

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL**

**FIFTY-EIGHTH PARLIAMENT**

**FIRST SESSION**

**Tuesday, 14 November 2017**

**(Extract from book 19)**

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## **The Governor**

The Honourable LINDA DESSAU, AC

## **The Lieutenant-Governor**

The Honourable KEN LAY, AO, APM

## **The ministry**

(from 16 October 2017)

|                                                                                                                                                     |                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Premier . . . . .                                                                                                                                   | The Hon. D. M. Andrews, MP   |
| Deputy Premier, Minister for Education and Minister for Emergency Services . . . . .                                                                | The Hon. J. A. Merlino, MP   |
| Treasurer and Minister for Resources . . . . .                                                                                                      | The Hon. T. H. Pallas, MP    |
| Minister for Public Transport and Minister for Major Projects . . . . .                                                                             | The Hon. J. Allan, MP        |
| Minister for Industry and Employment . . . . .                                                                                                      | The Hon. B. A. Carroll, MP   |
| Minister for Trade and Investment, Minister for Innovation and the Digital Economy, and Minister for Small Business . . . . .                       | The Hon. P. Dalidakis, MLC   |
| Minister for Energy, Environment and Climate Change, and Minister for Suburban Development . . . . .                                                | The Hon. L. D' Ambrosio, MP  |
| Minister for Roads and Road Safety, and Minister for Ports . . . . .                                                                                | The Hon. L. A. Donnellan, MP |
| Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans . . . . .                                                       | The Hon. J. H. Eren, MP      |
| Minister for Housing, Disability and Ageing, Minister for Mental Health, Minister for Equality and Minister for Creative Industries . . . . .       | The Hon. M. P. Foley, MP     |
| Minister for Health and Minister for Ambulance Services . . . . .                                                                                   | The Hon. J. Hennessy, MP     |
| Minister for Aboriginal Affairs, Minister for Industrial Relations, Minister for Women and Minister for the Prevention of Family Violence . . . . . | The Hon. N. M. Hutchins, MP  |
| Special Minister of State . . . . .                                                                                                                 | The Hon. G. Jennings, MLC    |
| Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister for Local Government . . . . .                                            | The Hon. M. Kairouz, MP      |
| Minister for Families and Children, Minister for Early Childhood Education and Minister for Youth Affairs . . . . .                                 | The Hon. J. Mikakos, MLC     |
| Minister for Police and Minister for Water . . . . .                                                                                                | The Hon. L. M. Neville, MP   |
| Attorney-General and Minister for Racing . . . . .                                                                                                  | The Hon. M. P. Pakula, MP    |
| Minister for Agriculture and Minister for Regional Development . . . . .                                                                            | The Hon. J. L. Pulford, MLC  |
| Minister for Finance and Minister for Multicultural Affairs . . . . .                                                                               | The Hon. R. D. Scott, MP     |
| Minister for Training and Skills, and Minister for Corrections . . . . .                                                                            | The Hon. G. A. Tierney, MLC  |
| Minister for Planning . . . . .                                                                                                                     | The Hon. R. W. Wynne, MP     |
| Cabinet Secretary . . . . .                                                                                                                         | Ms M. Thomas, MP             |

## **The Governor**

The Honourable LINDA DESSAU, AC

## **The Lieutenant-Governor**

The Honourable Justice MARILYN WARREN, AC, QC

## **The ministry**

(to 15 October 2017)

|                                                                                                                                                 |                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Premier .....                                                                                                                                   | The Hon. D. M. Andrews, MP   |
| Deputy Premier, Minister for Education and Minister for Emergency Services .....                                                                | The Hon. J. A. Merlino, MP   |
| Treasurer .....                                                                                                                                 | The Hon. T. H. Pallas, MP    |
| Minister for Public Transport and Minister for Major Projects .....                                                                             | The Hon. J. Allan, MP        |
| Minister for Small Business, Innovation and Trade. ....                                                                                         | The Hon. P. Dalidakis, MLC   |
| Minister for Energy, Environment and Climate Change, and Minister for Suburban Development .....                                                | The Hon. L. D'Ambrosio, MP   |
| Minister for Roads and Road Safety, and Minister for Ports .....                                                                                | The Hon. L. A. Donnellan, MP |
| Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans .....                                                       | The Hon. J. H. Eren, MP      |
| Minister for Housing, Disability and Ageing, Minister for Mental Health, Minister for Equality and Minister for Creative Industries .....       | The Hon. M. P. Foley, MP     |
| Minister for Health and Minister for Ambulance Services .....                                                                                   | The Hon. J. Hennessy, MP     |
| Minister for Aboriginal Affairs, Minister for Industrial Relations, Minister for Women and Minister for the Prevention of Family Violence ..... | The Hon. N. M. Hutchins, MP  |
| Special Minister of State .....                                                                                                                 | The Hon. G. Jennings, MLC    |
| Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister for Local Government .....                                            | The Hon. M. Kairouz, MP      |
| Minister for Families and Children, and Minister for Youth Affairs. ....                                                                        | The Hon. J. Mikakos, MLC     |
| Minister for Police and Minister for Water .....                                                                                                | The Hon. L. M. Neville, MP   |
| Minister for Industry and Employment, and Minister for Resources ....                                                                           | The Hon. W. M. Noonan, MP    |
| Attorney-General and Minister for Racing .....                                                                                                  | The Hon. M. P. Pakula, MP    |
| Minister for Agriculture and Minister for Regional Development. ....                                                                            | The Hon. J. L. Pulford, MLC  |
| Minister for Finance and Minister for Multicultural Affairs. ....                                                                               | The Hon. R. D. Scott, MP     |
| Minister for Training and Skills, and Minister for Corrections .....                                                                            | The Hon. G. A. Tierney, MLC  |
| Minister for Planning .....                                                                                                                     | The Hon. R. W. Wynne, MP     |
| Cabinet Secretary .....                                                                                                                         | Ms M. Thomas, MP             |

## **The Governor**

The Honourable LINDA DESSAU, AC

## **The Lieutenant-Governor**

The Honourable Justice MARILYN WARREN, AC, QC

## **The ministry**

(to 12 September 2017)

|                                                                                                                                               |                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Premier . . . . .                                                                                                                             | The Hon. D. M. Andrews, MP   |
| Deputy Premier, Minister for Education and Minister for Emergency Services . . . . .                                                          | The Hon. J. A. Merlino, MP   |
| Treasurer . . . . .                                                                                                                           | The Hon. T. H. Pallas, MP    |
| Minister for Public Transport and Minister for Major Projects . . . . .                                                                       | The Hon. J. Allan, MP        |
| Minister for Small Business, Innovation and Trade . . . . .                                                                                   | The Hon. P. Dalidakis, MLC   |
| Minister for Energy, Environment and Climate Change, and Minister for Suburban Development . . . . .                                          | The Hon. L. D'Ambrosio, MP   |
| Minister for Roads and Road Safety, and Minister for Ports . . . . .                                                                          | The Hon. L. A. Donnellan, MP |
| Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans . . . . .                                                 | The Hon. J. H. Eren, MP      |
| Minister for Housing, Disability and Ageing, Minister for Mental Health, Minister for Equality and Minister for Creative Industries . . . . . | The Hon. M. P. Foley, MP     |
| Minister for Health and Minister for Ambulance Services . . . . .                                                                             | The Hon. J. Hennessy, MP     |
| Minister for Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations . . . . .                                | The Hon. N. M. Hutchins, MP  |
| Special Minister of State . . . . .                                                                                                           | The Hon. G. Jennings, MLC    |
| Minister for Consumer Affairs, Gaming and Liquor Regulation . . . . .                                                                         | The Hon. M. Kairouz, MP      |
| Minister for Families and Children, and Minister for Youth Affairs . . . . .                                                                  | The Hon. J. Mikakos, MLC     |
| Minister for Police and Minister for Water . . . . .                                                                                          | The Hon. L. M. Neville, MP   |
| Minister for Industry and Employment, and Minister for Resources . . . . .                                                                    | The Hon. W. M. Noonan, MP    |
| Attorney-General and Minister for Racing . . . . .                                                                                            | The Hon. M. P. Pakula, MP    |
| Minister for Agriculture and Minister for Regional Development . . . . .                                                                      | The Hon. J. L. Pulford, MLC  |
| Minister for Women and Minister for the Prevention of Family Violence (until 23 August 2017) . . . . .                                        | The Hon. F. Richardson, MP   |
| Minister for Finance and Minister for Multicultural Affairs . . . . .                                                                         | The Hon. R. D. Scott, MP     |
| Minister for Training and Skills, and Minister for Corrections . . . . .                                                                      | The Hon. G. A. Tierney, MLC  |
| Minister for Planning . . . . .                                                                                                               | The Hon. R. W. Wynne, MP     |
| Cabinet Secretary . . . . .                                                                                                                   | Ms M. Thomas, MP             |

### Legislative Council committees

**Privileges Committee** — Ms Hartland, Ms Mikakos, Mr O’Sullivan, Ms Pulford, Mr Purcell, Mr Rich-Phillips and Ms Wooldridge.

**Procedure Committee** — The President, Dr Carling-Jenkins, Mr Davis, Mr Jennings, Ms Pennicuik, Ms Pulford, Ms Tierney and Ms Wooldridge.

### Legislative Council standing committees

**Standing Committee on the Economy and Infrastructure** — Mr Bourman, #Ms Dunn, Mr Eideh, Mr Finn, Mr Gepp, Ms Hartland, Mr Leane, #Mr Melhem, Mr Ondarchie, Mr O’Sullivan and #Mr Rich-Phillips.

**Standing Committee on the Environment and Planning** — Ms Bath, #Mr Bourman, Mr Dalla-Riva, Mr Davis, Ms Dunn, Mr Elasmarr, #Ms Hartland, Mr Melhem, #Mr Purcell, #Mr Ramsay, Ms Shing, #Ms Symes and Mr Young.

**Standing Committee on Legal and Social Issues** — #Ms Crozier, #Mr Elasmarr, Ms Fitzherbert, #Ms Hartland, Mr Morris, Mr Mulino, Ms Patten, Mrs Peulich, #Mr Rich-Phillips, Mr Somyurek, Ms Springle and Ms Symes.

# participating members

### Legislative Council select committees

**Port of Melbourne Select Committee** — Mr Mulino, Mr Ondarchie, Mr Purcell, Mr Rich-Phillips, Ms Shing and Ms Tierney.

**Fire Services Bill Select Committee** — Ms Hartland, Ms Lovell, Mr Melhem, Mr Mulino, Mr O’Sullivan, Mr Rich Phillips, Ms Shing and Mr Young.

### Joint committees

**Accountability and Oversight Committee** — (*Council*): Mr O’Sullivan, Mr Purcell and Ms Symes. (*Assembly*): Mr Angus, Mr Gidley, Mr Staikos and Ms Thomson.

**Dispute Resolution Committee** — (*Council*): Mr Bourman, Mr Dalidakis, Ms Dunn, Mr Jennings and Ms Wooldridge. (*Assembly*): Ms Allan, Mr Clark, Ms Hutchins, Mr Merlino, Mr M. O’Brien, Mr Pakula and Mr Walsh.

**Economic, Education, Jobs and Skills Committee** — (*Council*): Mr Bourman, Mr Elasmarr and Mr Melhem. (*Assembly*): Mr Crisp, Mrs Fyffe, Ms Garrett and Ms Ryall.

**Electoral Matters Committee** — (*Council*): Ms Bath, Ms Patten and Mr Somyurek. (*Assembly*): Ms Asher, Ms Blandthorn, Mr Dixon and Ms Spence.

**Environment, Natural Resources and Regional Development Committee** — (*Council*): Mr O’Sullivan, Mr Ramsay and Mr Young. (*Assembly*): Mr J. Bull, Ms Halfpenny, Mr Richardson and Mr Riordan.

**Family and Community Development Committee** — (*Council*): Dr Carling-Jenkins and Mr Finn. (*Assembly*): Ms Britnell, Ms Couzens, Mr Edbrooke, Ms Edwards and Ms McLeish.

**House Committee** — (*Council*): The President (*ex officio*), Mr Eideh, Ms Hartland, Ms Lovell, Mr Mulino and Mr Young. (*Assembly*): The Speaker (*ex officio*), Mr J. Bull, Mr Crisp, Mrs Fyffe, Mr Staikos, Ms Suleyman and Mr Thompson.

**Independent Broad-based Anti-corruption Commission Committee** — (*Council*): Mr Ramsay and Ms Symes. (*Assembly*): Mr Hibbins, Mr D. O’Brien, Mr Richardson, Ms Thomson and Mr Wells.

**Law Reform, Road and Community Safety Committee** — (*Council*): Mr Gepp and Ms Patten. (*Assembly*): Mr Dixon, Mr Howard, Ms Suleyman, Mr Thompson and Mr Tilley.

**Public Accounts and Estimates Committee** — (*Council*): Ms Patten, Ms Pennicuik and Ms Shing. (*Assembly*): Mr Dimopoulos, Mr Morris, Mr D. O’Brien, Mr Pearson, Mr T. Smith and Ms Ward.

**Scrutiny of Acts and Regulations Committee** — (*Council*): Ms Bath and Mr Dalla-Riva. (*Assembly*): Ms Blandthorn, Mr J. Bull, Mr Dimopoulos, Ms Kilkenny and Mr Pesutto.

### Heads of parliamentary departments

*Assembly* — Acting Clerk of the Legislative Assembly: Ms Bridget Noonan

*Council* — Acting Clerk of the Parliaments and Clerk of the Legislative Council: Mr A. Young

*Parliamentary Services* — Secretary: Mr P. Lochert

**MEMBERS OF THE LEGISLATIVE COUNCIL**  
**FIFTY-EIGHTH PARLIAMENT — FIRST SESSION**

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**Deputy President:**

Mr K. EIDEH

**Acting Presidents:**

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The Hon. G. JENNINGS

**Deputy Leader of the Government:**

The Hon. J. L. PULFORD

**Leader of the Opposition:**

The Hon. M. WOOLDRIDGE

**Deputy Leader of the Opposition:**

The Hon. G. K. RICH-PHILLIPS

**Leader of The Nationals:**

Mr L. B. O'SULLIVAN

**Leader of the Greens:**

Dr S. RATNAM

| Member                                  | Region                     | Party  | Member                                    | Region                     | Party  |
|-----------------------------------------|----------------------------|--------|-------------------------------------------|----------------------------|--------|
| Atkinson, Mr Bruce Norman               | Eastern Metropolitan       | LP     | Mikakos, Ms Jenny                         | Northern Metropolitan      | ALP    |
| Barber, Mr Gregory John <sup>1</sup>    | Northern Metropolitan      | Greens | Morris, Mr Joshua                         | Western Victoria           | LP     |
| Bath, Ms Melina <sup>2</sup>            | Eastern Victoria           | Nats   | Mulino, Mr Daniel                         | Eastern Victoria           | ALP    |
| Bourman, Mr Jeffrey                     | Eastern Victoria           | SFFP   | O'Brien, Mr Daniel David <sup>7</sup>     | Eastern Victoria           | Nats   |
| Carling-Jenkins, Dr Rachel <sup>3</sup> | Western Metropolitan       | AC     | O'Donohue, Mr Edward John                 | Eastern Victoria           | LP     |
| Crozier, Ms Georgina Mary               | Southern Metropolitan      | LP     | Ondarchie, Mr Craig Philip                | Northern Metropolitan      | LP     |
| Dalidakis, Mr Philip                    | Southern Metropolitan      | ALP    | O'Sullivan, Luke Bartholomew <sup>8</sup> | Northern Victoria          | Nats   |
| Dalla-Riva, Mr Richard Alex Gordon      | Eastern Metropolitan       | LP     | Patten, Ms Fiona                          | Northern Metropolitan      | ASP    |
| Davis, Mr David McLean                  | Southern Metropolitan      | LP     | Pennicuik, Ms Susan Margaret              | Southern Metropolitan      | Greens |
| Drum, Mr Damian Kevin <sup>4</sup>      | Northern Victoria          | Nats   | Peulich, Mrs Inga                         | South Eastern Metropolitan | LP     |
| Dunn, Ms Samantha                       | Eastern Metropolitan       | Greens | Pulford, Ms Jaala Lee                     | Western Victoria           | ALP    |
| Eideh, Mr Khalil M.                     | Western Metropolitan       | ALP    | Purcell, Mr James                         | Western Victoria           | VILJ   |
| Elasmar, Mr Nazih                       | Northern Metropolitan      | ALP    | Ramsay, Mr Simon                          | Western Victoria           | LP     |
| Finn, Mr Bernard Thomas C.              | Western Metropolitan       | LP     | Ratnam, Dr Samantha Shantini <sup>9</sup> | Northern Metropolitan      | Greens |
| Fitzherbert, Ms Margaret                | Southern Metropolitan      | LP     | Rich-Phillips, Mr Gordon Kenneth          | South Eastern Metropolitan | LP     |
| Gepp, Mr Mark <sup>5</sup>              | Northern Victoria          | ALP    | Shing, Ms Harriet                         | Eastern Victoria           | ALP    |
| Hartland, Ms Colleen Mildred            | Western Metropolitan       | Greens | Somyurek, Mr Adem                         | South Eastern Metropolitan | ALP    |
| Herbert, Mr Steven Ralph <sup>6</sup>   | Northern Victoria          | ALP    | Springle, Ms Nina                         | South Eastern Metropolitan | Greens |
| Jennings, Mr Gavin Wayne                | South Eastern Metropolitan | ALP    | Symes, Ms Jaclyn                          | Northern Victoria          | ALP    |
| Leane, Mr Shaun Leo                     | Eastern Metropolitan       | ALP    | Tierney, Ms Gayle Anne                    | Western Victoria           | ALP    |
| Lovell, Ms Wendy Ann                    | Northern Victoria          | LP     | Wooldridge, Ms Mary Louise Newling        | Eastern Metropolitan       | LP     |
| Melhem, Mr Cesar                        | Western Metropolitan       | ALP    | Young, Mr Daniel                          | Northern Victoria          | SFFP   |

<sup>1</sup> Resigned 28 September 2017

<sup>2</sup> Appointed 15 April 2015

<sup>3</sup> DLP until 26 June 2017

<sup>4</sup> Resigned 27 May 2016

<sup>5</sup> Appointed 7 June 2017

<sup>6</sup> Resigned 6 April 2017

<sup>7</sup> Resigned 25 February 2015

<sup>8</sup> Appointed 12 October 2016

<sup>9</sup> Appointed 18 October 2017

**PARTY ABBREVIATIONS**

AC — Australian Conservatives; ALP — Labor Party; ASP — Australian Sex Party;  
DLP — Democratic Labour Party; Greens — Australian Greens;  
LP — Liberal Party; Nats — The Nationals;  
SFFP — Shooters, Fishers and Farmers Party; VILJ — Vote 1 Local Jobs



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## TUESDAY, 14 NOVEMBER 2017

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## Tuesday, 14 November 2017

**The PRESIDENT (Hon. B. N. Atkinson) took the chair at 12.04 p.m. and read the prayer.**

### ACKNOWLEDGEMENT OF COUNTRY

**The PRESIDENT (12:05)** — I also with sincerity make the customary statement that I make as our acknowledgement of the Aboriginal peoples. On behalf of the Victorian state Parliament I acknowledge the Aboriginal peoples, the traditional custodians of this land which has served as a significant meeting place of the first people of Victoria. I acknowledge and pay respect to the elders of the Aboriginal nations in Victoria past and present and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of the Parliament this week.

### ABSENCE OF MEMBER

**The PRESIDENT (12:06)** — I take this opportunity to mention that Melina Bath will not be with us this week. Melina unfortunately was involved in a car accident last week, a fairly serious accident that involved her hospitalisation — and indeed that of the other driver. Happily both of them at least are set to recover from the injuries sustained in that accident; however, Melina will not be with us for at least most of this week. She is keen to cast a vote at the end of particular proceedings if that opportunity avails itself.

### CONDOLENCES

#### Hon. Ian Robert Cathie

**Mr JENNINGS (Special Minister of State)** (12:06) — I move:

That this house expresses its sincere sorrow at the death, on 25 October 2017, of the Honourable Ian Robert Cathie and places on record its acknowledgement of the valuable services rendered by him to the Parliament and the people of Victoria as a member of the Legislative Council for South-Eastern Province from 1964 to 1970 and a member of the Legislative Assembly for the electoral district of Carrum from 1976 to 1988 and as Minister for Housing from 1982 to 1985, Minister of Economic Development from 1982 to 1983, Minister for Industry, Commerce and Technology from 1983 to 1985, Minister for Education from 1985 to 1987 and Minister for the Arts and Minister Assisting the Minister for Education with responsibility for Post-Secondary Education from 1987 to 1988.

In my moving of that motion members of the house will recognise that Mr Cathie played a very significant role in parliamentary life in Victoria for the best part of a quarter of a century. He was first elected to this place

in 1964 and left in 1998. I want to draw attention to that fact that this in its own right was a political career of great moment and then reflect on the passing of time, because it is a bit over a quarter of a century since he left this place. Over that period of time as MPs and members of the community our memories of our engagement with his political life have diminished significantly. I was quite surprised when talking to one of my ministerial colleagues this morning that not only did they not have a recollection of his significant contribution to public life, to the Labor Party and to government but indeed it was news to my colleague the prominent role that Mr Cathie played in the education portfolio and other portfolios that he was responsible for.

While on one level there is a measure of sadness that the longer we are out of public office the more the memory of our contribution may diminish, I do not want to be too distressed about that. In fact I think all of us would probably like to live long enough — long and full lives — to ensure that our passing is not the cause of a recent recollection among those with whom we were in the Parliament and shared a parliamentary career. This is the case with Mr Cathie, who was born in 1932 and died the day after his birthday, 85 years later, on 25 October. By any measure that is a long, a productive and, we hope, a happy life.

I may be one of the few members of Parliament who have been in this process sufficiently long to have known Mr Cathie. When I was not in the Parliament and not even working in ministerial offices, he was a minister who was very evident in relation to the portfolios that he took: economic development, housing, the arts and indeed his passion, education. He was very prominent not only within the Parliament but also within the community. He was very prominent at ALP conferences and policy development processes, and that is where I first came to know him. He was then a senior member of the government and, from my vantage point, someone who was trying to be involved in the policy development process. I will always be mindful of his kindness, his respectfulness and his deep-seated engagement with all members of the Labor Party and his community.

Indeed his contribution to community life should not be underestimated. This was a man who represented those in the sand belt in two stints in parliamentary life, first when he was elected in a by-election in 1964 to the upper house. He stayed in this chamber for six years. He then had a six-year adjournment before he returned to the Legislative Assembly and then was returned on three occasions to the Assembly, increasing his margin significantly in the bayside seat of Carrum. His

connection to the Carrum community was well recognised. Those in his local community I am sure mourn his passing. Certainly the people who have been involved in community life in the Labor Party in Carrum have lost a great hero who they have admired over many years.

Mr Cathie marked out his contribution to public life in an extraordinary way through his inaugural speech, and I will draw attention to an extract from his inaugural speech in a second. The first thing he did when he was elected in a by-election after the passing of the incumbent member, Mr Mair, was to send, on 10 November 1964, in his first paragraph, his condolences to Mr Mair's widow and indicate that Mr Mair had a degree of respect right across the community. In the very next paragraph he was into his lifelong interest and commitment as a schoolteacher, as somebody who actually understood the value of education. He had probably been on his feet for about 35 seconds. He then proceeded with these words:

Now I wish to give a review of education, and I want to examine particularly the inequalities that are embodied in the educational structure of Victoria. After all, we live in a new age, which is an age of science, technology and electronics, where skill and training are the important needs if this nation is to develop, or even to survive, in a highly competitive world during a time which will probably go down in history as the space age.

If in our schools we fail to develop our human resources, our whole existence as a nation could be jeopardised.

That was a hallmark of the attitude, philosophy and commitment that he actually brought to public life from his very first engagement with this place.

He then went on to draw attention to the Professor Karmel report, which was a seminal report at that time in relation to education funding and equality right across this nation. He made reference to that. Some 20 years later, as the Minister for Education, he introduced the Blackburn inquiry into education in Victoria, which then played its role in bedding down many of those practices that ultimately deal with equality, access and opportunity for all students. Many people think that Gonski was a revolution in relation to thinking about equality and access and addressing disadvantage, but in fact there were tell-tale pieces of academic research and government-sponsored research at state and commonwealth levels to actually address these issues the best part of two decades earlier. Ian Cathie was a prime mover in that.

In his first speech he also drew attention to inequality and to homelessness. In fact he quoted John Kenneth Galbraith in relation to private wealth and public

poverty. He actually talked about a piece of research that had been undertaken by the Brotherhood of St Laurence in relation to the impact of homelessness in his community. About 15 years later he became the Minister for Housing and was able to implement many policies in relation to dealing with social inequalities and access to housing.

Again, I remind members that we are now talking about somebody who was a member of Parliament — when he first arrived here — almost 50 years ago, but he was a very modern politician. If you see what he campaigned on as far back as 1979, he could actually be standing in a by-election today. In a 1979 article for the *Mordialloc Chelsea News*, he writes of Labor:

We will provide new trains, trams and buses to boost transport, and we will ensure that those trains, trams and buses are coordinated so that connecting services are available. And we will make our trains, trams and buses clean and on time.

We will help young homebuyers by cutting stamp duty and by making bridging finance available more cheaply.

He could have stood at every election from that time to now and actually been a contemporary politician, have no doubt about that. He also demonstrated he was a contemporary politician because in fact he was one of those ministers who had actually given some credence to his intellectual rigour by writing a book and publishing a book, and his book was on education. There is a quote from his book from when he became the education minister. He was very much a measure for, and he tapped into the mindset of, young people and some of their challenges. I refer to an article that appeared on 19 March 1985 at the time of his having responsibilities in the education portfolio, which commences with a quote from his book:

Our children live in a wretched verbal environment — the popular press, comics and teenage magazines, the persuasive and insincere advertisers, and the constant hammering of television catering for the lowest common denominator all mount an unremitting attack on the proper and authentic use of our language. We require a free and flexible system of teaching so that children can learn to use their language spontaneously and creatively ...

And couldn't we hope that in fact his words ring true and we are inspired by those words every day of our political lives? All of this generation and upcoming generations could actually have much to learn from that inspiration in terms of the use of language and the communication in a world where quite often we are distracted by facts, we are distracted by issues of the day and maybe we lose sight of what is important to us in our political lives.

One of the things, in conclusion, that I am going to talk about is Mr Cathie's personal life. Today in this nation we are bedevilled by the longevity of connection between politicians and political institutions, and certainly that is something that plays out to great distress each and every day in the federal jurisdiction. Mr Cathie had some bona fides in relation to his connection to this place, because whilst he was elected in 1964, he was related to John Cathie, who was an MLA for Ballarat in the Parliament from 1859 to 1861 and who was then subsequently re-elected for Ballarat East from 1861 to 1864.

Mr Cathie did not rely on his lineage to get here — because in fact we did not necessarily believe, by the time Mr Cathie was here, that this should be a house of privilege and lineage — but he did have a historical connection that went back the best part of 100 years of this Parliament. He was happy to continue it. We are happy to actually celebrate his great political legacy and his contribution. I, on behalf of the government, indicate our sympathies to his family, who mourn his loss and his passing. Mr Cathie was married to Christine in 1957 and to Jean in 1976. He had four children, one of whom, Steven, tragically died in a car accident. To all of his family — his children, Jane, David and Libby, and their children — the government of Victoria passes on our sincere condolences for your loss, and with you we celebrate Ian Cathie's great contribution to public life in Victoria.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) (12:20) — On behalf of the Liberal-National parties I am pleased to support the motion of condolence moved by the Leader of the Government marking the service of Ian Cathie to this Parliament and to Victoria more generally. When Ian Cathie was elected in 1964 it was at a by-election following the death of Bill Mair very early in that term. Although Ian Cathie only served one term in the Legislative Council, he did to his good fortune serve virtually a full term in that era, which of course was in the duration of the Bolte government.

It was evident from Ian Cathie's first maiden speech, when he entered the Legislative Council in 1964, that he came with a very strong, dare I say, socialist perspective on the role of government and indeed spoke at some length about his views on the role of the state in providing employment for the people of Victoria. He was concerned at that stage at the relative strength and the relative emphasis that the government of the day placed on growing the private sector and growing private sector investment. He very much expressed the view that the public sector should be the focus of government and that employment generated through

the public sector was the way in which to create jobs that were needed in his electorate.

Ian was interesting as a member for South-Eastern Province, being one of only two Labor members ever elected to that province. Of course when Ian was elected back in 1964, South-Eastern Province was very different from the current South Eastern Metropolitan Region. It was a seat that extended down through Gippsland, Phillip Island and the Mornington Peninsula, geographically a much larger seat than at present. But Ian had that upset by-election and then went on to serve the people of South-Eastern Province with distinction alongside Alan Hunt through the 1960s.

Ian's focus was very much on education policy, drawn from his experience as a teacher. Even in his first speech he spoke about the role that education could play in lifting people in their circumstances. His commitment, as the Leader of the Government said, to proper educational outcomes, to proper educational standards and the belief that that could lift people in their daily lives, was very, very strong. Alongside that was his commitment to technical education.

When Ian was not successful in re-election to the Legislative Council in 1970, he returned to teaching. He returned to his profession, but sought re-election to Parliament as the inaugural member for Carrum in 1976 and successfully served that electorate through to 1988. That of course extended into the period of the Cain government. He served his first term as member for Carrum in opposition in the era of the Hamer government, and again in his first speech in the other place he reiterated his concern about the balance in the economy between the private sector and the public sector and his view that emphasis on public sector job creation was the way for a future government. There was a certain ironic element to that with his later professional career as Minister for Education where, in the later days as Minister for Education, he was accused by some within his own party and elements within his former union of attempting to privatise the education system, which on the back of his earlier comments about his view of the public sector and the private sector, I thought were quite ironic.

Ian spent his first term in opposition as member for Carrum, very much again articulating his view as to the role of education, in particular technical education. Upon the election of the Cain government in 1982 he became a minister. His ministerial career largely followed the education portfolio but also the housing portfolio. The first piece of legislation he sponsored as

Minister for Education was in fact a bill to regulate interest rates on housing loans from building societies.

In the context of 2017 and when we think about the role that the Victorian government plays in housing policy and indeed the role the federal government plays in housing policy, to have legislation in the Victorian Parliament in 1982 regulating the interest rates on mortgages through building societies in what was quite a different era very much played to Ian's view that there was a role for the government in providing and ensuring affordability of housing, as there was a role for the government in providing other service delivery to the Victorian population.

Of course much of Ian's career as a minister was spent in the education portfolio, either directly in school education or later in what we now regard as tertiary education, where his commitment was to outcomes. He was very strongly committed to using the education system to improve the lot of constituents in his electorate, which at that stage was an outer Melbourne area and a lower socio-economic area than perhaps it is today. He was very alive to the role that his portfolio as education minister could play in lifting the lot in life of his constituents.

That often brought him into conflict, and when he left the ministry in 1988 and resigned from Parliament — retiring at the election in 1988 — he did so with some pride in what he had achieved as education minister, but he also expressed some frustration at the obstacles he had encountered as education minister from vested interests in the education system, be they within the department, be they within the teachers union or be they within the structures of his own party, and the fact that he was not able to achieve all of the reforms he wanted in education and was not able to drive the autonomy he wanted in education, particularly around large schools. With the subsequent change to the Kennett government in 1992 he was quite public in highlighting what he regarded as some of the flaws in the education system leading up to that and hoped that his successor in the education portfolio, Don Hayward, would be able to overcome some of the challenges that he had experienced with the bureaucracy in getting through reform that was focused on delivering student outcomes rather than necessarily serving vested interests.

After Ian left Parliament his contribution to public life was recognised more broadly, and in the early 1990s when the Kennett government undertook local government reform, Ian Cathie was appointed as the chief commissioner for the City of Greater Dandenong. The fact that he was appointed as chief commissioner to

lead the three commissioners appointed to the City of Greater Dandenong, which was an amalgamation of the former cities of Springvale and Dandenong, really reflected the high regard in which he was held across the Parliament. His interest in public policy and his commitment to his electorate and the people in the south-east were genuine and were recognised. His was not simply a token appointment — we need people from different sides appointed as commissioners. The fact that he was given the chief commissioner's role very much reflected that he was held in high regard across the Parliament.

I am informed by one of his fellow commissioners in the City of Greater Dandenong that as a consequence of Ian's industrial experience during Parliament and prior to that in the teachers union, the City of Greater Dandenong was the only council which went through the amalgamation progress without any industrial disputes. Through his leadership in that area as the chief commissioner in the City of Greater Dandenong he delivered a restructured council without any industrial disputes, which I understand was not the case in any other municipality that went through the amalgamation process.

Ian Cathie made a very significant contribution to Victoria, not only in Parliament but externally as an advocate in the education area and also in his role as the chief commissioner in leading local government reform in the City of Greater Dandenong. So on behalf of the Liberal and National parties I would like to express our condolences to his family and his surviving children and to acknowledge the very substantial contribution Ian Cathie made to public life in Victoria.

**Ms HARTLAND** (Western Metropolitan) (12:29) — The Greens wish to join this condolence motion today. I asked to do this because I actually met Mr Cathie on a number of occasions, both in the Parliament when I was the tea lady and also when I was involved in a campaign to update the rooming houses in Fitzroy which were being sold at a rapid rate for gentrification. He was then housing minister and was the person who really got the rooming house program going, understanding that you just could not send a whole lot of people out of these rooming houses. These houses had to be brought up to date and they had to be modernised. The government had to make sure that they were fireproof and that they were safe for people. He understood that people needed safety and they needed good accommodation, no matter what their income was.

From my dealings with him when I was here in the kitchens I know that he always treated everybody with

respect and kindness, no matter whether you were the Premier or the tea lady. He always had a kind word for people. Those are my reflections on Ian Cathie, and it sounds from what other people have said as if he took that out into his community work as well. The Greens would very much like to send their condolences to his family and friends.

**Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.**

### ADJOURNMENT

**The PRESIDENT** — Pursuant to standing orders, as a further mark of respect for the memory of the late Honourable Ian Robert Cathie the sitting will be suspended for 1 hour. I will resume the chair at 1.33 p.m.

