



Dying *with* Dignity

Tasmania (Inc)

PO Box 1022
Sandy Bay
Tasmania 7006
Phone: 0450 545 167 (leave a message)

Your Right To Choose

Website: www.dwdtas.org.au
Email: dwdtas@dwdtas.org.au

November 2012

COMMITTEE FOR 2012 - 2013

Margaret Sing (President)
Helen Brookfield (Treasurer)
Bruce Edwards
Trish Kershaw
Barbara Porter
Allan Cameron AM

Bill Godfrey (Vice President)
Keith Anderson (Secretary)
Mike Harris
Hilde Nilsson
Noel Woodrow
Dr Helen Cutts

Patron: Professor Colin Wendell-Smith AO

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FORTHCOMING EVENTS

DwDTas Committee Meetings: These are usually held at the Glenorchy Library, on the second **WEDNESDAY** of each month, starting at 2.00pm. The next scheduled meeting will be Wednesday 12 December. **Please note there will not be a November meeting.**

Members are very welcome to attend and to contribute to the discussion but, as these details may change depending on the availability of committee members, please check with a committee member beforehand.

Next Salamanca stall: 1 December. If you can help, we'd love to hear from you. If you'd like to come and say hello, we'd be pleased to see you.

Major event in March?: We intend to organise a major public event with a well-known guest speaker but have delayed until we know when the consultation paper is coming out and the legislation introduced. The aim will be to generate media coverage and publicity for the proposed dying with dignity Bill.

Regional workshops for consultation on new Bill: We will be planning regional workshops as part of the consultation on the new Bill, as soon as we are aware of the timetable and process for the release of the consultation paper. We will contact members directly about the workshop in their region to invite you and your friends to make your views known.

CAN YOU HELP?

- **Meetings with MPs:** As part of our campaign in the new year, we want to organise meetings with MPs in both Houses of Parliament but especially with Legislative Councillors. We would like to have one or more electors in the particular electorate with us when we talk to each MP so that you can put your personal views in support of assisted dying legislation to your Parliamentary representative. If you would be prepared to come on a visit to MPs, please leave a message on our phone at 0450 545 167 with your name and a contact phone number if possible.
- **Letters to papers, MPs, etc:** It's important in the next few months that those who support the new Bill make their views known. We all know that the vast majority of the population supports such law reform but those who oppose it are much more vocal. We encourage you to write to the papers, MPs, public commentators, etc. If you would like some assistance to do this, please contact us.

CONSULTATION PAPER AND NEW ASSISTED DYING BILL

We know that the consultation paper on the new assisted dying legislation has reached a close to final draft stage, but do not yet know when it will be released. DwDTas has expressed the view that it would be better to release it early next year rather than try to get it distributed and information sessions held at this time of the year. The delay has been a bit frustrating but we know it's a matter of resources, not any lack of commitment to the new legislation.

We understand that for the consultation, there will be a long and detailed paper and a short paper which will be a summary. We will let you know when the papers are available and aim to provide copies of the short paper to members who request one. It's going to be very important to have as many as possible expressing support for the Bill. We know the small but very vocal opposition will be out in force.

AGM

The DwDTas Annual General Meeting was held on 20 July 2012 at the Glenorchy Library, followed by a discussion on what should be included in a new dying with dignity Bill. It was very good to see some new members as well as our long term supportive friends.

Margaret Sing and Bill Godfrey will continue for this year in the positions of President and Vice-President and a number of Committee members also remain in their positions. There were a few changes in the Committee and position holders and we welcome new Committee members, Helen Brookfield and Bruce Edwards. In addition to joining the Committee, Helen volunteered and was accepted for the Treasurer's position. This will give long-serving and hard-working Treasurer, Trish Kershaw, some well earned relief. We thanked Trish for her great contribution in the position for many years.

Keith Anderson has also taken over from Barbara Porter as Secretary. We thanked Barbara for carrying out that role for the last two years.

Retiring Committee members, Allan Cameron and Dr Helen Cutts, agreed to be co-opted to the Committee even though they may find it difficult to get to meetings. Their passion for reform and their knowledge, advice and assistance is extremely valuable. The Committee agreed at the August meeting to co-opt them to the Committee.

Professor Colin Wendell-Smith continues as Patron and to provide active support. We are also very grateful for the assistance of Jim Anderson who was again appointed Auditor.

The financial report showed that DwDTas is in a good financial position, with over \$15,000 in the kitty for the upcoming campaign. (That has improved further recently – see President's report.)

PRESIDENT'S REPORT

Funding: Our great friends at DwDV have provided us with a very welcome donation of \$10,000 to assist our efforts in the campaign for the new Bill. It is also possible that more funds will be made available by YourLastRight.com.

