time, we have to rely on the perfect application of them by perfectly well-intentioned people every single time.

When that fails to happen, when people naturally either make mistakes or do the wrong thing—and let's not kid ourselves, from time to time people will do the wrong thing—that is when safeguards break down. If safeguards break down often enough, they become a norm, they become an accepted way of doing things, and they have completely and totally failed.

I do not believe in this instance or in any instance of euthanasia, or any legislation for that matter that we write, any of the safeguards that we put in are completely failsafe. The difference with euthanasia is that the results of a failure of a system or a failure of human nature can be fatal, and there is no coming back from that. That is part of my opposition to capital punishment. There are any number of examples where people have got them wrong and an innocent person has been killed. I do not accept that it would happen every time, perhaps not even often, but it will certainly happen from time to time and it may lead to innocent people dying.

I want to read an example of the subtle pressures and the potential breakdown in safeguards that we may enact that relate directly to human nature. We all received a large number of letters, and I now refer to one from a constituent whose sister was dying. It states:

> When things were getting toward the end, and (keeping in mind that [my sister] had brain tumours,) [she] was still very coherent only tired and emotional, on this particular day the palliative nurse/s had gone in…to do their normal thing and for some reason they had been left alone with her. Later that day we found her very different, sad, distant, non-communicative, wouldn't engage with the Kids, [her husband, her father] or I. in fact, I could even say she was depressed—and I mean genuinely depressed. It wasn't until later that night when Dr Joseph (our family doctor and long-time…friend to [my sister and her husband]) had dropped in to check on her, that [her daughter] mentioned [my sister] was 'very different' and insisting she wanted to go in to [a] hospice and not die at home! We were devastated, but worse than that—she appeared to be more so than us!
>
> So to cut a really long story short, Dr Joseph emerged from [my sister's] room to enlighten us. It turned out the change in Tess was simple, the nurse had made her believe that she was a burden, she felt she was a burden on her children and Dr Joseph (calling in late at night following his long days), worried that the family all had to live with the fact that she dies in the house that we remain in, concerned about the physical impact it was having on her kids having to medicate, move, feed her etc. etc.—generally worried about how everyone else was impacted by her illness!...Tess was convinced, by this outsider, that she was a burden to all and should go die in hospital. My sister was influenced and convinced (probably persuaded) by a total stranger to leave her loving family and home to go die in a hospice, where in our opinion SHE and every one of us would have suffered more…It took quite some convincing, but when she truly understood that she was wanted at home, she was ever so happy to remain and well you know the rest of it…
>
> My point is, can you imagine if euthanasia was an option then? I dread to think.

That is an example of how subtle pressure can be applied, how systems can break down and where processes are deviated from. It may not even have been intentional pressure; it might have been an offhand response.

A number of people have mentioned dignity in dying in their contributions, and my firm belief is that dignity is not what happens to you: dignity is how you react to what happens to you and how you carry yourself. Just because very unpleasant things happen to me or to anyone else in this place or in the world does not mean we have lost our dignity. People cannot take dignity away from you. Your dignity is inherent in yourself. Every human being has their own dignity as a result of who they are and the fact that they exist—not what happens to them.

Finally, and this was mentioned by the Minister for Health, it has become clear to me from the numerous letters that I have received from the people I have spoken to over the course of this debate that there is systemic failure in the application of the palliative care act. We have actually been through this debate before. It was about 20 years ago when the palliative care act was written as a result of a two-year long, I think, select committee process. The palliative care act allows provisions for the medication of painkillers or sedatives to relieve pain or suffering up to and including the point of death, as long as the intention is to relieve pain or suffering, a secondary effect. That is the current law.

What has disturbed me, and in fact made me a little angry, to be honest, is how little these provisions are applied across our system, and how many people are clearly suffering more than they should be or is necessary. I would urge the Minister for Health to instigate a program to better educate doctors and palliative care specialists and nurses, right across the system, to have a better understanding of the existing provisions. I do not think at the moment that we have a problem with

legislation, I think we have a problem with the application of legislation. Much of what faces us and much of what is driving this debate, the public debate especially, is the failure of the existing 20-year-old legislation. I think that is a large problem.

With those words, I urge the house to reject this bill. I urge the house to vote against it at the second reading. If it does go through to the committee stage, I will be watching that. I indicate now that I will not be voting against any amendments, because I think that would be cynical, but I will not be voting for them either. I will not be doing anything to help make it easier for anyone to vote for this bill because I think the concept of euthanasia is fundamentally flawed.

The SPEAKER: We had an unseemly incident from the gallery earlier today and I will not tolerate any expression of disapproval or acclamation from the gallery at any stage of this debate. I will clear the gallery if that is necessary.

Ms BEDFORD (Florey) (22:07): I can truly say that I have listened to every contribution to the debate on every bill in the past year, and all I wish to add is that I believe voluntary euthanasia should be part of the suite of end of life treatments available to people, with the necessary checks and balances, of course. We pay great attention to all the opinions in the debate, and we will be looking at all the amendments that come before us, and again, I will be paying a great deal of attention to each of the amendments.

I would like to commend both the member for Ashford, in particular, and the member for Morphett for all their work on this bill. I remember very well perhaps the first bill that we ever dealt with that was a conscience bill on an issue such as this, which was the prostitution debate. I am sure that those of you who were here will remember the long hours that we spent on that and that we divided on almost every clause, something that may actually happen here in the next 24 to 48 hours.

At the very end of the debate the bill was lost and someone said to me, 'What a complete waste of time that was.' I want everyone to remember that that is how our democracy actually works. It is terrific that everyone has had something to say about this matter. This debate has been championed by a great many people, and I would just like to remember our dear friend, Mary Gallnor, here tonight.

Dr McFETRIDGE (Morphett) (22:09): Let me first acknowledge the passion and caution with which members of parliament have approached this debate. During the lead-up today, some friendships have been severely strained; others have been cemented. I acknowledge the enormous work and help of the member for Ashford and the South Australian Voluntary Euthanasia Society. More recently, the Go Gentle group, headed by Andrew Denton and David Hardaker, has given this campaign a real boost to get this bill to this place today.

Today, we are able to choose, choose what happens to this bill. We can choose to give life to the legacy Kylie Monaghan wanted to see, we can choose to give South Australians who are dying of a terminal illness the right to choose, to choose the time of their death. They are going to die. They have no choice in that. Remember, we are debating the future of real people in real pain and real suffering. They are mothers, fathers, sisters, brothers, sons and daughters. They are your family and they are my family. Let us choose to let them go gently.

We have seen and heard arguments from many members in this place, religious groups and some health professionals, frequently about perceived dangers in allowing this change to legislation. Some arguments are blatant scaremongering, some arguments are on issues of faith, not fact. Members are correctly using an abundance of caution when considering this legislation. In making their choice, in deciding how they will vote tonight, some MPs have said they are afraid of a slippery slope, that some future changes to this legislation will manifest to include children, the disabled, the old and the frail.

Here in South Australia we are a sovereign state. This legislation, once enacted, can only change, and will ever only change, if this South Australian parliament or future South Australian parliaments allow that to happen. There is no slippery slope. I remind all MPs of what this bill—with all the agreements that the member for Kaurna and I worked on with others, we have agreed on these amendments—is going to do. This bill is about an adult person with a terminal illness making a voluntary request to access voluntary euthanasia.

The bill will require assessment by two specialist doctors. The bill will require a mental health assessment by a mental health practitioner. With my amendment it requires a prognosis of less than 12 months to live. The bill will have two independent witnesses who cannot be a health practitioner, and only one can be related to the person. There will be ongoing monthly reassessments of the person's wishes. There will be no advertising of medical services for voluntary euthanasia. There is a ban on the sale of equipment to facilitate voluntary euthanasia. This bill will protect patients and health professionals. It will tighten up the reporting to the coroner and force annual reports to the parliament.

Let us remind ourselves of how this bill is going to work in practice. The typical person who will use the law is likely to be about 70 years of age and suffering from cancer. There will be no further treatment; they would usually only have days or weeks to live. They will be losing dignity. They will be in pain. They will have had enough. You can be sure the situation is dire, because any health professional will tell you that people will do anything to live.

We will find that not all of those who get permission to go through with voluntary euthanasia will go through with it. It is likely that a good third of those who are prescribed the medication will never use it. Instead, they have the comfort of knowing it is there if they want it. This is the experience of over 20 years in operations in places such as Oregon. Last week, Colorado voted to support the death with dignity legislation, joining Oregon, California and Canada, with a combined population of over 100 million people.

I remind everyone that this is the 15th bill over nearly 25 years to come to this parliament, and today we have the chance to show our trust in the years of debate, the years of analysis, to show our trust in the democratic process. Now is a chance to uphold the faith our constituents, our fellow South Australians, have placed in us by choosing us to be their representatives in this place. They chose us. Now we must give them the right to choose.

I will finish by saying to each and every person in this chamber that Kylie Monaghan is not really gone, just as my father, my granny, your friends and relatives whose mortal forms have stopped functioning are not really gone. We hear their voices, their laughter. We see their smiles. We have seen their suffering, we have seen their tears. They are gone but they do live on. They live on in each and every one of us here, now, today. What would you say to that person, that relation or that friend who had a terrible, painful death over weeks or months? How would you explain your vote today if you do not support this bill?

When you vote in a few moments for these amendments and going into the second reading, think of the Kylies of the state. Let this bill become Kylie's Law. Let the bill be the bill.

The house divided on the second reading:

Ayes 27
Noes 19
Majority 8

AYES

Bedford, F.E.	Bell, T.S.	Bignell, L.W.K.
Brock, G.G.	Caica, P.	Chapman, V.A.
Close, S.E.	Cook, N.F.	Digance, A.F.C.
Gee, J.P.	Griffiths, S.P.	Hildyard, K.
Hughes, E.J.	Key, S.W.	Marshall, S.S.
McFetridge, D. (teller)	Mullighan, S.C.	Odenwalder, L.K.
Picton, C.J.	Pisoni, D.G.	Rau, J.R.
Redmond, I.M.	Sanderson, R.	van Holst Pellekaan, D.C.
Weatherill, J.W.	Wingard, C.	Wortley, D.

NOES

Bettison, Z.L.	Duluk, S.	Gardner, J.A.W.
Goldsworthy, R.M.	Hamilton-Smith, M.L.J.	Kenyon, T.R. (teller)

NOES

Knoll, S.K.	Koutsantonis, A.	Pederick, A.S.
Pengilly, M.R.	Piccolo, A.	Rankine, J.M.
Snelling, J.J.	Speirs, D.	Tarzia, V.A.
Treloar, P.A.	Vlahos, L.A.	Whetstone, T.J.
Williams, M.R.		

Second reading thus carried.

Standing Orders Suspension

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (22:19): I move:

That standing orders be so far suspended as to enable an adviser to be seated in a chair on the floor of the house adjacent to the seat occupied by the Leader of the Opposition with the purpose of advising the member for Morphett during the committee stage of consideration of the Death with Dignity Bill.

The SPEAKER: An absolute majority of the house being present, I accept the motion. Is it seconded?

An honourable member: Yes, sir.

Motion carried.

Committee Stage

Clause 1.

The Hon. M.J. ATKINSON: I move:

Amendment No 1 [Atkinson–1]—

Page 1, Title—Delete 'Death with Dignity Bill 2016' and substitute 'Assisted Dying Bill 2016'

The vote that has just occurred is an historic vote, and now we come to consider the detail of the bill. I am moving this amendment because the title of the bill is obviously tendentious. It is a title designed to have persuasive value and to be just a little propagandistic. It implies that there is no death with dignity now, there will only be death with dignity with the bill, and it is unnecessary.

The house has now voted for the principle of the bill. Everyone who has voted for the second reading has voted for the principle, and it is no longer necessary to have a title for the bill which is in any way other than neutral. Obviously, the member for Morphett is not the first person to move a bill with a tendentious title. The government of which I was a member—

Mr Marshall: How many did you move—

The CHAIR: Order!

Mr Marshall: —with dodgy titles?

The Hon. M.J. ATKINSON: Sorry?

Mr Marshall: How many did you move with dodgy titles?

The Hon. M.J. ATKINSON: I think I wanted to call one bill the hoon driving bill, and I was restrained by the Liberal opposition and forced to call it, I think, misuse of a motor vehicle bill, which is so much duller.

My view is we have got to a stage in the debate where we can now move to a studied neutrality and describe the bill in a neutral way, namely the Assisted Dying Bill, which I do not think either side can object to. I think it would certainly be a good way to start the deliberation on the bill to move to a carefully considered neutrality in the use of language. The time for a title such as the bill has has passed. The house has accepted the principle of active voluntary euthanasia or physician-assisted suicide, call it what you will. Now I think is the time to move on in a matter of fact way.

Dr McFETRIDGE: I cannot support this amendment. This bill is about giving people with a terminal illness in South Australia autonomy over the end stage of their life. It is about giving people who are dying in extreme circumstances the ability to access support to then take charge of their own life. It is not about assisting them to die. They cannot change the fact that they are going to die. What they want is that autonomy. They want that dignity in that final stage of their life.

It is much more than assisting them. It is much more than just somebody giving a helping hand. It is about giving them the confidence and the ability to not die in many cases. As we are seeing in Canada, Oregon and other places, people are given the opportunity to obtain a prescription and then choose not to undertake voluntary euthanasia. It is not about dying; it is about enhancing everything we do for this person at the end of their life. It is about enhancing the palliative care for these people. It is about enhancing their mental state and their mental resilience. It is about having medical care. It is about having support for these people so they can then go and make that decision themselves—a voluntary decision. It is not about assisting them to die.

In some cases, if these people are in such a deplorable position with, say, a mouth tumour, oesophageal tumour or some other muscular skeletal condition where they just cannot move and cannot physically self-administer, in this legislation they can be assisted to undertake their final wish. They have that autonomy. This is about giving them that dignity, that little bit of self-worth, and to say this is about assisting them dying is going to take that away. I cannot support this change. This is about dignity in death.

The Hon. J.J. SNELLING: I support the amendment of the member for Croydon. I believe this is a misnomer. It was pointed out in the briefing yesterday by Palliative Care South Australia that they also felt that the title of the bill was a misnomer. It does imply that those people who die in South Australia at the moment, who die with excellent palliative care, do so without dignity, and that could not be further from the truth. To imply that only those who have access to euthanasia or are euthanased have a dignified death I think is grossly inaccurate, and I support the amendment of the member for Croydon to the title of the bill.

Dr McFETRIDGE: I do not know whether that was a question or more of a statement, but I will reiterate what I have said. This is about people who have voluntarily requested access to medication that will then allow them to die on their terms. It is not about actually assisting them in every case. In some cases, yes, but it is about the whole circumstances around that person's end of life. It is not just about the actual dying. It is about the whole lead-up—the 12-month lead-up under the amendments that I am proposing—to that person's expected death from the medico's prognosis. It is about that whole journey and making sure that journey is as gentle as it can possibly be so that person's dignity can be preserved at all costs.

We have heard members in this place speak about some of the terrible things that you see with patients at this end stage. They are regurgitating their faeces, vomiting or have pulmonary oedema and are drowning in their own fluids. These people obviously may not be able to self-administer and they may need some assistance, but even that is giving them that last piece of support, that dignity. This is about dignity in dying and not about assisting someone to die. Anybody who thinks that this is a brutal act in any way, or a callous act or a harsh act, is so wrong. It is about respecting these people, honouring their wishes and respecting the autonomy of those wishes.

The Consent to Medical Treatment and Palliative Care Act talks about the human rights that these patients have. It talks about getting their consent. It talks about communicating with the patient. It talks about giving that patient dignity. That is what this is about. It is not about assisted dying. It is a far too simplistic a title to encompass the whole spectrum of issues involved in this issue, in this whole process, in this voluntary act.

If members cannot see that, then they really need to go and have a look at the wonderful work the palliative care people are doing in our hospices and in our hospitals and ask them about the conditions they are dealing with. Find out the fact that even the palliative care associations say that they cannot stop painful deaths. They do not see controlling the end stage issues, conditions, symptoms, clinical signs of a patient with supporting their death, but that death is on that patient's terms. It is a death that that person is requesting.

I cannot agree with this title. It is just far too narrow, it is far too wrong and it is trying to brutalise what should be a very, very sensitive and emotional time for not only the person but their family and all their relatives around them, and it should be respected. That autonomy, the human rights of that person, as we already have in legislation, should be respected, and so this title cannot be supported.

The Hon. S.W. KEY: I want to ask the member for Croydon what his real reason for wanting to change the title is.

An honourable member interjecting:

The Hon. S.W. KEY: I should be able to ask my question without interruption, I would have thought. I am interested to know why, at the last minute, you would want to change the title of a bill that you have made very clear that you do not support anyway. I wonder if this is a reason to hold up proceedings tonight or if you truly think that. I know that you can be quite pedantic on wording and this is something that we like about you, but I am wondering why this is happening tonight at this time. Why you did not have the courtesy of raising this issue, as the member for Kaurna and other members who have had concerns about the bill have done, so that we would spend quite a few minutes at the start of this debate, which you call an historic debate, on the title of the bill?

The Hon. M.J. ATKINSON: It seems a pity that the member for Ashford would open the committee stage of the bill, having obtained an historic victory, by impugning my motives. Until 10 minutes ago, the bill was not passed. It was a distinct possibility at the beginning of today that the bill was not going to pass its second reading, in which case there would be no occasion to consider the title of the bill. Moreover, each member only had 10 minutes to speak on the bill and, if I had addressed in my second reading contribution the title of the bill, then I would have lost a great deal of time and not been able to say all that I wanted to say.

Names are important. The names of things are very important and they tell us a lot about that which is named. There is no suggestion in this rather neutral title that I am trying to brutalise patients who are dying. There is no evidence for it; it is illogical. There is nothing here impugning autonomy. The member for Morphett seemed to be arguing that the bill, which he has just carried in an historic event, is not principally about dying.

I am sorry, it is all about dying. That is what we have been discussing here today. Dying is in the title of his bill, so he can hardly deny that the bill is principally about dying. Moreover, the member for Morphett argues that the people in Oregon who qualified for active voluntary euthanasia or physician-assisted suicide who apply for the procedure and then do not go ahead with it—that somehow invalidates the argument I have put because they do not ultimately die.

It does not take much to turn around that argument, have a look at it and realise that it is illogicality on the fly. Of course the bill is about assisted dying. What the member for Morphett did in his contribution was fight the second reading battle over again, a battle he has just won. No-one is impugning the human rights or dignity of a dying person by giving the bill a neutral name.

I am not giving the bill a pejorative name. I am not trying to call it the 'mercy killing bill' or some moniker that the Right to Life movement might give it. I am not trying to call it the 'state-sanctioned killing bill'. I am trying to give it a simple and neutral name because, as I said, the time for boosterism about the bill is over. We are now down into the nuts and bolts. The devil is in the detail.

I was particularly—well, I would not say hurt because I have been in this place long enough to avoid being hurt in debate, but in regard to the idea that somehow I impugned palliative care in my choice of name, my response to that is that I was on the Select Committee on the Law and Practice Relating to Death and Dying for two years from, I think, 1991 through to 1993, along with Martyn Evans, Jennifer Cashmore, Vic Heron, and I think there were others.

That was the bill that brought about the Consent to Medical Treatment and Palliative Care Act. I was a member of the committee that brought about the growth and prospering of palliative care in South Australia. So, to say that, by proposing to amend the bill from the tendentious Death with Dignity Bill to the neutral 'assisted dying bill', I am somehow harming or impugning palliative care is plainly a nonsense.

Amendment carried; clause as amended passed.

Clause 2 passed.

Clause 3.

Dr McFETRIDGE: I move:

Amendment No 1 [McFetridge–1]—

Page 4, line 13 [clause 3(3)]—Delete 'psychiatrist' and substitute 'mental health professional'

This is an agreed amendment, where we have agreed that a psychiatric or mental health assessment should be undertaken. I have listened to the persuasive arguments of many people, particularly the member for Kaurna, I have consulted with the stakeholders involved with this and we have agreed that, because this is a very important issue, this is reasonable. Members should be very comfortable with the fact that this amendment is being made. If this amendment gets up, there is a series of amendments that are consequential to this amendment.

The reason we are using the term 'mental health professional' is that, under the regulations that are envisaged for this bill, the availability of a psychiatrist may not be there but a clinical psychologist may be there. So, we are more than happy to support this amendment and I thank the member for Kaurna for his cooperation on this.

The Hon. S.C. MULLIGHAN: Could the member for Morphett explain why the term 'mental health professional' is being used, other than, perhaps, countenancing both a psychiatrist or a psychologist in the amendment?

Dr McFETRIDGE: The use of the term 'mental health professional' encompasses a broader range of mental health trained personnel, and they are trained to a professional standard to deliver not only assessments but also management of mental health conditions. In this particular case, we are aimed at making that assessment of the person requesting voluntary euthanasia. The mental health professional wants to be able to determine the ability of the person who is requesting voluntary euthanasia to understand the consequences of their request; they need to be sure that person understands the consequences.

The mental health professional needs to be able to explain to that person that their request is of a dire nature. People trained in clinical psychology, as well as psychiatry, are obviously able to do that. The availability of psychiatrists in South Australia is, unfortunately, very limited, particularly in rural and regional areas, and so to expand this via the regulations to encompass—as most members in this place would want—the availability to a mental health assessment is encompassed in this phraseology.

The Hon. J.R. RAU: This is sort of a question and sort of an observation: the term 'psychiatrist' is actually defined on page 3 of the bill and I think that is a fairly clear and crisp definition. The reference to 'mental health professional' does not, in my mind, constitute a clear and crisp definition. I can understand why one might consider potentially expanding it beyond 'psychiatrist', but is there some reason why it was not 'psychiatrist or other designated mental health practitioner by regulation'? That would have meant that there could at least be a conversation about whether or not we are talking about clinical psychologists or mental health nurses I am perturbed by the generality of the terminology 'mental health professional' because it could be a counsellor, it could be any number of people, depending on one's point of view.

Mr PICTON: If I could just add to the Attorney's comments on that and go back to the start about how I think this has happened. One thing I have been very concerned about is that I believe that there should be a check by a psychiatrist in the process, and that should not be an optional or a 'maybe' component but a definite component of it. In considering that, I understand that some people have suggested that maybe we should expand the definition of the term 'psychiatrist' to include the term 'psychologist', if it is going to be mandatory, given that there are not necessarily that many psychiatrists out there who might be available to do that. That is something I am open to doing.

It was suggested that this was an agreed amendment. To be honest, I saw the amendment when it was circulated in the parliament and I think it was trying to add in the psychologist element that had been discussed previously, but it has done so in a way that, in my belief, has made it more

vague. What I have been trying to do from the outset is make this bill less vague. That does worry me. 'Mental health professional' adds an element of question and risk for members in this debate as to what exactly that would involve. I think the more things that are left up to regulation will create more doubt for members. So, that is something I do have a concern about in this provision.

That said, the other element of the member for Morphett's amendments he has circulated do include that this becomes a mandatory check. I absolutely think that is very important. However, if it could be made clearer that it was either a psychiatrist or a psychologist, then that would certainly help to make this section much clearer.

The Hon. S.C. MULLIGHAN: As a fledging legislator in this place, I understand that it is appropriate that we engage in this discussion by asking questions of the member for Morphett, so I might pose my question as such. Does the member for Morphett believe that changing his amendment to specify 'psychiatrist' or 'psychologist' might make more members more willing to support the bill at the third reading stage?

Dr McFETRIDGE: I cannot disagree with the member for Lee. If my understanding of discussions with the member for Kaurna and the Attorney this morning were overly optimistic about accepting 'mental health professional' as a term to be included, I am more than willing to be assisted by the member for Lee, if that was the case. I think that fits in with the member for Kaurna's amendment.

Mr WINGARD: My question is to the member for Morphett, along these lines. As to 'psychiatrist' and 'psychologist', this is a key amendment for me and, to have 'mental health professional' added in, I just want an outline of what that actually encompasses. Does that encompass a social worker, a registered nurse, a palliative care specialist? What actually is encompassed in 'mental health professional'? That terminology seems quite vague.

Dr McFETRIDGE: The whole premise behind this was to allow 'mental health professional' to be prescribed in the regulations, and that could be as broad as the committee wanted it to be. However, I had envisaged that it would be somebody with more intense training in mental health, so it would be a psychologist or a psychiatrist, but certainly not a social worker.