**Sitting suspended 12.33 p.m. until 1.37 p.m.**

### REMEMBRANCE DAY

**The PRESIDENT** (13:37) — Members, I would just like to commence proceedings this afternoon by acknowledging the 99th anniversary of Armistice Day. Interestingly enough it occurs to me, on reflection, that Australian troops have never been dispatched from this country to conquer or invade any other nation. Their work overseas has always been in the defence of nations that have been invaded or in fighting totalitarian regimes that have sought to oppress people after overthrowing democratically elected governments. Whilst it is fair on occasions when war is contemplated to reflect on those decisions and to debate them, given the gravity and the futility of war, nonetheless, we can be proud of the contribution our troops have made in so many theatres of engagement, and in many cases not just in war but in peacekeeping forces and in humanitarian crisis situations, where they have rendered assistance.

For the sake of the record today and recognising that 99th anniversary, I propose to read two verses from the ode that is recited at many Armistice Day anniversary commemorations:

They went with songs to the battle, they were young,  
Straight of limb, true of eye, steady and aglow.  
They were staunch to the end against odds uncounted,  
They fell with their faces to the foe.  
They shall grow not old, as we that are left grow old;  
Age shall not weary them, nor the years condemn.  
At the going down of the sun and in the morning,  
We will remember them.

### ROYAL ASSENT

**Message read advising royal assent on 8 November to:**

**Justice Legislation Amendment (Body-worn Cameras and Other Matters) Act 2017**  
**Ports and Marine Legislation Amendment Act 2017**  
**Renewable Energy (Jobs and Investment) Act 2017**  
**Serious Sex Offenders (Detention and Supervision) Amendment (Governance) Act 2017.**

### VIDEO ON DEMAND

**The PRESIDENT** (13:40) — I wish to make a statement in regard to video on demand, which members have had a great deal of interest in. I advise that video on demand is in effect and available for members from today. Consequently, sessional order 15, video on demand, adopted by the house on 19 September 2017, is now in operation.

Members will receive an email later today with information about how to access and use the service as well as the relevant contact details should they have any queries or seek further information. Updated copies of the sessional orders have been circulated to members in the chamber and are also available from the table office.

### PETITIONS

**Following petition presented to house:**

#### **Buckley Street, Essendon, level crossing**

Legislative Council electronic petition:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the fatally flawed proposed 'road under rail' design at the Buckley Street level crossing in Essendon.

The petitioners therefore request that the Legislative Council of Victoria call on the state government to commit to:

- (1) not proceeding with the significantly flawed proposed 'road under rail' crossing at the Buckley Street level crossing in Essendon;
- (2) fully explore Moonee Valley City Council's 'rail under road' proposal, noting this particular design does not include any acquisitions of private property, while meeting the long-term needs of all residents, businesses and users of the area;
- (3) providing as much financial investment in the Essendon level crossing removal as those in marginal electorates (such as the Frankston line);

- (4) not proceed with any proposal without support of the immediate community and consideration of the long-term consequences.

**By Mr FINN (Western Metropolitan)  
(42 signatures).**

**Laid on table.**

**Ordered to be considered next day on motion of  
Mr FINN (Western Metropolitan).**

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### *Alert Digest No. 16*

**Mr DALLA-RIVA (Eastern Metropolitan)  
presented *Alert Digest No. 16 of 2017*, including  
appendices.**

**Laid on table.**

**Ordered to be published.**

## INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION COMMITTEE

### **Performance monitoring framework**

**Mr RAMSAY (Western Victoria) presented report,  
including an appendix.**

**Laid on table.**

**Ordered that report be published.**

**Mr RAMSAY (Western Victoria) (13:43) — I  
move:**

That the Council take note of the report.

In doing so I would like to make a few brief comments. As a member of the Independent Broad-based Anti-corruption Commission Committee I am pleased to speak to its fourth report, entitled *A Framework for Monitoring the Performance of the Independent Broad-based Anti-corruption Commission*.

The importance of the effective monitoring and review of the performance of anti-corruption agencies like IBAC is well-known. Leading organisations, such as Transparency International, the OECD and the UN, have called for formal frameworks to guide this oversight work and have developed rigorous measures to assess the performance of anti-corruption agencies.

Under the Parliamentary Committees Act 2003 the IBAC Committee is entrusted with monitoring and reviewing the performance of IBAC, which is the key anti-corruption agency in Victoria. In exercising these functions the committee have reviewed relevant IBAC reports, conducted hearings on IBAC's performance and undertaken relevant reviews and inquiries. For example, the committee recently undertook a systemic review of Victoria's whistleblowing regime and IBAC's role within it. This approach to oversight is comparable to the oversight and monitoring activities undertaken in other Australian jurisdictions.

While this valuable oversight work will continue towards the end of 2017, after almost four years in operation the committee thought it timely to develop a more systemic framework for evaluating IBAC's performance — one based on best practice principles and measures. The framework draws on international best practice to develop a range of measures of IBAC's performance across its legislative functions. It also draws on IBAC's own measurement of its performance set out in its corporate plan 2015–18, recognising that the framework needs to support rather than hinder IBAC's fulfilment of its responsibilities.

The proposed framework provides rigorous criteria for assessing IBAC's performance in the following main areas: investigating, exposing and addressing corrupt conduct and police misconduct; preventing corruption and informing the public sector and Victorians about corruption; impacting positively on levels of integrity and public trust in the public sector; ensuring IBAC's accountability and integrity; ensuring that IBAC has effective governance; and monitoring IBAC's legal and financial capacity.

The proposed framework will enhance the committee's oversight role by setting out systemic criteria for assessing IBAC's performance against its legislative functions and will include a comprehensive review every four years. The committee appreciates that such a review needs to take account of IBAC's own systems for performance monitoring and to be sufficiently flexible. A foundation review in the coming year will allow the committee and relevant stakeholders to gain insights into the workability of the framework and to fine-tune it as necessary.

I want to make some acknowledgements of those people involved in providing us with this criteria. To assist in developing the framework the committee engaged Professor A. J. Brown of Griffith University as a consultant, and we greatly appreciate his insights and expertise. I would also like to thank my committee colleagues — the Honourable Kim Wells, chair; the

Honourable Marsha Thomson, deputy chair; and members Mr Sam Hibbins, MP, Mr Danny O'Brien, MP, Mr Tim Richardson, MP, and Ms Jaclyn Symes, MLC — for their constructive and bipartisan approach to the development of the report. Finally, and perhaps more importantly, I would like to thank the secretariat for their hard work: executive officer Ms Sandy Cook, research officer Dr Stephen James and committee administrative officer Ms Justine Donohue. The committee looks forward to using this pioneer framework as a vital part of its oversight work on behalf of the Parliament and the people of Victoria.

### Motion agreed to.

## PAPERS

### Laid on table by Clerk:

Crown Land (Reserves) Act 1978 — Ministerial Orders for the following approvals —

A licence in relation to Paine Reserve, dated 8 October 2017

Leases in relation to —

Esplanade Public Park, dated 31 August 2017.

Waratah Bay Caravan Park, dated 23 October 2017.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes —

Ballarat, Baw Baw, Cardinia, Casey, East Gippsland, Hobsons Bay, Hume, Latrobe, Melton, Mitchell, Surf Coast, Whittlesea and Wyndham Planning Schemes — Amendment GC75.

Banyule Planning Scheme — Amendments C113 and C122.

Cardinia Planning Scheme — Amendment C209 (Part 1).

Latrobe Planning Scheme — Amendment C100.

Melbourne Planning Scheme — Amendment C300.

Mitchell Planning Scheme — Amendment C113.

Mitchell and Whittlesea Planning Schemes — Amendments GC28 and GC61.

Stonnington Planning Scheme — Amendment C227.

Wellington Planning Scheme — Amendment C98.

Professional Standards Act 2003 —

Instrument amending the Australian Property Institute Valuers Limited Scheme, Gazetted 9 November 2017.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rules Nos. 108 and 109.

Victims of Crime Assistance Tribunal — Report, 2016–17.

Victorian Catchment Management Council — Catchment Condition and Management Report 2017.

A proclamation of the Governor in Council fixing an operative date in respect of the following act:

Corrections Legislation Miscellaneous Amendment Act 2017 — sections 23, 39, 41, 43(3), 46 and 48 to 60 — 1 November 2017 (*Gazette No. S367, 31 October 2017*).

## PRODUCTION OF DOCUMENTS

**The Clerk** — I have received the following letter from the Attorney-General in response to the resolution of the Council of 20 September 2017 relating to the production of a copy of the Allard report and associated projections. The letter is as follows:

I refer to the Legislative Council's resolution of 20 September 2017 ordering the production of a copy of the Allard report into the critical modelling on the government's West Gate tunnel/distributor project, including all traffic projections and appendices and modelling of toll collections, and any available associated projections of tolling payments over future decade(s) in the southern and eastern suburbs of Melbourne.

The government has identified three documents that fall within the scope of the Legislative Council's order, and has assessed these documents against the factors listed in my letters to you on 14 April 2015 and 29 April 2016, which note the limits on the Council's power to call for documents and the government's approach to claiming executive privilege.

The government, on behalf of the Crown, makes a claim of executive privilege in relation to the three documents in full, on the basis that their disclosure would be contrary to the public interest.

In compliance with standing orders 11.02(3) and 11.03(1)(a) the attached schedule refers to the documents in respect of which a claim of executive privilege is made.

**Mr Davis** — On a point of order, President, we have encountered this issue before, but essentially the house passed a resolution asking the Leader of the Government to provide a set of documents. It is up to the Leader of the Government, I would argue, to provide those documents, not a minister in another chamber to claim executive privilege in that way, and I think that there is a —

**Ms Symes** interjected.

**Mr Davis** — We have never agreed with that process. Your government invented it.

**Ms Symes** — You did it last year as well.

**Mr Davis** — No, we did not. There were direct —

**Ms Symes** interjected.

**Mr Davis** — Yes, you did, and we never agreed with it then.

**The PRESIDENT** — Order! It is not a discussion. Continue with the point of order, please.

**Mr Davis** — My point of order is that actually there is an issue of agency here. The Attorney-General in another place is not able to necessarily respond satisfactorily to a motion in this chamber brought against the Leader of the Government for the production of particular documents.

**Ms Mikakos** — What's the point of order?

**Mr Davis** — The point of order is that we in fact need a response from the Leader of the Government, not a different person — a minister albeit in another place.

**The PRESIDENT** — There are other processes in terms of dealing with production of documents responses, but in respect of the specific matter that Mr Davis have raised, I will give it some thought and discuss that with the clerks to see what I think about it and perhaps whether or not I should have any response on that point of order specifically.

**Ordered to be considered next day on motion of Mr DAVIS (Southern Metropolitan).**

**The Clerk** — I have received a further letter from the Attorney-General in relation to the order for the production of documents in relation to the Pride Centre. The letter is as follows:

I refer to the Legislative Council's resolution of 6 September 2017 ordering the production of:

a copy of the full business case prepared for the Pride Centre; and

copies of all agendas and minutes of meetings for any advisory committees, the minister, departmental officials or the Victorian commissioner for gender and sexuality that considered, examined or discussed the Pride Centre and any consultancies, advices or studies that were obtained for, or informed part of, any decision-making or discussion concerning the Pride Centre.

The government has identified 35 documents that fall within the scope of the Legislative Council's order, and has assessed these documents against the factors listed in my letters to you on 14 April 2015 and 29 April 2016, which note the limits on the Council's power to call for documents and the government's approach to claiming executive privilege.

In final satisfaction of the Council's order, the government has determined to:

- (1) produce three documents in full (enclosed);
- (2) produce 10 documents in part (enclosed);
- (3) not produce 22 documents in full; and
- (4) not produce parts of the 10 documents referred to in (2) above.

The government considers that producing the documents, or the parts of the documents, referred to in (3) and (4) above, would be prejudicial to the public interest. Accordingly, the government, on behalf of the Crown, makes a claim of executive privilege in relation to those documents or parts of those documents. In compliance with standing orders 11.02(3) and 11.03(1)(a), the attached schedules refer to the documents in respect of which a claim of executive privilege is made.

Some of the documents produced by the government contain the personal information of individuals. In the interests of personal privacy, those details have been excluded.

**Mr Davis** — On a point of order, President, noting your earlier ruling, I make the same point of order with regard to this set of documents and ask you in the same way to take this as a matter for further discussion.

**The PRESIDENT** — Thank you. I will do so.

**Ordered to be considered next day on motion of Mr DAVIS (Southern Metropolitan).**

## BUSINESS OF THE HOUSE

### General business

**Ms WOOLDRIDGE** (Eastern Metropolitan) (13:57) — By leave, I move:

That precedence be given to the following general business on Wednesday, 15 November 2017 —

- (1) notice of motion 478, standing in the name of Mr Davis in relation to the revocation of amendment C170 to the Glen Eira planning scheme;
- (2) notice of motion 484 standing in the name of Mr Davis in relation to the revocation of amendment C251 to the Boroondara planning scheme;
- (3) notice of motion given this day by Ms Springle in relation to an apology to Victorian children;
- (4) notice of motion given this day by Ms Crozier in relation to graffiti in Bentleigh; and

record office(5) notice of motion 485 standing in the name of Ms Bath in relation to Auslan training and courses.

**Motion agreed to.**

## MEMBERS STATEMENTS

**North-east link**

**Ms DUNN** (Eastern Metropolitan) (13:58) — On Wednesday, 8 November, I hosted a community forum with residents from across the north-east to discuss the potential impacts on green space, community facilities and amenity of the four north-east link options. Foisting four options upon the public is a clear attempt to divide and conquer the community. It was clear from the meeting that the community is rallying, and people are seeing that all areas have something to lose if the routes proceed. Schools, sporting facilities, wetlands and nature reserves are in the way of this massive toll road. It will physically divide communities and change the character of this area forever.

The forum discussed an alternative vision: the minimum of \$10 billion spent on this toll road could be better spent on a suite of transport projects for the north-east, including: bus rapid transit, but only as a precursor to Doncaster heavy rail; more SmartBus routes and feeder buses servicing train stations; removing further level crossings along the Hurstbridge and South Morang train lines; deploying traffic-quietening measures on Rosanna Road; rolling out digital high-capacity signalling across the Melbourne Metro network; and building intermodal terminals to shift freight from trucks to rail.

Building toll roads only induces more traffic, and the community knows this. There is a grassroots campaign in the community to oppose this toll road, and the Greens will stand with the community to protect the livability and amenity of our neighbourhoods against Labor's mega toll road.

**Business interrupted pursuant to sessional orders.**

## QUESTIONS WITHOUT NOTICE

**Public Record Office Victoria documents**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) (14:00) — My question is to the Special Minister of State. Minister, on 8 September you issued a gazettal under the Public Records Act 1973 blocking the release of certain historical State Electricity Commission of Victoria documents for a period of 10 years. Why have those documents been suppressed?

**Mr JENNINGS** (Special Minister of State) (14:00) — I thank Mr Rich-Phillips for his question. My role as the minister responsible for Public Record Office Victoria is to make, from time to time,

determinations about whether matters are archived. Whether these matters be ancient records that actually go back to colonial times of the state or in fact they are more recent in terms of the administering of activities where information needs to be preserved, there may have been determined by various agencies to be good administrative reasons for them to be archived rather than to remain active files across the public service. These are decisions that I probably am called on to make somewhere in the order of 15 times a year, I would think, across different portfolios.

**An honourable member** interjected.

**Mr JENNINGS** — That is absolutely the case. I do not know what you are shaking your head about, because that is what happens. I am called upon to archive material probably about 15 times during the course of any year. That is my sense of the order of magnitude of how often this issue occurs.

I will have to have a prompt to my memory about the circumstances that cover these particular individual matters that you have raised with me today, because I will need to be reminded of it.

*Supplementary question*

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) (14:02) — I thank the minister for his answer, and I note in referring to 15 occasions annually where the minister makes decisions that there have only been two gazettals under this provision in the time the minister has been the responsible minister in terms of withholding the release of information.

Minister, four sets of documents were suppressed by this gazettal, which by their public records office description relate largely to future power plant sites. Section 10AA of the Public Records Act provides that documents can only be suppressed on the grounds of causing damage to the security, defence or international relations of the commonwealth, the security of a state or territory or the security of a premises. How do these limited criteria apply to documents about future power station sites, especially in the Latrobe Valley?

**Mr JENNINGS** (Special Minister of State) (14:03) — Given my substantive answer, I am going to rely on being furnished with some advice to be able to answer that question. I would anticipate that once I have furnished myself with that advice I will share it with Mr Rich-Phillips and the chamber.

### Crown Casino

**Mr DAVIS** (Southern Metropolitan) (14:03) — My question is for the Leader of the Government. Minister, is it a fact that the approval given to Crown Casino to build Melbourne's tallest skyscraper by the Andrews government is bad planning and an unmitigated disaster, as is reported to have been publicly stated by Minister Foley?

*Honourable members interjecting.*

**The PRESIDENT** — Order! I do have trouble with the question because from my point of view it is seeking an opinion. I do not know that you can establish it as a fact in the context of this question. Could I ask you to rephrase it slightly, please, to bring it into order?

**Mr Dalidakis** interjected.

**The PRESIDENT** — Thank you, Mr Dalidakis. I think I am quite capable of helping Mr Davis.

**Mr DAVIS** — Minister Foley has made statements about the planning surrounding the Crown permits, calling it bad planning and, in his words to a community group, an unmitigated disaster. Hence my question is: is it government policy that it is bad planning and an unmitigated disaster?

*Honourable members interjecting.*

**The PRESIDENT** — Again, you are inviting the minister to provide an opinion, not to go to a matter of fact — or policy, for that matter.

**Mr Davis** interjected.

**The PRESIDENT** — Well, we know what he is going to say. If I choose to allow him to say it, then I can assure you I will not be seeking a written response to that question, because of the way in which it has been framed. I will allow the minister to answer it. You might regret this.

**Mr JENNINGS** (Special Minister of State) (14:05) — Mr Davis is not going to regret it anymore because of how I respond. My response will not add to his sense of dismay on reflection as to whether it is a worthy question or not. Mr Davis has had some success in relation to this story being generated in the first instance. I am not going to give him any more success in relation to adding any commentary to this matter at all. He knows he is actually drawing attention to an opinion. He is contrasting it with a decision and he is

asking me to voice an opinion on the decision and the description of it, and I am very reluctant to do so.

#### *Supplementary question*

**Mr DAVIS** (Southern Metropolitan) (14:06) — Further in the same *Southbank Local News* Mr Foley indicated he had lost the argument in cabinet to reject the casino's plans, and it reported Mr Foley saying, 'In that collective decision-making, sometimes you win and sometimes you don't'. Minister, collective decision-making is a key part of cabinet solidarity. Doesn't this mean Minister Foley, who has deliberately and publicly spoken out against a decision of the cabinet of which he is a member, should resign immediately or be sacked?

**The PRESIDENT** — I rule out the question on the basis that it is not apposite to the substantive question.

### Melbourne Assessment Prison

**Mr O'DONOHUE** (Eastern Victoria) (14:07) — My question is for the Minister for Corrections. Minister, the new security system at the important maximum security Melbourne Assessment Prison (MAP) has been malfunctioning for several weeks, compromising security and limiting prisoner movement at the prison. Minister, what caused the system to malfunction in the first place, and why has it taken so long to fix it?

**Ms TIERNEY** (Minister for Corrections) (14:07) — I thank the member for his question. The actual security systems have been recently upgraded and integrated at the MAP. This has been a complex process due to the need to integrate several systems. Providers of these systems have worked tirelessly, last week in particular, to resolve matters resulting from that integration. At no time was the security of the prison compromised or the safety of the Victorian community placed at risk, with key security systems remaining active during this time. All prisoners received some time out of their cells while the issues were being rectified on 6, 7 and 8 November, and as of 9 November almost all work had been completed and the prison returned to normal operations following consultation with health and safety representatives.

#### *Supplementary question*

**Mr O'DONOHUE** (Eastern Victoria) (14:09) — Minister, the MAP had been in 23-hour-a-day lockdown for several days. Will you rule out the granting of emergency management days, or in other words time taken from prisoners' sentences, as a result of your security blunder?

**Ms TIERNEY** (Minister for Corrections) (14:09) — I reject that there was a security blunder.

### **Glenormiston College**

**Mr RAMSAY** (Western Victoria) (14:09) — My question is to the Minister for Training and Skills. When the Acknowledge Education consortia fell over for training at Glenormiston College, your department struck up a direct lease agreement with Dean Montgomery of Volume Group. Minister, what education expertise does Mr Montgomery have to justify the government's lease agreement with him?

**Ms TIERNEY** (Minister for Training and Skills) (14:09) — I thank the member for his ongoing interest in Glenormiston. I was very pleased to see the front page of the *Terang Express* late last week congratulating the government for having training back on that campus — a beautiful front page with students enrolled in the certificate III in agricultural operations and indeed glowing comments from local community members about the return of training to Glenormiston. The lease arrangement with Mr Montgomery is for there to be a return of training at that campus. When training is returned, then there is the possibility of a sale to be made.

#### *Supplementary question*

**Mr RAMSAY** (Western Victoria) (14:10) — I thank the minister for her answer. My supplementary question is: other than a certificate III in agriculture and track work to be delivered on occasion from Glenormiston, what other activities are permitted under Mr Montgomery's lease agreement?

**Ms TIERNEY** (Minister for Training and Skills) (14:11) — I thank the member for his question. In terms of the fine details of the lease arrangement with Mr Montgomery, that is a matter between Mr Montgomery and the state government. In terms of the return of training to Glenormiston, I think you should be applauding the fact that young regional Victorians are now getting an opportunity in south-west Victoria to undertake training.

**Mr Ramsay** interjected.

**Ms TIERNEY** — Well, I ask you to actually go to Glenormiston campus and have a look. That is my challenge to you, Mr Ramsay: go and have a look at the Glenormiston campus — because they are really excited about being there. They have also had residential accommodation refurbished so that there can be block release and block training. So I would not, if I were you, continue to —

**The PRESIDENT** — Thank you, Minister.

### **Metropolitan Remand Centre**

**Mr O'DONOHUE** (Eastern Victoria) (14:12) — My question is to the Minister for Corrections. In an extraordinary about-face the government last week in the County Court changed its plea to guilty with regard to the workplace safety charges brought by WorkSafe following the Metropolitan Remand Centre (MRC) prison riot, the worst in Victoria's history according to the corrections commissioner. Minister, what advice have you received about the potential financial implication for taxpayers as a result of your admission of guilt?

**Ms TIERNEY** (Minister for Corrections) (14:12) — I do thank the member for his question. The fact of the matter is that the Department of Justice and Regulation has as its highest priority the safety of everyone working and living in our prisons. The fact of the matter is that Corrections Victoria has cooperated fully with WorkSafe's investigation following the 2015 riot at the MRC, and given that the matter is still formally before the courts I am unable to comment further at this time.

#### *Supplementary question*

**Mr O'DONOHUE** (Eastern Victoria) (14:13) — I ask by way of a supplementary, the MRC prison riot has already cost Victorians in excess of \$100 million. Minister, dealing specifically with the legal proceedings brought by WorkSafe, how much has the defence of these charges cost the Department of Justice and Regulation, and therefore Victorian taxpayers, so far?

**Ms TIERNEY** (Minister for Corrections) (14:13) — I thank the member for his question. I do not have a running tally in terms of the legal costs in relation to this matter. Again, I reiterate, this matter is before the courts and I am not able to comment any further.

### **Member for Melton**

**Ms WOOLDRIDGE** (Eastern Metropolitan) (14:14) — My question is to the Leader of the Government. Section 44 of the Victorian Constitution Act 1975 provides that a person is only eligible to be elected to Parliament if they are a resident of Victoria and on the electoral roll. Section 22 of the Victorian Electoral Act 2002 provides that a person is only entitled to be on the electoral roll at their principal place of residence and after having lived there for one month. Has the government satisfied itself that at the time of the 2014 election the member for Melton was correctly enrolled and thus validly elected?

**Mr JENNINGS** (Special Minister of State)  
 (14:15) — I understand that Ms Wooldridge is fairly desperate, given the lamentable situation in the federal Parliament, to actually bring a problem from the federal jurisdiction home to Victoria. I know that she is desperate for that. I know that she would be very concerned about that. I think the member should actually dig a little bit deeper in terms of the definition of what a principal place of residence is beyond the one-month connection and of the open-ended nature of the test that actually applies in the definition about the intention to live at that address. In fact I think this is such a broad definition that all of us would have difficulty failing that test if we actually say that somewhere is our principal place of residence.

**Ms Shing** — What does it mean ‘to live’?

**Mr JENNINGS** — I have been asked to express an opinion by interjection, and I will not. What I will indicate is that because of the way in which the principal place of residence is defined — and it is defined in that fashion — it is a subjective test. It is a test that is very hard to actually measure in any objective way, and the government should be pretty confident that if any member of the Parliament is on the electoral role and satisfies the fact that —

**Mr Dalidakis** — Except Robert Dean.

**Mr JENNINGS** — Yes, Mr Dean was the unfortunate exception to the rule that perhaps led to a range of other consequences. So in answer to the question specifically, to prevent any potential running on of this story beyond the scope of what I am indicating to the house, the government is of the view, in terms of the assessment of various matters that came before the Parliament this year about the circumstances relating to the enrolment of MPs on the electoral role, that there has been nothing drawn to its attention that would indicate that that member or any other member would fail to satisfy that very broad definition within the electoral act.

*Supplementary question*

**Ms WOOLDRIDGE** (Eastern Metropolitan)  
 (14:17) — I think we perhaps dispute the reading of the electoral act, and certainly our interpretation of it is that there is a requirement to have lived there. So I ask in that context: has the government actually sought and received any advice from the Victorian Electoral Commission on the validity of the declaration of the Melton district result at the 2014 state election?

**Mr JENNINGS** (Special Minister of State)  
 (14:18) — I have not sought or obtained such advice.

**West Gate tunnel project**

**Ms HARTLAND** (Western Metropolitan)  
 (14:18) — My question is for Minister Pulford acting on behalf of the Minister for Roads and Road Safety. We are told that the construction of the West Gate tunnel will start early next year, but because of the government’s lack of transparency on this project I am having to ask for some very basic information. When will the panel report be released and the planning scheme amendment tabled?

**Ms PULFORD** (Minister for Agriculture)  
 (14:18) — I thank Ms Hartland for her question. I will seek a response from Minister Donnellan.

*Supplementary question*

**Ms HARTLAND** (Western Metropolitan)  
 (14:18) — It is my understanding that the government needs to present a deed in relation to the West Gate tunnel project to Parliament to be able to extend the toll. Minister, if this is correct, when will this happen?

**Ms PULFORD** (Minister for Agriculture)  
 (14:19) — I am not personally able to assist Ms Hartland with the answer to her question, but I will seek that information from the relevant minister.

**Westgarth Primary School**

**Ms PATTEN** (Northern Metropolitan) (14:19) — My question is to the Minister for Education, represented by Minister Tierney. In September 2015 a roof condition report for Westgarth Primary School was commissioned, and this was as a consequence of years of ongoing roof leaks throughout the school. These have been worsening. Most of the ceiling areas in the building have shown signs of water ingress, and they are stained and rotten. In fact there were actually dead vermin and live maggots falling out of the roof quite recently. Despite the education department receiving this report over two years ago, the roof is yet to be repaired. Can the minister advise why this is the case and when roof works at the school will commence?

**Ms TIERNEY** (Minister for Training and Skills)  
 (14:20) — I thank the member for her question, and I will refer that matter to the Minister for Education. But I am advised by my colleague to my left, Minister Mikakos, that that actually is her old primary school. Indeed she is going to be there on Saturday, so she will be able to have a firsthand look at what you are talking about. That will of course assist in the answer that the Minister for Education will provide you.

**Brauerander Park, Warrnambool**

**Mr PURCELL** (Western Victoria) (14:20) — My question is to Minister Jennings in his capacity representing the Minister for Water. In 2008, with great fanfare and publicity, Warrnambool’s Brauerander Park received a state government grant to run a pilot project to capture rainwater collected from the college roof and buildings and transfer it to an aquifer for later use for watering the sports fields. The system operated successfully for 12 months but has continually failed since then. The small committee working on this project feel that they have been abandoned, and I therefore ask the minister: has the government given up on this much-heralded pilot project?

**Mr JENNINGS** (Special Minister of State) (14:21) — I thank Mr Purcell for his question and his concern about this water project and the potential benefits that could be derived by sporting fields in the Warrnambool community. I have not got a lot of information to hand in relation to this project. I understand that the Victorian Water Trust had funded Warrnambool City Council to undertake the auspicing for that work. That is as I understand it. I will need to take some further advice about what ongoing investment or action may be taken and indeed what degree of confidence I can give him that the potential for this project could be realised into the future. I am going to seek some further advice from my colleague on that matter.

**QUESTIONS ON NOTICE**

**Answers**

**Mr JENNINGS** (Special Minister of State) (14:22) — There are 107 written responses to questions on notice: 10 998–11 015, 11 019, 11 223, 11 305, 11 396, 11 461, 11 464–72, 11 593, 11 601, 11 603–5, 11 617, 11 637–42, 11 645, 11 647–8, 11 650, 11 652–5, 11 665, 11 667, 11670–4, 11 683–93, 11 720, 11 736, 11 742, 11 744–50, 11 752–67, 11 769–81, 11 825–9, 11 832, 11 835 and 11 838.

**QUESTIONS WITHOUT NOTICE**

**Written responses**

**The PRESIDENT** (14:22) — In respect of today’s questions, Mr Rich-Phillips’s question to Mr Jennings, both the substantive and supplementary questions, if I can have written responses, please, and they are to be within one day; Mr O’Donohue’s first question to Ms Tierney, just the supplementary question, that is one day; Mr Ramsay’s question to Ms Tierney, the

substantive and supplementary questions, one day; Mr O’Donohue’s second question to Ms Tierney, the substantive and supplementary questions, two days; and Ms Wooldridge’s question to Mr Jennings, the substantive question, one day. Whilst I would not comment on the minister’s answer itself, it is a matter that needs to be clarified to make sure that we are on the right page. I have to say I was perturbed about the implications in elections going forward if the qualification for election eligibility is based on an intention to live somewhere. That is a very broad definition and I am not sure that that is exactly what the interpretation should be, but clearly the minister will, with this written response, have an opportunity to clarify that matter.

**Mr Jennings** interjected.

**The PRESIDENT** — Well, there were a lot of people prosecuted for voting out of their electorate. No doubt their defence therefore could be, ‘Well, I had an intention to go there’.

I require a written response to Ms Hartland’s question to Ms Pulford, both the substantive and supplementary questions, in two days; Ms Patten’s question to Ms Tierney, the substantive question, two days; and Mr Purcell’s question to Mr Jennings, the substantive question, two days.

**Mr O’Donohue** — On a point of order, President, just to clarify, was it two days?

**The PRESIDENT** — It was two days on the remand centre because it might be necessary to consult with another minister, the Attorney-General.

**Mr O’Donohue** — On the point of order, President, Ms Tierney is the responsible minister for the litigation.

**The PRESIDENT** — Yes. But prosecutions are handled by a different department under the auspices of the Attorney-General. I think two days is an allowable time in my view.

**Mr O’Donohue** — On a point of order, President if I may just make one further comment, as I would understand it the corrections commissioner would report directly to the minister regarding the litigation and that information should be readily available. I will leave it to you.

**The PRESIDENT** — I am taking the position that it is better to be safe than sorry, but I do acknowledge your comment.

## CONSTITUENCY QUESTIONS

### Eastern Metropolitan Region

**Ms WOOLDRIDGE** (Eastern Metropolitan) (14:26) — My question is to the Minister for Emergency Services in the other place, and it relates to the future of the former Eltham Country Fire Authority (CFA) fire station on Main Road, Eltham, and builds on my constituency question in the last sitting week. Sadly, the old station is being vandalised. Just last week the building was broken into and all the copper in the building was stolen. Graffiti is extensive, and it may not be too long before squatters start to utilise the building. The minister informed me that the former Eltham CFA fire station will not be sold but that the staff and volunteers will continue to operate from one new fire station facility, which is the new one down the road, so I ask: is the government going to just let this valuable and prominent asset fall into further disrepair or will the minister consider the offer made by Nillumbik Shire Council to purchase the site to ensure it is utilised for community benefit rather than being left to vandals and becoming an eyesore in the community?

**The PRESIDENT** — Can I just seek an assurance that that is a different question to the one you posed last week?

**Ms WOOLDRIDGE** — It is.

### Southern Metropolitan Region

**Ms PENNICUIK** (Southern Metropolitan) (14:27) — My constituency question is for the Minister for Public Transport. In June last year, by way of a constituency question, I asked the minister what was going to be the fate of the heritage Carnegie and Murrumbeena stations during the level crossing renewal project along the Caulfield–Dandenong line. She responded that the design was considering the impact on heritage places and acknowledging the local value of the existing station and that it would include the possibility of relocating existing station buildings for community use or incorporating elements of the station buildings into the new designs.

Yesterday the minister released some information about the public open space along this particular corridor but there was no mention of what is happening to the stations, so I ask the minister: what is happening with the heritage Carnegie and Murrumbeena stations and parts thereof which the Level Crossing Removal Authority have informed me had been stored for use on the site?

### Eastern Victoria Region

**Ms SHING** (Eastern Victoria) (14:28) — My question is for the Minister for Police, and it relates to the Morwell community safety day which was held on the weekend at Morwell Town Common and was the product of a great deal of effort by the Morwell Neighbourhood Watch Latrobe City group — and for the sake of clarity I must confirm that I am also a member of that group. This brought together people from the community to meet with others and to enjoy a day of entertainment, face painting, food, music, murals for the town and chats with Victoria Police. I would ask the minister what funding can be made available by way of grants or other assistance to ensure that this event can be a success for another year.

### Northern Victoria Region

**Ms LOVELL** (Northern Victoria) (14:29) — My constituency question is for the Minister for Racing. The Kilmore Racing Club is one of three regional racing clubs being considered by Racing Victoria as the site of a new all-weather synthetic track for country Victoria. With all-weather tracks already established in the east and west of the state, the proposed Kilmore Racing Club site would provide a much-needed alternative to traditional turf racing in the northern and central areas of Victoria.

Kilmore's ideal location will mean that the proposed all-weather track will be within 100 kilometres of five of the top 10 horse training centres in state, which would mean that over 30 per cent of Victoria's thoroughbred starters would be within a 1-hour drive of the new track. For many years the racing industry has called for an all-weather racetrack in northern Victoria, and the Kilmore Racing Club provides the ideal venue. I ask the minister to support Kilmore Racing Club as the preferred site for a new all-weather racetrack in country Victoria.

### Southern Metropolitan Region

**Mr DAVIS** (Southern Metropolitan) (14:30) — I want to ask a very simple question of the Minister for Public Transport: how much money will be provided to the City of Glen Eira for the maintenance of the land below the sky rail each year over the next 20 years?

