

Episode 14 – Australia’s Dark Little Secret

[SUICIDE WARNING]

[PRAYER BELL CHIMES]

[ETHEREAL FEMALE VOICE]: There is no death. There is only me, me, me who is dying.

Annette Upton: Well if Mum had a broken back or neck, was a paraplegic, I would use a pillow and try and stop her breathing totally.

Joan Upton: Yes, well, but I am told that I would struggle manfully to not be - apparently that's the reaction. They all struggle if you're cutting off their air, so you'd have to be at all your best strength and have a good hearty breakfast first.

Andrew Denton: This is Joan Upton – She’s 90 – advising daughter Annette to have a big brekkie before attempting to cut off her mother’s oxygen supply.

It’s known as rational suicide. Some deny that such a thing exists. But amongst older Australians it’s happening at a disturbingly high rate.

Why are our elderly killing themselves in often violent ways? Perhaps it’s time we talked about Australia’s dark little secret.

[TITLES]

Andrew Denton: My name’s Andrew Denton and you’re listening to *Better Off Dead*.

Joan Upton lives on the north coast of NSW on the family farm at Walcha, which she still helps run in partnership with her son.

She has no history of mental illness, neither is she depressed.

Joan Upton: I feel really alive. This is the trouble. I mean mentally I'm interested in everything. I like to hear the news. My head feels good, but my body - my bones are very fragile. I've got to be very careful how I move around.

Andrew Denton: Despite being confined to a wheelchair by a genetic disorder that has weakened her bones, Joan is strongly independent.

Joan Upton: I can go to the toilet myself. I can get a meal if I want to. I've got a carer because I've got enough finance to stay at home.

Andrew Denton: It is Joan’s fragile bones that are the source of her fear.

Joan Upton: I'm frightened I'll go over backwards and break my back or my neck and be left lying there for two or three years. That's why I want to have some way out.

Andrew Denton: Like many Australians, Joan's fears about what might happen at the end of her life are fuelled by what she witnessed when she was younger.

Joan Upton: My own mother lived for eight years as a complete vegetable. She was a highly intelligent woman. We didn't even know the word "Alzheimer's".

She had no idea who I was. And then you see them lying there and they're just getting thinner and thinner and their little wrists are like a little bird's.

It's just atrocious.

In the end she got pneumonia and died after eight years. It was everything she wouldn't have wanted.

Andrew Denton: If you could have found a way to release your mother from that, would you have?

Joan Upton: I would have helped her to end her life.

Andrew Denton: Scarred by her mother's lingering death, Joan joined the voluntary euthanasia movement in 1973.

Joan Upton: We did have big one meeting in Tamworth, and it was completely and utterly stacked by the Catholic Church. Every nun and priest was there! The only person who spoke in favour of the medical world was a local doctor, and he said that he had a patient who'd walked into the water with stones in his pockets and he would have much preferred to be able to help him die. But that was about all the support - the meeting was badly outvoted by the whole Catholic Church there.

Andrew Denton: Have you seen many of your friends who would have liked to have a role where they could make choice about how they die?

Joan Upton: I think they all would - all of them. I don't know any of them who wouldn't like to have a law that would allow a doctor to end your life when you feel you have had enough and you're too frail to be able to enjoy any of the things you did.

Andrew Denton: How to take her own life is something Joan has thought about carefully for some time.

Joan Upton: If I've become incapacitated and there's no pleasure in the things that I'm left to do, I would like to be able to die in a peaceful way. I don't want to have to put myself through something awful.

Andrew Denton: Have you spoken to your local doctor about this?

Joan Upton: I haven't said to him I would willingly commit suicide if it was the right way, but he knows I don't want to be kept hanging on, but I don't think he'd be any use.

Andrew Denton: So you can't really have the conversation with him.

Joan Upton: No, I can't. Not really.

Andrew Denton: That word “suicide”. You know that those who oppose any kind of assisted dying or euthanasia, they use that word very strongly – as in: “Suicide is morally wrong”. How do you see it?

Joan Upton: I think that the person to make that decision is the person who owns the life, and if they want to end their life, I think they've got the right to do it and that's it, and I don't want anyone's opinion except mine.

Andrew Denton: There would be people who would hear you say that and say, “Well you're just depressed,” or “There are things we can do to make you value your life more”.

Joan Upton: Well I'm not given to depression. I was born with a very even temperament. Always.

Andrew Denton: So it is that Joan has gone about – rationally – planning her own exit.

Joan Upton: For a while there I had some tablets and in actual fact I do have a cylinder of nitrogen, but I would want somebody to oversee it when I used it, and that's putting somebody at risk.

Andrew Denton: If you can't do it, who would help you?

Joan Upton: Well that's something I can't say.

Andrew Denton: OK, but you have discussed it with...

Joan Upton: Yes, yes. It's been discussed.

Andrew Denton: And are there people willing to help you?

Joan Upton: There are people who are willing if you pay them.

