

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into end-of-life choices

Melbourne — 21 October 2015

Members

Mr Edward O’Donohue — Chair

Ms Nina Springle — Deputy Chair

Ms Margaret Fitzherbert

Mr Cesar Melhem

Mr Daniel Mulino

Ms Fiona Patten

Mrs Inga Peulich

Ms Jaclyn Symes

Participating Members

Mr Gordon Rich-Phillips

Staff

Secretary: Ms Lilian Topic

Witness

Mr Norman Geschke.

The CHAIR — I would like to welcome Mr Norman Geschke, OBE, as our next witness, who is a former Victorian Ombudsman but is appearing tonight in a personal capacity.

I will just caution that all evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Therefore you are protected against any action for what you say here today, but any comments you make outside the hearing are not afforded such privilege. Today's evidence is being recorded and you will be provided with a proof version of the transcript within the next week. Transcripts will ultimately be made public and posted on the committee's website. We have received your submission to the committee. Thank you very much.

We have allowed half an hour for our session tonight, so I would invite you to make some opening remarks and thereafter the committee will have questions. Thank you very much again for being with us.

Mr GESCHKE — Thank you. From your submissions I think about the only thing that has not been covered is a case of prenatal euthanasia on Mars, but it may have slipped me by. While I do not want to repeat much of this, I think perhaps by words I may be able to elaborate on the feelings and things that go with this rather than just the words. Now to me the end of life involves a number of things. I am talking about voluntary euthanasia. I am not talking about compulsory euthanasia or anything else. It is a voluntary euthanasia of people who feel they have not got any quality of life and want to die, and should not be made to go through years of pain — not only physical pain but mental pain — to satisfy some mythical person who existed at one stage. I want to raise the question of interference, which I believe will happen no matter what the committee decides, and give a warning about it, and documentation, education and palliative care — and perhaps I could mention that first.

Much is made of this and of what advances there are with palliative care. I do not believe there is any palliative care which can cover mental pain, and I watched for 10 months my wife every night going through this. Despite how gentle and careful the hospital was and how dedicated — and I do not have the slightest complaint about any of it — none of them could suggest how she could avoid the frustration that occurred. When you go from a person who is playing golf twice a week and has been president of a golf club, is involved in different societies and slowly you watch her go — —

First it was her memory, which she complained of, and doctors would not accept it because she could still score high. She kept saying, 'I do not care what your scores say, I tell you my memory is going'. She went to the stage where she could not walk and was in a wheelchair all the time. She could not talk, which meant that every meal she had, every situation she was in with anybody, she could not take part in it. That was very obvious when I used to take her to golf after she could not play golf to meet her friends. While they were lovely to her, she just could not take it. It had upset her so much that I had to stop doing that. She could not read; and she was an avid reader. She could not write; this was reduced to a simple circle with a dot in the centre, and her handwriting and signature were beautiful up to that point. She could not feed herself and had to rely on someone to feed her.

Each morning she was taken out of bed by a machine, showered, washed and put in a wheelchair where she remained most of the day until the night. I would sit with her until she fell asleep. The most difficult point of it was I would kiss her and say good night and she would look at me as if she felt, 'We have been married 66 years and you're not doing anything to help me get out of this. Why can't you do something?'. I frankly mention in my submission that I would have gladly, if I could have got the Nembutal tablets, given them to her and risked a sentence.

It is very different to theorise about what you can do and talk and discuss and all those things, but that does not help anybody overcome the period of hopelessness that they are faced with for months and sometimes years. Some people are in palliative care for two and a half years. Some people cannot swallow, which means that they cannot eat or drink. Swallowing is dangerous, and palliative care is the only way, but you have to keep them in a state of unconsciousness or semi-unconsciousness, as they cannot feed them, until they die.

My argument is that I do not believe it is reasonable to expect anybody to have to go through this to satisfy someone else. I am a firm believer that everybody has a right to do what they want to do. It is their body, it is their life and it should not be interfered with. I will come to that in a moment.

I am an atheist. I should state that, because it is probably against the views of a lot of others here. I do have respect for other religions. I have got more. I do, although you will think I have short-term memory when I go on to the next bit. I treat them as I treat everybody in it who believes in their religion — they are entitled to do that, and I am not to interfere — but what I am not finding is that they behave the same way towards me. They feel that I am a person in the community and therefore should be subject to all their views and things and this should dominate my life, and I am against that.

