PARLIAMENT OF TASMANIA

HOUSE OF ASSEMBLY

REPORT OF DEBATES

Thursday 4 March 2021

REVISED EDITION

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The Speaker, **Ms Hickey**, took the Chair at 10 a.m., acknowledged the Traditional People, and read Prayers.

QUESTIONS

Social Housing - Waitlist - Kenzie Family

Ms WHITE question to PREMIER, Mr GUTWEIN

[10.02 a.m.]

You have known about the very sad plight of Crystal Kenzie for more than a week, but despite saying yesterday your Housing minister would look into the matter, Crystal again spent last night sleeping in a tent in Warrane.

Crystal has been on the Housing waiting list for three years and her situation has now become dire. Tonight, Crystal will have a temporary roof over her head - this had nothing to do with you, had nothing to do with your Housing minister and had nothing to do with anyone in your Government. It is because charity has stepped in. Crystal has only been offered a bed for two nights and she could be back in a tent as the temperature drops.

This horrible situation has not only highlighted Crystal's impossible predicament, it has also shown what happens when you do not build the infrastructure that Tasmania needs. Your lack of empathy for Crystal's situation yesterday has only been matched by your lack of action to do anything to help her.

Can you tell Tasmanians why even though you had firsthand knowledge about a very vulnerable woman in a very dangerous situation, sleeping in a tent next to a major highway, you did nothing?

ANSWER

Madam Speaker, I thank the Leader of the Opposition for her question.

I absolutely reject her attempt to characterise me in a certain way. I again raise the point that parliament is not the place to discuss the circumstances of individuals who are on the waiting list.

I asked for and received an update yesterday with regard to each of the cases you raised. Broadly, I will say this: importantly, I offer you and anybody else -

Members interjecting.

Madam SPEAKER - Order, please.

Mr GUTWEIN - who would like a briefing on these cases, the opportunity to meet with the Housing minister to ensure that you have the full picture.

Members interjecting.

Madam SPEAKER - Order, please.

Mr GUTWEIN - Like the minister, I do not believe it is good practice to raise the cases of individuals in this House. I urge caution in terms of cases you are raising and the circumstances these individuals are in. These cases are complex. Everyone's story is different and, for all sorts of reasons, individuals may not want to take up the support that has been offered. I am advised and assured that in all the cases raised yesterday assistance has been offered. I can also assure you that every day -

Members interjecting.

Madam SPEAKER - Order, please. Excuse me, Premier. This is a very sensitive matter and I ask that the Premier be heard in silence for this question.

Mr GUTWEIN - I am making the point, Madam Speaker, that everyone's story is different.

We have reached out - support has been offered. I am advised and assured that right across the board, regarding the cases raised yesterday, support has been offered in those cases. I assure the parliament that every day Housing Connect is working to support Tasmanians in need. We thank them for their work.

As I have said, and offered, if the Leader of the Opposition or any member would like to be briefed on this matter and these matters and be provided with the information and background, the Minister for Housing is available to do that.

Regarding the broader matter we discussed yesterday, in terms of meeting the challenge of housing demand, I made the point yesterday that we simply have to build more dwellings. It is important the parliament understands that since the beginning of the first housing action plan, 1138 dwellings have been added or returned to the social housing and supported accommodation portfolio for applicants on the social housing register. That is a total of 980 in the social housing space. In the supported accommodation space, there were 108 new builds and conversions, and an additional 50 places as well, for a total of 158.

In terms of home ownership, we have assisted 450 low income households into home ownership. Seventy-six more places have been provided in homeless accommodation; 253 private rental tenancies have been brokered - roofs over people's heads - and 324 rapid rehousing placements have been made. On top of that, 325 affordable lots have been taken to the market targeting low income households and low-income buyers. Right now, we have 655 dwellings and more places in homeless accommodation either locked in and contracted or being built.

Furthermore, in terms of the pipeline we have in front of us, and as we announced recently, 1000 new social houses under the community housing program over the period to June 2023, 764 of those across 20 local government areas, have already been locked in. We are building the new youth forum in Hobart with an additional 25 units; a new youth forum in Burnie, a further 25 units; a new Youth at Risk centre in Launceston, eight units; Bethlehem

House in Hobart, 50 units; the new men's shelter in Devonport, seven units; and further extension of other supports as well.

I reject the claims by the Leader of the Opposition that I am not demonstrating any empathy or concern here. These are very challenging and complex circumstances. I suggest very strongly that you take the briefing I have offered regarding these complex situations and fully understand the background of the circumstances.

On this side of the House, we will continue to get on with doing the most important thing that we can - build as many houses and dwellings as we possibly can as quickly as we can.

Infrastructure Projects - Delays

Ms WHITE to MINISTER for STATE GROWTH, Mr FERGUSON

[10.10 a.m.]

You claimed you will get $1 billion of infrastructure projects out of the door each year for the next five years. You are telling Tasmanians that the Government's plan, your only plan, to steer the state out of the COVID-19 pandemic is to build our way out. However, you have already shown Tasmanians that they cannot rely on you to deliver, and they certainly cannot rely on the Premier or this Government.

The 2020-21 budget papers and last Friday's Infrastructure Pipeline 2020-21 update show that 64 projects you are responsible are behind schedule. Two are delayed by five years, three by four years, four by three years, 18 by two years, and 37 are delayed by a year. Nearly everything is delayed.

This extraordinary laundry list of broken promises could not make it clearer that you and this Government are expert at announcing things and an utter failure at actually delivering. Why have you allowed important infrastructure that you have promised to deliver to fall so far behind schedule, risking jobs and letting down the Tasmanian community?

ANSWER

Madam Speaker, I appreciate the question from the Leader of the Opposition.

I am part of a government that is delivering infrastructure in record rates. I am surprised that the Leader of the Opposition would bring this subject up. The Government, throughout the pandemic, has maintained the momentum on what is largest infrastructure program this state has ever experienced. We are delivering -

Opposition members interjecting.

Madam SPEAKER - Order.

Mr FERGUSON - It is occurring right now. The fact is that the current financial year's budget and forward Estimates are providing $5 billion of infrastructure investment right around

the state, in every region, right around the community, right now. In fact in my roads and bridges program, $2.4 billion in funding is being rolled out right now.

In addition to that, I noted the Leader of the Opposition referred to the Revised Estimates Report. That report shows we have invested and achieved nearly $20 million more at this point in time than in last financial year but that was not mentioned in the question, was it?

Members interjecting.

Madam SPEAKER - Order, I know we are all tired and cranky, but there is no room for rudeness. Thank you.

Mr FERGUSON - It should be well understood by members opposite that half your actuals do not even reflect the end of year result in any event, despite the fact we are $20 million up and the expenditure increases in the second half of the financial year.

These silly extrapolations are meaningless. The simple fact is we are delivering in a context where the Leader of the Opposition told a public forum that the state Government should be spending less on infrastructure. I know she is very angry with James Kitto for reporting her. Here we go -

Ms WHITE - Point of order, Madam Speaker. The member is misrepresenting me. We have had this argument previously, and I have also had to correct the record previously. I did not say that. I ask him to withdraw his comment.

Mr FERGUSON - I won't be withdrawing it -

Members interjecting.

Madam SPEAKER - Order. Excuse me, all of you. My advice is that if you feel offended, raise it after question time and I will give you the time to do that to set the record straight. Thank you.

Mr FERGUSON - Thank you, Madam Speaker.

Look, free advice from me to the Leader of the Opposition - take it up with James Kitto at the *Mercury*, who reported your comments to the RACT Forum in November 2019. The Leader of the Opposition told that forum, in my hearing - and Ms O'Connor can speak for herself; she was there - that the Government should spend less on road infrastructure and more on services. That is what she said - less on infrastructure. We are spending more and we will continue to do. We are committed to jobs in this state. This side of the Chamber is determined to continue to deliver projects and that is happening right now.

The construction industry, including civil construction, is red-hot right now. They have spoken to us and said that whereas previously they were hoping for jobs so they could keep their employees busy, now it is quite the other way around. They have so much work on now they are looking for more workers. One of them even said to me that they would pay a labourer

the same rate as a graduate pharmacist to attract workers. My portfolios and those of my ministerial colleagues are flat out getting infrastructure built.

It is simply the case that Labor talked about infrastructure but they did not deliver infrastructure. They talked about the Royal Hobart Hospital redevelopment; we have delivered it. They talked about the Bridgewater Bridge, but Mr O'Byrne spent the money on other projects, and now we are having to catch up. The federal government has partnered with us, and there has been a magnificent injection of funding through last year. I will tell the members opposite that last financial year we had more projects delivered than in the last decade - 38 projects were completed. I invite members trapped in Hobart to go for a drive - head on to the Midland Highway, head up the Great Eastern Drive.

Opposition members interjecting.

Madam SPEAKER - Order - six minutes.

Mr FERGUSON - Go for a drive around regional Tasmania. You will not be able to travel between two regions of our state without being disrupted by roadworks. Go and look at those jobs. Meanwhile, I will, however, take the free advice of the Opposition Leader to continue to crack on with the infrastructure program, together with all my colleagues in our portfolios.

World Heritage Area - Halls Island - Leases Re-signed

Ms O'CONNOR question to MINISTER FOR PARKS, Mr JAENSCH

[10.17 a.m.]

Minister, on 19 January 2018, just before the last state election, your predecessors secretly signed off on the leases over Reg Hall's Hut and over the entirety of Halls Island at Lake Malbena. Fishers, walkers and lovers of Tasmania's wilderness were enraged to discover, ultimately through a right to information process, that your Government had effectively given away an island inside the World Heritage Area for $80 per week. The leases were due for renewal on 19 January this year. Minister, can you confirm they have been re-signed? Can you tell Tasmanians whether the going rate under your Government for a private developer to be granted an island in the Tasmanian Wilderness World Heritage Area (TWWHA) is still $80 per week?

ANSWER

Madam Speaker, I thank the member for her question.

I remind her, and the House, that tourism development in our natural areas not only supports the increasingly valuable nature-based tourism economy in our state but also stimulates jobs in regional economies. I believe bringing people into our wild areas, under appropriate regulation, is also a great way of educating people about the values those areas were established to protect.

I remind the House, and the member, that the Halls Island/Lake Malbena proposal remains subject to all relevant state government and Australian Government planning and

approval processes. It is a proposal from a proponent, not the Government. The Government is the assessor of that proposal, where it intersects with state legislation and regulations. That proposal still has a way to go to prove it is able to deliver what it is intending to do in a way consistent with values of the area it is contained in and that it meets requirements under a reserve activity assessment (RAA) and relevant Commonwealth legislation as well.

Now I go to the matter of giving away land in the Tasmanian Wilderness World Heritage Area (TWWHA). Two leases in relation to Halls Island have been issued. A commercial lease of Halls Island was granted in January 2018. The lease grants Wild Drake Pty Ltd access to the island for the purpose of constructing and operating a standing camp and other improved uses. When and if they meet the requirements of all relevant legislation, they cannot proceed to develop those facilities until they have an appropriate business licence and have passed the RAA.

There is a separate private domestic lease for the use of the historic hut on the island, which Ms O'Connor referred to as well, similar to the licence held originally by Reg Hall, since 1957.

Madam Speaker, the other issue we raised included the lease rental charge. I am advised that the Tasmania Parks and Wildlife Service commissioned an independent valuation to determine the lease rental for Halls Island. The appropriate process was followed to determine a fair and reasonable return to the state, increasing over time. We use the same process for all such leases in reserve areas. It is very important we do not treat that as real estate - it is not a shopfront in the middle of Hobart, it is a World Heritage Area. We rely on the valuer to put a rent value on it and we take the independent valuer's advice. The most important process of assessment and valuation is the determination under the RAA and other processes of what this proposal or development would need to satisfy to have permission to operate there.

Ms O'CONNOR - Point of order, Madam Speaker, under standing order 45, relevance. We kept the question short so the minister might be given an opportunity to actually answer it. The question related to whether the leases had been re-signed and for what rental cost.

Madam SPEAKER - I ask the minister to be relevant.

Mr JAENSCH - A number of matters were raised in the question, Madam Speaker.

The rental for the Halls Island lease is presently $1050.63 per annum, which will increase to $4000 per annum on practical completion of the development should it be permitted to proceed. It will be varied annually at the rate of 2.5 per cent and will be subject to review every five years.

Where I was going before with this is that to me, as the minister responsible for our reserve estate, it is far more important we have developments that are able to operate within the required conditions of the permits that may be issued, which may end up costing the proponent far more to satisfy and comply with than we charge them in rent. I believe Ms O'Connor is implying that if we charged more, it would be okay.

Ms O'CONNOR - Point of order, Madam Speaker. There are thousands of people - fishers, walkers and other lovers of the wilderness - who want an answer to this question: has the lease been re-signed by the minister?

Madam SPEAKER - Okay, thank you. Minister, that is the question. I ask you to be brief.

Mr JAENSCH - Thank you, Madam Speaker.

I think the member is updating her question as we go. My point is that it appears in this question of how much the lease is charged for, that somehow if we charged more, it would be okay. I cannot quite understand what point of principle Ms O'Connor is most concerned about.

I am advised the proponent has asked for an extension of time to meet the time frames of the conditions precedent within the lease and my department is considering that request.

Ms O'Connor - Have they been re-signed?

Madam SPEAKER - Thank you.

Ms O'CONNOR - Point of order, Madam Speaker. He did not answer the question. You cannot get up to the lectern and not answer a question like that.

Madam SPEAKER - I understand your frustration, Ms O'Connor, but you know the practices of this House - where we indulge very long questions, the minister has the right to answer it in the manner he sees fit.

Ms O'Connor - It was a very short question, with respect, Madam Speaker.

Madam SPEAKER - I do understand that, but unfortunately, that is it.

Infrastructure and Transport - Davey Street Repair

Ms OGILVIE question to MINISTER for INFRASTRUCTURE and TRANSPORT, Mr FERGUSON

[10.25 a.m.]

Minister, Davey Street is like a soggy birthday cake. The ruts and ridges are out of control. I appreciate your commitment to the repair of Davey Street; however, with kids returning to school recently, I have been contacted by many residents eager to know when we can expect substantial works to be completed, because this would be the icing on the cake for the commuters - a path for the new year.

ANSWER

Madam Speaker, I thank the member for her question and her interest in this matter.

The state Government took control of Davey and Macquarie streets from the Hobart City Council, which had not looked after the fabric of the pavement on either of those roads. Davey Street in particular is in shocking condition.

Thank you, Madam Speaker, and Ms Archer as well, in relation to those roads. Together, Ms Ogilvie and I personally inspected the pavement. We spoke to the department -

Members interjecting.

Mr FERGUSON - Madam Speaker, I do not know what I missed there, but nobody from the Opposition raised Davey Street with me, I will tell you that.

For those who care about more infrastructure, not less infrastructure, I inform the House -

Opposition members interjecting.

Madam SPEAKER - Order. We have some information.

Mr FERGUSON - As a result of those very effective lobbying efforts and the fact that we now own the road, we have taken that project to tender and it is currently being assessed. We need to do it in stages because we do not want to create too much disruption on one of Hobart's busiest arterial routes. Stage 1 will commence in the first half of this year, as soon as we have finished the tender assessment, and we expect stage 2 also to occur this year, 2021.

Rebuilding a Stronger Tasmania - ABS Data

Mr ELLIS question to PREMIER, Mr GUTWEIN

[10.27 a.m.]

Can the Premier provide an update on how recent Australian Bureau Statistics (ABS) data show that the Government's plan to rebuild a stronger Tasmania is working? Is the Premier aware of any alternative approaches?

ANSWER

Madam Speaker, I thank Mr Ellis for that question and his interest in this very important matter.

The importance of confidence in our community cannot be understated. Businesses in Tasmania are some of the most confident in the country, and because of that they are investing for growth and they are hiring. That is why it is important we provide the House with an update today because this is something that we can all be pleased about, albeit some more grudgingly than others.

The ABS has confirmed that our economic recovery is well underway. The positive data we received yesterday demonstrated that state final demand grew 3.3 per cent in the December quarter, the second largest and strongest growth of any state. It follows growth of 5.5 per cent in September, our highest growth in 18 years.

Final demand results were underpinned by state-leading private investment growth of 8.4 per cent in the quarter, which reflects strong investment in construction equipment and more houses, supported by our construction blitz and the HomeBuilder programs.

Our businesses are investing to recover and grow. Business investment was 8.2 per cent higher in the quarter to be 7.4 per cent higher than at the same time the year before. Government investment also grew at the second highest rate in the country - 5.7 per cent -

because at the height of the pandemic last year we knew it was the Government's role to step in to support our economy, which we did with a $1.1 billion social and economic package followed by a $5 billion infrastructure program in the budget.

Importantly, household consumption is also up for the quarter - 2.4 per cent - reflecting that confidence that we are seeing across our economy.

Importantly, employment has returned to pre-pandemic levels. We have the lowest unemployment rate of all the states. ABS payroll jobs data yesterday showed that jobs grew a further 2.7 per cent in the month to mid-February.

Importantly, state final demand is now at 1.5 per cent higher than the December 2019 quarter. Our economy, albeit having gone through a pandemic that has impacted the rest of the world and the country, is bigger than what it was before we went into it.

Our recovery overall is the second-strongest of all the states. These positive results are because we have confidence in our community. Confidence that is important. Confidence is a fragile thing and yet on that side of the House they do whatever they can to tear it down.

In May last year, thousands of Tasmanians lost their jobs, retail trade fell, confidence collapsed and we responded. The state final demand figures clearly demonstrate that. You know what was really interesting last night, Madam Speaker?

Madam SPEAKER - No, I do not.

Mr GUTWEIN - This positive economic news, this gem for Tasmania, the confidence that it supports. It took the shadow treasurer until 8.29 last night to say anything on this - 8.29 last night. If I release something early on a Friday afternoon, he will claim I am taking out the trash. Well, what were you doing last night? Putting the bins out, were you? The ABS numbers came out yesterday. It took him nine hours to pen a press release. Nine hours, even for you. Goodness me. What was the title of it? I have been waiting a while for this - 'Labor Welcomes State Final Demand Result', put out at 8.30 last night at a time when I guess he thought that the papers had gone to bed so he would not be quoted.

It is just extraordinary. It took him nine and a half hours to craft that release. For just one moment, even though it was late in the day, he took off that black cloak of negativity and he let in a little positive ray of sunshine. The convoy of relentless negativity of which he is in the vanguard came to a halt last night just for a moment. The recovery denier, Mr O'Byrne, was positive, and I thank him for that. May we see more of it.

On this side of the House we have a plan and that plan is working. We have rebuilt confidence. We are investing. Importantly, the confidence that we are seeing across our broader economy is leading to further investment which is leading to further jobs. We will continue to roll out that plan. As we grow our economy we know that we will see revenues increase. That was evident in the mid-year report. If those revenues increase our budget position will right itself and, importantly, we will have even more to spend on health and education and supporting the most disadvantaged.

I hope that the other side of the House would not wait until the depths of the night to support, to be positive, about what was yesterday for this state very positive news. I hope that

next time it does not take him nine and a half hours to bring himself to the point where he can put out a release that actually welcomes good economic news for Tasmania.

Infrastructure Program - Schedule

Ms WHITE question to MINISTER for STATE GROWTH, Mr FERGUSON

[10.35 a.m.]

Tasmanians know that this Government cannot build. They know your track record on building over seven long years of this Government has been characterised by incompetence and lack of delivery. You know that by telling Tasmanians you are going to build the state's way out of the pandemic you are, in fact, building them a house of cards.

The recent mid-year budget update shows that you delivered less than 20 per cent of this year's infrastructure budget by December 2020. Based on your appalling track record, you know it is not only unlikely but almost a certainty that more than half of this year's infrastructure budget, a total of about $600 million, will not be delivered. This would mean over $1 billion of promised infrastructure has not been delivered since the last election.

Can you explain to Tasmanians why your infrastructure program is so chronically behind schedule?

ANSWER

Madam Speaker, I thank the Leader of the Opposition for her question. I am grateful for the question; it is a really important subject. This Government gets it, that is why we have turbocharged our infrastructure investment despite calls from the Opposition to spend less on infrastructure. We will not have a bar of that.

Did you notice how prickly the Leader of the Opposition was when she has called out -

Ms White - Because you lied.

Madam SPEAKER - Order. We do not accuse people of being a liar. It would be better if you could rephrase that.

Ms WHITE - I withdraw the word 'lie' and replace it with the word 'misled'.

Mr FERGUSON - Thank you, I will take the withdrawal. It was James Kitto on 10 November 2019 in the *Mercury* who faithfully quoted Ms White when he said that Ms White had said the Government should spend less on infrastructure upgrades and more on transport services to get commuters travelling together.

Ms White - That is not a direct quote.

Mr FERGUSON - Quote:

> 'If you're thinking about spending $1 million on a significant infrastructure project in Tasmania, what would it look like if you spent part of that money on incentivising public transport uptake instead?' Ms White said.

Members interjecting.

Mr FERGUSON - Instead. If you make -

Members interjecting.

Mr FERGUSON - Hello, need a new economy advisor, Madam Speaker? Ms White went on to say:

> If you make times of travel more convenient and more buses accessible, I think you'd have more people on those buses and more cars off the road.

Ms White said the Government should spend less on infrastructure. We will not have it -

Members interjecting.

Madam SPEAKER - Order. This is unruly.

Mr FERGUSON - Let us focus on what is important here. What is important is jobs. We are delivering. If the Labor Party is truly interested in this question let us focus on jobs because that is what our infrastructure program is delivering together with -

Members interjecting.

Madam SPEAKER - Order, please.

Mr FERGUSON - There is a lot of defensiveness over there. I wish to be able to answer the question.

Madam SPEAKER - They are very tired.

Mr FERGUSON - Yes, they are very tired and grumpy, doing all that work putting out press releases at 8.30 p.m.

The simple fact is, a point in time last year, $20 million up at December. Even that is not the most useful comparison. You should be looking at year on year. The simple fact is, this Government is achieving on average nearly $100 million more per year than the former Labor-Greens government. That is our track record. That is not the future. That is our track record - $100 million more achievement of infrastructure per year than the Labor-Greens government.

We are delivering. We will not be making apologies to Ms White or Mr O'Byrne, who spent the Bridgewater Bridge money on other projects. Ms O'Byrne failed to lay a single brick on the Royal Hobart Hospital -

Members interjecting.

Madam SPEAKER - Order.

Mr FERGUSON - I do not have a brick with me here today. This Government laid the first brick, this Government laid the final brick, and we have built that fantastic facility for our community -

Opposition members interjecting.

Madam SPEAKER - Order.

Mr FERGUSON - It is a fantastic outcome. I am proud of the role I played.

Opposition members interjecting.

Madam SPEAKER - Order.

Mr FERGUSON - All the noise coming from the people who failed to deliver. Giggles do not cut it.

Opposition members interjecting.

Madam SPEAKER - Order, please. Minister, you have 4.5 minutes.

Opposition members interjecting.

Madam SPEAKER - Order, order.

Mr FERGUSON - All these sounds coming from people who failed Tasmania. Let us focus on the job.

Opposition members interjecting.

Madam SPEAKER - Order, please. Could we have some respectful debate for a change?

Mr FERGUSON - We are delivering, and we will continue to deliver. Our infrastructure program is very ambitious. It needed to be, because we wanted to help our state recover from the pandemic - and it is working. Under the Liberal Government the unemployment rate is the lowest of the states, at 5.9 per cent. We would like it to be lower, but we have it under 6 per cent and we have the best performing economy in the country.

Ms O'Byrne - What's your participation rate? What about all those people apparently using unemployment benefits as a -

Madam SPEAKER - Order, order.

Mr FERGUSON - We have saturated our industry sector with work. They are looking for more employees to help them build our infrastructure. I will not have a bar of Labor knocking our construction sector - nor, for that matter, hardworking public servants who are

working hard to get those projects into the market. They are working around the clock in many cases.

Opposition members interjecting.

Mr FERGUSON - Madam Speaker, all those noisy interjections have to be seen for what they are. They know their record, and they are jealous to see a government delivering for our state. That is the wrong attitude. You should focus instead on Tasmanians and what they need. What they need is jobs - and that is what we will deliver.

Infrastructure and Transport - Northern Tasmania - Project Delays

Ms WHITE question to MINISTER FOR INFRASTRUCTURE AND TRANSPORT, Mr FERGUSON

[10.42 a.m.]

You have utterly failed the state's north. In the 2018 election campaign this Government promised that stage 1 construction of the new Tamar Bridge would commence during this current term. It has not moved beyond the feasibility and consultation phase, and a project originally scheduled for completion by 2023 is now pushed back until 2027. That is a four-year delay - if it ever commences. The Government promised the Charles Street Bridge duplication would commence in 2018-19; instead it appears you have completely walked away from that commitment.

You know that Tasmanians are facing unprecedented traffic problems because of your incompetence in building traffic solutions. You are responsible for chronic infrastructure failures in Tasmania's north. Your lack of delivery is risking jobs and letting people in northern Tasmania down. How can you justify these broken election promises?

ANSWER

Madam Speaker, I thank the Leader of the Opposition for her question.

It is Thursday. It is Labor's day to suddenly be interested in infrastructure -

Opposition members interjecting.

Madam SPEAKER - Order. Can we please get through this question with some silence?

Mr FERGUSON - I would like to be able to express an answer to these questions, but without that negativity. It is very difficult. We have made great progress on the Charles Street congestion problem. It is a matter of record -

Ms O'Byrne interjecting.

Madam SPEAKER - Order, order please.

Mr FERGUSON - It is a matter of record that, just as she had a press conference in the driveway of a private home in Clarendon Vale, Rebecca White also had a press conference at

the Charles Street Bridge, and just over her shoulder were happening the roadworks she was complaining had not started. Literally on that day -

Opposition members interjecting.

Madam SPEAKER - Order.

Mr FERGUSON - I know it is inconvenient. Those are the facts. On the day you were holding this press conference, complaining about lack of progress, the roadworks were happening - literally, over your shoulder. We have delivered the extra lane turn for Forster Street. We have delivered the new controlled intersection on Gleadow Street. We are now working in partnership with the Launceston City Council to change traffic management, including stopping the right-hand turns.

Opposition members interjecting.

Madam SPEAKER - Order, order.

Mr FERGUSON - Labor is complaining because they seem unaware -

Opposition members interjecting.

Ms White - Point of order.

Madam SPEAKER - Order, I have a point of order, Minister.

Ms WHITE - Thank you, Madam Speaker. I ask you to draw the minister's attention to the question, which is actually about a bridge. He is talking about road and traffic lights, and as the Minister for Infrastructure and Transport, he should know the difference.

Madam SPEAKER - I ask the Minister to be relevant and to be mindful of time.

Mr FERGUSON - I seem to remember a question that mentioned the Charles Street Bridge, but we would like to move off that issue - because, like Clarendon Vale, somebody else can get the blame for that. The new Tamar River Bridge project is so exciting -

Ms White - So you won't talk about the duplication of the Charles Street Bridge?

Ms O'Byrne - and more complex than first anticipated, which you knew when you falsely promised it.

Madam SPEAKER - Order.

Mr Gutwein - Hear, hear.

Ms O'Byrne - In 2027? Would you even still be here?

Madam SPEAKER - Order, Ms O'Byrne.

Mr FERGUSON - We are working on this with the local government sector in the north for the entire Tamar Valley community. It is a very strong and effective partnership. The Tasmanian Government has allocated $25 million in 2022-23 as an initial contribution towards construction. Further funding is to be committed over the following years, subject to the feasibility assessment, once design costs and Australian Government contributions are confirmed and finalised. Some people seem too fail to grasp that you need to do the traffic modelling, the design principles and work with councils.

Ms O'Byrne - And you also do not have enough money for it, so the federals have to pay for a 2018 promise.

Madam SPEAKER - Ms O'Byrne, I ask you again.

Ms O'Byrne - So you fibbed. You announced something you could not do. Broken promise.

Madam SPEAKER - Order, order, order.

Mr FERGUSON - Madam Speaker, people should not have to endure these mistruths from the Labor Party.

Ms O'Byrne - No the electorate should not be lied to. You are quite right.

Mr FERGUSON - We are doing precisely what we committed to do. What did we promise to the people? We promised to do a feasibility study, and that is happening. People should not receive those mistruths; it is very deceptive and misleading, and it actually undermines the incredible work happening in my department.

Madam Speaker, it is very difficult -

Ms O'Byrne - What did council tell you when you talked about it? What did they tell you? What did each of the councils tell you?

Madam SPEAKER - Order.

Duck Shooting Season

Dr WOODRUFF to MINISTER for PRIMARY INDUSTRIES AND WATER, Mr BARNETT

[10.47 a.m.]

Evidence of the climate crisis and collapse of ecosystems is everywhere. In 2019, waterbird population surveys across eastern mainland states found numbers of birds in areas of wetlands were the lowest since counts began in 1983. Approximately half the species of waterbirds were found on just 11 wetlands. Your department reports the substantial movement of ducks between mainland states and Tasmanian wetlands during droughts. Despite this, you continue to approve the annual duck shooting season as if there is no tomorrow. Clearly, your pledge to hunters before the 2018 election to protect their so-called right to shoot is more important than your responsibility as a minister to protect our threatened wildlife.

In addition to the impact on native duck populations, the shooting season results in cruelty on a devastating scale. Thousands of ducks will be shot in the name of sport. Many will suffer gunshot wounds but not die immediately; instead they will suffer for hours or days before dying. New South Wales, Queensland and Western Australia have banned duck hunting, and Victoria and South Australia have substantially reduced their seasons.

The vast majority of Tasmanians would be appalled to hear your department estimated nearly 50 000 ducks were shot in 2019. Yet you propose no restrictions to the season that commences this Saturday, 6 March.

Minister, why will not you listen to the science, your department's ecologists, animal welfare advocates, and bird experts, and finally put a stop to the annual duck slaughter?

ANSWER

Madam Speaker, I thank the member for Franklin for her question. I do not recall a ban on duck-hunting during the Labor-Greens government. I make that comment because the member for the Greens was part of that Labor-Greens government for four years.

Our Government recognises that appropriately managed duck hunting is a traditional form of recreation in Tasmania. The department manages an open season to provide access for recreational hunting, and has strict regulations and procedures in place to ensure the hunting of ducks is humane and sustainable.

The determination of wild duck hunting season is based on the results of waterfowl monitoring surveys over wetlands which have been conducted in Tasmania for more than three decades, including under the Tasmanian Labor-Greens government, which never banned duck hunting at the time.

I can advise that the 2021 surveys indicate that duck numbers are at acceptable levels as a result of increased rainfall. There has been increased rainfall over the summer period and ducks are well dispersed across Tasmania.

Dr Woodruff - That's in stark contrast to what everywhere else in Australia is recording. Release the data.

Madam SPEAKER - Order, please. That can be a question for tomorrow.

Mr BARNETT - Thank you, Madam Speaker.

As a result of that, the secretary of my department this week announced his decision, as Director of National Parks and Wildlife and Director General of Lands, to allow access to specified reserve land during the duck season. The secretary has released a statement with the reasons for his decision, which is available on the department's website. I have previously advised this is a decision for the secretary, not for me as minister.

Consequently, the 2021 hunting season for wild duck in Tasmania will open on Saturday, 6 March. I take this opportunity to remind all licensed hunters that they are required to abide

by the rules and regulations throughout the season. My department compliance officers will be monitoring the activities of duck hunters and, where necessary, enforce those requirements.

I note in passing that a significant proportion of duck hunting occurs on private land, assisting landholders, farmers and the like in managing the impact of ducks on primary production activities. There are members in the Chamber who know the importance of that.

I have also said on multiple occasions and confirm again on the record in conclusion that I am advised the long-term population of monitoring of wild duck populations conducted annually by the department shows no evidence of long-term decline in wild duck numbers in Tasmania over this period.

Rebuilding a Stronger Tasmania - Agricultural Shows - Government Support

Mr TUCKER question to MINISTER for DISABILITY SERVICES and COMMUNITY DEVELOPMENT, Mr ROCKLIFF

[10.52 a.m.]

Rural and rural show societies play an important cultural and social role across Tasmania. Can the minister please advise how the Tasmanian Government is supporting Tasmanian agricultural shows in 2021 to rebuild a stronger Tasmania?

ANSWER

Madam Speaker, I thank Mr Tucker for his question. I know he has a considerable interest in this matter.

Agricultural shows bring regional communities together. They celebrate life on the land and are a very important part of our culture. They showcase local strengths and hospitality as well as past and innovative farming practices and share the lived experiences of life on the land with the rest of Tasmania.

Since 2019 the Tasmanian Government has continued to provide funding each year to rural and regional show societies across Tasmania, and it is my pleasure to announce that applications are now open for the Agricultural Show Development Grants Program 2021.

Our funding recognises that show societies face challenges such as increasing operational costs, maintaining ageing infrastructure, attracting funding and volunteer support and meeting changing community expectations.

In the 2020-21 grant round, eligible shows can apply for funding of up to $25 000 from a funding pool of $257 000 to support the operation of the annual agricultural show and provide benefit to the society or the regional community through upgrading and maintaining existing and/or construction of new infrastructure.