Andrew Denton: So this is not your family?

Joan Upton: No, no it's not. But there are people around who will. But I would much prefer just to plain die.

Andrew Denton: How much harder is it for you that you have to be secretive about this?

Joan Upton: Well I'm not secretive about euthanasia.

Andrew Denton: But secretive about what you may ultimately choose to do?

Joan Upton: Oh, well the chap that I got the nitrogen from said, “You don't ever want the ambulance to come. They want all sorts of paperwork,” and he gives you about six things to be careful to do so that you're just dead and there's not a lot of questions asked.

Andrew Denton: Joan has even explored going to Mexico to source the illegal drug Nembutal.

Joan Upton: I'd have to say I don't really want to go to Mexico and die there. Because it's a hell of a nuisance getting bodies back and all that sort of thing. So I would say I'd rather the Nembutal came to me.

Andrew Denton: You've got three children. Have you discussed with them your wishes?

Joan Upton: All the time. They all know exactly what I think and they're quite happy about it. They would help me in any way.

Andrew Denton: Joan's daughter, Annette, has been listening in. If asked, she has every intention of helping her mum to die.

Annette: I just think if that's the way Mum wants things to go, that's exactly what I would do. I have got my secret little posse hole in my apartment where I have got all the information, and I have got names and numbers of various people that may or may not be able to help at the time.

I know exactly where to go to when I need it if Mum wants me to accompany her.

Andrew Denton: Would it be better if there was a law whereby this could be done openly and you could be together if that's what everyone chose?

Annette: Oh totally, totally! I think the way the laws are structured at the moment are appalling. I mean to see some of these people that are in so much pain, they have not got any quality of life.

I don't know why we can't have clinics, you know, specialised clinics. Then it would be legal, it would be done properly, people don't have to go around behind everybody else's back.

Andrew Denton: The conversation Joan and Annette are having is far from unique in Australia and it raises an uncomfortable question: Should an older person who may not have a terminal illness but who has other conditions that make life unbearable be given the option of assisted dying?

Marshall Perron: To me, if there was ever a time in your life when your wishes should be paramount, over everyone else's wishes, it's on your deathbed. Simple as that – not the doctor, the church, your wife, kids; nobody else should be able to overrule you on your deathbed, if you are a competent adult, and so that's the path I legislated for and it was successful.

Andrew Denton: Marshall Perron is the former Chief Minister of the Northern Territory and architect of the first law anywhere in the world to legalise assisted dying.

Marshall Perron: I'd been in politics for 20 years. Most of the actions of government, in my view, are really administration, and I just began to feel that as a legislator you ought to be really making a difference socially.

I remember getting to a paper by Dr Helga Kuhse from Melbourne – Monash University – and her paper stating the case for voluntary euthanasia was so profound. I remember ending

the paper and saying to my wife, who was alongside me, I said “I'm going to do something about this. I can win this argument”.

Andrew Denton: What was in that document that you found to be so profound?

Marshall Perron: Just the sheer logic of it.

That a competent adult's decision about themselves, providing they were not adversely affecting anyone else, was really a fundamental right that we all have, and that's absolutely true. What we don't have is a right to access what I call the keys to the medicine cabinet, which is what the entire voluntary euthanasia debate is about – not whether or not you're allowed to kill yourself; it's whether you can access the means to do so in a peaceful and tranquil manner.

Andrew Denton: In 1995 Marshall put forward a law that would help the terminally ill to die.

Marshall Perron: What I was proposing was if there are terminally ill patients who wish to end their suffering by accelerating inevitable death, and there are sympathetic doctors who are willing to help them die with dignity, then the law should not forbid it. It was that simple and I've always seen this issue clear as a bell. It's about the rights of an individual, a competent adult.

Andrew Denton: Marshall Perron's law existed for two years before the Federal government controversially overturned it. But he's kept close to the issue, collecting stories from around Australia of people who a law like his would have helped.

Marshall Perron: I had an example in Queensland, of a fellow who sent his wife down to the shops to get her out of the house. She comes back and finds him with his feet sticking out of the swimming pool. He had tied a weight around his neck - he was an elderly man - and dropped into the swimming pool. So he sent her out of the house so that she wouldn't be implicated in any way. There's no goodbyes. She spends the rest of her life remembering the last vision of her husband was his feet sticking out of the swimming pool.

I just think that politicians are blissfully unaware of what's happening in the suburbs of Australia. Because all you see in the paper is “Died peacefully in his sleep” or some such words in the death notice. All he will be is a statistic in two years' time when the ABS publish suicide statistics. Instead of 2300, it will be 2301. That's all we will know about this great man who felt compelled to take his own life violently because he couldn't talk about it to his doctor and get some assistance to die peacefully in the arms of his family.

Andrew Denton: Marshall knows all too well why elderly Australians are taking such desperate measures.