The Hon. J.R. RAU: It might be of help to people to look at the member for Morphett's schedule of amendments. They are all basically on this one point, the whole lot of them. If you look at his amendment No. 12, which hopefully we will get to in about three minutes—that was a bit of humour, believe it or not—you will see that there is inserted there a definition of 'mental health professional'. All I can say is that deleting the definition clause at the beginning of the bill for 'psychiatrist' and inserting the definition of 'mental health professional' at a point later in the bill is, I think, a little confusing.

However, that said, my reading of that—and I would invite people to comment on this—is that clause 13 may be attempting to remedy that, but I am not sure about changing the definition, because clause 13 is going to invite us to insert a new subclause (5). Subclause (5), in its own terms, states 'In this section', meaning clause 13 and only clause 13. So, anywhere else where 'mental health professional' is used, it is arguable that that does not have the same meaning as it has because the definition inserted in clause 13 by the new subclause (5) would be a definition which is confined to clause 13. It looks as if the same terminology is used in clause 3 at least, and elsewhere. It is possibly a drafting point.

The Hon. J.M. RANKINE: Could the member for Morphett, for the benefit of the non-medical people in the gallery, please explain the difference in the qualifications and training of a psychiatrist and a psychologist?

Dr McFETRIDGE: It is quite easy, member for Wright. A psychiatrist first gets a medical degree and then undertakes specialist training in psychiatry. It is a postgraduate degree. Having completed that postgraduate training, they can then become members of the Royal Australian and New Zealand College of Psychiatrists. They are able to undertake a lot more invasive treatments for their patients and they are able to prescribe medications, whereas a clinical psychologist is trained in psychology at a less intensive level, which is different from the investigation and diagnosis of psychiatric illnesses.

The Hon. J.M. RANKINE: So, a psychiatrist is much more qualified?

Dr McFETRIDGE: By the fact that they have undertaken a medical degree first, obviously they are more highly trained and they can prescribe drugs. If that is an issue for the member, I am more than happy to give her a lesson in medical training.

The Hon. J.M. RANKINE: In the debate there were a lot of concerns about the safeguards in this bill being watered down in the future. Would the member for Morphett agree that his amendment is the first step in watering down the protections in this bill?

Dr McFETRIDGE: Not at all.

The Hon. J.M. RANKINE: You just told the house that a psychologist is a lesser trained person than a psychiatrist. They are much more highly trained. You are also including mental health nurses, etc. Clearly, that has to be watering down. They are not medical practitioners. So, you are suggesting that, after two doctors assess a person, if there is concern about their capacity, they be referred to a mental health nurse or a psychologist who is not a medical practitioner.

Dr McFETRIDGE: This is going to be a long debate if this is the quality of the questioning. The fact that—

The Hon. M.J. Atkinson: There's no need to respond like that.

The CHAIR: Order!

Dr McFETRIDGE: There is no mention here at all of mental health nurses.

An honourable member interjecting:

The CHAIR: Order!

Dr McFETRIDGE: Remember what this is about. This is about providing assurances to the two specialist doctors—and we have agreed to those amendments—who will be the first and second practitioners, who, if they think a patient needs a psychiatric or mental health assessment, can then refer them to a psychiatrist or, as it says there, 'any other person or a class prescribed by the regulations for the purposes of this definition.' It is intended to give people who cannot access mental health professionals in rural and remote areas some opportunity to talk to people such as clinical psychologists.

Ms REDMOND: In relation to the definition, when I went through the amendments proposed by the member for Morphett, it seemed to me that I came to the same conclusion as that expressed by the member for Enfield—so we are at one, Attorney—that the placement of the definition, because you have the definition appearing in clause 13 and it says 'in this section', would mean that it will appear only in that particular section of the act, and the other amendments that are being proposed in terms of the definition actually go right through the act from the very early clauses. Could I suggest to the member for Morphett that he might undertake to shift that definition back into the definitions clause at clause 3 of the legislation so that it is regularised throughout the legislation as it is currently mooted?

Dr McFETRIDGE: If this is in any way perceived as an effort or a change that is going to weaken this legislation, far be it from my intent. The negotiations that were undertaken in good faith to allow all South Australians in rural and remote areas to have access to mental health assessments, if they requested voluntary euthanasia, was the whole intent of this. If members, and we are in the hands of the house, think that there is a better way of phrasing this, then bring it on please because the whole intent of this is to produce world's best legislation, and we are a long way to that with other amendments that the member for Kaurna and I have agreed on.

Ms COOK: I support as well where the member for Heysen and the member for Enfield have gone in relation to the positioning of wording. I would ask if perhaps we could have some reflection on how we are talking about the professionalism of the clinical psychologists and clinical social workers who deal with patients day after day who have master's degrees, PhDs, significant levels of training and actually deal with patients constantly in regard to diagnosis, therapeutic intervention, tweaking of medications, prescriptions.

They do a whole range of services within the clinical setting therapeutically, both in and out of hospitals, and I think perhaps while this house is an expert on many things, it is not an expert on the role and practice of these particular professionals. Perhaps it is even something that can be defined between the houses, or we could come back to that tomorrow, but I think people are underestimating the capacity of these professionals to be able to participate in this process.

Mr GRIFFITHS: I am also concerned about this amendment on the basis of what amendment No. 12 says where it talks about anything else that is defined in the regulations where there is no opportunity to know what they might say, so at a minimum I support the member for Enfield and the member for Heysen on the suggestion for it to be moved back to the definitions because without that level of surety it is something I am very challenged by.

The Hon. M.J. ATKINSON: The member for Morphett says he wants world's best legislation. We were assured during the second reading debate that there would be no derogation from the strictness of the safeguards. We are not yet half an hour into the committee and already the mental health assessment which we thought at the second reading stage was to be by a medical practitioner, namely a psychiatrist, is now being delegated to another mental health worker. In this case, the first expansion would be to psychologists, including one of whom is my dear friend Quentin Black—

Members interjecting:

The Hon. M.J. ATKINSON: Yes, it is topical as it happens—and apparently we have now learned from the member for Morphett it is going to be extended beyond psychologists. So, we could not get half an hour in after the passage of the second reading and already the member for Morphett is derogating from the safeguards.

The other thing I want to say about world's best legislation is that where a bill is a conscience vote or free vote, and we do not have the normal legislative backup of the Crown Solicitor's Office or the Policy and Legislation section of the Attorney-General's Department, we do not have the process of cabinet, we do not have the process of parliamentary parties, while the debates are interesting and parliament is in many respects at its best and we learn a lot about each other, legislating in these circumstances is fraught. We finished the second reading debate at about 10pm. We have now gone straight into committee, with 35 clauses and a schedule and 30 amendments. I think that we are looking at world's worst legislative practice in the way we are deliberating on this bill.

Ms Chapman: Weren't you here for the planning bill? We had hundreds.

The Hon. M.J. ATKINSON: Well, yes—

Members interjecting:

The CHAIR: Order!

The Hon. M.J. ATKINSON: I was here for the planning bill but, as you know, it is not my practice as Speaker to make gratuitous comments from the chair. The saving grace in the planning bill was that—

Mr van Holst Pellekaan: What is the saving grace of the planning bill?

Members interjecting:

The Hon. M.J. ATKINSON: I have overstated the case, I admit it, but—

Members interjecting:

The CHAIR: I am on my feet, in case you cannot notice. That means you all have to stop talking and listen to the member for Croydon so that we can continue the debate.

An honourable member interjecting:

The CHAIR: We can do a lot of things, but not that. Let's listen to his contribution and move on.

The Hon. M.J. ATKINSON: The redeeming feature of the planning bill, as a matter of legislative practice, was that it had gone through a cabinet process, it had gone through a process

in the government party room and in the government's caucus committee, and it had gone through a similar process in the opposition's party room. But this is a conscience vote, it is a free vote, and the member for Morphett is taking an enormous burden on himself in taking this legislation through.

We have only just finished the historic second reading, which was carried, and now we are into a clause by clause consideration and it is just after 11pm. This is world's worst legislative practice. This bill deserves a better consideration, and I have foreshadowed to the member for Colton, and those who are in charge of this bill, that my view is that we should report progress and resume at a more seemly hour when we can better deliberate.

Dr McFETRIDGE: The whole intent of this bill, in discussion with stakeholders and the member for Ashford, considering all previous legislation that has gone before, in discussion with the member for Kaurna and other members, and certainly with the assistance of the Attorney, that was the attempt—I am not a lawyer. I am willing to accept the cogent advice of the member for Croydon, and we can discuss this between the houses.

The Hon. M.J. ATKINSON: The idea that an active voluntary euthanasia bill or a physician-assisted suicide bill can be fixed up between the houses is just as absurd as—

An honourable member: That's how the government works.

The Hon. M.J. ATKINSON: Yes, the government sometimes does work—

An honourable member interjecting:

The Hon. M.J. ATKINSON: —that way, but this bill—

Members interjecting:

The CHAIR: Order!

The Hon. M.J. ATKINSON: I hope *Hansard* will record the degree of heckling I am receiving. That is fair enough—you do not get much of a chance to heckle me most of the time.

An honourable member: You're sooky lala.

The Hon. M.J. ATKINSON: No, I am not being sooky lala at all. What I am saying is that the principle of this bill deserves better than legislation on the fly, and that is what fixing it up between the houses is.

The committee divided on the amendment:

While the division bells were ringing:

The Hon. M.J. ATKINSON: On a point of order, I notice that since the bells have been ringing for quite a while members have left the chamber during a division; is that permissible?

The CHAIR: Well, you know it is not, and I am busy talking. Who would name them, sir?

Members interjecting:

The CHAIR: I am sorry, I cannot look at everything. If the Speaker has seen someone leave the room, he can tell me who they are.

The Hon. M.J. ATKINSON: A number of members left the chamber after the bells had been ringing for some time, and one of those is the member for Finniss.

The CHAIR: So, this where we call you Dobber Croydon. My advice is that we cannot do anything, so lock the doors. You can take it up with the member for Finniss later.

Ayes 15
Noes 13
Majority 2

AYES

Bignell, L.W.K.	Brock, G.G.	Caica, P.
Chapman, V.A.	Close, S.E.	Cook, N.F.

AYES

Digance, A.F.C.	Hughes, E.J.	Key, S.W.
Marshall, S.S.	McFetridge, D. (teller)	Pisoni, D.G.
Redmond, I.M.	Sanderson, R.	Weatherill, J.W.

NOES

Atkinson, M.J. (teller)	Bettison, Z.L.	Gardner, J.A.W.
Gee, J.P.	Griffiths, S.P.	Hildyard, K.
Mullighan, S.C.	Odenwalder, L.K.	Picton, C.J.
Rankine, J.M.	Rau, J.R.	Wingard, C.
Wortley, D.		

Amendment thus carried.

Mr PICTON: I move:

Amendment No 1 [Picton–1]—

Page 4, line 13 [clause 3(3)]—After 'will' insert:

, in the case where it is not reasonably practicable for a consultation, examination or assessment to be conducted in person due to the remoteness of the person's location,

This amendment deals with the definition of having assessments made under the act. It is essentially about telehealth provisions. As the bill is currently drafted, any of the assessments or examinations that a doctor or psychiatrist or now mental health professional would make would be available to do via telehealth mechanisms, as defined in regulations under the bill. That is something I am nervous about, and I think a number of people are nervous about.

When we had the briefing from palliative care professionals yesterday, which I thought was very good, it was something they raised as a significant issue: the fact that these consultations with people at the end of life are very sensitive, they are very long, they need a lot of care, and they believe that they need to be in person. So, I am amending this to say that telehealth should only be an option where there is a significant remoteness that is a factor in this case. Somebody in Adelaide would not be able to access these provisions but would have to be examined in person, but somebody in a very remote location might be able to if there is no other option to do that.

Dr McFETRIDGE: I do support this amendment. I am very pleased that I have worked with the member for Kaurna on this, and I think it is a very sensible amendment.

Amendment carried.

The Hon. M.J. ATKINSON: I move:

That the committee report progress.

I would like briefly to speak to it.

The CHAIR: We do not think that is allowed.

The Hon. M.J. ATKINSON: I do not think there is anything in the standing orders that would prohibit it.

The CHAIR: Hang on, we are just getting advice.

Mr GARDNER: Can I refer to Speaker Atkinson's ruling on where standing orders are silent and whether speeches may be made on procedural motions. As was tested in this house four weeks ago, when a member was named, Speaker Atkinson ruled that the assumption should be, therefore, that the person in the chair can rule that no speeches be given.

The CHAIR: The infallibility of Speaker Atkinson is not in question. However, I am not sure what you would need to speak on reporting progress for.

Mr GARDNER: It is a procedural motion.

The CHAIR: That is right.

Mr GARDNER: Standing orders are silent.

The CHAIR: In my own humble way, I have come to the position that we just vote on it.

Motion negatived.

Clause as amended passed.

Clause 4.

Mr GRIFFITHS: I note that a person will be taken to have an impaired decision-making capacity in respect to the decision, and then it sets out criteria for that. Who determines that that is actually the case?

Dr McFETRIDGE: Thank you, member for Goyder, for your question. The two specialists—the first practitioner will be a specialist, if our agreed amendment proceeds—who will then refer that person to a mental health professional, and then that impaired decision-making capacity suspected by the first practitioner will be investigated. That process could also be repeated by the second specialist doctor, who is the second practitioner. If they suspect that there is any impaired decision-making capacity, then it will be referred off to the mental health professional. It is a very secure form of making sure that the person who is making the request is able to fully comprehend the consequences of that request.

The CHAIR: Any further questions on clause 4? Any further questions on clauses 4 to 7?

The Hon. M.J. ATKINSON: I do not recall consenting to considering the clauses en bloc.

The CHAIR: The reason I do that is that there are no amendments pending for those clauses. Members are able to say that they have a question. We do not usually move them one at a time.

The Hon. M.J. ATKINSON: I think this is a bill which calls for clause by clause careful consideration and therefore—

The CHAIR: Only if the committee says they wish to debate a clause. Everyone has ample time to say no, as the member for Goyder just did at clause 4. If anyone wants to debate clause 5, they can certainly say, if they are happy to go to 4, not 5. I am only asking because there are no amendments until clause 8. If anybody has a question on anything beyond clause 4, I am happy to wait. Are there any questions on clauses 4 to 7?

The Hon. M.J. ATKINSON: It is not a question, but I want to express my concern about the idea that a person is capable of consenting—

The CHAIR: Are you still on clause 4?

The Hon. M.J. ATKINSON: Clause 4, yes. My understanding is that one can speak on the clause; one does not have to ask a question. It does not have to be in an interrogatory form, for the benefit of the Leader of the Opposition, who is interjecting out of his seat. I am paying a heavy price for my Speakership. The idea that a person is capable of consenting, who can only retain information for a limited time, concerns me and the idea of fluctuating between decision-making capacity and impaired decision-making concerns me and I was wondering if the member for Morphett might give us a fuller explanation. It seems to me that the bill could benefit from the euthanasia request being valid for only a statutory period rather than indefinitely, especially if it were obtained at the time of the fluctuation in decision-making capacity.

Dr McFETRIDGE: I refer the honourable member to the Consent to Medical Treatment and Palliative Care Act 1995. Section 4—Interpretations provides:

> (2) For the purposes of this act, a person will be taken to have 'impaired decision-making capacity' in respect of a particular decision if—
>
> (a) the person is not capable of—

(i) understanding any information that may be relevant to the decision (including information relating to the consequences of making a particular decision); or

(ii) retaining such information; or

(iii) using such information in the course of making the decision; or

It is already in the legislation that this house supported when it amended this legislation in July 2014.

The Hon. J.M. RANKINE: This is an issue I raised in my speech. I want to know who and how a decision would be made that a person has impaired decision-making capacity. How and by whom are they assessed as being capable at a particular point in time in making the decision to try to access euthanasia?

Dr McFETRIDGE: I suppose the simplest thing is to refer the member to clause 11(1)(b) and 12(1)(c)(i). The person is an eligible person. They have to be satisfied, and part of that is that decision-making ability.

The Hon. J.M. RANKINE: I have a further question. I am trying to understand who will be able to assess whether this person, who has impaired decision-making capacity, is, at a point in time, not impaired in applying for access to euthanasia. Are you saying it is the GP they visit, who may not be a specialist, for example, in dementia? This is really concerning. In one part of the act you say that people have to have full decision-making capacity, and in this clause you allow people who do not have full decision-making capacity, whose decision-making capacity fluctuates, to actually apply to access euthanasia.

Dr McFETRIDGE: The advice I am given is that under 10(1)(b) the eligible person is examined and assessed by a medical practitioner in accordance with section 11. That is repeated again for the second medical practitioner. Then, under 11(1)(b), 'the medical practitioner must satisfy themself that the person is an eligible person'.

The Hon. J.M. RANKINE: When people go to a medical practitioner and say, 'I want to access euthanasia', do they have to be well known to the doctor? Could it be someone accessing the doctor for the first visit? How would they know whether their decision-making capacity is impaired or not? I mean, this is your bill; you should know.

Dr McFETRIDGE: To become an eligible person, you have to have a diagnosed terminal illness. If the amendments of the member for Kaurna are agreed on, the person they present to will be a specialist, not a general practitioner, as people are saying in this place; it is a specialist. The specialist will then assess, as is required under clause 10(1)(b), whether they are an eligible person then, under clause 11(1)(b), that medical practitioner or that specialist will have to satisfy themselves that the person is an eligible person.

If they think that the person is well enough to proceed to then be assessed by the second medical practitioner, the specialist, then that medical practitioner, under clause 12(1)(c)(i), 'the person is an eligible person', will have to satisfy themselves that that person is not of impaired decision-making capacity. It is an extra safeguard in there.

Ms COOK: Could I ask the member for Morphett whether the fluctuation of people's cognitive abilities during terminal phases of their illness is related to the pathophysiology that they are experiencing: be it a period of low oxygen levels which then return to normal, which leads them to be able to be cognitively intact one minute, then unable to be cognitively intact the next, be it secondary to the use of an opiate medication which has been taken for the relief of their pain or be it a benzodiazepine that is being used to relax them at some point?

Are they then using objective data based on many mental state exams, such as the Glasgow Coma Scale or post-traumatic amnesia testing? I could reel off probably 50 cognitive assessments that are used by clinical therapists to assess cognitive function.

Dr McFETRIDGE: Thank you, member for Fisher.

Members interjecting:

The CHAIR: Order!

Members interjecting:

Dr McFETRIDGE: All of the above and more.

The CHAIR: The member for Davenport.

Members interjecting:

The CHAIR: Order! We do not want a separate conversation in the back, please.

Members interjecting:

The CHAIR: The member for Davenport has the floor and he is entitled to be heard in silence.

Mr van Holst Pellekaan interjecting:

The SPEAKER: Member for Stuart!

Mr DULUK: Thank you, Chair. Further, in determining decision-making for someone who has fluctuating capacity, does it need to be the same specialist or GP who makes that decision on an ongoing basis, or can it be a different specialist each time making that judgement call for someone who is in a fluctuating position?

Dr McFETRIDGE: The process that the person is going through when they make the request for voluntary euthanasia is that they are going to be assessed by that first specialist doctor, who will in most cases have been associated with that patient for a long time. It will not be just a chat with the patient. They will have reams of tests, pathology results and background objective information about the physical condition of that patient.

During the assessment of that patient, those numbers of visits, that specialist will have been able to ascertain whether that person is of impaired decision-making. Section 4(2) of the Consent to Medical Treatment and Palliative Care Act allows that there may be fluctuations in that decision-making capacity. That is already in the legislation, so we are not doing any more or any less.

Mr DULUK: I appreciate that but, in determining a patient's decision-making ability when they are in a fluctuating state, does the specialist need to be the same specialist making that on several occasions or if, for example, you are a regional patient and you are perhaps based in Whyalla, your oncologist is on leave and the locum Dr Jones comes in, can the locum also have that ability to be the specialist who makes the decision about your capacity to make a decision?

Dr McFETRIDGE: In the stages they are going through, you cannot have a locum assessing these people unless they are a specialist, under the intent of this legislation. What we are intending here is that that person will be assessed by that first specialist. If they then go through the whole process of being assessed by the second specialist and that specialist thinks that they do not have impaired decision-making, then they are able to lodge the request with the two witnesses as per the legislation and the proposed amendments that I have agreed to.

There will then be an ongoing revisit by the first specialist, and that person will be the specialist who has had the longest history with this patient. There will be a 28-day review of that request. The reason we are doing that is so that we can be sure that there is no impaired decision-making capacity in what may follow up as further requests and the further timing of undertaking an act of voluntary euthanasia. This is all about adding those safeguards. It has to be the specialist. They have to have gone through this whole process.

Ms COOK: Could I just ask the member for Morphett if, in this circumstance, it really makes any difference if it is the same doctor or another doctor when using objective cognitive assessments that are based on scientific proof and measured data of the outcomes of the tests. These are tests that have been used for tens of thousands of patients across the world to assess their cognitive function, and people who have had training for 10 or 14 years are highly trained in the delivery of these tests, so they will get the correct result. There have been randomised trials on this, have there not? From one patient to another, it makes no difference.

Dr McFETRIDGE: Thank you to the member for Fisher for that advice. She is quite correct in the advice she has provided to the committee.

Ms REDMOND: I thought I would ask a question of the member for Morphett just to clarify that I have this correct. As I read the bill, first of all, an eligible member makes the request for voluntary euthanasia. Firstly, they have to complete a voluntary euthanasia request form. They are then examined and assessed by a medical practitioner in accordance with clause 11, and that means that they have to initiate the consultation and the medical practitioner must satisfy himself—not 'themself' as is currently in the bill, but we will leave the grammar aside—that the person is eligible, so they have tested against those things that we have already discussed.

Having done that, the person is then examined and assessed by a second independent medical practitioner in accordance with clause 12, which then sets out that it must be a practitioner who is independent of both the medical practitioner referred to on the earlier occasion and of the person. This second practitioner has to examine the person and satisfy themselves again that they are eligible in accordance with the provisions, and that the earlier provisions are being complied with. On both occasions, when examined by those doctors, each doctor has to give information about the nature of the request and all the various things that are set out in paragraph (c).

Having done that, the person then needs to be seen by a mental health professional. I just wanted to clarify that I am correct in my reading of the various checks and balances that you have set out in the bill.

Dr McFETRIDGE: You are 100 per cent correct, member for Heysen.

Clause passed.

Clause 5.

Mr GRIFFITHS: I am seeking an explanation. I am talking about clause 5(5) where, for the purposes of various acts, it provides:

> …a failure by a health practitioner to comply with this Act will be taken to constitute proper cause for disciplinary action against the health practitioner.

My question relates specifically to the use of the word 'comply'. Given what the act creates as an action, does 'comply' extend to that? What does 'comply' mean in relation to the other acts? I am looking for an explanation. I want to make sure that those medical practitioners who do not support voluntary euthanasia will not be liable in any way for not being prepared to be involved.

Dr McFETRIDGE: The consequences of a practitioner not complying with this act are severe. Under the Health Practitioner Regulation National Law (South Australia) Act 2010 a practitioner could be struck off. There are some dire consequences if they do not comply with this act.

Mr GRIFFITHS: I understand that there are requirements for them to conduct themselves in certain ways. I can appreciate that, but does 'comply' extend to compulsion?

Dr McFETRIDGE: There is no compulsion under this.

Clause passed.

Clauses 6 and 7 passed.

Clause 8.

Mr PICTON: I move:

Amendment No 2 [Picton–1]—

> Page 6, lines 17 and 18 [clause 8(b)]—Delete paragraph (b)

Currently, section 8(b) provides that no-one will incur any criminal or civil liability by:

> (b) selling or supplying material or equipment (not being a drug) that is, or is to be, used for a purpose relating to voluntary euthanasia.

This has certainly made me very nervous. We have all seen stories over the last decade or so of death kits and the like, and I would hate for this bill to make that sort of action legal. I also believe that we should be very clear that that sort of sale is not allowed and, in fact, it should not need to be

allowed because the emphasis of this whole bill is on using a drug. I am not aware of any equipment that would actually need to be used for the purposes of this bill.

Dr McFETRIDGE: I have had discussions with the member for Kaurna and I agree to this amendment.

Mr DULUK: For clarification, I am keen to know why the member for Morphett had paragraph (b) in there in the first place? What was the thinking behind that?

