JOINT SELECT COMMITTEE ON END-OF-LIFE CHOICES

Assembly's Resolution

Message from the Assembly requesting concurrence in the following resolution now considered —

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution —

That —

(1) A joint select committee of the Legislative Assembly and Legislative Council on end-of-life choices be established.

(2) The committee inquire into and report on the need for laws in Western Australia to allow citizens to make informed decisions regarding their own end-of-life choices and, in particular, the committee should —

(a) assess the practices currently being utilised within the medical community to assist a person to exercise their preferences for the way they want to manage their end of life when experiencing chronic and/or terminal illnesses, including the role of palliative care;

(b) review the current framework of legislation, proposed legislation and other relevant reports and materials in other Australian states and territories and overseas jurisdictions;

(c) consider what type of legislative change may be required, including an examination of any federal laws that may impact such legislation; and

(d) examine the role of advanced health directives, enduring power of attorney and enduring power of guardianship laws and the implications for individuals covered by these instruments in any proposed legislation.

(3) The joint select committee consist of eight members, of whom —

(a) four will be members of the Assembly; and

(b) four will be members of the Council.

(4) The standing orders of the Legislative Assembly relating to standing and select committees will be followed as far as they can be applied.

(5) The joint select committee report to both houses no later than 12 months after the committee has been established.

and requests the Legislative Council to agree to a similar resolution.

Motion to Concur

HON SUE ELLERY (South Metropolitan — Leader of the House) [2:16 pm] — without notice: I move —

That —

(1) In response to Legislative Assembly message 15 the Legislative Council agrees to the Legislative Assembly's resolution for the establishment of a Joint Select Committee on End-of-Life Choices; and

(2) the Legislative Assembly be acquainted accordingly.

HON Dr SALLY TALBOT (South West) [2.17 pm]: I rise to speak on this motion with considerable pride in the way that we have been able to arrive at this point of having this very important proposition in front of us. It may surprise some honourable members who have been around for a while and have followed the debates in this place over a couple of decades that this is a first for the Western Australian Parliament; it is a first for the Legislative Council. Of course, it is not the first time we have discussed the issue of end-of-life choices, but it is the very first time that we have had the opportunity to talk about the merits of establishing a wideranging inquiry into the whole subject. I think that in itself marks this moment as one of great significance for the Western Australian Parliament. As I say, we have talked about this issue before. In fact, four or five substantive bills have been introduced in this place in the last couple of decades. My research suggests that the debate goes back to the mid-1990s when the then member for Kalgoorlie, Ian Taylor, introduced a bill into the other place on matters that did not relate directly to end-of-life choices, but looked at the issue. I think the bill's title included the

words "medical care of the dying". I suppose that was the first time in what we might loosely call living history that this issue was raised in the Western Australian Parliament. This afternoon we are going to debate the merits of setting up a joint select committee to look at the whole range of issues connected with end-of-life choices. It is very, very significant moment.

I am not going to speak to the substantive issue of euthanasia and end-of-life choices; my views are well documented and I have spoken before in this place and made no secret of the fact that I support voluntary euthanasia. Indeed, I think the last time I spoke on the subject was in response to the bill brought into this place by Hon Robin Chapple in 2010, and I spoke with a great deal of commitment to explain to the Parliament and the wider Western Australian community my reasons for supporting the bill. However, today I want to talk about how important it is that we establish this committee, that we get to work as quickly as possible, and that we come back in about 12 months' time with the most comprehensive report that we could conceivably put together in that 12 months. So that everybody in Western Australia feels that they have had the opportunity to be heard—although I do not imagine that the committee will find it necessary to do an enormous amount of travel—it will be one of my priorities to make sure that everybody in this state has a chance to feel that they have had their voice heard. It will be the first opportunity that we have given ourselves to canvass the whole gamut of questions encapsulated in the wider issue of whether the state moves towards some kind of legislative framework that allows people to make end-of-life choices that reflect their wishes better than the current law does.

The PRESIDENT: Order! Sorry to interrupt, but I have to say that there is a lot of noise bubbling around the chamber, and I think that might make it a bit difficult for Hansard to pick up what Hon Dr Sally Talbot is saying. Perhaps if members have something they need to discuss, they should take it outside the chamber.

Point of Order

Hon NICK GOIRAN: Madam President, perhaps the cause of part of the noise has been that members have been waiting for the motion that has been moved without notice by the Leader of the House to be provided to members, so that we are clear about what we are debating. We have had nearly four minutes of debate, and I still do not have a copy of the motion.

The PRESIDENT: Thank you, member; I will make sure that that is distributed.

Debate Resumed

Hon Dr SALLY TALBOT: I had picked up a copy in the chamber, and of course it is fully detailed on the notice paper for today.

Hon Nick Goiran: Member, will you take an interjection? It is not on the notice paper for today. The motion moved by the Leader of the House is different.

Hon Dr SALLY TALBOT: I am not disputing the technicality of the member's request, but I do not think there is a member in this chamber who is in any doubt about the substantive motion that we are debating this afternoon.

I want to start talking about why I am supporting the motion, and why I am hoping that we can have this debate in a full and committed way, as I expect we will, and that before too long we can have this committee up and running, and we can begin the hard work that lies in front of those eight members over the next 12 months. The first reason I think this inquiry is needed is that it is clear to me, and I think probably to other members who intend to support the motion, that the current law is doing harm. Reflecting on that point, the most effective way of illustrating exactly what I mean, because it is a wide statement, is to give it some substance. The current law clearly did not serve a person like Clive Deverall very well. Clive Deverall was well known to many members of this chamber; indeed, he was a real Western Australian identity. As head of the WA Cancer Council for many years, he was a well-known figure, admired, loved and revered by a great many Western Australians. He was also a champion of the palliative care movement. I well remember when the Shenton Park hospice opened under his patronage. He was the major driver of the first Western Australian hospice. He was a towering figure in the world of care for people who are dying, on both the medical and the palliative care sides. He made a massive contribution to Western Australia but of course, he had his own battle with cancer, and after some 20 years he decided that the only way he could manage his end-of-life options was to commit suicide, which he did in a very confronting way, in public, so that his body would be found very quickly, and so that it would cause the minimum amount of undue distress to the people who had to deal with the decision he had made. Clive Deverall's suicide note is very well known; it stated, "Suicide is legal, euthanasia is not." I do not think it is making too dramatic a point to say that the law clearly failed Clive Deverall. I would like to redress that unfairness and be part of making a change to the laws of this state that would mean that people in Clive Deverall's situation were able to make different choices. A very comprehensive article by Victoria Laurie about Clive Deverall and the choice that he made at the end of his life was in *The Weekend Australian* a few weeks ago. I recommend that people who have not had a look at it

do so. My friends in the electorate of the South West Region, Jan Grainger and Garry Grainger, have been passionate advocates for legalising euthanasia for as long as I have known them, which is about 25 years. Jan and Garry were both primary school teachers before they retired. Jan Grainger was one of those teachers that parents used to queue up to see to make sure their children were in her class when she was teaching at Margaret River Primary School because she had such a fine reputation. Garry was a primary school principal for many years. The Graingers are wonderful people, who are good friends of mine and good supporters of our political movement. They made the decision some years ago that they wanted to end their lives in a certain way. I spoke to Garry in the last few days when we knew this motion was going to come up today, to tell him that we were going to be talking about the issue and attempting to establish the committee. I asked him whether he was happy for me to refer to some conversations that we have had over the years and he agreed to me naming him and talking about those conversations. I will make one reference to something that Garry said to me. He told me that he and Jan have agreed that they want a certain ending to their lives and they do not want to be held hostage by a system that says they can only make the decision to end their lives when they are—to quote Garry—"seven minutes away from death and in such unbearable pain that I can't breathe." I would like to set up this committee and be part of the work that it does over the next 12 months in an attempt to be able to put laws in place in Western Australia that mean that I can go to Jan Grainger and Garry Grainger, look them in the eye and say, "I think we've made things better for you." That is my first proposition: that the current law is doing harm.

These are not comfortable issues to deal with. As an intellectual community, we are much more comfortable dealing with hypotheticals and abstractions, about which we can hold certain things constant and vary the variables to come up with a kind of equation about what the outcome ought to be. I do not think I am encroaching onto delicate territory when I establish these basic ground rules, as I see them, about what we are about to embark on. I think three considerations need to be brought to bear on any law that we make in this place, but particularly to laws that relate to the personal choices that people might make. This is quite an unusual category to put a piece of legislative deliberation into. We do not usually deliberate on statutes that give people a choice. We usually say, "You can't drive more than 110 kilometres an hour on the freeway. Whether you want to put to me the argument that it is quite safe for you to drive at 160, I'm not going to listen to you because I'm going to support this law that says that you don't have that choice." When we venture over that line, which I think is always somewhat flexible, into an area of human deliberation in which we are saying that we want to legislate to enable people to make choices, I think it is even more important that we have a clear idea about what I am calling the three concentric circles. It is as if a pebble has been thrown into a lake and we watch the concentric circles go out from where the pebble hits.

