

*Parliamentary Procedure*

**STANDING ORDERS SUSPENSION**

**The Hon. T.R. KENYON (Newland) (20:00):** I move:

That standing orders be so far suspended as to allow debate on the Death with Dignity Bill to be undertaken.

**The DEPUTY SPEAKER:** An absolute majority not being present, ring the bells.

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

Motion carried.

*Bills*

**DEATH WITH DIGNITY BILL**

*Second Reading*

Adjourned debate on second reading.

(Continued from 3 November 2016.)

**Mr PEDERICK (Hammond) (20:02):** I rise to speak to the Death with Dignity Bill 2016. It may come as no surprise that I will not be supporting the bill, which is a consistent stand I have taken for the whole time I have been in this place in regard to so-called voluntary euthanasia. I note that this bill is, I think, the 15<sup>th</sup> attempt in this parliament to legalise voluntary euthanasia, and I am a bit—

*Members interjecting:*

**The DEPUTY SPEAKER:** Order! There is too much noise in this chamber. I cannot hear the member for Hammond.

**Mr PEDERICK:** Thank you for your protection, Deputy Speaker.

**The DEPUTY SPEAKER:** I will always protect you, member for Hammond.

**Mr PEDERICK:** Thank you. What concerns me is that there have been so many attempts, yet the proponents of voluntary euthanasia do not seem to get it anywhere near right. I still do not think we are there by any manner of means and I will not be supporting the bill. I want to talk about some correspondence received from FamilyVoice Australia in relation to the bill, talking about what they believe are serious flaws in the Death with Dignity Bill 2016.

When the member for Morphett introduced this bill, he said that it had all the safeguards that he observed were missing from the member for Ashford's Voluntary Euthanasia Bill 2016. However, an examination of the bill reveals that it lacks very important safeguards. If passed, it would open the door to serious abuse of vulnerable people, who deserve protection. Some of the bill's flaws are outlined below, and I am quoting from a letter from FamilyVoice Australia:

Since most are fundamental parts of the legislation, the Bill cannot be improved by amendment during the committee stage. It should be rejected on principle at the second reading.

In regard to clause 8—No offence to provide information etc about voluntary euthanasia:

Despite section 13A of the Criminal Law Consolidation Act 1935, or any other Act or law, a person incurs no criminal or civil liability merely by providing or publishing information relating to voluntary euthanasia; or selling or supplying material or equipment (not being a drug) that is, or is to be, used for a purpose relating to voluntary euthanasia.

Note

Section 13A of the Criminal Law Consolidation Act 1935 makes it an offence to aid, abet or counsel the suicide or attempted suicide of another.

This clause would legalise 'workshops' (such as those conducted by Dr Philip Nitschke) advising people of any age about methods they can use to commit suicide (that is, 'self-administer voluntary euthanasia' in the words of Division 3 of the Bill). Clause 8 would also legalise the sale of canisters of lethal gas and other equipment for suicidal purposes. None of the alleged safeguards in the Bill (such as the requirement that the person be of sound mind and have a terminal illness) would apply to people attending such events or buying such equipment. This clause has the potential to facilitate the suicide of temporarily depressed young people or others who are similarly vulnerable.

Section 9 Who may make a request for voluntary euthanasia

- (4) (d) the question of whether a person's suffering is intolerable—
- (i) is to be determined subjectively and need not meet an objective standard; and
  - (ii) cannot be challenged or questioned in any proceedings seeking to prevent or delay the administration of voluntary euthanasia to the person;

Since the person's claim to be suffering intolerably from an illness or treatment cannot be challenged, the bill is effectively endorsing suicide, and the 'intolerable' requirement is meaningless.

Section 9(4)(e)

in determining whether a person's death has become inevitable, it is not necessary to establish that the death is imminent nor that it will occur within a particular period.

A person could have a terminal illness such as heart disease that could kill them years down the track, but could seek euthanasia immediately if he or she subjectively claims to be suffering intolerably.

Section 11 Preliminary examination and assessment by medical practitioner

- (2) If the medical practitioner reasonably suspects that—
- (a) the person is not of sound mind; or
  - (b) the decision making ability of the person is adversely affected by their state of mind; or
  - (c) the person is acting under any form of duress, inducement or undue influence (including that due solely to a perception or mistake on the part of the person) in relation to their wish to request voluntary euthanasia,

the medical practitioner must refer the person to a psychiatrist for examination and assessment in accordance with section 13.

Psychiatrists are not necessarily competent to detect whether a person is adversely affected by their state of mind or acting under duress: GPs even less so. Dr David Kissane,

Professor of Psychiatry at Monash University, said in a letter to SA MPs, dated 26/10/16:

'A psychiatric gate-keeping role within legislation for euthanasia does not work effectively. For example, the ROTI legislation in Darwin failed in this regard. I studied Dr Phillip Nitschke's medical records with his permission, tape-recorded research interviews with him, and reviewed the files held by the NT Coroner's Court. Together, we published these case reports in the *Lancet* in 1998. Pain control and symptom management was poor. Clinical depression was ignored by some psychiatrists reviewing these patients. One patient on low doses of antidepressants did not have this increased or the medication changed. These clinicians did not have the subspecialty skills within psychiatry to recognise and intervene with these patients and their families.'

