

## **Parliamentary Opposition to Voluntary Euthanasia Legislation in SA and SAVES responses.**

### **Introduction**

For as long as medical-aid-in-dying remains a covert and illegal practice it will return to the parliamentary agenda and the issue must remain under review. The reasons given in the Legislative Council for opposing the passage of the Anne Levy and Sandra Kanck Bills, in debates between 1996 and 2004, are assigned below to the ten categories based on what was said or implied. There is some overlap as speakers did not always express themselves precisely and there was a good deal of rhetoric. Brief responses by SAVES are given in each category. The views of the speakers are reflected in short extracts from Hansard: a copy of these is provided further in this article.

**A summary of objections to voluntary euthanasia legislation raised in the Legislative Council between 1996 and 2004, with brief responses.** (Figures in brackets represent the number of occasions on which each particular objection was raised)

1. **Palliative Care** (12) *The Consent to Medical Treatment and Palliative Care Act is sufficient.*

*Voluntary euthanasia is not an alternative to palliative care. It can only be implemented where that alternative is available and has been explored. Palliative care has limitations and cannot always provide an acceptable quality of life to those or are hopelessly ill, nor relieve their pain and distress ( See SAVES Resources article "Intractable symptoms – the Challenge for Palliative Care").*

2. **Vulnerable people.** (11) People who are elderly, infirm, unproductive, undervalued may easily be persuaded, either by others or by their own depression, to seek to end their lives because they are a burden on loved ones or society.

*The law is designed to ensure that only those whose request is freely made and whose clinical condition is independently confirmed will be helped. The alternative is irrational or bungled suicide (See SAVES resources 'Suicide and Voluntary Euthanasia').*

3. **Safeguards.** (15) They are easily evaded: people may act in bad faith; errors are possible; if an advance request was made, a last-minute change of mind would not be recorded. Adequate safeguards are impossible.

*No legislation is proof against human error or evasion, but this is not reason for not passing laws. Surveys show that voluntary euthanasia already exists within medical practice. It is dangerous to leave it unregulated: it should be controlled by parliament.*

4. **Slippery slope / thin end of the wedge** (8) An inevitable shift from voluntary euthanasia to non-voluntary euthanasia; unintended outcomes.  
*Such speculation is not well founded. It could only happen if the law was amended reflecting the will of a future society. Otherwise all outcomes will be under parliamentary review and monitored within the medical profession*

5. **"Hopelessly ill"** (13) The definition is too broad, vague, subjective and puts the mentally impaired at risk. Why not "terminally ill?"

*The term is taken from the medical literature. It expresses the plight of those whose condition has robbed them of a quality of life acceptable to them, with no clinical prospect of remedy. Why should they be required to live on, if they do not wish to? There are two difficulties with the terminally ill. Firstly doctors cannot readily predict death within a specified time. More seriously, patients suffering unbearably from an incurable condition, for whom death is not imminent, and who are not on life support that could be legally terminated, could be condemned to years of suffering (See SAVES Resources 'Hopeless and Terminal Illness' and 'The Focus on the 'hopelessly Ill' in Law Reform')..*

6. **The Netherlands experience** (7) Laws have been broadened and people killed without consent.

*Any widening of the law there has been with parliament's approval. We need not follow suit. The Netherlands government carefully monitors outcomes and publishes its findings. Most people whose lives were ended without request had in fact made their wishes known although not in the strict form required by the law. The Netherlands studies have been replicated in Australia showing that the situation is less satisfactory here. In 30% of deaths where a medical decision was made explicitly to end the patient's life, only 4% were in a response to a direct request from the patient. This is five times worse than in the Netherlands. ( See SAVES Fact Sheet 21 'Voluntary Euthanasia in Australia and in the Netherlands'*

7. **Medical ethics.** (3) The doctor's purpose is to save life. The Hippocratic Oath and Declaration of Professional Dedication of Flinders University were quoted.

*Doctors are bound to serve the best interests of their patients. These are not served by preserving, against the patient's will, a life that has become meaningless to the patient, or is overtaken by intolerable suffering or distress, with no prospect of remedy. ( See SAVES Resources 'The Hippocratic Oath' \*\*\*\*get article up*

8. **Cost saving** (4) As it is cheaper to kill than cure, increased health costs and economic rationalisation will pressure the health service into unwarranted acceptance of euthanasia requests.