I think the first consideration is what if it were me. I think it is entirely relevant and legitimate to first approach questions of this kind about end-of-life choice on the basis of what if it were me: What would I want to do if I were given a diagnosis of a terminal disease or told that I had a finite amount of time to live? What would I want for myself? What sort of things would I consider as I was making a choice about how I was going to spend my last three weeks, three months or three years? So what if it were me.

The second ring of these concentric circles is, I think, the question about what if it were my family or friend. What sort of conversation might I be able to envisage or might I hope that we could have if my husband, son, father, best friend or the person next door came to me and said, "This is what I am confronted with. Can you help me talk about this? Can we go over some of the things that might be happening to me?" It is not easy to have those conversations. It is often said in quite a glib way that we treat death like the Victorians treated sex: we would much rather not see that little flash of ankle; we would much rather pretend it was not going to happen and we will worry about that tomorrow. But the reality is that we cannot avoid these questions. Sometimes, if we try to avoid them—particularly if these things are either happening to us personally or if they are in my second ring and are happening to family or friends—and we refuse to have that conversation with people, we might actually be inflicting further damage on those relationships and on the wellbeing of the individual people.

The third and broadest of those circles is, I think, the question about what if this were a universal law. What if my preference or the wishes of my best friend or loved one were put into some kind of statutory framework? What if everybody were subject to this kind of law? What would be the implications be? I think in the broadest possible sense that is the challenge that faces this committee over the next 12 months. Those are the kinds of considerations and standpoints I think we might each at different times be taking.

I have said that in our, sort of, intellectual community we are more comfortable dealing with concrete propositions whereby we can hold things constant and keep control of arguments. We are much happier dealing with straightforward questions that perhaps are more like, "Do you want tea or coffee?" or, "Is it raining?" When we get into areas in which the answer might be contingent on context, we are much less comfortable. Certainly as legislators we are on very delicate territory. We are not used to this kind of challenge being thrown at us.

I went back 20 years through these debates and noticed that Diana Warnock, a former member of the other place, observed in, I think, 1995—so 22 years ago—that people often wrongly assume that our Parliaments are places of debate. In 1995 she pointed out that it actually does not happen that often, because quite frequently we are committed to certain positions before the discussion even begins. That is clearly not the case with issues of this kind, in that we have much more free-flowing discussion and we quite justifiably bring a lot of other considerations, including our own personal reflections—as I said, "What about me? What about my family? What about the wider community?"—into the context of those discussions.

We are really uncomfortable when we get to talking about questions the answer to which might be, "It depends", or, "It depends on whose viewpoint we are taking", or, "It depends on this person's concrete circumstances at the time." That is exactly what questions about how we die are like, because we do not actually know what we are going to want because we are not actually there yet. Therefore, a particular kind of discussion, debate and reflective process is required to get to the point at which we might be able to translate some of those feelings, which are inevitably subjective, into something approaching a decent piece of legislation—that would be a piece of legislation that contains all the safeguards, provisos and regulatory frameworks we would properly expect from our statutory process. That is why this inquiry is a good thing.

With enormous respect to WA Greens member Hon Robin Chapple, in the end it was not resolved whether the bill that he brought to this place in 2010 was, in fact, too narrow to achieve some of the objectives that people might have wished it to. That was something that was raised frequently during the second reading debate; but, of course, we never got to the committee stage of that bill so we never had a chance to drill down into some of those things. However, I remember clearly that Hon Sue Ellery, whose views on this issue are also a matter of public record, shared with the house some of the deliberative processes that she had been through in determining whether she would support the Chapple bill because of its narrow terms of reference. I am sure she will have more to say about that later in this debate.

I would like it to be noted that I am not going to raise two issues at this stage of the debate. I am not saying that we should support the establishment of this committee because the community in general supports broadening end-of-life choices and some kind of statutory framework for practices that involve euthanasia. We all know that there is majority support for that according to all the opinion polls. I am sure other members will have something to say about that; I am not going into those matters because I do not have the time. I am also not going to argue—because I am not convinced that it is a valid form of argument and I know that if I did discuss it at any length people would quite rightly ask, "Why do you think it is invalid?"—that other jurisdictions are going down this path. For me, it has never been a particularly persuasive argument to say that everyone else is doing it so we ought to have a go. It is not because of that. This Parliament has a long and proud tradition of debating these kinds of matters, and on our record alone we have come to a natural point at which we need to have a more broad-ranging inquiry than anything we have had to this point.

I have divided my questions into primary and secondary questions. I suggest this to honourable members, knowing that many members of this chamber will already have given this matter some considerable thought and also recognising that some members might be coming to this issue as a matter of parliamentary debate for the first time. I give this to members as a loose framework and as a guide to my own thought processes as I have put my views together and developed my arguments around the points that have led me to the conclusion that this committee is a good thing.

I have two primary questions, the first of which is phrased in the following terms: is it right to criminalise an act that can be best described as helping someone who is dying to choose how she or he dies? That sounds a bid wordy, but it is a simple proposition. The reality is that we already have many instances, some of which are publicly documented and some of which might just be known to individual members because they move around their communities and they hear people talk about these things, of people making decisions about how they want to end their lives. Many of them, like my friends Jan and Garry Grainger, have made a very firm and committed decision that they do not want to end their life in a certain way and have expressed a very strong preference for retaining some kind of control over the moment at which they will die.

So we know that it already happens. Our problem is that to assist somebody with that process is a criminal act. When members are examining their views about this matter, I ask them to look at the question of whether it is okay to make that a criminal act and whether we could support that when it comes to our own choice if it comes to a point at which we are asked to assist a friend or family member. The only way that somebody with a terminal illness can end their own life at a time of their own choosing is not to involve anybody else, because to involve anybody else involves that person in a criminal act. Is it right to criminalise that act? It is far from clear to me that it is right. If I had more time and we were in a different sort of debate—I would be interested to hear other people's views about this, particularly those people on the committee—we could ask the serious questions about whether we have come to a stage at which we can no longer tolerate a law that criminalises the act of helping someone to

choose how they die. As I have already said, the fact is that it already happens. The other fact that affects me as a member of the Labor Party—in this regard, there is an overlap with many other situations relating to life choices—is that it is easier for someone who is well resourced, and that does not seem to me to be fair. It is not fair that someone's end-of-life choice is affected by their postcode. I would like to look at those issues in more detail. The first question is: is it right to criminalise this kind of act?

The second very broad question is: can we legislate these matters? That might seem like an odd way of phrasing it because we can legislate whatever we like, but principled opponents of voluntary euthanasia—I am genuinely not sure whether there are opponents to this motion to set up this committee—will say that we cannot legislate matters of life and death. I pay very close attention to many of the things said by Hon Nick Goiran. Although he and I are at opposite ends of the rainbow in our values and our views, I listen very closely to what he says and I respect his points of view. I am sorry; Hon Nick Goiran was out of the chamber on urgent parliamentary business. My second primary question is: can we legislate these matters? I was simply referring to the fact that on previous occasions I have heard arguments, including from Hon Nick Goiran, that Parliaments should not legislate on these issues and that matters of life and death are beyond the legislative powers of Parliament. As I understand that argument—I know that Hon Nick Goiran will give us that argument in more detail when it comes to his turn to participate in this debate—that point of view argues that we can never legislate for mistakes or to make sure that people are not placed under duress.

We all know those stories about people who have woken from comas days, weeks, sometimes even years after they were regarded as being in a terminal situation and have given graphic accounts of what everything that went on around them during that time. It is one of our fears that that would happen to us or to somebody we love. We do not want to see that happen to anybody. It is a dreadful situation. People who argue that we should not even be contemplating legislation will say that we can never legislate for this; there will always be mistakes because we are only human. Doctors will make mistakes and be wrong in their diagnoses, so how can we possibly give a doctor the power to end someone's life when that decision might be taken on false grounds?

The second point is about duress. The argument is that whatever safeguards we build into legislation, we can never be sure that the person who has requested that their life be ended at a certain point has done so without being put under duress by someone else. I do not agree. I believe there is such a thing as free and fully informed decision-making. It should not be beyond the wit of our Parliament to enshrine free and fully informed decision-making into any legislation that we bring to this place. Of course, we are all fallible. In every aspect of our lives, we are fallible. I know perfectly well that there is a law that restricts me from driving at over 110 kilometres an hour. There has been the odd occasion in my driving career when I have proved to be fallible in translating that fact into reality and have been pinged for speeding. I am not trying to draw a trite analogy; I am saying that although we are all fallible, we must have confidence in our ability to devise a law that will enshrine the principle of free and fully informed decision-making.

It is an entirely fallacious idea that the sole right to which Parliament should have regard is the right to die a "natural death". I want to be able to say to my friends Garry and Jan Grainger that they have the right to not only a natural death, but also to determine what kind of natural death they want to bring about for themselves. This is clearly a complex area. However, we begin to get clarity when we peel away some of the onion skins and realise that this debate involves some fundamental concepts, such as the definition of "natural death", and such as a sophisticated understanding of free and fully informed decision-making. The challenges that are involved in understanding those concepts should not frighten us into running away and allowing the status quo to prevail. As I have said, the laws as they stand currently are hurting people and damaging human relationships.

