HOUSE OF ASSEMBLY

Wednesday, 9 June 2021

The SPEAKER (Hon. J.B. Teague) took the chair at 10:30 and read prayers.

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

Bills

SHORT TERM HOLIDAY RENTAL ACCOMMODATION BILL

Introduction and First Reading

The Hon. Z.L. BETTISON (Ramsay) (10:32): Obtained leave and introduced a bill for an act to provide for oversight of the short term holiday rental property market, to provide protections for neighbouring residents, and for other purposes. Read a first time.

Second Reading

The Hon. Z.L. BETTISON (Ramsay) (10:33): I move:

That this bill be now read a second time.

I am very pleased to introduce the Short Term Holiday Rental Accommodation Bill 2021. This bill provides for oversight of the short-term holiday rental property market, to provide protections for neighbouring residents and provide booking platforms with regulatory certainty. It will achieve this by requiring all people who list a residential property on a short-term rental basis to (a) register their property with the South Australian government, (b) adhere to an industry code of conduct, (c) create new penalties for any breaches of the code and/or failing to register, and (d) create a compensation pathway for a person who suffers a loss of amenity caused by the conduct of a short-term holiday rental property occupant.

South Australia is currently one of only two states to have no formal oversight of the short-term holiday rental industry. Victoria, New South Wales, Western Australia and Tasmania all have regulations in place. New York, Amsterdam, Berlin, Paris, London and San Francisco are notable municipal governments that have also articulated policies regarding short-stay rental accommodation. This bill provides certainty for the industry and a consistent approach both nationally and internationally.

Why is it needed? The growth of the short-term residential holiday rental market has brought with it increasing reports of some listed properties being used as party houses to host out of control parties that disrupt entire neighbourhoods. Common issues reported include abusive and drunken behaviour on the streets, parties with more than a hundred people attending on a regular basis, noise and littering issues, and allegations of illegal activities and substance abuse.

Residents who live next to party houses have had repeated handballing of the issue between South Australia Police and local government. It has forced some of them to sell their houses at a significant loss or stop having relatives visit them. Whilst COVID-19 and the accompanying travel restrictions did see a temporary decline in party house reports, I have been assured that over the past six months the problems are again on the rise.

This bill is designed not to harm the short-term holiday rental industry; however, it does provide a commonsense approach to dealing with problem party houses. We need to protect the people who do the right thing but also penalise those who have no regard for the community around them. If a house listed on holiday booking platforms, such as Airbnb, Stayz or any other platform, is causing severe disruption to a neighbourhood, there needs to be a way that this can be addressed in law.

At this point in time, there is no sufficient legal remedy for affected communities. People who own a party house need to be held accountable to ensure that they are not disrupting the community around them. This is not an anti-party bill. It is legislation that is designed to provide oversight,

accountability and a pathway to a legal dispute mechanism for a neighbour experiencing a loss of amenity due to the conduct of a rental property occupant.

What do we define as short-term holiday rental accommodation? The bill defines short-term holiday rental accommodation as rental accommodation at a residential premise for a period not exceeding a consecutive 30 days or one month. What do we mean by a loss of amenity? An amenity refers to something that is considered a benefit to a property, thereby increasing its value. This can refer to tangible amenities, such as access to swimming pools, playgrounds, footpaths, bikeways or local parks.

In some instances, it may include communal or shared infrastructure, such as garage space or internet access. Intangible amenities include such things as well-integrated public transport systems, pleasant views, nearby activities or a low crime rate. In some instances, it may include access to clean air and water or other environmental factors that may reduce adverse health effects for residents or increase their economic welfare.

The bill provides for the South Australian Civil and Administrative Tribunal (SACAT) to provide compensation of up to $2,000 to neighbours who have experienced loss of amenity due to a short-term rental property. The bill also provides for SACAT to administer penalties of up to $1,250 for occupants who breach the code of conduct, and up to $5,000 for property owners who fail to register or update registration details.

But what will be the code of conduct? The code of conduct is in response to concerns regarding the responsibilities of operators and residents of short-term holiday rental accommodation. It establishes guidelines of acceptable behaviour for the host and guests. The code will be drafted by the Commissioner for Consumer and Business Services in consultation with the Local Government Association. This consultation is explicit in the bill. The commissioner is tasked with publishing the code of conduct both in the *Gazette* and on a website and reviewing the code every three years.

Many people have asked me how this will affect the operators of residential holiday properties. The bill proposes changes that will significantly increase transparency of holiday rental accommodation to understand its representation within the tourism industry. By comparison, the hotel accommodation sector is heavily regulated and generally have staff and security to deal with issues as they arise. It is only reasonable that short-term rental accommodation providers, who are essentially directly competing in this space, should be registered and be held accountable to a code of conduct.

The bill has been designed to not be onerous for people renting out their residential properties as short-term accommodation. The proposed registration system will be basic and easy to register. The new penalties created in this bill are designed to ensure that owners of short-term residential properties remain accountable in their responsibility not to disrupt entire neighbourhoods. The bill clarifies that a short-term holiday rental accommodation provider is not liable for paying compensation if the South Australian Civil and Administrative Tribunal is satisfied that the provider took all reasonable steps to prevent an occupant from engaging in the conduct that led to the making of the order. This provides an important protection.

I would like to take a moment to reflect on and outline some of the feedback that as shadow minister for tourism I have received from residents across our state who have had to endure living near one of these party houses. Often when I have raised this before they have said that it just happens in a few locations. Let me share with you that this has happened all over South Australia. Just last week someone reached out to my office to say that they live along the River Murray and that every weekend they are experiencing 50-plus people coming into different locations, drinking excessively and fighting excessively, and this is happening more and more frequently.

We all know about the notorious party house in Moana when this first started happening, where at its worst a car caught on fire and nudity and high use of alcohol and concerns about drug use have been raised. There are people living in the inner suburbs of the western suburbs who, just next door, have a party house that goes all night, with banging on doors until all hours. One of the more unique ones was in the eastern suburbs—a very nice street, a cul-de-sac in fact—where they

had outrageous party houses and had to call the police almost every weekend. This is not just the CBD or the seaside locations. I have had conversations with people all over South Australia.

Case study 1 lived near a party house in the city for several years and experienced pop-up brothels, drug arrests, break-ins, property damage, vandalism and threats to his family and children. Case study 2 told me that there is clearly a need for some regulation of this industry to protect not only the renters but also the local owners, who have to put up with the disruption on a regular basis. He noted that both police and emergency services have expressed ongoing frustration with the amount of time they have to spend responding to complaints, with incidents including drunken fighting and trees being set on fire.

Case study 3 experienced the trauma of a drunken argument that resulted in a man suffering life-threatening injuries and having to be airlifted to hospital. With many of these incidents occurring in regional South Australia, SAPOL can be up to 90 minutes away. Case study 4 describes the frustration of having no avenues, other than SAPOL, to escalate complaints. She told me, 'We have had enough. It has been an ongoing problem for some years. We have tried everything to handle it in a civil manner with a real estate agent and council. We tried consumer affairs and they just tell us to ring SAPOL. It does not resolve the problem, as we are dealing with strangers every time they are using the holiday stays.'

Case study 5 lives on an island. He told me what a real problem full-time residents have with the party houses, especially when a large number of people rent a house for a couple of days. He said to me that residents are actually selling their homes because of the ongoing problems. The new purchasers of those homes then rent them, so the problem is growing. This is just some of the feedback I have received directly in regard to this issue.

I want to emphasise that the majority of short-term accommodation rental properties are located in our regions. There are also high-profile party houses right in the middle of our suburbs. The assumption that this is an inner-city problem is incorrect. At its most extreme, I have heard cases where people cannot have their children visit due to the explicit sexual behaviour that occurs within plain sight of their home. Other people have had experiences of having driveways blocked as streets are filled with cars, as well as more common antisocial behaviours, including swearing, drunken behaviour and loud music.

The bill has been shared widely for consultation and has received the following feedback from key stakeholder groups. Australian Hotels Association chief executive, Ian Horne, has endorsed the registration, saying:

> Registration means being able to identify and, as necessary, hold accountable facility operators for the behaviour of their paying guests.

Mr Horne said that without a code of conduct there is no consumer protection for a bad experience. Stayz corporate affairs director, Eacham Curry, said yesterday:

> On the whole the central elements proposed (a Code and Register) have been demonstrated, globally, to provide a sound underpinning regulation for the STR sector. Stayz advocates for exactly these types of regulatory tools.

It is clearly unfair for South Australians to be a prisoner in their own home. I have been having these conversations for more than two years. Many have expressed to me how they lose sleep and face a decline in their property value. None of these things are fair, and this bill will make a tremendous difference, providing a place where these consumer complaints can be dealt with appropriately, with necessary penalties applied. This bill simply sets some ground rules for a growing industry. I commend the bill to the house and look forward to further debate.

Debate adjourned on motion of Mr Pederick.

CRIMINAL LAW (HIGH RISK OFFENDERS) (BREACH OF SUPERVISION ORDER) AMENDMENT BILL

Introduction and First Reading

Mr ODENWALDER (Elizabeth) (10:49): Obtained leave and introduced a bill for an act to amend the Criminal Law (High Risk Offenders) Act 2015. Read a first time.

Second Reading

Mr ODENWALDER (Elizabeth) (10:49): I move:

That this bill be now read a second time.

Labor, in opposition and in government, has a proud history of putting community safety first. I am proud to have been part of a government that made sweeping changes to the criminal law and saw a dramatic decrease in the volume of crime over its 16 years.

The Hon. V.A. Chapman: Like discounting.

Mr ODENWALDER: Yes, indeed.

The Hon. V.A. Chapman interjecting:

The SPEAKER: Order!

The Hon. V.A. Chapman interjecting:

Mr ODENWALDER: Mr Speaker, I seek your protection, sir.

The SPEAKER: Order!

The Hon. V.A. Chapman: I'm helping him use up his 15 minutes.

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order, members on my right!

Mr ODENWALDER: I demand silence, sir.

Members interjecting:

The SPEAKER: The member for Elizabeth has the call. The member for Hammond is called to order.

Mr ODENWALDER: I can't demand silence at home, sir. This is the quietest place I know.

Members interjecting:

The SPEAKER: The member for Playford will cease interjecting. The member for Elizabeth.

Mr ODENWALDER: In government, we made it a point to take on, for instance, hoon drivers, and I notice this is topical in the news at the moment. We began, of course, the seizure and crushing regime, with over 2,000 vehicles crushed between the years 2012 and 2017. We took on serious and organised crime, and people, particularly the Attorney, know what a long journey that was.

That in part, as well as moves interstate and across the federal sphere, has led directly to the success we have seen this week in police operations, as well as many other initiatives to keep our community safe. We put record numbers of police on our streets, more per capita than any other state, and we have held the government to the same commitment that we held ourselves to, which is to provide more police per capita than any other state in Australia.

In opposition, we have continued that tradition, not only by supporting every sensible public safety measure brought to this place by the government but also by amending legislation and forcing changes of our own, whether it is in the protection of our kids, the area of domestic violence—and I commend the Attorney and the member for Elder for continuing the largely bipartisan commitment to domestic violence, largely through the multiagency protection service and through my own very special interest in the domestic violence disclosure scheme—or in amending a government bill to give our police the best legislative protections from assaults of any police force in this country.

We on this side also accept when we can improve on the measures we have put in place. In 2015, then Attorney-General, the former member for Enfield, brought into play in the South Australian law a new type of order, an extended supervision order (ESO). Members will know that extended supervision orders are there to be placed on those offenders who have served their full term of

imprisonment and/or parole but are deemed to be such an appreciable ongoing risk to the community that they require ongoing supervision.

Before these orders were introduced in 2015, there was really no other option for the courts other than letting certain high-risk offenders go free at the end of their term of imprisonment and/or parole. That means that there were high-risk offenders, people we knew and understood were a significant risk to the community, who were simply free to live in the community. Clearly, this was seen as an intolerable situation.

The Attorney now, by virtue of the high-risk offenders act, has the power to apply to the Supreme Court for an extended supervision order so that a high-risk offender may be supervised and subject to various conditions. This bill builds on that legislation and it does so with the same guiding principle; that is, the safety of the public is paramount.

It is worth reflecting on the original legislation and on the type of offenders we are talking about here. A high-risk offender, by definition, is a person who has been convicted and sentenced to a term of imprisonment for, first of all, a serious sexual offence, where the maximum penalty prescribed for that offence is or includes imprisonment for at least five years. These are offences of rape, unlawful sexual intercourse, indecent assault, acts of gross indecency, abduction, procuring sexual intercourse, production or dissemination of child pornography, procuring a child to commit an indecent act, sexual servitude, use of children in commercial sexual services and incest.

It further includes any serious sexual offender who is serving a sentence of imprisonment in respect of any of the following offences: possession of child pornography; an offence under certain sections of the Child Sex Offenders Registration Act 2006—that is, failure to comply with reporting obligations and furnishing false or misleading information when reporting, applying for or engaging in child-related work—a breach of a paedophile restraining order; and there is (as there often is) provision for other offences to be prescribed by regulation.

Extended supervision orders can also be imposed on an offender who has been convicted and imprisoned for a serious offence of violence. The term 'serious offence of violence' is defined in section 83D(1) of the Criminal Law Consolidation Act as:

> …an indictable offence that is punishable by imprisonment for life or for a term of 5 years or more…where the conduct constituting the offence involves—
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> (a) the death of, or serious harm to, a person or a risk of the death of, or serious harm to, a person; or
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> (b) serious damage to property in circumstances involving a risk of the death of, or harm to, a person; or
>
> (c) perverting the course of justice in relation to any conduct that, if proved, would constitute a serious offence of violence as referred to [above].

So these are not nice people we are talking about. Currently, before making an extended supervision order, the Supreme Court must be satisfied that the offender is a high-risk offender and poses an appreciable risk to the safety of the community if not supervised under that extended supervision order.

Before making an extended supervision order, the Supreme Court must direct that at least one qualified medical practitioner examine the high-risk offender and report to the court on the results, including: for a serious sexual offender, an assessment of the likelihood of the offender committing a further serious sexual offence; or, for a serious violent offender, an assessment of the likelihood of the offender committing a further serious offence of violence. The paramount consideration of the Supreme Court in determining whether to make an extended supervision order is, of course, the safety of the community.

At the moment, in determining whether or not to make an extended supervision order, the Supreme Court must also have regard to a whole range of matters, including but not limited to:

- the likelihood of the offender committing a further serious sexual offence or serious offence of violence if not supervised under an extended supervision order;
- the report of any medical practitioner furnished to the court;
- any report prepared by the Parole Board;

- any report required by the court—this can include the results of any statistical or other assessment furnished to the court as to the likelihood of persons with history, or characteristics similar to those of the respondent, committing a further relevant offence;
- any relevant evidence or representations that the offender may decide to put to the court;
- any treatment or rehabilitation program in which the offender has had an opportunity to participate, including his or her willingness to so participate and the extent of such participation;
- in the case of an offender released on parole, the extent to which he or she has complied with the conditions of his or her release on parole;
- in the case of an offender subject to an existing extended supervision order, the extent to which he or she has complied with the terms of that extended supervision order;
- in the case of an offender who is a registerable offender—that is, within the meaning of the CSOR Act—the extent to which he or she has complied with any obligations under that act;
- the circumstances and seriousness of any offence in respect of which the offender has been found guilty according to his or her criminal history and any pattern of offending behaviour disclosed by that history; and
- any remarks made by the sentencing court in passing a sentence.

As I have said, the extended supervision order legislation made by the previous government, brought to this place by the member for Enfield and ultimately supported by both houses, firmly focused on protecting the safety and wellbeing of the community; indeed, it was its paramount concern. The Supreme Court is therefore empowered to make, on application from the Attorney, an extended supervision order against the high-risk offender who poses an appreciable risk to the safety of our community.

Once such an order is made by the court, the following conditions apply: the person subject to the order must not commit any offence, the person subject to the order is prohibited from possessing a firearm or ammunition, and the person subject to the order is prohibited from possessing an offensive weapon, unless it is deemed that the carriage of an offensive weapon is for some reason necessary, although, I cannot see why that would be the case. I cannot understand why that provision was made.

It also makes clear that the person must be under the supervision of a community corrections officer, must of course obey the reasonable directions of a community corrections officer and must submit to such tests as the community corrections officer may reasonably require. This may be drug or alcohol testing or it may be, in some cases, tests for gunshot residue and the like. Of course, the person on such an order must accept any other condition that the court thinks fit and specifies in the order.

There is also an expectation that the offender must comply with any condition imposed by the Parole Board, such as requiring the person subject to the order to reside at a specified address, to undertake such activities and programs as determined from time to time by the Parole Board or to be monitored by the use of an electronic device. There is whole list of other possible conditions. This all illustrates the types of people we are talking about and the original need for the Criminal Law (High Risk Offenders) Act. These are serious offenders and the types of people from whom our community deserves absolute protection.

Before we go on, it is important to note that an extended supervision order can only remain in force for a maximum of five years, or such lesser period as the Supreme Court determines, and the Parole Board has the right to vary and revoke conditions of extended supervision orders that are set by the board. It is also important to note that the stated aim of extended supervision orders, as I have said, is to provide a mechanism for extended supervision of those types of offenders who pose an ongoing high level of risk to the safety of the community, so, rather than being a punishment for past conduct, they are designed unapologetically to address future conduct.

However, the legislation in its final form, as it passed the Legislative Council, does not impose any particular custodial penalty for breaches of the extended supervision order. It does of course provide for ongoing detention orders to be made if there are breaches of the extended supervision order; that is, the Supreme Court may order that the offender spend up to the duration of the order in detention, but this does not constitute a criminal offence and it clearly does not always achieve the desired outcome.

Creating a standalone offence of breaching an extended supervision order to sit alongside the ongoing detention order provisions sends a very clear message to the courts that people who breach extended supervision orders, particularly those who regularly and habitually breach such orders, are criminals and should be treated as such and that imprisonment for repeated breaches should be the norm, rather than the exception.

This bill inserts section 14A, which makes it an offence to breach a supervision order. This provision provides that a person who, without reasonable excuse, contravenes or fails to comply with a condition of a supervision order is guilty of an offence punishable by, for a first offence, imprisonment of two years or, for a subsequent offence, imprisonment for five years.

Members may remember the very high-profile case of Luke Deane Brandon. Brandon was arrested on Tuesday 29 October 2019 after a particularly violent crime spree. At the time of his arrest, he was the subject of an extended supervision order and had, just days before, cut off his electronic monitoring bracelet. In fact, he was wanted on a Parole Board warrant for this breach. Brandon had breached his extended supervision order numerous times in the past and was each time released back into the community on a continuing order.

At the time, the ABC reported on Brandon's previous criminal history. They detailed multiple convictions for assault, aggravated robbery, theft and weapon use. The ABC report went on to say that in 2015 Brandon threatened to kill a person in the passenger seat of a car with a kitchen knife while he was driving recklessly. They further said that Brandon had breached the terms of multiple supervision orders by testing positive for methamphetamine and repeatedly cutting off his electronic monitoring bracelet.

Brandon's crime spree in late 2019 included carjackings, a high-speed chase, the ramming of a police car, a petrol drive off and a home invasion and car theft, where the victim was an elderly woman. Brandon's continuing breach of his extended supervision order led to significant community concern and when it became clear that, unlike other jurisdictions, the Criminal Law (High Risk Offenders) Act does not detail penalties for breaching extended supervision orders, there were calls from all quarters for tougher penalties for such breaches.

Breaches merely resulted in court appearances, where the order is continued or discontinued or, in some cases, an ongoing detention order is put in place. When one looks at the history of breaches such as Brandon's one can only come to the conclusion that the act was not working as intended and that the community expectation is that serious breaches of extended supervision orders, which are put in place specifically for the purpose of public safety, are considered serious criminal offences, particularly if they are repeated time and time again. Offenders like Brandon have no regard for public safety. I commend the bill to the house.

Time expired.

Debate adjourned on motion of Hon. D.C. van Holst Pellekaan.

CRIMINAL LAW CONSOLIDATION (INTERFERENCE WITH ELECTRONIC MONITORING DEVICE) AMENDMENT BILL

Introduction and First Reading

Mr ODENWALDER (Elizabeth) (11:06): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935. Read a first time.

Second Reading

Mr ODENWALDER (Elizabeth) (11:06): I move:

That this bill be now read a second time.

Electronic monitoring of offenders, as we all know in this place, can be an extremely effective alternative to imprisonment. Its use has undoubtedly grown in recent years, not just in South Australia but across almost every jurisdiction. The use of this technology, of course, comes with a certain amount of risk.

I am sure we all have an idea of what electronic monitoring is: when an offender who is placed on some sort of order, agreement or bond is fitted with usually an electronic monitoring bracelet around the ankle, which is monitored generally by the Department for Correctional Services. The Department for Correctional Services' website describes their use in this way, and I quote:

> Electronic monitoring for the Department for Correctional Services is undertaken by the Intensive Compliance Unit. The Unit operates 24/7 and is made up of a team of Monitoring Centre Officers who respond to alerts, and Intensive Compliance Officers who respond in the field to undertake drug testing, breath testing, equipment installation; as well as checks and home visiting of offenders.
>
> The [GPS] electronic monitoring system used by the Department [of Corrections] provides access to real time data allowing for rapid responses by corrections and/or the police.
>
> The system also has the ability to detect offenders who attempt to or do remove their ankle bracelet and a tamper alert is raised. This enables the ICU and police to immediately respond.

Time and time again we have seen community outrage, and rightly so, when offenders simply cut the bracelet and walk free until the breach is picked up and a warrant is issued. What is more infuriating for some in the community, and this is certainly a common perception, is that these offenders seem to do this time and time again and often with little consequence.

While the bracelet removal certainly constitutes a breach of whatever order, licence or parole agreement is in place, there is no actual criminal penalty besides perhaps property damage for tampering or removal of an electronic monitoring device. Put simply, this bill creates a new offence, with a new division 5A within the Criminal Law Consolidation Act, of interfering with an electronic monitoring device. It states that a person subject to a condition under a prescribed law that the person be monitored by use of an electronic device is guilty of an offence if the person removes, damages or otherwise tampers or interferes with the device. It provides for a maximum penalty of seven years for such an offence.

This is a simple provision and it is a high penalty, I admit, but offenders who are wearing these devices are afforded a great deal of trust by the community. Electronic monitoring can be seen as an alternative option to custody, so in that sense it should be given the respect it deserves by the offender who is offered this option. I believe that creating such a criminal sanction is in line with community expectations.

Last week we saw a report by Channel 7's Hannah Foord that within the Department for Correctional Services up to five offenders per week were tampering with or cutting off their ankle bracelets. We were told that a $7 million replacement program would solve this ongoing problem, but of course it has not. Now we have more offenders than ever before wearing these devices. In 2017, the department of corrections had 766 offenders subject to some form of electronic monitoring. Currently, that number is more than 1,000.

This is not at all a criticism of the Department for Correctional Services, nor indeed any of the other agencies that are charged with monitoring and dealing with our criminals. It simply reflects that offenders often do not take this type of punishment seriously. At present, in all cases I believe, no standalone offence exists for tampering with, removing or cutting off an electronic monitoring device. In most cases, it simply constitutes a breach of bail, a breach of an order or a breach of parole, and is generally punishable by the arrest on warrant and then bringing the offender before the courts or the Parole Board for some sort of reassessment. Clearly, this is not enough of a deterrent.

If anyone saw that Channel 7 report, you could see the attitude of many criminals towards this type of punishment. They simply do not take it seriously. These ankle bracelets are an excellent tool if you can convince the offender to actually keep them on.

When and where do we use them now? Mr Speaker, as you will be aware, electronic monitoring devices are used across the criminal justice system as a means of monitoring offenders and, in many cases, negating the need for imprisonment. This is often a good thing for many reasons

but, as I said, it only works if the offender is disincentivised to take the thing off, and that is what this bill attempts to do.

At present, electronic monitoring devices are used in the following circumstances, and it is important to understand that the prisoner is a prisoner. The electronic monitoring device may give the impression of a certain type of freedom, but the wearer is in most cases detained. That is why it is important to understand their context within the criminal justice system.

First of all, electronic monitoring bracelets are sometimes used in bail agreements. Of course, bail is a general presumption in our criminal law. It is generally presumed that a prisoner will get bail unless there are concerns that the prisoner may, for instance, be a flight risk, may reoffend in the same way or commit an extension of the original offence. We do have presumptions against bail for particularly serious offences, but in most cases bail is presumed and conditions are placed upon the alleged offender, and in some cases that does include electronic monitoring.

Electronic monitoring bracelets are mostly used across the formal correctional services system in a range of ways. I am advised that they are used when a prisoner perhaps goes on a leave of absence, when they are perhaps transported from one facility to another and where an added layer of security is necessary for that temporary use. However, far more commonly, electronic monitoring devices are used in home detention.

By virtue of the act, the chief executive of Corrections has an absolute discretion to release a prisoner from prison to serve a period on home detention. However, this discretion is subject to the following limitations: a person who is serving or liable to serve a sentence of indeterminate duration and does not have the non-parole period fixed cannot be released on home detention. Any limitations determined from time to time by the minister may include without limitation the exclusion of prisoners sentenced for a specified class of offence or any other class of prisoners from release on home detention.

The release of a prisoner on home detention is subject to the following conditions: a condition requiring the prisoner to remain at the prisoner's residence during the period of home detention and not to leave the residence at any time during that period except for the following purposes: to go to work, attendance at remunerated employment at such times and places that are approved by the authorised officer; urgent medical or dental treatment for the prisoner, obviously; attendance at a place for ongoing assessment, whether this is for the person's mental or physical health, or perhaps for an intervention program or any other type of education, training or instruction as approved or directed by the authorised officer to whom the person is assigned.

It goes without saying that the prisoner must be of good behaviour during this period of home detention. The prisoner must obey the lawful directions of the authorised officer during that period of home detention and the prisoner must not possess a firearm or ammunition. The prisoner must subject him or herself to various types of tests—drug and alcohol tests, and also things like gunshot residue tests—to ensure there is a secondary level of compliance with the order. A condition may well be, and often is now, that the prisoner be monitored by use of an electronic device. So that is home detention.

The other very common use of electronic monitoring devices in the corrections system is when a prisoner is released on parole. The parole system is different, of course, for those serving life sentences and those who are serving less than life sentences. Parolees who are serving a life sentence are subject to the following conditions. They are prohibited from committing any offence. They must not possess a firearm or ammunition or any part of a firearm. They must not possess an offensive weapon. Again, the act includes this rather intriguing caveat that they may possess an offensive weapon under some circumstances.

The prisoner must remain under the supervision of a community corrections officer and obey the reasonable directions of that community corrections officer and, again, submit to tests without notice for things like drugs, alcohol, gunshot residue and so on. A prisoner must also reside at a specified premises and undertake whatever rehabilitation and reintegration programs determined as necessary by the Parole Board. Importantly, the Parole Board must consider imposing a condition on the release on parole of a prisoner serving a life sentence that the prisoner be monitored by use of an electronic device to be effective until the expiration of that period of parole.

For parolees who are not serving a life sentence, the conditions are a little bit different. The prisoner is again prohibited from committing any offence or from possessing an offensive weapon—again, with that intriguing caveat that they may under certain circumstances possess offensive weapons. The prisoner must be under the supervision of a community corrections officer and must obey the reasonable directions of that community corrections officer and may be subject to any other conditions—again, including a condition that the prisoner be monitored by use of an electronic device.

Obviously, as the Attorney well knows, if the prisoner is sentenced to imprisonment for a child sexual offence, the board has to consider other conditions like preventing the prisoner from loitering without reasonable excuse at or in the vicinity of a school, public toilet or a place in which children are regularly present. There is a condition preventing the prisoner from engaging in remunerative or voluntary work with children, a condition preventing the prisoner providing or offering to provide accommodation to a child who is not related to the prisoner and a condition requiring the prisoner on making an application for employment to provide the prospective employer with a report about the prisoner's criminal history.

In the case of these prisoners, there is a condition which requires the prisoner to be monitored by use of an electronic monitoring device. As well as parole home detention bail, there are also provisions within the Sentencing Act which may provide for the wearing of an electronic monitoring device including release on licence and also intensive corrections orders.

This is that where a court has imposed a sentence of imprisonment on a defendant of a term that is two years or less, the court considers that the sentence should not be suspended, and the court determines there is a good reason for the defendant to serve the sentence in the community while subject to such intensive correction order, the court may order that the defendant serve the sentence in the community while subject to this order.

This is essentially in circumstances where, even though a custodial sentence is warranted and there is a moderate to high risk of the defendant reoffending, 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 instead to spend that period in the community while subject to intensive correction. In these cases, the electronic monitoring system is absolutely essential.

These are the important tools at the disposal of Corrections and other agencies, and in many ways and for many good reasons their use is to be encouraged. They are also used importantly in the monitoring of prisoners released under extended supervision orders.

As I said earlier, extended supervision orders are orders that can be placed on those offenders who have served their full term of imprisonment or parole but who are deemed to be such an appreciable ongoing risk to the community that they require ongoing supervision. As I have also said, before 2015 society had no choice but to let certain high-risk offenders roam free once they had finished their sentence and/or parole conditions.

I have discussed extended supervision orders in a previous debate today, and in many ways this bill should be seen as something of a package with the Criminal Law (High Risk Offenders)(Breach of Supervision Order) Amendment Bill. Really, they both grew out of the community outrage around the crime spree conducted in late 2019 by Luke Deane Brandon, who was at the time the subject of an extended supervision order and who had, at many times, removed or cut off his electronic monitoring device.

At the time, the Attorney promised she would review extended supervision orders. I know that some work has been done around serious sexual offenders in terms of extended supervision orders, but I am not aware of any work that has been done around serious violent offenders, although I stand to be corrected further in this debate.

I do not believe this is a silver bullet, but I do think it strengthens the bail and home detention and parole systems and gives prosecutors another tool when dealing with people who deliberately and repeatedly remove their electronic monitoring device. I commend the bill to the house.

Debate adjourned on motion of Hon. V.A. Chapman.

PASSENGER TRANSPORT (TRANSIT BARRING ORDERS) AMENDMENT BILL

Introduction and First Reading

Mr ODENWALDER (Elizabeth) (11:23): Obtained leave and introduced a bill for an act to amend the Passenger Transport Act 1994. Read a first time.

Second Reading

Mr ODENWALDER (Elizabeth) (11:23): I move:

That this bill be now read a second time.

My dad was a bus driver for most of his working life. In London, he drove a bus and, until the service was privatised in 1996 or 1997, he was a bus driver for the State Transport Authority here in Adelaide. He did not talk about his work much, he did not enjoy his work very much—I do not think he will mind me saying that—and his stories were always couched in a certain black humour, but it was clear from those stories that it is a largely unrecognised, dangerous profession. These workers are often alone and often, in suburban terms, in quite isolated places at all hours of the day and night.

Even in those days, when I understand it was a well-run state enterprise, it was a dangerous profession, but it clearly has become more dangerous, there is no doubt about it. Anecdotally at least, bus drivers are starting to fear danger so much and to become so frustrated with the system that they are sometimes not reporting it. The previous government did, of course, make moves to protect bus drivers, including enhancing barring orders legislation and creating a class of prescribed worker that offered drivers and other workers an extra layer of legislative protection from assaults.

Shortly before the COVID period, and therefore before some of the survey results that I will discuss in a minute were collated, I was invited along with the leader and the member for West Torrens to a forum hosted by the Transport Workers' Union. It was attended not only by politicians and union officials; it was attended by actual bus drivers, by representatives of the bus operators and also by senior representatives of the then transit police. Many issues were raised and many issues about how our public transport system could operate more safely for bus drivers were canvassed, and this bill gives expression to just one aspect of that discussion.

Shortly after that discussion, of course, COVID hit. During that time, during what we refer to as that early lockdown period, the union did a lot of work consulting with their members. It is worth reflecting on the detail of these results because they show that, certainly in the perception of the people at the coalface, violence—

The SPEAKER: I just invite the member for Elizabeth to seek leave to continue his remarks. Does the member for Elizabeth wish to seek leave?

Mr ODENWALDER: Hang on, I have four minutes, haven't I? What is going on?

The SPEAKER: No.

The Hon. V.A. CHAPMAN: I am about to interrupt you, so do you want to seek leave to continue your remarks or finish?

Mr Picton: On what nature are you interrupting?

The Hon. V.A. CHAPMAN: Just wait and see.

The SPEAKER: It is a matter for the member for Elizabeth. The Deputy Premier seeks the call. Does the member for Elizabeth wish to seek leave to continue his remarks?

Mr PICTON: Point of order, Mr Speaker: why is the member for Elizabeth being asked to seek leave to continue his remarks when there is still time remaining for a presumption of—we do not know what the member for Bragg is getting up to say. Is she moving a motion? Is she raising a point of order? You seem to understand, but the parliament does not understand what is happening.

The SPEAKER: Purely a matter of convenience. If the member for Elizabeth wishes to continue his remarks in the time available, he is welcome to do so. The member for Elizabeth has the call.

Mr ODENWALDER: I cannot imagine why I would not, sir, but thanks for that, Vickie. You can keep going.

The SPEAKER: Does the member for Elizabeth seek leave?

Mr ODENWALDER: Sorry, the Attorney stood. I assumed she was seeking the call.

The SPEAKER: No, the member for Elizabeth has the call.

Mr ODENWALDER: What are you standing for?

The SPEAKER: Does the Deputy Premier rise on a point of order?

The Hon. V.A. CHAPMAN: I rise to move a motion.

The SPEAKER: It is out of order. There will be an opportunity to do so but the member for Elizabeth has the call. Unless the member for Elizabeth chooses to seek leave, the member for Elizabeth is on his feet and the member for Elizabeth has the call.

Mr ODENWALDER: The work I am referring to by the Transport Workers' Union occurred in one snapshot of time, that is, April to July 2020. Bear in mind, this was a four-month period of time when public transport use was at record lows in this state due to the coronavirus pandemic. The Transport Workers' Union collated a whole lot of data during this period, both qualitative and quantitative, which illustrated the dangers that even in a period of low patronage, or perhaps exacerbated by that period, bus drivers are forced to endure.

On 2 April 2020, a bus driver at Hackham told a passenger to stop smoking on the bus. The passenger verbally abused the driver, stole his sunglasses and the driver suffered scratches to his face as a result of the incident. On 9 April 2020, a bus driver on Torrens Road, Fitzroy, was verbally abused by a passenger and had the contents of a drink bottle poured over him. On 10 April 2020, a bus driver at the Flinders Medical Centre was assaulted by a passenger wearing a face mask who threw the contents of a bottle of alcohol at the driver. On 28 May 2020—I seek leave to continue—

The SPEAKER: There is no need.

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. V.A. CHAPMAN (Bragg—Deputy Premier, Attorney-General, Minister for Planning and Local Government) (11:30): I move:

That the time for Private Members Business, Bills, Notices of Motion, be extended for one hour.

The SPEAKER: It has been moved; is it seconded?

Mr PICTON: Point of order: the time for private members' business has already expired, as per the standing orders. The bell has rung, it is finished and we are now into the next section of debate. I believe the motion is out of order.

The SPEAKER: I do not uphold the point of order. Sessional order 2, introduced in February 2020, to which I refer members, provides for, unless otherwise ordered, private members' business of different kinds taking precedence at different times. The motion is in order and it has been seconded, so I put it at once.

The Hon. A. PICCOLO: Point of order, Mr Speaker.

The SPEAKER: The member for Light on a point of order.

The Hon. A. PICCOLO: Do we require a quorum for such a vote?

The SPEAKER: The motion has been seconded; I will put it at once.

The house divided on the motion:

Ayes 25
Noes..... 21
Majority..... 4

AYES

Basham, D.K.B.	Bell, T.S.	Chapman, V.A.

AYES

Cowdrey, M.J.	Cregan, D.	Duluk, S.
Ellis, F.J.	Gardner, J.A.W.	Harvey, R.M. (teller)
Knoll, S.K.	Luethen, P.	Marshall, S.S.
McBride, N.	Murray, S.	Patterson, S.J.R.
Pederick, A.S.	Pisoni, D.G.	Power, C.
Sanderson, R.	Speirs, D.J.	Tarzia, V.A.
Treloar, P.A.	van Holst Pellekaan, D.C.	Whetstone, T.J.
Wingard, C.L.		

NOES

Bedford, F.E.	Bettison, Z.L.	Bignell, L.W.K.
Boyer, B.I.	Brock, G.G.	Brown, M.E. (teller)
Close, S.E.	Cook, N.F.	Gee, J.P.
Hildyard, K.A.	Hughes, E.J.	Koutsantonis, A.
Malinauskas, P.	Michaels, A.	Mullighan, S.C.
Odenwalder, L.K.	Piccolo, A.	Picton, C.J.
Stinson, J.M.	Szakacs, J.K.	Wortley, D.

Motion thus carried.

Bills

PASSENGER TRANSPORT (TRANSIT BARRING ORDERS) AMENDMENT BILL

Second Reading

Debate resumed.

The SPEAKER: The member for Elizabeth has leave to continue his remarks.

Mr ODENWALDER (Elizabeth) (11:37): Just to recap, I had been saying before the Attorney's interruption that, along with the leader and the member for West Torrens, I attended a forum with the Transport Workers' Union of South Australia and Northern Territory. As I said, it was not just forum of union officials and politicians; it was a forum of bus drivers, bus operators and transit police, who were well represented, and they all had very similar concerns.

Members interjecting:

The SPEAKER: Order! Would members leaving the chamber do so quietly. The member for Elizabeth has the call.

Mr ODENWALDER: Thank you, sir. Thank you for your protection. There were bus drivers and bus operators, and the event was also well represented by the transit police, by senior representatives of the transit police. They all agreed that something needed to be done or that many things in fact needed to be done, some of them urgent and some not so urgent, over the next few years in terms of bus driver safety.

Again, before the Attorney stood, I was relaying to the house some of the experiences of bus drivers as they responded to a survey during a four-month period when in fact patronage on buses was quite low, in fact at record lows, so I will continue with some of that time line.

On 28 May 2020, a bus driver at Paralowie was punched in the head and assaulted with a beer bottle, leaving him with facial injuries. On 3 June 2020, a bus driver at Marion shopping centre was assaulted by a bike rider. The windscreen wiper was ripped off and the driver was punched multiple times in the face. A bike rider was arrested and charged with aggravated assault. On 13 June 2020, a bus driver advised two passengers that the journey had come to an end at the Salisbury Interchange. The driver was forced to retreat from the bus by their aggressive behaviour. He was spat on and punched multiple times in the face. As a result, the driver was forced at that time to get a COVID-19 test.

On 18 June 2020—and I believe this incident gained some media attention at the time—a man stopped a bus at Glenelg, smashed the windscreen with a road sign, attempted to gain entry and terrified passengers and the driver. On 19 June 2020, a passenger demonstrated serious antisocial behaviour and made a number of derogatory and abusive remarks towards passengers and threats to everybody's safety. The driver made numerous calls for assistance, but on this occasion neither security nor police arrived.

On the 452 route, on 29 June 2020, a school-age female passenger allegedly had accelerant poured over her and was set alight by an older female passenger. On this occasion, other passengers assisted this young woman, but the bus was returned to the depot to be what they call 'changed out' due to the smell and the fumes caused by the incident. On 30 June 2020, on the 228 route—a route I know extremely well—from the city to Elizabeth, allegedly 10 intoxicated persons boarded the bus and proceeded to fight amongst themselves. The driver radioed for assistance and was allegedly advised to continue on and get them to their destination.

On 1 July 2020, around midday, a group of people were engaged in an altercation at Modbury Interchange. It allegedly resulted in a knife being produced and the driver called for assistance and this time police did attend.

This, of course, is the tip of the iceberg because we know from some of these results that drivers are increasingly reluctant to even report incidents because they believe that nothing will happen. They believe, in fact, that it may be detrimental, in some cases, to their working life to report these matters. So there is some work to do in this area and bus drivers and other transport workers need all the support and protections we can offer them.

As part of the research conducted by the Transport Workers' Union of South Australia and the Northern Territory, they conducted a survey of their member bus drivers and, when read with the incidents listed above, the results make pretty sobering reading. This survey showed clearly that many bus drivers fear being killed or seriously injured for simply doing their job. Indeed, it showed that assaults continued throughout the COVID period and continue to this day.

Many respondents felt there was a wider crisis engulfing our bus network where bus driver abuse has become so normalised it is simply seen as part of the job. This is clearly unacceptable and as a parliament we need to start thinking about all measures we can take to address this. The survey shows that since March 2020 more than 40 per cent of drivers now believe their job has become more unsafe and dangerous because of physical and verbal abuse. Over 60 per cent claim to have been verbally abused, and 7 per cent claim to have been physically assaulted, in only that short period.

The Transport Workers' Union and its members, as I said, believe that the true figure of assaults and intimidating antisocial behaviour on buses is much higher than the official government figures, and this is because, as I said, bus drivers have, in many cases—in far too many cases—stopped reporting physical and verbal assaults because daily abuse is now just seen as part of the job and they believe that nothing will get done.

I might just read some of the survey results directly into *Hansard* because I do think they are worth recording. Between March and July 2020, over 40 per cent of bus drivers felt that their job had become more dangerous; 14 per cent felt a lot less safe at work; 7 per cent of bus drivers have been physically assaulted; over 60 per cent of bus drivers have been verbally abused; 75 per cent felt that the current safety screens on buses are inadequate; and 82 per cent wanted driver protection systems installed.

Interestingly, at the height of COVID, only 2.8 per cent of drivers who were surveyed wanted Adelaide Metro to return to accepting cash. Perhaps most concerningly, as I have said, bus drivers are reporting that they no longer bother reporting assaults as they believe past complaints have not been acted upon appropriately or that, in some cases, the reporting process is just too hard.

I think it is worth at this point reading into *Hansard* some of the quantitative responses to this survey, because these are voices that rarely get heard in parliament. These are workers' voices, expressing real concerns and pleading for change, and there is a series of quotations:

- I feel unsafe every night. I also feel underprepared and insufficiently trained to handle abusive passengers. Going cashless and having less personal contact with passengers, I believe helps deter possible conflict.
- We need people at major points to check that they have metro cards and have money on them to stop people just walking on and making problems. The ones [passengers] that don't pay are the ones [passengers] that make trouble.
- Response times to security issues is woeful… [The] Government needs to sort out non-paying customer issues. [The] driver is always the 'meat in the sandwich'...
- We need more control on fare evasion. I find fare evasion cause most of these problems.
- [I] would like to see security and bus inspectors on buses more often. And hand[ing] out fines for fare evasion and unruly behaviour.
- I had a passenger verbally abuse me because they missed their train, which was due out at the time my service was due at the station. So I was abused for arriving at my due time when the passenger expected me to be early. Another passenger stayed between the man and me so he could not move closer to me and as soon as he walked away she thanked me for the ride. I did not report this as it's common to have passengers verbally abuse you for no reason.

Again, perhaps the most concerning part of all of this is the lack of reporting. I continue:

- More security could be used at times on set routes with known trouble-makers. Response times can often be long and exacerbate the situation for the driver or other passengers.
- All we have to do is ask if they have a ticket and [we] are called every name under the sun and we just sit there and take it.
- Removing cash, more transit police, more security, more enforcement of fines, more inspectors would make most of us feel better about working.

Then there is this one:

- [In] 2007 [I had] 3 broken ribs and punctured lung as a result of a passenger attack at Salisbury Interchange... 8 weeks on work cover and 4 days in hospital…

And further:

- I don't think drivers should have to ask passengers who don't pay to purchase a ticket for the next ride... You have all sorts on buses and some don't like it when you ask them to pay…
- We need something to stop re-offending fare evaders. It's happening all too often and more and more each day.
- A serious attempt to stop fare evasion altogether is long overdue! These fare evaders are the main source of almost all our problems!

As a result of this survey, we see a lot of issues here. Clearly there are a lot of issues for the government to address and clearly there are issues for the transport operators themselves to address over time, but the importance of fare evasion and bus driver safety comes up time and time again, as it did at the original forum we attended.

This bill does not seek to address all the issues raised, but it does try to address fare evasion, which I am sure most people would see as a relatively minor issue. However, bus drivers and police made it very clear to us that fare evasion, particularly repeat and belligerent fare evasion, very often goes hand in hand with antisocial behaviour, intimidation and, far too often, violence. I seek leave to continue my remarks for a further 15 minutes.

Leave granted.

Members interjecting:

Mr ODENWALDER: The house just granted me leave.

The SPEAKER: The member for Elizabeth has the call.

Members interjecting:

The SPEAKER: The member for West Torrens will cease interjecting and the Deputy Premier will cease interjecting. The member for Elizabeth has the call.

Mr ODENWALDER: As I said, the forum, attended by me, the leader, the member for West Torrens and representatives of the bus operators and senior representatives of the transit police (as they were then), threw up a whole lot of issues. There were issues around driver safety, in terms of their safety within the cabin, there were issues about their electronic reporting systems, which do ultimately need to be addressed by the operators and perhaps even by regulation or legislation, but this issue of fare evasion was raised time and time again.

The Hon. V.A. Chapman: Your government did nothing about it.

Mr ODENWALDER: The Attorney-General refers to the actions of the previous government and I feel compelled to respond.

The SPEAKER: The member for Elizabeth will not respond to interjections.

An honourable member interjecting:

Mr ODENWALDER: Yes, I will start again. I will respond then to my own internal dialogue.

Members interjecting:

Mr ODENWALDER: Yes, that is right. In the end, that is all we have got.

Members interjecting:

The SPEAKER: Order, the Minister for Energy and Mining!

Mr ODENWALDER: I will answer.

The SPEAKER: The member for Elizabeth has the call, with leave.

Mr ODENWALDER: I am proud of some of the things that, in a privatised environment, the previous government managed to achieve for public transport workers. There are provisions within the Criminal Law Consolidation Act that make it an aggravated offence to assault or otherwise antagonise certain classes of workers. We as a government included transport workers in that group of workers for the reasons I have articulated. They are a vulnerable group of workers, often alone—almost always alone in the sense that they are with a group of passengers—and often, in suburban terms, in isolated parts of our community at all hours of the day or night with no security.

As we have heard from some of the survey results, there are serious concerns about whether their internal security systems are communicating well enough with the state security system in order to provide them with the levels of security they need. We, in the previous government, provided for an aggravated offence or for an additional class of worker to be added to that aggravation of passenger transport workers.

But I digress, and I apologise. As I said, the bill does not seek to address all of those issues—and there are many, many issues—but it does try to address, in its own small way, the issue of fare evasion. Again, most people would see fare evasion as a minor issue. We have all been in a situation where perhaps we have not had enough ready money to get on the bus, our ticket has expired, or perhaps we have even been given grace by the driver to continue on a journey without paying, but we are not talking about those types of people. We are talking about people who deliberately, belligerently and repeatedly refused to pay a fare, even when asked to by drivers or transport officials.

The bus drivers and the transit police themselves made it very clear to those of us present that day that repeat belligerent fare evasion of the type I am talking about goes hand in hand very often with antisocial behaviour, with intimidation of bus drivers and far too often with the type of violence that the TWU picked up in its survey results. It is often the same cohort of people we are talking about. Certainly, the bus drivers I have spoken to, including former bus drivers like my father, agree that there should be more stringent controls dealing with those types of people who deliberately flout the fare structures.

This bill then does something quite simple, but it is again something that bus drivers, and indeed the police, told me would be a very useful tool in keeping bus drivers safe. The bill makes it very clear that a repeated failure to validate tickets constitutes an offence and that a whole range of people may serve a barring order on a repeat offender, including a bus driver, any number of officials of the Department for Transport and, of course, police officers and police security officers, as they

are now. Section 56 of the Passenger Transport Act sets out the general offences you can commit on a bus, train or tram. These are:

- throwing or placing an object that might impede the free passage of a vehicle operated for the purposes of a passenger transport service;
- interfering with any structure, equipment, sign or notice necessary for the safe operation of a passenger transport service, or otherwise obstructing or impeding the proper operation of a passenger transport service;
- damaging or defacing a public passenger vehicle or any structure, equipment, materials, sign or notice used for the purpose of, or in connection with, a passenger transport service;
- behaving in a disorderly or offensive manner while in or on a public passenger vehicle; and
- refusing to leave a vehicle.

Concurrently, the regulations around public transport barring orders, as currently set out in section 133 of the Passenger Transport Regulations 2009, provide:

> (1) Subject to this regulation, a police officer may, on the authorisation of a senior police officer, by order (a transit barring order) served on a person, bar the person from—
>
> (a) boarding or travelling on—
>
> (i) specified classes of public transport; or
>
> (ii) all public transport other than as specified by the order; or
>
> (iii) all public transport; or
>
> (b) entering or remaining on—
>
> (i) specified prescribed premises; or
>
> (ii) specified classes of prescribed premises; or
>
> (iii) all prescribed premises other than as specified by the order; or
>
> (iv) all prescribed premises,
>
> for a specified period not exceeding any applicable limit fixed by this regulation—
>
> (c) if the person commits an offence, or behaves in an offensive or disorderly manner, on public transport or specified prescribed premises, or in an area adjacent to specified prescribed premises; or
>
> (d) on any other reasonable ground.

That sets out the conditions necessary for a police officer, or an authorised officer acting on the behest of a senior police officer, to issue a transit barring order. At the moment, the threshold is fairly high. It needs authorisation from a senior police officer, ultimately, for someone to be served with a transit barring order. Section 101 of the same regulations sets out the offence for failing to validate tickets, as follows:

> (1) A person who holds a ticket must validate his or her ticket each time that he or she boards a regular passenger service vehicle in which a ticket validator is installed.

There is a maximum penalty of $1,250 attached to this offence, but it is expiable by an amount $160. Any normal reading of that—and I am not a lawyer, sir, as you may have noticed—

The Hon. A. Piccolo: You're a JP.

Mr ODENWALDER: I am not even a JP, I am sorry. I am not a commissioner of oaths and affidavits or any of those.

The Hon. A. Piccolo: Not a police officer either.

Mr ODENWALDER: I am not a police officer. I am a former breakdancer.

Mr Brown: You never stop being a breakdancer.

Mr ODENWALDER: It is in your soul. I am sorry, I digress, sir.

Members interjecting:

The SPEAKER: Order!

Mr ODENWALDER: To a layman, to a former breakdancer's reading of these regulations in conjunction with the act, it would seem that fare evasion constitutes an offence and therefore constitutes grounds for a barring order, yet everyone at this forum—everyone from bus drivers and the union officials who represent them every day to the bus operators' representatives and the senior representatives of the transit police who were present—was adamant that, for the purposes of applying a transit barring order, the failure to validate did not constitute an offence.

That is the starting point. Even if it did constitute an offence, the threshold is still very high. I do not have a problem with the threshold being high, and I will explain further about the provision in my bill that does establish a certain threshold before this can be applied. What bus drivers and bus operators were telling me was that they needed a more flexible system whereby not only should repeated non-validation of tickets constitute an offence, which would give drivers and bus operators a tool to prevent certain types of antisocial behaviour, and in some cases violent behaviour, on their buses and trains, but it should be applicable by bus drivers and by bus operators.

In the good old days, we had bus inspectors. In any case, transport officials should be empowered to impose these types of orders in order to maintain some sort of flexibility and to expedite the process, and in these COVID times perhaps ease the pressure on our senior police officers, who, as we know, are under extraordinary amounts of pressure at the moment. This bill makes it absolutely clear that repeated failure to validate tickets constitutes an offence and that a whole range of people may serve a barring order on a repeat offender.

This bill inserts new section 56A to explicitly deal with transit barring orders related to fare evasion. It applies to a person who expiates a fare evasion offence and has, within the preceding period of 10 years, expiated at least two other fare evasion offences. There is that threshold. It would not be a case of a bus driver being agitated by the behaviour of someone who has failed to validate a ticket and slapping an order on them arbitrarily. There is this set of preconditions.

It would be a person who expiates a fare evasion offence and has, within the preceding period of 10 years, expiated at least two other fare evasion offences; that is, they have not just not paid a certain amount of times but been fined and either paid or not paid that fine—I do not think that matters—but they have been fined three times for that offence, so they have come to the attention of police in the period of 10 years at least three times. Those are the grounds on which a bus driver, an official of the transport department, or a police officer or police security officer may impose such an order under this legislation. The bill states:

> (2) Subject to this section, an authorised person may, by order (a transit barring order) served on a person to whom this section applies, bar the person from—
>
> (a) boarding or travelling on—
>
> (i) specified classes of public transport; or
>
> (ii) all public transport other than as specified by the order; or
>
> (iii) all public transport; or
>
> (b) entering or remaining on—
>
> (i) specified prescribed premises; or
>
> (ii) specified classes of prescribed premises; or
>
> (iii) all prescribed premises other than as specified by the order; or
>
> (iv) all prescribed premises,
>
> for a specified period (not exceeding 3 months).

I guess that is another condition of this bill, and another safeguard, that the threshold, the time for which one of these types of transport barring orders can apply, is limited to three months. This gives an offender time to reflect upon his or her actions and then continue to use public transport, as a lot of us still choose to do.

The bill, importantly, defines an authorised officer. It is slightly different from the definition applied elsewhere in the Passenger Transport Regulations 2009. An authorised officer is described as:

(a) an authorised officer under section 53—

as you would expect—

(b) a person authorised by the Minister to exercise the powers of an authorised person under this section; or

(c) an employee of a regular passenger service operator; or

(d) the driver of a regular passenger service vehicle…

The important point, I think, is that it includes drivers for the first time as people who are empowered to deliver and serve these orders on persons they know fulfil the criteria.

This bill requires that a transit barring order under this section must be personally served on the person—it is not binding on that person until it has been so served—and it ensures a person who contravenes a transit barring order issued under this section is guilty of an offence. The penalty for that offence is a maximum of $2,500. Drivers have told me this is a small step but it is a very important one in improving driver safety, and I urge members to support this bill.

Debate adjourned on motion of Dr Harvey.

Parliamentary Procedure

SITTINGS AND BUSINESS

Mr PICTON (Kaurna) (12:05): I move:

That Private Members Business, Other Motions, now be brought on.

The house divided on the motion:

Ayes.....21
Noes 24
Majority 3

AYES

Bedford, F.E.	Bettison, Z.L.	Bignell, L.W.K.
Boyer, B.I.	Brock, G.G.	Brown, M.E. (teller)
Close, S.E.	Cook, N.F.	Gee, J.P.
Hildyard, K.A.	Hughes, E.J.	Koutsantonis, A.
Malinauskas, P.	Michaels, A.	Mullighan, S.C.
Odenwalder, L.K.	Piccolo, A.	Picton, C.J.
Stinson, J.M.	Szakacs, J.K.	Wortley, D.

