



VOLUNTARY EUTHANASIA SOCIETY OF NEW SOUTH WALES (INC.)

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Nancy Crick's Death



Nancy Crick grew up in Victoria where she worked as a barmaid. In 1989 her husband of 37 years died suddenly just as he was about to retire from the docks and move with Nancy to the Gold Coast in Queensland. Nancy, 69 was suffering from bowel cancer and heard about voluntary euthanasia soon after having surgery. She

became a member of the VES and, wanting to know more about her options, contacted Dr Philip Nitschke, who to her surprise, urged her to have palliative care. Two years later she announced that she planned to end her life using lethal drugs she had obtained legally. She also indicated that she would like family and friends to be present when she took this step. The 21 family and friends who provided this support when she suicided, may now face prosecution.

Nancy Crick: Final Public Statement

ABC Radio National, 23May 2002

‘My name is Nancy Crick, I’m 69 years of age and I live in my own home here at Burleigh Waters in the Gold Coast. Three years ago I found I had bowel cancer and I’ve since had three operations. Despite the best surgery and palliative care, my life has deteriorated to such an extent that I feel that death would be a blessed relief. But I could not legally get help to do this and the Premier, Mr Beattie, says the law will not change.

I joined the Voluntary Euthanasia Society of Queensland to help bring about a change to these unjust laws. I joined EXIT(Australia) and asked how I could best draw attention to my situation so others would not have to suffer as I have had to. One way I thought I could make a difference was by an internet diary -www.nancycrick.com. The diary has given me a chance to explain to everyone why I think we’ve got to make changes to the law. I’ve been overwhelmed that my diary has been such a huge success and I’ve had letters of support from all round the world.

One thing I used my internet site for was to get the drugs that would help me die peacefully, easily and reliably, when I decided it was time to go. Several kind people provided me with drugs which I know will put me to sleep and end my life. The thing that

most upsets me is that the law says I can kill myself anytime I want to, but no one can be with me because they might have helped me. Well that’s just rubbish and I don’t see why I should die alone. I don’t want to die alone.

Surely people just sitting with me, people I love, my friends, don’t have to risk going to jail, just because they chose to be with me when I die. So I’ve invited relatives, friends and supporters of voluntary euthanasia to be with me - ‘Nancy’s Friends.’ Under existing laws, here in Queensland and everywhere else in Australia, those who choose to be with me risk prosecution and a possible jail term of life imprisonment. The law may decide to charge my friends who stayed with me. The law may say that simply being with me is the same as helping and assisting in my suicide. **THIS IS JUST NOT TRUE.**

I have chosen to take my life at a time when I am able to do so myself, I am not asking for and do not need or want any help to die. I am not being pressured or encouraged to take my life, in fact everyone has been trying to get me to stay longer - but they’re not going through what I am. Let me be clear, no one has paid me, or my friends, family or supporters, any money to do this. I am not depressed or unstable or mad - I’ve simply reached a point where my life is done and now I want to die peacefully. I tried all the medical options, gave all of them my best, but in the end it didn’t work out. I’m not angry and I don’t feel sorry for myself - it’s just the way it is. ‘Nancy’s Friends’ being with me when I die is meant to be a challenge - a challenge to an unjust law. But I want to protect this group of people as much as I can, and this is the reason I’m making this tape. If anyone out there is asked to serve on a jury that is called upon to judge those who bravely chose to be with me when I died, I want you to acquit these people who have stood by me.

They’ve done nothing wrong. I want you to find them **NOT GUILTY** of any ridiculous charge that tries to say they assisted in my suicide. It’s my death - I’m doing it - **NO ONE** else. ♪

VE Societies Applaud

The Voluntary Euthanasia Societies of Australia applaud the efforts of Dr Philip Nitschke and EXIT Australia in enabling Nancy Crick to speak to the world. The publicity generated ensured that Nancy Crick got the very best palliative care available. Consequently, when Nancy chose death she made a fully informed, rational decision.

We applaud also the courage and decency of the relatives, friends and supporters who granted Nancy’s wish not to die alone.

Media Interest

In Australia, Nancy Crick's story generated the most media attention on VE since the NT law was overturned five years ago and there has also been wide international coverage. An overwhelming number of messages from 1600 supporters in more than 50 countries have been sent to her website www.nancycrick.com and the brisk sales of duplicates of her front door key also indicate the empathy VE advocates felt for her. We share the feelings which Mary Gallnor expressed in her letter in the 25-26 May issue of the *Australian*:

“I write on behalf of the World Federation of the Right to Die Societies to extend our condolences to the family and friends of Nancy Crick on the occasion of her longed for death. Her willingness to again try palliative care in an attempt to gain a

quality of life acceptable to her, showed her independence of spirit and determination to be in control of her life. This is precisely what our movement is all about.