I agree entirely with people on the other side of the divide from me who argue that Parliament should not legislate on these matters and that to sentence a person to death wrongfully is entirely unacceptable. However, what challenges me even more than having to enshrine that principle in legislation is that on occasion our current laws act to sentence a person to a life that they cannot bear to live. We need look no further than the experience of Clive Deverall to see that play out in reality in our community. Therefore, my two primary questions are: is it right to criminalise these kinds of acts, and should Parliaments legislate in these matters?

I believe we are on the verge of something quite interesting and exciting. The establishment of this joint select committee will give us the opportunity over the next 12 months to examine many of the questions that we have not had the opportunity to examine in previous debates in this place. These questions relate to the concrete and practical reasons why I believe we should agree to the establishment of this committee, rather than any viewpoint I might have on the substantive issue. The first question is the categories of euthanasia. So far in this debate when I have used the word "euthanasia", I have been referring to voluntary euthanasia. There is also a category of euthanasia called non-voluntary euthanasia. I have never liked the term involuntary euthanasia, because it sounds as though it is something that people do by accident. People need to understand exactly what non-voluntary

euthanasia is. It is when a person wants to get rid of another person for nefarious reasons. We are not straying into that territory. We are talking about a person who says the pain of this person whom I love is unbearable and I want to be able to help them move beyond that pain. That kind of euthanasia might be applicable when somebody does not have the ability to do whatever it is that will bring about the end of their life and they have to rely on somebody else to do it. I think we should look very carefully at this area.

I think we should also look at passive euthanasia. It goes back to those early attempts to legislate 22 years ago when we looked at the Medical Care of the Dying Bill, which I referred to at the beginning of my contribution. That was partly about "do not resuscitate" requests and withdrawing treatment at the request of a patient when their options are very limited, and they are not options they can contemplate. This kind of passive euthanasia needs some provisions and, if we are going to make provisions for it, they need to be very carefully crafted around the fact that the person whose life is being ended may not be able to say either yes or no at that precise moment, and certainly not sign a piece of paper.

There are questions about people with non-terminal conditions. We confronted a really horrible situation the last time we discussed this issue in 2010. A quadriplegic man who had tried to kill himself on numerous occasions starved himself to death in a nursing home because that was the only way he could end his life. I think that challenged us on all sides of the argument as we considered whether that was the best we could do for that man. It seemed to me that it clearly was not. I cannot imagine ever wanting to find myself in a position in which that was the only option I could offer somebody with very limited physical movement who has clearly expressed a wish to end their life. It is awful if starvation is the only thing we can offer them and I think we need to look at that. The broader question is about what we can do if somebody has a non-terminal condition that leads to unbearable suffering. Who can opt into this system?

There are questions about when a person can opt into the system. Do we want people who are 20 years old, hopefully, at the time they make their first will, to make some kind of note about what they want to happen to them? I noticed that there was some discussion in the other place about the age of the people who were contributing to the debate. The person who is possibly the youngest member of the house said members were probably wondering why he was speaking because he presumed he was decades away from all this kind of stuff. If members have read that wonderful, recent book by Paul Kalanithi called *When Breath Becomes Air*, they will know it is the account of a man with terminal cancer who was in his 30s. It seems to me that it is probably never too early, but at what moment should we begin to have these discussions? Can we rely on things like living wills to address questions about end-of-life choices? Is the legislation around advanced health directives, which previous Labor governments have already put in place, adequate to address these questions? With Hon Robin Chapple's bill, we frankly did not have the time to talk about these things and we ought to talk about them. We are ready to talk about them and I think that the community of Western Australia will appreciate it if we directly involve it in these discussions.

I will very quickly canvass a couple of other questions. What other choices do we need? Astute honourable members will notice that this motion references palliative care. I think that is very important and I am very glad that the motion came to us from the other place in this form. It has always puzzled me, and to this day I do not know the answer, how this argument was bifurcated between either palliative care or euthanasia. I have never heard an advocate of euthanasia, in any form, say that whether we will provide palliative care is an either/or question. Clearly, Mark McGowan's WA Labor government is committed to providing adequate resourcing for palliative care services.

I say to members again: look at the man who took his life on election day, Clive Deverall. Clive was the leading Western Australian proponent of palliative care services. He decided, to be true to himself, that he had to kill himself once he got to a certain stage of his illness. Of course we need palliative care services and of course we need hospices—it is not an either/or situation. If this committee were to be established by this Parliament, I hope that will be something that is very clearly spelt out in the committee's conclusions. It will certainly be something that I will argue for very strongly.

I will share with honourable members some of the really impressive array of background material that is now being amassed around this topic. Our own library has done a fantastic job in putting together a database on euthanasia and related issues. I found only this morning an article from 6 February this year by Ian Maddocks. Many members would know Ian Maddocks as an eminent palliative care specialist. He was also Senior Australian of the Year in 2013. He has written a couple of pages, which are really easy to digest and easy to understand, about what he calls voluntary-assisted dying and palliative care working together—they both need the same kinds of statutory frameworks to make them work really well, they both need good laws, they both need good statutory frameworks and they both need good medicine to inform their practices.

I will read one very short paragraph that particularly impressed me. He wrote that VAD—voluntary-assisted dying —

> … can be good medicine, if a request for assistance to die brings to bear an unhurried, thoughtful and comprehensive approach of the experienced clinician. To ensure full attention to informed consent, underlying disease, symptoms, prognosis, other options for care and support of family throughout, VAD needs to embrace that clinical dimension.

For me, it is very clear that this is not an either/or situation. I am sure the committee deliberations will consider that point.

The final question relates to who is involved in the decision. Who helps the patient or the individual make those choices? What process do we think should be most properly in place to carry out those end-of-life choices? Jan and Garry Grainger would like to be there for each other. Of course that does not work for some people. Some people might not have an intimate partner with whom they want to share that experience. Is it a friend? Is it their doctor? What does a person do when they are not in a position physically to administer their own drug or undertake their own method? These are very important questions. They are questions that I think would be properly considered by this committee.

Parliament has not had this discussion and the issue will keep coming back. Of course some people do not get to choose, so we are not actually making laws for all Western Australians. Some people die in accidents. It never crosses some people's minds to even contemplate these matters, but more and more people are contemplating these matters, particularly in an ageing community. A number of people who get past the halfway mark in their life actually want to end that kind of Victorian taboo about death; they want to sit down and have conversations with people about what they expect as they go through the dying process. Some people of course get to choose; in other words, the decision is not taken away from them—they get a diagnosis and they have some warning that their days are numbered, but they do not choose to end their life. I have nursed two people who were very close to me who made a decision not to end their life. I respected that decision. I was ready all the time, as they went through the dying process, to have the conversation with them. When we had the conversation, they made it very clear that they were not making that choice. I have known other people who have wanted to make that choice. I think it is time that we gave ourselves the confidence to know that it is time to face that decision and have the discussion about what we need to do. Currently, if you choose to end your life, you have to do it alone. What is worse is that you have to do it through methods that nobody would ever wish on anybody. If anybody thinks I am beating this issue up more than it deserves, I refer them to the evidence that the Victorian Coroner, John Olle, gave to the Victorian inquiry. He gave a lengthy piece of evidence that he had to stop several times because he was so distressed, in which he talked about people dying alone using nail guns, shotguns, by jumping off cliffs or by hanging themselves. He said that it is a strange community that thinks this is a better option than looking at giving people the choice and the chance to die with family and friends in a loving environment, at a time of their own choosing.

I say to members that when they contemplate this motion to establish the committee, if they are in any doubt about whether this is a good thing, they should just consider whether the current laws are serving the Western Australian community well. If they know of any moment when they are not, I think we owe it to ourselves and we owe it to the wider Western Australian community to have a closer look at these matters and to come back to this Parliament with some suggestions about how we might move forward into the rest of the twenty-first century. With that, Madam President, I will leave my remarks and I indicate my strong support for the motion to establish this select committee.

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [3.01 pm]: I will just make a few comments on this motion. Issues on the social agenda of such, dare I say it, social significance as end-of-life or euthanasia, or same-sex marriage, require as much information as we possibly can have before we make a determination. In a rare occurrence during my political career, I will agree with Hon Dr Sally Talbot on this occasion—that we need to understand the facts in the broadest possible sense. That is so valid. We need to understand the facts before we come to a conclusion. There are some members in this chamber who already have very emphatic views, in one way or another, on this issue; others will not, and that is why it is important that we understand this issue in the broadest possible sense.

The debate on this motion is very narrow; we are just looking at the establishment of the committee, not the issue itself. That is very, very important. I know that we will have plenty of opportunity to do that because the Premier has made it quite clear that, regardless of the outcome of this committee, the government intends to bring forward a bill for euthanasia sometime next year. It is a shame that he pre-empted that, but if that is the agenda of the government, that is fine. The Labor Party is in government, and that is its prerogative. But I hope that, in establishing this committee, the government gives the committee the respect and latitude that is required to ensure that learned decisions are made.