Marshall Perron: Even people with lots of friends and family – from my own experience and talking to some very elderly people, including one recently of 95 – a 95 year old woman, life has simply lost any real meaningful pleasure – immobility, pain on and off, which can be controlled with massive doses of opiates which put you in a bit of a stupor and generally give you a disinterest in world affairs. And even people with close family – and this woman did have in fact close family living in – just felt that she'd run her course, and I'm sure that's not

unusual. And she was seeking a way to die peacefully and calmly with her family around, the one thing that she is denied.

Actually she's denied more than that. In this case, this woman would find it very difficult to take her own life otherwise. She wouldn't be able to move fast enough to jump in front of a car for example. Gruesome as all this sounds, people are doing this and they're doing it regularly because they feel they don't have another option.

And I'm thinking, you know, what are our politicians doing about protecting our interests in these cases? They just don't want to talk about it, and these things are happening in our suburbs, down the street.

Andrew Denton: In an effort to bring this to the public's attention Marshall tried something left of field.

Marshall Perron: So I wrote to the Coroners to say this is happening regularly in Australia. We don't know how regularly; you do. These tragic stories need to be told so that our legislators who are supposedly there to make society a better place, to monitor what's happening and make changes where necessary – I mean I still am a little bit staggered that politicians haven't really examined this issue fairly closely on behalf of their constituents and taken some action.

Andrew Denton: Out of six state and two territory coroners, one wrote back.

Mark Johns: Well I agree that it is important to shine a light on the elderly taking their own lives.

Andrew Denton: Mark Johns is the state coroner of South Australia.

You responded to a request from Marshall Perron for information. What is it that you are seeing?

Mark Johns: Well it is certainly not uncommon to have octogenarians and nonagenarians taking their own lives. That doesn't usually fit with the lovely old lady or the nice old gentleman that you see, who has lived a full life and clearly isn't clinically depressed, and clearly is rational and lucid but makes this decision to end their lives.

And I think that it is the elderly engaging in this practice that the public doesn't get to hear about.

Andrew Denton: Can you give me a sense of the prevalence in South Australia, and if it's a trend that is increasing?

Mark Johns: Every single reportable death in this state, and that includes all self-harm deaths, go over my desk or that of my deputy, so we have a very good awareness of the prevalence of suicide. And it is quite a common thing that would be in the order of maybe half a dozen such deaths in a given year.

Andrew Denton: For Mark Johns, each of these deaths represents a human tragedy.

Mark Johns: I have seen a hanging in a 92-year-old in what appeared to me to be a situation of desperation driven by what must have seemed a very hopeless situation, with a wife who had been in a terrible situation of dementia, and they were attempting to live together at home, and I think she had been quite violent and was removed from the situation, and very shortly after that this 92-year-old gentleman did in fact hang himself.

Andrew Denton: You have observed that many of these deaths happen in isolation. Why is that?

Mark Johns: Many of them are planned and quite clearly thought out, and the person then makes in advance a decision that they are going to do it but they know that they have to do it by themselves because of the criminal laws around this issue. And so it is not possible for a person who is engaging in that exercise to have some near relative with them to comfort them, or if they do, they are putting that near relative at risk of prosecution.

Andrew Denton: It doesn't seem right that somebody who has led a full life, who has contributed fully to this society, should have to die such a lonely death.

Mark Johns: Well I agree with you. It really greatly troubles me, and it is a very sad lonely isolated event in a life otherwise perhaps well lived.

Andrew Denton: I know it is not your role to advocate for any particular law, but would you like to see the kind of information you have put on the public record lead to a more open discussion about subjects like voluntary assisted suicide and euthanasia?

Mark Johns: Well, yes. And that is why I am talking to you.

Andrew Denton: And what do you think the chances are of that conversation happening?

Mark Johns: I'm not optimistic.

Andrew Denton: Why is that?

Mark Johns: I think it is in the too hard basket, it is a difficult area, and unfortunately the difficult areas are the ones that are left unaddressed too often in Australia these days.

Andrew Denton: I asked Mark if he thought what was happening in South Australia might be repeated in other states.

Mark Johns: This is not an uncommon phenomenon by any means, and I would be amazed if the situation was any different in other jurisdictions.

Andrew Denton: Mark Johns is right – a fact confirmed brutally in late 2015 by Victorian Coroner John Olle.

Appearing before a parliamentary inquiry into end-of-life choices, he wanted to bring to light a very particular group of people: older Victorians with no history of mental illness and with loving family relationships, who, in his words, were taking their own lives in “desperate and violent ways”.

According to the Coroner, what these people had in common was that each was suffering an “irreversible decline”, either from a terminal disease, multiple, chronic illnesses, or permanent physical pain. He stressed that these were people of rational mind.

While giving evidence, Coroner Olle had to pause three times to collect himself, so distressing were the stories he told. As you listen to them now your instinct may be to turn away but I would ask you not to: As a nation, we have been turning away from this dark secret for too long.