Action in the last 6 months: We have continued to be actively involved and to provide information and views for the development of the consultation paper and the new Bill and to continue the research and planning of resources and our campaign for the consultation process and in the lead up to and at the time of the debate on the Bill.

There has also been a great deal of action related to improving end-of-life planning through providing practical information, advice and assistance. See the report below on the great work of Bill, Helen and Hilde.

The weather was not kind for the last Salamanca stall on 29 September. That was the day high winds forced the early closure of the market. The hardy Committee members who had staffed the stall had just packed up and got all the material into Keith's car when the skies opened! Nevertheless, there was strong support received for legislation and at times there was a line of people wanting to sign the statement of in-principle support which we will add to our submission for the consultation process on the new Bill.

Action to promote ethical campaigning and to challenge misinformation in the campaign against law reform: As reported before, a key part of our campaign is the promotion of an ethical approach by both sides of the debate, which includes pointing out inaccuracies and misleading aspects of the material being used. We respect everyone's right to express their views on this issue but not to use false and misleading material to prop up unsupportable arguments.

Our experience with the University of Tasmania has continued to be a negative one and our complaint has still not been dealt with satisfactorily. As reported in the last newsletter in June, we sent a major well documented complaint to the Vice-Chancellor in March about the lecture last year by Professor Margaret Somerville. The complaint was supported by lengthy material supporting our claims and arguments.

The response from the Vice-Chancellor, received only after a reminder was sent, was relatively brief and included the statement: "I am informed that although Professor Somerville's lecture was indeed polemical, as might be expected given the nature of the debate in which she has been a key public figure, there was **nothing academically inappropriate** about her presentation" (our emphasis). We followed up again, saying we were surprised and disturbed that the Vice-Chancellor should have been informed that was the case. We also said: "We cannot reconcile this view with the fact that your letter did not include any refutation of the detailed information and arguments in our complaint, and yet that material documented examples in Professor Somerville's lecture of numerous inaccuracies, including misquotes and misrepresentations of academic articles, claims that are very unlikely to be accurate, claims that are unreliable and misleading because they are based on poor quality information, including unsubstantiated anecdotes, and the omission of critically important data." We asked him to let us know if any of our material was inaccurate, to reconsider the matter, to do what he could to ensure the postponed Denison Debate, 'Dying to Know', was held as soon as possible and asked for the same opportunity to be provided for an academic public lecture in favour of voluntary euthanasia law reform under the same conditions as applied for Professor Somerville and her sponsoring body, the religious conservative political lobbying organisation, the Ambrose Centre for Religious Liberty.

We were extremely concerned that following this letter we received a very brief response from the University, still not addressing many of the issues we raised in our complaint, and we were referred to Professor Malpas to discuss the matter. We considered this most inappropriate given that he was closely involved with the lecture, had extolled Professor Somerville's credentials as part of his introduction on the night, has cited Somerville in his submission to the inquiry into the 2009 *Dying with Dignity Bill* and he is part of the group "Real Dignity Tasmania", which has included the video of the Somerville lecture on its website and is politically campaigning against the new Bill. Following phone contact to express this view, there has been no response for some weeks. We don't intend to drop the complaint but given the totally inadequate response so far may need to take it up with other people, including the incoming Chancellor, Michael Field.

U3A: We presented a 6 week course for Hobart U3A titled, "What does dying with dignity mean?". The course commenced on 19 June and had over 50 enrolments. On 5 November,

an hour session was presented at Clarence U3A on “Why we need assisted dying legislation”.

Please suggest a presentation or a longer course to any similar groups you’re a member of.

Media: The ABC interviewed me for the TV and radio news on 7 October following comments from Legislative Councillor, Paul Harriss, that “the Premier has become captive to the Greens' agenda over legalising euthanasia” (<http://www.abc.net.au/news/2012-10-08/christian-lobby-steps-up-anti-euthanasia-battle/4300436?section=tas>). There is a very welcome statement in the report by the Rev Dr Bob Fraser of the Tasmanian Council of Churches that not all Christians are opposed to euthanasia.

As usual, only a few seconds of much longer recording was used but it is very pleasing that the media is coming to us for comments on the issue.

There continues to be frequent news and comment in national and overseas media. If you would like to receive an email copy of the weekly media update please let us know.

SUCCESSFUL END-OF-LIFE PLANNING SESSIONS IN NORTH AND NORTHWEST

Through the hard work and great efforts of Vice-President, Bill Godfrey, in particular, and also of Dr Helen Cutts and Hilde Nilsson, there was a successful program of end-of-life planning sessions held in the North and North West in early October. The program included a two hour session in Ulverstone attended by about 70 people and that came about because of the valuable assistance of Alison McArd who promoted the session through her contacts in groups such as Probus, Lions, the Seniors and others. Other talks were given at the Devonport library and to two Rotary Club groups, Latrobe and North Devonport, for 25 and 35 or so respectively (including some visiting members from other Clubs). There was also a session in Deloraine and another one in Launceston. Bill is also doing a session on 7 November in Launceston for a Rocherlea group.

