



Our Mission: To bring about such changes in Western Australian Statute Law and to medical ethics as will allow a person to receive medically assisted euthanasia under circumstances specified by him or her, when legally competent to do so.

His Right to die but not his Way

On Friday 14 August 2009 the case of *Brightwater Care Group (Inc)* and *Christian Rossiter* was decided in the Supreme Court of Western Australia.

The case concerned Mr Rossiter, a 49-year-old former stockbroker suffering from spastic quadriplegia as a result of 3 serious accidents. Due to his quadriplegia he is unable to take nutrition or liquids orally. Mr Rossiter receives nutrition and hydration by way of a percutaneous gastrostomy tube (PEG) inserted in his stomach.

In recent times Mr Rossiter had requested on a number of occasions that Brightwater cease providing him with nutrition via the PEG. Brightwater which provides a residential facility in Marangaroo for people with disabilities and where Mr Rossiter lives had asked the court to decide whether they were legally obliged to comply with his wishes or alternatively whether they were legally obliged to continue to provide the nutrition that he required to live.

In his decision the Chief Justice, who recognised the tragedy of Mr Rossiter's circumstances, noted that he was totally dependent on others, unable to take nutrition orally and had to be fed by a PEG, and although not terminally ill or dying had been advised he had no prospect of his medical condition improving.

It was accepted by all involved that he had full mental capacity and no one else had the right to make decisions for him.

The declarations made by the Chief Justice Wayne Martin can be summarised as follows:

1) That if after Mr Rossiter had received advice from a doctor about the consequences that would follow if he no longer received nutrition via the PEG, and Mr Rossiter then requested that nutrition ceased, Brightwater could not lawfully continue to provide that nutrition.

Continued next page

ANNUAL GENERAL MEETING

**Wednesday, 28 October 2009
at 2 pm
Citiplace Community Centre**

on the walkway between the Art Gallery
and Myer Store opposite the escalators
at Perth Railway Station.

Afternoon tea provided
All welcome

His Right to die but not his Way - Continued

2) That at any time Mr Rossiter could change his mind about his decision to cease nutrition.

3) That Brightwater would not be criminally liable for any of the consequences that would result from nutrition ceasing as requested by Mr Rossiter.

4) That persons providing palliative care to Mr Rossiter following his decision to discontinue treatment necessary to sustain life, would not be criminally liable.

The decision affirms the right of every competent adult to choose whether or not to receive medical treatment including its continuation. More specifically it recognises the right of a competent adult who has received advice about the consequences, to refuse treatment, even if that includes nutrition necessary to sustain life. This decision therefore clarifies the position for the medical professionals and organisations that provide care for people such as Mr Rossiter.

WAVES has had a particular interest in the outcome of this matter. Some time ago Mr Rossiter approached WAVES and

discussed his circumstances with Mr Ranjan Ray, the President of WAVES. He welcomed the support of WAVES and its commitment to promoting the right of individuals to seek a painless and dignified end to their lives.

As has been reported in the media, Mr Rossiter continues to express **his wish to die by way of painless and speedy euthanasia at a time of his choosing.**

It is understood that he is still exploring the possibility of travelling to Dignitas in Switzerland.

Due to Mr Rossiter's case voluntary euthanasia has received significant coverage in the press. The Westpoll survey, taken shortly before it emerged that Mr Rossiter's case would go to court and reported in the West Australian (8/8/09), showed 79% supported voluntary euthanasia. Very encouragingly this was up from 77 percent in June 2008 and 72 % in 2006.

THE TRANSCRIPT AND DRAFT JUDGEMENT FOR BRIGHTWATER CARE GROUP (INC) AND ROSSITER ARE AVAILABLE ON THE SUPREME COURT OF WESTERN AUSTRALIA WEBSITE - www.supremecourt.wa.gov.au

Linda Savage



Détente, Dignity

Being sentenced to die against one's will is as appalling as being sentenced to live against one's will. Governments may yet have the nous to support those who need to live, and die, with equal sensitivity; access to a law recognising this long overlooked aspect of equality. Assist those who feel comforted by palliative care as much as those who dare to work for another way out of pain. Advocates for a life-regardless may yet acknowledge the altruism of a life and a death with regards.

Joyce Parkes

ED.: *This beautiful poem reprinted with our apology to Joyce Parkes for errors in our previous edition.*



Letter from the President

The Society enters its thirtieth year full of hope and with a sense of optimism. By any measure this has been an eventful year and we have seen a few positive moves. But regrettably we are still some distance away from our eventual goal and that is legalisation of voluntary euthanasia.