*This is highly unlikely. Unless parliament changed the law it would be against the law and procedures would remain subject to coronial and parliamentary scrutiny, and monitored by doctor's professional guidelines.*

9. **Adverse reports by other authorities,** (6) The following were quoted – New York Task Force on Life and the Law; British House of Lords Select Committee; Tasmanian Community Development Committee; Canadian Senate (?); International Congress on Chemotherapy; South Australian Select Committee; British Medical Association; Australian Medical Association; and World Medical Association.

*These are the opinions of groups not necessarily widely representative and they are not enshrined in law. We are not bound by them and there is no reason why we should not lead the way, as we did with votes for women. There are in fact sound reasons why we should follow the examples of countries which have already legalised either voluntary euthanasia or assisted suicide – compassion for suffering, regulation, accountability and control to name a few. Surveys have shown that many, perhaps a majority of doctors are not opposed to law reform, despite the opinions of the medical associations (see SAVES*

*Fact Sheet 3 'Medical Opinion' and SAVES Resources "Survey of Surgeons – 'Intention' in Hastening Death").).*

**10. Objection in principle** (16) Those who indicate their opposition would remain so, whatever the content of the Bill. At least 10 of the 13 who voted against the bill at the last count fall into this category. Xenophon held that any voluntary euthanasia legislation must inevitably do more harm than good. Zollo, Redford, Evans, Stephens, Holloway, Lucas, Schaeffer, Gilfillan and Lawson stated or implied a basic religious objection. Of the other three who voted against the Bill, Stefani did not speak. Cameron denied that his objection was based on any religious belief, and Lensink did not clarify the reasons for her objection.

*It is, however, the responsibility of elected representatives, as our lawmakers, to weigh the potential harm and benefit to society of any bill, irrespective of their own personal / religion based value systems (See SAVES Resources 'The Conscience Vote in a Representative Democracy').*

### **Individual politicians' views recorded in Hansard**

#### **1 Palliative Care.**

Lawson 2/7/97

"...we are still seeing the working out in practice the principles that were embodied in (the Consent to Medical Treatment and Palliative Care Act).

R.R.Roberts 9/798

"Only when we have a decent palliative care system will people have a real choice ... I contend that the legislation we have for palliative care in this State fulfils all these requirements."

Davis 9/7/97

"It is always interesting to me that the proponents of euthanasia often ignore the merits of palliative care in respect of the dying."

Zollo 18/3/98

"We have excellent legislation in the CMT&PC Act to deal with this most distressing and difficult issue of pain and terminal illness."

Xenophon 25/7/01

I am opposed to the concept and practice of voluntary euthanasia ... I believe our palliative care legislation is among the best in the world."

Griffin 25/7/01

"The bill does not require the precondition that it not be possible or feasible in the true sense of those words to relieve the patient's distress by the provision of palliative care."

R.R.Roberts 3/10/01

"... many of the objects that are now in this bill were embraced (in the CMT&PC Act)."

Zollo 29/5/02

"The suggestion that we should divert precious resources from palliative care to assessing people's suitability for euthanasia is absurd."

Evans 29/5/02

“There are ways we can address pain and suffering in the form of palliative care.”

Gilfillan 3/6/02

“If the lives of the hopelessly ill are allowed to be legally terminated, I believe the incentive to continually improve palliative measures will inevitably wane.”

T.J.Stephens 13/1/02

“... a terminally ill or hopelessly ill person should have the right to the full range of palliative care ... there must be better ways to give people greater control and relief from suffering than by legalising assisted suicide and euthanasia.”

Lensink 26/11/03

“I believe that these laws (the CMT&PC Act) serve South Australia well for people wanting to access some form of hastening the end of their life if they are in the end stage of suffering.”

## 2 Vulnerable People

Schaefer 2/7/97

“... what kind of message does legalised killing send to those that are old and infirmed?”

“That there is a hidden agenda for some should be recognised”. (Quoting Sir Bill

Hayden: “There is a point when the succeeding generations deserve to be disencumbered – to coin a clumsy word – of some unproductive burdens.”)