As a result of the sessions, interest has been expressed in future sessions and a local GP bought two copies of the Practical Guide produced by Bill. It is hoped that several sessions could be organised within the course of a few days, perhaps around March/April next year. Bill has made it clear that he would be happy to talk in the evenings as well as during the day so that people of working age are able to attend as well as retirees.

NEW YOUTH GROUP SUPPORTING VOLUNTARY EUTHANASIA

A new youth advocacy group supporting voluntary euthanasia has now been formed. The group, SAVE-YA, is using Facebook to gain supporters for VE law reform around Australia. Here is a link to the segment on the 7.30 Report in SA about the group - <http://www.abc.net.au/news/2012-09-21/youth-support-euthanasia/4275020>.

Amy Orange is the convenor. Encourage her by joining her on Facebook or send her an email commending her on her work or any other means you think of to support her and her group. Her email is saveyouthadvocates@hotmail.com.

In the last newsletter, we reported on the new national lawyers’ group, Lawyers for Legalising VE, and Christians for VE Choice. This is in addition to the Doctors for VE Choice

Group (see www.drs4vechoice.org.au). If you would like more information on Christians 4VE Choice(www.christiansforve.org.au), to join (free) or to express your support as a non-Christian who wants to support the group, you can send your name, address, email address (if you have one), and electorate details to: Ian Wood, Coordinator, Christians Supporting Choice for Voluntary Euthanasia, Villa 1, Hampton Mews, 4 Wills Place, Mittagong, NSW 2575; Or email your details to: iagree@christiansforve.org.au .

SAME SEX MARRIAGE BILL AND DEBATE

We have followed with great interest the same sex marriage debate, including the debate on the Bill in the Legislative Council, because those actively campaigning against same sex marriage are the same or similar individuals and groups as those responsible for the political campaign against voluntary euthanasia law reform. They include for example, the Australian Christian Lobby, the Festival of Light (now rebranded as Family Values Tasmania) and the former Governor and judge, William Cox, who is a leader of the group, Real Dignity Tasmania, campaigning against voluntary euthanasia law reform.

The two campaigns also have a great deal in common, with both based largely on the unwarranted assumption of the moral and ethical superiority of particular religious views held by a small minority of Christians and an even smaller percentage of the general population, and the age old political tactic of fear-mongering and repeated inaccurate, illogical and irrational claims used because they have no substantive arguments.

The Hansard of the debate in the Legislative Council is particularly interesting reading and is available from the website of the Parliament.

NEWS FROM AROUND AUSTRALIA AND OVERSEAS

AUSTRALIA

NSW: There will be a Parliamentary Forum in Sydney on 19 November. Guest speakers include Phillip Adams, host of ABC radio's, Late Night Live, and columnist for *The Australian*, Professor Ken Hillman, Professor of Intensive Care at the University of NSW, Director of The Simpson Centre for Health Services Research and the author of "Vital Signs"; Richard Denniss, prominent Australian economist, author and public policy commentator and the Executive Director of The Australia Institute; Gillian Mears, short story writer and novelist, living with Multiple Sclerosis and awarded the 2012 Prime Minister's Literary Award for fiction for her novel "Foal's Bread"; and Cate Faehrmann, Greens NSW MLC who intends to move a Bill next year.

OVERSEAS

Canada: 1. British Columbia:

A report in CBC news on 5 October said that Ms Gloria Taylor, who was one of the major plaintiffs in the successful case, *Carter v. Canada*, died early in October, reportedly from a perforated colon. She suffered from the degenerative illness ALS, or Lou Gehrig's disease. As reported in the last newsletter, the case resulted in a very major positive and very

detailed legal decision, brought down in the Supreme Court of Canada on 15 June 2012, which found in favour of the plaintiffs, including Gloria Taylor, who had challenged the Criminal Code of Canada provisions prohibiting physician-assisted dying. It also reported that the judge in the case had granted Ms Taylor a personal exemption allowing her the right to seek a physician-assisted death.

At the time, Ms Taylor was reported to have said: "I'm so grateful to know that if I choose to do so I will be allowed to seek a doctor's help to a peaceful and dignified death. This brings me great solace and comfort". (<http://www.cbc.ca/news/canada/british-columbia/story/2012/10/05/bc-gloria-taylor-dies.html>)

Ms Taylor died without having to use her right to access physician-assisted dying, which was confirmed in August after an attempt by the Attorney General of Canada to get a legal judgement against it. The British Columbia Court of Appeal denied his appeal to prevent Gloria Taylor from exercising her court-approved right to die. The Attorney General of Canada is appealing Justice Smith's original judgement that the Criminal Code provisions banning assisted suicide are constitutionally invalid. That appeal will be heard next year.