As I said when I started, we will support this motion for the establishment of the committee. I have a few issues with the actual terms of reference and I know Hon Nick Goiran has a couple of issues and that he intends to move a couple of amendments—not in any shape or form to change the intent of the committee but, if anything, to provide more opportunities for the broadest possible assessment of this issue. It is important that we assess it in the broadest possible sense.

There are a couple of particular areas that I will briefly comment on with regard to the composition of the committee. There are four members from the other place; three from the ALP and one from the Liberal Party, and that was the decision of the other place. In the Legislative Council, by consensus agreement as I understand it—I do not want to pre-empt any decision by the chamber—it would appear that we are going to have fairly broad representation. What I will make perfectly clear in indicating our support for this motion is that the composition of the committee, which will ideally be agreed upon by the chamber, has the unanimous support of the house. I do not want any comments from anyone from the other place to cast aspersions on the composition of the committee once it has been decided, which is what happened after the establishment of the Joint Standing Committee on the Corruption and Crime Commission. Although the composition of that committee had the unanimous support of this house, the Premier criticised this chamber and me about the composition of the committee. My point in raising that issue is to ensure, as I said, that we get as broad a cross-section of views from the chamber as we possibly can and that will occur through that consensus approach of establishing who will sit on the committee ideally and of those members bringing with them that broad cross-section of views.

With that in mind, there is no facility within the terms of reference to look at euthanasia; there is no reference whatsoever to "euthanasia", which is a shame because that is the issue in the public's eye. I know that we are talking about end-of-life choices, but euthanasia is a key component of this issue and it should be addressed. I think an amendment proposed by Hon Nick Goiran will capture that.

Having said that, I will not talk much more on this because, as I said, the Liberal Party supports the motion for the establishment of the committee. But we support the establishment of the committee mindful of the fact that it is an extremely sensitive issue and it is absolutely vital that there is a broad cross-section of views from within the community and especially from within this chamber. I would like to think that the house will give due consideration to the amendments put forward by Hon Nick Goiran.

I will leave my comments at that and save my more substantive comments to if and when a bill finally comes to the chamber. The Liberal Party supports the motion.

HON NICK GOIRAN (South Metropolitan) [3.09 pm]: I rise to contribute to the consideration of the motion moved by the Leader of the House that we agree to the resolution passed by the Legislative Assembly in message 15. At the outset, I record my support for the creation of a committee; albeit, in its current form, I do not support the Leader of the House's motion. I indicate to members that in due course I propose to make a minor amendment to that motion for their consideration. I support the creation of a committee because it is, as I understand it on reading the terms of reference, a very broad-ranging committee that will deal with the important and sensitive issue of end-of-life choices. Indeed, despite some of the public comments made in recent times along the lines that it is time for us to have a debate on this issue and that we have never really looked into this issue and so on and so forth, I indicate to members who were not members of the thirty-eighth Parliament that it had a very comprehensive debate on voluntary euthanasia as a result of a private member's bill moved by Hon Robin Chapple. As I recall, when Hon Robin Chapple was re-elected in the 2008 election, he commenced service at the same time as me, on 22 May 2009, and fairly quickly brought in a private member's bill. It took about a year before the house dealt with the bill. The point is that the Legislative Council in the thirty-eighth Parliament devoted an entire week to consideration of the bill. As it happened, the Thursday of the sitting week was not needed because, as I recall, we sat very late, possibly beyond midnight, on the Wednesday. We sat all through Tuesday and Wednesday in order to debate the bill. Any member who had a view on the legislation was able to speak to the bill. It was a very respectful debate and no-one was curtailed for time. The house made a decision, and the second reading of the bill was defeated 24 votes to 11. I raise that example to indicate that public comments that there has not been comprehensive debate or consideration of this issue is patently untrue because that did happen in the thirty-eighth Parliament. That is not to say that the fortieth Parliament cannot also consider this issue.

I embrace the creation of the end-of-life choices committee. After the 2010 debate, I said to some of my colleagues that I found being involved in a debate that resulted in the good intentions of one member being defeated rather dissatisfying. Although Hon Robin Chapple and I have opposing views on voluntary euthanasia and the creation of laws for the intentional killing of citizens, that debate was instructive on members' commonality of opinion on and respect for palliative care. Shortly after that debate, with Margaret Quirk, member of the Legislative Assembly for Girrawheen, I convened Parliamentary Friends of Palliative Care. The motivation behind the creation of that committee was that although members with good intent can have different views on voluntary euthanasia, at the

very least we should be working collaboratively on an area on which we do agree—that is, palliative care. It struck me that palliative care was not well understood in our community, it was largely underfunded, and because of the size and geographical nature of Western Australia—of particular interest to rural and regional members—there is inequality in access to palliative care in our state. That is an issue that continues to need to be addressed. With the member for Girrawheen, we established the bipartisan Parliamentary Friends of Palliative Care. For the interest of members, that parliamentary friendship group has survived the thirty-ninth Parliament and continues in the fortieth Parliament. It is open to all members from either house of Parliament. The objects of the Parliamentary Friends of Palliative Care are as follows: firstly, to facilitate communication between people and organisations working in palliative care and members of Parliament; secondly, to provide opportunities for members of Parliament to learn about palliative care needs and services and the issues involved in palliative care provision; thirdly, to increase awareness and raise the profile of palliative care in the community generally; and, fourthly, to promote an understanding of palliative care in accordance with the World Health Organization's definition of palliative care, noting in particular that palliative care intends to neither hasten nor postpone death and that this definition of palliative care has been endorsed by Palliative Care Australia and Palliative Care WA. As the co-convener of the parliamentary friendship group for palliative care, I am pleased to support a joint-house investigation into the issue of end-of-life choices, because I passionately believe that Western Australian citizens need to be well informed when making medical decisions at all stages of life, including at the end of life, and it is fundamental to our understanding and the practice of medicine in Western Australia that citizens and patients provide consent for medical treatment. They have a range of end-of-life choices at the moment and I was very pleased that the other place, when it considered the proposal by the member for Morley, decided in its wisdom to include an additional term of reference for the proposed joint select committee that would see it examine the role of advance health directives, enduring power of attorney and enduring power of guardianship laws, and the implications for individuals covered by these instruments in any proposed legislation. I thought that was an excellent amendment by the members of the other place and I put on the record my gratitude to them for widening the terms of reference or, at the very least, making it explicit that the committee should look into those issues, which plainly fall under the remit of end-of-life choices.

I support the creation of the committee and, I guess, to the extent I have any disappointment with our processes this afternoon, it is not clear to me in accordance with the motion moved by the Leader of the House who from the Legislative Council are intended to be members of the committee. I hear on the grapevine that I might be one of those members and, if that indeed is the case, I indicate that I look forward to participating in that committee. I also hear on the grapevine that my good friend Hon Robin Chapple will be on the committee. I know this because he has expressed this to me, and I welcome it. He and I have very differing views about the issue of voluntary euthanasia, but I have always appreciated the respective dialogue he and I have had, including the odd occasion to debate each other on radio. It is done in the appropriate spirit and I record my thanks to him for that. I note the membership of the committee as passed by the Legislative Assembly, even though it is not in the message provided to us, which is a little peculiar. But, as has been indicated by the Leader of the Opposition, we are aware of the proposed committee membership from the Legislative Assembly. I do not propose to dwell too much on that other than to say that if we were to have a bipartisan committee, that should be reflected in the composition of the committee. I do not consider that that has been done. I am a little disappointed that my co-convener of the parliamentary friendship group, Margaret Quirk, MLA, is not one of the members. Margaret has a great passion for the area of palliative care. She is a former lawyer, and her expertise in both those fields would have made her a valuable addition to the committee. Having said that, I propose to move an amendment shortly that might address that problem.

Apart from the composition of the committee, it strikes me as unfortunate that the Legislative Assembly considered, for a moment, the addition of an extra term of reference and decided not to proceed with it. The proposed amendment that did not make its way into the resolution of the Legislative Assembly was, as I understand it, moved by Hon Liza Harvey. It would have seen the addition of an extra term of reference; that is, that the committee examine the risks of introducing voluntary euthanasia, including the impact on suicide prevention. I flag with members my intention to move an amendment shortly to introduce that term of reference into the resolution. By way of explanation, the reason I think that is necessary begins with the fact that it was not passed by the Assembly. As a prospective member of this committee, I do not want to find myself in debates with other members of the committee about what we can and cannot look into. It is my view that the terms of reference of the committee, as they currently stand, are broad enough to include an examination of the risks of voluntary euthanasia, including the impact on suicide prevention. The terms of reference ask the committee, amongst other things, to consider what type of legislative change might be required. Inherent in considering what type of legislation might be required is the consideration of any risks associated with it, and the issues and impacts would also include the impact on suicide prevention. However, my concern is that the motion moved by Hon Liza Harvey was not carried by the Assembly. I do not want to find myself in a debate with other committee members who maintain,

"The Assembly considered that and expressly decided not to include that as a term of reference, so this committee will not be looking into those issues," and then a committee with eight members finds itself debating the terms of reference and what it can and cannot look into. There is not even an odd number of members, so it could end up being a stalemate of four versus four. All those things would be spectacularly unhelpful in a committee of this sort. I have had discussions with some members, who have indicated to me that they share my view that the terms of reference are broad enough to be able to deal with this issue. If that is the case, my proposition is that members should have no problem having those terms of reference explicitly put in. If we are to ask the committee to consider the risks of introducing voluntary euthanasia, including the impact on suicide prevention, why would we not just say so? That would be far more authentic and transparent.