NOES

Basham, D.K.B.	Chapman, V.A.	Cowdrey, M.J.
Cregan, D.	Duluk, S.	Ellis, F.J.
Gardner, J.A.W.	Harvey, R.M. (teller)	Knoll, S.K.
Luethen, P.	Marshall, S.S.	McBride, N.
Murray, S.	Patterson, S.J.R.	Pederick, A.S.
Pisoni, D.G.	Power, C.	Sanderson, R.
Speirs, D.J.	Tarzia, V.A.	Treloar, P.A.
van Holst Pellekaan, D.C.	Whetstone, T.J.	Wingard, C.L.

Motion thus negatived.

Bills

HERITAGE PLACES (PROTECTION OF HERITAGE PLACES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 5 May 2021.)

Dr CLOSE (Port Adelaide—Deputy Leader of the Opposition) (12:12): I rise to speak on this bill and indicate that I am the lead speaker on our side of parliament on this bill. I will start by saying that we do not yet have a final position on how we will vote for this bill. I anticipate that, before the completion of the committee stage, we will have a position; however, if we do not, should it get through, we will be very happy to have a further position in the Legislative Council.

I also indicate that, although we do not have a settled position, I am at present contemplating amendments, which of course I will seek to discuss with the mover of this legislation well before going into the committee stage. As I said, if that becomes impossible, if it should get through, we would seek to have those amendments discussed once we reach the Legislative Council.

However, all of that is by way of giving context to the issues that we recognise as being very significant and of great interest that sit in the bill and in the motivation behind this bill by the member for Waite. I believe that the member for Waite is responding to a concern that has been building in the community about the way in which state heritage is treated.

That concern has become a little bit more acute in the context of the design code and the way in which there is some ambiguity about the treatment of state heritage in the design code and that lack of clarity, and indeed complexity that sits in the design code, that makes it very difficult for people who are, in the ordinary course of events, interested in state heritage that is close to them, rather than being experts in all state heritage, to understand what level of protection exists: what can and cannot be done with state heritage according to the design code. It has increased the temperature a little in community concerns about the general treatment of state heritage places in South Australia.

On top of that have been a few pretty high-profile state heritage matters and, without in any way wishing to speak for the member for Waite, I suspect that one of them in particular has prompted his attention to the fate of state heritage and therefore has prompted the preparation of this bill and the advancement of the provisions within it. That one, of course, is the Waite Gatehouse.

As I understand it, the Waite Gatehouse is now going to be dismantled and reassembled; it is going to be moved. That is a form of protecting and preserving the spirit of the Waite Gatehouse. For some time, the Waite Gatehouse was under the threat of demolition. A decision had been made that it would be demolished because it was too expensive to do either a different road treatment in order to keep it in situ or a movement of it, which has now been agreed to. I suspect that issue, which I know has brought out many people in the community, has led to a concern that perhaps parliament ought to be involved should anything as significant as that be proposed for a state heritage site.

I know people who are not only members of the Liberal Party but family members of very senior Liberals who have been out protesting and getting signatures, so it does not surprise me that the member for Waite would have seen the threat to the Waite Gatehouse as a reason to start paying more attention to the fate of heritage in this state.

There are a couple of other state heritage issues that have arisen in the last three years that I think also warrant careful consideration of the proposition by the member for Waite in this bill. One of those was in my electorate, Shed 26, the last of the sawtooth sheds around Inner Harbour. It had been expected by me and my community that that shed would be protected in the new development, which is a very welcomed development by Cedar Woods around the Glanville railway station.

It was in the designs that had been released, in the artist's impressions, what that development would look like, and there was an expectation that there would be an arrangement between the state government and the developers that that shed could be reactivated, revitalised and contribute to that development. It has happened in many places. I have been to Tasmania to look at the way in which their sheds around their wharf and marina areas have been able to be

revitalised and used and they are magnificent. There had been a great deal of hope and expectation that that would happen for Shed 26 as well.

The shed was nominated for state heritage consideration and the state Heritage Council deemed that it was worthy of being listed on the state Heritage Register. Now, of course, it fell foul of the clauses in the legislation that permit the government to remove a place from the state Heritage Register during its provisional listing phase. That is indeed what the Minister for Environment and Water decided to do, to the very great disappointment of my community.

I accept that Shed 26 is no longer, that it has gone now, but before it was demolished it was not officially on the register but had been deemed worthy of being on the register. One of the reasons the people in my community were so concerned about the fate of Shed 26 was that it was one of the few items of state heritage that related to the workers of South Australia. It was not about the people who had significant amounts of money and built grand buildings—which are absolutely worthy of protection—but it was about a place where people worked, where ordinary people earned an ordinary salary, working to build the state to be what it is now.

Port Adelaide is full of that kind of heritage, but Shed 26 was one of the few places where that kind of activity happened and is still there. It was under threat and could have been protected, and we lost that, which was, as I say, a great disappointment. For that reason, my community expects me to take this legislation very seriously.

The other state heritage place's fate that is being questioned is of course Martindale Hall. I will not go into the legislation, as I know that it has already been introduced, but I can say that the National Trust has come to see me and is deeply concerned about the way in which that piece of state heritage will be protected, will be considered, and that the treasures within it will be fully cared for and, importantly, that the people of South Australia will continue to have access.

There is a question mark over Martindale Hall. I accept that that question mark has been over it for a significant period of time. It is not a recent question mark, although it has come back again as an issue, as we will get to when that piece of legislation is debated. However, such a significant building is, in a way, the opposite of Shed 26 in the sense that it was a very magnificent house built by a gentlemen, as I understand it, on the basis that, if he built a really lovely house, the young woman he was very fond of in the UK would come over and live here—and she did not. He built it, and she did not. As I understand it, it is a house of heartbreak and sorrow. Mr Speaker, I would seek leave to have an additional 15 minutes to speak on this matter.

The SPEAKER: It is not available, deputy leader, in accordance with the sessional order.

Dr CLOSE: Not available?

The SPEAKER: It is afforded as an opportunity to the mover.

Dr CLOSE: I understand; thank you. The concern about that and the general concern about the way in which the government is able to make what seem like capricious decisions has no doubt motivated the member for Waite, and we will take this very seriously.

Dr HARVEY (Newland) (12:22): I move:

That the debate be adjourned.

The house divided on the motion:

Ayes.....25
Noes 21
Majority 4

AYES

Basham, D.K.B.	Bell, T.S.	Chapman, V.A.
Cowdrey, M.J.	Cregan, D.	Duluk, S.
Ellis, F.J.	Gardner, J.A.W.	Harvey, R.M.
Knoll, S.K.	Luethen, P.	Marshall, S.S. (teller)
McBride, N.	Murray, S.	Patterson, S.J.R.
Pederick, A.S.	Pisoni, D.G.	Power, C.
Sanderson, R.	Speirs, D.J.	Tarzia, V.A.

AYES

Treloar, P.A.	van Holst Pellekaan, D.C.	Whetstone, T.J.
Wingard, C.L.		

NOES

Bedford, F.E.	Bettison, Z.L.	Bignell, L.W.K.
Boyer, B.I.	Brock, G.G.	Brown, M.E. (teller)
Close, S.E.	Cook, N.F.	Gee, J.P.
Hildyard, K.A.	Hughes, E.J.	Koutsantonis, A.
Malinauskas, P.	Michaels, A.	Mullighan, S.C.
Odenwalder, L.K.	Piccolo, A.	Picton, C.J.
Stinson, J.M.	Szakacs, J.K.	Wortley, D.

Motion thus carried; debate adjourned.

Motions

ELDER ABUSE AWARENESS DAY

The Hon. G.G. BROCK (Frome) (12:31): I move:

That this house—

(a) recognises that Elder Abuse Awareness Day is held on 15 June 2021;

(b) acknowledges the impact of the health and wellbeing of those involved;

(c) acknowledges the importance of being aware of the symptoms of potential elder abuse;

(d) urges the state government, together with non-government agencies, to aggressively promote the awareness of elder abuse;

(e) urges the state government, together with the commonwealth government, to ensure adequate protection for these elderly people; and

(f) urges the state government to ensure the most severe penalties are in place for offenders.

World Elder Abuse Awareness Day will be held on 15 June 2021. It is an annual event. With the growing global population of elderly people, and as longevity increases, abuse of the elderly is an increasingly serious problem that affects health and human rights that can cause death, so it is vital to raise awareness of it and thus prevent it whenever and wherever possible.

Elder abuse is a global issue and comes in many forms, including physical, emotional, sexual and financial, as well as neglect, silence and negativity. Elderly people are human and deserve the same dignity and respect as people in all other age groups. Elderly people are particularly vulnerable to abuse, to being unable to defend themselves and to get help, as fear and infirmity can be major barriers to seeking and getting help, and sometimes spotting and challenging abuse in the elderly is not very easy.

Some are isolated, having outlived family and friends, and some are abused in institutions where abuse is not spotted or is covered up. In some cases, the elderly are not given priority by authorities in abuse matters. I will speak further about that later in my speech.

Virtually all countries are expected to see substantial growth in the number of elderly persons between now and 2030, and that growth will be faster in developing regions. Because the numbers of elderly people are growing, the amount of elder abuse can be expected to grow with it. While the taboo topic of elder abuse has started to gain visibility across the world, it remains one of the least investigated types of violence in national surveys and one of the least addressed in national action plans.

The recent COVID-19 epidemic has highlighted the issues that these elderly people have to endure. Not being able to see their families due to isolation rules is in actual fact a form of abuse—maybe not so as in previous times, but it is still an abuse. However, this needs to be put in place to

ensure that people's wellbeing during this very trying period is sustained. I have had many people come to my office for assistance to see their elderly parents in their respective aged-care facilities. These people miss their parents, and can you imagine how the elderly miss their own children and, in particular, their grandchildren.

Each year, it is reported that one in six elderly people experience some form of elder abuse. Rates of elder abuse in institutions such as nursing homes and long-term care institutions are likely to be higher than in the community, with two in three caregivers reporting abuse in institutions in the past year. While there are many institutions that work hard and provide excellent service and quality care to residents, there is evidence that suggests that an inadequate number of caseworkers or careworkers, difficult working conditions (both physically demanding and emotionally testing), low pay and inadequate training on the human rights of elderly people can contribute to rates of elder abuse in institutions.

Elder abuse can be defined as a single or repeated act or lack of appropriate action occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person. Elder abuse can take various forms, such as physical, psychological or emotional, as I said earlier, and can include sexual and financial abuse. It can also be the result of intentional or unintentional neglect from both parties.

In many parts of the world, elder abuse occurs with little recognition or response. Until recently, this serious social problem was hidden from the public view and was considered mostly as a private matter. Even today, elder abuse continues to be a taboo discussion point—and again I will elaborate further on that a bit later—that is mostly underestimated and ignored by societies across the world. However, evidence is accumulating that indicates elder abuse is an important public health and social problem.

Abusive acts in institutions can include physically restraining patients; depriving them of dignity, by leaving them in soiled clothes, for instance; intentionally providing insufficient care, such as allowing them to develop pressure sores; over and undermedicating residents; emotional neglect; and abuse. Elder abuse can lead to physical injuries ranging from minor scratches and bruises to broken bones and disabling injuries, sometimes with serious, long-lasting psychological consequences, including depression and anxiety. Again, there will be more on that a bit later in my speech.

The consequences of abuse can be especially serious for elderly adults, placing them at a higher risk of nursing home placement and hospitalisation. Risk factors in communities can include: gender (women are often at a higher risk of abuse); poor social support; silent treatment from family and partners; isolation of financial support or knowledge of financial matters; sociocultural factors, such as erosion of the bonds between generations of the family; conflicts over inheritance; and the financial inability to pay for care. In institutions, there is a higher risk of abuse where staffing levels are insufficient, where staff may be poorly trained or poorly supported, and where there are inadequate care standards and no quality control.

Too little attention is given to preventing elder abuse, especially in institutions. Raising awareness, screening staff properly and adequate training are clearly essential. In addition, implementing care guidelines, mandatory reporting of abuse to authorities, and offering psychological support for both abusers and the abused will assist.

With the extra precautions needed due to the COVID-19 pandemic, all aged-care facilities need to have the extra staff necessary to maintain the highest standards and cleanliness, and the real issue emerging is that there are not enough suitable people to carry out these tasks. This could be both in terms of training and also being able to emotionally handle and carry out these tasks.

Approaches to define, detect and address elder abuse need to be placed within a cultural context and considered alongside culturally specific risk factors. For example, in some traditional societies older widows are subject to forced marriages, while in others isolated older women are accused of witchcraft. From a health and social perspective, unless both primary health care and social service sectors are well equipped to identify and deal with the problem, elder abuse will continue to be underdiagnosed and overlooked.

Recent research findings draw specific attention to financial exploitation and material abuse of older patients as a common and serious problem. Based on available evidence, 5 to 10 per cent

of older people globally may experience some form of financial exploitation; however, such abuse often goes unreported, partly due to shame and embarrassment on the part of the victims or their inability to report it because of cognitive and other impairments, and most prevalence studies are based on self-reported surveys.

I have a personal involvement with someone with whom I have had a close family relationship over many years. From my observations, she had a happy marriage for nearly 50 years. We have since found out that this particular wife wanted to leave her husband after 14 years of marriage, as the children had then grown from young children to basically adults. The husband threatened to kill himself if she left him, and made it quite clear that she would lose contact with her children and would be seen as the culprit, so she stayed with him in this very stressful situation.

After a few years, with the assistance of her sister-in-law, she finally left. For the first time in nearly 45 years, she experienced living by herself and felt relieved by not being constantly berated and belittled. She invited her sister-in-law around to the new rental, but the sister-in-law was not aware that the husband was also there. When she arrived, the husband verbally abused his wife for letting her sister-in-law come around to this particular location. When the sister-in-law thought it was best that she leave, she asked the husband to move his car. He threatened both women and told the sister-in-law that he would deal with her next.

This sort of behaviour apparently was reported, but each time the relevant government department interviewed the wife the husband was always in the next room and, as such, the real truth never came out until just recently. Since then, unfortunately, the family have rejoined and moved to Adelaide. Even then, when the sisters-in-law asked where the new home would be, the husband would not divulge the new address to them. As far as I know, not even the wife knows the actual address of the new home, which may be due to her mental condition due to the continued belittling and berating she has received over the years.

To make issues worse, her husband has convinced authorities to give him power of attorney over his wife, and she is not fully aware of the consequences, mainly due to her mental capacity after many years of verbal intimidation. From investigations undertaken since this was brought to our attention, the issues were then reported by the sisters to the elder abuse hotline in 2020. However, as they did not receive a response, they contacted the elder abuse hotline again in 2021 only to be told that the file had been closed as they had spoken to the husband and everything was fine.

At this point, it was discovered that the husband applied for guardianship early in 2021 and was granted guardianship over his wife. Again, the sisters-in-law made further moves, contacting the Adult Safeguarding Unit and giving them the full story. The real concern here is that no-one from any government agency spoke to the wife to fully understand the actual activities and the behaviours.

Each time the discussions were held, either the husband was there with her or in the next room, so his wife was not prepared or did not have the strength or the fortitude to be able to tell the truth as she had been intimidated and told she was no good. She had no money and had not been given any idea about finances and things like that.

Once we were aware of these issues, a communication was sent to the Attorney-General. Even if not much can be done for this woman, we need to ensure that the situation does not happen to anyone else in the future in this regard. I am disappointed that this was not brought to my attention by these people earlier on.

As I say, we are a small community, we are a very close-knit community and most of us know the issues. To our knowledge and to everyone else's knowledge, this family had a very loving relationship and marriage. What goes on behind closed doors is not always evident to those outside, but once it was reported we communicated with the Attorney, and I have full faith that the Attorney will be able to look at opportunities to make certain that this does not happen again.

Now that the husband has the guardianship it will be a bit hard, but I reassure everybody that we are making every attempt to ensure that the sister-in-law and the sisters themselves and the agencies are fully aware of this, and a close watch will be kept on those families. We have been able to communicate with the children since then to ensure that they at least know the story and give their mother the opportunity and support she needs both financially and emotionally.

Elder abuse is something we have to be able to understand. Sometimes we talk about it, sometimes we do not know about it and emotionally and physically get personally involved with it. But, once you become part of that journey with those people, it is the most traumatic thing when you get involved with it and see it personally. We need to keep pushing, talk about it and take it away from being a taboo subject and make certain that we talk about it openly without any fear of being ridiculed or intimidated by anyone. I hope this motion goes through.

Ms LUETHEN (King) (12:46): I rise to speak on the motion moved by the member for Frome. I move to amend the motion moved by the member for Frome so that it reads as follows:

That this house—

(a) recognises that Elder Abuse Awareness Day is held on 15 June 2021;

(b) acknowledges the impact of the health and wellbeing of those involved;

(c) acknowledges the importance of being aware of the signs of elder abuse;

(d) urges the state government, together with non-government agencies, to actively promote awareness of elder abuse;

(e) urges the state government, together with the commonwealth government, to ensure adequate protection of the rights of older people; and

(f) urges the state government to ensure appropriate consequences are in place when abuse is perpetrated.

Amid an ageing population and the federal budget's renewed aged-care focus, I lend my support to recognising Elder Abuse Awareness Day on behalf of many elderly constituents and their families in my community. Oftentimes elder abuse flies under the radar, so acknowledging its warning signs and effect on those involved is very important.

Elder Abuse Awareness Day is held on 15 June every year. Older South Australians have the right to feel safe, to be treated with dignity and respect. Decisions about their lives, finances, where they live, health care, lifestyle and relationships are important, and older people have the right to make these decisions as they wish. With the annual Stop Elder Abuse community awareness campaign underway, concluding on 20 June, we are reminded that older people do have rights, and these rights need to be respected and safeguarded. If we suspect abuse or are concerned about someone we know, it is important to speak up and call the South Australian Abuse Prevention phone line on 1800 372 310.

SA Health also continues to promote the Stop Elder Abuse website at www.sahealth.sa.gov.au/stopelderabuse, so that people can easily find more information about elder abuse and what to do about it. Feeling safe from abuse and harm is a basic human right, and the Marshall Liberal government is committed to upholding it. Eighty per cent of elder abuse is committed by a trusted family member, and it often occurs silently and in secret. Elder abuse can frequently go unnoticed, and that is why as a community, just as we did during the 2020 COVID pandemic, we need to look out for our neighbours.

Notable effects of elder abuse documented by the Australian Institute of Family Studies include physical injury, early death and loss of personal autonomy. From a more local perspective, elder abuse's most alarming effects were revealed in the SA Health's harrowing Oakden report. I make particular mention of page 34, which stated, 'female consumers in mixed gender units [were] vulnerable to threats, harassment and abuse'. Also, 74 per cent of residents experiencing fear and distress were women.'

The Oakden story was one of the former Labor government's indifference, ineptitude and incompetence, with South Australians rightfully expunging the former government a month after the Independent Commissioner Against Corruption reported on this scandal. Nevertheless, the Oakden humiliation shone a light on how elder abuse can fall on deaf ears.

Briony Dow and others, writing in the *Journal of Family Violence*, identify numerous obstacles experienced by elder abuse victims to sharing their stories. These barriers, as described by the authors, generally stem from the fact that the perpetrator is the victim's adult child, causing the victim to fear adverse consequences for the child. The authors also describe evidence of victims experiencing shame and embarrassment at the response they received after disclosing their abuse.

While Oakden was a dark chapter in our state's history, it has provided a timely impetus to protect our most vulnerable. In contrast, in February, the Marshall Liberal government's Repat Neuro-Behavioural Unit, an Australian first, opened to patients living with extreme dementia symptoms. This is a key initiative in implementing the Oakden report's recommendations. With the Neuro-Behavioural Unit opening to patients, the government is ensuring the community can access specialised dementia services closer to home and when they need them.

The new facility was designed in partnership with people with lived dementia experience, including families of former Oakden residents as well as carers of people living with dementia. The Neuro-Behavioural Unit is a safe, open space where South Australians experience everyday things they enjoyed at home as well as quieter areas where families can gather, interact and share meals. Four years on, South Australians can be proud that we now care for people with severe dementia in an advanced facility with high-quality staff. We have only achieved this through sensitivity to the holistic needs of vulnerable elderly people needing regular and sophisticated care.

In September last year, the government rolled out an expansive awareness campaign urging South Australians experiencing or at risk of abuse or neglect and anyone concerned about another's welfare to reach out to an expanded hotline. The Adult Safeguarding Unit, which initially focused on elder abuse, now provides broader protection against abuse and neglect of vulnerable South Australians. This has been achieved by informing the community about the unit's expanded role and how to report to it.

Under the previous Labor government, South Australia had no single government agency with a clear statutory responsibility for safeguarding vulnerable adults experiencing abuse or neglect. The Adult Safeguarding Unit ensures people experiencing abuse or neglect are not left to navigate complex systems alone. Key functions of the Adult Safeguarding Unit include responding to reports of suspected or actual abuse of adults who might be vulnerable; providing support to safeguard the rights of adults experiencing abuse, tailored to their needs, wishes and circumstances; and raising community awareness of strategies to safeguard the rights of adults who may be at risk of abuse.

The Adult Safeguarding Unit works positively with and for an adult at risk of abuse to work towards solutions while preserving relationships that are important to them. Whilst reporting abuse to the Adult Safeguarding Unit is voluntary, the ASU has a legal mandate to respond to all reports received. Responses have included increasing support to the person at risk, assisting the person to make new legal documents or walking alongside the person to seek police involvement.

This coming World Elder Abuse Awareness Day, our community must do much more than simply acknowledge the existence of elder abuse. More valuable is the action of encouraging elder abuse victims to speak out and reporting elderly at risk in our local community so the government can help and protect them. Every South Australian has a responsibility in safeguarding the rights of older citizens and adults in vulnerable circumstances.

If someone witnesses or suspects abuse, they can take action by calling the South Australian Elder Abuse Prevention Phone Line on 1800 372 310 during Monday to Friday, nine to five, for information or support; by making a report to the Adult Safeguarding Unit; or by emailing adultsafeguardingunit@sa.gov.au. The trained and experienced staff of the Adult Safeguarding Unit are there to provide free confidential advice and support and to take reports of actual or suspected abuse. I commend this amended motion and thank the member for Frome for his motion.

The SPEAKER: The Minister for Innovation and Skills.

The Hon. D.G. PISONI (Unley—Minister for Innovation and Skills) (12:55): Thank you very much, sir.

Mr PICTON: Point of order.

The SPEAKER: The minister will resume his seat. The member for Kaurna on a point of order.

Mr PICTON: The minister and I were both on our feet. Was there not a standing order or a tradition in this house that the call passes between both sides of the house, as opposed to continuing to call on the government side of the house, as you have just done?

The SPEAKER: Order! There is no point of order. It is simply a standing order 106 point. The Minister for Innovation and Skills was, in my observation, on his feet, having risen first. Those are the terms of the order. It has simply been applied in those terms. The minister has the call.

The Hon. D.G. PISONI: I am certainly very pleased to support the amended motion, as amended by the member for King. I will take this opportunity to agree with the member for Frome about the need for a skilled workforce in the aged-care sector. It is unfortunate that it is a challenge that was obviously ignored by the member for Frome when he was a cabinet minister under the previous government.

It was not until there was a change of government that there was a focus on skilling the aged-care workforce here in South Australia, and I do not mean the only way in to the aged-care sector being institutional learning and then being forced to work for free for an employer in what they call a placement, which is really working as an employee without being paid for up to eight weeks for the on-the-job experience.

When I came to office, I identified that this was a significant problem for getting the number of people who are required with skills that are needed in the aged-care sector. We know what the aged-care royal commission said about the quality of care; they said that there needed to be increased skills in that sector. I am very pleased that we had already started the rollout, even before the aged-care royal commission started—paid traineeships in the aged-care sector, Cert III in Individual Support. We started rolling those out because we spoke to employers and those who were delivering that care in the disability sector and the aged-care sector, which are very similar skill sets.

We know that there is a high turnover of staff—up to 60 per cent per annum—who work in the aged-care and disability care sector. By having paid traineeships in that sector, we know that it is the beginning of a career pathway; it is not just a job anymore. In South Australia, we are leading the nation when it comes to the rollout of new paid career pathways in vocational education.

Of course, we are thankful for the Morrison government recognising the importance of ensuring that Australians are skilled and seeing what we have been achieving here in South Australia and backing the paid apprenticeship and traineeship model with their boosting apprenticeships program, which we are using here in South Australia—not as a sugar hit, as we are seeing in some of the other states, but to change the culture of vocational education here in South Australia. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Sitting suspended from 12:59 to 14:00.

Bills

ELECTORAL (FUNDING, EXPENDITURE AND DISCLOSURE) AMENDMENT BILL

Message from Governor

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as may be required for the purposes mentioned in the bill.

Petitions

VOLUNTARY ASSISTED DYING BILL

Mr DULUK (Waite): Presented a petition signed by 35 residents of South Australia requesting the house to urge the government to oppose the Voluntary Assisted Dying Bill 2020 and to improve palliative care services and provide counselling and psychiatric care to people wanting to access euthanasia.

Parliamentary Procedure

ANSWERS TABLED

The SPEAKER: I direct that the written answers to questions be distributed and printed in *Hansard*.

Parliamentary Committees

ECONOMIC AND FINANCE COMMITTEE

Mr COWDREY (Colton) (14:03): I bring up the 10th report of the committee, entitled Emergency Services Levy 2021-22.

Report received and ordered to be published.

LEGISLATIVE REVIEW COMMITTEE

Mr TRELOAR (Flinders) (14:04): I bring up the 40th report of the committee, entitled Subordinate Legislation.

Report received.

Question Time

EDUCATION DEPARTMENT

Mr BOYER (Wright) (14:05): My question is to the Minister for Education. Why are people leaking against the minister?

The Hon. D.C. VAN HOLST PELLEKAAN: Point of order, sir.

The SPEAKER: The Minister for Energy and Mining rises on a point of order.

The Hon. D.C. VAN HOLST PELLEKAAN: Standing order 97: the question contains argument, and I am sure the member knows it.

The Hon. A. Koutsantonis interjecting:

The SPEAKER: Order! The member for West Torrens is called to order.

The Hon. L.W.K. Bignell: You haven't got a cabinet; you've got a colander!

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

Members interjecting:

The SPEAKER: Members on my left! I will rule on the point of order. I uphold the point of order. I will give the member for Wright an opportunity to rephrase and/or seek any necessary leave that might be required.

Mr BOYER: Thank you, Speaker. My question is to the Minister for Education. Why are people leaking against the minister? With your leave, Speaker, and that of the house, I will explain.

Leave granted.

Mr BOYER: The opposition has been provided with confidential budget documents that reveal that $84.4 million will be allocated to construct the new year 7 to 12 high school at the Norwood Morialta High School Rostrevor campus, which is also in the minister's electorate.

The Hon. S.S. MARSHALL (Dunstan—Premier) (14:06): I thank the member for his question.

Mr Brown: You leaked it!

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

The Hon. S.S. MARSHALL: I note the way he has characterised this. I just think it's somebody in the department who is very excited about the Liberal Party's plan to continue to invest in educational facilities in South Australia. It's quite clear they are very happy with the way that we are going about fixing the mess that we inherited from those opposite.

We are very proud in South Australia about our investment in education: four new schools in South Australia. I commend the Minister for Education for the great work that he and the department have been doing in terms of upgrading our schools ready for the transformation that those opposite shirked. Those opposite shirked it for a long period of time, failing to move year 7 into secondary school, which was something they had signed up to—

Mr Whetstone interjecting:

The SPEAKER: Member for Chaffey!

The Hon. S.S. MARSHALL: —as part of the national curriculum signature that they provided to that national partnership agreement but failed to do anything about it. It required a lot of money.

Mr Boyer: This is why you should let the minister answer the question—because you don't know what you're talking about.

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

The Hon. S.S. MARSHALL: And that is why we have provided that money in our budgets that have already been put forward, and we are continuing to invest in education facilities that those opposite failed to provide over a long period of time. I've got to say I am very pleased with some of the new schools that are on the agenda since we came to government. Those opposite knew about the need that was required in the member for Giles' seat for a long period of time, but after 16 years—

Members interjecting:

The SPEAKER: Order!

The Hon. S.S. MARSHALL: —did they actually provide it? No, they didn't.

Members interjecting:

The SPEAKER: Members on my left!

The Hon. S.S. MARSHALL: They talked about a lot of things. In fact, they talked about a lot of things just before election day virtually every year that they were in, but they didn't deliver.

Members interjecting:

The SPEAKER: Order!

The Hon. S.S. MARSHALL: They didn't deliver in Whyalla. They didn't deliver for the people of the Southern Fleurieu Peninsula—

Members interjecting:

The SPEAKER: The Minister for Innovation and Skills—

The Hon. S.S. MARSHALL: —like we have with the fabulous new school—

The Hon. A. KOUTSANTONIS: Point of order, sir.

The SPEAKER: Order! The Premier will resume his seat.

The Hon. S.S. MARSHALL: —down in Goolwa.

The SPEAKER: The Premier will resume his seat. The member for West Torrens on a point of order.

The Hon. A. KOUTSANTONIS: Yes, standing order 98, sir: debate. The Premier is arguing about the last election, comparing what Labor said and what Labor did and what his government is or isn't doing, or what is being leaked. It's debate and not answering the question at all.

Members interjecting:

The SPEAKER: Order! Members on my right will cease interjecting, and the Minister for Education is called to order. Leaving aside those facts that might have been introduced with leave, the question was extraordinarily broad, bordering on esoteric in its nature, and the Premier has an unusually wide scope in responding to it. That said, I draw the Premier's attention to the question. The Premier will direct his answer to the question. The Premier has the call.

The Hon. S.S. MARSHALL: This question is really about which party in South Australia is best positioned to provide the educational facilities that we need in our state. We are happy to put our credentials up every day of the week. Those opposite had to be—

Ms Wortley interjecting:

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

The Hon. S.S. MARSHALL: —dragged kicking and screaming to a new city high school, something that we promised on this side of the house back in 2010, 2014 and 2018. They had to be dragged kicking and screaming—

Members interjecting:

The SPEAKER: The member for Playford is warned.

The Hon. S.S. MARSHALL: —in regard to it. We are talking about the Rostrevor campus of the Norwood Morialta High School. Let's be very clear: the plan from those opposite was to close the campus. We have been opening campuses: their plan was to close the Rostrevor campus.

We have made no secret of the fact that we need a greater level of facilities here in metropolitan Adelaide and across the country in South Australia. We see a lot of our excellent schools in South Australia under real pressure here in metropolitan Adelaide, especially in the east—

Members interjecting:

The SPEAKER: The member for Wright is warned.

The Hon. S.S. MARSHALL: —an area which those opposite neglected over a long period of time. Their plan was to sell off the Rostrevor campus. Our plan is to consider whether this is an ideal campus for us to create a new school. This is no secret. It has been the subject of an InfrastructureSA report published earlier this year. Everybody can see that.

I think it is now time to get on board with making sure that we have a logical way to improve our educational facilities in South Australia. We are happy to put our credentials up every single day of the week: $1.3 billion in capital improvements right across South Australia—$1.3 billion. They can whinge, they can whine, they can carp, they can complain, but they can't rewrite history. They didn't do it when they were in: it’s being done at the moment and congratulations to the Minister for Education.

Members interjecting:

The SPEAKER: Order! Before I call the member for Wright, I warn the member for Torrens, I call to order the member for Chaffey, I call to order the member for Cheltenham, I call to order the Minister for Innovation and Skills and I call to order the member for Kaurna.

EDUCATION DEPARTMENT

Mr BOYER (Wright) (14:12): My question is to the Minister for Education. Will the minister publish any advice or business case he received from the chief executive of his department about the new school he is building in his own electorate, as detailed in the budget leak provided to the opposition?

The Hon. J.A.W. GARDNER (Morialta—Minister for Education) (14:12): I thank the member—

Members interjecting:

The SPEAKER: The member for Lee! The minister has the call.

The Hon. J.A.W. GARDNER: —for the question. I make the point that, indeed, Infrastructure SA released a Capital Intention Statement in March. I commend to the member, if he doesn't want to read the reams of information—

Members interjecting:

The SPEAKER: The Deputy Premier!

The Hon. J.A.W. GARDNER: —published by Infrastructure SA and available for the South Australian community, to read the work of outstanding South Australian journalist Paul Starick, who wrote about it in *The Advertiser* in March. There is indeed significant pressure in the eastern suburbs. There has been for some time.

Mr Boyer interjecting:

The SPEAKER: The member for Wright!

The Hon. J.A.W. GARDNER: When the member for Wright was Chief of Staff to the Hon. Jennifer Rankine as education minister, they would have been aware of this because, of course, at that time they proposed to build a new school on the Magill campus of the University of South Australia. They took that as an idea to the 2014 election—

An honourable member: What happened?

The Hon. J.A.W. GARDNER: Well, they won that election and then decided not to proceed with it.

Members interjecting:

The SPEAKER: Order, Premier!

The Hon. J.A.W. GARDNER: It's quite possible that they were seeking to punish—

The Hon. S.S. Marshall interjecting:

The SPEAKER: The Premier is called to order.

The Hon. J.A.W. GARDNER: —the people of the eastern suburbs for daring to vote against Grace Portolesi in the seat of Hartley—

Members interjecting:

The SPEAKER: The member for Wright will cease interjecting.

The Hon. J.A.W. GARDNER: —and so they punished the people of the eastern suburbs by cancelling projects. The former Labor government, with the then education minister, the member for Port Adelaide, who has since been promoted to deputy leader of the Labor Party, then proposed to put a $30 million project at Norwood Morialta High School to combine the two campuses onto one campus and increase the size of the Magill campus.

They didn't tell anybody that half of the price they were going to spend on it was from the land sale of the Rostrevor campus. That was never made public before the election—that the whole project was not only underfunded by about $20 million but it was predicated on flogging off the land of the Rostrevor campus for presumably high-density housing. Certainly, the Treasury officers told us, when they came to power—

Members interjecting:

The SPEAKER: Order!

The Hon. J.A.W. GARDNER: —that $15 million—

Members interjecting:

The SPEAKER: Order, the member for Colton!

The Hon. J.A.W. GARDNER: —of expenditure on the Magill campus of Norwood Morialta High School was predicated on the land sale of Rostrevor that the Labor Party never told anybody about. We have been very, very transparent with—

Members interjecting:

The SPEAKER: Member for West Torrens!

The Hon. J.A.W. GARDNER: —the people of South Australia for some time. On the advice of the education department, Treasury, in a previous budget, has agreed to not require the education department to sell that Rostrevor land in order to recover money to pay for the upgrade that is absolutely necessary at the Magill campus. We have been very clear about that for some time. We have said so in this chamber and we have said so in public materials. It has been clear from the material provided to Infrastructure SA, and indeed identified in the Infrastructure SA Capital Intentions Statement—

Members interjecting:

The SPEAKER: Member for West Torrens!

The Hon. J.A.W. GARDNER: —that recommends doing this project, that this was indeed on the cards, that the education department was giving consideration to the future educational needs of the eastern suburbs. The truth is—

Members interjecting:

The SPEAKER: The member for Wright will cease interjecting.

The Hon. J.A.W. GARDNER: —that over 16 years the urban infill in the eastern suburbs had been absolutely extraordinary while Labor was in power. The member for Schubert, when he was planning minister, made some significant changes to the Campbelltown planning arrangements in relation to block sizes, and indeed that extraordinary growth and development. The Labor Party, when in power, flogged off—

Members interjecting:

The SPEAKER: Order!

The Hon. J.A.W. GARDNER: —the land at the Magill Youth Training Centre that is now providing for about 400 new residents there, with children as well. There's a whole range of pressures that are going to be on schooling in the eastern suburbs, and this has been growing for some time.

Members interjecting:

The SPEAKER: Order!

The Hon. J.A.W. GARDNER: The solution proposed by those opposite was not to increase capacity and not to deal with the challenges of increased student numbers in our public system—increased student numbers in the eastern suburbs created by their policies relating to housing in the eastern suburbs. Their solution was to exacerbate the problem by flogging off the land at the Rostrevor campus for more housing, more high-density developments and more urban infill in the eastern suburbs. That was Labor's approach, and now they criticise us for trying to fix it.

Members interjecting:

The SPEAKER: Order, members on my right! The member for Wright might resume his seat for a moment.

Members interjecting:

The SPEAKER: Order! The line of questioning and the nature of the answers are a source of excitement for both sides of the chamber so far in question time. I remind honourable members on both sides of the need to hear the question in silence. The minister, in answering the question, is entitled to be heard in silence. Before I call the member for Wright, I call to order the member for Colton and the member for Hurtle Vale. I call to order the member for Lee and the Deputy Premier, and I warn the Premier.

SCHOOLS, CAPACITY PROJECTIONS

Mr BOYER (Wright) (14:17): My question is again to the Minister for Education. Has the minister received advice from his department about the need to address capacity pressures impacting on Prospect and the surrounding areas in the member for Adelaide's electorate? With your leave, and that of the house, I will explain.

Leave granted.

Mr BOYER: The chief executive of the education department earlier this year cited the Prospect area as one in need of a new school in evidence given to the Budget and Finance Committee on 10 May this year.

The Hon. J.A.W. GARDNER (Morialta—Minister for Education) (14:18): I thank the member for Wright for this question because I am aware that the Labor Party has been pushing this line to a range of journalists this morning, trying to put words in the mouth of the chief executive of the education department. I am really pleased to have the opportunity now to share—

Members interjecting:

The SPEAKER: Members on my left!

The Hon. J.A.W. GARDNER: —the actual comments that were made by the chief executive of the education department, without cherrypicking. If I've got more than four minutes, I hope you ask some more questions because then I can get them all in.

Members interjecting:

The SPEAKER: Order!

The Hon. J.A.W. GARDNER: Indeed, Kyam Maher—I think he was the Chairperson—asked Mr Persse about an article in *The Sunday Mail* on 23 March, in which Mr Persse identified some of the challenges in the Prospect, Adelaide and Adelaide Botanic High School zone. Rick Persse said:

> I certainly do hold the view, Chair, that there is a lot of pressure on our shared CBD zone. What we are experiencing is a lot of urban infill and so on in that Prospect and surrounds area. There are new developments going on there and traditional larger blocks are being knocked down, with two four-bedroom homes on them.
>
> Obviously, we have wonderful schools in Adelaide High and Adelaide Botanic, which are in demand. I think that, should that demographic trend continue, we will need to consider either adding additional capacity at either or both of the CBD schools, but I do believe that not having a school between Adelaide Botanic and Gepps Cross is something that we need to provide best advice and a business case to government on.

Mr Persse was then asked, 'Is a business case being developed—

Members interjecting:

The SPEAKER: The member for Wright is warned for a second time.

The Hon. J.A.W. GARDNER: Mr Persse was then asked:

> Is a business case being developed for exactly the prospect that you think needs a business case?

Mr Persse answered:

> No, we are not at the business case development phase at the moment. What we are doing is doing all the demographic analysis, which is over seven years.

Then he went on to talk about one of the other senior officers:

> I am happy to see whether Ben wanted to talk about any of that. Obviously, it's a bit tricky in the sense that you can predict this to a point and bring as much science as possible to it, and then parent choice comes into it as well. We are certainly not at a business case development stage but we are doing that analysis.

This is the alleged smoking gun that the Labor Party brings to the document. There is clearly pressure on a number of our schools. There is pressure in the Adelaide High School shared zone. That is why the Liberal Party took the difficult and challenging decision to change the Adelaide High School zone a couple of years ago.

Were it not for that difficult decision, the existing pressure would have been exacerbated by an extra 600 students in that zone, which would have been impossible to predict. At the time, I recall deafening silence from Labor when I asked them whether they would have reversed the choice, because to continue that trend would have been challenging. However, we acknowledge that that trend of enrolment in the inner city suburbs and the urban infill in Prospect—

Members interjecting:

The SPEAKER: The deputy leader is called to order.

The Hon. J.A.W. GARDNER: —has continued and puts pressure on. The numbers comparing the eastern suburbs to that Prospect area are quite dramatically different and that's why the education department's focus for some time and their advice to me has been that that was the most significant priority. However, there is work going on at Prospect.

Later on Mr Persse, in response to a request from the Chairperson, Kyam Maher, identified where there is stress in relation to those schools with a capacity management plan: Adelaide Botanic, Adelaide High, Aldinga Payinthi, Aldinga, Brighton Secondary, Burnside Primary, East Marden Primary, Felixstow, Glenelg Primary, Glenunga, Henley High, Linden Park, Magill, Mark Oliphant, Mawson Lakes, North Adelaide Primary, Norwood Morialta, Riverbanks College, Roma Mitchell, Rose Park Primary, Trinity Gardens and Walkerville Primary.

He went on to say, 'I would stress that with the year 7 transition to high school in 2022, we expect that most of those capacity challenges in managing current primary schools will be alleviated.' This is the evidence that the member refers to in his question and I think it backs up everything that the government is doing.

SCHOOLS, CAPACITY PROJECTIONS

Mr BOYER (Wright) (14:22): My question is again to the Minister for Education. Can the minister advise the house what the capacity projections are for the Adelaide Botanic High School and Adelaide High School in 2022?

The Hon. J.A.W. GARDNER (Morialta—Minister for Education) (14:22): I thank the member for the question. I don't have the exact detail here but I recall it being provided to the member by FOI, I think, not that long ago. My recollection is that—

Members interjecting:

The SPEAKER: Order!

The Hon. J.A.W. GARDNER: —the capacity challenges there were in the order of a bit under 100 over the identified capacity. This is, of course, not including all the capacity increase that is on track to be delivered by the beginning of next year, both as a result of the significant commitment of around $20 million to expand Adelaide High School and other measures that were referenced in the very article that Kyam Maher referred to in the Budget and Finance Committee where the chief executive talked about some of the options that were available.

The advice that I have received from the department is that next year we expect there to be sufficient capacity at Adelaide High and Adelaide Botanic High for 2022 to manage those students. Obviously, there are fewer international students there next year than there have been at different times in the past. Obviously, there is more capacity there next year than there has been at different times in the past. There is a capacity challenge in this area; we don't deny it, and indeed the Department for Education is assiduously doing the work to identify the challenges, identify mitigation strategies and identify advice to government about how we deal with that, as they do around South Australia.

If only the former government in their 16 years had done the work to move year 7 to high school at a time when there wasn't a population bubble in the public school system, both as a result of urban infill in certain areas—

The Hon. S.C. Mullighan interjecting:

The Hon. J.A.W. GARDNER: The member for Lee asks, 'Is it all Labor's fault?' The answer is: well, a lot of it is.

The SPEAKER: The minister will not respond to interjection.

The Hon. J.A.W. GARDNER: A lot of it, because don't forget that Labor argued against the Adelaide Botanic High School's existence—

Members interjecting:

The SPEAKER: Member for Lee!

The Hon. J.A.W. GARDNER: —for six years. I remember campaigning with the member for Adelaide in 2008, 2009 and 2010 for a second Adelaide high school. Those opposite said it was ridiculous. Labor is now talking about potentially the need for a third Adelaide high school. Up until very recently, Labor's argument was there should be one—only one. And if they had agreed earlier—don't forget, we—

Members interjecting:

The SPEAKER: Order!

The Hon. J.A.W. GARDNER: —still don't have year 12s at Adelaide Botanic High School.

Members interjecting:

The SPEAKER: Deputy Premier!

The Hon. J.A.W. GARDNER: We still don't have year 12s at Adelaide Botanic High School. It is a couple of years away before we have that graduation to enjoy. Those capacity challenges would be easier right now had Labor done this work earlier; they didn't. They didn't have effective demographic modelling.

When we were modelling the infrastructure requirements needed to deal with both the move of year 7 into high school and the population growth in our public school system, which led to a couple of hundred million dollars worth of further announcements in early 2019, it was very clear that Labor hadn't done demographic modelling across South Australia—not just in the city, but across South Australia and across metropolitan Adelaide.

A number of the investment decisions that this government has had to make to deal with the growth in our high school capacities hasn't just been to do with year 7s being moved into high school; it has been to do with the growth in high school projected for the year 8s, 9s, 10s, 11s and 12s as well.

The former Labor Party government made a number of infrastructure investments into schools over its time in government. They expanded Adelaide and Marryatville and Brighton and a couple of other schools after the 2014 election. They were going to build a big new high school in Magill but then changed their mind. In 2017, they identified $692 million worth of projects—

The Hon. S.C. Mullighan interjecting:

The SPEAKER: Member for Lee!

The Hon. J.A.W. GARDNER: —and, on the eve of the election, they committed to building a new school in Aldinga, a new school in Angle Vale and, finally, after 16 years, a new school in Whyalla. This government has in fact dramatically increased the investment. Not only are we delivering on all of Labor's promises but we have substantially expanded them. A record $1.3 billion in education investment—

Members interjecting:

The SPEAKER: Order, the leader!

The Hon. J.A.W. GARDNER: —and I will give the hot tip to the member for Wright and those in the opposition: there's more to come, and there needs to be—

Members interjecting:

The SPEAKER: The leader!

The Hon. J.A.W. GARDNER: —because Labor left public education in South Australia less well off than it deserved to be, and our children and our young people deserve nothing less than world class. That's what this government is delivering.

Members interjecting:

The SPEAKER: Order! Before I call the member for Newland, I warn the member for Lee, I warn the Deputy Premier, I call to order the leader.

GLOBAL LIVEABILITY INDEX

Dr HARVEY (Newland) (14:26): My question is to the Premier. Can the Premier please update the house on the Marshall Liberal government's plans to make South Australia the best place in the world to live?

The Hon. S.S. MARSHALL (Dunstan—Premier) (14:27): I thank the member for Newland for his excellent—

Members interjecting:

The SPEAKER: Member for Playford!

The Hon. S.S. MARSHALL: —question. Can I just say, I have always said that South Australia is the best place in the world to live. Adelaide is the greatest city and our regions are second to none, and we have now been acknowledged and acclaimed by *The Economist* as the number one

most livable city in the country and the number three most livable city in the world. I've got to say that people have always said that South Australia—

Members interjecting:

The SPEAKER: Member for Playford!

The Hon. S.S. MARSHALL: —is a livable state and Adelaide is a livable city, and the way that we have worked together to handle the coronavirus I think has elevated—

Mr Brown interjecting:

The SPEAKER: Member for Playford!

The Hon. S.S. MARSHALL: —South Australia on the international stage and that is absolutely fantastic news. I want to thank every South Australian who worked together to help make this fabulous international acknowledgement a reality here today. We have achieved this not only by keeping South Australia safe through the coronavirus but also by building what matters here in our state, delivering more jobs and, of course, better services right across our state. I've got to say, the government's economic recovery plan is working particularly well at the moment.

Mr Odenwalder interjecting:

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

The Hon. S.S. MARSHALL: While those opposite want to carp and complain and whinge and whine about what's happening in South Australia, let's look at some of the facts that the world is now recognising about our state. We have record employment in South Australia. We have more people and more wages being paid in South Australia now than before the coronavirus. What other place in the world can say that? We can say it here in South Australia. Our job vacancies are at the highest level that we have had in the history of our state, and the stat that I love is that we have reversed that mass exodus of young people—

Members interjecting:

The SPEAKER: The member for Lee will cease interjecting.

The Hon. S.S. MARSHALL: —and capital out of our state presided over by those opposite for 16 years. We have reversed that.

Members interjecting:

The SPEAKER: Member for Elizabeth!

The Hon. S.S. MARSHALL: The capital is flooding back in. The young people are flooding back into South Australia. We have the first net interstate migration to South Australia since 1991 and that is a tremendous—

Members interjecting:

The SPEAKER: Order!

The Hon. S.S. MARSHALL: For some reason, members opposite are complaining about people wanting to stay in South Australia and return to South Australia. Well, I think it's fantastic. They are recognising that we are building exactly and precisely what matters to the people of South Australia like the Minister for Education pointed out: important improvements to the educational facilities in South Australia, massively expanding our failed health system under those opposite with major—$1 billion worth of projects right across our state at the moment.

Members interjecting:

The SPEAKER: Member for Hurtle Vale!

The Hon. S.S. MARSHALL: We are opening up—

Members interjecting:

The SPEAKER: The member for Hurtle Vale will cease interjecting!

The Hon. S.S. MARSHALL: —our reservoirs in South Australia, something that those opposite actually opposed. We are doing the work that is so important to attract people into our state.

Ms Cook interjecting:

The SPEAKER: The member for Hurtle Vale is warned.

The Hon. S.S. MARSHALL: We have banned single-use plastics. This is an important measure to tell people that we are serious about sustainability in South Australia. We are now heading to 78 per cent of all our energy coming from renewable sources by 2025, and only this week we heard the great news about the interconnector with New South Wales. Whilst we have now been internationally recognised, we have reversed that brain drain and we have the highest level of employment in the history of our state, there is still much work to be done.

On the 22nd of this month, we will be handing down our budget. This is a very important budget to make sure that we can continue to deliver more jobs, lower costs, better services and a hope and a future for the next generation here in South Australia.

Members interjecting:

The SPEAKER: Order! Before I call the member Wright, I warn the member for Chaffey, I warn the member for Colton, I warn the member for Elizabeth, I warn the member for Playford for a second time and remind all members that the member asking the question is entitled to be heard in silence and that the minister answering the question is entitled to be heard in silence.

SCHOOL INFRASTRUCTURE PROJECTS

Mr BOYER (Wright) (14:31): My question is again to the Minister for Education. Given the capacity issues outlined by the minister in his previous answer, why is the minister not building a new school for the inner northern suburbs?

The Hon. J.A.W. GARDNER (Morialta—Minister for Education) (14:31): I thank the member for the question. This government has been very serious when it comes to education infrastructure in taking advice from the education department about where the highest priorities are. Indeed, the education department did an enormous amount of analysis through 2018 and 2019, providing advice to the government about the capacity challenges identified at that time. Since then, when there have been suggestions of necessary work in new infrastructure projects we have been very eager to take the advice of the education department.

A range of ways in which the department provides that advice was given to this very parliament's Budget and Finance Committee for the upper house not two months ago, on 10 May. Earlier in question time, the member for Wright was trying to use that evidence to suggest something, that the government was somehow not pursuing our highest priority advice from the education department, when in fact the chief executive clearly articulated that the proposal the member refers to is not yet at the stage where the education department has seen fit to put forward a business case.

But he has made it very clear that there is work done on considering whether it is necessary. We have identified that it's a challenge. It's a challenge that is being managed at the moment. It's a challenge that is going to be okay for next year, and indeed the department are confident in the approach we have going forward. However, they have also identified that there is a dramatic challenge in the eastern suburbs, a challenge that those opposite were proposing to meet by making the complexity worse, by flogging off the land at Rostrevor for more housing and providing more pressure for the existing schools. I think all those high schools are scheduled to be over capacity by a significant amount if no further works are done.

So, as identified by the Infrastructure SA report, a business case is being considered. That's actually something we made public a couple of months ago. My suspicion is that the member for Wright hasn't read it, but it's available on the website for him to do so if he would like.

Members interjecting:

The SPEAKER: Order!

HISTORY TRUST

Dr CLOSE (Port Adelaide—Deputy Leader of the Opposition) (14:33): My question is to the Minister for Education. Is the state government allocating $1.5 million in the upcoming state budget to relocate the History Trust of South Australia from the Torrens Parade Ground?

The Hon. J.A.W. GARDNER (Morialta—Minister for Education) (14:34): Obviously, the state budget is coming out on 22 June. I am looking forward to the Treasurer delivering that state budget. I have a very good feeling that it's going to be an outstanding budget for the people of South Australia, one that focuses on our needs going forward, one that identifies some of the challenges going forward and addresses them because this is a government focused on the best interests of the people of South Australia.

The member has referenced a project that has been discussed in the History Trust for a number of years. I am trying to recall; I think Jack Snelling was the Minister for the Arts when this was first proposed. I think that Jay Weatherill was then the Minister for the Arts when this was being discussed.

Members interjecting:

The SPEAKER: Member for Playford!

The Hon. J.A.W. GARDNER: The History Trust have been part of the education portfolio for a period of time and, indeed, there has been a challenge about their accommodation for a period of time. I think that there are some very wise people at the History Trust. I think Elizabeth Ho and the trustees of the History Trust do a great job. I think Greg Mackie as the chief executive does a great job. They have lots of useful suggestions and the government considers those suggestions.

The SPEAKER: Before I call the member for Elder, I remind all members, particularly members on my left in the course of that answer, that the minister in answering the question is entitled to be heard in silence. I am endeavouring to listen carefully to both the questions and the answers and that proves difficult where there are ongoing interjections.

TRAIN STATION UPGRADES

Mrs POWER (Elder) (14:35): My question is to the Minister for Infrastructure and Transport. Can the minister update the house on how the Marshall Liberal government is creating jobs through the significant investment in refurbishing train stations all across South Australia?

The Hon. C.L. WINGARD (Gibson—Minister for Infrastructure and Transport, Minister for Recreation, Sport and Racing) (14:36): I thank the member for Elder for her very important question and, of course, this is just another example of the growing pipeline of infrastructure projects that are being delivered by the Marshall government. We are so happy to be rolling out these projects and, in the process, creating thousands of jobs for South Australians. Our infrastructure spend is some $16.7 billion and part of this is upgrading our train stations.

It was a pleasure to be with the Premier today. Of course, the member for Elder was there and the Liberal candidate for Badcoe was there as well, Jordan Dodd. It was good to be chatting with her about the upgrades that we are doing and how important it is for South Australia and our public transport sector—$111 million over 10 years into improving these stations. We know that under the previous Labor government they talked a lot about public transport, but we are delivering. Under Labor, declining patronage and poor facilities—that is what they left the people of South Australia.

Members interjecting:

The SPEAKER: Member for Lee!

The Hon. C.L. WINGARD: They don't like it. They don't like investments in public transport—hard to believe—but we are delivering. The Gawler electrification, a great project, we are happy to be rolling that out. The park-and-rides that we are delivering right across South Australia, again, are being adored by the people, especially in the north-east. We are about delivering better services for the people of South Australia. That $11 million, as well, is going to go towards 14 stations on the Gawler line. Of course, we are electrifying that line; $715 million is going into that and 14

stations—including Ovingham, which is getting quite a big refurb because of the overpass that's going on there.

Members interjecting:

The Hon. C.L. WINGARD: They don't want us investing in train stations on the Gawler line. It's hard to believe. They didn't want to—

Members interjecting:

The SPEAKER: Member for Playford!

The Hon. C.L. WINGARD: —electrify it. We are getting on and doing that project. They had that on again off again more times than you could care to remember. Now we are investing in 14 stations upgrading them on the Gawler line, and they don't like it. It is unbelievable. The Ovingham station, I mentioned that.

