

MOTION ON END OF LIFE

Proposal to establish a Joint Select Committee on Voluntary Assisted Dying

The Hon. K.J. MAHER (Leader of the Opposition) (16:19): I move:

1. That, in the opinion of this council, a joint committee be appointed to inquire into and report on—

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

(b) the current legal framework, relevant reports and materials in other Australian states and territories and overseas jurisdictions, including the Victorian and Western Australian parliamentary inquiries into end-of-life choices, Victoria's Voluntary Assisted Dying Act 2017 and implementation of the associated reforms;

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

(d) any other related matter.

2. That, in the event of a joint committee being appointed, the Legislative Council be represented thereon by three members, of whom two shall form a quorum of council members necessary to be present at all sittings of the committee.

3. That this council permits the joint committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.

4. That standing order 396 be suspended as to enable strangers to be admitted when the joint committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

5. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto.

I proudly move the motion standing in my name. Steps towards allowing individuals to have greater control and choice over the end of their life have a long history in this parliament. Since 1995, legislation has been introduced on 15 occasions by John Quirke, the Hon. Anne Levy, the Hon. Sandra Kanck, the Hon. Dr Bob Such on no fewer than eight separate occasions, the Hon. Steph Key, the Hon. Mark Parnell and Dr Duncan McFetridge.

The latest attempt during the last term of parliament was defeated by the vote of the Speaker of the House of Assembly one morning at 4.12am after a tied vote on the floor of their chamber. I pay tribute to those who have moved bills before and all those who have campaigned tirelessly on the issue, particularly the devoted folks from the South Australian Voluntary Euthanasia Association.

There is a very big difference in considering this issue once more. Every time the parliament has considered this issue in the past, it would have made South Australia the first Australian jurisdiction to have such laws. That is not the case anymore. Now the circumstances are very different. Victoria is just a few short months away from allowing terminally ill adults to apply for lethal medication up to six months before they are expected to die.

Victoria has done the legwork. They held a parliamentary committee and legislation was put before the Victorian parliament that provided numerous safeguards, including major ones such as patients must be of sound mind and the request must be approved by two doctors, and that there be three requests made over 10 days, including in front of a witness who is neither a relative nor stands to benefit from the person's will.

When the Victorian legislation made its way through parliament, there were further amendments and safeguards put into the bill. They included that voluntary assisted dying be limited to those whose death is expected within weeks and months, but no longer than six months, which is a reduction from the original bill of 12 months, allowing for exceptions for those who are suffering from

neurodegenerative conditions whose death is expected within weeks and months but for a period no greater than 12 months, and that a person must have lived in Victoria for 12 months before being able to make the request.

They also included that a person with a mental illness must be referred to a psychiatrist for assessment; that the assessing doctor must encourage the person to inform their regular doctor of their intention to access voluntary assisted dying if the assessing doctor is not the person's regular doctor; that the person is required to return any unsealed voluntary assisted dying substance within 15 days, and not the original 30 days; that the review board has a role to follow up with the contact person to advise on the safe return of any unused medication; that the coroner is to be informed of voluntary assisted dying deaths; and that death certificates for people who have chosen voluntary assisted dying will record the manner of death as voluntary assisted dying.

In addition, Western Australia is now nearing the point of introducing legislation as a result of its own parliamentary committee. The select committee this motion proposes will examine those other jurisdictions and how their schemes work. For those who in the past have held concerns that a voluntary assisted dying scheme could not work or was too hard to administer in an Australian context, comfort can be taken from the fact that a scheme will be up and running in Victoria from June. Voluntary euthanasia, assisted dying, death with dignity—whatever form it is called—is something that has widespread community support, and that support has increased over time.

Roy Morgan Research has conducted public polls specifically on this issue since 1962, when the community was 47 per cent in favour and 39 per cent against. In the seventies that level of support rose to around mid-60 per cent; during the eighties and nineties Roy Morgan Research found that level of community support in the 70 per cent range. The latest Roy Morgan Research poll on this issue in 2017 showed that Australian public sentiment had well and truly shifted, with 85 per cent of the country in favour and just 15 per cent in opposition. The public sentiment on this issue has well and truly shifted and the parliament is falling behind public expectation.