Section 16 Self-administration of voluntary euthanasia:

- (2) A person self-administering voluntary euthanasia may be assisted by such other persons as he or she thinks fit.

This clause would allow an acquaintance, relative or heir of a person approved for voluntary euthanasia to administer a lethal dose to the person. But no one would know if the person had earlier orally revoked the euthanasia request. If the lethal dose was administered despite the revocation, the key witness would be dead. This clause could facilitate murder in some cases.

Section 21 Cause of death:

- (1) For the purposes of the law of the State the death of a person resulting from the administration of voluntary euthanasia—
- (a) will be taken to have been caused by the terminal medical condition from which the person was suffering (being the terminal medical condition referred to in section 9(2)(b)); and
- (b) will be taken not to be suicide or homicide.

I think there are some real concerns, and the letter goes on. I am running out of time, but I want to talk about what has happened overseas where euthanasia has been legalised. In Belgium, in 2003, the number of people going through euthanasia was 235 and in 2015 it was 2,012; in the Netherlands, in 2008, it was 2,331 and in 2015 it was 5,516; in Switzerland, in 1998, it was 50 and in 2014 it was 836; in Oregon, in 1998, it was 16 and in 2015 it was 132; in Washington State, in 2009, it was 64 and in 2014 it was 170.

They are some of the reasons, but not all of the reasons. I have a swag of other correspondence from people concerned about this bill, this legislation. A family lost a son overseas when he accessed some of Dr Philip Nitschke's equipment and suicided because he was depressed. I have real concerns about this. I think we need to respect life, respect palliative care and what it does to help people during their latter time in life. Therefore, I will not be supporting the bill.

**Mr KNOLL (Schubert) (20:13):** I rise to give my thoughts on the Death with Dignity Bill 2016. I do not propose to go over the speech that I went through last time. I think everyone in this parliament, as well as everyone who watched the evening news that night, realised my views on this topic. But I do want to go a little bit more this time to the substance of the bill because I think that, for those people who are on the fence about this issue, there are a number of things that we should consider that I do not think have been discussed that widely in this debate.

We hear statistics from those who are proponents of voluntary euthanasia that somewhere upwards of 70 per cent of the population wants to see euthanasia enacted, and indeed the statistics around Christians wanting euthanasia to be debated. I felt that was something I should look into and test the veracity of those claims. Certainly, the Morgan Poll, which I think was conducted in 2007, and which many people cite, asks the following question:

If a hopelessly ill patient, experiencing unrelievable suffering, with absolutely no chance of recovering, asks for a lethal dose, should a doctor be allowed to give a lethal dose or not?

I can completely understand why over 70 per cent of people said yes when answering that question. If that was what this bill was actually seeking to do, there would be more support for it, but the truth is that it is not what we are being asked to consider. In essence, the real question should be something along these lines: do you support the ending of hopeless suffering for those with a terminal illness if, even with the best safeguards, it meant that some people would have their lives prematurely ended against their ultimate desire?

I think that is much more closely aligned with what we are actually dealing with today, and I will give a number of examples of people who have put exactly those propositions to us. If South Australians, Australians, or people all over the world were asked that question, they would come up with a vastly different response from the one to what I consider to be a pretty loaded question with some emotive language designed to get an outcome. First, I would like to go to a letter I think many of us received from the head of psychiatry at Monash University, Professor David Kissane. He makes the following points:

Many patients who seek to hasten their death have underdiagnosed psychiatric disorders such as clinical depression or adjustment disorders with demoralisation underpinning their suicidal thinking. These disorders often go unrecognised. Psychiatry has a major role to play in diagnosing and treating patients.

He then goes on to make the following statement:

In the care of depressed patients—those losing hope about their future, those struggling because of their medical illness to retain a sense of the meaning and the point of their lives, those contemplating the premature ending of their lives, those who are existentially distressed and struggling to cope—the psychosocial clinician seeking to assess and treat such patients needs to be a source of hope to them, needs to inspire confidence that more can be done, that the suffering can be ameliorating and their distress assuaged.

He then talks about the levels of depression within patients with a terminal illness and essentially makes the argument that it may not actually be the terminal illness itself causing the intolerable suffering: it may be consequential psychological harm, which is something that we on the occupational safety, rehabilitation and compensation committee have had to contemplate.

There is a strong argument that, if we were able to treat the mental health issues that come as a result of having a terminal illness, once you take those mental health issues away it is not, indeed, the actual terminal illness itself that is causing people to seek the path of voluntary euthanasia. That is an extremely important point to make, that

essentially we cannot give up on treating that which can be treated because it happens to be comorbidly expressed with a terminal illness and that we can treat and help those to see hope and meaning in their lives, even as they live with the prospect of their impending demise.