Members interjecting:

The SPEAKER: Order, member for Wright!

The Hon. C.L. WINGARD: A big upgrade for that one there as well; the Goodwood station, the Adelaide station, and Ethelton station are getting an upgrade. It has been left to deteriorate beyond belief. They should be ashamed of themselves on the other side of this chamber for what they did to that station, and we are refurbing that one as well. This is sensational.

I heard the member for Elizabeth asking about the stations that will be upgraded and he was looking at the Salisbury station. Well, that's on the list, as are Smithfield, Gawler Central, Tambelin, Islington, Ovingham—I mentioned the big upgrade there—Womma, Dudley Park, Greenfields, Kilburn, Nurlutta, Dry Creek, Gawler Oval, Kudla and North Adelaide. They are some of the stations that are getting the upgrade. They are getting refreshed.

Members interjecting:

The Hon. C.L. WINGARD: They still carp on about it. They still don't like it. But it's alright. We are getting on with the job of improving public transport here in South Australia. Again, the member for Elder is very delighted that Woodlands Park is getting an upgrade as well as part of this. We are very excited to be doing that. Mind you, that just goes along with a number of projects she has delivered for her community. Of course, Springbank, Daws and Goodwood, that road—

Members interjecting:

The SPEAKER: The member for West Torrens is warned.

The Hon. C.L. WINGARD: —is coming along wonderfully well. Of course, all the great work that she has done is in rectifying the mess that Labor left as far as the Repat hospital is concerned—their Transforming Health and their plan to shut down the Repat were a disgrace—again another infrastructure project that the member for Elder has advocated for, which is sensational.

With this program, what we will be doing each year is $7.5 million will go into the upgrade of more stations so we can improve the amenities of public transport users. As part of that, there will be new shelters, seating, bins, lighting upgrades and also painting and landscaping, just to improve that amenity, make it safer and attract more people back onto public transport. I can't believe how much noise they make about this, and what we are doing is getting on and delivering what is important for the people of South Australia—

Members interjecting:

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

The Hon. C.L. WINGARD: —because we know the mess that Labor left it in. We are getting on and fixing the job, and we are building what matters to the people of South Australia.

Mr DULUK: Supplementary, sir.

Members interjecting:

The SPEAKER: Order, members on my right! Before I call the member for Waite, I warn the member for Chaffey for a second time, I warn the member for Reynell and I call to order the member for Ramsay.

TRAIN STATION UPGRADES

Mr DULUK (Waite) (14:40): A supplementary: minister, as part of this program Refresh, can you commit to upgrading the Belair station, which was built in I think 1883, Mitcham, and a park-and-ride at Torrens Park as part of this railway investment?

The Hon. C.L. WINGARD (Gibson—Minister for Infrastructure and Transport, Minister for Recreation, Sport and Racing) (14:40): I thank the member for the question, and clearly it has been burning in his ears the disappointment that he has in the state that Labor left a lot of these train stations in right across Adelaide. That is why we are putting this program in place.

I have outlined the stations we are beginning with, the stations we are starting with—14 of them, plus Ovingham makes it 15, that are getting upgrades along that Gawler line. That is where the priorities will be, and we will continue with those other stations. I mentioned that there is $7.5 million in the out years going through, and we will be looking at those as well. But I do feel your pain because I know when Labor were in government they left our train stations in an appalling state.

Members interjecting:

The SPEAKER: Member for Kaurna!

The Hon. C.L. WINGARD: So there we have the Labor government that actually did nothing and they are carping and complaining now that we are investing. We are getting on with it with $110 million. They don't like it, but we are getting on with it. I have outlined the stations we are doing. We will be looking at more beyond that four-year period, but they are the stations we are doing over the next four years.

The SPEAKER: Before I call the deputy leader, I warn the member for Kaurna.

NATIONAL TRUST

Dr CLOSE (Port Adelaide—Deputy Leader of the Opposition) (14:41): My question is to the Minister for Environment and Water. Why is the minister requiring the National Trust to leave Ayers House? With your leave, and that of the house, I will explain.

Leave granted.

Dr CLOSE: The National Trust has opposed the minister's record on heritage, including the initial decision to demolish the Waite Gatehouse, the decision to remove Shed 26 from provisional listing on the Heritage Register and the decision to seek to revoke the charitable trust and conservation park status of Martindale Hall, and is now being told it will no longer be able to be based in Ayers House.

The Hon. D.J. SPEIRS (Black—Minister for Environment and Water) (14:42): I thank the deputy leader for her question. The National Trust—

Members interjecting:

The SPEAKER: The member for Elizabeth is warned for a second time.

The Hon. D.J. SPEIRS: —of South Australia, as the deputy leader alludes to, have had a long history of involvement in Ayers House. They have for some time had their headquarters at Beaumont House, and in more recent times have made an announcement that they are going to move those headquarters to the North Adelaide Baptist Church.

We think, because of the very strategic location that Ayers House occupies on North Terrace, obviously just across the road from Lot Fourteen, which is really the most strategic piece of real estate within the CBD, there is great opportunity to see a renaissance of Ayers House. We have made no secret of our great interest in investing in and transforming Ayers House and giving it that role as a great heritage building within South Australia, reflecting on its history and giving it a present day imperative as well.

I have been talking to the National Trust, as the responsible minister for that property for some time, about their future at Ayers House. I have made no secret that the state government was looking for an opportunity to reinvigorate that property and we are moving to do so.

NATIONAL TRUST

Dr CLOSE (Port Adelaide—Deputy Leader of the Opposition) (14:43): Supplementary to the Minister for Environment and Water: what assistance will the minister give to the National Trust in the event of being removed from Ayers House?

The Hon. D.J. SPEIRS (Black—Minister for Environment and Water) (14:44): In my discussions with the National Trust, I have made it extremely clear that the government will provide some assistance to see them transition to—

Members interjecting:

The Hon. D.J. SPEIRS: I have no need to go into the detail with the opposition, given their history with heritage.

Members interjecting:

The SPEAKER: Order, members on my left! The minister has the call.

The Hon. D.J. SPEIRS: That is a negotiation between the government and the National Trust to understand their needs as they transition. They've got a new property at North Adelaide which provides them with extensive space. I don't necessarily believe they will need storage space. The vast majority of goods and chattels within Ayers House, of course, belong to the state and come alongside as part of what Ayers House is all about—they belong to the state and belong to Ayers House. We will work with the National Trust to aid that transition.

As I said, there have been no secrets in this process. For several years the government has made it very clear that there is a real opportunity to reinvigorate that building and create very clear connections between it on one side of the road and the Lot Fourteen project on the other side of the road. I think this could be a very exciting project as it unfolds and I am sure the National Trust will be delighted to see the state government investing in the future of that building.

HOVE LEVEL CROSSING

The Hon. A. KOUTSANTONIS (West Torrens) (14:45): My question is to the Minister for Infrastructure and Transport. Was the member for Boothby assured by you or your office that an Oaklands-style underpass could be built at the intersection of the Seaford line and Brighton Road at Hove? With your leave, sir, and that of the house, I will explain.

Leave granted.

The Hon. A. KOUTSANTONIS: The federal Liberal member for Boothby told 891 radio in relation to the Brighton Road, Hove, level crossing upgrade that, and I quote:

> I was assured we could do another quick neat and value for money underpass at Hove to get rid of another rail crossing for my local community, as its turned out the State Government and the Department of Transport have said it's not so straightforward at Hove Crossing.

The Hon. C.L. WINGARD (Gibson—Minister for Infrastructure and Transport, Minister for Recreation, Sport and Racing) (14:46): I thank the member for the question and note that, when this announcement was made, I wasn't the minister at the time, but what I—

Members interjecting:

The Hon. C.L. WINGARD: Because what was done—

Members interjecting:

The SPEAKER: Members on my left!

The Hon. C.L. WINGARD: This is interesting, because at the last election—

Members interjecting:

The SPEAKER: The minister will resume his seat for a moment.

The Hon. C.L. WINGARD: Let's talk through the process—

The SPEAKER: The minister will resume his seat.

Members interjecting:

The SPEAKER: Interjections on my left will cease. The minister has the call.

The Hon. C.L. WINGARD: Thank you, sir. What was said at that time, I wouldn't be aware. But what I can say—let's go through the history of this project, because I am interested that this is the first time the member for West Torrens has raised this, given he has been campaigning against the project, yet before the last election they were for the project. It is another Labor flip-flop.

Members interjecting:

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

The Hon. C.L. WINGARD: Anyway, as the history shows, this was put on the table and the minister did push forward with the plans for this. We sat down and spoke to the federal government and had $170-odd million put on the table for this project.

Members interjecting:

The Hon. C.L. WINGARD: Again, it is a transport project that the member for Reynell wants to hack on about—

The SPEAKER: The minister will not respond to interjection.

The Hon. C.L. WINGARD: —but we are very much getting on with delivering projects in South Australia. Public transport projects are very important. If I can get back to the time line of this, again, Labor promised it and now the member for West Torrens is anti the project, or so I am told. We went away and did the work because, typical of Labor, they didn't do the work when they were in government. We had a look at what were the options. We had a look at how we could do it.

Members interjecting:

The SPEAKER: Order!

The Hon. C.L. WINGARD: Would it be road over? Would it be road under? Would it be rail over? Would it be rail under? Of course, when we actually did the work—again, the cupboard was bare when they left office. They didn't do any of that work—

Members interjecting:

The SPEAKER: The member for Reynell is warned for a second time.

The Hon. C.L. WINGARD: We had a look at it all and we took all that to the community and we showed them what the options might be. Of course, we know the road over and road under projects would have been in the vicinity of $300 million—

Ms Hildyard interjecting:

The SPEAKER: The member for Reynell will cease interjecting.

The Hon. C.L. WINGARD: —and would have taken quite a number of properties. What we did find, though, with rail over was it is $290 million and only five properties would need to be acquired. In fact, the government owned four of those properties. For rail under, it would be up to some 46 properties that would be taken. They were all the things we had to have a look at and we have to assess and that is what we have been doing.

We have been talking with the federal government about the rail under option. It is some $450 million, so it is quite excessive. We need to weigh up all those situations and then go back to the federal government because more money will be required. That has been reported publicly, so exactly what was said to Nicolle Flint I don't know; I wasn’t part of those conversations but, clearly, it would be hard to make those commitments, given that no work was done by the previous government.

That work had to be done so those assessments could be made. Any assessment that was made until that work was done would have been just broad scoping studies and scoping work. That detailed work has been done, we know where we stand now and we can discuss that with the federal government and make a decision in time.

RENEWABLE ENERGY

Ms LUETHEN (King) (14:49): My question is to the Minister for Energy and Mining. Can the minister update the house on how the Marshall Liberal government is delivering more jobs in renewable energy?

The Hon. D.C. VAN HOLST PELLEKAAN (Stuart—Minister for Energy and Mining) (14:49): Thank you to the member for King, and, yes, I can explain how the Marshall Liberal government is delivering more jobs in renewable energy. We are backing green jobs and business in SA by building the SA-New South Wales interconnector, among other things. While the Labor leader is guessing at what his policy is, while the member for Lee is calling it a terrible idea, while the member for West Torrens is ignoring expert advice again, and gone from supporting to opposing to just last week saying that he was sceptical, and while the member—

The Hon. A. KOUTSANTONIS: Point of order, sir.

The SPEAKER: The minister will resume his seat. The member for West Torrens on a point of order.

The Hon. A. KOUTSANTONIS: Standing order 98, sir: the minister is not answering the substance of the question; he is debating it immediately.

The SPEAKER: I uphold the point of order. The question—

Members interjecting:

The SPEAKER: Order! The question was quite clear in its terms. It referred to the government's action in delivering renewable energy outcomes. The minister will direct his answer to the question.

The Hon. D.C. VAN HOLST PELLEKAAN: We are delivering jobs through renewable energy but, of course, it is not without headwinds from those opposite. While we have had all these flip-flops on their position on this project from those opposite, we are delivering it and we are delivering jobs. But it's more than just the $456 million on the SA side of the border and hundreds of construction jobs thanks to ElectraNet, the South Australian transmission company, and their responsibility to the project, it is also the billions of dollars of new generation projects lined up with the interconnector: a freeway for clean power.

We want to be an exporting economy. You can't export without a route to market; with power, that route to market is a transmission line. The entire green energy sector has backed this interconnector project: the Clean Energy Council, the Climate Council and renewables developers, and many more all support it. Whether it is Neoen's $3 billion Goyder South wind solar and battery project or whether it is Amp Energy's $2 billion of solar and battery projects, industry and all of the clean energy organisations are right behind it.

It means that we can become a net exporter of renewable energy from South Australia, and it will help to reduce an estimated 1 million tonnes of carbon emissions each year and every year. It means that we can reach net 100 per cent renewables by 2030 and our climate change strategy's aspiration of 500 per cent of current grid demand in renewables by 2050. This project will lead to a jobs boom in our regions. But the member for Lee says that it is a terrible idea and the opposition leader continues to guess—

The Hon. A. KOUTSANTONIS: Point of order, sir.

The SPEAKER: The minister will resume his seat. The member for West Torrens on a point of order.

The Hon. A. KOUTSANTONIS: Standing order 98: the minister is not answering the substance of the question. He is now beginning to debate the question again by trying to insert quotes and put them out of context in his argument to make debate during question time, rather than answering the substance of the question.

Members interjecting:

The SPEAKER: Order! The member for Playford will not interject and the Deputy Premier will not interject. I don't uphold the point of order for the time being. I am listening carefully to the answer of the Minister for Energy and Mining to the question.

The Hon. D.C. VAN HOLST PELLEKAAN: Another example of the headwinds which we deal with in this chamber, but we will not be deterred. We are determined to get on and deliver our energy policy, and this interconnector is an absolutely outstanding example of how we, with our policies, will create more and more jobs in clean energy in South Australia.

Of course, there is another proposal which we are not going to pursue, and that is a proposal that has been out there as a hydrogen thought bubble, which was based on a few paragraphs of dodgy modelling. Let me just share with you—

The SPEAKER: The minister will resume his seat.

The Hon. A. KOUTSANTONIS: Point of order, sir.

The SPEAKER: The member for West Torrens on a point of order.

The Hon. A. KOUTSANTONIS: Standing order 98: the substance of the question is about what the government is doing, not about alternative policies that might be debated.

The SPEAKER: I draw a distinction in relation to responding to a question about what the government is doing between recapitulating what might have happened in the past on the one hand and alternatives on the other. For the time being I do not uphold the point of order. The minister has the call. I am listening carefully to the answer.

The Hon. D.C. VAN HOLST PELLEKAAN: Thank you very much, Mr Speaker. I think it is quite fair to share the context of the jobs that we are creating in the context of the other proposals that float around, and perhaps the member for West Torrens exposes himself when he seems so concerned about this.

But let me tell you, Mr Speaker, that while there is one group of people in this state who thinks that the interconnector is a terrible idea, that group is on its own. And that group, which also proposed the hydrogen thought bubble, forgot to share publicly when it released its few pages of documents and couldn't answer questions about their own policy that only 3 per cent of the jobs that that group of people thought was going to come from their hydrogen proposal was actually going to come from their proposal alone. The rest, the other 97 per cent of the jobs attached to that white elephant proposal were actually the ones that were modelled—

The SPEAKER: The minister will resume his seat.

The Hon. D.C. VAN HOLST PELLEKAAN: —and lined up with the SA-New South Wales interconnector.

The SPEAKER: The minister will resume his seat. The member for West Torrens rises on a point of order.

The Hon. A. KOUTSANTONIS: No, sir, to ask a question. I thought his time had expired.

The SPEAKER: There is no point of order. I gave the member for West Torrens the call in relation to what I perceived to be a point of order. His time was on the verge of expiring. I will give the minister an opportunity to conclude his answer very briefly.

The Hon. D.C. VAN HOLST PELLEKAAN: I will spare them from any further embarrassment and finish my answer there.

The Hon. S.C. MULLIGHAN: Point of order, sir.

The SPEAKER: The member for Lee on a point of order.

The Hon. S.C. MULLIGHAN: You have no discretion in the standing orders to award additional time for an answer to a response during question time. The only discretion you have is for

a grievance debate, Mr Speaker, and if you could start conducting question time according to the rules we would be very grateful.

Members interjecting:

The SPEAKER: Members on my right! I don't uphold the point of order. Is the member for West Torrens seeking the call?

The Hon. A. KOUTSANTONIS: Yes, sir.

HOVE LEVEL CROSSING

The Hon. A. KOUTSANTONIS (West Torrens) (14:56): My question is to the Minister for Transport and Infrastructure. Given the minister's previous answer about having done the work at Hove, is it true that the minister has not submitted a specific proposal for the Brighton Road, Hove, crossing to the commonwealth government? With your leave, sir, and that the house, I will explain.

Leave granted.

The Hon. A. KOUTSANTONIS: The federal Liberal member for Boothby told 891 radio, and I quote:

> To the best of my knowledge when I last checked with the federal minister a specific proposal and specific funding proposal has not been put to the federal government and I'm very keen for the state government to do so because my community deserve to have some certainty.

The Hon. C.L. WINGARD (Gibson—Minister for Infrastructure and Transport, Minister for Recreation, Sport and Racing) (14:57): No, her knowledge wasn't good, because we have been in constant contact and dialogue with the federal government on this. What we have here is a congestion issue, coincidentally in my local area and also right across South Australia. We have looked at investing in infrastructure that will get traffic moving and improve productivity right across our state. It is something that we have been very focused on.

I mention that $16.7 billion infrastructure spend—$7.6 billion of that is on freight and transport infrastructure. We know how important that is. This is just one example where there is a level crossing, and we know that level crossings do cause that congestion in local communities. Where we can remove them we know that, through the Office of the National Rail Safety Regulator, that is a recommendation and things that we must do, so we are looking to do that.

Of course, Ovingham is a great project going forward. Hove is one where we are doing that work because it wasn't done previously. We know that, at this intersection, the boom gates are down 20 per cent of the time during peak periods, and that causes a massive amount of congestion in that local area for traffic that is moving through there coming from South Brighton, Marino and Seacliff—those sorts of suburbs—through Brighton Road. This is traffic that we know from the studies is heading down toward Glenelg to go to the shopping precinct, maybe towards the Airport, Harbour Town and on down to Port Adelaide. This is a very significant thoroughfare, and this is a congestion point that we need to have a look at.

I mentioned that, during peak times, the boom gates are down 20 per cent of the time, and that causes a significant impost there. The National Rail Safety Regulator suggests removing grade separations when and where possible. We also know that some 35,000 vehicles—probably more—travel through this road every day, so it is a congestion point, and we are doing the work to work out the best solution.

I have mentioned the four options that we have looked at. We have looked at those. It is the rail over or rail under options that we are discussing with the federal government. We are continuing those conversations and look forward to landing on a solution.

The SPEAKER: In relation to the point of order raised just now by the member for Lee, perhaps for the benefit of all members I wish to be very clear. The opportunity I afforded to the minister to conclude his answer was in circumstances that I regard as those to which standing order 98(b) applies. I just refer to the words of standing order 98(b), which indicates that four minutes is the time allotted for the answering of a question. It goes on to state:

> The Speaker has discretion to extend the time for a Minister or other Member's answer if the answer is interrupted.

Through a degree of inadvertence by me and I think the member for West Torrens, in terms of understanding each other and the purpose for which the member for West Torrens rose to his feet, the minister, in my view, was momentarily interrupted, and in those circumstances I gave him an opportunity to conclude his answer.

Members interjecting:

The SPEAKER: The member for Colton has the call.

RENEWABLE ENERGY

Mr COWDREY (Colton) (15:00): My question is to the Minister for Trade and Investment. Can the minister update the house on how investment in renewables is driving economic growth and creating jobs for South Australians?

The Hon. S.J.R. PATTERSON (Morphett—Minister for Trade and Investment) (15:00): I thank the member for Colton for asking this. Certainly, households and businesses in Colton are very interested in the amount of investment going into renewable energy here in South Australia. It's causing massive renewable energy generation, and that's leading to lower wholesale prices; lower future contract prices, as stated by Australian Energy Market Operator in the last quarter; $269 of annual savings to households in Colton in South Australia; and also savings for businesses.

That's certainly going to drive jobs, but the welcome news this Monday of the EnergyConnect interconnector between South Australia and New South Wales is fantastic to help drive further investment. It's going to create a massive green superhighway into exporting energy into New South Wales from South Australia. This is great news. Of course, already in anticipation of this, we went to the election in 2018 with this as a commitment.

Once we were elected, businesses saw this, and they have invested in South Australia; we have had massive investment. News of this is certainly much welcomed. Australian companies are lining up to make use of the interconnector between New South Wales and South Australia but, significantly, also worldwide attention is being given to this. We have companies in France that are interested, Canada is interested, as are Spain and Singapore.

This is great news. It is going to drive billions of dollars of further investment into our economy and create thousands of jobs, certainly in renewable energy projects right here in South Australia, and the energy minister touched on some of these previously. Amp Energy has just purchased a massive suite of solar and battery projects. They are based in Toronto, and they say that the interconnector is underpinning further renewable energy generation here in South Australia.

So not only can they export nationally but there is also great potential in terms of using hydrogen as a transport fuel to allow for that to be exported internationally as well. It's a massive-scale project, this one from Amp; it's a $2 billion project with 1.3 gigawatts of energy generation coming out of it. It will create 550 full-time equivalent construction jobs, which is great news, and will help power 230,000 homes annually here in South Australia. Dean Cooper, the head of Amp Australia, said:

> The strategic value of the South Australian portfolio is significant in a jurisdiction which is undergoing one of the most rapid energy transitions in the world.

If we touch on some other significant investments that are driving South Australia's economy now, there is the $3 billion Goyder South project, with 1,200 megawatts of wind energy, 900 megawatts of battery capacity and 600 megawatts of solar. Neoen have themselves said that two-thirds of their investment—that's $2 billion of the Goyder South project—would rely on being able to export electricity to New South Wales via the interconnector. Further, the managing director of Neoen Australia said:

> Project EnergyConnect is vital to unlocking the full potential of Neon's multi-gigawatt Goyder Renewables Zone and the significant jobs and investment it represents for SA.

There are other great projects here, with overall $7 billion of investment in renewable energy being pumped into South Australia. By Labor opposing the interconnector, what they are really doing is opposing massive investment here in South Australia. By massive investment, I mean that we now have in the pipeline either approved or in planning a total of 16,400 megawatts of energy generation,

representing $15 billion of new generation investment here into South Australia. That is going to drive costs down but also grow the economy and create thousands of jobs in South Australia. I look forward to working with businesses as they continue to invest in South Australia's renewable energy.

FLINT, MS N.

The Hon. A. KOUTSANTONIS (West Torrens) (15:04): My question is to the Premier. Can the Premier inform the house if any senior state Liberal MP had a heated run-in with federal Liberal MP Nicolle Flint at Adelaide Airport? With your leave, sir, and that of the house, I will explain.

Leave granted.

The Hon. A. KOUTSANTONIS: Channel 7 reporter Mike Smithson told FIVEaa on 1 March and I quote, 'We have heard whispers that the member for—

Members interjecting:

The SPEAKER: Order, members on my right! The member for West Torrens has the call.

The Hon. A. KOUTSANTONIS: 'We have heard whispers that Ms Flint—

Members interjecting:

The SPEAKER: The Minister for Innovation and Skills is warned.

Members interjecting:

The SPEAKER: The member for Schubert is called to order and warned.

The Hon. A. KOUTSANTONIS: Afraid of the answer? 'We heard whispers—

Members interjecting:

The SPEAKER: The Minister for Innovation and Skills is warned for a second time. Order, members on my right and members on my left! The member for West Torrens will resume his seat for a moment. The Minister for Innovation and Skills is warned for a second time. Interjections on both sides will cease, particularly on my right. The member for West Torrens is entitled to be heard in silence. He has leave and he has the call.

The Hon. A. KOUTSANTONIS: Channel 7 reporter Mike Smithson told FIVEaa on 1 March and I quote, 'We heard whispers that Ms Flint had a run-in with a senior state Liberal figure at Adelaide Airport.' Was it you, Premier?

Members interjecting:

The SPEAKER: Order, members on my left!

The Hon. S.S. MARSHALL (Dunstan—Premier) (15:06): I literally have no idea what the member for West Torrens is usually talking about. The most recent question that he has asked confirms my lack of knowledge about most things that he raises in this place. I have no idea what he is talking about. What I do know is that the—

The Hon. A. Koutsantonis: What did you say to her?

The SPEAKER: Member for West Torrens!

The Hon. S.S. MARSHALL: —Leader of the Opposition is clearly on an RDO. Nobody is up in the dream factory. This guy is freewheeling—

The Hon. A. Koutsantonis interjecting:

The SPEAKER: The member for West Torrens is warned for a second time.

The Hon. S.S. MARSHALL: —embarrassing the opposition. It is hopeless.

Members interjecting:

The SPEAKER: Order!

The Hon. S.S. MARSHALL: Absolutely hopeless!

Members interjecting:

The SPEAKER: Order! Before I call the member for Narungga, the Minister for Infrastructure and Transport is called to order.

REGIONAL LANDSCAPE LEVY

Mr ELLIS (Narungga) (15:07): My question is to the Minister for Environment and Water. Will the minister please inform the ratepayers of the Yorke Peninsula Council why their regional landscape levy is so much higher than ratepayers of the Barossa Council. With your leave, sir, and that of the house, I will explain.

Leave granted.

Mr ELLIS: The Yorke Peninsula Council have been charged with collecting almost $1.2 million for the Northern and Yorke Landscape Board, with a dividend of just over $6,000; the Barossa Council, with a significantly larger rate income, is charged with collecting less than $550,000, with fees payable to the council being just less than $6,000. Why are the people of Yorke Peninsula doing all the heavy lifting?

The Hon. D.J. SPEIRS (Black—Minister for Environment and Water) (15:08): I thank the member for Narungga for his very valid question. We have to go back in history a little while to the bad old days under the Labor government to see why this anomaly occurs. It is because under the city-centric Labor government the regional natural resources management boards had a much higher levy rate than the Adelaide and Mount Lofty Ranges NRM Board. That meant when we changed the boundaries and there was crossover in the transition—

Members interjecting:

The SPEAKER: Order!

The Hon. D.J. SPEIRS: —between the landscape system and the natural resources management system, where boards came together with bits of the Adelaide and Mount Lofty Ranges Board and bits of the former Northern and Yorke board, there is a discrepancy between the way that levies are calculated.

Over time, so that no-one is worse off—and, in fact, levies drop for a significant proportion of the member for Narungga's electorate—there is a levy transition scheme put in place. So that that drop doesn't happen in a dramatic sense, there is a transition scheme in place over several years to equalise. Over some years, the Yorke Peninsula Council and other councils in that region will see their levy slowly stepped down to meet that former levy calculation as was calculated by the Adelaide and Mount Lofty Ranges NRM Board.

It is quite a complicated process. It is a legacy from the broken, bureaucratic, centralised, out of touch system known as natural resources management in South Australia. Our new landscape boards are back to basics, grassroots, sort out the pest plants and animals, get sustainable agricultural programs in place, sort out water quality and water resource management—get those things right so that the platforms of sustainable landscape management are in place building resilience across the landscape so that biodiversity will survive and thrive.

This is our approach—local people on the boards. I am delighted by the Northern and Yorke board and their work so far, chaired by the Hon. Caroline Schaefer with a whole range of really excellent people from across that region. I had dinner with them in the Clare Valley last week, talking about the projects they have been advancing: weed control and pest control projects, working out those very tricky water allocation plans that are required throughout the region and working on coast protection projects, particularly in the Narungga electorate.

Importantly, one of their really strategic flagship projects is the Marna Banggara project, formerly known as the Great Southern Ark, a fence across the bottom of Yorke Peninsula capturing the land where we find Innes National Park and also quite a bit of other farming country, removing pests from that landscape and reintroducing a number of native species, including bettongs. That will be a great environmental project, and it will also be a real tourism drawcard to the member for Narungga's region.

That is the back-to-basics landscape levy in action. The residents in Narungga can be assured that, rather than being gouged as they were under the previous Labor government that had

no care or interest in regional South Australia, we are getting back to basics and we are reducing their levy over the coming years so that it matches the Adelaide region where the Barossa used to be.

REGIONAL LANDSCAPE LEVY

Mr ELLIS (Narungga) (15:12): By way of supplementary, how long will that rate transition scheme be, minister, and when can the ratepayers of the Yorke Peninsula Council expect parity with the Barossa Council ratepayers?

The Hon. D.J. SPEIRS (Black—Minister for Environment and Water) (15:12): I believe that scheme is around three years. I will have to get back to you to get the specific date when it will come into effect in full, but I believe it is in about three years' time, although my message to the people of Narungga would be that if the people of South Australia, including the people of Narungga, were unlucky enough to get a Labor government back in power here that levy will be jacked right back up. There will be further gouging of regional South Australia to prop up Adelaide's board.

Mr Picton: Stop preaching.

The Hon. D.J. SPEIRS: One of the great—I take offence, Mr Speaker, at the comments by the member for Kaurna, which I believe to be religious discrimination in their nature.

Members interjecting:

The SPEAKER: Order! Does the minister raise a point of order?

The Hon. D.J. SPEIRS: Yes, I believe that the member for Kaurna in his comments across the chamber to me a moment ago—I take offence because I believe they were discriminating against my personal faith.

The SPEAKER: I didn't hear the remarks. If the member for Kaurna is aware of those remarks—

Mr Picton: I've no idea.

The SPEAKER: —I invite the member for Kaurna to withdraw.

Mr Picton: No.

The SPEAKER: Would the minister indicate the nature of the remarks that he has taken offence to?

The Hon. D.J. SPEIRS: The member for Kaurna has made comments across the chamber to me which I take deep offence at. They are discriminatory in nature. He has done this to the member for Finniss in the past about a disability that the member for Finniss has.

Members interjecting:

The SPEAKER: There's no occasion—order!

The Hon. D.J. SPEIRS: He's got a reputation for discriminatory comments, Mr Speaker.

The SPEAKER: Order! The minister will resume his seat.

The Hon. D.J. SPEIRS: He's got form.

The SPEAKER: The minister will resume his seat. I won't require the minister to recite the words that he's taken offence at for obvious reasons. The member for Kaurna is expressing bewilderment as to any words that he might have uttered that could possibly have fallen into that category. In those circumstances, I will consult available evidence, but does the member for Kaurna wish to take an opportunity to withdraw and apologise?

Mr PICTON: I have to say, that was an incredible hissy fit from the minister.

The SPEAKER: It's a matter that's quite precise, member for Kaurna. I will give the member for Kaurna an opportunity.

Mr PICTON: I withdraw any comments that I made, which were ordinary words with ordinary meanings, and reject the premise that the minister had in his assertions.

HEARING HEALTH

Ms BEDFORD (Florey) (15:15): My question is to the Minister for Education. What role does poor hearing, particularly through lack of attention to conditions such as otitis media, play in retarding and impeding learning in both Indigenous and non-Indigenous students?

The Hon. J.A.W. GARDNER (Morialta—Minister for Education) (15:15): I thank the member for the question. I am in an awkward situation, particularly in relation to the nature of the question, because I actually have a hearing aid; I am not wearing it today and couldn't quite make out some of the detail in the member's question. Can I respectfully ask that it be repeated?

Ms BEDFORD: What role does poor hearing, particularly induced through the lack of attention to conditions such as otitis media (inner ear infection), play in retarding and impeding learning in both Indigenous and non-Indigenous students?

The Hon. J.A.W. GARDNER: I thank the member for the question. It's obviously a very important body of work, particularly in remote Indigenous communities, where for a couple of decades now we have had research provided to the state government, I imagine, in the past. I recall I was working in federal politics in a different career at a time when there was significant work released that it is a significant challenge.

There are a number of strategies that educators and schools and the department take in terms of supporting students. Some of the work that is done includes taking, wherever we have new builds of schools, the acoustics very significantly into account. Indeed, a number of the new modern modular facilities that are now coming up in schools have, often as a standard piece of their infrastructure, acoustic loops and the opportunity for enhanced auditory capability to be taken into account.

It's one of the challenges in school infrastructure, particularly some of the 1960s and 1970s builds, where they were seeking to identify the opportunity for collaborative learning, open classrooms and so forth were also—

The Hon. A. Koutsantonis interjecting:

The SPEAKER: The minister has the call. Interjections will cease.

The Hon. J.A.W. GARDNER: —built at a the time when a lack of carpet and echoes and so forth were sincerely problematic in those learning environments. That's amongst the challenges of some of the ageing infrastructure around our education system that we are now dealing with. The problem is so much worse in many Indigenous and remote Indigenous communities and there is, I believe—and I don't have the data here to back it up, but I'm very confident—an increased risk of loss of educational outcome as a result of particularly inner ear diseases and issues.

Sometimes measures such as even exposure and opportunities to engage in things like swimming pools can be assisting in communities, and that is something where the education department continues to invest and support.

What I am also going to do in addition to the high-level information that I have identified in this answer, if the member is happy, is take on notice with a view to bringing back some particular identified measures that are taking place in the education department and our public school system in particular. There are a number of others underway in non-government schools that I am aware of but not directly responsible for, but in our public education system, further measures undertaken to address the particular condition that the member has raised.

HEARING HEALTH

Ms BEDFORD (Florey) (15:18): My question is to the Premier in his role as Minister for Aboriginal Affairs. What role does poor hearing, particularly through lack of attention to conditions such as otitis media, play in leading to a life of crime, particularly among Indigenous people?

The Hon. S.S. MARSHALL (Dunstan—Premier) (15:19): I thank the member for her question. She is quite right. She, like myself and members of the Aboriginal Lands Parliamentary Standing Committee, have visited the Anangu Pitjantjatjara Yankunytjatjara lands and various other Aboriginal lands across South Australia and seen very graphic evidence of hearing loss amongst

young people. There is no doubt that this would affect their ability to learn and, of course, their ability to get employment post their schooling. So I am quite sure that there is a causal relationship between those two things.

Of course, we are doing everything we can at the moment to reduce recidivism within our prison system and to recognise where there are opportunities for taking people who maybe didn't have a full education while they were at school and trying to improve outcomes for them. This is something we take very seriously. As the member would be more than aware, we have also set up a task force within government to look at ways that we can reduce Indigenous incarceration in South Australia.

This is something which has been identified in the Closing the Gap Refresh, which we are a signatory to, but more than being just a signatory we have put practical steps in place already to look at this issue. The way we have structured this is to have co-chairs—one Indigenous, one non-Indigenous—one who was a chief executive of a state government department and one a public sector employee.

It's still early days. As the member would know, the Closing the Gap Refresh was only signed last year but it is something which we are taking very seriously. I hope to bring back some further information to the house once we get some solid recommendations on how we can further address this issue that the member raises.

Grievance Debate

SCHOOL INFRASTRUCTURE PROJECTS

Mr BOYER (Wright) (15:21): Another day and another leak from this hopelessly divided South Australian Liberal Party. In fact, things are so toxic now it would seem between the warring moderate and conservative factions of the Liberal Party that not only are they leaking negative stories against each other but they are also—

An honourable member interjecting:

Mr BOYER: Sorry, Mad Dog has just had a little—

An honourable member: He's off the leash.

Mr BOYER: He's off the leash. Not only are they leaking stories that they know to be negative against each other, they are also leaking stories that no doubt they thought might even be positive as well, and that is what we have seen today. We have seen a very high-level leak that shows the government is poised to spend more than $80 million on a new high school on the Rostrevor campus of Norwood Morialta High School. Don't get me wrong. On this side of the house, we love to see an investment in public education.

An honourable member interjecting:

Mr BOYER: Exactly right—more than $1 billion—and what we hear constantly from this side when talking about what they have done in the education space which, when you take away what we did in our last term of government, is very little. What we hear are these stories of the $1.3 billion they are spending on public infrastructure in our schools. Most of that, the vast majority of that, came during the last Labor government's term in power.

There are real questions that must be answered about the leak aside from that and no doubt it is very clear by the nature of this leak that whoever did it did it with the idea of causing absolute maximum damage and embarrassment to the minister and the Premier. The first question that must be asked is: why has the Marshall Liberal government chosen Rostrevor as the location for the new high school?

Less than four weeks ago, right here in parliament, we had executives from the Department for Education appear before the Budget and Finance Committee. In that committee hearing, the Chair asked the chief executive of the department if he stood by his comments in the *Sunday Mail* from March this year about the need for a new school in the inner north. This was his answer:

> I certainly do hold the view, Chair, that there is a lot of pressure on our shared CBD zone. What we are experiencing is a lot of urban infill and so on in that Prospect and surrounds area.

He then went on to say:

…I do believe that not having a school between Adelaide Botanic and Gepps Cross is something that we need to provide best advice and a business case to government on.

So where is the business case? Where is this work? We now have the chief executive of the education department saying in the Budget and Finance Committee on two separate occasions and saying in the *Sunday Mail* that the clear priority area for a new school is the inner north, but nothing has been done.

What we saw in question time today, interestingly, was a whole lot of false bravado from the Premier and the minister about the Capital Intentions Statement 2021. Contrary to what the minister might have you believe, I had seen that document, but I thought I would go back and just refresh my memory about how explicitly and how comprehensively it actually dealt with this proposal for a school, and now let me tell you: 114 words. That is what the Capital Intentions Statement 2021 says about a new school—one paragraph of detail about it, and that is it. So when this Premier and this minister try to get up in this place and say that they have done a whole body of work behind this school, it is not true.

You would think that the minister would have learned from the uproar that followed his government's decision some years ago now to remove some of the existing suburbs from the shared zone. Suburbs such as Black Forest, Glandore, Kurralta Park, Clarence Park, Torrensville, Mile End, Richmond and Hilton were all removed or in part removed from the shared zone. You might think, following the uproar that we heard from parents of students and prospective students to that zone, that he might have learnt his lesson.

You would think perhaps that the minister might actually take the advice of his chief executive, that very clear advice provided just weeks ago in Budget and Finance, that the Prospect area, the inner north, must be the priority. Instead, the minister chooses to build the new school in his very own seat. When we ask questions in this place about what the government is doing to alleviate the enrolment pressures in the shared zone, he and the Premier list a whole heap of Labor projects—Adelaide Botanic High, the expansion of Adelaide High, all Labor projects.

I can tell you that this is just another example of this government, with no vision, no ideas and no agenda, just getting by on the fumes of the previous Labor government. I expect that same lack of vision to be there when they name this new school, and I think some of the examples might be: Prospect High School, Rostrevor campus or perhaps even, given the events of this week, it will be the Real Sir Robert Menzies High.

WINTER WARMER EVENT

The Hon. C.L. WINGARD (Gibson—Minister for Infrastructure and Transport, Minister for Recreation, Sport and Racing) (15:26): I rise to speak about our annual winter warmer, another local event in my local community. For some years, the member for Black and I have hosted an annual winter warmer and fundraiser to bring people together while supporting a local organisation or charity.

This year, we supported the Sophia Naismith Foundation. As you may be aware, Mr Speaker, the Sophia Naismith Foundation was created in memory of 15-year-old Sophia Naismith, who tragically died after being hit by a car in 2019. For those who knew Sophia, she was a keen athlete and volleyball player. Her parents, Luke and Pia, established the Sophia Naismith Foundation as a way to provide scholarships to help other young sportspeople achieve their dreams.

This foundation has a very positive impact on the lives of young people in our community. At this year's fundraiser, we were able to raise more than $9,000 to support the foundation to continue carrying out its exceptional work. On 28 May, 150 guests, including volunteers and community leaders, gathered at Patritti Wines in Dover Gardens. Patritti Wines have held our previous winter warmer events, and each year have been exceptional hosts and incredibly kind. Owner, Ines Patritti, general manager, Justin Tiller, and cellar-door manager, Dave Daly, treated us to their local treasure of the winery, transforming the cellar into a fantastic reception venue and of course serving their first-class wine. We cannot thank them enough for their support.

Live music played steadily and beautifully throughout the night, compliments of the Brighton Secondary School band. Thank you to their fantastic teacher, head of music at Brighton, Andrew

Barrett, and to students, Leticia Lee, Tom Keough, Mina Johansson, Ben Cook, Nic Bergoc and Jackson Mack. These students are so incredibly talented.

On the night, it was also a pleasure to present my 2021 community recognition awards to individuals who have gone above and beyond in our community. Receiving one award was Tony Kennett, who has consistently volunteered with Marion council as part of the graffiti removal unit, going out two or three times a week to clean up our public spaces and streets with his wife, Janelle, by his side. Many of the pristine areas in my electorate are thanks to the graffiti removal unit and, in particular, volunteers like Tony.

Another award winner was Mary-Jane Minear. I previously mentioned Mary-Jane in this place in connection with St Jude's Players, and it was her involvement with this local theatre group for which she received the award. The success of local community theatre is largely thanks to volunteers like Mary-Jane working behind the scenes in a range of capacities, including as the current treasurer.

Our final award went to the Marion City Lions Club. Starting in 2020, this group has rapidly grown due to their enthusiastic volunteers. The group is characterised by community spirit, fun and humanitarian projects and activities. President, Judy Glastonbury; treasurer, Frank Whinnen; and members Dennis and Jan Chant were there to receive the award on behalf of the club. I want to say a massive congratulations to everyone at the Marion City Lions and note that the member for Black also had two award winners who were recognised on the night.

I would like to acknowledge now the Marion Swimming Club, one of the great local sports clubs in my electorate. They recently held their 2021 awards night at Morphettville Racecourse. Last year was the club's 40th anniversary; however, due to COVID-19, they were unable to celebrate. The club made up for it at this year's awards night, when they organised the club's old memorabilia to be on display to commemorate over 40 years of success. I want to acknowledge the work of president, Paul Conroy, and vice president, Chris Helps, in organising the awards night and for all the work they do for the Marion Swimming Club. I have seen some of the photos online and I know everyone had an outstanding night.

This was an extra special occasion because in the 2021 season the Marion Swimming Club became the only club to win all three state titles in a single season, winning the short course, the long course and the open water competitions. I would like to congratulate the club champions for 2021, the female club champion in Maddie Wilson and the male club champion in Kyle Chalmers. Six members of the club also received life membership awards on the evening. Congratulations to Sue Lightfoot, Rachel Buttler, Anne Gilmore, Shelly Jarrett, Josh Palmer and Michelle Whitaker.

Sports clubs are the heart of our community. They are spaces where people make friendships, learn new skills and live healthy lives. It was fantastic to be able to present a cheque to the Dover Square Tennis Club at South Brighton. The club received $55,000 funding from the Office for Recreation, Sport and Racing to install lights at the club so that people can use the facility throughout the day and night. Congratulations to Paul Hodgson and his club on the great news.

In fact, this year I visited several local tennis clubs in my electorate. Justin Tredwell, the president of the Marion Tennis Club, is doing an outstanding job at Warradale Park Tennis Club. Mark Flynn showed me the new LED lights they have there, illuminating their players' training sessions and again bringing more people into tennis and getting active.

At the Somerton Park Tennis Club, I met with the president, Cameron Sparkes, and the head coach, Nicholas Bradley, who does an outstanding job. At Tennis SA's 2021 gala awards night, they were recently awarded Most Outstanding Inclusion Program for the club's blind tennis program. Congratulations to all those people and all those clubs. We thank them for their work.

NATIONAL DISABILITY INSURANCE SCHEME

Ms COOK (Hurtle Vale) (15:32): Today, I would like to talk about concerns raised with me through my office as the shadow minister for human services. My community, many people within it and also within the broader state, support, care for and advocate for and on behalf of people living with disability. Of course, it is not new that there are issues and that many challenges are being faced by people with disability. This is not new, and over the years we have seen many improvements being made to the lives of people with disability because of changes in policy and changes in how we do things.

This week, we are being faced with some really challenging information coming out of the Royal Commission into the Violence, Abuse, Neglect and Exploitation of People with Disability. Some of the things we have been seeing and hearing have been horrifying and really confronting. We have seen the move of funding from the state government to the NDIS, under the federal banner, and of course that has shown such promise. It can be brilliant and it can work for some people, but others do fall through the cracks.

There are significant underspends. I have spoken many times about the fact that, on average, around 60 to 65 per cent of our allocated $1.5 billion of NDIS funding is spent per year, which leaves an enormous gap, a gap which this government, under the Minister for Human Services in the other place, does not change, does not do anything about and really does not advocate strongly enough for.

There are some key areas where we have seen some issues arising in the last few years. A couple of years ago, I spoke in this place about some terrible concerns that had been raised in one of our largest providers, Minda. I called on the government then to invest in that provider and provide some support as they transitioned to the NDIS and were clearly struggling with some challenges around their workforce, and this was leading to some significant consequences. Only in the last couple of weeks, we have again seen allegations being made that there are shortfalls in staffing and some serious incidents happening as a result.

Minda is not the only place. There are a number of care concerns and gaps being highlighted to me. The minister has been advised of many of these and says that passing these concerns on to Quality and Safeguards is the only course of action they are taking at the moment. I think they need to invest more in the workforce, more in the culture and more into investigating these issues, and that has again come to light this week in the royal commission.

We heard the story of Mitchell. About three years ago, he and his family were the subject of actual threats to life and safety. There was an entirely inadequate investigation, which did not pinpoint the origin of these letters and certainly did not come out with any changes in the department that would resolve this. In fact, the Ombudsman stepped in purely because of a referral or a suggestion made in the Community Visitors Annual Report to get the Ombudsman to investigate this to see if they could come up with some kind of answers to the awful threats which had been made to this family and which had caused great distress.

We found out there was a letter to the minister and a letter to the Premier calling on them to provide some assistance. We know the Ombudsman made recommendations about this incident, requiring further investigation. After saying that it had investigated it fully before this, the department went away and again investigated it. Today, we hear from the royal commission that the response of the bureaucrat who was there was that it was totally inadequate.

This government has to do a lot more for people living with disability. We see many gaps in the system. We know that the Annie Smith case is still ongoing and it is horrific. We know that there is not enough safeguarding, and we know that a hands-on approach is not being used by this government. For hands-on problems, you cannot have a hands-off approach, and that is in fact what this government is doing.

PATHWAY COMMUNITY CENTRE

Dr HARVEY (Newland) (15:37): Today, I would like to speak about a wonderful local community organisation, the Pathway Community Centre. Located on Milne Road at Modbury North and established by the Clovercrest Baptist Church, the Pathway Community Centre supports thousands of people across our community who are doing it tough, through a food rescue program and by providing other support services, such as counselling, tax help and information on other agencies.

In fact, I believe that about 4,000 people throughout the local community and much further afield are registered with them. People who need support are able to join and become Friends of Pathway and collect a hamper once a week full of food, including fresh fruit and vegetables, milk, juice and other food items. I can say that it is quite a substantial offering. Handmade bakery bags, made by Pathway volunteers, are also filled with bakery items, such as cheese and bacon rolls and

finger buns, and they are collected along with the hamper. Fresh loaves of bread are also available for collection from the racks at the shopfront.

A whole army of volunteers, hundreds in fact, work to collect the food items, prepare the hampers and serve people seeking support. These volunteers come from right across the community and also include some who had been Friends of Pathway in the past and who have now chosen to give back to the organisation that supported them.

What is also incredible is that the whole operation is not only supported by hundreds of volunteers and donations from the community but funded by the Treasured Op Shops also at the site, managed by Val D'Arcy and once again also supported by many volunteers. Treasured is made up of a number of little shops, and the one I found to be particularly innovative was the 50¢ shop, where everything on sale within the shop is 50¢ or less.

Just last week, I did a shift myself at the Pathway centre, helping prepare hampers and then provide them to the Friends of Pathway on that particular morning. Through that, I met the wonderful, energetic executive assistant, Kay Flack, who took me on a tour of the centre and who introduced me to many of the volunteers there at the time. Unfortunately, the Pathway director, John Flack, was not available due to illness, and I would just like to take this opportunity to wish him all the very best with his own health.

I was also grateful for the tour of the Treasured Op Shop by Val, the manager, who took me through the process of collecting the donations from the community, sorting and then selling the items in the shop, and of course she introduced me once again to a number of volunteers who are supporting that service.

This year, already through Pathway 30,000 hampers have been given away, which I am told is 490,000 kilograms of food and an incredible achievement. I also met Susan, who runs the no-interest loan program, through Good Shepherd Finance, which can be used to provide loans of up to $1,500. Obviously, as they are no-interest loans, they charge no interest and can be used to purchase home items, things like washing machines, fridges, freezers, etc., and also, in some cases, can help support payment of medical bills.

At the completion of my shift at the Pathway, students from the Bowden Brompton Community School came to do a shift themselves. I heard that they often make food—apparently, a fantastic soup—which they provide and which was being served to the Friends of Pathway. I would also like to touch on the fact that last Saturday Pathway hosted an appreciation night to thank their volunteers and partners. I also note that most of the food that Pathway provides through its hampers comes from SecondBite and OzHarvest, which operate fantastic services.

This was a fantastic event, where all the attendees were invited to enter the function room on a red carpet—a sign of gratitude and thanks to the many volunteers who give up so much time to support others. The event was catered for by volunteer chefs, Daniel and Trin, and assisted by Christine and Gwen, and a team of students from the Bowden Brompton Community School served the food to the attendees. This was a wonderful night and a real celebration of the efforts of so many of our community who give up their time and their efforts to make the lives of others in our community just that bit easier.

I would very much like to commend the managers at Pathway, as well as the volunteers, and thank them for all their efforts. I certainly look forward to doing a shift once again out there at some point in the future.

AUSTRALIAN SOCIETY FOR MEDICAL RESEARCH

Ms BEDFORD (Florey) (15:42): I would just like to endorse heartily the remarks of the member for Newland. The Pathway centre has been in the seat of Florey until recently, when the new boundaries come in. It has been my very great pleasure to help establish, even, the no-interest loan scheme by being part of the original committee. Their work is indeed spectacular.

Each year, MPs are invited to join the South Australian committee of the Australian Society for Medical Research (ASMR) for what is always a very exciting and informative evening. After a COVID pause, it was good to catch up with so many wonderful people and, while all jobs are important, the work of the medical researchers is vital to answering so many questions many of our loved ones have about illness and disease.

The gala committee was convened by Dr Erandi Hewawasam, and I thank her and Hayley and all involved for organising such a smoothly run evening, MC'd by the inimitable Rob Morrison. The Australian Society for Medical Research SA committee convenor, Khalia Primer, played a special role after welcoming us by introducing, via Zoom, ASMR president, Dr Ryan Davis, from Sydney, I think. I know he is a researcher on the Mid North Coast of New South Wales, but I think it was a Sydney evening. He was the 2021 ASMR medallist. Dr Davis introduced the evening's guest speaker, Associate Professor Dr Kelvin Kong, for his presentation, which informed us of his vital work on ears and hearing.

Associate Professor Kong is a Worimi man and his core mission is equity in health service provision, particularly ear, nose and throat services. Since COVID, he says, and I quote:

> The way we have to prioritise and triage our work means we often are focussed on interventions that are life saving, such as head and neck cancer surgery, rather than life changing, such as treating paediatric middle ear disease which can transform lives by improving children's hearing.

From what I saw and have heard and learned since, I think Associate Professor Kong is making a huge impact on many lives, and I refer to the 2019 paper, Roadmap for Hearing Health, which supports all Australians who are deaf or hard of hearing to live well in the community. It is essential, as 3.6 million (one in six) Australians experience some form of hearing impairment. It can have a profound effect by excluding a person on many levels but particularly children in their learning, something that will impact them forever.

It is terrible to know that, while waiting lists here in South Australia for ear, nose and throat surgery have halved recently, they remain at 4½ years, or 54 months, as I was told. This is a crucial statistic that must be addressed, especially for our Indigenous children. One in three Aboriginal children experience chronic ear disease.

In some remote parts of Australia, up to 90 per cent of children experience some form of ear disease at any time. Aboriginal children are four times more likely to receive ear surgery and three times more likely to suffer permanent hearing loss, compared with non-Indigenous children. Three to five Australian children die each year from complications of middle ear disease; most often they are Indigenous children. Associate Professor Kong will do his best to see governments everywhere do their part in reducing these appalling statistics.

Each year, the ASMR presents finalists for the Ross Wishart Memorial Award. Later today, a winner will be announced at an event at the university. Two of the finalists this year are Dr Dexter Chan, who is working on the role of seminal fluid in the reproduction of human babies, along with Ella Green, who is working on female immunology. Their combined research should help those now relying solely on IVF treatments to manage a successful pregnancy. That is my interpretation of their work; I am sure they have a much more formal one.

Another finalist, Amita Gautam Ghadge is working on the risks of either fatty or dense breast tissue and the likelihood of breast cancer resulting from those pre-existing conditions. Kay Myo Min, also a finalist, is doing work on pancreatic cancer treatments. Pancreatic cancer is untreatable, unfortunately, and there is usually a one to five-year survival rate. She is looking for new targets to prevent the spread of proteins in that type of cancer. We can only wish her well in what she is doing.

Each one of those finalists only represents the tip of the iceberg in terms of the amount of medical research going on both here in South Australia and within Australia. For all their work, dedication and commitment we say thank you. We know how hard it is to maintain research in labs. They are all competing against each other for funding to maintain their research. We wish all of them every future success. To all the scientists coming up behind them, the medical researchers, we want them to know that, even though the funding may not be easily acquired through governments, we want them to keep working to make sure governments do stay on task, as it were, making sure funding is available for them.

BAROSSA HOSPITAL

Mr KNOLL (Schubert) (15:47): This is a fantastic day in South Australia for the people of the Barossa Valley. For the first time, after some almost 30 years worth of campaigning, we have money in the next state budget to help deliver a Barossa hospital for my community.

This idea was first mooted back in the early nineties, around 1993, when the two hospital boards from the Tanunda and Angaston hospitals were encouraged to merge into a single hospital board on the basis that a single brand-new facility would be built. Ever since that day, we have seen hospital boards and other health advisory groups raise money towards that end. We have heard lots of talk by politicians helping to try to get this project off the ground, but today we can have confidence that the Barossa hospital will now be built.

There is $6 million in the budget: $1 million to go towards finalising the design, the scope of services and the other planning works that need to happen, and $5 million to go towards land acquisition, to buying the site if it needs to be purchased, and undertaking the early works and connecting the power and those kinds of things to get this project off the ground.

What we will see over the coming weeks and months is a site chosen from one of three sites, I understand, that are currently under consideration, one being a brownfield site at one of the existing hospitals, the second being a brand-new site on the outskirts of Nuriootpa and the third being a private proposal. Once the site is chosen, we can get on with the early works. We have the money and the budget to get on with the early works to get this hospital built.

