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BOOK REVIEW

The Right to Die - Understanding Euthanasia
Derek Humphrey & Ann Wickett

William Collins Pty Ltd

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The Right to Die - Understanding Euthanasia, by Derek Humphry and Ann Wickett, Pages i - xiv, 1 - 333; Appendixes 334 - 382; Index 383 - 401, 1987, Australia: William Collins Pty Ltd., Sydney, PRICE: CLOTH \$29.95.

It used to be said that death was the last taboo and that, in the 20th Century, it had replaced the 19th century's prurient silence about sex. But in the best tradition of a century which has held so little sacred, even this can no longer be said. Popular journals agonise over the rising figures of teenage suicide. Banner headlines scream the latest horrible warnings about AIDS. Even law journals are full of death. The Law Institute of Victoria Journal (See "Dead to Rights" (1987) 61 Law Institute Journal 361) recently reported on the now publicised story of the death of King George V. It seems that his physician (Lord Dawson) kept a diary which has lately been published. It is now clear that, far from "moving peacefully to its close" as the famous bulletin pinned on the fence of Buckingham Palace suggested, the King Emperor was actually hurried out of this life, partly at least for the benefit of The Times' copy deadlines. Sic transit gloria regnorum.

Inexplicable, in this context, was the vote of Lord Dawson later in the same year in the House of Lords, opposing a Bill which was designed to render voluntary euthanasia lawful in Britain. The noble lord urged against reform. The contrast between public standards and private action is a constant theme

in "The Right to Die".

The book adopts, for the most part, a chronological examination of its subject. Starting with Pliny and working its way through Plato, Zeno, St. Thomas Aquinas to the modern philosophers, the authors skilfully trace the way in which attitudes to euthanasia have changed. What began as the inalienable right of old men, with no more pleasures to look forward to, a hastened death was gradually changed into the most mortal sin of Christendom. This changed attitude was founded in the notion that life was a gift of God and therefore for God, not man, to terminate. It was reflected in many civil laws. For example, it was not until 1824 that the English Parliament relieved the suicide from burial in unhallowed ground at the cross roads. Generously in that year, the Commons permitted burial in a churchyard, but only between 9 and 12 at night. Yet, interestingly, Christian people never spoke with a single voice on the topic. Sir Thomas More in his Utopia described the ready means that would be available in the perfect society for release when a person found himself imprisoned in the mortal "torture chamber" of a sick body. Nevertheless, the preponderant view remained that of St. Thomas Aquinas. And it received a mighty boost from what the authors describe as the "Nazi Albatross" - the scientific experiments, primitive eugenics and organised destruction of millions of Jews and other persons deemed "disposable" by the Master Race.

The first attempt at enacting a modern law, with adequate safeguards, to permit voluntary euthanasia (literally a "peaceful death") occurred on the initiative of the British Voluntary Euthanasia Society in 1936. That Bill, defeated by 35 votes to 14 in the House of Lords was the one Lord Dawson

rejected. A New York State Bill to similar effect never came to a vote. It was shelved for the duration of the War. In the aftermath of the discovery of the atrocities perpetrated by even the distinguished German medical profession, moves towards legalisation of euthanasia were severely set back. Yet the authors point out that many of the participants in the horrifying activity of the Nazi period were faithful adherents of the Christian churches. Furthermore, Pope Pius XII did not publish his condemnation of eugenics and euthanasia until 1943, although he knew of the death camps as early as 1941.

By the 1950s a new problem was beginning to present itself for the supporters and opponents of euthanasia. It derived from the developments of medicine, including scientific and technological advances which became commonplace throughout the civilised world. These developments raised the expectation that science could provide a cure for virtually every illness. On the other, they presented both the difficulty of deciding who should receive, and who should be denied, the scarce resources and what should be done where the only prospect of keeping a patient alive involved enormous expense, continuous pain and precious little quality of life. The vision of patients, only partly conscious, alone and neglected by their loved ones, hooked up to monitors, tubes and respirators began to concern philosophers, legislatures and citizens alike.

In 1957 a Papal statement, whilst emphasising that euthanasia was never lawful, opened the door slightly. It was not necessary to struggle to keep alive a person whose life was peacefully and naturally coming to its close. Indeed, it was even permissible to use drugs to relieve pain in the case of terminal conditions where that course would hasten death - but

only if that was the only means available. This Papal statement influenced the thinking of the medical profession. A distinction was drawn between so called "active" and "passive" euthanasia. The former, involving assistance to patients, whether at their request or not, was never morally justifiable. The latter, on the other hand was quite often justified. A moment's reflection indicates the unsatisfactory nature of this suggested dichotomy. Rationing scarce and potentially life saving or life sustaining technology, without complete candour to the patient, may be understandable in economic and professional terms. But the nagging questions still came. Why should a patient of full capacity not be entitled to terminate his or her life, simply as an attribute of the integrity of every human being? Why was this not the supreme human right? Especially, why should it not be possible where the patient was suffering severe pain from a condition diagnosed as irreversibly terminal? Given that such a patient may sometimes need advice and assistance in such a condition why should society forbid those best able to provide the means to a peaceful death from doing so?

These are the questions which are explored in the second part of this book. There is a dreary section, in which the authors appear to have chronicled every reported case of "mercy killing" by a doctor or family member occurring in the United States between 1950 and 1970. These illustrate the disinclination of juries to convict in such cases and, if convicted, the disinclination of Judges to punish those involved.

Attempts to confront the issue of euthanasia by a more satisfactory legal regime are recorded. They include arguments

in the United States that there is a constitutional right to die to be derived from the constitutional guarantee of privacy. They also include legislation, which has spread to Australia, permitting the so called "living will" to forbid prolongation of life, if this is only possible in an unconscious state hooked up to machines. As well there have been judicial developments of the law. In the Netherlands, in 1973, the highest court handed down an historic decision holding that euthanasia would be justified under certain circumstances. It is on this basis that physicians in that country help their patients to a peaceful death or carry out "mercy killings" said to number 20,000 a year. Most of these cases involve nothing more than the removal of life sustaining technology, such as occurs in Australian hospitals every day. But in the Netherlands, it is all done with undisputed legality and pursuant to a carefully chartered regime laid down by the judges: involving independent assessment and specialist decision making.

Should we follow a similar course in Australia? The recent report of a Parliamentary Committee in Victoria on Euthanasia considered this unnecessary. The authors of this book plainly think we should. Yet the more thoughtful opponents of euthanasia urge that it is necessary to enforce a strict legal rule in order that there should be no deviation from the primary mission of the medical profession to save life. Better, they argue, that we tolerate some degree of non-compliance by medical practice with the strict letter of the law than that we clarify the law in a way which is less than absolutist in the life-saving message it sends forth to the thousands of health professionals.

These debates - and the modern technological context of them - are adequately reviewed in this book. Basically, it is written for the United States market. The book does not pretend to be a dispassionate examination of the topic, assuming that to be possible. It is basically a tract to urge greater honesty on the part of society in dealing with this painful topic. The authors appeal for a more open and rational approach. They succeed in pointing up the dangers which exist in the current conflict between the letter of the law and the necessities of modern medical practice. They also demonstrate the shifting attitudes of the community and of the medical profession.

No doubt the next edition will deal at more length with the growing issue of teenage suicide and the rising problem of euthanasia in connection with the young victims of AIDS. Sadly, that condition will continue to put death on the pages of our newspapers and law journals for years to come.

The debate which followed the tabling of the recent Parliamentary report in Victoria suggests that the legal issues raised by euthanasia may receive more attention in this country in the future. If so, this book provides a useful compilation of approaches to the topic.

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