Christian Rossiter's case is well known and has been widely reported on. He joined our Society a few months back and expressed his frustration at his circumstances, which he described as "living hell". He sought our advice and help to end his life. Our advice was that while we sympathised with his condition and feelings, we could not help him in any practical way. Our advice was that he could refuse, if that was his choice, the treatment that he was under. As he is being fed by PEG, that would mean him starving to death. The nursing home that he is in, decided to go to court for a clarification about their obligation towards Christian and his treatment.

Accordingly, the case was decided by the judgement handed down by the Chief Justice Wayne Martin on 14th August at the Western Australian Supreme Court. The judgement clarified the Common Law rights of every person to determine what sort of treatment he/she is to receive. Your Society feels that it is a vindication of the stand taken by us over the years and clarifies that while the Parliament in this State is too timid and hypocritical to legalise voluntary euthanasia, a patient can always lawfully starve himself/herself to death. It may not be the best way and certainly not what we would recommend as the first choice, but at least it means that a patient need not prolong his/her life needlessly.

At our first meeting with Christian Rossiter, I had explained that although there is very little help that we can give him, he could help us a lot, which was just by publicising his physical state. Christian, who has a very sharp and critical mind and intellect, understood the position and we are grateful to him for making the case for voluntary euthanasia so strongly and so effectively.

For this we salute Christian for his courage and thank him for his help.

The media, much to our satisfaction, reported widely on the case and particularly on Christian's predicament. The resultant publicity did not surprise us, as we have always known that the community support for our cause is widespread, but we hope the parliamentarians would have noticed and will act on it.

We would once again urge the parliamentarians to take their heads out of the sand and accept that there is wide support in the community for legalisation of voluntary euthanasia and act on that. Perhaps the first step could be to amend Section 288 of the Criminal Code that deals with aiding and abetting suicide and accept that compassion and mercy can and do have a part in helping a suffering person to commit suicide. It should not be beyond the ingenuity and intelligence of the legal minds to draw up a suitable legislation.

We have previously talked of the Acts Amendment (Consent to Medical Treatment) Act 2008, (Living Will Legislation), and have continued to keep the members informed on its progress or lack of it.

I am pleased to report that there have been some very positive movements towards its proclamation. Your Society was invited to a workshop to discuss the forms and the guidelines for those. That in itself is a positive outcome, in as much as the West Australian Voluntary Euthanasia Society has been accepted by the various Government departments as one of the relevant parties for discussions on end-of-life decisions. As you are aware, one of our problems had been to convince the politicians that voluntary euthanasia is a serious issue and that your Society is the main driving force behind it.

Cont next page



Letter from the President - *continued*

We were to consider the draft form prepared by the Health Department for an Advance Health Directive together with the guide, and another draft form for an Enduring Power of Guardianship prepared by the Office of the Public Advocate together with the guide for that.

In common with the majority of the other interested bodies that were at the workshop, we felt that there was room for improvement in the design and explanations. We submitted our suggestions and now we are waiting for the response from the Government. It appears that the Government is serious about the proclamation and we feel that the Act will be proclaimed before long.

It will be a big leap forward to have a legal form for advance directive and if we can persuade the parliamentarians to include a provision for voluntary euthanasia in that, we will achieve our aim.

I have mentioned before that the Management Committee and the Executive will have completed their two year term and will step down at the Annual General Meeting. I appeal to the members, specially the younger members, to nominate for the committee so that we have some fresh faces and minds to take us forward. We can do with some help from persons with expertise in media, publicity, advertising, information technology and generally fresh, new ideas.

ARE LAWS MEANT TO BE BROKEN ?

Criminals certainly think so. The vast majority of us, however, choose to be law abiding citizens. But what if a law is unfair or unjust?

History proves that Australia's citizens can be roused into civil disobedience when a law is seen to be discriminatory and unjust. They have challenged many such laws and have achieved law reform on numerous occasions.

Every Australian state has a law, which deems the act of seeking or being given assistance in a lawful act (suicide) as unlawful and subject to draconian punishment. This law is an absurdity. We can legally refuse medical intervention, choose a slow death by starvation and dehydration, but we are denied the choice of a quick, peaceful death by a painless, lethal dose or injection? WHY?

Democracy is about equality for all. Death is very democratic - everyone dies. Dying itself, however, is not equal. No-one is guaranteed a swift, painless, gentle death unless in some way privileged by profession or status.

