

VOLUNTARY ASSISTED DYING BILL

Second Reading

Adjourned debate on second reading.

(Continued from 2 December 2020.)

The Hon. D.C. VAN HOLST PELLEKAAN (Stuart—Minister for Energy and Mining)

(12:05): I rise to speak on this very important and very sensitive matter. As we all know, this is a conscience vote on something that each of us will dig deeply into our own hearts and into our own communities to address. Voluntary assisted dying or voluntary euthanasia—there are different reasons that different people use different terms, and I am not too fussed about that to be perfectly honest, but I would like to put a few things on the record regarding this very important topic.

First, in the time I have been in this place I have had to deal with this before, as most members in the chamber have, and, regardless of the content of members' contributions in the second reading, including my own, and regardless of my personal views and my electorate's view, I have always voted affirmatively for the second reading because I deeply believe that it is not actually until we get into the committee stage of a bill of this nature that we really get right into the detail—and it is the detail that is incredibly important on this topic. Some people, of course, will have a view in favour or in opposition broadly on the principal, but I have to say that I think the details are extremely important.

If I go to this topic broadly, understanding that this is a different bill, members will know that last time this topic was lost by one vote. There was actually a tie of the house; it was not between any political affiliations—there were Liberal and Labor members on both sides of the chamber—but it was actually tied at 23 all, and the former Speaker had the deciding vote.

I am on the record as having voted, at the third reading, against the bill last time around. I am also on the record for my reasons why, and last time those reasons overwhelmingly, although not exclusively, were based on the fact that amongst the necessary steps a person would have to take to become eligible to access voluntary euthanasia was the fact that two doctors would have to agree that a person suffered from a terminal illness, was most likely to die within six months and was suffering unacceptable levels of pain.

From my perspective, I have no concern with that necessarily in and of itself—and that is not a comment on the whole topic, just a comment on that one condition. However, what I was uncomfortable with was that it could be any two doctors and that any doctor or doctors could give that type of assessment an unlimited number of times for an unlimited number of patients. I am not suggesting for a second that any doctor would provide an inappropriate assessment, or one that that doctor did not feel was 100 per cent accurate, but different doctors would have different opinions, so I will come to the first part of that.

With respect to any two doctors, I have a view that if it was appropriate to go down a path like that then it really should not be just any two doctors, and I asked this in committee last time. Does this mean that that patient could go to two doctors and the two doctors say, 'No, I don't think that you, as the patient, meet the threshold,' and then the patient could go to another doctor and get told no, and another doctor and get told no, on and on until that

patient found two doctors who both said yes and then that would satisfy this condition? I am not comfortable with that.

The other factor is the number of times that any doctor could do this. Again, I have great respect for doctors, but there will be some doctors who might quite fairly determine that the answer was, yes, that the person did satisfy those conditions of terminal illness, unbearable pain and expected to die within six months, but there would also be other doctors who might see it differently.

The fact that a patient would have the opportunity essentially to seek out a doctor who had that opinion I was certainly not comfortable with. I am not suggesting that doctors are going to sell their soul and just say whatever the patient wants them to say, but of course so many of these cases, you would expect, would be marginal. Who is to know that someone is likely to die in six months? Well, is that five months or is that seven months? That would actually make a difference to the way in which the bill was written.

Another criterion is unacceptable levels of pain. Well, certainly the patient would know that. The person in the situation would know that for sure but harder for a doctor. One doctor might make one decision and another doctor may make a different decision. I do not like the idea that a patient could go through any number of doctors who think it was inappropriate to let them access voluntary euthanasia and keep going until they find two who think it is appropriate. I do not think it is appropriate that doctors could become known for having a view that leans them towards accepting that the patient fits into that category. Doctors could be essentially requested to make that type of decision over and over again.

I would be more comfortable—if I was comfortable at all, let me say very clearly—if there was a situation where it was actually the treating specialist who needed to be one of those doctors, and exactly the same doctor the patient had gone to initially in the hope that that doctor could cure them from whatever the ailment was, and we think very often about cancer, but of course it is not only cancer. But if the patient went to a doctor in the hope that that doctor could cure them, and then if it needed to be the same doctor who actually had to say, if it was the case, that the patient in that specialist doctor's opinion did satisfy those conditions, hypothetically it would be the patient's GP, the person you would like to think the patient had had a long and positive history with.