Contrary to what opponents may believe, the voluntary euthanasia movement does not support voluntary euthanasia per se. What it supports is choice. We therefore support the decisions of those people who wish the dying process to take its course, as well as the decisions of those like Nancy who find life, or the dying process, intolerable and seek assistance to die. That is why we support improved palliative care and publicise ways that offer choice in end-of-life decision-making. We acknowledge Nancy's courage during the traumatic time she so bravely endured. We appreciate her willingness to publicise the

FOR YOUR DIARY

Meetings

- **Roger Magnusson** will be our speaker at the next Informal Meeting which will be held at **2 pm on Sunday 21 July 2002** at the **Dougherty Centre Chatswood**. He will speak about his book *Angels of Death: Exploring the Euthanasia Underground*.
- **Central Coast** - Meetings of the Central Coast branch of VESNSW for 2002 will be held on **Mondays at 10 am** at the **Gosford Senior Citizens Centre, Albany Street Gosford**. The dates are: **5 August and 2 December**. **Contact: John Doyle on (02) 4384 6676**. If you would like a lift to these meetings, ring **Debbie Mastin on 4975 2732** and she may be able to help.
- **A Call to Country Members** - VESQ has a Brisbane office and branches on the Sunshine Coast, Fraser Coast, Gold Coast, Bundaberg, Toowoomba and Townsville. VESNSW has a Sydney office but only one branch - on the Central Coast which John Doyle co-ordinates with great style. Are there members in areas such as the Blue Mountains, Dubbo, Newcastle, Wagga Wagga and Wollongong who would be prepared to form new branches? Ring Carmel Marjenberg in the office on (02) 9212 4782 and she will help you get started.
- **Conference in Sydney, May 2003** - *Helping Ourselves When Governments Won't* which focuses on the delivery of services and self-help to the dying. More information in subsequent issues of the Newsletter.
- Please send your email address to the VESNSW office if you would like to receive VE updates.

institutionalised cruelty of our present prohibitive and paternalistic law. The support of the world movement was with Nancy in any decision she made. We have all rejoiced in the extension of time that she was able to enjoy with her loving family and friends. The extra burden that Nancy assumed, by sharing her story, was not in vain. She died in the knowledge that her contribution will have influenced opinion towards compassionate reform. 9

Legal Implications

Predictably, the Right to Life stresses that 'prosecution is the only way to stem the tide.' Here is the legal opinion of Terry O'Gorman, vice-president of the Queensland Council for Civil



Liberties, who states that there is no precedent for laying charges against those present at the time of Nancy's death. In the 25-26 May *Australian* he wrote:

6 Nancy Crick, through Philip Nitschke, asked for advice before her death as to whether, is she alone took all the steps to end her own life, those present to give solace and comfort at the time of her death could be charged with a criminal offence.

My advice, which was vetted by a senior Brisbane QC specialising in criminal defence law, was that there was no precedent for such a charge. However, I advised that the possibility existed that mere presence without in any way assisting Nancy to take her life *could* be viewed by the police as constituting the offence of assisting her to commit suicide.

In Australia committing suicide is not an offence but assisting another to commit suicide is. I am not aware of any similar case in Australia where friends and relatives who were present to give comfort when a terminally ill person takes their own life has been charged with a criminal offence.

It would be a travesty and an outrage if that were to occur in this case. Nancy Crick made it absolutely clear for a number of months that she intended to obtain for herself the necessary drugs

to end her own life at a time and place of her own choosing. It appears, from media comments made just before her death, that that is exactly what Nancy did. Those who argue that the 21 present at Nancy's death should be prosecuted are ideologically driven. While the Right to Life adherents have a right to express their views publicly and forcefully, the Queensland Police Service should be extremely careful that they are not put in the position of being used as the pawns of the Right to Life.

If the 21 persons present have committed an offence (which I doubt), it is a technical offence. Technical offences are frequently not prosecuted because the prosecuting authorities decide the prosecution would not be justified. If the police form the view that prosecutions will be instituted, it is vital that the Director of Public Prosecutions, which is at some distance removed from the police, makes the final decision whether to prosecute or not.

