



End-of-Life Choice

May 2015 VOLUNTARY EUTHANASIA SOCIETY OF NEW ZEALAND INC Issue 39
Member of the World Federation of Right to Die Societies

VES BACKS LECRETIA SEALES IN COURT AND URGENTLY NEEDS YOUR DONATIONS

The Voluntary Euthanasia Society is supporting a terminally ill Wellington woman in a groundbreaking appeal to the High Court to be allowed to die with dignity at a time she decides.

Lecretia Seales, 42, a lawyer with an inoperable brain tumour, is asking a judge to allow her doctor to assist her to die without fear of prosecution. After a preliminary hearing, Judge David Collins announced on April 24 that VESNZ could present an affidavit in support of her application. The decision came as she revealed that chemotherapy had not been successful and was being discontinued. She entered a phase of symptom management and palliative care as the court approved a fast track process leading to a scheduled five-day hearing starting on May 25.

VESNZ President Dr Jack Havill said the organisation could not stand by and NOT take part in the case because the Care Alliance, strong opponents of Physician Assisted Dying, applied to oppose it. *"The case has wide ramifications around the whole issue of PAD and cannot be confined to one person without input from other vitally interested parties. That is why the VESNZ applied for intervention and, obviously, Justice Collins agrees."*

Lecretia's lawyer objected to the applications, saying she did not want the case expanded to a big debate about euthanasia, but Judge Collins ruled that both sides could appear, along with the Human Rights Commission, subject to stringent conditions limiting them to one affidavit each to be filed before the hearing and no cross examination.

He also said: *"The declarations Ms Seales seeks are cast very precisely and are not intended to have a wide application. Nevertheless, the issue of whether or not a person in Ms Seales' circumstances can be assisted to end her life, or have her health professional deliberately hasten her death raises significant legal and ethical issues that are of intense public importance."*

VESNZ has briefed Auckland barrister Kate Davenport QC to represent us, assisted by lawyer Toni Brown, of Tauranga, who is a VESNZ National Committee member. Kate is acting at a reduced fee and Toni is donating all of her own time, but we still face substantial legal fees which could total \$80,000 or more.

Members responded magnificently to an e-mail appeal that raised about \$46,000, but we need at least another \$34,000 urgently. If the result is appealed we may need even more in the future. You can donate online to our Kiwi Bank account:

**Voluntary Euthanasia Society
No. 38-9006-0226036-02.**

It is VERY important to use the reference "**Legal Fees**". Or please send cheque donations to Voluntary Euthanasia Society NZ writing the reference "**Legal Fees**" on the back to:

**EOLC, PO Box 89046,
Torbay, Auckland 0742.**

Further information from Eileen Howarth at Central Office, 09 215 4964 or

office@ves.org.nz

Dianne Cooper, a Kapiti branch member, donated \$1000 to the cause, writing: "It seems clear to me that if the Lecretia Seales case is successful, a significant step will have been taken towards a law change in New Zealand. Not quite all over bar the shouting, but it will certainly save us many years of campaigning, hours of work, and, of course, money.

"Therefore, I say unto you: now is the time to put your money where your mouth is. I appreciate that for some people \$500 may represent the sacrifice of their next dentist visit. But for many of us quite a lot of money has 'rainy day' tagged to it."

Doing the maths, Dianne said 100 people donating \$500 each would raise \$50,000 for the legal fund or 30 people donating \$1000 would provide \$30,000. **"Surely we can do this."**

Read about Lecretia Seales on Page 2

KIWIS SAY YES TO PHYSICIAN ASSISTED DYING

New Zealanders overwhelmingly support a law change allowing doctors to end the life of patients with a painful incurable disease, the latest independent poll on the issue by Research New Zealand confirmed.

It found 74% in favour, up from 70% in a similar survey in 2008. Only one-in-five of those questioned were opposed with 6% undecided.

Public opinion is more divided as to whether someone other than a doctor, like a close relative, should be allowed to help the terminally ill end their suffering. But a majority, 51%, was still in favour with 41% against and 9% Don't Knows.