Irwin 2/7/97

“... who determines which person is a burden on society?”

Zollo 28/3/01

“We should not be applying pressures on our elderly or their families by implying that there is a duty to die when a particular stage of life is reached.”

Gilfillan 4/7/01

“... there would be dangerous pressures and undesirable options which would come upon those who are or who are considered to be dying. This would occur often when they would be at their most vulnerable.”

Xenophon 26/7/01

“I am not satisfied that the so-called safeguards will protect the depressed and vulnerable. ... “this bill does not address issues around coercion and around the pressure that ... undoubtedly would exerted on vulnerable people.”

Zollo 29/5/02

(Quoting Professor David Currow) “... we are saying to the vulnerable and those without voice facing a life limiting illness that we expect them to consider euthanasia ...”

Gilfillan 3/6/02

“... my substantial criticism of the whole measure is its vulnerability to undue pressure being placed on people who are at that time susceptible to pressure ...”

T.J.Stephens 13/11/02

“This could create an unspoken but extremely agonising expectation on the seriously ill to consider relieving the burden on their family and carers by taking the option of euthanasia.”

Gilfillan 14/503

“It encourages a mindset ... in a society where people can be vulnerable to an expectation that either for themselves or for the consideration from others, or by the subtle persuasion of the community, family and other pressures, to seek to have their lives terminated.”

Lensink 20/11/03

“ ... older people can be the subject or coercion, or even bullying, most often at the hands of their relatives. Therefore I have concerns about providing such power to people who may be family, loved ones, or guardians of a person in this situation.”

Gilfillan 2/6/04

“I believe it is an unnecessary area of anxiety and concern in respect of the peace of mind particularly of the older and terminally ill people in our society.”

### 3. Safeguards

Schaeffer 2/7/97

“If just one person were to be put down involuntarily would that not be just as abhorrent and certainly just as immoral (as a mistake capital punishment)?

Lawson 2/7/97

“ ... the sorts of measures you put in laws of this kind invariably do not have the (intended) effect.”

Davis 2/7/97

(Quoting from a report in the Times newspaper) “ ... the motives of some families who requested death for their relatives were ‘suspicious’ seeming more interested in inheriting the family loot than in their kin’s welfare.”

Cameron 28/3/01

“I will probably vote (against voluntary euthanasia) because I have concerns about some of the health aspects of this matter. I made a brief reference to it earlier today.”

Evans 29/5/02

“ ... when someone is seriously ill their judgment can be impaired. Often what I think I want is not the best for me. ... “It is impossible to put in place total safeguards to protect against depression, involuntary euthanasia, pressure from families and society and passing moments of overwhelming despair.”

Davis 24/7/01

(Referring to advance requests) “I am saying that they may have changed their mind before they become unconscious.”

Xenophon 25/7/01

I am not satisfied that the so-called safeguards will protect the depressed and vulnerable.”

Griffin 3/10/01

“ ... the real risk in the bill is ... the people who act in bad faith ...”

R.R.Roberst 3/10/01

“ ... this bill enables someone to pull the trigger.”

Schaeffer 3/10/01

“I have never seen a bill with sufficient safeguards ...”

Gilfillan 3/6/02

(Quotes Dr Brian Pollard) “ ... requirements for a palliative care specialist and a psychiatrist are optional.” (Quotes Professor Robert D. Goldney) “The issue of depression assessment is also dealt with quite inadequately.”

Lawson 10/7/02

“ ... legislation of this kind invariably sets up ... hoops to jump through and hurdles to be cleared – and it very soon becomes just a matter of form.”

Cameron 14/5/03

“ ... a bill which in my opinion would just issues licences to doctors to kill people.”

Lawson 14/5/03

“ ... it could also be appropriately titled ‘An Act for the Extermination of People who are Hopelessly Ill’.”

Evans 14/5/03

“ ... a bill that is open to abuse in the huge way.”

Lawson 14.5.03

“I do not believe that the so-called safeguards and supervision that have been fashioned in this bill provide appropriate or adequate or effective safeguards.”