### Western Metropolitan Region

**Mr FINN** (Western Metropolitan) (14:30) — My constituency question is to the Minister for Local Government. I am sure the minister will agree that the role of municipal councillors in representing local

communities is one of great importance. This is particularly so in growing areas such as Sunbury, where councillors need to be on top of local issues and very much in touch with their communities. It therefore came as quite a shock to hear last week that one of the councillors of the City of Hume is now apparently living in Queensland and flying down for council meetings. I ask: will the minister inquire as to the truth about the councillor's residential arrangements and take the appropriate action to ensure this councillor is fulfilling her duties?

### **Southern Metropolitan Region**

**Ms CROZIER** (Southern Metropolitan) (14:31) — My question is to the Minister for Public Transport in the other place, and it relates to the efficiency and reliability of buses in the Southern Metropolitan Region, specifically the 624 bus from Kew to Oakleigh. I have a constituent who spoke with me and my office regarding her concerns about this bus route. She stated that she has had her bus cancelled without notice; she has waited for nearly 2 hours during a weekday afternoon and then four buses came at the same time; and she has had her bus rerouted back to the CDC Easttrans terminal without notice before she could change buses at Chadstone, and there was no ongoing service to Oakleigh. She was waiting with people who were smoking, people who had perishable shopping and anxious mothers with young children and babies in prams.

The unreliability and lack of continuity of the 624 bus service is exasperating for my constituent, as she has rightly highlighted in her correspondence and telephone calls to me, so the action I ask of the minister is that she provide an explanation as to why the 624 bus service is operating with such irregularity and disruption.

### **Western Victoria Region**

**Mr RAMSAY** (Western Victoria) (14:32) — My constituency question is to the Minister for Regional Development, and I am glad to see that she is in the chamber. My question is: when is the government to announce the site and building plans for the proposed convention centre for Geelong and what funding will the Andrews government commit to the project? Geelong Labor MPs have over the last year heralded the fact that the Andrews government is going to deliver a convention centre to Geelong, but so far all we have seen have been empty promises and absolutely no delivery of a project. Other projects like the Skywire project are on hold while the government dithers on this project. Despite noises about reworking the plans developed by Regional Development Victoria and the

Geelong Authority, it appears this project has stalled before it even gets started, despite commitments to the Geelong community by the Andrews government.

## **MEMBERS STATEMENTS**

### **Fire season preparedness**

**Mr MORRIS** (Western Victoria) (14:33) — The bushfire season is almost upon us — indeed unfortunately a family in Sulky, just outside Ballarat, lost their home over the weekend due to fire. Similarly on Saturday there was a fire in Lal Lal. I would like to take this opportunity to encourage everyone living across the state of Victoria to ensure they are bushfire ready for the upcoming fire season.

It is incredibly important that we support all of our Country Fire Authority volunteers as they approach the fire season. That is why I was so heartened by the announcement we made with regard to a royal commission into what is happening in our fire services, if and when opposition leader in the Assembly Matthew Guy becomes the Premier of this state.

**An honourable member** — When.

**Mr MORRIS** — When Mr Guy becomes the Premier of our state. What we have seen across our fire services is nothing short of disgraceful behaviour in the bullying and intimidation by the United Firefighters Union (UFU), an organisation that really needs to be properly examined. Being one of the most bushfire-prone places in the world, we need to ensure that we have the appropriate protections to ensure that everybody in our community is kept safe, both from fire and from the UFU.

### **National Recycling Week**

**Ms SPRINGLE** (South Eastern Metropolitan) (14:34) — This week is National Recycling Week, and this year's theme is 'What goes around: why buying recycling matters'. This theme emphasises the importance of closed-loop recycling, an important part of what is known as the circular economy. A circular economy rejects a linear economy where products are made, used and disposed of via landfill or incineration. Instead it focuses on designing products for re-use and recycling and developing the systems and culture that enable used products to be remade into new ones.

This year I am so pleased to see a huge number of organisations involved in National Recycling Week right across the country. In the electorate I represent material recycling facilities are opening their doors to the public, Boomerang Bags Casey is being launched

and a National Recycling Week celebration night is being held in Narre Warren. I would like to congratulate all those involved. Moving towards a circular economy is not a choice, it is a must, and National Recycling Week is one of many steps we must take to get there.

### Production of documents

**Mr DAVIS** (Southern Metropolitan) (14:35) — We have seen in the last few days a series of secretive moves by this government. In this chamber today we have seen the extraordinary rejection of document requests by this government. It is very clear that the failure to provide documents, including the Allard report and associated documents on the western distributor project, is part of a secretive push by this government to cover up and prevent the release of key documents.

Equally a series of documents have been hidden with respect to the Pride Centre. For goodness sake, the community supports the Pride Centre. They want to see the very best model. Why on earth would the government secretly cover up part of the business case on the important Pride Centre, which is so widely supported?

Today is the day that the government was also due to deliver sky rail documents to this chamber. This was after a motion was passed in February last year. That is extraordinary. How long do we have to wait for the provision of documents when the community has every right to know? The government has proceeded with the building of this ugly, awful sky rail with its massive intrusion on visual amenity, which is dividing local communities, but it has not been prepared to provide the basic documents we know it holds. It is secretive, it is wrong and it is cruel.

### Energy prices

**Ms CROZIER** (Southern Metropolitan) (14:37) — I want to make a few comments in relation to the latest alarming news reports around the high cost of cooling. I am particularly concerned about vulnerable Victorians who might be hit by the rising costs of electricity. In today's news it is reported that elderly Australians and other vulnerable householders are too scared to switch on air-conditioners or fans in heatwaves because of electricity costs, and they feel they are endangering their lives. We know that is the case here in Victoria. This is in contrast to what occurred in December of last year, when it was foreshadowed by Mr Southwick, the member for Caulfield in the Assembly, and others in the industry, that the cost of electricity would rise

because of the impending closure of Hazelwood. The minister urged families to shop around and said that a government-ordered review of the retail market would check if price gouging was occurring.

This government has been absolutely hopeless on this issue. Victorians are very concerned about the rising prices. They are too scared to turn on their air conditioning in times of high temperatures, and they are going without. They are going without food, they are going without schoolbooks and they are going without other necessary amenities. Now we find out that the government is bringing diesel generators online to prop up the system. That will require 500 000 litres of diesel a day. It is just ludicrous that we are in this position because this government has shut down Hazelwood prematurely, causing untold distress to so many Victorians.

### Energy prices

**Mr O'SULLIVAN** (Northern Victoria) (14:38) — We all know that there is an energy crisis here in Victoria. The government took the decision, which was an amazing decision, to close Hazelwood, which provides 22 per cent of Victoria's base load power. The government keeps talking up renewables in this state, which is terrific, because we all know that it works well when the sun is shining and the wind is blowing, but that is not always the case. We need to have guaranteed baseload power to make sure that the wheels of industry can keep going, which will sustain jobs and investment. As well as that, it will also ensure that people can turn on their air conditioners to keep themselves cool, particularly the old and vulnerable in our community.

With the threats of blackouts and brownouts that will inevitably happen this summer, the government has decided to install diesel generators to keep the electricity grid going in Victoria. It is an irony that the government closed Hazelwood for being too dirty and then installed diesel-burning generators for electricity. Even the TV show *Utopia* would be embarrassed by this proposal.

### VOLUNTARY ASSISTED DYING BILL 2017

**The PRESIDENT** — Given the significance of the committee process that we are about to embark on it is possible that I will not just stay in my office and listen to the proceedings at the times I am able to. It may well be my intention at times through the committee process to be in the chamber to listen to some of those proceedings. On that basis clearly I do not have a spot, so what I am seeking is leave from the parties to occupy temporarily Ms Bath's position in the Parliament this

week unless Ms Bath returns. Can I have leave to recognise that, as President, I will have an opportunity to sit in the chamber during part of the committee process and to be recognised if necessary, should I have matters that I wish to raise, initially from Ms Bath's position? If Ms Bath returns, then I propose to be between Dr Carling-Jenkins and Mr Purcell in the front row.

**Leave granted.**

**The PRESIDENT** — There is one other thing that I just wish to mention. We have quite a number of people who are interested in this legislation who will be in the gallery throughout the week. I would just remind members that under our standing orders they ought not refer to the gallery, and I indicate that the galleries that we have had in this debate thus far have been very respectful of the Parliament's processes and have not engaged in the debate that is happening on the floor. I would stress that that is an important aspect of the proceedings of the Parliament. So clearly there should be no participation, including applause or commentary or suchlike, as speakers bring the various matters to the attention of the minister and seek responses.

**Mr Davis** — On a point of order, President, I want to return to a point of order that I raised at the first-reading stage of this bill about whether members are able to exercise a free vote and whether any members are bound. In this respect I am seeking some point or ruling on whether it is proper for any Labor subfactions to bind their members.

**The PRESIDENT** — As I indicated on the previous occasion that this matter was raised, it is hardly a point of order. I certainly have no authority or power to direct members on how they should vote. Whether or not political parties encourage their members to vote in a particular way on procedural matters, even in the context of an overall debate in which they have the liberty of a conscience vote, that is a matter for the parties. It is not a matter for the house.

The committee will commence with the acting chair, Mr Elasmarr.

**Committed.**

*Committee*

**Clause 1**

**The ACTING PRESIDENT (Mr Elasmarr)** — I realise that all members will have many questions and potentially many amendments. In relation to the clauses and schedules in the bill, managing this process may be

more complex than usual. For this reason I wish to mention a few things that I hope will assist all members in dealing with the bill in committee.

Members will be aware that in speaking on clauses they should stick to the content of the clause or proposed amendments and should not repeat a second-reading speech. I note that clause 1 is brief and describes the purpose of the bill in very narrow terms. It has been the practice with some bills in the past to allow members to speak on issues relating to later clauses when speaking on clause 1. If members choose to ask a broad range of questions on clause 1 that overlap with the content of later clauses, I will have to take this into consideration when listening to the debate on later clauses to ensure that the same debate is not repeated to the point of being tedious repetition, in accordance with standing orders. For the benefit of all members, I would ask each member, when speaking on clause 1, to identify any later clause that their question may overlap with.

I advise members that due to the timing of the drafting of amendments, there is no running sheet at present. I would normally invite members to circulate all amendments at the commencement of clause 1, but I anticipate that some amendments to later clauses may not be ready for circulation until a later stage of the committee's proceeding. My understanding is that Mr Jennings has got an amendment ready to circulate. Is that correct?

**Mr Jennings** — It is.

**The ACTING PRESIDENT (Mr Elasmarr)** — I ask Mr Jennings to circulate his amendments.

**Mr Davis** — On a point of order, Acting President — and I thank you for stepping into this role — regarding the statement you have just read out, I would not want that to be interpreted by the chamber — by the committee — as an attempt to restrict or narrow debate about the genesis of the bill or the interaction with other areas of government policy. It is the longstanding tradition of the chamber that the purposes clause is where broader matters are debated. I am sorry to say this, but I interpreted your statement at the start as an attempt to narrow debate and to confine it. On such a serious matter I would put to you that that is an error.

**The ACTING PRESIDENT (Mr Elasmarr)** — That was not my intention, Mr Davis. According to standing order 12.16 regarding relevance, that is all I am asking for.

**Mr Davis** — Just to completely understand that point, Acting President, the normal rules of the

chamber apply, and people are able in the chamber and in part of the committee to explore the genesis of the bill, the objectives that the government seeks to achieve and indeed the interaction with other pieces of legislation.

**The ACTING PRESIDENT (Mr Elasmr)** — Thank you.

**Mr JENNINGS** (Special Minister of State) (14:50) — I want to support you, Acting Chair, in the intention of providing the committee with some direction, but at the same time I want to give Mr Davis some comfort about how I would anticipate the committee running. I am anticipating this committee running for a very long period of time. Let us be pretty clear about it. It is my intention from this position at the table to be as comprehensive as I can be, as I should be, in responding to issues that are raised in the committee. But in that commitment to the committee to being complete and comprehensive I am not making any commitment to it being repetitive.

I am happy to explore issues in clause 1. I thank the acting chair for assisting us in providing some guidance in relation to what might be decisions that are made about the repetitive nature of other members of the committee's contributions that may be driven through a spirit of being comprehensive but in fact may be labouring points that have actually been addressed. I think that is really the balance that the acting chair was trying to instil in these proceedings. But have no doubt about it, we are going to be here for many hours. It will be comprehensive. There will not be avoidance of matters that are important to the committee.

**Mr Davis** — On a point of order, Acting President, the government has just circulated its amendments. I wonder whether the government would provide any documentation that was used in the preparation of those amendments and perhaps, in parallel with that, answer a question as to why the amendments have been circulated now and were not circulated earlier.

**The ACTING PRESIDENT (Mr Elasmr)** — My understanding is that the amendments were not ready until now, but you can ask questions about these amendments and deal with them later.

*Honourable members interjecting.*

**The ACTING PRESIDENT (Mr Elasmr)** — Order! I ask Mr Ramsay to circulate his amendments.

**Mrs Peulich** — On a point of order, Acting President, my dilemma is that this is a very, very important debate — critically important. It is a debate

of life and death. We have now been presented with almost five pages of amendments. Every amendment moved in the lower house was rejected by the government, but we are now expected to provide informed, insightful debate on amendments that we have not sighted before. I think that is absolutely unfair, and I believe this committee ought to be paused until we are sufficiently briefed on the substance of these amendments and that it should resume when we have full knowledge and awareness of what these amendments stand for and how they have been derived.

**The ACTING PRESIDENT (Mr Elasmr)** — I would just like to put it to members that the government amendments are to clause 9, Mr Ramsay's amendments are to clause 3, and I believe all day today we are going to be on clause 1, so we have a lot of time to look at those amendments.

**Ms Crozier** — On a point of order, Acting President, it is just a general question that I have. I am extremely curious to understand why, when there were 150-odd amendments moved in the other place and the Premier, the Minister for Health and others rejected those and said on numerous occasions that this bill would get through without amendment, the ministerial advisory panel —

**The ACTING PRESIDENT (Mr Elasmr)** — You are debating, Ms Crozier. What is your point of order?

**Ms Crozier** — Sorry, Acting President, I have a question. I am just trying to explain. I am giving some background in relation to this because I am very curious to understand if there was —

**Mr Melhem** — It's not question time.

**Ms Crozier** — Mr Melhem, for me this is incredibly important. I want to understand why the government is now moving amendments when they saw it was not necessary to do so in the other place. They are doing it now, and I want to understand why that is the case.

**The ACTING PRESIDENT (Mr Elasmr)** — Order! I will proceed with clause 1. When we deal with the amendments you can raise your point then.

**Mr Davis** — On a point of order, Acting Chair, the reality is that we have been presented with a number of amendments. It would help the committee in the spirit of good faith if the drafting instructions and what the government sought to intend through these amendments was provided. I have asked Mr Ramsay the same question. He has indicated that he is happy to provide that information. It might be that the

government does not want to do that. That is okay too, but at least we will understand precisely what we are —

**Mr JENNINGS** — From the very first interview I did in the public domain after the bill left the Assembly I made it crystal clear on behalf of the government that the government would be prepared to contemplate amendments to get this bill passed in this place. That was foreshadowed from the very first interview that I did on this subject on the day after the bill received passage from the Legislative Assembly. So it is not a surprise that in fact amendments were being contemplated by the government in relation to securing passage of this piece of legislation. It was not a surprise at all, because for the last three or four weeks —

*Honourable members interjecting.*

**Mr JENNINGS** — What happened in the Assembly happened in the Assembly. What is going to take place in this place, probably, is that members in this chamber, if they have some legitimate intent, will pursue the structure of this bill and the way in which it can be improved to give a greater degree of confidence not only to this chamber but also to the community. That is why these amendments have been brought forward by the government today — in the name of being able to satisfy some concerns that were raised in the Assembly and some matters that were raised in the second-reading debate in this chamber. The irony of the interjections and the vehemence with which they are being pursued, and which is confronting me at this minute, is that some of these proposals actually may address some concerns of some members who are most aggrieved and want —

*Honourable members interjecting.*

**Mr JENNINGS** — I think you should probably actually realise that we are going to be here for a long time. I am happy to outline to you what is going to happen in terms of teasing out these amendments. I am happy to run through what the logic is of these amendments and what their intents are.

**Mrs Peulich** — Every word and every punctuation mark matters, Gavin.

**Mr JENNINGS** — That will be the assessment of the committee. It is not necessarily for me to assert, or anybody else to assert, our preferred way of dealing with these matters; it is actually a matter for the committee. I am happy to indicate to the committee the purpose of the amendments that have been circulated in my name. They derive from matters that were raised in this chamber during the second-reading debate —

**Mrs Peulich** interjected.

**Mr JENNINGS** — Following the conversations that took place after matters had been raised in the Legislative Council, the government has tried to reach some accommodation of legitimate points that were raised during the course of the second-reading debate that in the government's view do not contaminate the integrity or the viability of the bill or indeed prevent the effective administration of the bill.

The first amendments that I want to draw to the attention of the committee are in accordance with concerns that have been raised by those who suggest that they have concerns about a 12-month window of consideration for an assessment to be made by a clinician in relation to the prognosis of an individual. The government has moved an amendment that will actually narrow that window from 12 months to six months.

**Mr Davis** — On a point of order, Acting President, with the indulgence of the Chair, I see that what the minister is now doing is moving through the amendments slowly, bit by bit. I wonder whether as an alternative the government might be prepared to adjourn the chamber and put a formal briefing on for these amendments. They could book a room and sit down and have the bureaucrats come in and explain the details in a normal and proper way.

**Mr JENNINGS** — There will be no 20-hour grilling of any bureaucrats in relation to this matter, but I am expecting there to be at least a 20-hour grilling of me.

*Honourable members interjecting.*

**Mr JENNINGS** — Well, I am telling you what is in it. I am being interrupted in telling you what is in it.

*Honourable members interjecting.*

**The ACTING PRESIDENT (Mr Elasmarr)** — Order!

**Mr JENNINGS** — There is an element that I want to go to beyond describing that narrowing of the six months, and that is an important qualification: that the government also has a rejoinder amendment that actually provides an opportunity for 12 months consideration for those in our community who may have neurodegenerative conditions. Motor neurone disease may be one of those conditions that would warrant the appropriate assessment of a clinician for such a patient to have access to this scheme through a window of 12 months.

The government has also understood, and has heard some contributions from members of this chamber in relation to this, the concern about the nature of the ordinary residence of people in the state of Victoria. There were concerns raised that the legislation may have had the unintended consequence of creating visitation to the state of Victoria by people outside the jurisdiction for this sole purpose. The government is prepared to move an amendment to actually say that there is a 12-month qualifying period for people who ordinarily live in Victoria to receive access to the scheme.

The government also actually accepts that a reasonable expectation had been set by a member or members of this chamber in relation to a concern about the ongoing connection of medical care being provided by the family doctor or local GP. There is an amendment that has been circulated to allow for a process by which the coordinating clinician will be required to ask the patient in relation to information sharing about their application and their circumstances, and whether that is freely to be shared with their local GP. It would then be at the determination of the patient themselves about whether they wish that information to be shared with their local GP, and it will be recorded as a consequence of that determination by the patient.

The government also heard concerns about when someone with a terminal illness has been afforded a prescription of a voluntary assisted dying substance but dies without using that substance whether it is appropriate for that to be returned within a 30-day window, and the government has circulated an amendment to reduce that time frame from 30 days to 15 days after the death.

The government has also acknowledged a concern that has been expressed by a number of members of this chamber about the manner of death through the use of a voluntary assisted dying substance to be recorded on the death certificate rather than the underlying reason for the death as had previously been solely provided for. The government will allow for the circumstances of the cause of death being recorded as the terminal condition and the manner of death being through an assisted dying process to be recorded on the death certificate. As a corollary to that the government will allow for an administrative consideration by the Voluntary Assisted Dying Review Board to receive the information in relation to that matter and to make sure, as a matter of course, that there is no impediment to the coroner being able to examine the circumstances of that death.

**Mr Davis** — On a point of order, Acting President, what we have been presented with is a complex list of amendments. Some may very well be worthy, but it is very difficult for the chamber to assess these and their interaction in detail. Members from time to time will move an amendment in committee, but I would argue that where there is a large tranche of amendments, traditionally there has been a higher requirement on the government to explain those. We have heard a brief explanation now, but I would put it to you that although there is no statutory or standing rule requirement, it is the practice that where substantial changes are made to a bill by the government then a briefing is provided to all members — government members and opposition members.

**The ACTING PRESIDENT (Mr Elasmr)** — Thank you, Mr Davis. I understand that, but according to standing order 15.05 a motion may be proposed during committee of the whole that the Deputy President report progress and ask leave to sit again. That is what you need to do.

**Mr Davis** — I am just trying to do this informally, if I can. I am seeking not to move to procedural —

**The ACTING PRESIDENT (Mr Elasmr)** — No, sorry. You need to move that.

**Mr DAVIS (Southern Metropolitan) (15:07)** — In that case I will accept your guidance, Acting Chair, and I move:

That the committee report progress and seek leave to sit again.

In doing so, I will explain the reason why I am moving that motion. This is a very important bill. People have strong feelings about this bill. The community have strong positions on this bill.

I believe that it is disingenuous of the government to present this significant tranche of amendments at this point. The government has not provided the background documents on what they seek to achieve. They have not provided the detail in terms of the interaction with other clauses, and normally this would be subject to a proper briefing by the department. It would take normally half an hour to an hour, and people would be able to ask the questions and understand the detail of what had caused a change in the government's position and the interactions of those pieces of legislation.

Mr Ramsay has a single amendment. He has indicated to me he is prepared to provide one of his background documents to assist the chamber in understanding what

he is seeking to achieve, but I would put to the chamber quite strongly that this is a matter of basic democracy, this is a matter of good practice and this is a matter of treating the chamber in the fairest way possible.

I listened carefully and indeed intently to the minister as he stepped through all of those points, but I need to go and look at that to see whether the precise outline that is put here in these amendments actually does what the minister says it does. Those who have looked at legislation for a longer period will know that sometimes you are best to sort of put them out on the table — the clauses — and see how they actually interact and what changes they will make. That is not something that is easily done in this chamber. Members legitimately should have a right to be able to perform that function carefully.

Again that is very different from someone seeking to amend clause 2 and insert a word or delete a clause and those sorts of single changes or even two or three relatively minor changes that might be made in a series of amendments that are routinely moved in committee in this chamber. In this case we are talking about a very significant change in the bill itself and a significant step back by the government on a number of these points. I have no confidence whatsoever that the amendments presented here actually achieve precisely what the government has set out, and the reason I do not have that confidence is that I actually have not read them because they have only recently been handed to me.

I was listening intently to the minister, and the ability to listen intently and to read a complex piece of legislation and examine its interaction is not amongst my many skills. Others might have that remarkable skill where they can actually read complex clauses and amendments and actually listen intently to the minister at the same time. I am not that person, and I would put it to others in this chamber that there are a number of others in the chamber who are not that person either. Perhaps you are not even that person, Minister.

It is in that context and with the advice of the acting chair that I am moving this attempt to report progress and to resit. That could occur. It is now a quarter past 3. If we had a short break for an hour or so, I would certainly see that that is a way that we could have the relevant briefing. Those who wanted to attend it could come back and would feel that the processes of the chamber, the processes that are operating here, were much fairer and that the opportunity was there to talk to the bureaucrats, whom I do have high regard for and know quite well. I think that they have considerable capacity, and I believe in this case, where you have got very important legislation, it would be wrong to cut out

the ability of the chamber and members in this chamber in their decision-making to hear from relevant experts in the department, who have no doubt been involved in putting this together.

**Mr ONDARCHIE** (Northern Metropolitan) (15:13) — If this is not the most important piece of legislation this chamber will see in the 58th Parliament, then it has got to be right up there. I take this matter very seriously, and to be presented with a set of amendments from a government whose Premier said when this bill had its passage through the lower house that they would not be accepting any amendments — to get this last-minute set of amendments put before me — and for me to be asked, in a sense, to say, ‘Just trust us; it’s all good’, is totally unacceptable.

I, on behalf of my constituency, need to take some advice and have a chance to appropriately review these amendments, as I suspect every member in this house is going to want to do. So I support Mr Davis’s motion that we report progress to give this chamber and its members adequate time to go through this most important set of amendments that have been presented to us at the last minute, which smacks of either inefficiency at best or complete amateurism at worst. This is a very important motion that should not be dealt with flippantly. To be given a set of amendments at the last minute and for us to be told, ‘Trust us; they’re okay’, is totally unacceptable. I support Mr Davis’s motion.

**Mrs PEULICH** (South Eastern Metropolitan) (15:14) — I also support the motion to report progress to the house and arrange a suitable adjournment for members to be briefed on the amendments. I support this for a number of reasons. First and foremost is the fact that we all entered this debate initially with the government having been crystal clear that they were not prepared to accept any amendments, based on the debate in the lower house. The spanner in the works has been the Northcote by-election. I see these five pages of amendments as the result of wheeling and dealing by the government with some minor party players to get passed the most critical piece of legislation ever. We are talking about the state establishing a regime where decisions will be made about the taking of life, whether it is by one’s own hand or by another instrument. There is no more important legislation than that.

From the point of view of our party this is a conscience or free vote, which means that we do not have access to the usual briefings that we would be able to command at short notice when amendments hit the floor in this chamber. We do not have a whole-of-party position. It is totally unfair and does a huge disservice to members

of Parliament in this chamber, but most importantly to Victorians and to people right around the world who are actually following this debate, to expect us to make decisions about the taking of life on the hop, on the fly, from five pages of detailed notes where every word, every syllable and every full stop, comma and semicolon will count. If we have read some of those legal briefings that we received from right around the world, we know how those details count. I think it is absolutely outrageous that the government would see fit to try and ram this debate through without an appropriate adjournment to be briefed not only in terms of what these amendments mean but also in terms of how they intersect with other pieces of legislation and what their ultimate impact would be. I would urge the government to be sensible.

Again I cannot understand the reasoning. I cannot believe that we are actually debating legislation to set up a regime, an instrument, to take life. I am not talking about it from a religious position whatsoever. I cannot understand how this government would then think that it was good PR for it to actually bring five pages of amendments, unseen by most members of this chamber, without sufficient briefings, and expect them to be debated and passed. Please reconsider your position. Organise an adjournment for members to be briefed. It may not change the vote of some members, but you will look better for it.

**Mr MELHEM** (Western Metropolitan) (15:17) — I understand some of the logic behind Mr Davis's wanting to be briefed. It is very important legislation. But I want to state a number of facts. This is not the first legislation for which heaps of amendments have been placed before a committee. With some pieces of legislation there have been hundreds of amendments.

*Honourable members interjecting.*

**Mr MELHEM** — I have not interrupted any of the speakers. I think we have accepted that this is very important legislation and that it should be debated with respect and without personal attacks or interference. I have on purpose respected every speaker in the last 15 minutes. The point I am making is: the purpose of a committee is to ask all of these questions. I would be really concerned if we were asked to vote on Mr Jennings's amendments today. It is my understanding that we will not even be getting to that point today and probably not even on Thursday. So there is ample opportunity for members to ask questions. There is no gag by anyone on any of these issues. That is why we have a committee of the whole in which members ask the minister questions. If the minister is not certain or sure of an answer, it goes to

the dispatch box and he seeks clarification from the very public servants that Mr Davis talked about.

I urge members: let us not use procedural arguments to slow down or delay the process. I am sure the government will give members every single opportunity. No-one is about to gag debate; I will not subscribe to that. I think members are entitled to ask whatever questions they need as long as they are relevant to the particular clause or to particular areas of the bill. But let us not use tactics to delay dealing with the bill. Victorians want us to deal with this issue, whether it is in the affirmative or whether the legislation is defeated. We need to deal with this issue. You can ask all of these questions of the minister and seek clarification as part of the committee process.

I am actually pleased — and I said this in my speech — that the government has made some changes or amendments to the legislation. I said in my speech that I have concern over the 12 months, and now it is moving to six months. I think the government should be congratulated on actually taking on board some of the areas that it has picked up. Mr Ramsay has circulated some amendments, which are similar to the government's amendments. We can argue: why didn't they do that in the lower house? Well, that is the lower house. We are in a different house. We are a house of review — and that is what we are meant to do in a house of review. The lower house is different from our house. With these comments, I will obviously be voting against adjourning. I am a bit concerned about it. Hopefully that will not be used as a tactic to actually delay the process.

**Mr O'SULLIVAN** (Northern Victoria) (15:20) — I have real concerns about what we have been presented with here just now. I will speak a bit differently from some of the others who have been in this chamber a lot longer than I have. I am still one of the relatively new members of this Parliament. In terms of understanding what these amendments are and what they mean for the actual legislation, these are things that some of the newer members such as myself are still coming to terms with.

In a usual process we would have a party machine behind us that would actually do a lot of the work in terms of being able to brief us on what some of the implications of these amendments are. What we have been presented with here today are just those five pages of amendments. Then we are getting straight into it, and we will get a brief 3 or 4-minute run through by the minister at the table as to what those amendments are. Obviously during the committee stage we will go into details and we will be able to ask in-depth questions

about them. I do acknowledge that. But the answers to those questions will be provided by the minister at the table through the prism through which he wants to answer the questions and in the way that he wants to answer the questions.

What that does not give members on this side of the chamber, who are trying to understand a very complex piece of legislation and a very complex set of amendments on an extremely delicate piece of legislation — certainly the most important we will debate in this term — is any opportunity for us to have a full understanding from someone who is independent of this process, someone who is not going to bring politics to the answers to the questions that we ask. People have taken the time to provide us with lots and lots of their views — whether that be by correspondence, emails or other means — of the legislation. We do not have any understanding of what they may think in relation to this.

Through this process I have been talking to a couple of experts who have been able to provide me with independent information on different aspects of this bill. For an issue that is as important as this, a political spin or a political flavour that is applied to the questioning of such a matter as Mr Jennings is not good enough in terms of what is required to address and assess these amendments, what they will mean for this piece of legislation and what they will mean in the end result. This piece of legislation is about life and it is about death. Each word has a particular meaning, particularly if you apply a legal context to it. The words here are very important, so it is more important than just having a political context to it. We need to know what these words mean legally, because these legal terms, these legal changes, will apply to people's lives.

I am very, very uncomfortable that we had such a set of amendments given to us and then we have started the process. I would like to be briefed by an independent body, and I would like to be able to speak to some independent people outside the bureaucracy who can give their views on this piece of information that would make it much easier to actually ascertain what this means.

I am not sitting here thinking that I am going to vote against every amendment that comes forward. I actually might want to vote for some of these amendments. But I just do not have a full understanding of what these amendments really mean, because I might think it means one thing but someone who is much more experienced and understands more than I do might say, 'Yes, but it will have unintended consequences in A, B, C and D'. I want to confer with some of those people so

I have a full understanding. In that way we can do the best thing that we can by the people who put us here to represent them on such an important life and death issue.

**Ms PATTEN** (Northern Metropolitan) (15:24) — I rise to speak against what seems to me to be a delaying tactic. I have started to look through these amendments —

*Honourable members interjecting.*

**Ms PATTEN** — Mrs Peulich, I gave you the courtesy —

*Honourable members interjecting.*

**The ACTING PRESIDENT (Mr Elasmr)** — Ms Patten, to be heard in silence, please.

**Ms PATTEN** — These amendments are to clause 9, clause 18 through to clauses 68 and 72 and the back schedules. These will not be discussed today. I will be surprised if we get through clause 1 today. I do not have a party machine, so I actually deal with amendments when they come in during the committee process, regularly. When the opposition puts up amendments to bills during the committee process, I deal with them. I quite often support those amendments.

**Mrs Peulich** interjected.

**Ms PATTEN** — I support those amendments. I do not get briefings, Mrs Peulich. I take my own advice. I would encourage others to take independent advice. If Mr O'Sullivan wants to take independent advice, I believe he will have plenty of time to get independent advice on this information prior to it being discussed or voted on in this chamber. I do not support delaying this debate. I think we should get on with it. We have many, many hours to get through many, many clauses, and it is imperative that we work on them.

**Mr FINN** (Western Metropolitan) (15:27) — I very strongly support the proposal put forward by Mr Davis. This legislation if passed does not actually come into being or will not be put in place until the middle of 2019. So I have to ask the question: why the rush? Why do we have to rush into this today when we have a whole list of amendments here that we do not know anything about? Obviously some people know a lot more about them than we do — and they are not all members of the government. Certainly members of the opposition have had these dumped on us from a very great height. It is only fair and reasonable that we be given the opportunity to actually understand what we are talking about.

As has been pointed out by a number of people in this house over some days, this bill is an extraordinarily important piece of legislation. This bill is about who lives and who dies. There is nothing more important. We can be debating nothing more important. To have these amendments thrown at us at the 11th hour, or just as the debate began, I think is an insult. It is almost as insulting as Ms Patten's comment that this is some sort of delaying tactic, because it is not. It is merely members of this house wanting to know what we are debating and what we will be voting on. Quite frankly, I do not know. I have not had time to go through them all — and that is what I want. As Mr O'Sullivan said, we need to get independent advice from people who know about these things, who are expert in their field and who have the sort of prowess that we do not necessarily have.

The other thing that we need to examine — Mr Jennings looks at me with intensity — and delve into a little bit more is what happened between the other house and this house. Last sitting week the Premier stood in that other house hand on heart and said, 'This is a perfect bill. We have done everything right. We are not accepting any amendments'. They were the words that he used: 'This is a perfect bill'. Now we have here the Leader of the Government and perhaps a very close cohort of the Premier — perhaps we might say that — who is taking a diametrically opposed position.

We have here on an extraordinarily difficult and extraordinarily important piece of legislation, I should say, two very senior members of the government who are at odds. We have the Premier who is saying, 'This legislation is perfect', and we have the Leader of the Government in the upper house saying, 'Well, it's not perfect at all. We need to drop five pages of amendments on the house'. I think that alone, given the importance of this legislation, needs to be discussed at length and needs to be examined, but the amendments also need to be examined. So I think that what Mr Davis is proposing is a very reasonable, a very logical and a very decent proposal. He is merely asking that we have the time to examine the amendments before we go further into this debate.

And, yes, this debate will be a very long one, but I tell you what, it is going to be a lot longer if we do not know what we are doing, because that is something that obviously the Leader of the Government has not taken into consideration. I would have thought that in having an educated debate the first thing we would need to do is actually understand the amendments that the government is attempting to put forward to this legislation, so I urge the committee to support Mr Davis's proposal. We do need time to examine

these amendments. We need time to understand what these amendments are about, because I am not exactly sure what is in clause 72 or clause 89 or clause 28, and if I had time, I would be able to find out. That is what this proposal is about, and I urge the committee to support it.

