

*Motions***END OF LIFE**

Adjourned debate on motion of Hon. K.J. Maher:

1. That, in the opinion of this council, a joint committee be appointed to inquire into and report on—
  1. (a) the practices currently being utilised within the medical community to assist a person to exercise their preferences for the way they manage their end of life when experiencing chronic and/or terminal illnesses, including the role of palliative care;
  2. (b) the current legal framework, relevant reports and materials in other Australian states and territories and overseas jurisdictions, including the Victorian and Western Australian parliamentary inquiries into end-of-life choices, Victoria's Voluntary Assisted Dying Act 2017 and implementation of the associated reforms;
  3. (c) what legislative changes may be required, including an examination of any federal laws that may impact such legislation; and
  4. (d) any other related matter.
2. That, in the event of a joint committee being appointed, the Legislative Council be represented thereon by three members, of whom two shall form a quorum of council members necessary to be present at all sittings of the committee.
3. That this council permits the joint committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.
4. That standing order 396 be suspended as to enable strangers to be admitted when the joint committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.
5. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto.

(Continued from 20 March 2019.)

**The Hon. I. PNEVMATIKOS (17:09):** I rise to speak in support of this motion. The subject of voluntary assisted dying, or euthanasia, is an important issue that we in South Australia must discuss and investigate thoroughly. Not only is this an issue that could potentially affect everyone at some stage of our lives but it is also an area that Australians are demanding that we explore and act upon.

An independent nationwide poll conducted in 2017 by Essential Research found that 73 per cent of Australians support voluntary assisted dying. Other polls have shown that close to 80 per cent of Australians are in favour of such laws. Currently, worldwide a total of 15 jurisdictions allow voluntary assisted dying. In Australia, almost 60 bills have been introduced into state, territory and commonwealth governments seeking to decriminalise or legalise voluntary assisted dying.

In Victoria, such laws will come into effect in a matter of months. This is significant because not only are a growing number of jurisdictions around the world actively tackling this issue but the vast majority of Australians demand that we take a serious look at this issue. Now, voluntary assisted dying will become an option for around a quarter of Australians. To me, it is our duty as policy and lawmakers to afford this topic the importance and diligence it clearly deserves.

I am well aware of the ethical and moral debate around voluntary assisted dying. There are many who feel very strongly that it would be wrong for governments to pass laws that allow for people to be assisted to die. However, let me say at the outset that I believe it is wrong to sit by while people are suffering and do nothing, especially when we have seen that there are jurisdictions that have enacted such laws with sufficient safeguards to ensure that they are not abused.

One of the most important cited arguments against voluntary assisted dying laws is that we would erode the value of human life. I believe, however, that this depends on how you define the quality of human life. If a person feels that the life they have before them is no longer desirable because of a

terminal illness or advanced disease, if they are in great pain and suffering, they should be able to end their suffering with dignity and safety at a time of their choice.

While I appreciate that there are people who would choose not to take advantage of such laws, does their opposition mean that no-one should? Opponents of voluntary assisted dying also talk about the slippery slope of such laws. This slippery slope includes the dire outcome when medical practitioners become involved in ending lives instead of saving them, the potential abuse of these laws and the suffering that could result. Let us take a look at each of these objections.

Currently in Australia, medical practitioners assist people to die on a daily basis. Either the patient has instructed that no life-saving measures are used or their family or guardian decides for them if they are incapacitated. Treatment or nutrition is withheld, machines are turned off and often the patient dies slowly, which can be agonising and highly stressful for loved ones to witness. The difference is that this is called passive voluntary euthanasia. It is largely accepted within current medical practice and is generally recognised and permitted by law. It is also generally not considered to be misused or abused.

In addition, research conducted over the past 20 years has failed to show any significant abuse in jurisdictions where voluntary assisted dying is legal. The argument of potential abuse of these laws is primarily used by opponents to scare people into uncertainty. It is not supported by the experience in these jurisdictions or by the facts. I also simply do not agree with the premise that governments should not pass laws because they can potentially be abused. This is not a reason for not doing something; it is simply a reason to do something very carefully, employing the best advice from legal and medical practitioners.