Why are some more equal than others?

Law abiding Australians have been campaigning for more than 30 years for the legalisation of Voluntary Euthanasia.

The not-so-silent majority (80%+) has consistently made its views known and just as consistently our law makers have ignored us.

I don't want to be labelled a criminal if I exercise my freedom of choice and seek the means to bring about a gentle death if I am enduring a hopeless or terminal illness.

But I'm tired of the inequality - when voluntary euthanasia is legalised it will mean freedom of choice for ALL.

I'm tired of the scare-mongering tactics of the minority and of the endless procrastination and lack of action from our elected representatives.

I think the time is ripe for some affirmative action. What do you think?

Pamela Barrett

P.S. Thank you everyone who signed my petition seeking the legalisation of Voluntary Euthanasia. I am delighted to report that the petition was tabled in Parliament by Mr Robin Chapple MLA on 2nd of June 2009.

LAW LORDS unanimous on need to clarify Legislation

In our February 2009 edition we published an article titled "Clarity in Legislation" relating to the Debbie Purdy case in Britain. To recap, Debbie Purdy, a wheelchair-bound sufferer of MS, wanted the law to clarify whether her husband would or would not be prosecuted as a person assisting suicide, if he escorted her to Switzerland to terminate her life with the VE organisation Dignitas. At that stage, British law was vague on the issue and refused to give advance clarification.

Since then, there has been a positive breakthrough. "The Times" printed the article below:

"Families who help terminally ill relatives to end their lives will be free from the risk of prosecution after a landmark British ruling.

Britain's Director of Public Prosecutions is to rush out urgent guidance to clarify the law after Debbie Purdy, a multiple sclerosis sufferer, won an historic judgment from the House of Lords yesterday.

The guidance will not remove the offence of assisted suicide under the Suicide Act 1961 but will make the situation clearer for people who help relatives to die in circumstances of "compassionate" assisted suicide.

In their unanimous ruling, five Law Lords said that the director must issue a "custom-built" policy stating which circumstances would lead him to prosecute, and which would not. It is the first time that the director has been asked for this detail by the courts.

Director of Public Prosecutions Keir Starmer plans to issue temporary guidance within eight weeks and then draw up a draft prosecution policy for public consultation.

Purdy emerged from the House of Lords to cheers from supporters and said she was ecstatic."

So what does this ruling mean for British residents? The unanimous response of five Law Lords cannot be overlooked in its significance. Without dissent, they understood the gap in the law that does not spell out "compassionate" assisted suicide as a special case of assisted suicide (that is, different from assisted suicide without compassionate motive). They are demanding a policy that will spell out in advance the

criteria that will have to be met for an assisted suicide to be considered "compassionate" and therefore immune from prosecution.

It indicates an agreed position on the dilemma into which the loved ones of a person who needs to terminate his/her life on grounds of terminal or irreversible illness are necessarily thrust. This dilemma is caused, of course, by the absence of positive voluntary euthanasia legislation that would enable a person wishing to end his/her life to legitimately seek medical assistance to do so without involving the covert conspiracy of loved ones.

Britain is apparently still no closer to active voluntary euthanasia legislation, which is the goal of all VE supporters in Britain as in Australia. However, the bridge between the two positions may just have been narrowed by a whisker and this is cause for optimism.

Ann David

Voluntary Euthanasia law proves successful in The Netherlands

NVVE Relevant - August 2009

New figures recently released of the total reported euthanasia cases showed an increase of 10% from 2,120 in 2007 to 2,331 in 2008.

"The euthanasia law is a success" according to Mr Jan Suyver, president of the "toetsing (testing) committees". He believes that more and more doctors are recognising the possibilities that the euthanasia law now provides. He is also appreciative of the hard work done by the SCEN medical teams acknowledging the dedication of the Dutch medical establishment to the quality of the service provided. But he adds: "We can make it even better".



ELECTION TIME AGAIN

Yes, it is time for a change of the Guard. After two years in the saddle - longer for some - the 'old' team needs a break and this is a good opportunity for a new, energetic panel with fresh ideas to take charge and set the pace. If you are passionate about VE law reform, this is your chance to help make it happen by taking part in the decision-making process.