**Mr JENNINGS** — Can I say that my understanding of how the committee works — and I have been here for a very long period of time — is that the committee provides ample opportunity for people to tease out the details of amendments to bills, how the bill interconnects with government policy and how it will actually work in practice. That is what the committee does, and that is what the committee will do in this instance.

**Mr Morris** interjected.

**Mr JENNINGS** — Mr Morris, I am not the slightest bit interested in your contribution if it gets in the way of us dealing with these matters productively. What I am interested in doing is providing ample opportunity for these matters to be understood. I volunteer to stand here for hours and deal with these matters. That is one offer. The second offer is: the government will provide briefings for any member that wants to take up a briefing in relation to the amendment and take them up as soon as any member wishes to afford themselves of the opportunity to be briefed on those matters.

**Mr Morris** — When the house is sitting.

**Mr JENNINGS** — Yes, while the house is sitting.

**An honourable member** interjected.

**Mr JENNINGS** — When the house is not sitting. And the third guarantee is: I give a guarantee — and in fact I am not speaking on Mr Ramsay's behalf because he has got amendments to clause 3 and clause 5, and he may want to pursue them today — to the committee that I will adjourn the house if we arrive at clause 6 today. I guarantee you that the committee will not be forced to consider these amendments that start at clause 9 until Thursday. Anybody can afford themselves of a briefing during the running of the house, at the conclusion of the sitting of the house today and at any time during the course of Wednesday. Right up until the time that we deal with clause 9, officers will be available to provide briefings to any member who wants to afford themselves of that opportunity at any time, subject to the good occupational health and safety work practices of the briefing officers. At any other time, that will be available to you from this moment until the time that

we debate them on clause 9 later in the week, if we get to clause 9.

**Ms SPRINGLE** (South Eastern Metropolitan) (15:35) — The Greens will not be supporting Mr Davis's motion.

**Mr DAVIS** — I thank honourable members for their contributions. I thank the minister for moving a certain distance to at least provide briefings on amendments, and I for one will be availing myself of that opportunity, and I am sure others will. I thank him for the commitment that there will be no voting on the clauses involved. However, I want to also be quite clear: it is not sufficient to delay actual voting on those clauses, because all of this interrelates. I do not know at this exact point precisely what questions to ask about those amendments, which have been provided to me just now, so it is clearly impossible for me.

I will ask at the appropriate point in the cycle through the bill, but there is a relationship with the objectives, which are the purposes, and in that sense it is not quite good enough that the minister seeks to still persist in light of the fact that we actually have not had a chance to fully and reasonably examine these particular clauses. I do think it is not as democratic as it should be, I do not think that this is the right way forward and I do appeal to the government and the minister's better judgement on this, because I think if the government wants to succeed with this bill, and it clearly does, it would be best if this is done in a way that is beyond reproach, and that cannot be said at this point.

**Mrs Peulich** — On a point of order, Acting President, Ms Bath is absent for important medical reasons, having had an accident. Whilst there has been no agreement on pairs, it is important that the government consider giving Ms Bath a pair in view of the fact that she spoke against the legislation in the second-reading debate.

**Mr Jennings** — Mr Davis has already told me I cannot direct my members in relation to anything.

**The ACTING PRESIDENT (Mr Elasmar)** — Mrs Peulich, it is not normal procedure to deal with this matter in the house. It is a matter between the parties, but I will allow Ms Symes to respond.

**Ms Symes** — On the point of order, Acting President, if it assists the committee, this has been the subject of a conversation between the Labor and coalition whips.

**The ACTING PRESIDENT (Mr Elasmar)** — There is no point of order.

### House divided on motion:

*Ayes, 17*

|                                  |                             |
|----------------------------------|-----------------------------|
| Atkinson, Mr                     | Morris, Mr                  |
| Bourman, Mr                      | Ondarchie, Mr               |
| Carling-Jenkins, Dr              | O'Sullivan, Mr              |
| Crozier, Ms                      | Peulich, Mrs                |
| Dalla-Riva, Mr ( <i>Teller</i> ) | Ramsay, Mr                  |
| Davis, Mr                        | Rich-Phillips, Mr           |
| Finn, Mr                         | Wooldridge, Ms              |
| Fitzherbert, Ms                  | Young, Mr ( <i>Teller</i> ) |
| Lovell, Ms                       |                             |

*Noes, 21*

|                                |                               |
|--------------------------------|-------------------------------|
| Dalidakis, Mr                  | Patten, Ms                    |
| Dunn, Ms                       | Pennicuik, Ms                 |
| Eideh, Mr                      | Pulford, Ms                   |
| Elasmar, Mr                    | Purcell, Mr ( <i>Teller</i> ) |
| Gepp, Mr                       | Ratnam, Dr                    |
| Hartland, Ms ( <i>Teller</i> ) | Shing, Ms                     |
| Jennings, Mr                   | Somyurek, Mr                  |
| Leane, Mr                      | Springle, Ms                  |
| Melhem, Mr                     | Symes, Ms                     |
| Mikakos, Ms                    | Tierney, Ms                   |
| Mulino, Mr                     |                               |

### Motion negatived.

**Mr FINN** — My concern, as I have expressed previously, is very much about the impact this legislation will have on people with disabilities and the feeling that there will be a lot of people who will be judged to have a life that is not worth living. That is something that clearly is abroad. It is a thought that is abroad. There are a lot of people who will often express the view, when seeing a disabled person, that their life is not worth living. That is just not good enough.

I just want to quote something to the minister before asking him about this. It is from a letter that I think we all received from Dads4Kids, and I just want to quote a small section of that letter:

Dads4Kids has a dream to help children lead better and more fulfilling lives. Dads4Kids primary work is to work with Dads to encourage them to be the best they can be for their children and to love their children's mother. Dads4Kids is also concerned with all public policy decisions that affect our children's lives in a detrimental way. We believe this to be the case with the proposed euthanasia and assisted suicide bill. Wherever euthanasia has been introduced, because of the slippery slope reality, children have always suffered deeply, as they are the most vulnerable members of our society.

In 2001, Belgium introduced euthanasia for adults. On 2 March 2014, Belgium became the world's first country to lift all age restrictions on euthanasia. In September 2016, a minor has become the first child to be euthanised in Belgium since age restrictions were lifted in the country. The child had asked for euthanasia. How can a child cognitively ask for such a thing? Dads4Kids believes this is child abuse. In 2002 the Netherlands followed Belgium and introduced euthanasia. On a downhill run from Belgium, the Netherlands included children over 12 years of age.

Minister, this is an extremely disturbing and distressing situation. It is my very strong view that the bill that is currently before the house will inevitably lead to the sorts of situations that we have seen in Belgium and that we have seen in the Netherlands, particularly with attitudes to people with disabilities not necessarily changing but hardening. That is something that does concern me enormously.

Has the government given any consideration to providing some sort of public support for people with disabilities who may be feeling threatened? I note that tomorrow the government is providing counselling and support for public servants who may be distressed by the result of the gay marriage plebiscite — postal vote; call it what you will. That is interesting. I am just wondering if the government is going to give any consideration to providing support or counselling along the same lines for people with disabilities who are feeling threatened by this legislation.

**Mr JENNINGS** — Thank you, Mr Finn. One of the things that I was sorry I did not do in my summation of the second-reading debate was to give you credit, as I have in this house previously, for supporting the rights of people with disabilities. That is an enduring feature of your contribution to public life and is something that you know that I consider you very highly for — that aspect of your commitment to political life and community life. You are not the only person who continually advocates on behalf of people with disabilities in this chamber, but you are a constant — you have been through all of your period in this place, and I thank you for that. I congratulate you for that, and I share your commitment to supporting those in our community who have disabilities to achieve their ultimate potential and the realisation of happy and fulfilling lives.

You and I may have some differing views on aspects of this bill and what this law may do, but on this matter we are not divided in any shape or form in terms of how our community should provide support to people with disabilities and allay any concerns they have in relation to assumptions that may be made by any member of the community about whether disability in its own right constitutes a reason for people accessing this scheme. Clearly the legislation has been drafted in a way that prevents that from occurring.

That does not mean that someone with a disability who has a terminal illness may not warrant inclusion in the legislative framework. No, but that has to be subject to a clinical assessment that determines that there is a life-threatening, life-ending illness or medical condition beyond the disability that would make someone eligible

to be considered as part of this scheme. The legislation is very clear on that matter in making sure that no-one would be eligible on the basis of a form of disability. I know that this is something that has been discussed in the Legislative Assembly; it has been discussed now and affirmed by me in this instance.

The second issue relates to the slippery slope argument that I imagine you and others may talk about in relation to what has been the legislative passage in other jurisdictions that may lead to an increase in the scope of applications by those who would be eligible for this, and you cite Belgium in relation to opening a scheme for children. That has been explicitly rejected by the ministerial advisory panel and specifically excluded by the government. We would have no intention of opening the scheme to those circumstances. I am not in a position to either attack or defend the Belgian legislation. Ultimately it is a matter for people in their community to determine what is the appropriate legislative framework, and they have determined that the scheme be available to children. That is clearly not this government's view. I do not believe that this Parliament would be of that view. As I understand it, there have been two children who have exercised their rights under Belgian law to access voluntary assisted dying, but it is not the intention of this bill to allow for that scope to be opened up.

In relation to your question about the support that should be provided to people with disabilities in our community and their potential to achieve happy and successful lives, a lot of work will have to take place outside the scope of this bill through government services, reforms of the national disability insurance scheme (NDIS), reforms of the education system and access to services. We have got a lot of work to do there. Keeping children with disabilities and their families in good order in terms of their sense of wellbeing warrants further examination of government support. Inclusion in this legislation would be a most undesirable and unintended consequence. It is not the intention to create that degree of anxiety, and we would work productively to try to mitigate it in the future.

**Ms CROZIER** (Southern Metropolitan) (15:53) — I would just like to follow up on a couple of points. The points I want to make go partly to what Mr Finn has described. In my contribution to the second-reading debate I spoke of my concerns about somebody who was — and you were possibly not listening to that debate — say, around 17½ years of age and had a terminal cancer, was in intolerable pain, was suffering, had a bad prognosis and was clearly going to die but did not have the same opportunity as someone a few

months older, at 18, because of the time frames that you have put on the bill.

I have spoken to many people in the community and many people have spoken to me about this, and I have been horrified that somebody has said to me, 'This should be opened up to children. This scheme doesn't go far enough'. To go to Mr Finn's point — and I know you are saying that this is not the intention of the government — that a future Parliament might be forced to open up such a scheme to a 17-and-a-half-year-old, 15-year-old, 12-year-old or 10-year-old, do you concede that that could happen in the future?

**Mr JENNINGS** — Indeed I did hear your contribution on that matter, and at that point in time, to be honest, I was somewhat confused about the argument you were making — whether in fact you are an advocate of opening the scheme or closing it. I was not clear about that.

**Ms CROZIER** — That is exactly my point, because the intolerable pain and suffering is no different for the 17-and-a-half-year-old and the 18-year-old. That is what I struggle with. Some people would say it is discriminatory that you are allowing somebody who is a few months older than that 17-and-a-half-year-old child to have this choice when you are not allowing that choice to a person a few months younger who has the same pain and suffering. That is what I struggle with in this debate. That is the point I was making in my contribution. How can a child's suffering be any less than an adult's? So my point is that this is open to going further than you are prescribing now.

**Mr Dalla-Riva** interjected.

**Ms CROZIER** — As Mr Dalla-Riva says, the Scrutiny of Acts and Regulations Committee (SARC) report does say that it is discriminatory. It has similar concerns to those I have. I again say that I am concerned, and my question is: do you not concede that this is open to that slippery slope that Mr Finn spoke of?

**Mr JENNINGS** — In fact I am still not certain if you are advocating any position or just asking me a question in your example. I would have thought the logic —

**Ms Crozier** — It is complex.

**Mr JENNINGS** — Yes, it is complex.

**Ms Crozier** — Exactly.

**Mr JENNINGS** — Well, obviously we are grappling with the complexity of it. Unfortunately a lot of pieces of legislation are underwritten by assessments of various factors, and whilst you would want a human rights perspective that is equal and non-discriminatory — you would prefer that to be the case — at the same time, as I understand that you are opposed to the legislation, you are arguing that it should be logically or philosophically opened up to more people. That is the bit that I have some difficulty with — working out the net position of what you are saying to the Parliament.

**Ms CROZIER** — What I am saying is that this is incredibly complex. What we are being asked to debate and vote on will be set in stone. Mr Finn's point is that there is a slippery slope in some jurisdictions. You are saying that no, it will not occur under this legislation. I have just described to you a scenario that is of concern to me, but it is also, as Mr Dalla-Riva pointed out, in the SARC report. It breaches the charter of human rights. In fact the SARC report made the point that because of the issues around the age component or the disability component it could be discriminatory.

The question I am asking is: do you not concede that at some point in time, because of the complexity in the scenarios I have described, this will be open? You can never guarantee that the safeguards that you say are in place will be in place. They might be only for the next 18 months until you put in the final review. That is the thing that we cannot guarantee. Do you not concede the concerns we have in relation to how far a piece of legislation like this could potentially go?

**Mr JENNINGS** — One of the reasons why we are in a bit of a circular position is because I am not absolutely sure what is the primary concern —

**Ms Crozier** — I am asking you a question.

**Mr JENNINGS** — Yes, but it is a circular question in relation to —

**Ms Crozier** interjected.

**Mr JENNINGS** — I do not know to this very moment whether you are advocating for universal access to the scheme or not.

**Ms Crozier** — No, I am not.

**Mr JENNINGS** — So you are not. Let us take it as a given that you are not advocating that the scheme be opened up. Presumably the reason why you are not opening up the scheme is not because you are overridden by a desire in relation to seeing this scheme,

or any law for that matter, being universally equally and available to all. Not all laws are universal and equally available to all people. This will be another one of millions of laws around the world —

**Ms Crozier** — It can't be set in stone.

**Mr JENNINGS** — If that is the case, then you know the answer to your question.

**Ms CROZIER** — I want you to say it — that, yes, it could be open.

**Mr JENNINGS** — I know what you want me to say. I am teasing out what is a fundamental failing in terms of a reconciliation of what has been the guiding principle that has brought you here. What has brought me here is in fact the consideration of a parliamentary committee, the consideration of a ministerial advisory panel, the consideration of government and the consideration of those who are supporters of this bill who believe that in providing the availability for voluntary assisted dying in this state there should be a boundary set about eligibility, and one of those eligibility criteria is age.

Age may or may not be an indicator of competency or capability. It may or may not be. But in fact it has been set in that way to create a construct in legislation to deal with this matter. Is it totally just? Is it totally humane through the circumstances that you described? No, it may not be. Can people argue that now or argue that in the future? Yes, they can. Will they prevail in the Parliament? The track record of legislative instruments around the world is that on balance, no, they do not. In fact any piece of legislation, as you know, only lasts as long as the Parliament's will determines that a legislative scheme will last.

**Mr DALLA-RIVA** (Eastern Metropolitan) (16:02) — I think Ms Crozier is referring to the issues that were raised in the Scrutiny and Regulations Committee's *Alert Digest* No. 14. I do not know if the minister has it to hand, but it relates to section 7 of the charter, which describes human rights and when they are and when they may be limited:

A human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors ...

There are a range of issues outlined in section 7. To give guidance as to what Ms Crozier was referring to, on page 33 the Scrutiny of Acts and Regulations Committee report talks about equality. It states under the heading 'Eligibility for access to voluntary assisted dying — People under 18 — People with a long-term

or non-fatal condition — People refused a voluntary assisted dying permit':

The effect of clauses 9 and 49 is that a person who is diagnosed with an incurable, advanced, progressive disease, illness or medical condition that is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable cannot access voluntary assisted dying if he or she is under 18; is not expected to die within 12 months; or has been refused a voluntary assisted dying permit.

We wrote to the minister in respect of the SARC report and the issue that a person must be aged 18 years or more under clause 9(1). The point that was raised is the slippery slope, and the issue is that the charter itself says 'every person has the right to enjoy his or her human rights without discrimination' and to be 'equal before the law'. The SARC committee wrote:

'Discrimination' includes discrimination on the basis of age or 'disability'. 'Disability' ...

under the Equal Opportunity Act 1995, section 3(1), in part —

includes a disability that may exist in the future ...

The committee observes that a disease, illness or medical condition that is incurable, advanced and progressive is a disability, regardless of the prognosis as to death.

The other issue that was raised is the slippery slope and the assurance that there is not going to be a continuation. In the statement of compatibility in relation to clause 9(1)(a) the minister stated:

In my opinion, requiring a person to be at least 18 years to access voluntary assisted dying represents an appropriate safeguard by striking a balance between providing choice for adults who are at the end of their life, and protecting young people who do not have the appropriate level of maturity, capacity for abstract reasoning, or life experience to make the decision to access voluntary assisted dying.

That may well be the case, Minister, and the point that I raise is that in fact there has been evidence provided in relation to that, as is reported on page 35 of the report. The committee noted:

... that most existing voluntary assisted dying schemes are restricted to people over 18.

However, the committee continued:

Belgium's scheme —

which we always seem to ignore —

was amended in 2014 to extend to a 'minor with a capacity for discernment', subject to special eligibility requirements (excluding purely mental suffering and requiring expected death 'in the short term') and a requirement of consultation and examination by a child psychiatrist and psychologist.

This is referenced in *Law of 28 May 2002 on Euthanasia, amended by the Law of 13 February 2014* in Belgium, subsections 3.1 and 3.2(7). The committee continued:

The Netherlands' scheme extends to children aged 12 or over who have a 'reasonable understanding of their interests' if there is parental consent (or, in the case of children over 16, involvement).

This is referenced in the *Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2002* in the Netherlands, sections 2(3) and (4). The committee continued:

Canada's scheme requires 'independent reviews of issues relating to requests by mature minors for medical assistance in dying' within two years. The committee observes that Victorian law allows a person under 18 to make an advance care directive on future medical treatment.

We then referenced issues around the Northern Territory scheme, but in this sense the committee has then asked the minister — which is where I am asking you — about the extent to which there are limits on the person who can access those rights to voluntary assisted dying. Whilst they may appear at this stage to restrict those under the age of 18, the evidence from around the world is that legislation has been changed and varied.

My question, I guess, to you, Minister, is: will the government at some point then bring in further legislation to in fact allow for all children in Victoria to be euthanased, given that you are in breach of your own charter of human rights?

**Mr JENNINGS** — Mr Dalla-Riva has relied on a very lengthy series of extracts from a SARC report and evidence to then somewhat colloquially wrap up his question, can I say. I think my answer to you is similar to my answer to Ms Crozier, and I may make you similarly unhappy. My answer is that, on balance, the recommendation that came in a straight line between the Parliament, the ministerial advisory panel, the government and this piece of legislation is that there is a judgement call made, not necessarily through a rights framework ultimately in terms of eligibility for this scheme but through criteria that are actually set out that can be codified, assessed and subjected to clinical assessment that would enable people to gain access to this scheme.

There are residential requirements. There are age requirements. There are requirements in relation to the nature of the medical condition that may cause death or will lead to death. That scheme has its own rigour that has the potential to deny some people's rights, and I think it has to be acknowledged that that is the case.

There are a series of judgement assessments that have actually been made that lead to a conclusion about why 18 is appropriate in the legislative framework. There are a number of other pieces of legislation and considerations where capacity and decision-making are afforded to people in our community where 18 is a trigger point for those decisions, and the government has acted in a way to comply with that.

Does it mean that we are open to the suggestion that the scheme should be available to children? No, we are clearly not, because the lengthy process — over two years of consideration that has led to this place today and the introduction of this bill — is not predicated on the scheme being open for children and it is not the intention of the government for it to be so.

**Mr DALLA-RIVA** — I thank the minister for his response. The point that I wish to make is that legislation that was set in stone in certain other jurisdictions has subsequently been amended, as outlined the Scrutiny of Acts and Regulations Committee report, because of the issue around the nature of the assisted dying process that caused other jurisdictions to lower that age. Can I get a categorical guarantee from you as a minister of the government that you will not at any stage lower the age to under 18?

**Mrs Peulich** — He'll be gone. He'll be retiring at the next election. What does that assurance mean?

**Mr JENNINGS** — Through interjection Mrs Peulich has actually called it out quite nicely. I can give that guarantee unconditionally in the construct in which you asked me.

**Mr FINN** — I ask the minister to go back to his response to my previous point, and that is regarding the fear that many people with disabilities are now feeling as a result of this legislation. I am referring particularly to one letter that I have, and I am going to refer to this at much greater length later on. The letter says:

Our main concern is that the Victorian bill brings this clearly into scope in a way that is insidious, frightening and dangerous.

This is how people with disabilities feel. They are scared, they are worried, and their families are feeling the same way, I can assure you.

The minister has said to me and to the house that it is not the government's intention to create that sort of feeling for people with disabilities, and it might not be. I sincerely hope it is not the government's intention, but it is the reality; it is actually what is happening in real time. There are people out there probably listening to

this debate as I am speaking who are fearful and who are very scared of what this legislation will mean for them or their family members. What will the government do to ensure that those people feel that they are safe? This legislation clearly puts a whole range of people in the gun, if I can use that term. It may be an unfortunate term, but that is the reality of the situation.

Will the government in some way — and I am not sure how they are going to do it — go to some lengths to ensure that those people who are currently living in fear as a result of this legislation are put at ease and made to feel that they are full human beings?

**Mr JENNINGS** — Mr Finn, it does not surprise me that you may want to pursue this matter at great length. I welcome your concern about this matter and your desire to raise it and make sure that we have some clear degree of understanding about it. I am very happy about that. In relation to the individual cases of people who have raised concerns with you, if there are individuals at this moment who need some degree of communication or support to address their concerns, on behalf of my ministerial colleague I am very happy to take any advice you wish to furnish us with in relation to who those individuals may be who need to have their immediate concerns addressed. I am very happy to receive any advice you feel appropriate to share with us in relation to that immediate concern and to respond to any immediate concern as identified at the earliest possible opportunity. Take that as an invitation for you to furnish us with whatever you want to furnish us with to provide that degree of support and reassurance.

Beyond that, you are telegraphing that in the implementation of the legislation there needs to be account taken of the clinical guidelines that are appropriately shared with clinicians in relation to decisions and assessments that they may be making, in relation to the clarity of their thinking and how they strike the appropriate rigour in relation to the additional medical requirements beyond the condition of anyone with a disability that may make them eligible for this scheme. They do have to have a condition that is determined to be life ending. Otherwise they will not be considered to be eligible under the scheme. Those guidelines need to be rigorous. The practice needs to be rigorous.

The advice that is provided to any member of our community in relation to what they may or may not be eligible to pursue in voluntary assisted dying is a communication challenge for the government in making sure that we allay concerns. I am happy to use the example and experience of the people you have indicated who may be concerned at this moment about

this matter to make sure that we develop programs to address this into the future so that this is not an enduring concern at an individual, family or community level.

**Mr FINN** — Minister, I am far from aware of every person who is affected by, impacted by or living in fear of this legislation. I have been contacted by a number of organisations who have expressed that view, and they themselves would have a number of members of their organisation who would be feeling that way. Some might even say it is very cute of you to offer that. I take that in good grace, but there are, without doubt, an enormous number of people out there who I am not aware of and who I do not know who are living in fear and who are very scared of what this legislation will mean for them or their families.

What I am asking, and I think it is a very reasonable thing given that the government is very keen to offer counselling to just about anybody on any given subject, is that the government offer support and counselling to those people who are currently living in fear of this legislation. I think that is a very reasonable thing to do, given that it is the government that has actually put these people — these very vulnerable people, I have to say — in a situation where they feel that their very lives are under threat. I ask the minister to give us an undertaking that proper counselling will not be given just to an individual who may walk in off the street and who we may be aware of but that proper counselling may be given to an entire community of people with disabilities, many of whom — if indeed not most of whom — are living in fear of what this legislation will mean.

**Mr JENNINGS** — I do not in any way, shape or form in this committee want to be described as cute in an ongoing way. Let us run through the logic of it. The logic of it is that I am happy on behalf of my ministerial colleague to take responsibility for any individual or member of the community who you may be aware of or any organisation that is expressing these concerns on behalf of their members to take action, which may involve counselling in relation to alleviating their degree of concern and anxiety. To take that —

**Mrs Peulich** — I am one.

**Mr JENNINGS** — I do not know whether you see yourself as a person with a disability, but you are a person who is obviously having some —

**Mrs Peulich** interjected.

**Mr JENNINGS** — No. I do not make that —

**Mrs Peulich** interjected.

**Mr JENNINGS** — Not at all. In fact I volunteered in my summation of the second-reading debate that I was sincerely concerned about your emotional wellbeing. I said that then, and I repeat that now. But in terms of Mr Finn's issue, he is talking about people with disabilities who may feel that they are being shoehorned into a legislative structure —

**Mrs Peulich** — People with mental illness, the elderly, people with multicultural backgrounds — what the hell are you doing?

**Mr JENNINGS** — I think what I am responding to is that if there is any sense of compulsion or expectation for any member of our community beyond the line of inquiry that Mr Finn has been raising where people feel as if their choices are being diminished rather than being enhanced or whether their eligibility has been forcing outcomes upon them when that is not the intention of the law, then we will have to devote community education and support to prevent that from occurring. That is what I am indicating, from individual circumstances to the group and from organisational circumstances to a community-wide message. We need to be able to develop that to actually mitigate the concerns that you both are expressing in slightly different ways but in a connected way.

**Dr CARLING-JENKINS** (Western Metropolitan) (16:22) — I refer to your ruling earlier that if we have something that crosses clauses to bring it up in clause 1. I will outline very briefly what I am intending to do here. I want to follow up on the disability argument or theme, I guess, and point to the fact that the bill repeatedly refers to 'gestures or other means of communication' as indicators of consent. This is included in clause 4(1), clause 11(3), clause 37(3) and clause 53(3), so I wonder if I could ask those questions together now.

**The ACTING PRESIDENT (Mr Elasmr)** — Can you please repeat them slowly?

**Dr CARLING-JENKINS** — Clause 4(1)(d) says:

communicate the decision and the person's views and needs as to the decision in some way, including by speech, gestures or other means.

Clause 11(3) says:

The person may make the request verbally or by gestures or other means of communication available to the person.

Clause 37(3) says:

The person may make the final request verbally or by gestures or other means of communication available to the person.

Clause 53(3) says:

The person may make the request verbally or by gestures or other means of communication available to the person.

So I wonder if I could ask now a question specific to what is meant by 'gestures or other means of communication'. Minister, when working with people with disabilities, particularly people with communication impairments, including people who acquire communication disabilities or communication difficulties at the end of their life, there are in my understanding very few interpreters who would claim an ability to interpret gestures or other means of communication, particularly without first knowing that person very well. So in researching these clauses my office actually called many disability services in Victoria to ascertain their ability to provide such interpretation services. We established that we have over 250 disability services, and 21 indicated that they provide interpretational communication services for people who only communicate through gestures or other non-verbal means. Most of these very clearly pointed out that they would need time to get to know the person first to learn and understand how they communicate, and this includes those services who were willing to provide services under the Voluntary Assisted Dying Bill 2017.

In particular Scope, which was mentioned in the lower house, Yooralla and the United Communication Services and David House Adult Training Support Service explained that they would need to conduct a proper assessment of the person before they could be accurately interpreted. They estimated a time frame of at least 10 hours for getting to know somebody. I am sure you know where I am going with this, Minister. Minister, will the regimes under this bill compel doctors to engage a professional interpreter to assess consent and to assess requests, including the final request, through gestures or other means, and in doing so how will this bill accommodate these 10-plus hours of getting-to-know-you time, or will we be relying on people close to the ill person — people who may benefit from the will and/or people who are tired of their burden of care — to interpret the wishes of terminally ill patients who have lost their ability to communicate effectively through language?

**Mr JENNINGS** — I thank Dr Carling-Jenkins for her question and her concern. When I commented to Mr Finn earlier on about being somebody who has an enduring commitment to people with disabilities, I did actually make eye contact with you because in fact I know that you are one of those people too. I acknowledge that and am grateful for your concern. Perhaps the people who provided the briefing material for me would actually hope that I would read far more than I currently do in the committee stage. I am going to read something they prepared for me on that subject. It says the bill:

recognises that a person should be able to obtain the assistance of an interpreter to access voluntary assisted dying, but that the interpreter should be accredited by a body like the National Accreditation Authority for Translators and Interpreters ...

So that is the first one.

The bill also requires that where interpreters are assisting people accessing voluntary assisted dying they must not be a family member, a beneficiary under the person's will, or otherwise benefit financially or be involved in providing professional health services or professional care services to the person.

This ensures interpretation is independent and that the person is acting voluntarily.

For a person who is non-verbal, the interpreter could be an occupational therapist or speech pathologist, who has undertaken non-verbal communications training, to use a communications board, or symbols or sign language — for example, a disability support service such as Scope —

which you have referred to —

The requests must also be clear and unambiguous. If there is doubt about the meaning of the person's communications, they will not be able to make a valid first request. The practical operation is that if a verbal communication is not clear enough for the coordinating medical practitioner to understand the communication as a verbal request for access to voluntary assisted dying, then the person should not be regarded as being capable of communicating verbally.

With what you have put to me and how I have responded to you I think there has to be a recognition from the government's perspective that what you are saying is that if this decision-making process is available for a person with a disability through the use of an interpreter, they have to be effectively a professional who knows what they are doing, they have to be accredited, they have to have no family or pecuniary interest in the matter and ultimately, in terms of effective communication, they need to spend sufficient time with the person to be able to reliably acquit their professional responsibility of interpretation.

The issue that is in the notes before me for all of those matters is consistent with what you put to me, with the additional expectation that there needs to be sufficient time and process to be able to account for that responsibility and to acquit it in a way that would give the assessing clinician the confidence to be able to make any subsequent decisions. We take it on notice that in fact we have to account for the quality of that relationship that needs to be formed to be able to acquit that responsibility.

**Dr CARLING-JENKINS** — Thank you, Minister. I really appreciate that comprehensive answer. I point out that in our research in this area Communication Rights Australia, which is an advocacy group which links people to services, said that there is a huge gap in interpreter services and in communications support services in Victoria. They are concerned that we do not have enough interpreter services for people who communicate through gesture now, let alone after this bill is implemented. I wonder if you could comment on — and I would love it if the government would give a commitment around this area — how you intend to address this service gap prior to the implementation of this bill.

**Mr JENNINGS** — I think there is some aspect of the constrained nature of the application of this bill. Notwithstanding Mr Finn's concerns about how broad, how far-reaching, it may be, our expectation is that it would be used in relatively few circumstances. Nonetheless, we need to be able to account for the resource allocation which would be afforded to make sure that that important decision is actually supported, so the government will take this into account in relation to the appropriate support that will be provided to support the effective implementation of the bill.

I think the issue that you actually have now called on in relation to access to interpreters and other supports for people with disabilities is an ongoing issue that warrants attention in its own right.

**Dr Carling-Jenkins** — It can't hurt asking.

**Mr JENNINGS** — I spend quite a bit of time with the minister for disability in actually dealing with the rollout of the national disability insurance scheme, the hopes and aspirations that we actually have for that scheme and some of the challenges it has, and I think this is adding to the additional demands and resources that should be available to support people in our community with disabilities.

**Mrs PEULICH** — I will speak a little more comprehensively on clause 1, but just to piggyback on

some of Dr Carling-Jenkins's point about interpreters, under what circumstances would the government envisage that an interpreter would be called in?

**Mr JENNINGS** — Are we talking about being in the same situation with people with disabilities or interpreters in —

**Mrs Peulich** — Under what circumstances would they be brought in?

**Mr JENNINGS** — The circumstances would be at the instigation of the person who is actually seeking to participate in a voluntary assisted dying process to assist them at their instigation. It has to be at their instigation that there would need to be an interpreter to assist them in terms of the way in which they express their desire to participate and have an assessment made to see whether they are eligible for the scheme.

**Mrs PEULICH** — So it would be at the insistence of the participant, not the doctor — is that exactly what you said?

**Mr JENNINGS** — Yes, because the process has to be instigated by the person.

**Mrs PEULICH** — Minister, could you tell me what you think it would mean if somebody said to you, 'Ne', say, in a conversation about euthanasia — say, a person from a multicultural background? If you were a treating doctor, perhaps one who works in this particular facility where euthanasia may be supported, what would you understand the word 'ne' to mean?

**Mr JENNINGS** — I can understand that you actually might want to put me on the spot in relation to my command of —

**Mrs Peulich** — Anyone's command — if they do not speak another language, anyone's command. What would it mean to you?

**Mr JENNINGS** — I think you are encouraging me to make a guess about what it means and you are going to tell me that it means the opposite. That is what I anticipate is happening, but this is not really the relevant interaction. The relevant interaction is who instigates the conversation and how the interpretation takes place at the instigation of the person in question with the person of their choosing. Ultimately in relation to this expectation there would need to be confidence in fact generated by the person themselves in the reliability of the interpretation that is actually provided for them, and there would be a reliance on a clinical assessment based on advice that is actually provided, subsequently confirmed and then confirmed in writing

to the coordinating practitioner. So there are a number of steps — some of them verbal, some of them in written form — and a lot of this needs to be on the basis of clinical assessments that underpin whether people actually satisfy the gateway to proceed through this process. So it is nowhere near as simple as one word and whether it means yes or no.

**Mrs PEULICH** — It can be; it can be a simple word. In one language 'ne' may mean yes and in another language it may mean no. And we have not even got to the hurdle where a person may initiate or instigate the request for a translator or an interpreter.

On behalf of multicultural communities, who are scared absolutely to no end by this — petrified — they cannot believe that you are doing this; these are the regimes that they have escaped from, that they have left behind in their own countries of birth. It is not just the people with disabilities who have very good reason for concern. Our society, one would have thought, would have learned from the experiences in the 1930s and 1940s that there are slippery slopes indeed. It has been well documented and very, very selectively overlooked by this government and by the committee and many in the pro-euthanasia debate.

Emerging communities do not have interpreters and translators now. That is a constant problem. Not only that, but there is a lack of cultural awareness anyway on the part of many medical practitioners, let alone the accessibility to interpreters and let alone the subjective nature of interpreting non-verbal communication. But if a doctor gets it wrong, has the government taken advice as to what the impact would be on doctors' own liability insurance? Has the government taken advice: if a doctor who is facilitating euthanasia provides the wrong advice, whether it is about how to access it or what the alternative methods of treatment may be, what will be the impact on doctors' own indemnity insurance? And can you provide that advice?