The nationwide poll was not taken on behalf of any organisation, but as part of Research New Zealand's monthly survey of attitudes and opinions. The telephone poll of 501 people aged 18 and over was taken between March 23 and April 2. The maximum margin of error was +/- 4.9%.

ABOUT LECRETIA SEALES

Lecretia Seales' brain tumour was diagnosed just over four years ago and she has since undergone surgery, chemotherapy and radiation therapy. Her oncologist said in April that her tumour was inoperable, the treatment had failed and she could expect to live "somewhere between three and 18 months".

Judge David Collins, who is hearing her plea to be allowed to die with dignity, said she was a highly intelligent woman who had lived a very satisfying and fulfilling life. A well regarded and successful lawyer, she had also studied four additional languages, learnt to tango and acquired a range of culinary skills. A fiercely independent and rational person, she had a close and loving relationship with her husband and family.

"She intends to live every day as best she can ... does not seek pity from others and ... has explained that although

she is not depressed she is concerned that she is destined to face a slow, unpleasant, painful and undignified death," the judge said. "She is concerned not just for herself, but about the impact her circumstances will have on her husband and family. Ms Seales wants to have the option to die with dignity."

He said she "wishes to have the choice to die by way of facilitated aid in dying or administered aid in dying at the point that she reaches a state of suffering that is intolerable to her as a result of her grievous and terminal illness".

The judge said her general practitioner, whose name was suppressed, respected and understood her wishes but was not willing to help unless the court granted declarations exempting the doctor from criminal prosecution and a potential 14-year prison term. Ms Seales claims that the law is inconsistent with her rights under the Bill of Rights.

Lecretia objected to applications by VESNZ, the anti-euthanasia group Care Alliance and the Human Rights Commission to take part in the case, saying: *"I absolutely intend to encourage a conversation about euthanasia and assisted death within New Zealand, however the courtroom is not the place for that wider debate.*

This case is about my circumstances and my circumstances only. The debate should be held across the road from the High Court, at the House of Parliament in the debating chamber, by our politicians, where all affected parties can be represented and have their views heard.

I am seeking a clarification of the law in my circumstances. On this issue my lawyers and I believe the law is unclear. Should my case encourage a parliamentary review of the relevant sections of the Crimes Act or the Bill of Rights, there will be time for all interested parties ... to be heard in full as part of the legislative process. I would welcome such a review as I believe this is a choice that should be made available to all New Zealanders who are suffering from painful, incurable illnesses, without needing to follow my example of going through the courts. And, as a recent poll has shown, the public overwhelmingly agrees."

PRESIDENT'S REPORT

End-of-Life Choice President Dr Jack Havill reports on the New Zealand tour of Dr Rob Jonquière, Communications Director of the World Federation of Right to Die Societies, from 19 February to 12 March 2015.

It was an extremely successful visit that left our branches and focus groups re-enthused about the campaign we are all fighting for. Dr Jonquière's tour was well received by the public and media, which produced many favourable articles and interviews and only limited negative material. He proved an excellent speaker, respectful in answering questions, and helpful to all those involved in his tour. His breadth of experience and in-depth knowledge of the situation in his homeland the Netherlands was very compelling.

Dr Jonquière spoke at 17 meetings from Whangarei to Dunedin, attracting audiences of well over 100 a time and addressing about 1400 pro- and anti-euthanasia people in total. Opponents of Physician Assisted Dying (PAD) are always quoting inaccurate reports from the Netherlands and it was immensely valuable that he could speak from his personal knowledge and experience and offer authoritative statistics.

It was also timely that Dr Jonquière's tour coincided with significant developments such as the Canadian Supreme Court Judgement in February (see page 5), the release of some academic papers which also prompted favourable media articles and considerable support on the website and Facebook and Twitter social media.

Branches sold a lot of copies of *Guide to Dying – Your Way* and many petition forms requesting a Parliamentary investigation into the issue were

filled. Opponents who showed up at some meetings did not appear to be particularly organised.

We had requested meetings for Dr Jonquière with all the political leaders but the response was disappointing, partly because parliament was in recess during the time he was in Wellington. But we managed to link him up with Labour MP Iain Lees-Galloway, who has publicly urged parliament to revisit the issue, and some other members at various centres.