This, to me, was most acutely put forward by a group called Lives Worth Living that came to speak to us last time, a group of wheelchair-bound disabled people, most of whom have a terminal illness and most of whom are human rights activists who I do not think would normally align themselves with a conservative cause. They talk about the issues they have with this bill in the following way:

We would prefer that the South Australian parliament addressed secondary comorbidity, barriers and lack of supports experienced by people with a disability, rather than provide a mechanism for suicide because of them. Instead of safeguards, we need to be talking about preconditions, like the precondition that half of us no longer live in poverty, have good access to medical treatment and palliative care, that we can have the care and support to live a good life.

That statement encapsulates for me everything about why we cannot enact this legislation and why it is actually not really about the safeguards in this bill: it is the preconditions that exist in our broader society for those who have a mental health condition, for those who have a disability; if those two groups of people also happen to have a terminal illness, then this would be something on the table for them that they may choose for themselves in the absence of that terminal illness wish—and, according to the Death with Dignity Bill, it does not have to be in the terminal phase of that terminal illness; it can be anywhere along the stage of that terminal illness.

With those two groups of people I can see extremely clearly a group of people who will choose this for themselves who would otherwise not have in different circumstances, and they are precisely the people that we, as this parliament, should protect. They are vulnerable and they need us to help and support them. In fact, they need us to do a better job with our healthcare system, with our legal system and with the way that we value life in all its different formats. They need us to be fixing those issues before we can seek to address this bill that is before us today.

The third letter that I want to read is one that we received from a Labor member of the Legislative Council in New South Wales, the Hon. Greg Donnelly, who headed up a report into elder abuse in New South Wales. He stated:

I understand that the South Australian House of Assembly has been debating the Voluntary Euthanasia Bill 2016 and is about to commence the Dignity with Death Bill 2016. While I appreciate that the New South Wales report referred to above specifically relates to this state I believe the issue of the real vulnerability that the aged and infirm confront, sadly highlighted in our inquiry, is germane to your parliament's considerations.

I would submit that it is, as demonstrated by the New South Wales inquiry, if immediate blood relatives can rationalise for themselves what is cruel and inhumane treatment of their own parents, it is not such a stretch to join the dots and see how such behaviour relates directly to the issues of euthanasia and assisted suicide.

The vulnerability we heard about and observed was not manufactured or exaggerated. It was what it was, something we all sincerely hope we will never have to experience, particularly insofar as it involves family members claiming to be acting in their best interests.

The report itself goes on to detail incidents of financial abuse in many different formats in ways that we hope will not happen but sometimes do, including coercion, using money without consent, misusing power of attorney, forcing older people's signatures, misleading them, coercing older people to become guarantors, signing over wills and power of attorney, overcharging and not delivering services—a whole host of things.

Again, this is a third group of people who I believe are vulnerable and who are likely to be caught up in this legislation against their ultimate will. They may make the decision for themselves but that true choice may be taken away from them by those around them pushing them and funnelling them towards making this choice.

In the end, I want to plead with this parliament to think about the following: the reason this bill can never be good enough is that it is not about safeguards within the bill that is the issue, it is the actions of families, it is the actions of the medical profession, it is the actions or inactions of government that, in circumstances, will herd people towards this choice.

Until we deal with those issues in our community, until there are safeguards in the broader community for the elderly, and there is proper and appropriate treatment for those with a disability and those with a mental illness, we cannot enact this legislation because we will be pushing people towards this outcome. Only after we are able to deal with these issues should we deal with a piece of legislation such as this. I will be urging my colleagues, tonight and tomorrow, to be thinking about our most vulnerable when they come to make their decision on the second reading.

**Mr GRIFFITHS (Goyder) (20:24):** This is one of the more challenging months I have had in my life, I must admit. Like many others, I have been contacted by a large number of people and I have been respectful of that and have ensured that I made every effort to read what I have received and reply to those people. It has been very challenging in that seemingly, while driving, my mind has suddenly been drawn to the legislation and its impacts. While waiting to go to sleep, my mind is drawn to the legislation and the impacts of it. I have been reading annual reports and, suddenly, my mind is drawn to the legislation and the impacts of it.

I can have but a small appreciation of the efforts of many others who have been the proponents of this legislation, of the commitment they have made to it and the thought they have put into it. In previous legislative debates in this area, I have voted no. I confirm that I will vote no again but I will vote yes on the second reading. I made that commitment some weeks ago because, while I have a very strong belief in life and the preservation of life, I do believe that we as a community have moved forward to at least be in a position for the debate to occur.

While I hold a strong principle in being against it, I have told the member for Morphett that the detail contained in the legislation is actually very important to me. During one of the many briefings that I and others have attended, I was rather upset when one member who does not reside in this chamber but is from the other place said, 'It's the principle; it's not the detail.' For me, it is the detail and also the principle, and I think the detail is going to consume much of the time of this place tomorrow when we

come to the committee stage.