Of course, 2020 has changed the way such events can be run successfully and, importantly, safely, so the guidelines have been broadened to include support for agriculture show societies so they can meet additional costs in holding these events.

The expansion of the grant round means that eligible projects now include enhanced use of technology to support participation and new activities, improve business management planning for shows and marketing strategies and permanent infrastructure upgrades to enhance public safety such as new entrances and new fencing.

To meet the new challenges of holding events, the 2021 grants program has been revised to help better support show societies in meeting requirements in holding safe, larger events and to support the ongoing viability of the societies.

We are also providing an additional $50 000 to Tasmanian Agricultural Shows, the peak body for show societies, to purchase hygiene and patron management equipment. Bollards, hand sanitiser, stands and signage will be purchased and shared by all agricultural shows so they can confidently and safely operate under our framework for COVID-19-safe events and activities.

Like many community organisations, our agricultural shows felt the challenges of 2020 very much indeed. I acknowledge my colleague, the Minister for Primary Industries and Water, Guy Barnett, who continues to be a very strong advocate for our vital agricultural show sector and has attended many agricultural shows over a number of years. He will be discussing this announcement later on today.

It is my aim that these grants will help rebuild a stronger Tasmania by keeping agricultural shows running for the 2021 show season, invigorating regional communities and bridging the divide between the country and the city. Program guidelines and application forms are available online at the Department of Communities Tasmania website.

Transport and Infrastructure - Southern Tasmania - Project Delays

Ms WHITE question to MINISTER for STATE GROWTH, Mr FERGUSON

[10.56 a.m.]

You have utterly failed southern Tasmania. During the 2018 election campaign this Government promised a Hobart underground bus mall; it also promised that building would commence in this term of government, to be finished within two years. The only progress so far is a consultant's report. You also promised the people of Hobart that work on the critical traffic-busting northern corridor passenger rail would be completed within five years. You were given $25 million by your Canberra colleagues to get on with that job, but again, the only progress so far is a pile of paper.

You promised major works at Macquarie Point would be well underway in this term of government. You promised the airport roundabout would be completed by 2020. You promised to spend $35 million on a fifth lane for the Southern Outlet, but three years later delivery has not matched your rhetoric.

Minister, where is the underground bus mall? Where is the northern corridor passenger rail? Where is the crucial work on the Southern Outlet? Your failure to deliver these promised infrastructure projects is risking jobs and causing traffic congestion to gridlock the city at peak times. Why have you broken these promises?

ANSWER

Thank you, Madam Speaker, and I thank the member for her question on this important matter and her interest in it.

It has to be said that these are promises we are keeping in all cases -

Ms White - All of them?

Mr FERGUSON - Yes. We are a government that has kept our promises and we will continue to do so.

A lot of projects were mentioned in that long question. If the member is really interested in any of those individually, I refer her to the publicly available information which gives the community a complete update on where they are at, including many which Labor has attempted to frustrate, including the Hobart Airport interchange. Mr O'Byrne has been supporting those who have tried to frustrate and slow down that project.

The Tasmanian Liberal Government supports free-flowing traffic and busting traffic congestion in Hobart. We have allocated $30.8 million over four years for congestion mitigation projects. Through the City Deal an additional $20 million has been allocated to address traffic issues affecting Kingborough. That was a very good outcome because rather than spending less on infrastructure and moving that to services, we have been able to do more on infrastructure and more for services.

Many of our congestion-busting initiatives were included in the policies we took to the election - policies we were elected to implement, and we are doing that.

Ms White - What about the fifth lane on the Southern Outlet? You have done nothing. You announced them.

Madam SPEAKER - Order, Ms White.

Mr FERGUSON - Madam Speaker, I think the Labor Party is wanting to make this into a joke.

Members interjecting.

Madam SPEAKER - Can we have some discipline in this House? Please proceed, minister.

Mr FERGUSON - Madam Speaker, very shortly we will be releasing a public update on the implementation of the Hobart City Deal.

I recommend that the Leader of the Opposition looks forward to that public update; furthermore, I encourage the Leader of the Opposition to be more positive about the good things that are happening in our state, to be more positive about the South East Traffic Solution.

Madam Speaker, four lanes to Sorell. Magnificent outcome, announced only last August by the federal government in the budget.

Members interjecting.

Mr FERGUSON - Yes, it is very poor.

Madam SPEAKER - Order.

Ms WHITE - Point of order, Madam Speaker. It does go to standing order 45. I think that the minister needs some help with geography. I am talking about the fifth lane on the Southern Outlet, the northern suburbs passenger rail and the underground bus mall. They were the questions put to you about what is going on with those projects.

Mr FERGUSON - If the leader of the Opposition wants to turn this into a joke, I will reject that. If she wants to make this about jobs, I will embrace it, because this Government is funding projects and we are delivering projects. It is proven by the phenomenal improvement in the unemployment rate. We are back to pre-pandemic levels. The Labor Party is so grumpy about people getting jobs that they wait until the newspapers have been put to bed before they welcome positive news.

Ambulance Stations - Project Delays

Ms WHITE question to MINISTER for STATE GROWTH, Mr FERGUSON

[11.01 a.m.]

As a failed former Health minister, you promised that ambulance 'super stations' would be delivered in Glenorchy and Burnie, but it appears they are no longer 'super' and are also a full year behind schedule. This is at a time when ambulance ramping has never been more chronic, so serious that Tasmanians are now dying while they wait for help.

Our hardworking ambulance crews are stretched to breaking point and burnout. There would never be a more important time to fast-track these urgently required ambulance stations. But you have failed to provide any urgency, and both projects have been delayed.

Minister, why have you let down ambulance staff, who deserve better than your broken promises?

ANSWER

I was asked the question as Minister for State Growth. I have some information, Madam Speaker, but this question, as the Leader ought to know, should go to the portfolio minister, my colleague, Sarah Courtney, who is more than capable of answering in detail, but I will take the question because it has been directed to me.

This Government is delivering infrastructure in every portfolio. Every minister whom I sit with here and their parliamentary secretaries are working flat out with their agencies, and in my own portfolio, with roads and bridges, a phenomenal package of $2.4 billion. We are achieving fantastic outcomes there. As for ambulance and health infrastructure, I encourage the member to ask the question of the Health minister.

Waste Action Agenda - Implementation of Key Initiatives

Mr ELLIS question to MINISTER for ENVIRONMENT and PARKS Mr JAENSCH

[11.04 a.m.]

Can the minister update the House on the Government's progress towards implementing key initiatives under its Waste Action Agenda?

ANSWER

Madam Speaker, I thank my colleague Mr Ellis for his question and his interest and support for this important area of our work as a government.

Our government is taking strong action on waste as we work to reduce litter and build a circular economy in Tasmania.

Our Government has demonstrated our commitment to implement the initiatives outlined in our draft Waste Action Plan, when we announced as part of the budget that an extra $30 million would be invested in waste management recycling and resource recovery in Tasmania over the next four years. A total of $4 million was allocated to the implementation of key actions from the Waste Action Plan, including the container refund scheme and waste levy initiatives.

Once in operation, Tasmania's container refund scheme will significantly reduce litter and increase recycling rates. A CRS, which is due to be operating next year in Tasmania will incentivise collection of recyclable containers by providing a 10 cent refund for every eligible container returned.

The Government recently announced that our preferred scheme model is a split responsibility model, an announcement publicly supported by the Local Government Association of Tasmania, the Waste Management and Resource Recovery Association of Tasmania, the Australian Council of Recycling, Charitable Recycling Australia, Tasmania, and the Boomerang Alliance.

We believe this model will maximise the number of containers returned. It will involve charities and community groups so they can receive the benefits of the scheme as well, and that it will be convenient for the community and reach all corners of our state.

In addition to the container refund scheme, we have also released the draft waste and resource recovery bill for consultation until 12 March. The new legislation is designed to ensure a strategic long-term approach to waste governance and compliance and waste and resource recovery industry development in Tasmania.

The introduction of a waste levy in Tasmania is being carefully considered to ensure it finds the right balance as an incentive to divert waste from landfill and as a source of revenue for reinvestment in the circular economy without placing an undue burden on the Tasmanian economy as it recovers from COVID-19.

Supporting the growth of new businesses and jobs in Tasmania is crucial. Our investment in plastic processing capability in Tasmania is a good example. Through joint funding between the Tasmanian Government and the Australian Government and recycling businesses, the Recycling Modernisation Fund will create investment of over $16 million in Tasmania's circular economy. The Recycling Modernisation Fund Grants Program focusing on plastics recycling recently closed, and we are excited about the new and innovative opportunities that will come from the program, the jobs it will create, and the benefits we will see for our community and environment. I look forward to being able to announce the successful projects in the near future.

Our November budget also allocated a further $10 million to be invested in strategic infrastructure to support the circular economy in Tasmania, improving the way we recover resources, re-using material as many times as possible and reprocessing waste material so it can continue to be used productively in the economy. I will have more to say about the allocation of those funds in coming months.

This Government is making significant progress in implementing a number of key initiatives in relation to waste management, resource recovery and recycling in our state but everyone has a role to play. This update comes at an important time as this Sunday is Clean Up Australia Day. Clean Up Australia Day is an annual event to encourage people to put on their boots and gloves, and join up with other members of their community to clean up litter in their local area. It is an important opportunity to get out with family and friends and community groups to work together to improve the health and the amenity of our important natural areas. We all have a responsibility to take care of our environment. On Sunday I will be getting out in my local area to do my bit by collecting litter. I encourage everyone here to do the same. You can check out the Clean Up Australia Day website for events in your local areas.

Infrastructure - Government Delivery of Projects

Ms WHITE question to MINISTER FOR INFRASTRUCTURE AND TRANSPORT, Mr FERGUSON

[11.08 a.m.]

Minister, your incompetence and absolute failure to deliver projects stems beyond major infrastructure. The fact is you cannot even build basic amenities like a bus shelter. You have replaced the Devonport Transit Centre with a chopped-up shipping container that is completely inadequate but which you describe 'as probably the best transit centre in the state'. You did this without consulting the community, and you have shown the 15 000 passengers who use this facility each year, including children, people with disability and the elderly, that you cannot be relied upon.

Minister, can you explain to Tasmanians how you can possibly be trusted to deliver $1 billion in infrastructure each year when you have failed not only on major projects in the south, the north, and the north-west but that you are also so out of your depth that you cannot even build a bus shelter?

ANSWER

Madam Speaker, I think Rebecca White is going to have a very bad day. This shameful opposition to jobs and the economy dressed up as caring about infrastructure - nobody will believe it, and I do not.

I am happy to address the question and I will do so, but I note in passing that the member has totally lost interest in ambulance stations. Did you notice that? She has completely lost interest in that matter. Just completely lost interest -

Opposition members interjecting.

Madam SPEAKER - Minister, I am listening and I urge the Opposition to do the same.

Mr FERGUSON - I will continue. This Government is delivering infrastructure for our community in every region. I will address specifically the Devonport interchange and I am very happy to do so.

Ms White has entirely misled this House in the way she asked that question. Who called the half-built container at Devonport on Rooke Street an interchange and the world's best transit centre? Not I - that is a total misrepresentation. Ms White ought to actually go there, cross the road and enter the Devonport Living City at the Paranaple Centre, and she will find what I have to say is probably one of the most convenient, enjoyable, comfortable passenger facilities for people coming either from the west of Devonport looking to go to Launceston or people returning home.

Opposition members interjecting.

Mr FERGUSON - I am in your hands, Madam Speaker.

Madam SPEAKER - I am not certain they are very interested so it is up to you, minister.

Mr FERGUSON - No, they are not, but I will continue if you will allow me to be heard.

It is very clear there is a meanness and a nastiness that wants to be expressed - telling people things that are not true. What have we done at Devonport? I would like to answer.

Madam SPEAKER - I would like to hear the answer so please let it be heard in total silence.

Mr FERGUSON - We have been working with the community with two years of public consultation by great people. Some of the most encouragement we have received is from the local councils, specifically Devonport City Council. They have been fantastic to deal with. Regarding the half-built shelter, it is disappointing it was not finished earlier. That is a Devonport City Council project. We have been working together to see if we can accelerate it because I do not want to see a half-finished shelter in that way. Only 50 metres away you will see a perfectly completed one which people are using right now; if it is raining, they could use that or they come inside. Nobody should be sitting in the rain, and I totally endorse that.

The actual services of buses are far better. We have taken it from 22 services from Devonport to Burnie to 60. Why would you criticise that? This is actually helping people get between cities on the coast at a time convenient to them, indeed on the hour during weekdays. Better services mean better utilisation of public transport.

Labor has hitched its wagon to the old transit centre on Edwards Street. Redline sold that for their own reasons, and that is for them to decide, but in the absence of that, we found a great way to bring passenger services together with Devonport Living City. It means better services and better facilities inside. I listened to people and I actually caught the bus and went to Rooke Street, got off and went into Paranaple Centre, and I accepted we needed to do better with locals.

We have done that. Guess how we did it? We worked with good people on the coast. I spoke to passengers, I spoke to the counter staff, and I really enjoyed meeting with the ladies working in the visitor information centre. One woman, I think Deb was her name, was magnificent and friendly, and told me that the feedback they are getting is not what this House has heard from the Labor Party this morning. Passengers are really enjoying the new services, they are better for them because they are better services, and also the facilities are open more hours on more days than was previously the case with Redline.

They are the facts; that is the record. If Labor does not like it, that reflects on it. We are committed to giving those better services to people on the coast, and I will continue my work with Devonport City council to see if we cannot get that second shelter finished sooner.

Ambulance Tasmania - Secondary Triage Service

Mr TUCKER question to MINISTER for HEALTH, Ms COURTNEY

[11.14 a.m.]

Can the minister please provide an update to the House on the new Ambulance Tasmania secondary triage service? How will it support both our paramedics and the community?

ANSWER

Madam Speaker, I thank the member for Lyons for his question.

This Government has strong commitment to Ambulance Tasmania and the services it provides our community. We want to ensure Tasmanians are getting the support they need from our emergency services, which means we have to continue to invest in our paramedics and look at what we can do to divert patients into the most appropriate care for them.

In this regard Ambulance Tasmania has begun implementing the initial stages of its secondary triage protocols for triple zero calls as of last Monday, delivering on the Tasmanian Government's commitment at the 2018 election and bringing our ambulance services into the twenty-first century.

Secondary triage is a brand new service in Tasmania that is used extensively in other jurisdictions. It adds another layer to a clinical assessment initially undertaken by AT's highly trained statewide operation centre staff, with trained paramedics and nurses speaking directly

with patients when a triple zero call comes in and connecting them to alternative health providers and pathways when it is safe and appropriate to do so.

This service is focused on ensuring more callers for ambulance services are getting the right care in the right place at the right time. Not every call to Ambulance Tasmania requires a paramedic led response. We saw last week some success in what is very much the preliminary stage of the rollout and we expect there will be more as this service delivers.

Last week we saw 127 calls referred to secondary triage, with 31 of those calls referred on to response pathways. As a government we are focused on doing all we can to ensure our patients are receiving better, more effective care and secondary triage allows us to do this while maximising the availability of our paramedics for genuine emergency situations. Importantly, emergency calls requiring an ambulance response will continue to have an ambulance dispatched, just as they have always been.

This Government has committed $13.8 million over six years to establish this service following the 2018 election It is anticipated it will assess thousands of calls every single year with the potential to eventually divert well over 10 000 patients to alternative service providers each year.

We have seen this extensively used in other jurisdictions around Australia, including in Victoria, Western Australia and New South Wales, as well as internationally. New South Wales listed some of the types of illnesses they have referred to secondary triage - things like headaches, sunburn, fever, constipation and hiccups. This initial Tasmanian rollout of secondary triage statewide is supported by a community awareness campaign, which has started in television and social media, promoting the information to the Tasmanian community.

We will continue to invest in our paramedic service. We have now over 170 FTE additional staff in Ambulance Tasmania, more than when we came to government, with new services representing an exciting opportunity.

Time expired.

PERSONAL EXPLANATION

Misrepresentation by the Minister for State Growth

[11.18 a.m.]

Ms WHITE (Lyons - Leader of the Opposition) - Madam Speaker, under standing order 127, I wish to make a personal explanation. I claim to be misrepresented by a statement made by the Minister for State Growth in question time today. He said that he was quoting me, when he said that I said government should spend less on infrastructure and more on services. I have referred back to a copy of the report from 10 November. I never said those words, and he should withdraw that statement which he said was a direct quote from me.

Further to that, in relation to the Liberal Party's promise that it would duplicate the Charles Street bridge, the minister also accused me of standing in front of a project that was being built. That is also not true. On the Government's own website about that project, it now asks in a Q&A, 'Why not upgrade the Charles Street bridge?' and then says that they will no longer be doing that. It is clearly a broken promise. I was not standing in front of a project

that you are doing, because you are not doing it. I ask the minister to withdraw his misleading statement because he has caused personal offence by misrepresenting me.

Madam SPEAKER - I believe you have corrected the record so we do not need to ask the minister.

PETITIONS

Hellyer Turnoff and Rocky Cape Road House - Lower Speed Limit

Mr Jaensch presented a petition signed by approximately 226 citizens of Rocky Cape, Hellyer and surrounding areas in the municipality of Circular Head, requesting that the House supports the request to lower the speed limit between the Hellyer turnoff and the Rocky Cape Roadhouse from 100 to 80 kilometres per hour.

Free TAFE in Tasmania

Ms O'Byrne presented an e-petition signed by approximately 96 citizens of Tasmania requesting that the House supports free TAFE.

Criminal Code - Repeal of Section 50

Dr Woodruff presented a petition signed by approximately 58 citizens of Tasmania requesting that House act on the overwhelming rate of scientific evidence that holds physical punishment of children is ineffective and harmful and repeal section 50 of the Criminal Code Act as a matter of priority.

Petitions received.

MOTION

Sitting Date

[11.25 a.m.]

Motion by **Mr Ferguson** agreed to:

> That the House, at its rising, adjourn until Tuesday, 16 March next at 10 a.m.

MATTER OF PUBLIC IMPORTANCE

Rape Culture

[11.26 a.m.]

Ms O'CONNOR (Clark - Leader of the Greens) - Madam Speaker, I move:

> That the House take note of the following matter - rape culture.

It has been a harrowing few weeks for the women and girls of Australia. We have brought this on as a matter of public importance today because we believe it is important to give women and girl victims of sexual assault, harassment, humiliation at the hands of men, a voice in this place.

I believe there is a level of incandescent rage in our community across the country now. Pardon my truncated French, but the women and girls of Australia are effing sick of this. We want it to end. It must end. It began with the mighty Grace Tame, our Tasmanian Grace Tame, becoming Tasmania's first Australian of the Year. I acknowledge Grace's courage, her strength and her leadership and a shining light that she is for women and girls in this country.

It was an image of Grace Tame standing next to the Prime Minister, Mr Morrison, that inspired former Liberal staffer Brittany Higgins to come forward with an allegation of a rape that took place in March in 2019. What Brittany Higgins was subject to, in her own words, at the hands of the Prime Minister was victim blaming, the Prime Minister's office briefing against her partner, and the Prime Minister himself diminishing Ms Higgins by constantly referring to her as 'Brittany' as if she were a child.

Then late last week, an allegation of the most serious and egregious nature against the highest law officer in the country. Every person in our community is entitled to the presumption of innocence, no matter who they are and where they come from and we must bear that in mind. After our late sitting last night, I got home and watched the entire interview of the current Attorney-General, Christian Porter, and it did nothing to diminish my fury. Here is a man who could not remember whether he had a girlfriend at the time, but he could remember some prawns that were on the dinner table. I believe his position is untenable and the question women will be asking themselves now is: is a man's career more important than a woman's life in Australian politics?'

I have noted across social media and in the media in recent days how very triggered Australian women and girls have been by the events of the past few weeks. We all have a story. Every one of us has story, either of being assaulted, harassed or humiliated in our workplace, or being diminished because of our physical appearance, and we are sick of it.

We have all been subject to casual sexism. We have all been subject to misogyny. It has to end. I want to quote now from Grace Tame's incredible speech to the Press Club yesterday, where a number of female journalists were on the brink of tears, while they were asking her questions. I take this opportunity to thank the women of the press gallery, women like Samantha Maiden, Laura Tingle, Louise Milligan - these incredible, gutsy women who have been our voice - and wonderful Grace Tame, who had the courage to stand up and whose courage led to law change in Tasmania. I acknowledge Attorney-General Ms Archer, who brought forward law reforms so that victims of sexual abuse could be given a voice.

During her contribution yesterday at the Press Club, Grace said:

> After all this, it became quite obvious to me why child sex abuse remains ubiquitous in our society, while predators retain the power to get what they want, to objectify their targets through free speech, the innocent, survivors and bystanders alike, are burdened by a shame-induced silence.

On a path forward, she says:

> It is so important for our nation, the whole world, in fact, to listen to survivors' stories. "Whilst they're disturbing to hear, the reality of what goes on behind closed doors is more so. And the more details we omit for fear of disturbance, the more we soften these crimes. The more we shield perpetrators from the shame that is resultedly misdirected to their targets. "When we share, we heal, reconnect, and grow. Both as individuals and as a united strengthened collective. History, lived experience, the whole truth, unsanitised, and unedited, is our greatest learning resource. It is what informs social and structural change. The upshot of allowing predators a voice but not survivors encourages the criminal behaviour.

She goes on:

> Number one, how we invite, listen, and accept the conversation, and lived experience of child sexual abuse survivors. You have heard me say it before, it all starts with conversation. Number two, what we do to expand our understanding of this heinous crime, in particular, the grooming process, through both formal and informal education. Number three, how we provide a consistent national framework that supports survivors and their loved ones, not just in their recovery, but also to disempower and deter predators from action.

We have a collective responsibility in this place - men and women - across politics, to stand up against rape culture, to speak up against casual sexism and misogyny, and to give voice to women who do not have a voice. We have to take a sledgehammer to the patriarchy.

Time expired.

[11.33 a.m.]

Ms OGILVIE (Clark) - Madam Speaker, I rise to talk about standing up with girls against online harassment and abuse.

Girls around the world are physically threatened and abused, sexually harassed and body-shamed online. This is a new problem for the next generation. It is not only girls. I believe everybody in this Chamber would be aware of issues we have in our state, particularly those who are brave enough to put their hands up for public office. They cop it, and cop it badly. I am sure we all have stories. I have some particularly vile stories, which I will not recount in this place. Suffice it to say, even someone like me - who is a reasonably articulate, strong person, who knows the rules of the road, who can handle the laws - still finds it very difficult to get action when an issue or something horrible is put online, particularly when it is done anonymously. Currently, there are sexualised memes online about me that are not funny, are inappropriate and should not be there. I have tried to complain and I have tried to address it. Apparently, I now have to live with it. If I cannot do it, what hope do our daughters have. It is terrible.

I want to draw the attention of the House to Plan International's efforts in this regard, as it is a good week to be taking action. They are doing an international petition against online harassment and abuse.

Girls say that when they speak out and try to address things, it only gets worse and more attacks come. That is true. Online violence is serious. It causes real harm. It is silencing girls' voices, and that is unacceptable. In this global pandemic, when our lives are moving online, girls are more at risk than ever.

Plan International is having 16 days of activism. I encourage everyone to sign on to their petition and share your thoughts. They write:

> Dear Instagram, Facebook, TikTok and Twitter. We represent the 14 000 girls from 22 countries who spoke to Plan International about online abuse. **We are urgently asking you to work with us to end online harassment on your platforms**.
>
> We love your platforms. They are a huge part of our daily lives. We use them not just to connect with friends but to **lead and create change** but they are not safe for us. We get harassed and abused on them Every. Single. Day.
>
> We are physically threatened, racially abused, sexually harassed and body shamed. Online violence is serious. **It causes real harm and it is silencing our voices**. As this global pandemic moves our lives online, we are more at risk than ever.
>
> **Did you know that 50 per cent of us face more online harassment than street harassment**. And 42 per cent of us lose self-esteem or confidence as a result of it?
>
> **Online violence shapes our identity, while telling us what is wrong with our identity**. Of the girls who have been harassed, 37 per cent from an ethnic minority said they get harassed because of their ethnicity or race and 56 per cent of the girls who are LGBTIQ+ and have experienced harassment say they get harassed because of it.
>
> We are told if we can't handle the harassment we should not be on social media. That's messed up. We should not have to cope and shrink ourselves in an unfair system. **The world needs to stop normalising online violence**.
>
> We know that many of you are taking steps to make your platform safer. That is awesome, thank you.
>
> **But right now it is not enough**.

I do not believe there could be a more compelling summary of one of our real, live issues. It is terribly difficult. I encourage everybody to get online at Plan International and sign their petition. Let us see what we can do to improve things locally as well, not only for the people in this place but also for our kids and the generation who will come after us.

[11.38 a.m.]

Ms HADDAD (Clark) - Madam Speaker, next Monday is International Women's Day. It is usually a day to reflect on the successes and how far we have come, things we have achieved as a nation and internationally to increase gender equality - such as fighting for equal pay, maternity leave, carer's leave and increasing the number of women in positions of leadership, such as this parliament where we are now over 50 per cent women.

It is also a time to recognise the work still to be done. This year feels very different. In 2020-21, it feels harder than ever to celebrate our wins; it feels as though it is a year where we, as women, can only focus on the work that is still to be done - because there is so much.

International Women's Day this year falls amidst weeks and months of us witnessing rape culture at its worst, misogyny at its worst, entitlement and privilege at its worst. I have only been here three years and in that time I have spoken in this place about the brutal, unprovoked rape and murder of Eurydice Dixon, a young, talented comedian in Melbourne; about the brutal, quadruple murder of Hannah Clarke and her three children by their husband and father after years of coercive control and abuse; and about the atomically powerful Grace Tame, and her relentless #LetHerSpeak campaign to change our outdated evidence laws.

Like the member for Clark, I acknowledge the Attorney-General in bringing forward those laws to allow survivors of child sex abuse to tell their story. The previous laws were the very embodiment of power imbalance.

What a trail Grace is now blazing as our Australian of the Year. She is the powerful voice and advocate we all need. She pulls no punches and talks no spin. She will shine a national and international light on sex abuse and rape like no-one else before her. More strength to her. We need more women like Grace, but we have Grace and armies of furious, exhausted women to follow behind her in this battle against rape culture and misogyny.

We have constant reminders of the structural change we need to see to change that and we have not achieved it. They have been abundant in just the last few weeks when we saw Prime Minister Scott Morrison able to empathise with survivor Brittany Higgins only after his wife told him to think about what he would feel if she were his daughter.

We are not unfamiliar with hearing words like that as women when we are attacked, raped, murdered - 'What if it was your mother, your wife, your sister, your daughter?' It is not right because that measures women's lives and safety as valuable only against the roles we play in men's lives - that mothers', sisters', wives', daughters' safety and lives - women's lives - only matter because of those roles. No - women's safety and their lives matter because human safety and lives matter, not just because of the roles we play in the lives of others.

We saw it just yesterday when it was reported that the Australian Defence Force chief Angus Campbell told new recruits to keep themselves safe from what he called the 'four A's for avoiding sexual assault. The four As were alcohol, out after midnight, alone or attractive. He said he was taken out of context, but that is the point - the fact that statements like that can be made by national leaders points to the culture we have of deep systemic sexism and structural victim blaming. Alcohol does not rape people. Being out after midnight or being alone or attractive does not rape people.

Rapists rape people - it is as simple as that.

We talk about rape in the context of how to avoid it, what women need to do and how we need to change our behaviour to avoid sexual assault and rape. People are told to take responsibility. We do take responsibility. We prepare our daughters to go out into the world. We know what our safety plans are and what theirs are. I will read briefly from a list of some of the things women do - they:

- hold their keys as a potential weapon
- do not go jogging at night
- own a big dog
- carry pepper spray
- park in well-lit areas
- do not get on elevators alone with a man or a group of men
- do not wear headphones while jogging
- do not wear ponytails - easier to grab
- avoid wooded areas
- only go out in groups
- make sure you have a cab fare on you at all times.

I have done every one of these things; I doubt there are any women who have not done all of those things. That was from an academic study by a male academic from a United States university who came up with that list, and more, by asking the male students in his class what they did before going out before asking the female students. The male students had to admit they did not do any of that.

I have talked to parents of boys who admitted they did not have to think about that when sending their young men out into the world, but women know we need to do these things to keep ourselves safe because we are not safe in the street, we are not safe in our workplaces, and we are not safe in our homes.

However, I want to recognise the women and men raising that next generation of boys and young men who are helping to fight against this. Maybe there will be some hope in the future, but we have a very long way to go to address those structural power imbalances that lead to things like that being the case.

I want to commend the bravery of women who can and do come forward, and the countless who do not and cannot for so many reasons. It should not take bravery to come forward. but we know it does because we know that if we come forward, we risk our jobs, we risk our friendships, we risk our families and, at worst, we risk our lives, because when women speak our truth, we are shamed, we are denied, we are silenced, we are blamed.

We are told things like, 'If you don't want to get raped, don't get drunk and fall asleep with some bloke. It's that simple, it's like locking your car'. We are called 'lying cows'. We are told, 'What did she expect?' We are told, 'She consented as soon as she got drunk.'. We are told, 'It was her responsibility.'. Where was the focus on the attacker's responsibility in the case of Brittany Higgins' alleged assault and rape? The focus is always on the women and how we need to change our behaviour, and we are all sick of it.

While the focus lately has been on the national parliament, it is everywhere. It is in our parliaments, it is in our public services, it is in our courts, it is in our private workplaces, it is in our streets, it is in our homes.

I commend the member for Clark for bringing on this issue for debate today. I hope we can live in a future where we do not need to bring on debates like this in parliament because in my three short years here there have been so many already and, horrifyingly, there will probably be more. To the people who do come forward, we hear you, we believe you and all strength to you.

Time expired.

[11.45 a.m.]

Mr GUTWEIN (Bass - Premier) - Madam Speaker, I thank Ms O'Connor for bringing on this debate. I have to admit after hearing those last three contributions I feel singularly unprepared or unworthy to take part in this, to be frank, but the one thing, if anything, I have learnt over the last 12 months is that I should take advice, I should listen to advice and I should hear the voices of people who have the lived experiences.

I have attempted over the last period to do my very best to be a leader who demonstrates kindness, gratitude and respect, but I must admit I am chilled by hearing the contributions this morning. As a father it is interesting. I have spoken to my 16-year-old daughter about similar matters that have just been raised in terms of how she should prepare herself; I am certain every parent has done this.

I think the member has captured the essence of what we need to discuss in terms of the title you have given this matter of public importance. I think people like me who do not have the lived experiences that you have need to be prepared to listen, and together we need to act to move to where we have a respect culture as opposed to a rape culture.

Yesterday I understand Meg Webb wrote to leaders in this place about the culture in this place. For those who are not aware, what Meg is proposing is we look at this place and the way we go about our business and across ministerial offices, electorate offices, and the way we deal with serious matters such as those raised.

In light of what has occurred over the last couple of weeks, I asked for advice as to whether we have had similar allegations made over the time. The department and I have gone back around five years, and we have had no serious complaints of sexual harassment that have been raised or that we are aware of.

Ms Webb was proposing that the leaders of the three parties come together with the Speaker, and I think we should also have the President of the upper House and -

Ms Ogilvie - I have something to say too as an Independent.

Mr GUTWEIN - And Independent - I am more than happy for you to be included as part of that discussion.

First, we need an independent review of what practices and procedures we adopt in this place and in the workplaces we are in every day. Importantly, we should seek advice on whether there are gaps and what best practice would look like moving forward, because as a parliament and as people, we have an opportunity to take that step and I think we should take that step. In my view, we need to take this matter forward and collectively look at how we can take steps to ensure we provide a culture and a framework where everybody can feel safe and supported.

I reiterate: I have been touched by the contributions this morning.

I will be writing today to the leaders of the other parties, the Speaker, the President and Ms Ogilvie to suggest we come together and have that conversation and look at what we can do collectively to ensure that what we have witnessed does not occur here.

I do not believe it has but let's ensure we put in place a framework that provides the confidence to ensure that moving forward it does not and that we take what steps we can.

Ms O'Connor - And we model the kind of society we want to see.

Mr GUTWEIN - Culture starts with everybody accepting there needs to be change. The discussion over the last couple of weeks, I think, has been distressing to everybody, men and women. It is important we look to ensure that, if we can, we move the conversation to one of respect and to what we actually need to do. As I say, the contributions today have been very enlightening.

My other point, in closing, relates to a suggestion raised by the Greens earlier this week about how we might deal with survivors of sexual assault who want to come forward and to make their allegations and claims and bring matters to the attention of the authorities.

The commissioner is sending people to Victoria and to Queensland as well. He has put in place a framework, but we will look again to ensure that best practice occurs, so that when people come forward, importantly they know where to come forward to and they will be supported when they do.

I want to thank the Greens for raising that matter. It is important - especially on a matter as important to all of us as this is - that we take what steps we can to ensure that the framework we provide leads to a safe environment, that people feel safe and they feel supported, and that they will bring forward these matters so that they can be acted upon.

Time expired.

[11.52 a.m.]

Dr WOODRUFF (Franklin) - Madam Speaker, I cannot tell you how grateful I am to the Premier for his contribution just then. It is incredibly moving. The Greens were not

planning to have this MPI today. However, what has happened over the last week to 10 days in federal parliament has been an overwhelming conversation - in workplaces, on the internet - from women all around Australia.