Dr McFETRIDGE: The initial intent was to allow the sale and supply of IV lines, cannulas and that sort of thing that we now understand would be considered part of routine medical supplies and not specifically associated with this, so it is to rule out any confusion.

Amendment carried; clause as amended passed.

Clause 9.

The CHAIR: We are looking at a series of amendments on schedule 1 in the name of the member for Kaurna. They are all different so we are doing them one at a time.

Mr PICTON: I move:

Amendment No 3 [Picton–1]—

Page 6, line 35 [clause 9(2)(b)(ii)]—Delete 'acceptable to the person' and substitute 'reasonable'

This is something that I think is very important and it is mentioned in my second reading contribution. In the previous bill, there was an effort by a lot of people to try to put in something to say that palliative care and medical care need to be explored first before making an application under this act. An amendment to that effect has been put in but it has been put in to state that it is 'acceptable to the person', which I and a number of other members were particularly nervous about. We think a better test would be 'reasonable' on the basis that we would not want to risk people being unreasonable in the circumstances of completely denying to even explore medical care or palliative care.

Dr McFETRIDGE: In discussion with the member for Kaurna, I agree to the amendment.

Mr KNOLL: I have a question more generally on clause 9, if this is the appropriate place to ask it.

The CHAIR: More generally, before we amend it? Do you think that is wise? Alright, off you go.

Mr KNOLL: Member for Morphett, I am seeking to understand what 'terminal medical condition' means. The reason I ask this is that obviously it is a term that is used far and wide throughout the bill and I am seeking to understand whether discretion is given to doctors as to how to interpret 'terminal medical condition'. I will give some examples. There are terminal medical illnesses such as motor neurone disease, something we have talked about here quite consistently as being something that we probably all envisage is a terminal medical condition. But what happens when somebody has heart disease, in the form of a heart attack that could kill them? Is that considered a terminal medical condition?

For instance, do complications arising out of cystic fibrosis constitute a terminal medical condition, or even something as simple as diabetes, which can kill people? Asthma can kill people. So we have a whole series of conditions that could be considered by some to be terminal medical conditions which may actually broaden the definition from what I think people in this place might commonly think 'terminal medical condition' means, to actually meaning something much more broad or interpreted much more broadly by doctors.

Dr McFETRIDGE: Thank you, member for Schubert. Clause 9(4) provides:

For the purposes of this section—

(a) a person is suffering from a terminal medical condition if he or she has an incurable medical condition (not being a mental health condition) that will cause the person's death (whether directly or as a result of related medical consequences);

(b) the question of whether a medical condition is incurable is to be determined by reference to medical treatment that is, at the time a particular request for voluntary euthanasia is made, reasonably available to the person suffering from the condition and does not include treatment that is experimental in nature or otherwise extraordinary;

(c) a reference to a terminal medical condition causing suffering will be taken to be a reference to—

And it goes on about suffering. The reference to a terminal medical condition is that there are no further treatment options or reasonable available medical treatment.

The Hon. M.J. ATKINSON: The point of a committee stage of a bill is that when a member asks a question about the meaning of a provision, the minister in charge of the bill, or in this case the private member in charge of the bill, then explains the provision by the use of words other than the terms of the legislation.

We all know the terms of the legislation; we are taken to know the terms of the legislation because we have the bill before us. So, what I would like the member for Morphett to do is answer the member for Schubert's question using his own words and explicate the provision and address the nub of the member for Schubert's question, which he has not done.

The CHAIR: Member for Schubert, had you read further down the page when you asked the question?

Mr KNOLL: I certainly had but there is nothing further in that. Diabetes is technically incurable, unless we have found a cure.

Members interjecting:

The CHAIR: Order!

Mr KNOLL: Paragraph (a) states:

...directly or as a result of related medical consequences…

I think that it is a valid question. Heart disease can be ameliorated certainly in various ways but, let me put this a different way, member for Morphett: can you rule out cystic fibrosis, diabetes and heart attack from being caught up in this legislation?

Dr McFETRIDGE: Yes.

Mr GRIFFITHS: My question refers to 9(2)(b)(ii) and the specific words 'reasonably available'. I want an explanation about what that means and the context that it is expressed in, because I have read the rest of the clause but I have asked myself: does 'reasonably available' mean location, cost and also availability? Subparagraph (ii) says:

…having regard to both the treatment and any consequences…

Treatment involves cost, location and availability also. I am looking for some details there.

Dr McFETRIDGE: I do not think the term 'reasonable' is listed in the act's interpretation but it is a well understood term that is used in legislation, and it is what is reasonably available under reasonable circumstances. Perhaps that may not completely answer your question but the use of that term is quite common in legislation. In fact, the member for Kaurna had an amendment where he was replacing one clause with the word 'reasonable' because it means what it says.

Mr GRIFFITHS: The reason I asked the question is because 9(2) refers to this being 'an eligible person'. I then read that into it and had some concerns about its potential implications. I do not want it to be that, either through location or whatever, palliative care is not an option for those people, and that this might be the option that they find themselves forced to pursue. I know you have talked at length, and I completely agree with the fact that you do not want to have circumstances where people are forced or coerced by others to pursue this. I wanted to raise this point and express concern because it is very important to me how the words are expressed and in what context.

The Hon. J.R. RAU: I have a question and I have been set on this path by the member for Schubert, as often happens. Clause 9(2)(c) which sets out the eligible person criteria says, amongst other things, that the death of that person has become inevitable and it uses the term 'inevitable'.

Subsequently in subclause (4)(e), the term 'inevitable' is defined, it seems to me, and, in defining it in 4(e) it is made clear that there is no time limit on it.

My question, in answer to the question raised by the member for Schubert is: might that not actually mean that we are capturing here things like cystic fibrosis, diabetes, cardiac issues, asthma, whatever, because, you see, every person's death is inevitable as far as I am aware, and so there clearly has to be more than just the inevitability of death. I am following up on that question as to whether we can have much confidence about whether what we might regard as simply chronic illnesses might not be captured by that.

Dr McFETRIDGE: The Attorney is referring to subclause (4)(e). I have an amendment filed, and I understand that the member for Kaurna has a very similar amendment filed, that changes the whole time span for the inevitability; if we want to move to that amendment, I am more than happy to do so.

Mr DULUK: Staying on subclause (2)(b)(ii) and the last line, 'the person's suffering in a manner that is acceptable to the person', member for Morphett, are you saying that in terms of being eligible it needs to be acceptable to the person over acceptable to the specialist who will be determining whether someone is eligible?

Dr McFETRIDGE: That is the actual change the amendment is talking about: it is removing that and inserting the word 'reasonable'. The problem we have at the moment is that we are getting into general questions on this clause without actually sticking to the amendment. So, if we could fix that amendment and then move on to subsequent amendments, that might be very helpful.

Mr KNOLL: Member for Morphett, who decides what is a terminal medical condition?

Dr McFETRIDGE: The first specialist, the second specialist. The patient has probably been to a team of medical experts to be assessed and, hopefully, given a definitive diagnosis on what their condition is and then, unfortunately for them, that condition has been deemed terminal.

Progress reported; committee to sit again.

Parliamentary Procedure

STANDING ORDERS SUSPENSION

The Hon. P. CAICA (Colton) (23:52): I move:

That standing orders be so far suspended as to enable the house to sit beyond midnight.

The DEPUTY SPEAKER: An absolute majority not being present, ring the bells.

An absolute majority of the whole number of members being present:

The DEPUTY SPEAKER: As an absolute majority is present, I accept the motion. Is it seconded?

An honourable member: Yes.

Motion carried.

Bills

DEATH WITH DIGNITY BILL

Committee Stage

In committee (resumed on motion).

Clause 9.

The Hon. J.M. RANKINE: I would just like to clarify something with the member for Morphett. Can he alert the house to where in this legislation there is mention of specialists and/or any team of medical experts? My reading of the bill refers to medical practitioners and other persons. There is no mention anywhere of anyone with any specialisation as far as I can see and, in fact, as far as I understand, it could be your local GP undertaking these assessments.

Dr McFETRIDGE: I thank the member for Wright for her question. I cannot pre-empt the decision of the house, but certainly the amendments that the member for Kaurna and I and others in this place have been working on and considering with stakeholders—I refer you to amendments Nos 12 and 14, where:

(ab) the medical practitioner must be a specialist, or otherwise have expertise, in terminal medical conditions of the kind from which the person—

We have not got to those yet, but let's proceed. I would love to get to those now, but I am certainly happy to indicate to the house that I will not be objecting to those, and so we are in the hands of the house on those. I think it is a very good amendment.

The Hon. J.M. RANKINE: So, they are not in this bill but likely to be inserted, perhaps. I also want to ask, in clause 9(2)(c):

the person's death has, disregarding any medical treatment…become inevitable by reason of the terminal medical condition;

I did not go into detail in my second reading speech about personal circumstances, but let me put this scenario to you. My father suffered three strokes and I was asked by the doctor to prepare my mother and my sister for his death. He suffered some significant disabilities. Would he be covered by this clause? Would it be considered that his death was inevitable, being that he had a debilitating injury, there was no cure for him and his death was inevitable, if not imminent?

Dr McFETRIDGE: Thank you, member for Wright. I am not a medical practitioner. I am not in a position to give a qualified opinion on your description of your father's condition, but I refer you to amendments that have been filed to that particular clause that do change the period of the prognosis to, in my case, 12 months. I understand there is a similar amendment that has been filed by the member for Kaurna which talks about six months, and we can deal with that at the time. But, certainly, if we can get to that clause, I think you will find that your concerns, even in my unqualified opinion, will be satisfied.

Ms REDMOND: I just want a point of clarification from the Chair. My recollection was that the member for Kaurna had actually moved his amendment No. 3 and that we were discussing that when you allowed a question from the member for Croydon and others, subsequently.

The CHAIR: Yes.

Ms REDMOND: So, we have ended up in a situation where we are having a general discussion, and a lot of the general discussion I think could be circumvented.

The CHAIR: We will try to bring members back to perhaps looking at the amendments.

Ms REDMOND: Could I suggest we deal with amendment No. 3.

The CHAIR: We have done our best to accommodate members, but I think it is time that we try to look at the amendments to this clause, which are just changing the wording. Then let's discuss the amended clause, which is what I perhaps put to you, member for Schubert, at the very beginning. Can members perhaps think of that as a way around and then generally discuss the amended clause? Can we think about that? Let's try to deal with amendment No. 3 on schedule 1, which replaces in clause 9 'acceptable to the person' with the word 'reasonable'. Are we happy to look at that and put that?

Amendment carried.

Mr PICTON: I move:

Amendment No 4 [Picton–1]—

Page 6, lines 36 and 37 [clause 9(2)(c)]—Delete 'disregarding any medical treatment that may be administered to prolong the person's life'

The CHAIR: Does anyone have any problem with removing those words?

Dr McFETRIDGE: I congratulate the member for Kaurna on moving the amendment; it is a very sensible amendment.

The CHAIR: Member for Goyder, what is the problem with removing the words?

Mr GRIFFITHS: I understand the intent, but I seek an explanation on why the amendment has been put.

Mr PICTON: I think this amendment was to clarify the meaning of 'inevitable'. The genesis of this amendment came from something the Attorney raised as an issue where, in judging 'inevitable' by saying that we disregard any medical treatment administered to prolong the person's life, it adds extra vagueness but also runs counter to some of the other provisions that we now have in terms of saying that we would like people to explore medical treatment and that we should factor in the medical treatments that could be provided.

Amendment carried.

The Hon. J.M. RANKINE: Madam Chair, I did have questions about even the amended clause 9(2)(c).

The CHAIR: What we are trying to do, though—

The Hon. J.M. RANKINE: We have accepted the amendment, but the amended clause I still have a question about.

The CHAIR: What is the question? Let's listen to the question.

The Hon. J.M. RANKINE: I did start asking the member for Morphett about the circumstances of my father. Much of my concern in relation to this bill is about the capacity and capability of the medical profession. We all know really good doctors and we also know some not so good doctors. The doctor who was treating my father had been treating him for some time and his diagnosis was that his death was imminent, that he had suffered disability, that the next stroke was going to take him and that that was nearby.

On reading of this clause, my father could have well been encouraged to apply to be euthanased because his life had changed significantly. The fact of the matter is he lived for another 20 years. My concern is that people are going to get advice in a point in time, and life circumstances can change and can improve, so using the word 'inevitable' by reason of a terminal medical condition is really vague and open-ended and can put people at considerable risk.

Dr McFETRIDGE: Thank you, member for Wright. I am very pleased to hear that your father was able to live for another 20 years with the excellent medical care. If you read the two amendments on file, one from the member for Kaurna and one from me, on this particular clause, it says that a person's death will only be taken to have become inevitable at a particular time if, by the standards of a reasonable medical opinion, a person's death is likely to occur within 12 months of that time (as provided by my amendment) and six months (as provided by the member for Kaurna's amendment). We can talk about that when we get to the amendment, but this eliminates—

An honourable member interjecting:

Dr McFETRIDGE: Yes.

Ms COOK: It is very loose as to what is a question versus what is a statement in this place, isn't it, but anyway I will have a crack.

An honourable member interjecting:

Ms COOK: Yes, that is part of it. I just was reflecting on the discussion around a stroke being a terminal medical condition. I have worked in neurological, rehabilitation, intensive care and a whole range of clinical areas, and I have never heard the words 'terminal medical condition' used in relation to a patient who sounds very similar to the one that the member for Wright is talking about. I am not sure whether the member for Morphett can shed any light on that at all. I have not heard it used.

Dr McFETRIDGE: A stroke—look, I am not a medical practitioner for humans. I have never heard the term 'terminal' applied to stroke.

Mr KNOLL: In relation to 'terminal medical condition', I asked a series of questions in relation to a number of specific diseases that the member for Morphett was happy to rule out as being a terminal medical condition. In a subsequent answer he went on to say that he is not a doctor and he cannot make those determinations. I find it difficult on the one hand for the member for Morphett to claim that he is not a medical doctor but then to be able to give me a definitive answer on a series of medical conditions. So, I will ask this question: if a doctor and then a second doctor at this stage (but potentially in the future with the amendments it could be a specialist) decides that someone who has extremely bad diabetes ticks all the boxes in relation to being available for voluntary euthanasia, who is to stop those doctors from making that determination?

Dr McFETRIDGE: I am not a medical practitioner, and I am guided and advised by a number of people in this place who have far more experience in this area than I—the member for Fisher for one and my worthy adviser another. The advice that particularly the member for Fisher was able to give the committee—and if she wants to elaborate on that, I would be more than happy to receive that advice to assist the member for Schubert. The terminal medical condition is as defined in the bill, and if others can do better than that, I think the committee would welcome that advice. But you are really talking about the end stage of serious diseases that have been diagnosed, but I will hand over to the member for Fisher because I am sure she would like to add to the information for the committee.

Mr KNOLL: Sorry, Chair?

The CHAIR: Hang on a second. The member for Morphett is allowed to speak, and if I recognise the member for Fisher she is allowed to speak, too, and you will get another turn straight away. Member for Fisher.

Ms COOK: Thank you, Madam Chair. In terms of the discussion around diabetes, it is actually a reversible condition in many circumstances. We have come a long way with our health care regarding diabetes. What the member for Schubert might be referring to is a complex patient who has suffered from diabetic nephropathy, neuropathy and retinopathy, perhaps. That might be a patient with fulminating and full anuric, or lack of urine, renal failure, where they are unable to pass urine. They do not qualify for a renal transplant. They then suffer secondary heart disease due to remodelling of their cardiac muscle, so their heart does not pump their blood around their body.

It might be nephropathies and vascular conditions which cause them to lose both of their legs above the knees, having bilateral amputations. They cannot feel when they are lying on things in their bed, so they form fulminating, full fist-size ulcers in their buttocks. It could be that that diabetic patient might, if they are capable and competent, put their hand up and say, 'Could I access the voluntary euthanasia process?' But in the vast majority of cases, I would say no. That would be my input.

Mr KNOLL: Fantastic—except that my question was: where two doctors decide that it is a terminal medical condition, is there any other recourse to challenge that decision, or is that simply the end of the process?

Dr McFETRIDGE: I am looking forward to proceeding with the amendments, because then members may be absolutely, 100 per cent clear that these two practitioners are going to be registered specialists. These two practitioners will be independent of each other. They will not just be talking to the patient, they will have access—in this case, if you heard my second reading winding-up speech, most of these people are about 70—to years and years of medical history at their fingertips. They will be able to access reams of all sorts of special tests, from the 50 or 60 specialities that are at their beck and call, to come up with critical, definitive diagnoses of not only that patient's current condition, but the prognosis for that patient.

This is where, in the next amendment we are talking about, in (c), we are bringing it back to 12 months. That doctor, that specialist, will know whether there are complicating factors, as laid out by the member for Fisher, that have caused other conditions, comorbidities—I forget the list of examples that the member for Fisher used—that could then contribute to a terminal medical condition. But diabetes in itself, I am advised, is not only manageable, it is reversible. I would have thought that the particular circumstances which the member is talking about are well and truly taken care of by the fact that we have two specialists looking at this person, and not just a point of time.

Mr KNOLL: That still does not answer my question, except that maybe in his answer he is saying that if two doctors, one doctor and one specialist, decide that it is, then it is, and that is the final word on the topic. I was listening intently to the member for Kaurna's second reading speech, where he talked about Dr Philip Nitschke, and was not that comfortable with some of the words of that. I think the fear of many of us in this place is the fact that there will be those who are predisposed towards allowing this to go for a much wider group of people, and there is no recourse if two doctors decide.

The other thing I would put is that, based on the fact that it is the say so of two doctors, the member for Morphett cannot rule out the fact that potentially this could be used in a much wider set of circumstances than I think we are contemplating. If I can come to my question, member for Morphett, what is the difference between a 'terminal medical condition' and a 'terminal medical illness' or 'terminal medical disease'?

Dr McFETRIDGE: It is all in the nomenclature, member for Schubert.

The CHAIR: I need to draw members to look at the amendment, which is actually inserting a couple of extra lines. Can we look at trying to pass this amendment?

Ms REDMOND: Which amendment, Madam Chair? Are we on No. 4 at the moment?

The CHAIR: I will ask the member for Kaurna to move amendment No. 5 because we have already moved amendment No. 4 and had questions after we moved it. What would you like to ask?

Ms REDMOND: I am happy to wait for the member for Kaurna to move amendment No. 5 and then I will ask a question about it.

Mr PICTON: I move:

Amendment No 5 [Picton–1]—

Page 7, after line 8 [clause 9(3)]—Insert:

(d) suffering from a chronic, but not terminal, medical condition;

(e) at increased risk of suffering from a terminal medical condition,

Essentially this is to add clarity that chronic diseases that are not terminal diseases, and also people who are at risk of developing a terminal disease but have not yet done so, should not be classified as having a terminal disease. It may not necessarily be needed, but I think for complete caution it is better to set this out.

The CHAIR: And the member for Morphett is happy with that?

Dr McFETRIDGE: More than happy with that ma'am—an abundance of caution.

The CHAIR: And the member for Heysen has a question on this?

Ms REDMOND: I just want to clarify the whole of clause 9 and make sure that I am understanding it correctly in the format it will have once the amendments of the member for Kaurna and potentially the member for Morphett pass. There are five amendments on file for the member for Kaurna on this clause and we are now dealing with the third of those.

As I understand it, member for Morphett, the situation is that, under clause 9 a person must be a competent adult, they will have to be suffering from a terminal condition (and that is that it has to be an incurable medical condition—not a mental health one, but an incurable medical condition) that will cause their death and that they then are in a situation where their death has become inevitable.

With all of those things in place, it is still the case, taking on board the member for Kaurna's current amendment, that the person is not eligible, even if they get through all of that, just because of advanced age—it is not sufficient for them to be suffering from a disability of whatever kind, it is not sufficient for them to be suffering from a mental health condition, and under the two new amendments nor is the sufficient for them to be suffering from a chronic but not terminal medical condition, or at increased risk of suffering from a terminal medical condition. Am I correct in my understanding thus far of clause 9?

Dr McFETRIDGE: My investment in that fine-toothed comb and magnifying glass was well deserved: you are 100 per cent correct.

Amendment carried.

The CHAIR: Amendment No. 6 is fairly basic—we are just going to delete (d) in clause 9 on page 7, lines 32 to 37. Is everyone happy with that? We have done amendment No. 5; we are now looking at amendment No. 6, and the member for Kaurna will move that for us.

Mr PICTON: I move:

Amendment No 6 [Picton–1]—

Page 7, lines 32 to 37 [clause 9(4)(d)]—Delete paragraph (d)

The CHAIR: It is pretty basic; it does not really need an explanation. You are happy with that, member for Morphett?

Dr McFETRIDGE: I am, thank you, Madam Chair.

The CHAIR: Member for Croydon has a question?

The Hon. M.J. ATKINSON: I do not have a question, I have a statement. I support the amendment wholeheartedly. I do so because one of the worst features of the other bill before us was that these matters would be determined entirely subjectively, and a person was suffering intolerably if they said they were suffering intolerably, and it is a material improvement to this bill that this amendment is made.

Amendment carried.

The CHAIR: We have a new amendment. We have some procedural matters we are dealing with here at amendment No. 7, which talks about the length of time. There is amendment No. 7 on schedule 1 of the member for Kaurna, but that also takes into account that we have another amendment here on schedule 3 in the name of the member for Morphett, but the new amendment we have is amendment A2 in the name of the member for Croydon, and his amendment calls for a period of three months. The wording is exactly the same on each of the amendments except for the number.

The Hon. S.W. KEY: I do not seem to have the amendment from the member for Croydon.

The CHAIR: A2 is coming. It is very fresh; it is coming.

The Hon. S.W. KEY: I would have thought that seeing we are talking about it now, we should have it right now. I would like to thank the member for Newland for providing me with this amendment that is proposed. I would like to ask the member for Croydon where he came up with three months.

The CHAIR: Before we go into that, we need to actually move the amendment before we discuss it.

The CHAIR: I want to make members aware that this amendment to clause 9(4)(e) is basically the same, except for the amount of time involved. That being the case, we will deal with the lowest number first, and then we can deal with each of them after that. You will have to amend three, to six, to 12.

The Hon. S.W. KEY: My question still stands. I would like to ask—

The CHAIR: We just need the member for Croydon to move it first, and then we can discuss it. Member for Croydon, you are going to move your A2?

The Hon. M.J. ATKINSON: Yes. I move:

Amendment No. 2 [Atkinson–1]—

Page 7, lines 38 to 40 [clause 9(4)(e)]—Delete paragraph (e) and substitute:

(e) a person's death will only be taken to have become inevitable at a particular time if, by the standards of reasonable medical opinion, the person's death is likely to occur within three months of that time.

My view is that if we are going to introduce active voluntary euthanasia or physician-assisted suicide, it is best determined and applied in the terminal phase of a terminal illness. That was always what was discussed when I was on the Social Development Committee inquiry into euthanasia, in the law and practice relating to death and dying select committee, that euthanasia in its most circumscribed and limited form was in the terminal phase of a terminal illness. One of the reasons the member for Ashford's bill was inevitably going to defeat is that it was not so limited.

The committee now has a choice for a very broadly expressed change, whereby the inevitability of the death is judged 12 months out, which is what the member for Morphett offers us in his amendment. I trust that it is the member for Morphett's amendment—12 months? The member for Kaurna sets it at six months and I set it at three months because if active voluntary euthanasia was to become lawful it should do so, at least in the beginning, in its most limited form, namely, the terminal phase of a terminal illness. That is why I choose three months. There are seasons in a person's life, and I think this is one season that would be an appropriate time in which we could say that death is inevitable.

The Hon. S.W. KEY: I would like to know on what medical advice and experience you would, first of all, go back to a terminal phase of a terminal illness, which we have already discarded as a criterion. We have just been through a whole lot of clauses that talk about what the criteria are. The terminal phase of a terminal illness does arc back to a few decades ago when you were on that committee, but also to previous bills that have not been accepted in this place—probably not for that reason, but they have not been accepted. Secondly, I want to know on what medical basis you would come up with three months, as opposed to six months, as opposed to 12 months.

The Hon. M.J. ATKINSON: My decision is no more based on medical expertise than the member for Kaurna's six months or the member for Morphett's 12 months. It is not essentially a medical question; it is a question of policy. It is a question of politics. It is a question of philosophy. My philosophy has always been in the house that, if we were to have active voluntary euthanasia, it was to be confined to the terminal phase of a terminal illness.