I will put on the record that the contact that has come through to the electorate office at Goyder is about 65 per cent against the legislation. The personal contact I have had from people I have known for many years—which, I must admit, might reflect my own personality—is that they are very strongly against it and they have taken the opportunity to remind me many times that they are very strongly against it.

There is a division, somewhat, within my own family. I trust the advice of my family in many things that have happened to me in my life, and there is a split between what I hold and what many others in my family hold, but it is something I believe very strongly. I have listened intently to the information sessions I have been to. This morning, for example, I have listened intently to Mr Denton on FIVEaa radio recounting a story of a person from New South Wales, which I also heard him present in one of the briefings I attended. It is very hard to listen to that without being significantly moved in terms of the discussion we are having now and the impact it will have on people's lives.

I have spoken to a man who is slightly younger than me who, I know, has faith and holds a relatively senior lay position in his church. I expected him to be strongly against it but he was unsure. We talked about it for probably half an hour. That really interested me because I expected a completely different result from him. I think there is a vast number of people in our community who are actually engaged in this now to a degree that they might not have been before.

I have felt a lot of frustration and a lack of willingness to accept poll results that have been put to me by people who have contacted me casually about this who have read that the figures of people who support it were up to 80 per cent or thereabouts. I have asked what sort of questions were posed to them and what their age profile was. To some degree, the position they held might reflect on their age profile.

As a younger person, you feel not necessarily that you are Superman but that ill health will not be with you into the future and therefore it is an issue you do not have to deal with, but many of us do indeed have to deal with ill health. I have listened to people who work in palliative care areas who talk about it in a positive sense and others who are completely opposed to it and believe that what they do has to be supported. I know that it takes significant resources of society to fund that, but I do believe that that too is one of our responsibilities.

I do want to be a significant player in the committee debate on this issue and I know there are many others in this chamber who will be too. Because my position is not to support the third reading, I have been asked by people who are not supportive of the legislation to vote against the second reading, but I have held firm to the position I formed close to two months ago when the Hon. Steph Key's legislation was being debated.

I must say that I was frustrated that the member for Morphett chose to introduce new legislation, and I have told him this. I believe that the parliament should have continued on the course of considering the member for Ashford's legislation. I know that

there were 13 pages of amendments. I am for the process of considering amendments in line with what the legislation tabled actually presents. I am not challenged by that, so it frustrates me that others seem to be and that that was a reason for another set of legislation to be introduced.

I want to recount a couple of personal stories. Someone I have known for about 25 years is not overly well, but whenever we meet we have a good chat. He told me that he and his family were very strongly against voluntary euthanasia, and have been forever, until their 30-year-old son developed cancer, which will eventually take him. Since then, in dealing with extreme pain and the health issues he has been presented with, they have formed a very different opinion.

They recounted to me a story where, six months ago, before he had medication in place properly that would give him the necessary level of pain relief, he wanted to go, but, with improvements in his medication and pain management, he has lived six months since then, and, as a family, they have experienced time with him that was not available, and I believe that that is an issue for many people. I do not criticise those who hold positions either way, but I know that, as a member of parliament, we are criticised for the positions that we hold no matter what the vote is because history will record every word we have said as individuals. In my 10 1/2 years in this place, I must say that this is one issue that has consumed my mind more than anything.

I pride myself on being a person who can see a pathway through a challenge to see what I believe the conclusion needs to be, but on this issue I have gone off at a tangent sometimes and been unsure. I have always reflected upon the need to ensure that I am involved in the discussion that gets it right in the end. It may be that the position I hold is not supported by the majority in this place at the third reading, or indeed the second reading, depending on what the result is, but it is an example of where the eyes of many are upon us now, and it is important that we give such a serious matter the really serious debate that it deserves.

I have made sure that I have tried to listen intently to the contributions of all. I have wanted to reflect upon that. I have wanted to put into that reflection my own personal experiences. I have wanted to talk to people I know who have worked in the health industry for decades and decades about their thoughts, and they are mixed also. I want to ensure that my contribution in this place is one that reflects the personality I bring here, where it is the detail because, no matter what occurs, if this legislation is passed I feel a great responsibility to ensure that the discussion that occurs will ensure that the process is right.

I personally hope that the legislation does not pass, but I want to make sure that, if the other side, those who propose this legislation, are successful, what the people of South Australia get is a system that will give those who choose to use it and those who support them the support that they need. I am grateful for the opportunity to put, over a short 10-minute period, some thoughts that I have.

I feel challenged by that, I must say, because I know that on Friday, when I get back to where I live, there will be people who will come up to me straightaway and want



either to agree with me or be against what I have decided to do, but it is something that, with my hand on my heart, I believe is best for the people I am blessed to represent. It is one of the challenges to all of us, and I look forward to the vote on this occurring and for some form of resolution to be in place.

**Mr PENGILLY (Finniss) (20:34):** I would also like to make a contribution to this particular bill. I listened with interest to what the member for Goyder had to say, and much of what he had to say, probably along with others in here, I concur with.

