A historic motion

‘That pursuant to Sessional Order 6 this House requires the Legal and Social Issues Committee to inquire into, consider and report, no later than 31 May 2016, on the need for laws in Victoria to allow citizens to make informed decisions regarding their own end of life choices and, in particular the committee should –

(1) assess the practices currently being utilised within the medical community to assist a person to exercise their preferences for the way they want to manage their end of life, including the role of palliative care;

(2) review the current framework of legislation, proposed legislation and other relevant reports and materials in other Australian states and territories and overseas jurisdictions; and

(3) consider what type of legislative change may be required, including an examination of any federal laws that may impact on such legislation.’

AT LAST – PARLIAMENT WILL INQUIRE INTO END-OF-LIFE DECISION-MAKING

**DWDV President Lesley Vick**

We have reached a notable milestone in working towards our objective of law reform in relation to dying with dignity. On 7 May 2015 the Legislative Council of the Victorian Parliament passed a motion to refer the issue to the Legal and Social Issues Committee of the Upper House. The motion (see left hand column) was moved by Labor’s upper house leader, Gavin Jennings, and passed by a comfortable majority, 29 to 9.

The Jennings motion overtook an earlier motion from the Greens MLC Colleen Hartland to refer the issue of voluntary euthanasia for terminally ill people to the Victorian Law Reform Commission (DWDV’s preferred option) and a foreshadowed motion from Sex Party MLC Fiona Patten to refer the issue to a joint parliamentary committee.

Debate on the earlier Hartland motion and on the Jennings motion revealed widespread support for a serious inquiry into end-of-life decision-making. Support for an inquiry included speakers who oppose physician assisted dying. As can be seen in the motion the terms of reference are very broad. This will ensure that all aspects of end-of-life choices will be considered.

Minister Jennings and the President of the Legislative Council both stated that the committee will be adequately resourced to enable it to undertake an inquiry into such a complex and important issue.

The committee will meet on 27 May to arrange the program for the inquiry, which will include public hearings. DWDV will keep members informed about dates for submission deadlines and public hearings once these are confirmed. DWDV as an organisation and its members as individuals will make representations to the committee.

DWDV welcomes the establishment of this inquiry, as will the overwhelming majority of citizens who place great importance on their end-of-life choices. We pay tribute to the Minister and other MLCs who advanced the inquiry in the parliament. This development has been aided by the tireless advocacy of DWDV members to their parliamentary representatives and in the media. We will continue that vigorous advocacy in this significant new context.

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**The Age continues its support . . .**

On Monday 11 May the Age newspaper featured a story on Dr Rodney Syme’s challenge to current legislation in publicly providing Nembutal to terminally ill Ray Godbold – as a palliative measure, even though it may never be used. The feature was supported by an editorial titled ‘Compelling case to enact right to assisted death’, which ended with the call ‘Our politicians have a duty to do this without delay’. 
**VOLUNTARY ASSISTED DYING (VAD) COMES TO CANADA**

*John Hont, Board member*

In the Canadian province of Quebec in June last year, terminally ill patients were granted the right to choose to die. Quebec is the first province to achieve this. The non-partisan Bill 52 was passed in the Quebec National Assembly by a 94 to 22 vote. This is particularly remarkable because Quebec has the highest proportion of Catholics of all Canadian provinces – 75 per cent compared with the national average of 39 per cent. In Australian surveys, Catholics have often been the least likely group to support voluntary assisted dying, although their support is still high at 71 per cent (according to the ABC’s VoteCompass survey before the 2014 Victorian state election).

Even better, the Supreme Court of Canada, in *Carter v Canada* run by the British Columbia Civil Liberties Association (BCCLA), has affirmed the right of all Canadians to dignity and self-determination at the end of life.