Emotive comments that Queensland will become the euthanasia centre for Australia is a prosecution does not ensure should be disregarded and ignored. If a prosecution is laid, that will mean than any other person who is dying and wishes to take their own life at a time and place of their own choosing will have to do so alone without any friends or relatives being present. Such a prospect is unthinkable. 9

National Library Archive

Nancy's website www.nancycrick.com will be included in the National Library of Australia archiving facility PANDORA, which provides long-term access to online publications of national significance. A NLA spokesperson reported: 'She's quite happy to be in a library but she's a little concerned they might want to put her in a museum'.

How You Can Help

Costs are high and more money will be needed. Show your support for the cause by sending a donation to: Australian EXIT, PO Box 37781, Winnellie NT 0821

Phone: 0500 83 1929 - FAX 08 8339 7563

Email: verf@euthanasia.net

Letters

The opposition recently expressed to VE prompted these letters from Committee Members Dorothy Simons and Kep Enderby:

‘Dr Amin Abboud is wrong in calling Nancy Crick ‘a victim of euthanasia’. She was not lonely, isolated, nor did she lack emotional support.

When I visited her two weeks before she committed suicide I could see that she was in great pain and very ill indeed. In fact, her suicide was in my view, a totally rational act. She was obviously a very feisty woman who had always been in control of her life. She told me that she had given palliative care a good try and then decided to leave the hospital because her pain could not be controlled without her feeling totally ‘zonked out’. I am sure she could not have been talked into anything, let alone into killing herself. It is not surprising that many more women than men appear to approach Dr Nitschke for advice. During the past 40 years, women have started to take control of their lives. It is therefore not surprising that they want to control their dying. This may explain why 75% of our membership are women - we are not afraid to face death.

Dorothy Simons

Vice President

Voluntary Euthanasia Society of NSW

SMH 30 May 2002

‘Your latest contribution to the debate on euthanasia headed “ Mercy killer must be made to pay - Philip Nitschke is turning the law into joke” by the misnamed Angela Shanahan provokes me to anger and fury much more than helping me understand the very difficult, serious and emotional question of whether, if one wants it to be so, one should have the right to be helped to die in circumstances of one’s own choosing. It can be no coincidence that this recent attack accords with your recent editorials. You and Ms Shanahan defame Dr Nitschke, a long time champion of voluntary euthanasia, to the extent that he will either have to yield to the temptation to sue you (you knowing that he cannot do that because he lacks the means), or allow you to strengthen your campaign against him and voluntary euthanasia generally by arguing that he has not repudiated the obscene and false allegations that Angela Shanahan has made against him. There is no doubt that that was your intention; but is it fair? Nitschke is not alone in the humanitarian, beneficial changes he seeks to our laws and our attitudes to the problems posed by the Nancy Crick case.

Majority public opinion based on reason and compassion overwhelmingly support him. Rather than being someone to be condemned, he is an heroic figure; someone to be admired. It is a pity there are not more who possess his kind of courage.

Sincerely, Kep Enderby QC

The Australian May 2002

AMA Stance on VE Softens

Source: *Canberra Times*, 27 May 2002

Dr Philip Nitschke said yesterday’s crucial vote at the Australian Medical Association’s national conference in Canberra showed that doctors were changing their minds about physician-assisted suicide.

In a secret ballot of doctors, more than 40% of delegates at the AMA conference supported a neutral stance on euthanasia, a policy the AMA strongly opposes. The pro-euthanasia motion lost by 34 votes to 79.... Dr Nitschke said the result was a lost opportunity and unfortunate. ‘[But] there’s a change, a shift, and a closer vote towards a more neutral stance.’ The AMA claimed that the vote showed its traditional opposition to euthanasia was upheld, but Dr Nitschke said there had been a shift in views within the medical profession since 1997, when the national conference last discussed the matter.

Dr Trevor Mudge, vice-president and chairman of the AMA’s Ethics Committee, which is looking at the issue of euthanasia, said the conference vote against euthanasia reaffirmed the association’s position. The AMA’s national conference did support a motion (65 votes to 48) for doctors to have the right to administer palliative care, even it was foreseen that it would lead to death. The difference between palliative care and euthanasia, is intent. So long as the primary motivation was pain relief, not euthanasia, and the patients agreed, then doctors should administer relief even if it was “foreseen” that death would occur.

Dr Nitschke said after the vote that if the AMA adopted a neutral stance, it would help the cause of euthanasia politically. Politicians listened to the AMA and it was a respected organisation. The AMA represents about 48 per cent of the nation’s doctors.

We Will Prevail



On 11 March 2002 at the Parliament House launching of Ian Cohen's *Rights of the Terminally Ill Bill* Giles Yates, VESNSW President, gave this rousing summary indicating why the supporters of legalised voluntary euthanasia will prevail:

'There is a relentless momentum towards legalised voluntary

euthanasia because:

1. Brave individuals such as Nancy Crick, Norma Hall, June Burns and Max Bell will keep coming forward to the media year after year telling their own powerful stories about their suffering and the injustice of being refused the right to die.