We were assured earlier in the debate that there was not going to be mission creep, if you like, that there were not going to be amendments come in that would loosen the definitions and make assisted dying more freely available, more easily available, available on broader criteria. We had a debate around that, and we were assured that was not the case. What I am putting to the committee is that we should start circumscribed—namely, judging inevitability a season away, three months, rather than six months or 12 months. If after a period we want to determine that the terminal phase of a terminal illness can be 12 months out or six months out, we can do that based on experience and our political philosophy. However, my amendment is proposing to start circumscribed, and then we can make an assessment later on.

So the short answer to the member for Ashford is that I do not do it on the basis of medical expertise. I do not pretend to have medical expertise, but I did serve on two committees of the parliament inquiring into it, and I have given expression to what they thought would be, I think, the best introduction of euthanasia, and that would be terminal phase of a terminal illness.

Ms REDMOND: It is my understanding that terminal with 12 months to live, as diagnosed by two doctors, is actually already accepted by the Australian insurance industry, so it would seem to me that there is not a lot of credence in the member for Croydon's argument. Overseas six months is common (in the US, for instance), but already in Australia in the insurance industry they accept that it is terminal if it is diagnosed by two doctors as within 12 months to live.

The Hon. M.J. ATKINSON: With respect, that is not my argument.

Mr PICTON: While the others have been speaking I have been receiving some interesting advice from the Clerk about this procedure. We have a situation where there are three amendments: the member for Croydon has moved that the limit be three months; I had originally moved six months; and the member for Morphett has moved 12 months.

Let me say from the outset that I am open to having a discussion about these time limits. However I have been advised that, because the standing orders say that these motions should be moved in a particular order based on the lowest number, I should move to insert 'six' into the member

for Croydon's motion, and then if the member for Morphett wishes to proceed with his 12 then he should move a similar motion to do that.

If we did not do that and the member for Croydon's three-month amendment was to be put and lost, I would not be able to put my six month amendment and the member for Morphett would not be able to put his 12 month amendment. I think that is odd, but that is the advice from the Clerk, that we would not be able to do that. Because of that, and because I think that there absolutely needs to be a time limit and I would be worried if member for Croydon's amendment was put and lost that we would not be able to do that, I move:

To amend the member for Croydon's amendment by removing '3' and inserting '6'.

Dr McFETRIDGE: I have said from the word go that I want this legislation to be as safe as it possibly can be, and listening to the member for Croydon about the three months, he wants it to be as safe it can be. So I think a safe and acceptable compromise is the six months amendment moved by the member for Kaurna. I am more than willing to accept that.

The Hon. S.W. KEY: I want to ask the members for Morphett, Kaurna and Croydon whether they have had an experience where someone who has cancer, for example, when they ask how long they have probably got, sometimes the answer will be, 'Well, you've got two weeks,' and sometimes the answer will be, 'You might be around for a couple of years,' (which may or may not be correct). Quite often, and certainly in the experience of my family and with my friends, the prediction is not correct.

I am just wondering, if someone is told that maybe they have two years, how this would help that particular person who fitted all the other criteria, having this very rigid three months, six months or 12 months. I would just like them all to answer how we actually deal with that.

Members interjecting:

The CHAIR: Order!

Mr PICTON: I am very happy to answer on behalf of myself. I have been very clear in my second reading speech and elsewhere that I strongly believe that this should be for a limited number of people, and this is a pretty important clause in terms of that objective. The way that I came up with this amendment for six months was by looking at the Oregon legislation, where they have a very similar to identical clause, in terms of it being a prognosis of six months or less.

I absolutely accept, in terms of what the member for Ashford is saying, that this might not necessarily help everybody who has a different prognosis from their doctor for a longer period of time. However, I see this as an important safeguard for keeping this at the terminal phase of a terminal illness, as was previously discussed by the member for Croydon.

Dr McFETRIDGE: I would obviously have preferred to stay at the 12 months with my amendment, because federal superannuation law defines 'terminal' as 12 months. The Financial Services Council of Australia information is that the most is 12 months. In fact, in relation to claiming a terminal illness benefit by these particular super members, the regulations state:

> …a terminal medical condition exists in relation to a person at a particular time if the following circumstances exist:
>
> (a) two registered medical practitioners have certified, jointly or separately, that the person suffers from an illness, or has incurred an injury, that is likely to result in the death of the person within a period (the certification period) that ends not more than 24 months after the date of the certification;

So, it is out to 24 months. For the sake of making sure that this is going to be acceptable to members with an abundance of caution and despite the federal law, despite superannuation companies, I am happy to support the six months.

The CHAIR: The member for Waite has a question.

The Hon. M.J. ATKINSON: I was asked by the member for Ashford to respond, and I am.

The CHAIR: Okay, sorry. Off you go.

The Hon. M.J. ATKINSON: By the member for Heysen and the member for Morphett talking about the policy of insurance companies regarding when a condition can be deemed to be terminal or what a superannuation trust deed says, they have a tin ear for the sad music of humanity because we are talking about something completely different here. We are talking about active voluntary euthanasia or physician assisted suicide. We are not talking about the policies of insurance companies or superannuation trustees. This is a policy question. This is a philosophical question. It is not an accountancy question or an actuarial calculation.

The question of the number of months is a question for you to decide in accordance with your conscience and what you think the policy should be. It cannot be determined for us by some corporation. There is a great risk. The higher this number is, the greater risk there is that there will be a serious error in the prognosis. Obviously, you are going to be more accurate if your prognosis is three months out than six months out or 12 months out.

I am informed that in Oregon, which has had physician-assisted suicide because the people voted for it in one of those American citizens-initiated referendums that I know the member for Ashford is so keen about (I jest—not), there are plenty of examples of people outliving the six-month statutory period even by years. To make the prognosis as accurate as possible, I say three months is the appropriate figure. It is the most accurate figure and philosophically it is best because it starts off the assisted dying legislation in the most circumscribed form.

Do I have some experience about prognosis of terminal illness? Yes, I do because I have been at a deathbed at St Andrew's Hospital only in recent weeks. My own father had a disseminated pancreatic liver and disseminated cancer, and he was given three months to live, and he did not make that.

The Hon. M.L.J. HAMILTON-SMITH: My question is to the member for Morphett. In hearing these amendments, whether it is three months or six months, does this clause 9 or any other part of the bill have any provision for it to be an offence should anyone solicit or attempt to coerce a doctor into a prognosis? For example, if the hospital management, in an effort to clear beds for other patients, tried to impose a policy or to set about arrangements where doctors were encouraged to tighten or shorten their prognosis, is that something that the member has considered?

I imagine doctors would resist this, but hospital management can be very persuasive, particularly when there is an effort to clear beds. Similarly, family members could be very persuasive if, for one reason or another, they wanted to bring the matter to a conclusion. So, is it an offence anywhere in the act to attempt to coerce or solicit an earlier prognosis from a doctor under these arrangements?

Dr McFETRIDGE: We will get to clause 27 eventually, but Part 4—Offences provides:

27—Undue influence etc

A person who, by dishonesty or undue influence, induces another to make a request—

and this has to be a request from the person who is requesting it—

for voluntary euthanasia is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

The Hon. M.J. ATKINSON: My question is: what if the person seeking to be categorised as terminally ill offers the doctor an inducement? How is that dealt with?

Dr McFETRIDGE: There is a code of practice, a whole code of ethics, that governs the role of these specialists. If they are found guilty of an offence under the national health practitioners act, there are serious penalties for that offence.

The Hon. S.W. KEY: I just want to make the point first of all that I actually agree with the sentiment expressed by the member for Croydon with regard to this legislation—I totally support that. I do not support three months because I think it is too short a period, and I think it is too prescriptive. My understanding of why the Oregon legislation has a six-month provision in it is because that is when the palliative care provisions kick in in that state, and a lot of the American legislation is connected to when people can actually access palliative care.

While I do not particularly want to disagree with anybody in here, I just think that three months is too short a period. I would prefer that we stick to 12 months but, in listening to what the member for Morphett has just said—and it is his bill—it seems to me that the six months is reasonable, but it is based on palliative care services, not on when someone gets a prognosis about their particular terminal medical condition.

Dr McFETRIDGE: To give the member for Croydon some further information, you are going to have to bribe the two specialists and the psychiatrist and then, under division 1, clause 8, the Note provides:

Section 13A of the Criminal Law Consolidation Act 1935 makes it an offence to aid, abet or counsel the suicide or attempted suicide of another.

The Hon. M.J. ATKINSON: That really does not address the question. It appears the member for Morphett is now admitting that there is nothing in his bill that makes it unlawful for the person seeking to be categorised as terminal and receive the procedure to make an offer or an inducement to a doctor to categorise him or her under the bill. The member for Morphett may say, 'The person is going to die anyway and if her or she succeeds they will be beyond the jurisdiction of the courts,' but the point is that it could be that the person is not eligible and is seeking to be made eligible by offering an inducement. As I read the member for Morphett's answer, there is nothing in the bill that addresses that.

Dr McFETRIDGE: There is nothing to stop people trying to bribe members of parliament either.

Members interjecting:

Dr McFETRIDGE: They can try, but there is a code of ethics for every specialist—every doctor, in fact, and every medical health professional.

The Hon. A. Koutsantonis: The one that says 'do no harm'?

Dr McFETRIDGE: The code of ethics that they are governed by: 'and, above all, do no harm'. They are bound by that code of ethics, so that is what stops any inducement.

Mr WINGARD: My question is to the member for Kaurna. I was wondering whether he had any more information about the six-month time period in Oregon—I know he has done a lot of work in that space—and if there are any other experiences as to why the six months was a good length of time that they use there?

Mr PICTON: I would not want to overstate my expert knowledge of the entire research of this area in the state of Oregon. I saw that the bill, as it stood, said that a terminal illness could be any length of time at all, and that was something that was raised by a number of people as being a problem. I then took to thinking: how would you address that? I looked at what was in place in Oregon where they do have the six months. There are arguments from other people that that is related specifically to their healthcare system. Although I would say that, even if that is the case, the fact that it has been in operation and has been able to operate there shows that there is an example where it does work.

I am not wedded. If other people have other ideas, whether it is three months, I am open to a discussion about that. There might be other ways that people would want to define the section, whether it be, as the member for Croydon said, the terminal phase of the terminal illness. However, the device in my amendment of using six months was to try to get to that point where it is the terminal phase of the terminal illness.

Ms REDMOND: In relation to the matter raised by the member for Croydon, it seems to me that, as well as the clauses that the member for Morphett used in his response and, indeed, the reference to the Criminal Law Consolidation Act which, as he said, is noted at the note under clause 8, there is also a provision in clause 28 of the bill prohibiting a person from making a false or misleading statement.

It would surely be necessary for a person trying to make an attempt to bribe a doctor, apart from the doctor's obligations, to have to make a false or misleading statement, again in contravention of the act. I have a suspicion that the member for Croydon might have been aware of that when he

suggested that the member for Morphett's answer might suggest a person is going to die anyway, so putting him in gaol for 10 years might not matter.

The Hon. M.J. ATKINSON: I think my point was that a patient who was not entitled to come under the provisions of the law might offer an inducement to one of the doctors or one of the mental health workers, who have been included in the scope of the bill now, in order to certify that person as being eligible for its provisions. Those who are supporting the bill have not been able to point to anything in the bill that deals with that person who offers the inducement. There is only the code of ethics dealing with the medical practitioner and they do not know what code there is dealing with the mental health worker who has been amended into the bill by the member for Morphett's amendment. My point to the member for Heysen is that a person who is not eligible will live.

Ms REDMOND: This brings back old times, Madam Chair, being here late at night arguing across the chamber with the member for Croydon.

An honourable member: The good old days.

Ms REDMOND: I just want to clarify that on this point it seems to me to be really a nonsense proposition that someone who is not in a position to get through the hurdles that are put in place by this bill—that is, that they have to make a formal request, it has to be assessed by a medical practitioner and that medical practitioner then has to explain a whole range of things to them and make an independent assessment of the condition and that they meet the eligibility criteria, then refer them to another person, who is a specialist, who goes through a long process with them, who then refers them to a psychiatrist or other mental health practitioner—would actually be in a position to simply commit suicide were they so minded rather than having to go through the whole process of this bill.

I would suggest, therefore, that the member for Croydon's attempt to thwart the bill is based on his dislike of the provision in general, rather than on the inability of the bill to accommodate all the exigencies that in reality could exist.

The CHAIR: The amendment to the amendment is to replace the number 3 with the number 6.

The CHAIR: Before we go any further, I want to make absolutely certain that members understand that by voting for '6' you remove '3' altogether from the equation. The question before the house is that the amendment to the amendment is agreed to. So that means '6' supersedes '3'.

The committee divided on the amendment to the amendment:

Ayes.....26
Noes 2
Majority 24

AYES

Bettison, Z.L.	Bignell, L.W.K.	Brock, G.G.
Caica, P.	Chapman, V.A.	Close, S.E.
Cook, N.F.	Digance, A.F.C.	Gardner, J.A.W.
Gee, J.P.	Griffiths, S.P.	Hildyard, K.
Hughes, E.J.	Key, S.W.	Marshall, S.S.
McFetridge, D.	Mullighan, S.C.	Odenwalder, L.K.
Picton, C.J. (teller)	Pisoni, D.G.	Redmond, I.M.
Sanderson, R.	van Holst Pellekaan, D.C.	Weatherill, J.W.
Wingard, C.	Wortley, D.	

NOES

Atkinson, M.J. (teller)	Rankine, J.M.

Amendment to the amendment thus carried.

Mr GARDNER: Point of order, Chair: regarding the exuberance displayed by the member for Croydon in finding that he had a counterpart in voting against that proposition, under Speaker Atkinson's ruling, expressing joy or opposition to a vote is in defiance of the house and he has threatened to name members for doing that.

The CHAIR: I do not know that we need to be that pedantic this late at night.

Amendment as amended carried; clause as amended passed.

Clause 10.

Mr PICTON: I move:

Amendment No 8 [Picton–1]—

Page 8, line 10 [clause 10(1)(d)]—Delete '(if so required)'

This is the first of three amendments that would seek to make what was to be a psychiatrist assessment but is now, at least for the moment, a mental health professional's assessment to be mandatory under the act and deleting the 'if so required', and then my amendments Nos 13 and 15 later on would do the same.

Dr McFETRIDGE: I have had some discussions and consultation on this, and we support the amendment.

The CHAIR: We are following the debate closely; we are looking at Amendment No. 8 on schedule 1 and Amendment No. 2 on schedule 2. There is just some procedural work to be done around the words.

Mr PICTON: For the benefit of the house, there has been some discussion. I have moved this amendment to ensure that the psychiatrist test would have to be mandatory, and that was originally my proposition. Because the member for Morphett in his amendments proposes that it be a mental health worker, he has a slightly different change to this section, whereas my change would keep it as a psychiatrist. I still believe that should still be a psychiatrist. I clearly voted against the previous amendment on 'mental health worker' because it was a bit too vague. We have been advised that we have to move mine before the member for Morphett's. We have another choice in terms of 'psychiatrist' again at this point.

The CHAIR: The member for Morphett's amendment No. 2 on schedule 2 is no longer being proceeded with; is that correct? Member for Morphett, are you happy to withdraw amendment No. 2 on schedule 2, or are you not going ahead with it?

Dr McFETRIDGE: I will not be proceeding with it.

Amendment carried.

The Hon. J.M. RANKINE: My question is about clause 10(1)(c). I would like the member for Morphett to explain to the house—

Members interjecting:

The CHAIR: Order! The member for Morphett is being asked a question, which he will not hear unless he is looking at the member for Wright.

The Hon. J.M. RANKINE: —how we determine the independence of a medical practitioner. It is required that a second assessment be undertaken, and in a number of places it is referred to as an 'independent medical practitioner'. Is that someone working in two different practices? Is it someone with a different billing code? What happens in the circumstance of a country town when there are two GPs perhaps working in that country town? What constitutes independence? Is independence breached if people have done their training together or worked in the same hospital together? I think we need to be really clear that what we are not agreeing to here is a 'tick and flick' process, which I have personally experienced by so-called independent doctors.

Dr McFETRIDGE: Once we get to these amendments, these will be two specialists. Whether they work in the same practice, adjacent practices or completely different practices, they are bound by a code of ethics to provide completely independent assessments of the particular person based

on their clinical history and test results. I am advised, member for Wright, that the independence of the two doctors is a regulatory decision (the code of ethics) but for the sake of informing the committee, perhaps the member for Fisher might be able to give us some information.

Ms COOK: I want to refer members to the situation where you have a patient in an intensive care unit who has had a significant trauma or brain injury and, as a consequence, requires assessment for a diagnosis of brain death. For decades, doctors have been able to practice independently and autonomously and in good faith to diagnose those patients with brain death, and this is no different.

The Hon. J.M. RANKINE: I beg to differ, and thank the member for Fisher for continually coming to the aid of the member for Morphett, who cannot answer questions about his own bill. One would wonder why that is. There are many examples where doctors are supposed to act independently and they simply do not. There is no definition in here, no criteria in here, about what constitutes independence as far as these medical practitioners are concerned. As far as I can hear, the member for Morphett cannot articulate what that might be.

Dr McFETRIDGE: If the member for Wright has evidence of malpractice she should give that evidence to the regulatory authorities and not cover it up.

The Hon. J.M. RANKINE: The fact of the matter is that when situations occur and there are requirements under legislation—

Dr McFetridge interjecting:

The CHAIR: Order!

The Hon. J.M. RANKINE: —when doctors do not—

Dr McFetridge interjecting:

The CHAIR: Order, member for Morphett!

The Hon. J.M. RANKINE: —act independently, when they do not act according to the law—

Dr McFetridge: Prove it.

The Hon. J.M. RANKINE: Don't tell me, 'Prove it.' I can prove it all right.

Dr McFetridge interjecting:

The CHAIR: Order!

The Hon. J.M. RANKINE: I can prove it all right. I am not breaching other people's personal information. What I can tell you is that it happens, and it happens when people and families are under the most stressful circumstances. When a senior doctor makes a decision, other doctors will not overturn it. They might be required to act independently. They are required by law to act independently, and they do not do it. You do not have anything in this legislation that indicates or stipulates what independence would be. It could be two doctors in two different practices referring patients to one another; it could be two people in the same practice, as you have just said.

The Hon. J.J. SNELLING: The member for Morphett has challenged the member for Wright to prove an example of doctors behaving badly. He just needs to look at the chemotherapy bungle, where doctors behaved very, very badly and were actively engaged in a cover-up.

The CHAIR: I am not sure that's helpful.

The Hon. A. Koutsantonis interjecting:

The CHAIR: I know.

The Hon. J.J. SNELLING: This view that doctors are somehow always right and never get it wrong and are somehow perfect individuals is absolute bunkum. Like any other profession, including politicians, doctors occasionally get it wrong. I would absolutely support the comments of the member for Wright. You would not have a regulatory authority, you would not have AHPRA, you would not have a medical board, if it was a situation where all our doctors were perfect and never got it wrong or behaved badly.

Ms REDMOND: Member for Morphett, am I correct in my understanding—

The CHAIR: Member for Morphett, you need to listen to the member for Heysen.

Ms REDMOND: He always listens to the member for Heysen, Madam Chair. I can guarantee it. Member for Morphett, am I correct in my understanding that the use of the term 'independent' in clause 12 at least, and possibly another clause later on, is quite common in terms of legal interpretation that independence is a generally understood term. When one says that the assessment has to be by a person, the second medical practitioner must comply with the following provisions:

the medical practitioner must be independent of both the medical practitioner referred to in section 11 and the person;

They then must examine the person, and that is a commonly understood ordinary everyday use of the word 'independent' that means they do not have any particular relationship and will assess independently the situation of the person who has come to them.

Dr McFETRIDGE: Absolutely right.

The Hon. A. KOUTSANTONIS: Member for Morphett, I would like to inquire: what is the consequence of a doctor acting inappropriately under the scenario that the member for Heysen just articulated, if they did not act independently? Is there a penalty within the bill, or are you relying on the ordinary codes of conduct that apply under the medical practitioners board and AHPRA?

Dr McFETRIDGE: Under clause 5(5), for the purpose of the Health Practitioner Regulation National Law (South Australia) Act 2010 and the Health Practitioner Regulation National Law, a failure by a health practitioner to comply with this act will be taken to constitute a proper course for disciplinary action against the health practitioner.

The Hon. A. KOUTSANTONIS: Could you please define what the potential disciplinary actions are?

Dr McFETRIDGE: I remember speaking in this place for over three hours on this particular piece of legislation which was mirror legislation which passed through Queensland. I remember threatening to read 300 pages of *Hansard* into this place if it was not included in the schedule, because it is an extensive piece of legislation covering the health practitioner regulations. It is a national law, it is really extensive, and I am afraid I cannot give you that 300 pages word for word.

The Hon. M.J. ATKINSON: I just wanted to say how powerfully nostalgic it is to be in opposition again.

Ms Redmond: It's a wonder you can remember it.

The Hon. M.J. ATKINSON: Yes, it is so long ago, as the member for Heysen interjects, it is a wonder I can remember it.

The CHAIR: I am afraid it is like bike riding, isn't it? You never forget. What is your contribution?

The Hon. M.J. ATKINSON: Yes, my contribution is that I do not want to pour kerosene on the deliberations at this stage, but there is some other legislation, the name of which escapes me at the moment, which requires two doctors to agree. Of course, that provision quickly became a complete dead letter in which two doctors can be found to tick off on anything basically, and the provisions of that particular legislation are no longer operative. But I will not detain the committee with that example.

First of all, I think the two-doctor provision in the bill will also become a dead letter because it will be easy to find two medical practitioners who not only support the bill philosophically but support the member for Ashford's view of what the legislation should be the legislation and the trajectory of this legislation in Holland and Belgium. We know that in Belgium the reporting provisions are just honoured now in the breach. Doctors who simply defy the provisions of the law in order to provide people with euthanasia whom they think should have euthanasia are now celebrities in Belgium.

We know what the trajectory of this will be: two doctors who are philosophically committed to suicide for people who think they need it will be found, and the provisions will gradually, though it

will probably take a few years, be ignored. I would put to the member for Morphett that it would be best, in maintaining the integrity of the medical profession, for the Australian Medical Association, the South Australian branch, which we know has doubts about the desirability of this legislation, to establish a panel of doctors from which one doctor would need to be chosen. That would ensure the integrity of his law.

Mr GRIFFITHS: My question follows on from subparagraph (c), raised by the member for Wright, and it is a matter of process for me. I am working on the basis that, from subparagraph (b), the assessment has been undertaken and the medical practitioner has determined that there is justification for it. Then the requirement is to go to the second independent medical practitioner. My dilemma is: what if that person says no?

What if that independent practitioner does not believe that it is an appropriate action for the individual to undertake? Does that stop the process completely, or is there an opportunity for the ill person to go to another subsequent practitioner? Indeed, is there a number that stops the whole process? Can you be knocked back once, twice, or whatever number of times?

Dr McFETRIDGE: Thank you, member for Goyder, for that question. Were you asking about the first practitioner?

Mr GRIFFITHS: No, the first practitioner has accepted that there is cause for it to be supported, but the second, and potentially subsequent practitioners, does not believe the cause actually exists and they are not prepared to endorse it. How often can you continue to go to practitioners before you find one who says yes?

Dr McFETRIDGE: The refusal by the second doctor could be for many reasons, and they are set out in clause 12. The reasons a doctor can refuse that include: in their opinion the person is not of sound mind; the decision-making ability of the person is adversely affected by their state of mind; the person is acting under any form of duress, inducement or undue influence. If that is the case, the first practitioner must refer the person to a mental health professional under section 13 of the act. I think that would satisfy your concerns.

The Hon. A. KOUTSANTONIS: Does that mean that if a terminally ill patient seeks the opinion of two independent doctors and one disagrees, there is an automatic referral to a mental health practitioner for evaluation against that patient's will?

Dr McFETRIDGE: This whole process is based on a person with a terminal disease voluntarily requesting access to voluntary euthanasia, and I am looking forward to getting to those clauses so that we can keep this in context. If the first specialist has acceded to their request, after examination and assessment of their mental health condition, and the second specialist disagrees, that comes under the same clause where the person is of sound mind, with decision-making ability, and the person who is making that request and who is doing that voluntarily is accepting the fact that this is going to happen. They accept the consequences of them undergoing this whole process. There is no coercion, and if they are not happy they can withdraw their application.