Like me - I think the most moving part of what has happened is this photo of young Brittany which gripped me because she looks more like my daughter. There she was, full of expectation and excitement and happiness at having landed the best job she could ever have dreamed of. All that intelligence, passion and commitment to her party and to her job and to exploring the world, and how everything changed for her and how she felt that she had to choose between what she says was her dream job and reporting the matter to the police.

None of us here wants a woman of any age ever to have to make a choice like that. It does start about, as the Premier has said, a respect culture, a belief culture, a culture of listening, not shutting down. I am as shocked as the Premier and Ms O'Connor. We are all talking about the culture, and I am shocked as a woman in my mid-50s at the changes I have seen in my lifetime.

As a young feminist, when I was 16 years old, I remember looking at where the world was. I had grown up and been to Catholic schools and was being raised in a Catholic family, but there was this tremendous sense of shaking the world up in the 1970s and 1980s for women, so that by the time we got to the mid -1980s, it was almost like most of the stuff had been given a red-hot shake and things were trending in a pretty reasonable direction. I felt that there was real change potential.

Then what happened was this massive pressure from that international global juggernaut pornography industry that has done everything it can to insinuate itself and its disgusting images and normalisation of a normative masculinity and femininity stereotypes so that 30 years later we have a highly sexualised image of women, girls and children.

We have young men exposed to a ubiquitous culture of pornography every time they pick up their phone to check what the weather is. It is impossible for young men to avoid seeing highly sexualised images of women so that casual misogyny and casual sexism are part of the everyday conversation and lingua franca for so many young people. It is normalised in every part of the culture that we work in, in the newspapers we read from and advertisements on television.

We are still using women in almost no clothes to sell us products; it is just standard. I was amongst a group of people who fought to take a billboard down in the late 1970s. We thought that was finished.

Ms Ogilvie - It is all online now.

Dr WOODRUFF - Yes. This is about setting standards and what is happening in the federal parliament and it does matter to us in Tasmania. It is a microcosm of what we all represent and expect. We expect a prime minister who is not a coward, who is prepared to speak up and listen and provide a space for women, but the silence from the Prime Minister has been damning. The fact is that there is still no commitment to an inquiry on a matter which is so grave, involving two rapes and the death of a woman. There is a circling of the wagons amongst male members in the Cabinet which is very disturbing to see.

We can work in Tasmania on changing our culture. We can be leaders. We have Grace who is leading the way for us all. I speak for every person in Tasmania who has seen Grace's speech to the Press Club or heard her speech as Australian of the Year: the strength and the power. The fact that Brittany Higgins saw her standing next to the Prime Minister and could understand the hypocrisy of that connection was the motivation for Brittany to speak. It has moved me to tears a number of times just thinking about what Grace has started.

She is starting to turn the corner but behind her she has the voices of so many Australian women who know that the time has come. She will not be silenced, we will not be silenced and the challenge for us as a parliament is to establish a culture of respect, a culture of listening, a culture of believing. I really hope that my daughters, I can feel confident that my daughters, can grow in a safer Tasmania.

Time expired.

[11.59 a.m.]

Ms ARCHER (Clark - Attorney-General) -Madam Speaker, I think I only have a couple of minutes before the debate wraps up. I also congratulate every member on their contribution. We can all agree when there is a culture in our society, on this occasion ranging from anywhere between rape to bullying. I think we can all identify enormously, those of us who have experienced a range of those things, that there is a culture. I echo the sentiments of Dr Woodruff. There was a sense when I was growing up that we had conquered a lot of this. I went to an all girls school. Perhaps I was a little sheltered but when I got to university, I realised it was probably not as trail-blazing as I thought; certainly entering the legal profession, some of my hopes and dreams in that regard were shattered, let us put it that way.

As the Attorney-General, I am proud of a number of the reforms I have been able to progress through this place, not least of which was section 194K of the Evidence Act reforms. They were things that were seen as too hard, I can say, by former attorneys-general. It was probably a timing thing. I know various editors from News Limited had approached former attorneys-general and the matter had not been taken on. I was determined to take that one on and I pay tribute in particular to Nina Funnell from News Limited and, of course, Grace Tame, who was the face and voice of that campaign. I support comments made already in this debate about Grace - she will certainly continue to shine a light in relation to these issues.

To anybody who is listening today, we recognise that the very fact we are talking about these things and this subject can retraumatise many people, so please jump online and access the support services available through Beyond Blue, Lifeline, Sexual Assault Support Services and many others.

Rape remains one of the most serious and heinous offences in our Criminal Code.

Time expired.

Matter noted.

END-OF-LIFE CHOICES (VOLUNTARY ASSISTED DYING) BILL 2020 (No. 30)

In Committee

Continued from 3 March 2021, page 150.

Clause 117 further considered -

Ms COURTNEY - Mr Deputy Chair, as we started talking about yesterday, this has relevance for clause 139 as well, which I will deal with when I get there. With regard to clause 117, under the framework established by the Poisons Act 1971, a nurse practitioner may only possess, sell, supply or prescribe restricted substances or narcotic substances if he or she is authorised to do so by the secretary under section 25B of the act. Clause 117 enables the commission to request the secretary to authorise nurse practitioners to possess, sell, supply, or prescribe restricted substances or narcotic substances that are VAD substances for the purposes of use under the VAD bill.

Clause 117 further prevents the secretary from complying with the request of this kind that is made by the commissioner without reasonable disputes. The clause was originally included to ensure that nurse practitioners who are acting as AHPs under the VAD bill will still possess, sell, supply or prescribe VAD substances in a manner consistent with the Poisons Act.

However, this clause is no longer required because my proposed amendments to clause 139 will provide a safeguard to address precisely this kind of incompatibility - for example, declaring that nurse practitioners may possess, sell, supply or prescribe VAD substances without the need for authorisation under section 25B of the Poisons Act. This mechanism provides greater flexibility in relation to the range of incompatibilities that might be identified during implementation. This will in turn facilitate the effective an efficient implementation of the VAD bill.

Noting that it does rely on clause 139 -

Ms O'Byrne - Do you want to postpone it until 139?

Ms COURTNEY - I am happy to postpone and we can do 139.

Ms O'Byrne - At this point I am really uncomfortable removing this because if 139 does not get up, we do not have nurse practitioners in the bill.

Clause 117 postponed.

Ms COURTNEY - Because this goes to clause 139, if my amendment is moved, this one will make sense.

Ms O'Byrne - If clause 139 does not get up, clause 117 actually removes nurse practitioners, which I think we agree would be a bad thing overall.

Ms COURTNEY - We will deal with that one and then deal with this one.

Ms O'Connor - So we are going to 139 now?

Mr DEPUTY CHAIR - No, we keep going sequentially and deal with it at the end.

Clauses 118 to 121 agreed to.

Clause 122 -
Requirement in relation to Commission where suspected contravention of Act

Mr BARNETT - Mr Deputy Chair, I have circulated two amendments to clause 122. I move:

First amendment

Page 155, clause 122(a).

Leave out "may (but is not required to)".

Insert instead "must".

Second amendment

Page 155, clause 122(b).

Leave out "may".

Insert instead "must".

Mr DEPUTY CHAIR - We will deal with amendments one at a time.

Mr BARNETT - Mr Deputy Chair, in short, this is about the requirement in relation to the commission where there is a suspected contravention of the act. At the moment under the current framework they have a discretion to investigate those matters with a suspected contravention of the act, and that they may also refer the matter of the suspected contravention to relevant persons. That might be the police, it might be the coroner, it might be somebody else.

My concern is that suspicions can be raised, concerns can be put, and there may well be a contravention of the act. Those third parties who suspect there has been a contravention, at the moment do have standing under this bill, which is good. It is a good provision in the bill. They have standing in the bill to notify the commission of the suspected contravention. That would enable, for example, nurses, GPs, others, to alert the commission of any suspected foul play if there was to be foul play. We hope there would not be, but we want to ensure those safeguards are available and tight.

The commission 'may', not 'must', investigate the complaint. That is the concern I have: the powers of investigation conferred upon the commission as set out in clause 121 - and we have just passed that, so I am not deviating from that; I am supporting that - 'the commission may require information from persons' and it gives the commission that ability to obtain that

information. Even where the commission itself suspects foul play, the commission is not required to investigate the matter but 'may' if it wishes to do so.

This is the rub. In my view it is remarkable that the commission is not statutorily obliged to investigate the matter where its knowledge is elevated to a status of suspicion. The import of the clause makes it clear that it should, that it must, it is compelled to investigate if there is a suspicion. That is important in my view.

It says, 'if the commission suspects'. You might think it is a reasonable suspicion. If you wanted to insert 'reasonable' in there I do not have a problem with that. But the way it is written at the moment it says, 'if the commission suspects that a provision of this act has been contravened the commission may investigate'. I imagine they would want to suspect that it would be a reasonable suspicion. They would have evidence presented to them. There would be something presented to them. I want an assurance that the commission will follow up, that the commission will investigate.

What is the downside to investigating? We are not saying you have to follow through in any particular way. They are obviously resourced to do their job. They are professionals. They are independent. They have a job to do. They have a discretion at the moment. My concern is, let us, as legislators, ensure this has the safeguards, has the requirements in there, to do the job.

This is all part of Part 17 of the bill and, of course, it follows parts 15 and 16. Part 15 is about the reviewing of the decisions where sanctions can be imposed for breach of those obligations. Part 16 establishes a series of criminal offences for conduct in connection with participation by persons other than the patient and penalties for offences where proven.

What needs to be kept in mind in assessing, certainly in my view, the efficacy of parts 15 and 16 is the necessary linkage between the breach, the detection, the prosecution and the sanction. That is the criminal law at work and that is how it should be. That is all set out in parts 15 and 16, and the bill enables the commission, in the exercise of its review function, to overturn the original decision of ineligibility on the grounds of decision-making capacity with respect to residency of a particular person, or the lack of voluntariness of the particular person. I understand where you are coming from as the sponsor of the bill, and I support that - to keep it tight to ensure the commission has that role and can exercise that function.

That all appears reasonable but the question remains: what is the likelihood of the evidence coming to light which is probative of the patient having been coerced? This is a serious issue. If there is any element or evidence of coercion - whether it be family members; we have talked a lot about elder abuse in the past few days and over months and years. That is a really important issue in our community today and we want to have every confidence that we are protecting the elderly, that we are protecting the sick, that we are protecting the vulnerable, that we are protecting those people who need the protection - that they can be safe and secure knowing that our government, this legislation, this parliament are protecting their best interests.

Regarding people exercising undue influence on family members, we do not want this to occur. We want to have a safeguard in here to ensure there is no undue influence, no coercive behaviour - not even a scent of it.

Under the bill as presently drafted, a person exercising undue influence will know that there is no requirement for either the patient's next of kin or general practitioner to be informed of the patient's requests. In what circumstances will the PMP, CMP or the AHP or the commission become apprised of evidence of unlawful coercion or undue influence of the patient? Where no application has been made by anybody in relation to the patient's satisfaction of conditions of eligibility, the decision of the PMP, CMP or the AHP sanctioning the VAD death of the patient will escape scrutiny.

It is true, yes, we have discussed clause 113(2) - empowering the commission to:

> review the performance and exercise by persons of functions and powers under this Act in relation to a death that has occurred …

That is true; we have given them those powers. When such a review is undertaken, it would ordinarily be necessary for the review body to speak to the person most affected by the exercise of those powers and functions.

In short, it is a safeguard. It gives confidence to the vulnerable, the sick, the aged and the elderly, and those in the community who want to be sure that where a suspicion has been raised, it has been and will be investigated by the commission. It is pure and simple. It is changing the 'may' to a 'must' and providing that requirement on the commission to investigate and to look into the matter. Where it goes from there is a matter for the commission and due process in accordance with the law.

That is why I have moved the amendment, Mr Deputy Chair. I am happy to try to respond to queries on the way through, and I am very keen to hear from the sponsor of the bill, the member for Bass.

Ms O'BYRNE - I do not think this is necessary. We will be opposing it. The reality is that clause 112 already gives the commission the power to make the determination about whether they need to investigate. That is exactly, rightly where it should sit. Compelling them to do so adds nothing in that they already will do that work.

If they feel at any stage that there is a matter to be investigated, they will do so. If they feel there is a matter to be referred, they will do so. The legislation clearly spells that out. This is an unnecessary addition and we will oppose it.

Ms O'CONNOR - I will not be supporting this amendment for the reasons laid out by Ms O'Byrne. There is already the capacity and the authority within the legislation for the commission to investigate. In my view, the commission itself is a safeguard. It will be a body made up of appropriately qualified people who, under this legislation, are bound to follow it.

The issue here is that, if the commission suspects that there has been some significant breach of this legislation, they will investigate but Mr Barnett's amendment has the effect of mandatorily requiring the commission to investigate something like, for example, a form being handed in a day early or a day late.

The clause as it is written is quite deliberately drafted to give the commission maximum flexibility to investigate where it needs to but to use its discretion regarding what it investigates. There may be situations where an administrative oversight is fixed up with a phone call.

I will not be supporting this amendment and I encourage other members not to support it because it robs the commission, potentially, of the flexibility it will need to deal with issues in a thoughtful and sensitive way, under the statutory requirements of this legislation.

Ms COURTNEY - I will not be supporting the member's amendments. The effect of both amendments, as outlined by Ms O'Byrne and Ms O'Connor, is to create a firm requirement of the commission. The commission is not intended to be a quasi-police or investigatory body.

Under clause 113, it is clear that, in accordance with its functions, the commission may monitor compliance of the legislation and communicate to the appropriate persons or authorities any concerns the commission has about compliance.

The intent of the commission is to alert police or the appropriate body in the event there is a suspected breach of the act. Clause 122 provides the power for the commission to exercise discretion to investigate where it is appropriate to do so. For example, this might be in situations where someone has failed to adhere to an administrative requirement under the bill, such as perhaps notifying the commission in the approved form.

It is not intended that the commission would investigate matters that are criminal in nature whereas the proposed amendment would make it a requirement for it to do so. I am not supporting the amendment.

Mr BARNETT - I am incredibly disappointed in the responses I have received to this amendment. Simply requiring the commission to investigate a suspicion is not beyond the pale.

At every single turn, as far as I can tell, those who have spoken appear to be doing everything they can to remove the safeguards being put forward for positive consideration not, to support those safeguards but, in fact, support their watering down.

I heard from Ms O'Byrne in her contribution, 'We, we, we', for and on behalf of the Labor Party. Seriously, we have a conscience vote and, in this case, it appears not to be happening in the Labor Party. Why does the Labor Party keep voting as a bloc? Let us hear the answer.

Ms O'BYRNE - Point of order, Mr Deputy Chair. Can I respectfully suggest you draw the member to the amendments he is proposing? We have a number of things to get through today. We have heard this speech before. It is not necessary to do it again.

Mr DEPUTY CHAIR - Ms O'Byrne, he is entitled to make a contribution as he sees fit, relevant to the amendment and relevant to your contribution on the same amendment.

Mr BARNETT - Mr Deputy Chair, we have it right there. The member for Bass for and on behalf of the Labor Party - 'We we we', you are voting as a bloc. I say thank you to the Premier, Peter Gutwein, for providing a conscience vote to Liberal Party members. Thank you, that is right and proper.

In a debate like this, in a matter of conscience, you should be expressing your conscience, you should be expressing your views and when you come in here and vote as a bloc as the Labor Party, in my view that is unconscionable. When you have a matter of conscience before

you, each and every member of the Labor Party is entitled to express their views, and you have Ms O'Byrne expressing their views for and on behalf of the Labor Party. It is sickening, frankly - it is unconscionable and it is against good practice when you have a conscience vote.

Whatever the matter is, in this case we are talking euthanasia, so you have been doing this - you have been ducking and diving, the Leader of the Labor Party has been ducking and diving through the public arena, week in, week out, month in, month out on this issue, saying 'We, we, we' and trying to say that they have a conscience vote, when frankly they do not. They are voting as a bloc. That is what is happening. They do not like to hear the facts, they do not like the hear the truth, they do not like to hear a view that is different from their own.

It is really disappointing. They are quite happy at every level when there is a safeguard to improve the bill, an improvement to the bill, to provide extra safeguards, to try to water it down at every turn. We have seen that through the course of the debate - the ambiguities in terms of this bill are seriously of major concern. Likewise, in yesterday's debate with notifying the coroner, we had a discussion about that, a debate about that. What is the downside of notifying the coroner? There is no downside.

Members interjecting.

Mr DEPUTY CHAIR - Mr Barnett, I need to draw your attention to the fact that we are in Committee and that you need to be relevant to the amendment we are actually dealing with now rather than reflecting on a previous vote.

Mr BARNETT - Thank you, Mr Deputy Chair. That is why I am referring to the requirement in relation to the commission where a suspected contravention of the act occurs, that rather than 'may at their discretion' investigate a matter, they 'must' investigate. I mean what is the downside, seriously? So, we have the Labor Party voting as a bloc and then both members of the Greens are voting against this particular amendment, according to the remarks just been put by Ms O'Connor.

It is very disappointing. I am concerned about undue influence being exercised. I am concerned about matters of coercion being expressed and are put to Tasmanians who may be vulnerable. They may be sick; they may not have full capacity. There may be family members expressing themselves in certain ways, using undue influence. All I am saying is that if there is a follow-up from a GP, from a nurse, from someone else independent who has standing under the bill - which they do - they can refer that to the commission. The commission must be required to investigate.

That is all it is. It is a simple and neat provision. It is very disappointing to hear the feedback that Labor as a bloc is voting against it and that the two Green members and the sponsor are not supporting this particular amendment, which will provide an improved safeguard. It is pure and simple. That is a great disappointment, and something that will be on the *Hansard* - it will be on the record of those who do not wish to support this improved safeguard.

Of course, it is a matter for Tasmanians to express their concerns. Why you should not have the commission following up on concerns, suspicions and matters put before them in terms of any contravention of the bill is the concern I have put to this Chamber - whether there is any foul play or otherwise they should investigate. It is that simple. It is not rocket

science - it is an improved safeguard. It appears every effort is being made to water down those safeguards and as a result, the risks under this bill will remain.

Elder abuse is a big issue in this community and we have done everything we can -

Ms O'Connor - Where's your outrage about what's happening in the aged care sector? I haven't heard a word from you on the aged care royal commission.

Mr DEPUTY CHAIR - Order, Ms O'Connor.

Mr BARNETT - I have done a lot in that space through my commitment on the board of St Ann's for eight to 10 years supporting elderly Tasmanians.

Ms O'Connor - You have been silent on the aged care royal commission.

Mr DEPUTY CHAIR - Ms O'Connor, this is your first warning.

Mr BARNETT - Why am I standing here? I am motivated by the interests of people who are elderly, who are sick, who are vulnerable: people who have disabilities, frankly. I will not take it from a member of the Greens with her offensive remarks saying I am not interested in elderly people and those who are vulnerable.

Ms O'Connor - I didn't say that.

Mr BARNETT - You do not have a mortgage on compassion, Ms O'Connor.

Ms O'Connor - I didn't say that either.

Mr BARNETT - Well, you are certainly implying it and you are making assertions with respect to my character, which I deny and refute. Throwing offensive remarks across the Chamber does you or your cause no good, Ms O'Connor. We should all be in here motivated by the same cause - to get the best outcome possible with a watertight bill. I hope the bill does not pass but if it does, it should be watertight and as safe as possible.

Ms O'Connor - It will.

Ms OGILVIE - I will be brief. I support this amendment and I thank Mr Barnett for his comments. The reason I think it is prudent to require the commission to check things is that, from personal experience I have seen firsthand in my past practice as a solicitor and lawyer circumstances in which families are at odds and in which wills and estates matters are at play. We have a whole body of law around documents that are not completed appropriately, not signed off appropriately and all those sorts of things. In the interest of ensuring that every single element of the process we have laid out is secure, safe and triple-checked, this does nothing to delay anything. This just adds a check to the concern I think we all have. I also note that I think things have got a little heated in this discussion and that is not a good thing for a debate of this nature when we are dealing with the most serious matter of humanity.

I support this amendment. I have had experience in this area with fighting families and where people have falsely made documents where signatures have been forged. All those

technical things actually matter and you have to find out what has gone on. It is more of a personal experience comment, but I think changing 'may' to 'must' is prudent.

Ms STANDEN - I take the opportunity to strongly refute the comments made by the member, Mr Barnett, in relation to Labor voting as a bloc and being unable to exercise conscience. I have been deeply engaged in the passage of this bill. I am deeply invested in its passage and have been following the debate very carefully. I want to register in relation to this proposed amendment my opposition to it. I believe strongly in the safeguards built into this bill and the independence of the commission to act and investigate matters where suspected contravention relates as it sees fit.

I see no problem with the clause as it stands and no need to make an amendment to it. I believe that the safeguards, as pointed out in the university report, are strong and robust and leading the country in that regard. I see through the member's intentions to frustrate and elongate the passage of this bill and the debate by throwing up various smokescreens. I want to put on record my opposition to this amendment and to reassure the House that -

Mr BARNETT - Point of order. That is absolutely ridiculous and offensive. You are speaking totally out of turn and misrepresenting my position.

Mr DEPUTY CHAIR - Mr Barnett, either raise a point of order or take your seat, as you have. Please do not do it again.

Ms STANDEN - Thank you, Mr Deputy Chair. I will end on this point but I wanted to reassure the House that I have exercised my conscience thoroughly in relation to this bill. I am following the debate closely and if any matters are not covered that I wish to add to the debate, I would be taking a stand and making comment in relation to that, as I have today.

Ms O'CONNOR - To remind Mr Barnett again, although he appears wilfully not able to see the bill as a whole, central to eligibility is an assessment of competency by qualified medical professionals and a number of tests through the bill of voluntariness. When Mr Barnett talks about undue influence, which is a fearmongering tactic in relation to this legislation, what he does not talk about - and this has been posted on social media by an advocate of voluntary assisted dying -

> Concern is expressed about coercion of individuals when comes to voluntary assisted dying legislation. It is important to remember that legislation is for the terminally ill, not the disabled or the elderly. It is for those that must meet the criteria - that is, being terminally ill. So is coercion also when family members coerce loved ones to undergo treatments like chemotherapy, radiation and anything else the health system has to offer, even when they might not want to do so? Is coercion when an individual has had enough but they can see their families are struggling with the thought of losing them so they fear they must keep going at whatever the cost? That is also coercion. How do we track that? What data is available for that? Is it coercion when a terminally ill person wants to talk about how they just want the suffering to be over but they cannot do so for fear of upsetting those around them who just can't go there? Is that coercion too?

I think that is a very valid and pointed observation.

The point I was making before in relation to Mr Barnett's contribution is that we have not heard a word in this place from Mr Barnett or any other opponent of this legislation about the findings of the Royal Commission into Aged Care Quality and Safety which showed that abuse, neglect and sexual assault of elderly people are rife in the aged care system in Australia. That is a consequence of the deregulation of the aged care sector, the increase in private providers, many of whom are millionaires or billionaires, and the sequential decisions made by conservative governments in Canberra to underfund the aged care sector. So pardon my cynicism in relation to Mr Barnett's outrage, Mr Deputy Chair. You need to be consistent in here. If you are concerned about the wellbeing of older Tasmanians, you will speak up about the appalling state of aged care in this country where we trust people we love into a system that is, by the findings of a royal commission, abusing them, neglecting them and subjecting them to sexual assault.

Mr FERGUSON - Mr Deputy Chair, I am really sad to rise and speak in this discussion on this amendment. The debate has deteriorated, and that is unfortunate. What Mr Barnett has proposed is completely reasonable. It comes from a position of concern and care, and none of us has a monopoly there. Had this bill arrived in this House with existing drafting that if there were a suspected breach of the act the commission would in all cases investigate the truth behind such a claim, nobody would be here trying to unpick it, I hope. It would just be part of the bill.

I have grown very tired of the continual and incessant badgering of those seven or eight of us who voted against the bill at its second reading stage as if we have got barely a contribution or right to say something about safeguards and to try to make sure that they are as good as possible.

On Tuesday, I did not, nor did any of my colleagues, move to have the debate deferred, as it was suspected we would do because after all, we had only had the advice for eight days and the AMA was calling for the debate to be put off until people could actually have a look at it. Look at the way this debate has been conducted - it is all over the place. We are postponing clauses; we are not getting answers to legitimate questions. I still have not had an answer in relation to what the cost of it is. It has been estimated at $2.4 million, but nobody in this debate has confirmed it. Fair questions. It is pretty normal for a person in this House to ask questions like that of a minister taking a government bill through. It is very reasonable, but no, because it seems tricky, trying to frustrate the bill, the usual accusations.

How about a bit of respect for each other's intelligence? We all know this bill will pass. Can we please make sure that people are being fair to each other in this place around an amendment that causes no damage to the intentions of the bill and its mover? We have already taken the coroner out of the picture yesterday, gone -

Ms O'Connor - The coroner has no jurisdiction. It is a natural death.

Mr FERGUSON - I would like to be heard. The coroner was going to be advised in each case of a death under Mr Gaffney's bill and agreed by the Legislative Council - gone; no explanation.

Ms O'Connor - Yes there was.

Mr FERGUSON - No, what we heard - and I will come off this point briefly because it is off the clause - but what we heard was what could happen when an investigation happens. That was conflated with an assumption that would happen in all cases of a notified death to the coroner. A completely debatable point.

A member interjecting.

Mr FERGUSON - On, this - look, if it is causing you discomfort - I will continue. The simple fact is that Mr Barnett is seeking for this satisfaction, this concern, to be dealt with. If somebody on the commission suspects that there has been a breach of the act, they investigate it, not 'might' investigate it, they 'will' investigate. Very plain English. Easy for me to understand. I cannot see how it would offend anybody, but it will not be agreed to because it is being moved by Mr Barnett. I think that is it; I cannot see another reason. Mr Barnett was not one of the people who supported it, he does not really believe in it, so let us dismiss a reasonable point of view.

I do not dismiss it. Potentially, I already have supported a range of amendments moved by other people in this place for a bill that I did not support in its second reading stage. It could be mutual. People hearing this know I am making sense because it does not slow anything down. After all, it might be a breach that occurred in the passage of someone dying so it cannot slow the process down in that respect. What if somebody is not eligible and they have been deemed eligible, and the commission suspects that? Do you not think they should investigate? I do. What if a person was not really qualified to make up prescriptions for a VAD substance and they did, and the commission suspects that. Do you not think they should investigate it? I think they should. We should say you 'must'.

What if the person has died a wrongful death, and they were coerced, and the commission becomes aware after the fact? Maybe a daughter or son of the deceased comes forward and says, 'I have just found out what my sibling did and how they influenced my mum', and the commission suspects that has been the case. I do not want the commission to, by order of this House, have the opportunity to investigate. I want them to be made to investigate that.

It is a four-letter word that costs this House nothing. It costs the bill nothing, it costs the movers of the bill nothing, and it happens all the time in here. I have seen it a million times where there is a 'may' and people say 'We prefer, for the avoidance of doubt, that it be 'must'.'.

This is our opportunity. It is a fair-minded amendment. It is reasonable; it makes sense. Somebody might say, 'Well, they would investigate'. I heard Ms O'Connor interject that. Well, we say they should investigate it and they must.

I support the amendment from my colleague, the member for Lyons, Mr Barnett. I do not feel, with respect, that Ms Courtney has really addressed why it is not necessary. To say it is not necessary is really not the point. It does not argue against, or it does not actually mitigate, the risk Mr Barnett is addressing here.

I ask members to reconsider. I believe it is a fair request. It costs nothing; it cannot be said to be another barrier or an obstacle or an attempt to frustrate the bill. On behalf of the people of Bass, I ask that the commission be made to investigate when it believes that there has been a breach of this act.

Mr ELLIS - Mr Deputy Chair, I rise to speak on what I believe is another important safeguard for this bill. The safeguards we have for elderly people, people with disability, and Aboriginal people are really important when we are bringing into Tasmania the first law where the state will be able to take the life an innocent citizen.

Members interjecting.

Ms O'Connor - You were an adviser to the minister for Aged Care until a short time ago.

Dr Woodruff - That is not what is happening here.

Mr ELLIS - It is. I welcome the passion that Ms O'Connor had in terms of elder abuse and the aged care royal commission. It is something I know well and something that I spoke passionately on in my second reading speech contribution.

Ms O'Byrne interjecting.

Mr DEPUTY CHAIR - Order, Ms O'Byrne. This is your first warning.

Mr ELLIS - As I noted last night, I have not made a single interjection. I have not impugned the good intent of all people in this House at any point in this debate. I would appreciate the chance to speak.

It is something I feel very passionately about. I am a young person, but I have three grandparents. One is in aged care; two are being cared for in the home. Last week I went on the public record and spoke about it. I said -

> I welcome the Premier's decision to provide Liberal members of Parliament with a conscience vote on the euthanasia bill.

However:

> The more than 100 flaws found by the Government Agencies and UTAS reports into the bill show serious legal and medical failings.
>
> Some failings speak to the chaotic drafting of this bill. Other failings open doors to wrongful deaths of elderly people or people with disability.
>
> Sadly this long list of failings has been revealed despite more than 20 redrafts of the Bill and more than 100 amendments in the upper house.
>
> Sadly, this long list of failings has been revealed despite more than 20 redrafts of the bill and more than 100 amendments in the upper House -

And as we have seen this week, many more here.

Ms O'Connor - We are making it stronger.

Mr DEPUTY CHAIR - Order, Ms O'Connor.

Mr ELLIS - Each failed version breeds more complexity and more openings to abuse. Dealing with the problems of the report is critical and amendments must detail exactly how each of the more than 100 problems will be dealt with.

The euthanasia bill comes in the context of the ongoing Royal Commission into Abuse in Aged Care and Abuse in Disability Care. If we cannot guarantee a system that cares, which is free from abuse, then I cannot see how we can yet guarantee a system that kills which is free from abuse. Perhaps, one day a new royal commission will be held into wrongful deaths of vulnerable people in euthanasia, but in this case the victims will not be able to give testimony.

As we embark on new versions and more complexity we must honestly answer the question: how many wrongful deaths of vulnerable Tasmanians is too many?

I have made the point in this discussion that I believe the number should be zero but if not zero then we should be getting as close to zero as possible - an approach that talks about towards zero.

In my second reading speech contribution, I noted that in the case of abuse in aged care where the end result is euthanasia the only person who will investigate is the coroner. Events of last night have even changed that. I believe it is very important for people in the north-west, the west coast and King Island to know that if there is this system that it will be as safe as possible, that wrongful deaths will be on a trajectory towards zero.

I want to speak in a bit of detail about the abuse that Ms O'Connor raised in the aged care royal commission report. I have put in quite some amount in my second reading speech contribution about the interim report that was handed down. This week on Monday the final report was handed down and I noted the passion with which Ms O'Connor spoke and there is very good reason for it. There have been generations of abuse and neglect at state and federal level in aged care, and it is something I believe we should have all reflected upon as we embarked on this process. To quote the report:

> The abuse of older people in residential aged care is far from uncommon. In 2019-20 residential aged care services reported 5718 allegations of assault under the mandatory reporting requirements in section 63-1AA of the Aged Care Act. A study conducted by consultancy firm KPMG for the Australian Department of Health estimated that a further 27 000 to 39 000 assaults occurred that were exempt from mandatory reporting. We detail more about this data in our examination of the extent of substandard care later in this chapter.

Most of what we heard about abuse related to people living in residential aged care. However, the Honourable Dr Kay Patterson AO, Age Discrimination Commissioner of the AHRC highlighted that abuse is also perpetrated against people receiving aged care in their own homes. She said:

> attention must be given to how to protect people who receive services in their own homes, given that there are no other staff members around to identify and report potential abuse.

Several public submissions highlighted this issue and these are some submissions which I read myself. It continues:

> Our analysis below focuses on physical abuse, sexual abuse and restricted practices.

For members who are not aware of what these are, they are chemical and physical restraints put in place by doctors:

> However, it is important to acknowledge that there are other forms of abuse. For example, Ms Gwenda Darling, an Aboriginal woman who received care at home later experienced racial abuse by a care worker.

Excuse me, Mr Deputy Chair, for the language but it is a quote:

> I was called a 'boong' on a couple of occasions by the care worker who came to my house… To me, calling a person a 'boong' is one of the most offensive things you can say to an Aboriginal person.

I think there was some commentary during the week about the impassioned defence that Ms Petrusma made of Aboriginal people and their relationship to this bill. I was deeply distressed and dismayed by people saying that was not genuine, because as I noted, I have had the honour and privilege of seeing Australia's Father of Reconciliation, Senator Pat Dodson, who comes from my hometown of Broome, speaking against euthanasia in the federal parliament in 2018. Aboriginal people do not need another way to die. It is extraordinarily important that we protect vulnerable people in our community, whether they are elderly, disabled, mentally ill, or Aboriginal, from abuse in any setting. That might be a setting of care but it may also be a setting that takes the life of that person. I think that anytime we take safeguards in this bill away, the further that takes us away from zero, and any time we put them in the bill, the closer that takes us to zero.

I commend the amendment from the member for Lyons to the House.