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In Victoria, for example, the new laws stipulate that only adults who have an advanced disease that is expected to cause death within six months (or within 12 months for neurodegenerative diseases), who are able to make a decision about voluntary assisted dying and have been living in Victoria for at least 12 months will be able to make use of this option.

These are sensible safeguards that will ensure that the law is not abused and is actually used to help people. When it comes to complex ethical issues such as this, it is our job as elected representatives to try our hardest to get it right, not to shrug our shoulders and say, 'Too hard.' Finally, let's face it: people are already suffering and ending their lives. As Andrew Denton stated during his speech at the Press Club for the launch of his podcast on assisted dying:

It is a sad irony that by successfully arguing mythical threats to hypothetical grannies, opponents of assisted dying in Australia continue to allow real harm to actual grannies.

The statistics on elderly suicide in Australia are shocking. During the Victorian inquiry, the Coroner estimated that one elderly Victorian died violently by their own hand each week. The National Coronial Information System reports that every week, two Australians over the age of 80 take their own life. In these cases, the most common form of death is hanging, and it is heartbreaking that these people need to die a violent death alone because there is no other avenue available to them.

It seems to me that this is a much more disturbing slippery slope that we are already on. This is not dying or living with dignity. We have a way to stop such suffering, and I believe we have an obligation to do so. According to a 2016 report by the Australian Human Rights Commission entitled 'Euthanasia, human rights and the law', laws for voluntary assisted dying would afford the subject 'legitimacy and transparency'. The report states:

This leads to a broader, related argument in support of a legislative approach which would introduce 'appropriate scrutiny, support and regulation' so that this practice that is 'already occurring' is undertaken in a safe as possible manner.

The law would also provide much-needed certainty, as well as necessary safeguards for patients, and for doctors who provide assistance. Ultimately, it comes down to personal autonomy and having the

choice to live and die with dignity, and that should be a choice we are all able to make freely. As the late physicist Stephen Hawking stated in an article published by the Huffington Post in 2013:

I think those who have a terminal illness and are in great pain should have the right to choose to end their lives, and those who help them should be free from prosecution.

Stephen Hawking recognised that while that was not a solution he chose for himself, it should be available for those who do choose it. It is precisely because I believe that life is precious that I see my role in this parliament as doing everything I can to ensure that every person can live and end their life with respect, dignity and autonomy.

**The Hon. M.C. PARNELL (17:18):** I rise on behalf of the Greens to support this motion, and I congratulate the Hon. Kyam Maher for bringing it to us. As he pointed out, it is not the first time he has done so. Issues to do with voluntary euthanasia, dying with dignity and assisted suicide— however they are labelled—have been on the *Notice Paper* of this chamber and this parliament, and also of parliaments around Australia for the last 20 or 30 years.

It has always been my view that the law would eventually pass somewhere. The reason I have always had that confidence is because survey after survey and opinion poll after opinion poll have shown that for the vast majority of Australians, when asked, 'Do you support changes to the law to allow people who are suffering intolerably from incurable conditions to access medical assistance to end their lives?' the answer is yes. The numbers have been going up year on year, from figures of around 60 and 70 per cent decades ago, up to well over 80 per cent.

The majority does not confine itself to political views, it does not confine itself to religious views. The majority of people who describe themselves as Christian, who describe themselves as one of the different denominations—Catholic, Anglican, whatever—when asked whether they support this law reform, say yes. It has been a matter of great concern and distress to many people that the parliaments of this country have not seen fit to enact what the citizens are asking them to do.

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As the Hon. Kyam Maher said, we stand on the shoulders of those who went before us. I have tried twice, and I cannot remember what number bills they were—whether it was 11 and 12 or 13 and 14—but certainly many people came before me. As the Hon. Kyam Maher did when he introduced this motion, I, too, acknowledged the people who came before me.

I might just mention one example, and that is the Hon. Sandra Kanck, who represented the Australian Democrats in this place. She was a strong advocate for voluntary euthanasia. As a measure of desperation, she made a speech, not long after I had been elected, where she read onto the record a number of case studies and examples of what the Hon. Irene Pnevmatikos referred to: people—a lot of elderly people, but not just older people—who have taken their lives because there was nothing else they could do. She read onto the record in graphic detail some of the measures people resorted to.