The Hon. A. KOUTSANTONIS: I think what you are saying to the committee is that a terminally ill patient gets an independent medical practitioner, you say specialist—

Ms Redmond: Well, that's according to an anticipated amendment.

The Hon. A. KOUTSANTONIS: Anticipated amendment—the committee can only deal with what is before it now, but I accept what the member is saying, that it is going to be a specialist. The specialist says yes, proceed. There is a second independent specialist medical practitioner who says no. If the patient wishes to proceed, they are referred back to a mental health practitioner, whatever that is, they do an evaluation, and then the patient is free to go out and seek two new independent verifications or one verification? I suppose the point is: do you start again after you have gone to a mental health practitioner, or do you simply need to go to one other? Has not the member for Goyder uncovered what is actually going to occur here, which is doctor shopping?

Dr McFETRIDGE: When the person with a terminal disease has voluntarily made the request, they then go to the second specialist. That specialist says no for some particular reason in one of these clauses here. When that person goes back to the first practitioner, the specialist, that

first specialist would consider the other doctor's report and refer the person off to the mental health professional. Then, before that request or any further requests could be acceded to, that doctor would have to be certain that person is of sound mind, the decision-making capability of that person is not affected by their state of mind—all of those conditions set out in those clauses there. The need to ensure that that process is being followed to protect the patient is there and the referral back will cover the need to be certain. It is a written report as well, as most of them are.

The Hon. J.J. SNELLING: The question is: if the second doctor says no, what is there to prevent the patient from then seeking further opinions from other doctors until he or she finds a doctor who says yes? What is there in the legislation that is currently drafted to stop someone from doing that? If that is the case, then inevitably chances are you are going to find a doctor somewhere who will say yes. Is there something in the legislation that prevents a patient from simply continuing to go to doctors or specialists until that person gets the answer they want?

We know very well that insurance companies do this all the time. There are doctors who specialise in personal injury law, who are essentially guns for hire, either for insurance companies or indeed for the other side. That is well established. What is there to prevent a patient from simply continuing to go to different doctors in the face of a no until the patient gets the doctor with the answer they want?

Dr McFETRIDGE: I would have thought that the six-month time line we have just put in would be a significant impediment. With the process that a person would have to go through by referring back to that first practitioner, who would then have to examine them, it is possible that they could then seek a second opinion if they were not comfortable going back to the practitioner they had already been dealing with. That is no different from any person seeking a second opinion. However, the need for the process to be followed and the need then for a referral to a mental health professional, as is required, would still be there. So, if there is any doubt, you still have those safeguards.

The Hon. J.J. SNELLING: I do not want to labour the point or keep the committee back any longer, and I may have missed something in the bill, but if you go to a doctor, be it your first doctor, and that doctor says, 'No, I don't think you fit the criteria set out in the legislation for euthanasia,' do you then go to another doctor who perhaps again says no? You said six months and I heard the member for Heysen say six months; I presume you are saying that within six months the person is dead anyway and it would take longer than six months. If the only protection is that you would be dead before you had exhausted all the doctors in the state, I do not think that is particularly reassuring.

Dr McFETRIDGE: The checks and balances are there, no matter which doctor or specialist they see. If that person does not fulfil the requirements to become an eligible person, then they are not an eligible person. They have to accept the decision of the doctor.

The Hon. J.J. SNELLING: Unless, of course, they go to another doctor who has a different opinion.

The Hon. J.M. RANKINE: Is it not correct, member for Morphett, that if you go to doctor No. 1, specialist No. 1—if we get that amendment up—and you are approved and you go to specialist No. 2, and specialist No. 2 says, 'No, you go back to specialist No. 1,' who would then refer you on to a mental health worker, who could, in fact, be of much lesser qualification than the specialist who has rejected you. They could approve it, so essentially you can access euthanasia with the approval of only one medically qualified person.

Ms REDMOND: I want to clarify something based on the member for Wright's question. My understanding—and perhaps the member for Morphett can correct me if I am wrong—is that it does not happen the way the member for Wright is suggesting. In fact, if you go to the first doctor, and bear in mind that the first doctor has to do a whole range of things, they have to satisfy themselves that the terminal illness and all those things exist, that the person is not under duress and making the application and so on and so forth, all the things we have already been through. They have to be an eligible person and within the time frame that we have already agreed to, and so on.

They then get sent to a second specialist, and if that person does not agree it is not the case that the person then goes straight off to a psychiatrist; they have to get through the second hurdle.

Clause 10 actually says that to make the request for voluntary euthanasia the eligible person must complete the relevant parts of the request, then they are examined and assessed by the medical practitioner, then they have to go to the second independent medical practitioner, who will be a specialist (in fact, I think they are going to be specialists who have a specialist knowledge in terminal illness). Only then, after getting through that and getting a positive report in terms of meeting the requirements according to that second independent person, do they get the referral to the mental health practitioner.

Before I sit down, the member for Playford, in his question, made a comment which I think must be traversed by me. Before I took the possibly unwise decision of lowering myself in the public estimation—lawyer was already pretty low, and I spent about 30 years in that occupation before I lowered myself even further and came into something even lower in the public estimation by coming in here—I spent a lot of my 30 years as a lawyer in personal injury law and, on behalf of the doctors I dealt with over those 30 years, I absolutely reject the assertion of the member for Playford that doctors in personal injury law are essentially guns for hire.

Without fail, with the doctors I dealt with during an extensive career in that particular area, managing what at the time were some of the biggest claims in the state, I never, ever came across a doctor who was a gun for hire. They all played it straight down the line.

The Hon. J.M. RANKINE: I thank the member for Heysen for trying to answer that question, but in fact she has not. Clause 12 is about the examination and assessment by the second medical practitioner, and clause 12(3)(c) provides that if the medical practitioner sets out that they are of the opinion that the person is not or may not be of sound mind, the reasons why they would refuse it. It then goes on to say that the medical practitioner referred to in section 11, which is the first assessing doctor, 'must refer the person to a psychiatrist for an examination and assessment in accordance with section 13.'

So, now we know it is not a psychiatrist, it is a mental health worker, and it is the first medical practitioner who is referring that person on to the mental health worker. So my question is: if the mental health worker gives it a tick, do people get approval to access euthanasia by being approved by one medical person and a mental health worker?

Dr McFETRIDGE: To put this issue to rest, it would not matter if you saw two doctors, three doctors, four, five, six specialists. The bar never drops. You have to have a terminal illness. You have to be assessed as an eligible person by two doctors. The bar never drops.

The Hon. J.M. Rankine interjecting:

The CHAIR: Order, member for Wright!

The Hon. J.M. RANKINE: I am sorry, but the member for Morphett has not answered my question. Is it not correct that a person can be approved to access euthanasia by being approved by the first assessing practitioner and a mental health worker?

Dr McFETRIDGE: I do not know what assurances I can give the member for Wright, but the bar never drops. The person has to be assessed by that specialist; they have to be an eligible person. If the second specialist is of the opinion that the person is not of sound mind, has any problems in any of the issues that are laid out in the legislation, that person has to be referred to a mental health professional. The bar never drops.

The CHAIR: Each member has had several questions here. The member for Goyder has not.

The Hon. J.M. Rankine interjecting:

The CHAIR: May I finish? The members on my right have had several questions. The member for Goyder has a question.

Mr GRIFFITHS: I have not received a satisfactory answer yet, because the six-month inclusion that we recently voted on is a key issue for me, too. What if one professional says yes to these six months, but the next one says, 'No, that's a longer period.' That could be relative to the experience that they have in treating that illness in particular, or a variety of things. Therefore that

person is out of the equation, so you have to go through another specialist or independent medical practitioner. They might say it, or they might not. We still do not have any stipulation that I have read in here, or that you have explained to me, that assures me that the opportunity is not there to visit multiple practitioners until you get the answer that you want.

Dr McFETRIDGE: To make this perfectly clear, the person who has a terminal illness goes to the first specialist, and in most cases—I think the nurses here would probably be better qualified than I to say about their experiences—that first specialist has probably been dealing with that patient for a long time. They have made the assessment that that person has—

The Hon. A. Koutsantonis interjecting:

Dr McFETRIDGE: The first one. It is the first practitioner I am talking about here. They have made that assessment. The first practitioner has made that assessment. They have determined that the person now, after our amendment, to be an eligible person has less than six months to live. They have determined that they understand the consequences of their condition and the consequences of their request, and they are then sent off to that second specialist. The second specialist really is just confirming what the first specialist has said.

Members interjecting:

The CHAIR: Order!

The Hon. J.M. Rankine: That's the point.

The CHAIR: Order, member for Wright!

Mr GRIFFITHS: No, it talks about independence; therefore, they have to be their own thoughts.

The Hon. J.M. Rankine interjecting:

The CHAIR: Member for Wright!

Dr McFETRIDGE: Confirming as in—

Mr Griffiths interjecting:

Dr McFETRIDGE: No, you are misunderstanding me, member for Goyder.

Mr GRIFFITHS: Okay.

Dr McFETRIDGE: Their job is to confirm the first assessment—that is their job.

Ms Redmond: Or not.

Dr McFETRIDGE: Or not, that's right. If they do not do that—

Mr Griffiths interjecting:

Dr McFETRIDGE: No, wait, please.

Mr GRIFFITHS: Their job is to make a determination as they see it.

Dr McFETRIDGE: Exactly, to confirm or not. They will make that independently—that is the job. They will do it independently, and you would expect nothing less because the second person is a specialist as well. What happens is that now it is a mandatory assessment by a mental health professional. If there is any doubt, they go off to that mental health professional anyway with the concerns of that second doctor.

If the opinion that is arrived at is that that person is no longer an eligible person because of the state of their mind, it will not be about the terminal illness. There might be some variation on the prognosis perhaps, but on the fact that the person has the terminal illness, there will be, as I said before, reams and reams of tests. There will be a mountain of objective data and results that both those doctors will be relying on.

If that second doctor is of the opinion—a completely independent opinion of that of the first doctor—that that person is not an eligible person, then that report has to be written and sent back to

the first doctor. That first doctor will then have to reassess that person's eligibility by themselves. If circumstances change—and this is like any second opinion—you can go and see a different second doctor as a second specialist, sure, but the bar does not drop. They still have to be an eligible person, and that is all part of the checking process.

In fact, I think, in many ways, it is an added benefit because you are really getting a third opinion—not just two, you have three. If that third doctor does not agree, then that person is not an eligible person. That third doctor is still, under this, a second practitioner. The report is done, and that goes back to the first practitioner, and they go through there again.

I am not saying that you are saying this, but if there is an assertion out there that there is going to be some dodgy specialist who is going to risk 10 years in gaol—not only their licence but 10 years in gaol—for making a false statement here, and be prosecuted under the national law, then I do not know what I can do to assure you, because the bar has never dropped. The assessments are there. The assessments are critical, the assessments are crucial and they are objective assessments, other than the six months.

The CHAIR: We have had several questions on this particular business, which is prior to what we were talking about. We still have two amendments on clause 10, which still gives us plenty of time to discuss clause 10, so I think it would be the right time now to look at the member for Kaurna's amendment [Picton-1] 9, which amends clause 10, and there is still plenty of time to discuss clause 10.

Mr PICTON: I move:

Amendment No 9 [Picton–1]—

Page 8, line 36 [clause 10(3)(b)]—Delete 'until it is revoked in accordance with this Act' and substitute:

until—

(i) it is revoked in accordance with this Act; or

(ii) 28 days have elapsed after the day on which the request was made and the request is not extended under subsection (3a),

whichever occurs first.

I will talk about both amendment No. 9 and No. 10, but move only amendment No. 9. Both these amendments are to add in that there is a limit in terms of how long the authority would last (28 days), after which the first doctor, who presumably would be the treating doctor, would just need to certify that the conditions are still in place as per when it was originally authorised. This is an important safeguard to protect against anything that might change in that circumstance or whether there might be any coercion of the person.

Dr McFETRIDGE: I accept that amendment.

The Hon. A. KOUTSANTONIS: You said earlier, member for Morphett, that the first practitioner would probably be your treating doctor. When the member for Ashford's bill was first contemplated, one of the most—

Dr McFETRIDGE: I missed that comment, sorry?

The Hon. A. KOUTSANTONIS: You said that generally the first practitioner, the first specialist, would probably be your treating doctor. One of the most persuasive arguments as a safeguard, without wanting to embarrass him, was one Andrew Denton made about the safeguards in place on the west coast of the United States, where the treating doctor, who knew you and who was treating you, was one of the people who would make one of these assessments, but you have no requirement for the treating doctor to give an opinion on the terminal illness of the patient. There is no requirement, so you can have a treating oncologist and go to two other independent doctors, but not to your treating oncologist.

One of the safeguards that gave me a lot of comfort was that it was your treating doctor, who knew you and who had been treating you from start to finish for the disease, who was involved in the approval process for the voluntary euthanasia. You have no such requirement in this bill. Without wanting to be a smart alec, I can imagine a situation, which probably is not that farfetched if you do

not have this safeguard in place—and I am not inclined to move an amendment—where a patient has an oncologist who thinks that the cancer is treatable, but their opinion is not sought. They take their diagnosis to two other independent doctors and they are able to access voluntary euthanasia.

As a suggestion, if this bill is to succeed—and I do not want it to succeed—I would have thought that the treating oncologist, who knows the patient best and who has been with the patient from diagnosis to treatment plan throughout the entire process, should at the very least be required to be part of the process, rather than have the ability of the patient to then go to someone else. I think you are assuming, quite properly, that in a world of everything working well that patients would consult with their treating doctor first and then go to a second doctor for an opinion, but there is no such requirement in this bill. Would it not be a better safeguard that the treating doctor for the terminal illness be the first person consulted?

Dr McFETRIDGE: The doctor knows best and the family doctor relationships that we have enjoyed in this country for many years do still exist. The particular group of patients, the people we are talking about, have been diagnosed with a terminal illness. To be diagnosed with a terminal illness there is probably going to be a range of specialists who you have dealt with. I can guarantee that they will get to know your full clinical history across the years; they will know you inside out. They will know, because of their speciality. By the use of the term 'specialist' they are looking at this particular condition because they have expertise in that area. They are able to determine the extent of the invasion.

The Hon. A. KOUTSANTONIS: If your oncologist is treating you, the specialist is treating you for a terminal illness, is that the person you consult, or can you go somewhere else?

Dr McFETRIDGE: As a patient, you have the right to refuse treatment from a particular doctor, but if you have a terminal illness and you have been given a prognosis of six months to live—these people want to live; they want to get the best treatment they can. This is where the amendments that the member for Kaurna and I have agreed on—the medical practitioner must be a specialist or otherwise have expertise in terminal medical conditions of the kind from which the person is suffering, being the terminal medical condition referred to in section 92B. The oncologist can be the specialist and then—

The Hon. A. KOUTSANTONIS: I am not trying to be difficult with the member for Morphett, as I have a great deal of respect for him. The most persuasive argument I had from anyone in favour of this bill was that the treating specialist who is treating the terminal disease—not a GP, not the family doctor, but the specialist. You can be treated for a terminal illness and the opinion of the doctor who set out your treatment plan is not consulted on the voluntary euthanasia. The safeguards in Oregon, I am advised—and I could be wrong—where this system of euthanasia I think has been universally accepted as working best in the world, requires that treating specialist to be the first person consulted on the voluntary euthanasia, and you have no such provisions in this bill.

I am simply asking the question. I am not talking about a GP we have known all our lives. I am talking about being referred and going to an oncologist. You have cancer and you get a second opinion and the treating doctor for the terminal illness, under this legislation that parliament has agreed to up to this point, is not the person who will be consulted technically for the voluntary euthanasia. You can go to two other specialists who have not been involved in your treatment plan. Surely one of the safeguards in your bill must be that the treating specialist be the first person consulted, as it is in other jurisdictions. If you want this bill to succeed, surely that is the very minimum safeguard that you put in place.

Dr McFETRIDGE: I point out that there are clauses later on that we will examine where no medical health practitioner can be coerced or forced into participating in this treatment. In fact, even the member for West Torrens said that it is more than likely that that practitioner will be the person who has been dealing with that particular person for the initial investigations, the workup, the whole treatment. If they have an objection, whether it is some fundamental objection of faith or some other ethical reason that they do not want to treat this patient, that is in here. It should be in the best interests of the patient to be given the best access to care. That is what is happening with two specialists looking at the patient.

There is no guarantee that the patient will not choose to go somewhere else, for instance, if they move—who knows? There is a whole range of reasons. There is an extra safeguard now. There are three: the two specialists and the mental health professional examining this patient, so you are getting the complete medical history. It would be very nice. I have had a relationship with medical practitioners for many years and I have the utmost faith in them. One of them tried to tell me that I was having a heart attack. He did some blood tests and said, 'You're having a heart attack. Go to hospital. Phone an ambulance straightaway.' He was wrong, fortunately, after myriad tests, but he proved that a politician had a heart.

What we have here is two specialists and a mental health professional all having to sign off on this document. It would be lovely to have that, but we cannot make it obligatory because, if people want to opt out, they can. In an ideal world, we would go back to that relationship and, in reality, I think in most cases that would still exist.

The CHAIR: Can we concentrate on amendment No. 9 that we are looking at?

The Hon. S.W. KEY: I want some clarification from the member for Morphett. My understanding of the process, and certainly from my own experience with family and friends, is that your family doctor and then your main treating doctor—you might have a number of doctors or specialists who are dealing with your terminal medical condition—may not necessarily have an agreement with a particular palliative care centre, hospital or place where you may be going to get treatment. It is not always very easy to go from the person you are most familiar with into hospital or palliative care and have the same person.

As much as I understand the point the member for West Torrens is making—and I agree, I think it would be preferable—someone has six months to go, they are on their last legs and we are going to put them through this amazing process to assist them when they have met the criteria that qualify them to access voluntary euthanasia. I think we need to get back to the reality of what actually happens when people do have a terminal medical condition.

We have now limited it to six months and, as I said earlier, I think that is a bit harsh, but that is what we have agreed to. Someone supposedly has six months to go and we are going to make them go through all these hoops unnecessarily. They will also have to somehow cope with whatever the system presents them with because in some cases they will have agreements and in some cases the doctors will not have agreements.

In my mother's case, for example, her doctor and her specialist could not go to the Mount Barker palliative care centre because they did not have an agreement with that particular hospital, so she had to then negotiate with a whole lot of new specialists and doctors in her last two weeks of life. That is not uncommon. The same thing happened with my brother-in-law. He was getting specialist treatment in one particular area and ended up dying in another hospital with his doctor not having access to him because the doctor did not have agreement with that particular hospital. We have to be a bit realistic about what we are actually arguing here. It seems to be cruel and harsh, in my view.

Dr McFETRIDGE: I agree with you 100 per cent, member for Ashford. I am also advised that, under the Medicare rules, if you change specialists you need a new referral. People are not going to chop and change their specialists. They will tend to have been with the same specialist and the same practitioners for a long time. Remember that these are people with a terminal medical condition.

The CHAIR: We need to look at amendment No. 9 in the name of the member for Kaurna, which is what we are talking about, so if we have some specific questions about amendment No. 9—what is your specific question about amendment No. 9, member for Stuart?

Mr VAN HOLST PELLEKAAN: My question is actually about clause 10.

The CHAIR: We are looking at the amendment to clause 10, so if you want to look at amendment No. 9 and ask a question about that. You can ask any question you like about amended clause 10 when we get to it. At the moment we are looking at the amendment.

Mr WILLIAMS: I am not sure whether this is the appropriate place, but—

The CHAIR: We will certainly tell you.

Mr WILLIAMS: I will take your advice.

The CHAIR: I hope you do. Next question.

Mr WILLIAMS: I have been upstairs listening to the debate for some considerable time and some matters of curiosity have risen in my thoughts. It seems to me that we are grappling with putting in safeguards and—

The CHAIR: No, we need to actually bring you back to amendment No. 9. Do you need the schedule? We have a copy of it here. We are looking specifically at this and then you can range on the amended clause 10 later. So, if you have a question—

Mr WILLIAMS: I am quite happy to ask my question at that point, if you want to put the amendment.

Amendment carried.

Mr PICTON: I move:

Amendment No 10 [Picton–1]—

Page 8, after line 36—After subsection (3) insert:

(3a) Subject to this Act, a request for voluntary euthanasia will be taken to remain in force for a further 28 days after the period referred to in subsection (3)(b)(ii) has elapsed if the medical practitioner referred to in section 11—

(a) certifies on the voluntary euthanasia request form relating to the request that—

(i) the opinion of the medical practitioner in respect of the matters referred to in subsection (1)(g) has not changed; and

(ii) it is appropriate that the request remain in force for a further 28 days; and

(b) complies with any other requirement set out in the regulations for the purposes of this paragraph,

(and the request may be further extended under this subsection).

(3b) An extension of the period within which a request for voluntary euthanasia remains in force—

(a) may only occur at the request of the person who made the request; and

(b) cannot occur once the request has been revoked or otherwise ceased to be in force.

As I said before, this is connected to the previous amendment.

Dr McFETRIDGE: This is an extra safeguard and I think it is a very good thing. Twenty-eight days is not too onerous. In fact, I think that most people who are at this stage of a terminal illness should be receiving numerous visits from health practitioners, and the member for Kaurna's amendment is quite a good one to keep reassessing that patient.

The CHAIR: Are there any questions on amendment No. 10? Member for Goyder, what is your question on amendment No. 10?

Mr GRIFFITHS: I do, because it refers to regulations which may come into force and that is a frustration I have with many pieces of legislation. We are required to consider what the potential might be for regulations but we do not know what the detail of it is, whereas I consider them quite important to the thrust of the legislation. The member for Morphett, are there any draft regulations?

The CHAIR: Where are you looking in amendment No. 10 about regulations? Sorry, (b), right.

Mr GRIFFITHS: Yes, thank you.

Mr PICTON: In terms of the regulations, I presume you are referring to (3a)(b), where it says that it would comply with any other regulations. I believe that has been drafted on the basis of

providing that if we wanted to add any additional safeguards that should happen at that point, then we could do that later. The key bit, from my point of view, is in there already in (3a)(a), but even if we did not have (3a)(b), I would see that, potentially, you could add regulations under the general regulation-making power that would apply to that section.

Dr McFETRIDGE: I can help the member for Goyder. The main purpose of regulations under this type of legislation, I am advised, is to set out the forms that have to be filled out.

Amendment carried.

Mr WILLIAMS: I want to ask the member for Morphett, who has brought this matter before us: it seems to me that the big question for a number of members is about the safeguards. The bill has in it, supposedly, a number of safeguards and the person seeking the request has to jump through a number of hoops, which is fine. My question goes to who polices the hoops that are actually being jumped through?

I understand there is a proposition in the bill that, at the end of the process, after the person has been euthanased, there is a report to the Coroner. Is there a proactive process that guarantees that all those processes are undertaken and signed off? For instance, would there be some sort of register whereby, as each of the processes are passed, the documentation is lodged, and before the final approval is given somebody has to ensure that all the processes have been completed?

I ask that question because it is my understanding that—notwithstanding in other jurisdictions, and particularly in Europe, where supposed safeguards not dissimilar from those we are discussing here were put in place—with the effluxion of time there has been a certain laxness about the way the safeguards are abided by. My understanding is that shortcuts have indeed been taken, and this is one of the matters that I raised in my second reading contribution in the short time available: that I had a concern about shortcuts. I have a concern that, as hard as we might try to build a system of safeguards, there will be ways to circumvent them.

There will be ways to circumvent them, whether it be through deliberate acts or through just a casual attitude, which becomes more and more casual with time, I guess. Then, all of a sudden, we have in practice something that is quite different from what is proposed here. How can we all be assured that the safeguards that are being proposed, supposedly strong safeguards, are being adhered to and how can we be assured that every one of those hoops has been jumped through before the final okay has been given?