In parliament today, I want to thank so many people who have been on this case and on this issue for decades. I was first introduced to this topic by the then MP Ivan Venning, who gave me his history on the topic. I sat down with Wyndham Rogers and David West, two people who were on the hospital board at the time, to understand that history. I have talked with many different nurses and doctors, including Trudy Vaughan and Libby, who have long been on at me about this issue, as well as doctors from across the Nuriootpa, Tanunda and Angaston medical practices.

Lately, there is a real push by retired dentists Bill Holmes and Barry Swan. Barry is the head of a trust that actually helps to raise money towards health facilities in the Barossa. All these people are fighting on behalf of their community and today we can finally give them the assurance that a Barossa hospital is going to be built.

I can understand the frustration of my community. It is something that has been talked about by some for almost 30 years, but this is the first time we have actually had money in the budget, and money in the budget is how we know that this project is going to go ahead. I look forward to being able to update the community on the steps of this project as we go forward so we can finally deliver that regional health facility that we know is going to deliver better outcomes for the people of the Barossa.

I also want to pay tribute to the many people inside government who have helped bring this to fruition, from the Treasurer, who holds the purse strings, to the Minister for Health who, together with Country Health, as well as the new candidate for Schubert, Ashton Hurn, have been pushing to bring this project to fruition. This budget is one that finally puts paid and delivers for the people of the Barossa after decades of neglect, especially under the former government. I look forward to being able to spruik this opportunity to my community over the coming weeks, months and years that it will take to finally be built so that they know they are going to get the first-class health care they so richly deserve.

OLYMPIC GAMES TRIALS

The Hon. L.W.K. BIGNELL (Mawson) (15:51): It is terrific that you are in the chair, Mr Acting Speaker, because I rise today to talk about the Olympic trials that will be happening here in South Australia at the Matt Cowdrey pool next week when the best swimmers in Australia come together, as they have for so many of the past 10 years since the Marion pool was open, to compete in the Olympic trials to see who is going to Tokyo next month.

The Matt Cowdrey pool was named after the Acting Speaking, who is recognised as Australia's greatest ever Paralympic athlete. It is great to have you in here today, sitting in the big chair and presiding over this wonderful house.

I want to wish all South Australian swimmers all the very best in the Olympic and Paralympic trials next week, in particular Kyle Chalmers, who I think shocked the swimming world in Rio de Janeiro five years ago when he won gold in the 100 metres. What a smoky he was. He did a really good job.

Mr Treloar interjecting:

The Hon. L.W.K. BIGNELL: Absolutely. He learnt his craft swimming away from sharks, as the member for Flinders correctly points out. He is a terrific guy and I know that Kyle has his head down and training really hard at the moment and then when he gets out of the pool he is trying not to focus on how important next week is for the Olympic trials.

Five years ago, I was down at the Marion swimming centre with Kyle's coaches and so many of his swim squad when Kyle won that Olympic gold medal. It was such a proud moment to see a teenager from South Australia win a very important gold medal for our nation, but more importantly for him and for the community of South Australia as well. Good luck to all those competing at the trials. They start on Saturday. If people can get a ticket, I encourage them to get down there and have a look.

I also want to wish all the best to the cycling team who are heading off to Tokyo. In a former life, I was a cycling journalist, so I still know a lot of those people who are around the sport, in particular Rohan Dennis and Annette Edmondson, a couple of fine South Australians who are heading off to their third Olympic Games. I also wish all the best to someone who is going to their first Olympics, Maeve Plouffe.

A few years ago when I was the Minister for Tourism and had control of the Tour Down Under, we got rid of the models who did the kissing on the stages after each stage race, something that the Tour de France and a lot of the big races around Australia have now taken on as well, and we got the under-17 champion boys to present at the men's Tour Down Under and the under-17 champion girls to present at the women's race. As well as recognising them, it gave them an opportunity to see their international idols up close and personal.

I remember talking to Maeve when she was in the first intake of champions to get on the podium and present flowers and trophies and things, and she said, 'My aim is to go to Japan in 2020 and I want to be there. This has really helped me, being around the big race, so that when I get to that stage, I'm not going to be daunted because, as a 17 year old, I have already seen what it's like on the big stage.'

To Maeve and every South Australian who is heading off to the Olympics and Paralympics, it has been an extraordinarily difficult 12 months with COVID delaying the Olympics for 12 months and this uncertainty about whether or not they are going to go ahead, and I really hope that they do proceed. It is important for the psychological health as well as the physical health of these elite athletes that they do get to perform every four years, so all the very best to them. Of course, we will all be in our green and gold as we support Australia at the Olympic Games.

But tonight I will be wearing the colours of Belgium because one of my very best mates, Tim White, has become the assistant coach of the Belgium women's hockey team, the Red Panthers, and they are in the European championships. They had a great 1-all draw against Germany the other night, and then two nights ago, they beat the Italians 4-0. Tonight they play England and they have to get a draw or better to make it through to the semifinals.

To Tim, I know your mum Patsy, who is a constituent of the member for Colton, the Acting Speaker, will be up at midnight tonight watching the game. Your brother Grant, your sister Trina and all your mates—we will all be watching it. Can I just say to the Red Panthers from the Parliament of South Australia: go panthers!

The ACTING SPEAKER (Mr Cowdrey): Member for Mawson, I do unfortunately have to remind you that props are out of order within this chamber. I will use my discretion to allow it just this once, although I would have preferred if they were in green and gold. I will add my best wishes to all our athletes who are going over to the games in the coming weeks as well. As a fun fact, Rohan Dennis and I used to swim together through juniors, for the member for Mawson's interest.

DEAK, MS T.

Mr BELL (Mount Gambier) (15:56): I rise today to talk about an inspirational person in my electorate, Tessa Deak. Recently at the 7NEWS Young Achiever Awards, Tessa received the Rural Doctors Workforce Agency rural health award. This award recognises the positive input volunteers in regional and rural areas have had and their dedication to those in need in the health service.

Tessa is courageous and, whilst she may suffer from myalgic encephalomyelitis (ME) commonly known as chronic fatigue syndrome. She has more than contributed to the community. In year 9, Tessa was diagnosed with ME and, following that diagnosis, it significantly changed her goals and plans for the future. To raise awareness of ME within the local community, Tessa and her mother, Fiona Fulford, hosted an awareness night to shine a light on what it is like to live with ME and what challenges people face when they live with such a chronic illness. This was held in 2018 with the screening of the film *Unrest*.

Following such a successful event, Tessa did not stop there. She then established a support group, Chronic Illness Support Limestone Coast. This then snowballed into the Wellness and Wellbeing Festival being created, which was held at the City Hall and the Cave Gardens precincts in Mount Gambier. The festival included workshops, presentations, stalls and activities, all showcasing local products, businesses and services which support different aspects of wellbeing. Over 400 people attended the festival.

Tessa has also been volunteering at Headspace at Mount Gambier for the last two years. Through this role, she visits schools as part of a peer education role delivering programs and speeches on mental health. At the present time, Tessa is working hard with the support of the Stand Like Stone Foundation, a philanthropic foundation, to develop a program that will be rolled out in schools, titled Just Relax: Let's Talk About (Dis)Ability.

Tessa contacted me in relation to the program and indicated that the aim was to educate students on disability, accessibility and inclusion and to also empower students to not only see the change that needs to happen but also be the change. Finally, I would like to read a small part of an email which Tessa sent to me in May 2020 and which I think is quite powerful:

> We know young people have the capacity to create great change and we see the gap in education around this topic, so we believe engaging with young people is where to start. We want to start a program in schools, educating students on disability awareness and inclusion. We need to change the thoughts and language around the subject, and we need to empower youth to make a change within their school and community.

Tessa once commented that she did not know what she could do with the rest of her life and whether she would ever be able to contribute to society at all. At just 21, Tessa is definitely making a significant contribution and I look forward to hearing more of her achievements in the future, as I am sure there is a lot more to come. Congratulations, Tessa Deak, on your achievements and making sure you are passing knowledge and awareness on to others in our community, and for that we are very grateful.

Parliamentary Procedure

STANDING ORDERS SUSPENSION

The Hon. D.C. VAN HOLST PELLEKAAN (Stuart—Minister for Energy and Mining) (16:00): I move without notice:

> That standing orders and sessional orders be and remain so far suspended as to enable Dr Roger Hunt, palliative medicine specialist, to be seated in a chair on the floor of the house adjacent to the seat assigned to the Leader of the Opposition for the purpose to advise the member for Port Adelaide during the committee stage of the consideration of the Voluntary Assisted Dying Bill.

The ACTING SPEAKER (Mr Cowdrey): An absolute majority not being present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

Bills

ELECTORAL (FUNDING, EXPENDITURE AND DISCLOSURE) AMENDMENT BILL

Introduction and First Reading

The Hon. V.A. CHAPMAN (Bragg—Deputy Premier, Attorney-General, Minister for Planning and Local Government) (16:04): Obtained leave and introduced a bill for an act to amend the Electoral Act 1985. Read a first time.

Second Reading

The Hon. V.A. CHAPMAN (Bragg—Deputy Premier, Attorney-General, Minister for Planning and Local Government) (16:05): I move:

That this bill be now read a second time.

I am pleased to introduce the Electoral (Funding, Expenditure and Disclosure) Amendment Bill 2021. This bill makes amendments to part 13A of the Electoral Act 1985 to make the election funding, expenditure and disclosure scheme more efficient and workable while maintaining transparency, accountability and consistency with the objects of the scheme.

The 2018 election was the first election at which public funding was payable. In July 2019, the Electoral Commission of South Australia published the 'Report into the operation and administration of South Australia's funding, expenditure and disclosure legislation'. After considering the recommendations in the report, and after further consultation with the Electoral Commission and registered political parties, the government has now prepared a draft bill.

To make the scheme more workable, relevant periods that commence when the election is announced will now commence by publication in the *Government Gazette* rather than be announced in parliament. This will be helpful in by-elections when parliament may not be sitting at the time of the announcement.

The scope of the application of part 13A will be clarified. The general limitation that only donations and amounts received for state electoral purposes need to be disclosed under this part is extended to candidates, groups and relevant entities which includes registered political parties, associated entities and third parties.

Registered political parties, candidates, groups and third parties all have the power to appoint and terminate an agent under the current act. The bill will extend this power to associated entities. The processes for dealing with resignation of agents are clarified. The current act does not set out what would happen if an agent resigned and these amendments fill that gap. A number of amendments dealing with disendorsement of candidates have been moved from the regulations to the act which will provide greater clarity.

There have been changes to the keeping of state campaign accounts to ensure transparency. There is a limit of one state campaign account for each political party, third party, candidate and group. Gifts are to be deposited directly into the state campaign account and may not be deposited in the account for federal electoral purposes.

All registered political parties will now be eligible for special assistance funding, with three categories of funding. For political parties with zero or one to five sitting MPs, there will be set amounts prescribed in the regulations. For political parties with six or more MPs, the types of administrative expenditure that can be claimed will be prescribed up to a maximum amount. The current time period for parties, candidates and groups to opt in to the funding scheme will be extended to allow an extra seven-day period in certain circumstances. The requirement for parties to disclose cap allocation agreements before the election will be removed. However, parties must still lodge a return, setting out details of their political expenditure, within 60 days of the election.

There will be an additional trigger to commence the disclosure period for independent candidates being when they are in receipt of a gift for electoral purposes. This will be in addition to the two existing triggers of a person announcing that they will be a candidate and a person being nominated as the candidate. See section 130ZF(1).

In most cases, donation returns will not be required to be disclosed if they are nil returns, and the requirement for donors to complete returns have been removed. However, political parties, candidates and groups that receive gifts of the amount or value of more than $5,000 must disclose them. Additional reporting requirements for large gifts during designated periods will be removed as these gifts are already required to be reported in the high-frequency disclosures that must be made at this time.

The definition of third party will be modified so that it is only parties that do incur more than $10,000 of political expenditure in the designated period leading up to an election who will fall within

the definition. A party that has an intention to incur that expenditure but does not actually spend the money will not be included in the definition of third party. Third parties will only be required to disclose amounts required that they intend to use for political expenditure in the returns that must be lodged every six months until the next election.

The requirement for a third-party annual return will be abolished. Registered political parties will be required to submit an annual list of associated entities to the Electoral Commission. This will assist the Electoral Commission in the administration of the act. The investigation powers of authorised officers are extended and clarified. The current act provides, for compliance purposes, that an authorised officer may require that the relevant agent, financial controller or officer of a registered political party, third party or associated entity must produce documents or appear to give evidence. This power for authorised officers to require that a person provide documents or attend at a hearing is extended to candidates and groups.

The power to make regulations of a savings or transitional nature is expanded to apply to any amendments to the act or on commencement of specified provisions of the act. These amendments are intended to ensure that our funding and disclosure scheme is both rigorous, workable and transparent. This bill ensures that the laws are as simple as they can be while allowing the public to access the information they would expect around donations to candidates, groups, political parties, associated entities and third parties.

I wish to thank and acknowledge the Electoral Commissioner, for his work and the preparation of his report and advice throughout the development of this bill, and also to his team, who have equally provided support and advice in its preparation and, I believe, to other political parties. I commend the bill to the house and seek leave to insert the explanation of clauses in *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 *Electoral Act 1985*

4—Amendment of section 130A—Interpretation

Various definitions are amended for the purposes of the measure, including the definition of *third party*.

5—Amendment of section 130C—Application of Part

The limitation that only donations and amounts received for State electoral purposes need to be disclosed under Part 13A is extended to candidate, group or relevant entity.

6—Amendment of section 130F—Third parties and associated entities may appoint agents

Associated entities are authorised to appoint agents. Another amendment is consequential.

7—Amendment of section 130H—Registration of agents

The requirement to notify the Electoral Commissioner of the death or resignation of an agent is limited to registered political parties.

8—Amendment of section 130I—Termination of appointment of agent

Certain amendments are consequential. Another amendment provides that if a candidate endorsed by a registered political party in relation to an election ceases to be so endorsed, the agent's appointment as agent of the candidate is taken to be revoked on the date of the disendorsement.

9—Amendment of section 130K—Requirement to keep single State campaign account

Sections 130K(1) is amended so that it provides that the agent of a registered political party, third party, candidate or group must keep 1 separate State campaign account for State electoral purposes.

10—Substitution of section 130L

Section 130L is substituted:

130L—Gifts to be paid directly into State campaign account

Various amendments are made to the provisions relating to the payment of gifts into State campaign accounts.

11—Substitution of section 130U—Entitlement to and claims for half yearly entitlement to special assistance funding

Section 130U is substituted:

130U—Entitlement to and claims for half yearly entitlement to special assistance funding

Currently, under section 130U special assistance funding is paid for administrative expenditure (which is defined) incurred by a party. The measure substitutes references to administrative expenditure with references to expenditure of a prescribed kind (which is not defined (but allows kinds of expenditure for which special assistance funding is payable to be prescribed by the regulations).

In addition, under current section 130U(1)(a) a party is only entitled to special assistance funding if it has a member of Parliament. That requirement is deleted from subsection (1) but the amount of the half yearly entitlement under subsection (2) is amended. Certain parties will be entitled to be paid the amount of expenditure of a prescribed kind incurred by the party during the relevant half yearly period up to a maximum amount prescribed by regulation. Other parties will be entitled to be paid an amount prescribed by regulation. (The variation in amount is to be based on the party's number of members of Parliament).

12—Amendment of section 130Y—Application of Division

One amendment relates to the timeframes for lodgement of certificates opting into the limitations on political expenditure by candidates not endorsed by parties.

Section 130Y(3) is amended so that it applies to all elections (currently, it only applies to general elections).

Section 130Y(5) is a provision that currently is located in the *Electoral Regulations 2009* (pursuant to a power to modify the operation of Part 13A by regulation). The provision is elevated into the Act.

13—Amendment of section 130Z—Expenditure caps

The requirement under subsection (2a) to notify the Electoral Commissioner of variations to amounts agreed between parties and candidates is deleted.

Inserted subsections (3) to (3d) involve provisions that currently are located in the *Electoral Regulations 2009* (pursuant to a power to modify the operation of Part 13A by regulation) being elevated into the Act.

14—Amendment of section 130ZF—Returns by certain candidates and groups

The *disclosure period* for campaign donations returns for new candidates (as defined in Part 13A) includes an additional potential starting point of the day on which the person received their first gift for State electoral purposes in relation to the election.

The exception in section 130ZF(5a) to furnishing a return (where a 'nil return' would be furnished) is extended so that it applies to agents of members of a group of candidates not endorsed by a registered political party (currently, it only applies to agents of candidates and groups endorsed by a registered political party).

A new subsection is inserted to provide that a reference to an amount received is a reference to the amount received excluding GST.

15—Repeal of sections 130ZG and 130ZH

Sections 130ZG and 130ZH are repealed.

16—Amendment of section 130ZI—Special reporting of large gifts

Existing subsection (2) related to sections 130ZG and 130ZH and so is deleted.

A new subsection is inserted to provide that a return is not required to be furnished under subsection (1) during the designated period in relation to an election.

Another new subsection is inserted to provide that a reference to an amount received is a reference to the amount received excluding GST.

The amendment to subsection (1)(c) is technical.

17—Amendment of section 130ZJ—Certain gifts not to be received

These amendments are technical.

18—Amendment of section 130ZK—Certain loans not to be received

These amendments are technical.

19—Amendment of section 130ZN—Returns by registered political parties

A new subsection is inserted to provide that a reference to an amount received is a reference to the amount received excluding GST.

20—Amendment of section 130ZO—Returns by associated entities

A new subsection is inserted to provide that a reference to an amount received is a reference to the amount received excluding GST.

Another amendment is consequential.

21—Amendment of section 130ZP—Returns by third parties

Certain amendments involve inserting references to amounts 'intended by the third party to be used for political expenditure' or similar.

A new subsection is inserted to provide that a reference to an amount received is a reference to the amount received excluding GST.

22—Amendment of section 130ZR—Annual returns relating to political expenditure

The distinction in subsection (1)(b) between third parties and others is removed.

Subsection (3) is deleted.

A new subsection is inserted to provide that section 130ZR does not apply to a third party.

23—Amendment of section 130ZV—Audit certificates

One amendment is consequential. The other is technical.

24—Insertion of section 130ZWA

New section 130ZWA is inserted:

130ZWA—Registered political party to provide details of associated entities

A requirement for a registered political party to provide the Electoral Commissioner with details of associated entities known to the party is inserted.

25—Amendment of section 130ZZB—Investigation etc

Certain investigatory powers are expanded to extend to candidates and groups. Other technical amendments are also provided for.

26—Amendment of section 130ZZH—Regulations

This amendment is technical.

27—Amendment of section 139—Regulations

This amendment expands the power to make regulations of a savings or transitional nature to apply to any amendments to the Act or on the commencement of specified provisions of the Act (currently it only applies to Part 13A).

Debate adjourned on motion of Dr Close.

MARTINDALE HALL (PROTECTION AND MANAGEMENT) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 6 May 2021.)

Dr CLOSE (Port Adelaide—Deputy Leader of the Opposition) (16:12): I rise to speak on this bill and indicate that I am the lead speaker on this side. I also indicate, as I have done publicly, that we will not be supporting this bill in this form. There are several reasons for this, and I acknowledge up-front that it is very similar to a bill that had been previously put together by the previous Labor Minister for Environment a few years ago but not advanced, having undertaken fairly extensive community consultation and discussion.

There are several reasons for concern with this piece of legislation. However, I think we can all agree that everybody in this chamber, all sides of parliament, understand and appreciate how important Martindale Hall is, what a treasure it is and also what potential it has. In its existing condition, it is not necessarily fulfilling all the potential it could. On the other hand, I recently went to visit Martindale Hall to refresh my memory about what it is like. I visited with a local councillor, a

member of the National Trust who lives nearby and a board member of the National Trust who lives nearby.

Having just heard the minister on the radio earlier in the day or the day before, I got the impression that it must have fallen into pretty dreadful disrepair, whereas in fact it is exquisite. One of the things that pleased not only me but the people I was with was how many people were 'streaming in'—I think we decided in the end that those were the right words—to visit while we were there, possibly because it is back in the media because of the attention raised by the National Trust about concerns with how parliament might manage the future of Martindale Hall.

It is a beautiful building in its own right, and I understand it copies a building from the Lake District in the United Kingdom. It is full of interesting and historical pieces of decoration, art and decor, with wallpaper that is quite wild and exciting. There are objects from all over the world, including Samurai armour, and it has the sense of a building that is almost as it was left by the family who last lived in it.

What is the bill seeking to do and what is it that we object to? The bill has essentially taken the view that there are problems with the protections around Martindale Hall that constrain the capacity of the state to do what it would like to do with it. It removes its conservation park status and it removes the charitable trust that exists by virtue of the family having given this piece of South Australia's history to the University of Adelaide and the University of Adelaide in turn giving it to the state.

The charitable trust that therefore exists between the University of Adelaide and South Australia is sought to be extinguished in this piece of legislation, but what we do not know is why. Assertions are made that it prevents any extensive renovation or remodelling, or even quite minor extension or remodelling. An example that has been given to me was that a disabled toilet could not be installed under the terms of the charitable trust.

The difficulty is that we have not seen the charitable trust. When that was raised on radio, the minister said he would be providing it; however, I am yet to see a copy of it. The National Trust is very sceptical of the claim that the charitable trust would prevent the kind of thoughtful and heritage-consistent remodelling or reworking that might be required. I am open to understanding the constraints of the charitable trust, but I am yet to see it. Having asked the minister's office for it in the briefing and then being pleased to hear in the radio interview on the ABC that it would be provided, it is yet to be provided.

The legislation is clear that it is removing what might be seen as constraints, or otherwise seen as protections. What it does not do, and I think this is of just as much concern, is really articulate what the future of Martindale Hall is and could be and what the limits are to that future. What it does is empower the minister to create policies. Something that has been raised with me not only by the National Trust but by various groups and individuals is that they are concerned that there is not any sense of what is going to happen there in this piece of legislation.

The only protections that would exist over Martindale Hall are, firstly—and I acknowledge this is in the legislation—that it will not be sold and, secondly, that it is a state heritage place. We have seen that being a state heritage place may not have quite the cache that we used to think it had, with the decision by this government (although essentially reversed) to demolish the Waite Gatehouse and, although the Heritage Council found that Shed 26 in Port Adelaide was worthy of being on the state Heritage Register, the approach taken by this government was to remove it during its provisional listing term.

Being a state heritage place in itself, although it does have protections, (a) does not necessarily give protection from the actions of the Crown that one might want and (b) does not in itself give you a sense of what can and will happen. Therefore, these policies that are referred to—that the legislation gives power to the minister to create policies—I think a lot of people would really like to know what they might be well before any legislative instrument is engaged to give weight to them.

Here we get to the deeper objection to this legislation: that it has not come from a deep community engagement or understanding of what is desired, what is expected and what is possible. Although it has been hanging around for a long time, it seems to have emerged almost from thin air.

Again, the minister on the radio—thank goodness for the ABC, because I suspect it has given me the most information I could have had on this—indicated that this was something that had come from the local council and that the local council was keen to see this happen, but I do not think that is quite right. I have a letter from the Clare and Gilbert Valleys Council, which states:

> While the Clare and Gilbert Valleys Council's position on economic development and the visitor economy implies that it would be supportive of the Martindale Hall bill, it has not made any formal decision to show that it either supports or does not support the bill.

That is important to understand: that this piece of legislation, which may have been characterised as coming out of a desire from the local council to have this legislation, in fact does not. The council is yet to reach a position on the condition of this bill; however, what is clear and consistent with every conversation I have had about Martindale Hall is that the council and the community would like to see more and greater activation of the hall. With no disrespect to the people who are currently running what is essentially a museum and visitor attraction, I think everybody thinks that there could be more done.

I think one of the challenges for the people who are currently using it—and I stand to be corrected if I have this wrong—is that they are on a year-by-year lease, I am told, which makes it very difficult for them to really invest in any long-term future or, indeed, to develop such a long-term future for consideration, perhaps in the context of a future bill that might have a greater shape to it of what might be expected to happen.

With all those concerns and enormous areas of doubt and grey areas, and a legitimate pushback from the community—I understand a petition is in the process of gaining signatures and the National Trust, with whom the Labor Party does not always agree but always respects and treats respectfully—I cannot see that we can support this piece of legislation at this time.

Should we see convincing and compelling evidence that the Crown advice—and that is what we are waiting to see, the trust and the Crown advice on the trust—does tell us that we cannot do what people might reasonably want to do, should we see what that plan could be, what those policies that are countenanced vaguely in the legislation could be, and whether we could do a proper not community consultation but community engagement where we are able to really listen to the community's ideas and what they value and what they fear, as well as what they hope to see, then we could all come back, possibly in a bipartisan or multipartisan way to see a future for Martindale that we can all agree on.

But this legislation does not do that. It is disrespectful to the National Trust, which has lodged its concerns about it. It is a simple, 'We just want to be able to do this. We don't want that constraint, so we are going to remove it and we want to have the power for the minister.' As I say, I acknowledge that that was a version that was previously considered by the Labor Party but it was not advanced into a piece of legislation that was considered by the parliament. As long as I am involved in this portfolio, we will not treat heritage that way on this side of parliament.

I look forward to hearing other people's contributions, and should we proceed to a committee stage then I will be very interested to ask more detailed questions to try to elicit some of the answers that I have signalled I am yet to hear, and we will see whether it gets through the lower house to even be considered in the upper house.

Mr TRELOAR (Flinders) (16:22): I rise to speak today to support the Martindale Hall (Protection and Management) Bill. Most South Australians are certainly familiar with Martindale Hall. It is a Georgian-style mansion which sits in many ways rather incongruously in the South Australian Mid North near a place called Mintaro just east of Clare.

We believe as a government that it does have the potential to be a significant tourism drawcard and that it would make a vibrant contribution to the cultural and economic landscape of the Clare Valley and surrounding regions. The deputy leader was talking about the steady stream of visitors who have been visiting Martindale Hall through decades really, and continue to do so, but there is certainly a desire within the community, and that is articulated in the joint communiqué by the Regional Development Authority, Clare and Gilbert Valleys Council and the Clare Valley Wine and Grape Association—all to see the development of a high-end accommodation offering in the Clare Valley, and Martindale Hall has the potential to contribute to this vision for the region.

As I said, Martindale Hall is a grand and beautiful Georgian-style mansion which lies just east of the historic town of Mintaro, nestled in the Clare Valley. It is probably just outside the Clare Valley if we were to be particularly pedantic about it. I certainly have visited it, not for some time now, and I remember being totally awestruck by the grandeur of the building—Georgian-style, English-style, architecture sitting in the middle of the Mid North South Australian landscape.

The hall was originally built for Edmund Bowman after he inherited the Martindale estate from his father who had drowned in the River Wakefield in 1866, which is rather sad. I guess it was during the winter, but we should not make those assumptions. By 1879, the mansion was completed. It was built of Manoora freestone, which had been ornately carved by skilled tradesmen especially brought out from England.

The house and property was named after Martindale in Cumbria, which was close to the Bowman's family home town. The property was intended as a sheep station, and evidence of that is still seen today. Edmund Bowman lived in style. He built himself a large stable complex and training track. He also possessed his own pack of fox hounds, and even had his own cricket ground where the English cricketers would come and stay. During this time, Edmund even gave licence to a small group of people to search for gold on his estate and they did indeed find some there. It sounds to me like he was looking to establish a little England here in South Australia.

However, in 1892 debt eventually forced Edmund to sell Martindale Hall to William Tennant Mortlock. Debt and drought, or the lack of rain and then drought, lack of production and sheep losses were the scourge of the South Australian landscape in the early days. He sold the hall to William Tennant Mortlock, who bought it a year after marrying. They had six children of whom only two survived into adulthood, one being John Andrew Mortlock. John inherited Martindale Hall and eventually bequeathed part of the estate to the University of Adelaide. The rest was transferred to the university in 1965 by his widow. Then, of course, the university transferred the hall to the state government in 1979.

I want to speak briefly about the Mortlock family. In the first instance they were pastoralists here in South Australia and did well, as many of the early pastoralists did, but the foundation and base of their pastoral empire really began on Eyre Peninsula. In fact, the first Mortlock, who was William Ranson Mortlock, and his son William Tennant Mortlock, both for a time at least in the second half the 19th century were members for Flinders in this very parliament.

Of course, the Mortlock name survives as place names now throughout Eyre Peninsula, and in fact the Hundred I live in is known as the Hundred of Mortlock. It was named the Hundred of Mortlock in 1904. Certainly, they had extensive pastoral interests and for a time in the very early days ran a station known as Yalluna Station, with the station homestead just out of Tumby Bay. The Secker family, Bill senior, I think it was, was the overseer and manager of that station.

In fact, my family and the Secker family had much to do with each other for generations. I know that my grandfather called into the Martindale Hall when the Seckers were actually living there to negotiate some sort of business deal, land purchase or job opportunity. That would have been back in the 1940s. I do not really know the detail, but I have heard my father speak of it.

Then, of course, the final Mortlock in that run of Mortlocks was John Tennant Mortlock, and the Mortlock name survives here in Adelaide. Of course, we have the Mortlock Building in the State Library, and there is a magnificent portrait of either William Tennant or John Tennant—I am not sure—but one of the Mortlocks anyway, sitting there in his tweed jacket with a dog and a shotgun by his side. They certainly were well-to-do and influential people at the time. The family owned Martindale Hall for a very long time.

When the hall was gifted to the government by the University of Adelaide in 1986—I have a correction, as I originally said 1979—specific heritage protection laws did not exist in South Australia, so it was afforded protection under the National Parks and Wildlife Act 1972 through the creation of the Martindale Hall Conservation Park. Structures at the site, including the hall and the coach-house, are listed on the South Australian Heritage Register.

For many years, the hall was leased to the private sector as a tourist attraction and a venue for events and tourism accommodation. The terms of the lease were unsustainable for the government and the lease concluded in 2014. Since that time, the hall has been open to the public

as a museum through a short-term caretaker arrangement. Those of us who are old enough will remember that a portion of one of those great Australian movies from the 1970s, *Picnic at Hanging Rock*, was filmed—

Members interjecting:

Mr TRELOAR: Yes, some here can remember the movie. I think I recall seeing it in 1975, when it was made and first came out. Of course, the South Australian film industry at that time was really cranking along.

There have also been rumours of a ghostly presence at Martindale Hall. In fact, there have been several sightings of ghosts in Martindale Hall, ranging from a man seen sitting on the back stairs in period costume through to a guest reportedly waking up and finding a child lying in bed with her. The owner reported how the guest had woken to find a girl standing in her room but, on reflection, thought it more likely to be a boy, as in the early days boys would wear long hair. He is believed to be one of Mortlock's sons, in particular Valentine, who died in 1906 aged nine years. Who would know? Certainly, there has been more than one report of a ghostly presence at Martindale Hall.

During 2015 and 2016, the government received multiple unsolicited proposals for the use of the hall, each of which sought to develop the site for use as a wellness retreat and/or accommodation and a restaurant. Extensive community consultation occurred in response to these proposals, which indicated that the community, unsurprisingly, wanted to see the heritage value of the hall and its collections preserved while ensuring ongoing public access to the site.

During consideration of these proposals, legal advice provided to the government indicated that through the gifting of the hall to government a charitable trust was created that would restrict the future use of the hall to being a museum. That would ensure that visitors to the site could experience life as was lived by the Mortlock family. The terms of the charitable trust also prohibit any modernising development, including installation of public toilets, which has previously occurred.

To allow Martindale Hall to be used for a broader range of future uses whilst retaining it in public ownership, the terms and conditions of the charitable trust can be revoked through legislation that explicitly seeks to vary or revoke the charitable trust.

What this bill does is remove restrictions that presently limit the adaptive re-use of the hall. It abolishes the charitable trust over the site; it requires that the hall remains in public ownership, which honours the intention of the gift of the hall to be held for the people of South Australia; and it also strengthens its heritage protections. This will be achieved by abolishing the Martindale Hall Conservation Park and placing the hall under the care and control of the Minister for Environment and Water, who is the minister responsible for the Heritage Places Act.

The bill will also ensure that the hall cannot be removed from the South Australian Heritage Register without the concurrence of both houses of parliament. So there are significant protections there. Even though it is a change in structure, there are significant protections in place. The bill also requires that the Minister for Environment and Water prepare and adopt a heritage and conservation policy and a material contents policy for the hall's collections and that any lease or licence of the hall is consistent with these heritage policies. Finally, it will mandate a level of ongoing public access, which is expressly provided for in any lease or licence arrangement for the hall.

It is considered that the protections of the bill, in particular the requirement that the hall remain in public ownership, along with the provisions of the Heritage Places Act 1993, provide a more appropriate form of protection for the hall than that which it currently has.

Importantly, the bill does not make any decisions about the future use of the hall, but it would allow the government the chance to work with the private sector and community to develop heritage tourism and other economic opportunities at the property, and we make no apology for that. It is proposed that any future private sector investment in the hall, the grounds and surrounding buildings would occur via a long-term lease, where the government retains a high level of oversight and strategic involvement in the future use of the hall and its collections.

At present, the highly restrictive operating framework for Martindale Hall prevents any profitable third-party commercial venture from being advanced. In the meantime, and this is a critical point, the ongoing costs associated with operating and maintaining the hall are being borne by the state government, which, since being gifted to the state, are in excess of $5 million.

We all recognise the critical nature of this asset. It is a treasure—a word that is often used and sometimes overused, but certainly Martindale Hall is a treasure. As a government, we have determined that the current arrangements are outdated and what we plan to do with this bill is set up arrangements that will add considerably to the importance and special nature of Martindale Hall. I commend the bill to the house.

Mr PEDERICK (Hammond) (16:36): I, too, rise to speak to the Martindale Hall (Protection and Management) Bill. My first few comments are that there has been a lot of misinformation about what we are trying to do here as a government with this bill. Last night, I was talking to a friend of mine who said, 'You're just going to sell it because that's what they said on the radio.' I said, 'Don't believe everything you hear.' That is not going to happen. What has been put so well in this place already by the member for Flinders is that it is about an opportunity for public ownership and private entrepreneurialism to make this gem really shine.

As has been indicated, Martindale Hall is a site located in the Mintaro region, a beautiful area of the Clare Valley, which has the real potential to be a significant tourism drawcard that would make a vibrant contribution to the cultural and economic landscape of the Clare Valley and surrounding region. Certainly, with the influx of regional tourism we have had right across the state because of what is going on with COVID and what we have done as a government, assisting with tourism vouchers, it is so good to see so many people out and about through the regions of this state. I suppose you could say there have been some positives with COVID simply because people cannot spend those billions of dollars overseas that they normally would have.

There is a desire within the community, articulated in a joint communiqué between the Regional Development Authority, the Clare and Gilbert Valleys Council and the Clare Valley Wine and Grape Association, to see the development of high-end accommodation offerings in the Clare Valley, and Martindale Hall has the potential to contribute to this vision for the region.

The hall was gifted to the government by the University of Adelaide in 1986, when specific heritage protection laws did not exist in South Australia. It was afforded protection under the National Parks and Wildlife Act 1972, through the creation of the Martindale Hall Conservation Park. Structures at the site, including the hall and coach-house, are listed on the state Heritage Register.

For many years, the hall was leased to the private sector as a tourist attraction and a venue for events and tourism accommodation. The terms of the lease were unsustainable over time to the government, and the lease concluded in 2014. Since that time, the hall has been open to the public just as a museum through a short-term caretaker arrangement.

A couple of years after that, during 2015 and 2016, the government received multiple unsolicited proposals for use of Martindale Hall, each of which sought to develop the site for use as a wellness retreat and maybe accommodation and a restaurant. Extensive community consultation occurred in response to these proposals, which indicated that the community wanted to see the heritage values of Martindale Hall and its collections preserved whilst ensuring ongoing public access to the site.

During consideration of these proposals, legal advice provided to the government indicated that through the gifting of Martindale Hall to the government a charitable trust was created, which would restrict the future use of the hall to a museum, which would ensure that visitors to the site could experience life as it was lived by the Mortlock family, who owned the property from 1892.

The terms of the charitable trust also prohibit any modernising development, including installation of public toilets, but that has previously occurred at the site. To allow for Martindale Hall to be used for a broader range of future uses whilst retaining it in public ownership—and I stress 'whilst retaining it in public ownership'—the terms and conditions of the charitable trust can be revoked through a legislative process, which is what we are going through here today, which explicitly seeks to vary or revoke the charitable trust. The Martindale Hall (Protection and Management) Bill 2020:

- removes restrictions that presently limit the adaptive re-use of the hall;
- abolishes the charitable trust over the site;

- requires that the hall remains in public ownership, which honours the intention of the gift of the hall to be held for the people of South Australia, and that is extremely important;
- strengthens its heritage protections—again, extremely important not just for the people of the Clare Valley and the Mintaro region but for the state and the country. This will be achieved by abolishing the Martindale Hall Conservation Park, proclaimed under the National Parks and Wildlife Act 1972, and placing Martindale Hall in the care and control of the Minister for Environment and Water as the minister responsible for the Heritage Places Act 1993;
- ensures that Martindale Hall cannot be removed from the South Australian Heritage Register without the concurrence of both houses of parliament;
- requires that the Minister for Environment and Water prepares and adopts a heritage conservation policy, and a material contents policy for the hall's collections, and that any lease or licence of Martindale Hall is consistent with these heritage polices; and
- mandates a level of ongoing public access, which is expressly provided for in any lease or licence arrangement for Martindale Hall. This may include requiring that the hall and grounds are open to the public for a specified number of days per year.

It is certainly considered that in the major protections that are part of the bill, in particular the requirement that Martindale Hall remain in public ownership, along with the provisions of the Heritage Places Act 1993, provide a more appropriate form of protection to the hall than that which is currently afforded by the provisions of the National Parks and Wildlife Act 1972, which is somewhat cumbersome in its protection of the hall through a conservation park. I stress again: it provides a more appropriate form of protection to Martindale Hall.

Importantly, the bill does not make any decisions about the future use of the hall, but it does allow the government the chance to work with the private sector and the community to develop heritage tourism and other economic opportunities at the property. It is proposed that any future private sector investment in Martindale Hall, the grounds and the surrounding buildings, would occur via a long-term lease, where the government retains a high level of oversight and strategic involvement in the future use of the hall and its collections.

At present, the highly restrictive operating framework at Martindale Hall prevents any profitable third-party commercial venture from being advanced and, in the meantime, the ongoing costs associated with operating and maintaining Martindale Hall are being borne by the state government, which, since being gifted to the state, are in excess of $5 million.

I think this is an excellent proposal, not only to keep one of these great heritage sites in public ownership and give Martindale Hall the appropriate protections that it deserves and requires to advance into the future but also to give the people of South Australia, Australia and international visitors when they finally start coming back—and they will—the opportunity to visit this magnificent site.

It is not dissimilar to Padthaway Homestead on Padthaway Estate down in the South-East in the seat of MacKillop, which was owned by the former leader of the Liberal Party Dale Baker, the former member for MacKillop. That is a place of similar ilk to Martindale Hall. I stayed there one evening. I had an excellent evening, when all the guests had their own rooms upstairs but then the different groups or couples mingled downstairs for pre-dinner drinks and then went to their separate tables for dining. That was a little while ago.

Currently, the family that owns Padthaway house is renovating. These buildings do need a lot of care and love and they can be expensive to work with. Certainly, in light of the opportunities that Martindale Hall can give back to not only the Clare Valley but the state and the nation as a whole, you just cannot let these things disappear. That is why we are putting these protections in place, but we are also making sure as a government that we are giving the private operators that have the opportunity to come here the ability to open Martindale Hall up and give more access so that everyone can see life as it was in the late 1800s as this state was finding its feet. I fully commend the bill and hope it has a speedy passage through the parliament.

The Hon. D.J. SPEIRS (Black—Minister for Environment and Water) (16:47): I rise to acknowledge and thank the members of parliament who have made a contribution to this debate this

afternoon, in particular the member for Flinders and the member for Hammond. I look forward to responding to questions about the specific clauses of the bill during the upcoming committee stage.

As we have seen from the contributions made to this bill and from public sentiment expressed in recent weeks, Martindale Hall is an iconic heritage site in our state and holds a special place in the hearts of many South Australians. Martindale Hall serves as a special reminder of our pastoral heritage and that of the Mortlock family.

Martindale Hall currently receives visitation of between 10,000 and 15,000 people in a normal year. This government believes that we have the opportunity to not only improve the heritage framework that protects the site but also identify a pathway that will allow for sensitive activation of the site, increasing visitation to Martindale Hall and, along with it, people's connection to South Australia's heritage. If we can achieve this, it will provide benefits to the local Clare Valley community and the broader Mid North region.

There is commentary that has been aired in recent weeks suggesting that this bill sets out to diminish and undermine the current protections which are afforded to Martindale Hall. To the contrary, this is absolutely not the case: this bill will afford Martindale Hall a higher level of protection than any other heritage place in South Australia. I repeat: this bill will provide Martindale Hall the highest level of protection of any heritage place in this state's history. It will provide a pathway to secure the future of the site, protecting it and preserving it for the enjoyment of future generations.

I again wish to thank members for their contributions and I look forward to perhaps considering amendments because I am very open to amendments. I am not fixed on what this bill necessarily looks like. I am very keen to achieve a particular aim, but I am more than open to talking about, considering and exploring amendments with both the opposition and crossbench between the houses. I ask that the bill now be read a second time.

The house divided on the second reading:

Ayes 21
Noes..... 19
Majority..... 2

AYES

Basham, D.K.B.	Chapman, V.A.	Cowdrey, M.J.
Cregan, D.	Ellis, F.J.	Harvey, R.M. (teller)
Knoll, S.K.	Luethen, P.	Marshall, S.S.
McBride, N.	Murray, S.	Patterson, S.J.R.
Pisoni, D.G.	Power, C.	Sanderson, R.
Speirs, D.J.	Tarzia, V.A.	Treloar, P.A.
van Holst Pellekaan, D.C.	Whetstone, T.J.	Wingard, C.L.

NOES

Bedford, F.E.	Bettison, Z.L.	Bignell, L.W.K.
Boyer, B.I.	Brown, M.E. (teller)	Close, S.E.
Cook, N.F.	Hildyard, K.A.	Hughes, E.J.
Koutsantonis, A.	Malinauskas, P.	Michaels, A.
Mullighan, S.C.	Odenwalder, L.K.	Piccolo, A.
Picton, C.J.	Stinson, J.M.	Szakacs, J.K.
Wortley, D.		

PAIRS

Gardner, J.A.W.	Gee, J.P.	Pederick, A.S.
Brock, G.G.		

Second reading thus carried; bill read a second time.

Committee Stage

In committee.

Clauses 1 to 3 passed.

Clause 4.

Dr CLOSE: This clause refers to the objects of the act, saying that it is to ensure the ongoing effective protection of the heritage values of Martindale Hall while allowing for new uses. What are the new uses that the minister is expecting?

The Hon. D.J. SPEIRS: It is difficult to obviously define all the potential new uses. There will be a process, as outlined in the bill, to develop a series of policies, one being a heritage management policy, which we would require to be completed before we contemplated any future new use for this property. Obviously, there have been discussions over the years about adaptive re-use, particularly of some of the outbuildings, the stables or the coach-house and potentially the grounds.

I know that a proposal put forward into the public domain several years ago by the National Trust contemplated a modern building being built on the grounds and potentially adaptive re-use or at least access to some of the other buildings for interpretive facilities and events and the like. It is not possible to define exactly what the new uses would be. In my mind, it would be something in keeping with the building but possibly more focused on the grounds and the outbuildings than the hall itself necessarily.

Ms BEDFORD: I have just come into the room, but I understand you are on clause 4; is that correct?

The ACTING CHAIR (Mr Cowdrey): Clause 4, correct.

Ms BEDFORD: You are talking about objects and continued public access to the property?

The ACTING CHAIR (Mr Cowdrey): I am in your hands, member for Florey.

Ms BEDFORD: I am just waiting for the minister to nod, like he is in the ballpark of clause 4(b). When you talk about 'continued public access', that could be once every six years, couldn't it? How are we going to make sure that public access is fair and reasonable or even decide the definition of 'fair and reasonable' public access?

The Hon. D.J. SPEIRS: There is no doubt that public access could take a number of different forms, such as viewing the building and grounds versus accessing the interiors of the hall and the coach-house. It is certainly the intention of the government to maintain ongoing access to both the exterior, being the grounds, and the outbuilding, as well as the interior of the hall itself.

As minister, I believe there should be a significant level of public access afforded. I have been very clear that a minimum level of public access should be set; not only that, that minimum level of public access should have a high threshold, as we have had with previous private leases and caretakers. We currently have a private arrangement with a caretaker who manages the hall for us as a tourism destination, enables tours and welcomes people to the site.

As has been the case and is currently the case, the government will negotiate with any future occupiers the level of access that is sustainable for whatever particular model of business is proposed while still fulfilling community expectations. The level of access that is ultimately available depends upon the outcome of future deliberations about the long-term management model for the hall.

I do not want to pre-empt what the proposals that might come forward might be. We have seen some in the past from the private sector and we have seen at least one from the not-for-profit sector. There may be varying proposals for different parts of the property—for the grounds, for the coach-house and for the hall itself—whether it as a museum, a cellar door, a visitor centre, an art gallery, an events space or a restaurant, or an event space constructed in the grounds, as proposed by the National Trust, albeit facilitated by private money.

It may be a combination of all these things or a combination of something that has been mentioned, but I am not sure what form that would necessarily take. I do not foresee the hall itself lending itself to an accommodation outcome, but I guess time will tell if this legislation passes both houses and we get an opportunity to see what the private and not-for-profit sectors are keen to propose.

Ms BEDFORD: Again, I excuse myself if you have already covered this, but in a letter I have seen you talk about the trust maintaining that people should experience life as it was lived at the hall. So you are saying that the trust is so difficult to do anything with that you perhaps could not even repair a leaky roof at the hall as it stands now. I see your adviser is shaking her head but, before you get up, I have not finished the question. Could you just perhaps explain a bit more to me about why the trust is such a difficult trust in allowing any sort of repair to the building or modernisation, which has meant you have had to come to the house with this very prescriptive bill?

The Hon. D.J. SPEIRS: The clause which distinguishes the trust is clause 7.

The ACTING CHAIR (Mr Cowdrey): While potentially not directly relevant, the minister can provide an answer as he sees fit. If that is his answer, he can provide it to the committee.

The Hon. D.J. SPEIRS: I think it would be more appropriate to provide that answer under clause 7, which deals with the abolition of the trust in its specific sense. I do not feel that fits under the objects of the act. If we want to jump forward to that—

Ms BEDFORD: I can wait for clause 7.

The ACTING CHAIR (Mr Cowdrey): Very good. Member for Florey, your third question.

Ms BEDFORD: In that case, let's talk about some exact wording here at clause 4(b), 'provide a framework for the assessment of any proposed use of Martindale Hall'. Who will be doing that and who will be responsible for approving that framework?

The Hon. D.J. SPEIRS: As this bill is drafted, the minister of the day, the minister for heritage, would approve the underpinning policies, and then any proposal to undertake something that could be described as development on the site would be approved by SCAP.

The ACTING CHAIR (Mr Cowdrey): Could I have an indication from the committee about where—

Ms BEDFORD: It is obviously clause 7 for me.

Clause passed.

Clauses 5 and 6 passed.

Clause 7.

Dr CLOSE: Could the minister give examples of when a conservation park has previously been extinguished and not replaced with any new other form of protection? I accept that there is already heritage listing, but has there ever previously been an extinguishment of a conservation park? I appreciate that you probably do not have National Parks people here so you may need to do that between the houses, and that is fine.

The Hon. D.J. SPEIRS: I do not have specific examples. There have been examples here and there, where small components of conservation parks and national parks have been extinguished to facilitate particular land swaps and things like that. Not that long ago, I think the member for Port Adelaide and I were involved in the Flinders Ranges block, which went through both houses of parliament. That was a land swap. There was a piece of higher conservation land—block 101 or lot 101 in the Flinders Ranges—that was swapped for a lower grade area of land that had low conservation values and was swapped for a higher conservation value block. That was an issue which had been going on for many years and which had been initiated under the previous government and was much more recently passed.

I guess when it comes to the conservation park that sits around this hall, our view is that it was used as an instrument of the day to afford that building protection in 1986 when the university changed the set-up of Martindale Hall and the surrounding pastoral country and controversially sold

off components of it. The use of a conservation park I think would be strongly advised against today to protect a heritage building. It was an unusual instrument, and we cannot really find anything quite like it.

While it is not unknown for heritage buildings, significant heritage buildings, to be located within a national park, normally that is a quirk of the landscape more than anything else, as opposed to the reason the instrument under the National Parks and Wildlife Act has been used. It is quite unique, and I am not completely aware of the motivations for why this occurred in 1986, but there is no conservation value within the Martindale Hall Conservation Park. There is no flora or fauna. There is no significance, aside from the built heritage, which obviously has state heritage protection, but there is no environmental significance within the paddocks and gardens that are sheathed by this conservation park status.

Our very strong view is that the protections offered under this bill are of equivalent strength, if not greater strength, to those offered by a conservation park and that the protections cannot be revoked without going to parliament and passing through both houses of parliament. The land cannot be sold from the public estate. Site-specific management policies are required to be adopted, in the same way that a park management plan is required to be adopted under the National Parks and Wildlife Act for a conservation or a national park.

The difference between the bill and the protections afforded in the conservation park are tailored to the heritage significance of Martindale Hall. The conservation park status is not tailored to the built heritage significance of Martindale Hall, and to put these protections in place and retain conservation park status would, in our view, create unnecessary duplication and layers of management policies that would not be adding anything. You would end up with a situation where this bill requires a series of management policies, and then the National Parks and Wildlife Act would require a management plan, which could be similar but which would be certainly a duplication.

We are confident that the enhanced and holistic heritage protections afforded by the bill before the house today, together with the existing strong protections of the Heritage Places Act, will provide more effective heritage protection than is currently present under the conservation park status, ensuring that management decisions are made with an appropriate and insightful heritage lens.

Ms BEDFORD: I am sure the minister is aware of what my question will be, and it relates to everything I said before, in particular: how many trusts are there around Martindale Hall, and what is so difficult in each of them that means you cannot do anything without changing it in such a rash fashion?

The Hon. D.J. SPEIRS: Our legal advice suggests there is one trust, and the interpretation of that trust requires that Martindale Hall be held essentially as a museum to demonstrate what life was like for those people who resided in and possibly worked in Martindale Hall back when it was a colonial stately home in the state. This really is very restrictive.

The member for Florey made reference to not being able to fix a leaky roof. We certainly would be able to fix a leaky roof. We have fixed the leaky roof at Martindale Hall often, and the salt damp and a whole range of other things, to the tune of between $100,000 and $200,000 per annum. The challenge is that for more significant modernisation, certainly the provision of disabled toilets and more substantial built interference, we do not believe that the trust would enable it.

Ms BEDFORD: Is this trust documented? The bill states, 'all trusts to which Martindale Hall was subject', which is plural, but there is only one trust so that should be singular. Rather than 'all trusts', it should be 'the trust to which Martindale Hall was subject'.

The Hon. D.J. SPEIRS: There is just one trust.

Ms BEDFORD: Are you going to correct that, because it says 'all trusts to which Martindale Hall was subject'. It should be 'the trust to which Martindale Hall was subject'.

The Hon. D.J. SPEIRS: I am not sure which document the member refers to.

Ms BEDFORD: At clause 7(b) it states, 'all trusts to which Martindale Hall was subject'. If there is only one, should that not be singular?

The Hon. D.J. SPEIRS: Because there was uncertainty around the nature of the trust, the drafters have provided this as a catch-all term.

Ms BEDFORD: So there is only one trust. Is that a public document, and is the interpretation of this single trust not very narrow, if you cannot replace the toilet?

The Hon. D.J. SPEIRS: The trust is a legal interpretation. This is not like a trust for which you would go your solicitor and say, 'I want a trust to hold property and assets for my children,' or, 'I want to separate assets from my person in order to be protected from bankruptcy and things like that.' This is a trust that legal minds have interpreted exists through the gifting. So the act of gifting created a trust with a particular purpose. There is no written trust here. I guess this is a legal fiction, in some ways.

Ms BEDFORD: Well, that is something I did not know till now. So there is no trust as such.

The ACTING CHAIR (Mr Cowdrey): Member for Florey, you have used your three questions in regard to this clause, so I will unfortunately have to pull you up.

Dr CLOSE: I understand from an interview that the minister did last week on the ABC about this that he would release the Crown advice. If the trust itself does not exist in document form, you would release the Crown advice saying what it interprets the trust to mean and the limitations it puts on the use of the hall or the changes to the hall. We have not yet seen that, so will the minister now table that, please?

The Hon. D.J. SPEIRS: I have received further advice that in my enthusiasm—the legal advice does not belong to me. The legal advice was generated by the previous government through an instruction to the Solicitor-General. That advice is privileged and sits between the Attorney-General and the Solicitor-General, so it cannot be released because it is not mine, as the Minister for Environment and Water, to release. It was legal advice obtained by someone else.

Dr CLOSE: Will the minister, before this is considered in the upper house, seek that advice himself so that he will be in a position to release it?

The Hon. D.J. SPEIRS: That is something I will look into because it was certainly my intention to be able to provide the advice or a summary thereof. I will seek advice on whether I can do that or not, in completely good faith.

Clause passed.

Clause 8 passed.

Clause 9.

Ms BEDFORD: The heading of part 3 reads, 'Management of land and moveable items' and it says, 'the Crown may not sell or grant the fee simple of any land forming part of Martindale Hall', but it says nothing about moveable items. So, if there is nothing about moveable items, why have you put moveable items in the title of part 3?

The Hon. D.J. SPEIRS: Because those are listed in the requirements under the policies, the heritage conservation policy and the material contents policy, which are a requirement under clause 10—Minister to prepare policies. Those are the policies.

Ms BEDFORD: Where in this bill is the protection for the moveable items, of which there are several hundred one would think.

The Hon. D.J. SPEIRS: Clause 10(1)(b) requires a material contents policy dealing with the matters set out in schedule 2, so there is the broader heritage conservation policy and then there is one that focuses on the moveable material contents that are part of the house's heritage fabric. I should also say that clause 11 deals with the adoption of the material contents policy and considers whether any moveable items, including items of furniture and contents, should be included in the South Australian Heritage Register, which is immediately a layer of protection beyond the material contents policy.

Ms BEDFORD: Is there a list of the movable items from Martindale Hall anywhere?

The Hon. D.J. SPEIRS: Yes, there is a list. There has been an audit done of these items, but I guess the motivation behind having a material contents policy would solidify that list and make sure it was in its complete form and formed a key part of the protection for the site.