Meetings with professional bodies, including the NZ Nursing Organisation, NZ Medical Association, Medical Council and the Council of Medical Colleges, which is an umbrella organisation for all the specialities in medicine, were quite positive and should allow us to progress. At Waikato we had significant debate (some quite constructive) with the local palliative care fraternity, but in general they are still taking a negative hierarchical stance.

We were able to spread information from the Canadian Supreme Court Judgement on Human Rights – which was news to some groups - and this is going to be very influential.

Our thanks go to all branches and focus groups that worked so hard on a most successful tour. I would like to acknowledge members who transported Rob about the country, billeted him in their houses and gave so much time and in some cases money for the cause.

A video recording of the Kapiti meeting is available to all branches and focus groups and has been posted on YouTube

<http://youtu.be/2mSekDk-Rlo>.

Rob's Q&A session at the meeting is available separately on

http://youtu.be/_QWJiH-CJel.

VERY IMPORTANT MEETING

With the momentum towards law changes allowing end-of-life choice gaining pace around the world, this year's AGM of the Voluntary Euthanasia Society of New Zealand promises to be a very important meeting.

It follows the very successful tour of New Zealand by Dutch expert Dr Rob Jonquière, who attracted large crowds and revitalised branches and their members with his convincing explanations of how physician-assisted dying works in the Netherlands.

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It will be the last chance to sign our petition, urging Parliament to examine the issue in the light of mounting public support for a law change since MPs last rejected a Death with Dignity Bill by only 60 votes to 57 12 years ago.

The meeting, in Hamilton on June 20, will take place in a year of great activity and publicity for our cause at home and abroad. Here in New Zealand, we eagerly await the High Court appeal by the very brave Wellington lawyer Lecretia Seales amid signs the politicians are sitting up and taking notice.

Overseas, the Supreme Court of Canada has shown how judges have the power to direct politicians - who are notoriously reluctant to take the lead on what they perceive as sensitive conscience issues - to do what the jurists have decided is right for society after due consideration of all the legal ramifications.

Two New Zealand experts will address the meeting on different aspects of the issue as guest speakers.

Sande Ramage, an Anglican priest currently working as a hospital chaplain, will talk on: "**Shared vulnerability: The key to soulful and just end-of-life choice**". She says: "Contemplating the deliberate ending of human life creates vulnerability for any community because our journey is about

much more than whether we change the law or not. As activists for a change in end-of-life choices, we have an obligation to do more than just focus on legislation.

"For only to make our case using statistics or legal and medical frameworks ignores the diversity of poetic, mythological and spiritual ways of understanding the human condition."

Phillipa Malpas PhD, Senior Lecturer in Clinical Medical Ethics at the Faculty of Health and Medical Science Auckland University, has entitled her talk:

Physician assisted dying in New Zealand: What research has been done, what needs to be done ... ?

Noting the Canadian Supreme Court decision, separate legislation in Quebec and continuing developments in many US states, she says: "Although the issue of physician assisted dying in New Zealand has been discussed socially and politically for at least two decades, little research has explored what New Zealanders think about such practices and the reasons behind their support or opposition to them." She will outline research her group has done and how it fits into a broader picture of what is happening at the end-of-life debate, and reflect on what needs to be done.

Programme for the Very Important Meeting

Hamilton Airport Hotel and Conference Centre

Saturday 20 June 2015

9.30 to 10.30	Registration and morning tea
10.30 to 12.30	Annual general meeting
12.30 to 1.30	Lunch
1.30 to 3.00	Open meeting (educational and interactive, with time for comments and questions.)
3.30 to 4.30	Workshop - <i>Basic introduction to Twitter</i> (for those interested) by VESNZ Secretary, Eileen Howarth.