2. There is a tide of history towards patient autonomy and away from medical paternalism; towards individual freedom and away from authoritarianism.

a. The separation of Church and State.

b. Respect for different values in a pluralistic society. The extreme version of the 'Sanctity of Life' doctrine is a matter of personal belief.

3. The current prohibition of voluntary euthanasia rests on very shaky reasoning. In particular the prohibition rests on two distinctions:

a. The inherently weak doctrine of double effect that rests on intentions and ignores the outcome. You can request a doctor to give pain relief even if it is foreseeable that the treatment will shorten your life as long as the intention is to relieve pain. The distinction based on intentions is wide open to abuse.

b. The distinction between refusing life-saving treatment and requesting euthanasia.

4. Demographics. The baby boomers can expect to live for another 20-40 years but their parents are approaching death. Over the next 20 years most of the baby boomers will hold the hand of a dying parent, and many will start to ask questions about a better way to die. I expect to hear more and more 'There is no way I'm going to let anything like that happen to me'.

5. I predict that the political turning point will come when the medical profession drops its opposition to VE. The representatives of the medical profession cannot continue to ignore the facts about their members' views and their participation in voluntary euthanasia. A powerful survey by Charles Douglas and others appeared in the *Medical Journal of Australia* in November 2001 and more telling evidence is provided in Roger Magnusson's book which was published in February. More recently, Dr Kerryn Phelps, President of the Australian Medical Association, refused my invitation to discuss the AMA's position in light of the most recent evidence that more than a third of surgeons in Australia have actually administered euthanasia and more than half believe that to do so is morally acceptable in some circumstances. The AMA position is becoming increasingly isolated from the views of patients and doctors. Stubborn refusal to even discuss its position will ensure that the AMA becomes more irrelevant.

6. The prohibition on voluntary euthanasia relies on successful prosecutions of the people who do it. Yet only a minuscule number of people who have done it have ever been charged and the courts have confirmed again and again that they are unwilling to prosecute.

7. The palliative care opposition will be self-defeating. The stronger the movement towards VE, the more resources are poured into palliative care as the alternative. The better palliative care becomes, the clearer becomes the evidence that palliative care is not an acceptable alternative for everyone.

8. And lastly we know from results of polling that it is the democratic will of the people.

I quote Her Excellency Professor Marie Bashir, Governor of NSW, from her concluding remarks when she opened the 3rd session of this Parliament in February:

"Honourable Members, There is a tremendous weight of history and tradition in this legislature, the nation's first parliament, the home of Australian democracy. Today, the democratic aspirations of our State rest with you. I am sure you will exercise your responsibilities conscious of a high sense of duty as Members of this Parliament."

It would be good if the voting for the *Rights of the Terminally Ill Bill* did, indeed reflect the democratic aspirations of our State.'

Editor's Note: Unfortunately, the Bill was defeated.

Suicide, Assisted Suicide and the Law

Kep Enderby's Speech, 24 March 2002 at the VESNSW AGM



By another name, assisted suicide is known as euthanasia - 'a good or gentle and easy death'. Because of the misunderstanding and deliberate obfuscation about the true meaning of the word 'euthanasia' many people wrongly believe that it means the intentional killing

of unwanted people. In order to try and overcome that misunderstanding, people supporting legalisation of euthanasia try to emphasize the idea of its essential voluntarism, by referring to it as voluntary euthanasia. Unfortunately, politicians react to that wrong belief and prohibit euthanasia by making it a crime. As a result, many people who want help to have a gentle death are forced to go underground and resort to secret, devious or dishonest behaviour. A good death may be available if you are lucky, and if your doctor is prepared to risk being sent to prison. It is an absurd, unnecessary and cruel state of affairs. Our Premier, Bob Carr, in the context of Ian Cohen's private members bill, said in an article in the *Australian* last Wednesday that, although the present legal situation was not likely to change, doctors at least should not worry because 'Scout's honour, we won't prosecute you'. If that report is true, how hypocritical can you get. If a law is bad, ignoring it only brings all laws into disrepute. The correct and honest approach is to get rid of the bad law. For political reasons, the politicians are sometimes reluctant to do so.

There are many circumstances in which a person might want to commit suicide and numerous methods of suicide but I will restrict myself to a few which mainly relate to the Nancy Crick case.