Dr WOODRUFF - It is a pity the Attorney-General is not here to hear my contribution because I think she would be interested. I want to put the concerns members have raised about this particular clause in context with the vast majority of similar legislation in Tasmania that our office has been able to look through in the time this has been talked about. It is clear this is entirely identical to the language used in similar bills that prescribe how commissions, guardians, review panels and other investigatory bodies may act when they have information brought to them about, as Mr Ellis said, concerns for vulnerable people. The safeguards in place in other Tasmanian legislation make me quite comfortable that in this bill we have the appropriate language to use in the circumstances. Mr Ellis was talking particularly about concerns for elderly people and people with disabilities so let us look at the Tasmanian Guardianship and Administration Act 1995, section 17(1):

> The Public Guardian may investigate complaints and allegations concerning the actions of a guardian or administrator or a person acting or purporting to act under an enduring power of attorney.

The Anti-Discrimination Act would be entirely relevant for people who have experienced racist language or acts, as Mr Ellis was talking about his concerns for people like that, or indeed other forms of discrimination against elderly or disabled people. Section 60(2) says:

> The Commissioner may investigate any discrimination or prohibitive conduct without the lodgment of a complaint if satisfied there are reasonable grounds for doing so.

Subsection (3):

> The Commissioner may accept a complaint from a child if the Commissioner is satisfied the child has sufficient maturity to make the complaint.

Section 36 of the Health Complaints Act 1995 says, 'The commissioner may end conciliation', and in subsection (2), 'After ending a conciliation the Commissioner may … investigate it under Part 6.'

In the Ombudsman Act 1978, section 12, Matters subject to investigation, subsection (1) says:

> … the Ombudsman may investigate any administrative action taken by or on behalf of a public authority ...

In the Education Act 2016, section 40, Investigation of unauthorised absences, subsection (6) says:

> An authorised person authorised by the Secretary … may investigate any unauthorised absence … of a school-aged child …

In the Commissioner for Children and Young People Act, section 11, General powers of the Commissioner for Children and Young People, subsection (3) says:

> In performing a function or exercising a power under this act the Commissioner … may investigate, or review, a matter in any manner he or she considers appropriate; and … may hold an investigation, or review, under this Act in public or in private.

I will not go into the other acts - the Marine and Safety Maritime Incidence Regulations Act, the Motor Vehicle Traders Act, the Urban Drainage Act, the Gaming Control Act - but these all have various bodies that have to investigate a range of matters which are all serious, Mr Ellis, and I think you should be comforted to understand that this is entirely appropriate.

Mr Barnett - You are talking about the dead.

Mr DEPUTY CHAIR - Order, Mr Barnett.

Dr WOODRUFF - It is utterly within the context of the commission to make a decision if it considers it is appropriate to investigate.

Ms DOW - I want to make a brief comment because others have articulated the argument very well. I draw the House's attention to the fact that right throughout Part 17, Voluntary Assisted Dying Commission, the word 'may' is used extensively. It is used to describe the roles and responsibilities and jurisdiction of the commission, so I am happy with the wording as it is.

Mr Barnett - Maybe you could amend those sections.

Mr DEPUTY CHAIR - Order, Mr Barnett.

Mr TUCKER - I support what Mr Barnett is trying to do. I believe we should be starting with the tightest possible bill we can. If we want to water this bill down later -

Dr Woodruff - Water it down?

Mr DEPUTY CHAIR - Order, Dr Woodruff.

Mr TUCKER - That is what you are trying to do and it is a matter of great regret if something should happen through watering down.

Members interjecting.

Mr DEPUTY CHAIR - Order. Please allow Mr Tucker to make his contribution in silence as he allowed everybody else who has spoken. He has not interjected once and he deserves to be heard in silence.

Mr TUCKER - Mr Deputy Chair, thank you, I appreciate your comments.

As I was saying, it would be a matter of great regret if we were to water this bill down and do not make it as strong as we possibly can. As I said when we took the notification to the coroner out of clause 93, we need a belt-and-braces system with this. If we are going to introduce this bill, it needs to be tight. Things can be watered down later if that is the case, but at present when you bring something in, it needs to be very tight because I do not want it on my conscience. It is all right for Ms O'Connor to say that only a minor thing might be changed, but that might be the difference between VAD and murder, and it should be investigated so I can understand why the minister has put this forward.

Sitting suspended from 1 p.m. to 2.30 p.m.

END-OF-LIFE CHOICES (VOLUNTARY ASSISTED DYING) BILL 2020 (No. 30)

In Committee

Resumed from above.

Proposed amendment to clause 122 further considered -

Mr TUCKER - Madam Deputy Chair, I want to talk a little more about palliative care and the gold standard we have been guaranteed.

I believe what Mr Barnett has put forward will also make sure that gold standard is met. Because the word 'must' - not 'may' - is there, there will not be that interference. They must do it, they must investigate it and make sure that palliative care has been given as an option to these people. It has been, as I look at it, but it would be a great regret if people could not afford the best possible palliative care and were refused that.

Ms ARCHER - I just want to add something. I had to leave the Chamber slightly before the debate adjourned at lunchtime and I caught only part of Dr Woodruff's contribution. I know she was quoting from a few acts of parliament in relation to the Guardianship and Administration Board and other matters utilising the term 'may' and not 'must'.

I reinforce that just because other acts of that nature use a terminology, it does not mean that in a life or death situation it is acceptable to use the same terminology. Those situations are quite distinctly different from the situation we are dealing with, the one at hand now in relation to the death of an individual.

Guardianship and administration, although very serious matters - and I am not downplaying them by saying this - do not deal with, in all cases, death situations. I want to differentiate the terminology. I do not accept Dr Woodruff's explanation, nor would I say that as Attorney-General I have ever received advice to that effect.

Ms STANDEN - I am puzzled by the comments made by the last two members in relation to language and the seriousness of the words 'may' versus 'must'. It puzzles me as to the concern that sits behind that.

It seems to me that throughout the entire section relating to the commission and contraventions of the act, the safeguards built into the bill in relation to the commission are plain to see. The independence of the commission to be able to exercise its powers seems appropriate to me in the wording of the bill before us. I struggle to understand what the concern is in relation to the wording 'must' that in some members' minds might in some way strengthen the powers of the commission. I cannot see a case being made for that.

In relation to comments made by Mr Tucker relating to palliative care, I similarly cannot see that they relate to this clause and the amendments before the House relating to the requirement for the commission around investigations of suspected contravention. I do not see that the two are related in any way.

To my mind the options for people to safely access a legal framework for end-of-life choices through this are in no way at odds with a person's right to explore and access palliative care arrangements. It has nothing to do whatsoever with an investigation of suspected contravention through the commission. I am puzzled by Mr Tucker's line of argument in relation to that.

Question - that Mr Barnett's first proposed amendment be agreed to - put.

The Committee divided -

AYES 6	NOES 16
Ms Archer	Dr Broad
Mr Barnett	Ms Butler (Teller)
Mr Ellis (Teller)	Ms Courtney
Mr Ferguson	Ms Dow
Ms Ogilvie	Mr Gutwein
Mr Tucker	Ms Haddad
	Ms Hickey
	Mr Jaensch
	Mr O'Byrne
	Ms O'Byrne
	Ms O'Connor
	Mr Rockliff
	Ms Standen
	Mr Street
	Ms White
	Dr Woodruff

Amendment negatived.

Mr BARNETT - Madam Chair, my second amendment to clause 122 is related to the first, and I am happy to stand with that amendment. I move:

Second amendment

Page 155, clause 122(b).

Leave out "may".

Insert instead "must".

Amendment negatived.

Clause 122 agreed to.

Clause 123 -
Inducements and dishonest or undue influence

Ms COURTNEY - Madam Chair, I move the following amendment:

Page 156, clause 123(b).

Leave out "exercise dishonest or undue influence on a person in order to induce the person".

Insert instead "by dishonesty or undue influence, induce, or attempt to induce, another person".

With regard to this, members are aware some agency comments highlighted that 'dishonest influence' was unclear and not used elsewhere in Tasmanian law. This amendment seeks to reword the clause to remove any confusion in the intent and instead insert known terms of 'dishonesty' and 'undue influence' regarding attempts to influence. This is a minor amendment in line with agency advice.

Ms O'Byrne - To confirm, that makes it consistent with the use of 'inducement' in other legislation?

Ms COURTNEY - That is my advice.

Amendment agreed to.

Clause 123, as amended, agreed to.

Clause 124 -
False representation of being authorised to communicate on behalf of person

Ms COURTNEY - Madam Chair, I move the following amendment:

Page 156, clause 124

Leave out "or in bad faith".

Similarly, while bad faith is used elsewhere in Tasmanian law, 'falsely' may be sufficient and clearer in this context. That is the agency advice we sought. A minor amendment to remove 'bad faith' in accordance with agency advice was circulated to the House.

Ms O'BYRNE - Mr Deputy Chair, I have looked at some of the discussions that took place elsewhere. I am actually more comfortable; I think it is reasonable to include 'bad faith'. But, as you say, it is not inconsistent with language used elsewhere. I am not sure why removing it would be seen to be an improvement in the bill, particularly given the number of people who have said they do not want to take away things that offer a level of protection. I think that given that 'bad faith' is consistent language with legislation elsewhere, I would be of the view that it should remain. I do not necessarily support removing it.

Ms O'CONNOR - On the back of Ms O'Byrne's comments, does it not come down to whether there is any distinction between someone doing something falsely or in bad faith? You could do something that was not necessarily falsely done, but it was done in bad faith.

Ms O'Byrne - It may not be false but your motivation is not a good faith motivation, which is why it exists in other legislation. I am more comfortable to keep it.

Ms O'CONNOR - Yes, I am somewhat persuaded to leave it in. I do not think it hurts to leave it in.

Ms Archer - Do you have examples of other legislation that would assist?

Ms O'Byrne - I do not have it with me but there was some debate around bad faith previously and I know we have debated it - sorry, by interjection. I know we have had this

conversation previously about what 'bad faith' meant, and it does exist in other legislation. I apologise because I do not have an example of it.

It does not make the bill stronger by removing 'bad faith'. I am not sure that it necessarily weakens it by removing it, but I still think that there is a reason that it was put in. Perhaps we might just hold on to it unless there is a really good reason not to.

If we look at the debate we just had around 'may' and 'must', I am not about weakening the provisions of the bill, and I think that one may have changed it fundamentally. If this potentially weakens it, we should at least have reference to it. I do not know that it does, in my view.

Ms COURTNEY - Madam Chair, based on the feedback from others around the Chamber, I am happy to withdraw this amendment. My understanding is that this was in response to the agency advice. As you can see from the agency advice, it does not go into 'bad faith' issues elsewhere in Tasmania. Obviously, in the spirit of working together and having the best quality bill that we can with members' feedback, I am comfortable with that unless there is a feeling from others.

Madam CHAIR - We need to move that it be withdrawn.

Ms Archer - I do not understand the argument that others are using. Are we strengthening or are we making it weaker?

Ms O'Connor - We are not changing it.

Ms O'Byrne - No, we are not.

Ms Archer - No, what was the agency advice? To strengthen or not?

Ms O'Byrne - My view is that unless there was a reason that showed it needed to be removed, 'bad faith' exists in other legislation. As I understand it, it is different from 'acting falsely' because it has to do with intent. I am sorry, I do not remember the distinction.

Ms Archer - Is 'bad faith' worse than 'false', or the other way around?

Ms O'Byrne - The department's advice was to take it out, but I do not think OPC requires it to be taken out. I know we use the language elsewhere. Unless there is a really good reason to take it out, I do not know why we would. That was my view.

If the minister is happy to withdraw then -

Dr WOODRUFF - The department was not strong in their advice, as I read it. It said:

> While 'bad faith' is used elsewhere. … 'falsely' may be sufficient and clearer in this context.

They have used the word 'may'. It sounded like it was not a strong view; it was just a possible interpretation, and they made it clear that 'bad faith' is used elsewhere.

Ms COURTNEY - My advice is the reference to 'bad faith' is in the Evidence Act, and seeing that it is referred to in other areas of law, I am comfortable with leaving it there and removing my amendment.

As with a few of these implementation advices from departments, some of them are comments rather than strong advice, so if there is a will of this House -

Ms O'Byrne - It has legal intent.

Ms COURTNEY - Madam Chair, I move:

That the amendment be withdrawn.

Mr BARNETT - Madam Chair, I think this raises the fact that the entire process is becoming quite absurd, where we have departmental advice and the sponsor has been acting on that departmental advice throughout the last two or three days. We are now into the third day, and now we have had some questioning of that advice. It is absolutely legitimate and fair that they have questions and queries as to why it is occurring but the sponsor of the bill is not backing in the advice.

Ms O'Connor - Because it is not the will of the House to support it.

Mr BARNETT - This is exactly my point. My point is that the sponsor of the bill has at least been attempting to implement departmental advice and then from time to time takes on feedback around the Chamber and is not so sure about that advice, is not convinced of that advice, is not confident of that advice. Surely as legislators we want to be 100 per cent confident in this bill? We want it to be watertight, whether you are in favour or against the bill. If it were to pass, which it appears it will, you would want to be 100 per cent sure of the validity and merit of the bill.

We are talking about a clause under Part 18, the offences section. This is incredibly important. We have talked about inducements and dishonest or undue influence and now we are getting to false representation of being authorised to communicate on behalf of a person. These are important principles of law. We are talking about the impact in terms of criminal law being implemented here in Tasmania and whether that crime is or is not a crime. As to the legal fraternity in this state, I would like to know the views of the Law Society.

Ms O'Connor - Go and ask them.

Mr BARNETT - The member for Clark tells me to go and ask them. We received this report last week, eight days ago, we got the amendments on Friday night and the consolidated version on Monday or Tuesday, and now we are getting changes to the amendments and the sponsor does not want to put forward an amendment to fully safeguard the clause and the law. Then I get an interjection to say I should go and get Law Society advice or legal advice. Seriously, this is something we should all be confident about. If we need to pause to get legal advice, surely that is a decision for the sponsor, and if you are not sure, you can get legal advice. I am happy to get legal advice but we have not had time to get legal advice on this clause or other clauses.

This is really highlighting the process. We have come in here, the sponsor has put forward this amendment and we have heard from Ms O'Byrne, I presume on behalf of the Labor Party, saying she does not support that. We have heard from Ms O'Connor; she does not support it. Suddenly the sponsor now says in the 'spirit of cooperation' or whatever. Surely it is based on departmental advice? She has come in here and put forward the amendments. We have had the amendments and now that appears to be falling flat. I am concerned about the whole process, and I think this is indicative of my concerns and perhaps those of others in this Chamber with respect to where we are at.

Ms O'BYRNE - On the matter of seeking leave - and this is my first contribution on the motion now before the House - I understand what the member is saying. If there is an interpretation of law that matters, that needs to have the significant and considerate attention of the House. However, what Ms Courtney had in her advice from the department was that 'falsely' is probably enough but the advice recognised that the term 'bad faith' is also used, so if that does not detract from the legislation, to remove it. I think leaving it as it is, is clearly the safest place to be. If it exists in the Evidence Act and there are so many lawyers in the room, I am sure you all knew that. I am not a lawyer so I apologise for not knowing the Evidence Act as well, but -

Ms Archer - It is fine to leave it as is. We're talking about the process being flawed here -

Ms O'BYRNE - I know you are talking about that.

Ms Archer - because on one hand you're following agency advice and on the other, at a whim, you're just ignoring it.

Members interjecting.

Madam CHAIR - Order. There is a lot of chatter in the House. I remind everyone there is not a unanimous decision in this House so it is fair that we debate this point. From what I can see and hear there is not enough consensus so I ask that the debate is held in respectful silence by those who are not debating and that the person on their feet is allowed to make their contribution in peace.

Ms O'BYRNE - Thank you, Madam Chair. I feel that I need to raise it because when the amendment was put in the previous motion before the House I raised the fact that I thought 'bad faith' should be included. If the advice from the department does not say that 'bad faith' must be removed, I am not sure why people who are concerned about the bill and want to make sure it is as strong as possible would now be arguing the opposite simply because they wish to make a point around the process of the bill. They have ample opportunities to do that.

If we are genuinely talking about the clause before us - and right now we are talking about seeking leave to withdraw a clause before us - I am flabbergasted that members who have stood here and said they want the strongest, most robust, powerful piece of legislation are now saying they will not allow the minister to withdraw a clause that actually maintains the level of strength it had in the drafting that passed the other House. I imagine that clause would pass the other House again, so I think leaving it in its entirety makes absolute sense. Unless those members have an argument as to why it should be removed, and that would be really interesting to hear, then the member who has moved the motion to withdraw the amendment

should have the right to have that amendment withdrawn and we should be able to progress with the bill.

Mr FERGUSON - Very briefly, this is a real pickle. We have inherited this mess. Not long ago we were being asked to rely -

Ms O'BYRNE - Madam Chair, I want to point out 'inherited this mess' reflects upon the actions of the upper House that passed this legislation.

Madam CHAIR - Order. That is a debating point, not a point of order.

Ms O'BYRNE - No, it is a standing order. You cannot reflect upon the other House and he has just suggested that the other House gave us a 'mess'.

Madam CHAIR - That is a debating point. The member for Bass, Mr Ferguson, has the call.

Mr FERGUSON - Some people have incredible double standards around the conduct of this House.

It was just a short while ago we were being expected as a House to abide by agency advice and a piece of paper that would not be tabled for members to have a look at in relation to coroners. The same group of people have advised an amendment which has informed the amendment question that is the subject of the withdrawal motion. I am not qualified as a lawyer but my view is that it is pretty clear that leaving both of the terms- 'falsely', and 'bad faith' - is superior because both of them are caught and captured.

Two things cause a sanction. One is falsely purporting to be a person and the other is in bad faith purporting to be a person. Both of those behaviours are captured which then causes follow-on actions, including the penalty of imprisonment. I agree with quite a few other people around the Chamber; however, I indicate that this is ridiculous. We are constantly being told to follow the agency advice when it weakens the bill, like removing coroner's notification -

Dr Woodruff - That is not why we argued to remove it.

Mr FERGUSON - but when it does not suit, we should not follow the agency advice. This is a poor show. I would like to hear from the Attorney-General who, in my mind, is pre-eminent in the law and our first law officer. In the absence of any other guidance, I think to be sensible about it, we ought to allow the amendment to be withdrawn and not have that amendment because it seems it would add to the weakening of the bill. Frankly, I think it is a shame that members are treated this way.

Ms ARCHER - Madam Chair, I do not have a lot to say in addition to that other than to back up what my colleague just said. This is about procedure and the advice the sponsor has received from the department. If we are to be constantly assured that advice has been sought, obtained and relied on, then in instances like this and we are not going to, that rings some real alarm bells for me.

As Attorney-General, I have not had access to my department on this bill, even though there are matters in this bill which I will need to oversee, as will future attorneys-general, as

well by way of administrative arrangements. That was the reason, and I do not want to reflect on the debate of yesterday, other than to say that I had great difficulty in relation to the Coroners Act changes, in relation to notification my colleague, Mr Ferguson, referred to.

I will not oppose the withdrawal of this; I just wonder why it is put in in the first place if it is very easy to withdraw it by being convinced in a matter of seconds. It causes great concern to me that we are doing these things on the fly with subject matter as serious as what we are dealing with now. I know everybody comes from a place of trying to ensure that we do have the best legislation and the most robust legislation. We also need to - certainly I know this is why the agency advice was sought and received - follow it if, indeed, we are going to rely on it.

Ms O'Connor - No. Yes, you can. It is advice.

Madam CHAIR - Order.

Ms ARCHER - The House is selectively relying on the advice. I and others rely on the advice of agencies consistently when we are carrying out our duties as ministers, and our former ministers know that as well. I do not think we are reflecting, surely, on the ability of agencies to provide good advice so I wonder why we are chopping and changing throughout the course of this debate.

Ms O'CONNOR - Out of deep frustration, it might shock opponents of this legislation, but what they are going through now is proper legislative process. We have become accustomed in the past seven years to bits of legislation being jammed through and speakers having their rights restricted. I remind the Attorney-General that this advice from the department is provided to inform our judgment. It is not direction from the department.

I will not take my direction on this legislation from government agencies, but it is useful advice to inform our deliberations. I just remind the people who have sat down, the major projects legislation, from memory, was tabled on the Tuesday morning and brought on for debate on a Thursday. It was one of the most complex and consequential pieces of legislation to go through this place, which we know had the support of Government and the Labor Party. This House had 48 hours, so spare us your hand-wringing.

As a minister of the Crown, everyone here who is a minister knows your job is to seek advice, read that advice and make a decision based on that advice. You do not have to follow that advice because the buck stops with you as minister.

Ms Archer - You keep calling it. See how inconsistent it is?

Ms O'CONNOR - No, it is not inconsistent; you are clutching at straws.

Madam CHAIR - Order, can I have one person at a time speaking? The question is that leave be granted.

Dr WOODRUFF - Mr Barnett mentioned a number of times, and it has been mentioned throughout the debate by other speakers, that we should have consulted with the AMA and sought its view, or Mr Barnett said we should have consulted with the Tasmanian Law Society and got its view. We have consulted with agencies, we have their views.

Our job as legislators is to look at all these views and to take them all into account. It is quite clear in this instance; in a number of other instances from the agencies' advice, it was equivocal. It is also the case that we balanced a whole range of other views and have not taken that advice. That is our job as legislators. I am surprised, given the history of some members here, that they are not able to understand the normal practice of this place, but that is all we are doing here.

Amendment, by leave, withdrawn.

Clause 124 agreed to.

Clauses 125 and 126 agreed to.

Clause 127 -
False statements

Ms COURTNEY - Mr Deputy Chair, I move the following amendment.

Page 158, clause 127.

Leave out "a false statement".

Insert instead "a statement that is false in a material particular".

Without reflecting on the clause we have just moved where we discussed bad faith, I make it clear that my amendments to this bill and for the debate have been made in good faith.

Looking at the agency comments, we know that some of them had very firm feedback about areas where perhaps they were in conflict with other pieces of legislation. Other parts of it were comments. I am cognisant of how important this bill is for everybody in this Chamber and I take my role very seriously.

I feel, and I have felt, and I will continue to feel, that it is my duty, as I have said before, to work with parliamentarians to produce what we can as the best bill possible in what is a very controversial area.

When I come with amendments, I am coming to this place in good faith. I do not have an expectation when I walk in or when I move any amendment, whether it will get up or not. I am simply, honestly, trying in good faith for us to be as proud as we can of a bill, noting, and I respect the fact, that we have members who fundamentally disagree with this bill. I respect their right to fundamentally disagree with that and I respect their right to argue against it.

I can assure you Madam Chair, and members around this place that everything moved by me is done either to rectify problems that have been clearly identified or indeed address comments that have been raised. With this bill I am trying very hard to make sure that in a contentious area, I am addressing everything that has been raised. I want to make that comment.

With regard to clause 127, False statements, I am sure everybody is now looking at their agency comments very closely. This clause will probably cover many of the same acts as clause 126 and seems repetitive.

Minor amendment and clarity regarding what is meant by a statement that is false. My advice is this is in accordance with agency advice.

Amendment agreed to.

Clause 127, as amended, agreed to.

Clause 128 -
Dishonest inducement to use VAD substance

Ms COURTNEY - Madam Chair, I move the following amendment:

Page 158, clause 128.

Leave out "dishonest or undue influence, induce,".

Insert instead "dishonesty or undue influence, induce, or attempt to induce,".

Again referring to the agency comments, their advice was that 'dishonest influence' is unclear and is not used elsewhere in Tasmanian law, so they are similar minor amendments to clause 123 regarding terminology of dishonesty and undue influence.

Amendment agreed to.

Clause 128, as amended, agreed to.

Clause 129 agreed to.

Clause 130 -
Offences by contact person

Ms COURTNEY - Madam Chair, I move the following amendment:

Page 159, at the end of the clause.

Insert the following subclause:

(2) A contact person in relation to a person must, within 14 days after a VAD substance is given to the contact person under section 91(4) by the person, return the VAD substance to the person's AHP.

Penalty: Fine not exceeding 100 penalty units.

This adds an offence. I am advised it was to correct an omission. This is to clearly address the requirement for a person who changes their mind, or chooses not to self-administer the VAD

substance, to provide the substance to either the AHP or the contact person under clause 91(2)(iv). This amendment creates an offence for the contact person not returning the VAD substance to the AHP in 14 days. In other words, this is to ensure that the VAD substance is returned if it is not administered.

Mr FERGUSON - Thank you for that, Ms Courtney. I will just invite your opinion on the length of time involved. I see your amendment adds an additional subclause and you have explained that to members, but I openly ask that question as to your opinion and judgment on the length of time. Two weeks feels like a long time for the product to be in the community and not in hand of a pharmacist or medical store, whether or not the person died. It is obviously a poisonous substance, it is obviously lethal and will kill someone if not handled or stored judiciously. I query that and I look for your view on it to satisfy me and others that we do not have a poisonous substance, which is known by people, including the contact person and others, to be enough to kill a person, whether it ought to be tighter than 14 days. We are talking about two weeks in the Tasmanian community not under lock and key, so I invite your views on that.

Ms COURTNEY - I am happy to provide clarity for the member. The clause as it stands already has a provision of 14 days for the return of unused or remaining VAD substance. We are effectively expanding this to unused or remaining substance or if the person decides not to go ahead. It captures another way that there might be a VAD substance that is not being used. The 14 days has not been changed from the original bill; it was just the expansion of it. That is the substantive effect of the change of this clause.

Mr Ferguson - Although I think I acknowledged that particular point you made in my own statement, I was querying the length of time the product could be circulating in the community.

Ms COURTNEY - I have had no advice that has raised concerns with me, and there has been no suggestion to me from the agencies that the length of time is inappropriate. As that length of time came through from the other place, I have no rationale to move anything to change that. I am comfortable with 14 days and with the fact this extends that provision to another instance where perhaps the VAD substance could be remaining.

Dr WOODRUFF - Madam Chair, to make sure I am clear about this, the existing clause in 130 is about the contact person's responsibility for returning any VAD substance that remains after a person has died within 14 days.

Ms Courtney - If they have it because a person decides not to use it.

Dr WOODRUFF - The first clause is about once a person has died, anything remaining must be returned. This second clause is in the circumstances where a person may not have self-administered and may have died anyway, so after their death the VAD substance must be returned.

Ms Archer - Or decided not to.

Dr WOODRUFF - Yes, that is right, in circumstances where the person has not self-administered and does not proceed. Okay. I expect the circumstances in which the contact person receives the VAD substance is - I cannot remember, but I think there is an area that talks

about how that must be stored. The 14 days is already covered elsewhere in the legislation and I do not see why we should be changing that at this point.

Ms ARCHER - Madam Chair, Dr Woodruff just referred to the 14 days being elsewhere in the bill. Can you enlighten me on how we arrived at 14 days? Is it something from other legislation that the original bill, which we have been referring to affectionately as the 'Gaffney bill', has just modelled itself on another jurisdiction and that is how we have arrived at 14 days? For example, why is it not seven days to the return? It is a legitimate question I want to know the answer to. It may well be because 14 days is considered a reasonable period of time in other pieces of legislation for other things, but 14 days is quite a long time when we are dealing with a lethal substance, so I am wondering where it came from.

Ms Courtney - I do not have that information on me, but I am more than happy to seek it.

Dr WOODRUFF - I understand from conversations with Mr Gaffney's office that Victoria does not require unused VAD substance to be returned at all. Apparently that is the case, so we can reflect on that as one option. I think the other place had discussions. I have not had a conversation with Mr Gaffney about that, but they came to a position that 14 days was appropriate, given the other practices of protection around who the contact person is and so on.

Ms Archer - I would prefer 'as soon as practicable'.

Ms O'BYRNE - The first clause deals with the drug being administered and the person dying and there being a remainder. The second clause deals with a range of things. Obviously, if a person dies without having taken the drug, that would be the 14 days, and that is why 14 days was arrived upon - because it was a reasonable amount of time for people to get things done. I understand that and am aware it is not required in other jurisdictions.

If the person chooses not to take it, when does the 14-day period kick in? Is it from the date they had said they were going to use it? I am not utterly convinced we need it because others do not have it, but I wonder, in the circumstance where somebody chose not to use it, would they have to give it back within 14 days or could they still not have formally chosen not to use it? You are smiling so I am hoping you understand my confusion.

Ms COURTNEY - Where I am going to is the interpretation I have effectively of the amendment, Ms O'Byrne. So, within 14 days after VAD substance is given to the contact person. That would be the interpretation, 14 days as per what would be subclause (1) now under clause 130 aligned with the dates.

Ms O'BYRNE - We have already done the clause around making sure the person who receives it has the permit to receive it.

Dr WOODRUFF - Mr Deputy Chair, can I make a point of clarification? I have spoken twice, but I wanted to correct some information. That was a misunderstanding of the Victorian situation. There is a 14- and 15-day requirement in recognition of the distances that people from regional Victoria would have to travel and, taking into account the time frames that would be reasonable after a death, that is what was landed at.

Mr Ferguson - There have been a few speakers since I spoke, and I ask again: if you do not mind -

Mr DEPUTY CHAIR - Just by interjection.

Mr FERGUSON - I expressed it in a different way which is what I was looking for with some advice around punitive safety actually, about a product that is unused or the remaining portion.

Ms COURTNEY - As has been highlighted by Dr Woodruff, the length of time is similar to provisions in other jurisdictions. My understanding is that Victoria is 15 days, and Western Australia is 14 days or as soon as practicable. It is also important to recognise that there needs to be sufficient time considering that often in these circumstances the person who might be the contact person is grieving, might be having to make funeral arrangements, or might be living in a regional area and logistically it is very difficult. It also has a very large penalty unit associated with it. The 100 penalty units is not an insignificant fine so this is a very -

Ms Archer - It is $172 at the moment.

Ms COURTNEY - So it is $17 000. It is quite a large incentive in terms of the size of the penalty. Furthermore, I will draw the member's attention to clause 92(2):

> As soon as reasonably practicable, but in any case within 24 hours, after becoming aware of the death of a person who has self-administered to the person a VAD substance in accordance with section 91(3), the contact person in relation to the person must notify the person's AHP of the death of the person and, if the person has not died at the person's usual place of residence …

Ms Archer - Did that start with, 'or as soon as practicable'?

Ms COURTNEY - That is just a notification. The AHP for a contact person will be in a position to be able to provide guidance and assistance because -

Mr Ferguson - Well, the AHP might even go and collect it.

Ms COURTNEY - Absolutely, I acknowledge that community safety is very important with substances like this. It is trying to strike the right balance between ensuring there are strict processes and a not insubstantial vial associated with a non-return of it in a timely way, but balancing that with the fact that there might be difficulties the person has actually getting it back in that time. It is noted they could be in an enormous amount of distress and grief at that time and they might have a lot of logistical things to do also.

Mr FERGUSON - Ministerial colleague, Ms Courtney, I accept that answer in respect of the AHP rather the contact person reaching out to the AHP, as you identified in clause 92(2). You noticed I interjected, 'Well, the AHP might go out and collect it', but they also might not. To choose some other choice words, it does feel a bit flabby, the difference between 24 hours and 14 days. I do not think I feel strongly enough about it at this time to provide a better time frame but I have to say 14 feels like a long time for that substance to be in the community.

Potentially in that time adverse things may occur like an unused or remaining portion of a VAD substance may be tipped down the sink. I could see that occurring. Somebody in a household with other young people might just decide to risk mitigate and just get rid of it that way. There is no integrity around that, no evidence or knowledge if that really did happen when that is their explanation. It would also be an offence, I know that. I accept the argument around regional areas, but I do not think people are 14 days away from civilisation in Tasmania - even on our Bass Strait islands, we have health centres with authorised, secure pharmaceutical centres and safe rooms.

Ms Courtney, I invite you to at least note and agree that this will be under active consideration after royal assent and before the commencement of the bill. It might be a minor amendment that needs to be revisited on some robust agency advice. Certainly I invite you to commit, as well, to having some really strong language around this and the guidelines and regulations brought forward. I would hate to think we might reflect back on this discussion today and wish we had tightened it up because a child got their hands on it or in the grieving process, when everybody is not themselves, something quite adverse could occur, noting we are talking, at least in relation to a person who has not died, about a substance that has actually been unopened, so it is fully available and would be fully enough to kill a person.

Ms Courtney, I hope you will take that on board. I believe you should commit to reviewing this on an ongoing basis and also commit to having some pretty robust and strong policy and guidance in the guidelines that will follow this legislation.

Ms O'Connor - That is very reasonable.

Ms COURTNEY - Thank you for those requests. I assure you that as this bill progresses to become law, with the seriousness and the content of this bill, it is incumbent on the minister of the day who administers the act, as with the department, to ensure it maintains appropriateness and is contemporary. I also agree that this bill, if and when it becomes law, will naturally need very robust guidelines with it and strong communication for everybody who is interacting with it. I commit to that happening.

Ms O'BYRNE - Everyone has come to this question on this clause with quite good intent. The thing with 'as soon as practicable' is that could reasonably mean more than 14 days and I like the pressure to make sure it is as short a time as possible. 'As soon as practicable' deals with Western Australia in particular and some very remote communities. I imagine our communities are not so remote that it would take longer than two weeks. It is probably a bit tighter than the others but, as members have said, other than the review process, there is always an opportunity to re-engage if at any stage there is a concern. The 14 days has been landed upon as a good way of progressing through this in a reasonable time frame so it is probably wise for us to support that.

