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Most Reverend Walter F. Sullivan

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DEATH WITH DIGNITY LEGISLATION

MOST REVEREND WALTER F. SULLIVAN
BISHOP OF RICHMOND
RICHMOND, VIRGINIA

I welcome the opportunity, together with Mr. Nicholas Spinella, our diocesan attorney, to share with you reflections on the subject of death with dignity as it relates to ministry and legislation.

For four years, I have had a personal interest in this subject; I have studied its ramifications and have taken a consistent public position in opposition to legislation in favor of "living wills" as being both unnecessary, as a direct interference in the doctor-patient relationship, and as being potentially dangerous in that it represents the first step towards legalized euthanasia.

I became involved accidentally four years ago. A member of the Virginia State Legislature sought my support for his death with dignity bill. Because of some previous reading on the subject, I became immediately cautious and would not lend support until after further study. I quickly recognized what little knowledge I had about death with dignity. I sought professional guidance regarding the language of the proposed bill. I found that such a bill raised more questions than were answered. Thankfully, with the help of such people as Nick Spinella, representatives of the ecumenical and medical community, we have up to this date successfully opposed so-called death with dignity legislation. Incidentally, in the four years of opposition, four completely opposite bills have been proposed to the General Assembly of Virginia which indicates to me that the subject was being used more for political purposes rather than providing real help to people.

In the past four years, I have accumulated a file over three inches thick. All of us should be aware that death with dignity is constantly being discussed and many articles written on the subject. It is important for each of us, both in the legal and pastoral field, to become better informed on the issues before taking a final position on the question.

Three years ago, I wrote a pastoral letter entitled, *Death with Dignity: Ministry not Legislation*, in which I put together in nonlegal language a comprehensive overview of the question. Thankfully, the pastoral letter has had wide circulation and has done a great deal of good in apprising others of the issues. Just recently the Bishops' Committee on Pro-Life Activities has taken a public stand against this type of legislation and has published an excellent resource paper entitled, *Death and Dying*.

Let me now give you an overview on the question of death with dig-

nity. Nick Spinella will treat the legal aspects of the question. Let me first set the scene as to why death with dignity is so popular today. We hear a great deal about it simply because people are living longer. The population is growing older. People are asking what should we do with our elder citizens. We know that with increased technology, medical discoveries and miracle drugs, life can be prolonged either for the benefit or the detriment of the patient.

People are concerned because we have read about inhuman situations where people are kept alive for long periods of time, where a great deal of money is spent to keep people in a vegetable state without any real benefit to the patient, but in reality in an inhuman situation.

The issue became clearer to me when I recently attended a seminar in Washington, D.C. on the subject of health policy. One of the speakers gave a talk entitled, *Suppose There is a Cure for Cancer? You and I are excited about the aspect that medical science might discover a cure for cancer. Millions of dollars are being spent for this purpose in what we might call preventative care. At the same time, what happens in society if cancer is no longer the number one killer. The next step, according to the speaker, might be mental deterioration or stroke which involves extensive medical care, prolonged life in a semi-vegetable state.*

I have already mentioned the possible inhuman situations whereby people are kept needlessly alive. In a death denying culture, we do not allow death to occur naturally. I am more concerned over what I might call the "playing God" by the medical profession, the present experimentation on people, the rush for transplants, etc. Experiments are not wrong in themselves unless they in turn deny the human rights of people.

The push for death with dignity legislation is the result of rising medical costs. There is a real discussion today on the distribution of health dollars. What is being espoused is the life boat theory: if 15 to 20 people are drowning and there is only a life boat to hold 12 people, the question to be faced is over who gets priority into the life boat. No doubt, with rising medical costs, people should question expensive medical treatment just to keep people artificially alive or to prolong life.

Another influence on this type of legislation is the secularism of our day which denies or qualifies the absolute dignity of human life. As Catholics and Christians we espouse the inherent value of all life and of all persons. That value comes from the individual himself rather than the worth placed on the individual by someone else. Today, worthwhileness is made dependent on a person's usefulness to society. A person's worth is judged by what that person has or owns. There is much discussion today on the quality of life which is a real value just as life itself is. At the same time, a person's meaningfulness should not be proportionate to the person's ability to enter into interpersonal relationships with others.

You and I have had the experience, and a very depressing one at that, of visiting a nursing home. We find people there in practically vegetable states. Many today espouse that such a person is costing money, and is

taking up space with health dollars being needlessly wasted. It is because of our faith and belief in resurrection that we place infinite value on the individual until the time of death which should and must only naturally occur.

All of us should be aware of the anti-life forces of our day. In my judgment, abortion is only the beginning, euthanasia is just around the corner. The Euthanasia Society in our country is promoting legislation under such catchy phrases as "death with dignity," "right to privacy," and "right to die." The Natural Death Act in California is an unfortunate attempt to legalize the right of every individual to die. What does this phrase mean? Does it include the right to take one's own life, the right to suicide; does it give someone the right to take the life of another even with the permission of the individual?

Just as life before birth has become expendable, so too life before death has been cheapened for a wide variety of reasons. Euthanasia, or the good death, is being widely proposed. California is only the beginning. "Living wills" or natural death acts are now being proposed in approximately 30 legislatures throughout the country. In fact, in a few states direct euthanasia has been approved.

After setting the scene of today, let me briefly give some moral principles which should affect the judgments we make. We believe, in keeping with the extensively quoted statement of Pope Pius XII, that you do not have to use extraordinary means to preserve an individual's life, you do not have to keep a person artificially alive. In fact, by so doing, the rights of an individual might be denied because a person is now being treated inhumanly. As Christians, we believe that death has meaning—it is the gateway for entrance into eternal life. Therefore, while we try to save people through medical care, we should not deny death by keeping people artificially alive but rather let death occur naturally when meaningful existence is no longer possible.