Dr McFETRIDGE: Thank you, member for MacKillop. In most of the acts we deal with—the Consent to Medical Treatment and Palliative Care Act and various health acts—and in this particular bill, there are clauses which ensure that the records are being kept. There are standards of medical practice for any doctor, and in my own practices I had to maintain accurate records. You can be brought up on disciplinary charges if you do not keep the correct records. Clause 10—How to make a request for voluntary euthanasia, subclause (4) provides:

> The medical practitioner referred to in section 11 must keep the following documents in respect of each request for voluntary euthanasia made by a person—
>
> (a) the voluntary euthanasia request form; and
>
> (b) the written reports provided to the medical practitioner under sections 12 and 13 (if any); and
>
> (c) if a request for voluntary euthanasia is made in accordance with subsection (5)—the audio-visual record under subsection (5)(b),

If we then go to clause 22—Report to State Coroner:

> (1) A medical practitioner, registered nurse or nurse practitioner who administers voluntary euthanasia to a person must make a report to the State Coroner within 48 hours after the person's death...
>
> (2) A medical practitioner to whom a request for voluntary euthanasia is made must, as soon as is reasonably practicable after becoming aware that the person who made the request has self-administered voluntary euthanasia pursuant to the request, make a report to the State Coroner.

So, there are the particular documents that the practitioner has to keep, and then there are the reports to the Coroner. Under the member for Kaurna's amendments, the Coroner would then be required

to keep records of the number of people accessing voluntary euthanasia. That will then be incorporated into a ministerial report that has to be tabled in this place every year.

Mr WILLIAMS: I must admit that I am not satisfied with the answer, because, as I mentioned that earlier, my understanding is that the report made to the Coroner is after the event. My question is: how can we be assured, if we establish all these hoops, that in practice they will actually be jumped through? How can we be assured? It is not uncommon in our society for obligations to be circumvented because they are never policed. We have a law that says that you have to abide by a speed limit, but people only abide by the speed limit because of the policing function that occurs.

Members interjecting:

The CHAIR: Order!

Mr WILLIAMS: Let me rephrase that. Not all people obey the speed limit, and the reason they do not all obey the speed limit is that they can damn will get away with it. We know that not all people obey the speed limit because the state collects close to $100 million a year because of that fact. We know that the policing function is a very important function to ensure that the laws that we make are indeed abided by. My listening to the debate and the concerns expressed by a number of members goes to the very heart of this question; that is, they are very concerned about the checks and balances.

It appears to me that there are not any real checks and balances in this bill. It appears to me that, after the event, a report is made to the Coroner. Does the Coroner knock on the door of the doctors concerned? Does the Coroner check that the paperwork that has been sent to him actually reflects what happens? What I am saying is that I would have thought that, in such an important matter as this, if we are going to accept that the checks and balances are doing what we all hope they will do, there is some process by which there is an audit before the event, not a casual sign-off after the event. That is my concern. Well, my concerns are probably a bit more fundamental than that, but I think this particular point—

Members interjecting:

Mr WILLIAMS: I'm sorry, I've been sitting up there about four hours listening to this—

Members interjecting:

The CHAIR: Order! I think the member for Morphett understands your question, member for MacKillop; he is going to answer it now.

Dr McFETRIDGE: My good friend the member for MacKillop is always very good at thorough questioning of ministers in this place, and he is doing a diligent job now. I can answer his question. Under the report to the State Coroner (I should have continued on), it says in 22(3):

(3) A report under this section must be in the prescribed form and must be accompanied by—

(a) a copy of the voluntary euthanasia request form; and

(b) a copy of any report or other document required to be kept under section 10(4)(b) and (c); and

(c) any other information required by the regulations.

Clause 10(4) provides:

The medical practitioner referred to in section 11 must keep the following documents in respect of each request for voluntary euthanasia made by a person—

(a) the voluntary euthanasia request form; and

(b) the written reports provided to the medical practitioner under sections 12 and 13...

That is from a medical mental health practitioner. That doctor obviously will have access to reams and reams of clinical history on their patient, including all of the pathology and all of the other investigations that have been undertaken. Those will be provided to the Coroner as part of their reporting, and that can be included under the regulations if the member for MacKillop really wants to go there.

I can assure the member for MacKillop that under the report to the State Coroner, with a maximum penalty of $5,000 plus the penalties, and I am just looking for a clause now, there are significant penalties for malpractice under the Health Practitioners National Law for not maintaining clinical standards and abiding by the code of ethics where you can be struck off. So, there are significant penalties and significant incentives for these treating specialists to keep all the records, to cross all the t's and dot all the i's so that they cover their own backsides.

Ms COOK: I have listened a lot to people and their questioning and their desire for clarity around the medical profession. I understand that, as with anything, there are people around who have negative experiences or different experiences with medical officers. These are medical specialists we are talking about. They finish year 12, they do their medical degree which is six years, they do an internship.

Ms Redmond interjecting:

Ms COOK: They spend some time as an RMO. They go through a rigorous process to be selected as a surgical trainee or oncologist, and this might take another six to eight years. They often travel overseas. They invest tens of thousands of dollars into this journey to become a medical specialist. Their mission is not to blow it on some blown-up lie, some fabrication of a condition, for a person who allegedly is doctor shopping which is just a disgraceful accusation around medical specialists who have been training for all those years. I cannot believe I am defending the doctors like this. No, I love the doctors. I am only joking.

They are medical specialists. I would agree or have some empathy if we were talking about a junior RMO or an intern. These people are specialists. There are processes to access terminations, to have your leg cut off, to be declared brain dead. There are prescribed procedures laid out under the various acts which have to be adhered to in regard to medical processes. This is no different. We have a process where they are referred from one doctor to another, where they make the independent assessments, they document those things, they use enormous amounts of objective and scientific data to make their diagnosis. I think people are being erroneous.

The Hon. J.M. RANKINE: The difference between this and other things that these specialists do is that this is not about healing or treating or caring for someone. This is about ending their life.

Ms Cook interjecting:

The Hon. J.M. RANKINE: It is quite different circumstances.

Ms Cook: Absolutely not.

The Hon. J.M. RANKINE: It is absolutely different circumstances. The member for MacKillop has asked the member for Morphett very clearly whether there is a register and whether there will be monitoring of people's applications prior to euthanasia being enacted. Can the member for Morphett clarify for this house that in fact the only record/register will be that of the Coroner after the fact, apart from personal records held by individual doctors? So, there will be no central monitoring or collating of information, ensuring that all of the procedures have been correctly applied before a person accesses euthanasia.

The CHAIR: I think the member for Morphett has answered that question.

The Hon. J.M. RANKINE: No, he didn't. He actually referred to the Coroner, and the Coroner is after the fact. There is nothing before the fact.

The CHAIR: He has provided the best answer he can. We need another question. The member for Stuart.

The Hon. M.J. ATKINSON: Point of order.

The CHAIR: I am sorry, I had called the member for Stuart.

The Hon. M.J. ATKINSON: I am very close to dissenting in your ruling because it is so manifestly wrong.

The CHAIR: As I heard the member for Morphett give his best answer to the member for MacKillop—

The Hon. M.J. ATKINSON: It is not the function of a presiding officer to tell the house or a committee whether an answer has been adequate or not.

The CHAIR: No, all I said is I think he has answered that question to the best of his ability. Do you have something more to the answer?

Dr McFETRIDGE: I can tell the committee that the information that I have provided to the committee is information that I have been advised is the current and intended situation.

The CHAIR: The member for Stuart had the call. I am not sure how we can do much better than that. Member for Stuart.

Mr VAN HOLST PELLEKAAN: As this house knows, I have deliberately done nothing to block this bill, and I have deliberately done nothing to try to shepherd it through either. I have read it very carefully and I have two particular concerns about it, one of which I want to address right now. It has been skirted around just a little bit. There have been plenty of questions close to this topic, but none of them exactly. The clauses are Nos 10, 11 and 12, member for Morphett.

Given that we have agreed so far with the passage of the bill that a person would have to be identified as being terminally ill, with the prospect of dying within six months, and with regard to him or her seeking the medical advice or assessment necessary to qualify for the option to proceed with voluntary euthanasia—and totally separate to the issues the Treasurer was talking about, about whether it was their own doctor or another doctor, and I am not talking about doctor shopping—would it be possible for a person in this situation, for whom we all feel great sympathy, to have one doctor say, 'Yes, I have assessed you and you qualify,' to go to another doctor who says, 'I have assessed you, and you do not qualify,' for any range of reasons?

It might be because the second doctor thinks that your life expectancy is 12 months, not six months, or any other medical reason that I do not pretend to be able to identify. Doctor No. 1 says, 'Yes, you qualify according to this legislation.' Doctor No. 2 says, 'No, you don't qualify according to this legislation.' Can the patient then go on and seek an assessment from doctor No. 3? Doctor No. 3 might say, 'Yes, you qualify,' or 'No, you don't.' Could the patient go to doctor 4 or 5? Could the patient, in a relatively short period of time, seek advice from three, four or five doctors? The first one assesses the patient as qualifying and the last one assesses the patient as qualifying. Would that be enough for that patient to qualify? Potentially, the patient has seen five or six doctors.

Ms Redmond interjecting:

Mr VAN HOLST PELLEKAAN: No, member for Heysen, that is not what I am talking about at all.

Ms Redmond interjecting:

Mr VAN HOLST PELLEKAAN: No.

The CHAIR: Order! No side conversations.

Mr VAN HOLST PELLEKAAN: Potentially, in a fairly short period of time, because the six months is about an assessment of the patient's life expectancy—

The CHAIR: Do you understand the question, member for Morphett?

Dr McFETRIDGE: I do.

Mr VAN HOLST PELLEKAAN: I have not quite finished the question. Would it be possible for the patient to go to perhaps four or five doctors? The first one says, yes, the patient qualifies, two or three in the middle say that the patient does not qualify and the last one says, yes, the patient does qualify. Under this legislation, would that mean that the patient would be eligible to proceed with voluntary euthanasia, although the majority of doctors, or even potentially one doctor from whom the patient has asked for assessment, says that the patient would not qualify?

Dr McFETRIDGE: The member for Stuart is a good friend of mine, and so I will not just dismiss his question by saying we have gone through all of this before.

Mr VAN HOLST PELLEKAAN: No, we have not.

Dr McFETRIDGE: We have. We have been through this half an hour or so ago. I suggest that if he wants a further explanation or some of the details on this, read the *Hansard*. The first specialist, the treating specialist, is going to make those determinations and make sure the person is an eligible patient. They go to the second specialist, and if the second specialist disagrees then it is referred back to the first specialist plus the mental health professional, and yes they can go and see another specialist.

Under no circumstances do the requirements for that assessment diminish, dilute or disappear in any way. The bar never lowers on this. If the first specialist, who is often the person with the longest relationship with this person, is still of the opinion that this person is not eligible, they should encourage that person, if they have six months to live and this is their choice, to go and see somebody else. If they disagree, well, we all go to doctors and we all get second opinions.

Ms REDMOND: Just to clarify what the position is of the member for Morphett. As I understand it, member for Morphett, the situation is that you go to the first medical practitioner and that person is basically the person who is then going to oversee the process, and you will be sent off to others. If you go to someone else and that person makes their assessment, clause 12(2) provides that as soon as is reasonably practicable after the examination and assessment by the second specialist, that specialist must provide back to the first specialist the report as to that assessment.

If that is a negative assessment, there is a provision that says that the first practitioner cannot simply dispose of that report or any other subsequent reports. If there was a situation where a person was seeking to access the provisions of the legislation and got through the first barrier by going to the first doctor, went to a second doctor and got knocked back—to use a colloquialism to describe the process—there must be a written report going back to the first doctor. He has to keep that report. If the person then goes to another doctor and there is again a negative response, that written report also has to go back to the first doctor.

On the member for Stuart's proposition, there would even be a third doctor, before going to a final doctor who gives a positive report. All of those negative reports would have to be kept by the person who is then going to put his specialist practising certificate on the line to sign off in the face of three negative reports from specialists—anticipating the member for Kaurna's amendment—who are specialists in the particular area of illness from which this person is going to die, and they are specialists in terminal illness in that area.

There are three reports on the member for Stuart's supposition, all negative. The member for Stuart is supposing that the person who is going to have to sign the certificate—with those three certificates being kept on his record and facing being struck off—that they would then be prepared to sign off on it. It is possible, but I would suggest to the member for Morphett—and he might care to agree or disagree—that that would be a highly unlikely scenario.

Dr McFETRIDGE: The member for Heysen is perfectly correct.

The Hon. J.M. RANKINE: I would like to help the member for Stuart a little in his query. Certainly the member for Morphett has not been able to help, so maybe I can. There is nothing that I can find in this legislation that says you need to go to another specialist if the second one writes a report and does not recommend that you have euthanasia. What it does say—

The CHAIR: Is this question to the member for Morphett?

The Hon. J.M. RANKINE: Yes, it is to the member for Morphett and I am helping him. Maybe the member for Morphett can confirm that, if you are rejected by the second specialist, they report back to specialist No. 1 and specialist No. 1 must then refer the person to a mental health practitioner for examination and assessment. My question to the member for Morphett is: please clarify that that is the case. Secondly, once that is done, you do not need to see another specialist. There is nowhere in this legislation that says you need two specialists, if the second one rejects you. You can play

funny buggers over there. You are shaming this house in your lack of knowledge of your own legislation.

The CHAIR: The member for Morphett will answer your question.

Dr McFETRIDGE: We know we are getting tired.

The CHAIR: Order! Just answer the question, please, member for Morphett.

Dr McFETRIDGE: The member for Wright should read the legislation. She has been a minister, she should understand legislation—

The CHAIR: Order! Just answer the question please, member for Morphett.

The Hon. J.M. Rankine interjecting:

The CHAIR: Member for Wright!

Dr McFETRIDGE: Clause 10(1) provides:

(a) first, the eligible person must complete the relevant parts of a voluntary euthanasia request form;

(b) second, the eligible person is examined and assessed by a medical practitioner in accordance with section 11;

(c) third, the eligible person is examined and assessed by a second and independent medical practitioner in accordance with section 12;

(d) fourth, the eligible person is—

under our amendments, 'examined and assessed by a mental health professional'—

(e) fifth, the eligible person presents the completed voluntary euthanasia request form to the medical practitioner referred to in section 11—

the first medical practitioner. You always have to have two opinions—always. It is quite clear.

The Hon. J.M. RANKINE: Can the member for Morphett confirm that, if the second practitioner does not recommend that, the referral goes back to the first practitioner who must refer you to a mental health worker and, once they get that report, a decision is made. There is no need to get a further specialist to confirm the condition. So, the member for Stuart 's concern about doctor shopping, I understand that. This legislation means that you do not actually have to do that. All you need is the approval of doctor No. 1. If doctor No. 2 says no, it goes back to doctor No. 1, who gets a mental health professional to do the assessment. Nowhere in here—

The CHAIR: Do you have an answer for the member for Wright, member for Morphett?

Dr McFETRIDGE: I can do no more than repeat my answer as before:

10—How to make a request for voluntary euthanasia

(1) An eligible person makes a request for voluntary euthanasia by taking the following steps in accordance with any requirements set out in this Division:

(a) first, the eligible person must complete the relevant parts of a voluntary euthanasia request form;

(b) second, the eligible person is examined and assessed by a medical practitioner in accordance with section 11;

(c) third, the eligible person is examined and assessed by a second and independent medical practitioner in accordance with section 12;

(d) fourth, the eligible person is—

now, after our amendment, 'examined and assessed by a mental health professional in accordance with section 13', and then they go back to the first one.

The CHAIR: So, you really cannot add any more?

Dr McFETRIDGE: I cannot add to it.

Clause as amended passed.

Clause 11.

Mr PICTON: I move:

Amendment No 11 [Picton–1]—

Page 9, after line 37 [clause 11(1)]—Insert:

(aa) the medical practitioner must be a specialist, or otherwise have expertise, in terminal medical conditions of the kind from which the person is suffering (being the terminal medical condition referred to in section 9(2)(b));

Dr McFETRIDGE: I am happy to deal with amendment Nos. 11 and 12. They say exactly the same thing.

The CHAIR: No; 11 is different to 12.

Dr McFETRIDGE: Sorry, 11 and 14. They are the same.

The CHAIR: We are doing 11.

Dr McFETRIDGE: I am happy to agree with that, yes.

Amendment carried.

Mr PICTON: I move:

Amendment No 12 [Picton–1]—

Page 9, after line 41 [clause 11(1)]—Insert:

(ba) without limiting paragraph (b), the medical practitioner must sight evidence of a kind prescribed by the regulations that the person has lived in the State for at least the preceding 12 months;

Dr McFETRIDGE: I am more than happy to support this.

Amendment carried.

Dr McFETRIDGE: I move:

Amendment No 3 [McFetridge–1]—

Page 10, lines 17 to 25 [clause 11(2)]—Delete subclause (2)

Amendment carried; clause as amended passed.

Clause 12.

Mr PICTON: I move:

Amendment No 14 [Picton–1]—

Page 10, after line 32 [clause 12(1)]—Insert:

(ab) the medical practitioner must be a specialist, or otherwise have expertise, in terminal medical conditions of the kind from which the person is suffering (being the terminal medical condition referred to in section 9(2)(b));

This is identical to the previous No. 11 that I moved.

Amendment carried.

Dr McFETRIDGE: I move:

Amendment No 4 [McFetridge–1]—

Page 11, lines 19 to 27 [clause 12(3)]—Delete subclause (3)

Amendment carried.

Mr VAN HOLST PELLEKAAN: I have a question on clause 12. Is there any limit to the number of times that a medical practitioner could fill the role of the second assessor?

Dr McFETRIDGE: No.

Clause as amended passed.

Clause 13.

Dr McFETRIDGE: I move:

Amendment No 5 [McFetridge–1]—

Page 11, lines 31 and 32 [clause 13(1)]—Delete 'this Part, an examination and assessment of a person by a psychiatrist' and substitute:

section 10(1)(d), an examination and assessment of a person

Amendment No 6 [McFetridge–1]—

Page 11, after line 32 [clause 13(1)]—Insert:

(aa) the examination and assessment must be conducted by a mental health professional;

Amendments carried.

Dr McFETRIDGE: I move:

Amendment No 7 [McFetridge–1]—

Page 11, line 33 [clause 13(1)(a)]—Delete 'psychiatrist' and substitute 'mental health professional'

Amendment No 8 [McFetridge–1]—

Page 11, line 34 [clause 13(1)(b)]—Delete 'psychiatrist' and substitute 'mental health professional'

Amendment No 9 [McFetridge–1]—

Page 12, line 5 [clause 13(2)]—Delete 'psychiatrist' and substitute 'mental health professional'

Amendment No 10 [McFetridge–1]—

Page 12, line 7 [clause 13(2)(a)]—Delete 'psychiatrist's' and substitute 'mental health professional's'

Amendment No 11 [McFetridge–1]—

Page 12, line 11 [clause 13(3)]—Delete 'psychiatrist' and substitute 'mental health professional'

Amendment No 12 [McFetridge–1]—

Page 12, after line 15—Insert:

(5) In this section—

mental health professional means—

(a) a psychiatrist; or

(b) any other person of a class prescribed by the regulations for the purposes of this definition.

Mr PICTON: Is this consequential to the previous vote that we had on 'mental health professional', changing that from 'psychiatrist'? Is it general practice that these things flow through to the rest of the bill and so you are sticking to that previous amendment that was made at the beginning of the bill?

Dr McFETRIDGE: Yes, this is normal practice, but I can reiterate or confirm my private conversation with you and the member for Lee earlier, that I will be happy to talk to you about this between the houses.

Mr GRIFFITHS: I know we have had a significant debate about this, but it is a reference to the fact that it says, 'In this section', only. I know we talked about the appropriateness of: therefore, does it only relate to this? Is that still an issue that could be addressed in a better way?

Dr McFETRIDGE: I am advised by the learned lawyers in this place that it may be better placed back in the definitions, and we will endeavour to make sure that that does happen.

The Hon. S.C. MULLIGHAN: I reiterate my concerns about devolving the role of the person who occupied the position of psychiatrist to this mental health professional definition. While I appreciate your offer to deal with this between the houses, it would be my suspicion that there will

not be an opportunity to deal with it between the houses if that definition remains in the bill. Make of that what you will, but that is the importance of this issue.

Dr McFETRIDGE: I can give the committee, and particularly the members for Kaurna and Lee, my assurance that I am more than willing to amend this back to 'psychiatrist' but, given the hour, rather than doing it tonight we will do it at a later stage.

The Hon. S.C. MULLIGHAN: How?

The CHAIR: Between the houses.

The Hon. S.C. MULLIGHAN: I cannot make it any clearer how much of a threshold this issue is, not just for me but for a number of members, when it comes to this legislation. I have made it clear many times over, almost to anyone who will listen, what the major threshold issues for me are and the devolution of an important position in this sort of regime, that position being a psychiatrist, to some sort of ill-defined mental health professional is unacceptable.

My understanding is that, given that we have the very unexpected, and certainly not agreed to, devolution of the position of psychiatrist to a mental health professional at the first clause, which was amended, the only remedy for this can be that, after the completion of the consideration of all of the clauses and before the third reading, there is one last opportunity to revisit a clause. Unless it is remedied at that juncture, I can almost guarantee the member for Morphett that it will not have the opportunity to be amended between the houses.

The CHAIR: Member for Lee, can I just remind you that, with amendment [McFetridge-2] 1 which amended clause 3, we have already deleted 'psychiatrist' and put in 'mental health professional' once. Is that a problem for you as well?

The Hon. S.C. MULLIGHAN: Indeed, yes.

The CHAIR: Let's see how we can help here.

Dr McFETRIDGE: I can tell the committee that I will be withdrawing amendments 7 to 12 inclusive. To satisfy the threshold issue for the member for Lee and perhaps some others in this place, I understand that we can, in committee, revisit that particular clause that the member for Lee has those concerns about and then deal with it at a later stage.

The Hon. M.J. ATKINSON: Just to be clear, I am having a little trouble following what is happening. My understanding is I moved an amendment earlier which would have been what the member for Lee wanted, or resisted a clause—

The CHAIR: Sorry, this is at the very beginning. Your amendments were at the title and No. 3.

The Hon. M.J. ATKINSON: Yes, No. 3.

The CHAIR: Which has nothing to do with psychiatrists or mental health professionals.

The Hon. M.J. ATKINSON: I am just finishing, so I am sorry.

The CHAIR: We are now trying to withdraw amendments 7 to 12, which leaves the word 'psychiatrist'.

Dr McFETRIDGE: I seek leave to withdraw my amendments 7 to 12.

Leave granted.

The CHAIR: We are now looking at getting rid of those. We already have amendments 5 and 6 to clause 13, so we are now looking at amendments 16 and 17 [Picton-1] which are from the member for Kaurna. Amendments Nos 7 to 12 have been withdrawn, so we are not voting on them at all. We are now moving to amendments Nos 16 and 17 in schedule 1, which also affect clause 14.

The Hon. M.J. ATKINSON: Have we moved on from that previous clause?

The CHAIR: Sorry, underneath all of this writing, you are quite right, there is a little 14 hiding, apologies.

The Hon. M.J. ATKINSON: I do not think I was mistaken in my last contribution on the question the member for Lee raises. I resisted an amendment made by the member—

The CHAIR: Sorry, I thought you said you put an amendment.

The Hon. M.J. ATKINSON: —for Morphett. We divided on it and I lost.

The CHAIR: Yes, but we are now at the point, sir, where we are talking about it at the end. Before we finish the bill off completely, we will go back to that.

The Hon. M.J. ATKINSON: So we can simply recommit a vote on which the house has divided?

The CHAIR: I am looking at standing order 253, one of my favourite numbers:

After all clauses and schedules have been considered, the reconsideration of any of them may be moved.

It is a beautiful one, is it not? Keep that for future reference. The member for Croydon is exactly right because under all of this writing is a small 14, so we are looking at amended clause 13.

Clause as amended passed.

Clause 14.

Mr PICTON: I move:

Amendment No 16 [Picton–1]—

Page 12, lines 20 and 21 [clause 14(1)(a)]—Delete '(who may, subject to subsection (2), be related to, or known by,' and substitute:

(only 1 of whom may be related to

Amendment No 17 [Picton–1]—

Page 13, after line 4 [clause 14(2)]—Insert:

(ab) a health professional who is providing health care to the eligible person;

Both of these amendments deal with witnesses. The first amendment states that only one of the witnesses can be a relative. The second amendment states that somebody involved in the health care of that person cannot be a witness. This is partially already covered in saying that a hospital employee cannot be a witness, but, of course, a lot of people receive care outside of a hospital or institution, so I think it needs to be extended.

Amendments carried; clause as amended passed.

Clause 15.

The Hon. J.M. RANKINE: This is about the revocation of a request for voluntary euthanasia. Clause 15(2) provides:

(2) A written, oral or any other indication of the revocation of, or of a person's wish to revoke, a request for voluntary euthanasia is sufficient to revoke the request…

Could the member for Morphett tell the committee how and where those revocations can be lodged and how a person giving an oral revocation could be assured that that was going to be enacted?