2. Quebec: Assisted dying legislation is likely to be debated in Quebec next year. Quebec's new government announced in October that it planned to table legislation legalizing doctor-assisted suicide that would be in line with what was recommended in a report from the Select Committee on Dying with Dignity of the Quebec National Assembly, released in March 2012. The English version of the report is now available at the National Assembly of Quebec website, www.assnat.qc.ca. (Open the site in English, go to advanced search and, in keywords, put 'Dying with Dignity'.)

The Committee's recommendations cover palliative care and other services and advance care planning as well as legislation. In relation to legislation, the Committee has recommend that relevant legislation be amended to recognize medical aid in dying as appropriate end-of-life care if the request made by the person meets the criteria as assessed by the physician including that the person is an adult able to consent to treatment under the law, requests medical aid in dying after making a free and informed decision, is suffering from a serious incurable disease, is in an advanced state of weakening capacities, with no chance at improvement, and has constant and unbearable physical and psychological suffering that cannot be eased under conditions he deems tolerable.

Leading up to the report, there was consultation by the Committee with experts in various disciplines, including medicine, law, philosophy, ethics, sociology and psychology, followed by a consultation paper and a lengthy public consultation process that involved many people and groups. The report is comprehensive in its treatment of the arguments for and against law reform. While some of the data is specific to Canada and Quebec in particular, a great deal of it is directly relevant to the debate here in Tasmania. Support for such legislation in Quebec is higher than in some other parts of Canada and is very similar to that in Tasmania and in Australia generally. The report states that "the support for opinion polls conducted in recent years have consistently shown that 70% to 80% of Quebecers are in favour of euthanasia".

US - Massachusetts: As well as the Presidential election on 6 November in the US, there were many other ballots taking place. One of them was a referendum in Massachusetts to

determine if there is support for a law similar to that in Oregon (passed in 1997 after support in two similar referendums and surviving court challenges) and Washington (passed in 2009 after a similar process). Unfortunately the ballot was lost by a very narrow margin – 49% to 51%.

Even to get the proposal put to a referendum required enormous efforts. It has been reported that the group, Dignity 2012, a coalition of citizens supporting the Death with Dignity Act, had collected over 125,000 signatures to get the proposal put to ballot.

The political campaign against the referendum proposal was entirely predictable with the usual false and misleading claims. The Catholic Church played a prominent role, given that Catholics make up 40 – 45% of the Massachusetts population (more than double that in Tasmania where, according to the last Census, 18% of our population are Catholics). Doctors groups also been actively working against the proposal, with lots of money being spent by them and religious groups to defeat it.

UK - Tony Nicklinson case: In August, it was reported that locked-in syndrome sufferers in the UK had lost their legal challenge over assisted dying. The extremely sad outcome of this decision was that Tony Nicklinson took the only option open to him and starved himself to death. Nicklinson, 58, and a second man known as Martin, 47, had tried to secure immunity from prosecution for any professional who helped them to die. As reported in the Independent, “lawyers acting for Mr Nicklinson, who suffered a catastrophic stroke in 2005, argued for an extension to the common law defence of ‘necessity’ for murder because the alternative – forcing him to stay alive – is worse. They also argued that the government is in breach of his Article 8 right to ‘privacy, dignity and autonomy’, a right he cannot exercise independently because of severe disability. The court rejected the “bold” submission, stating that there was no precedent anywhere in the world and such socially controversial changes were only for Parliament.” (<http://www.independent.co.uk/news/uk/home-news/lockedin-syndrome-sufferers-lose-legal-challenge-over-assisted-dying-8053451.html>)

He had been “devastated” by the decision and as reported by the Independent, said: “I thought that if the court saw me as I am, utterly miserable with my life, powerless to do anything about it because of my disability then the judges would accept my reasoning that I do not want to carry on and should be able to have a dignified death. I am saddened that the law wants to condemn me to a life of increasing indignity and misery.”

In October, it was reported that the widow of Tony Nicklinson had been refused permission to take his case on appeal to a higher court.

More about Tony Nicklinson and his situation is included in a very moving article by Peter Stanford, a former editor of the 'Catholic Herald' and a self-professed “lifelong Catholic”. In the article he tells how meeting with Tony Nicklinson and his wife had led to him changing his views on assisted dying, that he had gone to the meeting “fundamentally opposed to any concessions on euthanasia” and had “emerged with my arguments demolished”. (Read more at <http://www.telegraph.co.uk/news/uknews/law-and-order/9494934/How-an-extraordinary-day-spent-with-Tony-Nicklinson-changed-my-views-on-right-to-die.html>)