I take the point made by the Leader of the Opposition that it is a little peculiar that the terms of reference do not once mention "euthanasia". As I said, if the committee were just considering euthanasia, I do not know whether I would be as enthused about being a part of it. I am enthusiastic about being part of the committee because, as I indicated earlier, it is about end-of-life choices, including palliative care, advance health directives, powers of attorney and so on. I am particularly enthusiastic about those broader aspects. Even though that is my view, it is obviously not the view of the Premier of Western Australia, who has, on multiple occasions, made it clear in the public domain that this is a committee about euthanasia. Indeed, I note that an ABC article of 9 August this year, headed "Legal euthanasia debate to ramp up as parliamentary committee convenes", states —

> Mr McGowan said he wanted a bi-partisan approach to the development of any legislation.
>
> "I'd like legislation to come in next year, put together by this committee, that everyone can have their own free vote on," the Premier said.
>
> "I am not going to try to ram my views down peoples throats, but I do think that its time has come."

An article by the Australian Associated Press on 9 August this year, headed "WA premier wants euthanasia bill by 2018", states —

> "We want everyone to be part of the process of coming up with laws that are acceptable both to the parliament and to the community," he said.
>
> "Personally, I am supportive of voluntary euthanasia for terminally ill people with safeguards in place and I'll be voting for it."

The Deputy Premier, Hon Roger Cook, is quoted in a PerthNow article of 26 March 2017 headed "Bid for voluntary euthanasia in WA", which states —

> "I support voluntary euthanasia and I think we need to legislate to enable people to take control of their lives in their final stages," he said.
>
> "Any debate in parliament on assisted suicide for terminally ill patients would have to be part of a wider community debate." Mr Cook said that while the Labor Government would not introduce law reform as part of a policy, it supported individual members to table a private member's Bill.
>
> He said Labor would allow MPs to "exercise a conscience vote on euthanasia".

Those comments by the Premier and the Deputy Premier are consistent with comments that have been made by the creator of the committee, the member for Morley. The Leader of the House in the Legislative Assembly has also made public comments in the same vein. It strikes me, as has been mentioned by the Leader of the Opposition, as a little odd that "euthanasia" does not appear anywhere in the terms of reference. In fact, we would not want a guy like me on the committee suddenly saying, "This doesn't mention anything about euthanasia, so the committee can't look into the issue of euthanasia." Plainly, that would be absurd and it is certainly not my intention to do that. My point is that if this is really a sensitive and serious issue and is being dealt with on a genuine basis by members, let us make sure that there is no lack of clarity about what the committee should or should not do. My question is: do members think it is reasonable that a committee looking into the issue of end-of-life choices should look into the risks of voluntary euthanasia, including its impact on suicide prevention? If members do not think that the committee should look into that, that is okay; please vote against my amendment. If members think that the committee should look into the risks of voluntary euthanasia and its impact on suicide prevention, I ask them to support my amendment. People have privately said to me behind the Chair, "Nick, don't worry about it because the committee can look into those things anyway." My amendment will make sure that the committee will definitely be able to do that. If I am on the committee, I will not have the luxury of relying on what people have said to me privately behind the Chair; I can rely only on the exact terms of reference that have been moved by the house. I ask members to give that matter some consideration and I do not mind if the Leader of the House decides that she wants to adjourn the matter at that point for members to do so. I am in no particular hurry to deal with it this afternoon or this evening. I am quite happy for the matter to be dealt with today, but I would like members to give proper consideration to the motion.

I also flag with members my intention to move an amendment that will deal with a problem that has been drawn to my attention by some of my colleagues. Selfishly, if I am to be a member of the committee this amendment will have no impact upon me. But some colleagues have indicated that they would like to participate from time to time in the hearings of the committee. The problem is this, members: the proposal before the house as has been delivered to us by message from the other place is, and I quote from the message —

> The Standing Orders of the Legislative Assembly relating to Standing and Select Committees will be followed as far as they can be applied.

The problem is that if the Legislative Council standing orders were to be applied—according to the current message they will not be—members of this place would have the capacity to participate in the hearings. This is the case because—members will no doubt be extremely familiar with it—standing order 164 reads —

> (1) Any Member of the Council may participate in the taking of oral evidence by a Committee, and by leave of a Committee its deliberations and proceedings but may not vote.

Interestingly, the Legislative Assembly does not have an equivalent provision. It is of some distress to some of my colleagues that they will not be able to participate in some of the hearings on a matter that is obviously important and sensitive. Members of the Liberal Party have a free vote on matters that pertain to voluntary euthanasia. I feel uncomfortable with suggesting to them that they ought not to participate should they wish to.

This goes to my earlier point about being somewhat disappointed that Margaret Quirk, MLA, will not be part of the committee. She will probably chastise me at a later stage for using her name in vain—I have not talked to her about this—but I use her as an example of a person who is plainly well qualified to participate usefully on this committee. If my proposed amendment relating to members of the Legislative Council or Legislative Assembly being able to participate in the taking of oral evidence is accepted, she might be able to participate from time to time. I hasten to add that she is not the member who indicated any of this to me. I have said that I have not spoken to her about it. I merely use her name in vain this afternoon as a prime example of a person who is eminently qualified to assist the committee, particularly if a specific legal matter needed to be considered. Other Assembly Labor Party non-ministers include Dr Tony Buti—a very experienced legal practitioner who may also be able to assist the committee from time to time by participating in the taking of oral evidence. In this house we have, obviously, other individuals like my learned friend the shadow Attorney General who might be able to assist the committee by taking part while evidence is being provided.

For those reasons I am looking to move an amendment to specifically deal with those issues. Before I move the amendment, I flag with members that the proposal is to insert a new term of reference, which would require the committee to examine the risks of introducing voluntary euthanasia, including the impact on suicide prevention. That would be the first thing this amendment would achieve. The second would be that any member of the Legislative Council or Legislative Assembly may participate in the taking of oral evidence by the committee and, by leave of the committee, its deliberations and proceedings but may not vote.

Before I formally move that amendment and give members some time to consider it, I will take the opportunity in the few minutes I have remaining to respond to a couple of things that were mentioned by Hon Dr Sally Talbot during her remarks. She mentioned at one point that there are individuals like me who hold the view that we are unable to legislate due to the risk of duress. They were not her exact words—I do not have the benefit of the draft *Hansard* in front of me—but they were words to that effect. I understand the point the honourable member was making. I want to take this opportunity to clarify, because I would not want it to be understood that I hold the view that we cannot simply legislate on anything whenever duress might be present; that is not my contention with respect to voluntary euthanasia. I have previously said that it is a legal impossibility to protect people from involuntary euthanasia if we legislate for voluntary euthanasia because, unlike any other area of law in which duress may be present, the victim of the duress has an opportunity afterwards to seek redress. In this instance that is an impossibility. If a patient, in their contract with their doctor, seeks voluntary euthanasia but seeks that contract with the doctor under duress, it is impossible for the patient to seek redress after the contract has been fulfilled. That is entirely different from any other area of contract law. That is the contention I have as to why it is impossible for legislators to protect against involuntary euthanasia if we legislate for voluntary euthanasia. I take into account Hon Dr Sally Talbot's point about her reluctance about the word "involuntary"—I think she used a different word.

Hon Dr Sally Talbot: "Non-voluntary".

Hon NICK GOIRAN: That is a perfectly acceptable substitute, but my point remains the same: I do not want members to think that I would never support any legislation that deals with matters of duress. Far from it, I think there are many areas of law in which duress is a risk and that it needs to be addressed appropriately by legislators

so that if it does become apparent, the victim will have the capacity to seek redress. In the instance of assisted suicide, that is impossible.

I would like to make another point about something Hon Dr Sally Talbot mentioned. She raised the sad case of Clive Deverall. I say at the outset that I never knew this man personally. I knew of him but never had the opportunity to meet him in person. I extend my sympathies to his family. I just pick up on this point with respect to what Hon Dr Sally Talbot said. She quite readily identified that this man was a leader in our community in his advocacy for palliative care. I would ask members to contemplate this: we would assume, would we not, that a passionate advocate for palliative care would seek out palliative care services if they needed it? I caution members to be careful about how much we use this particular case as a reason for legislating for voluntary euthanasia. Not all the facts are well known, and I agree with Hon Dr Sally Talbot that sometimes it appears that there is an either/or proposition. This goes to my earlier point about the levels of commonality between people on different sides of the debate. When there is a common intent—that is, that palliative care ought to be made available to every Western Australian—they should be able to access it. If it is not available to everybody, it is my view that it is plainly premature for legislators to be thinking about new lawful categories of killing—assisted suicide—because legislators and the government will not have fulfilled their duty to ensure that Western Australians have adequately had palliative care available to them.