Dr McFETRIDGE: Clause 15(1) provides:

(1) A person who has made a request for voluntary euthanasia may revoke the request at any time.

So it can be done at any time. Subclause (2) provides:

(2) A written, oral or any other indication of the revocation of, or of a person's wish to revoke, a request for voluntary euthanasia is sufficient to revoke the request (whether or not the person is mentally competent when the indication is given).

That can be given in any form.

The Hon. J.M. RANKINE: Member for Morphett, to whom is the revocation given? If someone writes a written revocation, who is that given to and how is it lodged? How do you make sure that it is enacted? If someone makes an oral request, what do they verbally tell their doctor? Do

they tell the nurse? Does someone record it on nursing notes or, if they are at home, how does anyone know that their request is going to be honoured?

Dr McFETRIDGE: Any and all of the above. Really, it is there—

The Hon. J.M. RANKINE: Member for Morphett, this is really serious. This is really important. When someone has permission to enact euthanasia and in whatever circumstances—perhaps like the lady that Dr Nitschke was going to help euthanase—perhaps they find out they are not as sick as they thought they were or they have just simply changed their mind, how do they revoke it?

I could say to you, 'I want to revoke my request,' but I get taken to hospital so who is telling the doctor? Who is telling the nurses? I go in and I am unconscious, for whatever reason, and he says, 'Well, she did ask to be euthanased.' Where is this recorded? How is it recorded and how can people be sure that their wishes will be carried out? And do not tell me 'All of the above', it just does not cut it.

Ms REDMOND: Could I perhaps make a comment that might be of some help to the member for Wright in terms of other legislation that we have dealt with? The member for Croydon and I had a very long debate in this chamber one night about a change to the law on rape in this state. We had quite a lengthy debate about the fact that, of course, it is the right of any person to change their mind at any point. We did not need to, in that case, traverse it. A woman who wants to change her mind can change her mind at any time and communicate that in whatever way she wants.

There are no records kept of it but it is nevertheless the law that was brought into this state, and I would submit to the member for Wright that the same thing would apply in this case. It may be that someone panics at the last minute and just puts up their hands. Any form of communication will be sufficient and it would be impossible for legislation to be drafted which would encompass the spectrum of the possibilities of the different mechanisms of communication that could be used and the different ways in which it could be given to a variety of people and/or recorded or not. So long as they make their changed intention known in some way, the obligation is then on the person receiving that message to obey the terms of the legislation.

The Hon. J.M. RANKINE: In fairness, something like this is quite different to the situation that the member for Heysen just outlined. No-one gives written permission to engage in sexual activity and then indicate, in whatever way, that they do not want to participate in that. They can certainly say, 'No, I don't want to,' and that is fine, but this is quite different. This is people, having gone through quite a significant process and being given approval to be euthanased and they want to change their mind and revoke that document. Who holds the document to start with and how can they revoke that document? Who records it? Who ensures that those wishes are carried out?

Dr McFETRIDGE: The legislation as it is set out here, you really cannot make it more prescriptive. If somebody commits a crime because there is a revocation in place, they be at the full penalty of the law. There are significant penalties under the crimes act. I am no lawyer. A person can do that. This could be recorded with anybody. It says 'written, oral or any other indication' and later 'revoke the request' at any time. You cannot be any more prescriptive than that.

Mr DULUK: Picking up on what the member for Wright has been talking about, and I think it is a fair question, if there is to be a written indication revoking your request, to whom is that written request given?

An honourable member interjecting:

Mr DULUK: And, indeed, oral as well, and any other indication. For example, is a text message or an email sufficient as well? If it is written, to whom do you provide that written notice?

Dr McFETRIDGE: This is why it is so broad—because you can revoke this at any time. 'A written, oral or any other indication' can be given. It is sufficient. You cannot be more prescriptive than this. If it is an SMS, well, then—

Mr DULUK: I could write a note and put it in my top drawer. That is not revoking a request. It needs to be communicated to somebody to know that that request has been put forward. So, to whom would you give a written request in the case where you want to revoke your desire for voluntary

euthanasia? Is there a register? Is it to your practitioner? If at the time that you are admitted and you are in hospital, do you give it to the head nurse on the ward? To whom do you give your notification to remove your desire for euthanasia? In fact, it is quite simple, and it is probably one of the most important bits in this whole piece of legislation in terms of a safeguard, and I am certainly not satisfied with the answer whatsoever.

The Hon. S.W. KEY: I am trying to think about the situation and trying to answer your question.

Mr DULUK: I am asking the member for Morphett.

The CHAIR: Yes, well, he is having think music, think of it that way, and the member for Ashford is talking while he is thinking.

The Hon. S.W. KEY: I am trying to think about some real situations. I think the questions are quite reasonable, and I understand exactly why you are asking them. I am assuming that someone is in palliative care, in a hospice or in a hospital. Somebody would be responsible for your case and your casenotes. It might differ in different settings, but somebody would look after the fact that you have made the request and gone through the process and have your records, probably your advance care directive and everything else that is relevant to you, your case and your condition.

That would be the first thing I would see. If a person were at home, I imagine that someone would be responsible for your particular case and the fact that you are at home receiving care and, in some cases, palliative care. Under the Consent to Medical Treatment and Medical Care Act, there is a whole process for people to be able to revoke treatment, for example. There is a whole process for people to be able to communicate that they do not want this medication or that medication.

I am saying to people that I am trying to imagine what it would be like to be a person who has been identified as having six months to live, which is the limit we are putting on a person's likely life. They have a terminal medical condition, they qualify for everything, but then they change their mind. I suppose what we are saying here is that under those circumstances a person should be able to communicate, hopefully, in some way to say, 'I don't want to go ahead with it.' It is the same with medical treatment in all sorts of different settings. People make it clear.

At the moment, people say, 'I don't want to be fed. I don't want to have any liquid anymore. Because you won't assist me, I'm going to die slowly,' or, 'I'm going to stop having medication,' or, 'I'm going to take off my respirator off,' or, 'I'm going to take this sort of action.' What we are trying to do is to avoid people having to go to those lengths to end their life by their choice under all the criteria that we have got for them. The member for MacKillop is talking about jumping through hoops—I think that is a very interesting metaphor for someone who is on their last legs. We need to think about what would happen.

Obviously, if someone does not want to go ahead, it is a really serious issue. I completely understand what the member for Davenport and the member for Wright are saying but I think, at the moment, somehow, palliative care and people changing their mind about their treatment and medication is dealt with. It may not be dealt with fantastically, but it is dealt with. I have some faith that doctors and health professionals involved in this process would take this very seriously if they were thinking that the person had changed their mind and wanted to revoke their request.

Ms REDMOND: Like the member for Ashford, I understand the serious concern that people are expressing about this issue. Could I make a suggestion that under clause 11(1)(c) we may find some comfort. Clause 11(1)(c) requires that when you are going to the process of getting the consent to voluntary euthanasia approved:

(c) the medical practitioner must give to the person the following information in writing:

(i) a diagnosis and prognosis of the terminal medical condition from which the person is suffering;

(ii) information explaining the forms of treatment that are reasonably 5 available to treat the terminal medical condition from which the person is suffering and the risks associated with such treatment;

(iii) information explaining palliative care options that are reasonably available to the person;

(iv) information setting out the medical procedures that may be used to 10 administer voluntary euthanasia and the risks associated with the procedures;

(v) information explaining that, just because a person makes a request for voluntary euthanasia, the person need not actually end their life;

(vi) any other information required by the regulations for the purposes of 15 this subsection.

I would suggest that it might be appropriate to consider putting into the regulations, or maybe, if it gets to go between the houses, a provision that the possibility of changing your mind, even at the last instant, and communicating your change of mind in whatever manner, might be incorporated, either as a matter of something to go into that clause between the houses, or into the regulations in due course.

The CHAIR: Member for Morphett, how is that sounding to you?

Dr McFETRIDGE: I think the member for Heysen is giving some very good advice to this committee and I think the member for Ashford has also added to this. This is a very serious issue, so if there is a way that we can improve the safety of this, as I have said all through this, let's look at that—let's look at it either between houses or look at it under that subclause (11)(1)(c)(vi).

The CHAIR: The member for Davenport has a third question.

Mr DULUK: I have a third question and a clarification. I appreciate the member for Ashford's contribution, and I think you are probably right, the member for Ashford, in terms of how it may happen in a practical sense. But, that is not what is written into this legislation, nor should this legislation pass in its current form. We will then have a piece of legislation that will have to be dealt with and is silent on that consent.

There is that ideal world—and the member for Morphett has been in the ideal world for most of tonight—but that is not what we are actually dealing with here. The member for Heysen is probably right that there might be some regulations, but we have not seen the regulations. What you are asking the house, and especially those members who are possibly unsure in their position in terms of this bill, is to make a call that says the regulations between the houses will somehow provide us with information of how you can withdraw consent from possibly one of the most important clauses in the bill.

For me, I do not think that is a satisfactory response. It would be much better if we saw something right now that would actually be happening. The member for Morphett has not even indicated that a written slip to your specialist will be satisfactory to meet this. I do not think those who have written this clause have given any proper consideration as to how you withdraw consent and how that can be dealt with in the heat of the moment, especially where someone is placed in a hospital situation or away from home, away from a guardian, and away from a loved one who was there at that time of need.

Dr McFETRIDGE: I will be more than happy to look at this being covered in the regulations.

Clause passed.

New clause 15A.

Mr PICTON: I move:

Amendment No 18 [Picton–1]—

Page 13, after line 19—Insert:

15A—Revocation of request for voluntary circumstances where medical practitioner withdraws certification

(1) If, after a person makes a request for voluntary euthanasia but before voluntary euthanasia is administered to the person pursuant to the request, the medical practitioner who completed the certification required under section 10(1)(g) in respect of the request becomes aware that—

(a) the person was, in fact, acting under duress, inducement or undue influence in relation to the request; or

(b) any other opinion of the medical practitioner certified under that paragraph was not, in fact, correct,

the medical practitioner may withdraw their certification.

(2) Before withdrawing certification, the medical practitioner must, as soon as is practicable and in accordance with any requirements set out in the regulations, notify the following persons of the withdrawal of the certification (and the consequent revocation of the request for voluntary euthanasia):

(a) the person who made the request for voluntary euthanasia;

(b) the pharmacist to whom the prescription for the drug to be used to administer voluntary euthanasia to the person was sent;

(c) any other person prescribed by the regulations for the purposes of this paragraph.

(3) On certification being withdrawn—

(a) the request for voluntary euthanasia will, for the purposes of this Act, be taken to be revoked; and

(b) —

(i) if a drug to be used to administer voluntary euthanasia pursuant to the request has not been dispensed—the prescription for the drug will be taken to be void and of no effect; or

(ii) if a drug to be used to administer voluntary euthanasia pursuant to the request has been dispensed—the person who made the request must, as soon as is reasonably practicable after being notified under subsection (2), cause the drug to be destroyed or disposed of in accordance with the requirements set out in the regulations.

(4) Revocation of a request for voluntary euthanasia under this section will be taken to have effect from the time notice is given to the person who made the request under subsection (2)(a).

The reason for introducing this amendment is that, currently, if a doctor was to find out that information was not as it seemed at the time of granting the request, there would be no way for revoking that request, so this new section sets out a process for that.

Dr McFETRIDGE: This is a very good amendment.

New clause inserted.

Clauses 16 to 20 passed.

Clause 21.

Mr PICTON: I move:

Amendment No 19 [Picton–1]—

Page 16, after line 2—Insert:

(3) For the purposes of the *Births, Deaths and Marriages Registration Act 1996*, the fact that a person's death resulted from the administration of voluntary euthanasia must be recorded in the Register under that Act.

As members may know, the bill as it is currently drafted has a provision whereby the death certificates will primarily note that the cause of death was the terminal illness, rather than euthanasia. I have some nervousness about that. I would feel more comfortable if the register, which is a broader document held by the Registrar of Births, Deaths and Marriages, would note that this act came into play as well in the death of that person.

Ms REDMOND: I have no objection to what the member for Kaurna is suggesting, but I wonder whether what he is contemplating, just by way of clarification, is that both things be recorded? I would have thought that, for family historical purposes, for instance, they might want to know that Uncle Fred, or whoever it was, actually had terminal cancer. I have no difficulty with the idea that it be recorded that he then chose voluntary euthanasia, but we cannot just put that it was voluntary euthanasia without putting the actual underlying illness, which has to exist in any event for the person to access it. I do not think it needs any further amendment, but is the intention that the underlying terminal illness is recorded, as well as the fact that it has been by administered VE?

Mr PICTON: The answer to the member for Heysen's question is yes. The provision in the bill at the moment stays, which says that the primary cause is the terminal illness, so cancer or whatever the case may be. This is a new section which would say, in addition to that, that the register would also note voluntary euthanasia.

The Hon. M.J. ATKINSON: I support the amendment and commend the member for Kaurna for moving it. It is a very sensible addition which will ensure truthfulness in record-keeping.

Mr WINGARD: For clarification, with the recording of euthanasia as the cause of death, would the other terminal illness, for want of a better term, be recorded on the certificate as well or be kept in records—if motor neurone disease, for example, was the underlying terminal illness—for the purpose of upholding statewide statistics? Also, if, over the course of time, there was an increase in the level of deaths because of that disease, would it still be documented and kept in record?

Mr PICTON: The answer to that is yes because the section as it is at the moment stays. It states that the record in the register will be for the primary cause of death for the terminal illness, whether that is motor neurone disease, cancer, or whatever the case may be, so that will still be there for all statistical purposes.

Amendment carried; clause as amended passed.

Mr GRIFFITHS: Chair, I must sincerely apologise to the house for this, but there is a question I have on clause 19(3).

The CHAIR: That is a long time ago now. One single question?

Mr GRIFFITHS: It relates to clause 19(3), that the administering authority of a hospital, hospice, nursing home could refuse to admit someone. I am a bit intrigued by this. There are multiple examples of it here, but what if it is a public hospital? Is it a decision made by Health SA to allow voluntary euthanasia? If that permission is not in place, does that mean that people who might wish to pursue it are unable to be admitted to public hospitals?

Dr McFETRIDGE: Member for Goyder, it is a good question. This is intended particularly for the religious institutions that have grounds to object to this legislation and the associated actions.

Mr GRIFFITHS: I can sort of recognise that, but because of the inclusion of the word 'hospital', it does not define it as being a private community or anything like that; it just talks about 'hospital', which can be, therefore, a public hospital, too.

Dr McFETRIDGE: I am advised that if this was to be requested in a public hospital, to accede to that request, for them to not decide to administer it, it would have to come to this parliament.

Ms Redmond: It's a public hospital.

Dr McFETRIDGE: It is a public hospital, yes.

The Hon. S.W. KEY: I am just seeking some clarification. Are you referring to clause 19?

Mr GRIFFITHS: 19(3).

The Hon. S.W. KEY: One of the things that I think we probably need to remember is that there has been a view all the way along that there are people who will personally have a conscientious objection wherever they work—whether it is public, private, faith, hospital, hospice—so we need to make a provision for them, and they should not be discriminated against for doing that. That is for an individual worker, doctor, whomever is appropriate.

With regard to the actual organisation itself, assuming this legislation gets up and we have assisted dying legislation in this state, it will be really important for different organisations to make it clear what their policy is. At the moment, for example, when you go to a particular hospital, particularly some of the faith hospitals, and you make it clear that there are certain things that you require—for example, you do not want to be revived, you do not want to be kept alive unnecessarily, all those sorts of things—they are the things that are discussed when you go into that particular situation. In a public hospital, they also have those conditions.

It is very interesting that, when you look at what the reality is, at the moment many people make those provisions and/or, as I was saying earlier, refuse to have medication, refuse to have assistance, and make sure that they die for that reason. I think we have to get the legislation through, and then it will be up to organisations to make it clear what their policy is, and some of that may be disputed, but I think that is as far as we can go with that.

Clause 22.

Mr PICTON: I move:

Amendment No 20 [Picton–1]—

Page 16, after line 18—Insert:

(4) The Coroner must cause statistical information relating to deaths resulting from the administration of voluntary euthanasia during the preceding financial year to be included in the Coroner's annual report under section 39 of the Coroners Act 2003.

This relates to the section regarding the Coroner. The Coroner receives information under this bill but does not provide any information as to how things are going, so I have recommended that the Coroner should publish statistical information in its annual report.

The CHAIR: Member for Morphett, are you happy with that?

Dr McFETRIDGE: I am more than happy.

The CHAIR: The member for Light has a question. On this amendment?

The Hon. A. PICCOLO: Yes, this one and the previous one.

The CHAIR: Sorry? This one and the previous one?

The Hon. A. PICCOLO: Yes, please.

The CHAIR: It is very late but off you go.

The Hon. A. PICCOLO: With the recording on the death certificate, there are two things—one, that the person died from the primary illness, and also the euthanasia. I assume that will be a public document.

Ms Redmond interjecting:

The Hon. A. PICCOLO: It can be. What are the issues around privacy of the person's circumstances? What are the implications for a person, and I am not expecting legal advice but some assistance, in terms of any personal insurance they may have?

The CHAIR: Insurance?

The Hon. A. PICCOLO: Yes. The reason I raise it here is by insisting it be in the public document on the death certificate—and I understand why it has been moved that way. It makes that event public and, therefore, what the implications might be for that person and their family.

The CHAIR: So, do you have that? It is about insurance as well.

Dr McFETRIDGE: I was distracted again. I am sorry, member for Light. Could you please repeat the bit about the insurance?

The CHAIR: He wants to know if the recording is going to be a public document.

The Hon. A. PICCOLO: I think these are both the member for Kaurna's amendments, and I am not disagreeing. But given that one of the objections I have is that I do not think this sort of thing should be a public process at all. I do not think people should be a public process. That will insist on that information being recorded publicly, therefore you remove that person's privacy, and that is one thing. The second thing is: what implications would it have? I understand there might be a provision later which protects people from any insurance implications.

Mr PICTON: I will attempt to answer. The Attorney might wish to provide any further information. What the bill says initially is that the primary cause, which would be the information that would then go on the death certificate, would be the cause of the terminal illness, then that is the bit

that would be the most publicly accessible, although I would think that there are a few hurdles to jump before you get access to a death certificate.

What I suggested in my amendment was not adding into that information that would go into the death certificate but adding it into the register that the Births, Deaths and Marriages have, which as I understand it, and the Attorney may wish to add to, is a much broader file of information that they have access to. I am not of the understanding that the public could get access to all that information that sits behind what are the publicly attainable documents.

Ms REDMOND: I want to clarify that position because in my practice I spent many times in the Births, Deaths and Marriages office. It used to be the case that it was quite public. Virtually anyone could go in and get anyone's details—birth, death or marriage certificate—and in the last few years that has been dramatically tightened up. Unless you have an actual degree of consanguinity, which is the legal term for closeness of relationship, you will not be able (although you can apply) to access the information.

Further, on the question of insurance, my understanding is that because of the stuff that I put on the record before about the nature of the insurance industry's acceptance of terminal illness and so on, the fact that they have qualified by way of applying and being found to have a terminal illness under the act is actually more likely, I would suggest, to help an insurance claim than to hinder it. It will not affect anything like a suicide or something like that. It is a separate category.

Amendment carried; clause as amended passed.

Clauses 23 and 24 passed.

Clause 25.

Mr PICTON: I move:

Amendment No 21 [Picton–1]—

Page 17, lines 19 to 22—Delete clause 25 and substitute:

25—Nominated person

A person who has made a request for voluntary euthanasia must, in accordance with any requirement set out in the regulations, nominate a person for the purposes of sections 25A and 26 (the *nominated person in respect of the request for voluntary euthanasia*).

25A—Storage of drugs

(1) A drug that has been dispensed for the purposes of administering voluntary euthanasia to a person must, except when it is being so used, be stored in a secure area in accordance with the requirements set out in the regulations.

(2) If a drug is stored in contravention of subsection (1), the nominated person in respect of the request for voluntary euthanasia is guilty of an offence.

Maximum penalty: $5,000.

This additional change in amendment No. 21 is regarding the storage of drugs. A new section was added in the current bill that was not in the previous bill that the parliament discussed. However, it does not really nominate who is responsible for the storage and any mechanism for accounting them to make sure that they do what the act says they should do. So, I have added this extra section.

Amendment carried; clause as amended passed.

Clause 26.

Mr PICTON: I move:

Amendment No 22 [Picton–1]—

Page 17, line 28 [clause 26(1)]—After 'destroyed or disposed of' insert:

by the nominated person in respect of the request for voluntary euthanasia

Amendment No 23 [Picton–1]—

Page 17, lines 30 and 31 [clause 26(2)]—Delete subclause (2) and substitute:

(2) If the nominated person in respect of a request for voluntary euthanasia refuses or fails to comply with subsection (1), that person is guilty of an offence.

Maximum penalty: $5,000.

These follow on from the last amendments.

Amendments carried; clause as amended passed.

Clauses 27 and 28 passed.

New clause 28A.

Mr PICTON: I move:

Amendment No 24 [Picton–1]—

Page 18, after line 6—Insert:

28A—Alteration etc of documents

A person who knowingly alters, forges, conceals or destroys a request for voluntary euthanasia form, or any other document or instrument that indicates the wishes of a person in relation to a request for voluntary euthanasia, is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

This is adding a new offence, which almost comes word for word from the Oregon bill, to extend an offence relating to alterations, forgeries, and concealing and destroying documents relating to the voluntary euthanasia requests or any other instrument attached.

The Hon. J.M. RANKINE: In relation to that particular clause, does that also apply to revocations?

Mr PICTON: It is defined as 'any other document or instrument that indicates the wishes of a person', which I would take to mean that a revocation would indicate the interests of a person, if it was the person's own revocation. Potentially, the only revocation that might not be covered by this section would be a revocation on behalf of a medical practitioner, which might not fit into this definition.

The Hon. J.M. RANKINE: But it says 'indicates the wishes of a person in relation to a request for voluntary euthanasia'. So, it is any other document or instrument, but it is in relation to a request for euthanasia.

Mr PICTON: My interpretation of this would be that if you are indicating your request to revoke a euthanasia request, then that would be in relation to a request for voluntary euthanasia. I am happy to consider any other suggestions by any members in that regard.

The CHAIR: Member for Wright, are you happy?

The Hon. J.M. RANKINE: I would be happy if there are some things that are going to be dealt with between the houses that an inclusion be put in there to make it an offence to ignore a revocation as well.

The CHAIR: Member for Morphett, the member for Wright is asking if you would be happy to consider between houses doing something about revocations?

Dr McFETRIDGE: I am reasonably satisfied with what we have, but certainly I would be more than happy to talk to the member for Wright and do something between houses.

New clause inserted.

Clause 29.

Mr PICTON: I move:

Amendment No 25 [Picton–1]—

Page 18, line 8—Delete 'or 28' and substitute ', 28 or 28A'

This is a very simple follow-on amendment.

Ms REDMOND: This is consequential to the other one.

Amendment carried; clause as amended passed.

New clause 29A.

Mr PICTON: I move:

Amendment No 26 [Picton–1]—

Page 18, after line 12—Insert:

29A—Prohibition on advertising voluntary euthanasia services

(1) A person must not advertise a voluntary euthanasia service.

Maximum penalty: $50,000 or imprisonment for 6 months.

(2) Subsection (1) does not apply to—

(a) the provision of information to a person that is required or authorised under this or any other Act; or

(b) assistance or information relating to voluntary euthanasia provided to a person at the person's request; or

(c) an invoice, statement, order, letterhead or other document ordinarily used in the course of business; or

(d) an action of a kind prescribed by regulation for the purposes of this paragraph.

(3) For the purposes of subsection (1), a person *advertises a voluntary euthanasia service* if the person—

(a) takes any action designed to publicise or promote the provision of services relating to voluntary euthanasia (however described); or

(b) takes any other action of a kind prescribed by regulation for the purposes of this paragraph.

This is something I am pretty passionate about. I do not want to see anybody advertising a voluntary euthanasia service. I do not want to see it on billboards and I do not want to see it in the newspaper, so I think we should be very clear to prohibit any advertising along those lines.

Dr McFETRIDGE: I thank the member for Kaurna for his diligence with this bill, particularly in regard to a couple of these which relate to equipment and advertising. I think they are really good additions.