Amendment agreed to.

Clause 130, as amended, agreed to.

Clause 131 agreed to.

Clause 132 -
Protection for persons assisting access to voluntary assisted dying process

Ms COURTNEY - Mr Deputy Chair, I will speak to both amendments and then we will move them separately. The agency advice noted that there are various provisions in the bill relating to the interaction of legislation when criminal liability does or does not apply. Some of these appear to be modelled on other jurisdictions and some are new provisions. This is a complex area where the definition of the elements needs to be carefully developed to ensure the desired conduct is protected from liability; that conduct that should remain criminal is still subject to sanction and the interaction of laws is clear and understood.

The amendment to these clauses - and there will be a few more subsequently - are based on subsequent agency implementation advice to provide the necessary clarity to address this complexity and ensure the protection is not cast so broadly that conduct that should remain criminal is not inadvertently excused.

The amendments to the clauses are consistent with the model taken in Victoria and Western Australia. In Victoria, Western Australia and this bill, the general model is one clause protects any person from criminal liability for providing general assistance to another person to access voluntary assisted dying. For example, this might apply to the assistance of family, friends, health practitioners and so on.

The second clause protects the person who actually takes action under and in accordance with the act. For example, this includes actions such as the decision-making process and the administration of VAD substance. Given the significance of those actions, the protection is not just from criminal liability but includes civil liability protection and protection from what otherwise would be a breach of professional ethics and professional conduct.

Mr Deputy Chair, I move:

First amendment

Page 160.

Leave out ", or purportedly in accordance with,".

This leaves the protection in place for any person who in good faith assists another to access the VAD process or is present when a VAD substance is administered in accordance with the act. The omitted words do not appear in the Victorian or Western Australian provisions. The amendment would in fact leave the clause essentially identical to the Western Australian provision. My advice is the omitted words are unnecessary and unclear.

Ms ARCHER - Mr Deputy Chair, I wanted to confirm. I had intended to move amendments to clauses 132 and 134 around the words 'good faith' and perhaps replacing them with 'acting honestly and reasonably'. With the changes Ms Courtney has introduced, I understand the intent is to capture both civil and criminal liability aspects at the same time and that is the reason for 'good faith'.

Although I would like to see it strengthen the defence in relation to criminal liability as opposed to relying on a defence of good faith that is typically used in professional misconduct and other civil types of cases, I accept what we are trying to do here. It is about balance. I have taken the temperature of a few things and I am not going to pursue the amendment, but I wanted to get on the record today my concerns around that. We are dealing with a clause that

is trying to deal with civil and criminal together. Again, I think this is one to watch in practice as to how it applies because it is not consistent across jurisdictions. I think we need to monitor how this operates, how it is utilised, and if 'good faith' is indeed too weak, it may need strengthening to cover the situation of acting honestly and reasonably.

They are my comments in relation to this clause. I do not want to stand in the way of these amendments, but I want to get on the record that I think it is worthwhile that we watch and wait and see in relation to this clause.

Amendment agreed to.

Clause 132, as amended, further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Second amendment

Page 160, clause 132(a), after "process".

Insert ", other than by administering a VAD substance to a person, or assisting a person to self-administer a VAD substance, otherwise than as authorised under this Act".

The second amendment is to insert words to exclude the administration of a substance from the scope of a clause. Clause 132, if it is to follow the model of the other states, is to protect any person from essentially basic assistance to another person to access voluntary assisted dying - for example, for a friend or a family member to assist the person, make the request and so on. Both Victorian and Western Australian protections refer to assisting another person to access voluntary assisted dying.

The issue with clause 132 is that it extends beyond assistance with making requests and access, and provides protection for assisting another person to participate in a VAD process, which has defined meaning under clause 3.

The definition of VAD process specifies every step of the process, including administration of a substance. This leaves it unclear as to whether the protection extends to a family member administering a VAD substance to the person, for example.

The protection from criminal liability for actions under the act, including administering substances, is appropriately dealt with under the safeguards in clause 134, which limits the protection to both good faith and without negligence and in accordance with the act where there is belief on reasonable grounds.

To avoid clause 132 being inadvertently broad and overlapping with the tighter protections in clause 134, the amendment therefore clarifies the protection for any person assisting another person does not include the administration matters.

Amendment agreed to.

Clause 132, as amended, agreed to.

Clause 133 agreed to.

Clause 134 -
Protection for persons acting in good faith

Ms COURTNEY - Mr Deputy Chair, I move the following amendment:

First amendment

Page 160, clause 134(1).

Leave out the subclause.

I will provide some overarching comments and some specific comments relating to each amendment.

The previous clause note provided the general context - that is, clause 132 protects any person for providing assistance to access VAD.

Clause 134 is intended to cover a different scope to clause 132; that is, to protect people who take or fail to take actions under the bill. These are the various persons as specified in the bill who make decisions or supply or administer substances, and so on.

As presently drafted, clause 134 has four subclauses. In summary:

- Subclause (1) provides that any person who in good faith assists a person accessing VAD in a way that would otherwise be an offence, does not commit that offence, that is, protection from criminal liability.

- Subclause (2) provides that any person who in good faith and without negligence acts under the act, believing on reasonable grounds that the action is in accordance with the act, is protection from four types of liability, that is protected from unprofessional conduct, from civil liability, from breaching codes of conduct, and from criminal liability.

- Subclause (3) provides that such a person's actions are not in breach of professional ethics or employment requirements or professional misconduct and cannot be sanctioned by a relevant body.

- Subclause (4) protects specified people who, in good faith, do not administer lifesaving treatment to a person who has not requested it where the person is not dying in accordance with the act.

My first amendment is to leave out clause 134(1). The agency reviewed its advice on protections from liabilities, and recommended this amendment. This is because the subclause covers the same ground as clause 132, although is less specific. As in the previous note, Victoria and Western Australia have equivalent clauses to clause 132; they cover the same ground. The issue with the bill is that the Western Australian provision has been adapted into clause 132 and the Victorian provision has been adapted into clause 134(1).

Ms O'Byrne - Clause 132 is stronger.

Ms COURTNEY - They say the same thing in a different way. One says providing assistance does not incur criminal liability, the other says providing assistance does not constitute an offence.

Clause 134(1) should be omitted to provide clarity and certainty to the scope of clause 132 and the remaining provisions of clause 134.

Ms O'CONNOR - This indemnity provision raises the question over what protections will be there for medical professionals - that is doctors in this case. I do not want to pre-empt what the parliament's vote on the telehealth provisions might be, but my understanding is that the sponsor of the bill in this place intends to move amendments that allow the bill to stay silent on the telehealth provisions. As I have said earlier, I will not be supporting that because I am very concerned about people who live in rural and regional areas, and also about a bill that is not in touch with modern life and the technologies we all rely on.

Is it your understanding, Ms Courtney, that a medical professional acting in good faith under the legislation though these clauses will have that protection should they determine it is necessary to see a person by audiovisual link for practical purposes?

Ms Archer - No, because it would be breaching Commonwealth law.

Ms O'CONNOR - No, the issue has been resolved in significant part by what Western Australia has done and correspondence between the Western Australian Attorney-General and the Commonwealth Attorney-General, and also what Victoria has done. The precedent has been set. I guess the issue is: Will the Commonwealth take on Western Australia, Victoria, Tasmania, and Queensland when it comes up next? Is it not the state's responsibility to reassure doctors that they will back them in every step of the way if they are acting in good faith and lawfully under this legislation?

Ms Archer - Commonwealth law overrides state law, though.

Ms O'Connor - You were not listening. There is correspondence between the Western Australia Attorney-General and the Commonwealth Attorney-General.

Ms Archer - I do not agree with it because that is not what I understand to be the case.

Ms O'Connor - Clause 138 of this act mirrors a similar provision in the Western Australian law.

Mr DEPUTY CHAIR - Ms O'Connor, I am sorry but, for the benefit of *Hansard*, you had finished your contribution and sat down. Ms Courtney is getting advice.

Ms O'CONNOR - Can I just respond to that briefly? I ask you, Chair, to be even-handed. Ms Archer and I were both having a conversation -

Mr DEPUTY CHAIR -No, I am sorry. When the Clerk turned to me to call my attention to it, you were the one who was speaking. Obviously, Ms Archer was speaking as well. I was just asking you to stop because you were the one that happened to be speaking when the Clerk drew my attention to it. There is nothing else to it.

Ms COURTNEY - Thank you, Ms O'Connor. The short answer is no. With regards to the liability protections, that is with regard to Tasmanian law. That does not extend to national law. With regard to many of the registration requirements under national health registration laws, health practitioners are required to comply with both state and federal laws. The protection is for Tasmanian laws, not for federal laws.

Ms O'CONNOR - Thank you for that. Further on, that question relates specifically to the Commonwealth Telecommunications Act, the relevant part of which I do not have in front of me, and maybe I was not clear enough in my question.

Would the state stand behind a doctor who in good faith and lawfully under this act - given that proposed new section 138 makes it clear that a death under this legislation is not a suicide - if the doctor, given it is your intention that the legislation stays silent on the audiovisual issue, undertakes a part of the process here using audiovisual means - this is our interpretation. The Tasmanian bill emulates the Western Australian bill in that it clarifies that voluntary assisted dying is not suicide (clause 138) and it does not authorise the use of a method of communication if or to the extent that the use is contrary to or inconsistent with the law of the Commonwealth, which is clause 137. As you are aware, Ms Courtney, the Western Australian Government has also issued advice clarifying matters that should be avoided in discussions via link, but it has still stuck to its legislation that provides for consultations via audiovisual link.

I am trying to understand what protection - and I hear you about the overlay of Commonwealth medical registration processes and other bits of Commonwealth law. But we are dealing here with whether doctors - because the law will be silent if parliament votes that way on audiovisual links - would have the support of the state if they determined that the only mechanism by which they could provide that service, consultation to a person accessing VAD is by audiovisual link. Would the state support those doctors?

Ms Archer - They cannot if they have informed themselves that way and broken the Commonwealth law.

Ms O'Connor - Have you seen the correspondence -

Mr DEPUTY CHAIR - Please, Ms Archer, Ms O'Connor.

Ms O'Connor - The difference is, Chair, I am loud and Ms Archer mutters, and that is why I get in trouble more.

Recognition of Visitors

Mr DEPUTY CHAIR - I think it is standard practice before Ms Courtney resumes to acknowledge the presence of the former member for Braddon, Mr Adam Brooks, in the Speakers Reserve. Welcome to Parliament House, Mr Brooks.

Ms COURTNEY - Ms O'Connor, no, the protection is not going to extend to laws under the Commonwealth. With regard to my amendments to my amendments, that effectively is silent on telehealth but staying silent does not mean telehealth is allowed.

It would be my expectation that, so that we do not have an issue with potential contradiction, that we would have guidelines and policy to support the communication, reminding and reiterating to all participants, their obligations under national law.

Ms O'Connor - That, with all respect, is a weak approach, relative to what other jurisdictions have done.

Ms O'BYRNE - Expanding on this particular concern about somebody who might give that information over telehealth, because that is the only way to speak to someone on Flinders Island perhaps, the Commonwealth legislation does not allow the discussion, promotion or mechanisms of achieving suicide.

If VAD is not suicide, if our bill absolutely declares that - which is my understanding - then that would mean that they would get the protection under this provision. Is that not correct?

Ms COURTNEY - I can speak on Tasmanian legislation, I cannot speak to Commonwealth interpretation. My clear advice is that this is a prudent pathway forward to ensure that there is no potential contradiction with federal law. That is my strong advice.

What I am moving through my amendments to my amendments to telehealth is effectively providing the mechanism, should Commonwealth law change, to enable it. But my amendments to my amendments removing reference to audiovisual link and the silence on that within the bill, should that pass, does not mean that telehealth is allowed.

Ms O'Byrne - By interjection, I did not get an answer on my question around whether or not our bill says that VAD is suicide. That was my actual question there. My question is, because it does go to how it would come under this provision of being found liable, whether VAD, under this bill, is suicide or if it is voluntary assisted death? Because that is different.

Where it is different it does not matter in the provision of this act but it does matter with regard to the implications of this act.

Ms COURTNEY - With regard to our legislation, if a person dies in accordance with this legislation, should it stand up, then it is classified as a VAD death. However, I cannot say what Commonwealth law would interpret and that would be under a framework where we did not have the conflict with the federal law.

Ms O'Byrne - But we would not have a conflict in its intent?

Dr WOODRUFF - I will pick up on something that Ms Courtney said earlier, when she was challenged on taking a weak response to the issue of telehealth in this law. Ms Courtney, I think you said that Victoria does not take a strong response.

I want to point out the difference between Western Australia and Victoria. Western Australia has done two things: it has clarified in its act that a VAD death is not suicide, and

that the Western Australian act also does not authorise the use of a method of communication that is contrary to or inconsistent with the law of the Commonwealth.

Victoria has not done the first step, as I understand it. The Victorian act does not have a clear statement that a VAD death is not suicide. They are in more tricky legal territory, if you want to look at it that way, although there is a lot of debate within that state as to whether it is tricky or not, but because they have not made that strong statement, it is potentially considered in some circumstances that it might be more difficult to argue that there is not an inconsistency with the Commonwealth law. Let us be clear that the law we are talking about is specifically about using a telecommunications service to assist a suicide and specifically would come into play if there were any instructions over a telecommunications service about the act of administering a voluntary assisted dying substance.

We have the opportunity to choose two pathways and we have two options in front of us. We have already chosen to take the Western Australian sensible option of making it very clear in this bill that a VAD death is not a suicide, so tick - we have done that. We have fulfilled that requirement very clearly so it makes it quite clear that a VAD death is not a suicide. Then we are talking about the other part of the potential conflict with Commonwealth law - where a person might be instructing or in any way encouraging the use of the act of administering a VAD substance over a telecommunications service. That can be clearly managed by the regulations which follow this bill, which is what Western Australia has done.

I do not understand why we would leave Tasmanian doctors and, worse, people who want to access voluntary assisted dying in Tasmania in a situation where the only way they could access specialist advice or talk to the PMP or a CMP about this stage in the process is to have an in-person visit. Although we are silent, it is very difficult to provide some assurance to doctors that they would be covered if they went down the pathway of wanting to have a telehealth meeting. What would have happened to people last year? There would have been no assistance.

This is what we have happening in Victoria, and I had people write to me last night about this situation. A woman wrote to me about her brother who died of a gunshot wound to the head. His hand pulled that trigger because he was living in regional Victoria and because of COVID restrictions he was not able to go through the process of fulfilling all the steps in person, so he took the terrible step that too many people do that we all spoke passionately about wanting to avoid. He had to take that step. That is just one person. There are so many people who will be affected by this.

Unless we make it very clear that is an option, last year pretty much every person in Tasmania would not have been able to access VAD - and a pandemic could come along and restrictions could be put in place at any time. Unless we can have conversations with medical practitioners and specialists who certainly do not live anywhere near rural areas, effectively we will not be making this available to the majority of Tasmanians.

Mr STREET - I was going to make a contribution on telehealth later on tonight but I might as well take the opportunity to put my thoughts on the record now.

I want to make a couple of things very clear. First, I do not believe that telehealth is a secondary or lesser form of communication between doctors and patients. I personally have no problem with telehealth being used as part of the VAD process. In fact, I think it is essential

in terms of equality across the state that telehealth is able to be used for VAD, but that issue is separate to the legal argument we are having here.

We can put it into the Tasmanian legislation as many times as we like. This is the legal advice I have been given so I will try to lay it out as clearly as it was laid out to me and then I will stand to be corrected by anybody else who wants to speak after me.

We can put into VAD legislation in Tasmania as many times as we like that a VAD death is not suicide and that still does not offer the protection that doctors need to use telehealth, because under Commonwealth legislation they are going to be relying on the definition or the interpretation of a suicide in the Commonwealth Criminal Code.

Ms O'Connor - There is no definition.

Mr STREET - Unfortunately what that also means is that we are then going to be leaving it up to the interpretation of either the Commonwealth Attorney-General or a Federal Court judge as to what a suicide is. The other legal advice I received from a lawyer I spoke to is that if a Tasmanian doctor, after this legislation passes, went to him for his professional opinion on whether to use telehealth or not for part of this process, he would say to that doctor. 'Do not do it, it is not worth the risk to your professional reputation and your professional career to potentially be prosecuted under Commonwealth law for doing it.'.

The lawyer also said to me that they believe at some stage a doctor will use telehealth for this process as a way to challenge or basically bring this issue to a head. I do not think that is an optimal outcome either. I do not think anybody in this place can question my commitment to VAD and legalising the process of it. I want to see this bill passed but it is going to have to be passed without the telehealth provisions, as far as I am concerned, because of the legal arguments I have put forward. What we need to do is lobby the federal government. Ms O'Connor, I know there are very few things that you have to concede ground on, but I can 'out-cynic' you any day of the week.

Ms Archer - That's a big call.

Mr STREET - Your cynicism about me talking about lobbying the federal government is warranted, and, trust me, my level of cynicism is exactly the same as yours, but I believe that changing the definition or inserting a definition of suicide into the Commonwealth Criminal Code that takes into account VAD, now that it is legal in Western Australia and Victoria, and, God willing, it will be legal in Tasmania later today - 'God willing' is probably not the greatest phrase I have ever used in this place.

Mr Ferguson - It just caught my attention, Mr Street.

Mr STREET - I think the only solution to this telehealth issue is the one that I laid out, which is to speak to the Commonwealth Government about potentially defining suicide in the Criminal Code to give doctors the protection they need to use telehealth.

I finish by reiterating what I said at the start: telehealth to me is not a lesser or secondary version of patient-to-doctor contact, but what we have here unfortunately is a legal situation that has come about that could not have been foreseen. To my way thinking the provisions in

the Commonwealth Criminal Code are not meant to capture what we are talking about. I imagine those provisions are to stop cyberbullying and the incitement of someone to suicide.

There was a massive argument in here yesterday about people with law degrees and people without them. I did half a semester of the first year of law and quit because I absolutely despised having to analyse law. The irony is that I am now in a position where I am helping to write the very thing that I use to hate analysing as a law student, but this is a legal issue and not a VAD issue to me. I am sorry but I simply cannot support leaving the telehealth provisions in this bill.

Ms O'CONNOR - With the greatest of respect, Mr Street, what you spoke about just then was one lawyer's opinion; you spoke to a lawyer last night. The Honourable John Quigley MLA, who is an Attorney-General -

Mr DEPUTY CHAIR - I am sorry, Ms O'Connor, but you have spoken twice already.

Ms O'Connor - Okay. There is a huge risk here that we are going to pass legislation that is unworkable and unfair.

Ms O'BYRNE - I am aware of that. I assume that when we get to the actual telehealth debate, Ms O'Connor will raise that again.

I wanted to raise a couple of points about the Commonwealth legislation and its intent, but also if you apply it to the letter of the law, as we are choosing to do so now, the other implications it actually has.

The Commonwealth legislation was designed predominately to give effect to stopping the suicide chat rooms that Nitschke was operating. It was specifically in relation to suicide, to deal with an identified risk. Since then, without the definition of suicide in existence - and there isn't a definition of suicide - we are now saying we believe that the Commonwealth may choose at some stage to say that voluntary assisted dying, even if we say it is not suicide, is picked up under this legislation.

If you take that kind of interpretation of this provision, I am afraid there are some other things that are discussed over telecommunications that would also have to be picked up. Lifeline: any counselling that we give that discusses suicide, if you have such a broad interpretation, and I accept the advice that the previous speaker while speaking has, every single conversation we have in counselling is also picked up. That shows why we can assume the intent. We can also assume the intent because we know that when we do legislation here, and if we are confused and it goes to the court, the court will look at the legislation. If they feel the legislation to be unclear, they will look at the second reading debate and then potentially, although I think it rarely ever happens, the entire debate of parliament to identify what the intent was. Anything that examined that would not show that the intent was to pick up legal activities that occur in other jurisdictions.

The Commonwealth legislation is not designed to stop us having access to voluntary assisted dying. The only place the Commonwealth legislation has specifically done that was when they chose to override the Northern Territory legislation. That is the only time the Commonwealth made a determination specifically related to the right of individuals to access voluntary assisted dying.

We are going to have a much longer debate when we get to this series of clauses, but the reality is it was not the intent of the federal legislation to pick this up. If we choose to assume that is how it is applied, we then have to say we have to stop funding Lifeline. No-one in this place is going to say that. No-one is going to say that we think they are guilty of a crime. That is a debate we will have when we get back to the point of discussing telehealth.

The amendment before us is the first amendment to remove the first provision around protection for persons acting in good faith. As I understand it, that clause is now superseded by the previous amended clause 132. So wherever we land on the telehealth debate later, whatever any subsequent appeal to the Federal Court is made, which has not been made in Victoria, which has not been made in Western Australia, we are not able to deal with that within this particular amendment that is before us right now.

I have very firm views that there should be no circumstance in which we deny access. In fact, another provision of this bill that passed last night was about access. Genuine access means recognising the different ways in which health is now provided in Australia. That is not in contravention with any federal legislation. There will probably be multiple times over the last 12 months when people living in isolation, in great distress, had a conversation with their general practitioner or their health provider about self-harm. We do not believe that was illegal. No-one is pursuing any doctor for that right now.

I believe we are creating an argument we do not need to have right now because we can have telehealth provisions within this legislation that allow us to progress this because we are creating an argument that does not exist. It will not hold up in law, which has been proven by Western Australia and by Victoria. I remind members Victoria did not manage the telehealth issue well. It did, and I note the woman who wrote to us, and I sought her permission to raise her brother's case as well - he took his own life because he could not access telehealth for VAD, which is a terrible outcome for that family.

Victoria has had, within its review, significant concerns raised about the fact that it did not deal with this issue. We do not want to be a jurisdiction that does not deal with this issue because that is not okay. That is not our job. It is also not our job to create an interpretation of Commonwealth legislation that is so extreme that many existing applications would not be used now.

No-one has come to this House and said we should stop Lifeline counselling. No-one came into this House and said, 'I know there was a GP during COVID-19 who counselled around self-harm.'. No-one is doing that so I believe that is actually a straw argument.

Coming back to the matter before us, can the minister confirm that the removal of clause 134(1) does not remove any level of protection that is not afforded in clause 132? That is the actual question before us now. Having said that, I have issues with the subsequent amendments under this clause, which I will raise.

Ms COURTNEY - Hopefully, I will be able to respond to you. What we are trying to do, through clauses 132 and 134, is provide clarity about the protections. It is ensuring that the protections are not unnecessarily - we have used this word before - 'flabby' in their definitions -

Ms O'Byrne - I cannot remember using 'flabby'. When did this come into our vernacular?

Ms COURTNEY - I am not quite sure.

With regard to this, if we reflect back on my comments from clause 132, the amendments to those clauses were based on subsequent agency implementation advice to provide the necessary clarity to address the complexity, and ensuring protection is not cast so broadly that conduct that should remain criminal is not inadvertently excused.

It is seeking to make sure we have very clear parameters around the protection that is provided. With the other comments I made earlier with regard to both clauses 132 and 134, it is for clarity. It is ensuring that somebody who should be subject to criminal liability is not given protection in accordance with the act depending on the role the person has within the act.

Ms O'Byrne - But is it not specifically designed to pick up telehealth? Is that a conversation that may or may not fall into this space?

Ms COURTNEY - I do not believe that it is designed for that - this is standalone for telehealth. Telehealth is a completely different one. As I said in response to Ms O'Connor, the protections provided is around Tasmanian law, not around Commonwealth law. Protection from Commonwealth law can be provided for by them. Health practitioners have an obligation of compliance with both state law and federal law.

Ms O'Byrne - By interjection, and I am sure the Chair will be interested in this answer. One of the things we did when we were in government was deal with medical indemnity for a state employee to doctors who also work in the private sector, so it effectively covered them broadly. As long as the actions they took were not deliberate misconduct or malfeasance or they were deliberately trying to commit a crime, they would have indemnity. Have you had any advice on how that will continue to apply, because that goes to the fact that they have acted in good faith and it is not deliberate misconduct?

Ms COURTNEY - I will see if I can find advice on the protections you are referring to. I do not have advice on those now, but with regard to the protections provided in this bill, they pertain to Tasmanian laws, not Commonwealth laws. We do not have the ability to extend that and we will not.

I feel confident I will maybe talk about telehealth. There will be plenty of opportunities I feel.

Ms O'Byrne - We only get two goes so there actually is not, unless we move some kind of extension for members to be heard. It is such a serious issue: that is one of the reasons you might find that as a consequence of that, it gets erased in time.

Ms COURTNEY - As is the will of the House.

Ms O'Byrne - Indeed.

Ms ARCHER - In closing, I wanted to let everybody thrash out that debate in relation to telehealth. I wholeheartedly support the comments of the member for Franklin, Mr Street,

in relation to his legal advice, which is consistent with the legal advice I have received, and not to pre-empt exactly what Ms Courtney is going to do, but I believe I will be able to support her in relation to the telehealth situation.

At some stage the House is going to have to vote on this and agree to disagree if we have conflicting positions, but in any event, I have probably jumped the gun on clause 132 rather than 134. That is because my amendments revolved around the removal of 132 and then I had a concern in relation to the defence not being robust enough perhaps for criminal matters.

In this clause we are dealing with professional misconduct, civil proceedings and criminal proceedings all in the one clause, and I had a concern that 'good faith' was not strong enough in terms of the defence and 'acting honestly and reasonably' was preferable.. However, testing the will of some colleagues, I do not think that is going to get up, so not to waste the House's time, I will not pursue that but I want to reiterate that I have a concern about that.

I do not think we should be mixing civil matters with criminal matters in terms of defences with these matters, so I think it is a clause in its operation to watch and monitor, as we are doing with this whole piece of legislation, if you like. It is just something I wanted to get on the record that I have a concern about - professional misconduct at one end of the scale, criminal proceedings on the other, and yet we have one defence that is supposed to capture all. I just do not think that fits neatly but, as I said, I will not hold up the House moving those amendments.

Amendment agreed to.

Clause 134, as amended, further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Second amendment

Page 161, clause 134(2).

Leave out "or purportedly under this Act,".

This is similar to the amendment I moved in clause 132. This is equivalent to Victorian and Western Australian provisions and the words are unclear and unnecessary, as 134(2) already protects actions believed on reasonable grounds in accordance with the act.

Amendment agreed to.

Clause 134, as amended, further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Third amendment

Page 162, clause 134(3).

Leave out "or a registered nurse".

Insert instead ", paramedic, patient transport officer or officer of the Ambulance Service".

Clause 134(3) protects both registered health practitioners and registered nurses from sanction by regulatory bodies. Registered nurses are captured in the bill's definition of 'registered health practitioner' and the reference is therefore omitted by this amendment.

I will talk to clause 134(4), which provides protections for officers of the Ambulance Service. As discussed earlier in relation to clause 3, there are proposed definitions for paramedics and patient transport officers as all of these persons should be protected under clause 134. What we are trying to do with these two clauses is clarify by the definition we have at the beginning of the bill to ensure that everyone who should be covered is covered.

Ms O'BYRNE - I have some questions on this because one of the reasons a registered nurse can be a registered health practitioner is because they have national health regulations that they use. As the clause reads, a registered health practitioner includes a nurse because they are registered health practitioners. Paramedics are also registered health professionals so I am not sure why you need to now spell them out. I accept that patient transport officers or officers of the Ambulance Service are not necessarily all registered under the National Health Practitioners Regulation Authority but paramedics are. I am wondering whether we need to tidy that up so that they are not spelled out separately, but are in fact included because the other thing that allows us to do is that, should AHPRA determine another inclusion within health practitioner regulations, we will not need to unpick the act.

Ms COURTNEY - Ms O'Byrne, most paramedics are registered health practitioners; however, some can also be covered by the Ambulance Service Act. Some are covered by a different act - my understanding it that is only a very small number, but we wanted to ensure for clarity that they were covered as well. That is the advice I have received.

Ms O'Byrne - Why would that be the case? They would still require national registration. I am assuming they are all covered by both acts.

Ms COURTNEY - Ms O'Byrne, paramedics do not all need to be registered under the national act, they can be registered under the state act. My understanding is a vast majority are registered nationally, but a number who can be are registered under the state act. This is to ensure they are covered as well. That is the advice from the department.

Ms O'Byrne - Why do you think a patient transfer officer or an officer of the Ambulance Services might be swept up in this? Are they involved in direct patient care? I am not sure why they would be encapsulated in it.

Ms COURTNEY - While their interaction might not be anticipated, it is ensuring that they are. We know that there are different circumstances with health delivery in a range of different areas, and it is ensuring that those, should they intersect, are covered. I think the intention was wanting to ensure that everybody was included.

Ms O'Byrne - But are they not going to get picked up by 132 because they are somehow involved in the process? I am just confused. I am not meaning to be problematic. I promise.

Ms COURTNEY - There may be a circumstance, but perhaps if somebody is administering a VAD substance, self-administering, somewhere not in their home, in a special place for them and perhaps by circumstances a patient transport officer -

Ms O'Byrne - A facility has organised for them to -

Ms COURTNEY - intersects with that person and interferes, perhaps, in good faith to try to assist, not knowing -

Ms O'Byrne - Assists them to walk to the venue. They get out of the ambulance, for instance, and they need someone to lean on, that would be encapsulated?

Ms COURTNEY - This is to ensure that if somebody inadvertently, and one of these patient transport officers unwittingly perhaps comes across somebody who may have administered a VAD substance - they do not know that, they intervene to try to give the patient care and they are protected from the actions they have taken.

Ms O'Byrne - Because they have acted in good faith?

Ms COURTNEY - Yes, because they have acted in good faith.

Ms O'Byrne - And it picks up private as well as public service?

Ms COURTNEY - Yes.

Ms O'BYRNE - I guess I was concerned about the range of these provisions because we had that conversation about removing nurse practitioners. I still want some better understanding on this. That is on top of us extending the period before doctors or medical practitioners are actually allowed to provide the service, so that 10-year moratorium, the removal of nurse practitioners, I was concerned about implications that might have come around registered nurses. Your answer does give me some comfort that I now understand the intent.

Amendment agreed to.

Clause 134, as amended, further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Fourth amendment

Page 162, clause 134(4).

Leave out "registered nurse,".

Insert instead ", paramedic, patient transport officer".

This amendment to 134(4) protects registered health practitioners, registered nurses and officers of the ambulance service when they, in good faith, do not administer treatment that has been requested. As in the clause 134(3) amendment, registered nurses are omitted because

they are captured in the bill's definition of registered health practitioner. Further, paramedics and patient transport officers are added.

Mr FERGUSON - Ms Courtney, I queried this with you on Tuesday, and I ask again in a similar form to the question I posed to you on Tuesday, which is to explain the rationale between the nurse and the paramedic.

Ms COURTNEY - Mr Ferguson, the nurses are covered under the national definition. As discussed previously with Ms O'Byrne, paramedics can fall into a number of different categories. This is to ensure they are all captured so we know that nurses are captured in 'registered health practitioner'. Not all paramedics are captured by that so it is making it clear they are captured by this.

Mr FERGUSON - If I may follow up, that surprises me and it may be my lack of knowledge, but paramedics are now registered health practitioners -

Ms O'Byrne - I had the same question.

Mr FERGUSON - Did you? I know that in other states, I think, for example, in New South Wales, vocation-trained ones were a differential in relation to registration, but if that has been answered -

Ms Courtney - It was advice from the department.

Mr FERGUSON - Surprising, but that is fine.

Ms O'Byrne - By interjection, that is a new clause actually. The point was made before that there are not many who would be outside the AHPRA regulation, the national regulation.

Mr Ferguson - I can't imagine one not being registered, to be honest.

Ms O'Byrne - My guess is that people who come from other jurisdictions with other qualifications, perhaps.

Mr Ferguson - It is nationally registered.

Ms O'Byrne - I know. It is odd, but they get picked up by the Ambulance Act.

Mr Ferguson - A paramedic is a protected title. That does surprise me.

Ms O'Byrne - I am surprised, too.

Mr Ferguson - I query that. However, you have answered the question.

Amendment agreed to.

Clause 134, as amended, agreed to.

Clause 135 -
Contravention of Act by practitioners

Ms COURTNEY - Mr Deputy Speaker, I move the following amendment:

Page 163, clause 135(1).

Leave out "registered medical practitioner or registered nurse".

Insert instead "registered health practitioner".

As we have had a broad discussion of this already, removal of 'registered nurse', the amendments have been made to clarify that all registered health practitioners as defined are captured. 'Registered nurse' is captured by 'registered health practitioner'.

Ms O'BYRNE - There would be no circumstance that a paramedic might need to be covered under this provision as well? If a registered medical practitioner or registered nurse in bad faith takes an action - we are changing that to a 'registered health practitioner'. Is there a possibility that there may be a circumstance that a paramedic might get caught up in that and now we have determined that not all paramedics are nationally registered, is that a potential flaw for their coverage or are they simply not encapsulated in this clause?