It actually shocked me, not the stories she told—I was familiar with the stories—what shocked me was the parliamentary response. I recall that we had a massive debate in this place about whether we could strike the honourable member's words from the record. There were motions without notice flying around the chamber about whether we could strike it from the *Hansard* record. Then someone suggested that we could leave it on the record but take it off the online version so that it was only available on paper.

Then there were questions about whether the parliamentary librarian was sufficiently qualified to assess the mental state of someone who came into the parliamentary library to read the *Hansard*, which was only available exclusively in the library—it was not going to be published anywhere else. This chamber tied itself in absolute knots trying to work out what to do about the Hon. Sandra Kanck's speech.

So this is a matter that has occupied a lot of time in this chamber, and I think the point remains that we know what the citizens are asking us to do—they have been asking us for decades to do it. This motion is not a bill. The motion is, I think, preparatory to a bill, and I desperately hope that it results in a bill. Bills that have been introduced in this council have failed by the narrowest of margins.

I think we heard the Hon. Kyam Maher talking about the Speaker's casting vote in the House of Assembly. My recollection of the first bill I introduced is that that was a single vote as well, and it was a vote that changed at the last minute, something that took people by surprise. So we have got close many times in getting this necessary law reform, but it has not yet happened.

I think the honourable member's approach of having a committee of parliament to look at this in detail is absolutely the way to go. Of course, we could just keep introducing bill after bill, and one of them will eventually pass, but I think that the committee approach makes sense. The advantage of a parliamentary committee is that we can get people into the room and we can quiz them. We can get medical authorities; we can get people from the palliative care sector; we can get experts on human rights and civil liberties; and, most importantly, we can get people with overseas experience, and we can grill them about how these laws work, the types of eligibility criteria, the various checks and balances.

The reason I think it is important for us to be able to do this is that, in previous debates, the amount of misinformation that has been flowing would have made Donald Trump blush, in terms of fake news. All sorts of stories were trotted out that were clearly untrue, especially in relation to the experience in overseas jurisdictions. So a committee is a good way of getting all the evidence on the table.

One thing that did strike me in looking at the examples of countries that do have voluntary euthanasia laws was the number of people who were eligible to take advantage of the laws. They qualified and they actually obtained drugs that they could use to end their lives, and then the number of people who died 'naturally' without taking those drugs was actually very high. The explanation given was that, like probably all of us, people do want to live. If they have a choice and if they can live well then people want to live, they want to live as long as they can.

However, what these people had was a safety net. Whilst they had thought that the pain was intolerable, they had the drugs ready in case it got to that point where they could not live one more

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day, yet many of them, because of the will to live, actually survived without taking it but they were so grateful that those drugs were there for them if they chose to use them—and that is the point: it was their choice. I think that was an important lesson that came out of some of the European experience.

I am looking forward to this committee being established and to hearing the evidence taken. I expect that the committee will call for public submissions as well as for expert submissions. I expect that the committee will be overwhelmed with submissions by groups that we know are active in this space. Certainly, there are many people who will write submissions who are against it, and they will be overwhelmingly but not exclusively religiously based—that is the experience here previously and everywhere else. However, you will also have people who will take a contrary view religiously based. We had a group called Christians for Voluntary Euthanasia and they ran candidates for the Legislative Council, I think, two elections ago. Religion has no monopoly on this debate. There will be people who will invoke religion either for or against voluntary euthanasia.

I think it is a good process. I congratulate the Hon. Kyam Maher for bringing it on and I will also take this final opportunity to associate myself with the remarks of the Hon. Irene Pnevmatikos. I am very glad that she is now in the chamber because people in the past have said, 'Mark, bring another bill on,' and I say, 'Well, there's not much point bringing another bill on until the numbers and the membership of the council changes. There is a large number of new members and we don't know what their position is,' so I am glad the Hon. Irene Pnevmatikos has put her position very clearly on the record.

I am hoping that when this joint select committee finally reports that it comes up with a bill that guarantees what I think is a basic human right of people to die with dignity, that it includes the necessary safeguards and checks and that when it does eventually get put to a vote in parliament that it gets the overwhelming support of the members of both houses. With those words, the Greens support this motion.

