

VOLUNTARY ASSISTED DYING BILL 2021

Legislative Assembly Second Reading Debate – copied from Hansard 12 November 2021

Mr ROB STOKES (Pittwater—Minister for Planning and Public Spaces, and Minister for Transport and Roads) (15:56): I contribute to this debate to express my support of the Voluntary Assisted Dying Bill 2021 and to explain to my community the reasons for this decision. As eighteenth-century playwright Christopher Bullock observed in *The Cobbler of Preston*:

'Tis impossible to be sure of anything but Death and Taxes.

Our shared mortality rules us. Everything we plan, every decision we make, every relationship we form, every thought we have is ultimately shaped by the inescapable reality of death. It is ironic, then, that we spend so little of our limited time preparing ourselves for the inevitable journey we must all take. In this place we debate every aspect of life, every nuance of our civic rights and freedoms, our economic progress and challenges, our relationships with nature and with one another. Yet, we rarely debate end-of-life issues. I, therefore, thank the authors of the bill—and the member for Sydney, in particular—for requiring the Parliament to engage with an issue of fundamental and shared importance to each of us and the communities we represent.

The bill reinforces the importance of preparing for death. I urge every one of us to inform our communities and our families of the choice provided through living wills, advanced life directions, enduring powers of attorney, updated wills and codicils, organ donation directions and life insurance. Using those tools to prepare for death can demonstrate practical love for families and loved ones. I mention our shared unpreparedness for death. In a previous role as a lawyer administering wills and estates, I observed that for most families, death comes as a tremendous shock. Even when death is close and expected, the cold and crushing finality of irreversible separation can be numbing, disorienting and desolating.

In a modern like society like Australia, we are isolated from death. It is rarely something that any of us see. While it is everywhere, we have become adept at keeping death hidden. The emotions that death evokes are so raw, disempowering and awful that we protect ourselves from confronting them. In the Fordist production line of modernism, we compartmentalise our lives from birth to death, enabling efficient resource allocation to best meet our needs as we progress through the conveyor belt of existence. Yet death, when it comes to take us or those close to us, does so with an irresistible and absolute power.

Death has been variously described as glorious, ignominious, peaceful, ignoble. One thing death is not is good. This is not a debate about a good death.

Death can bring pain, fear, hopelessness, grief and separation to families. Death can leave things left unsaid. Death can disable resolution of broken or difficult relationships. Death involves loss of experience, memory and wisdom. Life brings hope and death is its antonym. Life brings freedom while death is a prison. While death must be recognised and prepared for, it must not be lauded. It is our enemy, and it is right that the motivation of a civilised world is to fight it, resist it and condemn it.

But what, then, is the obligation of a civilised world when it comes to protecting and promoting the rights and freedoms of those in the immediate face of death? The social contract requires each of us to abdicate some of our freedoms in order to preserve others. That is the bedrock of a free society. But a civilised society also requires more. It requires each of us to think upon not just our own freedoms but those of our fellow citizens. We aspire to make a great civilisation, which means we must think first about how we can promote the interests of the most vulnerable among us. As Mohandas Karamchand Gandhi once said:

I will give you a talisman. Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself, if the step you contemplate is going to be of any use to him.

There is no-one more vulnerable or weaker or more exposed in our society than those in the shadow of imminent death. Rich or poor, young or old, black or white, male or female, death is a great leveller. All are equally vulnerable, and to each I believe we owe a shared obligation to display compassion, to respect choice and to provide support—to love them. Yet here there is a paradox: To some people, the best way we can show love to a person with advanced terminal illness is to preserve life at all costs, alleviating pain and providing emotional, personal and spiritual support; to others, love is best displayed by empowering a person with advanced terminal illness with the means to bring forward the inevitability of their own demise. To me, the point here is clear: We have an obligation to display love. Love cannot be legislated. Genuine, self-sacrificial agape love is uncomfortable. Love does not allow me to prefer my view. Love requires me to put the other person first, even where it hurts and even where their choice might be different to mine.

At the heart of love is free will. That is why I must support this bill and the freedoms it enshrines. It is the freedom of a person facing imminent death to seek support in their decision. It is the freedom of a medical practitioner to refrain from offering that support and the freedom of institutions, now and into the future, to refuse to provide assistance for assisted dying. The bill also illuminates the need to strengthen human freedoms to choose life, even when death is inevitable, and to pour more resources into palliation of symptoms where cure is impossible. More than ever, this bill screams to us that we as parliamentarians have a shared obligation to increase funding for palliative care. I do not like the choice of death but I recognise it is not my right to deprive this choice to those who seek it. What I can do, and what I believe all members in this place must do, is to make it as easy as possible for those with advanced terminal illness to choose life. We must recognise that health care is not merely about curing the sick. It is about using all our resources—medical, emotional, social and spiritual—to heal the things we can: pain, loneliness, fear, and relationships with families and friends. As Dietrich Bonhoeffer observed:

We cannot ignore the fact that the supposedly worthless life of the incurable evokes from the healthy the very highest measure of self-sacrifice and even genuine heroism; this devoted service which is rendered by sound life to sick life has given rise to real values which are of the highest utility to the community.

I seek a brief extension of time. [*Extension of time*]

A healthy society is one that fights death and all its allies: poverty, illness, discord, fear and loneliness. But it is also a society that protects freedom, even when it hurts. Supporting this bill has not been an easy decision for me and nor should it be. Three generations of my immediate family have been medical specialists in the developing world. They have all worked to provide medical care to the vulnerable: my dad in Cambodia, my great-uncle in China and my great-grandfather in Palestine. I know each of them would be deeply troubled by this legislation. They would support greater emphasis on palliation, counselling and family support.

I also have a misgiving with the legislative process for assessing eligibility for voluntary assisted dying— that is, the absence of a requirement for a mental health assessment by an appropriately qualified independent expert before determining a patient's eligibility. In my view, the bill would be enhanced by an amendment that would require such an assessment to be made. Such an amendment would answer concerns raised by my community and by members of this place that the legislation could place the terminally ill under undue pressure to submit to assisted dying, with the risk that the processes prescribed by the bill could be misused to facilitate elder abuse. I would be pleased to work with members to advance or support such an amendment. I understand that many amendments are being advanced. I will closely examine those amendments to see if they might help to make this bill work as effectively, safely and practically as possible.

Much has been said of the community's feelings on the bill. My community is split. I have received 93 letters in support of the legislation and 64 against. Those in support of the legislation raise issues of personal choice and freedom; those against it raise concerns about undue influence, coercion and risks of elder abuse. Yet, all of my correspondents are focused on the need for compassion and alleviation of suffering. They are all motivated by love. Particularly, I thank Patricia Jackson and Sandy Powell from the RSL war veterans' village at Narrabeen, who took the time to share with me their heartfelt support for this bill, and Shayne Higson, for the empathetic way in which she described the views of Dying with Dignity. I also share a vignette of searing homespun wisdom I received from a gentleman in Mona Vale. He wrote:

Passing this bill will not impinge on the rights of those that don't want to choose this pathway, however, not supporting this bill will deny this option for those that do.

As I said earlier, at the heart of love is freedom, and at the heart of freedom is choice. I hate death and the pain it wreaks. But love is greater than death. While none can escape death, we can demonstrate love to those who want to die and to those who want to live by empowering them with genuine support for the choice they take. But we must remember that enabling indirect coercion for a patient to submit to assisted dying is even more objectionable to the existing direct coercion to prohibit assisted dying. The better the provision of palliative care, the more likely that all choose life. Incentivising a choice to live is, in my view, preferable to denying a choice to die. That is love.