With the successful passage of legislation in Victoria I have renewed optimism that we can deal with the end-of-life process in a better way, as over 85 per cent of Australians and indeed 83 per cent of the South Australian public would like us to do so. I think most people, regardless of their views on this issue, recognise the inevitability of laws passing in this area eventually, and I reckon that now might just be the time to do so.

It is certainly an opportune time to consider this issue fully with a joint house select committee and then consider legislation in this session, informed by schemes that are operating interstate and the committee's deliberations. In my mind I envisage that the committee would be able to report perhaps by the start of November this year, with a view to having legislation drafted and before parliament for the start of the 2020 year. This is achievable because we now have working examples to consider.

At times in this place we deal with difficult and complex issues that shape the kind of society that we want to live in. Voluntary assisted dying is one of those issues. It will define how we deal with death and pain during the final stages of life. How we treat people in life should be no different to how we treat them when near and in death, with compassion, understanding and love. We are all shaped by our own lived experiences, and I recognise that each of us have our own experiences that shape how we view these issues that have long been considered, rightly by political parties, as matters of conscience.

I have always been a believer that if someone's pain and suffering is too great to go on at the end of their life they ought to have the choice to die with dignity and without undue suffering. This belief has been reinforced by my personal experiences on a couple of occasions. I want to quote from a person who gave me my first job in politics, a friend to many in this place, the late Terry Roberts,

who spoke about voluntary euthanasia in this place in 2004. At the time Terry was a minister and he made this speech before he collapsed at work and was later diagnosed with incurable pancreatic cancer, a cancer that took under 12 months to take his life in an exceptionally painful way. At that time I was his chief of staff. Terry Roberts, in speaking to the then dignity in dying bill on 2 June 2004, said:

Doctors already make decisions based on their own personal judgments in relation to a patient's ability to withstand pain and discomfort, and sometimes it is discussed with relatives. More often than not, people who do not have friends or relatives are put in a position where their suffering continues unnecessarily. Secondly, if we were to bring in some form of control for legalising voluntary euthanasia—and that is what it is: I think the word 'voluntary' often gets left out of the debate—under which people could make plans, talk to their relatives and their doctors and the procedure is conducted in a way which we would all hope is humane and painless, then I think that society would be much better for it. We do it to animals without any argument, but somehow or other we draw the line at putting together a package that would be humane in our society.

I am not certain that Terry would have taken advantage of assisted dying laws if they were in place, but I know for a fact that having the possibility would have given him a great deal more peace of mind.

A decade later, when my mum was also diagnosed with pancreatic cancer, I had a fair idea of what was coming. The unnecessary and unwanted pain and loss of dignity my mum suffered at the end of her battle in August 2017 was quite simply the most horrendous thing I have ever seen. My mum, Viv, was a proud, fierce, strong woman, a massive advocate and fighter for the marginalised and for her Aboriginal community, but after a lifetime of fighting for others she decided she had had enough and did not want the pain to go on.

On the afternoon of Wednesday 9 August 2017, my mum gathered her family together and told us that the pain had become too much and she wanted it to end. Her treating specialist gave her the night to think it over and the next morning my mum stopped all active treatment. It was a brave decision that I and the rest of the family supported her with. She was then forced to slowly waste away, drifting in and out of consciousness, often in half-aware states of panic, waking up and asking whoever was in the room, 'Am I dying? Am I dead yet?' It was absolutely painful to see.

A week after my mum's funeral, I spoke at a SAVES event and told the South Australian Voluntary Euthanasia Society of my recent experience and commitment to make sure people like my mum were able to have control at the end of their lives. That was in 2017, and my resolve to have such laws passed in South Australia has not diminished; it has only strengthened. I commend the motion to establish this select committee to the chamber.

Debate adjourned on motion of Hon. T.J. Stephens.