This ‘overnight success’ started back in 2011, when BCCLA filed a suit in a British Columbia court on behalf of a group of plaintiffs who wanted legal VAD in BC. The group comprised a sufferer from amyotrophic lateral sclerosis (ALS), often called ‘Lou Gehrig’s Disease’, a doctor who supported VAD as an important component of compassionate health care for the seriously and incurably ill, and a couple who had accompanied the wife’s 89-year-old mother to Switzerland so she could peacefully end her life after degenerative spinal stenosis had confined her to a wheelchair, caused her to suffer chronic pain and rendered her unable to feed or toilet herself without assistance.

This case was won for the plaintiffs in June 2012, but was appealed by the federal government the next month; the original trial decision was overturned by the BC Court of Appeal in October 2013. Later that month, the BCCLA sought leave of the Supreme Court of Canada, which heard the case in October 2014. The appellants were as before, while respondents were the Attorneys General of Canada and British Columbia and a long list of ‘interveners’ – organisations advocating for and against VAD. The Supreme Court reached a unanimous decision on 6 February, 2015: it affirmed the original trial decision held in BC.

The Court wrote: ‘Section 7 is rooted in a deep respect for the value of human life. But s.7 also encompasses life, liberty and security of the person during the passage to death. It is for this reason that the sanctity of life ‘is no longer seen to require that all human life be preserved at all costs.’ . . . it is for this reason that the law has come to recognize that, in certain circumstances, an individual’s choice about the end of her life is entitled to respect.’

The BCCLA was overjoyed by the Supreme Court’s ruling: ‘This is a tremendous victory for the protection of human rights and compassion at the end of life. This means that seriously and incurably ill Canadians who are suffering unbearably will have the choice to seek the assistance of a doctor to have a compassionate and peaceful death. Physician-assisted dying will now be recognized for what it is – a medical service.’

The court allowed, but did not compel, the federal parliament and the provincial legislatures twelve months to enact new legislation. Either way, it seems VAD will now be available to all Canadians and be regulated in the same way as other health care matters.
Rob Moodie, one of DWDV’s Ambassadors, attended Rodney Syme’s Workshop in early May. Here is his report . . .

An essential part of a good and dignified life is a good and dignified death.

According to Rodney Syme control is the key to choosing and achieving good and dignified death. This means having as much control as we can in the decisions that affect how we die. We know that in the workplace, employees are most satisfied and productive when they have control over the decisions that affect their work.

To maximise the level of control we can have, Rodney suggests four key inter-related principles – preparation, understanding, communication and acceptance.

Perhaps the easier ones are the first two, preparation and understanding.

Preparation – reading, talking to family and friends, filling in the required forms - is very important. Attending one of Rodney’s workshops is one of the best ways to start your preparation.

Understanding is centred on knowing our rights under the law – knowing, for example, that we have a right to refuse treatment and we have a right to ensure that our doctors provide maximum mitigation of pain and suffering.

The more difficult principles for most of us to put into practice would likely be communication and acceptance. Communication should start early, in a discussion with one’s family and close friends about developing an advance health care directive and appointing an enduring power of attorney (for one’s medical treatment). It also involves being courageous enough to have a discussion with our doctors, nurses, and especially with our family if we are in fact dying. Good communication is so important, yet according to Rodney, it so infrequently happens.

Acceptance – of one’s fate, one’s destiny – is perhaps the toughest ask. Rodney talked of preparing for death, just as we prepare for living. He recounted his experience of the people who have the most dignified and good deaths. These are the people who have come to terms with their destiny – they know when to say goodbye. They make dying a much more positive time by ‘opening the door’ to their family and friends so a warm, human and engaging discussion – and farewell – can take place. In fact, a friend’s father famously had his wake three weeks before he died. My friend wrote of her dad ‘A man happiest in company, he wanted to see friends who were his memories. He wanted to hear what they had to say about him while he was still breathing. Best of all, he could say what he liked about them.’

In conclusion, Rodney came back to the need to appoint an agent (and an alternate) as your medical enduring power of attorney, and to complete an advance healthcare directive – tools, if needed, to help us all, as much as is possible, achieve a dignified and good death.