Ms COURTNEY - I will seek some further advice but looking at it, my understanding would be because the previous sections dealt with protection for persons acting in good faith. This one is specifically for contravention of act by practitioners. I will seek further advice.

Ms O'Byrne, clause 135(b) refers to action 'taken under this Act'. In regard to this act, paramedics do not have a role under this act. The last clause was, if they inadvertently interact, that is where they are covered. This is for people who have a role under this act. That is why they are not there.

Mr FERGUSON - I was listening to that. I believe Ms O'Byrne has raised a legitimate issue here. This is one of those times we agree, Ms O'Byrne.

Ms O'Byrne - I think it makes in our lifetime - one.

Mr FERGUSON - No, I remember you vigorously agreeing with me to get a new school hall at Lilydale high school.

I feel there is a problem here. I cannot see a situation where we have paramedics in Tasmania who are not also registered under the national law. That was agreed about three or four years ago. It is now in place. I do not believe you can be a clinically practising paramedic in Tasmania unless you are a registered paramedic under the national law.

We have listened to some advice, Ms Courtney, that there might be two groups of paramedics: some who are registered, and those who are not registered, but are still able to perform a role and function under this proposed act. What is occurring with this new amendment is there is actually a removal, in placing in the term 'registered health practitioner' by default, given the logic of the previous discussion, there is now no reference to those

apparently non-registered paramedics who we were earlier informed exist in Tasmania and can perform a role in this proposed act.

The way I have expressed it most recently is the better way to explain my concern. Have I expressed it well enough? I will go again.

Previously we were told there are clinically practising paramedics in Tasmania who are registered and some who are not, all of whom can perform a role in the proposed act. My concern is, if there is a subset of paramedics who are not registered, but are clinical and who can perform a role under the proposed act, they will need to be included here as well. Both things cannot be true, so we need to resolve it before we move any further.

Ms COURTNEY - Further to your question, Mr Ferguson, with regards to a paramedic, my advice is that they can be registered under the state act. It is not common but my advice is it is possible.

In clause 135, the reason we are talking about 'registered health practitioner' with regard to the definition, if you look at the paragraph after (b), this whole clause is for the purposes of the health practitioner regulation law. We are talking about misconduct or unprofessional conduct under a group of people, therefore we are defining that to be that group of people.

Mr FERGUSON - I think I have to express that, I have placed it on the record. I accept, Ms Courtney, that you are taking advice on these matters. I am concerned to hear that there might still be health practitioners acting as paramedics in Tasmania, regardless of their employer. I am concerned that I am hearing some are not registered under the national law because it is the national law for the regulation of health professionals. I will ask you to take that on notice and not hold up the debate any further, Ms Courtney. Would you agree to do that as Health minister? I believe it now immediately falls to you as Health minister to address that and perhaps follow me up with a letter at a later hour.

Ms Courtney - I am happy to do that.

Amendment agreed to.

Clause 135, as amended, agreed to.

Clauses 136 and 137 agreed to.

Clause 138 read -

Mr FERGUSON - Madam Chair, I want to tread sensitively here because what I am about to say is not going to be agreed to by many members of this House. A person taking their own life is a suicide. That is a simple fact. It is a dictionary definition. It is the common law definition. It is the case law definition. It is as plain as the nose on your face.

To those who have tried to draft the bill that redefines the word of suicide, I say to you I can see why you needed to do that. You do not want anybody to use the word 'suicide'. It is also because you want a different word to be used and you have chosen the term 'voluntary assisted dying'. That can encompass the act of a person taking a VAD substance, a poison, and

ending their own life, taking their own life, or it could involve the administration of that poison, which is not a suicide, it is something else.

I believe it needs to be called out today. I know I will be entirely in a minority on this point because I believe that members of this House having not collectively but in a majority sense found it within themselves to want to change the law in the way that this bill proposes are kidding themselves about what this really is about. To try to sanitise the language to take away some of the awkwardness about the realities of what we are dealing with, I find difficult to reconcile myself.

Even if this bill were to pass, and it will most probably pass, I think we all keep saying this, to insert this clause 138 in there is disappointing in the sense that, as I said in my second reading speech contribution, this bill is an affront to our mitigation efforts in suicide prevention. I have committed my adult life in that area and I know others here have done the same.

As a school teacher, as a person in the Health ministry, leading Tasmania's first-ever suicide prevention strategy for young people, I think it is an affront to the message that we want to convey to the community around the 'hope' message that every life is worth saving. Every life lost to suicide is one too many.

For those to whom this causes discomfort, I want to be sensitive to that. I note on its own the University of Tasmania spent quite a deal of its time discussing language in the report which is of course before members. Amongst the other things the report talks about in relation to language, it also talks about the term 'voluntary assisted dying', and it talks about it in the terms of wanting to avoid unnecessary stigmatisation. I can appreciate that. I do not want to run away from that wish, but the report itself then goes on to make clear that the report will continue to use the term 'assisted suicide' in places where 'assisted suicide' is then defined, or at least given some discussion. It says:

> Assisted suicide This term is sometimes used to describe interventions where patients are prescribed lethal medications that they self-administer. It emphasises the active choice of the person wishing to die. It is not used as frequently as it once was, however, given the importance of distinguishing between VAD and dying from suicide, the latter of which also involves seeking death, but in the absence of a terminal and/or debilitating disease.

Euthanasia is another word. I do not think I will go into that again. That is self-evident; it is part of our English language; it is part of our culture to talk about euthanasia.

These laws, of course, were once known as euthanasia bills, euthanasia laws, which of course is a tearing away through meaning which means a good death. It does not mean to die an earlier death than naturally would have been the case. It is from the Greek and it means to die a good death, if there is such a thing.

It also talks about 'voluntary euthanasia' and 'physician assisted suicide' and 'medical aid in dying' - they are terms I have heard the Australian Medical Association use repeatedly. In people wanting to express their view on this kind of legislation, I hope all members here will at least have the good grace to allow those different perspectives to be able to express themselves as they believe is reasonable. I believe everything that I have so far said is reasonable. It is also scientific, it is fact-based and it is based on our language.

Ms O'Byrne - It is not.

Mr FERGUSON - It is. The fact that this House received a bill from the Legislative Council that made sure that the coroner was at least aware of the VA death - that has gone. We now have a suicide register in Tasmania. I am very proud to have played a role in establishing that. As far as I can see now the Suicide Register, which is a closed register, it is not a public register, it is there for the Health department and the Chief Psychiatrist to be able to get a clear steer in the future, and the coroner themselves to be able to get a clear steer on who is dying by their own hand and why: What are the reasons for it? Why would we want to do that? The reason it was established was to try to empower even more suicide prevention measures going forward.

I grieve for the loss of life. As a school teacher I lost way too many students. As I look back, it would be at least one student per year group that I taught. It is just a tragedy in this country.

Don't like it? Well none of us likes it because it is a very uncomfortable subject. This clause, for whatever else it tries to do, it is redefining for state law the meaning of that word 'suicide'. What it will not do, I say this respectfully, is change the definition anywhere else. And it will not change it in relation to the Criminal Code of the Commonwealth.

Ms O'Connor - Because there is no definition in the Commonwealth Criminal Code.

Mr FERGUSON - My point is that the Criminal Code of the Commonwealth will not recognise Tasmania's attempt to reframe the use of that word.

I offer those points. I have tried to express myself fairly and respectfully. I will not be dividing on the clause, but I feel very strongly about this. I have committed my life to suicide prevention and mitigation strategies. As imperfectly as any of us have acted on this subject, there is always more to do.

I agree there is a risk inherent here that some people are kidding themselves about - this devastating cost to our society. I know some will say, 'Well, if people will be able to take their own lives through VAD, we will see fewer suicides in the community.'. I remain to be convinced, and I will look forward to be able to see that evidence in years to come. But the advice I have had from different quarters is that the very opposite has been the case. I expressed that very clearly in the second reading debate.

I hope those comments will be taken on the record. I stand by my convictions on this. This clause should not pass without these remarks having been made to prick the conscience of members of this House. I do not support the clause; however, I do not propose to cause a division on it.

Clause 138 agreed to.

Clause 139 -
Conflict of Acts

Ms COURTNEY - Mr Deputy Chair, I move:

First amendment

Page 166, clause 139.

Leave out "Poisons Act 1971 or the".

I am looking for guidance from the House. I have a number of amendments that deal with the Poisons Act. They clearly all flowthrough so I think it might be prudent to give a full explanation now to try to have everyone understand what we are trying to do with this.

I have taken clauses 4, 5, 17 and 139 and I have taken significant advice through DPAC on this to make sure that it is appropriate. It is not done in any way to undermine the bill. It is made to strengthen it and enable more streamlined interaction with it.

Clause 139, from a higher level, Tasmania has an existing framework that has been in place for 50 years and is well understood. It establishes a proven framework for the regulation of medicines that ensures patient safety and provides appropriate protection for practitioners.

The substances under discussion will be scheduled substances and will therefore be regulated under the Poisons Act. But that act seems to impose an additional layer of regulation to the framework that already exists. In some cases, the additional regulation will bring more control, but in other cases the level of control that would apply is unclear. For example, for a narcotic substance, the controls in the VAD bill on prescription are in some cases less stringent than the Poisons Act for what would be lethal doses of medication. For restricted substances, the controls in the VAD bill around storage are more stringent than the requirements set out in the Poisons Act.

This amendment seeks to ensure the Poisons Act will continue to apply alongside controls in the VAD act. Regulations will allow any areas of inconsistency found through implementation to be dealt with through that mechanism. This amendment will remove ambiguity between the VAD bill and the Poisons Act and allow the VAD bill to operate in the manner intended.

I have significantly more notes to talk through with members if they do not have a level of comfort with the amendments I am making through clauses 5, 117 and 139. I will leave it to the will of the House whether members are satisfied or not.

Ms WHITE - The original clause 139 circulated to the House stated very clearly that the provision of this act must prevail where there is inconsistency. Does this amendment still maintain the intent of that clause? That would be my primary question because ultimately it would be good to have clarification. If there is inconsistency between the two, which one will prevail regardless in that instance?

Ms COURTNEY - Essentially, Ms White, of these two amendments, effectively the VAD act will prevail unless there is a conflict between the two acts and the Poisons Act will prevail. If further matters need to be dealt with in the future, that can be done via regulation.

Ms White - The other act referenced in the original clause is the Misuse of Drugs Act. I cannot see reference to that in this amendment anywhere, and I seek an explanation from you as to why it is not referenced. Is it not necessary or has that been dealt with in another section?

Ms COURTNEY - It clarifies with this amendment that the misuse of drugs is still referred to there so in those circumstances where there is a conflict, VAD will prevail over the misuse of drugs. The second amendment goes to where there is a conflict with the Poisons Act and the VAD act. The reference to misuse of drugs actually remains in that clause; that has not been fiddled with.

Ms White - So it's just the removal of the Poisons Act?

Ms COURTNEY - Yes, and then with the second amendment we put the further specifications about the prevailing clause if there is a conflict.

Ms White - Thank you.

Amendment agreed to.

Clause 139, as amended, further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Second amendment

Page 166, at the end of clause 139.

Insert the following subclauses:

(2) Nothing in this Act is to be taken to prevent the application, of a requirement specified in a provision of -

(a) the *Poisons Act 1971*; or

(b) regulations or an instrument issued or made under that Act -

to the prescription, sale, supply, possession, administration, storage, recording and destruction under this Act, of a VAD substance.

(3) Subsection (2) does not apply in relation to a provision of -

(a) the *Poisons Act 1971*; or

(b) regulations, or an instrument issued or made under that Act -

that is prescribed, if requirements, if any, that are prescribed are satisfied.

Amendment agreed to.

Clause 139, as amended, agreed to.

Clauses 140 to 145 agreed to.

Postponed clause 5 -
Interpretation

Ms COURTNEY - Mr Deputy Chair, I move-

Fifth amendment

Page 20, definition of VAD substance prescription, after "means a".

Insert "prescription, issued in accordance with the *Poisons Act 1971*, that is a".

This pertains to the amendment we previously dealt with in terms of the role of the Poisons Act and the intersection of that with the VAD act, ensuring that the reference for this is consistent with the amendment just passed.

Ms O'BYRNE - I am not sure how this works in bills with clauses that are postponed in terms of speaking rights but one of the questions we wanted clarification on at that point was that there may be a VAD substance that is not listed in the Poisons Act, and that is not inconsistent with other jurisdictions. As you know, we are not really allowed to talk about that too much. This is my question from before that was not answered.

I would need to get the question up again in terms of that, so I am going to wander over to Mr Jaensch and explain where my question sits.

Ms COURTNEY - Ms O'Byrne, you asked me -

Ms O'BYRNE - Does the VAD substance have to sit on the Poisons Act?

Ms COURTNEY - Ms O'Byrne, unregistered products may still be prescribed but only if an appropriately qualified medical practitioner has received authorisation to do so either through the Therapeutic Goods Administration's Special Access Scheme or the its Authorised Prescriber Scheme.

The proposed amendments will not impact on the ability of medical practitioners to seek permission from the TGA to import an unregistered scheduled product where they think it is appropriate for the person in their care.

Ms O'Byrne - That is all I needed to have on the record, thank you.

Amendment agreed to.

Postponed clause 5, as amended, further considered -

Ms COURTNEY - Mr Deputy Chair, I move

Sixth amendment

Page 22, definition of voluntary assisted dying process,

paragraph (s), after "section 82".

Insert "and the amending of the final permission under section 82(4)".

This was dealt with in relation to clause 82 yesterday. We could not use this clause yesterday because we had to delay because of (5). Once we got to (5), we had to stop. Are there any issues with this amendment?

Ms O'Byrne - No, we realise it was only delayed because of the delay to amendment five.

Amendment agreed to.

Clause 5, as amended, agreed to.

Postponed clause 21 -
Medical practitioner not required to give reasons for accepting or refusing a request -

Ms COURTNEY - With regard to this clause, no amendment is needed now because we dealt with the matter when we reached clause 29, therefore we do not need to do anything, but we wanted to keep our powder dry before we got to clause 29. I do not have any amendment for clause 21 given that we made amendments in clause 29, but on Tuesday the decision was made not to open this clause because pending debate on that clause.

Clause 21 agreed to.

Postponed clause 27 -
Requirements in relation to determination of first request

Ms COURTNEY - By way of explanation I will step us through this if my understanding is correct. Because I have not actually moved the amendments for 27 and I have circulated another series of amendments to my amendments, I need to move my original amendment and then on top of that my subsequent amendment to complete my amendments for this and subsequent clauses.

I have further amendments to my original amendments because when Ms O'Connor brought forward her amendments, I sought further advice. I feel the amendments to my amendments strike the balance between getting the outcome that, I will not say all but, many in this room have indicated with regard to 'audiovisual', but for clarity ensuring we do not have a conflict with Commonwealth law.

For clarity, what I will do when I move each amendment is move the consolidated amendment of my amendment and then the amendment to the amendment because the original amendment was never moved. One omnibus amendment for each section.

Ms O'Byrne - Do you have that in writing? I am worried because you will have to report progress in a minute to extend the session. Is that an appropriate time to put that into one, just because it is a complex piece of work we want to get right? Do you have it in one document?

Ms COURTNEY - No, I do not; I have the two separate ones. I was just going to add them, but with the will of the House I could get that done while we deal with procedural matters about finishing time tonight as well as dinner.

Progress reported; Committee to sit again.

MOTION

Sitting Extended

[5.32 p.m.]

Mr FERGUSON (Bass - Leader of Government Business)(by leave) - Madam Deputy Speaker, I move:

> That for this day's sitting the House not stand adjourned at six o'clock and that the House continue to sit past six o'clock. and that the sitting be suspended from 7 p.m. to 7.30 p.m.

What this means, for the benefit of colleagues, is we have had three full-on days of debating. It is been extremely testing for everybody, but everybody has hung in there for the ride and apart from the odd period of consternation, I think we are behaving professionally and courteously, which is to be always desired. We need to accept that today the bill needs more time to be considered. I think about half a dozen or a dozen clauses have been postponed. To allow them to be considered by the Committee, the House will sit until an unknown hour at this stage. I am not proposing a particular time. It could be 8 p.m., it could be 10 p.m., it could be midnight. I do not want it to be longer than midnight, but we need to allow further time.

The Government has committed that we will facilitate this so I am moving this way and I encourage members to think about how to expedite progress through the remaining clauses without restricting anybody's opportunity to speak, make their point or move an amendment.

I am thinking particularly of those who have been confined to the Chamber for the last six hours. We ought to have an opportunity for a period of rest for half an hour and that will happen at 7 p.m. until 7.30 p.m., when members can have a refresher and maybe even their advisers might get a break as well. I commend the motion to the House.

[5.34 p.m.]

Ms WHITE (Lyons - Leader of the Opposition) - Madam Deputy Speaker, I thank the Leader of the House. We agree to the changes to the orders as has been described and understand that members may be here a very long time tonight. Having the opportunity for all members to leave the Chamber, especially the member who is sponsoring the bill so she can eat, is pretty sensible as well as all the advisors who are in the Chamber supporting the debate advisers of this bill.

Madam Deputy Speaker, I commend everybody on the work so far and I hope everyone has a lovely dinner together. I support the motion of the Leader of the House.

[5.36 p.m.]

Ms O'BYRNE (Bass - Deputy Leader of the Opposition) - Madam Deputy Speaker, I have a question. It is whether, on the motion before us, we say we will sit past, or whether we would say sit past until the completion of all clauses of the bill before us for utter clarification. I do not know if the member who moved the suspension has a view on whether that might be something we need to discuss before we proceed.

Ms OGILVIE (Clark) - Madam Deputy Speaker, I have some questions about that. I would really genuinely like to say what a pleasure it has been working with everybody. It has been a very difficult bill and I think that the multifaceted approach to amending a bill such as this has been a really impressive experience. I, too, am thinking about the member who is sponsoring the bill. She has been hard at it for two-and-a-half days. It is only appropriate that everybody is allowed to take a breather to refresh and get some time. Hopefully we will not have to sit too late. If the good work continues, we should be able to wrap things up at least this evening, which is probably more rapidly than we had initially anticipated at the beginning.

For the sake of the member who I think is now checking the timing of issues, I would like to support the proposition.

Motion agreed to.

The House suspended from 5.39 p.m. to 5.45 p.m.

END-OF-LIFE CHOICES (VOLUNTARY ASSISTED DYING) BILL 2020 (No. 30)

In Committee

Resumed from above.

Postponed clause 27 further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

First amendment

Page 54, clause 27(1)(a).

Leave out "in person or by way of audio-visual link".

As foreshadowed in one of our previous discussions on another clause, and Mr Street articulated this much better and more coherently than I have, the intent of this amendment is to ensure we have a lawful way forward, considering Commonwealth legislation.

I expect that members might have different views on telehealth. We are not seeking to impede the use of telehealth and the future of telehealth provided the potential conflict arising

with Commonwealth legislation offences can be managed in an appropriate way. Staying silent on it does not mean telehealth is allowed and as I stated in a previous clause, it is important that any health practitioner complies not only with state law but also with Commonwealth law.

To this end, with regards to the further amendments that were moved and have now been withdrawn by Ms O'Connor, I was prompted to seek further advice. In my view, the amendments I have moved are consistent with the intent of the original draft. However, they clarify the intersection with Commonwealth law. The current amendments relate to the requirements to have met the person in person or by way of audiovisual link. Effectively I am removing the words 'or by way of video link' as well as 'in person'. Effectively, what remains is a requirement that you have to be met in person.

Earlier we had some discussion about different jurisdictions. As in Victoria, this is what we would be looking towards - administrative advice that could be provided to practitioners as a matter of policy, that they can only conduct face-to-face meetings as opposed to imposing a legislative restriction. This would mean that if the Commonwealth later amends or withdraws a Commonwealth offence, the administrative advice to practitioners may change and advise audio meetings are allowed.

As a supporter of telehealth - as I said, I will not pre-empt other members' views on the use of telehealth - my view, my strong advice, is that currently there is a conflict with Commonwealth law. The proposed amendment seeks to address that potential conflict, noting that we would have a policy and guidelines to make it very clear to practitioners what is our law and what is Commonwealth law.

As I said earlier, our practitioners are not required under the national registration to ensure they are complying with all laws. Mr Street, as you articulated very well, my intent with this is not around the use of telehealth per se; it is about ensuring we resolve the conflict that potentially exists with Commonwealth law.

I will leave my comments there because I know many others will comment, and I will leave it to the Floor to debate this.

Ms O'BYRNE - I made some comments on this when we were dealing with another provision, but I need to make them again because this is a fundamentally significant shift in the intent of the bill.

It is absolutely going to result in circumstances where people in regional communities are not able to access this service. It is therefore utterly in contravention of the access clause we debated last night, which said that no matter where you live in Tasmania you would be able to access this service.

The reality is that will not be possible if you cannot use telehealth. It will not be possible. Moving this amendment actually undermines the intent of the access clause we debated last night. I point out that the member moving the clause had no capacity, no way, to explain how it could be delivered without the use of telehealth.

I now go to the fundamental concern people have - the intent of the Commonwealth legislation. The Commonwealth legislation was introduced in 2005. It was designed for a reasonably specific purpose, to deal with the fact that at that time chat rooms - remember the

olden days when we had chat rooms? - were being used by Philip Nitschke's followers. They would have discussions about raising orders to facilitate voluntary assisted death, or dying with dignity, or whatever particular language they used at the time.

The Commonwealth acted to preclude that, and said that you could not use audiovisual or telecommunications services to discuss suicide. That was specifically in its intent to deal with that act - that you could not encourage or explain how to commit suicide in that role.

The interpretation we have now is that would somehow impact on telehealth and that any conversation on telehealth would be captured by that legislation. If that is true, every telehealth consultation that took place during COVID-19 that discussed self-harm - and we know there were people who were alone and people who reached out and got medical support for concerns around self-harm - was, in fact, illegal. All of those telehealth consultations were a breach of Commonwealth law. No-one is suggesting that was the case.

The other extrapolation is that if you apply this Commonwealth law in the way you are choosing to interpret it, services such as Lifeline and Beyond Blue, that provide counselling over the phone and any counselling people participate in online that discusses suicide, counselling around suicide - not necessarily how to do it but even the existence of it - would also be illegal.

I do not see any of us making a decision in this House to withdraw access to those services because that is not the intent of the Commonwealth legislation. The Commonwealth legislation had a specific intent. This is not the intention here.

Western Australia raised this issue. I do not imagine other members will read in the advice provided to Western Australia that dealt with the issue of the definition of suicide, which we have said does not exist in this bill - this bill is about voluntary assisted dying, not suicide - therefore would not fall in contravention of the law. That is the advice Western Australia has. That is why Western Australia has been able to enact the legislation it has and no-one has taken Western Australia to the Federal Court for a breach of Commonwealth legislation.

Ms O'Connor - And they won't.

Ms O'BYRNE - No, because it will not work. Victoria chose to use regulation because, as the first state, they were concerned that was where they were heading - that they might find themselves in contravention of this because it is an argument that has been used. The choice to use regulation has resulted in a lesser service for people.

They have a lesser service and their own review indicated that was a significant barrier and one that had caused problems. The review of the Victoria legislation found it was something that actually precluded access and was a significant risk.

I will read this message from Shirley, who has given me permission to quote it:

> My terminally ill brother killed himself in June 2020 in Victoria. He may have been able to go down the VAD path if (a) his doctor could have discussed it with him. The doctor later told my brother's widow that he would have been willing to talk about it; and (b) if telehealth had been an option. My brother lived in country Victoria.

Let us not make these mistakes in Tasmania. We will have 18 months or so to sort out any remaining issues once the bill is passed. We have enough VAD supporters in Tasmania to apply pressure to the Commonwealth in that period if necessary.

I understand the member who has moved this clause wished to find a nuanced way to leave it open -

Ms Archer - No, it is not nuanced.

Ms O'BYRNE - Maybe not nuanced - a way to leave this open to be able to resolve it with the Commonwealth further down the track. I appreciate the intent of that.

What happens if this bill remains silent? If we pass these amendments and the bill remains silent, it will not be accessible by people in regional communities and we are basically saying that telehealth is not an appropriate mechanism to use for counselling us on health issues. Nobody in this House believes that.

For us to use the supposed threat of a Commonwealth intervention when it has not been used against another state is only another way of denying access via this service. It is a dangerous thing.

I wish to make another point about it: we have had debate about the fact that what happens in the other place is not our concern, but in reality we are grown-ups - we know how legislation works. We know the other place has debated this at length and sees it as a really significant component of this bill. If we rip it out here and it goes back to the other place and they say no, we are on that cycle of the legislation failing because it cannot continue to bounce between both Houses. It cannot and does not work.

There are forms in this House that preclude that being the case. For all those people who said - and there are members here who absolutely oppose this - they genuinely want to see voluntary assisted dying accessible in our state, this is one of the things you have to commit to, otherwise -

Ms Archer - Despite legal advice?

Ms O'BYRNE - That is the point. It hasn't been dealt with in other jurisdictions.

Ms Archer - Sorry, I prefer my own advice.

Ms O'BYRNE - I know you will not support the bill in any form.

Ms Archer - You're not a legal expert.

Ms O'BYRNE - I know the member interjecting on me, which I was warned for before, will not support the bill in any form, but I am speaking to those people who genuinely want to provide the best outcome for people attempting to access this legislation.

The reality is that if you are on Flinders Island, if you are in a remote area of Tasmania, you have now become accustomed to accessing telehealth as an appropriate way of dealing

with your GP, and it would be an appropriate way of dealing with any of the medical practitioners listed under this legislation. To deny that opportunity in this clause now is to consign them to being unable to access telehealth and potentially consigns the bill to failing, so think very seriously about how you vote on this.

There is time to talk to the Commonwealth about regulatory change and interpretation. There is time to talk to the Commonwealth about changing its legislation, but this is important. We have to get this legislation right now because none of us wants to come back here and do this again. We also do not want to do that to those people who have campaigned so hard because every single time we have this debate, we make those people go through significant trauma. We do not want to do that to them again. I do not want to do that to them again, and that is exactly the outcome of supporting this amendment.

Ms OGILVIE - I have spoken in this House many times on the importance of digital technology and telehealth, and recently I have had some very good experiences with telehealth. I have looked at what is happening in Victoria and other states particularly on this issue, but it strikes me that it goes to an important legal principle about what is and is not included in the bill.

I see there is a conflict between the state and Commonwealth laws but what we are talking about here and what the member has proposed is that the bill remains silent on this issue. We had this debate in relation to institutions being able to object conscientiously and this question of whether we needed to insert changes or think about regulations or how we deal with those issues. We have had a fulsome debate. Obviously some discussions will be had, should this bill pass, which it is likely to do, around things like transfer protocols, probably telehealth, all sorts of other things and the mechanisms of how we go forward with these things.

I put it to the member but also others in this House who I know are familiar with the legal issues about bills but are remaining silent perhaps to make a contribution or help me to understand that and where that leaves us by way of the current law. I am interested in where that leads us also on the issue of conscientious objection for institutions, which I think we have also left silent. My mind has turned to that. It is a similar legal principle. We have had debates around this.

I have not formed a view about whether telehealth in these circumstances is good or bad. I am trying to apply some legal reasoning to identify what I think is a common thread amongst some of the debates we have had on these issues. Certainly I feel that we will need to have some pretty delicate, nuanced and important discussions around implementation. I hope that particularly the Catholic healthcare institutions are able to be at the table as genuine participants. I thank you for that open dialogue around all the issues, not just transfer protocols, telehealth and other things with their capacity, with their reach and spread, and that we are able to come back together and have good dialogue and treat each other with constructive dignity and respect, as I know everybody in this Chamber wants to do.

Mr GUTWEIN - I might make a short contribution because I have not taken part in the debate to date but I have watched with interest as debate has unfolded. I make one point. I admire the passion people on both sides have brought to this debate as a starting point. I listened with interest the other day on the issue of organisational participation. I voted against the amendment that was brought in because I think to have done so would have been discriminatory. I have been thinking deeply about how we move this forward and what happens

as the next steps. I think the Victorian department of Health and the way the government there has dealt with it bears placing on the record because I think it is something we could draw from and use as we move forward, noting that their bill and their legislation, like Western Australia's, is silent on the issue of -

Ms O'Connor - Western Australia is not - sorry to correct you on the Floor.

Mr GUTWEIN - Victoria's definitely is. The Victorian Department of Health and Human Services provides advice that is useful moving forward to inform this debate. I would like to provide some similar clarity and offer the following in terms of health service organisational participation in the Tasmanian context.

The Government accepts that the bill remains silent on this issue. Different health services are under no obligation to participate in or support voluntary assisted dying. As a result, there will be differing and varying levels of involvement by different institutions in voluntary assisted dying. This will depend on the type of care skills, expertise and values of relevant institutions. However, one thing missed in the debate the other day was in terms of patients which I think is important: all institutions should ensure their staff are aware of voluntary assisted dying and that they have the support to access information to respond if patients raise voluntary assisted dying.

The Government will, should the bill pass into law, ensure that in the period prior to implementation it engages and consults with institutions and health service providers to ensure clarity is there for both themselves and their patients. I think the way Victoria has dealt with this is something that we can follow. I just want to place that on the record.

Ms O'CONNOR - Mr Deputy Chair, I want to thank the members who have spoken previously on this proposed amendment. We are at risk here of making the End-of-Life Choices (Voluntary Assisted Dying) Bill 2020 effectively dysfunctional for people who live in rural and regional areas.

It has been interesting listening to concerns expressed about the possibility that this is in contravention of Commonwealth law. I did not hear that concern expressed, for example, when the Government brought on the Workplaces (Protection from Protesters) Bill. When it was thrown out by the High Court of Australia because it was in contravention of the implied freedom of political communication in the Constitution, the Government came back here with amendments that were again questioned by constitutional experts. There has been a selective concern about how our law interfaces or would interface with Commonwealth law.

I think it is really important for members like the members for Braddon, who are responsible for people on King Island - their constituents - to understand that if this legislation removes the capacity for people seeking to access voluntary assisted dying under this act to have a conversation with their medical practitioners by way of audiovisual link, that would be wrong. It would discriminate against people on the basis they could not get to a primary medical practitioner or a consulting medical practitioner who may be a specialist who only takes patients in, say, Burnie, Launceston or Hobart.

It is really important we understand that the silence of the Victorian legislation on telehealth has caused issues and that doctors who are participating in the voluntary assisted dying process in Victoria feel it inhibits access to the provisions under their legislation.

We need to consider whether there is any realistic probability that the Commonwealth will take Tasmania on because it is provided for doctors to be able to talk their patients by way of audiovisual means. If it gives any member of this House comfort, there is a conversation between the Western Australian Attorney-General, the Honourable John Quigley MLA, and the Commonwealth Attorney-General, the Honourable Christian Porter MP, which relates to Western Australia's decision to include telehealth within their legislation.

I will go to the guts of the Western Australian Attorney-General's letter:

> I can assure you that careful consideration has indeed been given to that issue. The Commonwealth Criminal Code provisions which were introduced in 2005 to deal with the "cyber suicide" phenomenon were taken into account in the drafting process. I have taken advice at the highest level and it is my view that communications about voluntary assisted dying via a carriage service do not contravene the Commonwealth Criminal Code. Clause 11 of the bill makes it clear that voluntary assisted dying is not suicide.

I pause there for a moment to remind members that clause 138 of this legislation makes clear that voluntary assisted dying is not suicide for the purposes of this act.

The Western Australian Attorney-General goes on:

> Further, I note that clauses 156 and 157 of the bill state that those clauses do not authorise the use of a method of a communication if or to the extent, that the use is contrary to or inconsistent with the law of the Commonwealth.
>
> I note that leading legal experts who have examined the WA bill have noted that it explicitly states that VAD is not suicide, which the Victorian act does not do.

The response from the Commonwealth Attorney-General tells us that there is no will on the Commonwealth's part to challenge a state that includes telehealth provisions in its voluntary assisted dying legislation. The Commonwealth Attorney-General says:

> I appreciate your assurance that consideration has been given to the interaction between the Bill and Criminal Code and your advice on the clauses that have been included in the bill to avoid inconsistency with offences in the Criminal Code. Further, as discussed in our meeting on 24 September 2019, it appears that the Western Australian Government is aware of the administration their processes must entail to ensure that there are no prospects of enlivening the relevant Commonwealth offences.
>
> Officers from my department are available to assist officers from your department and the Western Australian Department of Health in further considering any potential interaction arising from the implementation of the bill if enacted.

It is important to remember that the Western Australia legislation comes into effect in June this year, which is a full year before ours would come into effect, which means we would have a

full year to consider how then having the courage for the legislative sense to enable audiovisual communications and how that plays out in Western Australia.

I implore members of this place who support access to a safe, legal, compassionate, voluntary assisted dying framework not to support this amendment. I implore members, on behalf of every Tasmanian who wants to see this framework in place, not to support this. We cannot enact legislation which has discrimination at its core and if we pass this amendment, what we are saying is, if you live in rural and regional Tasmania where telehealth is part of life, sorry, this legislation is not going to cover you.

It would be wrong for us to accept this amendment. It weakens the bill and provides for discrimination against people. We have correspondence between the Western Australia Attorney-General and the Commonwealth Attorney-General which makes it clear that the Commonwealth is not going to come after us if we acknowledge that audiovisual communication and telehealth is now an accepted practice, an accepted mode of communication.

