

VOLUNTARY ASSISTED DYING BILL 2021

Legislative Assembly Second Reading Debate – copied from Hansard 25 November 2021

Mr RON HOENIG (Heffron) (13:18): I am a baby boomer. I am from the rebellious generation. When there were short back and sides, we had hair down to our shoulders and long sideburns. We were the generation of protest. We protested against apartheid. We protested against Vietnam. We protested against the laws that made homosexuality illegal. We protested against the destruction of the environment and urban environment. We were as opinionated as we were progressive in our views. We were dismissed by the previous generation as having the views of youth, without the experience of life. As members can imagine, I was somewhat more opinionated than most. To give effect to my views I joined the Labor Party at a young age. At the age of 27 I was elected to public office and became the mayor of my local council. I did so to try to give effect to my progressive views. Some think it is unusual that I happened to finish up as the member of the NSW Labor Right, but nevertheless I continue to espouse those views. But I learned something in public office and in all the decades that I have served in public office, and that is this: It is not good enough to be right. You need to take people with you on a journey because, ultimately, those of us in public office are only in public office and only govern with the consent of the people. When I look at the journey of the baby boomers' generation, we have taken a lot of people along a pretty long journey with views that would seem to be well and truly extreme progressive views, which are now probably to the right of mainstream thinking. It started with the election of the Whitlam Government in December 1972.

Voluntary assisted dying is the next step along that journey. As I consider this bill I have to decide whether or not this bill is the appropriate vehicle to take the next step along the journey. I thank all those who had an input into the view that I ultimately take. I thank all the constituents who took the time to write to my electorate office and express their views, both in favour of or opposed to the bill. I thank various of my parliamentary colleagues who also expressed their views, passionately and respectfully, in relation to this bill. I thank the many organisations, both religious and otherwise, that wrote to me or contacted me. I would like to single out some people for the time and efforts they spent to try to convey their views to me. Firstly, I thank Rabbi Pinchus Feldman, the titular head of the Chabad, who is probably one of the most knowledgeable ultra-Orthodox rabbis in Australia and who provided me with detailed papers and advice on the Jewish law in relation to voluntary assisted dying; secondly, I thank the Hon. Greg Donnelly from the other place, who was passionately opposed to this bill and who provided me with a considerable amount of material, most of which I read. I thank him for the time and effort he spent in conveying his views.

Thirdly, I thank Andrew Constance. I listened to his contribution to debate on this bill. He spoke without a note. I found what he had to say to this House compelling and I thank him for his contribution. Fourthly, I thank the member for Ku-ring-gai, who I know has a particular view and who has spent a lot of time going through the bill. He has spoken to me repeatedly in relation to his view and his amendments. I thank him for his time and his effort and for the issues he raised. I am grateful—but I do not know how successful it was—that I ultimately got to him and the member for Sydney to have at least a reasonable conversation with a view to reaching some compromise. Fifthly, and most significantly, I thank Dr Joe McGirr, the member for Wagga Wagga, whose words he passed on to me will haunt me as I vote in a division on this bill. I have put into basically three classes the people who expressed a view: firstly, those who value human life and say it is paramount and that no-one has the right to take a human life, or assist someone taking a human life; secondly, those of faith who believe that only God has the right to decide who lives and who dies; and, thirdly, those who believe that any person facing a terminal illness has a right to dignity at the time of their passing. Each of the people who fit into those three broad classes have substance in the views they expressed. They passionately believe in those views and I respect them for expressing those views.

Those opposed to the bill argue that there has been a complete failure of palliative care in this State; that, should palliative care be resourced, there is no reason for any person to die in pain; and that that is the solution. The member for Wagga Wagga said to me—and I say these words will haunt me—that his grave concern is that the failure of palliative care will result in people in rural and regional areas electing to die rather than experience pain. Apart from the fact that the member for Wagga Wagga is a very honourable person, he is from the health service and he understands the impact on people in rural and regional areas who are in that position without palliative care. Consequently, his view and his concerns cannot be easily dismissed. As I say, his words—which I cannot repeat with the calm precision of the member for Wagga Wagga—will haunt me as I

walk into this Chamber and cast my vote. There has been a complete failure of aged care in this country. For those who did not appreciate it beforehand, since the aged care royal commission, the way in which this nation and this State treat elderly people who are in care is probably one of the most shameful and embarrassing things within this country. When I say the word "disgraceful" I am underestimating.

Australia prances around the world and advocates human rights in totalitarian countries and nations that do not adhere to human rights, yet because of the way we treat our elderly in care in the way we have been doing, we should hang our heads in shame. Our conduct has been proved on the evidence to be reprehensible. When discussing our failure in palliative care I think the Premier spoke for us all when he conceded that there had been a terrible failure in palliative care and that there needs to be substantial improvements. How any humane society could leave people dying in excruciating agony simply because some heartless Treasury boffin is not allocating sufficient funds is a disgrace. It is a disgrace not only to the government of the day but also to previous governments. Those of us in opposition have remained silent for far too long. We should be listening to people like the member for Prospect, who has made it his mission to fight for people who suffer and people who do not have access to palliative care. It is a shame on all of us as members of this House. I accept that. I also accept that the Premier was genuine in espousing the view he probably espoused on behalf of all of us. *[Extension of time]*

The problem in respect of that argument is that you cannot conflate failure of aged care and the failure of palliative care as an issue to replace whether or not we agree on voluntary assisted dying being permitted in this State. Mr Temporary Speaker, you probably have distilled that from a young age I have always believed in the right of somebody to voluntarily terminate their life. I cannot accept that a person who is terminally ill cannot decide to terminate their life at a time of their choosing and cannot be assisted, provided that it is voluntary. The question is whether it is voluntary. That is the key. That has been my concern and I know it has been the concern of a number of people when this type of bill was proposed previously.

Those of us who have watched a parent dying in pain or difficulty know that they do not want to be a burden on their children. I do not want anyone to decide to terminate their life because they do not want to be a burden on their children. That is not voluntary. At the same time, people who are terminal also have a right to die with dignity and decide when they wish to pass away. I have the authority to disclose the following to the House because it came from the member for Rockdale whose father passed away suddenly. His father said to him, "Don't let anyone wipe my ass, son." I think that says it all. A person has the right to decide to terminate their life, rather than undergo the lack of dignity, pain or suffering that they are about to undergo, provided we are sure that they are terminal and that they genuinely choose to terminate their life. It is not sufficient to deny somebody that opportunity.

I will give fair consideration to those amendments that purport to go voluntariness. The Hon. Greg Smith, who was a member of this House, contacted me concerned about the prosecution power being with the Health department. I read the Director of Public Prosecutions Act where I saw that the Director of Public Prosecutions can take over any criminal proceedings in this State. Concern has been raised about whether there is anything untoward in the bill and what the investigative power is. There is nothing in the bill that takes away the ability of the Coroner of New South Wales to investigate a death in circumstances under the Coroners Act. You will not be able to coerce someone improperly and there will be no particular mechanism for an examination if anything untoward occurs.

I recognise the efforts of the member for Sydney. I have looked at the way he has heard and listened to everybody. He has accommodated a number of amendments, and he continues to accommodate a number of them. No bill is perfect. No law that this Parliament passes is ever perfect. In fact, it is usually far from perfect. In my view, the member for Sydney and the co-sponsors have done as well as they possibly could to provide for the inbuilt protection that is necessary for the bill to pass. Finally, after a number of decades, I can say that the time has come for voluntary assisted dying.