BRANCH EVENTS

Auckland Annual General Meeting

Saturday 30 May - 10.30 to 12.30pm

Fickling Convention Centre, 546 Mount Albert Road, Three Kings, Auckland

Waikato General Branch Meeting

Sunday 31 May - 2pm

CCS Building, 17 Claudelands Road, Hamilton

AROUND THE WORLD

• CANADA

In an internationally significant ground-breaking judgment, Canada's Supreme Court ruled on February 6 that denying terminally ill people help to end their lives breached human rights. *"An individual's choice about the end of her life is entitled to respect,"* nine judges said in a unanimous ruling that ended a 22-year legal battle over the right of people suffering intolerably from terminal illnesses to request medical help to die. *"A person facing this prospect has two options: she can take her own life prematurely, often by violent or dangerous means, or she can suffer until she dies from natural causes. The choice is cruel,"* the judges said. When the decision takes effect in February 2016, it will abolish a criminal code provision that can send a doctor who helps a patient die to prison for up to 14 years. The court gave Canada's federal and provincial governments a year to pass empowering legislation but said they did not have to – the court's ruling will become the law in 12 months anyway.

The court laid down the following criteria for "competent adults" to qualify for legal assistance in dying: They must *clearly consent to the hastening of death, have "a grievous and irremediable medical condition" (including an illness, disease or disability) and be suffering intolerably.*

Wanda Morris, CEO of Dying With Dignity Canada, said: "This is a fantastic victory, and today we rejoice with the 84% of Canadians who support the right to compassion and choice at end of life." The campaign has waged in Canada since 1993 when a 5-4 majority of the Supreme Court rejected the request of a woman suffering Lou Gehrig's disease to be allowed end-of-life choice. The British Columbia Civil Liberties Association asked the court to revisit the issue on behalf of two other women, Kay Carter, 89, and Gloria Taylor, who both suffered degenerative diseases and wanted the right to a medically assisted death. Their lawyer argued that they were discriminated against because their physical disabilities didn't allow them to kill themselves the way able-bodied people could. Carter went to Dignitas in Switzerland in 2010 and her daughter said she died happy, with a smile on her face because it was the way she wanted. Taylor died two years later.

The court awarded full costs to the BCCLA and the other appellants, including Kay Carter's family, because the case was of such national importance. At the time of writing, the government, which faces a general election in October, had not announced its intentions. Justice Minister Peter MacKay said the ruling had far-reaching implications and it was important to protect all Canadians' rights and interests. However, a month later the **British Columbia** Court of Appeal rejected a family's bid to stop a nursing home feeding their 83-year-old mother Margot Bentley, who has had Alzheimer's Disease for 16 years, despite the living will she signed in 1991 which stipulated then that she wanted all nourishment withheld if she was unable to recognize family members.

The court heard that caregivers are prolonging Bentley's life by spoon-feeding her and the judge said the fact that she sometimes opened her mouth and accepted food "does not mean that she is mentally incapable of making this decision". The family is considering an appeal to the Supreme Court.

• BRITAIN

Support for assisted dying in Britain is now overwhelming, according to a recent opinion poll which found that 82% of people want to see a change in the law.

The poll of 5000 voters published in *The Times* on April 4, a month before Britons voted in a general election, also found that 53% of those surveyed would think more positively about an MP who supported assisted dying. Only 10% would think more negatively. And 44% of those surveyed said they would break the law and risk prison to help a loved one die.

The issue attracted massive public attention earlier this year when nearly two-thirds of members of the House of Lords supported a private member's Assisted Dying Bill in two key votes during a pre-election debate. Although the House of Commons must make the final decision, in what party leaders agree will be a conscience vote, it was the first time that one chamber of the British Parliament had overwhelmingly accepted the need for change. The sponsor, Lord Charles Falconer, said he would revive his bill, under which doctors would be able to prescribe lethal drugs to the terminally ill with less than six months to live, when the new parliament was

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formed after the May 7 election. He predicted the law would be changed inside five years because with 40% of people prepared to disobey it “there is no point having a law that nobody respects any more”.

The Populus poll was one of the biggest held on the subject in Britain and showed growing public support for a law change, up from previous surveys showing that about three-quarters of the public favoured legally assisted dying. There is strong cross-party support, with 83% of Conservatives and 79% of Labour supporters backing a law change. After the poll, Dignity in Dying UK released a video on YouTube in which four terminally ill people said they wanted “My Last Vote” to elect a Parliament that would change the law. Watch it here:

www.youtube.com/watch?v=TNkm-4IWGvw

- **UNITED STATES**

The **California** Senate Health Committee agreed by 5 votes to 2 on March 25 to refer a draft Bill permitting physician-assisted dying to the Judiciary Committee. The vote followed release of a video in which brain cancer sufferer Brittany Maynard, 29, who left the state to end her life in **Oregon** in November, pleaded posthumously for a law change.