I have to say that I am heartily sick and tired of having these bills put to the house in every parliament; we see them with regular monotony. I am really disappointed that this one has been thrust upon us again, and I tell the house here and now that I will not be supporting the bill. My view is that it should be defeated at the second reading and that should be the end of it. Time will tell where it will finish, but the fact is that we do have to go through this process, and it has been decided that we will go through it this week and see where it will be get to.

I just do not support the concept of this bill going through. In essence, it becomes state-sanctioned murder as far as I am concerned. I do not think there are any two ways about it. I do not think you can ever, ever, ever get it right, despite what you want to put in the bill, what alterations are made to the bill, if there are any amendments. If this bill went through and the life of just one person was concluded because of a mistake, morally, I do not think even those in this place who support it would be comfortable with it.

Like others, I have had reams and reams of correspondence—mostly supporting euthanasia but latterly more opposing it—urging me, on both accounts, what to do. As my friend the member for Goyder said, I know many people in my electorate who support it and who would like to see it go through, but they are not the ones who stand in this place and make a decision on it. I am, and I do not need to be told how to vote or what I should do.

I have lost family members over the years—and not so latterly, either—and I have absolute confidence in the medical profession to provide palliative care. I grew up with a fellow called Lawrence Palmer, who happens to be head of palliative care at Modbury Hospital. I have all the time in the world for Lawrence. He grew up about five houses up the street from me, the son of English migrants. He is wonderful man. I had a long, long talk with Lawrence about this some years ago and he convinced me, more than ever, that by putting through legislation such as has been put up here tonight is not the way to go. He remains totally confident that palliative care and pain relief methods are now so good that we do not need to go through that.

I would like to put on the record something I received today from Professor Ian Olver, who is the director of the Sansom Institute for Health Research. I think it is worth reading his letter into the *Hansard*. He wrote:

I am a medical oncologist and bioethicist, currently in a research position at the University of South Australia. I am not representing any group but would like to comment on the euthanasia legislation.

Firstly, the reason that there has never been a push for this from most oncologists or palliative care physicians is that the vast majority of patients (over 95%) have symptoms adequately controlled as part of good palliative care. Of those who still have some symptom they may not be the most important factor as people may enjoy relationships or with counselling find something of value in the last days of their lives. The counter to suffering is not death, it is relief of suffering.

The other issue is that good pain relief or withdrawing burdensome treatments towards the end of life that will not reverse the dying process but simply cause discomfort is not any form of euthanasia. Euthanasia requires the intent to cause someone's death.

Finally, there are issues with the current legislation. It specifies the need for...having an illness leading to death but does not specify where on that trajectory the patient needs to be. Two-thirds of patients diagnosed with cancer today will still be alive in 5 years' time. At the time of diagnosis they may well be scared and believe that they will die soon but much effort is put into informing and counselling patients about their illness and continuing to live productive lives.

My final issue is a concern that in legislating to satisfy a minority, the majority may not get the full care and counselling that they deserve in an economically rationalist society.

Regards...Professor Ian Olver

It is interesting that that came in today. As I indicated a few minutes ago, people like Ian Olver and Lawrence Palmer have convinced me of the necessity to maintain the palliative care hope, in the hope of treatment in the future. If this legislation is successful, I could not live with myself if I heard of someone being put to death when it need not happen. I do not agree with that.

I have been hounded by members of the Voluntary Euthanasia Society in my own area, absolutely hounded. If that did anything, it hardened my resolve to stand up in this place and put on the record my objection to this legislation and the fact that even if this does not get through, it will come up again and again. Even if it gets through the second reading, it may not get through the third reading. Even if it happens to get through that, it may not get through the upper house.

There is a long way to go, and I know there are people in this place who are absolutely passionate about getting this sort of legislation through the house, and they have every right to do that, as they see it as a better way. I do not believe it is a better way. I was brought up to believe life was incredibly important. My father went through the Second World War and was in a RAP (regimental aid post). He went right through Kokoda and spent more time trying to save lives than he ever did trying to end lives. He told me that, and I can remember him speaking about those things, although he did not talk much about it at the time. He has been gone for 40 years now.

My core inner being does not allow me the liberty to support legislation such as this. In my view, it really is the wrong way to go for the people of this state, if it was to be successful, and, indeed, it should be cauterised. People like these palliative care doctors need to be completely understood, and people have to have—and I am not suggesting they have not, on the other side of the debate—complete and utmost respect for them, but I am absolutely fed up to the back teeth with having euthanasia legislation rammed down my throat on a seemingly endless basis.

I am even more cranky, quite frankly, over where we are with this latest bill.

Members have a right to put it up, but I do not have to vote for it. I sincerely hope that, in due course, when the vote does come, members in this place do not support moving past the second reading and that we get on with the important business in this place. I do not believe it is the core business of this place to put legislation through the house that creates the right for the state to give permission for murder by default.

