

To:  
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
Inquiry into the Right of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008

I should like to add to my answer to Senator Bartlett's Question about my involvement in the production of the Lancet Article and I ask the Senate to add this material to my earlier submission. I have added this material as I have now seen the way this article and the material collected by Professor Kissane has been used in his and Dr van Gend's submission opposing the proposed change to legislation. Had that material been available to me I would have taken the opportunity to be more detailed in answer to the Senator's question.

Professor Kissane had held views opposed to voluntary euthanasia legislation long before he took on the exercise of reviewing the patient records of the people who made use of the ROTI Act. The role he played in the "Euthanasia No" campaign was known to me and I believed his views were influenced by his strong religious beliefs. I agreed to his request to visit Darwin as I felt the issue would be served if close investigation of the issue were made by a known opponent of voluntary euthanasia. I was wrong.

The article published in Lancet, by Kissane, Street and Nitschke was essentially correct. Unfortunately Professor Kissane immediately then set out to misrepresent his own article. In a press release that followed the Lancet publication he replaced "signs of depression" with "serious evidence of depression" and promoted himself as one who intimately understood the people and events that had taken place in Darwin. His "Deadly Days in Darwin" provided to the Senate enquiry is an account of his deliberate selection and misrepresentation of the "facts" he claims to have had revealed to him during his short Northern Territory stay.

Dr van Gend then draws on these misrepresentations to base his claim that voluntary euthanasia should never be legislated on. He then uses the Kissane submission to make four inaccurate claims:

The first, that only the patients GP should have been involved was incorrect, – when the patient's GP was not supportive, the legislation allowed for an alternative. That was the case with each of the four patients.

His second complaint that the "wrong" specialist had certified that Janet Mills had a terminal illness is also incorrect. In the intensely politicised climate no physician in the Northern Territory would work with the legislation. Indeed the Territory head of the College of Physicians rang me at that time and said that "we will make sure this law fails". Senior Territory Orthopaedic surgeon Mr Baddeley responded to this situation by contacting the South Australian specialist involved in the care of patient Janet Mills, discussing her case and then agreeing to certify her terminal status. This was acceptable under the ROTI Act, there was no "blatant or basic violation of the regulations" as claimed by van Gend and Kissane, and understandably the coroner approved the procedure.

The third complaint relates to the supposed inadequacy of the psychiatric review. Senior Sydney psychiatrist Dr John Ellard had indeed made it clear that he was philosophically in favour of the legislation yet Kissane and van Gend claim this makes his assessment of Bob Dent unreliable and inadequate. Of course we contacted a psychiatrist who was philosophically in favour of the legislation – there would have been little point in asking Professor Kissane to review Bob Dent’s psychological status! The fear the patients had of the necessary psychiatric assessment is the very problem that psychiatrists like Kissane produced with their known hostility to the law.

The final comment about the isolated death of the atheist Bob gets to the very essence of the problem. Kissane and van Gend’s immediately interpret the life of this man they never knew, describing him as one “crying out that he needed company? He needed social work intervention. He needed church groups to involve him in this society..”

There is an agenda driven by their religion. Bob’s comment, had he been able to make it, would have been – “please just mind your own business!”

I was the doctor involved with the 4 patients who died in Darwin, I knew them all and was with each of them when they were able to obtain the peaceful death they craved. Each of them would have been disgusted by the distorted description of their situation provided to the Senate inquiry by those clearly hostile to the concept of voluntary euthanasia legislation.

Philip Nitschke  
27 April 2008