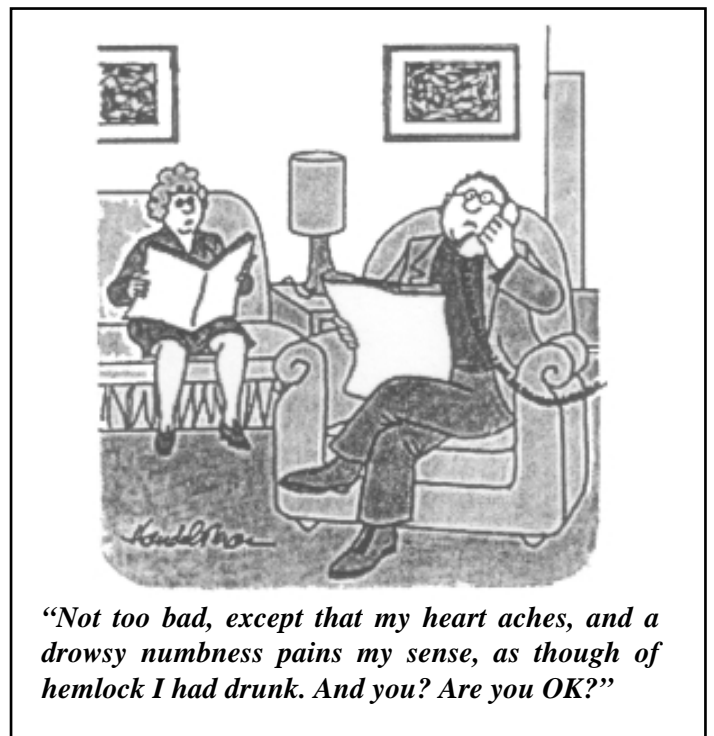
Let me begin with a few quotations: more than 2000 years ago, Aristotle reminded us that 'a person committing suicide does so only to escape some ill'. The corollary of that was expressed by the great Roman poet, Horace (65-8 BC), in his *Ars Poetica*, when he encapsulated the thought: 'He who saves a man against his will as good as murders him.' Perhaps my favourite quotation is by the famous Roman savant, Pliny the Elder (23-79 AD), who wrote: 'Amid the sufferings of life on earth, suicide is God's best gift to man'. While organised religion now opposes suicide and assisted suicide, some famous Christian writers did include them in theories about a perfect world. For example, Sir Thomas More in his famous *Utopia*, written in 1516, expressly provided for suicide and assisted suicide. The famous American writer Emerson, wrote that the basic question about suicide was 'whether it is the way in or the way out'! These quotations show that the opinion that suicide and assisted suicide are morally permissible, can be traced back to many of the great thinkers of the past: to Socrates, to Plato, to the Stoics generally. It was with the emergence, particularly of Christianity, that suicide came to be rejected. Christianity declared that it was only God who could decide whether and when a person should die, and whether that person should go to heaven or hell. It argues that both suicide and assisted suicide come within the prohibition of murder in the sixth commandment of the ten commandments.

Let me cite some legal history taken from the work of one of Australia's greatest judges and criminologists, Sir John Barry. In his learned essay *Suicide and the Law* he wrote of how, although suicide and attempted suicide had by 1965 ceased to be crimes in Australia, they had for many years before that, both in Australia and in England, been crimes. In the essay he described how they came to be become crimes in the first place, pointing out that the very word suicide only came into the English language in 1671 and the great Dr. Johnson excluded it from his dictionary.

Before then, killing oneself was called *felo de se* - One who murders himself. Justice Barry says that the history of the law relating to suicide is a fascinating illustration of the way in which a legal concept that has been devised for one purpose can be taken by lawyers and misapplied to a superficially similar but essentially different purpose. He confirms that although from early times suicide was regarded as impious and anathema by the Church, it and attempted suicide had not always been a crime. He describes how the common law, the law made by judges, made suicide a crime. A strange crime you have to admit, when you could not be punished for it. In feudal times, the penalty for the serious crimes (called felonies) was death followed by what the law calls attainder. In those days, attainder was perhaps a more important part of the penalty for a felony than death, because it meant the extinction of all the civil rights and capacities of the felon including the felon's right to hold property. The attainder occurred when judgment of death was recorded against a person convicted of a felony. It wasn't long before attainder came to mean the transfer of property to the King. As an important purpose of the King's judges at the time was to enrich the King, it is easy to see how there was an incentive for the judges to make suicide a felony which enriched the King!