**Mr JENNINGS** — Of the vast array of issues that you have just raised, it is a matter of what advice we are talking about. In the first instance you have expressed concern about the anxiety that may be exhibited in any community, whether in terms of people's command of English or in emerging communities in relation to their limited access to interpreters. Wherever people come from in our community, the process only commences at an individual's instigation. It does not actually occur through any medical service or medical practitioner or through any third party commencing this process beyond the individual person themselves.

In terms of people who might have profound political or — I am not quite sure why I am seen as being provocative when I mention religious beliefs; I do not mean to be — religious or cultural beliefs —

**Mrs Peulich** — Because you're trying to cauterise criticism.

**Mr JENNINGS** — No, I am trying to broaden it out. Whatever may be the reason — an emotional reason, or any reason — why they think this scheme is inappropriate for them, there is absolutely no compulsion for any individual in our community to commence to see whether they are eligible. No-one is compelled to; nowhere is there an expectation anywhere that that would be the case, and in fact the expectation is that very few people will afford themselves of the opportunity to do so under the legislative scheme. If anybody in our community has a philosophical, political or emotional reason not to participate, they do not have to participate, and I would assume none of them will participate in this scheme, because it has to be initiated by themselves. They are the only individual who determines whether that is the case or not, and that is what the legislation provides for.

That is the first suite of issues that you have raised in your example. In the conclusion of your example you talked about medical insurance and medical indemnity. The medical practitioners who undertake their responsibility under the scheme are acquitting their clinical assessment. They are making judgement calls in relation to what is their assessment about the underlying condition or disease that is going to cause death and in what time frame that death is likely to occur. That is the assessment they are required to make.

They are also required to make an assessment about whether there are reasons for a referral in relation to the mental health or other capability of someone making their decision. They are also required to make an assessment about whether they believe coercion has been undertaken in the pathway of the assessment being sought, and they need to take appropriate action if that is the case. They are operating their clinical judgement, their assessment, of those factors and they are applying them in accordance with the law. If they act in accordance with the law and do not fail in any of their obligations in relation to what this law says, or what other laws that they are subjected to say, and in relation to the other aspects of the regulation of the health professions industry that apply, their medical insurance and indemnity will not be affected. They will be subject to interlocking laws and the process of accreditation and regulation.

**Mrs Peulich** — And you've got that written advice to furnish to the committee?

**Mr JENNINGS** — I could probably provide you with something written to that effect, but I think —

**Mrs Peulich** — An insurer?

**Mr JENNINGS** — An insurer?

**Mrs Peulich** — Medical indemnity.

**Mr JENNINGS** — If any doctor complies with the laws of clinical guidance —

**Mrs Peulich** interjected.

**Mr JENNINGS** — I don't think so. There are a whole range of matters in this piece of legislation that are subject to the scrutiny both of the advisory review board that is going to be established under this piece of legislation to —

**Mrs Peulich** — After the fact.

**Mr JENNINGS** — No, it actually applies —

**The ACTING PRESIDENT (Mr Elasmarr)** — Order! Through the Chair, please.

**Mr JENNINGS** — Sorry, Chair.

**The ACTING PRESIDENT (Mr Elasmarr)** — I was talking to both of you.

**Mr JENNINGS** — Okay. There are permits that are required in the process that are subject to the scrutiny of the Secretary of the Department of Health and Human Services. There are various forms in relation to the assessment process and the referral process that will be acquitted in close to real time in relation to the decision-making process and the pathway of decision-making. There are notification requirements in relation to accessing voluntary assisted dying substance use, and there are notification requirements in relation to a death that has occurred through the process.

The cumulative effect of that scheme is actually quite rigorous and in fact the government would attest is more rigorous than other jurisdictions in relation to the interlocking elements that I have just outlined to you. On that basis, given compliance with other laws and clinical practice and accreditation guidelines, we are confident that if a medical practitioner satisfies all of those obligations then insurance is one of the least things that they would be worried about.

**Dr CARLING-JENKINS** — Minister, I wish to return to questions around other forms of communication. There are a number of points that I need to ask for clarity on. Will communication boards be an acceptable form of other forms of communication? While I understand that boards that have the alphabet on them — where the person points out letters to spell their intention — can be very clear, communication boards with pictures can be much more problematic. So I just ask: who will be responsible for designing picture boards which display options for assisted suicide and euthanasia and will these picture boards display the full range of options available to a terminally ill person, including palliative care and pain relief options?

**Mr JENNINGS** — In my substantive answer to your question before I said there is an opportunity for communication boards, symbols and sign language to actually give effect to what you describe, and the effectiveness of that needs to be as comprehensive as it should be, given the gravity of the issues we are talking about. I have had augmented what I am about to share with you, on the basis that there are a number of other communication devices that Motor Neurone Disease Australia has also been associated with to assist in referral for assessment — appropriate aids and equipment for people with motor neurone disease. They include hands-free telephones; magic slates; Etch a Sketch; Magna Doodle boards; computerised communication aids, including light-touch keyboards and voice synthesisers; eye gaze boards; computer programs; voice amplifiers; and tablet computers. These organisations also have staff, including speech or occupational therapists, to assist the person where this is necessary, such as when complex or more abstract communication is required.

**Dr CARLING-JENKINS** — Thank you, Minister. I want to pick up on one point you spoke about there, which was eye gaze, and I want to ask if that eye tracking or eye gaze is a form of acceptable communication or a gesture. I want to point the minister to an article that was written in 2014 by Wilkinson and Mitchell entitled 'Eye tracking research to answer questions about augmentative and alternative communication assessment and intervention'. They observed the development of eye tracking and stated this:

Recently, eye tracking technologies (i.e., technologies that automatically track the point of an individual's gaze while that person views or interacts with a visual image) have become available for research purposes. Based on the sampling of the orientation of the individual's eyes, researchers can quantify which locations within the visual image were fixated (viewed), for how long, and how many

times. These automated eye tracking research technologies open up a wealth of avenues for investigating how individuals with developmental or acquired communication disabilities may respond to aided ... communication ... systems. In this paper, we introduce basic terminology and explore some of the special challenges of conducting eye tracking research with populations with disabilities who might use ...

these communication devices —

including challenges of inferring attention from the presence of fixation and challenges related to calibration that may result from participant characteristics, behavioural idiosyncrasies, and/or the number of calibration points. We also examine how the technology can be applied to ask well-structured experimental questions that have direct clinical relevance, with a focus on the unique contributions that eye tracking research can provide by (a) allowing evaluation of skills in individuals who are difficult to assess via traditional methods, and (b) facilitating access to information on underlying visual cognitive processes that is not accessible via traditional behavioural measures.

This, however, is a research tool that is in its very beginning stages, and eye tracking or interpreting eye gestures is still in that developmental phase in clinical practice. There is a big gap between research and clinical practice, and it certainly cannot be rolled out in practice in a clinical setting very easily across the board. It may be used for some but certainly not for all. So I am asking for an assurance by the minister that eye tracking or eye gaze will not be an acceptable form of communication used to gesture a desire to undertake assisted suicide or euthanasia, and for an assurance to the committee that caregivers and/or beneficiaries of the terminally ill person's will will not be allowed — I know I have come to this point before, but we are now talking about a specific form of communication here — to assist in the interpretation of eye gaze or eye tracking of a terminally ill person.

**Mr JENNINGS** — In the first instance I would like to give the reassurance that it certainly cannot be a family member, somebody who has a pecuniary interest or somebody who is actually providing the health service or professional care service. So I reiterate that point in answering your question. In relation to the confidence that you seek in relation to whether eye gaze technology would be actually used and relied upon in these clinical circumstances as the sole communication tool, I am going to take some advice on that matter and by the time we discuss it in clause 114, if you do not call on me to answer that question now, I will answer that question then.

**Dr CARLING-JENKINS** — Thank you. On this point as well, will pamphlets which advertise assisted suicide and euthanasia options be written in plain English for people with communication difficulties or disabilities, and who, again, will be responsible for

ensuring that plain English translations of such pamphlets or any other medical documentation that will be provided at the time of the consultation are written to a professional standard?

**Mr JENNINGS** — I will give you a similar undertaking: that when we come to clause 114 I will answer that question as well. I am pleased to hear that you think it is possible for a professional to write in plain English. I think that is a good thing because there are a lot of professionals that I know who cannot.

**Dr CARLING-JENKINS** — Minister, it is a very professional skill set, usually undertaken by specialised speech pathologists. So that is just a hint for when we get to 114.

I also would like an assurance that when we talk about other forms of communication we will not be using a contested form of communication, which is called facilitated communication. I ask this particularly because it is quite contested in the disability field and it is one which I and many other disability experts are very uncomfortable with, but we note that it is used quite broadly — by people who perhaps do not share our views. Facilitated communication, for your information, is a technique where individuals with disabilities and communication impairments — I would say allegedly — select letters by typing on a keyboard while receiving physical support, emotional support and encouragement and other communication support from facilitators. As I said, it is broadly contested. I have got a list of peer-reviewed journal articles which I would be happy to supply to you if you want to be taking this one on notice as well.

One of those articles was written by Jeffrey Chan and Karen Nankervis in 2015 and is called *Stolen Voices: Facilitated Communication is an Abuse of Human Rights*. That one in particular I point out because it is a very strongly worded article that points out that facilitated communication is still being used by clinicians, educators and researchers extensively even though it has been contested for a long time. They actually conclude that it is an abuse of human rights. So I ask the minister if he can confirm that facilitated communication — this technique — will not be used to communicate a desire to undertake voluntary assisted dying under this legislation.

**Mr JENNINGS** — I think within all of the written material that I have referred to in answering your series of questions, that concept has not actually been presented to me as being an example of the methods that would be used. I will take some advice on that, and I can confirm that when we get to clause 114.

**Dr CARLING-JENKINS** — I have just a couple more questions on this topic. When you read out your list before, you mentioned sign language. Makaton is a language program which uses signs and symbols to assist many people in our community to communicate. Makaton, for your information, is described as supporting spoken language, so it is very different from Auslan. Signs and symbols are used to assist with speech. Makaton has words, symbols and signs for bereavement or missing someone, to care for, to bury, funeral, funeral plan, coffin, to grieve and to mourn. They even have signs for heaven, for suffering, for terminal illness and for tears and one for suicide. However, assisted suicide and euthanasia are concepts beyond this scope, so what research is being completed to ensure that appropriate and universal symbols for euthanasia and assisted suicide have been developed to ensure that people with disabilities are making an informed decision when communicating via Makaton if they wish to make use of this legislation?

**Mr JENNINGS** — I think that the beauty of us proceeding through the committee stage today, when others may have actually hoped that we would not, is that now you have given me some notice of questions that you want answered before we complete our task, and this falls into that category. When we get to clause 114 I will ask for the people who advise me to provide us both with an answer to your question.

**Dr CARLING-JENKINS** — I have just a couple more for you to take on notice. This also relates to one of the things that you had in your list earlier, and that was around if interpreters are not available, the use of technology. Will technology be used to facilitate communication? For example, will iPad or mobile technology be used? Will an app be developed for doctors? What kinds of review mechanisms will go into this kind of development? I think you can see where my line of questioning goes there. Again, I can refer you to academic articles that believe that iPad and other mobile technologies are very problematic for use in clinical practice. It is openly contested in clinical practice, and the use needs to be researched in a lot more detail with a lot more rigour before we actually put this into practice. I am looking for an assurance around that type of communication.

**Mr JENNINGS** — I believe that — going back to one of the first things that I read out in your series of questions on this important subject — there was recognition that in the preparation for the implementation of this piece of legislation and the voluntary assisted dying scheme there will need to be many implementation issues to provide for quality assessments to provide confidence to the people who

are seeking support, to clinicians and to people in the community who want to make sure that the process, whether they agree with it or do not agree with it, has rigour, liability and professional standards that apply to it at every stage and also appropriate scrutiny to mitigate against bad practice. In this instance I indicated that we are likely to rely on an accreditation body such as the National Accreditation Authority for Translators and Interpreters to provide important structure and guidance in relation to the reliability of any of the various options that we are applying. There would be a professional standard and scrutiny applied in relation to any method that may be adopted to support these clinical assessments and their reliability.

As you were quite rightly saying, not only would there need to be some degree of certainty provided through that accreditation about the people who are using these methods to provide for appropriate interpretation and communication assistance but also the reliability of that communication equipment or method will need to be demonstrated and open to scrutiny. I think that accreditation framework that I have outlined will assist us in that, so I think we will come back to this. I would like to give you the confidence that you are seeking. I believe that in relation to many of the issues you have addressed the people who have been working on the legislation and the programs that should be associated with it have been mindful of those, and we may be able to consolidate a few of those points on the way through to give the confidence that you are seeking in relation to their reliability.

**Dr CARLING-JENKINS** — I have just one more question on this, Minister, and that is around people with intellectual disabilities. As you go back and receive your briefings, could you get us some more information for when we get to clause 114 around the accommodation of people with intellectual disabilities and how their communication — I am not talking about capacity here; we will talk about that at another stage — will be assessed and accommodated, because we see in academic research that it is a major obstacle, even in simply providing palliative care to people with intellectual disabilities. There is a lot of literature around the assumptions in the system around people with intellectual disabilities who are now ageing in place and the issues we have there.

So that I am not just getting up and down, I will ask the last question, which is around the secretary. Before they sign the permits, will they be looking to ensure that the correct communication procedure for all of these groups that I have outlined — for people using augmentative and alternative communication (AAC) techniques, for people using Makaton, for people with

intellectual disabilities — has been followed? Will the person signing the permits be responsible for ensuring that communication procedure has been followed or will it be at the point of the doctor's visits? Will it be the doctor that is responsible for ensuring that? I wonder if we can unpack a little bit about the record keeping of that.

**Mr JENNINGS** — I am eternally grateful that the committee continued on so that we could get those questions. We can now digest them and come back to them.

**Mr ONDARCHIE** — Minister, I want to reflect on some opinion that has come into my possession from Julian McMahon, AC, a well-known barrister in Melbourne. In fact he was the Victorian Australian of the Year in 2016. He is a strong human rights advocate, and I think in the Queen's Birthday honours this year he was awarded a Companion of the Order of Australia. Julian McMahon wrote in 'A public letter to those interested in the current debate on the assisted dying bill':

The assisted dying bill before the Victorian Parliament deeply saddens me, for what it says, and where it will lead. For the sake of an apparently anticipated 160 people or so a year, who are able to argue rationally for their own euthanasia under this bill, we imperil many.

I cannot support a bill which allows for assisted suicide, and for some people to administer death to others. It would change society to its core if these ideas become normalised.

Once we cross the Rubicon, the terrible consequence will be that it becomes absurd to support euthanasia for some but not others. The argument would be — 'Why should the articulate have more rights than the suffering voiceless?'

If the rational patient with 12 months to live can choose death, and others can be allowed to administer it, some will soon ask: 'How can we be so cruel to let the mentally tormented suffer endlessly? Or the demented? Or the abandoned severely disabled who seem to have no quality of life? Surely if they could speak, they would choose a gentle death now, rather than all this suffering?'. After all, equality of rights and options is what the human rights debates are all about. I dread a society which is heading towards such discussions, imperilling the most vulnerable.

As for talk of safeguards, and as a lawyer working in crime —

**Mr McMahon said** —

I am shocked at the debate's naïveté. Imagine an elderly sick woman, who is pressured by uncaring relatives and eventually goes to the doctors pleading for pills so she can kill herself, in truth to cease to be a burden to her heirs. She is then at home with the pills. There is no further supervision. From then on, she is too vulnerable. Who will know what pressures she is placed under to end it all? Who will care?

Who will know who administers, in what circumstances, and who will care?

This bill immediately places the elderly sick, and the most vulnerable, under intolerable pressures. Over time, despite its current intent to assist a few rational people to die, the changes in attitude it signals will undermine society's support for the lives of the voiceless and those most in need. It should be rejected.

Minister, I touched on this, as you know, in my second-reading debate speech, particularly around coercion. An eminent lawyer, an eminent barrister, like Julian McMahon, AC, a former Victorian Australian of the Year and a strong human rights advocate, has written to this Parliament about these matters. How do you respond to Mr McMahon?

**Mr JENNINGS** — I respond to Mr McMahon by acknowledging, just as you have done, that he is an outstanding Victorian, he is an outstanding lawyer and he has actually made a contribution to the law not only in Victoria but internationally. I acknowledge him for his work and his contribution, and I applaud him for it. I do not necessarily believe that that means I have to believe what he says in relation to him expressing his opinion, because you start by referring to it as an opinion. It is an opinion, particularly in the concluding remarks where he makes assumptions about the exercising of decision-making by someone in relation to circumstances where he construes certain scenarios of intimidation or shame or guilt or other motivations for someone deciding that they could access an assisted dying scheme to deal with their suffering in circumstances where they have been diagnosed as dying. That is his judgement. That is his value system. That is his fears and anxieties being played out in his exercising his view of the legal construct.

In the middle of his contribution, whilst he is opposed to the scheme, at the beginning and the end of his contribution he acknowledges that if the scheme exists, then its logic is that it should apply to all. He does not have a logical thread running through his argument. Without overly wanting to spend more time than I need to on this, he will come out of this having his view. Presumably he will not be persuaded by my view, but I am certainly not persuaded by his.

**Mr ONDARCHIE** — Thanks, Minister. I acknowledge that you and I can have a rational debate without yelling at each other, and I implore many in the chamber to observe that as a method of operating today.

Minister, in my second-reading speech I did talk about coercion, and Mr McMahon goes to that with his example about an elderly, sick woman that is being pressured by uncaring relatives. Coercion is a big

concern that I have received many, many letters and lots of emotional feedback on, personally in my office and also by email and on the telephone. Minister, can you guarantee to Victorians that nobody who is terminally ill will be coerced by impatient relatives or impatient friends or those who can benefit? Can you guarantee that it will not occur?

**Mr JENNINGS** — There are a number of people who will be asking me to make definitive, absolute statements in relation to people's behaviour and how members of our community operate on the basis of therefore proving a point. You know and I know that there are people with malintent in our community under existing law that coerce others. You know that and I know that. That occurs in this jurisdiction, it occurs around the nation and it occurs around the world. There are many people who operate outside legal structures in bad ways that affect others. How can any law guarantee that?

**Mr Finn** — Why would you make it easier for them?

**Mr JENNINGS** — My argument is that this does not make it easier for them.

**Mr Finn** — It does.

**Mr JENNINGS** — Well, that is your argument. That is not my argument. My argument is that this is a highly regulated scheme that actually relies on self-initiation and verification by the person who is seeking to access the scheme. It relies on the professional acumen and the skill of clinicians to make assessments that a person is indeed subject to a condition that will end their life. The clinician is obliged to make an assessment of whether the person in question is under duress, either through mental illness, incapacity or coercion, and to make a referral appropriately if they have concerns about those matters or to deny access to the scheme if they are convinced of those matters.

So from the self-initiating through to the clinical assessments and the way in which the offence regime is put in place, this legislation actually places limits on who has the right to enter into conversations about assisted dying and those who must absent themselves from participating in the scheme in relation to their potential vested interests, not being a participant in key decisions and actions or even taking on observer status in relation to the elements of the bill. There are many preclusions built into the system to try to prevent coercion, so I contest the interjection that in fact this makes it easier.

If somebody is a potentially vulnerable individual who is likely to die within the next year under the current construction of the bill, then at the moment none of those protections are available to them. In fact this bill adds to the armoury of protections. I could actually mount exactly the opposite argument that has been put to me. Coercion can exist with or without this legislation. Bad people can do bad things towards others in their family or in their community. This legislation actually adds to the offence regime in relation to that coercion that could exist today.

**Mr ONDARCHIE** — I concur with you that there are people with malintent who do things outside the law that hurt people in Victoria. I could now take an excursion into the exorbitant rising crime rate in Australia, but I do not want to politicise this debate, if that is okay with you; I just do not want to. Let us just take that as read for the sake of the discussion.

But herein lies the problem. I have visited elderly people in nursing homes, and you have heard the story of me visiting my father in palliative care and watching him pass away. There are many examples and stories of where patients would take visitors into their hospital room or palliative care facility or even their home. There is no way of guaranteeing that this legislation does not provide an opportunity for someone with malintent to coerce a terminally ill patient into prematurely taking their life. I use that as an example. You used the time frame of 12 months. I understand, whilst I have not read your last-minute amendments, that there may be some changes to that, but I want to give you the example of my own father in palliative care from experts who were really good people — oncologists and specialists; we gathered the best we could find in the country around him — and their words to me. They looked me in the eye and they said, ‘You’d better get on with things because he’s only got three months to live’. That is a shock to a family. We were not ready for that. We ran through a whole lot of emotions at that time.

The reality was that Dad stayed alive for 21 months, not for three months. At some point during the debate I will argue with you about this time frame. I think you have got some amendments. We will talk about that at the right time, but the reality is that this legislation does provide an opportunity for someone to coerce a terminally ill Victorian into taking their life prematurely because of some malintent. You cannot guarantee to this house, to the people of Victoria, that that will not happen. Does that not in itself mean that this bill has some flaws?

**Mr JENNINGS** — I would certainly be happy to tease out how these elements in the legislation work to mitigate against those circumstances. I would argue at this moment that the existing laws, the criminal law in this state, should prevent that from occurring already. It should, but it does not. What you are worried about and what Mr McMahon was worried about are things that have already happened.

**An honourable member** interjected.

**Mr JENNINGS** — No, that is not okay. In fact I would actually say to you that in these circumstances this is a highly regulated regime in relation to dealing with end-of-life matters. It is far more regulated. The people you say you are concerned about will have access to a rigorous process of assessment, instigation and request of their own volition, the issuing of permits and independent oversight of the regulatory environment in which the doctor’s action will be checked. There are offences on the statute book that currently do not exist in relation to coercion and in relation to administering medicines that are not prescribed to an individual.

The irony of the way in which you view this legislation and the way in which I view it is that this piece of legislation is far more regulated than our current environment in relation to some of these end-of-life matters and the potential for people to coerce others or in fact to facilitate death in a way that is currently legal. I think that those who actually choose this path are far more likely to have protections in place rather than the fewer protections in place for the very people you are concerned about.

**Mr ONDARCHIE** — But therein lies the problem. It is the job of this house, the Victorian Parliament’s house of review, to make sure this legislation is tamper proof. It is our job to make sure it has no flaws. It is our job to make sure it is foolproof, and your own recognition and certainly that of mine and others, I suspect, in this chamber acknowledges that it is possible this could happen. And if it is possible this could happen, then it is not tamper proof. It is not foolproof. That very definition means that we cannot enter a law into the Victorian statutes that has this element to it, and you cannot guarantee that someone will not be coerced into this. Doesn’t that therefore create a problem with this bit of legislation?

**Mr JENNINGS** — It is not a test that we have created; it is a test that other people in the community have actually created. It is a test that I believe will not be able to satisfy you, and you will use it as a

justification for voting against the bill, as is your right. That is what I anticipate happening.

I put it to you and I will put it to you consistently that this bill provides for a more regulated environment in relation to end-of-life matters. It actually has consequences for family members if they act inappropriately. It has offences that currently do not exist on the statute book, and in that way I think it actually protects the potentially very vulnerable people that you are concerned about, and it protects them in a way that the current laws do not necessarily protect them, so it adds to my confidence level about a better and more humane and respectful environment in the future and penalties that would apply to any inappropriate behaviour in relation to these end-of-life matters.

I know that you and others apply that test. If there is one adverse outcome through this piece of legislation, you will oppose it. I have heard that. I know that is what you will exercise your right to do, but that is not a test that I accept, because in fact my test is: is this a better suite of legislative arrangements and regulatory environment and does this provide citizens with more rights to exercise their choice at end of life? That is on balance why I support the bill, and I know that you are not likely to.

**Mr ONDARCHIE** — That is a very good assessment, that last sentence. But I have to say that you do not have to just convince me, because my job here today is not just about what I think, it is to represent the 502 000 constituents that I have in Northern Metropolitan Region and across Victoria. So it is not me necessarily that you have to convince, it is them. What I am looking for from you is a response to those Victorians that I speak on behalf of. I just want to ask you: under the bill as it stands at the moment, and to be fair I have not yet had time to process your amendments, is it possible — irrespective of the provisions that you say are better than the ones before, but I still think they fall short — that a terminally ill Victorian could be coerced, with malintent, to take their life?

**Mr JENNINGS** — I think, Mr Ondarchie, you have asked me that question a few times, and I reckon I have given you lengthy answers to the questions. They may not actually quite be in the way that you would like them, but they have been quite lengthy. So what I will do is draw attention to the offences that the bill introduces that currently do not exist on the Victorian statutes.

Under this bill it will be an offence to induce another person to request voluntary assisted dying. In the case of a natural person, it will be a level 6 imprisonment of five years or 600 penalty units or both. It will be an offence to induce self-administration of a voluntary assisted dying substance, and again for a person to do that it will be a level 6 imprisonment of five years or 600 penalty units or both. It will be an offence to make a false statement in relation to the process by which voluntary assisted dying works, it will be an offence to falsify a form or a record and it will be an offence for a contact person to knowingly fail to return the remaining voluntary assisted dying substance after the death of a person. The bill adds to the offences of murder, aiding and abetting suicide and possessing prescription medication without an authorisation, and they will continue to apply to people who act outside of the legislation.

So that is for people who you are worried about — family members or other members of the community who may coerce somebody else to participate in voluntary assisted dying. Those offences do not exist currently, with the exception of the ones that I last referred to. I think that adds to the protections for those people you are concerned about and people your constituents may be concerned about who may be vulnerable to coercive practices or inappropriate practices in relation to end-of-life matters.

**Mr ONDARCHIE** — Thank you, Minister. I am also someone who has read the bill and is cognisant of the penalties, but I do acknowledge that it is possible that someone could be coerced into this, and by definition this bill then has a flaw in it.

I want to now turn to someone who in the 57th Parliament you often spoke about, often defended and often used as an example by way of your response to the government in relation to some of the issues the then government was facing. In late October this year former Prime Minister Kevin Rudd told the *Australian*:

If I was a member of the Victorian Legislative Assembly or the Victorian upper house, I'd vote to defeat (the bill).

I am a strong supporter of same-sex marriage or marriage equality, as you know, so I don't come at this from a classical Christian mandate perspective.

What I am deeply worried about is one simple practical question, which is: at the point at which an older person concludes that they are sick, they are very sick, and that they have become a burden on their families or their community, the pressure now transfers to them in terms of making a decision about their life's future.

And I cannot have any confidence that, and I do not believe, we should place that burden on people in their later years.

He then went on to talk about greater investment in palliative care, and the article states:

‘I know too many people who, too many friends of mine, who have died painfully in recent years’, Mr Rudd said. ‘I don’t turn my back on that. So our national palliative care effort needs to be radically improved.

When my mum died of lung cancer, as a non-smoker, we discussed this and she said that despite the pain and difficulties she was going through, (she) preferred the laws as they were while hoping that palliative medicine could be improved. So it’s for those reasons that I have quite a big view that this is taking the country in a potentially wrong direction’.

I well recall in the 57th Parliament, Minister, that you spoke often about then Prime Minister Rudd and were quite a defender of some of the decisions that he and his government took when you were in the state opposition, and you used that to defend a position contrary to that of the government. I remember that often. So I ask you, Minister: is former Prime Minister Kevin Rudd wrong?

**Mr JENNINGS** — The 57th Parliament was the last Parliament. I was not asked a question about whether he was right or wrong, because I asked the questions. If I was asked a question in the 57th Parliament — —

**Mr Ondarchie** interjected.

**Mr JENNINGS** — I am just saying to you that if I was asked, ‘Is Kevin Rudd right or wrong?’, I could have answered either side of that line on many, many occasions during the course of his tenure in office. I could have quite easily, because in fact there were some things I was very proud of his administration for and some things I was quite ashamed of.

In relation to good public policy I found his administration to be on either side of that organising principle. So you are quite right to say that on any number of occasions in debate I would have recommended elements of his public policy settings, but that was not a universal view of his administration, and it is certainly not my universal view that actually covers this issue either.

I think his argument is very similar to the argument that you have mounted and Mr McMahon has mounted in relation to an apprehension about what is perceived to be their burden on their family members as being the sole driver of them seeking access to assisted dying. Everything in the argument stems from that, or from a not acknowledged concern about the ultimate determination of someone’s rational and considered decision about what is appropriate for them in

circumstances of their suffering at a time of their imminent death and the way in which they choose to empower themselves and to exercise their discretion in relation to the manner of their death. That fundamentally is a philosophical difference that I would actually have with Mr Rudd. In fact I think philosophically this is the reason I am supportive of this legislative structure, because it is an empowering one, and that is something that Mr Rudd does not concern himself with.

**The ACTING PRESIDENT (Mr Melhem)** — Mr Ondarchie, have you got any new questions or are we still on the same —

**Mr ONDARCHIE** — I am still on clause 1.

**The ACTING PRESIDENT (Mr Melhem)** — I understand that, but you were talking about section 85 in relation to offences. Are we still on the same thing about offences? Have you got any questions?

**Mr ONDARCHIE** — No, I am still talking. It is a brand new question. I trust you are not trying to stymie debate here, Chair.

**Ms Shing** — Don’t reflect on the Chair.

**The ACTING PRESIDENT (Mr Melhem)** — Order!

**Mr ONDARCHIE** — I did not reflect; I just said, ‘I trust’. I did not reflect on the Chair; I said, ‘I trust’.

**The ACTING PRESIDENT (Mr Melhem)** — Order! In fact, Mr Ondarchie, when I am in the chair —

**Mr Ondarchie** interjected.

**The ACTING PRESIDENT (Mr Melhem)** — I am talking, Mr Ondarchie, so please resume your seat. When I am finished, I will call you again. Acting President Elasmar was very clear that we need to run through this in an efficient manner. In terms of repetition of questions, we would allow it, but I think we need to be mindful that members are not asking the same questions again and again and again. That is the point I am making, so that is why I have asked you the question. Mr Ondarchie, if you have got new questions, please do ask them.

**Mr ONDARCHIE** — On a point of order, Acting President, could you give me an example of where over the last 27 minutes I have repeated the same question?

**The ACTING PRESIDENT (Mr Melhem)** — I have been in the chair for about 10 minutes, and you have asked the same questions. Every question you

have asked has been exactly the same question. Mr Ondarchie, if you have got a question, please ask the question. There is no point of order.

**Mr ONDARCHIE** — What an extraordinary afternoon. Thank you, Acting Chair.

**Ms Pulford** interjected.

**Mr ONDARCHIE** — Hello, Minister. I would like to continue from where I left off with the last minister at the table.

**Ms Pulford** — He will be back soon.

**Mr ONDARCHIE** — Would you want me to pause and wait for him?

**Ms Lovell** — Yes, I think you should.

**Mr ONDARCHIE** — Do you want me to just pause and wait for him, Minister? I want to pick up where he left off, that is all. Chair, are you happy to pause while we wait for him to return?

**Ms Shing** interjected.

**Mr ONDARCHIE** — I am not quite sure who is chairing at the moment.

**The ACTING PRESIDENT (Mr Melhem)** — Mr Ondarchie, you have got the call, so you may ask your questions.

**Mr ONDARCHIE** — I would like to reflect on an article by former Prime Minister Paul Keating in the *Sydney Morning Herald* of 19 October 2017, where he says:

There is probably no more important issue in contemporary bioethics or a more serious ethical decision for our parliaments than that raised by the Voluntary Assisted Dying Bill 2017 being debated this week in the Victorian Parliament.

Under this bill, conditions and safeguards are outlined that will allow physicians to terminate the life of patients and to assist patients to take their own life. This is a threshold moment for the country. No matter what justifications are offered for the bill, it constitutes an unacceptable departure in our approach to human existence and the irrevocable sanctity that should govern our understanding of what it means to be human.

The justifications offered by the bill's advocates — that the legal conditions are stringent or that the regime being authorised will be conservative — miss the point entirely. What matters is the core intention of the law. What matters is the ethical threshold being crossed. What matters is that under Victorian law there will be people whose lives we honour and those we believe are better off dead.

In both practical and moral terms, it is misleading to think allowing people to terminate their life is without consequence for the entire society. Too much of the Victorian debate has been about the details and conditions under which people can be terminated and too little about the golden principles that would be abandoned by our legislature.

One of the inevitable aspects of debates about euthanasia is the reluctance on the part of advocates to confront the essence of what they propose. In this case it means permitting physicians to intentionally kill patients or assisting patients in killing themselves. Understandably, the medical profession is gravely concerned by this venture.

An alarming aspect of the debate is the claim that safeguards can be provided at every step to protect the vulnerable. This claim exposes the bald utopianism of the project — the advocates support a bill to authorise termination of life in the name of compassion, while at the same time claiming they can guarantee protection of the vulnerable, the depressed and the poor.

No law and no process can achieve that objective. This is the point. If there are doctors prepared to bend the rules now, there will be doctors prepared to bend the rules under the new system. Beyond that, once termination of life is authorised the threshold is crossed. From that point it is much easier to liberalise the conditions governing the law. And liberalised they will be. Few people familiar with our politics would doubt that pressure would mount for further liberalisation based on the demand that people are being discriminated against if denied. The experience of overseas jurisdictions suggests the pressures for further liberalisation are irresistible.

Mr Keating goes on to say:

While there are different views strongly expressed within the medical profession, the president of the Australian Medical Association, Dr Michael Gannon, has explained that the formal position of the AMA is opposition to interventions that have as their primary intention the ending of a person's life.

Dr Gannon recently said: 'Once you legislate this you cross the Rubicon. The cause for euthanasia has been made in a very emotional way and this is the latest expression of individual autonomy as an underlying principle. But the sick, the elderly, the disabled, the chronically ill and the dying must never be made to feel they are a burden'.

Palliative Care has issued the most serious warnings. It says at least one in four Victorians who die each year (about 10 000 people) do not have access to needed palliative care, that access in aged residential care is 'very low', that between 2 and 10 per cent of older Australians experience abuse in any given year and that its funding is inadequate to meet growing demand.

The submission highlights the problems with this bill — it is a disproportionate response to the real problems of patient pain and suffering, a situation that demands greater priority in public care and funding. It is true that if this bill fails, then some people will endure more pain and this is difficult for legislators to contemplate.