**The Hon. C. BONAROS (17:27):** I rise on behalf of SA-Best to support the Hon. Kyam Maher's motion for a joint committee to inquire and report on very critical issues about end-of-life choices. This inquiry plans to investigate the role that the medical community has in assisting people experiencing chronic and/or terminal illness to exercise their preferences, as well as the existing legal framework and reports from interstate and international jurisdictions relating to end-of-life choices.

Importantly, the joint committee will also be tasked with examining the role of palliative care. My colleague the Hon. Frank Pangallo has previously spoken in this chamber about the importance of palliative care services. All Australians deserve to die with dignity and to be surrounded by the people they love. It is a fundamental right for each and every one of us. We know that access to high-quality palliative care assists people with a terminal condition to live and die with dignity, as well as ensuring that their carers, family and friends are supported through any decisions that need to be made.

I am extremely grateful to the cohort of individuals, including medical professionals and medical staff, support persons and volunteers, who dedicate their lives to working in the palliative care space. It takes a special kind of person indeed to undertake that work and I know that it is a job that I certainly could not do. They are extremely brave individuals who spend their time guiding ill people, people with terminal illnesses and their families, ultimately through to death and helping loved ones come to terms with their loss.

All of that said, there is much more to be done to improve Australia's standards of palliative care and to ensure that care is available to those who need it most, as well as their families and carers including bereavement support following the death of a loved one.

I will make one final observation that plagues me the most in the context of this debate, that is, the very fine line in my view that already exists between palliative care and euthanasia in practice, and it is a very fine line indeed. Indeed, some would argue it is often a very blurred line. This is not a criticism, it is simply an observation that I am sure anyone who has experienced a loved one going through palliative care would relate to, and I note the Hon. Irene Pnevmatikos's remarks in that context.

Some would equally argue the current approach is cruel insofar as it results in slow, painful deaths for our terminally ill. So I look forward to the submissions and ultimate recommendations of

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the joint committee with respect to palliative care, and I hope this is one of the issues that is front and centre in that inquiry that will be considered in that context but also in the broader context of this debate as a whole.

Almost 160,000 people died in Australia in 2015. Many of these deaths were expected, with the leading causes of death being chronic diseases. As the Australian population ages, the number of people dying with chronic diseases and, in many cases, complex needs, will inevitably increase. We acknowledge that, even with access to the best palliative care, there will be people who want to pursue voluntary assisted dying. It is an emotive issue that has continued to confound successive parliaments in South Australia, as other members have pointed out. It is one of those rare instances, I believe, where members of parliament often struggle to separate their own personal beliefs or religious beliefs, and their own moral and ethical values and views from those of the broader community.

At some point, I guess we have to question where we draw the line in terms of separating our own personal views from the majority views of our community, without judgement, without fear or favour. The Hon. Kyam Maher referred to previous attempts at dealing with the issue via legislation,

stretching right back to 1995, with a rolecall of a former, and one current, politician who have been brave enough to seek legislative change, albeit without success.

Much has changed in the debate since legislative reform was first attempted in South Australia nearly a quarter of a century ago. Every time the parliament previously considered the issue, if introduced, it would have made South Australia the first jurisdiction in the nation to implement such laws.

We know that in late 2017, Victoria became the first state in the country to legalise assisted dying for the terminally ill, with MPs voting to give patients who meet the established, stringent criteria, the right to request a lethal drug to end their lives. The criteria include completing a three-step process involving two independent medical assessments. They must be over the age of 18, of sound mind, have lived in Victoria for at least 12 months and, crucially, be suffering in a way that 'cannot be relieved in a manner the person deems tolerable'. If the criteria is met, then Victorians with a terminal illness are able to obtain a lethal drug within 10 days of asking to die.

The legislation had an 18-month implementation period and will come into force on 1 June. Victorians are now just weeks away from the introduction of new laws that will allow terminally ill adults to apply for lethal medication up to six months before they are expected to die. The Victorian legislation also allows sufferers of conditions such as motor neurone disease and multiple sclerosis, who have a life expectancy of less than 12 months, to have access to the same lethal medication.