What is the present state of our law? There is not time to give a full lawyer's account of all the complexities and uncertainties involved. Like so much in the law, much depends on the facts. The absurdity of suicide being a crime had long been apparent. It was finally abrogated as a crime in NSW by the insertion of Section 31A into our *Crimes Act* only a few years ago. Attempted suicide was abrogated at the same time. Suicide pacts and the accidental killing of another during a suicide pact may still give rise to criminal liability. The criminal law in the various Australian states and territories is not always the same: Queensland has codes while NSW express the common criminal law in statute form. While these differences can produce different results, generally it can be said that neither suicide nor attempted suicide is today

a crime anywhere in Australia. Absurdly however, it is still a crime to 'assist' another to commit or to attempt to commit suicide. The concept of 'assist' or 'help' or 'aid' is variously expressed in the different jurisdictions. To an extent, how the concept is interpreted depends on how it expressed in the particular code or statute. In Queensland, for example, the requirement is that the accused 'procure', 'counsel' or 'aid' another to commit suicide. In NSW, liability is defined in terms of 'aiding or abetting' or 'inciting or counselling' the suicide or attempted suicide. Maximum penalties vary according to the whether the offence be



Cartoon: J B Handelsman
Words: Keats' 'Ode to a Nightingale'.

'aiding or abetting' or 'inciting or counselling'. If consented to, charges can be dealt with summarily before a magistrate, in which case the maximum penalties are less. Generally, the concept of 'assist' has a similar meaning to what is called being an accessory to an offence. The problem is how to decide whether, on the facts of a particular case, one person has 'assisted' another person to commit suicide. We can only look at the cases where similar questions have arisen to see how courts have tried to lay down principles. I can only

outline a few but none which deal with suicide or attempted suicide or 'assist' suicide because there are very few reported cases: we know that suicides and attempted suicides happen but they are done discretely - underground so to speak. In addition, police, and prosecutors generally, overlook what happens and take no action. That is what I understand Bob Carr's comments referred to.

The first is an English decision of *The Queen v Coney and Ors.* [1882 8 QBD 534]. It was a decision of 11 very senior English judges so extracting the *ratio decidendi* from it is not easy. At the time when *The Queen v Coney* was decided, prize fights were illegal in England. Not without some doubt, the case seems to say that spectators at a prize fight can be guilty of what I have been calling 'assist' in the commission of the crime of prize fighting. Another case is that of *Wilcox v Jeffrey* [1951 1 AER 464]. A famous American jazz saxophone player was allowed entry into the UK on the condition that he not take any employment there, paid or unpaid. An admirer of the musician, an English journalist working for a jazz magazine knew of his entry and the conditions attached to it. He also knew about a concert which the musician was going to attend and that an arrangement had been made that the musician would be 'spotted' in the audience and invited onto the stage where he would be welcomed but would not perform. However, the musician ended up playing a saxophone that was given to him and the journalist later described the performance and he was charged and convicted of 'assist'. An appeal was dismissed.

These cases are not binding in Australia but they do indicate how a court might approach the case of Nancy Crick. I do not practice law these days, so what I am saying is only a personal opinion but I know it is also the opinion of learned senior counsel in Queensland. Absurdly, anyone who is present while someone commits suicide, even if only with the intention of giving comfort and support to that person, could be found guilty of the crime of 'assisting' that person to commit suicide - although suicide is not a crime. If we apply it to the case of Nancy Crick, we find ourselves in a

ridiculous and cruel situation. Since Nancy Crick's case became public the police have visited her and their questioning upset her: how insensitive can you get? Nancy Crick is exercising her right to die in a dignified manner at a time of her choosing - that is her democratic right. However, by requesting others to be present she is going beyond what the law allows her to do. Importantly, what she is doing is a political act. She wants her action to have meaning and be effective. To ensure this, she wants publicity for her actions. Sympathisers who want to join her, also want to make a political protest.

The law contains what is called a private prosecution. One can't foresee what Nancy's opponents might do. Even if Mr Carr wouldn't prosecute, what if an individual began a private prosecution against Nancy Crick supporters? It could even be worse - it could be alleged that supporters were guilty of a conspiracy to assist Nancy's suicide. What Nancy intends doing requires great courage and she is to be greatly admired. - it is the act of a brave, intelligent woman. Those who want to thank and comfort her by being present will be putting themselves at risk of being charged with an offence that could put them in prison. I hope it will be conveyed to her that I not only sympathise but completely support and comfort her in a very courageous act. If that makes me an 'assister', an 'aider or abetter' so be it.

