

**SUBMISSION FROM VOLUNTARY EUTHANASIA SOCIETY OF NSW [VESNSW]
TO SENATE LEGAL AND CONSTITUTIONAL COMMITTEE RE. ITS INQUIRY INTO
THE CRIMINAL CODE AMENDMENT [SUICIDE RELATED OFFENCES] BILL 2005.**

VESNSW thanks the Committee for the extension of time it has been granted in which to make these submissions.

It respectfully repeats its previous submissions to the Committee concerning this proposed legislation.

VESNSW held its 2005 AGM on Sunday, 20th March, when more vigorous debate about the Bill took place with the active involvement at the meeting of some 100 members of the Society. The Bill was discussed in detail, particularly the likely effect of the proposed subsection 474[29A] and whether its enactment would cancel out the deleterious effects such legislation would otherwise have on the work of VESNSW.

The unanimously expressed opinion at the AGM was that, despite the proposed 474[29A], serious problems will arise for VESNSW if the Bill becomes law.

There was unanimous agreement at the AGM on what follows.

It was denied that there was any 'mischief' that needed to be addressed and outlawed in Australia by such a law.

'Suicide' and 'attempted suicide' are not crimes anywhere in Australia, as they once were. In the specifically defined cases such as the terminally ill, as described in VESNSW's Memorandum of Association [its M of A], receiving assistance and advice about them should not be crimes either.

The reference in the speeches of the Ministers to the Customs Act Regulations, both of which VESNSW considered unjustified, as being some kind of justification for the Bill should not be accepted. Two wrongs do not make a right. The book 'Final Exit' by the American Derek Humphry giving advice about suicide always was allowed to be imported and sold in Australia.

Because the various proposed crimes are 'specific' and 'overlapping', and whereas subsection 474[29A] is, as it has to be, 'vague and general', the operation of the laws of statutory interpretation will inevitably cause uncertainty.

The uncertainty will be such as to cause many active supporters of the ideals of Voluntary Euthanasia [VE] to cease to be active in the movement, not only because of their concern not to break the law, but also because of their fear of committing a criminal offence under what will be a new, untested and very novel, unusual law.

Being able to argue both the merits and demerits of VE should be an integral part of democratic Australia. Such legislation would assist only one side in the argument. That there was no doubt that if the Bill becomes law, it will stifle, hamper and inhibit the work of VES, its various Branches, and the work of VE societies and their Branches all over in Australia.

The proposed legislation may have been primarily aimed at the work of Dr Philip Nitschke and his organization 'Exit International', but it will, if enacted, also adversely affect the work of VESNSW. VESNSW supports the work of Dr. Philip Nitschke and 'Exit International' and its workshops, newsletters and other publications. The two organisations have complementary aims and objects. The same is true of all the other VE associations all around Australia.

Like 'Exit International', VESNSW supports the justifiable right of rational, adult, terminally ill persons, such as they are defined in VESNSW's M of A, to seek and receive competent advice on how best to end their lives, when that is what they rationally and justifiably wish to do.

Because of the overlapping and mutuality of objects between 'Exit International' and VESNSW it is obvious the proposed law will restrict the work of VESNSW.

The final resolution, passed unanimously at the AGM, was 'That this AGM of the Voluntary Euthanasia Society of NSW expresses its great concern at the proposed new laws relating to suicide and voluntary euthanasia being introduced by the Attorney-General and Senator Ellison into the Federal Parliament. Because of the uncertainty about what is permitted and what is not, as well as its strong opinion that despite the proposed subsection 474[29A], such laws will stifle, hamper and inhibit the work of VE societies in promoting the cause of voluntary euthanasia everywhere in Australia, it pleads with the Parliament not to enact such legislation'.

May I add a personal opinion in the hope that it may be of some further assistance to the Committee.

There are Voluntary Euthanasia Societies in all the States and Territories of Australia; all in all, they have a combined membership of about 6000.

I write only on behalf of the NSW society, not on behalf of all the others, but I have no doubt that all those others and their members would be of the same unanimous opinion that was so obviously held and expressed by the members of the NSW Society at its recent AGM and which I have described in this submission.

Kep Enderby QC.
President, VES NSW.