It took more than 100 hours of debate across both houses of parliament and two demanding all-night sittings to pass the landmark legislation. No doubt, this parliament will similarly take its time to consider any proposed legislation that is borne out of the joint committee inquiry into the issue. Western Australia is also on the precipice of introducing legislation dealing with voluntary assisted dying following its own parliamentary inquiry into the issue.

I believe the most common-sense way forward on this deeply personal, emotive and critical issue is by way of a joint committee, and for that reason my colleague and I support this motion. To quote Dame Cicely Saunders, the founder of the modern hospice movement, 'How people die remains in the memory of those who live on.' We are all part of this story. It will affect each and every one of us and those who we hold dear at some point in our lives. We must do better. Death is inevitable but dying unsupported and devoid of dignity should not be.

What form dying with dignity will ultimately take or not take will depend on the deliberations of this parliament. As such, like other honourable members, I welcome any move aimed at guiding us through the issues, evidence, case studies and research, and an inquiry will certainly play a key role in that regard. With those words, I support the motion.

**The Hon. J.A. DARLEY (17:35):** I rise today to speak in favour of the motion introduced by the Hon. Kyam Maher. I commend the honourable member for introducing this motion and for sharing his difficult personal experience. Saying goodbye to a loved one is never an easy task but there is nothing worse than watching a loved one suffer unnecessarily.

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I believe that everyone should be afforded a choice when it comes to their end of life. I acknowledge that if legalised, voluntary assisted dying will not be an option that everyone will choose to take, but it should be just that—an option. Every individual should have a choice to die with dignity and to make a decision that is of fundamental importance to their autonomy. Although palliative care can play an important role in relieving pain for some patients experiencing chronic or terminal illnesses, it is sometimes not enough to alleviate suffering.

Support from the Australian public has grown overwhelmingly over the last two decades in favour of voluntary assisted dying. However, despite research showing a clear majority of support by the public, our laws have fallen behind in upholding the expectations of the community. I acknowledge the numerous attempts made to amend legislation and I appreciate members' ongoing efforts in support of this issue.

As we would not be the first state in Australia to legalise voluntary assisted dying, we can take this opportunity to learn from other states and territories and overseas jurisdictions by reviewing current medical practices, legal frameworks, reports and other relevant material. It is important to establish a strong framework to provide a balance for this matter. The framework should provide protections for the vulnerable whilst enabling those who voluntarily make the choice to end their life to do so with dignity. With those words, I am pleased to support this motion.

**The Hon. S.G. WADE (Minister for Health and Wellbeing) (17:38):** I stand primarily to amend the motion, therefore I move:

Leave out subparagraph (c) and insert a new paragraph as follows:

(c) what legislative changes may be required, including consideration of:

1. (i) the appropriateness of the Parliament of South Australia enacting a bill in similar terms to Victoria's Voluntary Assisted Dying Act (2017); and
2. (ii) an examination of any federal laws that may impact such legislation.

Voluntary euthanasia is a contentious moral and health issue which generates significant community debate whenever it comes before the parliament. Understandably, feelings run high and it is important to ensure that any reform of the law is evidence-based as well as values-informed. In this context, I respectfully suggest that the motion, as it stands before us, is too open-ended. A rational, respectful and productive discussion, in my view, is more likely if the committee has a focus and a starting point.

I note that 13 pieces of legislation have been introduced on euthanasia since 2005. Each gave parliament a concrete proposal to consider and debate. In the end, those proposals did not receive the support of this parliament. However, recently, the Victorian parliament has supported legislation to allow for voluntary euthanasia and those provisions will come into effect on 19 June this year. In my view, that bill would be a useful starting point for the proposed committee.

The operation of the Victorian model will provide useful data in relation to the provision of voluntary euthanasia in an Australian context, effectively acting as a de facto pilot for other jurisdictions. While each jurisdiction has the authority to legislate in this area, in my view, there will be value in legislation being consistent between jurisdictions. With these considerations in mind, my amendment seeks to bring greater focus to the work of the committee through asking the committee to use the Victorian model as a starting point. I believe this approach will also significantly increase the prospect of a concrete outcome, that is, specific legislation that this parliament can consider.