How would a Director of Public Prosecutions (DPP), react? DPPs are independent of Governments so how would it take over such a private prosecution? Would the DPP continue or discontinue it? Who knows what would happen? It could lead to a protracted process and the uncertainty would be cruel. Criminal law, should always be clear and unambiguous. The law relating to aiding or abetting, or assisting is notoriously unclear and uncertain when it relates to suicide. The great English utilitarian philosophers, Jeremy Bentham and John Stuart Mill, always said: 'we should only have criminal laws that address in some effective way some social mischief.' Sometimes a bad criminal law can produce and create more social mischief than that which it

intended to overcome. That is the case with Section 31C of the *NSW Crimes Act* and the corresponding parts of the criminal laws of the other states and territories. The best known example of a bad law was the 1930s USA law prohibiting the consumption of alcohol - prohibition produced the greatest upsurge of violent crime in America's history. Other examples were the laws relating to abortion and homosexuality. Our laws prohibiting doctors from assisting their patients who justifiably want to die, are cruel and cause great hardship. As the recent book, *Angels of Death*, by Roger Magnusson confirms, these laws also bring the law into disrespect. We are sad when someone suicides, but what social mischief is there in permitting someone who seeks help, comfort and dignity in suicide, to have that - none. Death is part

of life. The right to be allowed to die can be as important as the right to live. In a democratic society, if we want to die and the means are available and the circumstances justify it, we should have a right to a gentle and dignified exit. At present, Australia's laws deny this. Other countries have made progress towards overcoming these injustices: The Netherlands, Belgium, Switzerland and the State of Oregon in the USA come to mind. My preference is for Australia's laws to be much as they were in the Northern Territory where the law was working well until the Federal Parliament overturned it. Another good example would be NSW Senator Ian Cohen's Private Member's Bill should it become law.

Editor's Note: Unfortunately, Ian Cohen's Bill, based on the NT Act, was voted down, 29 to 5.

Vale Diane Pretty

Diane Pretty died on 12 May at a hospice near her Bedfordshire (UK) home. She had begun experiencing breathing difficulties ten days earlier, just three days after she lost her right-to-die court challenge at the European Court of Human Rights in Strasbourg, where she had taken her appeal after the British House of Lords had heard but dismissed her appeal last November (details *VESNSW Newsletter* February 2002, p. 10).

The 43 year-old mother-of-two, who lost a legal battle for her husband to help her commit suicide, suffered from motor neurone disease. Diane had always said she wanted her husband to help her commit suicide because she feared the choking and asphyxia often caused by her disease. As a result of this legal rejection, in her husband's words, 'Diane had to go through the one thing she had foreseen and was afraid of - and there was nothing I could do to help.' Although this brave woman lost her legal battles and was denied a gentle death, let us hope that her attempt will help the next challenger to succeed.

A moving BBC documentary of the Pretty's crusade to change the law generated 15 pages of debate after the documentary makers asked 'Do you think VE should be made legal?'

Current Status of VE Legislation

NT - Right to Die legislation started in July 1996. Four people committed suicide. Overturned by the Senate in March 1997.

NSW - Greens' legislation defeated in March. New Green bill requiring euthanasia trial awaiting debate in the upper house.

SA - Dignity in Dying Bill introduced by Democrat Sandra Kanck before the upper house.

WA - Greens about to introduce a VE bill. Premier Geoff Gallop has promised a conscience vote for Labor MPs. Prosecution of Dr Stephens failed last October.

VIC - No VE legislation but hope for a parliamentary inquiry

QLD - No moves to legislate. Premier Peter Beattie opposes VE.

TAS - No move to legislate.

Peaceful End for 'Right to Die' Woman

Source: *The Guardian* (UK), 29 April 2002

A woman paralysed from the neck down who in March won a landmark legal battle to have medical treatment withdrawn has died peacefully in her sleep, the [United Kingdom's] Department of Health announced today. The 43-year-old woman, who can be identified only as Ms B, won the right to move to another hospital and have her ventilator turned off at a time of her choice after doctors at her original hospital refused to do so.

Dame Elizabeth Butler-Sloss, the president of the high court family division, ruled that Ms B had the 'necessary mental capacity to give consent or to refuse consent to life-sustaining medical treatment'. It was the former social care professional's case that it was her decision, not her doctors', whether the ventilator which kept her alive should be switched off. The Department of Health said: 'Ms B has chosen to have all artificial ventilation which she is receiving as part of her medical treatment withdrawn. She has died peacefully in her sleep after being taken off the ventilator at her request.'