The two Republicans on the committee opposed the measure drafted by Democrats Lois Wolk and Bill Monning that would allow a mentally competent, terminally ill, adult California resident in the final stages of life to request aid-in-dying medication from a physician. Advocates for aid-in-dying laws say legislators in nearly 20 states have introduced similar measures this year, but the Associated Press said proposals had already stalled in at least four legislatures and many others had not started hearings.

In **Connecticut**, a Quinnipiac University poll found nearly 2-to-1 voter support for aid-in-dying, but the *Hartford Courant* reported on March 22 that the Roman Catholic Church was financing a multimedia campaign to kill a proposed Bill, as it did in **Massachusetts** in 2012.

Republican opponents of end-of-life choice in the **Montana** House of Representatives voted 51-48 on 16 March to add physician-assisted suicide to the existing crime of aiding or soliciting suicide which carries a 10-year jail sentence, but it took four votes over five days to get it done, with it

deadlocked at 50-50 at one stage.

- **FRANCE**

France passed legislation on March 17 giving doctors new powers to place terminally-ill patients in a “deep sleep” until they die. It will apply to patients who are conscious but in unbearable pain, whose treatment is not working or who elect to stop taking medication.

Polls show 96% of people back the “deep sleep” law and eight out of 10 favour legalising full euthanasia but the government refused to go beyond its 2005 so-called “passive” euthanasia law that allows treatment needed to maintain life to be withdrawn or withheld. The new measure allows doctors to prescribe “deep continuous sedation until death” and says doctors must follow advance end-of-life directives. While opponents criticised the legislation as “masked euthanasia”, right-to-die campaigners said it did not go far enough. Some doctors said it could leave patients sedated for weeks before they died and it may be more humane to euthanise.

- **SOUTH AFRICA**

On 4 January, a few days before Avron Moss, 49, a paediatric neuropsychologist with terminal melanoma, was due to appear in a groundbreaking High Court application for the right to an assisted death, he ended his life using medication he smuggled into South Africa from Mexico. Given two-to-eight months to live last August, his melanoma had metastasised, doubling in size inside his brain in two weeks.

Avron had agreed to be Applicant No.1 in a court challenge mounted by Dignity SA, which was founded by New Zealander Sean Davison. Moss’s brother Kevin told the *Daily Maverick* online newspaper, Johannesburg, that Avron had spent six weeks of precious time when he could have been peacefully preparing for death, trying to source medication that would allow him to die with dignity. Petrified that the Mexico medication might be poisonous or fake, he then had to source a testing kit from Australia. He decided to end his life shortly before the court hearing after he deteriorated and became too ill to keep down fluids. As he ingested the drug at home, Kevin asked him: “Are you in pain?” and he replied: “This is a wonderful thing. This is what every person

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with a terminal illness should experience.” And then he simply closed his eyes. Kevin said it was the peaceful and dignified death Avron had hoped for but he and his family and friends would have been spared the trauma of having to source illicit drugs and worry about who might be criminally implicated in his death, had the law which makes assisted dying a criminal offence been different.

- **SWITZERLAND**

The Swiss right-to-die organisation Exit posted a 20% increase in membership to 86,000 last year and helped 583 people to end their lives, up 124 on 2013, the magazine *Newsweek* reported on March 12. The non-profit group said the average age of those requesting membership is 50, while the average of those deciding to end their life with the organisation is 77.5. CEO Bernhard Sutter said two-thirds of those Exit assisted had terminal illnesses and the other third had incurable conditions or chronic pain. Exit helps arrange physician-assisted suicides for Swiss citizens or permanent residents. The Swiss Federal Court ruled in 2006 that all people of sound judgment had the right to decide the manner of their death. The law stipulates that patients must commit the act themselves, usually by ingesting barbiturates prescribed by a doctor. Anyone assisting must have no vested interest in the death.