Clause passed.

Clause 10.

Dr CLOSE: The bill is asking us to create an act that asks the minister to prepare policies. I have questions about the matters that are set out in schedule 1, which are about what the heritage conservation policy in clause 10 must do. I seek the guidance of the Chair about whether I ask those questions here.

The ACTING CHAIR (Mr Cowdrey): I believe they are relevant.

Dr CLOSE: So here?

The ACTING CHAIR (Mr Cowdrey): Yes.

Dr CLOSE: My question is why we have not been able to define the heritage values in the piece of legislation. This bill says that the minister must prepare policies as soon as practicable on a heritage conservation policy dealing with matters referred to in schedule 1 and schedule 1 says that there must be a heritage conservation policy that defines the heritage values of Martindale Hall.

I think that people would be far more relaxed about the good intent of this bill if that work had already been done and if this bill in fact defined, perhaps not exclusively, perhaps not exhaustively, the heritage values that this bill is seeking to protect and that the process of consulting, communicating and engaging with the community that would have led to that might then have created greater goodwill within the community to see this piece of legislation supported rather than opposed.

The Hon. D.J. SPEIRS: I do appreciate the deputy leader's sentiment here. There is a heritage list and the heritage values sit under that listing. They are 33 pages in length. That obviously varies when a building is listed. The heritage values from any building are probably quite short but, because of the significance of Martindale Hall and the history thereof, there has been a great deal of effort put into defining the heritage values under the heritage listing for this building and as a consequence we have a very detailed set of values, which would be onerous to put into the bill itself but would form the key contents of the heritage conservation policy.

Dr CLOSE: Another part of the concern that has been raised with me is that, while the minister is required to prepare a policy, as we have just canvassed, dealing with the heritage values that then exist somewhere else again, the minister, in subclause (2), may subsequently alter any policy prepared under this section. So is there anything in this legislation that defines the limits to the way in which that policy could be altered?

The Hon. D.J. SPEIRS: Any changes to this document, under this current bill, would be vested in the minister but you would have to still go through the required consultation process which would require consultation with affected parties including the Heritage Council, local government, in this case the Clare and Gilbert Valleys Council, and other stakeholders.

Expanding on that, in preparing the policy, the minister would be required to have regard to the advice of the South Australian Heritage Council, a body established for the protection of heritage, currently chaired by Keith Conlon. I am also required to consult with the Clare and Gilbert Valleys Council and other affected parties.

Finally, the policies will be publicly available once adopted. The usual administrative review mechanisms will also remain available to any interested person concerned about the decisions made in adopting a particular policy. I remain confident that these various checks and balances, which are associated with many heritage-listed buildings across the state, will ensure the veracity of any policy adopted under this bill.

Dr CLOSE: The checks and balances are procedural only, though. They do not have any substance because, although the minister must consult with the Heritage Council, the minister is not bound by any advice that is given by the Heritage Council. Indeed, it is sort of ironic that there is more requirement in the bill to undertake consultation than the consultation that has occurred to generate this bill. The local government council has not been officially consulted. The Heritage Council may have been, but I have no evidence of what they have advised on it.

I guess I am just seeking clarity that I have understood this clause, and this bill indeed, that in effect this does not require the minister to make any decision on the content of the policy, not the process of asking people their views, but the content of the policy is not defined in any way other than the protection that already exists under the heritage listing of the building. There is no particular thing than can or cannot happen to that, other than the not selling, that is defined in this bill. This is only process and it is not process that binds the minister to take any particular advice but only to seek it.

The Hon. D.J. SPEIRS: The deputy leader's characterisation of that would be correct. I do want to say, though, there has been a very substantial amount of consultation undertaken, both formal and informal, and conversations with a whole range of heritage-based stakeholders over a lengthy period of time. This legislation was in vast part developed under the previous government during which consultation occurred, and I have seen the outcomes of perhaps not all, but a significant part of that consultation back in 2017.

The main stumbling block for community support at that time was certainly the idea that the legislation, as developed by the previous government, contemplated the sale of the property. That has been removed. I would say that was on the feedback from the community. But, in consulting on the future of Martindale Hall, it was really the government's decision to move forward with this legislation. It was prompted by conversations and written feedback from the regional development authority, one of the tourism bodies and the Clare and Gilbert Valleys Council.

Ms BEDFORD: While I obviously have to accept the minister is acting in goodwill and always has, I have had a long interest in Martindale Hall and I knew nothing about this until a couple of weeks ago, which is again no-one's fault, I guess. I did not like the previous bill under the former government, so I do not like this much either. It really has not given me a lot of time to ask questions about it, but I would like the ministers to perhaps tell me the difference between this property and Carrick Hill.

The Hon. D.J. SPEIRS: In a physical sense?

Ms BEDFORD: If we are talking about a building of significance given to the state on a plot of land, that is kind of the same. So what is the difference between Carrick Hill and Martindale Hall?

The Hon. D.J. SPEIRS: I do not feel qualified at all to make comments on the physical characteristics of the two buildings. Both buildings are, however, state heritage protected, as you would expect, and afforded very similar protections under the pieces of legislation that look after them both.

The difference is that Carrick Hill has a board of trustees that looks after it, and it is not envisaged under this bill that that would be the case for Martindale Hall. The protection and the heritage values would be managed from the Department for Environment and Water. Carrick Hill is not a building under the ownership of the Minister for Environment and Water; it sits, I think, with the Minister for the Arts, but I could be corrected on that.

Ms BEDFORD: There seem to be some significant resemblances, in that they are both buildings, both given to the state, both on plots of land. As it may be, we will look into that separately and of course between the houses. In subclause (9)(d) it says 'any other persons or bodies who the Minister thinks would have an interest'. How would your thought processes decide who would have an interest in this? Would it have to be a large body? Can it be an individual or group of individuals? Who is going to have the opportunity to speak about it? Does 'affected' mean they have to have some special interest in the building?

The Hon. D.J. SPEIRS: It could be seen in two lights, I guess; one would be a legal interest, someone who had a lease or an ownership right in and around the property. The other option could be someone with a particular interest or a body with a particular interest in heritage protection, and the National Trust of South Australia springs to mind. There may be other organisations in the local community, such as a progress association, a residents association or a tourism entity and the like. I do not think I am not able define that any further, but it is designed to capture a broader section of interest, from the legal side of things and that broader interested stakeholder side of things.

Ms BEDFORD: Is there any particular reason why the National Trust could not be inserted here as an affected party in much the same way as you have included the councils and the Heritage Council?

The Hon. D.J. SPEIRS: I do not see any technical reason why. Obviously, the National Trust had made an unsolicited bid for this property in the past. So I suppose, on the legal side of that argument, they would inevitably have an interest. If not, they would be captured by the interested stakeholder side of things. But I do not necessarily see why you could not prescribe the National Trust as the peak body for heritage protection and an interest in heritage in this state. Perhaps that is an amendment that could be explored between the houses.

Clause passed.

Clause 11.

Ms BEDFORD: This gets back to our movable items list. Will there be a list released? Will people be able to see what items are on the movable items list?

The Hon. D.J. SPEIRS: The two policies will be on the public record, probably via the Heritage SA website or some other similar platform. Both the heritage conservation policy and the material items policy would be public documents.

Ms BEDFORD: Just to clarify, that does not exist now but it will shortly?

The Hon. D.J. SPEIRS: If this legislation is passed, it will be generated as soon as possible, as the legislation requires. What has been done to date is an audit of material items in the building and, obviously, that is a working document used by Heritage SA and my department as the department that has care and control of the building to keep an eye on material items within the property.

Ms BEDFORD: Is there any sort of time line envisaged? It is not going to waffle off into the distance. Is it going to be soon?

The Hon. D.J. SPEIRS: The legislation, as written, requires the minister to do that as soon as practicably possible and certainly before going out to market or tender. If we were going out to market or out to tender to ask for people to express interest in a future use for this building, this legislation requires those two main policies—the heritage conservation policy and the materials policy—to be developed and finalised and in the public domain, and in all likelihood provided to interested parties, as part of a market process prior to even proceeding down that route.

Clause passed.

Clauses 12 to 16 passed.

Clause 17.

Ms BEDFORD: What would this access agreement look like?

The Hon. D.J. SPEIRS: I mentioned earlier that I think that would vary quite considerably depending on the various uses proposed as part of a market-led process. We are dealing with different entities here. We are dealing with open space and land, parkland essentially—fairly manicured parkland—around the site. We are dealing with outbuildings, particularly the coach-house. We are dealing with the anchor site, in my mind, Martindale Hall itself. That level of public access could vary very significantly between the various components of the land here, and that is something that we would work through as part of a negotiation with a private or not-for-profit entity.

I have been very clear that I think a very high level of public access should be required for this building. Currently, public access, depending on the time of year—I do not want to be overly specific here—is at least six days a week, maybe slightly less in winter. That is something that we would have to negotiate with potential lessees for each component of the site, if not the whole site. You might obviously have a much higher level of public access to the hall itself as the anchor site than the coach-house, bearing in mind that the coach-house has no public access in 2021, unless by special request. Unless you were a particular heritage expert—

Ms Bedford: Buff.

The Hon. D.J. SPEIRS: —or buff, you might not want to go to the coach-house because there is not much there.

Ms BEDFORD: Subclause (2) also mentions a payment of fee. I wander onto the land around Martindale Hall freely now whenever I like when the gate is open at the front. I would be a bit worried you might want a fee for me just to wander around. I have looked through the coach-house cracks as much as anybody in this state, and I find it a really interesting place to visit without gaining access to it. The question is that I am a bit concerned about a fee being included at that point.

The Hon. D.J. SPEIRS: A fee is obviously currently payable to enter the hall itself.

Ms Bedford: Not the grounds.

The Hon. D.J. SPEIRS: Not the grounds but the hall. Again, I do not want to mislead the committee, but I think it is $15 for an adult. There has been for a long period of time a fee to enter the house. There might be a business proposition for a cafe in the coach-house. I do not imagine that you would have to pay to enter the cafe, but there might be a reasonable expectation that you would buy a muffin and a cup of tea. I cannot foresee a situation where you would be charged at the gate to walk around the grounds.

Ms Bedford: You can or you can't?

The Hon. D.J. SPEIRS: I can't. Sorry, that is my accent, member for Florey.

Ms Bedford: I just wanted to be careful it was on the record.

The Hon. D.J. SPEIRS: Yes, c-a-n-apostrophe-t—can't imagine. I cannot see that being part of this because we have the house, which is probably the most interesting site, we have that part of the site and we have the stables, which lend themselves very naturally to some sort of adaptive re-use, where there might be a business enterprise there.

People in the past have pitched wellness retreat ideas. I think the National Trust saw in their proposal a cafe or a restaurant. I am not sure if that was in the coach-house or to be built in a modern building alongside. There would be different elements of this site, but general public access to be able to walk around and appropriately peak through the cracks—hopefully, there are not too many cracks—would be anticipated by me.

Ms BEDFORD: They are close to the ground, so there will be no water getting in through them. I guess that is fine while we have a minister such as you with good intent, but what if we do not have a minister with good intent? How are we to protect the public's right to go onto the land? Of course, this is about access to the land. It is free of charge at the moment, and you are building in here capacity to have a fee while you are still in the chair, but I am worried about the next incumbent.

The Hon. D.J. SPEIRS: I cannot create a situation where there is not some flexibility here for businesses enterprises to be profitable or for not-for-profit exercises to be able to generate some sort of income from this site. The capacity to create a fee is mentioned in here to create certainty around the ability to generate income from the site. It is largely intended, in my mind, for the hall itself, which is a replication of the situation that occurs today, in June 2021.

Importantly, because there are so many different potential uses for parts of this site, I do not think you can be overly prescriptive at this stage. I like to think that a minister of any political persuasion and of any individual persuasion when it comes to matters of heritage would want this site to be open for the public to view and enjoy, and that includes the general grounds around Martindale Hall.

Clause passed.

Remaining clauses (18 to 22), schedules and title passed.

Bill reported without amendment.

Third Reading

The Hon. D.J. SPEIRS (Black—Minister for Environment and Water) (17:47): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ELECTORAL (ELECTRONIC DOCUMENTS AND OTHER MATTERS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 26 May 2021.)

Mr PICTON (Kaurna) (17:49): I rise to speak in relation to the Electoral (Electronic Documents and Other Matters) Amendment Bill 2021. I indicate that I am the lead speaker for the opposition. This is a piece of legislation that, in many ways, is a carbon copy of what we previously brought to this parliament, moved by the Attorney, which was ultimately unsuccessful and defeated in the other place.

There are a number of key differences, though, and they were the key things that, from what we understand, the Attorney-General personally was pushing to be included in the legislation. The first was in relation to a ban on corflutes, the posters that are notable during election periods, and the second was the introduction of optional preferential voting, which we have not had here in South Australia but some states at various times have had it and, of course, that was a significant concern. Both were of concern particularly to minor parties and Independents, and there were significant concerns in relation to making it more difficult for non-incumbents and minor parties to be elected, which obviously led to the lack of passage in the other place.

I think the other key reason that this original proposal made by the Attorney to the parliament was not successful was that it was really trying to change the rules of the election right before the election. What we see here is essentially trying to do the same thing: this would be a significant change in the rules of the election campaign right before we start the election campaign early next year. Off the top of my head, I think we are now only some eight months away from when the writs would be issued for the election, and these would be very significant changes to the electoral process that would be proposed within this legislation.

Many of these changes were proposed by the Electoral Commissioner in reports to the parliament, most of which were proposed I believe years ago now but it took a very long time for the Attorney to bring them in any form to the parliament and, when she did, she added on significant changes that were not recommended by the Electoral Commissioner in any of those reports or recommendations that the commissioner made.

The rules of our electoral process are vitally important. We need to have a process that is fair, that is well understood, that is going to govern an election that can deliver an outcome that is democratic and delivers what the people of South Australia want and ensures that their voice has been heard and is echoed in who is elected to this parliament.

We have had a very strong tradition in South Australia of strong electoral laws. We have had periods where that has not been the case as well, and you only have to look at the Playmander period—as he looks down upon us. Under the significant period of time that Sir Thomas Playford was Premier of this state, we had a period where there was malapportionment of votes across South Australia and there were some country residents who had, say, 10 times the weight of their vote to people who lived in the city of Adelaide. Clearly, that is unfair. We need a process that is going to be fair to all parties, not one that is going to seek to benefit any particular party whatsoever.

Obviously, these laws have to go through parliament, so there is always going to be a conflict in terms of members looking at rules that will ultimately determine whether or not they might be re-elected. You only have to look at what is happening in the United States at the moment, where there are some very heated discussions and debates occurring in state legislatures across the United States on what their electoral rules should be as they have come out of a very contentious election with all sorts of pretty spurious allegations of irregularities that have been disproven in the courts. They are now being followed up with a range of pieces of legislation in state legislatures in the United States that are seeking to make it more difficult for people to vote, more difficult to enrol to vote, more difficult to have their say, and making it easier for people to be struck off the roll.

Our view on this side of the house has always been that we need to make voting as easy as possible to enrol in. We need to make sure that as many South Australians as possible have the opportunity to have their say—that it is a universal franchise. We need to make sure that we have a

system in place that delivers a parliament that reflects the will of the people. What we have here is a piece of legislation that has a number of issues that we would raise as needing further examination and further debate. The first of those is in relation to the amount of time it takes to become able to enrol to vote.

It is hard to imagine for many of us here, but there are people out in the real world of South Australia who are not following the ins and outs of politics every single day. Sometimes we have to remind ourselves of that. Sometimes the political process is not at the top of people's minds. Sometimes people are not enrolled to vote who may want to be enrolled to vote. Of course, we want everybody in South Australia who is the appropriate age and has the appropriate ability, in terms of their citizenship, to be enrolled to vote, but there are a lot of people who do not do that.

It might not be until the election campaign kicks off and they start to see the corflutes and posters up and see the advertisements on TV that they think, 'I had better check if I'm enrolled to vote.' They might check their enrolment and say, 'Well, I'm not enrolled.' Therefore, we need to allow as much time as possible for people to check and update their enrolment before the election.

However, this legislation would turn it the other way. This legislation would mean that people have less time to enrol to vote, and I think that we are yet to be convinced that there is any proper argument that that should be the case, that we should be trying to make it harder for people to enrol to vote. Reducing the franchise of people before an election seems to be a very backward move in terms of what is being proposed in this legislation. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Resolutions

JOINT COMMITTEE ON THE EQUAL OPPORTUNITY COMMISSIONER'S REPORT INTO HARASSMENT IN THE PARLIAMENT WORKPLACE

The Legislative Council passed the following resolution to which it desires the concurrence of the House of Assembly:

That it be an instruction to the Joint Committee on the Equal Opportunity Commissioner's Report into Harassment in the Parliament Workplace that members of the committee may participate in the proceedings by way of telephone or videoconference or other electronic means and shall be deemed to be present and counted for purposes of a quorum, subject to such means of participation remaining effective and not disadvantaging any member.

The Hon. D.C. VAN HOLST PELLEKAAN (Stuart—Minister for Energy and Mining) (17:58): I move:

That this house concur with the resolution of the Legislative Council and that it be an instruction to the Joint Committee on the Equal Opportunity Commissioner's Report into Harassment in the Parliament Workplace that members of the committee may participate in the proceedings by way of telephone or videoconference or other electronic means and shall be deemed to be present and counted for purposes of a quorum, subject to such means of participation remaining effective and not disadvantaging any member.

Motion carried.

Bills

DANGEROUS SUBSTANCES (LPG CYLINDER LABELLING) AMENDMENT BILL

Final Stages

The Legislative Council agreed to the amendments made by the House of Assembly without any amendment.

Sitting suspended from 18:00 to 19:30.

VOLUNTARY ASSISTED DYING BILL

Committee Stage

In committee.

(Continued from 26 May 2021.)

Clause 1.

The CHAIR: I am going to stipulate that we do our best to comply with the standing orders; that is my job tonight, but I ask people to be conscious of that.

Dr CLOSE: I would like to make a contribution on clause 1 by way of clarification about various amendments that have been presented and filed in recent times, one of mine which initiates very soon after clause 1. I deeply appreciate and respect the complexity and the moral challenge represented by this piece of legislation. I also understand and respect that we will not all reach the same position on what we want to see happen with voluntary assisted dying.

Nonetheless, I have been heartened by the willingness across a broad range of people to work through the best practical way of addressing a complex piece of legislation in a way that does the most good and the least harm. In that context, I have had what one might call a meeting of minds with the member for Davenport in discussion about the various amendments that have been filed to date. The Chair will be aware that there is a set 2 standing in my name, and I will be advancing with set 2 and not advancing with set 1.

In order to respect the complexity of recognising that there are people in institutions in our society who operate in health care and aged care who do not support, and in fact believe to be wrong, the concept and action of voluntary assisted dying, recognising the reality of the experience of people in Victoria in hospitals and hospices and the intentions of private organisations that run hospitals and hospices here not to facilitate something they regard as wrong, I am prepared to accept the amendment that stands in the member for Davenport's name as it relates to those short stay situations.

However, in my second set of amendments I will be looking for support for a way in which we can protect the rights of people for whom their aged-care residence is their home, where they may have lived for months or years, where they may have put in their own money. Irrespective, they regard that place as the place of their permanent residence.

I will seek the support of all members to allow, even within a facility that is owned by an institution that does not wish to participate actively in voluntary assisted dying, that the rights of those people will have a pathway to be respected, without infringing on the conscientious objection of individuals and by fully respecting the desire of those organisations to not actively participate.

I appreciate that I have been able to describe that at clause 1, but I think it may assist the chamber to indicate that I will not be proceeding with my initial set of amendments but will be proceeding with my second set of amendments for those reasons.

The CHAIR: Thank you, deputy leader. For the purpose of the committee, the deputy leader has carriage of this bill tonight. Set 2 that the deputy leader was referring to actually appears here as schedule (6). I just clarify that.

Mr MURRAY: I, too, rise to, in particular, cover the issues of institutional conscientious objection. In doing so I specifically endorse the comments of the member for Port Adelaide, and thank her for the very civil and constructive dialogue we have had over what seems to have been a long time but what is, in truth, literally only a matter of days.

For the sake of clarity, I, too, have submitted a revised set of amendments that varies in one major way from the initial set of amendments I submitted. I am very grateful for the stated support of the member for Port Adelaide for my amendment that, if successful, will see the insertion of clause 10A which will effectively enshrine the ability of short stays—that is, predominantly hospitals—who have a conscientious objection to voluntary assisted dying, to not only express that view but also act upon it whilst at the same time ensuring they make others aware of it and, where others wish to avail themselves of it, that they act in a way that is stipulated.

In so doing, and for the sake of clarity, I will be supporting the amendments moved by the member for Port Adelaide, in particular the amendments which, as we have just been advised, are amendments in schedule (6), clauses 13A through to 13L exclusive of 13C. Again, I thank the member for Port Adelaide for her very constructive assistance. I hope that, as a consequence, that sets the template for what is a very vexed and complex discussion as we set off down the path of seeking to resolve this matter.

The CHAIR: I thank the member for Davenport and the deputy leader for that preamble, pre-empting what is about to occur in relation to amendments, but we will, of course, deal with those amendments when they come due.

Mr PEDERICK: I first want to make the comment that I think we had a very respectful discussion a fortnight ago in this place. Everyone knows my position on the Voluntary Assisted Dying Bill 2020. At the finish, I will not be supporting it, but I will be supporting any amendments that seek to improve the bill along the way, and I appreciate the work done by the deputy leader and the member for Davenport in coming to agreement on those amendments. It shows what can be done in this place.

I do have a couple of concerns on clause 1, the title, and I will raise them separately. I have a concern about unintended consequences because, obviously, with voluntary assisted dying there is no turning back. Deputy leader, do you think there are enough protections in the bill so that we will not have any unintended deaths? That is one concern I have.

Dr CLOSE: I really appreciate the opportunity to answer that question, and it is a very well articulated question. This piece of legislation is amongst the most conservative in the world. It is modelled very closely on the Victorian legislation, which the Premier at the time claimed to be the most conservative. If you think of the continuum of different forms of voluntary assisted dying legislation that exist, Australia is very much cramming in at one end, and that is to say that it is extremely difficult to obtain a permit to have voluntary assisted dying.

Some people will be disappointed by that, but that is very clearly what Australians have an appetite for and what Australian members of parliament and parliaments generally have an appetite for. What does that mean? It means that someone who wishes to have access to voluntary assisted dying has to go through some 70 hurdles that are placed in this legislation in order to be very certain that that is the right and legal thing to allow to happen.

There are criteria that are established that two doctors must say are to be found to be true. One is the very sincere desire by the person to obtain voluntary assisted dying, and that desire cannot be expressed just once but must be expressed in an enduring way over a period of time and through the different stages. The person must also be, sadly, dying. They must have a terminal illness and one that (other than neurodegenerative) will kill them within six months and, for a neurodegenerative disease, will kill them within 12 months.

They cannot have access to it simply because they do not wish to live. They will have access to it because they are dying and they have proven that and had it tested by at least two doctors, the coordinating medical practitioner and the consulting medical practitioner. There are further tests that are required for each stage of the process to ascertain that that eligibility is indeed fulfilled, and that the desire to undertake the process of voluntary assisted dying remains an enduring wish.

In Victoria, where this has been in place for some time now, there has been found to be by the review board no example of what the member might regard as an unwarranted or unintended death. In fact, the only criticism that that board has really found is that it takes a while, that it is hard to get and that sometimes, because of the difficulty in obtaining access to a practitioner who is prepared to engage in the process, people have died before they have been able to gain the relief they have sought. That means that they have experienced the kind of suffering they had hoped to avoid and have ended their lives in greater pain and in greater suffering than they had intended.

However, what that means is that we can be assured there is a very serious ring of protection around people so that they are unable to obtain it if they are not fully eligible. The eligibility is, again, that they must be dying within six months, or 12 months for a neurodegenerative disease; that they not only must be capable of saying they desire that but that that be an enduring desire; and also that they must be experiencing suffering they find unbearable to tolerate for which there is no tolerable remedy. I do not know of any legislation around the world that is as tight and as strict as that. So, if ever we are going to do this as a state and as a nation, it is going to be in this form.

I will add the additional reason that we can be more confident that this is the appropriate path, and that is that it is becoming the emerging Australian model, where we have seen, with very minor variations, Victoria, Western Australia, Tasmania and now our upper house consider this

legislation, and not at any point weakened safeguards but ensured that they are tight and that people can continue to have confidence in them.

I would for that same reason argue against any additional amendments to add still further tests. We are at a point where it is difficult for someone who is suffering to obtain the relief that they are voluntarily choosing to seek. I believe that any additional barriers put in place to the capacity of doctors, the kind of consideration doctors have to undertake, are moving away from the model and also creating the kind of barrier that we know will cause suffering to people who are then unable to obtain the relief that they and their loved ones are seeking for them.

Mr PEDERICK: Thank you very much for that fulsome answer. The other point that concerns me is coercion. I know there are some parts of the bill later that talk about coercion and coercive control. I absolutely understand the time lines on the two different terminal illness trajectories—six months or 12 months. The one thing in light of that is that some people can live significantly longer than those forecast time lines. I guess that is something no-one can really forecast, but it is a reality and a lot of people (and, thankfully, I have not had to put up with it) can handle the treatments, whether it be chemotherapy, etc., and some choose not to have that sort of treatment.

It is similar to my first question. I get concerned that some people will believe that they are a burden to society and a burden to their family, even with these regimes of either the six-month forecast time line or the 12-month forecast time line, depending on the illness. My concern is that someone will think, 'Let's just get it over and done with.' They could be a parent, an aunty, an uncle or caregivers, but they do not want them to be burdened, so to speak.

I guess the short version is: do you believe there are enough controls around the potential for coercion? I am sure it is human nature that some people, if they really want to do something, might bluff their way through it. I know this is very serious and that it is not just about bluff; I am not saying that or trying to degrade the conversation. However, people may think, as I have already indicated, that for the greater good they will go out earlier than perhaps they needed to.

Dr CLOSE: I thank the member for Hammond for raising these issues because they are issues raised in the community about this, and it is absolutely right that we should address them in the course of this debate. The two issues you have raised, member for Hammond, are prognosis being inaccurate and the question of whether a person who is dying considers themselves to be a burden and therefore there could be an element of coercion.

To deal with the prognosis to start with, yes, prognosis is not an exact science. I have just consulted with my adviser, Dr Roger Hunt, who is an expert in palliative care, to confirm my understanding. Of course it is not an exact science; it is, however, the job of people dealing with dying, people with terminal illnesses. The experience across the world is that the length of time people are given tends to be optimistic rather than pessimistic.

So, although there will be cases in which someone lives longer than was expected, the likelihood is that the doctor thinks that they will live slightly longer than they end up living, and in any case we are talking about a fairly narrow window of time because the level of experience and expertise that oncologists have in particular, when we are talking about cancer, means that they are pretty good at determining how long and certainly at determining that the person has a terminal illness and is in that last stage of terminal decline.

On the question of the sense in which someone might consider themselves to be a burden and/or experience coercion, the difficulty is that you cannot off your relative through this.

Mr Pederick: No.

Dr CLOSE: And I do not mean to make light, as I know you did not either. If we bring in the mental health question as well, which also comes up, this is not about someone who is depressed or mentally ill, it is not about someone who feels that they might be a burden to their family through living and it is not for someone who has a coercive partner or child who wants to be rid of them. The person must have a terminal illness.

The person must see doctors and the person must, in the course of seeing the doctors with their terminal illness, express that they are experiencing unbearable suffering and that they have an enduring desire to enter the process of voluntary assisted dying. For someone to be afforded that

permit on the basis of being a burden, there would have to be some sort of conspiracy at play, and I am sure none of us believe that would be possible with doctors.

There is evidence when assessment is done, when surveys are done, of people in Oregon, for example, which has had this for a very long time (since the nineties), that people include feeling a burden on their list of reasons that they would like to access voluntary assisted dying. It is not the reason; it is an understandable feeling that one has when one is not only dying but becoming helpless, often incontinent, paralysed, unable to speak.

When you are in those circumstances, when you have been an autonomous adult in control of your life for a long time, it is not unnatural to feel that you are a burden and to not want to be. The loss of autonomy appears higher on the survey list than does a burden, but they both do and that is because the features of having a terminal illness are very unpleasant, but that is not the reason that you get to go on the list of wanting voluntary assisted dying.

The member asked me at the beginning if I believe that these eligibility criteria and safeguards are sufficient—I absolutely do. As much as the Hon. Kyam Maher is a very dear friend, I would not be taking this bill into this chamber if I had not explored deeply, to my comfort, that this is not about a nice old lady feeling that she is in the way, that it is not about an abused partner or an abused older parent being made to go down a path they do not want to.

When we have looked at the experience in Victoria and the review board, they have not found coercion. As chair of the board, Justice Betty King, said, she has looked for it. She has looked for that because we all worry about the vulnerable and we all know that elder abuse exists, but there is absolutely no evidence in Victoria that, with this level of safeguards and this level of medical scrutiny on the process, that is something that has happened nor that anyone believes could happen.

The Hon. A. PICCOLO: I would like to make a few comments, if I could, to start off and perhaps end with a question. Like the member for Port Adelaide, I agree that fair-minded people can reach different conclusions on this issue, both having goodwill in their hearts. Tonight, we will probably find a number of different views and we may or may not come to different conclusions.

I should say that I do accept that this model is probably one of the safest models. If we were to progress this in the parliament this way, this is probably the safest model, so I am not going to nitpick about different parts of the bill because I think it is probably the best you can get at this time, and I accept that.

One thing I am concerned about is changes in our society over time. Changes we make in laws do change the way we think about things and the way we think about things is very important because how we think today is not how we are going to think in 20 years' time because we have changes in laws.

The member for Port Adelaide raised the issue of the Oregon scheme, which is probably one of the longest schemes of physician-assisted suicide, which I think they call it or words to that effect, in America. One of the concerns I have here is very much about the trends. If we are to pass this today, we all think this today but what are we going to think about it tomorrow? It is important because laws reflect public opinion but also influence public opinion both ways. It is important.

I will read from a piece of research from a journal of oncology which deals with the Oregon scheme and also talks about the impact of the Oregon scheme. I will quote verbatim from this article which is about the changes in those factors and why people apply for, in this case, voluntary assisted dying—I will use the language of the bill. It states:

> Notwithstanding the overall trends between 1998 and 2011, from 2010 to 2011, concerns over loss of autonomy and lessened ability to participate in enjoyable activities both decreased: to 88.7% from 93.8% and to 90.1% from 93.8% respectively. Conversely, concern about burden on family, friends, or caregivers increased to 42.3% in 2011 from 26.2% in 2010. Inadequate pain control or concern about pain control also increased to 32.4% in 2011 from 15.4% in 2010.

The issue I have here is that over the time of the scheme the changes in that particular state are that people's view of life, death and a whole range of other social issues has changed. What this research shows about the Oregon scheme is that people who have applied to be part of the scheme in Oregon

have increased in terms of reasons they give. One of the key reasons is an increased concern about burden on family.

I accept what the member for Port Adelaide has said. It is not a case of conspiracy, etc. People are not going to be in a very overt way coerced into taking this up. My concern is about the covert behaviour: the things that change in our society, how we view things and how we actually make sure, as this bill says in one of the clauses words to the effect, that each life has equal value which I think is a really good principle.

So what is in this bill to ensure that people do not feel that sense of burden? We heard earlier today about elder abuse where people were saying, 'You have to do this.' It is a case where people feel they have to behave in a certain way or do certain things. How do we stop that social trend because I think that would be a dangerous step?

Dr CLOSE: Again, an excellent question, not least because it is allowing us to ventilate some of the comments that are made about this legislation outside parliament. It is important in making this decision that we address those issues that are raised. The difficulty in drawing evidence from a survey of people who are participating in physician-assisted suicide, as you say, in Oregon is that you are dealing with a relatively small number of people filling out a survey and ticking as many boxes as they want. So I think, simply on that, it would be very dangerous to assume that you are able to read trends.

If we look at the legislation, in the US and obviously specifically in Oregon, you can only have access to voluntary assisted dying if you are terminally ill. So no-one who considers themself a burden and is not terminally ill is able to have access. The question is: even amongst the people who are terminally ill—and the prognosis must be that you are within six months of dying—are there some people who would have clung on longer had they not normalised the idea that this was an option? It is, of course, conceivable that that would be true, but the percentage of deaths has not gone up.

It is less than 2 per cent of reportable deaths and has not increased over that period. So although the reasons might bounce around in a survey of input considerations, I do not think that we have any evidence there that the existence of voluntary assisted dying has in any way opened up a worrying trend.

The truth is, though, of course, that when you bring in a piece of legislation that allows an option, some people will want to take it. At the moment, people are taking it occasionally through suicide, often in a violent way or way that is unpleasant for other people, such as train drivers, who are the recipients of someone committing suicide by stepping in front of a train. Families are coming home and finding dead and mutilated bodies as a result of suicide attempts. It is one of the reasons SAPOL has indicated their support for this legislation. So at the moment there is that kind of option, but it is an extreme one.

More commonly, I imagine, the option is that you suffer. What this does is say—and normalise—that if you are in those circumstances you may be able to choose to end that suffering at a point of your own choosing and do it with your family and your loved ones in a way that you choose. So that normalisation I am comfortable with. I would like to see a society where people in those circumstances were empowered to do that.

But there is not any evidence that in places that have this legislation, particularly where it relates to terminal illness, as does ours, that that has changed attitudes to how awful death is. People who undertake voluntary assisted dying do not want to die. They are dying, and this is their pathway to do so in a way that gives them the most dignity and avoidance of some degree of suffering that is possible. For that reason I do not think the argument of a slippery slope in that sense, of normalisation in the community, is one that we should be concerned about.

The Hon. A. PICCOLO: I thank the member for Port Adelaide for her response to my question. I agree with her: there is a danger in using one piece of research to support that. I do take that on board. I looked at another piece of research, which actually was an international literature review. It was of all the various studies right across the world, rather than just of Oregon; it has considered a number of countries. One of the findings these researchers found, when they actually studied all these studies from right across the world, was, to quote verbatim from their review, as follows:

Our findings revealed that unbearable suffering relating to psycho-emotional factors such as hopelessness, feeling a burden, loss of interest or pleasure and loneliness were at least as significant as pain and other physical symptoms in motivating people to consider assisted dying.

So this international study—and I agree with you about using just one study—looks at all the factors and at all the studies of all the schemes right across the world and at what the reality is. I accept what the member for Port Adelaide has said, which is that the people in these studies are all dying, and some people wish to die with dignity from their point of view; I accept that. What I am finding hard to understand or agree with is that there are a number of issues which do not need voluntary assisted dying to address. There are issues which are social issues, which are issues of resources and which relate to a whole range of social policies which could address some of those issues.

My concern is that this bill does not address those issues—and in a second I will come to the issue of autonomy, which has been raised by the member for Hammond. The assumption is that we cannot address these issues; therefore, we need to give people a more dignified way out. I understand that, but when you look more deeply into the research a lot of it is around inadequate social policies in those countries—inadequate policies in health care, inadequate policies in a whole range of areas—which actually lead people to opt for voluntary assisted dying, to use the Australian language. I accept that all the people in the studies are dying; I accept that. I am not sure I am convinced yet that people are motivated purely by those physical matters, which I can understand why they want to exit earlier.

Dr CLOSE: I think one thing that might be useful to set the scene when we talk about the experience of other nations is to talk about the different models that exist elsewhere. Europe is essentially based on the concept of suffering, that if you are suffering then you have a right to be able to relieve that suffering through voluntary assisted dying. In the US, it is about having a terminal illness, as we discussed with Oregon. All the people who answered that survey have a terminal illness and are within six months, by prognosis, of dying.

Australia, in this very conservative model, requires both, and I think that ought to give all of us some comfort that we are not talking about a passing sense of loneliness. When someone says that they are feeling lonely when they are dying and incapable of communication, that is understandable and is not to be used as a reason to deny them access to voluntary assisted dying.

This legislation, because of its conservativeness, has a requirement that the two physicians must agree that the person is dying, that they are suffering in a way that is not bearable to that person, in a variety of forms, all of which are understandable in the context of a terminal illness or a terminal neurodegenerative illness, and that that person has expressed an enduring wish to take that pathway.

If I were in those circumstances, I would probably tick all the boxes of my unhappiness with my life in that way because I enjoy being autonomous and active and social, and that is no longer the opportunity for people who are in those last stages of a terminal illness. However, I also think the member is making a very good point about palliative care and while I will not be supporting his desire to see this legislation, should it pass, await a review of palliative care, I think everyone who is involved in voluntary assisted dying in Australia—and I am sitting next to one of the foremost experts in palliative care—recognises the crucial role that palliative care can and does play.

I do not think you would find a single advocate for voluntary assisted dying who does not want to see us do our very best in funding and support for palliative care and all the other kinds of supports that people have when they are experiencing a terminal illness, but that is not going to be enough. It is necessary, but not sufficient for everyone who is in that circumstance. What this does is say that if it is unbearable and you are close to death, you have a right to go down the pathway to choose how that ends.

The Hon. A. PICCOLO: I agree with most of what the member for Port Adelaide has said. She raised the issue of palliative care, which I think is relevant. My concern is the evidence provided to the committee that looked at end-of-life choices by a whole range of witnesses, including people who support voluntary assisted dying, said that we have an inadequate palliative care system in this country now.

If we are all committed to palliative care, why are the resources not there today to ensure that people can actually have a real free choice? In other words, the choice is, if I choose palliative care I get A and if I choose voluntary assisted dying I get B. My concern is that all the sentiments are nice but the reality, from all the experts, is that we have inadequate resources in palliative care today. That has not changed. That has not changed since we have had VAD in Victoria or what is proposed in Western Australia, etc.

My concern is that this bill is actually silent on palliative care. It says nothing about palliative care. If there were some assurances or some link to palliative care in this bill to acknowledge the importance of that, I would feel much more comfortable about the bill. The bill has certain principles in it, which I will come to later and which I think are really important, but I cannot see how they would ensure that we have appropriate palliative care.

That gets to the point I would also like to raise, the issue of autonomy, which was raised by the member for Hammond. I draw the house's attention to some research undertaken by Katrina George, based on Australian schemes. She is a researcher in the University of Western Sydney, and I quote from her research work: 'Research confirms the significance of autonomy for patients at the end of their lives.' I think we agree on that. People want autonomy, which is very important. The quote continues:

> 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.

In other words, the person must not be fearful or anxious about where they are going—that is, we need a system in place to make sure that they will not feel pain or feel a whole range of things. Some of those things are social and some of them are medical. Secondly, there can be external constraints, such as strong family and cultural influences or internal constraints, such as 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.

What I am trying to draw on here is that often the lack of autonomy would not be obvious. Because of a whole range of factors, people lose autonomy. There will be some groups in our society where they have full autonomy because of their wealth, their education, their cultural background—a whole range of things—and some people will not. My concern is that some of these other things are not being addressed.

Dr CLOSE: I heartily agree that the range of socio-economic disadvantage in our society does lead to different outcomes in a number of ways, but I think that takes us a little distance away from this legislation. There is no argument in my mind about the importance of palliative care, but also in its limit to do everything that perhaps some people wish it could do in relieving the kind of suffering experienced by people with a terminal illness who then choose to undertake the process of voluntary assisted dying.

Although people have raised the question of the quality of palliative care in Australia, it is important to note that we do have one of the best healthcare systems in the world, and we are recognised to have one of the best palliative care systems in the world. It does not mean that it cannot be improved and that it is perfect, but we ought not downplay the significant contribution palliative care specialists make in relieving much of the suffering of many people who are dying.

However, it is interesting to note that in the states that have passed this legislation—not, I suspect, because of the import of the legislation specifically but because of the discussion that occurs about the experience of dying when you are having this kind of debate, just as we are discussing now—the amount of expenditure on palliative care has gone up. In Victoria, it has gone up, in Western Australia it has gone up.

Is it because of voluntary assisted dying? I do not think it is because of any features of the bill, but I do think it is because we have said, 'There are all these people who are in this awful circumstance, and we need to do everything we can to make that as least unpleasant as possible.' I

do not think there is a reason to think that bringing in voluntary assisted dying does harm to palliative care; in fact, I think it probably does the reverse.

As a final point on autonomy, one of the great virtues in my view of voluntary assisted dying is the autonomy that it gives people. It is interesting that some 30 per cent of people who are given a permit for voluntary assisted dying in Victoria have not taken it.

The palliative effect of having the right to go when you want to, even if you choose not to, should not be underestimated. When I was listening to the Denton podcast, I heard people talking about how that desire to know that they could go if they needed to made it that bit easier to manage the suffering that they were experiencing in their terminal illness. In that sense, peculiarly perhaps, given the exchange we are having, this is a contribution to palliative care rather than anathema to palliative care.

Clause passed.

Clause 2.

The Hon. A. PICCOLO: I move:

Amendment No 1 [Piccolo–1]—

Page 6, lines 5 and 6—Delete clause 2 and substitute:

2—Commencement

(1) Subject to this section, this Act comes into operation on the day on which it is assented to by the Governor.

(2) Sections 3 to 116 (inclusive) and Schedule 1 come into operation on a day to be fixed by proclamation.

(3) A day fixed by proclamation for the purposes of subsection (2) must not be a day falling before the completion of the inquiry under section 2A.

(4) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to a provision of this Act.

2A—Inquiry by South Australian Productivity Commission into palliative care in South Australia

(1) The South Australian Productivity Commission must, as soon as is reasonably practicable after the commencement of this section, undertake an inquiry into palliative care in South Australia.

(2) The terms of reference for the inquiry are as set out in the regulations and must, without limiting the matters that may be considered in the course of the inquiry, include consideration of—

(a) the effect, if any, that the operation of this Act is likely to have on the funding, availability and provision of palliative care in South Australia; and

(b) the amount of additional funding (if any) from all sources and services that would be reasonably necessary to ensure a world class palliative care system in South Australia.

(3) The South Australian Productivity Commission must, on completing the inquiry, prepare and deliver to the Minister a report on the inquiry (including details of any recommendations made in respect of the inquiry and containing any information required by the regulations).

(4) For the purposes of section 2(3), the inquiry under this section will be taken to have been completed on the day on which the report is received by the Minister.

(5) The Minister must, within 6 sitting days after receiving a report under subsection (3), cause a copy of the report to be laid before both Houses of Parliament.

The reason I have moved this amendment is that I have had some constructive feedback that does not delay the actual start of the practical application of this bill. My understanding, from what I have heard and read of what the proponents of the bill have said, is it will take 12 to 24 months for the scheme to be in place based on what happened in Victoria and other places. If passed, the provision in this amendment, once this bill is passed, would come into effect and the Productivity Commission would be required to undertake an inquiry as soon as practical to ensure that we do have the best palliative care options available.

I say that for a very important reason. If we are talking about choice and consent, which I think are the two words I have heard the most in this debate—giving people choice and their having to give consent—choice must come from actually having a choice. In my view, we need to have the best palliative care system available.

The member for Port Adelaide has acknowledged that we have a good system, but it could be improved. I do not know because I am not an expert in this field, but all the evidence to the committee, from both people who are opposed to voluntary assisted dying and those people who support it, indicated that our palliative care system had a whole range of difficulties, and particularly between states in the quality of palliative care, as some states put more money in than others, and particularly between rural and metropolitan communities. There are a whole range of different factors.

All this amendment does is say that, once this bill has passed, this inquiry will take place. I would be surprised if it could not be done within the 12-month period. Importantly, it does not delay the implementation regulations, so the bill or the regulations required under the bill can still go ahead. That provision has been deliberately missed out so that the bill can still be put into practice.

Palliative care is very important and we should seek to ensure that we have the best scheme available when this bill comes into practice if we are going to say to the community that all lives are equal, as this bill does. I draw your attention to the bill itself and the principles behind this bill, which are very good principles that I concur with. Clause 8(1) provides:

(a) every human life has equal value;

(b) a person's autonomy should be respected;

Paragraph (d) provides:

(d) every person approaching the end of life should be provided with quality care to minimise the person's suffering and maximise the person's quality of life;

Paragraph (h) provides:

(h) individuals are entitled to genuine choices regarding their treatment and care;

Paragraph (j) provides:

(j) all persons, including health practitioners, have the right to be shown respect for their culture, beliefs, values and personal characteristics.

These are great principles, amongst others. My view would be that the only way these principles can be put into effect—in other words, as the bill requires, that 'individuals are entitled to genuine choices'—is that the genuine choices must be genuine, in the sense that we must have a scheme of palliative care that actually supports those choices.

Dr CLOSE: I might make a comment that might be taken as a question for the purpose of the process. I do not support this, although I would be perfectly happy if the South Australian Productivity Commission chose to or was directed by the government to undertake an inquiry. The commission should undertake inquiries into things that we would like to understand if they are going as well as they could and if there are ways to make them better.

The reason I do not support this is that, although I accept the member does not intend for it to delay the implementation of this act, I have no way of knowing if that would, in fact, occur and it seems a tangential addition to an act. It does not need to sit in here because the Productivity Commission inquiry can occur by directive by the government or indeed a separate bill or motion by the parliament. To put it in here implies, as I said earlier, that somehow palliative care and voluntary assisted dying are antithetical, and that is not the case, in my view. It also risks some form of delay outside the control of this parliament and outside the control of the health minister, who will oversee the implementation of this bill, and that concerns me.

We have so many hundreds of thousands of South Australians who know about tonight, who want to know that we are going to get this through and who want to know that it will be dealt with appropriately but expeditiously in order to enable that possibility to exist for them and their loved ones in the future, and I cannot support something that even risks a tangential delay.

I would always support any government undertaking this action separately to this piece of legislation. If there are people on the government side until March who are sincere about their desire to seek improved or different palliative care, they are absolutely free to ensure that occurs. We on

our side, should we win the next election, are in the same position, but I do not want to see that in what ought to be as close as possible to an Australian model of voluntary assisted dying. It does not need to have a review of palliative care put into it to improve it as a piece of legislation and therefore I believe it should not.

The Hon. A. PICCOLO: On this occasion, I have to disagree with the member for Port Adelaide. I think it is important. I think if the parliament thinks this is important to pass tonight and the parliament thinks they have some concerns, it is appropriate for the parliament to direct the government to do so. Parliaments direct governments every day and this is no different from any other issue this house has considered where we direct the government to do so, so I disagree. I do not think it is unimportant. I think it is very important.

Secondly, I do not believe—and certainly the member for Port Adelaide has not demonstrated how—this would delay the bill. If this clause were passed, the bill could still go through tonight and still be enacted. What it means is that this provision would have to be enacted fairly quickly and the government—the health minister, etc.—could undertake the rest of the bill without any delay. There is nothing in here to prevent the appropriate regulations being made, which require, if you like, putting the bill into practice.

I agree that there are a lot of people in South Australia waiting for the passage of this bill. This provision does not stop that. What it does do is provide some comfort to those people who are not supportive of voluntary assisted dying that we have done the best we can to make sure there are real choices. On that, I would like to make the point that there has been an assumption in the emails I have received in my inbox—I am sure the same emails everyone else has had—that we all have to vote the same way tonight, that that is what we are supposed to do.

I would have thought that in a democracy all voices should be heard. They might be minority voices, but sometimes minority voices are very important. I am sure the member for Port Adelaide agrees with me that they need to be heard as well. To suggest that tonight we have to pass a bill unamended in some way, because that is what people are expecting, I think would be a dereliction of our duty.

Mr PICTON: Firstly, I will start my contribution by acknowledging that I think the member for Light, my good friend, has a very strong commitment to palliative care, and that is what is being borne out through him moving this amendment. Certainly, in my second reading contribution I did make the point that each time we have these debates—and maybe this will be the last time we have this debate, but I suspect, even if it passes, it will not be—there is always a commitment from all sides that we need to improve palliative care, but that does not necessarily quite get followed through to the extent that I think we all would like.

However, I do have a couple of concerns with the amendment that has been proposed. The first concern is that this has been predicated on everything stopping until this inquiry happens. It is not that we are passing the bill or the legislation would proceed and also this inquiry would happen; it is that the legislation cannot happen until after this inquiry. That certainly does give me concern. I would be much more comfortable if we were looking at an amendment that simply raised an inquiry into palliative care as part of the legislation, without holding up the legislation for that to happen.

The second concern I have is that the group proposed to be tasked with undertaking this work is the South Australian Productivity Commission. From what I can see, the Productivity Commission in its legislation, in its functions as described on its website and in its membership is formed looking at business, productivity, red-tape reduction; it is not focused on health and wellbeing outcomes. There are other bodies. There is the Health Performance Council and there are others that potentially could look into this, but I think we might be fitting a square peg into a round hole by asking the Productivity Commission to do this work.

The federal Productivity Commission certainly has done work in social areas before. It has different legislation, and it has a long history of bringing in different members for a range of different purposes to look at non-business and non-red-tape functions. We certainly have not had that here in South Australia, so I guess I am concerned about why we are choosing that to be the vehicle for such a review. They are my two concerns, member for Light.

The Hon. A. PICCOLO: I thank my colleague, and I think they are two important questions. What I can say on the first question is that I cannot see how the amendment has been structured in a way that would actually delay the implementation of the bill. What it says is that people cannot sign up for it—you are quite right, people cannot sign up for voluntary assisted dying—until that inquiry is completed, but it does not in any way hinder the scheme from being established.

This amendment does not in any way hinder the machinery required to establish the scheme, and that is quite deliberate. Clause 117 has been deliberately excluded, which are the regulations that give effect to the machinery to establish the scheme. So I do not agree that the scheme would be delayed at all. Secondly, the Productivity Commission is not actually enacted by legislation; from memory, it is actually established by the government.

An honourable member interjecting:

The Hon. A. PICCOLO: That is correct. The government withdrew the legislation. It is actually a government instrumentality; therefore, there are no inhibitors from undertaking this inquiry, and the commission does from time to time co-opt members to the commission to do work outside a narrow area. So the commission has both the capacity and the ability to undertake this inquiry and to do it very quickly.

The parliament is directing the government to direct the commission to undertake this research. Putting those two bits together, I think that addresses the quite legitimate concerns raised by the member for Kaurna, but I do not agree with those concerns.

The Hon. D.G. PISONI: Could the member advise the house as to how his amendment will satisfy the terms of reference described on the first page of the Productivity Commission's website that states:

> The South Australian Productivity Commission has been established to examine and make recommendations on matters referred to it by the government that facilitate productivity growth, unlock new economic opportunities, support job creation and remove existing regulatory barriers.

The Hon. A. PICCOLO: As I just said, and I will repeat it because the Productivity Commission is not by statute, it is a government instrumentality under the government's direction. I think it might be the Treasurer or the Premier who directs it, and it is a matter of government policy. That policy could be altered tomorrow to undertake this inquiry. There is no legislative barrier to this. It is different from the federal Productivity Commission which, again, not too dissimilar in purpose, has undertaken studies in disability care, health care and a whole range of other areas. I am also advised that the inquiries undertaken by the Productivity Commission to date have, on average, taken six months to conclude.

The Hon. D.G. PISONI: Can the member explain why it is the Productivity Commission and not the parliament's Social Development Committee? Why have you chosen the Productivity Commission?

The Hon. A. PICCOLO: That is a very good question and I did think about that very matter, member for Unley. I thought, 'Do we have a parliamentary inquiry, etc.?' We have been through the parliamentary process and we have been through the political process. I thought another political process would not necessarily be helpful. We have an independent body which would look through this inquiry and actually come up with all the hard evidence one way or the other.

There are a whole range of committees in parliament which could be utilised—I accept that—but I deliberately chose not to use a parliamentary committee. The end-of-life committee could not come to an agreement on this matter and that shows the difficulty with this issue. What you need to do is have experts in the field, outside of the political process, to come up with relevant data and information and advise the government of the day.

The Hon. V.A. CHAPMAN: Just on those matters, if I could clarify with the member because the proposed amendment is to mandate that the SA Productivity Commission must undertake this inquiry, and my concern is in relation to that obligation in this statute. Firstly, has the member received any advice whether this parliament has any power to actually mandate this to the SA Productivity Commission when that is an instrument subject to an agreement between the Premier and the members of the Productivity Commission and subject to the terms of that agreement? It does not have any direct relationship with the parliament.

The Hon. A. PICCOLO: My understanding is that if this amendment was passed and the bill was passed there would be a direction to the government, as the member has quite correctly hinted, a direction to parliament, and the government through either the Treasurer or the Premier—I am not sure who actually directs the Productivity Commission—would provide that direction to them.

The Hon. V.A. CHAPMAN: In obtaining that advice, if he has, why then does this amendment not direct that the Premier and/or government undertake this, as distinct from the Productivity Commission? There is no direct relationship between the Productivity Commission and its charter by agreement with the Premier to undertake the work of the parliament. Entities can exist but it does not necessarily mean that they are subject to the direction of this parliament.

I am just at a complete loss as to how there is the power in this parliament to direct this body to do this. It may be a worthy inquiry—I do not challenge that at this point—but I am just concerned at the validity of even doing this. Has the member actually obtained some advice as to whether that is even lawful or can be required? It does not actually say it is a direction or request of the government to do this.

The Hon. A. PICCOLO: My understanding is that, if this clause is passed and the bill is passed, it will be a law of this land. The government, and all agencies are responsible to the government of the day—in other words, the executive—would actually undertake the necessary direction, because it has been directed by parliament to the executive and then to the commission. That would be the order.

The committee divided on the amendment.

Ayes 11
Noes..... 33
Majority..... 22

AYES

Brown, M.E.	Duluk, S.	Ellis, F.J.
Knoll, S.K.	Koutsantonis, A.	Michaels, A.
Murray, S.	Pederick, A.S.	Piccolo, A. (teller)
Power, C.	Speirs, D.J.	

NOES

Basham, D.K.B.	Bedford, F.E.	Bell, T.S.
Bettison, Z.L.	Bignell, L.W.K.	Boyer, B.I.
Chapman, V.A.	Close, S.E. (teller)	Cook, N.F.
Cowdrey, M.J.	Cregan, D.	Gardner, J.A.W.
Gee, J.P.	Harvey, R.M.	Hildyard, K.A.
Hughes, E.J.	Luethen, P.	Malinauskas, P.
Marshall, S.S.	McBride, N.	Mullighan, S.C.
Odenwalder, L.K.	Patterson, S.J.R.	Picton, C.J.
Pisoni, D.G.	Sanderson, R.	Stinson, J.M.
Tarzia, V.A.	Teague, J.B.	van Holst Pellekaan, D.C.
Whetstone, T.J.	Wingard, C.L.	Wortley, D.