First, he spoke of the 82-year-old woman, with a close and loving relationship with her kids, suffering from multiple illnesses and no longer able to do the thing she loved most, which was to read books. She bled to death in her lounge room, after slashing her wrist with a knife and scissors.

Then there was the 89-year-old man, married for 61 years and with a long and loving family relationship. No history of mental illness, but his lucidity, memory and eyesight were failing. Unable to listen to music, watch TV or read, he died alone after grinding up pills and taking an overdose.

Next, was the 75-year-old man, who had close, loving relationships with his daughters, also with no history of mental illness. Diagnosed with prostate cancer, which had not responded well to treatment, he clearly expressed that life would be so much better if somebody could help him die. He shot himself in the chest. His body was found by his family.

Finally, a 90-year-old man, also with a close and loving family, no history of mental illness but many debilitating conditions, including chronic pulmonary disease. Shortly before his death he was diagnosed with brain cancer. Depressed and angry he told his family that he would rather end it straight away. He took his life with a nail gun.

Olle spoke of other cases before him: the lovely lady who stepped off the platform and in front of a train, a man who tied a hessian bag full of sand around his waist and walked off a pier.

Opponents of assisted dying like to assert that people like these “don’t value their own lives”– implying that if others could just help them find that value, they would never consider ending them. Others argue that, with more resources for palliative care, their needs in their dying days could be met.

But on these, Coroner Olle was clear.

He said that his office saw no way of preventing these deaths, nor, in his estimation, were they people likely to qualify for palliative care. He went on to say:

“To my knowledge the people we are talking about have made an absolute clear decision. They are determined. The only assistance that could be offered is to meet their wishes, not to prolong their life.”

John Olle spoke of his motivation for bringing this to public attention. Would he want a member of his own family to die under the circumstances of loneliness, fear and horror of some of the cases he was privy to? The answer was a resounding no. He went on to say:

“What seems to be a common thread through the family is this absolute sense of respect for someone they love [and] this absolute sense of helplessness. They know this person is screaming for help, but no-one is going to answer the call, not in this society. So they have to die alone.”

He estimated the number of elderly Victorians dying in this way at close to one a week.

After hearing from Coroners Johns and Olle I approached the National Coronial Information Service to see if they could give me a sense of the national picture. Their estimate: that two people over the age of 80 are taking their lives in Australia every week.

The most common method? Hanging.

It's been almost 20 years since Marshall Perron's law helping the terminally ill to die was snuffed out by Australia's Federal Government. Since then, none of the 27 attempts in different states to pass a new law have succeeded. In fact, only one has got to 2nd reading – which means it's never even been seriously discussed, much less a workable law considered.

Faced with no legal options – and no prospect of change – many older Australians have turned for help to this man.

Philip Nitschke [YouTube video]: This is the point: I don't want you going home tonight and killing yourself [Laughter]. Or if you do, don't link it with this show by leaving some stupid note saying “Oohhh, I got home and he made it seem so appealing I couldn't help myself!”

[LAUGHTER AND MUSIC]

Andrew Denton: Philip Nitschke – the Australian doctor who, under Perron's law, became the first in the world to legally assist someone to die – appeared at the 2015 Edinburgh Comedy Festival, performing his show *Dicing with Dr Death*.

Philip Nitschke: We've got 25 shows and it's quite stressful, I suppose. As they say, you know, dying's easy, comedy's hard. I'm finding it hard going, but it is - it's a steep learning curve.

Andrew Denton: How are you getting the comedy out of euthanasia?

Philip Nitschke: Well, look, I'll tell you the younger audiences are really intrigued about the lengths that people will go to, to try and get access to the best end-of-life drug, which is Nembutal, and, ah, so when I tell them the story about how some people have gone to the trouble of having affairs with vets, so that they can get the vets to help them get this drug – the line I usually use in the show is “That's one strategy you might use”. And I say, “I see half of you out in the audience are saying, ‘Look, I really want this drug but I draw the line at that, I'm not going to fuck a vet just to get the drug’”. That always gets a good laugh.

Andrew Denton: And why do you reckon that makes good theatre?

Philip Nitschke: Look it's two things. I mean, everyone is intrigued by the topic, and I mean I have a section in the middle of the show where I get quite reflective and I say to people, "Look, what, people ask me all the time – 'What's it like going around to someone's house knowing that when you leave in an hour's time the person will be dead?' And I, and I reflect on that, and I say, "You can't but help feel like something of an executioner". The audience is, ah, it's dead quiet. You could hear a pin drop. And I think what I'm, hoping to achieve here is to try and get, in predominantly a younger group, to just put their feet into the shoes of someone who's going through that difficult time and reflect a bit on your own mortality.

Andrew Denton: Nitschke is the founding director of Exit International - an online euthanasia advocacy group founded in 1997, which claims a membership of over 3000 Australians, average age 75. On their website, they say:

"Exit sets itself apart from other aid-in-dying organisations in that we take a non-medical approach to a person's right to determine the time and manner of their passing."