In that example, that is, the patient's GP and the patient's treating specialist, if those two doctors were to both assess the patient as meeting those criteria of insufferable pain and expected to die within six months from a terminal illness, then to me that would be vastly different from being able to just find any two doctors anywhere in the state who would say that the patient met those criteria. Hypothetically those doctors could be doing it over and over again for an unlimited number of people and so potentially let their particular style of assessment be used in that way.

I say quite openly, too, that if there were doctors whose particular style of assessment lent them away from recognising that the patient met those conditions, well, I would not want the patient forced to one of those doctors either. So it does make sense to me that it is the GP and the treating specialist—the same people this patient has dealt with and sought help from to be cured and to be healthy, the same the same people who know this patient better than anybody else—who should be the ones to say, if it is the case, 'This patient does now meet the criteria.'

I just wanted to put those views on the record. I understand that I am talking about the previous bill, not the current bill; I fully recognise that. I do not mean any disrespect to the current mover of the current bill, but I think it is important that we all put our views on the record on these things. These are difficult decisions and not the ones that members of parliament should shy away from. With that contribution, I put my perspective very firmly on the record.

I will vote to support the second reading so that we can get to the committee stage, as I have always done on all these difficult conscience issues, whether it be abortion, prostitution or euthanasia, and I will do the same again. I will listen incredibly closely. I will most likely participate in the committee stage of the bill, and I will make my decision on the third reading speech based on the final version of the bill presented to us at that time.

The Hon. A. KOUTSANTONIS (West Torrens) (12:16): I move:

That the debate be adjourned.

The house divided on the motion:

Ayes 22

Noes 22

Majority 0

AYES

Bedford, F.E.

Bignell, L.W.K.

Brown, M.E. (teller)

Duluk, S.

Hughes, E.J.

Michaels, A.

Picton, C.J.

Wortley, D.

Bell, T.S.

Boyer, B.I.

Close, S.E.

Gee, J.P.

Koutsantonis, A.

Mullighan, S.C.

Stinson, J.M.

Bettison, Z.L.

Brock, G.G.

Cook, N.F.

Hildyard, K.A.

Malinauskas, P.

Odenwalder, L.K.

Szakacs, J.K.

NOES

Basham, D.K.B.

Cregan, D.

Harvey, R.M. (teller)

Marshall, S.S.

Patterson, S.J.R.

Sanderson, R.

Treloar, P.A.

Wingard, C.L.

Chapman, V.A.

Ellis, F.J.

Knoll, S.K.

McBride, N.

Pisoni, D.G.

Speirs, D.J.

van Holst Pellekaan, D.C.

Cowdrey, M.J.

Gardner, J.A.W.

Luethen, P.

Murray, S.

Power, C.

Tarzia, V.A.

Whetstone, T.J.

PAIRS

Piccolo, A.

Pederick, A.S.

The SPEAKER: There being 22 ayes and 22 noes, the Speaker has a casting vote in accordance with standing order 180. I cast that vote with the noes. The motion is thus passed in the negative.

Motion thus negatived.

The Hon. V.A. CHAPMAN (Bragg—Deputy Premier, Attorney-General, Minister for Planning and Local Government) (12:23): I rise to speak on the Voluntary Assisted Dying Bill 2020, as introduced by Dr Susan Close, member for Port Adelaide in this house. Honourable members are aware that the Hon. Kyam Maher of the other place has also introduced a bill of the same content. That is a matter which, as I understand it, is progressing in that chamber.

How these things ultimately come together is yet to be determined, but it is capable for each of our houses of parliament to consider contemporaneously a bill of the same content. Members would be aware that this bill's introduction here and in the other place has followed the report of the Joint Select Committee on End of Life Choices, dated 13 October 2020. I commend and thank members of the committee for the consideration of this matter.

In the time I have been here there have been several attempts to pass legislation to allow voluntary assisted dying. The most recent was the Death with Dignity Bill 2016, introduced by the former member for Morphett, Dr Duncan McFetridge, which was defeated by one vote.

Historically in this house, I have considered with some scrutiny bills that have introduced this subject matter, and it has always been of concern to me that bills were presented for our consideration to allow for a procedure where the person seeking to do so was not terminally ill. This bill is different. I confirm that I will support the bill at the second reading and that, in the event there are amendments for consideration, of course we would want to respectfully consider all amendments, but I can say that the single biggest factor to support a bill of this nature is the fact that the proponents of such a bill have not persisted in seeking to apply too broadly such a process of approval for the purposes of lawful support, medically assisted, in a dignified death.