With those remarks, I conclude by drawing to members' attention the importance of the suicide prevention issue when considering this issue and why I intend to ask the committee to look into it. I ask members to support the inclusion of the impact of suicide prevention in the terms of reference. The highest age-specific suicide rate for males in 2015 in Australia was observed in the 85-plus age group. I found that information in the recent Australian Bureau of Statistics publication on this issue, "Causes of Death, Australia, 2015". I repeat that as recently as 2015, the age group with the highest age-specific suicide rate for males was 85-plus. Often in the debate around assisted suicide and suicide prevention, there tends to be a separation; people say that suicide prevention is for young people and assisted suicide is for the elderly. I want to distance myself as far away as possible from those suggestions. I believe that suicide prevention is something that a compassionate society does irrespective of the age of the person who is struggling. We should not be ageist—if there is such a word—in this issue. If we in Western Australia are going to create a new law for assisted suicide, we cannot shy away from the fact that we will have to address that in such a way that deals with the good work that we do in suicide prevention.

There is an ongoing suicide crisis in Western Australia. As I recall, on average, there is one suicide a day in Western Australia, and mixed messages are very dangerous for the particular community that is susceptible to suicide. Although it is not the intention of members prosecuting the argument for voluntary euthanasia to create dangerous mixed messages—that is not their intention and I believe that they are as enthusiastic and supportive of suicide prevention as I am—it is an issue that needs to be addressed. If this committee is going to look at this matter in depth over the next 12 months to consider these end-of-life issues, it cannot shy away from the fact that it needs to deal with suicide prevention. I have indicated my keenness for members to support an amendment that would amend the motion to include those words.

Amendment to Motion

Hon NICK GOIRAN: With those remarks, I move the following amendment to the motion —

In paragraph (1) after "Choices" insert —

, subject to the Legislative Assembly agreeing to the following amendments to the resolution —

(a) the insertion of a new paragraph (2)(e) in the following terms —

(e) examine the risks of introducing voluntary euthanasia, including the impact on suicide prevention.

and

(b) the insertion of a new paragraph (4)(b) in the following terms —

(b) Any member of the Legislative Council or Legislative Assembly may participate in the taking of oral evidence by the committee and by leave of the committee its deliberations and proceedings, but may not vote.

The amendment effectively has two parts. The first part seeks to introduce a new term of reference. The second part seeks to ensure that members of this place, and, indeed, members of the other place, are able to participate in the taking of oral evidence by the committee. I will not spend any further time discussing the second part of the amendment, because I think it is sufficiently clear to members that its purpose is to ensure that all members of the Legislative Council are able to participate in this select committee in the same way that members of the

Legislative Council are able to participate in any other committee. If any member disagrees with that, I look forward to hearing why it is okay for members of the Legislative Council to participate in the Standing Committee on Environment and Public Affairs, which looks at petitions, the Standing Committee on Estimates and Financial Operations, and the Standing Committee on Public Administration, but not this proposed committee on end-of-life choices. I hope no member will argue that, but I will wait to hear the views of members on that point.

I come now to the first part of the amendment. In some discussions that I have had with members, the question was raised whether this should be a standalone term of reference. I am entirely relaxed about that. If members want to move an amendment to the amendment, I am very happy to hear their argument. The reason I have chosen those words is simply that the same words were used in the amendment that was moved in the Legislative Assembly. I believe that was a good amendment and there is a good case for the same amendment to be moved in this place. I have moved this amendment as a point of initial discussion, or we may even say negotiation. It is the spirit of the amendment that is important.

I reiterate that I will have very little time for any nonsense along the lines of, "This type of amendment was defeated in the Legislative Assembly; therefore, the committee cannot look into that issue." By virtue of the fact that the Legislative Assembly expressly decided not to include this term of reference, it is clear that the intention of that house was not to have the committee do that. I want to avoid any technical debates on the committee and enable the committee to get on with the important work of considering all the terms of reference to do with end-of-life choices. For the same reasons, the amendment also asks the committee to look at the risks of introducing voluntary euthanasia and its impact on suicide prevention. With those words, I commend the amendment for the consideration of members.

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [3.50 pm]: I am very pleased that Hon Nick Goiran has indicated he wants to be an active participant in the end-of-life choices committee that is being established and that he supports the principle of establishing the committee to enable the issues to be fully aired. I think it is important to have a cross-section of views on the committee. I am sure that Hon Nick Goiran will bring some very passionate advocacy and a particular perspective, but I have to say that I am unable to support either part of his amendment. I think I have good reasons not to do so. Firstly, the committee already has eight members. It is a joint house committee, so it already has eight members. This committee will receive evidence from, I suspect, a broad range of people in the community, including people with a strong emotional investment in the evidence that they present. As someone who has participated in parliamentary committees for some 13 years—my life in opposition—I understand the dynamic of a committee. In dealing with an issue like this, it is important for the committee to work together and ensure that the proceedings, which will often be pretty challenging, are able to be run in a collaborative way, which is not to say that people will not come to their questions from very different perspectives. I do not think having a whole range of members coming in and out, in addition to that, will add to the quality of the proceedings. Indeed, I think it will make it very difficult, in some cases, for members to ask their questions, as a group, and ultimately come forward with a recommendation to this Parliament. I urge members to think about the dynamics of how a committee works and how that might play out once the committee goes into the space where it takes public submissions. As I said, there are already eight members on the committee. I think it is great that they will represent a broad cross-section of views and that the composition will reflect the make-up of Parliament. I think this whole process will require the very best of all the people on the committee in order to keep the show on the road and really tease out the critical issues. I urge members to contemplate a situation in which members can come in and out for a particular piece of evidence, perhaps of someone they either support or do not support. I do not think that will, in any way, enhance the quality of that deliberation.

The other aspect of the member's concern if we do not add these words to the motion is about the ability to forensically examine issues that might be downsides and real challenges that no-one would deny exist in opening up end-of-life choices legislation. The member is concerned that he might be precluded from asking the questions that he wants to ask about the consequences of possible legislation and I have to say to the member that the fact this committee is being set up is testament that Parliament is very keen to test out those issues. It is recognised that the process in Victoria is much more likely to achieve consensus and common ground within Parliament than just introducing a bill, although I would not of course be at all critical of those people who have done that in the past, including Hon Robin Chapple. This is about teasing out those options. I think it is important. We want to get on with this. This provision was rejected by the other place. I think it would be a very destructive move, in setting up this joint select committee, to ask Parliament, acting as a whole in moving forward on this, to pass an amendment that has already been directly rejected in the other place. This amendment will not enhance Hon Nick Goiran's opportunities, or the opportunities of any of the participants on the committee, to tease out all of the consequences that would come from a change to this legislation. Whilst absolutely recognising the goodwill of the member moving this motion, I ask members to really give very careful thought to this. I urge members not to support this amendment.

The PRESIDENT: Given the amendment moved by Hon Nick Goiran deals with two quite distinct matters, I will split the amendment in two. I will put the first part. The first part of the amendment to the motion moved by Hon Nick Goiran was —

> In paragraph (1) after "Choices" insert —
>
> , subject to the Legislative Assembly agreeing to the following amendments to the resolution —
>
> (a) the insertion of a new paragraph (2) (e) in the following terms —
>
> (e) examine the risks of voluntary euthanasia, including the impact on suicide prevention.

The question is that the words to be inserted be inserted.

HON Dr SALLY TALBOT (South West) [3.56 pm]: I am going to speak against both parts of the amendment, recognising that Madam President has split it. I will make the first half of my remarks and I will seek the call again to speak against the second one. The amendment seeks to introduce a new term of reference to include examining the risks of voluntary euthanasia including the impact on suicide prevention. I will argue against this. Although I do not disagree with any of the points that were made to Hon Nick Goiran behind the Chair about the reasons that other members do not support it, I have a very specific reason for not supporting this. I do, however, think that it is important to take into account how wide the originally drafted terms of reference are. It is not my default position to accept decisions made by the other place as somehow carrying some special gravitas; in fact, I would say the opposite is true. My objection to the second amendment is based on the fact that I do not think that the other place necessarily does things as well as they are done here. In this particular case, they got it right—we do not need a specific reference to the impact on suicide prevention. I say that for a very particular reason. The danger in including these words is that the honourable member is eliding a very significant difference between two phenomena that we experience in our society. One is the act of suicide—the act of somebody taking their life because they feel that their life is no longer bearable or endurable, or it holds no value for them or the people around them. As Hon Nick Goiran said, that is a scourge in our society. It is approaching crisis point, if it has not already, and we need to do everything that we can as legislators to make sure we put measures in place to help people who feel like that and to provide them with the resources that they need. We know that organisations such as Lifeline Australia, beyondblue and Black Dog Institute go a tremendously long way towards helping people who find themselves in that kind of despair turn their lives in a slightly different direction—to turn them away from ending their lives into some kind of different way of managing the illness or situation to which they have fallen victim. But we have another situation in which people are given a diagnosis of a terminal disease, and that is not the same thing. Obviously, there might be cases where there is a small overlap between those two cases. It is not a given that people who have a terminal diagnosis are not also depressed; they may also be depressed, but it is going to be a very, very small number of people. The danger in making a specific reference to suicide prevention is that we are collapsing the significant difference between the two things.