This reflects Nitschke's own journey over the last 20 years, one that has taken him far from his original position of a law with safeguards and medical oversight.

This is from your book *Damned if I Do*: "I believe that every rational adult should have access to a reliable, peaceful and lethal pill that one keeps at home". Is that still your position?

Philip Nitschke: Yeah, very much so. I used to believe that a terminally ill person should be able to get lawful help from a doctor to die. Now because I keep meeting people who come along with good reasons as I can see it, to die, which were non-medical, I thought the only consistent philosophical position is where you accept the fact that this must be seen as effectively as a human right.

Andrew Denton: Would you still like to see this pill, as you once said, being available in the supermarket?

Philip Nitschke: I think that a more measured response would be that it should be much more readily available. Now, the question is: When do you give this drug to people? And there's a feeling that you should have some life experience before you make the decision to get rid of your life, and so, we sort of effectively ended up with saying, well, everybody over the age of 50. But it's a little bit arbitrary.

Andrew Denton: How do people access it?

Philip Nitschke: Well, there's been a suggestion you should effectively be able to go and apply and get your, ah, and get your drug, like the state-sanctioned issuing of the drug to people over 50. We're going to see more of this being discussed as we move more away from just an option for the terminally ill to a much broader option.

Andrew Denton: Does anyone qualify for any reason who is above the age of consent?

Philip Nitschke: Yes, there's two criteria. You can't be a child, and so the issue of age comes in, obviously. But the other issue is that you must be of sound mind, and that opens up a

whole Pandora's Box – well, what the hell does that mean? But generally, you must be a person who has capacity to make decisions in what you perceive is your best interest.

Andrew Denton: Who determines the sound mind?

Philip Nitschke: We do it now. I mean if you go out in the street and start looking like you're acting in a dangerous way to yourself or others, you will rapidly have that decision made for you.

Andrew Denton: Sure, but if you're, if you're....

Philip Nitschke: If you make a mistake...

Andrew Denton: If you're applying for a peaceful pill, you're not necessarily acting in an aberrant way but it may not mean you're of sound mind, so who determines that?

Philip Nitschke: Well, it may though. I mean, what I'm suggesting here is that if you're not of sound mind, it will have been noticed. Now, you're saying that, well, someone might slip in under the radar screen here, and I guess that's true, but it's not a reason why the idea should be thrown out as irresponsible. The idea of giving people this option, I think, leads us towards a more responsible society where people are encouraged to take responsibility for all manner of their decisions, including the most important of all decisions – do you want to live or die?

Andrew Denton: Don't people sometimes, sometimes often, shift in and out of rationality, not just to themselves but towards others? What's to stop somebody at 50 who may have had a bit of a breakup or lost their job taking their own life when if they'd lived another 20 years, they might have lived to see a second marriage, and another fulfilling career?

Philip Nitschke: But isn't it the same argument as saying, well, why don't we just say that no-one can have this option because their situation might change? What about the terminally ill, they might have a cure tomorrow...

Andrew Denton: I think that...

Philip Nitschke: for your cancer? And, sorry?

Andrew Denton: Is that, but there's a significant difference between somebody with terminal cancer and somebody that's going through a bad period in their life. I guess the point I'm making is that isn't it a communal and social and human thing to do, to want to try and help people through a bad period – particularly one which may in all likelihood be only transitory – rather than give them an easy way to end their own life? Which is going to cause certainly...

Philip Nitschke: Yeah, look, I don't...

Andrew Denton: ...certainly distress to those around them.

Philip Nitschke: I'm not suggesting... Yeah, look I'm not suggesting that one abandons those strategies that you've suggested. Of course we should be applying those compassionate measures that a humane society would, and of course we should be helping people through

this difficult time. What I'm saying, though, is that if we do all of that, and that person persists with this idea, then again it needs to be acknowledged and respected.

Now, ah, you're saying well if they had a pill in the cupboard, hell, as soon as things got bad they'd just be going straight to the cupboard and taking that pill, and there'd be a pile of bodies mounting up if we were to adopt some of the suggestions that you've made. But I, I don't quite see it that way, because what I see, and I see it a lot, is that people who get access to this drug – and of course it's pretty widely available now thanks to the internet – find themselves immediately empowered by it. And because they're empowered, they feel happier and better. Now, you're saying, well, some people will take it prematurely and die and that will actually shorten their life.

Clearly. But I see more often than that, their feelings are lifted by access to this drug, knowing it's there safely stored, that they are prepared to withstand many of the slings and arrows of life, and go on to live longer lives.

Andrew Denton: Nitschke's shift from medically-controlled safeguards to a lethal pill being available for people over 50 began almost 12 years ago when he was confronted by a woman called Lisette Nigot.