**The ACTING PRESIDENT (Mr Melhem)** — Order! Mr Ondarchie, can you please come to your question. I am sorry to do that to you; I do apologise,

but it is sounding like a second-reading speech again. Please come to your question.

*Honourable members interjecting.*

**The ACTING PRESIDENT (Mr Melhem)** — I do not need any assistance. If you have got a question, please ask the question.

**Mr Finn** — On a point of order, Acting President, my understanding is that Mr Ondarchie was in fact quoting from an article. He was not rejigging his second-reading speech at all. He was quoting from an article by Paul Keating.

**Mr Jennings** — It's been going for such a long time you had forgotten who the author was.

**Mr Finn** — No, it was Paul Keating. I know he was quoting another famous Labor Prime Minister, Kevin Rudd, not so long ago. But I think it is only fair and reasonable that Mr Ondarchie or anybody else be able to quote a newspaper article, particularly by somebody as up-front as Paul Keating.

**Mr Morris** — On the point of order, Acting President, I note that the minister earlier in the committee stage indicated that he expected this to be a lengthy and in-depth debate about all of the issues that surround this particular bill. Mr Ondarchie is appropriately quoting from a text by a former Prime Minister. I would certainly appreciate hearing that contribution so the minister can make reference to it.

**Ms Lovell** — On the point of order, Acting President, you have asked Mr Ondarchie to come to asking a question, but according to standing order 15.06 there is no requirement for a member to actually ask a question. The member can make a statement. I refer you to standing order 15.06.

**The ACTING PRESIDENT (Mr Melhem)** — Order! First of all, Mr Ondarchie, what I was making a remark in relation to was that you are allowed to quote — there is no issue with that; I am not challenging that — but then reading whole articles by Mr Keating, Dr Gannon and so forth is the issue I have raised with you, basically the length of them. Can I now ask, have you got long to go before the question?

**Mr ONDARCHIE** — No, I am not at the point of asking my question yet. I am making —

**The ACTING PRESIDENT (Mr Melhem)** — I ask you to get to the question, then.

**Mr ONDARCHIE** — Acting President, I make the point to you that it is not appropriate to drag me to the question when standing orders say that I am entitled to make a statement in the committee stage. And so I continue. Mr Keating goes on to say:

The submission highlights the problems with this bill — it is a disproportionate response to the real problems of patient pain and suffering, a situation that demands greater priority in public care and funding. It is true that if this bill fails then some people will endure more pain and this is difficult for legislators to contemplate.

I accept that.

It is also true, however, that more people in our community will be put at risk by this bill than will be granted relief as its beneficiaries. This is the salient point.

Palliative Care said the bill 'sends the wrong message to people contemplating suicide and undermines suicide prevention efforts'. How could this not be the case? Suicide is the leading cause of death among people aged 15–44 and the second leading cause of death among people aged 45–54. International studies offer no support for the view that legalising euthanasia is associated with a decrease in non-assisted suicides.

The bill's failure is preset by its design.

The issue is not how many people will choose to die under this proposed law. It is how many people may die when otherwise they wouldn't. As Dr Gannon says it is 'commonplace' for patients to tell doctors in front of their loved ones that they have no wish to be a burden on families.

Once this bill is passed the expectations of patients and families will change. The culture of dying, despite certain and intense resistance, will gradually permeate into our medical, health, social and institutional arrangements. It stands for everything a truly civil society should stand against. A change of this kind will affect our entire community not just a small number of dying patients. It is fatuous to assert that patients will not feel under pressure once this bill becomes law to nominate themselves for termination.

Opposition to this bill 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. They define the norms and values of a society and in this case the principles concern our view of human life itself. It is a mistake for legislators to act on the deeply held emotional concerns of many when that involves crossing a threshold that will affect the entire society in perpetuity.

People will find it ironic that I am quoting from a former Labor Prime Minister. People will find some irony in that. However, Minister, former Prime Minister Paul Keating is highly regarded and often talked about by the Australian Labor Party as one of their great prime ministers. I am almost certain that members opposite would have often referred to PJK as one of their great prime ministers. So given Mr Keating has been very public about his opposition to this bill,

given he has very well expressed his views about why this bill should not pass and given he is one of the icons of the Australian Labor Party, is former Prime Minister Paul John Keating wrong in his statement?

**Mr JENNINGS** — The answer is a little bit more complicated than just whether he is right or wrong, because in fact there were many things in the very lengthy extract that you read into the transcript then, Mr Ondarchie, that I agree with. Many things that Paul Keating said in his submission in relation to the quality of life that citizens in our community should receive, the degree of support they should have every right to, the palliative care and other supports they should have every right to receive and the degree of comfort and confidence they should have about making decisions that affect their wellbeing I agree with. I agree with all of that.

If it were in column inches — and there were many column inches — I would probably agree with about 70 per cent of them. But I do not agree with some fundamentals in relation to what again ends up being Paul Keating's opinion and assertion about what is the meaning of a civil society. He has many, many solid foundations, in my view, about what a civil society is.

Is this piece of legislation a test of a civil society that actually fails the test? I do not believe that it is. I believe that this is an enlightened and progressive piece of legislation, and on many occasions I was very, very pleased to join Paul Keating on the political barricades in relation to progressive reform of this nation. I continue to celebrate many of the policy commitments that he made and the reforms that he introduced to this nation. But he and I differ on our view about what a civil society should do in relation to this matter. We differ fundamentally on the basis of the issue that I ultimately criticised in Kevin Rudd's contribution, which I think pales in comparison to the extract that you have read from Keating.

I think Kevin Rudd's was a very narrowcast view about fear and apprehension and the burden argument, as distinct from the better structured and more well-rounded argument that Paul Keating makes about a civil society and the rights and opportunities of citizens. But they both fall short on one fundamental question: at the end of life, do they believe in ultimate empowerment of individuals to make a choice about what is in their interest at a time when they have been diagnosed as close to death? Both former prime ministers deny that right. It is not an unfettered right — we had a discussion earlier today — it is highly regulated access to a scheme, but it is access to a scheme for people to make decisions about what they

believe is right for them at the end of their life. I think it is an empowering logical conclusion for a civil society that a civil society treats those decisions certainly with compassion but also respect about the capability and the competence of people to make that decision for themselves. That is where I differ from Keating, Rudd, McMahan and indeed perhaps you, Mr Ondarchie, given that you have relied on these sources. We differ in that view.

In fact I contested that it is people of the Liberal Party's philosophical persuasion who quite often spend a lot of time in this chamber and community life lecturing about individual freedom of choice and the liberties of individuals. As I pointed out in my conclusion to the second-reading debate —

**Mr Finn** interjected.

**Mr JENNINGS** — Yes, the defence of the innocent; that is fine. That is all good. But in relation to the actualisation — the human agency that Mr Davis refers to — it is all good and well until right at the end, and then you actually have no rights to exercise that, according to the liberal philosophy that is being espoused by proponents in this chamber. I just counter in terms of saying yes, from my perspective there are strengths and weaknesses in relation to the arguments that have been put forward by the Labor prime ministers. I think there might be strengths and weaknesses in the position that has been put from the Liberal perspective in relation to this debate in this chamber by proponents of free will and the unfettered rights of individuals right up until they are not able to be supported to exercise their determination in these circumstances when they choose a path in relation to their death. That is actually something maybe for Liberal members to get their head around as to whether that is consistent or inconsistent.

There is one matter in the middle of Paul Keating's contribution that Mr Ondarchie drew attention to, which is the issue about whether the proponents of this bill fundamentally address the question that somebody facilitates the death of another. He says that we fail to recognise that issue, so I want to call it out, because in fact it is alleged that we do not recognise that that is actually occurring — the facilitation of someone's death. We are facilitating the circumstances by which somebody chooses a pathway of their own free will in relation to how they choose to die in circumstances where they are going to die. I support the construct in this bill for two reasons: yes, to acknowledge that that is occurring and it is occurring in a highly regulated way and a way that is far more regulated than what current practice is —

**Mr Finn** interjected.

**Mr JENNINGS** — Current practice! It occurs in this community. In this society, medical practice does allow people to die. It does allow them to die in relation to denying them resuscitation; it does allow them in relation to not accepting the administration of medication and in not taking active surgical intervention, sometimes in a regulated way in relation to advance care directives, or it can happen in a more benign way than that, but it does occur. This is actually something that I called out and drew attention to at the conclusion of the second-reading debate because in fact the reality that Paul Keating does not confront is that that occurs already. Whilst he actually says that the proponents of this legislation refuse to accept that fundamental issue, he is living in a sense in denial of that reality.

He also makes an argument about this piece of legislation prescribing the circumstances by which some people will die, and he actually provided some degree of comfort in his description about the people who may be empowered and take that action under the terms of the legislation. In fact it is not very sensible for me to conclude my comments in relation to what he said about the consequences for people outside the legislation, because I cannot quite recall it at this moment, but the rejoinder that I want to make is the point that Ms Pulford made in her contribution: this bill will not change the fact that all of us will die. There is not one life that will be saved by rejecting this bill. All of us will die.

**Mr Finn** interjected.

**Mr JENNINGS** — If that does not pass your logic test, then you have got monumental problems, because you believe that there is some immortality. Everyone is going to die.

**Mr Finn** interjected.

**Mr JENNINGS** — This may not. No, in fact I can argue with that. I am not actually seeking to argue, but I can argue with that, because in fact there are many people who will go through this process; they will receive the medication and they may never use it. So it will not inevitably shorten people's lives. In fact it may lead, in the sense of emotional wellbeing and empowerment, to actually prolonging lives. It may not prolong lives in the circumstances of the example that Mr Ondarchie gave — that his father was given a diagnosis and then lived for many years. Mr Ondarchie's father was given a prognosis and in fact lived a lot longer than the prognosis said. In

relation to that prognosis, absolutely in the case of his father in fact the length of life was longer than what the prognosis was. He has used that as an example to say why he opposes the bill because in fact what he is worried about is people using the medication early. That is a logical argument. I understand the logic of his argument.

I do not know whether everyone is prepared to listen to this, but in fact the evidence is actually very clear. The parliamentary committee and the ministerial advisory panel said that for many people who have actually had the experience of having a prescription and keeping their prescription, the mere comfort that that prescription provides them means that their emotional and physical wellbeing improves and in fact they live longer. We have gone down this path because fundamentally nobody should be confused about whether —

*Honourable members interjecting.*

**Mr JENNINGS** — Apparently Mr Morris is confused. All of us are going to die — all of us, whether we are inside the prism of this piece of legislation or not.

**Ms Symes** — Which is very few.

**Mr JENNINGS** — Which would be very few. Mr Ondarchie, I have probably given you some degree of satisfaction because in fact I have responded at almost the same length that you read Mr Keating's contribution. But I am doing it now because I may in future respond less fulsomely in relation to this basket of issues because I do not want to be repetitive. What I am actually saying to you is that there are some people who have very legitimate concerns about the quality of life of our citizens. They want to provide the maximum opportunity for quality care and support. A big tick to Paul Keating and you and others in relation to that. There is no argument with me in relation to that.

There are certain arguments that I actually have about the empowerment of individuals at the end of their life and what this regulated environment, through this piece of legislation, affords them — some degree of comfort and self-respect and some control in their lives where they have been diminished by their circumstances, they are suffering, they have been diagnosed as dying and they wish to exercise their maximum control over the end of their life. I philosophically place myself in a different position to Paul Keating, Kevin Rudd, Julian McMahon and other people in relation to whether I think a civilised society acknowledges and affords people that opportunity or denies them that.

**Mr ONDARCHIE** — Chair, just for your indulgence, you may note that the minister's response took longer than my question. Minister, you are right: we are all going to die at some point. It is colloquially said that there are only two certainties in life: death and taxes — perhaps not the 12 new taxes the Andrews government have introduced since they came to office, but nonetheless.

Minister, thank you for your response. I do caution you on making assumptions about what a Liberal position would be in relation to the Voluntary Assisted Dying Bill. My speech in the second-reading debate would clearly outline to you what my position is around freedom of choice. The point I make, though, is that whilst this bill has some support in the community — and also some resistance in the community as well — the problem still exists that you cannot guarantee protection for the vulnerable, the depressed and the poor in this bill.

I will come back to more questions on clause 1 as we progress.

**Mr MORRIS** (Western Victoria) (17:58) — I did want to begin just by making some commentary about the fact that the amendments that have been supplied to the committee have been supplied to us in such a way that it is difficult to both examine them as well as contribute to this debate, listen to this debate and go through the whole way. So I was just hoping to ask the minister: when was it that the completion of the drafting of these amendments occurred?

**Mr JENNINGS** — I think the conclusion of the amendments occurred yesterday. Can I ask you, Mr Morris: when you actually come up and ask me a question, have you afforded yourself the opportunity to get a briefing on these amendments?

*Honourable members interjecting.*

**Mr JENNINGS** — I can ask him. I can ask that question.

**Mr MORRIS** — I feel like I have been given an elevation by the minister because it is not normally humble backbenchers like myself who are asked questions in this place. I will, Mr Jennings. I certainly will avail myself of those briefings. To this point I have been in this chamber today, if not outside very quickly to make telephone calls, trying to understand and follow this debate, which is why to this point I have not taken up a time for one of these said briefings.

**Mr Dalla-Riva** interjected.

**Mr MORRIS** — Indeed, Mr Dalla-Riva — true. That is very correct. Had I had the opportunity for a briefing perhaps yesterday when these amendments had been drafted and had they been circulated for a briefing even yesterday afternoon, I think that is something that many in this house would have been very pleased to be able to have. But I did want to understand whether or not these amendments that have been proposed by the government were selectively briefed to MPs or is every MP receiving these amendments at the same time?

**Mr JENNINGS** — Right at the very end Mr Morris actually just nailed his question.

**Mr MORRIS** — Were the amendments selectively briefed to MPs or did everyone receive them?

**Mr JENNINGS** — I do not know that people were selectively briefed. I think there had been some discussions in response, and in fact quite possibly — if you and others were listening — when I tried to introduce my description of these amendments I referred to a number of matters that were raised in the second-reading debate by members of this chamber. Members of this chamber put on the public record some of the concerns they had about the issues that the government has responded to with amendments.

The government indicated that it had had some discussions with those members about some of those issues since the last sitting week to see if those members' concerns could be addressed through amendments in a way that would give them confidence that the bill would still have the rigour and structure and integrity of the recommendations of the ministerial advisory panel and be consistent with the legislation as it was drafted but would in some cases add to the eligibility through the residence requirements and the six-month determination.

In fact there were two windows of consideration in relation to assessment: one for a default position of six months for people other than those who have a neurodegenerative condition that would warrant 12 months access to the scheme, issues about the manner of death being recorded on the death certificate and the issue of referral mechanisms back to the family or their local GP; and another matter that is currently out of my head. That led to the government preparing those amendments and talking conceptually with a number of members about those matters. But in terms of sharing the amendments themselves, the amendments were not shared with members of the Legislative Council until today.

**Ms CROZIER** — If I may just jump in there, Mr Morris and Minister, in relation to the amendments I want to go to a radio interview between a member for Western Victoria Region, Mr Purcell, and Neil Mitchell on 30 October, just before this debate commenced in the other place. It goes to this point about the amendments, because in the interview Mr Purcell was asked if he was going to decide. He gave an answer, and in part of his answer he said:

... and it's been quite serious lobbying, so I believe the numbers are close, and I will be supporting it with amendments.

Neil Mitchell then asked:

What are the amendments you want?

Mr Purcell said:

I'm still working on those, and I'll be working on those with the proponents of it. But some of them, for instance, is I'll be looking for the 12-month period to be reduced ... And I would like to see a role for the practising doctor there ...

Later he was asked another question, and Mr Purcell said:

Look, I've had a discussion already with the proponents, and they are certainly willing to consider substantial amendments ... I haven't met with them at this stage, but I believe that they will be keen to support it. Would I oppose it without the amendments? I think if I said that it probably takes away some of my negotiating position, so I probably won't comment on that.

The question I have is: what undertakings were given between the government and Mr Purcell — as he has highlighted his negotiation position — before the government even started this debate, knowing that there were concerns? Could you give an indication to the committee what negotiations were in fact undertaken? He said it on public radio, so I presume it is right.

**Mr Finn** — What did it get him?

**Ms CROZIER** — That is what I am wondering: what was promised to Mr Purcell in getting these amendments that he wants in the form that we are discussing now?

**The ACTING PRESIDENT (Mr Melhem)** — Minister, whilst the question is not on the bill, I will allow it.

**Mr JENNINGS** — I think it is a very impertinent question in the form that it is in, and I think it does a disservice to the member who asked the question through the inference that has been made.

*Honourable members interjecting.*

**Mr JENNINGS** — I believe it does, and the reason why I do believe that it does is because about 3 hours ago you rose to your feet and accused the government of being disingenuous.

**Ms Crozier** — I still do.

**Mr JENNINGS** — Go on then — keep going. I am just saying to you that you rose to your feet and said that the government was disingenuous. However, I was able to remind you that as far back as six weeks ago I put on the public record — the very day that the bill left the Assembly — that the government was open to considering amendments. From that moment until today at no point in time have I denied that amendments would be considered in relation to the passage of this bill.

**Ms Crozier** — That's not what the Premier or the minister or your government press release said.

**Mr JENNINGS** — You relied on what Premier said during the passage of the bill through the Assembly.

*Honourable members interjecting.*

**Mr JENNINGS** — From the time that it left the Assembly to now you have chosen to live in glorious denial of the fact that on the public record I stood out here at the end of the last sitting week saying the government is prepared to consider amendments and that we will actively be pursuing amendments. I rose to my feet at the end of the second-reading debate and I issued every one of the members of the chamber with an opportunity to come and talk to the government about what amendments may be appropriate for them to secure passage of the bill. It was an open invitation to you — and to you and to you. It was an invitation to all of you to come and discuss amendments that you believed would actually add to the rigour of the bill and the way to secure its passage.

**Ms Crozier** interjected.

**The ACTING PRESIDENT (Mr Melhem)** — Ms Crozier, if you have got another question, I will come to you, because that is a supplementary question. Minister, have you answered?

**Mr JENNINGS** — What I am putting very, very clearly on the public record at length is that the government for over a month indicated that we were prepared to seek amendments and to deal with amendments that came from members of the Liberal Party, Mr Purcell, other members of the crossbench or the Greens for that matter. The impertinence of your question is that you act as if that invitation was not

available and not publicly discussed. You go back to what was —

**Mr Finn** interjected.

**The ACTING PRESIDENT (Mr Melhem)** — Order! Mr Finn, you will have the chance to ask questions, so can you please stop interjecting. I remind members of the question we are debating now. This question is not related to the bill. If we look at standing order 15.06 of the Legislative Council headed ‘Rules of debate in committee’, it states:

- (1) Debate on clause 1 of a bill will be limited to the purposes of the bill.

The question is not related to the purposes of the bill. Nevertheless I have allowed the minister to answer the question. I do not think it is relevant whether the Premier said something or the minister negotiated with someone else. It has to be related to the bill. Minister, can you conclude your answer?

**Mr Morris** — On a point of order, Acting President, I note that the minister at the beginning of the debate did expect there was going to be wideranging debate on clause 1, and that is what we have seen thus far. I would expect that a perfectly reasonable question as posed by Ms Crozier should be answered by the minister.

**The ACTING PRESIDENT (Mr Melhem)** — There is no point of order. The minister is answering the questions. I made the remark when Ms Crozier asked a question relevant to the bill and the minister was answering the question. My intervention was related to the interjections by various members on my left. If the minister was allowed to answer the question without interruption, I would not have made the point.

**Mr JENNINGS** — The reason why I have given that backdrop is because it was an open invitation to all members of the Legislative Council to participate in conversations with the government about amendments. The reason why I think it is essential that that be recognised rather than being denied by some members of the committee is because it was an open invitation. There was nothing sinister in it. It was put on the public record. It was put on the public record when I summed up at the end of the second-reading debate.

Mr Purcell pursued his opportunity to discuss with the government issues of concern to him. The government then did not ask him to draft amendments. He could have chosen to draft amendments himself, if he chose to do so. The government, in response to the issues that he raised, drafted amendments to deal with some of the matters that he raised with us, just as other members of

this chamber have raised matters. In fact Mr Purcell had not seen those amendments until the same time frame as I indicated to the rest of the chamber today.

**Ms CROZIER** — Thank you, Minister, for that answer. I think my point was that Mr Purcell made these comments before we commenced debate in the other place.

**Mr Jennings** — No, here.

**Ms CROZIER** — No, he said it before it commenced in the other place.

**Mr Jennings** — I think here, actually.

**Ms CROZIER** — No.

**Mr Jennings** — No, 30 October was here.

**Ms CROZIER** — It was a Monday.

**Mr Jennings** — No, 30 October was the date that you said, and that was the week that we started debating it here.

**Ms CROZIER** — Well, I will have to go back and have a look at my date, then.

**Mr Jennings** — That is what you said: 30 October. That is the week we started debating it here.

**Ms CROZIER** — I will not labour the point. The point I was trying to make was that there were negotiations being done. I was just wanting to know if there was anything promised to any member, as has been raised by other MPs.

**Mr JENNINGS** — I have just outlined in my answer that what has been discussed between the government and members of this chamber has been outcomes in relation to the bill, and that is what has been provided to Mr Purcell, just as to other members of this chamber. The time frame by which he and other members of the Legislative Council saw the amendments is within the last 24 hours.

**Mr MORRIS** — I just wanted to further explore Ms Crozier’s point. I note that the minister has made some commentary around discussions that may have been had and how we got to the point that we have got to. I think the heart of the question that Ms Crozier was trying to get you to respond to was whether or not there have been any inducements given to any members of this house in negotiations throughout on this bill.

**Mr JENNINGS** — Well, that is the impertinent nature of the first question and the impertinent nature of your question, and the answer is none.

**Mr MORRIS** — Just by way of comment, I do not think it was an impertinent question. I think it was an important question that should have been cleared up. If the minister had responded to the question the first time rather than having to wait for the third time it was asked, maybe it would have been a little less impertinent. It was through the minister's actions that I think that came about.

However, I did just want to move on to a question in relation to elder financial abuse. I note that Mr Ondarchie has explored some of the issues surrounding elder abuse. I did want to make reference to an article that appeared in the *Sydney Morning Herald* on 30 August 2017 entitled 'Australian dream becomes nightmare for the elderly'. I will quote from this particular piece, which says:

Soaring house prices are fuelling rising levels of elder abuse in Australia.

This wickedness can, however, be addressed if there is the political and public will to put a stronger legal safety net under vulnerable elderly people.

Growing numbers of older people are being pressured by adult children to guarantee enormous loans.

Legal aid commissions regularly deal with elderly parents who have gone guarantor without understanding they will be legally liable for the debt if the borrower defaults. This problem will only worsen unless we require lenders to ensure older Australians have independent legal and financial advice before these individuals offer their home to secure a loan or agree to be guarantor. As well, there should be a 'cooling off' period within which guarantors can withdraw from the arrangement.

The pressure on older people can be immense. Adult children sometimes deny access to grandchildren if an elderly parent does not agree to be a guarantor or provide funds for a home deposit.

Legal aid family law divisions regularly provide advice to grandparents about gaining access to grandchildren. All too often, we hear of conversations that go like this: 'Mum, if we can't get funds to complete our deposit, and get a guarantor for our loan, we'll have to move interstate. The other option is that we move in with you at your place. It's too big for you since Dad died'.

The boom in property prices has resulted in a spike in the numbers of adult children taking over an elderly parent's home and refusing to move out. Vulnerable parents are unable to free themselves of an abusive son or daughter who insists on living rent free. This is often compounded by physical or emotional abuse. One woman in her 80s was repeatedly beaten by her 45-year-old son who rejected her pleas for him to move out. He had access to his frail mother's

bank accounts, restricted her social activities and allowed her only a small amount of her pension.

At times, rising house prices result in an adult child persuading an elderly parent to sell up and buy a home with them. Problems arise when the relationship between parent and child breaks down and cohabitation can no longer continue.

Legal aid commissions have come across many cases where the older person thought they were jointly purchasing the new property but it subsequently turned out they were not registered on the title.

Legal assistance is vital to empower vulnerable older Australians and to reduce elder abuse.

However, court action isn't always the solution where families are involved. It can be costly, long and emotionally painful. There is another choice though; across Australia, legal aid commissions are quietly resolving thousands of high-conflict family law disputes involving separated couples who disagree about the living arrangements for children. Legal aid commissions run these family dispute resolution mediation services to enable separated couples to resolve their differences, with the assistance of a lawyer, outside a courtroom. These services have an impressive 80 per cent success rate in settling disputes. Many people affected by civil law elder abuse disputes would benefit if legal aid commissions were funded to extend this service to them. It would enable civil disputes involving family members to be resolved outside court, through a process that can be much swifter and less painful than courtroom litigation.

Australians are living to unprecedented ages at a time when their adult children and adult grandchildren face unprecedented housing prices. I must stress that financial abuse is not the only form of abuse affecting older Australians. Mistreatment includes physical, psychological or sexual harm.

However, financial abuse is becoming more prevalent and this emerging issue requires a vigorous response from the community.

In recent times Australia has risen to the challenge of addressing the scourge of domestic violence.

The issue of elder abuse requires a commitment of similar proportions.

That was drafted by Dr Graham Hill, who is the chairman of National Legal Aid, the body representing legal aid commissions in all states and territories. The context I did want to put there is that elder abuse is an issue that we are seeing in our community and one that I certainly believe —

**Mr Finn** — A cancer in society.

**Mr MORRIS** — It is a cancer indeed, Mr Finn, but it is not an issue that has necessarily had the spotlight shone on it. I think of late there has been a strong effort by many in our community to highlight some of the issues relating to family violence, and I think that is something that I must say I did not understand the

prevalence of in our community until I was fortunate to be elected to this place and understand some of the issues surrounding it. I think it is amazing the work that has been done by both sides of politics to address family violence in our community. However, elder abuse is an area that I think we are yet to fully explore and understand the impacts of, so my question is: elder abuse in our community is under-reported and has not yet received acknowledgement from this government about the fact that it is happening. The context of this bill, I am concerned, will see elder abuse extend to elderly people unfortunately passing before a time they would rightly choose if that abuse had not been in place. I seek commentary from the minister about how this bill can offer protection to these people in these types of circumstances.

**Mr JENNINGS** — I am glad that Mr Morris read for about 5 or 10 minutes and then asked a question that I answered quite some time ago when I was talking to Mr Ondarchie. I think he was probably in the room at the time. Regarding the issue of substance that you have drawn attention to, of course the government is concerned about elder abuse, which is something that occurs in our community without this legislation. This legislation does not actually add to the situations where that may occur, but what it does do — and this is the answer I gave Mr Ondarchie on about three occasions — is outline a range of offences that would protect an older person in circumstances where they could be subject to either fraudulent activity or coercive practices or interventions that may lead to them participating in a voluntary assisted dying scheme against their free will and exercising their powers under the legislation.

Certainly we do recognise that there need to be protections provided to older members of the community. The sanctions and gateways of decision-making before anybody can be deemed eligible for this scheme will provide some protections in relation to controlling the decision-making process, which will be subject to the scrutiny of clinicians in relation to whether they believe coercive practices, which may include physical or financial abuse, may be occurring to drive an individual to act. There will be guidelines and practice guidance in relation to being alive to those issues.

There is recognition that a person would need to be supported at the end of their life by multidisciplinary care teams. There is a recognition that older members of the community would need to be supported at home by local council services, a district nurse, hospital in the home services, general practitioners making home visits, palliative care services and community

pharmacists. We recognise that in fact there may be a possibility for those relatively few people to use the voluntary assisted dying legislation in an environment where services and decisions will be highly regulated and where offences for bad practice will be introduced. This scheme, for those individuals, may add to the rigour and protections that they may have in relation to the potential incidence of elder abuse.

Quite contrary to the extrapolation from the concern that Mr Morris has identified in his article and the matters that he referred to there, it may well be that in circumstances where people choose to use this scheme, they are better protected than otherwise they might have been.

**Mr MORRIS** — I thank the minister for that response, but the issue that I see here is that the minister has said — and I may paraphrase him — on a number of occasions that bad people are going to do bad things and that we as a Parliament cannot prevent people from doing bad things. But what we do have an opportunity to do —

**Mr Jennings** — We are preventing them. We are adding to the ways in which we can prevent them.

**Mr MORRIS** — I was not referencing this. I was referencing things like assault or a murder, outside of the scope of this particular bill. So bad people are going to do bad things and it is sometimes not possible to stop them from doing that, but what can be done is that an appropriate framework can be placed around people to ensure that bad things do not happen unnecessarily. What I am trying to get to is that if we recognise that elder abuse is of concern in our community, wouldn't it have been prudent for the government, prior to the introduction of this bill, to have placed a framework around elder abuse to address elder abuse, as has been done for family violence, to ensure that those vulnerable members of our community who may be susceptible to undue influence by family members to partake in assisted dying have the appropriate protections to ensure that that does not happen before a bill such as this is introduced and made law?

**Mr JENNINGS** — I think it is recognised by the government that in fact this is a policy matter that warrants attention and support which needs to be provided. Indeed at one stage I was the Minister for Aged Care, and I instigated a review that was undertaken by former Senator Barney Cooney to look at the circumstances by which elder abuse occurred in our community. I know that that review then led to programmatic support and new programs being developed to mitigate against elder abuse as far back as

2006–07. I would anticipate that there have been a number of refinements and iterations and hopefully increased resources actually provided to mitigate against elder abuse since that review.

I do accept the significance of the issue. I do not accept that we are completely blind to it or that we are not providing any support. I certainly recognise that, if the bill is enacted and we move to this regime, there is ample opportunity for us to use the additional protections and the wraparound services that would be commensurate with providing this degree of support for these older people, who may want to get access to the scheme. They may be able to assist our thinking in the way in which we can build on that practice in a similar way that we want to perhaps build on the practice that Mr Finn is encouraging us to do to allay concerns in the community for people with disabilities in relation to what might be their apprehension about the application of the bill. I think there is certain community education and community development that should support many aspects of this bill, and I believe that we would be quite open to considering how we might achieve that outcome.

**Ms LOVELL** (Northern Victoria) (18:28) — Minister, I have just one question for you at this point in time, but I do promise, like Arnold Schwarzenegger, I will be back. The other day the government announced additional resources for counselling for public servants who might be affected by the result of the same-sex marriage survey, which we will hear tomorrow. That is a result that I hope and believe will be a very positive one for the LGBTQI community. But every article that I have read and every news story that I have seen about this particular piece of legislation has ended in, ‘If you are affected by this story, contact Lifeline’.

I have spoken to constituents from both sides of the debate, people who are pro-euthanasia and people who are vehemently against it, who are very emotional about the debate on this bill, so I ask you: Minister, why has there been no announcement about additional resources for counselling for public servants, for MPs and, most importantly, for our constituents who are affected by the debate around this bill and the result of the passing or non-passing of this bill?

**Business interrupted pursuant to sessional orders.**

**Sitting extended pursuant to standing orders.**

**Mr JENNINGS** — On the issue that Ms Lovell has drawn attention to, I am pleased that there is recognition that some of the articles and some of the

media commentary may have concluded by providing some advice about where people could seek assistance in relation to what might be —

**Ms Lovell** — No additional resources have been allocated.

**Mr JENNINGS** — The people who may be concerned about the issues that are contained in this piece of legislation, I think, will not significantly change the resource allocation or resource demands on Lifeline or other agencies. I stand to be corrected in relation to that, but I thank Ms Lovell for recognising that that advice has been furnished. I know in relation to the consideration of these matters in the Parliament there has been some professional advice that has been made available not only to MPs but also to staff members of the Parliament in terms of dealing with issues that they might find confronting or disturbing, so there has been some recognition of that.

More broadly, in relation to communities of concern or distress, the government is open to be made aware of where additional support and assistance may be provided with a degree of community engagement. This is one issue where I tried to volunteer to Mr Finn earlier on that if people with disabilities as a group feel concerned or apprehensive about the application of this bill, we are open to working collaboratively with stakeholders and we are happy to actually receive advice from MPs in relation to what they think is the appropriate degree of community engagement and community support that may be provided. We are happy to take your advice in relation to what you think may be the kernels of concern that we need to address, either in communication or through additional support services. Take that as an invitation to provide us with that advice over time.

**Ms LOVELL** — Minister, it just seems a little bit strange to me that you have actually determined that additional resources will be needed to deal with the result of the same-sex marriage survey that we all expect to be a positive and happy announcement for the LGBTQI community tomorrow, yet you have made no determination to allocate additional resources around this bill, which will impact on millions of Victorians. I would have thought that it is too late, after the floodgates have opened, for you to then allocate additional resources to Lifeline. That needed to be done in advance, not afterwards, just as you have done for the same-sex marriage survey.

You are saying you are happy to take advice and you are happy to see if those services are swamped by people who are trying to access them. I can tell you that

the amount of people from both sides of this debate who have been crying on the phone when I have spoken to them is enormous. I have not had anything like this since Labor deserted their policy to have an inquiry into the adoption practices of the 1960s that was promised in 1999. The number of women who rang me when Labor dumped that policy after the 1999 election was extraordinary. They were still ringing me right up until 2006, when I still had the women's affairs portfolio. This bill is impacting on many people — both people who believe in euthanasia and people who are vehemently against it — yet your government has done nothing to increase resources for counselling for millions of Victorians.

**Mr JENNINGS** — Ms Lovell actually contrasts the resources that have been made available in relation to the national survey on same-sex marriage with the modest resources that have been made available to the public service to provide support and counselling. I think it is commensurate with the counselling that has been provided to the Parliament in relation to dealing with these matters, so in terms of establishing a benchmark, I think they are fairly commensurate allocations of resources in the first instance.

I can understand that there may be community apprehension, but there has not been a mobilisation of fear and loathing that has been associated with this piece of legislation, an active campaign of fear and loathing that has been associated with —

**Mr Finn** interjected.

**Mr JENNINGS** — No. There may be fear, but it is not generated by fear and loathing, which has been the hallmark of campaigns that have been structured in relation to the same-sex marriage debate. The vehemence of the active, divisive campaign that has been associated with that public policy issue has not been seen from any proponent in this argument. The issues are emotional and may be deep-seated, but nobody has been out running a campaign of fear and loathing in relation to the attitudes and the value system of members of our community in relation to how they identify with exercising their rights under this law. Nobody has been vilified if they have chosen to participate in the voluntary assisted dying scheme or they have not. They choose. In fact there has been active, determined and sustained campaigning against those who may choose to exercise their right at some point in time if same-sex marriage is adopted. They are not commensurate issues in relation to the way in which this community debate has been undertaken.