Victoria and Western Australia have passed voluntary assisted dying legislation, Tasmania currently has a bill before it and the Queensland government has announced its intention to introduce legislation. An Independent MP in New South Wales has announced that he will also introduce a bill into the New South Wales parliament. This is not an issue that is going to go away, and I think some in our house, our parliament here in South Australia, have thought that it always would. But the reality is that this is a 21st century issue we must address and we must be very careful to scrutinise such legislation.

This bill closely mirrors the Victorian Voluntary Assisted Dying Act 2017. It does a number of things that I will briefly refer to in a moment. Importantly, I think for all Australians, that bill is under regular review, and the statistical data and information surrounding its application are things that I certainly take notice of and would urge other members to consider.

The purpose of this bill is to limit the access to voluntary assisted dying to persons who must be over the age of 18 years, who are an Australian citizen and who have been resident in South Australia for 12 months. Further, they must be a person who has decision-making capacity in relation to voluntary assisted dying and has an incurable, advanced, progressive disease that will cause death within six months, or 12 months for neurodegenerative

diseases, and is causing suffering that cannot be relieved in a manner that the person considers tolerable.

The process has been referred to by other speakers, in particular my colleague the Minister for Energy and Mining. He has clearly set out that the threshold, the steps that are to be undertaken, is the requirement that doctors both receive a request and do the assessment, that the consulting assessment be done by different doctors and that there is a written declaration by the parties, etc. These are all important and part of a very rigorous process.

There are other safeguards in the bill that have been identified. Firstly, a doctor must not raise voluntary assisted dying with a patient; secondly, doctors must complete approved training courses; thirdly, doctors and other health workers can conscientiously object to participating in the VAD system; and, finally, a person may change their mind at any time. I understand why the safeguard of the doctor not introducing this issue into the conversation with their patients is there. I do not think it actually assists, but nevertheless I note that it is there and may well be the subject of further consideration if this bill is supported at the second reading.

The Victorian Voluntary Assisted Dying Review Board has published three reports since the Victorian legislation commenced, and I understand there is another extant. Between June 2019 and June 2020, there were 124 people who had died from taking the prescribed medications. The most recent report, in June 2020, stated that compliance with the act was high. I received some data just recently on a briefing to suggest that there are a very great number, I think over 200, who had made inquiry but had not sought, once they had had advice, to proceed with an application of the law in this regard. Importantly, the bill also proposes to establish a voluntary assisted dying review board, which I would strongly commend be considered by members.

An impressive addition for my consideration, and a very new feature in these debates, is that South Australia Police have expressed their views in a letter to the joint committee dated 21 February 2020, supportive of a legislative scheme similar to Victoria. SAPOL have noted that police attend to investigate the scene of every death by suicide. SA Police indicated that 10 people took their lives as a result of terminal illness between 1 January 2019 and February 2020—approximately 11 per cent of suicides in that period.

SAPOL also submitted that many of these deaths were undignified, violent and often committed in isolation. There may also be a degree of pain suffered, depending on the method and level of expertise of the person when they take their life. I find it quite disturbing to read that information, but I thank SA Police not only for their services in dealing with these matters but also for having the courage to present a submission confirming their indication of support.

I have spoken to the Coroner about suicide matters in recent times, particularly as we have just been through COVID, and that is an area of consideration that we will be keeping a very close eye on. I am pleased to report that there has not been any identified increase in suicides in South Australia, but this profile of those who are using it as a mechanism, crudely or otherwise, is quite disturbing.

I conclude by saying that my husband died of a terminal illness. He had a stroke and he had cancer treatment. He was in a circumstance where I was advised that he would not come out of a coma and that he would die. I had the valuable assistance of my sister-in-law, his sister,

during that time to support me and our children to deal with it. It is a difficult time. I think my husband was lucky to have had a condition that enabled him to be given morphine to deal with pain. Not everyone has that. That is the one limitation of palliative care—the limitation of it—that concerns me.

Doctors administered morphine to my husband and he died that night. That is a difficult situation, but it is not unique to me or others who lose a spouse, a child, a parent, a brother or a sister in those circumstances. We need to address the very real situation of people who are, often with the support of our medical profession, able to enjoy prolonged lives and better lives as a result of their support, advice and intervention. We also need to understand that there is an element that needs some really considered assistance in allowing people to die with dignity. I will support the second reading of the bill.