Philip Nitschke: She was the French academic who came to one of my workshops, came up after and she said to me, "I'm going to die in four years time". And I said, "Why, what sort of disease is this?" thinking she had a very clear-cut trajectory and she said, "Oh, I'm not sick," "but I'll be 80 then, and 80's the time to do". And I thought, "Mmmm, I don't believe this". I thought this is just a story people say.

But every year I went back to Perth to run a workshop, she was there and it was four years, three years, two years, and then I started to realise that she was serious. And about a year out, I said, "For goodness sake, you're not even sick, Lisette, why don't you go on a world cruise?" And she just looked at me, really cool, and she said, "Why don't you just mind your own business?" She said, "What I want from you, Doctor, is technical information. If you're going to come along and give it to me with a sermon, forget it. I want information, and you've got it, and what gives you the right to have it, and what denies me access to it?"

And I mean, I was seriously challenged by that, because this idea that I could run around the world or the country dispensing my information about the drugs and how to get them to the privileged few who satisfied my criteria, there's no ethical basis to that, and what gives me the position to judge other people's reasons? And she said that – "Don't come around here and impose your template on what is a life worth living on me. I make that decision, not you". And anyway, I was so challenged and rattled and shaken by the whole experience, that I of course fell apart and gave her all the information and when she was 80 she died.

And so nowadays I'll accept anything. I mean if people come along and say, "Look, I've thought it through, and I want to die for the following reasons..." And we've seen a range of them – like, "I'm going to prison for 30 years and I want to die," or ah, "My husband is dying and I've been with him, been with him for 40 years, and I want to die with him. I'm not sick but I don't want to live on". Now, you can't just run around and rule all these people ineligible, but they would never satisfy any of the, ah, any of the criteria of legislative models we've seen.

Andrew Denton: What's been noticeable about Philip's trajectory over the last 20 years is his increasing disaffection with his own profession.

Why are you as a doctor so at odds now with a legal framework that enables the patient and more than one doctor to have a series of careful discussions before a request for assistance to die is granted?

Philip Nitschke: I think the idea of sitting down and discussing this with a panel of doctors effectively disenfranchises the individual, I mean the medical profession has got a long track record on this issue of being unable to cope with it. As a profession, I find them rather disappointing, and I don't think they've got anything particularly profound to say on the issue of death and dying. Death and dying is a natural phenomenon and in many ways we're all experts, and I would not be handing the control of that process over to a profession with such an abysmal track record.

Andrew Denton: You know the scenario often put up, though, that the elderly, ah, parent, could be pressured by their family to end their life, for many reasons. It could be financial, it could be personal. Are these people not worth making an extra effort to protect? Isn't that a legitimate social concern?

Philip Nitschke: Well it is, but that's the same argument about why right now the people that are being pressured to live should have their wishes respected and the tyrannical children should be called aside. This idea that you've got, you're sitting – some poor, vulnerable, dying, elderly person is being pressured to take another round of chemotherapy they don't want – that should be stopped. And they should be encouraged to say, “No, I don't want the chemotherapy, I want a peaceful death and that, and the palliative care facility should now be brought into swing to allow me to die peacefully, not pressure me to try some new and exotic treatment”.

Andrew Denton: Going back to what you said about doctors not being the experts on death, A lot of death involves medicalisation, whether we like it or not. So, do they not have a significant role to play at the end of life?

Philip Nitschke: Look, I think, yeah, they have a significant role to play, but there's a sort of an acceptance that they are the arbiters. In some ways people almost feel you've got to have someone with a white coat to give you permission to die.

Andrew Denton: There are many doctors who are highly skilled, very compassionate, have longstanding relationships with their patients, sometimes with their patients' families, and there are many people who find the process of dying extremely scary and who wish to have a doctor there. Do you acknowledge that?

Philip Nitschke: Yeah, of course, and, of course, everything you say about that's true. I mean, when I start talking about the profession there are so many, ah, examples where that's not the case, and I'm certainly not trying to in some ways paint every doctor in that way, but the profession as a whole I think has got a poor track record.

Andrew Denton: The antagonism between Nitschke and the medical profession goes both ways.

In 2015, the Australian Medical Board, which had tried to de-register Nitschke previously, invoked its emergency powers to suspend his medical registration.

The action was triggered by the suicide of 45-year-old Perth man, Nigel Brayley, who had approached Nitschke at an Exit workshop, and later in emails, saying he wanted to die. When asked why he hadn't referred Brayley to a psychiatrist, Nitschke said Brayley had not seemed depressed, and had made a rational decision to die, which he had no right to stand in the way of. He said he did not know at the time of his correspondence with Brayley that he was a suspect in the death of his former wife and the disappearance of a former girlfriend.

The Medical Board of Australia argued that, even though Brayley was not his patient, Nitschke had an obligation to refer him to a psychiatrist.

Nitschke stood his ground, saying he believed the prospect of going to jail was behind Brayley's decision to die, supporting his argument that Brayley had made a rational and informed choice.

Darwin's Supreme Court agreed with Nitschke that he was not obliged to refer Brayley to a psychiatrist because he was not his treating doctor and overturned the suspension of his medical licence.