PAIRS

Brock, G.G.	Szakacs, J.K.

Amendment thus negatived; clause passed.

Clause 3 passed.

Clause 4.

Mr MURRAY: I move:

Amendment No 1 [Murray–2]—

Page 11, lines 19 and 20 [clause 4(2)]—Delete subclause (2) and substitute:

(2) For the purposes of subsection (1), a person will only be taken to have decision making capacity in relation to voluntary assisted dying if the coordinating medical practitioner and the consulting medical practitioner have each certified in accordance with sections 23A or 33A (as the case requires) that, to their knowledge, there is no evidence that the person may not have decision making capacity in relation to voluntary assisted dying.

This amendment is closely related to amendments Nos 5 and 6. To the extent that I traverse, as part of my commentary, matters that may be covered by amendments Nos 5 and 6, I ask for your indulgence. This amendment essentially is directed at decision-making capacity. What it seeks to do is to ensure that a candidate for VAD does in fact have decision-making capability. Just to reiterate, the existing bill assumes that, unless there is evidence to the contrary, the candidate does have decision-making capacity.

What this amendment seeks to do, very simply, is charge the doctors in question, the consulting and the coordinating medical practitioners, with an obligation to positively inquire whether that is in fact the case. It is nothing more complicated than that. Very simply, it seeks to require a positive inquiry with one set only—I repeat: one set—at one time requirement for the involvement of a medical practitioner in the process who preferably has some treatment knowledge insofar as the candidate is concerned.

By way of an example of what is currently the case, from a practical perspective in the Victorian jurisdiction, I quote—and I am happy to ask for indulgence if I am quoting from an external document—from a Dying with Dignity Victoria article, dated 16 June 2020. In that article, largely on the first anniversary of the operation of the VAD legislation in Victoria, one doctor talks about his involvement in some 79 cases of application for voluntary assisted dying and his involvement in some 30 of those applications progressing to a death.

In round terms, during the first year of that scheme that one doctor has accounted for or been involved in somewhere in the vicinity of 20 per cent of those cases. That is not to criticise that doctor or the operation of that scheme; it is simply to point out the practical reality that, certainly to start with, it is likely that the coordinating medical practitioner and the consulting medical practitioner will tend to specialise and there will tend to be a reliance on a very finite number of people being involved.

The intention of my amendment is to at least equip them with the capacity to get some better, more detailed assessment of any underlying conditions and, in particular, to make a better informed decision utilising the resources of the treating medical practitioner—usually the general practitioner, the GP—so that they can make an informed, positive assessment of the capacity of the person in question as far as their decision-making is concerned.

As I have indicated, this particular amendment is closely related to and in fact triggers further amendments, being amendments Nos 5 and 6 standing in my name, which are reliant on and dictate that process. The key difference I am proposing from the legislation before us is to have the pre-existing processes in place but to have informed, positive inquiry by the doctors making the decision on whether there is a complete absence—or, to the best of their ability, they determine there is a complete absence—of any evidence to the contrary as far as the decision-making capacity of the person is concerned.

The pre-existing legislation has, in the event that they have otherwise ascertained, in the absence of making the inquiry I am suggesting they make, pre-existing steps, which I am not seeking to frustrate with my amendments. I am just seeking to charge those doctors with a requirement for the coordinating medical practitioner, in particular, to seek to have that information provided.

The requirement to do so is at amendment No. 5, and I would like to point out that amendment No. 5 has a hefty penalty for medical practitioners who would otherwise seek to frustrate this process in terms of time. That is very deliberately designed to ensure that is not the case. Yes, it does require further information, but the nub of this amendment is to task the GPs or the medical practitioners in question with an obligation to positively inquire about the capacity of the person involved rather than simply assume they have decision-making capacity.

Mr KNOLL: I want to thank the member for Davenport for bringing this amendment to the parliament. If I think about this legislation, a lot of the public support for it is based on a principle, an ideal that assisted suicide can help to stop the suffering of people. I think of the difference between that ideal and what we have to do in this chamber, that is, to deal with the practicalities of how you make that ideal work in an environment where we often have imperfect information, imperfect people and imperfect processes.

I have often likened this debate and the people I have spoken to on this topic as not about the ideal; it is about a competing set of ideals. On the one hand, the desire to see suffering stop for a group of people in the circumstances under which this bill prescribes this option should be available to them, but there is, and I think the member for Light has expressed the same concern, a second group of people for whom access to this legislation makes them vulnerable to it.

I remember the last time we debated this topic back in 2016 sitting down and hearing from a group of mostly women who had the technical definition of a terminal illness, who also suffered from mental illness, and who said, 'If you pass this legislation, there are points in our lives where we will consider using this option.' In my mind, that second group of vulnerable people—whether it be through coercion, whether it be through feeling like a burden, whether it be through a form of mental illness and depression which can quite understandably form out of having a terminal illness—must be protected.

In that previous debate, I think the fact that that second group was not protected in a way that they should be, gave rise to many people choosing not to support that legislation. I would agree that this legislation is far tighter and seeks to try to get a better balance to help make it available for people in a tight set of circumstances, but do what it can to protect those who should not.

Certainly in terms of coercion and in terms of what the member for Port Adelaide has said about assuring us that nobody, ever, anywhere, will be coerced into voluntary assisted suicide, putting a positive obligation upon the person this parliament can trust, that they delegate to trust to make that determination about whether or not someone is being coerced, that positive obligation, I believe, with this amendment—as somebody who, as I will detail in some of the other clauses, sits very uncomfortably with legislation like this—this is a clause and a positive obligation that would give me comfort, and I think would give many people across South Australia comfort that at the point in time when somebody is seeking to access assisted suicide under this legislation (if it were to be passed) that there is somebody who is doing more than just taking a passive look at whether or not that person is one of those vulnerable people who should not be granted application under this bill.

We in this parliament and parliaments across the country give positive obligation in so many different areas. Certainly with the abortion legislation, we created a whole series of positive obligations upon a range of health professionals. I think at the moment positive obligation is manifesting itself in terms of employers needing to provide safe workplaces free from harassment and sexual harassment. In work health and safety legislation we provide positive obligations upon employers to do a whole series of things, but as somebody who sits here I think rightly sceptical of some of the down sides of what this bill seeks to do, having somebody in the process who has a positive obligation gives great comfort to me and to people who share my concerns.

I implore this parliament to support this as something that will help to make sure that if in the many words that have been spoken on this bill in the other chamber, and already tonight in this chamber, people do not believe that coercion is something that can happen under this bill and would not be used under this bill because it is unspeakable, then providing that positive obligation should be no threat.

In fact, if this chamber chooses to vote against this, it shows hollow the fact that, whilst people say that coercion will not happen, this measure, which would provide comfort to many that coercion cannot happen (or to a greater extent cannot happen), would be hollow. This is something that I believe helps strengthen, not frustrate, and give cause to deal with what many believe is a central flaw in this, in that vulnerable people can get access to this who otherwise should not.

I thank the member for Davenport. In terms of asking the question, can I ask him to put on record what he believes a delay, if any, would happen to the process as a result of this amendment being passed. What obligations in terms of time or process does he believe a doctor needs to

undertake to satisfy themselves that there has not been coercion and to comply with this amended clause?

Mr MURRAY: I will do the best I can to address the question from the member for Schubert. The amendment I have proposed here does nothing other than set the scene for a subsequent amendment. It replaces the pre-existing assumption of decision-making capability on the part of the candidate with a requirement that the coordinating medical practitioner certify to the best of their knowledge and as a result of their seeking to derive information from a medical practitioner who has conducted treatment for the candidate, generally a GP. So in the case of the first medical practitioner, the intent is to do nothing other than to require them to derive that information so that, hopefully, they make a better informed assessment of the capacity or otherwise of the candidate insofar as their capacity to make a reasonable decision is concerned.

The question to some extent traverses a further amendment, and I would make the point that, whilst coercion is a completely separate set of proposals that I intend to move and cover, the extent to what is reasonable in this case is a suggestion, at a penalty of $10,000, that no longer than seven days is the wait required from the GP for that information, which hopefully will help the first of the medical practitioners to make a better informed decision about decision-making capability. I hope that assists.

Dr CLOSE: If I might just try to assist the member for Schubert a little, this clause is not about coercion—that is amendment No. 4. This is about decision-making capacity, which may of course interact with coercion in some way, but is not the same amendment that we are talking about. It is entirely up to every individual member here what they choose to say, but I would ask us to consider not using the words 'assisted suicide', but to refer to the activity described in the bill as 'voluntary assisted dying'.

There are people who will be listening to this and reading it later who will find the discussion of suicide very upsetting, and it is not an appropriate term for what we are talking about. If people continue to use it, that is up to them, but I want to be on record asking for consideration of not using that expression, which can be extremely upsetting for people.

The issue that is being addressed in this amendment, amendment No. 1 by the member for Davenport, is a question of the way in which decision-making capacity is to be determined. Already in the bill, in clause 14(1)(c), one of the criteria that the doctors must assure themselves of is that the person must have decision-making capacity in relation to voluntary assisted dying. Indeed, at clause 4 there is chapter and verse about how one is able to determine that. So it is not that the capacity to make decisions has not been countenanced by this bill; it absolutely has, and it has in Victoria and Western Australia and Tasmania and is in the piece of legislation that is awaiting debate in Queensland.

The question is whether that is sufficient or whether there needs to be another level of test. This clause that we are debating right now, amendment No. 4, an addition to clause 4, is reasonably brief. However, it refers to sections 23A and 33A, which are the amendments that are made in amendments Nos 5 and 6 in [Murray-2]. They have to be really read together because they are made reference to in this clause that we are debating right now.

What they do is confer a lengthy series of obligations, both in time and in complexity, on doctors. Is that warranted? Sometimes we require things of doctors so that we can be sure, and in fact this whole bill is full of things that we require of doctors, so is more warranted is the question. In my judgement, it is an onerous addition and an addition that risks both time and complexity. Let's remember, when a dying person is seeking this, time is everything to them because time is suffering and time is lack of autonomy in decision-making.

But also what it implies is a lack of trust that we do not extend to doctors in any other circumstance. They are making life and death decisions all the time and are required not only to satisfy themselves that a person has decision-making capacity, which they do as a matter of routine, but to then go and find a doctor who has previously treated the person, as appears in the later but related clauses and amendments, and determine whether there is anything in their medical history, and to do this in writing.

Sure, we could decide to do that. We could decide to depart from the Australian model and add another layer, but my question to the member for Davenport is: on what evidence is that

necessary? On what evidence, given that we already have the most conservative, full of safeguards approach in the world and we have seen it in action in Victoria and we know that the one complaint in Victoria is how long it takes and how much suffering can occur in the course of waiting? What has prompted a desire to exhibit a lack of trust and a need for further scrutiny and what I would regard as quite onerous obligations on doctors who are choosing to participate in offering this service?

Mr MURRAY: I will address some of the points and/or assertions made by the member for Port Adelaide in the order that they were made. As the member for Port Adelaide has correctly pointed out, this first amendment cascades into amendments Nos 5 and 6. In order to provide a road map for people to make a reasoned decision about the support or otherwise of this particular amendment, I will address first of all the question of this being lengthy.

This amendment seeks to do nothing other than to move the bar from a presumption that the person in question seeking VAD has decision-making capability unless there is evidence to the contrary. What this seeks to do is to instead insist that they at least have a cursory look to assess whether in fact that is the case. Is that lengthy? Well, I would submit it is not especially lengthy because in amendment No. 5—which we will debate, but it is pertinent to the question before us and the question asked of me—the so-called lengthy prerequisite is that the coordinating medical practitioner must take reasonable steps to ascertain whether there is in fact any evidence that would indicate the person does not have decision-making capability.

The means by which it is prescribed that that coordinating medical practitioner does that is that they do so by notice in writing to a specified medical practitioner who is treating or has treated the person, and there are fairly onerous requirements in terms of the return of that information and penalties for a treating practitioner who fails to agree.

The first point to make is that this moves the prerequisite from a presumption of decision-making capability to at least an inquiry based on the history of the applicant for VAD and in particular any detail that can be provided by a specified medical practitioner, generally a GP. To the question, what is the evidence that has driven this, the evidence that has driven this is in fact the Victorian experience and in particular the fact that there is a tendency with this legislation (VAD legislation) for the consulting and the coordinating medical practitioners to be specialists in this field.

In many respects, that is a very natural and quite acceptable outcome. I have no issue with that. What it does mean, however, is that it is less likely with that degree of specialisation rather than more likely that those practitioners have access to or knowledge of the details, the treatment history, of the person in question. Therefore, in the absence of some information that indicates their treatment history, they are less likely to be able to make an informed decision about whether or not they have decision-making capacity. More particularly, they are not required to make that decision.

What they are required to do is presume that that decision-making capability exists in the absence of any evidence to the contrary. What I am asking is that they appraise themselves of the treatment history for that person in the case of the coordinating medical practitioner, the first of the medical practitioners in the chain, and that any subsequent medical practitioner simply avails themselves of that detail that has already been applied for.

I stress that there is not a requirement for this step or this process to be subsequently revisited on every other medical practitioner in this process. It is simply a prerequisite to start the process so that, ideally, the medical practitioners who are commencing the process, particularly the coordinating medical practitioner and the responsibilities they are charged with, does so from a base of better information.

The evidence, I reiterate, is simply the fact that there is specialisation. The assertion is that that in turn leads to less detailed knowledge of the individual idiosyncrasies and/or treatment history of the person in question and that a better outcome would be for that particular coordinating medical practitioner to avail themselves of the treatment to the extent that it does exist.

So that is the rationale. As the member for Port Adelaide has pointed out, this amendment and the prerequisite for that positive step, that one-time step to derive that information, informs not only this particular amendment but subsequent amendments Nos 5 and 6 as well, given that they are designed to use the fruit of this prerequisite.

The Hon. V.A. CHAPMAN: I may have a question at the end of this, if it is not clear to me, because I have a slightly different view to the member for Port Adelaide but I am interested to hear from the member for Davenport as to how this is going to apply. The proposed amendment here, amendment No. 1, substitutes subclause (2) and introduces a new level of what I describe as inquiry by both parties—and this is an obligation on both of them in this clause. That is, the coordinating medical practitioner and the consulting medical practitioner each have certified as to their knowledge.

That relates to the inquiry that I think the member for Davenport is saying, if I could paraphrase it, to look into the history of the proposed patient and identify if there is any event or occasion or prior treatment—for example, a mental health episode or something—that might alert them to the fact that there may be some incapacity on the part of the patient at this point in time. So they have to do some historical search and certify that they have done it and then combine with the proposed amendments Nos 5 and 6. If they fail to do it, there are significant penalties, so there is a two-step process here as I understand it. I hear in the submissions to support this the need to have a positive inquiry, and I will come to that in a moment.

There seems to be some concern about the subclause as it currently stands, which is subclause (2) in clause 4, which simply sets out a presumption as to decision-making capacity. This is not unusual in lots of legislation—that is, to identify that there is a presumption. For example, if a document is a birth certificate and it is signed by the registrar, it is presumed by law to be a valid legal document unless there is evidence to the contrary. So it is not unusual to have presumption clauses in here, but it seems to be being responded to in this amendment by a concern that that somehow or other lowers the threshold of obligation.

To that extent, can I just bring the member's attention to clauses 4(1) and 4(4), because here is what I see in the current bill as a positive inquiry—not to go and find the history of a patient but actually to do a number of things they have to do. They cannot just rely on subclause (2) for the patient and say, 'Look, I presume that you have decision-making capacity unless there's evidence to the contrary,' but that is looking at it in isolation.

If one looks at clause 4(1), the decision-making capacity has to occur in four circumstances: the patient has to understand the information, they have to be able to retain that information to be able to understand the extent of the information, they have to be able to use or weigh up that information as part of that process and they have to be able to communicate that either by speech or indication, etc. I am paraphrasing that, but I think you understand.

To assess those things, there must be a positive inquiry/assessment by the coordinating party, and in doing that clause 4(4) even sets out a further prescription, which requires of that person who is having capacity assessed that 'regard must'—not 'may' or 'think about it' but 'must'—'be had to the following', and here it sets out another prescription.

Firstly, the person may have the decision-making capacity to make some decisions and not others, so that is another thing they have to have regard to. Paragraph (b) states:

> (b) if a person does not have a decision making capacity to make a particular decision, it may be temporary and not permanent.

Paragraph (c) provides:

> (c) it should not be assumed that a person does not have a decision making capacity to make a decision—
>
> (i) on the basis of the person's appearance; or
>
> (ii) because the person makes a decision that is, in the opinion of others, unwise…

And paragraph (d) states:

> (d) a person has decision making capacity to make a decision if it is possible for the person to make a decision with practical and appropriate support.

Again, there is a whole level of other things that have to be considered by the assessing party, if I can describe them as that. So it is not a situation of the presumption clause just suddenly leaving a clean slate and you do not have to do anything else. This bill sets out a level of inquiry which must occur and assessments which must be done.

That, I suppose, in many ways is much more prescriptive than we require of medical practitioners in other circumstances. We require them only to undertake a procedure or service medically if the patient has informed consent, and that obviously requires a certain level of interaction to be able to have that assessment. Sometimes they ask for that to be signed before they might do surgery, for example—for it to be signed off in writing. Usually their insurers require that, so that is probably not uncommon.

But if I were to use one other example of where there is quite a prescriptive process, it is in the Mental Health Act and relates to electroconvulsive therapy. There it requires a medical assessment, and again it is quite prescriptive for that to occur for that procedure. In circumstances where the consequences are very serious, like this legislation or like electroconvulsive therapy, which, of course, can have some very severe effects—hopefully, positive ones, if it is going to be administered in circumstances, but they can be in other ways—we need to be prescriptive.

I do not actually have a problem with us as a legislature identifying areas of prescription. What concerns me here is that we are considering a further obligation on behalf of the parties who do the assessment, which I still do not really quite understand the extent of, and it means they are also in the envelope of being punished penalty wise if they fail to do it.

I need to be really clear: if we are going to ask them to obtain and consider a medical history of a patient, for example—that is, make due diligent inquiry as to their prior medical treatment by, presumably, others—will it be over a very sustained period or will it be just in the last five years? I do not know, so I am asking for some indication from the member as to whether it is to be the whole of their life, which might be decades, or whether it should be confined to conduct.

I am asking the member to identify what is evidence that a person may not have a decision-making capacity. Does it go back to other aspects of their decision-making in their life: who they married, whether they bought a house wisely or not, whether they undertook certain employment, whether they did other things that were independent of a medical assessment but certainly may result in what is otherwise described in this bill as making a decision that is, in the opinion of others, unwise?

If someone looked at my history, they would probably find lots of things that I have decided to do in my life—perhaps even coming into parliament—that might be considered unwise on reflection, and I might never get past the mental incapacity test for anything. I just think we need to be clear about that, because if we are going to add another level of obligation to these assessing medical experts, and we are going to punish them if they do not do it, then I think we need to have a very clear understanding of what that is. At the moment, I am a little bit concerned that we are introducing a process that is not going to be legally enforceable in the sense of successful prosecution and, secondly, is at least vague for me at the moment as to what it actually will require.

Mr MURRAY: I thank the Deputy Premier, the member for Bragg, for her question. I will just cover very briefly some of the points that have been made. The intention is, as she has correctly pointed out, to derive on a one-time basis the history, to the extent that it is available, from a treating medical practitioner for the person in question. The intention is to do nothing other than to perform that act as a means by which the presumption is they form a better grounded decision or assessment of the decision-making capability of the person involved.

To the member for Bragg's questions, the penalty for failure to follow is essentially directed at the medical practitioner and the GP failing to provide whatever detail they can to, in particular, the coordinating medical practitioner. The intention is not to enforce a decision about the stage or the state or the time line at which the person may or may not have had decision-making capability.

The prerequisite is very simple. It is extraordinarily simple. It is, 'Please make an assessment to the best of your ability, and please make an attempt to speak to the GP of the person in question so as to potentially better inform the decision you are making.' It is that simple. There is no additional gymnastic. It is simply a request for the person involved to go back and get the medical history for the person in question so as to make a better informed decision.

The Attorney talked about other medical procedures. I would submit that it would be unusual for medical history to not form part of some of the determinations made there. The prerequisite here is very simple, and that is to see whether in particular the coordinating medical practitioner can derive

that information and therefore be better appraised so that subsequently, having derived that information, the decisions from there on are simply grounded in something other than the presumption.

There is no intention to upturn decades of established law; there is simply an intention to direct the coordinating medical practitioner to derive that information and, in particular, to do so in light of the fact that it is less and not more likely, given the specialisation that has occurred in Victoria and is reasonable to assume will happen here. There is likely to be a pre-existing knowledge of any of the medical history of the applicant. As a consequence, there is less likelihood of any evidence to the contrary being available.

There was reference to at what stage was there a clean slate. As I said, the assessment is not about making some sort of retrospective judgement as to how or when the person did or did not have decision-making capability. The intention is simply to ensure that the best available information is at hand when the assessment is being made. Unfortunately, that is as best I can explain the intention behind the amendment.

Dr CLOSE: I think the issues have been extensively canvassed, so I want to highlight not only for the member and also for the house generally before we make a decision on this clause that there is the meaning of decision-making capacity, which is quite extensive and is in fact a positive assessment of decision-making—and of course that is a criterion for qualifying for assisted dying, that there is a decision-making capacity—but also reassure people of the thoughtfulness that sits behind this bill. Clause 24 is a referral for specialist opinion. Subclause (1) provides:

> (1) If the coordinating medical practitioner is unable to determine whether the person has decision making capacity—

Therefore, that they are making a determination in this legislation—

> …(for example, due to a past or current mental illness of the person), the coordinating medical practitioner must refer the person to a registered health practitioner…

So the concerns the member for Davenport has raised have been countenanced and addressed in this bill, and I believe it is unnecessary to add yet another layer on top of that. This is a recognised concern. We know that the person has a decision-making capacity, that it is enduring and it is given voluntarily, and that there are adequate provisions here to ensure that that is the case.

Mr MURRAY: I will endeavour to be brief. To be very clear, I have no issue at all with the process envisaged in the bill where the coordinating medical practitioner in particular is unable to assess or make an adverse assessment about the potential decision-making capacity of the applicant. This is simply about having a better, if possible, informed grounding for making that decision by referring back to the treatment history. That is, in essence, the sum total of what this amendment seeks to do.

Yes, the amendment does add an additional box of ticked steps to take. Given the seriousness of what we are dealing with, the intention is to ensure that the capacity is not simply assumed but that it is an informed decision. Given the importance of what is before us, that is not an unreasonable requirement in my view. In so saying, I indicate that I am happy to take other questions but I suspect we may be relitigating or furiously agreeing, as the case may be.

The committee divided on the amendment:

Ayes.....19
Noes 25
Majority 6

AYES

Bell, T.S.	Brown, M.E.	Cowdrey, M.J.
Cregan, D.	Duluk, S.	Ellis, F.J.
Harvey, R.M.	Knoll, S.K.	Koutsantonis, A.
Luethen, P.	Michaels, A.	Murray, S. (teller)
Patterson, S.J.R.	Pederick, A.S.	Piccolo, A.
Power, C.	Speirs, D.J.	Tarzia, V.A.
van Holst Pellekaan, D.C.		

NOES

Basham, D.K.B.	Bedford, F.E.	Bettison, Z.L.
Bignell, L.W.K.	Boyer, B.I.	Chapman, V.A.
Close, S.E. (teller)	Cook, N.F.	Gardner, J.A.W.
Gee, J.P.	Hildyard, K.A.	Hughes, E.J.
Malinauskas, P.	Marshall, S.S.	McBride, N.
Mullighan, S.C.	Odenwalder, L.K.	Picton, C.J.
Pisoni, D.G.	Sanderson, R.	Stinson, J.M.
Teague, J.B.	Whetstone, T.J.	Wingard, C.L.
Wortley, D.		

PAIRS

Brock, G.G.	Szakacs, J.K.

Amendment thus negatived; clause passed.

Clause 5 passed.

Clause 6.

The Hon. A. PICCOLO: I have a question to ask. Am I correct in assuming that clause 6(1) means that a death certificate would be issued for the pervading or underlying illness, rather than VAD?

Dr CLOSE: That is an interesting question, which is not resolved in this bill, so it is up to the Registrar for Births, Deaths and Marriages to determine, based on what the doctor who certifies the death has indicated is the cause of death. This bill is silent on that question.

The Hon. A. PICCOLO: Can I clarify this. Without trying to specify what the underlying illness is, the death certificate will not say it is a suicide though; is that correct?

Dr CLOSE: That is right. What this legislation does say is that it will not be taken to constitute suicide, which of course is important in terms of, for example, life insurance and others, so, no, it is not regarded as suicide. It is either that the person has died as a result of the underlying illness or that the person has died through a process of legal voluntary assisted dying.

The Hon. A. PICCOLO: To clarify, it says, 'For the purposes of the laws of the State'. Member for Port Adelaide, an issue that I have concern about is people's life insurance and other matters. How does that capture people who get insurance interstate or online?

Dr CLOSE: I have no answer for that. Sorry, I do not know.

The CHAIR: Sorry, what was your response, deputy leader?

Dr CLOSE: I do not know. I can have a chat to parliamentary counsel and see if there is any more advice for the chamber.

The CHAIR: You could.

Dr CLOSE: My point is that this is straying a little beyond the purview of this bill, which is to facilitate a process of voluntary assisted dying, and it is simply a statement of fact to say that that is not suicide. Suicide is in a very different category, which is why I asked earlier that people not use that term. I can seek further advice from parliamentary counsel or indeed between the houses as, given that we are likely to amend this bill, we are going to have another process in the Legislative Council. I can seek information there, but I cannot create information that I do not have in my head to answer that question.

The CHAIR: So I am clear, member for Light, your question was in regard to somebody who might be interstate?

The Hon. A. PICCOLO: No. If you live in South Australia, this law applies to you, but what if you purchase the insurance online or from a company that is interstate? To what extent does this have extraterritorial application to those states? This issue has risen before when we had franchise law reform and we had to have special provisions to cover that. I want to make sure that the law does what it intends to do. Secondly, what privacy provisions are in the bill to ensure that insurance companies do not go behind any death certificate, etc.? What privacy provisions are available?

Dr CLOSE: This clause does not refer to privacy provisions. This law is simply stating that voluntary assisted dying is not suicide.

The CHAIR: Member for Light, I might suggest that we attempt to seek an answer between the houses to that question.

The Hon. A. PICCOLO: I understand what the intention of the law is, and I support the clause, but I just want to make sure that the clause actually does what it says it does in a practical sense and does not impact on people later when they find out it actually does not do what it says it does in a whole range of commercial transactions.

The CHAIR: I do not know that we will have the answer to that here today.

The Hon. A. PICCOLO: Maybe it could be taken as questions on notice and be answered between the houses.

The CHAIR: Questions on notice or seek the answers between the houses, yes.

Clause passed.

Clause 7.

The Hon. A. KOUTSANTONIS: What is the impact of an interpreter not being able to be sourced who fits the criteria?

Dr CLOSE: The harsh reality is that if the wishes of the person are not able to be clearly understood without an interpreter it means that person is no longer eligible to be considered.

Clause passed.

Clause 8.

Mr MURRAY: I move:

Amendment No 2 [Murray–2]—

Page 13, after line 31 [clause 8(1)]—Insert:

(k) every person has the right to make decisions about medical treatment options freely and not as a consequence of the suggestion, pressure, coercion or undue influence of others.

This very simply seeks to add the clause in question as a means whereby it can be subsequently, at amendment No. 4, relied upon as a qualification. The intention with this particular amendment is to do nothing other than just stipulate that the person has a right to seek medical treatment freely and not as a consequence of any suggestion, pressure or coercion.

The intention here is to have a lack of coercion, in particular a person's right to a lack of coercion, enshrined as a principle along with the other 10 principles set out in that clause. The intention, as I said, is that this can then be the subject of a subsequent amendment but, as a general statement of principle, that is the sole intention of this particular amendment.

Amendment carried; clause as amended passed.

Clause 9.

The Hon. A. KOUTSANTONIS: In terms of making the first request, how is that made? It must be a written declaration or a verbal declaration. What level of evidence is required for a person making the initial request, that first request?

Dr CLOSE: If you turn, member for West Torrens, to page 17, clause 17—Person may make first request to registered medical practitioner, that specifies, I think, some of the information that you are seeking. The person may make the request to a registered medical practitioner for access to voluntary assisted dying, and it must be clear and unambiguous and made by the person personally,

but it can be done verbally or by gestures, so not in writing for the first request. It is also the case that separately a doctor is unable, by terms of this legislation, to ever raise or suggest the idea. It has to be initiated by the person, but that is in a separate clause. Does that answer sufficiently?

The Hon. A. KOUTSANTONIS: So it does not need to be a written request?

Dr CLOSE: The first request does not. It initiates a process, and then, as we go back to the clause that we are now debating, clause 9, one of the elements that is later required is that there is a written declaration.

Clause passed.

Clause 10.

The Hon. A. KOUTSANTONIS: An employee of a prescribed organisation who is a health practitioner can conscientiously object at any facility—hospital, aged-care facility, medical practice, residential?

Dr CLOSE: That is right. Any registered health practitioner who might participate in this process, including a GP, a specialist, a pharmacist, is able to conscientiously object and not be involved.

The Hon. A. KOUTSANTONIS: Are members of a governing body, a board of a registered organisation, able to conscientiously object to their facility being used for the purposes of VAD?

Dr CLOSE: This clause does not countenance anything other than a person who is participating as a registered health practitioner. There are amendments coming further along that do address the question of whether an institution can opt out of having the service offered. We will be contemplating those subsequently, but this is about a person who is actually delivering a step in the process of voluntarily assisted dying being absolutely free to not do that.

The Hon. A. KOUTSANTONIS: So clause 10 is not the clause where institutions can conscientiously object?

Dr CLOSE: That is coming up in the amendments that are being proposed by the member for Davenport and then also by me.

Clause passed.

New clause 10A.

Mr MURRAY: I move:

Amendment No 3 [Murray–2]—

Page 14, after line 19—Insert:

10A—Conscientious objection of operators of certain health service establishments

(1) A relevant service provider has the right to refuse to authorise or permit the carrying out, at a health service establishment operated by the relevant service provider, of any part of the voluntary assisted dying process in relation to any patient at the establishment (including any request or assessment process under this Act).

(2) A relevant service provider may include in the terms and conditions of acceptance of any patient into the health service establishment an acknowledgment by the patient that the patient—

(a) understands and accepts that the relevant service provider will not permit the establishment to be used for the purposes of, or incidental to, voluntary assisted dying; and

(b) agrees, as a condition of entry, that they will not seek or demand access to voluntary assisted dying at the establishment.

(3) Subsection (4) applies in relation to a patient at a health service establishment if the patient advises a person employed or engaged by the relevant service provider at that health service establishment that they wish to access voluntary assisted dying.

(4) If this subsection applies in relation to a patient at a health service establishment, the relevant service provider who operates the establishment must ensure that—

(a) the patient is advised of the relevant service provider's refusal to authorise or permit the carrying out at the health service establishment of any part of the voluntary assisted dying process; and

(b) arrangements are in place whereby the patient may be transferred to another health service establishment or prescribed health facility at which, in the opinion of the relevant service provider, a registered health practitioner who does not have a conscientious objection to voluntary assisted dying is likely to be able to participate in a voluntary assisted dying process in relation to the patient; and

(c) reasonable steps are taken to facilitate the transfer referred to in paragraph (b) if requested by the patient.

(5) To avoid doubt, this section does not apply to, or in relation to, a patient accepted into a health service establishment before the commencement of this section.

(6) In this section—

health service establishment means—

(a) a private hospital within the meaning of the *Health Care Act 2008* or other private health facility of a kind prescribed by the regulations; or

(b) the whole or part of any other private institution, facility, building or place that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health services (including, to avoid doubt, places of short-term respite care); or

(c) any other health service establishment of a kind prescribed by the regulations,

but does not include prescribed residential premises, or any establishment declared by the regulations not to be included in the ambit of this definition;

prescribed residential premises means—

(a) a facility (within the meaning of Part 1A);

(b) any other residential premises of a kind prescribed by the regulations;

relevant service provider means a person or body that operates a health service establishment.

This amendment inserts new clause 10A. This is the clause to which the member for Port Adelaide and I made reference at the start of this evening's proceedings. Whilst the focus has understandably been on the capacity of faith-based institutions to assert their rights in regard to conscientious objection, I simply want to make the point, without belabouring it, that it is not just simply those organisations that are minded to do so. I point out for the benefit of members that I am happy to table and/or seek leave, Chair, whichever you are happy with.

The Australian Medical Association's position statement on the subject of conscientious objection, which was issued in 2019, makes the following point regarding institutional conscientious objection:

3.1 Some health care facilities may not provide certain services…

It goes on to make the point that some facilities do not provide services due to conscientious objection:

…(for example, some…with religious affiliations will not provide termination of pregnancy, sterilisation or IVF services). In such cases, an institution should inform the public of their conscientious objection and what services they will not provide…

So there is an obligation to disclose. There are some indications as to how that might be effected, in terms of websites and patient brochures, etc. The second part of the position statement regarding institutional conscientious objection states:

3.2 At times, a patient admitted to an institution may request a treatment or procedure that the institution does not provide due to conscientious objection.

In that circumstance:

…doctors should be allowed to refer patients seeking such a service to another doctor outside the facility.

That is the basis on which the legislation of every other jurisdiction has been implemented. In all the other cases there has been a silence on this issue, and it is the position statement that I read out that has been relied on—off the books, so to speak—to facilitate these vexed issues and reconcile them.

Whether it is the Queensland Law Reform Commission or whether it is the entities themselves, the preference is to have a commensurate obligation for these entities to advise potential patients or users of their service—this is health service establishments, and their definition very clearly sets out that it is also their hospitals.

In the event that a patient wants VAD, the requirement is that they facilitate that by seeking to take care of the patient via the provision of that service at another establishment. What this clause simply seeks to do is provide certainty for those hospitals and their patients and to provide some commensurate obligations to follow what is in the AMA position statement.

As I have described, this is the subject of a commitment that the member for Port Adelaide and I have made to each other. I provide that background by way of very brief example as to the veracity thereof.

Dr CLOSE: I would like to take a brief opportunity to explain why I will be supporting this amendment. I think we talked about this a bit in the abortion debate as well, that there is often a gap between what is and what one would like there to be. In this case, the truth is that there are organisations that run health care that do not wish to be involved in voluntary assisted dying. That is the reality of the way in which we have constructed our healthcare system in Australia.

In Victoria, the silence on the subject of whether or not these services are going to be available in every institution has resulted in patients having a degree of uncertainty about their entitlement and their rights and also the organisations having a degree of uncertainty about what they are able to do to exercise what the board or the management of that institution feels is the right thing to do.

This amendment, paired with the one I will be putting shortly about people who are effectively in their home, their permanent place of residence, is about people who are in what would be regarded as short stay situations—hospitals and hospices. The example we would all be familiar with in South Australia is, of course, Calvary Hospital.

What is clear in how things are is that Calvary Hospital has an accreditation process—as do all private hospitals—where they credential doctors coming in. They do not wish to credential doctors coming in for that purpose, and I think we have to accept that is how the system is going to work, recognising that I see merit in acknowledging that because it will ensure that people are aware of it.

It may also have a requirement that the relevant health service provider will ensure the person going into that circumstance is aware of what they are and are not able to do, and therefore there is a degree of transparency about the situation, and there are reasonable steps made to facilitate the transfer of the patient elsewhere should they, even under those circumstances, nonetheless find themselves in a condition where they do wish to have access to voluntary assisted dying.

In acknowledging that there are healthcare services that would take this position, we are better off in our legislation in learning from the experience of silence in Victoria, and strengthening clarity about what is known by the patients, acknowledging the reality that there will be providers that will seek to opt out of this and that there is a requirement for reasonable steps to be taken to facilitate transfer. Even people who desperately want to see voluntary assisted dying occur in South Australia as a legislative reform could come to see that all of those strengthen this legislation over the Victorian legislation.

The Victorian legislation, in being silent, has had to push the question of how to deal with this reality into government policy. We are choosing to learn from them and place it into legislation. Paired with what I hope will be a successful amendment of mine for people who are living in institutions that are their home, it confers on them more rights, more entitlement. This is a reasonable accommodation in addressing the reality of how our healthcare system works.

The Hon. A. KOUTSANTONIS: I have a question for the member for Davenport. His amendment does not give the ability for aged care facilities to conscientiously object; is that correct?

Mr MURRAY: That is correct. By way of background, and to some extent also to cover the points that the member for Port Adelaide has made, my initial set of amendments sought to very deliberately distinguish conscientious objection for hospitals on the one hand, and a separate amendment directed to enable conscientious objection for entities typically referred to as retirement villages, independent living units, etc., on the other.

The genesis of my decision, which I stress has not been taken lightly and which has been made in conjunction with me speaking to a wide variety of people, is very simply as follows. As the member for Port Adelaide has pointed out, this amendment reflects the reality, and the reality is that a private hospital—and to be very specific about it, in this case Calvary—does not wish to be required to authorise, facilitate or be complicit in any way with the VAD process.

As the member for Port Adelaide has pointed out or alluded to, in order for a medical practitioner to perform any service at a hospital generally, and in this case at Calvary, they need to be accredited and the accreditation process would therefore—were an alternative to be considered to force them to be participants—in turn force them to consider changing their accreditation process to embrace that which they simply do not believe in. They have made it abundantly clear that they would not be prepared to do that.

The good news is that they would not shut up shop immediately, but in the event that they were forced to become unwilling accomplices by way of court action or someone testing that, they would shut shop. The practical reality here that we are trying to address is the fact that, with the hospital service and the reality on the ground, we can still have voluntary assisted dying and we can acknowledge the very real and deeply held conscientious objections.

To the member for West Torrens' point, the practical reality—in talking to the people on the ground dealing with this in a situation where there is not a prerequisite or indeed an opportunity for the accreditation of doctors who are visiting these facilities—in other jurisdictions is that doctors come and go and the patient-doctor confidentiality provision means that the operators of the facility by their very definition have no way of ascertaining what medical service is being provided, whether it is VAD or whether it is a consultation on some other thing.

We are straying somewhat but to your question, which more accurately moves into the purview or the domain of the amendment that the member for Port Adelaide will move subsequent to this and which I have indicated I will support, the practical reality we face as legislators is that (in real life) in one case you are not going to get doctors accredited and that is why we have 10A, and in the other the practical reality is that you cannot intervene in doctor-patient confidentiality and, as a result, ascertain whether they are talking about VAD, the football, an ingrown toenail, whatever the case may be.

We are seeking to make a real-world assessment of what is going on. That is why I have removed new clause 10B, my amendment that was constructed prior to having an opportunity to talk at length with on-the-ground experts from Catholic Health Australia, Calvary and a variety of other people about the fact that, on the one hand with hospitals, recognition and enshrining the conscientious objection is possible and desirable. On the other hand, whilst it may be desirable in practice it is completely devoid of any capacity to enforce. The enforcement simply does not exist.

That is not to say that those organisations cannot stipulate that. That is not to say that they are not allowed to provide that information about their beliefs or indeed their lack of desire to participate. It simply means that what we have sought to do as a result of taking extensive and I stress extremely well-qualified evidence from the experts has informed the genesis of new clause 10A that you have before you.

The Hon. A. KOUTSANTONIS: It seems to me there is one fundamental error in the member's point, and this is not a criticism. It is that doctors in a hospital also have patient confidentiality requirements with them as well. So Calvary or Southern Cross or whatever the entity is have no line of sight to what is being talked about between a doctor and a patient in their care—none—and nor should they.

We are simply making a carve-out for hospitals on the basis of a religious objection because the proprietors of that hospital have a philosophical, moral, Christian or religious view about voluntary

assisted dying, yet the same operators who operate an aged-care facility (not a retirement village, an aged-care facility) are not given that same ability to object conscientiously on the basis of those very same views that the member just outlined that a hospital can, and this is where I find the difficulty.

If the carve-out is good for one, why is not the carve-out good for the other? The reason the member gives the house is that, in practice he claims, you cannot find out why a doctor is speaking to someone in an aged-care facility. What I would submit to the member is that Calvary cannot ask what a doctor is speaking to a patient about in one of their hospitals either, so what is the difference? I would like that answer from the member: what is the difference?

I suppose what the member is getting down to is that in retirement villages we are talking of the sense of property or ownership of a room as a home as opposed to a facility in a hospital, where you are basically in a bed. Is that the only difference you are talking about?

Mr MURRAY: The member for West Torrens asks what is the difference. The very simple answer is this: the distinction between the two is that VAD is a recognised medical service, and before any form of medical service can commence, whether it is removing an appendix or whatever it is, the doctor has to be accredited to do so at the organisation at which it is being accredited.

What is occurring in practice here is that, to paraphrase, if a VAD specialist were to wander up to, in this case Calvary, and say, 'Hello, I would like to be accredited to pop into your hospital to talk to and/or facilitate VAD,' the answer they would derive is, 'I'm terribly sorry. Our accreditation process does not cover the provision of those services,' just like it does not cover brain surgery or a whole variety of other medical services. That is the fundamental difference in the member's question.

They simply as an organisation do not accredit it and they will not accredit the provision of that medical service. So the question of doctor-patient confidentiality does not come into it; they never actually get there. They simply will not provide the service, they will not provide accreditation for the service, they will not change their processes to enable it and, as a consequence, any qualified medical practitioner who is seeking to practice or deliver that service will not be able to be accredited to do so in that hospital.

That is the framework we are working with, as opposed to the nursing home example, where all we can in practice rely on, or that we know for sure, is that when a doctor arrives at that facility to see Mr Koutsantonis in room 10—I am not suggesting his early demise, goodness me, no, may he live long and prosper, and I apologise for using Mr Koutsantonis (perhaps he is there to see you about your ingrown toenail). At the nursing home, the practical reality is that all we have is patient-doctor confidentiality and, as a consequence, whilst that organisation knows the doctor is in attendance, they have no real way of ascertaining, certainly at that initial stage, what the discussion is about and/or what service or consultation may be supplied.

To the question: what is the difference? The difference is accreditation. Calvary, to use it as an example, will not accredit the delivery of VAD in its facilities and therefore it is, by definition, not possible for a doctor to be accredited to provide that service and, as a consequence, irrespective of the discussion between a doctor and a patient at that service, it is not possible to deliver that service. In fact, it is arguably illegal to do so and the point is made that delivery of a service at an organisation which is not accredited to do so is in fact a breach of most health guidelines and certainly those that are operated by the health services.

The Hon. V.A. CHAPMAN: I indicate that I support the amendment No. 3 [Murray-2] to insert clause 10A in relation to a health service establishment and, essentially, the conscientious objection of that provider. I thank the member for Davenport for his contribution in the discussions to respect the service provider's requests in this regard. I think it is admirable and I think it is sensible that there is provision for the provider to ensure that notice is given to any party who wishes to use their private hospital services to understand what the circumstance is and, indeed, have the right to seek confirmation in writing as a condition of entry those terms.

I think the early notice of that is an important and helpful addition and I would hope that if we do ultimately look at some national recognition of the conscientious objection clauses, if I can put it as broadly as that, this will serve as a helpful model. I also thank in advance the anticipated support of the member of Davenport with the presentation of a foreshadowed clause 13A of the member for

Port Adelaide to deal with other residential facilities, which are defined in the foreshadowed amendment. It is different and for the reasons that have been explained.

I am not sure I entirely understand the difference in relation to the opportunity to look behind the doctor-patient relationship, but for me the distinction is that one is a hospital and is providing a service and if it is a faith-based organisation, for example, we are respecting, with the support of this motion, that they have the right to be able to make that determination as to who they accept as patients, whereas, in relation to other premises, it is their home.

Many of us enjoy having our own independent residence, which we own or rent and we have that. But for many others who are relying on residential facilities, they have bought a space, they have bought an entitlement to live there and it is their home and that should be respected, and a different set of rules apply, as much as possible commensurate with what you or I might enjoy in living in our own individual dwelling.

The CHAIR: I will call the leader. I did make the point that members needed to be in their place, but given the circumstances I will allow you.

Mr MALINAUSKAS: In regard to the proposed amendment from the member for Davenport, I would simply like to make a couple of remarks, starting at a higher level principle rather than some of the specifics traversed in the discussion thus far. I think it is fair to say that in terms of this debate generally and in terms of the bill that is before the consideration of the house, this is something that I have put a fair degree of contemplation into over recent months, if not longer. It is a subject that, quite frankly, I personally have struggled with, as I know every member has in their contemplations, trying to rationalise what the appropriate vote to cast is on the bill, generally.

It has been something that, for me personally, has necessitated weighing up a whole suite of competing variables and many of those have been traversed by other members during the course of I think well put and well thought through and sincere second reading contributions. I do not intend to do that now; now is not the time for that.

But one of the persuasive arguments in favour of the VAD legislation generally is this idea of choice, this idea, this principle of people having the ability to choose a course of action that currently is not available to them under the law, that would be consistent with their values. I find that a persuasive argument. I think most people who live in our Liberal democracy would find that a persuasive argument and then it becomes a test of whether or not that can be rationalised with all the conditions, most of which I am satisfied are within this bill.

But in that principle of choice also comes this issue of a choice not to participate and trying to balance competing objectives of people who want to get access to VAD versus those who want to elect to have no role in the provision of VAD which results in a point of conflict, a point of tension, which necessarily needs to be resolved in the legislation.

This is something I feel quite strongly about because I find it incongruous on one hand to be persuaded by the necessity for choice for people to get access to VAD but then not be persuaded by the argument that someone should be able to choose not to participate in that process. I believe that principle of choice should extend not just to the individual—

The CHAIR: Leader, I am sorry to interrupt you mid-stride, but I am going to call those members on the government benches to cease their conversations while a contribution is being made. Thank you, leader.

Mr MALINAUSKAS: Not just to be persuaded that the issue of choosing not to participate in the provision of the service applies beyond the individual, I believe it also should apply to an institution. Then of course comes the test of what constitutes an institution and their ability to conscientiously object, and how should that test be applied? I do think this concept of ownership of land is a reasonable position to start, which has informed my view that the pursuit of conscientious objection via institutions is a legitimate course of action, notwithstanding the fact that that may ultimately result in the denial to an individual of access to a service such as VAD.

I want to commend the work that I understand has occurred throughout the course of today and no doubt yesterday evening from the member for Davenport in his discussions that I understand have taken place with the member for Port Adelaide, amongst others, who have been close to the development of this bill in their pursuit of trying to find a set of amendments that rationalises those

competing objectives about getting the balance right between the interests of those who would reasonably seek to get access to this service versus those who reasonably seek to not participate in the delivery of it.

I think this amendment largely strikes that balance because it preserves the ability for a hospital to not participate in the provision of the service while also acknowledging that there is a legitimate distinction between a hospital and a home which goes to that concept of ownership informing the ability to object.

So I rise in support of this clause. I think it is the right avenue and I think it strikes that balance. I would simply ask the member for Davenport if he is satisfied that those people who have made representations to him that institutional conscientious objection should be a tenet within the bill has been realised through this amendment.

Mr MURRAY: The short answer is yes. The shorter answer is that I have consulted a whole variety of people, as you have pointed out, in the discussions with the member for Port Adelaide as well as the operators of the facilities to which you refer. This amendment will enable them to continue to provide the sterling service that they do to the South Australian community whilst ensuring that they exercise their right to choose the medical services that they provide. It is a risk I will take nonetheless. At the risk of trivialising this debate—and it is a risk I will take nonetheless—that can be either VAD or brain surgery or IVF or any number of medical procedures.

The short answer is that this does enable them to exercise or to continue to exercise their conscience. As the member for Port Adelaide has rightly pointed out, what this amendment does that has not occurred in any other jurisdiction that has implemented VAD is that it enables clarity for both the institutions and for people going to those institutions as to what is or is not available by way of VAD procedures in this case or indeed any other procedure.

It enshrines the process that is already being used, but it elevates it such that everyone can make an informed choice about what is occurring. I think that is the nub of what we are here to discuss this evening. I reiterate again in answer to the leader's question: this enables those organisations to continue to operate and to express that conscientious objection, and I have no doubt whatsoever that therefore they are very supportive of us agreeing to embrace it.

Ms COOK: I essentially want to put my thoughts on record with respect to this, and I will ask a brief question at the end. I fundamentally believe that the population at large wants this bill to pass. We know that it is somewhere around 80 to 85 per cent of the population; in fact, in older cohorts it may well be much higher. People do not want to suffer. They make informed choices, and doctors support that daily.

I am very concerned about organisations being able to conscientiously object to participation in this. I am very worried about that, particularly from a point of view of the number of people who suffer terminal illnesses and find themselves within hospitals—private hospitals, very large, very well funded private hospitals that benefit from our population going through their doors.

I do not have an issue with individuals who have a conscientious objection and who need to be able to refer—and we had this debate during the abortion debate—their patients on to somebody who does not object to participating in such a practice. But the things central to voluntary euthanasia are ensuring adequate safeguards and protecting an individual's self-determination and their choice.

People who find themselves at this stage of life do not choose to access euthanasia because it is an easy thing to do. It worries me somewhat that somebody may find themselves suddenly at a tipping point whilst in a hospital or a hospice and then be required to vacate themselves from such a facility. I find it abhorrent, having cared for not one or two or even dozens but hundreds of people over the years in my career as a nurse who have found themselves at end of life. For none of them would I want to have to extract them and move them to another facility.

I think this is a word of warning to the hospitals that would like to make this decision—and I do think this amendment will pass. I think this will pass, and I may well be counting my own numbers and by myself; I do not know how the numbers will go. But I will not be voting for it, because I support people and their right to make those decisions at a point of life and not suffer further pain, embarrassment or indignity.

I absolutely respect the work that has been done in the negotiations by our deputy leader, who is taking the lead here, our leader in the upper house, Kyam Maher, and the member for Davenport. I thank you for doing that work and I humbly vote no based on my experiences and what I believe fundamentally is right.

I will say what I said in our briefing, that I would rather throw down the gauntlet and say to such institutions, 'I dare you. I dare you to stop Dr Hunt from practising within your walls because he avails someone of the choice to dignity at the end of their life,' because I do not think they would. I will not be voting yes for this.

My question to the member for Davenport is: can the member for Davenport guarantee that he (a) has done the research, (b) completely understands the consequences and (c) can assure us that this will not cause further pain, suffering and indignity to people who find themselves in such an institution and cannot avail themselves of the end-of-life choice that they have already perhaps got in place?

The CHAIR: There are three questions there, member for Davenport.

Mr MURRAY: I do not presume to even have a modicum of the medical expertise or whatever is required to issue any sort of guarantee in this environment. Like the member for Hurtle Vale and all of us, I am doing the best I can to navigate this issue on behalf of the people I represent.

I will reiterate that I am philosophically opposed to the notion of voluntary assisted dying on a personal level. I have tendered these amendments, which were they all to be supported I am on the record as saying I will vote for the legislation. Let's be very clear about that. I am not a dyed-in-the-wool hardcore supporter of this. I am someone who is seeking to do the best I can to navigate this and provide as much protection as possible, so that those people who unquestionably wish to access this can.

I am sorry, member for Hurtle Vale, I am not going to extend any guarantees. What I will tell you is that I have agonised about this. I have made the effort to engage with both sides of the debate and, given this is a personal decision, I have done the best I can to enshrine the protections that I think are necessary not just for me and my conscience but for the people who may otherwise access this.

I reiterate: I am determined that at the end of this, when this passes, I have done the best thing I can to ensure that the people who are accessing it are the right people and that they are supported. I hope to be in a position, notwithstanding my personal beliefs, as a representative in this place to ensure that the people who want to access this have the benefit, for what it is worth, of the compassion I think I should be extending in enabling them to do so.

You are not going to get a guarantee, other than I am giving it my best shot. My determination in this regard and indeed insofar as the other amendment is concerned that we will shortly contemplate, which I have already indicated I will support, as I have pointed out to the member for West Torrens, is that these are grounded in the practical reality of the landscape we have, both from the hospital perspective and in other environments. They are not pretty, they are not comprehensive, they are not capable, I do not think, of guarantee, other than me giving the best possible deliberation and work that I can to ensure that we have choice and we have compassion. That is all I can provide in response to your questions.

The Hon. A. KOUTSANTONIS: I have been asked by a service provider to ask the member for Davenport this question: would 10A cover some nursing home facilities?

Mr MURRAY: I suspect the answer, member for West Torrens, relies on the definitions enshrined in the clause. In particular, I point you to subclause (6), which talks about a health service establishment being 'a private hospital within the meaning of the Health Care Act 2008 or other private health facility of a kind prescribed by the regulations'. To be very clear, to the extent that that organisation does in some way fall under the purview of that, the answer is yes, with that caveat.

New clause inserted.

Clause 11.

The Hon. A. KOUTSANTONIS: What is the penalty if a registered health practitioner does initiate VAD conversations with a patient?

Dr CLOSE: The answer is in subclause (3): 'A contravention of [that] subsection,' which provides that a health practitioner cannot initiate a discussion, 'is to be regarded as unprofessional conduct within the meaning and for the purposes of the Health Practitioner Regulation National Law'. There are processes that flow from that.

Clause passed.

Clauses 12 and 13 passed.

New clauses 13A to 13K.

The CHAIR: Now we come to the member for Port Adelaide's amendment No. 1, which seeks to insert new clauses 13A to 13K. Before I call the leader, I might just speak to this for a moment. The member for Port Adelaide's amendments to insert clauses 13A to 13K inclusive is a very long and involved amendment. As such, I intend to work my way through each clause of the amendment in order to give any member wishing to ask questions at any point in the amendment that opportunity. However, having given the members that opportunity, I am not going to put the question on the amendment until the end. That is the way I am going to approach it.

The Hon. A. Koutsantonis interjecting:

The CHAIR: Member for West Torrens, the one amendment includes new clauses 13A through to 13K. I will give members the opportunity to ask questions on each of those, but I will put them as one question at the end.