#### 4. Slippery slope/Thin end of the wedge

Schaeffer 2/7/97

“Most of us know that voluntary euthanasia is the thin end of the wedge, particularly when we consider comments from pro-euthanasia exponents of the high profile of Sir Bill Hayden (see 2.)

Irwin 2/7/97

“ ... inevitable slippery slope from voluntary euthanasia to involuntary euthanasia, which is killing on demand.”

Davis 9/7/97

(Quotes report in the Times newspaper on BMA’s annual general meeting 3/7/97) “ ... various GPs pointed out that changing the rules would put us on the slippery slope of an expectation that our function is to kill those we see as not worth while.”

Zollo 28/3/01

“Should we give everyone the option to be put down whenever things become hopeless or intolerable. I believe this is where we could be headed if we do not respect the sanctity of life.”

Evans 29/5/02

“Once you establish official approval for the principle of euthanasia History has shown that its interpretation is broadened and the rules are weakened over a period of time.”

Gilfillan 3/6/02

“It is a matter of whether or not you want to encourage people to commit suicide ...”

T.S.Stephens 13/11/02

“... can we as law makers be assured that the law will only ever apply to those extremely tragic cases?”

Gilfillan 14/5/03

“... it becomes a temptation and then a reality, spreading wider and wider.”

##### 5. “Hopelessly ill”

Schaeffer 2/7/97

This (definition) would seem to me to allow almost anyone to chose euthanasia ... it provides virtually for death on demand.”

Zollo 28/3/01

“The word hopeless can mean many things to many people. It can mean anything from useless to desperate to doomed to failure. More importantly it is a relative term depending on which perspective you are looking at it from. Life itself at different times often looks hopeless for many people.”

Davis 24/7/01

“It is a very lax definition ... this bill with its very liberal definition of hopelessly ill.”

Xenophon 25/7/01

“What does hopelessly ill mean? The potential for abuse frightens me.”

Evans 29/5/02

“Hopelessly ill is an opinion; its diagnosis depends very much on the attitude of the doctor.”

Zollo 29/5/02

(Quotes Professor David Currow) “ ... ‘hopelessly ill’ is far too broad to have any meaning clinically. It genuinely opens the way to euthanasia on demand.”

Gilfillan 3/6/02

(Quotes Dr Goldney) “ ... there are many persons who have serious mental conditions, with long-term impairment, who, theoretically would fit the criterion described. However with adequate care, they are able to cope quite well with their families in the longer term.”

Lawson 10/7/02

(Quotes Dr Goldney as did Gilfillan on 3/6/02

T.S.Stephens 13/11/02

“This a very wide definition.”

Lensink 26/11/03

“ ... the definition of hopelessly ill is too broad and easy to include various forms of mental illness, particularly depression.”

Evans 5/5/04

“ ... There is too much vagueness and subjectivity around the term ‘hopelessly ill’.”

## 6. The Netherlands experience.

Irwin 2/7/97

“The Dutch experience is heading a long way from voluntary euthanasia to involuntary killing of people” (Gives lengthy quotes).

Davis 9/7/97

“ ... hundreds of patients in the Netherlands were put to death by doctors with pain-killers in 1995 although these patients had not specifically requested euthanasia.”

Zollo 29/5/02

(Quotes Dr Zylic, Netherlands physician) "Euthanasia ... is growing to be seen as an alternative to the more difficult task of caring for the dying."

Evans 29/5/02

"The rules were strict in the Netherlands; they are not so strict now ... The inevitable conclusion that can be drawn from the Netherlands experience is that it is impossible to quarantine voluntary from non-voluntary euthanasia."

Evans 5/5/04

"In the Netherlands there has been a gradual widening of the laws ... in Holland one in four are euthanased without consent ... I also received an e-mail from Mary Gallnor admitting that approximately 1,000 people were euthanased without consent."

Evans 2/6/04

"... the government (of the Netherlands) provided me with its records stating that, in 1995, 23 percent of doctors admitted to ending life without specific request and that only 32 percent of doctors said that they had never ended a life without specific request."

## 7 Medical ethics

Schaeffer 22/7/97

(Quotes from the Hippocratic Oath) "I will neither give a deadly drug to anyone if asked for it nor will I make a suggestion to this effect."