The Hon. D.G. PISONI (Unley—Minister for Innovation and Skills) (12:33): I rise to indicate that I will be supporting the second reading of the bill. This has been an ongoing debate in this parliament for, I think, the entire 15 years that I have been in this place. Certainly, when I am out in my electorate of Unley, particularly senior members of the electorate raise with me what my views are on euthanasia, and whether I share their views, and that they support the ability for people to be in control of not only their own lives but also the time that they leave this earth.

People have quite different views on what medical mechanisms should be in place. As presented in the bill, the six-month diagnosis of terminal cancer is a very good measure because, if we did not have a constraint like that, we know how depression is such a significant cause of death by suicide. We would not want to have anything endorsed in this parliament that did not recognize the complexities of depression. Being diagnosed with depression does not mean that you will die. The only way that you will die from having depression is if you do, in fact, take your own life caused by the depression. This obviously protects people in that position.

Having a family member who took that path more than 10 years ago now, I know how devastating it is for the families and loved ones who are left behind in that situation. It was reported to me that there was a sense of relief in my brother in the few days before he committed the act. He had already made the decision to do it and felt relieved. In hindsight, it was very easy to work out why there was that change in behaviour and a change in mood. Obviously, I want to make clear in supporting the second reading of this bill that people like that will be protected. There will be no state-sanctioned end of life for people in that situation.

I am very pleased that we have a Premier's Advocate for Suicide Prevention in this government under Premier Marshall. Work is being done to highlight the impact of depression and suicide in South Australia and to offer support. Some of the calls we are seeing are from those who are supportive of euthanasia. We are seeing a vast majority of people over a particular age in particular wanting to have this option. Never before have people lived as long as they are living and never before were they living such full lives in their senior years. It was not that long ago that people in their 60s were seen as hanging around waiting to see their time out, waiting to die. Now we know that people in their 60s are starting new careers.

Sixty is the new 40 now, so people are living fuller lives and getting more out of life. Even if their families are not with them, through technology they have more access to their families

than they have ever had, so they are enjoying their senior years much more. Many of them have a financial capacity to prolong their quality of life for longer. So you can certainly understand that when they get to a stage in their life when they have been diagnosed with a terminal illness they want to be in control of that situation as well. They want to do that for themselves. The decision they make is not for others; they have been making decisions for others all their life. This is a decision they can make for themselves.

In supporting the second reading, I do not think that I would choose that decision, but it is not my role to stop others from making that decision. It is an extraordinary situation here in South Australia that you can actually choose your funeral plan, you can choose where you are buried, but you cannot choose your time of leaving this earth when you have been diagnosed with a painful terminal illness.

So this is really my motivation in supporting the second reading, keeping this debate going and getting to the committee stage so that questions that members may wish to ask can be asked and clarified. There may also be an opportunity for amendments during that period, but I do not think it is right for this debate not to move into the committee stage.

We want to get this right. We know this bill is modelled on bills that have so far worked in Victoria and there is information that is available on the success or otherwise of that bill operating in Victoria. This goes back to where does government start or where does government stop in interfering in people's lives or influencing people's lives.

I think the two things that are the most personal are birth and death. You cannot get anything more personal than that in somebody's life. When you are born, all of a sudden you have lost that direct support from your mother and you are out on your own, although you do have that support to grow and be an independent person. It is every parent's role, of course, for their children to grow up to be independent and, we would hope, happy. They are the two key roles of parenthood for children: to grow up to be independent and happy.

Having established that, if you are successful as a parent, obviously you prepare that child for when they do get to a time in their life when they have been diagnosed with a terminal illness that they are independent enough to be in the position to make that decision and nobody else. I do not believe this has anything to do with anything other than people's individual ability and individual right to be in control of their own lives.

The bill itself and the whole topic of euthanasia have well and truly been debated since I have been a member of this place. I have supported the previous bills. I remember that the Hon. Bob Such got very close to getting a bill through this place and I was pleased to have supported that bill at that time as well. I am also very pleased to indicate that I will be supporting the second reading of this bill and participating in the committee process when we move to that next stage.

I believe the bill itself has probably been worth the wait. I think there are improvements. Things that have been raised in previous debates in this place have been addressed. Hopefully, that will give comfort to others who may have had concerns about previous bills so they can consider supporting at least the second reading so that we can continue debate in this place and give it the debate that is worth having. It would be a shame to cut short the debate on this bill.

Debate adjourned on motion of Mr Brown.