Dr CLOSE: I move:

Amendment No 1 [Close–2]—

Page 15, after line 17—Insert:

Part 1A—Conscientious objection of operators of certain residential facilities

Division 1—Preliminary

13A—Interpretation

In this Part—

deciding practitioner, for a decision about the transfer of a person, means—

(a) the coordinating medical practitioner for the person; or

(b) if the coordinating medical practitioner for the person is not available, another medical practitioner nominated by the person;

facility means—

(a) a nursing home, hostel or other facility at which accommodation, nursing or personal care is provided to persons on a residential basis who, because of infirmity, illness, disease, incapacity or disability, have a need for nursing or personal care; or

(b) a residential aged care facility;

relevant entity means an entity, other than a natural person, that provides a relevant service;

relevant service means a residential aged care service or a personal care service;

residential aged care means personal care or nursing care (or both) that is provided to a person in a residential facility in which the person is also provided with accommodation that includes—

(a) staffing to meet the nursing and personal care needs of the person; and

(b) meals and cleaning services; and

(c) furnishings, furniture and equipment for the provision of that care and accommodation;

residential aged care facility means a facility at which residential aged care is provided, whether or not the care is provided by an entity that is an approved provider under the *Aged Care Quality and Safety Commission Act 2018* of the Commonwealth;

residential facility does not include—

(a) a private home; or

(b) a hospital or psychiatric facility; or

(c) a facility that primarily provides care to people who are not frail and aged.

13B—Meaning of permanent residents of certain facilities

(1) A person is a *permanent resident* at a facility if the facility is the person's settled and usual place of abode where the person regularly or customarily lives.

(2) A person is a *permanent resident* at a facility that is a residential aged care facility if the person has security of tenure at the facility under the *Aged Care Act 1997* of the Commonwealth or on some other basis.

(3) A person is not a permanent resident at a facility if the person resides at the facility temporarily.

Division 2—Information about voluntary assisted dying

13C—Access to information about voluntary assisted dying

(1) This section applies if—

(a) a person is receiving relevant services from a relevant entity at a facility; and

(b) the person asks the entity for information about voluntary assisted dying; and

(c) the entity does not provide at the facility, to persons to whom relevant services are provided, the information that has been requested.

(2) The relevant entity and any other entity that owns or occupies the facility—

(a) must not hinder the person's access at the facility to information about voluntary assisted dying; and

(b) must, on request, allow reasonable access to the person at the facility by a registered health practitioner or other person to enable the registered health practitioner or other person to personally provide the requested information about voluntary assisted dying to the person.

Division 3—Request and assessment process

13D—Application of Division

This Division applies if a person is receiving relevant services from a relevant entity at a facility.

13E—First requests and final requests

(1) This section applies if—

(a) the person or the person's agent advises the relevant entity that the person wishes to make a first request or final request (each a *relevant request*); and

(b) the entity does not provide, to persons to whom relevant services are provided at the facility, access to the request and assessment process at the facility.

(2) The relevant entity and any other entity that owns or occupies the facility must allow reasonable access to the person at the facility by a medical practitioner—

(a) whose presence is requested by the person; and

(b) who—

(i) for a first request—is eligible to act as a coordinating medical practitioner; or

(ii) for a final request—is the coordinating medical practitioner for the person.

(3) If the requested medical practitioner is not available to attend, the relevant entity must take reasonable steps to facilitate the transfer of the person to and from a place where the person's relevant request may be made to—

(a) the requested medical practitioner; or

(b) another medical practitioner who is eligible and willing to act as a coordinating medical practitioner.

13F—First assessments

(1) This section applies if—

(a) the person has made a first request; and

(b) the person or the person's agent advises the relevant entity that the person wishes to undergo a first assessment; and

(c) the entity does not provide, to persons to whom relevant services are provided at the facility, access to the request and assessment process at the facility.

(2) If the person is a permanent resident at the facility—

(a) the relevant entity and any other entity that owns or occupies the facility must allow reasonable access to the person at the facility by a relevant practitioner for the person to assess the person; and

(b) if a relevant practitioner is not available to attend—the relevant entity must take reasonable steps to facilitate the transfer of the person to and from a place where the person's assessment may be carried out by—

(i) the relevant practitioner; or

(ii) another medical practitioner who is eligible and willing to act as a relevant practitioner.

(3) If the person is not a permanent resident at the facility—

(a) the relevant entity must take reasonable steps to facilitate the transfer of the person to and from a place where the person's first assessment may be carried out by a relevant practitioner for the person; or

(b) if, in the opinion of the deciding practitioner, transfer of the person as described in paragraph (a) would not be reasonable in the circumstances, the entity and any other entity that owns or occupies the facility must allow reasonable access to the person at the facility by a relevant practitioner for the person.

(4) In making a decision referred to in subsection (3)(b), the deciding practitioner must have regard to the following:

(a) whether the transfer would be likely to cause serious harm to the person;

(b) whether the transfer would be likely to adversely affect the person's access to voluntary assisted dying;

(c) whether the transfer would cause undue delay and prolonged suffering in accessing voluntary assisted dying;

(d) whether the place to which the person is proposed to be transferred is available to receive the person;

(e) whether the person would incur financial loss or costs because of the transfer.

(5) In this section—

relevant practitioner for a person, means—

(a) the coordinating medical practitioner for the person; or

(b) a registered health practitioner to whom the coordinating medical practitioner for the person has referred a matter under section 22.

13G—Consulting assessments

(1) This section applies if—

(a) the person has undergone a first assessment; and

(b) the person or the person's agent advises the relevant entity that the person wishes to undergo a consulting assessment; and

(c) the entity does not provide, to persons to whom relevant services are provided at the facility, access to the request and assessment process at the facility.

(2) If the person is a permanent resident at the facility—

(a) the relevant entity and any other entity that owns or occupies the facility must allow reasonable access to the person at the facility by a relevant practitioner for the person to assess the person; and

(b) if a relevant practitioner is not available to attend—the relevant entity must take reasonable steps to facilitate the transfer of the person to and from a place where the person's assessment may be carried out by—

(i) the relevant practitioner; or

(ii) another medical practitioner who is eligible and willing to act as a relevant practitioner.

(3) If the person is not a permanent resident at the facility—

(a) the relevant entity must take reasonable steps to facilitate the transfer of the person to and from a place where the person's assessment may be carried out by a relevant practitioner for the person; or

(b) if, in the opinion of the deciding practitioner, transfer of the person as described in paragraph (a) would not be reasonable in the circumstances, the entity and any other entity that owns or occupies the facility must allow reasonable access to the person at the facility by a relevant practitioner for the person.

(4) In making a decision referred to in subsection (3)(b), the deciding practitioner must have regard to the following:

(a) whether the transfer would be likely to cause serious harm to the person;

(b) whether the transfer would be likely to adversely affect the person's access to voluntary assisted dying;

(c) whether the transfer would cause undue delay and prolonged suffering in accessing voluntary assisted dying;

(d) whether the place to which the person is proposed to be transferred is available to receive the person;

(e) whether the person would incur financial loss or costs because of the transfer.

(5) In this section—

relevant practitioner for a person, means—

(a) the consulting medical practitioner for the person; or

(b) a registered health practitioner to whom the consulting medical practitioner for the person has referred a matter under section 31.

13H—Written declarations

(1) This section applies if—

(a) the person has been assessed as eligible for access to voluntary assisted dying; and

(b) the person or the person's agent advises the relevant entity that the person wishes to make a written declaration ; and

(c) the entity does not provide, to persons to whom relevant services are provided at the facility, access to the request and assessment process at the facility.

(2) If the person is a permanent resident at the facility—

(a) the relevant entity and any other entity that owns or occupies the facility must allow reasonable access to the person at the facility by the coordinating medical practitioner for the person and any other person lawfully participating in the person's request for access to voluntary assisted dying to enable the person to make a written declaration; and

(b) if the coordinating medical practitioner is not available to attend—the relevant entity must take reasonable steps to facilitate the transfer of the person to and from a place where the person may make a written declaration.

(3) If the person is not a permanent resident at the facility—

(a) the relevant entity must take reasonable steps to facilitate the transfer of the person to and from a place where the person may make a written declaration; or

(b) if, in the opinion of the deciding practitioner, transfer of the person as described in paragraph (a) would not be reasonable in the circumstances, the entity and any other entity that owns or occupies the facility must allow reasonable access

to the person at the facility by a relevant practitioner for the person and any other person lawfully participating in the person's request for access to voluntary assisted dying.

(4) In making a decision referred to in subsection (3)(b), the deciding practitioner must have regard to the following:

(a) whether the transfer would be likely to cause serious harm to the person;

(b) whether the transfer would be likely to adversely affect the person's access to voluntary assisted dying;

(c) whether the transfer would cause undue delay and prolonged suffering in accessing voluntary assisted dying;

(d) whether the place to which the person is proposed to be transferred is available to receive the person;

(e) whether the person would incur financial loss or costs because of the transfer.

(5) In this section—

relevant practitioner for a person, means—

(a) the coordinating medical practitioner for the person; or

(b) a registered health practitioner to whom the coordinating medical practitioner for the person has referred a matter under section 31.

13I—Application for voluntary assisted dying permit

(1) This section applies if—

(a) the person has made a final request; and

(b) the person or the person's agent advises the relevant entity that the person wishes to make an application for a voluntary assisted dying permit; and

(c) the entity does not provide, to persons to whom relevant services are provided at the facility, access to a person's coordinating medical practitioner to enable such an application to be made.

(2) If the person is a permanent resident at the facility—

(a) the relevant entity and any other entity that owns or occupies the facility must allow reasonable access to the person at the facility by the coordinating medical practitioner for the person to consult with and assess the person in relation to the application; and

(b) if the coordinating medical practitioner is not available to attend—the relevant entity must take reasonable steps to facilitate the transfer of the person to and from a place where consultation and assessment of the person can occur in relation to the application in consultation with, and on the advice of—

(i) the coordinating medical practitioner; or

(ii) another medical practitioner who is eligible and willing to act as the coordinating medical practitioner for the person.

(3) If the person is not a permanent resident at the facility—

(a) the relevant entity must take reasonable steps to facilitate the transfer of the person to and from a place where the coordinating medical practitioner for the person can consult with and assess the person in relation to the application; or

(b) if, in the opinion of the deciding practitioner, transfer of the person as described in paragraph (a) would not be reasonable in the circumstances—the relevant entity and any other entity that owns or occupies the facility must allow reasonable access to the person at the facility by the coordinating medical practitioner for the person to consult with and assess the person in relation to the application.

(4) In making a decision referred to in subsection (3)(b), the deciding practitioner must have regard to the following—

(a) whether the transfer would be likely to cause serious harm to the person;

(b) whether the transfer would be likely to adversely affect the person's access to voluntary assisted dying;

(c) whether the transfer would cause undue delay and prolonged suffering in accessing voluntary assisted dying;

(d) whether the place to which the person is proposed to be transferred is available to receive the person;

(e) whether the person would incur financial loss or costs because of the transfer.

Division 4—Accessing voluntary assisted dying and death

13J—Administration of voluntary assisted dying substance

(1) This section applies if—

(a) an application for a voluntary assisted dying permit has been made in respect of the person and a permit issued; and

(b) the person or the person's agent advises the relevant entity that the person wishes to self administer a voluntary assisted dying substance or have the coordinating medical practitioner for the person administer a voluntary assisted dying substance to the person; and

(c) the relevant entity does not provide, to persons to whom relevant services are provided at the facility, access to the administration of a voluntary assisted dying substance at the facility.

(2) If the person is a permanent resident at the facility, the relevant entity and any other entity that owns or occupies the facility must—

(a) if a practitioner administration permit is issued in respect of the person—allow reasonable access to the person at the facility by the coordinating medical practitioner and any other person lawfully participating in the person's request for access to voluntary assisted dying for the person to make an administration request and for the coordinating medical practitioner to administer a voluntary assisted dying substance to the person; or

(b) if a self administration permit is issued in respect of the person—

(i) allow reasonable access to the person at the facility by a person lawfully delivering a voluntary assisted dying substance to the person, and any other person lawfully participating in the person's request for access to voluntary assisted dying; and

(ii) not otherwise hinder access by the person to a voluntary assisted dying substance.

(3) If the person is not a permanent resident at the facility—

(a) the relevant entity must take reasonable steps to facilitate the transfer of the person to a place where the person may be administered or may self administer a voluntary assisted dying substance; or

(b) if, in the opinion of the deciding practitioner, transfer of the person as described in paragraph (a) would not be reasonable in the circumstances, subsection (2) applies in relation to the person as if the person were a permanent resident at the facility.

(4) In making the decision under subsection (3)(b), the deciding practitioner must have regard to the following—

(a) whether the transfer would be likely to cause serious harm to the person;

(b) whether the transfer would be likely to adversely affect the person's access to voluntary assisted dying;

(c) whether the transfer would cause undue delay and prolonged suffering in accessing voluntary assisted dying;

(d) whether the place to which the person is proposed to be transferred is available to receive the person;

(e) whether the person would incur financial loss or costs because of the transfer.

Division 5—Information about non-availability of voluntary assisted dying at certain facilities

13K—Relevant entities to inform public of non-availability of voluntary assisted dying at facility

(1) This section applies to a relevant entity that does not provide, at a facility at which the entity provides relevant services, services associated with voluntary assisted dying (including, without limiting this subsection, access to the request and assessment process or access to the administration of a voluntary assisted dying substance).

(2) The relevant entity must publish information about the fact the entity does not provide any services, or services of a specified kind, associated with voluntary assisted dying at the facility.

(3) The relevant entity must publish the information in a way in which it is likely that persons who receive the services of the entity at the facility, or may in future receive the services of the entity at the facility, become aware of the information.

I will not speak for long. Some of what is in this has been canvassed in the discussion about the previous amendment. The point of this is to recognise two realities: first, that there will be facilities under the Aged Care Act that represent the home of people that are run by organisations that are reluctant to be involved, or actively do not wish to be involved in the provision of any stage of voluntary assisted dying, and that those institutions represent the permanent home of the people living there. They are under the Aged Care Act, which has its own protections, and they have the right to choose their own doctors. They are often funded by the person and funded by the public purse through the commonwealth government, largely.

Under the Aged Care Act, not only do people have some security of tenure, because it is their own home, but they also cannot be discriminated against. In trying to balance those realities, this rather complex amendment with its series of clauses is being proposed, to go through each of the stages of the voluntary assisted dying process and to illustrate what accommodations can be made for those people. I will allow questions to guide how much detail we need to go into.

The CHAIR: I did indicate that we would go through clause by clause. Member for Davenport, do you have a question on new clause 13A or something more general?

Mr MURRAY: I have something more general. I am happy to hang this point off new clause 13A or, indeed, any part of clause 13 that takes your fancy or makes life easiest, Chair. I just simply want to make the point that, by way of follow-on from the remarks I made at the start of this committee, I will be wholly, fulsomely and completely supporting the amendments as moved. We have covered some of the potential theoretical deficiencies therein but I just want to make it clear that the amendments we have before us will be supported in their entirety by me as part of my pre-existing commitment to the member for Port Adelaide. I am happy to commend them, including new clause 13A, on that basis.

The Hon. A. KOUTSANTONIS: I have heard many people discuss VAD, in its passing around relevant state parliaments, and the 'Australian model' of VAD. My memory does not serve me very well tonight, but I imagine that these series of amendments are unique to the South Australian legislation rather than to the other interstate pieces of legislation.

Can the deputy leader explain to the house (1) why we are departing from the so-called Australian model and (2) how is the act in Victoria deficient by not having these clauses? I suppose, on top of that, is there anyone in Victoria who wishes to access or conscientiously object—I am just trying to get my ahead around what the problem you are solving here is because, if you are silent on it, the rest of the act applies.

Dr CLOSE: Yes, there is a great desire to have a consistent Australian model. The three states that have the legislation are silent on the capacity for an institution to not wish to engage in voluntary assisted dying. The only jurisdiction where that is being played out is Victoria because it is the only one where the process is now occurring.

The reality is that silence leaves some people uncertain at their most vulnerable time because they are in a location that is their home and that is owned by an institution that does not believe that voluntary assisted dying is appropriate. What has happened in Victoria is that people have found it difficult to have access to doctors. One gentleman in particular who lived in a centre developed metastatic bowel cancer some two years or so after going to the centre and making that his home. As I understand it, that is a very painful terminal illness. He wished to avail himself of voluntary assisted dying and had chosen to tell the facility about the pharmacist coming to deliver

the substance, in part out of care for the staff as they ought to know this was going to happen and that he would be dead.

The facility decided that they would forward that request to the ethics committee, which took nine days to come back and say that they did not want to allow the pharmacist to go. That is nine very long days for a person in those circumstances, having received the permit, to wait to find out. A transfer was facilitated for this gentlemen to go to a public facility, but he was also told at that time that he was not to tell anyone he was living with, who were fellow residents, why he was leaving. He just had to go and die.

That is an example of a less than satisfactory way to manage the awkwardness between these two realities—that this is his home and it is owned by an organisation that does not wish to participate in voluntary assisted dying. The silence is dealt with in part in Victoria through government policy and that is a way of doing it. It requires consultation and discussion with the organisations and may or may not come up with policy that would have dealt better with that gentleman's circumstances.

As a result, in Queensland a study has been done by a couple of academics on what might be a better model and what sits here comes out of the proposition that is going to be considered in the Queensland parliament. While it is a departure from the Australian model, it is filling a gap that has been deliberately, perhaps, left in Victoria. It is attempting to stay with the next state that will be considering this and no doubt that state will look at these combined amendments, should they go through, and consider whether that is a model they want to adopt or whether they want to maintain the current draft version, which includes mine but is different on the subject of hospitals.

We are slowly evolving this Australian model. As much as possible, we should keep consistency; however, when we see a gap that could be filled by something better, we should also consider that and consider it particularly in the context of the next jurisdiction that is considering exactly this way of dealing with it. I hope that answers your question. If not, ask again.

The Hon. A. KOUTSANTONIS: The compulsion on these institutions that conscientiously object is simply to allow the access of a practitioner. In practice, it is your intent to allow an organisation that conscientiously objects to say, 'We and our staff will not facilitate this procedure, but we will allow people to enter our facilities to make this procedure available to someone who is staying or residing or has property within our institution.' I understand that there is a form of compulsion about assisting in new clause 13J, where there was an act of compulsion on the organisation to assist. Could you explain to the committee how that compulsion would work on an organisation that conscientiously objects?

Dr CLOSE: Which compulsion are you referring to? Can you point to it?

The CHAIR: We are just clarifying it.

The Hon. A. KOUTSANTONIS: The organisation must coordinate a medical practitioner.

Dr CLOSE: It must facilitate the transfer.

The Hon. A. KOUTSANTONIS: Yes.

Dr CLOSE: This recognises that a person in their own home has a right to have access to something that is lawful. It creates a pathway whereby, ideally, that is able to be provided to them in their own home by the organisation not engaging with who is coming in and out. To remind you, of course, no medical practitioner involved is doing so under compulsion.

So the medical practitioners have an absolute individual right to conscientiously object. But it does provide provision if it is not possible for a practitioner to come in and see the person, possibly because of the nature of the illness, and the equipment that might be needed to assess might not be on hand, that the organisation must at least facilitate them going off and having that assessment and coming back, ordering an ambulance and ensuring that that works.

There is a degree of engagement in that sense, but it is not an engagement that relates to any of the stages of a voluntary assisted dying process first assessment, first consultation, second consultation, the final assessment, the issuing of the permit—none of those stages that are stepped out in this legislation are undertaken. It is simply a matter of transferring someone who gets to choose their own doctor, because they are living in their own home, facilitating them being able to move from one place to the other.

The Hon. A. KOUTSANTONIS: So the only compulsion that the member is imposing on these organisations is allowing people, in effect, to choose their own treating doctor and to make their own decision. There is no ability for an organisation not to authorise the entry of a facilitating doctor into their premise to talk about VAD. The only compulsion is allowing residents to access the facilities. Can VAD be administered at those facilities?

Dr CLOSE: Yes, it can. The majority of people who die having access to voluntary assisted dying do so in their own homes often, usually surrounded by their loved ones, and there is no reason for that to differ depending on where their home is. The expectation would be that the pharmacist would be able to deliver the locked box in the case of self-administered, and there would be permission for a physician who is administering to be able to be allowed to go into that person's home.

New clauses inserted.

Clause 14.

The CHAIR: At clause 14 we have an amendment standing in the name of the member for Davenport—

The Hon. A. PICCOLO: Mr Chairman, while we are waiting can I ask a question on the existing clause 14?

The CHAIR: Yes, I am happy to do that.

The Hon. A. PICCOLO: My question is to the member for Port Adelaide—I assume I am at the right place, 14, criteria for access. Under part A it says the person must be aged 18 years or more, and then there is a whole range of other criteria, to access the VAD scheme. That is my understanding. My question through the Chair to the member for Port Adelaide is that in section 6 of the Consent to Medical Treatment and Palliative Care Act 1995 it states:

> Legal competence to consent to medical treatment
>
> A person of or over 16 years of age may make decisions about his or her own medical treatment as validly and effectively as an adult.

The question is: why do we have a difference of two years in the two acts?

Dr CLOSE: I am just seeking some assistance to further inform, but the bottom line is that there is a view that there should be a higher degree of competence and maturity and understanding of the consequence of decisions when we are talking about ending a life. Therefore, there is a strong view—not a pragmatic but a strong view—by advocates and by legislators in the Legislative Council and myself here that it is only reasonable to think of a person over the age of 18 as having that degree of capacity and maturity to make such an important and unalterable decision.

There was an excellent ministerial advisory panel, which I believe my adviser was on as well, that considered this matter and talked about how important it is that voluntary assisted dying be consistent with other legislation that recognises essentially that adult decision-making comes at the age of 18 and that there was no interest or appetite or recognition of any kind of merit in according any younger age with that degree of requirement to be mature and capable and to understand fully the consequences of decisions.

Mr MURRAY: I move:

Amendment No 4 [Murray–2]—

> Page 15, after line 36 [clause 14(1)]—Insert:
>
> and
>
> (e) the person must be acting freely and without coercion.

The amendment very simply adds an additional criterion for access to voluntary assisted dying. Clause 14 sets out a total of four broad-ranging criteria that help inform whether or not a patient seeking to access voluntary assisted dying should in fact do so. It ranges from the quite binary—whether or not they are 18 years of age or more, whether they are an Australian citizen ordinarily

resident in South Australia—through to a variety of diagnoses insofar as the illness that they are suffering from.

Amendment No. 4 is very closely related to amendment No. 2, with which we as a chamber had no real issues. Amendment No. 2 sought to point out the fact that, as a general principle, a lack of coercion is, as a bare minimum, a desirable feature of this legislation. I reiterate that it is desirable that there is a lack of coercion. This amendment very simply enshrines as a further prerequisite that the person seeking to access VAD must be acting freely and without coercion. That is, in many respects, a subjective test. I am happy to concede that point.

Part of the reason for the construction we see of the bill, the process, the Australian model, is to have experts make assessment according to a set of criteria and to do so on our behalf as a community and, more particularly, with us here this evening on our behalf as legislators. I am seeking to enshrine the necessity for a lack of coercion to be a prerequisite.

More particularly, there is no intention to charge someone with conducting any particular test. It is simply a requirement that, where the medical practitioner is of the view that some form of coercion exists, that is a criteria insofar as determining whether the person should or should not move to the next stage. I reiterate that coercion is, certainly from my view, an undesirable attribute for a prospect of voluntary assisted dying.

The current bill before us does seek to provide some safeguards by way of written declaration, etc. However, I would make the point that, rather than the person self-attesting to a lack of coercion, I do not think it is unreasonable to expect the experts we have working for us in this case to make an assessment and to act according to their perception of whether or not coercion exists. Coercion is by its very definition often subtle, covert, manipulative and not always particularly apparent.

I would leave the chamber with the point that we have just had a royal commission into aged care and safety. That royal commission took a sample, derived from 67 aged-care facilities around the country, and found that the prevalence estimate for neglect for those residents was just over 30 per cent. The prevalence estimate for emotional and psychological abuse was 22.6 per cent (one in four people) and the prevalence estimate for physical abuse was 5 per cent (one in 20 people). The reality is that we are implementing this process in an environment where those statistics should be concerning.

I would make the very strong point, for what it is worth, that it is not unreasonable for a reasonable person—the pub test, if you will—to seek to have some indication or evidence of coercion that is apparent to the experts we are charging with delivering this. I believe a reasonable person would have no hesitation, if the expert believes there is coercion, in saying that that should be a factor in whether or not the person starts the journey to the endpoint of voluntary assisted dying. It is for that reason that I have sought to add that as a criterion.

As I said, there is no complicated test, etc. It is simply that if, in the view of the medical practitioner, there is coercion then that should be a very deliberate consideration as one of the criteria for accessing voluntary assisted dying. On that basis, I commend the amendment to the house.

Dr CLOSE: I indicate that I will be voting against it on the basis of its being superfluous.

Mr PICTON: This is probably not formally allowed, but I wonder if I can direct a question to the member for Port Adelaide. If I have to, then I formally direct it to the member for Davenport, who is moving the amendment. Are there other provisions in the bill, and in the act in Victoria and in other states, that would prevent people being coerced into this provision? Are there other protections and safeguards that do make what is being proposed here superfluous?

Dr CLOSE: First of all, we have already moved an amendment that has included coercion, from a previous motion, so that each person has the right to make decisions about medical treatment options freely and not as a consequence of the suggestion, the pressure, the coercion or the undue influence of others. More importantly, as the legislation exists already, the process the two doctors go through, particularly with the focus on ensuring the enduring will of the person is being expressed, is a guard against a coercive circumstance for the person who is seeking voluntary assisted dying.

So each of those people, including not just the coordinating medical practitioner and the consulting medical practitioner but also the pharmacist who brings the locked box, are required to

ask the person if this is what they want to do. They are required to form a view that that is indeed what the person wants to do.

If at any point there was a suspicion or concern that that was not what the person wanted to do, because it is voluntary assisted dying, the entire process is built around that being a reason to make that person ineligible. There is no need to add that as an additional separate criterion. It is built into the way the process is designed.

Indeed, as I mentioned earlier in the evening, Justice Betty King, the presiding officer for the Victorian review board, said that they looked for any examples where that might have happened and could not find any. They were not just wondering what issues would be raised with them; they wondered if that was a problem and went and hunted for it, but could not find anything. In fact, the stories she heard were more often of adult children of people seeking voluntary assisted dying trying to persuade them not to. That was more common. So the way it is constructed appears to be very much based on avoidance of coercion.

If you look at clause 26(1), and the outcome of the first assessment, it provides that the coordinating medical practitioner must assess the person as eligible for access to voluntary assisted dying if the coordinating medical practitioner is satisfied that eligibility criteria are met, the person understands the information, and the person is acting voluntarily and without coercion.

Mr MURRAY: I will take the opportunity to add to the very learned contribution of the member for Port Adelaide in answer to the member for Kaurna's question. Prior to this chamber passing my amendment No. 2 this evening, whereby a lack of coercion as a general principle is a desirable thing, I am not aware of any other act that covers VAD that specifically proscribes coercion, that mentions it at all.

I grant that it is possible to perceive a situation whereby some of the other controls in place could help address a situation where coercion exists. I make two points in that regard. The first is: what are we to lose if we ask people who are our agents, who are experts in this field, who, in the course of making an assessment of a person, form the view that coercion exists? I do not believe it is onerous to ask them if, in their view, that is the case. We are not asking them to conduct any tests, we are just asking them if they believe coercion exists. That, in our view, is an undesirable element insofar as the assessment process is concerned.

Regarding the member for Kaurna's question, no other jurisdiction specifically addresses that. In many cases it is perceived as an issue as a consequence. For what it is worth—and it is a little perverse—coercion can work both ways in this case. It is entirely possible to have someone seeking to access VAD who has been coerced not to.

The prescription here is a very simple one. We are comfortable with enshrining the notion of a lack of coercion as a desirable trait in the legislation. We have done that this evening. This seeks to give the evidence of that as a means whereby the medical practitioner in question can factor that into their decision as to whether or not that person should be accessing VAD.

As I said, the reasonable man in the street, the reasonable person, I would respectfully submit to the chamber, will have no problem with that. If someone is being coerced into VAD, whether that is real or perceived coercion, I do not think it is necessarily a bad thing for us to equip the people who are going to be dealing with this, if they believe there is coercion, with the capacity to have that form part of their determination. If they deem it necessary to disqualify the person because they believe the coercion exists—and presumably the coercion is to have someone amenable to accessing VAD—they can in fact refuse to provide that permission because that is one of the criteria that we have asked them to assess on our behalf.

The CHAIR: I am going to go to the member for Light because he was looking to get the call previously.

The Hon. A. PICCOLO: Thank you, Mr Chair. Again, I am not sure if I am allowed to ask this question but, if I am permitted, I would like to ask the member for Port Adelaide what harm, if any, does the member see in this amendment?

Dr CLOSE: I appreciate the opportunity to speak. The problem with the amendment is that it is putting into the criteria for access to voluntary assisted dying not being coerced, which is not a criteria for access to voluntary assisted dying in itself, so it is not in the right place in the legislation.

Where it belongs is where it is, in clauses 26(1)(c), 35(1)(c), 40(2)(a)(i) and 42(1)(a)(i), that is, at each point when the medical practitioners are assessing whether the person is able to proceed to the next stage. The question they must turn their mind to is whether this is a decision being made freely and free of coercion.

I gave the example in answer to the previous question of clause 26(1)(c), which is in the outcome of first assessment, 'the person is acting voluntarily and without coercion'. In clause 35(1)(c) we come to the outcome of the consulting assessment. So the first assessment has occurred and there is now a consulting medical practitioner. In clause 35(1)(c) 'the person is acting voluntarily and without coercion'. Clause 40(2) is when a person is reaching the end of the process and is signing a written declaration:

(2) The written declaration must—

(a) specify that the person—

(i) makes the declaration voluntarily and without coercion;

As we can see under clause 26—Outcome of first assessment:

(2) If the coordinating medical practitioner is not satisfied as to any matter in subsection (1)—

one of which is that the person is acting voluntarily and without coercion, 'then the request and assessment process ends.' Freedom from coercion is in all the places it needs to be in order to make sure, as I said in answer to the previous question, that this is indeed voluntary assisted dying. Not only is it throughout the legislation but it also has been tested by the Victorian board in practice and not found to be an issue.

So to include coercion in a section which is about eligibility, I think, is misplaced. The reason I expressed that it was superfluous is that the member has already been successful in having it placed early on in the principles and therefore the point has been made very clearly, I would have thought from the member's perspective, that coercion is important and then it is already in the bill in every single point throughout, and is a reason that an assessment may be terminated if the medical practitioner does not believe the person is acting in a way that is free of coercion.

Mr MURRAY: If I can add to the answer provided, or at least address some of the points made. Yes we have enshrined as a general principle the undesirability of coercion—no-one is arguing with that. I submit that, if we do not act upon that desire, we do not give the people who will represent us in this process—the consulting medical practitioner, the coordinating medical practitioners—the right, if they believe it is necessary, to use the evidence of coercion as a criterion. We are talking about clause 14 which, notwithstanding the fact that the headings have no bearing, is for a reason described as 'criteria for access to voluntary assisted dying'. I make the point, in pointing that out, that clause 14(1)(c) talks about the fact that the person must have decision-making capacity.

We have talked at some length this evening about the desirability of having decision-making capacity. The bill before us, with which I have no problem, enshrines in this same clause I am seeking to amend that it is desirable, in fact mandatory, for decision-making capacity and an assessment of that by the medical practitioners to be a criterion as to whether or not someone can access it. I would submit that it is therefore the perfect place for us to also insert the fact that there must be an absence of coercion, and I would further submit that, if we do not insert this as a prerequisite, as a criterion, we are condemning our previous interest in or desire to have the lack of coercion enshrined as a principle. We are condemning it to be nothing more than what I term a motherhood statement. We are either fair dinkum about this or we are not.

I fully accept that it is possible that someone who is the subject of coercion may in fact, as a consequence of that perception of coercion, be excluded on the basis of some other clause. What I am seeking to do is very simply make our view that a lack of coercion is important, enshrined as a criterion for access. If decision-making capacity is important, I submit that coercion or lack thereof is just as important, just as desirable, and it is for that reason that I have inserted it.

I make the point, for what is worth, that simply being silent on this is not desirable. If we can save one person from being coerced into VAD as a result of this, then I submit that that is a worthwhile exercise. I reiterate that I am not talking about extra tests; I am talking about us giving the professionals the ability to use their view as to whether or not coercion exists as the basis to exclude someone if they see fit. It is a subjective test.

Mr PICTON: Just to clarify, that certainly has satisfied me, that in relation to the current legislation we already have a number of provisions, being 26(1)(c), where the first coordinating medical practitioner needs to assess that the person is acting voluntarily and without coercion. That is followed up in 35(1)(c), where the second consulting medical practitioner also has to do an assessment and be satisfied that the person is acting voluntarily and without coercion. Following that, in 40, the person has to make a written declaration to that effect. I thank both the member for Davenport and the member for Port Adelaide in terms of their clarification. I certainly am now of the mind that this is probably superfluous, that it is already embedded in the legislation that we have before us.

Amendment carried.

The Hon. A. KOUTSANTONIS: Can I ask the deputy leader how we came at an age of 18?

Dr Close interjecting:

The Hon. A. KOUTSANTONIS: Did you? Sorry, well, I apologise. If you have already informed the house, I will read the *Hansard*. Why are non-citizens excluded and non-permanent citizens excluded if they are suffering from the same eligibility? I understand the residency in South Australia so we do not have people shopping for this, but I imagine there will come a time when this legislation will be uniform around the country and once it is will that requirement for residency in South Australia still be required or is that just simply to stop the VAD shopping, as it were?

I just point out to members that I think this is the clause that we will come back and revisit five, 10, 15 or 20 years from now. For those who are interested—and there probably are not any—my second reading contribution in opposition to this is not so much the access to VAD or people taking up this proposition as the compromise that I see in this bill to get a law passed because the logic does not make any sense. If you are 17 and you are feeling the same pain and are eligible under every other criteria other than age, why can you not have access to this? And the big question for us as a community, once we have passed this threshold, is dementia.

This is the clause that I would like some clarity on. It is a bit unfair on the member for Port Adelaide because this is now the Australian standard, the Australian model, I imagine. So why 18, and why are we excluding people who may be refugees who arrive here who are diagnosed with these types of illnesses and are eligible but cannot access it? What is the reasoning behind an exclusion of those people who are not Australian citizens?

Dr CLOSE: If I just briefly canvass again the age of 18—and let's be very clear, the legislation is about 18 year olds—the reason is that that is the standard Australian age at which we are expected to act as adults. It is certainly the view of every review that has been conducted that under the age of 18 the capacity to have the maturity to understand the consequences of decisions is not sufficiently well realised, and therefore 18 is the absolute minimum age.

In asking about the residency, that is a somewhat more complex issue because the member points out that there are challenges, particularly as our federal government has chosen to delay the time between when one can become a permanent resident and when one can become a citizen. It used to be a source of pride in our country that we facilitated that very quickly and I think it was one of the great bases of our multicultural society that there was a sense of belonging that was encouraged very quickly and early—but I digress. So I appreciate the reason for the asking.

A simple answer I could give now is national consistency. If that is in the other pieces of legislation, let's maintain it. I suspect there may have been initially in the contemplation the desire not to encourage people to move to somewhere to a jurisdiction in order to have access, so having got an illness that meant that this was the likely trajectory that people leave states that do not have voluntary assisted dying and arrive in Victoria.

It is one area that I think the Hon. Stephen Wade, the health minister, has contemplated. Should there be voluntary assisted dying of the same or similar nature across the country, then there may be a different view about being able to go from one jurisdiction to another. But there is simply a decision that was taken that we are matching, I think is the best answer I can give for this piece of legislation.

The Hon. A. KOUTSANTONIS: I do not wish to debate this like we debated the last clause about coercion, but I will point out that this parliament has contemplated and passed measures to treat minors as adults when they commit criminal offences. So we have already taken that jump that we will assess their judgement as being good enough to know that they will be tried as an adult if they are caught. But that is just a debating point. It is not really relevant here.

The other point I want to make is in clause 14(1)(d) that 'the person must be diagnosed with a disease, illness or medical condition'. I hate doing this, but I am going to ask a hypothetical question. The treating doctor has a different diagnosis from the authorising doctors from VAD. There is nothing in the bill that requires the treating doctor to be the doctor who authorises VAD. The patient can go to any doctor.

If you have cancer and your oncologist says, 'Actually I think it is curable. Actually I think you have more than six months to live,' but you go to another doctor who says, 'Actually my conclusion is that it is incurable and you will die within six months, so you are eligible,' how do we solve this conflict without a reference to the treating doctor, and who is the treating doctor?

I imagine people who are facing these terminal illnesses have a battery of practitioners who assist them, so it is not as clear-cut as there being one person in charge who is making all the decisions. I would imagine that there are a number of clinicians and consultants who assist. At what stage do we say, 'Yes, it is incurable,' and can the treating doctor object and say, 'I disagree with the diagnosis'? I would like some clarity around this.

I had this conversation earlier with the shadow minister for health. Like other matters here, I do not understand why there is no reference to a treating doctor when it comes to this measure. Could the member explain why we do not make reference to the treating doctor as well?

Dr CLOSE: The hypothetical is that a person is ill, has a treating doctor, the treating doctor says, 'You can live 18 months to two years,' and the person decides not to accept that and to seek another opinion—in fact, two other opinions that both agree that the illness is more terminal than that, but that the person is acting of their free will. They are not being coerced. They are capable of making the voluntary and sustained request for the application of the voluntary assisted dying process despite having a treating doctor who says you will live longer.

That is an unusual hypothetical to sustain. But what it comes to at the heart is that a person has a right to obtain medical opinion and this legislation protects to the extent that there must be two who agree to that and not only agree to how long that person has to live but also that the person is acting voluntarily without coercion and has the capacity to make those requests. There is also the requirement for the practitioner to refer to specialist opinion if they feel that they are not able to determine completely. So it may well be more than two that are brought into place.

That is both for the decision-making capacity but also for whether the disease, illness or condition meets the eligibility criteria. So for example, if you look at page 18, division 3—First assessment, clause 24 has the stepping out process for obtaining specialist opinion. So in your hypothetical you would expect not only that someone would actively seek two doctors who will certify that the person will live less time than their treating doctor will certify but also that those two doctors will be so confident that their view is different—shorter—to the treating doctor that they do not feel the need to seek specialist advice.

I think that that hypothetical is not sufficiently coherent to require a change to legislation which has been carefully thought out and has been in practice for some time and where the board of review in Victoria has not seen any anomalies or abuse of the type you are suggesting.

Mr PICTON: Can I just add a couple of thoughts in relation to that matter, which is certainly something that has been raised by members in debate around the country and last time we debated this as well. I think there are a couple of issues to raise. One is that I think very clearly a lot of people who will be in this situation would not just have one doctor who is their treating doctor but would have

a variety of different doctors who would be helping that person for a variety of different, specialised tasks.

I think the other aspect that becomes tricky is that I think we have all agreed that there is a very important role for conscientious objection—that doctors do not have to be involved in this process whatsoever—and if we are putting in the legislation that it is reliant upon that doctor who is treating you for your terminal illness to be involved in this process, then that is contradictory with that conscientious objection for that medical practitioner not being involved in that process.

This becomes a bit of a trap for that person, because they might have the best cancer doctor in the world, who might be totally opposed to VAD and want nothing to do with it. So we have then created a bit of a trap for that person, in that they cannot access what parliament is looking to engage as their rights because of their choice of their particular doctor.

The Hon. A. KOUTSANTONIS: I accept what the two members are saying, that they want to make sure that people are entitled to get a different medical opinion, because it is their choice to do so, and if that medical opinion differs, they are entitled to choose which one they like. I accept that, but I also point out the legislation currently allows someone to ignore the advice of their specialists and take the advice of two general practitioners. But, again, just debating points.

On page 16, in clauses 14(2) and 14(3), again, a hypothetical, which probably is unfair on the member: if someone has qualified for the first and second application for VAD and is found eligible but is subsequently diagnosed with a mental illness, does that then supersede the two approvals? Clause 14(3) provides:

> A person is not eligible for access to voluntary assisted dying only because the person has a disability within the meaning of the Disability Inclusion Act 2018.

Does that mean that a disability could preclude someone who would normally qualify for VAD simply because they are defined as having a disability under the act?

Dr CLOSE: Just to be helpful to the member, over the page there, in clause 14(2) and 14(3), what the bill is saying is that you are not eligible only because you have a mental illness. So you are not eligible for access only because you have a mental illness; you are not eligible for access only because you have a disability.

It is perfectly possible for someone to have a terminal illness and then get a mental illness, to experience a period of mental illness. That will affect the course of what had previously been a process that was going down only if that person as a result of the mental illness is then unable to maintain capacity to make a clear and sustained and enduring desire to have voluntary assisted dying or for some reason be in a position of being coerced through the experience of the mental illness.

It is not impossible to access voluntary assisted dying if you have a mental illness, as long as that mental illness does not interrupt all of the other eligibility criteria. What is impossible is that just because you have a mental illness you have access. You must have a terminal illness. You must be diagnosed by at least two doctors, one of whom must have expertise, just to pick up an earlier debating point that was made, in the illness that you are dying from. You must be within six months, or 12 months for neurodegenerative disease, you must have an enduring desire, you must have the capacity to express that, and you must be suffering in a way that cannot be relieved in a manner that is tolerable to you. All those criteria at no point go away, whether or not you have an episode of mental illness.

Clause as amended passed.

The CHAIR: We come to clause 15. Before I do that, I might just go to the member for Davenport. You have amendments Nos 5 and 6 standing in your name, which by my reading are consequential to your first amendment, which did not get up, so I look for your agreement that you will not be putting those when the time comes.

Mr MURRAY: Never let it be said, Chair, that I am not agreeable. I am more than happy to concur with your assessment, that as a consequence of the failure of amendment No. 1 my amendments Nos 5 and 6 have, by their very definition, also failed, and I will not put them. They are

consequential, and as a consequence of them being consequential to the first amendment, which failed, there is no point in my putting them.

The CHAIR: Thank you. I think what that meant was that you will not be moving them. They are a little further on, but that is okay. In that case, we do not have any amendments now until clause 107, where we are looking to insert a new clause after that. That said, I am cognisant of the importance of this bill and the importance of each and every clause, so you will need to bear with me while we work our way through them.

Clause 15 passed.

The Hon. A. PICCOLO: I am just asking whether we could actually take them in blocks of 10, Mr Chair.

The CHAIR: I have considered this, member for Light, and as I said a moment ago, I think this bill is of such significance and each and every one of the clauses seems to be quite involved, so I will give people the opportunity, should they need it.

Clauses 16 to 22 passed.

The CHAIR: Member for Light, I am coming back to your suggestion. We have just passed clause 22, but division 3 would take us to clause 28. Thank you for your counsel, member for Light.

Clauses 23 to 28 passed.

The CHAIR: Division 4 contains clauses 29 to 39 inclusive.

Clauses 29 to 39 passed.

The CHAIR: Division 5 contains clauses 40, 41 and 42.

Clauses 40 to 42 passed.

The CHAIR: Division 6 consists of clauses 43 through to 50, which will then take us to part 4.

Clauses 43 to 50 passed.

Clause 51.

The Hon. A. KOUTSANTONIS: If someone is authorised to receive an assisted dying permit, is there any mandatory reporting requirement to the next of kin?

Dr CLOSE: Can I just check—at the point of authorisation?

The Hon. A. KOUTSANTONIS: Yes.

Dr CLOSE: No.

The Hon. A. KOUTSANTONIS: So if someone with a terminal illness has qualified and been given the permit, there is no mandatory notification of family, next kin, nothing?

Dr CLOSE: No. Through privacy considerations, that would be inappropriate, just as it would to inform next of kin that someone has a terminal illness, for example.

Clause passed.

The CHAIR: Division 1, we have passed clause 51, so I will put clause 52. Are there any questions on clause 52?

Clause 52 passed.

The CHAIR: Division 2 of part 4 contains clauses 53 through to 58. Are there any questions on clauses 53 through to 58?

Clauses 53 to 58 passed.

The CHAIR: Are there any questions on clauses 59, 60 or 61?

Clauses 59 to 61 passed.

The CHAIR: We come to part 5, division 1, which contains clauses 62 through to 68. Are there any questions on those clauses?

Clauses 62 to 68 passed.

The CHAIR: Division 2, page 35, contains clauses 69, 70 and 71. Any questions on clauses 69, 70 and 71?

Clauses 69 to 71 passed.

The CHAIR: I had better ask if there are any questions on clause 72. Are there any questions on clause 72?

Clause 72 passed.

The CHAIR: That brings us to part 6, which contains clauses 73 through to 77 inclusive. Are there any questions on clauses 73 through to 77 inclusive? Is everyone keeping up?

Clauses 73 to 77 passed.

The CHAIR: We come to part 7, division 1, which contains clauses 78 through to 81. Any questions on clauses 78 through to 81 inclusive?

Clauses 78 to 81 passed.

The CHAIR: That brings us to division 2 and clauses 82, 83, 84 and 85. Are there any questions on any of those four clauses?

Clauses 82 to 85 passed.

The CHAIR: Part 8 contains clauses 86 to 94 inclusive.

Clauses 86 to 94 passed.

The CHAIR: This brings us to part 9, division 1, which contains clauses 95 to 103.

Clauses 95 to 103 passed.

The CHAIR: Division 2 contains clauses 104, 105, 106 and 107.

Clauses 104 to 107 passed.

New clause 107A.

The CHAIR: There is an amendment on schedule (5). Amendment No. 7 seeks to insert new clause 107A.

Mr MURRAY: I move:

Amendment No 7 [Murray–2]—

Page 51, after line 18—Insert:

Division 2A—Annual examination of Board's operations etc

107A—Chief Public Health Officer to examine operations of Board

(1) The Board must, on or before 31 August in each year, cause an examination of the operations of the Board during the financial year ending on 30 June of that year to be conducted by the Chief Public Health Officer in accordance with any requirements set out in the regulations.

(2) Without limiting subsection (1), the Chief Public Health Officer must examine each request for voluntary assisted dying received by the Board, and each death of a person after being administered or self administering a voluntary assisted dying substance, during the relevant year to determine the extent to which each such request or death complied, or did not comply, with this Act.

(3) As soon as is reasonably practicable after conducting an examination under subsection (1) (but in any event not later than 30 September in each year), the Chief Public Health Officer must prepare and provide to the Board and to the Minister a report setting out the results of the examination.

(4) This section is in addition to, and does not derogate from, a provision of any other Act or law that requires or authorises the Auditor-General or any other person or body to audit the accounts of the Board.

(5) The Board must, in the annual report of the Board for the relevant financial year prepared under section 106, include—

(a) a copy of the report provided under subsection (3) for the financial year; and

(b) if requested to do so by the Minister, an explanation of the report, or a specified part of the report.

(6) In this section—

Chief Public Health Officer means the Chief Public Health Officer under the *South Australian Public Health Act 2011* and includes a person for the time being acting in that position.

The purpose of this amendment is very clear, and again I suspect in part it may well be conducted by the board. The intention of the amendment is quite simple, and that is to ensure that an audit of all voluntary assisted deaths is performed on our behalf to ensure they are compliant and that at all stages the work we have done here is in fact being followed and that, to the extent there has been no compliance with that, it is in fact audited. The key is for each and every voluntary assisted death to have an audit conducted that will satisfy the test. The test is complete compliance with the bill as passed by this house or the bill as it stands in law.

What has driven that is evidence from overseas jurisdictions and even here in Australia and I will quote, with your forbearance and the forbearance of the house, from the Queensland Law Reform Commission, report No. 79, dated May 2021. This is the legal framework for the voluntary assisted dying report's summary. In particular, I would guide people to page 22 of that report, which talks about compliance in the context of Victoria. Here we are in South Australia reading the report prepared in Queensland that assesses what has been conducted in the first year of the operation of the VAD legislation in Victoria. Under the heading of Compliance, it states:

> The Board analyses forms submitted to it and takes other steps to monitor compliance. Its data show 95 per cent of cases were compliant with the Act. Between July and December 2020, six cases were identified as non-compliant. However, the Board determined that those cases were clinically appropriate, all eligibility requirements were met, and a misunderstanding had occurred that did not raise a concern about the completion of legal requirements.

I will readily concede that the pre-existing clause in the bill or clauses, or the provision for the board, may well result in the board conducting a similar analysis but there is no compulsion for that to happen.

What I am simply asking for is the pre-existing paperwork to be assessed in the case of every voluntary assisted death and that we and our successors here—for those of us who are older than others—are assured of the fact that each of these voluntary assisted deaths was conducted in a fully compliant manner. I make the point, for what it is worth, that a voluntary assisted death that is not compliant is a serious matter, obviously, and it is not something that can be, by its very definition, rectified.

It is something that I think is entirely within our purview and it is entirely reasonable for us to assess whether there are systemic differences, whether there is laziness—whatever the cause, if there is noncompliance we need to be aware of it. The intent of this amendment is to ensure that we are advised, and it is a compulsion to advise us, about whether or not the process for the preceding year is compliant or not.

I make the point, for what it is worth, that there is a variety of steps, checks and balances and definitions insofar as what needs to happen on or before a certain time each year, and the point that those results have to be put before this parliament. The intention is really to give us an opportunity to assure ourselves and the community at large that the steps that we have taken, and negotiated, enshrined and argued are, in fact, being addressed. That is in its totality the rationale behind my amendment.

Dr CLOSE: There are a few problems with this proposition. Essentially this is another layer of bureaucracy that appears to be entirely unnecessary. The kind of work that the member has just described are essentially the functions and powers of the board of review—that is why we have the board of review. It is required to provide reports to parliament on the operation of the act and any recommendation for the improvement of the process of voluntary assisted dying. It is required to promote compliance with the requirements. It is required to refer issues that they identify to appropriate bodies like the police, registrar, chief executive and so on.

I fail to see anything that is not in the functions and powers of the board in clause 101, which we have already passed, that does not do all of the kind of work that the member is seeking to have done. In fact what the member's clause does is add the Chief Public Health Officer—and I do not know why the Chief Public Health Officer because this is not a public health matter—to examine the board itself and to say whether the board is doing the right thing.

One then wonders if we might be back having a review of the Chief Public Health Officer, and the Chief Public Health Officer's review of the review board of this voluntary assisted dying. I want to resist the weighing down of this process with what I regard as an additional layer of unnecessary bureaucracy and one which, if given in to, we might fear has no end.

Mr MURRAY: Can I commend the member for Port Adelaide on her—

Dr Close: Brevity?

Mr MURRAY: —yes, her brevity as well, but her desire to have as little as possible red tape. I will just enumerate—

Mr Picton: It has all gone backwards.

Mr MURRAY: It has. It is all very weird. I just want to make the point—and these are my handwritten notes for what it is worth—that the functions of the board are to monitor, that is 101(1)(a), to review, to provide reports to parliament, to promote compliance, continuous improvement, conduct analysis, provide information, collect, use and disclose forms, consult and engage, provide advice and provide reports. There is no audit step there. There is an obligation to promote it. What I am seeking—and I am happy to concede it is as a result of my being an accountant many years ago—is an audit to be done. I do not want someone who may or may not assess it; I want an audit done of the voluntary assisted deaths. That is the sole rationale.

If the functions of the board were to conduct an audit and give us confidence that the results produced to us have in fact been assessed in their entirety, I am happy with that. I will not belabour the point at this late hour about the Chief Public Health Officer. There was some consideration and discussion about getting commercial audits done. The intention is simply to have faith in and to direct very specifically the conduct of an audit so that we can have that faith. It is no different from what every public company has to undergo insofar as their results are concerned.

Respectfully, there is no audit per se. It gets close in places, but it does not actually cover it. Given the subject matter, it is not an unreasonable requirement to ensure that the steps we set out in the act, once it becomes an act, are in fact being followed.

Mr PICTON: I am perhaps even a little bit more confused about this than before the debate started, particularly in regard to how it would be relevant to a financial company audit, which seems to have been suggested—that the Chief Public Health Officer is essentially reviewing each death of a person after this act—and how that is at all relevant to what a financial auditor would do in their practices. It seems to be two very different things, two very different roles, and two very different professions would be involved.

My question to the member for Davenport is, in seeking to put this provision in that would give the Chief Public Health Officer—the incumbent of course being Professor Nicola Spurrier—this very significant role of reviewing each death of a person after being administered a substance under this act, have there been discussions with the Chief Public Health Officer about this? If so, what has been the feedback from the Chief Public Health Officer about the proposal that has been put forward?

Mr MURRAY: Very simply, there has been no discussion with the Chief Public Health Officer about this role. I am not fixated on who does it. I will take you up on your earlier point. I do not think it is desirable that we come out the other end of this process, and in 12 months' time we have a 95 per cent compliance rate, or 90 per cent, or 80 per cent. I do not think that is acceptable. What I am seeking to do here is have, without exception, a process where we are assured that the numbers put before us by way of some report have every single step assessed as to whether it was or was not compliant. I do not think that is particularly complex. I do not think it is unreasonable given the subject matter, and that is the rationale behind it.

I am happy, if you want to move an amendment, to have someone else perform the audit for us, or perhaps you have some other way of assuring us that the steps we put in place in this act are followed in every single case and we do not have, for example, a situation where someone is doing a tick-and-flick and, 'Oh, oops,' and it is too late.

I do not think it is unreasonable for us to try to ensure, given the amount of effort that has gone into this for all of us, regardless of our viewpoint, that we mandate that the steps taken have been followed and that that is assessed in every case. I do not think that is unreasonable. As I said, I am happy if you have an alternative suggestion as to how we go about deriving that. That is my concern. That is my best effort in assessing it. I have discussed this with a variety of health professionals, but not, to your direct question, with the Chief Public Health Officer, who I think at this stage has got far better things to do, frankly. I will leave you with that.

The CHAIR: Before I call the deputy leader, I am conscious of the time. We still have a little way to go with this—not too far but a little way to go—so we will need to extend past midnight. I might ask that the Minister for Energy and Mining report progress.

Progress reported; committee to sit again.

Parliamentary Procedure

STANDING ORDERS SUSPENSION

The Hon. D.C. VAN HOLST PELLEKAAN (Stuart—Minister for Energy and Mining) (23:55): 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, please ring the bells.

A quorum having been formed:

The SPEAKER: As an absolute majority is present, I accept the motion.

Motion carried.

Bills

VOLUNTARY ASSISTED DYING BILL

Committee Stage

In committee (resumed on motion).

Dr CLOSE: I do not think the amendment that the member has quite does what he wants it to do. I think that the board, as it operates under exactly the same conditions in Victoria, does what the members wants, which is to make sure that if anything looks like it is going wrong it is identified afterwards but also headed off at the pass.

The process that occurs in Victoria is that the board operates the portal into which each of these forms is submitted. Although I think it is a little bit glib to talk about tick-and-flick when we are talking about a voluntary assisted dying process, the forms actually capture and convey all the required information and are the point at which quality assurance occurs. So that goes into the portal managed by the Victorian review board and back out again. You cannot go on to the next one unless they have certified that the information is accurate. That is the way in which they are managing quality and also, I presume, education, as some practitioners are just starting on this process.