Perhaps some explanation should be given to the phrase "extraordinary means to preserve life." Extraordinary has many interpretations. Extraordinary for whom—the medical profession as far as costs of medical care, or for the patient himself—the cost of suffering, pain, and discomfort. Just as we espouse that extraordinary means are not necessary, we must proclaim the obligation to use ordinary means to preserve life. A person has a right to nourishment, food, water and ordinary sustenance. Mercy killing, allowing people to die by withdrawing care, is not acceptable. Withdrawing of medical treatment presents many difficulties or unanswered questions. What might be extraordinary today with medical discovery could be very ordinary treatment tomorrow. Who in this audience would consider insulin as extraordinary means to preserve life for a diabetic?

In applying moral principles, we must consider first the right of the patient—the right of the patient to treatment, the right of the patient to be allowed to die with dignity. You and I must be on the side of life and must believe in death with dignity and ministry to the dying patient. Care

for the sick and dying has always been considered a corporal work of mercy. It is in the field of legislation that the issues become muddled. Can we ever legislate the delicate relationship between the patient and the doctor or the relationship between the family and the doctor? My fear is that of the so-called "slippery slope principle." In trying to legislate, codify or protect the rights of the patient, we might at the same time through the use of the same language allow a third party, a hospital committee, or the state as big brother to come in and determine who should live and who should die.

I am very opposed to the so-called "living will." The living will is a statement with legal consequences that a person makes at a rather young age to the effect that the individual does not wish to be kept artificially alive through the use of machines when the individual becomes comatose. The problem is one of language. What in fact is a terminal situation? What should be considered as extraordinary means? What happens if a person enters the hospital with a living will? Is that individual denied treatment? What happens in the absence of such a document? Is the individual given all possible treatment, even if such a treatment were not medically indicated? We must recognize that doctors are concerned over malpractice suits. Is the doctor more susceptible to legal suit with the presence or the absence of a legal will once the living will becomes codified in a state?

Many unanswered questions center around the process needed to implement or revoke a living will. I recently testified before the Virginia General Assembly and stated facetiously that with the enforcement of the living will, one would need a lawyer to become a patient in the hospital, the doctor would need his lawyer to determine the legal effect of the living will and the hospital would also need legal representation to protect its own interests. It seems that because of a very valid and real human situation, such as the care of the dying and the prolongation of life, we are attempting to use legislation to solve human problems or to answer every possible situation. I liked very much a recent statement by a Protestant theologian who said, "What one thinks of death while he is healthy and very much alive is not what you are going to think about it when you are actually faced with death." Can a person have real informed consent in making a living will not knowing what medical situation he or she would have to face twenty years later in regard to proper treatment, care and preparation for death?

Another concern I have over proposed legislation is the escape hatch that is used if the doctor or the patient's family cannot agree whether to continue or discontinue treatment. Such legislation provides for a hospital review committee; basically, the review committee then becomes the arbiter over life or death with both the right of the patient and the right of the doctor now being denied and given to a so-called committee.

Another area of concern is the using of such terminology in discussion such as active or passive euthanasia. While ethical distinctions can be made, we should be aware that some are saying it is more human to

practice active euthanasia than allowing someone to suffer and to go through the agonizing process of death. We believe that active euthanasia or the direct taking of life is always immoral. Passive euthanasia has been accepted by moral theologians but such terminology is open to wide criticism today. As some would say, is it not more human to give a shot of morphine than to pull the plug on the respirator and watch someone go through the final stages of death.

Let me conclude these few remarks by reaffirming the need for a positive approach to life and our care for the sick and dying. Much confusion exists over such terminology as death with dignity. Everyone has his own interpretation. Instead of death with dignity, we should emphasize "dying with dignity." We must take a more positive stance and show greater concern over care for the dying patient. Hospice has such a program and emphasizes so beautifully as its philosophy—"We do not prepare you for death, but we teach you have to live until you die."

Do we really need death with dignity legislation, or is this type of legislation even in its innocuous formulation but the beginning of accepted euthanasia practice in our country? I have yet to see proof that such legislation is necessary and is going to solve the very delicate balance in the doctor-patient relationship in the providing of health care. Doctors and other medical personnel are faced with life and death decisions on a daily basis. Hopefully, the doctor will always remain the agent or advocate for life; if death ever becomes easy or simply routine or becomes impersonal through legislation, then the role of the doctor changes. He quickly would become the advocate for death. Worse still, a third party, whoever that might be, would then be given the responsibility of determining who should live and who should die.

Legislation can never solve the human dimensions of illness and suffering. Attempts to legislate have proved inadequate and have left more questions or problems than one hopes to solve. Such legislation will, of necessity, encourage additional legislation which in turn will reinforce the present climate in our country for legalized euthanasia.

My plea with you today is to become better informed on the issues, to know what is being discussed and proposed, to have our Catholic hospitals establish policies on the care of the dying patient, to take positive action and respond to a real human need which is the basis for death with dignity legislation. Let us not simply be reactors to crises but give a positive response and Christian concern to the antilife forces of our day. We believe in the right of the patient to die with dignity; we believe that each patient should live meaningfully until death occurs naturally. We believe that care of the dying is the responsibility of each of us and will be faced by each of us at the appointed time in our own life. Hopefully, as we care for others in a Christian, loving way, those who care for us will believe in the value of all human life and that life cannot and must not be shortened because people have become a financial liability or simply a burden to society.