I do not disagree that there is more we can do to prevent suicide. There are more resources we can give, across the board. There are different ways of doing things. I am sure, having had a conversation with a psychiatrist within the last couple of years, that psychiatry as a profession is lagging a long way behind, for example, oncology. Some of the practices we now have for treating certain types of cancers make the old way of doing things look quite barbaric. This psychiatrist said to me, "The day will dawn when psychiatry is also in that position, so that a person suffering from severe depression can have a blood test, and that blood test will tell the psychiatrist or the prescribing physician what drug that kind of depression is most suitably and effectively treated by." We cannot do that at the moment. With psychiatry, we are still in kind of a dark age—this is what this psychiatrist admitted—in that we are still using sledgehammers to crack walnuts and that sort of thing. Psychiatry has a long way to go. We should be facilitating the kind of research and development that needs to go on in that area.

The whole issue of end-of-life decisions is an entirely different thing. We are talking specifically here about people who have a certain kind of medical diagnosis. The people who deliver that information to people—in other words, specialists, doctors and GPs—are pretty highly skilled in detecting the mental condition that that may precipitate or exacerbate in such patients. It is a completely different thing from somebody who is contemplating suicide for reasons of mental illness or some other calamity in their life. That is a very important distinction that I think we have to keep clear air between.

Having said that, I cannot see any reason for the fear that Hon Nick Goiran expresses in two parts. It is partly because he perceives that something is missing from the original motion that perhaps would be better if it were there, and therefore he wants to insert these words. I do not agree, because, as other speakers have mentioned, these terms of reference are very, very broad and there will be opportunities to consider the kinds of things that I know are very important to Hon Nick Goiran—not just to him, but to me too. I want to have those discussions and I am absolutely confident that we will be able to have those discussions within the existing terms of reference.

The second and perhaps more difficult point to address is the fact that the Assembly has already rejected those amendments and that members of the committee might say, "We can't talk about that because it's already been rejected." Hon Peter Collier is shaking his head, but Hon Nick Goiran raised that specifically.

Hon Peter Collier: I thought you were going to say that because they rejected it, we should reject it, but you are not saying that, are you?

Hon Dr SALLY TALBOT: I thought Hon Nick Goiran was saying that, even in the committee, when it came up for discussion, people from the other place might say, "Well, we looked at that, and that's not part of the terms of reference." I do not think that is an issue. If members have followed the debate in the other place, the argument was not that this should not be considered as part of the inquiry; it was that the existing terms of reference are already sufficiently broad.

I reiterate those two points: suicide prevention is something that we should all be actively engaged with, but it is qualitatively and quantitatively different from the issues we are considering when we look at end-of-life choices; and the terms of reference are already sufficiently broad. The debates in both chambers, which we know can be brought into consideration as evidence were these matters ever to end up in court, have indicated perfectly clearly to this point that we will be able to consider the issues that are of concern to all of us.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [4.04 pm]: I was not intending to speak on this matter because I thought that Hon Nick Goiran, who has indicated an interest in participating in this particular committee, outlined the reasons for some refinement of the terms of reference to ensure that the committee is able to consider all relevant issues to this problem. But I was moved to do so partly by the comments of not only Hon Alannah MacTiernan, but also Hon Dr Sally Talbot, who, to my mind, has outlined precisely the reason that there ought to be further work on the terms of reference. Hon Dr Sally Talbot told us that end-of-life choices are somehow qualitatively and quantitatively different from suicide, but that is not made plain in the terms of reference of the committee. They refer in vague terms to end-of-life choices. This area has been riddled with euphemisms over the years. The resolution reads —

> A joint select committee of the Legislative Assembly and Legislative Council on end-of-life choices be established.

That could mean just about anything, including killing yourself under any sort of circumstances or simply dying by way of natural causes when a person makes decisions about the level of treatment that they receive or otherwise. Making a will is an end-of-life choice.

Hon Sue Ellery: If we follow that logic, you just said that it could include whether or not you take your own life. Isn't that suicide?

Hon MICHAEL MISCHIN: That is right, and I will get to that. The resolution tries to refine this by reading as follows —

> The committee inquire into and report on the need for laws in Western Australia to allow citizens to make informed decisions regarding their own end-of-life choices …

Again, that is very broad—suicide generally. We like to use the euphemism of voluntary euthanasia—euthanasia being the Greek word for easy death. An easy death may be one that is voluntary or involuntary, depending on one's circumstances. We euthanase pets, but that is not voluntary on the part of the pet. What we are talking about here is voluntarily, presumably, choosing to have an easy death, but that is suicide. What we are talking about here is not a person's right to kill themselves—there is no law against that. What we are trying to get at is whether a person can be assisted to kill themselves or is entitled to obtain assistance to kill themselves. That is by no means made clear in the terms of reference, but that is suicide. However much it might be said that there is somehow a difference between a person getting assistance to kill themselves because they are suffering from a terminal illness and are in great pain and a person who wants assistance to kill themselves because they are suffering the unbearable anguish of knowing that they are schizophrenic and might go off the rails at any time and harm themselves or loved ones, it is not a matter entirely out of the bounds. New paragraph (2)(e) in the amendment tries to refine this, but the same issues arise. I think it is incumbent on us to consider what is being proposed here under the vague heading of "end-of-life choices" in the context of wider attempts to discourage people from killing themselves or getting assistance to kill themselves. It is germane to the sorts of issues that this committee needs to deal with. It has been said that the terms of reference are broad enough to consider that; that may be right, but why not remove it beyond doubt? It will not, in fact, confuse things at all; rather, it will make what the committee is supposed to focus on more clear. If we look at it specifically and confine it only to people who are looking at choices as a result of a diagnosis of some terminal or chronic painful disease, why is that not included in the introduction to the committee's terms of reference rather than using the words "in particular", which has a slight focus but not an exclusive one? I will not argue about the terms of reference—it is what it is. I do not have a problem with them if that is what Parliament wants to consider, but I think the proposal made by Hon Nick Goiran is a sensible one.

It is ironic when it is suggested that somehow the issue of suicide generally is entirely different from the issue of a medical diagnosis leading to a desire to put oneself out of one's misery because, in every case reported in the newspaper of late in which this issue has been raised and people have talked about their experiences and why they would like to be able to be assisted to kill themselves, a little line is routinely put at the bottom of the article that states: if you or anyone else is considering suicide, please contact X helpline. It is not by any means a totally different issue; it is germane to this issue. It is an issue that I think members of the community concerned about where the lines are drawn would need us to ensure that this committee, if it does express a wide variety of views, will look into and decide on.

I note Hon Alannah MacTiernan seems to think that allowing members to participate in the hearings to ask witnesses questions and to debate the issues is inappropriate for this particular committee. I am not quite sure why she thinks that, because it is something that is dealt with as a matter of course by all sorts of committees of this house. It may be a unique experience for members of the other place, but perhaps we can educate them on the value of it. To already say that the committee will represent a wide variety of views asks us to make quite a number of assumptions as to what those views might be. The committee certainly will not express a wide variety of political views from the other chamber to the extent that a conscience vote would govern the way people would vote on this issue. As I understand it, the other place has selected three Labor Party members to be on the committee.

Hon Alannah MacTiernan: That just represents the composition of the Assembly.

Hon Peter Collier: No.

Hon Alannah MacTiernan: That's the reality.

Hon MICHAEL MISCHIN: I do not know the basis upon which those people were selected. I am being asked to make an assumption that that is representative of the composition of that place, although I note that there are National Party members in that place too. Perhaps we cannot carve one of them up into sections and put only part of one of them on the committee, but there is another party in the Assembly, and I do not know those members' personal views and leanings or whether they have preconceived ideas or not. We are being asked to make the assumption that there is a broad selection of views across both chambers on these particular issues and that that will be good enough in order to have a representative view of the range of potential community problems with this issue, considerations that need to be taken into account and solutions that might be offered by this committee. I think there is merit in both propositions advanced by Hon Nick Goiran, and I would like to see more specificity in the terms of reference. I am prepared to accept that the committee will be broad enough to consider all sorts of things, but if we are supposed to be looking at the question of euthanasia—that is, assisted suicide—and if we are looking at the question of suicide, even in the broadest terms, we need to look at the impact of any changes to the law in relation to that. I think that the committee and the Parliament ultimately might benefit from having a broad range of input from all members of this house who might choose to participate to satisfy themselves as to the evidence of certain witnesses and to debate and to contribute to issues that ought to be considered by that committee in its deliberations on this most important issue.