- **AUSTRALIA**

The widower of an 86-year-old Victorian woman, who as a long-time member

of Exit International knew that she had to be alone when she ended her life, told *The Age*, Melbourne, in March that he had been hounded by police investigating an assisted suicide. After years of intolerable arthritic pain and facing terminal hospitalisation, Dorothy Hookey secretly swallowed her fatal drug in bed at her home on November 26 last year. Her husband Graham and two adult children who were sleeping in other rooms later found her dead and a suicide note by the bed.

Graham said that ever since, he and his family had been subjected to increasingly alarming police attention, and feared they may be caught up in the inquiry into Exit International founder Philip Nitschke, under investigation for his involvement in several suicides. He said police searched his home the day after his wife died and returned in March with a warrant marked "assist suicide" to take away the family's computer and i-pad. He said it hurt to be treated like a criminal while he was mourning his wife's death – an end he described as “a rational choice made by an independent woman who did not want to die in a hospital or nursing home with no control over what happened to her”. Graham, a Justice of the Peace and son of a policeman, said he was angry that his wife had made the sacrifice of dying alone, knowing that he risked a five-year jail term if convicted of assisting her suicide, but that had still not protected the family from scrutiny.

Police would not say whether charges would be laid.

BEREAVEMENTS

VESNZ records with sadness the deaths of two active members, Jean Cartmell, of Wellington, who was 93, and Helen Yensen, of Napier.

Jean Cartmell, an Englishwoman who migrated to New Zealand in her 80s to join her family after being widowed, was a former chair of the Wellington branch and member of the law drafting committee that helped develop Maryan Street's private member's Bill.

Maryan said : “*The manner of her own dying was as she would have wished. I am very grateful for that, as is her family.*” She added: “*I last saw her recently on Wellington's south coast at Taputeranga, where her car had got stuck in soft sand on the track to Red Rocks. With the help of two young men who dug under the tyres and pushed, I was able to drive her car at speed on to firmer ground. It was a surprise to me that at 93, she hadn't pushed the car out herself by sheer*

determination. Such was the woman.”

Helen Yensen was a strong advocate for voluntary euthanasia and worked to form an EOLC group in Hawke's Bay. She helped organise Maryan Street's speaking tour to promote her Bill in the area. A friend, Phillipa Malpas, of the Faculty of Medical and Health Sciences, Auckland University, said that Helen died of dehydration, but would have preferred the option of a lethal drink. She told Phillipa: “*If I'd had Nembutal in my cupboard, it may have given me a little more time. That is the key. If you know there is a way out, you can focus on what life has to offer. You can balance the pain and suffering because if it gets to that point you can end it.*”

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YOUR FINAL WISH - MAKING A BEQUEST

Bequests are vital to the survival of any non-profit organisation. Bequests provide ongoing funding streams. And make it possible to create long-term plans. Bequests are the cornerstones of non-profit organisations, like **End of Life Choice**, because they provide stability. If you can hear yourself saying, *"This is what I support, and I want this issue to be important even after I'm gone"* then please consider making **End of Life Choice** a beneficiary of your will by creating a bequest. Ours is a unique issue, one in which our most ardent supporters might not be with us for long. Our fiercest opponents might later turn to us for help. **Please take the step to support End-of-Life rights in your will.**

DONATIONS AND CONTRIBUTIONS

You can make a contribution in any amount of your choice - in single, monthly, or yearly donations. Payments can be made by cheque, mailed to **PO Box 89 046, Torbay, Auckland 0742** or
Directly into our bank account ANZ **01 0527 0085629 00**
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Your donations help us to continue the expansion of our work and help us continue to work for your right to make decisions for your End-of-Life Choice.

GUIDE TO DYING - YOUR WAY

End-of-Life Choice has teamed with medical and legal experts to assemble a comprehensive step-by-step guide to help you create an **Advance Directive** that reflects your wishes. It also contains information on choosing an Agent, someone you entrust to ensure your wishes are carried out. It answers important questions you may have about writing an **Advance Directive**, which meets your personal wishes, it offers tips for relief of pain and suffering, the legality of an **Advance Directive** in New Zealand, and keeping your **Advance Directive** up to date.

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