In the ruling, Dame Elizabeth gave Ms B the right to be transferred to another hospital and be treated in accordance with her wishes, including drug treatment and care to 'ease her suffering and permit her life to end peacefully and with dignity'. Dame Elizabeth, who met Ms B at her bedside in a London hospital, said of the patient: 'I would like to add how impressed I am with her as a person, with the great courage, strength of will and determination she has shown in the last year, with her sense of humour, and her understanding of the dilemma she has posed to the hospital. 'She is clearly a splendid person and it is tragic that someone of her ability has been struck down so cruelly'. *Editor's Note:* While this is hailed as a breakthrough in Britain, the NSW Health Department in *Dying With Dignity*, its 1993 Interim Guidelines makes it clear that the withholding or withdrawing of treatment is a patient's legal right and is not VE.

Thanks to Greta Allen and Her Friends

Greta Allen asked her friends to celebrate a special birthday with her, not with presents but with a donation to one of two charities, one of them being VESNSW. As a result of this wonderful idea the Society has received a donation of \$660. We are writing to thank her friends and hope that their gesture might inspire others to follow her example.

14th World Congress of the World Federation of Right to Die Societies

On 6 and 7 September 2002 the World Federation is holding its biannual conference in Brussels, Belgium.

Title: *'Euthanasia and the Law: All Legal Aspects of Death on Request'*

How to achieve legalization
Euthanasia and Human Rights
Research and legalization
Prosecution and case law and legalization
Doctors, medical associations and legalization

Interested members can register at the Congress Secretariat:

NVVE
PO Box 75 331
1070 AH Amsterdam
The Netherlands
Phone: 00 31 20531 5911
FAX: 00 31 20428 2436
Email: euthanasie@NVVE.nl
Website: www.euthanasiaandthelaw.info

Kon-Tiki's Thor Heyerdahl dead at age 87

Source: *The Associated Press*, 18 April 2002
OSLO, Norway: Thor Heyerdahl, the Norwegian adventurer who crossed the Pacific on a balsa log raft and detailed his harrowing 101-day voyage in the book *Kon-Tiki*, died Thursday night. He was 87. Heyerdahl stopped taking food, water or medication in early April after being diagnosed with a terminal brain tumour.

VES NSW Annual Report

Copies of the 2001 Annual Report are available in the office. Bill Shaw who has been a valued member of the VES NSW Committee since its inception has been forced by ill health to stand down. The following members of the Committee were elected unopposed:

2002 VESNSW Committee

Giles Yates - President

Dorothy Simons - Vice President

Bob Gallagher - Treasurer

Yola Center

Kep Enderby

Rhonda Taylor

Elizabeth Symonds

Daniela Viola

Judy Wedderburn

Diana Wyndham

Dutch Sets Limits for Euthanasia

Source: *VENEWS*, London, February 2002

A legal test case has set the limits within which doctors may agree to assist their patients to end their lives. Dr Sutorius, a GP, was found guilty of assisting one of his patients to commit suicide.

86-year-old Edward Brongersma, a former Dutch senator, was described as being obsessed with his physical decline and what he saw as a hopeless existence. Mr Brongersma repeatedly asked his GP for help in ending his life, but the court ruled that this type of 'existential' suffering was not covered by the Dutch voluntary euthanasia law, and could not in any case be evaluated by doctors.

The judgement has drawn a line between 'unbearable and hopeless' suffering of a medical nature, and 'existential' suffering, characterised in this case by symptoms of ageing, loneliness and fear of further decline. The ruling was welcomed in medical and political circles. Since the GP had acted out of concern for his patient and had freely reported his actions, the court imposed no punishment. Though the new law did not come into force until 1 April the court considered the legislation in reaching its judgment in what was seen as a test case seeking to define the limits of euthanasia.

Belgium Legalises Euthanasia

The Belgian parliament has passed a law partially legalising euthanasia. After two days of heated debate, the lower house of the Belgian parliament endorsed the bill by 86 votes to 51 with 10 abstentions. The result was widely expected following the Belgian Senate's approval of the law last October. The

Belgian law sets out strict conditions governing assisted suicide. Once the law goes into effect, a doctor who assists will not be guilty of having committed a crime if the patient is terminally ill and has made the decision themselves.

Source: *BBC* London, 17 May 2002

VOLUNTARY EUTHANASIA SOCIETY OF NEW SOUTH WALES

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SUBSCRIPTIONS AND BEQUESTS INFORMATION

Membership subscriptions to VES NSW are \$20 single and \$35 for a couple. Concession rates of \$14 single and \$25 for a couple are available for pensioners and students. Life membership costs \$230 single and \$350 for a couple.

Many loyal friends have found that a bequest is one way they can make a significant gift to further our Society's efforts to change the law and to educate the community. A bequest form is also available from the Society's office.