I mentioned the interference from outside sources, and this is where you might, as per my last statement, think I have a short-term memory. We had Senator Harradine in Tasmania, who opposed the gift of money to undeveloped nations if there was any suggestion of family planning in that, and the government was held to ransom because of that. Family planning is probably the most vital thing in a lot of these underdeveloped countries, and here we were with our gift, denying them the right to find some solution to the problems of growth and feeding. We then had the church ban the use of condoms in Africa during the HIV campaign.

The CHAIR — Mr Geschke, if I could just draw you back to the terms of reference. We are looking at end-of-life issues. Perhaps if you could keep your remarks to that.

Mr GESCHKE — I am trying to say that this is outside interference which is happening to affect people who should not be affected. You would like me to skip that?

The CHAIR — I think we understand the general proposition you are advancing. Perhaps if you could now come to the end-of-life issues you wish to address to us?

Mr GESCHKE — The end-of-life issues that I think I have tried to explain are what my wife went through and what I have seen others go through, and I mention in my submission sitting with my father, my wife and her aunt. To me, that is a clear indication that something needs to be done in choices. The end-of-life choices — there are the papers produced by the Alfred hospital and Oak Towers, which are quite excellent as far as they go within the law, but they are limited by law as to some things. The choices are important, but the choices have to be made before a person loses capacity. As someone has said, with wills, only a few per cent make wills. I am aware of that, and I know that quite a few people do not get around to things until they lose capacity, and then it is too late for them to individually say what their choices are.

The end-of-life choices — I do not even want to go into many of them, such as resuscitation and things, because they are well covered in the submissions. The ones I wanted to go into stick to purely euthanasia and that it should be accepted as an end-of-life choice by being voluntary. It is not binding on people who have a particular religious view, because the choice is there for them, and it should not be binding on those who have no religious or association point of views. It is voluntary, and it is their choice.

I know you do not really want me to go into this, but I want to say that some people are in a state in a nursing home for two or three years where they are kept sedated, they can no longer recognise people, they have no quality of life and they cannot do anything. Voluntary euthanasia is the key they have to this terrible prison of Alzheimer's. Without that, they have to exist in this problem state for year after year. That is the thing that concerns me, and I am strongly advocating that there must be some changes in law to allow this to happen.

You do not want me to go into detail, but I think I made a summary in my submission of the Andrews effect, and that, frankly, is quite arrogant — that one person can get up and can move a bill through Parliament. There is a little bit of blackmail in this because a lot of members of Parliament — and most — are subject to their voters, and it is very easy for radical groups to generate a fear, as they did during the abortion campaigns, and sway this Parliament. I have watched it happen at council meetings where the pressure of the public is such that councils could not vote with a conscience, and they had to go along with this flow which many of them did not agree with.

On the education side, I think there is quite a lot of room for that, and it has to be started reasonably early. People who may enter a state where it is terminal and they are finished need to get guidance about what to do and how to do it in making their choices. My wife and I made our choices two years ago, before this happened. When she got in a condition that reached that, she went on to palliative care and died within a few days, and it was a great relief to her. Others I know have been put on palliative care and have lasted, as I have mentioned, two and a half years in this comatose state without any quality of life. So education is there first to try to help

people make a decision and think about it so that if they do have a terminal condition, they know what they can exercise.

The other thing is that if you have anything like this, there has to be some regulatory system or commission to see that things are being done properly. Those of you who may have watched *The Drum* on 2 October, there was a case of a woman whose father was terminally ill and they had made all the correct decisions, she thought, to allow the nursing home to allow him to die. However, at the last moment, when this was reached, a doctor stepped in and said, 'I think we should keep him going a bit longer'. There has got to be a provision when a person makes a decision like this that their family should not be able to change it, and neither should staff of hospitals or doctors be able to change it.

I want to switch a second. I am an organ donor, and many people are, but I find, by law, that once I die I do not own my body and that anybody can say 'no' or the family can step in and stop organ donation. This is supposed to affect something like 63 per cent of voluntary organ donations. That should not happen in the case of voluntary euthanasia. No doubt some people will try. In our family — it was not voluntary euthanasia; it was out of our control — our four children and I had discussed it many a time. We are all of the same view, them having watched their mother slowly die and even saying to me: how could I let it happen? Well, I just had to let it happen.