**Ms CROZIER** — Minister, just on that, there are a number of people who are obviously watching and listening to this debate, and I have just received a text message from a GP I know who says, 'What about counselling for voluntary objectors who may get dragged into dealing with the complications of VAD? I'm going to have to deal with dumping longstanding patients and the associated guilt I will be made to feel'. That text message came through to me just as you were talking about the question that Ms Lovell asked — with great legitimacy. I think you have misread, with all due respect, the emotion in this debate and the values that some people hold very strongly in relation to how they feel about this issue. They do not feel that they had a choice in it because you never took this to the people before the 2014 election. With all due respect, there are people out there who feel very strongly about that, including doctors. I have just read out that text message, and I would like you to answer the question that has been put to me via text message: what about those GPs who feel strongly about the issue they have with their relationship with their patients and who are going to have to pick up the pieces?

**Mr JENNINGS** — The issue that I just concluded talking about and the rejoinder to your question to me is that I have nothing but respect and regard for the person who has actually sent you that text message. If they are agonising about this issue, then I am concerned for them.

**Ms Crozier** — He's a GP.

**Mr JENNINGS** — GPs are humans. They are humans, so basically I have a human response to this issue. I do not like them to feel distressed or conflicted or to feel as if they are abrogating their responsibility in relation to their duty of care to their patients, but if they choose not to participate in this scheme because they are conscientious objectors, they are free to do so. There is no compulsion. For them to exercise their free will and in terms of their ongoing relationship with their patients, there is nothing that the government is intending to do to get in the way of their relationship with their patients, even if they choose to be a conscientious objector. In fact one of the amendments that is actually being considered provides for a way in which the family doctor or the GP may be looped into the information-sharing regime in relation to the decision that the patient may seek to enact themselves.

**Ms Crozier** — But they do not want to be a part of it. They are a conscientious objector —

**Mr JENNINGS** — But they do not need to be participants in the scheme, only volunteers will be. The

essential part of this legislation, the essential part of the process that underpins it, is independent expression of free will from the patient's perspective and from the clinician's perspective in relation to all degrees of clinical assessment. The dispassionate scrutiny in relation to the issuing of permits, the administrative functions and the independent oversight of it, and the notification processes — at every stage all of it is predicated on the free will of those who are participating in the scheme. There will be those who choose not to, and the vast majority of citizens will choose not to. I have got no idea what that might mean in relation to the number of people within the medical profession who may choose to or not to; I do not want to have a predetermined view about that. But no-one will be forced to participate in a way that they do not want to.

**Ms CROZIER** — Minister, I think that is the point: the relationship the GP has with his patient. If the patient comes to him requesting this and he is a conscientious objector, it breaks that patient relationship. That is the concern for those GPs who do not want to be involved in it. I think that is the concern. I have heard from many GPs, many doctors and many other health professionals who have great concerns about that patient relationship that is very strong and built on trust, as you would appreciate and as you did allude to in your answer. You also mentioned, I think, the number of doctors that might be involved in the scheme, and I think you said — correct me if I am wrong — that you do not know what the numbers are or how many doctors would be involved in the scheme. Is that what you said? Has the department or anyone done any backgrounding on how many doctors would be potentially involved in the scheme? I have a follow-up question. That is the reason I ask.

**Mr JENNINGS** — In fact you are quite right to actually say that I am not operating on any assumption about how many doctors will participate in the scheme. I am not predetermining how many doctors may participate. There will be eligibility criteria, degrees of training and clinical experience and expertise that will actually guide how many participate in the scheme from the medical profession side of the equation, but all of them will be volunteers. Ultimately in relation to the GP who has contacted you who is apprehensive about the ongoing relationship with their patient who may choose to see whether they can access the scheme, I am sorry that they may think that that actually would jeopardise their professional relationship, but in fact —

**Ms Crozier** — There's many.

**Mr JENNINGS** — But that would be instigated by their patient. It would be their patient who would make that determination. It would —

**Ms Crozier** — You miss the point.

**Mr JENNINGS** — No, I do not miss the point.

**Ms Crozier** — Yes, you do.

**Mr JENNINGS** — I do not miss the point at all. What I am saying is that any conscientious objector, any doctor, who is worried about that issue or is worried about a decision that their patient may make that takes them outside of their willingness to participate in the scheme and therefore may jeopardise their professional relationship that has endured for some time — I understand exactly the concept that you are talking about — must accept that that decision is made by their patient. It is not made by me, it is not made by the law, it is made by their patient.

**Ms Crozier** — As he said, 'the guilt that I feel'.

**Mr JENNINGS** — Well, the guilt that this person may feel in anticipation I think may be — —

**Ms Crozier** — It is a valid point.

**Mr JENNINGS** — I am not denying that it may be a valid point, but you would hope that if it is a valid professional relationship, notwithstanding this conscientious objection, it may still have a residual and enduring connection based upon other aspects of care and that relationship. But the doctor in question in your example may have to come to terms with the fact that their patient may choose to exercise that right under this law that may sit uneasily with their sense of professional practice. They will have to come to terms with that.

**Ms CROZIER** — Thank you, Minister. The doctor asked in the text message to me, 'What counselling will be available to doctors who are struggling with this issue?', where they feel that they have broken the trust of the patient relationship because they have indicated that they are a conscientious objector and they feel guilty about that relationship and trust being broken. If you could answer that question, then I have some follow-up questions. But I think that is a valid concern for many doctors, because they do have very deep, personal and long-lasting relationships with some of these patients, and it is very traumatic. So if they are going to be a conscientious objector to this, what counselling will be provided to them for the guilt they might carry?

**Mr JENNINGS** — I am not sure that in fact it is guilt they would carry, because if they are driven by their conscience to deny providing a service that is afforded under this law to their patient, then why would they feel guilty, because they would believe they are operating appropriately within their value system and within the law? I do not think guilt is exactly the issue that we are actually talking about, because they are asserting that their value system prohibits them from participating in this scheme and providing that degree of care and support to their patient. I do not think it starts from a position of guilt if that is in fact the choice that they make when their patient chooses another pathway.

**Ms CROZIER** — Minister, I will put it to you another way then; I will try to explain how I see some of these concerns. In country Victoria — say, where I grew up in far western Victoria — north of a town called Casterton are communities like Chetwynd and Harrow, which are miles away from anywhere. You might know that area; I do not know.

**Mr Jennings** — Yes.

**Ms CROZIER** — Yes? I thought you would.

**Mr Jennings** — Johnny Miller.

**Ms CROZIER** — Johnny Miller, that is exactly right. If those local GPs in the closest towns were conscientious objectors and a patient had to go further afield to a regional centre such as Ballarat, Geelong or Warrnambool to get sign-off on what they needed, and they have got the cocktail, the substance, with them at home and they continue to go to that local GP on a regular basis because they are not ready to take the substance, that GP would feel a responsibility to provide the care they can, and that is what I think a lot of GPs struggle with. They would feel conflicted, and they could feel guilty about not being able to assist that patient, and that patient relationship would be somewhat eroded.

The GP is talking about the guilt in the special relationship they have, and I actually think it is a valid concern, because in the example that I have just described to you, in the instance that that patient does take the substance, that GP could be the only one around if something goes wrong or if the family members did not know that that patient had been to Geelong or further afield or had had that conversation with the doctor. This is a reality that could occur. Do you concede that?

**Mr JENNINGS** — Yes. In fact my response to you is that I understand exactly the concept, so it is not an

issue that I do not understand the concept. In a strange way the committee has actually turned into a bush lawyer counselling session, because I was giving real-time counselling to your GP who might be looking into whether this is an issue of guilt, because I do not think it is an issue of guilt. What I am saying — if your GP is still listening — to that GP or to any other GP who is conflicted with this —

**Ms Crozier** — He was not a bush one. He was closer to town actually.

**Mr JENNINGS** — I am just saying that if you choose to act in accordance with your conscience, if you cannot provide this degree of care or opportunity that is afforded under this legislation, if you are doing that with all of your professional acumen and your philosophical comfort in terms of that and if you have made that choice and your patient makes a different choice, because your patient has chosen to access voluntary assisted dying, you have an irreconcilable philosophical position. Does it mean that you lack respect and regard for that relationship? No, it does not. What it means is that you have a fundamentally different starting point in relation to the appropriateness of accessing this scheme, and that is what separates you. Does it mean that you stop caring about each other? Does it mean that you stop providing professional care? It does not necessarily mean that, and that, I think, is the pathway for this issue to be resolved by both parties in relation to this.

I am just mindful that at this moment I have a GP that I have seen regularly for 20 years. I have no idea what their thought process is on voluntary assisted dying. To be perfectly honest I have no idea whether I would ever want to access the scheme myself; I do not know. I could not predict what my response would be, but I know that if this law is passed, then I would have a choice to exercise my right under the law. I do not know how my GP would respond to that. I know my GP, who has cared for me and been a good friend in many ways for 20 years — and I am fortunate to be able to say that, because the vast majority of members of our community cannot say that — but I have no idea about her value system in relation to this issue. Does it mean that we would sever our connection? I almost guarantee that it would not, because both of us would work on it.

**Ms CROZIER** — I, like you, am very fortunate to have a terrific relationship with my local GP. I do not know what she would think about this bill. But nevertheless there are GPs out there, and I think one of the concerns they have is that if somebody does come to them asking for their help, because they have had

that 20-year relationship that you have just described, and they say, 'No, I can't help you. I'm a conscientious objector', and the patient says, 'So, Doctor, you can't help me. You don't care', that is the guilt potentially that is put onto that GP. That is the issue for many of these GPs that have great concerns about how they have to conduct their practice and how it will put additional pressures on them. Again, it goes to the point about what support and counselling they will have.

**Mr JENNINGS** — I think we acknowledge that. I think all of us acknowledge that there needs to be good clinical practice, there needs to be good guidance and there need to be good support structures that are put in place in terms of the caring professions. This scheme will inevitably lead to some additional professional support, just as it will lead to individual support. I am not in a position, on the spot, to make up what that professional care and assistance may mean, but I think the issue is that ultimately the more we can take guilt and shame out of this, the better. That is the reason I responded almost in real time. Just as you put a question to me, I responded to it in real time because I take guilt out of the equation. If the patient in the hypothetical situation that you outlined says, 'You can't help me' and then goes on to say 'and you don't care', I can understand that might be hurtful, but in fact if I gave up every time people said to me that I do not care, then I would not last very long in professional life.

**Ms CROZIER** — With all due respect, Minister, we are not talking about you making a decision about giving someone a prescription to end their life.

**Mr JENNINGS** — The thing about it is what is heard by someone who is a conscientious objector. This goes to a couple of the debates that we have actually had already. It is the line of discussion that I had with Mr Ondarchie, whether it be Mr McMahon's position or Mr Rudd's position or Mr Keating's position or Mr Ondarchie's position. Ultimately at the end of the day we actually have a different centre of gravity in relation to our philosophical position on the bill. Does that mean that I have no regard for all the people who actually hold the other position and that I believe they do not care? No, it does not. Do the people who want to access this bill believe that their value system is superior to their GP's or anybody else's? Probably not, but what they know is what is right for themselves. They can be the determiner of what is right for themselves, and that is the reason I will be supporting the construct. Ultimately in terms of our comfort zone in relation to whether we support this bill or do not support this bill, whether we seek support or do not seek support, whether we are worried about its implementation, we have got to be comfortable: has the

patient in the example that you have given got the right to choose and how do we come to terms with that?

**Ms CROZIER** — Thank you, Minister. I still believe that the doctor-patient relationship is a very special one in most cases, especially at the end of somebody's life when the doctor is there not only for that person but also for that family. I am not convinced — I am actually not convinced — that the scenario I pitched to you can protect those around them, but I will come back to that in a minute.

I want to read from something that you have probably received. I think we all received this email from a doctor. This doctor says:

I spend my entire life relieving pain. All my patients are elderly and frail. I use drugs, surgery and psychology to do it. I am not always successful. I have caused suffering. I have had to hold the hand of dying patients in the company of their families. But I am always trying to do my best to relieve their suffering and provide the best care possible. What would be the point of all this care if the expectation of the community is that patients should choose death over living?

He goes on to explain about talking to and teaching junior doctors:

What of those junior doctors? I get them to pick a patient — usually a frail 90-year-old with a broken hip, diabetes, dementia, cardiac disease and from a nursing home.

In that situation the patient is very frail, and it is probably a poor prognosis, given the broken hip and all those comorbidities of diabetes, cardiac disease, dementia and other things that this elderly patient has. The doctor goes on to say:

I get them to imagine the process of recommending active euthanasia to the family and then to imagine themselves administering a fatal medication. With 350 such fractures a year in my hospital, I get them to imagine doing that 350 times. Then I ask them: what is the point of anything we do?

This patient, because of the dementia, would not qualify, but they have got a whole range of prognoses here that make for a quality of life that is probably one where they are suffering in their own way — and again that is subjective. Yet this person, because of the dementia, would not qualify. I think the point the doctor is making is: 'Why do I go out there and teach these junior doctors about quality of care and what we are trying to do to relieve that suffering for somebody like this with a very poor prognosis who is potentially at the end of their life?'. That, I think, is a great concern for many doctors.

As I said in my second-reading speech, I do believe this bill will fundamentally change the way we deliver

health care in this state. This doctor goes on to ask: why do we bother with medical advancements or trying to find a cure for cancer? These are challenging positions for many, many people, and many, many doctors have come to us with these concerns. Again I just go to the point about fundamentally changing the way we deliver health care in this state because of the whole gambit, whether it is the choice that you are advocating for or, in this instance, this doctor teaching those young doctors. Do you concede that it will fundamentally change how we deliver health care?

**Mr JENNINGS** — There perhaps are a number of proponents of this legislation who believe that it will fundamentally change health care. It certainly will fundamentally change it, if it is passed and implemented, in relation to a number of people exercising their opportunities to determine the circumstances of their death or to go through a process that may assist them in coming to terms with their pain and suffering once they have been determined to be in the last year of their life. It will make a profound difference to them, their loved ones and those who provide support to them. It may ripple out in terms of thinking about the consequences — in the way that you are teasing out with me — and about what good practice is, about what good relationships there may be for clinical practice and about the alignment of palliative care services, multidisciplinary services and wraparound community-based services and how they integrate with one another and also how we try to provide as much as possible a positive and supported engagement in the last days of someone's life. That would actually be quite transformative if in fact that was achieved.

But I think the question you are asking me is whether in fact it has an adverse consequence in relation to the motivation and the desire of virtually everybody who enters into health care in relation to their usually unswerving desire to assist people in being healthy, active, independent and self-actualising through all of their life. They seek to drive research in terms of surgical and other forms of intervention — stem cell intervention and regenerative medicine. The new frontier of biomedical and medical engagement is on the basis of recovery, recuperation, restoration of capability, enhanced viability of life and increased life expectancy of this and other communities. That is the centre of gravity. That is the momentum. That is the discipline of the profession. That is irresistible.

The reason why it is irresistible is an issue that I touched on in my contribution to the second-reading debate, as other people did — fundamentally people want to live. Everyone wants to live. There are very

very few people who want to die until they are close to death. People want to live and to reach their potential. The medical profession wants to help them do that, and that, in my view, is irreversible. That will endure whatever reforms we bring to bear. The access that people choose due to this piece of legislation and the reforms that we are seeking to enact will not change that fundamental. The centre of gravity is in a totally different place.

**Ms CROZIER** — Thank you, Minister, for that response. Yes, you are right. I think there is a strong will to live for most patients and for most people. But I think the dilemma for the many doctors and others who I have spoken with and been contacted by is that they feel frustrated about this issue. As you just described, central to what they do is the research and the fundamental desire to protect, care for and look after those patients.

But many are asking if it is so complex and if the pain is too unbearable, what is the point in pursuing all of those things if we have got these options? I think that is a concern for many doctors who just see that perhaps some — not maybe their practice but others who do not have the same will or regard — will take the easy option out, and they possibly will not have access. I think these are concerns, especially for those patients in rural and regional Victoria, where they do not have the same ability to access medical services or palliative care services that you or I have because of where we live. This is of great concern.

I go back to my example from before where that patient in far western Victoria has to travel hours to get sign-off after seeing two strange doctors who know nothing about their community, about their family situation or about the support around them and how that impacts them. I do believe, as others do, that it will fundamentally change how we deliver that health care here.

I have just lost the train of thought of my question. I have got on a roll. But I want to make the comment that that concern is real. That issue around guilt is real for many, many doctors. I am very pleased that it is, because it shows their deep concern and regard and also demonstrates the complexity of what we are talking about here. There is the view that it destroys medicine in the way that they were taught. My question is: has the department had any advice in relation to that or in relation to putting this bill together about how medicine will be taught in future in teaching hospitals?

**Mr JENNINGS** — Interestingly enough you have taken this to a completely different spot in terms of

what has been my concern. My concern for a very long period of time has been that there is not sufficient attention given in medical school and medical training to the realisation that most health professionals deal with old people. In fact I would worry about our past practice of teaching, induction and development. I would worry about that. I think that is a pre-existing problem.

**Ms Crozier** — I actually have to take umbrage at that.

**Mr JENNINGS** — Do you?

**Ms Crozier** — Yes.

**Mr JENNINGS** — I was not actually saying you were responsible for that.

**Ms Crozier** — No, you did not, but Minister, I would just say that as somebody who worked with those doctors in a training hospital in the 1980s, they provided brilliant care.

**Mr JENNINGS** — That is good. I am pleased that they did. And I am glad you can take credit for it.

**Ms Crozier** — I am not taking credit for it, I am just acknowledging it.

**Mr JENNINGS** — From my vantage point, when I had ministerial responsibility for aged care this was an issue that we tried to address. We saw a whole range of people coming through who did not actually recognise the nature of what modern health care would be in dealing with the ageing profile. Maybe we can agree on that point. That was not necessarily seen as the most exciting practice. We need to actually encourage practitioners to see it as a more fulfilling and meaningful engagement. We are now talking about older people, but we could be talking about people with disabilities, or we could be talking about people with mental illness, who actually deserve to realise their full life and opportunities for as long as they possibly can, and how we gear up for that. Some of that work is very hard because the degree of impairment or the environment in which those services are provided is actually quite challenging. I would say that what you perceive as being the problem in the future is a hump that we have not got over entirely now.

So I think in terms of providing for this legislative scheme to be able to deal with those end-of-life matters we should continue on the journey of getting a greater degree of appreciation within the health profession about need, opportunity and the value of support for our citizens regardless of where they live, their degree of

acuity and how they would like to live independently and live satisfying lives to the maximum degree possible and to wrap services around them. That, in my mind, is a continuous piece of work rather than necessarily assuming that it is a piece of work that is already complete and that we are going to go backwards from that gold standard. We are not at the gold standard, and we need to continually improve.

**Ms CROZIER** — Thank you, Minister. You make the point we are an ageing population and we are a growing population, so there are going to be more and more people that are going to die in Victoria.

**Mr Jennings** — All of us!

**Ms CROZIER** — All of us, as has been noted. It is a surety. But you made the point about past practices in understanding the ageing and how today's healthcare professionals will look at that differently, and I take your point about the community — I cannot remember the term you used — looking after the elderly. Ken Wyatt in his speech the other day at the press club said there were 40 000 in nursing homes across Australia who do not get a visit from their families each year. That is just a horrific statistic — I digress, I know — but my point is that some of those elderly people have very good mental acuity and some do not. Equally some younger people have metastases — brain metastases — or neurodegenerative diseases. I know that these amendments go to my point about neurodegenerative diseases, and I want to make some points on that. But in terms of mental capacity, the bill talks about the two doctors that will assess the mental capacity, and because there is such a range of mental acuity in patients, whether they have got neurodegenerative disease or not, so can you be absolutely sure that the two doctors that assess those people will get it right?

**Mr JENNINGS** — The interesting thing from my perspective in relation to the line of questioning that you have taken up until now is that you have been very confident about medical practice and practitioners issuing their judgement calls and their engagement with their patients, and now we are actually flipping over to say that —

**Ms Crozier** — No, no, you are turning this around on us. You're very good at that. I will come back to my point, if I may.

**Mr JENNINGS** — The issue is I am asked for confidence. You have been very confident about the practitioners that you have been talking about, and now we are actually talking about my confidence level. In

fact in terms of training and in terms of expertise in their particular fields and their working experience I believe we have to rely on the clinical practice and the environment that the clinicians will be associated with in these assessments, that they will be well trained, supported by guidelines and supported by real-life experience. If virtually every decision that is made in the healthcare system is made by individuals of this calibre, in whom you would actually have some confidence, ultimately at the end of the day their actions, as for anybody who has actually accessed the scheme, will be able to be monitored by the review board and independently assessed.

*Honourable members interjecting.*

**Mr JENNINGS** — I am glad that regardless of how long I stay here, how passive I am and how responsive I may be I can still engender a degree of agitation, can't I? I can still do that. My answer is that this is a more regulated environment than currently exists, and because it is a more regulated environment than currently exists, I believe it has more protections in relation to the issues that we are talking about than currently exist, so given that we start from a position that you have confidence in clinical decision-making and the existing regime and I actually have confidence that people will be appropriately supported and subject to guidance and scrutiny in the new scheme, then we both have the same degree of confidence I think.

**Ms CROZIER** — Minister, yes, we both do have a degree of confidence, but we are both coming from different angles. The reason I say this is that it goes to my point about the complexity of what we are dealing with here and the complexity of disease processes as well. I am saying, yes, I have confidence in our health system, but mistakes are made, as you well know — we all know that — but this is a very serious issue in relation to people who may not have the proper mental capacity to make such a significant decision. That is my point about my concerns. I would firstly like to ask: how many neurodegenerative diseases are captured within this bill, and would you list them, please? I am getting down to the detail now.

**Mr JENNINGS** — I am a bit flabbergasted all of a sudden after a very, very long preamble for the last —

**Mr Finn** — It is very, very rare for you to be flabbergasted.

**Mr JENNINGS** — I was not anticipating the last 20-second shift in that question.

**Ms Crozier** — Well, it will make sense. I am teasing this out because I need to understand from you

that it is about mental acuity and capacity to make a decision.

**Mr JENNINGS** — Yes, okay. I did not see it coming.

**Ms Crozier** — That is all right. I have surprised you for once.

**Mr JENNINGS** — Yes, you have. I just want to provide a complete answer. The complete answer is that there is no disease identified within the bill, so —

**Ms Crozier** — I just said the neurodegenerative diseases that will be captured by this bill —

**The ACTING PRESIDENT (Mr Elasmarr)** — Are we going to listen to the answer?

**Ms Crozier** — You have mentioned it in here.

**Mr JENNINGS** — Yes, but they are not in the bill, and that is what I was just clarifying.

**Ms CROZIER** — Are you able to provide the list? Because there have been members in this place and the other place who have been very specific about their reasons for supporting this bill. They have spoken about terminal cancer and they have spoken about neurodegenerative diseases such as motor neurone disease, Parkinson's, multiple sclerosis, Huntington's, chorea — the list goes on. All of those neurodegenerative diseases, from my limited understanding — and I am stretching back my memory and experience from some years ago — do vary, and they also vary in the capacity of the patient to be able to make sound decisions and the timing of that. That is why I am interested. People have specifically spoken about that, and that is why I am keen to understand from you what the government feels would be captured in this. If there is no one list —

**Mr Jennings** — There is not a list —

**Ms CROZIER** — But you see my point.

**Mr Jennings** — but if you would like to discuss this in clause 9 —

**Ms CROZIER** — That is what I think I might do.

**Mr Jennings** — let us come back and do that.

**Ms CROZIER** — I am happy to do that because I have got many more questions relating to this issue.

**Mr JENNINGS** — That is good. Clause 9 will be the clause.

**The ACTING PRESIDENT (Mr Elasmr)** — Mr Finn.

**Mr FINN** — Thank you, Acting Deputy President — and I still reckon you should get the job, but anyway. Give him the pay. Give him the money. Come on!

*Honourable members interjecting.*

**The ACTING PRESIDENT (Mr Elasmr)** — Get to the question.

**Mr FINN** — I am sorry; I do apologise. The last thing I would want to do would be to embarrass you, Acting Deputy President.

I have to say that I was listening to Ms Crozier's questioning with a great deal of interest, particularly early on when she got the minister to admit that he actually did not realise the impact that this bill was having on a huge number of Victorians. I made some reference to this a little bit earlier, but I think it is probably time to revisit it. It might be time that I revisited it because clearly the minister does not realise that this bill is having a huge impact on a huge number of people in the community of disabled people.

To give him some idea of what I am talking about, I want to read him an article from the *Guardian*. This will carry some weight with him, I am sure, because it is from the *Guardian*. I am quoting the *Guardian*. This will carry some weight with the minister because I understand it is the only publication that he reads. It is by a chap called Craig Wallace. Craig Wallace is the convenor of Lives Worth Living, a disability advocacy group. The article was published on 27 September of this year, and it begins by saying:

Offering people with disability euthanasia is no act of equality. It's a cruel one-way exit when we're locked out of basic health care.

The article continues:

Legislation has been introduced into the Victorian and New South Wales parliaments seeking to become the first jurisdictions to legalise euthanasia since the Northern Territory's brief window in the 1990s.

Like the rest of the community, people with disability debate euthanasia with many views, but a number of us are genuinely concerned that legalised suicide will encroach on our rights and see the vulnerable among us subjected to financial, social, emotional and other pressures to take our own lives.

We have cause to be concerned about perverse outcomes if euthanasia is adopted in Australia. In some countries where it has been introduced euthanasia has been offered to people

with mental illness, people with dementia, twin brothers who were deaf, and even a woman with severe tinnitus.

My challenge to advocates of voluntary euthanasia who insist that here in Australia it would 'never be about someone like you', would be to ask them to specifically rule us out.

While the ink has barely dried on the Victorian government's Voluntary Assisted Dying Bill, the legislation introduced by Premier Daniel Andrews appears to have embraced the totality of the recommendations of the report of the Victorian ministerial advisory panel.

This is troubling given those recommendations bring people with disability clearly into scope. The panel recommends that disability 'does not satisfy the eligibility criteria for access to voluntary assisted dying, nor does disability exclude a person from eligibility to access voluntary assisted dying', while the bill says that a person is not eligible 'only because the person has a disability'.

Confused? Well, you're not the only one. This troubling recommendation, that euthanasia should be a choice for us without meeting the eligibility criteria, misunderstands the factors which make too many of us eligible in the first place.

As I write this I can easily picture the comments underneath — 'it's a choice' and 'if you don't want it, don't ask for it'. They're understandable, but they gloss over justified and reasonably held concerns.

The reality is that people like me don't get choices in too many areas of our lives. That includes a preventative and tertiary health system that is staggeringly unfriendly to us, even if people with disability and/or chronic conditions should be their best customers.

When the panel was trying to grapple with the issue of where to draw the line for people with disability, they used an example which perfectly crystallises this lack of meaningful choices in the health system and makes euthanasia such a worrying threat to our lives.

Recommending against excluding people with disability from euthanasia, the panel gave the example of Tina, a 43-year-old woman with cerebral palsy. 'Fully employed as a disability advocate and educator, Tina lives independently and communicates using a communication tool. Six months ago Tina was diagnosed with an aggressive cancer for which she has now exhausted all treatment options'.

The panel felt that Tina should be offered euthanasia because her request was 'voluntary and enduring'.

What's also enduring but decidedly involuntary is the chronic lack of access to our health system for many people with a disability like Tina's.

Back in 2003 a community advocacy group, Access for All Alliance, undertook a survey of all general practices around Australia to identify which provided access to adjustable-height examination beds. The survey showed that of the 3553 responses there were just over 14 000 fixed-height examination beds and only 719 adjustable-height examination beds. An open letter from the Human Rights Commission found that in many situations patients, particularly women with disability, do not get a service at all because of the inaccessibility of fixed-height examination beds. One woman had not had a Pap smear for

10 years because her doctor could not transfer her on to the fixed-height examination bed.

The National People with Disability and Carers Council's *Shut Out* report in 2009 also gave a sobering account of the exclusion of disabled people from primary and tertiary health care including comorbidity arising from a lack of access to yearly check-ups and health screenings.

Eight years later the national disability strategy reports very little sustained and meaningful improvement in our access to health care including for people with physical disability or communication issues. While the national disability insurance scheme (NDIS) is starting to make a difference in specialist supports, it won't fix the health system.

### **Business interrupted pursuant to standing orders.**

### **Sitting extended pursuant to standing orders.**

**The ACTING PRESIDENT (Mr Elasmr)** — Before I call you, Mr Finn, I want to remind members of my opening remarks, which were that we are not dealing with the second-reading speech. I know you need to elaborate, but I think we need to make it a bit shorter and get to some questions.

**Mr FINN** — Acting President, I make the point to you that I am only reading this because of what the minister said in response to questioning from Ms Crozier. That is the only reason that I am now reading it. I was going to do it much later, but I am doing it now because the minister made it very, very clear to everybody in this chamber and everybody listening that he did not actually realise the impact of this bill on people with disabilities.

I will continue to read from the article by Craig Wallace. He said:

On the ground, I hear from people who can't be examined by their GP because they don't have a height-adjustable exam table. Clinics, primary care, dentists, holistic health and the tertiary health system still have significant barriers to access, especially in regional Australia.

If Tina has aggressive cancer there is a very good chance that she couldn't even get a proper medical exam or the kinds of screening recommended for women her age. She probably couldn't even find a clinician with the time and capacity to communicate with her.

In the real world someone like Tina is also very unlikely to have a job and to be able to afford private health insurance or even find the informal supports that other people could call on following a life-changing health diagnosis. As a woman with disability she's also far more likely to be facing various forms of violence or abuse that make life seem intolerable.

Choice? What a joke.

Sitting in Tina's wheels people with disability are entitled to ask members of Parliament: why are you hurrying to grant us the 'choice' to die when you never lifted a finger to fix the

barriers that made our lives miserable or gave us equal access to preventative health?

Until every person with disability has equal access to screening, prevention and treatment in our health system, suicide prevention resources, and meaningful alternatives to ending it all, offering us euthanasia isn't an act of generous equality. It's our Hobson's choice — a fake, cruel one-way exit for vulnerable people locked out of basic health care and other social and community infrastructure that others take for granted.

Minister, this is a plea from the heart from a disability advocate who is one of many who is terrified by this legislation, and with damn good reason — with very good reason. I know for a fact just how hard people with disabilities have to fight every day of their lives for basic services, for their basic rights, and now we have a piece of legislation which may even threaten their lives. Is it any wonder they are scared? Is it any wonder they are terrified? Is it any wonder they are so vehemently opposed to this legislation? Minister, can you now see the impact that this bill is having on people with disability in this state?

**Mr JENNINGS** — Can I say, Mr Finn, that I think that your delivery was commensurate with the gravity of the issues that were described in the letter you read out and with your concern that I acknowledged earlier today. I believe what you described in that letter at length was a very accurate description from the author, who had a lived experience of being denied opportunities and access to a fair go, whether it be through healthcare services or opportunities for a fulfilled life for himself or people with disabilities.

In that regard I acknowledge that the Australian community to this very day has not afforded people with disabilities opportunities and fair access to services. This is what the NDIS in design is actually meant to address — educational opportunities, health care, supported independent living and the whole range of services. Absolutely. It is not possible to argue against that with any intellectual rigour or competence. In fact what has been portrayed is an accurate reflection of that. I heard the letter as a letter of outrage in relation to denial of opportunity and access and fair treatment within the Australian community.

**Mr Finn** — They said death. They will be offered death, but nothing else.

**Mr JENNINGS** — I want to come to that point, because in fact I heard offence in relation to the living standards, conditions and opportunities for people with a disability. I heard that extremely clearly. And then from that I heard what was a compounding of that offence by what you just described as — and you

described it in your contribution to the second-reading debate too — assisted suicide or suicide being the only option that is available and that being offensive. And you may recall that when I summed up the second-reading debate I referred to that item, because in fact I share your view that if that is seen as the option that is available to people then that is offensive. And I share your view and the author's view that that is an offensive dichotomy: lack of opportunity, quality of life and access to services, and suicide is the only option that is available to you. So I reject that, just as you reject it.

I do not think beyond that offence and the rejection of that dichotomy — it is a well-argued case and it is a very considered case. I think it needs to be responded to appropriately with a degree of support for those opportunities, greater access to services, greater service delivery and greater fulfilment of life for people with disabilities. I spent quite a lot of my working life in this role trying to get to the NDIS and trying to make it viable to achieve those outcomes. I dedicate some of my working life each and every week to that outcome. I am not claiming credit for it. It has got a long way to go. You know it has got a long way to go. I do not want anybody to feel as if the only option available to them is to shorten their life. But in that clearly couched argument — which is quite rightly indignant about what is the current perceived offering and what is perceived as the potential risk — there is an indignation about that.

But interestingly it did not sound like fear to me. It actually sounded quite justifiably — if that was the dichotomy — like quite an angry, considered, thoughtful and complete response to that issue. But it was not driven necessarily by fear. So I actually want to respond to that issue that it is in fact fear that is actually the concern. If I am advocating a position that actually affords people with disabilities access to use this scheme at their choosing and their free will because of their condition that will actually cause their death, and they are in the last year of their life and they choose to exercise their right, I feel as if that is a choice rather than an imposition or a construct. That actually erodes every other thing that I have agreed with you on. I have agreed with you on every other issue. I see it as part of our obligation as a state to afford our citizens the maximum opportunities, the maximum access and the maximum degree of integrity and self-respect.

There are some people who do have disabilities, who have a condition that will lead to their death and who may choose to exercise this scheme if it is actually introduced and adopted. I am only interested in this endeavour, in this piece of legislation, in protecting

their right to exercise that choice as with everybody else's choice. I am not wanting to impose a choice on them, limit their options or limit the expression of their rights and opportunities in this state. I defend them wholeheartedly, individually and collectively, to pursue those things. I am also defending the right of some individuals who may want to express their choice in relation to exercising their rights under this law.

You may think that that is a bit cute. I am not meaning to be cute; I am meaning to be sincere about it. That is where we see the philosophical difference between your position and the bill. I knew what your position on the bill was going to be. I am relaxed about your position on the bill because I know where it is actually coming from and the deep-seated resistance to it, through the whole prism of that story that you shared with us. That story is a very compelling story in relation to decent, fair and respectful engagement with people with disabilities. They have every right to feel as if they have not achieved it and been protected in that up until now.

I am not saying that job is done. I am just actually saying that for those relatively few who may choose to exercise their rights under this legislation, I am defending their rights too.