HON ROBIN CHAPPLE (Mining and Pastoral) [4.13 pm]: I rise to speak to the amendment moved by Hon Nick Goiran. In doing so, I will touch on the committee's terms of reference. Obviously, I wish to speak later on the motion, once we have dealt with the amendment. I take on board very seriously the points that Hon Nick Goiran has raised. In his previous contribution he talked about the respectful way we have dealt with this in the chamber in the past, and I look forward—I am putting my name forward at the moment—to serving on that committee with Hon Nick Goiran, notwithstanding our difference of views, which I think we can always deal with in a respectful manner and move forward. The amendment standing in Hon Nick Goiran's name seeks to examine the risks of introducing voluntary euthanasia, including the impact on suicide prevention. Paragraph (2) of the Assembly message states —

> The committee inquire into and report on the need for laws in Western Australia to allow citizens to make informed decisions regarding their own end-of-life choices …

I believe, as the shadow Attorney General has stated, that that is so broad that it will quite clearly cover the issues that Hon Nick Goiran is concerned about. Quite clearly, legislation around the world has addressed this issue very significantly within the drafting of the more modern versions of assisted dying legislation. It is quite clearly something that I dealt with extensively in my legislation. I will make a commitment if I am appointed to that committee, which I hope to be. If we are in favour of end-of-life choices, we do not wish to see any devaluing of human life by an application through a process that would allow people who are mentally disturbed or have other directions in their lives for whatever reason to use legislation of this nature to facilitate assisted suicide. I believe that in many regards these are two distinctly separate issues. We do not know what the committee is going to come up with, so let us be clear about that. If the committee were to come up with some recommendations at the end of its year of inquiry, at this time next year, we hope that it would have addressed the issues of people wishing to use

a mechanism to end their lives through a process we may or may not initiate in this state. I can assure the member that in part of my deliberations, if I am lucky enough to be on the committee, and as I say, I hope so, those issues would be properly addressed. I am concerned that adding a new line to the terms of reference might focus the minds of the committee more directly on the impacts on suicide prevention, as opposed to the broader issues we are dealing with. As we know, terms of reference for committee inquiries can be broad or very narrow. We could add a line to the terms of reference to define "chronic illness" or the time line for someone to be identified as terminally ill. We know there are many aspects to that, whether it be 12 months out, six months out or three months out. But we do not do that; we put forward broad all-encompassing terms of reference that enable all those matters to be discussed. I take on board what Hon Nick Goiran has said, but I can assure him that if I am on the committee, I will look at those broad issues. I am not going to go into something outside the terms of reference, notwithstanding what might have been said in the other place. I make it clear that, whilst taking on board the points that Hon Nick Goiran mentioned, the Greens will not support the amendment.

HON RICK MAZZA (Agricultural) [4.20 pm]: I rise to make a few brief comments on the amendment moved by Hon Nick Goiran. I listened very closely, particularly to the contribution made by Hon Dr Sally Talbot about making sure there is a separation between end-of-life choices, suicide prevention and voluntary euthanasia. That is why we need to support this amendment. The words "voluntary euthanasia" and "suicide prevention" need to be part of the terms of reference. I am very sympathetic to end-of-life choices, but I am yet to be convinced about the safety issues surrounding that. With an emotive and sensitive issue such as this that has been discussed for many years, it is extremely important that we have a frank and open debate, including on issues around suicide prevention, and the ability for members to be involved in the actual committee hearings, as is provided for in paragraph (b) of the amendment, so that we have a very thorough inquiry, and so that people can make decisions, and may be swayed from their present position on this issue. I indicate that the crossbench, as other members have indicated to me, will be supporting the motion.

HON SUE ELLERY (South Metropolitan — Leader of the House) [4.21 pm]: Madam President, I seek your guidance. I thought I would make comments about both elements, but I think you would put the votes separately. Is that correct?

The PRESIDENT: Yes, that is correct.

Hon SUE ELLERY: I will make my comments about both parts of the amendment. We need to look to the existing standing orders to guide us on whether we need to add to this motion. There are practical consequences if we do that, which we need to have in our mind as well. Those practical consequences are that the motion, if amended, will be sent back to the Legislative Assembly, which will then give it consideration and decide what it is going to do, and there will be a delay. That is not a reason for this house not to assert its own view. Indeed, this house has asserted, and will continue to assert its own view. However, members need to bear in mind the practical consequences of what they are doing. Having no other reason not to do this is not a reason to do this. That is worth having in the back of our mind. Paragraph (2) of the substantive motion states —

> That the committee inquire into and report on the need for laws in Western Australia to allow citizens to make informed decisions regarding their own end of life choices and, in particular, the Committee should —

This is followed by subparagraphs (a) to (d), listing things that the committee should examine. The critical thing for me is the inclusion of the words "in particular", as opposed to "limited to". "In particular" means a particular focus on the things that are set out in (a) to (d). It does not limit what the committee can look at and, indeed, I would imagine that the committee will consider a range of things that are not specifically spelt out in subparagraphs (a) to (d). These paragraphs do not fetter the committee. Debate in the other place gave members a choice. It ended up passing an amendment on the original amendment moved by the Deputy Leader of the Opposition in the other place. It then moved an amendment to those words, so we ended up with the words that are before us now. Members in the other place had an opportunity to consider whether to limit the things that the committee could examine or, as they ended up doing, listing some things that the committee should examine in particular, but not limiting consideration to those items. Is there a pressing need to add a particular form of specific words? The answer to that question is no. The question is then whether the consequences warrant us adding something specific, when in fact there is no need to. That is how I come to the position that I take, that it is not necessary for us to move the amendment to change terms of reference to add the particular words that Hon Nick Goiran has put in front of us.

On the second part of the amendment—that is, whether we include provisions to enable all members to participate—the view was put that because we have that provision in our standing orders, we should consider extending it to this committee, which members of our house will participate in. In my mind, the difference is a practical one. This is already a large committee. We do not have any select committees and most of our standing committees do not have anywhere near eight members. This is an issue about which views will vary, even among

people who are supportive of changes to our law. There will be a variety of views on the spectrum about how it might be regulated and applied broadly to particular sets of circumstances that trigger people to think about whether they want to exercise a right to make a choice about their end of life. The committee already has a big enough job to do with eight members on it. Let us consider adding the capacity for further participating members, for example, in the setting of a public hearing: with eight members of Parliament already sitting around the table with the capacity to examine witnesses, will it be workable to add more? The other point I make about whether we need participating members is that we are talking about participating MPs. MPs have all sorts of opportunities that other members of the community do not have to seek the advice of experts and, indeed, to stand in the house to put propositions and argue cases. I err on the side of not adding to what is already a large committee because I think it would make it too cumbersome and too difficult for the committee to carry out its work. For those reasons, I will not support either of the parts of the amendment that Hon Nick Goiran has put before us this afternoon.

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [4.27 pm]: As I mentioned in my comments on the substantive motion, the Liberal Party will support the amendment. I will make a couple of points to justify why we will do that and pick up on some comments the Leader of the House made. I urge members to extinguish the practical consequences as a motivating factor to vote against this amendment. In this place, we never think about the practical consequences of sending amendments to the other place and having them defeated. If we were to do that, why on earth would we have an upper house? Why do we have a Legislative Council?

Hon Sue Ellery: Will you take a friendly interjection? We do think about it, but it's not the basis of the decision. That's the point I was making.

Hon PETER COLLIER: Why did the Leader of the House bring it up?

Hon Sue Ellery: Because people do think about it.

Hon PETER COLLIER: Sorry; if the Leader of the House is going to be patronising, I am not going to take her friendly interjections.

Hon Alannah MacTiernan: Member, would you take a —

Hon PETER COLLIER: No. It was worth a try though!

With regard to the practical consequences, we make decisions in this chamber based upon the facts. We do not make decisions in this chamber based on whether the members in the other place will accept amendments to our legislation. I sat in the Leader of the House's seat for four years. We used to listen to legislation being debated in the other place for eight hours. When it was brought up here, we would make a plethora of amendments, send it back down again and they would accept those amendments in five minutes. Why did members in the other place not make those amendments themselves in the first place? My point is that I think these amendments are eminently sensible. They do not in any way, even remotely, take away from the integrity of this committee. They will add to the integrity of this committee and ensure that this issue of massive social conscience is dealt with with the respect it so richly deserves. If we base our decision on whether the Legislative Assembly agrees with us, quite frankly, that is tough. We have as much justification to contribute to this issue as the Legislative Assembly. The Legislative Assembly has four members and we have four members up here, but we just want to make the committee a little better. I feel these amendments from Hon Nick Goiran will improve the work of this committee. I do want to continue, Madam President.

The PRESIDENT: I am going to ask you to hold that thought and interrupt debate for the taking of questions.

Debate interrupted, pursuant to standing orders.

[Continued on page 3093.]