**The Hon. J.S.L. DAWKINS (17:40):** I will be brief. I indicate that I will support the amendment moved by the Hon. Mr Wade. The first time I ever dealt with the issues of euthanasia in this chamber would have been about 20 years ago; it might have been a little bit longer. Ironically, the first time I had to make a conscience vote in relation to euthanasia was not about the subject itself. It was about whether we should have a select committee or a standing committee, and I think it was probably the Social Development Committee that looked at the issue way back then.

I commend the Hon. Mr Maher for bringing this motion to the chamber, but, as I said, I support the amendment of the Hon. Mr Wade. I have always supported the pieces of legislation that have come to this place in relation to the legalisation of voluntary euthanasia. A number of those bills have been criticised by some for not being perfect. Having had significant experience in bringing private

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members' bills to this place on complex issues without the support of government or other organisations until recently, I recognise the fact that it is difficult to do. I was always prepared to support those bills, even though they may not have been perfect. Indeed, government bills of all persuasions are not always perfect either.

I support this inquiry and I think that the suggestion that the minister, the Hon. Mr Wade, has made is a very good one because the opportunity to look at what is happening in Victoria—which will commence, as the Hon. Connie Bonaros and others have said, very shortly—is a very good

opportunity. I support the amendment, but I will support the motion and I think it is a very good idea. As I said, I have had a lot of experience in bringing private members' bills to this place on my own. I have really relished in recent times the support of the government to get an organisation like SALRI to look at the surrogacy issue and hopefully we will progress that soon. On this matter, I support the amendment and the motion.

**The Hon. K.J. MAHER (Leader of the Opposition) (17:43):** I thank the honourable members who have contributed on the motion to set up a joint committee. I think it is the most obvious way to go when we are assessing this in the new parliament. I do not think there is any doubt, at some stage during the next three years, that this will be an issue that will be discussed in the form of a bill, and I think a bill is best informed by having a process like a committee.

I rise also to support the Hon. Stephen Wade's (Minister for Health and Wellbeing) amendment. I think it makes good sense to have a focus for the committee and it makes even better sense to have that focus looking at the scheme that, in a few short weeks, will be the first scheme operational in Australia. There was one comment—and I do not always agree with the Hon. Stephen Wade—that struck a chord with me around looking at the merits of having jurisdictions, with something as complicated as this, having some form of similarity.

So I think it does make good sense to have a focus on what has happened and what will be the law in Victoria in what is a very complicated area, for the reasons that we are not now the first and we can look to what is being done. If other jurisdictions enact similar laws—and I am certain they will over time—there should be some degree of uniformity between what states are doing in a difficult and complex area, so it is an amendment from the Hon. Stephen Wade that I am happy to support.

It is an issue that reasonable people have differences of opinion over and struggle with. Since moving this motion, I have had a number of people contact me and talk about some of the areas of voluntary euthanasia that I had not thought a lot about. We have heard contributions from honourable members about the crossover in the palliative care area and the choice that some people make, which is, in effect, what we would talk about as dying with dignity or voluntary assisted dying or euthanasia.

One of the more difficult things that people have talked about since I moved this motion was the effect it sometimes has on others—the choices that some people make when they do not have voluntary assisted dying available to them to end their own lives when they are in chronic pain and the effect it has on those first responders and others around. I know in the Victorian inquiry—I cannot remember the exact figures—the coroner gave evidence that there would be one or two people a week, I think, that are referred to as suicides, but in fact they would be better termed as people taking matters into their own hands without a humane way for voluntary assisted dying, and about the effects that has on those who are left behind. They take their own life in very dramatic ways and those first responders are the ones responding to it.

Just in a couple of weeks, some people have contacted me and raised things that I had not thought a lot about. I think a select committee with a focus on the Victorian bill can be a reasonably focused select committee that does not drag on, like some of our select committees, over many years. It can be a reasonably focused select committee that, as the Hon. Mark Parnell says, might come back with something reasonably solid.

After considering evidence, particularly taking Victoria as the focus, it might be something very similar to what Victoria has done, for this and the other chamber, hopefully, to consider in the very near future. I thank honourable members for their contribution. I look forward to this committee being established and the members of that committee undertaking what is very important work in this area.

Amendment carried; motion as amended carried.