**Mr VAN HOLST PELLEKAAN (Stuart) (20:43):** I will be very brief, and I ask that anybody who is following these things closely turn to the comments that I made on a different bill on the same topic brought to us by the member for Ashford last sitting week.

I make no bones about the fact that I find this a very difficult topic. I believe in the sanctity of life and I believe in choice. I want people to have opportunities to do the very best they can do with their lives, in whatever context that might be. I accept wholeheartedly that some people, unfortunately, might be in a situation where they make a choice about what is best to do with their life which is different from the choice that others might make, but at the end of the day it is their life. I do find this a very difficult issue. I also make no bones about the fact that I lean away from voluntary euthanasia. I do not pretend otherwise.

What I really want to put on the record this evening is that I will vote in support of this bill at the second reading stage so that it has every opportunity to be improved. I will also say that I studied the member for Ashford's last bill very closely, and I could not support it. I have also looked very closely at the member for Morphett's bill, and as it stands I would not support that either. If we were asked to vote on it tonight as it is, I would not vote for it. I am not trying to be coy or lead anybody on. I lean away from this topic in general but not so strongly that I do not want to give our group of parliamentary colleagues the opportunity to improve it.

For anybody who is following this debate, whether they be campaigners on one side of the issue or the other or whether they be people in my electorate who have strong views one way or the other, I would like to put very clearly on the record the fact that I will support this bill at the second reading so that every member of parliament who would like to find a way to improve it has that opportunity, and when that has been done, we will vote on it. I will make my decision on the bill, whether it is improved or not or whatever it turns out to be, and cast my vote at that time.

**The Hon. M.L.J. HAMILTON-SMITH (Waite—Minister for Investment and Trade, Minister for Small Business, Minister for Defence Industries, Minister for Veterans' Affairs) (20:46):** I rise to address some of the key issues with this most important measure, and I start by commending the member for Morphett for bringing this matter to the house. He and the member for Ashford, who I know care passionately about this issue, are extraordinarily genuine and have articulated their argument with a high degree of professionalism. I know they have a genuine and solid concern for the people who need this bill to assist with their end of life.

I do not think there is any doubt that a case has been made that there is a group of people who need this measure. There is no doubt that there is a group of people who are undergoing unbearable pain and suffering and who know they are going to die and

who would benefit from this bill in that it would enable them to end their life with some degree of dignity. I think that case has been made. My concern with the bill, however, is unintended consequences, and my concern with the bill cuts to the definition of what is a terminal medical condition.

I think this bill is an improvement on the earlier bill, which I know has been agreed to jointly by the member for Ashford and the member for Morphett in an effort to tighten that definition. To be brutally truthful, however, as I think we all need to be on this matter, we are talking about assisted suicide. We can talk in different languages about death with dignity, we can talk on all sorts of forms, but essentially the question before the house is: when is suicide okay? As I have mentioned, I think there is a case when most reasonable people would argue that suicide is okay. We know that people often take it at their own hand to put themselves out of their misery.

Again, I cut to the question of what constitutes a circumstance that dire that suicide should be warranted and made legal by an act of the parliament. Suicide is an awful thing for anyone who has had a connection with it. I know that my family certainly has on three occasions, with close family members lost to it. There is probably not a single member in the house who has not come up against this terrible scourge of suicide. People take their lives for different reasons. Invariably, they all felt at the time they took their lives that it was worth doing, and again that cuts to the question of what constitutes 'a reasonable circumstance' to warrant the parliament agreeing to suicide.

I am certainly of the view that almost invariably suicide brings wreckage to families and to people's lives, while I recognise this small group of terminally ill people who would, and clearly do have, a very strong argument in favour. I will just explain some of, I think, the unintended consequences that flow from this. The bill says on page 7:

- (a) a person is suffering from a *terminal medical condition* if he or she has an incurable medical condition (not being a mental health condition) that will cause the person's death (whether directly or as a result of the related consequences);

It goes on, and it is there for all members to read. My issue is that that will be misinterpreted, and that there will be incrementalism in this matter.

I give as an example the issue of abortion law reform. I am a strong advocate for women's right to choose what they do with their own bodies, and a strong advocate for the law as it stands today, but I point to the process. The process was that this parliament passed a bill for abortion law reform in the early 1970s that provided for two doctors and a psychiatrist to have to have been consulted, to have agreed to certain conditions before an abortion would be agreed to, and so it went on. There were all these safeguards put into the measure.

However, within a short period of time those safeguards had been discarded by amendments to the bill, and I have a concern that, if we pass the Rubicon as a parliament, signalling to the community that suicide is okay under certain circumstances, the debate will quickly move on to the question of: what are the circumstances, when is it okay, when is it not okay?

Who are we to tell people when their life has become unbearable and that they are enduring hopeless suffering? I note that this particular bill rules out mental illness. There are a lot of people suffering extraordinary mental illness and extreme depression who would put forward a very credible argument that their life is not worth living, and some of those people resort to suicide on a daily basis. Who are we to tell them that they are not enduring hopeless and unbearable pain and suffering?