But the Medical Board persisted with a further 12 charges against Nitschke. They issued him with an ultimatum: Stop endorsing or encouraging the suicide of any member of the public or give up his license to practise.

In an act of public defiance Nitschke, 68, burned his medical registration and ended his medical career.

Nitschke's willingness to, as he puts it, "accept anything" has, not for the first time, put him offside with others who support the cause of assisted dying.

Dying with Dignity Victoria, one of the peak groups fighting for voluntary assisted dying in Australia, make a point on their website of saying they have no affiliation with Nitschke. Marshall Perron is also torn about Nitschke's role.

Philip Nitschke, do you think overall he's been a positive or a negative to the conversation in Australia?

Marshall Perron: That's the hardest question, Andrew, to answer. There are times when I have cursed him, along with the rest of the movement. As to some of the things that he's done, I'm not sure. Philip is a hero to a huge number of Australians, and they would turn to him in their hour of need – and not a lot of politicians can say that. However, he has damaged the cause at times severely, and so he's been a mixed blessing I guess.

Andrew Denton: Whatever Perron's reservations, he understands that, as long as attempts to create a new law in Australia are blocked, Nitschke's will remain a powerful voice in the debate about assisted dying.

Marshall Perron: There's a whole movement in Australia of attempts to find alternate ways to take your own life than the violent ones, and that movement will grow as long as the

blockage remains, and what our opponents I don't think understand is if the search is successful one day for the legendary peaceful pill – the means to take your own life that governments can't stop – there will be no need for legislation.

Andrew Denton: Philip Nitschke agrees.

Philip Nitschke: By opposing the introduction of legislative moves, what in some ways they've done is that they've driven the technological developments which ultimately are going to make their moves, I think, a failure.

Andrew Denton: He sees that the increasing availability of Nembutal has, for many, already made the need for an assisted dying law obsolete.

Philip Nitschke: There's more of this drug available now than there's ever been, and it's because of the way we're having the debate now that's brought on, if you like, this flood of Nembutal coming to the country. You don't need any help to have a perfectly easy and straightforward death; you've just got to make sure you're in position to take that step. You've simply got to go out and get the drug and then you can die peacefully whenever you like, and it won't matter whether the laws change or not.

Andrew Denton: Philip makes it sound easy and, perhaps for people who are healthy and unfazed by the possibility of prosecution, it is. But I think of the people I've met who are desperately ill, or desperately scared, and for whom the thought of breaking the law in search of a peaceful death is more than they can handle.

Currently, people if they want to get Nembutal, have to act outside the law. There is a certain amount of fear and chance involved with that. It's not necessarily an easy thing to do. So wouldn't a legal framework make this whole situation from the patient's point of view, the person who's suffering, wouldn't it make it a lot better and a lot less anxious for them?

Philip Nitschke: I'm not opposing the idea of legislative change. I'm saying of course we should bring in laws. I'm simply saying that it won't be enough in the long run.

Andrew Denton: Even if a law were to pass, says Philip, it would be too limited.

Philip Nitschke: To be eligible to any of the currently-existing pieces of legislation that are around the world or about to be passed, perhaps one day in Australia, you're going to have to be just about dead to qualify. And you're going to have to go and submit yourself to interrogation by a panel of doctors to determine that you make the cut. Now, what I'm suggesting is that as more and more people coming along and describing their situations to me which aren't even medical and wanting to die, they would never make the cut, so legislation is becoming increasingly narrow and it's only going to apply to very, very few people, and I think the issue's much broader than that, especially if we start to describe it in terms of being a human right, and people who do have these non-medical reasons for wanting to die, which should be respected, shouldn't be having these obstacles placed in their way.

Andrew Denton: What do you think is the likelihood that politicians and the medical profession in Australia will embrace ideas like the peaceful pill, available for, well, an indeterminate range of people?

Philip Nitschke: We can't even, in Australia in the last 20 years, pass laws that would allow a person who was just about to drop dead to speed it up by 5 minutes. So it's going to be very, very difficult.

Andrew Denton: There is a terrible irony about Philip Nitschke. The man who has helped so many older Australians take control over how they die feels powerless to help the person he would most like to – his mum, Gwen.

Finally, Philip, your own mum, she's still alive, yeah?

Philip Nitschke: Yeah, she's 96 in a nursing home in Adelaide, and every time I see her she always says the same thing: “How long is this nightmare going to go on for?” And she says, “Most of my friends are gone and I just want to die. Why isn't it happening?” She's one of these people who just lives on, unhappy.

Now, I've said to her, “Look, if you had the drugs, when would you take them?” And she says, “Yesterday”, and she says, “Why don't you get me the drugs?” and I'm sitting here feeling somewhat pathetic really, because my belief is that she should have access to those drugs and she should be able to take them, and I think it would be a very joyous occasion for her, and she says, “It's too dangerous for you, for you to do this,” and I think she's probably right; it would be a dangerous course to go down, but heavens, she just keeps living on in what seems to be this twilight existence of suspension and she hates it.

