

# South Australian Voluntary Euthanasia Society Inc. (SAVES)

**Patrons:**

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To all Members of the South Australian Parliament

3/3/05

## Judicial activism to the rescue of ineffective legislative authority – where does this leave you?

Dear Member,

Assisted suicides have been a fact of life for many years and are now continually in the news. They are usually carried out by close family members who act out of love and compassion:

- In law these represent serious crimes, yet often result in suspended or non-custodial sentences. For instance in May 2004 John Godfrey was convicted in Tasmania of assisting his 88 year-old mother's suicide, after she had two unsuccessful attempts. There are many other recent cases in Australia.
- Although people continue to be charged with such crimes, it is exceptional in Australia that punishment follows. Instead the judgment essentially becomes a judgment on the existing law, rather than the individual before the court.
- It is usual that a charge of murder is not laid even with clear intention and action.
- The whole question of what constitutes 'assisted suicide' is also shrouded in mystery.
- The law is brought into constant disrepute and thereby suffers weakened respect.
- The possibility of criminal charges being laid causes anxiety and distress for the individual and further complicates the grief process. This is an indictment on our so-called civilised society.
- In dismissing or giving insignificant penalties judges are thereby finding a way to act out of compassion to circumvent an unjust and unworkable law that is unable to accommodate it.
- The judiciary's role of lawmaker should not be overlooked, for while 'judicial activism' may be decried by legislators, courts are obliged to take the lead when parliamentarians refuse to address the issue.
- The current law is out of step with the views of the majority of the electorate, leading to people taking the law into their own hands.
- It is clear that these tragic cases point to the urgent need for legal avenues by which an incurably ill person can approach their doctor in a climate of security.
- A voluntary euthanasia law would allow those contemplating ill-considered and secretive action, access to rational and compassionate advice. In doing so the law may actually save lives.

The present cruel and ineffectual law is in a desperate state of anarchy. People are being driven to desperate action. I urge you to resume control by supporting the *Dignity in Dying* Bill.

Yours sincerely,

**Frances Coombe**