Let us be realistic here. What we are talking about is highly qualified medical professionals having that conversation through the provisions in this act via Zoom or Webex. Are we saying we do not trust those medical professionals to be able to assess the person or have that conversation with the person lawfully just because it is by way of audiovisual link? We are in the age of COVID. For heaven's sake, we are not through this pandemic yet. This disease will be around for a while, which means we are going to have physical distancing provisions in place and life as we once knew it is disrupted.

It would be so wrong for this House to be cowardly about this for fear of the Commonwealth taking us on when it is really clear they are not going to. To say let us wait for the Commonwealth to change those Criminal Code provisions, I think is buck-passing because it is certainly not going to happen under a Morrison government. We know that. How long would Tasmanians who live on King Island or in St Helens have to wait until they were treated as equal under this law? I urge members not to support this amendment.

Dr WOODRUFF - Mr Deputy Chair, I am also devastated at where this amendment to the amendment leaves us as a state. Ms O'Connor has laid out the legal reasons why it is totally unnecessary to take this path. We have a choice. Ms Archer said before that the legal advice is that we have to go down this path but that is not the legal advice that the Western Australian Government sought.

Ms Archer - We are in Tasmania in case you haven't noticed, not Western Australia.

Dr WOODRUFF - We are exactly the same under federal law. It is totally irrelevant to this conversation whether we are Queensland or Western Australia. We are a state of Australia.

Ms Archer interjecting.

Mr DEPUTY CHAIR - I am sorry, Dr Woodruff. Please, can we not have interjections.

Dr WOODRUFF - We are a state of Australia and we are bound by Commonwealth law in the same way as every other state of Australia. Western Australia has, in its words, had leading legal experts who have examined their bill, and they had taken advice at 'the highest

level'; it is the view of that legal advice at the highest level that has led the Western Australia Attorney-General to write to the Commonwealth Attorney-General to make it clear that they will be proceeding and they have done what their advice tells them needs to be done to make sure they comply with the Commonwealth law.

They have done what we are planning on doing. Western Australia has also added clauses to its bill that states that the use or method of communication must not be contrary to or inconsistent with a law of the Commonwealth. We have that clause in our bill at clause 137. The Western Australians have also added a specific clause to their bill that clarifies that voluntary assisted dying is not suicide. We, too, have that clause in our bill. We are proposing to do the same as Western Australia.

Victoria has not done the same thing. Victoria did not include in their bill that voluntary assisted dying is not a suicide, and that is the difference. We do not have to take the path of Victoria. We can take the path that Western Australia is forging on behalf of everyone in this state who in the future wants to be able to access voluntary assisted dying and who will not be able to travel to a specialist to get consulting medical practitioner advice in person from so many places in Tasmania. We are talking about people who are terminally ill and in the final stages of their terminal illness. Not only is it going to be logistically difficult for them to leave King Island, or travel from St Helens or Bruny or Dover or wherever, it is going to be an increase to their suffering to have to move them to have these totally unnecessary face-to-face consultations with different people.

I would like to hear from Ms Courtney because she has not addressed a very important issue about the pandemic. You have not responded. In another capacity - Minister for Health: what would you see happening in a pandemic where there is physical distancing, where we have introduced a snap one-month restriction on movements or a three-month restriction on movement? How would this work? What would happen to people in this situation? How is there a possible way through here? There is no possible way through that I can see.

I challenge you to explain why you have taken the path of Victoria instead of Western Australia. I implore you and other members to understand that we do not have to take this path. We can provide protections for doctors and we can provide real choices for people who are suffering.

Mr ROCKLIFF - Member for Lyons, I will not be long in providing my comments on this. This is a very important clause. I commend the member for Bass who has done such a tremendous job in navigating very difficult legislation through this parliament. It has been outstanding.

This issue, like others that have been discussed clause by clause over the course of the last three days, has been difficult to navigate and members have expressed their views and expressed different views on a number of matters.

I raise that point because the member has tried her utmost to navigate the path through this in terms of the legality of the legislation as it presents itself at this point in time. I am not a lawyer. Others have a far better legal mind than I will ever have and are trained as lawyers, so I will give a philosophical view of what we are discussing at this point in time.

I have difficulty with amending the clause. I support the intent of the bill as it currently stands, and that is on a fundamental principle of equity. I do not need to be reminded, being a member for Braddon, that I have the electorate of Braddon - and I have been for some 19 years and have visited King Island, as an example, many times. My understanding of the legislation is that there has to be a face-to-face consultation first up. That is correct and then, of course, the telehealth provisions from that point in time.

The year 2005 was a long time ago and telehealth might have been thought of a bit, but it has certainly been thought of and practised over the course of the last 12 months in the face of the pandemic. It has almost become part of life in many respects in terms of medical consultations and the like.

Victoria has been challenged by this. I have read about and discussed this matter quite a bit. Victoria has found itself in a spot of bother when it comes to their legislation. Good on Victoria - they led the charge in the country and they paved the way for other states such as Western Australia and, indeed, the discussion that we are having today. In my view, Western Australia learnt from Victoria, and they have it right in that sense. That was followed by the bill drafted by the honourable Mike Gaffney, which has gone through the upper House and which we are debating now.

I cannot see a situation where the Commonwealth would take on a state when it comes to this issue. We have 18 months to work through this and we will see what the Commonwealth does within that particular time.

When it comes to equity of access, it is not only King Island; there are other parts of Tasmania - Flinders Island and remote areas. You would hope our telecommunications are strengthened and get better. If it is easier to communicate by audiovisual means, there will be more of it. As it currently stands, that can be limited. I do not want to see any individual disenfranchised as a result of the member's amendment, as well intentioned and as difficult as the navigational pathway the member is working through. I fully appreciate Ms Courtney comes from the absolute best of intentions.

On that basis, I cannot support the amendment. I will worry should this proceed: audiovisual and telehealth is not clearly defined within legislation, and what that means regarding confidence for practitioners as well. That concerns me.

I have spoken longer than I thought I would in that sense. Philosophically, there will be legal advice for and against that. I take some heart from the Western Australian example, but I came to this debate also with a philosophical position with regard to choice.

There can be legal wrangling around all legislation we debate in this place but, at the end of the day we come to this House with a particular philosophical point of view. Mine, in this case, is that choice is one of the fundamental principles of the bill as it stands in terms of voluntary assisted dying but equity of access today wins the day.

Ms WHITE - Mr Deputy Chair, I will be brief because most of what I hoped to articulate has already been said. I cannot support this amendment for the primary reason that it will deny equity of access to people who live outside the cities.

We have had that conversation already in the debate on this bill about ensuring there is access especially for regional areas. It is the case for many people living outside of the city centres that they do rely on speaking with their medical professional using telehealth. To remove that avenue for them in a case like this, which fundamentally for me is about choice, goes completely against the principle of the bill we are debating.

I can understand the member who is the sponsor for this bill trying to find a way through an issue which is being presented to you as being a legal problem to overcome. However, both the member for Clark and the member for Braddon have talked about what has happened in Victoria and what has been learned from that and what has happened in Western Australia. Ms O'Connor placed on the record compelling arguments about the legal advice that has been provided between the Western Australian Attorney-General and the Commonwealth Attorney-General and the ability for that state to legislate in the same way we are seeking to, particularly because under clause 138 of this bill, deaths are not suicide for the purposes of laws of the state. That is important, and that is a clause we voted to support in the passage of the bill so far in this debate.

For those reasons, I cannot support the amendment. I also spoke about this on Tuesday: pragmatically, I would be concerned if we removed this provision from the bill passed by the upper House. It was an important consideration for them in the debate in the other place. Ultimately, a bill like this has to pass the parliament. Whilst some members in this place have said they would like to do what they like in this Chamber and the other place often changes legislation that goes to them, we have to take a pragmatic approach to an issue as important as this. Ultimately it has to be a bill, I believe, that passes the parliament. The last thing I want to see is the bill go from this place to the other place, with the other place not agreeing to an amendment we have made and sending it back to this House - fundamentally it will fail if that occurs because of our Standing Orders.

For all those reasons I cannot support this amendment. I hope the member sponsoring the bill can take some comfort from the information shared by other members about what is happening in other jurisdictions, that you are not putting Tasmania in a difficult position here as a state by passing a bill that would contain the clauses as written.

I certainly do not believe at all that the Commonwealth will take action against the state. I think it would be incredibly unusual for them to do so. The fact of the matter is that telehealth has been a part of the way medicine is practised now for a very long time. I do not believe that we should be seeking to remove some of the tools our patients and medical practitioners use daily just because of the way it might be framed in this bill. I believe the protections included in other clauses provide adequate safeguards to protect us from legal challenges, so I cannot support the amendment.

Mr JAENSCH - I have been listening to the contributions people made. There is agreement on the equity and the rights of everybody to have access and equal ways. The fact is we are used to working online these days; we might be limited by COVID-19 and all the rest, but I do not think there is any dispute about any of that. I think everyone gets that and wants everyone in Tasmania to have access to this in a safe way.

Philosophically, as my colleague Mr Rockcliff said, there is an absolute that means that we have to be able to provide this. But as Mr Street said, no amount of belief is going to make something work if it is technically or legally unable to be implemented. I do not think there is

a philosophical blocker or lack of will here. Not having been in all stages of all debate on all clauses of this bill, I would like Ms Courtney in her response to talk about the practical limitations that she is grappling with as the person with carriage of this legislation about who in the future will be responsible for implementing it because she wants it to work too.

I do not think this needs to be prosecuted any further on philosophical grounds about whether we believe in telehealth or equity. That is given at this stage of the discussion - that is where Ms Courtney is - but I need to understand a little better the work she has done and the advice she has taken and identified as being the technical or legal impediment. With respect, I am hoping for a slightly deeper and more pointy set of advice than photocopies of letters between two other attorneys-general relating to other states.

Ms O'Connor - They are actual letters. It is the correspondence trail.

Mr JAENSCH - I know, but it is about another state and refers to a series of other conversations we are not party to as well. I am very keen to hear about the detailed examination of this for Tasmania and what is involved in making it work here, and how Ms Courtney believes she can deliver that. That is what I think is to be decided on if we are going to make this bill into legislation that works. I am keen to hear from her in her summing up before we vote on it. I am going to reserve my vote until I have heard enough to be convinced for myself, because philosophically I am there - regional equity, no problem. It has to work though, otherwise we are just willing that we have -

Ms O'Connor - For clarification, is your question how the bill would work without the audiovisual links in it for patients? Or is the question one of a legal nature?

Mr JAENSCH - I want to understand very clearly again for the record why Ms Courtney's proposed amendments are there and how the bill will work if so amended in practice, just for the avoidance of doubt that this about some aversion to telehealth. That seems to be the basis of a lot of the contributions - that we love or do not trust telehealth or something like that.

Mr DEPUTY CHAIR - Ms Courtney, others want to speak. Do you want to respond to Mr Jaensch now or wait until everyone has spoken and respond in one go?

Ms COURTNEY - I would like to respond now. Moving these amendments for these audiovisual components does not give me any pleasure. This is not something I like doing. While I am taking this through as a private member, I am also a minister of the Crown and I feel I have an obligation to ensure legislation is lawful and I am taking the steps I can for that to happen.

I have spoken many times in this bill on the need for regional access. I am the strongest supporter of telehealth. I think it delivers meaningful outcomes for people in regional areas. It increases access to health care. It is one of the great things that has come out of COVID-19 and I am so pleased that not only have we been able to see new habits form with people in the community, but also with our clinicians.

However, there has been discussion about legal advice from other jurisdictions and I look to legal advice that I receive here. I feel I have a duty with regard to that. With this amendment, while I am removing the definition of 'in person' so effectively leaving that point moot, I am

making sure there is a pathway for this to be possible in the future. I am removing the impediment. With our legal advice in the state, should we be able get clarity or certainty with regard to our intersection with Commonwealth law, we will not have to bring the legislation back. We will be able to implement it lawfully.

I take everybody's comments on board and I agree with many of the comments that have been made by members across the Chamber with regard to regional access, I truly do. It is why I added an additional clause to this bill for a regional access ability. The responsibility of the secretary will be not only to stand up a regional access standard but report regularly, report annually to the people of Tasmania on how he or she is delivering on that. This is to ensure that there is the ability for outreach to communities so that people are supported to be able to access a service like this in their community, notwithstanding their circumstances. It might be that they have other responsibilities and cannot travel. It could be their own health with the types of conditions that we are seeing in people accessing this.

As I have said, this does allow a pathway going forward. It allows one where we do not have conflict with the federal law. It allows a flexibility in the future, and if I could reach into the Commonwealth and change its law from here, I would, but I cannot. I can only deal with and seek to move laws of this state. While it brings me no pleasure to move these amendments, I do so in the best interests of Tasmania.

Earlier putting Tasmania in a difficult position was mentioned, but I believe it will put Tasmania in a difficult position if I don't move these amendments.

Obviously it will be up to the House whether this series of amendments gets up; however, I know how important this is. Because of the potential issue with the Commonwealth law, I have sought to make amendments throughout this bill to strengthen the capacity to be able to support people not only in regional areas but also people who have other challenges with accessing VAD.

Ms WHITE - Thanks, Ms Courtney. I suppose arguably that same point could be made about maintaining the clauses as they are because there is an implementation period which would enable you time to seek the clarification you so desire. My preference would be to maintain the clauses as they currently are because that way I believe you will not be required to come back to the parliament with a bill like this. The alternative is that you succeed and take them out and we then have to come back to the parliament in 18 months time because you have received the clarification you so desire and open the bill up again.

Ms COURTNEY - I will be able to do that with my amendments anyway, because it is silent on the definition of 'in person'. If I am able to do that, if there is clarification in the future, this amendment allows that flexibility in the future because it does not have the definition of 'in person'. It leaves that pathway open, should we be able to achieve that and we don't have to bring the bill back.

By excluding the definition, it is not about excluding audiovisual explicitly, which is why I moved my amendment to my amendment. This is about removing that definition. With the advice that I have being mute on that, we would still look to policy to guide health practitioners to ensure they are compliant with national law, as is their obligation.

If there were clarity in the future, if there were legal advice that I received that it would be possible, potentially it could happen without bringing this back. These amendments do not limit the options in the future.

Ms WHITE - My question is whether you have sought advice from the Commonwealth Attorney-General. We have talked about advice being received by the Commonwealth Attorney-General and the Western Australian Government. Have you done the same and if not, why not? I hope you have because this debate has been going for such a long time and it would have helped to direct some of the discussion around these clauses in particular.

Ms O'CONNOR - The issue here, Ms Courtney, is that we already have the pathway. It is in the legislation as it stands. What you are proposing is to remove something that would give comfort to medical professionals that they were acting lawfully under Tasmanian law and that the state Government would have their back. Our problem is that if the act stays silent on whether a medical professional can have a consultation under this process by way of audiovisual link, doctors will not use audiovisual links because they will be concerned that if they do, they will be acting unlawfully under the end-of-life bill.

I think you talked before about guaranteeing access, but you have not been able to say how you could guarantee access under this legislation to a person who lives outside an urban centre. We need to be realistic - if people are enduring suffering that is unrelievable and their illness is terminal and they are not able to access VAD in the same way that a city person could through audiovisual link, we are potentially increasing suicide risk. I go back to that correspondence that Ms O'Byrne read into the *Hansard*:

> My terminally ill brother killed himself in June 2020 in Victoria. He may have been able to go down the Victorian VAD path if (a) his doctor could have discussed it with him. The doctor later told my brother's widow that he would have been willing to talk about it; and (b) if telehealth had been an option. My brother lived in country Victoria.

When Mr Ferguson was on his feet earlier asking for some evidence around suicide risk and lack of access to voluntary assisted dying, I referred him to the evidence I put forward by the Victorian coroner to the parliamentary inquiry into their end-of-life care legislation. The Victorian coroner found that, in his assessment, one suicide a week - and that is 8.6 per cent of all reported suicides between 1 January 2009 and 31 December 2012 - was related to people who had a terminal illness and saw no other way for themselves other than to take their own life. The inquiry validated the coroner's work and found that if you have a safe legal framework that is equitable in place for end-of-life care, you are likely to reduce the number of suicides.

One of the most harrowing accounts of the five case studies the coroner put forward was of a gentleman who had felt he had no other means to take his own life after a terminal diagnosis than to try to kill himself with a nail gun. He was found still alive but he died as a result of his injuries.

Let us be realistic about this. If you do not have an effective and equitable voluntary assisted dying framework in place, the evidence of the Victorian coroner is that people will make the most terrible choices, the only choices they feel they have, and there is a distinct difference between voluntary assisted dying and suicide.

Voluntary assisted dying is the gentlest of processes. You are able to have around you people who love you, people who care about you and people whom you love. People who take their own life do so in the loneliest and bleakest of circumstances. We have to do better than that. We need to make sure that this legislation is fair and safe and does not discriminate against people on the basis of where they live.

I encourage Mr Jaensch to look - I will bring you over the copies if you like - at the correspondence between the Western Australian and the Commonwealth attorneys-general. When you look at the Commonwealth Attorney-General's response, it is really clear that there is no intent on the Commonwealth's part to go after Western Australia because it has telehealth provisions specifically provided for in its legislation. It also has a provision that is mirrored by our section 138, which makes it clear that for the purposes of this act a voluntary assisted death is not a suicide.

Ms Courtney, I understand why you are doing this. I do - an abundance of caution. You have advice from the department; departments are always uber cautious. That is what they do and that is what we want them to do, but it is only advice.

We now have an example from Western Australia where a government, and particularly a parliament, has decided to be courageous about including telehealth and audiovisual communications within their legislation and it is in that act. The Commonwealth knows and has indicated by formal correspondence that it is not going to go after the Western Australian Government to try to strike out that provision.

Mr Jaensch - Western Australia can do things that reduce the risk of enlivening the relevant Commonwealth offences, which is not the same thing.

Ms O'CONNOR - That is right.

Mr Jaensch - It is not saying we won't come after you or that there is no conflict. It is just, based on our discussions of what you are proposing, I think you know there are things you may have to do to reduce the risk. That is not the same as saying there is no conflict or risk and that is about that state.

Mr DEPUTY CHAIR - Order, Mr Jaensch.

Ms O'CONNOR - Thank you, Mr Jaensch. Let us get back to what this is all about. This is about the dying person. This is about a person whose suffering is so extreme, palliative care cannot respond to it effectively. We have to keep that person, those people, front and centre in this debate. We cannot enact legislation by omitting, staying silent, on audio-visual communication and expect it to treat Tasmanians fairly under the law. It is a basic principle of law that all should be treated fairly and equally under the law.

If we throw up the skirts and do this, remove these provisions because we are scared of the Commonwealth coming after us - well, let us have some courage here. Let us do this so we are treating every Tasmanian equally under the law, maintain the provisions that every member of the upper House supported, accept the modern reality that medicine is being conducted these days and it is not always face-to-face.

Telehealth is now embedded in medical practice. Let us have the courage to let these clauses stand as they are, as the upper House intended and, I believe, the majority of this House intend - I have not calculated all the numbers. Let us make this the best bill it can be for that small group of people who need a safe legal and compassionate dying with dignity framework.

I again encourage every member, think about your constituents. Clark is a bit different but think about your constituents. Do you want to be responsible for enacting legislation that treats your constituents differently depending on where they live?

I am not comforted by Ms Courtney's assurance that we will get some advice and then we might be able to come back later. I am not comforted by that in the slightest. I am not comforted by removing provisions so we are silent on telehealth because we all know doctors will be cautious here, as they should.

Mr Ferguson - As they should.

Ms O'CONNOR - We can agree on that, Mr Ferguson. There is no lack of caution in having a consultation with a person under this act by way of audio-visual link. It is standard excepted practice.

Time expired.

Ms O'BYRNE - Mr Deputy Chair, I want to address Mr Jaensch's question that he proposed to move about the legal implications and why she is so concerned. I assure you, there is no one in this House that does not absolutely understand the reasons that Ms Courtney has taken the path that she has. It is not surprising that she would do so and I commend her for trying to find a way through.

I want to take you back to the way that legislation works. When this legislation was first presented, it was part of an omnibus bill to the Commonwealth which dealt with a whole host of issues around the things that were broadcast over a reasonably new technology, including pornography and including a whole host of other things. But then excised this particular conversation because even when they did this legislation there were concerns that they were in fact breaching the implied political freedoms in the Constitution - a matter that was never resolved. So the Commonwealth has done this legislation knowing that somebody could pick them up one time but at that time it was so specific. It was specific to the chat rooms that were being run by Nitschke. It was to stop that kind of uncensored engagement around how to commit suicide.

At the time that they did it, it was very clear, and there is legal opinion from QUT and a number of other places that really carefully state, that there was no VAD legal in the country, therefore, the bill did not presuppose its existence. Any question about the intent of that bill will go back to the second reading speeches made at the time. The second reading speeches do not preclude this because it did not exist as a reality. There is no way the Commonwealth in its own interpretation would be able to give effect to that, and any opening up of it by them would in fact lead us down the pathway where they would be giving in effect an outcome that allowed this legislation to be legitimate because it was not presupposed at the time. It was about a particular matter that the Commonwealth was trying to deal with. It was in the wake only a few years later of the Commonwealth doing what it cannot do to states, which was to tell a territory what they could do with their dying with dignity legislation.

I was a staffer during those days and it was a very fraught debate, but it was a debate that really indicated that the Commonwealth would only be able to tell a territory what to do in this space.

This legislation was not supposed to stop a state from doing this kind of legislation. It was meant to stop the unregulated conversation of suicide chat rooms. It was not meant to stop a legally accepted role taken by a state. That is why Western Australia was so careful to define voluntary assisted dying as not being suicide, because that then exempts them from the intent of that legislation. That is what this bill does too. It is intended to exempt us from that realm of conversation. Even if the Commonwealth did decide in some bizarre mind rush that they wanted to stop this legislation, it would open up a conversation which I imagine would allow it to be fixed. There is no way states are going to allow the Commonwealth to impose legislation in such a way that denies states the right to make these decisions.

I understand your concern about the legality, and I think we all have our views on the philosophical outcome, but legally, that was never the intent of the Commonwealth law and it is an interpretation to say that it is. There is no case law to say that that was their intent. It does not exist.

Many bills pass this House and the upper House that could be questioned in relation to supposed interpretations of federal law or even, as we have seen, interpretations of the meaning of the Constitution. Those things exist all the time and if we never, ever passed a bill because we thought somebody might challenge it, we would have very few bills passed because almost everything is challengeable.

This is about making a determination for our citizens based on what we believe to be the right thing for them. I appreciate there are myriad views in this House about what the right thing is. But if you genuinely believe this is the right thing for our citizens, you back the legislation. If there is a challenge at some stage, we deal with it at some stage. But we do not refuse to make legislation because somebody might interpret something in a particular way when we know that if you go to the second reaching speeches and if you go to the very short period of time that the Senate Legislation Committee canvassed this - they actually had to prorogue because the election was called - they already identified that there would be issues around states' rights and the ability of states to make this kind of determination. It was made at a time when VAD was not law. It was made to deal with that particular instance. It was never made to deal with this circumstance that we as a state are making a decision about our own future.

Mr BARNETT - It is coming up to the 7 p.m. mark but I put on the record views I have shared previously with respect to concerns I have around telecommunications and the use of the same platform for GPs, medical specialists and others diagnosing patients in the context of the VAD bill and physician-assisted suicide.

My concerns were expressed very bluntly in my second reading contribution, and that is death by Zoom. Obviously, that is a one-liner, but it underpins the fact that you need a diagnosis and a physical examination, and that is the best way to go. The best evidence of that has just been reported in the RACGP *Medical Journal of Australia* late in 2020. The authors of that, and I would like to speak to it, claim that taking a thorough patient history and performing an adequate physical examination …

Sitting suspended from 7 p.m. to 7.33 p.m.

END-OF-LIFE CHOICES (VOLUNTARY ASSISTED DYING) BILL 2020 (No. 30)

In Committee

Resumed from above.

Postponed clause 27 further considered -

Mr BARNETT - Madam Chair, I will continue from where I left off prior to the dinner break. I was just drawing on an analysis from the RACGP and their recent *Medical Journal of Australia* from last year and really the thrust of my comment is the importance of in-person diagnosis and in-person consultation with your GP or specialist. I wanted to try to underline the importance of that. I am simply not supportive of the telecommunications approach, death by Zoom. It is not supported by the facts.

The merit of a thorough patient history and performing an adequate physical examination can yield the correct diagnosis according to this report in the MJA of the RACGP article and I will come to that a little further in a minute but there was a correct diagnosis in more than 80 per cent of cases where they had an adequate physical examination, while failure to enact them contributed to 40 per cent of missed diagnoses. This article from 22 September 2020 says more than 80 per cent of diagnostic errors were deemed preventable. The article was penned by Professor Ian Scott, Director of Internal Medicine, Clinical Epidemiology at Princes Alexandra Hospital and Associate Professor Carmel Crock, Emergency Department Director of the Royal Victoria Eye and Ear Hospital. They claim an estimated 140 000 cases of diagnostic error occur in Australia each year. Of these cases, 21 000 are a serious harm and result in 2000 to 4000 deaths.

Knowledge deficits were only found to contribute to less than 5 per cent of diagnostic errors. Rather the evidence points to various cognitive factors including biases. The article goes on and talks about the importance of a physical examination. If you were the person concerned, surely you would want to have a physical consultation with your doctor. If you were concerned about your condition, whether you had a terminal illness or otherwise consistent with the legislation before us, surely you would want consultation with either your GP or specialist concerned. Surely you would want their views and analysis rather than via telecommunications. Of course we all support rural and regional Tasmania; it is part of our DNA just about for most people in this Chamber. The importance of an in-person consultation is really important.

I have outlined some of the views that have been expressed and that is on the public record. Please feel free to get it. The article is a Perspective piece in the *Medical Journal of Australia* and claims that some form of diagnostic error occurs in up to one in seven clinical encounters. If it is one in seven clinical encounters and suddenly you are moving to telecommunications consultation you know that those figures are even broader still.

That is the concern, that physical examination reduces massively the risk of missed diagnosis. That is the importance of it. We know that a physical examination will help ensure that people will not die unwittingly, unknowingly, to reduce the risk of missed diagnosis that can happen in one in seven cases, according to this recent article. I am not a GP, I am reading from the *Medical Journal of Australia*, a very respected journal.

In terms of the legal issues, my understanding is that the amendment to the amendment is now a merged amendment that is being considered. I have put my views in terms of the importance of an in-person consultation and the merit of that rather than a telecommunications consultation or consultation over Zoom or WebEx or whatever that platform may be. My understanding is that in Victoria they have passed similar legislation to what is proposed here by the member for Bass. The member for Bass is acting on feedback from the department and advice that has been received and I think the member has outlined very much in good faith the merits and the importance of that advice.

We have heard across the Chamber disagreement based on feedback from an Attorney-General in another state and correspondence between that Attorney-General with the Commonwealth Attorney-General, but this advice is based on advice in Tasmania and on the departmental feedback which we received eight or nine days ago, or thereabouts, and is based on that advice. We heard earlier during the debate some advice read into the Chamber. We do not know the exact details about it, but it would be good to hear back from the sponsor of the bill as to the level of confidence in the advice that is being acted upon. Clearly, it needs to be consistent with Commonwealth law. The Commonwealth law in this regard is important. We have to take it into account.

The bill was debated and discussed in the upper House. Advice has been received and it has been considered carefully since December last year through to eight or nine days ago when we received it last week. As a result of that, these amendments have been considered and put forward. My preference, of course, would be for an in-person approach, but my understanding is that it is silent in that regard. Based on that Commonwealth law, it would require an in-person consultation which I think is absolutely appropriate - I cannot see why you would not want to go down that track. In fact, not to go down that track just waters down the legislation yet again.

Many attempts were made in the course of the last several days to water down the legislation yet again. What we want is to have a robust and comprehensive bill if it were to pass, and it appears that it will. I am not supportive of that but if it were to pass, I want it to have the safeguards there - the important terms and conditions in the bill to ensure it protects the interests of vulnerable Tasmanians, to protect the interests of those who are sick, are perhaps terminally ill, those who are elderly and are considering the merit of going down the VAD pathway to have physician-assisted suicide.

This is not a minor matter. This is a very important matter and having that consultation in person, backed up by the medical advice which says that in one in seven cases there is a misdiagnosis. But the merit of a personal consultation and I say, for the life of me, I cannot understand why you would not want to have that personal consultation with your medical practitioner or your specialist.

I urge members in this place to support the important role and the procedures put forward by the member for Bass, the sponsor of the bill, albeit a bill I do not and will not support. In

terms of having the safest bill possible, to protect the interests of Tasmanians who are vulnerable, that is definitely the way to go.

Ms STANDEN - I agree with the member who has just taken his seat that this is, indeed, a very important clause - central to the point that has been well made by others about choice, fairness, equity, access and compassion. I want to outline some of my views, not just from my perspective as legislator in this place, but from my past experience as a health professional working in the regional area in north-west Tasmania for a decade or so. I travelled extensively across the region providing dietetic services across that region.

When I was practising in the 1990s through to the early 2000s, telehealth was not an option. Telecommunications and electronic services have expanded rapidly over the past 20 or 30 years. The day has come now where access to telehealth has become embedded in our community and in clinical practice.

In my second reading contribution I said I was very supportive of this bill. I also said I was cautious about the move to have a break over the Christmas period and to implement the UTAS review panel process because I did not want to see amendments come forward as a result of that or any other process that would provide hurdles to the implementation of this bill - practical hurdles that would limit access to those who wanted to access voluntary assisted dying.

As a former health professional, I see this from two perspectives. I do not think it is just about postcode and regional- versus city-based practice. I see this from the perspective of people perhaps suffering bone cancer, limited to their beds, wherever those beds may be, in excruciating pain, intolerable suffering. I take the view that we must put the person at the very centre of these considerations. I believe removing the aspect of the clause that provides an option for interacting with a person's medical practitioner by way of audiovisual link would be a callous move that would not have that person at the centre of the consideration.

I believe compassion for a person's circumstance is one thing and must be central. But the other is about respect for the clinical competence and judgment of the medical practitioner, together with that individual who is suffering intolerably, to make a judgment which is in the best interest of that person, putting that person's care at the centre.

There may be a range of circumstances, including the level of suffering, that I could see impacting that decision. I am perfectly comfortable putting that judgment in the hands of the individual and the medical practitioner to make that decision. Respect for the circumstances, respect for the clinical competence of the medical practitioner and providing clarity and comfort in a legal sense to a medical practitioner are things that sit outside that central consideration of the person seeking to access the voluntary assisted dying.

In that consideration of choice, fairness and equity, I also see that reaching into the deepest pockets of our regional and rural communities is one thing - and people have raised places like St Helens and the Bass Strait islands. However, I can see a circumstance where even if I were living in Bellerive, as I do, if I were in that worst of circumstances, seeking to access the voluntary assisted dying, having reached that decision through thorough consideration and passing that first hurdle of the first request in the face-to-face interaction with my medical practitioner, I would not like to see the removal of the option for an

audiovisual link in a second and third interaction with my medical practitioner by the removal of that part of the clause.

I would not want that for my family, my loved ones or for any Tasmanian looking to access this legislation.

Beyond my personal reflections, as others have done, I looked to our unique circumstances here of being able to build upon the reflections of those in Victoria and Western Australia. To learn from the experience in other jurisdictions and to learn from the insights from the UTAS review panel highlighted this as a very central issue for our consideration.

I will not be supporting this amendment because I am not satisfied there is a significant risk around a Commonwealth challenge. It is important for us to learn the lessons of the Victorian experience, which tells us that there has been an issue with people, particularly in regional areas of Victoria, not being able to access VAD in the way it was anticipated within the legislation.

We have an opportunity to build on that, to put the person at the centre and to provide certainty not only for those individuals but also for medical practitioners engaging in this process. To remove that aspect of the clause would be to place a hurdle in the way of implementing this bill which would limit access, and that would be deeply regrettable.

I strongly oppose this amendment.

Mr FERGUSON - Mr Deputy Chair, I will keep this brief to assist the Committee. I understand this has been around the mountain quite a few times. The amendment before the House should be supported. Why? Because it de-risks the legislation. This is only one of the many risks identified by the agencies, by the university and by that little organisation I often refer to as the voice of doctors, the AMA, which has been completely sidelined by a whole range of individuals in this debate, which is regrettable.

I will bring before the House something the AMA said only last week when it was pleading with legislators to slow down and be careful with what we are doing. They said:

> The Departmental report has identified some 139 concerns with the draft legislation, some quite significant, such as the provision to undertake assessments via video-conferencing, which is currently not allowed under Commonwealth legislation.

Why would the doctors say such a thing? It is fairly obvious. It is because they do not want their doctors prosecuted for a Commonwealth crime in the carrying-out of the objects and the step-by-step processes of VAD under this legislation sent to us by the Legislative Council.

It has a fatal flaw, and good people have been warning of this. Of course, I will vote for the amendment, not because I am rapturously in favour of the legislation, but how many times do we have to keep saying this? We are actually here in this stage trying to make the legislation at least as bad or as good as it can be - as robust, as bulletproof, as workable as it can be.