Andrew Denton: I'm curious why it is that you, of all people, haven't been able to help her?

Philip Nitschke: Yeah, because I'm a cowardly person, Andrew, because I should be in there giving her the drugs. Look, I've been trying to work out some smart way of doing this. I know full well that the minute she dies there will be autopsy on her, and the minute that that happens and the, shall we say, Nembutal is found – I've already had my place raided and torn apart by the police on three occasions, I've already been interrogated quite often by the police and had all my computers and mobile phones confiscated, so it's a bad time and I don't want to go there. And being in prison doesn't help anyone. So if you've got any ideas, I'll be glad to hear them and if anyone is out there and wants to help Gwen Nitschke, in the nursing home in Salisbury, please go ahead, and you'll get my little stamp of approval.

Andrew Denton: Like many, I feel conflicted about Philip Nitschke. I agree he has been a hero to older Australians in offering them help, and hope, where our law offers them none.

I believe that when he argues it is an individual's right to decide how they die that he speaks for millions – and, most likely, the majority – of Australians.

Perhaps one day his belief that a lethal pill should be distributed to all competent adults over 50 will be adopted here. But it seems far-fetched to imagine that will be any day soon. Even in the Netherlands, where they have been openly discussing assisted dying for more than 40 years, the idea of a peaceful pill remains on the fringes of public debate.

As Philip so pithily puts it, in the last 20 years we haven't even been able to pass laws “*that would allow a person who was just about to drop dead to speed it up by five minutes*”.

But that doesn't mean a law won't happen.

And when it does, I have no doubt that the advice of organisations like Exit will continue to be accessed by older Australians as they assert their right to be in control of what happens on their deathbed.

But I also know there are many Australians – patients, doctors, and nurses – who seek, and deserve, the comfort of a law that regulates how assisted dying is done, who for, and for what reasons. If lethal drugs are going to be legally dispensed to assist people to die, then it is not unreasonable for a society to expect that it be done according to agreed rules and with medical oversight.

I agree with Philip that dying is more than a medical experience. But, for many people, the two are inextricably linked. I believe that doctors are an essential part of any law for assisted dying and that, as overseas experience has shown, their involvement will only improve their skills in dealing with patients at the end of their lives.

But after 20 years of inaction, how to make such a law happen?

I asked Joan Upton to imagine I was a politician. How would she help me to understand the need for such a law?

Joan Upton: Well, I'd say if it was your father or your mother lying there for years, how would you feel? If they had that happen to their family, I think they'd wake up, but unless it happens to them they don't seem to know how to handle it.

Andrew Denton: The repeated call by opponents of assisted dying is that the elderly and the vulnerable must be protected from coercion. In this, they are right, and there are many protections built into existing laws overseas that do exactly that.

But what of the elderly described by Mark Johns, Marshall Perron and John Olle? Rational men and women, from loving families who, faced with an irreversible and painful decline into death, are searching for a loving way out? If the law offers them no choice other than to take their own lives violently, who could be more coerced than them?

And yet, on these vulnerable Australians – beloved mothers, fathers, partners and grandparents – the opponents are silent.

This silence needs to be challenged.

That elderly Australians are killing themselves violently at the rate of more than one a week because there is no other way they can be legally helped to end their lives is a national tragedy.

And for all those who do take their lives, how many others lie in nursing homes and hospitals, faced with nothing but pain, indignity, and sorrow for a life they can never get back, and who wish they could do the same?

Opponents point accusing fingers at the Dutch and Belgians because, under their laws – written to help those with “unbearable and untreatable suffering” – the desperate elderly described by Coroners Olle and Johns can seek help to die.

“It’s a slippery slope,” they say, “proof of societies that have lost their moral compass”. But who is more moral, the society which steps forward to help those at their most vulnerable to find a peaceful death or the society that looks away as, faced with no choice, their elderly die lonely, violent deaths instead?

In the words of Coroner John Olle:

“There is a cry for help. It may be muted, it may be veiled, but it is there nonetheless. And they all know it – including doctors. They know that this person is screaming for help but no one is going to answer this call. Not in this society. So they have got to die alone.”

If you’d like to know more, head to the episode page at wheelercentre.com/betteroffdead.

Next episode we’re going to consider the most heartless of all the arguments against assisted dying.

Kevin Yuill: Choice or autonomy. You already have a choice. Suicide is legal. Why do you need assistance to do something that you can do yourself?

Andrew Denton: And we’re going to meet father of two Lawrie Daniel, 50, and stricken with MS. What does it mean to him to be told, “Suicide is legal – go kill yourself?” And how hard is it to even contemplate that without the help, and support, of others around you?

[SONG ‘FORTY EIGHT ANGELS’ BY PAUL KELLY]

[CLOSING CREDITS]