Mr GRIFFITHS: I completely agree with the amendment. I do not think there is any question about structurally how it works. Advertising for these services is abhorrent, and I agree with that, but how is it regulated? Can I presume that if someone through some method somehow finds some form of advertisement for someone to provide a service do they report it to police; is that how it is pursued? The police then take action against them?

Mr PICTON: I would think that the police would be the appropriate people to take action, and then they would bring somebody before the court if they did offend this particular section.

New clause inserted.

Clause 30.

Mr GRIFFITHS: Subclause (2) states that 'this section applies despite any agreement'. That is amazing to me, that agreements that are entered into by a firm to provide a level of insurance cover and by a person, willingly, who signed up for it, that suddenly the conditions attached to that are overwritten. I am just looking for some details.

Ms REDMOND: The intention of this is very much like other bits of legislation that are designed at consumer protection so that the insurance company cannot avoid the provisions of clause 30 by having a nice little section stuck into their insurance policy buried in the fine print, as it were, there is no way known that any person entering into an insurance policy, knowing that there was the protection here in the law, would actually seek to subvert it.

It is only an insurance company that would be seeking to avoid the consequences of clause 30, and the intention of that particular phraseology, which is quite common in consumer protection, is to make sure that the insurance company cannot say, 'Notwithstanding what your law says, this person has signed our agreement and our contract and they have dudded themselves.'

Mr GRIFFITHS: I have a question then. On the basis that South Australia passes this legislation, and for those who decide to have insurance from South Australia, what if an insurance company writes into a contract that there is a minimum qualifying period before a voluntary euthanasia can be undertaken by an individual, that you have to have been insured with this company for three, five or whatever number of years.

I am not saying that people would do this deliberately, but are you able to take out a substantial level of insurance on the basis of an existing illness, probably. That would also be a challenge because medical testing would occur before that. I understand that. I am really interested in whether there is any qualifying period. In the research you have done on overseas instances of this, is insurance dealt with in exactly the same way, or is there any form of concern?

Dr McFETRIDGE: The current situation with insurance is that it is referring to physician-assisted suicides and suicides. They are covered by insurance policies. You have to be insured for 13 months before the time of death. That is why, before I was comfortable with the 12-month period, that all the insurance companies that are willing to undertake insurance with life insurance have in their policies a clause for suicide, which this obviously is not, and it is at 12 months. They do not seem to have any issues with this.

Clause passed.

Clauses 31 and 32 passed.

Clause 33.

Mr PICTON: I move:

Amendment No 27 [Picton–1]—

Page 19, after line 38—Insert:

(3) The Minister may, by notice in writing, require the Coroner to provide to the Minister such information as the Minister may reasonably require for the preparation of a report under this section.

The current bill states that the minister should give a report to the house on the operation of the act every year. The only problem with that is that the minister has no information upon which to give such a report because no-one is providing any information to the minister. I have suggested this amendment so that the minister can get the information from the Coroner that they would need to provide the information to the house.

Amendment carried.

Mr GRIFFITHS: This may be a silly question, and I apologise if it is. Clause 33 refers to the annual report of the operation of the act and that it goes to the minister. I am intrigued to know which minister it is.

Dr McFETRIDGE: This is, in reality, a public health act, so I would imagine that it is the Minister for Health, but the Minister for Health might want to comment.

The Hon. J.J. SNELLING: The government of the day assigns various acts of parliament to various ministers, so it could be the Minister for Health or it could be the Attorney-General.

Clause as amended passed.

Clause 34.

Mr PICTON: I move:

Amendment No 28 [Picton–1]—

Page 20, line 4 [clause 34(2)]—Delete 'before the fifth' and substitute:

after the second, but before the third,

Currently, the bill says that there would be a review undertaken after five years of operation. I think that that is far too long and that almost the earlier the better. I have recommended that between two and three years a review of the act should be undertaken. I should add that, if this were to get up, there would need to be a lot of work done and, since this was a private member's bill, and actually looking at this now and how it interrelates with all the acts and provisions and procedures in hospitals and across the health system generally, well before this review.

Amendment passed; clause as amended passed.

Clause 35.

Mr PICTON: I move:

Amendment No 29 [Picton–1]—

Page 20, lines 12 and 13 [clause 35(2)(a)]—Delete paragraph (a)

This was a very weird provision and I suggest we delete it.

Amendment carried.

Mr GRIFFITHS: I have a question on clause 35(3)(e), which provides 'apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the minister or another specified person or body'. I am pleased that the Minister for Planning is in here, because with the Planning, Development and Infrastructure Bill, with the implementation of the Environment and Food Protection Area, he was very strong on the principle that it was not a ministerial decision but that it was a debate of the parliament to occur.

I am intrigued as to what the Attorney's position might be, and others in this chamber, about the fact that here we are allowing a minister to determine and to publish that. I understand that it would be disallowable, and I appreciate that, but that means it is able to be introduced again immediately. I compare that other legislation, which was also significant in its structure, and the Minister for Planning was quite outspoken on the fact that it was the parliament that makes the decision, not the minister. I just raise that point here.

Dr McFETRIDGE: I am advised that this is a standard clause in regulation-making clauses in legislation.

The Hon. A. PICCOLO: I am just trying to clarify, following on from the member Goyder's question, what is the purpose of 35(3)(a) and 35(3)(b), given 35(1)?

Dr McFETRIDGE: I am advised that these are standard clauses in this particular section of bills covering regulations.

The Hon. A. PICCOLO: That is like saying that the sky is blue because it is blue, that is what you are telling me. I am asking what the purpose is—

Dr McFetridge interjecting:

The Hon. A. PICCOLO: No, this is your bill—

The CHAIR: Order! You have asked your question. You want further information?

The Hon. A. PICCOLO: I would like an answer, a meaningful one if I could.

Dr McFETRIDGE: This is a standard clause. As it says, it allows you to make regulations of a general or limited application and make different provisions according to the matters or circumstances to which they are expressed to apply. It is a standard clause in all pieces of legislation.

The Hon. A. PICCOLO: Perhaps I will ask the question in a different way: what do clauses 35(3)(a) and (b) add to clause 35(1) that clause 35(1) is insufficient to cover?

Ms REDMOND: Could I perhaps make a contribution at this point?

The CHAIR: Yes, member for Heysen.

Ms REDMOND: I refer the member for Light to the idea that on occasions we have had legislation in this state after a meeting of ministers around the country where they have got together and come to a decision that they will have a national system. If we ended up with all the states following our suit and we ended up with a whole set of different lots of legislation, and then subsequently years down the track they all got together and said, 'Let's standardise it and unify it so it can be used throughout the country,' that provision is what enables us to not have to go back and redo all the regulations exactly the same; we can just adopt a standard set.

The Hon. A. PICCOLO: That does not answer the question, actually. I understand what you are saying, but I do not think it answers the question. The question was quite simply: why do we need subclauses 35(3)(a) and (b), which clause 35(1) does not cover, given that clause 35(1) is very broad and gives the Governor enormous scope? The other thing is, if you are suggesting that we have some sort of national scheme, and that by regulation we agree to some of the states, are you suggesting we change the scheme without reference to parliament?

Ms REDMOND: I apologise to the member for Light because I thought we were still talking about the question originally raised by the member for Goyder on regulation on subclause (4). On regulations under subclauses (3)(a) and (b), they are quite standard ways of expressing the regulation-making power. If there are things that have not been contemplated, or circumstances that have not been contemplated, then yes, you are right; the Governor may make such regulations as are contemplated or necessary or expedient for the purposes of this act.

I would agree that it is broad enough, but over the years the standard wording of the way we express those things in the regulations—if you look at the regulation making power under any number of acts in this parliament in the past 10 years, it has been extended to those standard sorts of provisions to say that they may be of limited or general application. Rather than simply making a regulation, it is making it quite clear that you could say that we are going to make regulations, for instance, with respect to the remoteness question that came up very early in the debate. We might make a regulation about that, and these things will only apply in the case of things where people are in remote circumstances or something like that. It is really only to promote a full consideration, and it is not to derogate from that original regulation-making power in subclause (1).

Mr GRIFFITHS: It is a continuing question from the one that I raised. I will focus on the last couple of words in this sentence that I read out, where 'changes can be implemented or published by the minister or any other specified person or body'. If I can come to accepting that political responsibility rests with the minister—I understand that—instead of the parliament, as in the other example I quoted, I am very upset about the fact that we provide significant opportunity for another unspecified person or body to implement actions and policies here. I cannot accept those particular words. I think that is where there needs to be some modifications. Why are we giving this to someone when we do not even know who they might be, who is not an elected representative, but might make recommendations and all of a sudden it comes into force?

Ms REDMOND: I agree in essence with what the member for Goyder is saying, and I have made the same objection, as indeed has the current Attorney-General over many years in this parliament, that often we would end up with a set of regulations that were actually the regulations under a national code. You are absolutely correct that it does derogate from the authority of the parliament.

It is done constantly in this place. It has been done the whole time that I have been in here. As I say, I remember the member for Enfield standing up when he was still in the back row, talking about the fact that he was objecting to regulations that were being agreed to nationally, but it is just the standard wording.

I have spoken to the drafter of this piece of legislation, and it is just standard wording that is put into the regulation-making power to accommodate the fact that if, in the future, there is some sort of national agreement that says, 'We can unify all this throughout all the states. Everyone just adopt our national code,' all you need to do, instead of having to bring it all through, is get the parliament

to agree to adopt national code X, Y, Z, and that will then apply. It would still come back for debate through the parliament, and would still have the capacity to be disallowed.

Mr GRIFFITHS: I accept the response from the member for Heysen, but we are talking about legislation here that does not exist in any other state.

Ms Redmond interjecting:

Mr GRIFFITHS: No, my point is: why do we need to have provision for scope to make changes based on a national agreement when South Australia will be the only state that is actually considered in the legislation at this stage? Why are the words there?

The CHAIR: You have had three questions, member for Goyder, so we need to think about putting amended clause 35.

Clause as amended passed.

Schedule passed.

Dr McFETRIDGE: I move:

That clauses 3 and 13 be reconsidered.

Motion carried.

Clause 3—reconsidered.

Dr McFETRIDGE: I move:

Amendment No 1 [McFetridge–1]—

Page 4, line 13 [clause 3(3)]—Delete ' mental health professional' and substitute 'psychiatrist'

Amendments 1, 2 and 3 in my name will rescind the original motion and remove the words 'mental health professional' and substitute 'psychiatrist'.

The Hon. S.W. KEY: I am just trying to clarify that this is to accommodate the points that were raised by the member for Lee in an earlier contribution to say that he was uncomfortable about the fact that we had already dealt with the business and replaced 'psychiatrist' with 'mental health professional', so this is to address that particular issue.

The CHAIR: That is correct.

The Hon. S.W. KEY: So, the member for Morphett is trying to allay the concerns raised by the member for Lee and also the member for Kaurna, as I understand it, and maybe the member for Little Para.

The CHAIR: And to have continuity throughout the bill.

The Hon. M.J. ATKINSON: It is a really quite extraordinary manoeuvre given that I argued for this provision. The house heard all the arguments. The house divided on the matter. I lost the division and yet—

The CHAIR: I think this is the point where we say you were right. We acknowledge you. You are acknowledged as superior.

The Hon. M.J. ATKINSON: No, on the contrary. Obviously, my advocacy was inadequate.

The Hon. A. PICCOLO: I would just like to make a comment, if I am permitted. We were here, and the member for Morphett spent a lot of time defending the provision which he now wants to revoke. This really does beg the question: how reliable is this legislation going to be, if you are prepared on the same night—

The CHAIR: The member for Light needs to have a question about the actual amendment, rather than a statement, I am afraid.

The Hon. A. PICCOLO: I do not believe I have to. However, I would like to ask the member for Morphett what has changed his mind and why does he think it is not okay to have those other professionals involved now?

The CHAIR: That is a question: what has changed your mind?

Dr McFETRIDGE: Only dead men and fools do not change their mind.

Members interjecting:

The CHAIR: Order!

Members interjecting:

The CHAIR: Order! There is too much noise; I cannot hear.

Amendment carried; clause as further amended passed.

Clause 13—reconsidered.

Dr McFETRIDGE: I move:

Amendment No 2 [McFetridge–1]—

Page 11, lines 31 and 32 [clause 13(1)]—Delete 'an examination and assessment of a person' and substitute 'an examination and assessment of a person by a psychiatrist'

Amendment carried.

Dr McFETRIDGE: I move:

Amendment No 3 [McFetridge–1]—

Page 11, after line 32 [clause 13(1)]—Delete:

(aa) the examination and assessment must be conducted by a mental health professional;

Amendment carried; clause as further amended passed.

Title passed.

Bill reported with amendment.

Third Reading

Dr McFETRIDGE (Morphett) (04:02): I move:

That this bill be now read a third time.

To get this piece of legislation to this stage is historic. I would like to thank all members for their vigorous debate and instruction during these last hours. I am not apologetic that it has taken this long because it is a piece of legislation that we need to make sure we do get right.

What I ask of all the members in this place is to remember what this legislation is about and particularly who it is about. It is not about us. It is about the Kylie Monaghans of this world. It is about those people out there who are in hospices, homes and hospitals who are seriously suffering and looking to control their future. They are looking to us to control their future. Our constituents put their faith in us, so let's not forget for one moment that this is an historic occasion and we need to consider this legislation and the consequences of our vote today very, very carefully.

I would like to thank each and every person who has been associated with this legislation for the last 25 years. I would like to particularly thank the nurses federation, the South Australian Voluntary Euthanasia Society, Christians Supporting Choice for Voluntary Euthanasia, lawyers for voluntary euthanasia, doctors for voluntary euthanasia and the many other advocates. It would not be at this stage if it was not for their continuing efforts over the last 25 years.

I know there are some people in this place who, fundamentally, cannot support this legislation. They still have those fundamental fears. However, I hope that we have allayed those fears with this lengthy debate because the need to be sure about it is certain. There is one person in particular who I would really like to thank for us getting this far and that is the member for Ashford.

Honourable members: Hear, hear!

Dr McFETRIDGE: The member for Ashford has put up with a serious amount of flak for many years over this—and, mate, well done.

The Hon. J.M. RANKINE (Wright) (04:05): In my second reading contribution I said that this legislation gives me no comfort or confidence. I would ask people, when we commit this bill to the third reading, to think long and hard about the committee process that we have just been through, the contributions that have been made and the inability of the proponent of this bill to be able to answer the most simplest of questions.

When people are concerned about safeguards, ensuring that people are not pressured, that the right processes are undertaken, that all of the safeguards are there, these are the things that the proponents of legislation like this should be able to answer and satisfy people on so that when they vote they know that they are voting for legislation that will deliver what, in their hearts, they want. What we saw tonight was the member for Morphett not being able to answer some of the very simplest, basic questions about safety provisions in this act. I would ask each and every one of you to think long and hard before you choose what side of the house you sit on this evening.

The house divided on the third reading:

Ayes.....23
Noes 23
Majority 0

AYES

Bedford, F.E.	Bignell, L.W.K.	Brock, G.G.
Caica, P.	Chapman, V.A.	Close, S.E.
Cook, N.F.	Digance, A.F.C.	Gee, J.P.
Hildyard, K.	Hughes, E.J.	Key, S.W.
Marshall, S.S.	McFetridge, D. (teller)	Mullighan, S.C.
Odenwalder, L.K.	Picton, C.J.	Pisoni, D.G.
Redmond, I.M.	Sanderson, R.	Weatherill, J.W.
Wingard, C.	Wortley, D.	

NOES

Bell, T.S.	Bettison, Z.L.	Duluk, S.
Gardner, J.A.W.	Goldsworthy, R.M.	Griffiths, S.P.
Hamilton-Smith, M.L.J.	Kenyon, T.R. (teller)	Knoll, S.K.
Koutsantonis, A.	Pederick, A.S.	Pengilly, M.R.
Piccolo, A.	Rankine, J.M.	Rau, J.R.
Snelling, J.J.	Speirs, D.	Tarzia, V.A.
Treloar, P.A.	van Holst Pellekaan, D.C.	Vlahos, L.A.
Whetstone, T.J.	Williams, M.R.	

The SPEAKER: There being 23 ayes and 23 noes, I give my casting vote with the noes.

Third reading thus negatived.

Resolutions

ELECTORAL COMMISSIONER

The Legislative Council passed the following resolution to which it desires the concurrence of the House of Assembly:

That a recommendation be made to His Excellency the Governor to appoint Mr Michael Sherry to the Office of the Electoral Commissioner and that a message be sent to the House of Assembly transmitting this resolution and requesting its concurrence thereto.

At 04:12 the house adjourned until Thursday 17 November 2016 at 10:30.

Estimates Replies

RETURNTOWORKSA

In reply to **Mr KNOLL (Schubert)** (28 July 2016). (Estimates Committee B)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide): I have been provided the following advice:

Under the Return to Work Act 2014 ('the Act') an injured worker is entitled to be compensated for the necessary costs of medical and other services reasonably incurred by them as a result of their work injury.

The amount to be compensated may be either in accordance with a scale of charges I publish as the Minister for Industrial Relations under section 33 of the Act or, if the service is not covered by the scale of charges, to the extent of a reasonable amount for the provision of the service.

The Act also provides that the scale of charges for services provided by a public hospital can be based on the government charges for the relevant service. For 2016-17 I have, upon the recommendation of ReturnToWorkSA, published a separate scale of charges for services provided by public hospitals.

The Minister for Health publishes in the Government Gazette different scales of charges for compensable patients and Medicare patients under the Health Care Act 2008.

It is an offence under subsection 33(16) of the Act for a person who provides a service for an injured worker, knowing the worker to be entitled to compensation for the service under the Act, to charge for the service an amount exceeding the amount allowed under the scale of charges.

RETURNTOWORKSA

In reply to **Ms CHAPMAN (Bragg—Deputy Leader of the Opposition)** (28 July 2016). (Estimates Committee B)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide): I have been provided the following advice:

Subsection 21(3) of the Return to Work Corporation of South Australia Act 1994 provides that the CEO will be appointed by the board of ReturnToWorkSA on terms and conditions determined by the board.

Subsection 21(4) provides that a person must not be appointed as CEO unless the board has first consulted with the Minister about the proposed appointment and the proposed terms and conditions of the appointment.

RETURNTOWORKSA

In reply to **Ms CHAPMAN (Bragg—Deputy Leader of the Opposition)** (28 July 2016). (Estimates Committee B)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide): I have been provided the following advice:

The tables below provides the numbers and percentages for the registered scheme from 1 July 2013 until 28 July 2016. The number of claims excludes claims classed as incidents or withdrawn and excludes self-insured claims.

2013-14

All Claims Count		All Claims %	
Accepted	13,748	Accepted	94.52%
Pending	5	Pending	0.03%
Rejected	792	Rejected	5.45%
Grand Total	14,545	Grand Total	100.00%

All Psych Count		Psych %	
Accepted	431	Accepted	61.75%
Rejected	267	Rejected	38.25%

All Psych Count		Psych %	
Grand Total	698	Grand Total	100.00%

Physical Count		Physical %	
Accepted	13,317	Accepted	96.17%
Pending	5	Pending	0.04%
Rejected	525	Rejected	3.79%
Grand Total	13,847	Grand Total	100.00%

2014-15

All Claims Count		All Claims %	
Accepted	12,136	Accepted	92.78%
Pending	3	Pending	0.02%
Rejected	942	Rejected	7.20%
Grand Total	13,081	Grand Total	100.00%

All Psych Count		Psych %	
Accepted	348	Accepted	61.48%
Rejected	218	Rejected	38.52%
Grand Total	566	Grand Total	100.00%

Physical Count		Physical %	
Accepted	11,788	Accepted	94.19%
Pending	3	Pending	0.02%
Rejected	724	Rejected	5.79%
Grand Total	12,515	Grand Total	100.00%

2015-16

All Claims Count		All Claims %	
Accepted	12,525	Accepted	94.36%
Pending	37	Pending	0.28%
Rejected	711	Rejected	5.36%
Grand Total	13,273	Grand Total	100.00%

All Psych Count		Psych %	
Accepted	334	Accepted	61.28%
Pending	5	Pending	0.92%
Rejected	206	Rejected	37.80%
Grand Total	545	Grand Total	100.00%

Physical Count		Physical %	
Accepted	12,191	Accepted	95.78%

Physical Count		Physical %	
Pending	32	Pending	0.25%
Rejected	505	Rejected	3.97%
Grand Total	12,728	Grand Total	100.00%

RETURNTOWORKSA

In reply to **Ms CHAPMAN (Bragg—Deputy Leader of the Opposition)** (28 July 2016). (Estimates Committee B)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide): I have been provided the following advice:

The Return to Work Act 2014 requires the Corporation to fix an industry premium rate for each industry classification and publish the rates in the Gazette to support the calculation and collection of employers' insurance premium. The Return to Work Regulations 2015 prescribe certain criteria that require ReturnToWorkSA to fix industry rates based on the industry's injury risk, the likely current and future cost of claims and ReturnToWorkSA's administration costs and finances.

ReturnToWorkSA published the industry rates for 2016-2017 in the Government Gazette dated 12 May 2016. The rates are available on the ReturnToWorkSA website.

The table below lists examples of industry classification and premium rates for small, medium and larger employers with 2014-2015 rates comparable to 2015-2016 rates.

		2014-15			
Employer	Industry Classification	Remuneration	Industry Premium Rate	Base Premium	Total Premium Payable (ink GST & WHS fee)
A	Cafes & Restaurants	$465,678	3.006%	$13,998.28	$15,495.75
B	Secondary Education	$14,707,557	1.178%	$173,255.02	$207,162.45
C	Aged Care	$7,005,034	6.887%	$482,436.69	$410,228.55
D	Takeaway Food	$324,213	1.747%	$5,664.00	$6,270.05

		2015-16			
Employer	Industry Classification	Remuneration	Industry Premium Rate	Base Premium	Total Premium Payable (inc GST & WHS fee)
A	Cafes & Restaurants	$419,957	2.299%	$9,654.81	$10,311.25
B	Secondary Education	$15,471,781	0.935%	$144,661.15	$136,555.90
C	Aged Care	$7,346,980	4.821%	$354,197.91	$341,234.05
D	Takeaway Food	$334,503	1.392%	$4,656,28	$4,972.35

CONSUMER AND BUSINESS SERVICES IDENTIFICATION

In reply to **Ms CHAPMAN (Bragg—Deputy Leader of the Opposition)** (28 July 2016). (Estimates Committee B)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public

Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide): I have been provided the following advice:

Consumer and Business Services (CBS) hasn't previously focused on this area as SA Police's Licensing Enforcement Branch holds additional powers and resources in order to deal with this issue.

CBS is focused on the regulatory requirements, however this issue is being considered as part of a compliance strategy for the next 12 months.

DEPARTMENTAL STAFF

In reply to **Mr GRIFFITHS (Goyder)** (28 July 2016). (Estimates Committee B)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide): I have been provided the following advice:

The Planning and Development Directorate of DPTI currently employs 130.9 staff to work across the range of portfolio responsibilities, including (but not limited to) development assessment, building policy, development plan policy, strategic and regional planning and demographic analysis.

The transition from the Development Act 1993 and into a new system under the Planning, Development and Infrastructure Act 2016 will mean that DPTI staff will be reallocated into delivering the new system. A dedicated team of 29 currently work on delivering the new system, which includes a team building the new electronic platform (e-planning portal), as well as a team working on the creation of the new instruments and governance arrangements. The six team members currently working on delivering the e-planning solution are counted in a different directorate (Customer and Information Services Directorate) and as such do not form part of the 130.9 FTE count as at 30 June 2016.

Seven vacancies have recently been filled in the Planning and Development Directorate.

GRANT EXPENDITURE

In reply to various members (28 July 2016). (Estimates Committee B)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide): I am advised:

2015-16

The following provides information with regards to grants of $10,000 or more:

Courts Administration Authority

Name of Grant Recipient	Amount of Grant	Purpose of Grant	Subject to Grant Agreement (Y/N)
Nil			

TARGETED VOLUNTARY SEPARATION PACKAGES

In reply to various members (28 July 2016). (Estimates Committee B)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide): I am advised:

Courts Administration Authority

(a) $66,890.72

(b) Funded entirely by Courts Administration Authority

(c) One

(d) No budget allocated in the forward estimates for TVSP payments. The Courts Administration Authority's future year's savings strategies do not anticipate payments of TVSPs.