Irwin 2/7/97

(refers to "the Hippocratic Oath taken by all doctors" and quotes from the Declaration of Professional Dedication used at Flinders University) "Neither will I administer a poison to anyone when asked to do so, nor will I suggest such a course."

Evans 25/9/02

"... goes against the fundamental duty of the medical profession ... the role of doctors is to save life not to take it."

## 8. Cost-saving.

Schaeffer 2/7/97

(Quotes New York State Task Force) "... it is much cheaper to kill someone than to provide them with palliative care."

Irwin 2/7/97

"The way health costs are increasing, decisions could be made on health grounds ... Who determines which person is a burden on society?"

Holloway 9/7/97

"... governments down the track may use the presence of voluntary euthanasia to cut funding to palliative care."

Zollo 25/3/01

"Economic rationalism ... applied relentlessly to hospital and aged care ..."

## 9 Adverse reports

Schaeffer 2/7/97

“Euthanasia has been condemned by every other civilised country in the world”

Davis 9/7/97

(Refers to negative findings by the United States Supreme Court, the British House of Lords, the British Medical Association and the International Congress of Chemotherapy).

Davis 29/7/01

(Refers to the Canadian Senate, the House of Lords and the New York State Task Force).

Evans 29/5/02

“ ... a social experiment rejected by most countries in the world ... The House of Lords ... Tasmanian Community Development Committee ... The New York Task Force on Life and Law.”

Gilfillan 3/6/02

(Quotes Dr Robert Britten-Jones, Professor Robert D. Goldney, Dr Brian Pollard, Professor Margaret Somerville, Dr Tevor Mudge, AMA CEO Brian Whitford and refers to “international reports” From the International Declaration on Human Rights “ ... the right (to life) is not to be dependent on a life’s quality at a particular time, and it may neither be given away or taken away.”

T.J.Stephens 13/11/02

“Every inquiry that has been conducted in the world in relation to voluntary euthanasia has decided against its legislation.” (Names British parliament, Canadians, USA Supreme Court, New York Task Force, British House of Lords).

## 10 Objection in Principle

Redford 2/7/97

“I strongly believe in the sanctity of human life, (this legislation) would strongly conflict with my religious beliefs.”

R.R.Roberts 9/7/97

“I am strongly opposed to any legislation that condones the right to kill.”

Holloway 9/7/97

“ ... the unfortunate principle of State sanctioned and assisted suicide, which is central to this bill.”

Lucas 9/7/97

“I intend ... to adopt a course of action which is best served to maximise the chances for defeating voluntary euthanasia legislation not only in this Parliament but in the next Parliament.”

Zollo 28/3/01

“Should we give everyone the option to be put down whenever things become hopeless or intolerable? I believe that is where we could be headed if we do not respect the sanctity of life. ... it is not only the Catholic church that does not sanction voluntary active euthanasia ... so do all Christian religions.”

Xenophon 25/7/01

“I am opposed to the concept and practice of voluntary euthanasia and for the State to sanction it in any way.”

Schaeffer 11/4/01

“As long as I vote within this chamber, I will not be voting to legalise euthanasia.”

Gilfillan 4/7/01

“ ... voluntary euthanasia disseminates a culture that life is dispensable and can be surrendered in certain circumstances.”

Redford 24/7/01

“As a matter of personal conscience and religious belief I oppose euthanasia ...”

Redford 15/5/02

(Reaffirms views of 2/7/97 and 24/7/01)

Zollo 29/5/02

“I am unable to agree to it for both moral and religious reasons or beliefs.”

Evans 29/5/02

“Out of his (God’s) love for mankind he has set boundaries. God’s boundaries are the ten commandments. The seventh commandment states “Thou shalt not murder”.

T.J. Stephens 13/11/02

“This debate is about whether one supports the principle of the sanctity of life or the right of an individual to make a choice about their own destiny.”

Lucas 2/11/02

“ ... I have strongly held views (previously expressed).” (See 9/7/97).

Lawson 14/5/03

“ ... I oppose the principle of the bill itself.”

Gilfillan 14/5/03

“My feeling and very strong conviction ... is not based as so often this is, on either a religious or a non-religious position.”

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