Where is that line? What will happen if we cross this Rubicon and say as a parliament to the community that suicide is okay, and in this particular bill attempt to define it, then resist an amendment to the bill, which I am sure will be drafted within months of this bill's passing, that will seek to further loosen and free up, with some merited argument may I say, what constitutes an unbearable pain and suffering that should lead to legalised suicide? There you start to slide down a slippery slope.

There are some who would have the view that certain physical disabilities in their children have resulted in unbearable pain and suffering for their children and for the family. They might argue that this should qualify. Some would argue that medical conditions that we now regard as conditions with which we live with compassion are unbearable and that those persons should qualify, and I do not know, frankly, where it would end.

What I do know—and I have spoken to a lot of doctors and a lot of people in my community about this—is that we gauge and judge ourselves to a large degree by the compassion we show at the end of life, as we do at the beginning of life, and how we treat the elderly and how we treat those who are enduring unbearable pain and suffering partly defines who we are.

I admit to a level of cynicism as well; I am not as trusting a soul as some. There will be people who, if we pass this bill, will try to take advantage of it to facilitate the end of life for their personal gain. Families are awash with those sorts of crises in their lives on a daily basis. There will be some within the health system going forward into the future who will ask the question: how many people occupying hospital beds in our health system are at the end of life? Have they been read their rights under this act? Can we assist them to make the right decision to free up hospital beds?

People will criticise me and say that will never happen. Well, I am not as optimistic and as trusting as some. I have heard enough discussions in the 20 years I have been in this parliament to know that once you cross the Rubicon these conversations come next, so I am torn to pieces by this bill. I can see a group of people who desperately need it and I can see another group of people who could be put at extraordinary risk by it.

I am not as cynical as some of the arguments put forward by the AMA on 1 November in their letters to members of parliament where they went through some very sound arguments about the responsibility of the medical profession to save life and the difficult position that this bill would put some members in. For all of those reasons, although I commend the bill and the honourable intentions of the members who have brought it forward and who support it—and I recognise the need for it for some—I think the unintended consequences of the bill would bring suicide to a point where society is

not yet ready for it.

**Mr GARDNER (Morialta) (20:56):** I find myself extremely challenged by this bill, as I have with similar bills that have come before it, and as I stand here I wish I had the certainty of the hundreds, and possibly thousands, of people who have contacted other members of parliament and me. I have particularly taken note of constituents in the seat of Morialta, and the house might or might not be interested to know that they fall roughly evenly in their spread of certainty that this bill is utterly necessary and contains all of the sufficient safeguards to ensure that the unintended consequences that other members have identified will come through, and half have the absolute certainty that this remains the thin end of the wedge from which thousands of vulnerable people might be put at risk down the track.

As to the arguments that are put forward, I think the member for Stuart identified the way that he is torn between having a philosophically profound belief in life and the sanctity of life and a similarly profound belief in enabling individuals to choose their own course, and I similarly have that view. My thinking about euthanasia, to put it on the record once and for all, began in this room when I had a different position in the Youth Parliament. I was sitting over in the Deputy Premier's chair and introduced a bill similar to one moved previously by the Hon. Sandra Kanck, who happens to be one of the constituents I have met with several times to talk about this and whose correspondence I have read. I moved a bill similar to hers.

This comes on the back of my parents who, my mother being a nurse and my father being a proud and strong-minded libertarian, always said to me that the state cannot tell people what to do. My mother, as a nurse, instilled in me the profound belief in safeguards. While she supported euthanasia, as did my father, as a nurse she believed that the safeguards were important because she had a scepticism of a primary diagnosis that might potentially not take seriously the mental health conditions that somebody might have or indeed a doctor who might not take seriously the need for a second opinion.

That bill that I moved in the Youth Parliament, and similarly my comments in previous debates, have always had these litmus tests for me as to whether a bill was sufficiently safeguarded. It has always been challenging for me. I have been open to the principle, but the bills themselves I have not necessarily been comfortable with.

During the 2010 election campaign, I was at a public forum with the then member for Morialta, Lindsay Simmons, and some other candidates, and we were asked about this issue. It was one of the ones that raised the greatest level of interest. Lindsay Simmons put on the record at that point, as she had previously, her profound opposition to ever supporting a euthanasia bill.

I told the story that I told to the house in my previous contribution in 2011 of my grandfather's profound wish to have his suffering relieved and my philosophical support for allowing euthanasia legislation to go through that I had at the time. However, I also identified that I had never seen a bill that I was entirely comfortable with. In sitting on the fence in that way, I did not mean to shirk the criticism that would come and, in sitting on

the fence on this bill at any time, I do not try to please everyone. In fact, I find that I please nobody by doing so. I am honestly putting forward my views, which are quite deeply concerned on this matter.