One observation I make is that different people have had different advice, including legal advice, in relation to these matters. It is disappointing that there seems to be a difference of opinion around the room regarding the importance of that.

I take it as very important. The mover of the amendment, Ms Courtney, clearly takes it as very important; apart from being the mover of the bill, she is also the Health minister and needs to have a regard for her workforce, not only the doctors represented by that sidelined little organisation that only represents a quarter of doctors, as I heard from the Greens, yes, the AMA, but also the Nurses Federation and others, paramedics, anybody involved with the choice between face-to-face or an audiovisual link - they are all captured by this.

If people want to be bloody-minded and stand in the way of a sensible amendment to de-risk the legislation, they are making a choice and choices have consequences - the choice to be cavalier on this because you want to tell it to the Commonwealth -

Ms Butler interjecting.

Mr FERGUSON - Ms Butler, seriously, if you have something to say, please rise to your feet and have the courage to say it, but for now I will continue. You have been absolutely irrelevant to this debate as you are welded to the will of your Leader.

I continue: this is so important because we cannot be cavalier about this, showing our muscles to the Commonwealth and saying, 'Look how clever we are, change your legislation because we are not changing ours.'.

That is the choice. I hope it makes you feel good for those people who have now declared they could not possibly support this sensible amendment. The consequence is that you are exposing our health workforce to criminal sanction. That is a fact; it is not rubbish. It is a fact. You are exposing them to that - you can shake your head, but I look forward to your contribution, Ms Butler. If you want to be taken seriously, enter the debate seriously.

This is of significant importance. If I were to be a cynical MP and not one that is trying to improve the legislation, I would oppose the amendment. Why would I do that? I would like to see a little hand grenade in the legislation so I would set it up to fail. I am not that person. It is not the responsibility of those who have been tarred with the brush of being stuck in the past and not supporting this legislation - it is not our responsibility to improve the bill and fix all the problems left in it. It is the responsibility of us all in this House.

I feel disappointed with some of the comments made, and I want to challenge them. If the amendment fails, well, then that is what it is. It will stay in there with the language of 'in person' and the use of an audiovisual link. Who will carry the blame? When somebody who, whether they are testing the legislation or whether they just think that they can do it because the state act provides for them to communicate by audiovisual link, who is to blame when we have just spent the last hour and a half kicking this around? We all know what is at risk; we all know what is at play. Ms Courtney has proposed a sensible amendment, and one which I think would be irresponsible to oppose and to block. Whatever happens at the Commonwealth level is out of my hands tonight. It is in our hands this evening to de-risk this risky legislation as we have repeatedly warned, but there are none so blind as those who will not see.

I might need to speak again but I promise to be brief. I want to make a second point which is more about the nature of an audiovisual link. As Health minister, I helped pioneer telehealth in this state. It was part of our One Health white paper reforms, the One Health system for better outcomes. We put computers on wheels in 13 regional settings, but I will tell you what we did not do - we did not put a patient on an AV link and a doctor on the other. No, we had a nurse with the patient, with a doctor at the other end.

I did not see anything in the legislation from Mr Gaffney, the Legislative Council or any member here insisting on circumstances before this problem came to light. Insisting that the person requesting VAD should have a guardian to protect against coercion. You do not know who is offscreen. Did you see the ad on television during COVID-19: the woman crying for help, holding up signs? I do not have to go any further - people do get coerced, and it is vital we recognise that while there is an incredibly powerful role for telehealth, and I am the biggest supporter, it does not replace the value of a face-to-face consultation.

That is why under some Medicare rules a face-to-face is considered imperative to doing a proper work-up to really understand the patient, to be able to see the twitches of their face, the movement of their eyes, and to see whether they are really comfortable or not comfortable.

I do not think people have captured that issue in the debate we have held so far on this question tonight. I offer those remarks. I get quite passionate about it, but I can see what is about to occur in this Chamber - a foolish and a foolhardy decision if it is the will of the House to oppose this amendment to de-risk the legislation and to protect our workers from threat of criminal sanction when all they have done is follow the process set out in the VAD legislation.

Mr ELLIS - I will make my remarks brief on this one, particularly around the legal side of things, but one of the things I really wanted to stress is the importance of a correct diagnosis and to ensure that we do not have wrongful deaths.

There has been a lot of talk about places that I know and love and represent in this place such as King Island, the west coast and Circular Head and the last thing I want to see as someone who represents those places is that there are wrongful deaths there and if telehealth is involved in large measure it will be primarily in those places. One in seven diagnoses are incorrect and the risk increases when it is done by an audiovisual link. That is exactly why it is so important that we make sure that this bill protects the people of King Island, Circular Head, the west coast and Flinders Island. We have members for Bass here.

It is not just necessarily about whether they will be able to be subject to euthanasia, it is about whether they will be protected from the consequences of euthanasia. A wrongful death on King Island, on the west coast or Circular Head is just as important as a wrongful death in Sandy Bay or Battery Point and rather than labour the point too long I want to make that simple point about safeguards and the people we represent.

Mr TUCKER - I will be extremely brief. I come from a regional area, probably one of the most remote areas in this state and that is north of St Helens. I am going to mention one town or one coastal area because this is really paramount, Ansons Bay. As the Leader of the Opposition will be aware, the phone and internet reception are terrible in this area and anyone who travels up the east coast of Tasmania would know about the reception. How are we going to do this telehealth if we cannot get these services?

Ms Standen - You don't have to use telehealth, Mr Tucker.

Mr DEPUTY CHAIR (Mr Street) - Order, Ms Standen.

Mr TUCKER - I have an employee who does not have phone or internet service. These are real issues in regional areas.

Ms O'Byrne - You should talk to your federal colleagues about that.

Mr TUCKER - I will sit down if that is the only comment I can give.

Mr DEPUTY CHAIR - The question is that the amendment to the proposed amendment be agreed to.

The Committee divided -

AYES 9	NOES 13
Ms Archer	Dr Broad
Mr Barnett	Ms Butler (Teller)
Ms Courtney	Ms Dow
Mr Ellis (Teller)	Ms Haddad
Mr Ferguson	Ms Hickey
Mr Gutwein	Mr Jaensch
Ms Ogilvie	Mr O'Byrne
Mrs Petrusma	Ms O'Byrne
Mr Tucker	Ms O'Connor
	Mr Rockliff
	Ms Standen
	Ms White
	Dr Woodruff

Amendment negatived.

Postponed clause 27 further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Second amendment

Page 55, clause 27(1)(b).

Leave out "in person or by way of audio-visual link".

Amendment negatived.

Ms COURTNEY - Mr Deputy Chair, fortunately I have not quite moved the third amendment yet. I am advised that because of the outcomes of the first amendment and the second amendment, my third amendment is no longer required. Consequently, I will not be moving those as we move through.

Clause 27 agreed to.

Postponed clause 29 -
Records and notifications of determination of first request

Postponed amendment to clause 29 further considered -

Page 57, after paragraph (a).

Insert the following paragraph:

"(x) may, with the consent of the person, provide to the medical practitioner who the person ordinarily attends in relation to a disease, illness, injury, or medical condition -

(i) a copy of the PMP's determination; and

(ii) a statement of the reasons for the PMP's determination;"

Mrs PETRUSMA - Thank you, Mr Deputy Chair. I move an amendment to my amendment of yesterday:

Leave out all words after "Page 57"

Insert instead the following:

, after paragraph (c)

Insert the following proposed new subclause (2):

(2) A person' s PMP who has made a determination under section 26 in relation to the person may, at the request of the person, provide to the medical practitioner who the person ordinarily attends in relation to a disease, illness, injury or medical condition -

(a) a copy of the PMP's determination; and

(b) a statement of the reasons for the PMP's determination.

I thank OPC and the member for Bass for assisting with this amendment to the amendment because it addresses the concerns that were raised last night. What is on the record last night relates to if a person wants to involve their GP or medical practitioner as they proceed through the process they can now at their own request.

Ms COURTNEY - I support the amendment moved by the member. We did have a bit of toing and froing on this one, but I think her intent was always there as we have discussed the role of a general practitioner and it alleviates concerns with the wording about this being

compulsory or without the person's permission. It was a clear consent component and so it achieves the member's aims.

Ms O'CONNOR - I also support the amendment because it retains the power in the individual person who is suffering, to make choices about whether or not they want their primary medical practitioner to pass on information to their ordinary medical practitioner, even though GPs are extraordinary, but to their treating doctor under usual circumstances. I think this is a good amendment.

Ms O'BYRNE - We had debates around the mandatory inclusion previously in the conversation that we had of person's normal GP and the complications in determining if someone does not have one. This amendment makes it very optional for the person to say that I want this information shared so I support it.

Amendment to the amendment agreed to.

Amendment, as amended, agreed to.

Clause 29, as amended, further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Page 57, clause 29(c) after "determination" -

Insert -

Dr Woodruff - Sorry, is this in your list of amendments?

Ms COURTNEY - Yes, this was in my list of amendments. This was because we deferred Mrs Petrusma's amendment.

Ms O'Byrne - It will have to be after new paragraph (c) now because we have a new paragraph (d).

Ms COURTNEY - OPC will deal that.

Ms O'Byrne - As long as we flag it will be a new paragraph (d), otherwise there will be primacy issues.

Ms COURTNEY - I feel confident after that determination; the proposed amendment continues as follows -

Insert "and a statement, in the approved form, setting out the PMP's reasons for the determination".

I spoke to these either yesterday or perhaps the day before. These are a series of amendments to address concerns that are raised regarding the Judicial Review Act. The amended clause adds an additional requirement that when providing the commission with a copy of the determination for the first request, the PMP must also include a statement in the approved form setting out the PMP's reason for the determination.

This statement is not required to go to the person in accordance with clause 21, which states that medical practitioners are not required to provide the person reasons for accepting or otherwise their request but it will go to the commission as part of the notification process of the outcome of the decision which is already required within the provisions of the bill.

Ms O'Connor - Hear, hear.

Amendment agreed to.

Clause 29, as amended, agreed to.

Postponed clause 34 -
Requirements in relation to determination of second request

Ms O'Connor - You could just withdraw these.

Ms COURTNEY - I know but I feel the reasons that have compelled me to move these amendments move me to do these.

Mr Deputy Chair, I move:

First amendment

Page 62, clause 34(1)(a).

Leave out "or by way of audio-visual link".

Amendment negatived.

Postponed clause 34 further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Second amendment

Page 62, clause 34(1)(b).

Leave out "in person or by way of audio-visual link".

Amendment negatived.

Clause 34 agreed to.

Postponed clause 36 -
Records and notifications of determination of second request

Mrs PETRUSMA - Mr Deputy Chair, I move:

Page 63, after clause 36(c) -

Insert the following proposed new subclause:

(2) A person's PMP who has made a determination under section 33 in relation to the person may, at the request of the person, provide to the medical practitioner who the person ordinarily attends in relation to a disease or any illness, injury or medical condition -

(a) a copy of the PMP's determination; and

(b) a statement of the reasons for the PMP's determination.

This is similar to the previous amendment and I can flag that clause 50 and clause 58 will have similar amendments. It is a similar amendment as the person goes through the process.

Dr Woodruff - It is the same words as the previous one.

Amendment agreed to.

Postponed clause 36, as amended, further considered -

Ms COURTNEY - This is one of my pre-circulated amendments. I move:

Page 63, clause 36(c), after "determination".

Insert 'and a statement in the approved form, setting out the PMP's reasons for the determination".

The explanation is as per my previous one with regard to the judicial review.

Amendment agreed to.

Clause 36, as amended, agreed to.

Postponed clause 48 -
Requirements in relation to determination by CMP

Ms COURTNEY - Mr Deputy Chair, I move:

First amendment

Page 70, clause 48(1)(a).

Leave out ", in person or by way of audio-visual link".

Amendment negatived.

Postponed clause 48 further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Second amendment

Page 70, clause 48(1)(b).

Leave out ", in person or by way of audio-visual link".

Amendment negatived.

Clause 48 agreed to.

Postponed clause 50 -
CMP to keep record of determination and notify Commission

Mrs PETRUSMA - Again this is similar to clause 29 and clause 36. I move:

Page 72, after clause 50(1).

Insert the proposed new subclause:

(X) A person's CMP who has made a determination under section 47 in relation to the person may, at the request of the person, provide to the medical practitioner who the person ordinarily attends in relation to a disease, illness, injury or medical condition -

(a) a copy of the CMP's determination; and

(b) a statement of the reasons for the CMP's determination.

This is similar to the other clauses.

Amendment agreed to.

Postponed clause 50, as amended, further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Page 72, clause 50(1)(b), after "determination".

Insert "and a statement in the approved form setting out the CMP's reasons for the determination".

Amendment agreed to.

Clause 50, as amended, agreed to.

Postponed clause 56 -
Requirements in relation to determination of final request

Ms COURTNEY - Mr Deputy Chair, I move:

First amendment

Page 77, clause 56(1)(a).

Leave out ", in person or by way of audio-visual link".

Amendment negatived.

Ms COURTNEY - Mr Deputy Chair, I move:

Second amendment

Page 77, clause 56(1)(b).

Leave out ", in person or by way of audio-visual link".

Amendment negatived.

Clause 56 agreed to.

Postponed clause 58 -
Notification of determination

Mrs PETRUSMA - Mr Deputy Chair. I move:

That the following amendment be agreed to.

Page 79, after clause 58(c).

Insert the following proposed new subclause (2):

"(2) A person's PMP who has made a determination under section 55 in relation to the person may, at the request of the person, provide to the medical practitioner who the person ordinarily attends in relation to a disease, illness, injury or medical condition -

(a) a copy of the PMP's determination; and

(b) a statement of the reasons for the PMP's determination."

Again, this is for similar reasons as for clauses 29, 36 and 50.

Amendment agreed to.

Postponed clause 58, as amended, further considered -

Ms COURTNEY - Mr Deputy Chair, I move:

Page 79, clause 58(c), after "determination".

Insert "and a statement, in the approved form, setting out the PMP's reasons for the determination".

Amendment agreed to.

Clause 58, as amended, agreed to.

Postponed clause 71 -
What pharmacist may do on receiving VAD substance prescription

Ms COURTNEY - Mr Deputy Chair, I move:

Page 92, clause 71(2).

Leave out "(in person or by way of audiovisual link)".

Amendment negatived.

Clause 71 agreed to.

Clause 81 agreed to.

Postponed clause 117 -
Commission may request authorisation of nurse practitioners to possess and supply VAD substances

Ms COURTNEY - Mr Deputy Chair, I move:

Clause 117:

Leave out the clause.

This relates to some of the amendments that have already been moved in relation to clause 5 and particularly to clause 139.

Under the framework established by the Poisons Act 1971, a nurse practitioner may only possess, sell, supply or prescribe restricted substances for narcotic substances if he or she is authorised to do so by the secretary under section 20(b) of that act.

Clause 117 enables the commission to request the secretary to authorise nurse practitioners to possess, sell, supply or prescribe restricted substances, or narcotic substances, that are VAD substances for the purposes of use under the VAD bill.

Clause 117 further prevents the secretary from complying with requests of this kind that are made by the commissioner without reasonable excuse. This clause was originally included to ensure nurse practitioners who are acting as AHPs under the VAD bill may possess, sell, supply or prescribe VAD substances in a manner that is consistent with the Poisons Act. However, this clause is no longer required because the amendment to section 139 provides safeguards to address precisely this kind of incompatibility by, for example, declaring that

nurse practitioners may sell, supply or prescribe VAD substances without the need for authorisation under section 25(b) of the Poisons Act.

This mechanism provides greater flexibility in relation to the range of incompatibilities that might be identified during implementation. This will, in turn, facilitate the Government's effective and efficient implementation of the VAD bill.

Ms O'BYRNE - Mr Deputy Chair, we were originally quite opposed to this change because it was extensively debated upstairs. It was originally something that we talked about, removing nurse practitioners, because we were concerned about some elements of implementation. There was an extensive debate upstairs and there has also been some UTAS input into this debate. I am wondering whether you have had some conversation with the ANMF about the implications of this and if there is any advice from them.

The concern we have, and I am also seeking some additional advice as we understand what the intent is, we have gone through a process whereby we have already limited the number of medical practitioners who can now participate because you are requiring them to have that 10-year moratorium as opposed to the five which we were all extremely concerned about. I am wondering about whether this is about some kind of limitation on nurse practitioners as well. If you could talk a little more to that because I am not sure why you would want to remove nurse practitioners altogether. I appreciate you think that the Poisons Act allows that to occur, but we need it on the record because this was extensively canvassed in the other place and canvassed by the UTAS report.

If we could get some clarification on that so we are comfortable that this is not a limitation on practice or a change to the way that this bill would have called on this practice. If that is not the intent, that is fine, but it has been the intent in other provisions and we are still quite concerned about the limitation on access to medical practitioners.

Ms COURTNEY - I assure the member that the removal of this clause is not seeking to limit the use of nurse practitioners. It is working in conjunction with the amendments to clause 139 which clarify their ability to use it through other forms. This is a way of clarifying their ability to be able to engage. It is not a removal of their capacity.

Ms O'BYRNE - I want on the record, that the amendment we made to clause 139 covers the role that they would have played under this provision and that there is no restriction to practice for nurse practitioners in the provision of the act as its intent of when it came to us: that there is no change to their scope of practice under this act because you have amended clause 139.

I am incredibly hesitant because of the restrictions we have put on medical practitioners which we still don't understand your intention about.

Ms COURTNEY - As I said before, this links the scope of the capabilities of a nurse practitioner back to the Poisons amendments that we have made before within this bill. This has not sought to limit, it is not the intention and my advice is it is not going to; it is ensuring that they are covered through that provision so there is consistency and clarity for them.

Clause 117 negatived.

Title agreed to.

Bill reported with amendments.

SUSPENSION OF STANDING ORDERS

Move Third Reading Forthwith

Ms COURTNEY (Bass - Minister for Health - Motion) - Madam Deputy Speaker, I move:

> That so much of the Standing Orders be suspended as would prevent the bill from being read the third time forthwith.

Motion agreed to.

END-OF-LIFE CHOICES (VOLUNTARY ASSISTED DYING) BILL 2020 (No. 30)

Third Reading

Madam DEPUTY SPEAKER (Mrs Petrusma) - Honourable members, the question is -

> That the bill be now read a third time.

[8.40 p.m.]

Mr FERGUSON (Bass - Minister for Infrastructure and Transport) - Madam Deputy Speaker, this is the third reading debate that has just been commenced -

Ms O'Byrne - She has already put the question.

Madam DEPUTY SPEAKER - I proposed a question and the member can speak to it.

Mr FERGUSON - It has been a long day and it has been a long week. It has been a long week for Ms Courtney. It has been a long week for every member of this House. I would like to acknowledge from the outset that the debate that I have engaged in as being, at times very unsatisfactory and disappointing. At the same time, I would also like to also express that at many times people have been reasonable with each other. We have tried to on occasion accommodate different points of view and different aspirations about what we wanted for this legislation.

The time passed quite some time ago where we needed to continue to dwell upon and focus on how a particular person voted in relation as to whether they were credible as being a contributor to the committee stage of the debate. I will have some lingering disappointments about that because I still believe that there were genuine good faith amendments that were put forward that were not agreed to. I see those as not having been able to contribute to the robustness of the legislation.

In speaking to this I know that I need to confine my remarks to the amendments. I would like to note that the parliament has been asked to consider a question around clause 138 where there was a redefinition being made of suicide but only for state law. It will not be recognised federally.

I note as well that there is an amendment which has taken away the role of the coroner in relation to the coroner always being notified of a death under the VAD legislation. I see that as highly regrettable. A number of my colleagues, not all, agree that that is a weakening of the bill. After all, it is the case that that clause survived every stage of the Legislative Council debate, at every stage. A member of the public, until yesterday, whenever they have looked at the bill, heard about the bill, listened to a politician on the radio speak about the bill, it has been in the context that every death that would result from this legislation will in all cases be reported to the coroner. What the coroner might do with that or not do, is of course a matter for the coroner as a judicial officer, independent of the parliament, independent of the government. That has been taken away, frankly without explanation and nobody could say it strengthened the bill to remove that. It has weakened the bill; a safeguard has been removed.

I note as well that we have had significant debate around whether audiovisual telehealth should be retained. The House has made its judgment on that, and I believe we will live to regret the decision that it has made because doctors and nurses, including those who might be minded to be involved in the process, I believe will be extremely reluctant, because they will be frightened because one thing that this House cannot do is change federal law. I believe doctors and nurses knowing, as we have been, that participation by them using audiovisual communication tech which is regulated entirely by the Commonwealth will be risking criminal prosecution, because while you can change the definition of suicide, you cannot change the definition of suicide under federal law.

Ms O'Connor - There is no definition of suicide in the federal law.

Dr Woodruff interjecting.

Madam DEPUTY SPEAKER - Order, please.

Mr FERGUSON - Allow me to speak, please. There is a definition and it is the common use term for the word.

That is something I think will create significant issues. If it is the case that the legislation as it will pass, I hope that employers of doctors and nurses will take steps to keep them out that harm, because as a duty of care there they surely will need it.

I conclude with two points of sincere gratitude. The first of which is really significant to me as a member of the Liberal Party for now more than 20 years. On this side of the House we have been the holders of a treasure that we are able on life and death issues to actually hold belief, to express the belief, and to vote according to that belief. I really want to thank the Premier, through you, Madam Speaker. The Premier has been absolutely consistent from the beginning through to the end. At every stage I have felt absolutely free to express my beliefs, to be respected for those views, and also to be able to vote according to my conscience as my conscience dictates.

I have never brought my faith to this debate as a reason for my position. It is interesting, isn't it? I have often talked about being a person of faith, how it informs my views, and I find it really interesting that people outside the Chamber have ceased on it and tried to say it is all about religion. It is not.

Whatever people's religious or non-religious views have been, we all come to this place with a set of beliefs that have been coloured by the way our parents raised us, the environment that we grew up in, the school we went to, the people who are important to us, those we admire and those things that have disappointed or given us joy in life. For me, I am a pro-life politician. I want to support people to live their best lives from the moment of conception to the moment of their passing. I want to support them and I want to encourage them to have the maximum choice over their own lives.

We have differed on this during the week but, Premier, I thank you at every step along the way. You have been not just fair or gracious, you have just reflected the tradition of our party and us as MPs in the Liberal Party. That has not been the case across this House.

Members interjecting.

Mr FERGUSON - Actually, the debate on this legislation has happened on this side of the House.

After this bill has completed, it will be bygones. I really look forward to continuing, not as a private member but as a member of the Cabinet and the Government and work with gratitude with my colleges in the Liberal Government.

I offer those comments in a spirit of good faith and gratitude tonight.

[8.45 p.m.]

Ms O'CONNOR (Clark - Leader of the Greens) - Madam Speaker, I think the House of Assembly has done a very good thing today. We are one step closer to making Tasmania a kinder and more compassionate place and we have demonstrated in here that we can work together across parties, across the Chamber and even across different sets of values about this policy.

We have strengthened the legislation through a collaborative process. We are delivering back to the upper House a solid piece of legislation. We have made sure that those provisions around audiovisual consultations stay in.

I also want to thank every member of this place. Despite Mr Ferguson's frustration which has led him to say things which I think are not reasonable, a lot of people on this side of the Chamber have also been debating and working on this legislation.

I want to thank, first and foremost, all the people over decades who have campaigned for this reform. I thank Dying with Dignity Tasmania and Margaret Sing and Hilde Nilsson, Jacqui and Nat Gray and her beautiful daughter Tilly, who is such a good baby. Every now and again we have heard Tilly give a little cry but she has been here with her mum and aunt through the whole debate and her grandma Diane would be so proud of her three beautiful girls.

I thank Ms Courtney for the grace and professionalism with which you have taken this bill through the House of Assembly, for your willingness to work with others, whatever their view is on the policy framework, to make sure that what we have here is the best possible bill.

I thank the University of Tasmania for providing us with that solid foundation of understanding about this legislation and how it compares nationally and internationally, and government agencies who provided their input, which meant that there were a lot of people working over summer on a very complex piece of legislation.

I thank the Premier for making sure that parliament this week was given an opportunity to properly scrutinise this legislation and work together to make it the best it could be and also for charging government agencies and asking the University of Tasmania for some advice.

I thank those members of the Liberal Party, because it is a conscience vote for many. On the telehealth provisions, I thank Mr Rockliff and Mr Jaensch and you, Madam Speaker, for making sure that this legislation is robust and reasonable.

Did I say thank you to Mike Gaffney yet? No? I thank the member for Mersey, Mike Gaffney, who has spent the best part of three years bringing us to this point. His conviction and compassion have made sure that this is the strongest and finest piece of voluntary assisted dying legislation in the country. Of course Mr Gaffney could not have done it without Bonnie who has also been here every step of the way.

We have done a very good thing today. I know there are members of this place who do not share that view, but I hope over time that they will be reassured about the time, the heart and the effort that went into this debate in both Houses to make sure we get it right for people who are suffering and that we get it right for people medical professionals and other health professionals who take part in this legislation once it comes into effect in June next year. We have discharged our duties to the people of Tasmania to make sure that this is the best, safest, strongest and kindest legislation of its type in the country.

[8.49 p.m.]

Mr BARNETT (Lyons - Minister for Energy) - Madam Speaker, there are people in this place who are absolutely delighted and thrilled with the passage of the legislation through at least this House and then to upstairs, and then there are people like myself who are deeply disappointed.

I would like to say upfront our sincere thanks to the Premier for the opportunity of a conscience vote. It demonstrates a maturity within the party in terms of having a difference of opinion, including the sponsor and all of us here, at least on this side and indeed the Green members as well, but I express extreme disappointment that the Labor members voted the way they did and did not appear to act as though they had a conscience.

Having said that, I believe the bill has been rushed. I believe it is confusing, ambiguous and flawed. One of the major flaws is the most recent amendment we have been debating with respect to GPs and medical professionals being subject to and at risk of criminal prosecution. Time will tell and other lawyers outside of this place and other advice will be obtained with respect to this bill, but a serious flaw has been identified in my view in the bill as a result of that amendment not proceeding in accordance with the will of the sponsor of this bill.

Further, with respect to a range of other issues in terms of safeguards, I put forward a number of amendments and am very disappointed that they did not get up because although I did not support the bill they would have at least made it robust and secure to avoid the risk. As I have said before, nobody has a mortgage on compassion in this place. I think we are all of the same accord but I do fear for the elderly, the vulnerable, people with disability and those who are sick. I feel there is a lack of protection and a lack of safeguards for them.

In conclusion, I am deeply disappointed with the outcome and time will tell in terms of the validity and the flaws in the bill. Having said that, I again thank the Premier for the opportunity of a conscience vote.

Ms WHITE (Lyons - Leader of the Opposition) - Madam Speaker, I take the opportunity to thank everybody for the work that has gone into this bill and to echo quite a lot of what was said so eloquently by the member for Clark. She has been on form today, I have to say. Thank you very much to Ms Courtney for the work she has done to bring the bill into the place, and to the Premier for the work he has done to give us the space to have the debate throughout the course of the entire week so we could thoroughly debate all the clauses of the bill and get to a point today where this bill will pass this parliament and tomorrow morning there will be people waking up across our state who have been looking forward to this day for a very long time. For them it will be another step closer for the Tasmanian community to achieve an outcome where we can have a legal framework that provides for dignity at the end of life for people to end their suffering and intolerable pain in a way that they wish. It is about choice.

Mike Gaffney, you are a remarkable man. Thank you very much for taking carriage of this bill from the very early days when you first identified it as a project that you wanted to take on and then the work you did across the Tasmanian community to hold conversations in every town and place to allow everybody to participate in the development of this bill. That was so important because it really gave the community the opportunity to understand what was being proposed and remove the fear that I think had sometimes been a barrier for this place having the ability to pass laws like this which we have tried before to do. It is because of that we are here today, Mike, so thank you very much, member for Mersey.

Members - Hear, hear.

Ms WHITE - Ms O'Connor, the member for Clark, identified a number of the early campaigners who really started this process and I just want to echo our thanks as well to all of those people she mentioned, as well as the parliamentarians who have come before us who tried very hard to achieve what we have been able to do tonight. I thank everybody who has been involved in that process because it has been a very long time.

I would like to thank all the members of my parliamentary Labor Party. It is disappointing to hear criticism from those opposite that we have voted as a bloc when in fact every single member of my party has exercised their conscience both in this place and the other place. It just happens to be that each one of us believes passionately that people deserve the right to choose how they end their life and to do that with dignity. We are very proud to be able to contribute to the development of a bill that is robust, has been found by the UTAS report to be safe and that we believe we will provide the best framework for Tasmanians seeking to access this if that is what they choose to do.

This is a proud day for our parliament and I know there will be many Tasmanians waking up tomorrow who will be relieved to know that this bill will pass the parliament tonight. I wish the upper House all the very best with what is to come next. This is not over yet; the parliament has not passed this as a law. Without pre-empting the debate upstairs, I have confidence that because of the work we have done over the course of the last three days that this bill stands in very good stead to be passed by this parliament and that is something we should all be very proud of. Thank you everybody.

Members - Hear, hear.

Ms COURTNEY (Minister for Health - Bass) - Madam Speaker, I will keep my comments very brief. I extend my thanks to my fellow parliamentarians for what has been an historic debate. When I came into this place and gave my inaugural speech I said I intend to have the courage to make tough decisions and be accountable for those decisions. What has happened both in the last sitting week of last year and this sitting week has proven that. I intend to continue to be a parliamentarian who is a woman of conviction, a woman who is accountable and who is not afraid to make tough decisions and ensure that we do get the outcomes that we all want for our community.

Others have been thanked and I quickly add my thanks to Natalie Cameron from my office who has volunteered an extraordinary amount of time to assist me and provide advice. This has not been a normal carriage of bill. I have not had the normal type of government support. However, saying that, through the agency advice that was provided I had a small team led by DPAC on hand to be able to assist with implementation aspects rather than policy aspects. I extend my thanks to them because they have also worked incredibly hard to assist us in ensuring that this bill is the best that possibly can be.

[8.58 p.m.]

Mr GUTWEIN (Premier - Bass) - Madam Speaker, this has been parliament at its best. I acknowledge the work of Sarah through this. I could not be prouder of the way you have carried this through.

I want to make the point that a conscience vote takes courage. It takes courage to bring the bill into this place but it takes courage to stand by your own convictions. I want to acknowledge those members on my side who are not supportive of this legislation.

Over the 20 years that I have been in parliament when a bill like this was first brought in it was easier to say no than yes. As the debate has moved forward it has become easier to say yes than no. I acknowledge those on this side of the House who exercised their conscience and argued against this bill because that took courage. I acknowledge the efforts of all in the House over the course of this week. Last year when I was looking at how we might manage this through and the opportunity was there for this to be somewhat rushed and dealt with before Christmas but I believe the process that we have undertaken in the university considering this, the departments considering this, has ensured that whilst not everyone in this place is happy with this bill, the opportunity has been taken, first, to ensure that all members understood it and second, that there was an opportunity to improve it where required.

Mike, I will acknowledge you and the work that you have undertaken. It has been some journey for you and the process that you have gone through both professionally and personally, it simply needs to be acknowledged by this place.

I thank the staff who worked with DPAC under challenging circumstances. Obviously it was not appropriate to bring into this place the advisers who would normally support the Minister for Health and it was carried through with DPAC support. They have done a tremendous job.

At the end of what has been a long week, I will say, in the same way that I started, that this has been parliament at its best and I thank everyone for being respectful, making their points and at the end of the day having the courage to vote on their convictions.

[9.01 p.m.]

Mr STREET (Franklin) - Madam Speaker, I will be very brief, but I am sure Mrs Petrusma would join me in thanking Shane, Laura and Steph very much for their assistance. If you think for a second about how confusing the debate got for each of us as individuals, I cannot imagine what it was like trying to keep track of amendments and amendments to amendments as they did, and at no stage were they flustered, at no stage were they confused, unlike Mrs Petrusma and myself at some stages.

We are incredibly fortunate to have people of such professional skill to help guide us through this process. I thank you very much. I know it is your job and it is our job as legislators to be here to do it, but the last three days have been above and beyond and I thank you very much.

Members - Hear, hear.

Madam SPEAKER - The question is that the bill be read for a third time.

The House divided -

AYES 16	**NOES 6**
Dr Broad	Ms Archer
Ms Butler	Mr Barnett
Ms Courtney	Mr Ellis (Teller)
Ms Dow (Teller)	Mr Ferguson
Mr Gutwein	Mrs Petrusma
Ms Haddad	Mr Tucker
Mr Jaensch	
Mr O'Byrne	
Ms O'Byrne	
Ms O'Connor	
Ms Ogilvie	
Mr Rockliff	
Ms Standen	
Mr Street	
Ms White	
Dr Woodruff	

Motion agreed to.

Madam SPEAKER - Thank you, everyone. I have the result of the division. Before I announce it, although it must be patently obvious, I am very proud to be part of this memorable, historic occasion.

The result of the division is 16 ayes and 6 noes.

I thank every person in this parliament for a very thoroughly debated bill and the respectful manner in which you all presented yourselves.

Bill read the third time.

The House adjourned at 9.08 p.m.