Please, seriously consider nomination for any of the following positions:

Executive Management Committee:

- President
- Vice President
- Secretary
- Treasurer

Management Committee Portfolios:

- Membership Secretary
- Political Liaison Coordinator
- Marketing & Promotions Coordinator
- Research Officer/ Librarian
- Editor WAVES News
- Office Supplies & Property Manager

All above - and any supporting - positions, are of voluntary nature, but expenses incurred will be reimbursed. For more information, please contact our Secretary - Tel 9277 5577

West Australian Voluntary Euthanasia Society (Inc)

NOMINATION FORM FOR ELECTION TO A VACANT POSITION

POSITION:

CANDIDATE:

Title(s): First Name: Surname:

(name in block letters)

Address:

Phone: Year of birth:

I accept nomination to the above position
(signature) (date)

I offer the following summary of my background relevant to the position:
.....
.....
.....

PROPOSED BY:
(name in block letters) (signature) (date)

SECONDED BY:
(name in block letters) (signature) (date)

Notice Board

“AT WHAT POINT ARE WE ALLOWED TO SAY, LIFE IS NOT WORTH LIVING?”

This question is raised in Susan Varga's recently published novel "HEADLONG", which is a compelling story about the end of a life and the ethical dilemma exposed at this particular occasion. It is a question that begs for an answer, but is it possible to be specific about this?

The UWA Extension has, as part of their Spring School 2009 program, organised a course "Life Choices – Life, death and voluntary euthanasia", during which Canon Frank Sheehan and Susan Varga will debate the moral and ethical issues of voluntary euthanasia.

It promises to be a very interesting evening.

The date: Wednesday, 28th October 2009 at 7.00 – 8.30 pm; the venue will be Christ Church Grammar School – Centre of Ethics. The fee is \$ 20.00.

For bookings phone 6488 2433 or online www.extension.uwa.edu.au.

EVERYONE WAS WATCHING THE SUICIDE TOURIST

Screened on ABC1 on 27 August 2009

This thought provoking documentary by Canadian director John Zaritsky, told the story of people seeking assisted suicide through the Dignitas group in Switzerland.

The controversy about a person's right to die at a time and place of their own choosing has become focused on Dignitas and its founder, civil rights lawyer, Ludwig Minelli. Based in Zurich, it is the only organisation in the world prepared to help people seeking an assisted suicide to die, no matter which country they come from.

The documentary was followed by an online forum with panellists Dr Philip Nitschke and Christopher Pearson, conservative Roman Catholic journalist. This varied discussion can be followed on www.2b.abc.net.au/communities. Log in needed, then look for Television> List of all TV forums> Documentaries >Live Forum The Suicide Tourist. **Did you have your say?**

West Australian Voluntary Euthanasia Society (Inc)

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MEMBERSHIP RENEWAL FORM

Membership year runs from 1st of July to 30th of June of the following year

Standard Rates

- Single \$ 20
 Double \$ 30
 Life Single \$ 200
 Life Double \$ 300
Donation \$

Pensioner / Student Rates

- Single \$ 15
 Double \$ 25
 Life Single \$ 150
 Life Double \$ 250
(Rates effective from 1st July 2009)

Payable to WAVES at the above address or at any BankWest branch:

Account **WAVES - BSB no: 306-061, account no: 419 8239.**

Please complete this form and forward to us, or bring it with you to the meeting. **We need these details !**

Mr&Mrs Mr Mrs Ms Miss Dr

Please print clearly

Initials Surname

Address

Postcode Phone Year of birth:

Email

EXIT News

EXIT International welcomes WAVES' members to join their organisation and points out that only EXIT members are allowed to attend the meetings.

Please phone Carol O'Neil on 0429 039 167 for further details.

BEQUESTS AND DONATIONS

WAVES depends on membership fees and bequests to be able to continue its work towards law reform. To make a bequest, please contact us for details.



WAVES has no religious, professional or political affiliation. Its membership comprises a wide range of people - some from a variety

of professions, including medical and nursing, some from religious organisations and some politicians. Many have publicly expressed their support for the legalisation of voluntary euthanasia, both passive and active.

PARTICIPATE IN OUR CAUSE

You can help us make Voluntary Euthanasia a legal choice.
Explain it to your friends and family.
Write, phone or visit your State MP.

Make your views known !

WEST AUSTRALIAN VOLUNTARY EUTHANASIA SOCIETY (Inc)

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Management Committee 2008

President: Ranjan Ray

Vice-Presidents: Dr Ralph White/ Murray Hindle

Hon Secretary: Brian Ross

Hon Treasurer: Murray Hindle

Committee Members

Nelly Brandsma, Tina Christensen, Linda Savage,
Sheila Suttner, Stephen Walker

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