**Mr FINN** — I thank the minister for most of those comments. When he says that the job is not done, I think that is probably somewhat of an understatement. The job is a long, long way from being done, and there are still a lot of people out there who are saying to me, to us as parliamentarians, 'Why are you offering us death when you don't offer us a decent living?'. That is something that we have to face as a Parliament and indeed as a society.

I just want to finish with a much shorter quote from the late Stella Young, who I am sure the minister would be familiar with. She was a comedian, writer and disability activist and quite an extraordinary woman. She wrote, on the implications of legalising assisted suicide for people living with a disability:

As a disabled person, I'm accustomed to conversations about quality of life and dignity. Specifically, I'm accustomed to assuring people that my life is worth living. I'm short-statured, a wheelchair user, and I frequently have bone fractures. All the visual cues that make me 'the other' are front and centre. People make all sorts of assumptions about the quality of my life and my levels of independence. They're almost always wrong.

I've lost count of the number of times I've been told, 'I just don't think I could live like you', or 'I wouldn't have the courage in your situation', or, my favourite one to overhear (and I've overheard it more than once), 'You'd just bloody top yourself, wouldn't you?'.

It sounds very familiar, I have to say.

What we as a society think we know about what it means to live as a disabled person comes from cultural representations of disability seen through a non-disabled lens. And we, as people with disability, rarely get to tell our own stories.

Also, social attitudes towards disabled people come from a medical profession that takes a deficit view of disability.

This is a really important point:

... social attitudes towards disabled people come from a medical profession that takes a deficit view of disability. This is my major concern with legalising assisted death; that it will give doctors more control over our lives.

As a disabled person who has had a lot to do with the medical profession, I can tell you that this is the space in which I've experienced some of the very worst disability prejudice and discrimination. Doctors might know about our biology, but it doesn't mean they know about our lives.

Media reports on assisted dying feed these misconceptions. *ABC News* reported this week on the case of Barbara Harling, a Queensland woman with motor neurone disease who said that she would consider moving to Tasmania if the voluntary assisted dying bill had passed. Harling is quoted as saying: 'Well, let's put it this way. I can use my left hand, my right hand is just about useless. If I can't use my left hand to wipe my bottom, then I can do nothing else for myself. That means someone has to do everything for me. I couldn't bear to live like that'.

The thing is, a lot of people do live like that. I know many, many people who depend on personal assistants for all of their daily living tasks, some of them requiring 24-hour care. Having to rely on someone else to wipe your bum may not be something anyone aspires to, but I'm quite sure it's never killed anyone. Perhaps our discomfort with this kind of thing is why we don't hear the counterview in reports about assisted dying.

Often we hear supporters of euthanasia and assisted suicide talk about wanting to avoid the pain and suffering that often comes with imminent death. But more often, we hear stories like Barbara Harling's, which are more about wanting to avoid a loss of autonomy and independence.

Minister, I think the two stories that I have related to you tonight, the one from Craig Wallace and the one from the late Stella Young, show a real humanity of people with disabilities but also a real fear of how they are being treated and indeed how they will be treated with a new regime of euthanasia. You may call it anger, but let me assure you it is driven by fear. It is driven by fear because they know, as Stella Young said:

As a disabled person who has had a lot to do with the medical profession, I can tell you that this is the space in which I've experienced some of the very worst disability prejudice and discrimination.

I have seen that too. I have heard that from doctors — from very, very senior doctors — as I said before, talking about my children in a way that disgusted me

beyond words. Unfortunately that is the way that a lot of people think. I think the disabled community, if I can call the good people with disabilities that, have a great deal to fear from the ramifications of this bill, and they know it. They know it, and they are very, very fearful. So, Minister, I do hope that you will take that on board, because they are as a community very, very fearful of what this bill will mean for them and their lives.

**Mr JENNINGS** — I apologise that in fact I did not refer to Craig Wallace by name when I referred to his letter. I apologise to the committee, and I apologise to him in relation to attributing his very comprehensive and deep-seated in reality concerns about the Australian community in terms of providing support for people with disabilities. The same description applies to Stella Young. Stella was an absolutely extraordinary woman, an extremely talented woman, an extremely insightful woman, independent and articulate — a wonderful woman. Both of them expressed a view in relation to the poor treatment that they and other people with disabilities have experienced and how they may be treated in a dismissive, patronising and contemptible fashion.

**Mr Finn** — As if their lives don't matter.

**Mr JENNINGS** — Absolutely. And this pre-exists the bill. We know that it pre-exists the bill. The bill is not excused because that pre-exists. We know that it pre-exists, and we know that it is real. Ultimately in relation to that challenge, again, in terms of the work that needs to be done, the work that needs to be done is to overwhelmingly change the culture and the degree of acceptance in this community and the way in which we relate to people with disabilities. The examples that you gave of Stella's response to people who are so dismissive in a whole variety of ways and who dehumanise the interaction in a patronising fashion are disgraceful. I share that view that it is disgraceful and it is unacceptable, and I share the concern that that may occur in all walks of life, including that the medical profession may exhibit that value system.

I hope that through our work one way or another we can be united in taking on that challenge, regardless of whether this bill succeeds or fails. Let us hope that we can unite in that endeavour to turn around those attitudes and that sense of self-worth because people with disability have equal rights to any other citizen in this nation to feel that their life is worthwhile even though they may be unable to meet the simple demands of everyday life in terms of ablutions, eating and communicating.

I know that I have looked into the eyes of people with very severe, profound disabilities and have actually made meaningful eye contact which I know I have been enriched by. I share that with you because in fact that has value. So within that, the one thing that I can go back to in relation to this piece of legislation is that I would be protecting those people who may have profound disabilities and who also may be terminally ill, who choose to access this and who can assert their right to access this piece of legislation. They have rights, and that is the basis on which I would support their rights. Certainly Craig and Stella may never have wanted to exercise that, and good on them. Good on them for not wanting to. Good on them for being passionate advocates for people who will never want to and who will never be given an opportunity to express their view. Good on them for doing that. Good on you for drawing that to our attention. But ultimately there are those who may choose to, and they should not be denied an opportunity that is afforded to other citizens, and the rest of what our challenge as a society is goes on regardless of what happens to this legislation.

**Mr FINN** — Minister, I take on board what you say, but I express the very strong view that, yes, their rights are very, very important, but their right to live outweighs their right to kill themselves, and I think — well, Stella cannot agree — Craig would agree on that one.

Moving on to an area that is very close to my heart, and that is the area of autism. This is one that is very, very difficult, and I do not doubt that for one moment. Some people might think that they know a fair bit about autism, but as somebody said to me some years ago: when you have met somebody with autism, all it means is you have met somebody with autism. It does not mean that you actually know a lot about autism, so I want to give a thumbnail sketch of autism. Autism Spectrum Australia has put this together, and I just want to read this to the minister before asking my question, because I think it is important that we have a reasonable understanding of what we are dealing with here:

Autism is characterised by marked difficulties in behaviour, social interaction, communication and sensory sensitivities. Some of these characteristics are common among people on the spectrum; others are typical of the disability but not necessarily exhibited by all people on the autism spectrum.

...

For people on the spectrum, rigidly sticking to routines and spending their time in repetitive behaviours are ways for them to reduce uncertainty and maintain the predictability of their environment.

Other behaviours may include:

- unusually intense or focused interests;
- stereotyped and repetitive body movements such as hand flapping and spinning;
- repetitive use of objects such as repeatedly switching lights on and off or lining up toys;
- insistence on sticking to routines such as travelling the same route home each day and doing things in exactly the same order every time;
- unusual sensory interests such as sniffing objects or staring intently at moving objects;
- sensory sensitivities including avoidance of everyday sounds and textures such as hair dryers, vacuum cleaners and sand.

I am starting to feel a bit homesick just reading this, I have to say. With regard to social interaction:

People with autism have difficulty establishing and maintaining relationships. They do not respond to many of the non-verbal forms of communication that many of us take for granted like facial expressions, physical gestures and eye contact. They are often unable to understand and express their needs just as they are unable to interpret and understand the needs of others. This impairs their ability to share interests and activities with other people. For this reason they may appear distant and aloof. Because they are often delayed in their speech and struggle to make sense of other non-verbal forms of communication, they may withdraw into repetitive play and behaviour and avoid interaction.

Their difficulties with social interaction may manifest in the following ways:

- limited use and understanding of non-verbal communication such as eye gaze, facial expression and gesture;
- difficulties forming and sustaining friendships;
- lack of seeking to share enjoyment, interests and activities with other people;
- difficulties with social and emotional responsiveness.

Finally, on communication:

People with autism often have communication difficulties in one form or another. There are some people with autism who speak fluently, others who are speech impaired to varying degrees and others still, who are unable to speak at all. Of those who can speak, they will often use language in a very limited or unusual way.

Often they will ask the same questions over and over. Again, I am feeling a bit homesick now.

The quote continues:

People with autism will usually only talk about topics that are of interest to them which makes the give and take in communication difficult. They have difficulty interpreting

non-verbal forms of communication like facial expressions, hand gestures and other body language.

Impaired communication is characterised by:

- delayed language development;
- difficulties initiating and sustaining conversations;
- stereotyped and repetitive use of language such as repeating phrases from television.

That, I suppose, in a nutshell is autism or the characteristics of autism. Autism, of course, is a spectrum. I have seen people on that spectrum who are the most brilliant people on the face of the earth, who have minds like steel traps, who could be rocket scientists, surgeons or whatever they like. On the other hand I have seen others on the spectrum who were sitting in the corner rocking backward and forward and banging their head against the wall. So it is a wide and varied spectrum. Like so much of that spectrum, much of the problem is thereabouts in the middle. We can make a judgement about the genius — that he or she can make up their own mind as to what they want to do. We can make a judgement that the person sitting on the floor rocking backward and forward and hitting their head against the wall is in no position to make a sound judgement. Both are clear. But there is a large group in the middle, and the education system is constantly struggling with this — not very well, I might say — about whom we just do not know where the line is, if indeed there is a line, as to when they can make their own decisions and when they cannot.

Now, how is this bill going to affect them? How are we going to judge who on the autism spectrum, in that central area that I am talking about, has the ability to make that judgement that they wish to access suicide and who does not have the ability to do it? It is about cognitive understanding, I suppose, but it is an extraordinarily difficult issue and one that, if this bill goes through, we are going to have to deal with. It is really very, very basic. Minister, over to you. I ask you to cast your grey matter at solving this particular problem.

**Mr JENNINGS** — In the first instance in relation to this question, we have to actually understand that the only way that a person with autism would be seen to be eligible for this scheme would be on the basis of them having a condition that is going to end their life. We are assuming that is the case.

**Mr Finn** interjected.

**Mr JENNINGS** — Good. Beyond that we are actually getting to the area of capacity in terms of making decisions, as you have actually described it, and

in that regard the capacity test in the Medical Treatment Planning and Decisions Act 2016 would be used for voluntary assisted dying. I have got one, but there is no two so I will not read one. How is that? Let me make that concession to you; there is no two. The test is that:

- (1) A person has *decision-making capacity* to make a decision to which this Act applies if the person is able to do the following—
  - (a) understand the information relevant to the decision and the effect of the decision;
  - (b) retain that information to the extent necessary to make the decision;
  - (c) use or weigh that information as part of the process of making the decision;
  - (d) communicate the decision and the person's views and needs as to the decision in some way, including by speech, gestures or other means.

During the consultation process the ministerial advisory panel asked the sector what they thought the capacity test for voluntary assisted dying should be, and the overwhelming majority of people believed that the capacity test contained within that act was sufficient. The test is also used in the Powers of Attorney Act 2014 and the Mental Health Act 2014. A small majority of stakeholders suggested that more rigorous tests were required but could not provide the details of what they should look like. Some objected to the conclusion of the presumption that any adult has decision-making capacity. Other stakeholders did not object to the decision-making test but suggested it should only be conducted by a psychiatrist. This suggestion fails to understand the concept of decision-making capacity and the expertise of a psychiatrist. If a person has a mental illness, a psychiatrist's expertise will be relevant. If they do not, the psychiatrist will have nothing to add. I think we are probably talking about a group of individuals where that may be the case in this instance. I volunteer that to you.

One submission argued that the test should not be used because voluntary assisted dying should not be defined as a medical treatment. People make life-and-death decisions every day in hospitals in Victoria, and health practitioners assess decision-making capacity and whether patients are making such decisions voluntarily as well as providing information and support to the person and their family. Whilst the bill does actually provide for that framework and that advice, the clinician in question would need to make sure that there is a process in place that enables them to make a determination on this, and they may need to seek advice in relation to that.

I am just making sure that I am not being repetitive because I am trying to mitigate the number of times that people are repetitive in this committee. I am not doing very well, but I am trying not to be repetitive.

In relation to the way in which the ministerial advisory panel addressed this, I have been guided to have a look at the way in which the Office of the Public Advocate have created a hierarchy of actions that should be taken that came out of the 2012 guardianship review. These decision-making capacity issues were developed by Professor Peteris Darzins and colleagues. This process is used across a variety of healthcare settings. The review states:

This process is as follows:

Step 1: ensure there is a valid trigger present to justify a capacity assessment, such as a person demonstrating behaviour that puts them or others at risk, or making choices that seem inconsistent with their previously held values.

Step 2: engage the person in the assessment process by seeking agreement and informing the person about the process as far as possible.

Step 3: gather information about the triggers for the assessment, and information about the person that can help inform an assessment of their decision-making.

Step 4: educate the person about the relevant decisions to the extent necessary to ensure that 'ignorance' is not mistaken for 'incapacity'.

Step 5: assess the person's capacity by diligently and thoroughly determining whether a person understands and appreciates the decisions they face.

Step 6: take appropriate action based on the person's capacity results, including arranging for a substitute decision-maker if necessary.

That final step is not a relevant consideration in relation to what we are talking about because ultimately you have to apply the interlocking elements — I go back to repeat the test that I talked about — to make sure that the framework that I have just outlined in relation to those steps and that method of engagement go back to the fundamental tests. The fundamental tests are whether there is an assessment that the person is able to take action according to the following: they understand the information relevant to the decision and the effect of the decision — so they understand the effect of it; they retain that information to the extent necessary to make the decision; they use or weigh that information as part of the process of making a decision; and they communicate the decision and the person's views and needs as to the decision in some way, including by speech, gestures or other means.

In the challenge that Mr Finn has outlined and the circumstances of the people that he is concerned about, who are least likely to be affected by this assessment process, being those that are very high functioning, have decision-making capacity, are articulate and can express their views in a cogent, consistent fashion, as distinct from those who cannot — for the people in the middle, that threshold — I think the cumulative effect of these tests is that unless there is a method of decision-making that can be communicated in a fashion that demonstrates the cognitive processing of the relevant information, the holding onto that and particularly the consequences of it, unless that can actually be demonstrated, it is going to be very hard to pass that test. I would think that that assessment —

**Mrs Peulich** interjected.

**Mr JENNINGS** — I am responding in good faith to the question that Mr Finn asked me. Ultimately it is not my decision. It is a clinical decision, and it will be an assessment that is made by others, not by me.

**Mrs Peulich** — But it will take months to assess and diagnose an individual.

**Mr JENNINGS** — Yes. I am responding that I would read that as a very difficult test to pass for many, many people that Mr Finn may be concerned about. At the heart of his question is a concern about people who may not be capable of processing this question, who, from Mr Finn's perspective, may be shoehorned to make an adverse decision in relation to participating in a voluntary assisted dying scheme — that they may not have the competence to actually determine that for themselves. That is his concern. Isn't that his concern? And I am responding to that concern by saying that the interlocking elements of those tests will be conservative in the way in which they assume a capacity is established and maintained. That is what I would anticipate. I am not determining the clinical guidelines and the practice guidelines that would be associated with that, but I would read those as being a very conservative reading of the ability to satisfy that test. That is what I am volunteering.

**Mr FINN** — Not since Barry Jones gave us 'spaghetti nation' have we heard an explanation such as the one you just gave the chamber tonight.

**Mr Jennings** interjected.

**Mr FINN** — I am not blaming you. Had he really rehearsed it? God strike me!

I had very, very deep concerns about this bill, obviously, and how it would affect people with autism

before the minister's explanation. Now there is no doubt in my mind that this bill leaves open a gap wide enough to ride 20 horses through that would allow people with autism to be subject to wrongful death. I am just staggered by the response that I have just heard. As I said, I do not blame the minister because it is the bill that stinks. It is not the minister that stinks; it is the bill that stinks. He might not hear me say that all that often, but it is the bill that is at fault here.

This bill is going to allow people with autism to be killed. If that is the explanation, if that is the dividing line, if that is where we make decisions and how we make decisions, people with autism are going to be killed whether they like it or not, and some of them might not even know about it. Honestly, anybody with a disability listening to this debate tonight or even watching it will have their worst fears confirmed about this legislation, because this bill, whilst it might be about the right to end your life and all that sort of thing, gives no protection to those who want to live. It gives no protection to those who are in no position to defend themselves. It gives no protection.

How can we support a bill that does not protect the most vulnerable, the most innocent members of our community? Minister, how can we do that?

**Mr JENNINGS** — It was a good rhetorical flourish and a good bang of the table, but it was not really consistent with what I said to you or what the bill says.

**Mr Finn** — What did you say to me?

**Mr JENNINGS** — Maybe I am weary. I have been here for 5 hours answering questions whilst you come and go.

**Mr Finn** interjected.

**Mr JENNINGS** — You have been, Mr Finn. You have actually been a constant. Good on you. There are one or two others. Maybe I was not actually as cogent as I needed to be. Maybe it was me who stank, not the bill. Maybe it was me.

**Mr Finn** — But if you are not cogent, people will die.

**Mr JENNINGS** — No, they will not. Regardless of whether I answered your question well or badly, your extrapolation to say that people will die and people will be apprehensive about it is not based upon what is in the bill or what I said but on the basis of your rhetorical flourish and your banging the table. They could be anxious based on your interpretation of it but not on the basis of what the bill says or what I said. I may have

said it badly, but it was not actually leading people to the conclusion that this bill and the way in which it would be implemented or the way in which capacity would actually be determined will mean that anybody can be killed as a consequence of this legislation or of what I have said or the process of capacity being determined for those who have been diagnosed as actually having an illness where they are going to die. Let us just keep it together in terms of being mindful —

*Honourable members interjecting.*

**Mr Finn** — Tell the people with autism to keep it together. Tell them to keep it together. They are the ones. Tell the parents out there —

**Mr JENNINGS** — Interestingly enough, Mr Finn, keeping the thread of logic, the legislative structure and the processes in place are exactly the reason why I suggest that many people with autism may not be able to satisfy the capacity test to be able to actually give clear direction in relation to this bill. Funnily enough, exactly the point that you made, at the detriment to me, is the point that I am actually saying gives you comfort and gives people that you are concerned about comfort, because in fact they are not competent to be able to keep the legislative framework in mind, the decision-making process in mind and the consequences of their actions in mind. If they cannot do that, then in fact they will not be able to proceed through the scheme, and that is my point to you.

**Dr CARLING-JENKINS** — I want to thank the minister for his answers to Mr Finn's questions and to thank Mr Finn for asking them around capacity and the capacity assessment. I just want to tease out a little bit of what you were saying, particularly in your original answer to Mr Finn.

Just as a short background, as a research fellow in the area of intellectual disability, autism and mental health, I did a lot of work around consent and informed consent and capacity for research. Often a rule of thumb — and I do not want to oversimplify it here — was about the gravity of the research: it would correlate directly to the amount of assessment we would have to undertake for assessing capacity and informed consent. So I guess I am really concerned about the weightiness of the capacity assessment that you have outlined. I wonder if that is open to more discussion in the regulation phase, because I do think that more people in the disability profession would like to have input into that capacity assessment, which could well be expanded.

Just to pick up on a couple of points that you raised, you said that the medical practitioner — and please correct me if I am wrong in this — ‘may’ do this capacity assessment. I would really like some assurance that whoever is assessing someone with any suspected disability, or any suspected communication impairment, ‘will’ have to undertake this capacity assessment, and I would like some explanation of how that will be demonstrated and how that will be recorded so that if someone does die under this legislation there is a paper trail of the steps that were followed, because I think it is really important to understand what exactly happens. I guess I am looking for an assurance to the committee as well that this capacity assessment will not be undertaken or influenced in any way by a caregiver or a beneficiary of a will.

**Mr JENNINGS** — Mr Finn, I want to make sure that you hear this answer. It is essential that the coordinating practitioner makes an assessment on this matter and that it is appropriately recorded. If they believe there is a question of capacity, they must refer it to an appropriately qualified practitioner to make that assessment. So there will be an obligation for that to occur.

**Mrs Peulich** — If they ‘believe’, which is very subjective.

**Mr JENNINGS** — No, they —

**Mr Finn** — Reading the mind of someone with autism is fraught with danger.

**Mr JENNINGS** — Yes, exactly, and I am very positive that given this is an obligation where assessing capacity has to be documented as part of the approval process and the record keeping of this decision and given the potential areas of concern that you are expressing, the clinical guidelines will mandate that this has to be referred to an appropriate expert in this field.

In relation to your request earlier on in your question about how the guidelines are established, I am pleased that you, and hopefully some others in the committee, may be expressing a willingness to participate in some conversations about the way in which we can make these guidelines work — the clinical guidelines in relation to this matter in particular. I will make sure that my colleague is aware of that as we move to introduce — if the bill passes — the regulatory environment and the guidelines that are associated with good practice.

**Dr CARLING-JENKINS** — Thank you, Minister, for some of those assurances. I am sure there are many

of us in the chamber who would like to contribute to clinical guidelines, should this bill pass.

One question on this is around the coordinating practitioner. You mentioned that they will be obligated to go through this capacity assessment. I understand that there is some training that will be developed. What training will be provided to them to ensure that they can identify people with disabilities that are sitting across from them in the waiting room — people who may have capacity impairment? Will it be included in that training, and what will that training entail?

**Mr JENNINGS** — The training will actually be developed by the implementation task force seeking advice and guidance from practitioners and experts in the field to cover all elements of the eligibility criteria, of which capacity for decision-making is one. That work will be done under the auspices of the advisory review board and authorised by the secretary of the department. It will be developed and provided to all practitioners who participate in the scheme. The training, the delivery of it, will actually have the scrutiny of the Department of Health and Human Services under the auspices of the advisory board. The task of actually putting the training modules together will be for the implementation task force, who will engage with stakeholders. It will be obliged through the course of that training module to take account of this feature of the eligibility criteria: what would be the key elements of clinical practice that would be expected to elicit that in the first instance by the coordinating practitioner and then the second independent assessment. But it will, if in fact there is doubt about capacity, go off to an independent expert in this field. That is how the hierarchy will work.

In relation to who is the coordinating assessor and the second independent assessor in the first instance, they would be well experienced. They would enter the scheme with additional training, but they would have extensive expertise in relation to clinical practice in terms of the longevity of their expertise. Their exposure to existing clinical practice would be extensive, and they would actually be augmenting their already existent assessment capability by undertaking this training module. We think this would be quite a rigorous process — not the spaghetti junction Mr Finn accused me of.

**Mr Finn** — Spaghetti nation.

**Mr JENNINGS** — Spaghetti nation. So maybe I should have actually had a bit of a walk off to the box and had a bit of a discussion with them before I just started adding to your anxieties. I do not want to add to

people's anxiety; I want us to get to Thursday and I want us to start again in good spirits. Well briefed and in good spirits — that is where I want us to get to.

### Business interrupted pursuant to standing orders.

## ADJOURNMENT

**The ACTING PRESIDENT (Mr Ramsay)** — The question is:

That the house do now adjourn.

### Hyde Street, Footscray, scout hall

**Mr FINN** (Western Metropolitan) (20:31) — I wish to raise a matter for the attention of the Minister for Youth Affairs, and it concerns my visit last week — it is an annual event actually — to the Kariwara scouting region annual general meeting (AGM). It is a source of great delight to me because the scouting movement is a movement that I have an enormous amount of respect for and an enormous amount of time for, and they do a tremendous amount of good work for young people in the community. I was again last week asked to say a few words at the AGM and was delighted obviously to be able to do so.

The thing that concerned me about it was the state of the scout hall. This is the scout hall in Hyde Street in Footscray between the police station and the railway station in fact. It is a delightful old building — a heritage building, I would suggest — but it is not in the best nick. I was shown gaps in the floor between the floorboards and in the walls, and they are getting worse as the years go on, obviously, and causing a great deal of issues for the many scouting groups that meet there. There is a great deal of concern that they will not be able to continue meeting there because of the state of that hall, so I have given an undertaking to the authorities in the Kariwara region that I will raise this with the minister in the hope that she might be able to provide significant funding for a refurbishment of the hall. Basically I think it probably needs to be not rebuilt but certainly restumped at least, I would say. I am not an engineer, but I reckon that that is probably what it needs. It needs a lot of work anyway, and I would imagine that it would take a fair bit of money, but it is well worth it.

As I say, these great people do some wonderful work in the community, and it is great to see volunteers who are actually doing the work that we all admire so much. They are deserving of our support, as indeed they give their support to our young people who are the future leaders of our state and our nation. I ask the minister to take on board what I have said and to provide the

financial resources for the scouting hall in Hyde Street in Footscray, so we can keep it in good nick, or get it into good nick, for many years to come.

### Freeway protective barriers

**Mr O'SULLIVAN** (Northern Victoria) (20:34) — My adjournment matter tonight is for the Minister for Roads and Road Safety in the other place, and the action I am seeking is for the minister to request that VicRoads undertake an investigation into the possibility of increased incidences of cars running into kangaroos as a result of the newly installed wire protective barriers along many of the freeways in Victoria.

A couple of weeks ago I was up at Nagambie. I went for a bit of a drive in the afternoon, and I very nearly hit a kangaroo as I was driving along a gravel road. I had to swerve to miss the kangaroo, which was obviously a bit dangerous, but I was able to control the situation and nothing occurred. As a result of that I was highly aware of kangaroos in that part of central Victoria. On the following Monday when I was driving down to Melbourne for a meeting, between Seymour and Wallan, which is a distance of 59 kilometres, I encountered 38 dead animals either beside or on the Hume Freeway. There were 33 kangaroos and five dead foxes. I thought to myself, 'That seems to be a very high number of dead animals' — kangaroos and foxes, particularly kangaroos — 'in such a short number of kilometres'.

If you are driving along in your car and there is a kangaroo in the middle of the road and you hit it, it can be very dangerous to you and it can be very dangerous to the other occupants in the car, particularly if they are your family members. One of the things that can happen when you see a kangaroo in the middle of the road as you are driving along at 100 or 110 kilometres an hour, which is the speed limit on the Hume Freeway, is that you can actually get quite a fright. What can happen is that people could, one, either run straight into the kangaroo by accident or, two, try and swerve to avoid hitting the kangaroo, which is probably a natural reaction. If you were to do that, it is possible that you could potentially run into another car or run off the road and crash.

I have had plenty of comments from constituents verifying the number of kangaroos up there. I think in the last couple of years after a couple of wet seasons the kangaroo numbers have really built up and they are becoming a bit of a pest. You usually see a few dead kangaroos along the side of the road, but after seeing 33 dead kangaroos in 59 kilometres I just wonder whether they are getting onto the road and getting stuck

in between those wire barriers that we see have been erected. They are on the way up to Bendigo, they are on the way up to Ballarat, they are up the Hume Freeway as well and I know they are on the way down to Gippsland. I am just wondering whether there is some correlation between the number of kangaroos that have been hit by vehicles and those wire barriers, so I ask the minister to get VicRoads to have a look at that and see if there is any correlation at all.

### **Western Victoria Region frost damage**

**Mr RAMSAY** (Western Victoria) (20:37) — My adjournment matter is for the Minister for Agriculture, Jaala Pulford, and the action I seek is for her to review the frost damage done to crops across Western Victoria Region. I also seek an understanding of what the Victorian government might be offering to those impacted. The late-season frosts over the last couple of weeks across the region have been devastating, perhaps unprecedented, and the full impact is still revealing itself. Up until then, many farmers were telling me about their hopes of good yields and quality across the commodities — barley, wheat, oats, lentils, chickpeas. However, the frosts have completely shattered forecasts of a bumper season into one of significant loss in both yield and quality.

Ararat farmer and Victorian Farmers Federation representative Charlie de Fegely is one of those farmers looking at changed circumstances in his region. He describes the devastation as unprecedented. He says some farmers in the Ararat-Lake Bolac-Skipton-Beaufort region alone have losses of 100 per cent — complete wipe-outs. He described to me an impact that will not be fully known until the harvest begins in about four weeks, from about mid-December to mid-January. The damage is still creeping across paddocks and vineyards. Grape losses are also being felt in a big way across to the South Australian border. Mr de Fegely says the financial losses could range from \$200 million to \$400 million or more.

Farmers in the Ararat region could be hit with the double whammy of crop failure and a local council that wants to effectively remove the rate differential and increase farmers' rates by up to 50 to 60 per cent. I wonder how they are going to pay for that. But the impact is across the region, not just Ararat. The frosts have particularly hit wheat farmers across western Victoria, and those with pulses — lentils, chickpeas and beans — are looking at 100 per cent losses. Canola crops appear to be down 20 to 25 per cent, and barley is perhaps a bit shy of that figure. Unfortunately this year's frosts appear to have replicated the devastation

of 2016. Last year late frosts also crushed crops and hopes. Some farmers had losses of up to 90 per cent in some paddocks.

If we told a nurse, a policeman, a teacher, a government bureaucrat or a union official that their income was going to be cut by 50 per cent or more, there would be a huge outcry. There would be cries of devastation, financial ruin and compensation. But little noise is made when farmers, our primary producers, lose their income for a year and then have to play catch-up, if possible. City slickers shrug their shoulders unabated, unaware and unaffected. Farmers cannot get insurance for frost damage. They are left completely at nature's mercy and yet bear the weight of the state's export expectations on their shoulders. I fear this devastation could become as much a social matter as a financial one.

I ask: does the minister understand the enormity of the frost damage, and does she have a contingency plan in place to help and support our affected farmers?

### **Country Fire Authority Shepparton station**

**Ms LOVELL** (Northern Victoria) (20:40) — My adjournment matter is for the Minister for Emergency Services, and it is regarding the need to secure a site for a new Country Fire Authority (CFA) station to be built in Shepparton. My request of the minister is that he assists the Shepparton CFA to secure a suitable site for the new station as a matter of urgency.

I have had a close relationship with the Shepparton CFA for many years, going back long before I was a member of Parliament. For over 30 of those years the brigade has been engaged in conversations about the unsuitable location of the current station in the Shepparton CBD and the need for it to be relocated. Just over 30 years ago Kmart built a new store on the corner of Vaughan and Maude streets, which is at the southern end of the Shepparton CBD. The rear of the store is on Rowe Street. The Shepparton fire station is located on Maude Street, just opposite Rowe Street, in a block that is the connecting thoroughfare between the Kmart complex and the Maude Street Mall. The block is also home to the main Shepparton bus stop for all CBD customers.

The block where the fire station is located is now a busy pedestrian area, which raises major safety concerns for the fire brigade. Leaving the station in a hurry and also returning to the station — trucks need to be backed into the truck room, as there is no rear access — is hampered by pedestrians using the footpath, by CBD traffic and by buses. In addition to

these current obstacles, the City of Greater Shepparton has plans to redevelop Maude Street to include centre-of-the-road parking, which would cause further problems for the fire brigade.

Over the years there have been many conversations about whether there should be one station to service the entire town or two stations to service the north and south. The CFA currently owns two sites — one in the far north and one in the far south of Shepparton — but neither is suitable for a single station location, and the current consensus is that a single station would deliver the best service and be the most cost-effective.

Funding for a new five-bay, 12-dormitory station has been allocated for Shepparton as part of the 350 growth program; however, the stumbling block has been the ability to acquire a suitable single site of around 8000–10 000 square metres. Several sites have been identified by the brigade, but each has provided challenges.

The favoured site is Karibok Park on Archer Street, Shepparton, which according to the CFA, is Crown land. This site is currently just a paddock where the grass is mown but not kept to any standard. However, the city council are reluctant to relinquish the site, as they have plans to establish a retardation basin on this site.

The CFA has identified several other sites which, for commercial reasons, I will not identify, but each of these sites provides challenges in acquisition or may require further ministerial approval. One thing is certain: it is time for the conversations to stop and for action on building a new station to occur. For this to happen we need the minister to take an active role in assisting in the acquisition of a new site. My request of the minister is that he assist the Shepparton CFA to secure a suitable site for the new station as a matter of urgency.

### Responses

**Ms PULFORD** (Minister for Agriculture) (20:43) — I have adjournment matters from Mr Finn for the Minister for Youth Affairs; Mr O'Sullivan for the Minister for Roads and Road Safety; and Ms Lovell for the Minister for Emergency Services. I will seek a response for each member from the relevant minister.

In relation to Mr Ramsay's adjournment matter, which was directed to me, I would like to provide something of an update now, but I will also take the opportunity to provide Mr Ramsay with a formal response to the questions that he raised about the impact of frost. This

has been devastating for many of the producers throughout the regions in our shared electorate of Western Victoria, which Mr Ramsay spoke about. The impact is not yet fully understood. Indeed, as Mr Ramsay observed in his adjournment contribution, some of it will not be known for some months.

The department is currently assessing the impact of damage, but certainly there are reports of people who have had 100 per cent loss; there are reports that particularly higher value crops have been hard hit. I am also advised that this is the latest in the year that a frost incident of this scale has ever occurred in the state's history, so it is not something that people could have reasonably expected to plan for. I take on board absolutely Mr Ramsay's observations about both the financial and social consequences of this occurring, particularly at this time of the year. I think they are points that are exceptionally well made and ones that I am very conscious of. The Rural Financial Counselling Service is available to people who have been impacted by the 4 November event, and as I indicated we are still really in the information-gathering phase and trying to understand the extent of the damage, which will then inform what kind of response is required.

If I could just provide that brief update this evening and assure Mr Ramsay that I will provide a further update as that information is made available. I would extend the invitation to any of the members across western Victoria who wish to have an update on this to provide that information as it comes to hand. It has been for a number of people — our farmers and also, as Mr Ramsay points out, our wine producers — a devastating incident that has come at a terrible time when I think a lot of people were feeling pretty optimistic about the season and were looking forward to some really great results for their hard work for the year. So we will continue to monitor this closely, but I thank Mr Ramsay for raising what is a very important issue for agriculture in Victoria and also for our shared electorate.

I have written responses to adjournment debate matters raised by 11 members on various dates.

**The ACTING PRESIDENT (Mr Morris)** — Order! The house stands adjourned.

**House adjourned 8.47 p.m.**