Documentation has to be kept up to date — this is the last point I am going to make — and if it is not, you gradually find things drifting away a bit and the real intentions of the law is often not fully followed. A lot of people in the bureaucracy, and this is my experience, felt that they did not have a need to do anything. We had a case, one case I will mention, of a public health building form where the document had not been changed for 40 years. When I questioned why it had not been changed, it was nobody's job to change it. So they would send out this request and then expect the person to come back, and then they would send them out further questions. This had been going on for years. That is just an illustration of what happens.

With regulators, about the only regulator I know that is keen is the bloody speeding fine people. No-one else seems to worry about it or enforce it or check up. We see constantly now the things that are happening. I think the Ombudsman in her last report mentioned the Mentone Gardens. That was a clear case of a failure of people who had responsibility to do things doing them, and people had a lot of money at stake. I will stop there.

The CHAIR — Thank you very much, Mr Geschke, for your presentation. Do any members have questions they wish to put?

Mrs PEULICH — Just one question. It is probably the most challenging, and I apologise if it juxtaposes the two positions. Your quote is 'It is their body; it is their life' in support of euthanasia, but the act of euthanasia requires someone else to take it.

Mr GESCHKE — The act?

Mrs PEULICH — The action of achieving euthanasia requires someone else to take it — to take somebody else's life.

Mr GESCHKE — I do not know what you do about it. I know it is hard to correct these things, but it can be done. It is simply a matter of law to change it. I do not see it as a great problem, especially with organ donors, where it is important because we are talking of another life in that case, aren't we, that may be saved. It is all just to simply say that a person's wishes are paramount.

Ms PATTEN — I have one quick question, Mr Geschke. Thank you very much. I had got to know Senator Harradine as well, so I am familiar with his position. I just wanted to ask: when I was reading your submission and your story, particularly your wife, can you tell us probably in about 60 seconds what we could have done for your wife or what the law — because your wife had Alzheimer's —

Mr GESCHKE — You could do nothing for her. Alzheimer's is a terminal condition.

Ms PATTEN — She could not make a decision, could she? We say 'competent mind' for someone.

Mr GESCHKE — What happened was that we had made the decision that she did not want to go to hospital if she needed treatment. When she got this virus — it went through the nursing home — which was a

gastro thing and she had been up all night, the doctor rang and said, 'Look, she has to go to hospital and have antibiotics which we can't give her'. Then she said, 'But she has said in her notes that she doesn't want to go to hospital in these circumstances'. Then we just agreed with them, the nursing home straightaway, and she went on to palliative care, which was a certain path.

Because she could not swallow at all, she could not eat and she could not drink, and that is how the end came about. It was not voluntary euthanasia in the sense; it was done through these other means. As far as what one could have done other than that, I do not know because the movement of Alzheimer's through the brain — you could see it happening — her losing her memory, her numerical skills, her writing skills. It was a pattern. It was just going to end in death. That is why I think it is one way out. I mentioned her aunt and her circumstances, and that was terrible to watch as well, an elderly person having to go through that.

Ms SYMES — Thank you for your presentation and in particular your personal stories. It is good to hear firsthand from people who have gone through this. Just noting that you are an advocate of voluntary euthanasia, do you have a particular model that you favour?

Mr GESCHKE — In euthanasia — in terms of the final ending or in terms of reaching that stage?

Ms SYMES — No, in terms of the act of euthanasia, the legal framework. Do you have a particular model?

Mr GESCHKE — The legal framework is if it is approved and a person can say that they want to die, they do not want to continue in life, it is voluntary and they have the capacity, they can say, 'From now on' or 'If I reach this stage where I can't do this or this or this', then it can happen. That is what we do have in a number of cases.

The CHAIR — Mr Geschke, thank you very much for your submission and for being with us this evening. We greatly appreciate it. As I said to you, the transcript will be with you in the next week or so.

Mr GESCHKE — Thank you. That is good.

The CHAIR — Thank you very much.

Mr GESCHKE — Could I just say one more word after this? I know you did not want me to continue, but I think that whatever decision the committee comes to — and it is their choice alone — there is going to be a proportion of the public who will think it means them and will vigorously oppose any form of voluntary euthanasia, and that is why I was emphasising that it is a person's choice and no-one else's.

The CHAIR — Thank you.

Witness withdrew.