EXCERPT FROM A MEMBER’S STORY

‘When my Mum was in her ninetieth year, I took her to visit an old friend in a nursing home. It was the very best kind of nursing home, but when we left Mum said to me, ‘Please, don’t ever let me end up in a place like this’. Mum had been a member of the VESV for decades, and we all knew, including her doctor, that she did not wish to live on if and when her quality of life was unacceptable to her. ‘You wouldn’t let an animal suffer that way’, she would say.

Then, one day a few months before she was to turn ninety, she damaged her throat and ended up in hospital. In only a few weeks she went from being independent at home to being fed intravenously. We had a conference with the doctors. ‘Your mother won’t be able to go home’, they said, ‘but she will be very comfortable in a nursing home. We can feed her through a tube down her throat’.

Mum went silent. For five days she barely said a word except, ‘Happy birthday sweetheart’ on my birthday. Then, after she had thought it through, she came out with it. ‘Tell the doctors to disconnect all this,’ she said, indicating the various drips. At that moment I realised that she hadn’t filled out a medical power of attorney form, but, fortunately, she was still coherent, and the medical staff were prepared to accept her instructions . . . All the family gathered around the bed and, with total dignity and serenity, she made a clear statement that she had decided it was time to die.’

This story will be continued on our website, along with accounts by other members of their experiences involving the deaths of loved ones. If you would like to contribute, please contact the office (see details, back page).
The Victorian Legislative Council’s recent decision to refer the issue of end-of-life decision-making to a parliamentary committee provides the opportunity to achieve what we have all been working towards for decades. We must make every effort to achieve our goal of law reform. This is going to entail expenditure beyond the usual budgeted imperatives in time, materials and services in addition to the tireless work already being done by our team of volunteers.

So please support DWDV by renewing your membership in this critical year. You might also consider making a small donation to enable these efforts to continue at a much heightened level.

**Meet more DWDV Ambassadors**

**Robert Richter QC**  
Barrister, Human Rights Promoter  
‘The law must change to reflect the will of the people which is no longer dictated to by religion and those who claim special communications with an authority I don’t recognise.’

**Hon Rod Mackenzie OAM**  
Former Minister, Victorian Parliament  
Rod Mackenzie was elected MLC for Geelong Province in 1979. After several attempts, his private member’s bill for the refusal of medical treatment was passed by the parliament in 1987.

**Dennis Altman AM**  
Professoral Fellow at La Trobe University  
‘There needs to be a major review of how to ensure that people can take control of their end of life with dignity and courage.’

**THIS YEAR’S GATHERINGS & WORKSHOPS . . . for your diary**

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<th>Event</th>
<th>Dates &amp; Times</th>
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<tr>
<td><strong>Meet &amp; Greet – Members Information Session</strong></td>
<td>Saturday 5 September 2.00pm</td>
<td>Balwyn Evergreen Centre, 45 Talbot Ave, Balwyn</td>
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<td>Meet like-minded people and hear about the history and current work of DWDV. Bring a friend if you like.</td>
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<td><strong>How the Law Applies to Dying with Dignity</strong></td>
<td>Monday 13 July 10.00am – 12.30pm, Monday 12 October 10.00am – 12.30pm</td>
<td>Kew Library, Cnr Cotham Road and Civic Drive, Kew</td>
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<td>Find out about Victoria’s current legislation and how DWDV’s Advanced Healthcare Directive can be used to document your treatment or refusal wishes.</td>
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<td><strong>Death with Dignity in Dementia</strong></td>
<td>Monday 15 June 10.00am – 12.30pm, Monday 14 September 6.30 – 9.00pm</td>
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<td>Learn about dementia, its effects, diagnosis and management, plus how DWDV’s Advance Directive for Dementia can document your treatment or refusal wishes.</td>
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<td><strong>DWDV Annual General Meeting</strong></td>
<td>Saturday 7 November 2.00pm</td>
<td>Unitarian Church, 110 Grey Street, East Melbourne</td>
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<td>Help elect next year’s committee and hear more about the aims and successes of DWDV in 2015.</td>
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