If the concern is about quality so that something does not go wrong before someone has died, that is the process that happens with the Victorian review board. If the concern is picking up a problem afterwards, that is also something that happens with the review board. They go through their review process and report to parliament.

I think the only thing that is missing in what the review board does, in practice as well as through this legislation, is the auditing of its own accounts. I am not sure that we really want Nicola Spurrier to be given a whole new set of obligations in order to fulfil the auditing of the board. What we have here is a whole complex process about which we are tentatively going to say, 'I hope it can happen in South Australia.' It is new to us, we are nervous about it and there is going to be a whole lot of detailed work that sits behind after this legislation goes through, if indeed it goes through, to

make sure that training is there, the right procedures are there and that all is able to roll out in the best and most secure way. On top of that is a review board that is there to make sure that happens. The entire purpose of the review board is, I think, the sentiment the member has expressed, but the member does not see it in a way that satisfies him in this legislation and has therefore created a new review process.

I respectfully submit that if there had been something missing in the functions of the board we could have looked to add it, but my experience in reading about the review board of Victoria, and listening to Justice Betty King, who runs it as the presiding officer, is that they very much see themselves as being responsible for quality assurance on the way through and quality assurance afterwards to ensure that the whole system works better. We, as a parliament, receiving reports will be in the best place to judge whether they are doing that adequately. I urge people not to add another layer of complexity to this already very complicated bureaucracy.

Mr MURRAY: I have used the term 'audit'. Lest there be any confusion, I am not advocating an audit of the financial results. Clause 107A(2) has the key. I am seeking to 'determine the extent to which each such request or death complied, or did not comply, with this Act'. That is all I am after. They have the forms. I just want to know whether there has been compliance in every case. Yes, that may cause someone to have to go through each and every death to make sure they are compliant, but I do not think that is unreasonable.

The Hon. S.C. MULLIGHAN: I have been listening keenly to the debate in the committee stage thus far, and I feel we are nearly there. Without wanting to unnecessarily delay the third reading of the bill, I do have a little bit of sympathy for the member for Davenport's position here, perhaps in the context of us as a parliament receiving reports on an annual basis from the South Australian Abortion Reporting Committee, which is a similar legislative requirement to report on the statistics on abortions that occur in South Australia and which is an important and useful source of information not only for the parliament but also for the state.

That is largely a statistical report. To be fair to the member for Davenport—and I have not had a direct personal discussion with him, but just from listening to the debate—I gather his concern is the way in which the bill is drafted. Clause 101 at the moment would anticipate a similar sort of report about the operation of a voluntary assisted dying regime in South Australia that is mostly statistical, rather than what I think the member for Davenport is seeking, which is an examination and a reporting of the circumstances of each of the deaths that occur as a result of the operation of the voluntary assisted dying regime.

I do not think that is unreasonable. It is not spelt out clearly in the construct of clause 101 at the moment that there would be that examination I think the member for Davenport is seeking. In fact, if you place clause 101 in the context of that other report I mentioned before, it is easy to form the view that the parliament and the state would be furnished with a more statistical report rather than an in-depth examination.

I realise the member for Port Adelaide feels this is an unnecessary layer of bureaucracy. I would share that concern if the addition of the amendment would have some effect of slowing down access to the voluntary assisted dying regime. In fact, it would have no bearing on it whatsoever because it would be a process that would occur necessarily after someone accesses that regime. So this is not something that would frustrate the availability of the regime. It is not something that would alter how the regime would operate. It merely provides an additional level of comfort to members, and the parliament generally, about how the scheme is operating.

Dr CLOSE: I am still a little bit at a loss as to what is missing. The functions and powers of the board in clause 101 include to provide reports to parliament on the operation of the act, not just statistical reports but the operation of the act. It does not say annually, but I do not think we should assume that the board will sit around waiting for long periods of time avoiding doing reports to parliament. The board's job is to make sure that this act is working as it is intended to, and it may be within the early days that it will be more than once annually.

That is a clause we have already accepted. After the section we are now discussing in division 3, there are reports and statistical information. So, in addition to reports being provided to parliament on the operation of the act, there is also a report to the minister on the performance of

the board's functions, and that has to come to parliament so we are able to scrutinise whether it has discharged its functions appropriately. The minister or the chief executive can ask the board to consider and report on anything it wants within the required operation of the board.

I do not see what is missing that would make us add something to the public health officers' task that means that we would get as a state better quality of enactment of this legislation working on the ground for real people. It is not the end of the world if this goes through. It does not mean I am going to withdraw my support for the legislation. I just try each time to think about the most sensible piece of legislation we can have and try to avoid excessive duplication of activities, particularly functions held by people who are very senior, in the case of both the board and the public health officer, and already discharging the duties that I believe are necessary to make this legislation and all the public health work work.

I think it is unnecessary and, as I have said previously, superfluous, and I would not like it to be seen, if it does goes through here, as any kind of example for other states. I do not think it is a very sensible model to have this extra level. I think the work that occurs in Victoria demonstrates that.

Mr McBRIDE: I thank all those who have participated thus far, particularly the member for Port Adelaide and the member for Davenport. My question is to the member for Davenport about new clause 107A. Does the member for Davenport believe that South Australia should have more red tape and another level of bureaucracy and regulation, more than other states and jurisdictions around Australia?

Mr MURRAY: At the risk of being bluff, gruff and brusque about it, if that 'red tape,' as you describe it, means that I and others here can have more confidence that each step we have put in place here has been followed and that there have been no shortcuts, you betcha.

Ms Hildyard interjecting:

Mr MURRAY: Hold on. To your point about this being red tape, this is a simple process. What I am asking for—and I am not putting it anywhere near as eloquently as the member for Lee has done, and he has beautifully summarised it—to address your question, your point, I am not asking for extra red tape. I am asking for a yes or a no: has every voluntary assisted death in the previous 12 months been compliant with the steps or not? I have detailed the fact that, for example in Victoria, that has not been the case in the first six months of operation. There are perfectly valid reasons for that. That jurisdiction is lucky to have that report and that assessment.

We are entitled to know and have confidence that the numbers reported are not just a stat but, 'By the way, there have been no shortcuts taken for systemic or other reasons.' I will not speculate on the sorts of things that could engender that. The paperwork is already in place to perform this. What is required is for someone to sit down and make an assessment for each of the deaths, as to whether each of the steps prescribed here in the act have been followed.

To put it even more bluntly, this should not be something that I would think would take someone more than a week with a spreadsheet and a PC to give us a yes or no answer. It is not hard and, given the subject matter and given some of the concern in other jurisdictions—and again cognisant of why we are here and how we need to bring the community generally with us—the reports we are getting need to engender a level of confidence in their veracity and in the fact that what we have collectively decided on behalf of the community is in fact being followed.

There is no way to go back and correct things, but there is a way to learn from them. I reject the notion that this is unnecessary red tape—of course I do; I am moving the amendment. I am seeking to do so to have some confidence in the fact that all this work we are putting in will not be subsequently ignored to the detriment of the community more generally. I do not think that is unreasonable.

Mr McBRIDE: I appreciate and respect the detailed answer the member for Davenport has just given to my last question. The concern that I now outline in response to what the member for Davenport just said is that I believe South Australia is picking up one of the most precautionary voluntary assisted dying bills in the world. I do not want it stifled and I do not want our medical practitioners scared or put off or intimidated by inquiries and decisions that can be made one or two years or any length of time after the event.

I want beautiful processes in place, that all we have talked about thus far tonight actually occurs for all the right reasons, but I not only want people in these situations to access this process with respect and dignity, I want the medical field to be able to pick it up and utilise it easily, succinctly and professionally.

When you start putting prying eyes over it again and again, by layer and layer, and regulation and regulation, I think you start making it more and more difficult. I think this is unnecessary, as the member for Port Adelaide has explained, and I think we have enough crosschecks in place without accepting this new clause 107A.

Mr PICTON: I asked the member for Davenport earlier whether he had consulted with the Chief Public Health Officer before we would consider putting this in place, and he answered that he had not consulted with the Chief Public Health Officer, Professor Spurrier. I believe he said, 'I think she's got bigger things to do at the moment.' That is quite incongruous with what is being proposed at the moment, that she has so much to deal with that we cannot ask her about the fact that we are about to give her a huge new responsibility under this act.

This is a lot more than has been stated by the member for Davenport. If you look at subclause (2), it states:

> …the Chief Public Health Officer must examine each request for voluntary assisted dying received by the Board, and each death of a person after being administered or self administering a voluntary assisted dying substance, during the relevant year to determine the extent to which such request or death complied, or did not comply, with this Act.

This is not a matter of just looking at a spreadsheet and seeing that something is ticked off. Under this provision the Chief Public Health Officer, currently Professor Spurrier (or he or she in the future as a successor), would have to satisfy themselves that the act had been complied with in each and every death, and that could not be done by just looking at a spreadsheet and a tick and flick exercise. That potentially would not be in keeping with the codes of conduct for the Public Service in administering legislation.

They would need to appropriately look into each and every death that occurred, to look right back at each process that happened leading up to that to see whether it complied with the act. That is a very significant additional role we are giving the Chief Public Health Officer to do, and it is in addition to what has been said are the functions of the review board.

The review board is there to monitor matters related to voluntary assisted dying, to review the exercise of any function or power under the act, and to report to parliament in relation to the operation of the act. They also have the ability to provide reports—the minister or the chief executive—in relation to any operation of the act. That is what the review board is there for. They do have the ability to look into those deaths, the ability to look into the compliance with the act. We are adding a new clause, a new additional layer, for an officer to whom we have not spoken, who we acknowledge is already flat out dealing with a worldwide pandemic, when we already have the board there providing that role.

Part of the downside of the speed at which we went through 100-odd clauses is that we did not examine clause 101 in detail. I think if there were a concern as to whether that wording needed to be strengthened, it would have been better to look at the strengthening of the wording in relation to the role of the board, rather than adding this additional new level where we have an officer that we have not even spoken to about it.

The Hon. S.C. MULLIGHAN: Perhaps if I could address some of the concerns raised by both the member for MacKillop and the member for Kaurna and, in doing so, also reflect on some of the observations made by the member for Port Adelaide. Yes, you could read clause 101 and form the view that the sort of report that the member for Davenport is seeking could well be provided by the board. It could well be, but it is not required to be. I think that is the key difference in what the member for Davenport is seeking in his amendment, and that is a requirement of an examination of the circumstances around the provision of voluntary assisted dying services to people who avail themselves of those services, and that is not an unreasonable ask.

The bill as it stands at clause 101 provides that the board may do this, but it is not required to do this. That is the first point. The second point is that to characterise this as red tape is I think

deliberately misleading. Red tape, as we all know, is some form of process that seeks to frustrate something from happening. This is not a frustration in any way, shape or form about the provision of voluntary assisted dying services. This will have absolutely no bearing or impact. It will not slow down access, it will not alter the access regime one iota. All this does is provide an additional reporting element of it, which is not currently specifically provided in the bill before us, so I do not think it is that unreasonable.

While perhaps technically it may have been possible to consult Nicola Spurrier about whether she is willing to do this, as immortal as we think she is, she will not be doing this job forever. There will other chief public health officers. Do we honestly expect that by conferring this requirement on the chief public health officer of the day that they themselves, personally, will be forced, without assistance from the remainder of the SA Health bureaucracy, to conduct some sort of coronial inquest into each person who has availed themselves of these services? Of course not. That is not what we are asking here.

This is not an unreasonable burden, this is not an unreasonable reporting requirement, and given that we are, for the first time, now going to extend the capacity of South Australians, of medical professionals, to facilitate the death under appropriate circumstances of a fellow member of the community, I do not think that it is an unreasonable thing to require this level of reporting.

As it has been for every other jurisdiction in the country that has legislated to provide voluntary assisted dying, this is a big jump for us. This is a big step in being able to provide these services. I do not think it is unreasonable that members of parliament seek this, particularly those members of parliament who are seeking this sort of reporting, not even an additional safeguard but this sort of reporting, in order to feel comfortable about supporting the bill as a whole.

The Hon. V.A. CHAPMAN: I just briefly make the observation that, although there has not been consultation with the Chief Public Health Officer, that in itself does not necessarily disqualify this from being a process that we would consider. It seems unusual not to have done that because at first blush my concern would be whether she is actually even qualified to do this assessment.

She is not being asked to just identify whether someone signed a form in the initial request process and to identify the administration of the medication; she is being asked to actually make a determination whether or not there has been compliance with the act. With due respect, that is a role either ultimately for the Coroner or, in certain circumstances, for the police, and provision is made for referral of these matters to the police or, indeed, a whole lot of other health officers and/or the state Coroner.

It just seems to me that we are asking the Chief Public Health Officer, who is a highly qualified statistician advising on the risk in relation to public health and transmission of disease and so on, water supply and all those things, to actually do an assessment on this for a role that is actually an adjudication role.

In that regard, I think that I am more than happy to speak to the Coroner. He can examine any inexplicable death, or a death and circumstances that may raise some concerns, of his own motion and to identify if there is any weakness in relation to any state government structure or agency that might be operating. He frequently does give recommendations about where there are failings. I am not necessarily persuaded by things about whether something is red tape or not. If there needs to be a level of supervision, I agree with it and I therefore fully endorse having a formally appointed review board to do all these things. This has three pages of instructions here in the bill already.

I would just be concerned about asking the Chief Public Health Officer to do this role, which I see as an adjudication role of a court, and the Coroners Court would be the appropriate one. I am happy to follow it up with the Coroner to see if he is interested in doing anything in relation to that and amending the Coroners Act, but I cannot do it at midnight.

The committee divided on the new clause:

Ayes 19
Noes 26
Majority 7

AYES

Bell, T.S.	Brown, M.E.	Cregan, D.

AYES

Duluk, S.	Ellis, F.J.	Gardner, J.A.W.
Knoll, S.K.	Koutsantonis, A.	Malinauskas, P.
Michaels, A.	Mullighan, S.C.	Murray, S. (teller)
Patterson, S.J.R.	Pederick, A.S.	Piccolo, A.
Power, C.	Speirs, D.J.	Tarzia, V.A.
van Holst Pellekaan, D.C.		

NOES

Basham, D.K.B.	Bedford, F.E.	Bettison, Z.L.
Bignell, L.W.K.	Boyer, B.I.	Chapman, V.A. (teller)
Close, S.E.	Cook, N.F.	Cowdrey, M.J.
Gee, J.P.	Harvey, R.M.	Hildyard, K.A.
Hughes, E.J.	Luethen, P.	Marshall, S.S.
McBride, N.	Odenwalder, L.K.	Picton, C.J.
Pisoni, D.G.	Sanderson, R.	Stinson, J.M.
Szakacs, J.K.	Teague, J.B.	Whetstone, T.J.
Wingard, C.L.	Wortley, D.	

New clause thus negatived.

The CHAIR: Division 3, page 51, contains clauses 108 to 112. Are there any questions on clauses 108 through to 112 inclusive?

Clauses 108 to 112 passed.

The CHAIR: Are there any questions on clauses 113, 114 or 115?

Clauses 113 to 115 passed.

New clause 115A.

Mr MURRAY: I move:

Amendment No 8 [Murray–2]—

Page 54, after line 14 —Insert:

115A—Minister to report annually on palliative care spending

(1) The Minister must, on or before 31 December in each year, cause a report to be prepared and provided to the Minister setting out—

(a) the total amount spent by South Australians on palliative care during the financial year ending on 30 June of that year (determined by reference to data provided by the Independent Hospital Pricing Authority established under the *National Health Reform Act 2011* of the Commonwealth); and

(b) the aggregated amounts spent by South Australians on palliative care during the preceding 5 financial years; and

(c) the variation in—

(i) the total amount spent by South Australians on palliative care during the year to which the report relates compared with the immediately preceding financial year; and

(ii) the aggregated amounts spent by South Australians on palliative care during the 5 financial years immediately preceding the year to which the report relates compared with the corresponding amount reported in the most recent previous report,

expressed both in terms of an amount of money spent and as a percentage increase or decrease in the amount spent during the relevant periods; and

(d) any other information required by the regulations,

and must, within 6 sitting days after receiving the report, have copies of the report laid before both Houses of Parliament.

(2) If the variation referred to in subsection (1)(c)(ii) indicates a reduction in the amount spent by South Australians on palliative care from the corresponding amount reported in the most recent previous report, the Minister must cause a review of the operation of this Act to be conducted and a report of the review prepared and submitted to the Minister.

(3) A review and report under subsection (2) must be completed not later than 3 months after the Minister becomes aware of the variation.

(4) The Minister must cause a copy of a report submitted under subsection (2) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

(5) This section is in addition to, and does not derogate from, a provision of any other Act or law that requires or authorises the Minister to report to Parliament.

The purpose of this amendment is to enable this parliament and successive parliaments to have some certainty that what is being attested to or what we are being reassured of—that is, that palliative care will not decrease as a result of the introduction of this bill—is in fact the case.

To reassure members, a significant amount of data is already provided by the health sector to the Independent Hospital Pricing Authority. I have on this occasion spoken to people who are deeply associated with the Independent Hospital Pricing Authority and they assure me of two things; that is, that the data is available, the data can be provided to us in a fashion that is useful and that in fact the Independent Hospital Pricing Authority and the government more generally are interested in being able to ascertain independently what the spend is on palliative care, particularly given the advent of VAD legislation elsewhere.

The intention with this amendment, very simply, is to track the variation in spending over a five-year period. The goal is to enable this parliament and successive parliaments to make a very quick determination as to the level or the change in expenditure on palliative care from this point forward. As I said, the data exists. There is a pre-existing reporting process, which is considerably detailed and which is already sent to the Independent Hospital Pricing Authority.

The intention with assessing the variations is to track some idea of the trend in spend. The penalty, to the extent there is a penalty, if there is a decrease, which I am assured by all proponents of this bill, will not occur. I also point out for those of you who are more au fait with numbers that we are not talking about numbers adjusted for inflation here. What we are talking about is raw numbers over a five-year period.

All other things being equal, if there is a maintenance of spending there should be a natural increase and therefore not an issue in the spend on palliative care in South Australia. In the event there is a sizeable decrease and as a result there is a drop in the spend on palliative care, the resolution or the penalty, to the extent there is a penalty, is in subclause (3) that a review of the operation of the act is generated. That is it.

Again, one of the concerns in every jurisdiction where VAD legislation has been put in is that VAD will become the default or the dominant way of delivering palliative care. This amendment seeks to do nothing other than enable those of us here this evening, and successive members of this parliament and the community generally, to ascertain whether that in fact is the case.

It is on that basis that the amendment has been crafted, and I stress again that there is no extra red tape or processes and there is a proposal or process whereby that report, an indication of what has happened with palliative care spend as a result of the implementation of this legislation, is put before the house. What the house, either this one or any subsequent parliament, does with that is up to it, but at least we are assured of what is taking place with palliative spend in a post-VAD environment.

Ms STINSON: I wonder if the member might expand on a few points I was wondering about. I notice that in new subclauses (1)(a) and (1)(b), and I think (1)(c) as well, the terminology used is 'the total amount spent by South Australians on palliative care'. I just wondered why the member has used that term. Is he indicating the South Australian government, or is he trying to encompass private spending as well? Could he elaborate on what the scope is of spending that he envisages that this clause would cover.

On top of that, I wonder if he might elaborate on spending on health by other jurisdictions—for example, the federal government, which I understand, though I stand to be corrected, also contributes to palliative care funding. I wonder how he intends to capture that spend by the federal government and the practicalities of doing that.

Mr MURRAY: To the first question, the reference to South Australians, plural, and the presumption that I am seeking to capture individuals was not a stipulation by me, it is part of the drafting of the amendment. I am happy that this encapsulates my intent, which was that spending within the boundaries of South Australia by all people, by all sorts of health services, is captured. It is not something that I have stipulated. I am comfortable that it encompasses what we are trying to derive.

To your second point, what are the vagaries of other contributors, I am not proposing anything other than an attempt to capture data that each of these health services, particularly hospitals, etc., is already providing to the Independent Hospital Pricing Authority. They will make the point to you that they do not have enough data today. If you speak to clinicians, one of the issues with the data to the extent that it exists today is the fact that, for example, palliative care spend on a patient may be coded as something else.

So no-one is presuming that there is perfection with the data today or, indeed, tomorrow. The suggestion, really, is to avail ourselves of the fact that there are massive amounts of data being reported in this fashion. I am assured that notwithstanding the impacts of federal health spend, the federal health spend very deliberately would be classified as income by those health units. What I am interested in is what they spend that money on that they have received.

To your point, if we see a decline in the five-year average as a result of a cut in funding for these entities, then I would like to think that we collectively are empowered to know about that drop and to ascertain what has caused it. There may be a wide variety of theories for what has caused it and, as I have readily attested to, the experts will tell you that one of the issues when we try to measure palliative care spending is that patients who are at their end of life suffer from a wide variety of conditions, and those conditions and their treatment cannot often be classified in and of themselves as opposed to some indication of whether there is a palliative spend.

So it is not perfect, but the good thing is that the Independent Hospital Pricing Authority is, I am told, very interested in facilitating this anyway. We are assured that we are unlikely to have a drop in palliative care spending. Being older than most here, and somewhat grumpy and cynical, I would like to have that tested on a regular basis. I would like to have our successors made aware of what is actually taking place insofar as palliative care spend is concerned. If it has declined, let's be aware of it; if it has not, that is great. I stress that all the processes to collect that data are pre-existing anyway. Hopefully, that helps.

The Hon. V.A. CHAPMAN: On the assurance given by the mover that this data is collected and is available, that it is not being sought for the minister to provide data outside of what is provided to the Independent Hospital Pricing Authority and that that is a reporting process so that we can do the things you say—that is, to monitor the spend—I will support this amendment. I think it is a little bit clumsy in this form with due respect, and I will not call you Mr Grumpy—the self-confessed grumpy person that you might be—but I hope this makes you happy.

The CHAIR: We are all happy because we are nearly done.

Members interjecting:

The CHAIR: Order!

Mr MURRAY: Chair, I am going to rest on that very welcome contribution. In fact, I will consider having it inscribed as an epitaph for me, so I thank her for that. I will leave things lie at that.

New clause inserted.

Remaining clauses (116 and 117), schedule and title passed.

Bill reported with amendment.

Third Reading

Dr CLOSE (Port Adelaide—Deputy Leader of the Opposition) (00:40): I move:

That this bill be now read a third time.

In so moving, I seek to address the chamber. It is late and remembering parliamentary procedure is never my strong point, I have a realistic hope that this bill will be passed tonight. If that does prove to be true, I will be humbled and grateful to have been a part of this. This is part of history in South Australia and we all, whichever side we may take, have been part of a debate that will change South Australia, particularly the experience of some South Australians as they reach an unbearable stage of a terminal illness.

I would like first of all to make what can sound a little bit like the usual platitudes, saying that in these debates we act in such a respectful way to each other, but it is true. Tonight has been a shining example of how we can seek to make law in a way that is respectful of each other's different opinions and is not done with shouting or taunting but in a way that is about the quality of the legislation before us and our hopes and expectations for South Australians. In these circumstances, not quite uniquely but particularly, acutely, when it comes to conscience votes, we do see the best of each other and the best of the way this chamber can work. I am grateful to have had the opportunity to be part of that.

Beyond the usual reflection on how well this debate has gone and how well we have all conducted ourselves, I want to thank the real heroes in bringing this legislation to this point. One is Roger Hunt, who, having sat next to me and assisted me all the way through, has been not only an outstanding palliative care doctor but a longstanding advocate.

Another, of course, is the Hon. Kyam Maher MLC, a remarkable person anyway but a yet more remarkable person for his ability, as demonstrated in the last couple of years, to have quiet determination that this law will change. He did it out of the worst of circumstances and he has turned that into one of the best pieces of legislation that we could have had the opportunity to consider. I am truly grateful that he chose to allow me to be the person to bring his precious legislation into this chamber and I acknowledge I would have been completely unable to do this without the example that he has set and the work that he has put in.

I also want to thank the many people who are involved and active in the community, so I want to thank the community activists generally, as a collective. I acknowledge the people who I have had many conversations with, being Anne Bunning, Frances Coombe, Lainie Anderson and Matt Williams, who in a new version of his life I have had some terrific conversations with. I am now so tired I cannot remember if I mentioned Lainie Anderson—maybe I have mentioned you twice or maybe I have only mentioned you once—but Lainie is an extraordinary contributor to the South Australian policy and I appreciate the contribution she has made.

But beyond these named activists, these people we have met with and received emails and letters from, sit all the South Australians and Australians who have had some experience or have had empathy for those who have had this experience and want to know that there is a better path for those people who reach that terrible circumstance of a terminal illness that has become unbearable.

I have had the opportunity to hear those stories mostly through the work of Andrew Denton. The idea of a podcast is a new one. It is the way that we can now consume information. But the work that Andrew Denton has done for decades, and has particularly done on this subject, is as old as humans sitting around a fire sharing stories and experiences.

Through Andrew Denton's work, in this modern form of podcast, I have had the privilege of hearing the stories of parents, children, siblings and loved ones of people who have had to experience this and who in Victoria have been able, in the experience of having a terminal illness that is unbearable, to make a choice to end in their way—in a dignified way that has given them control and choice.

Hearing those stories is what has most motivated me, as I have gone through the agonies of understanding each of these clauses and working out where the criticisms may come from—being fuelled by their stories—and for that I am grateful to them for sharing and I am grateful to Andrew for conveying them to us in such an accessible and respectful way.

I thank everybody who has participated here today and everybody who has contributed through these advocates to make sure we understand that, if this does go through tonight, it will be, in my view, the right thing, but importantly, in the view of countless South Australians, something that they will be grateful that we took on, we did seriously and, I hope, turned into law.

The Hon. S.C. MULLIGHAN (Lee) (00:46): I commence my contribution by echoing some of the comments made by the member for Port Adelaide. My thanks go not only to the Hon. Kyam Maher of the other place but also to the member for Port Adelaide for taking this on. This is no mean feat. Instead, it is a gargantuan effort to bring this bill to the parliament and, touch wood—we will find out soon—successfully usher it through.

The relief that will be in the minds of hundreds of thousands of South Australians with the passage of this bill will be extraordinary. All of us have been contacted by constituents in our local electorates who are very, very passionate about this. Of course, we have also been contacted by people and organisations who are equally passionate to encourage us not to support it, but it certainly is my view, as it was five years ago—the last time this house considered a voluntary assisted dying regime or a voluntary euthanasia regime as it was back then—and it is certainly the view of my constituents that palliative care is not always sufficient.

The argument that is constantly put forth against legislation like this—that if only we did palliative care better, if we only invested more resources into it, if we only made it more broadly available, etc.—to my mind is not an argument that holds water. For those of us who have lost family members and loved ones who have gone through excruciating pain and agony as they have finally passed away, we all know personally that for those people, who want the choice to have more control over the end of their lives, this sort of legislation is absolutely necessary.

This is a very different debate from the one we had five years ago. That was a debate back then that at times was laced with some rancour and obstructionism by some members and that I think has been completely absent this time.

I also think that those members this time around who have felt unsure about this legislation or who have even opposed this legislation have, rather than be obstructionist, reached out to the member for Port Adelaide and the Hon. Kyam Maher of the other place and sought to ventilate their concerns to try to reach some sort of compromise so that either they can feel comfortable to finally support a bill or, if they still cannot support it, they have at least done what they can to try to improve the regime that the parliament may eventually support.

I think that is a really wonderful demonstration of how members from all political persuasions in both houses have approached this. I think tonight the member for Davenport has exemplified that. I know that he has had some very significant concerns with different aspects of the bill. In fact, we have all been approached by organisations that have wanted some accommodation of their concerns; for example, with what the member for Davenport sought and I think has succeeded to accommodate, and that is that concept of an institutional conscientious objection, and that has been dealt with.

I will not speak for much longer, but I know there are some members who are still wrestling with this decision even as we now come to the very final stages of the bill. I know some members will continue to oppose it and I absolutely understand and respect their views and the reasons why they oppose it. But to those members who are still uncertain, to those members who are still considering supporting it or considering not supporting it and their vote hangs in the balance, I ask you this: is it really reasonable to continue on in South Australia with a regime where somebody who is nearing the end of their life, who is suffering intolerably, who just wants the choice to have some more control about the end of their life—is it really that unreasonable that we would not give them that opportunity?

We now are not—as we would have been five years ago—to be the first mover in Australia. We are now not stepping off into a new regime with all the uncertainties and all the worries that being the first mover would provide. We now have what is accurately described by the member for Port Adelaide as a national model, which we are merely adopting. We have seen it in operation elsewhere around the country. We have made some minor changes to that, to improve on those areas they

might not have addressed. Now, if it was not the time previously, is certainly the time that we should be supporting this legislation.

Can I thank all those people in the community outside this place who have lobbied and campaigned so hard for it, those people who have come back this time around who were around five years ago and also those people who tried in the years before that. I know it has been a long, hard slog. Hopefully, we will get the result that the majority of South Australians want tonight. I congratulate everyone who has been involved in bringing this bill to the house.

The Hon. V.A. CHAPMAN (Bragg—Deputy Premier, Attorney-General, Minister for Planning and Local Government) (00:52): I place on record my appreciation to the member for Flinders for his excellent stewardship in getting us through this committee.

Mr MURRAY (Davenport) (00:52): Can I concur wholeheartedly with the Deputy Premier's praise for the member for Flinders. I just want to make the point that I have failed the test that I set myself insofar as the bill is concerned. That being said, however, I want to pay tribute to the member for Port Adelaide and the Hon. Kyam Maher for their well-intentioned, well thought-out and very detailed and positive contributions. Thank you, and in particular thank you for the opportunity to work through what has been a difficult and quite complex series of discussions.

To the extent that—if I can be a little parochial—we have heard about the Australian model, I would suggest that what the Australian model always should have is some South Australian infusion. I think we all can take some credit for the fact that the legislation that came in here has, I think, objectively come out the other end better because it has 'Made in South Australia' stamped on it.

I am presuming the bill will pass. I have no doubt that this bill will pass. That is my assessment. As I said, I have failed my own test and I am, as the member for Lee has pointed out, considerably conflicted but I would just like to again congratulate the member for Port Adelaide especially on shepherding this thing through and, to the extent that I have bored you all or talked too much, been grumpy, short or—

An honourable member interjecting:

Mr MURRAY: —at times unintelligible—thank you to the member—I apologise. But again I just want to make the point that when we talk at citizenship ceremonies, and I hope this is the carry-out from this, I always make the point that you are not just being made Australian; you are a little bit better. It does not show on your passport—you are South Australian. I think we have proved that here tonight, and I thank you for your time.

The Hon. A. KOUTSANTONIS (West Torrens) (00:54): I, too, wish to congratulate the proponents. This is a piece of legislation whose time has come. Congratulation to the proponents. Congratulations to the Hon. Kyam Maher, whom I will not reference in the gallery because that would be disorderly, but he is someone who has fought very, very hard for this. This is a proud moment for him. Congratulations to him. He deserves the credit for this, and I think there has been the very deft handling of this by the Deputy Leader of the Opposition in the House of Assembly. I think she has given the cause a great deal of grace and an intellectual powerhouse behind it.

Congratulations to the member for Davenport, to all the other supporters of the legislation and to the Deputy Speaker, the most honourable man in this house in my opinion. He is unfortunately leaving us at the next election. I would have liked him to stay a bit longer, but unfortunately the land calls, so is off to enjoy his life.

To the people who oppose this bill, I apologise that we were unable to give you the outcome you were looking for today. There are some of us in this house who have decided that we are opposed to this legislation, and we have done so on the basis of a clear conscience and a thoughtful and thorough assessment of what occurs once this legislation becomes law. I make no judgement of the proponents; I understand exactly what it is they are attempting to do.

No-one wants to see a loved one die a terrible, suffering death. Of course you do not. No-one does. My opposition to this is because—like my political hero and my political ballast, former Prime Minister Keating—once you change laws like this, you change the country for good. We are changing the way we consider death for good, and that will now permeate the way we deliver health care. That is a decision we have made as a community together. Whether we like it or not, Australia is doing

this overwhelmingly and unanimously, even against the advice of the professional associations that oversee the administration of health, such as the AMA and other institutions.

However, the people are sovereign in this country. Because sovereignty comes from the people, not from the Crown or any other divine right, the people of this country will get the legislation they want and have been calling for, and that is the beauty and majesty of democracy. Prime Minister Keating said this in his essay that he published in the *Sydney Morning Herald*:

> Opposition to [voluntary assisted dying] is not about religion. It is about the civilisational ethic that should be at the heart of our secular society. The concerns I express are shared by people of any religion or no religion. In public life it is the principles that matter.

It is principles that matter. Principles are only important when they are difficult to stand by. That is why today I will be standing by my principles and voting against this legislation. I will be voting against this legislation because I do not believe it is in the best interests of this parliament or this state, but I accept that is an argument that we have lost.

I think changing the way medical professionals interact with their patients, changing a solemn oath that is thousands of years old 'to do no harm', fundamentally changes the way we interact with our doctors, but again people are sovereign and they are entitled to change that relationship. After all, they are their doctors, it is their medical profession, it is their parliament and it is their legislation. I respect the outcome of this result, and I expect this to pass overwhelmingly. I am not sure what the opposition will be—it might just be me and Adrian, I do not know—but principles matter when they are difficult to stand by.

I think it is important that everyone who looks at the vote here tonight does not cast an identity politics look at this and say, 'For and against; good, bad, evil, good' or whatever your predisposition might be. Please accept the advice of the members for Lee, Davenport and Port Adelaide that everyone in this chamber is working for the betterment of their community and their constituencies. We do so on the basis of principle and good faith, and we do so because we want the best for our communities and our state.

Congratulations to the proponents, to the people in my community and the people who wear their red T-shirts and do the hard work. Congratulations, you have won an amazing victory. I hope you never have to access this service; I hope you all live long, healthy lives. If you do have to access this service, I hope it gives you the comfort that you are seeking from it. To those organisations that sought carve-outs to protect their communities, to have safe havens, there are some provisions in this bill that protect the religious institutions or the volunteer institutions that do not want to have to participate in this regime.

I think everyone gets something out of this bill here today. With that, unfortunately, I do not commend the bill to the house, but I congratulate the proponents on an overwhelming victory.

Mr McBRIDE (MacKillop) (01:00): I just want to make a quick note, as from very early on in my political career I have been very supportive of these social issues. I thank everyone in this parliament, including the Marshall Liberal government, for participating in these sorts of debates. I wish this bill well in the vote that is about to come.

I want to make a special mention of the Chair of Committees, Mr Peter Treloar, for the respectful way in which he conducted himself and ran this parliament. I want to thank Dr Roger Hunt, not only for being of help and assistance over there but for being at vigils and meetings all around the state for a number of years. I also want to thank the Hon. Kyam Maher in the other place for all that he has done to get this to where we are tonight.

I want to thank some locals I know are here—and if they are not, they will be listening. I know Ms Angie Miller and Ms Jane Qualmann are here. I know Mr Matt Williams, Ms Anne Bunning and Ms Frances Coombe are here. I thank all those involved in the *SAVES* magazine, which you all would have had over a number of months, if you have collected them, as a folder full of papers on why we should be doing what we have done here tonight, hopefully with a positive outcome.

I want to make special mention of the participation of the member for Davenport and the amendments he has put in place. I know that there will be many members in my seat of MacKillop who will take comfort from some of the amendments he has put through. I thank him for that, for

representing some of the members of my constituency as well and obviously those right around the state.

I make special mention of the member for Port Adelaide for the graciousness with which she has conducted herself and the fact that we have got this far. I believe that we will have a positive outcome in about five minutes, so thank you and well done to all.

Mr PICTON (Kaurna) (01:02): I have some brief comments. I think this will be a historic night. We are all part of this. This has been a long time coming and a lot of work has led to this time. This is clearly a very difficult decision for lots of us and lots of people in the community. There are clearly strongly held views on all sides, and I think we all agree that we hold no ill will towards either side for the strong positions that they have in grappling with this difficult issue.

The bill is clearly in passage tonight. It is not going to be popular with everybody, but I believe it is reflective of the majority opinion of South Australians, the majority opinion of the community. It has probably taken parliament a long time to catch up to the majority opinion of the public.

I think there are four things that have got us to where we are today. The first is the campaigners, the people who have worked so hard in the community, and also many of our healthcare professionals and others who have done the hard yards in pushing this issue for many, many decades to get to where it is now. Secondly, it is the work that has happened, particularly in Victoria, to take this from something that was a private member's bill, where one or two people might have worked on it, to have the weight of government behind it. It has certainly given comfort to lots of people that this can be implemented and can be safe and can have the appropriate safeguards.

Thirdly, I would particularly like to thank the Hon. Kyam Maher and Susan Close, our Deputy Leader of the Opposition, for their hard work in getting this bill through both houses of parliament, hopefully. They have led this work, particularly Kyam over the past few years, with tremendous dedication and determination to get this done.

The fourth thing, and perhaps the most important, is that too many of us have seen traumatic circumstances with our loved ones and our friends, and many healthcare professionals have seen their patients go through situations that we would not wish upon anybody. That has led to a determination that change needs to happen. People have seen deaths that have been without dignity, they have seen people in excruciating pain, they have seen their loved ones in traumatic circumstances being denied the choices they have expressed.

We are now about to legislate a new regime that will give people, first, safeguards in a very conservative piece of legislation, even more conservative now than what other states have, and also choice and compassion. That is a fundamental, important change for our laws, and it will make a lot of people's dying days a lot better. It will lead to a better society where we can love and have compassion for people in their dying days. I commend this bill.

The Hon. L.W.K. BIGNELL (Mawson) (01:05): The member for West Torrens quoted his favourite Prime Minister, Paul Keating, and I want to quote my favourite Prime Minister, Bob Hawke. I guess he lined up with my thoughts on voluntary assisted dying when he said, 'I can see no logical or moral basis for such an absurd position.' That was for those who were opposed to a law that would allow this. He said, 'Politicians, by and large, are not the bravest of creatures.'

In this debate over the years—and I have been in here for 15 years and have always come down the same side, and that is for voluntary assisted dying—I think what has changed is that you always have people like me on one side and people who are on the other side of the debate, but there are a lot of people in the middle who perhaps have thought that the community wanted something, and they erred on the side of caution not to vote for it—and we are yet to see how this vote will go tonight.

It has taken an extraordinary amount of work by so many people in our community to change the views of people in here, to bring the people with them, to explain to all of us in here that there is a lot of support for voluntary assisted dying in our community. I want to start by thanking the most visible people: Andrew Denton and Lainie Anderson for the role you played in the media.

We had an amazing number of people out there in our regions in South Australia. I grew up on a dairy farm. People think that is a more conservative part of our society, but people out there also have strong feelings about people having choice about how they end their life: to Angie Miller

from my own electorate in Aldinga, whose family saw firsthand how death should not be, thank you; to Liz Haberman from Wudinna, the bakery over there, whose son died in terrible circumstances and whose family went through 18 months of hell after he died because of legal processes that will not be needed after this bill passes; Jackie Possingham from the Barossa; Jane Qualmann from the South-East; Kylie Hicklin from Kadina at the top of Yorke Peninsula.

We have also been supported for many, many years by people from peak bodies, advocacy groups and unions: Anne Bunning, Frances Coombe, Rob Bonner, Jackie Wood, Lisa Devey. Doctors and nurses have shared their deep technical knowledge and experience working with people at end of life, in particular Roger Hunt, Arnold Gillespie, Susie Byrne and so many others.

I have not yet spoken on this bill, so I would like to explain to the people I represent in here, the people of Mawson who have contacted me in large numbers both for and against, and put where my views come from on this, and that is to support this bill and support voluntary assisted dying in general.

It was interesting to see the Catholic archbishop come out last week explaining how we should be looking at things as politicians. Well, one of my cousins was the Catholic archbishop of Adelaide, Philip Kennedy, and I grew up as an altar boy and went to Catholic schools. I think I must have paid more attention and liked the bits more about the compassion story we learnt in Catholic school rather than 'Suffering is good and if you go through the pain then you will go to a higher place.' Anyone who went through the Catholic system will remember that.

I remember in 1991, when my grandfather was in his mid-80s, a devout Catholic, and he was lying there, as he had for three years, in a nursing home, in a shared room, with lino and pretty stark surroundings, and he was in a world of pain. He had Parkinson's and he had had sciatica problems for years and years. I was in my mid-20s and I said, 'Wouldn't it be good if they could just give you an injection and just speed things up a little bit?' and he was horrified. Do you know what? If this bill passes tonight, people like my grandfather, Henry Kennedy, will not have to partake in it—it is voluntary—but there will be others who may want to.

My own father died 20 years ago this weekend. It was the June long weekend. He found out three months before that he had terminal cancer—a bloke, a dairy farmer who hardly ever went to the doctor, 61 years old. He rings me up and he says, 'Can you come down and see me?' He was a real Liberal Party and Country Party fan. I went down there and he said, 'I went to the doctor and I've had this guts ache.' He said, 'I've got cancer, I've got three months to live,' and I said, 'Well I reckon you've had better days, because I joined the Labor Party today!'

We had this sort of sense of humour for the whole final three months that he did have with us, including that last weekend. But before we got to that last weekend, that June long weekend, he wanted to explore all sorts of things. He just did not want to have any treatment and then he was scared of the pain, he was scared of what lay ahead, he was scared of the suffering that he might face, and he asked me to go and get him this book called *The Final Exit: The Practicalities of Self-deliverance and Assisted Suicide for the Dying.*

So without this law, that we hopefully will pass tonight, people had to get a book and work out how to do it themselves. The book is a category 1 restricted book and was wrapped in plastic, and it is still wrapped in that plastic, because by the time I actually got the book and took it to dad I think he had sort of worked out, 'Well, I will just stick with it and see how it goes.'

Anyway, at that stage he was sort of thinking, 'I want to go and meet my maker,' but by the time the June long weekend came around he just wanted to go and see his mum again, who was Nan Bignell in her late 80s down in Millicent. He wanted to go and see his mum and he also wanted to go and see Mary MacKillop at Penola and say a few final prayers down there. We went to the Noarlunga Hospital so he could have a blood transfusion, because he had the most amazing palliative care and doctors around him who did an amazing job and our family will always be grateful.

So we did the blood transfusion on the Saturday morning. My sister, Jacinta, came down from Brisbane and my other sister, Toni, came in from Melbourne. They had hired a Tarago because dad wanted to go to Penola. Anyway, he has the blood transfusion and the doctor comes in and says, 'Trev, it didn't work. Your platelets'—or whatever it is—'aren't up to scratch. You won't have the strength to go'. So the doctor walks out of the room and dad in his normal way says, 'Get the car

started, let's go. We're going to go to Penola.' My sisters are saying, 'Yeah, yeah,' and I said, 'I'm not coming. This is going to be like *Weekend at Bernie's*. We're going to be driving around in a Tarago with a dead bloke.'

But he went down and he saw his mum and they stayed overnight. They went to church at St Joseph's in Penola, where I was an altar boy, and he said his final prayers with Mary MacKillop. He came back, he was in his own bed that night and we were all around him when he took his final breaths. He never used the voluntary euthanasia, but with this legislation now 20 years on it is open to people like my dad and like so many other people who do not want to go through those final stages of suffering.

Can I thank the deputy opposition leader, the member for Port Adelaide, for all the great work she has done on this, and everyone in this chamber. Everyone has gone about this in a really respectful way. Deputy Speaker, thank you. You are a true gentleman and an ornament to this place. Thank you for everything you have done. To Kyam Maher—your mum, Viv, would be very proud of you, mate, and it is great that you have your family around you, and thank you for getting us to this stage. We all really appreciate it and generations of South Australians will appreciate it if we get this bill through tonight.

The Hon. A. PICCOLO (Light) (01:14): I would just like to make a few comments to close this, and I apologise if my contribution sounds like a second reading speech because, unfortunately, I was not able to participate in the second reading debate, so I will make some comments now.

First, I commend all those who have been involved in this debate, both inside the chamber and outside, who in my view have behaved in a way that is certainly a credit to our state in the sense that we can actually deal with very complex and controversial issues in a way that does not diminish us. I also thank all the people who have taken the opportunity to express their views to myself, whether or not they support the proposed legislation. At the outset, I acknowledge that whichever way I vote on this bill, like all of us, we are going to disappoint some in our community—that is just the reality.

Equally, I respect the different and at times opposing views expressed in this chamber and in my community, irrespective of their moral or ethical basis: all have a valid place in our democracy. Our democracy is diminished when we try to block out people from engaging in the public sphere. In my view, even minority views deserve to be heard in this place.

As I understand the issues, those supporting the bill believe consent in individuals of sound mind and who have an 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.

Supporters of the bill argue that it fulfills the principles that, for a small number of people, traditional medicine cannot relieve their pain and suffering. They also genuinely believe that the safeguards have been put in place to ensure that vulnerable people are not subject to abuse or the proposed laws are not misused.

Proponents also further argue that existing legal framework does not provide health practitioners with sufficient scope or protection to provide patients with a terminal illness with 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 prolonging the suffering.

Proponents, with some justification, also rely on the results of opinion polls that indicate majority support for some form of voluntary euthanasia laws. 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 as I understand them. For some, their religious beliefs lead them to hold that view.

Those in the healthcare industry, whether health practitioners, nurses or any health worker, are, like the general community, divided about these laws. Those who work in health care are concerned that voluntary euthanasia could undermine the doctor-patient relationship. 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 more pressure to expand the availability of euthanasia to a greater range of people in the community, which I think was a comment the member for West Torrens made.

This debate has already started in Victoria. The committee that I belong to, with others, end-of-life choices, took evidence from Victorian practitioners, and that debate about changing their laws has already started. This concern is usually referred to as a slippery slope argument. Many in the community believe 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. Perhaps my greatest concern about these laws and other proposed laws can best be summarised by some of the research. The piece that I am about to read from the *New Zealand Medical Journal* is indicative of the bits of research I have read. The authors of this research conclude as follows:

> Our study provides confirmation that the fear of being a burden on others is not only felt by those facing their imminent mortality, but also by older individuals who are currently healthy and living independently in the community. We also conclude that for some older people their prior experiences with health care and dying may be a strong factor in influencing and supporting medical practices that hasten death at the end of life. We believe it is crucial to understand the reasons why people support medical practices that hasten death well in advance of such practices ever becoming legally available.

I would submit that I am not sure we have reached that position yet, but I am happy to be proven wrong.

Dr Brian Pollard, a retired anaesthetist, who was a pioneer of palliative care medicine in Australia, said that he has had intimate experience of treating many dying patients and their families and he concluded that many of these, however, do not 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.

While public opinion is a very important consideration in formulating public policy, some care must be taken when trying to extrapolate results from a general question to a specific public policy position. If public policy is going to be driven by opinion polls, then we must as legislators be prepared for the many unintended consequences.

Opponents of voluntary euthanasia rely heavily on the 'slippery slope' argument, which I mentioned. 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. As I said, this discussion has taken place elsewhere already. There is nothing slippery about it; it is a natural progression to broaden its application as we better understand it. 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.

Sadly, this debate has been framed by some as those who are supporters of the bill have compassion and those who are against it want to see people suffer. In my view, both supporters and opponents of the bill want to address the suffering of people with a terminal illness; we just have different views on how that suffering should be treated or managed. I do acknowledge that this bill, which has now been amended in this chamber, is a better bill than when it came to us. I hope that the bill works in the way it was intended.

Mr MALINAUSKAS (Croydon—Leader of the Opposition) (01:21): I was not in this chamber five years ago when this was last debated, but I do recall it well, observing it from the other place. I particularly remember an interaction I had in the streets of my now electorate of Croydon because at the time I was spending some time at street corner meetings with the then member for Croydon, the Hon. Michael Atkinson. I remember being at an event only 48 hours, I believe, after he cast a significant vote and voted down the euthanasia legislation at the time.

We were at a street corner meeting and there were a number of constituents there who were grumpy with the former member for Croydon. Mick, in a practical way, deflected them to me and they started asking me what my opinion was on voluntary assisted dying. I remember one conversation I had with a now constituent of mine, and I said to her that there was potentially a version of the bill that I was willing to support, but I probably would not have supported the one that was voted on in the House of Assembly at the time.

As a result of that conversation, and much that has occurred since then, I intend to remain true to that word because I do believe this is a version of voluntary assisted dying that is worthy of

support. That is not an accident. That has only happened because of an extraordinary amount of hard work, and the list of people who have contributed to that has already been outlined this evening. But I do want to acknowledge the work of a couple of people—principally, the Hon. Kyam Maher.

All those people who are in the arc of progress well understand that at some point progressive politics has to intersect with practical pragmatism, an acknowledgement that the pursuit has to be realised on the ground in a way that is practical and effectual. What I think we have seen through Kyam's leadership of the development and advocacy around this bill is a version that is worthy of support that will ultimately achieve the intended outcome, and I think that is worthy of high praise. I am very proud that Kyam is a member of my team and has worked so diligently amongst a lot of others in order to be able to achieve this outcome.

Then in this place I think legislation of this nature does need careful and thoughtful stewardship. We did see it from the Deputy Premier with her work recently on the Termination of Pregnancy Bill and her powerful advocacy in this chamber, being able to guide that legislation through the parliament in difficult circumstances. But tonight we have also seen extraordinary grace and thoughtfulness and consideredness from the Deputy Leader of the Opposition, the member for Port Adelaide, and I, too, would like to thank her for her work.

My final point is a reflection from when I was health minister and I remember going through our state's only quaternary hospital after it was recently opened and witnessed firsthand the truly extraordinary amount of effort that was going into keeping people alive. When you witness someone late in life in an emergency environment—as I had the opportunity to do, and no doubt the current Minister for Health, who I acknowledge is here this evening has done the same—who is clearly late in life, having people poring all over them with the best and the most expensive machines that humans can devise, all allocating their effort to keeping someone alive, it is an extraordinary sight to behold.

I love the idea that as a state and as a country we go out of our way to invest an extraordinary sum of our money and our effort in keeping people alive right at the end of their innings. I think that speaks a lot to the value that we place on life and the value we place on human dignity. I do not believe this bill will discourage that or dissuade that practice from happening in any way, shape or form. I am satisfied that the exact same amount of effort that goes into keeping people alive today will be the same amount of effort that goes into keeping people alive tomorrow in the event that this bill passes. That is what has persuaded me that this bill is worthy of support and, for that reason, I commend the bill to the house.

The house divided on the third reading:

Ayes.....33
Noes 11
Majority 22

AYES

Basham, D.K.B.	Bedford, F.E.	Bell, T.S.
Bettison, Z.L.	Bignell, L.W.K.	Boyer, B.I.
Chapman, V.A.	Close, S.E. (teller)	Cook, N.F.
Cowdrey, M.J.	Ellis, F.J.	Gardner, J.A.W.
Gee, J.P.	Harvey, R.M.	Hildyard, K.A.
Hughes, E.J.	Luethen, P.	Malinauskas, P.
Marshall, S.S.	McBride, N.	Mullighan, S.C.
Odenwalder, L.K.	Patterson, S.J.R.	Picton, C.J.
Pisoni, D.G.	Power, C.	Sanderson, R.
Stinson, J.M.	Szakacs, J.K.	Treloar, P.A.
Whetstone, T.J.	Wingard, C.L.	Wortley, D.

NOES

Cregan, D.	Duluk, S.	Knoll, S.K.
Koutsantonis, A.	Michaels, A.	Murray, S.
Pederick, A.S. (teller)	Piccolo, A.	Speirs, D.J.

NOES

Tarzia, V.A.	van Holst Pellekaan, D.C.

PAIRS

Brock, G.G.	Brown, M.E.

Third reading thus carried; bill passed.

At 01:32 the house adjourned until Thursday 10 June 2021 at 11:00.

Answers to Questions

ANTIMICROBIAL RESISTANCE

474 Ms BEDFORD (Florey) (5 May 2021). What is being done to fight against the silent pandemic AMR (antimicrobial resistance) and how can South Australia's share of this important research work be made larger?

The Hon. S.J.R. PATTERSON (Morphett—Minister for Trade and Investment): The Minister for Health and Wellbeing has advised:

SA Health has established the SA Expert Advisory Group on Antimicrobial Resistance (SAAGAR), to develop educational and stewardship resources for prescribers and consumers, and to provide advice regarding antimicrobial use in humans. The Communicable Disease Control Branch (CDCB) in SA Health coordinates the activities of SAAGAR. Prescribing guidelines and resources are developed and regularly updated by SAAGAR to support appropriate prescribing of antimicrobials.

SA Health is contracted by the Commonwealth Department of Health to manage and administer the National Antimicrobial Utilisation Surveillance Program (NAUSP). CDCB coordinates the NAUSP, with over 230 hospitals currently registered, to collect data and provide reports to hospitals on their antimicrobial use in the acute care setting. This allows hospitals to monitor their use over time and to compare their usage to other similar hospitals. In the State Public Health Plan 2019-2024, SA Health committed to developing a SA Antimicrobial Resistance Action Plan.

PUBLIC HEALTH SERVICES

479 Mr PICTON (Kaurna) (6 May 2021). In public hospitals what are the dates, locations and reasons for each Code Yellow incident over the past 12 months?

The Hon. S.S. MARSHALL (Dunstan—Premier): I have been advised:

The number of Code Yellow incidents in metropolitan hospitals over the past 12 months by LHN are:

- SALHN 104
- CALHN 19
- NALHN 4

Local health networks use different triggers to activate alerts.

PUBLIC HEALTH SERVICES

480 Mr PICTON (Kaurna) (6 May 2021). For each month over the past 12 months, what was the longest wait of a mental health patient in emergency waiting for a bed (in hours)?

The Hon. S.S. MARSHALL (Dunstan—Premier): I have been advised:

For the 12 month period from April 2020 to March 2021, the maximum ED wait time (in hours) that a mental health patient waited in emergency for a suitable bed is displayed in Table 1 below:

TABLE 1—Mental Health Related Maximum ED Wait Times to Admission

Hospital Region	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21
Country	6.33	14.37	19.7	23.33	12.98	5.48	9.42	10.15	12.25	3.8	37.08	5.23
Metro	121.32	96.8	114.15	121.58	116.53	95.82	112.38	59.37	74.53	98.47	109.07	95.65

Notes:

- Includes only seven major and 10 country hospitals
- Wait time to admission (hours) – The length of time in hours from the decision to admit till departure (from ED)

ANTIMICROBIAL RESISTANCE

In reply to **Ms BEDFORD (Florey)** (17 March 2021).

The Hon. S.J.R. PATTERSON (Morphett—Minister for Trade and Investment):

I refer the member to the answer tabled under Question on Notice No. 474.