In 2011, John Hill's bill went through a second reading. I moved amendments in the third reading, and I have talked about those in the past; anyone can read the *Hansard*. In 2012, the late Bob Such introduced a bill, and I voted for the second reading because I thought it was important to have the debate go on. I know that at that stage I received hundreds of letters. The bill failed, obviously, but I received hundreds of letters from constituents, spurred on by the Speaker, who in his role identified it as being useful to write to my constituents. I think he had a petition of several hundred of my constituents to let them know that I had voted for it, because he thought it would be a good political way to identify that they should not support me.

I also note that the Labor Party put out two or maybe three pieces of correspondence—I have heard about a third, although I have not seen it—during the last election. One of them had some pictures of buildings that were being built by the government and the second one was a letter from my opponent in Morialta, which again contained that *Hansard* of me voting for a previous euthanasia bill and identified that she would never vote for it.

The only direct mail I saw from the Labor Party in the last election in Morialta was, in fact, a pitch to voters who were concerned about euthanasia, who opposed euthanasia, not to vote for me, and we saw a 7 per cent swing to the Liberal Party in Morialta. I do not link the two because, while this has very profound meaning for many constituents, I think there are many other things that drive people to vote for who they vote for. They can choose whatever they like, and I certainly respect those who choose not to vote for me based on whatever I do in this bill.

I should identify that in 2012 I responded to constituents who wrote to me on this issue, and this basically maintains the position that I took throughout the last period. This letter was obviously adapted depending on what people individually wrote, but this sums up most of what I said:

Thank you for taking the time and trouble to write to me regarding the recent Euthanasia vote in the House of Assembly.

I appreciate that the position I took on 14 June is one that you disagree with, and while I don't expect to be able to convince you that I made the right decision in relation to that vote, I would like to explain my position and the circumstances surrounding that vote.

It has also come to my attention that...the Member for Croydon, has circulated some information that does not present all the relevant facts. I am unsure of whether you received a copy of his correspondence, but either way I feel it is worth putting my views on the record again.

The vote on 14 June was on the second reading of a Bill put forward by Bob Such to allow voluntary euthanasia, but limited to 'patients who are in the terminal phase of a terminal illness who are suffering unbearable pain'. The Bill included strict safeguards against coercion and abuse, and was limited very strictly to those patients for whom our current palliative care arrangements do not provide any earthly comfort.

In voting on the 'second reading' of this Bill, I should also confirm that this was not the final

stage of the Bill. Once a Bill passes its 'second reading', that means that it is able to be discussed in detail. Members may examine the

Bill clause by clause, and ask questions of the proponent. In this way, the Bill gets examined at length allowing for greater community debate as well, as this process usually takes several months for bills such as this. I and a number of Members who voted for the Bill at the second reading did so with the intention of engaging broadly with their electorates over the subsequent months to inform how they would vote on the 'third reading'—which is the actual vote as to whether a bill can go to the Legislative Council and potentially become a law, or not.

To put this into context, last year...the Labor Member for Ashford—introduced a euthanasia bill that had none of the restrictions or safeguards of this one. Neither Michael Atkinson nor anyone else voted against it at the second reading. After it passed the second reading, there was considerable further debate in the Parliament and the community for more than six months. I spoke against that Bill, and I would have voted against it had it come to a vote before the new Premier prorogued the Parliament (wiping clean the Parliament's agenda).

I have attached a copy of that speech for your interest. It also reflects exactly the views I put forward when asked about this issue at the only public debate in Morialta prior to the last election, along with the other local candidates.

[The member for Croydon's] letter suggests that I 'will go on voting for euthanasia as long as he is your local representative'—indeed he describes such a bill's passage as my 'aim'. He should know better.

I sought to enter public life to work for a more prosperous future for our state, so that when...I have grown children there will be no question in their minds that they want to make their futures here in South Australia rather than interstate or overseas. I have never had any interest in being a radical social reformer.

I voted for us to have a further discussion and debate in the community about what we can do for those patients who are in unbearable, agonising pain, and who are in the terminal phase of terminal illnesses. Such a debate would have included the views of medical specialists, ethicists, religious leaders, patients' advocates, and anyone else who had a view.

I hope that this explanation, and the attached speech, has given you some useful background and context to this situation. It is up to every elector to choose the basis upon which they determine who they will vote for, and if you feel that you cannot support me, then I respect that position. However it would be a shame for such a decision to be made without all of the facts being presented, hence my correspondence today.

[Please contact me if there is anything else I can help with.]

We have had that debate that I talked about over the past months. This is a bill that is presented as if it is in final form. I do not propose to support it at the second reading on this occasion. I know that will upset many people in my community, but I also identify to those who will always oppose euthanasia bills that I do not propose to say that I will never support a bill in the future. I will always consider bills on their merits, and in this case that is also made more difficult by the fact that my own feelings on the philosophy, the position of the principle of the bill, are very torn. I regret that I do not have longer to further explain that view, but I want to put it on the record for my constituents to hold me to account.

Debate adjourned on motion of Hon. T.R. Kenyon.

At 21:07 the house adjourned until Wednesday 16 November 2016 at 11:00.