

## Episode 4 - It can never be perfect, so why try and improve it?

[SUICIDE WARNING]

[PRAYER BELL CHIMES]

[Ethereal female voice]: There is no death. There is only me, me, me who's dying.

**Cathy Pryor:** Well I went home and got rid of the syringes and the all rest of it and came back and he was still alive, I mean deeply unconscious but he was alive. So I put a plastic bag over his head and tied the bag around his head, and the noise was awful, because the breathing, the bag was going in and out of his mouth. And finally I put a pillow over his head until he died.

**Andrew Denton:** In the space of six months, Tasmanian nurse Cathy Pryor assisted both her grievously ill parents to die. She was charged with, and found guilty of, attempted murder and assisting a suicide. Cathy went to jail until a judge decided that both were clearly acts of compassion and allowed her to walk free.

The record shows Cathy is a convicted criminal. But should she ever have faced trial? What happens in a society where there is no law for assisted dying but people are being assisted to die anyway?

[OPENING TITLES]

**Andrew Denton:** You're listening to *Better Off Dead*. My name is Andrew Denton. I live in Sydney, Australia, and I want to find out why, in my country, good people are being forced to die bad deaths.

Here's what our former Prime Minister, Tony Abbott, had to say when he argued against assisted dying laws on the grounds that it's best just to leave things as they are.

**Tony Abbott:** We all know that, every year, thousands of people die surrounded by their families while doctors do their best to ease their pain. Sometimes, I suspect, pain relief hastens death and, for all we know, in some cases there may even be a private understanding between the doctor and the patient not to prolong things when the end is near. These are matters that should be left to the good judgement and common sense of individuals, their families, and the people who want the best for them. Let's not try to improve a situation that can never be perfect.

**Andrew Denton:** Let's not try to improve a situation that can never be perfect? Hmm... That would mean - everything, yes?

People who oppose assisted dying, want to leave things as they are because of the bad things they claim might happen if we did have a law. But what about the bad things that actually are happening because we don't have one?

**John Coldrey:** I was very taken by Perry Mason but also his gorgeous secretary, Della Street, jangled a few juvenile hormones. I was very impressed by the way he never lost a case.

**Andrew Denton:** Meet Justice John Coldrey, retired. His two great passions are the law and the Essendon football club. Alongside those passions, sits a fair streak of compassion. In 2003, Victorian newspapers reported Justice Coldrey's voice breaking as he handed down an 18-month suspended sentence to 56-year-old Alex Maxwell.

**Andrew Denton:** What is your recollection of the Maxwell case?

**John Coldrey:** He felt obliged to honour that bargain and using a book - describing a method of terminating life, he helped her to die. It was done to honour the promise that he'd made to her and just to ease her suffering.

**Andrew Denton:** Maxwell's wife, Margaret, had inoperable cancer. Alex had promised her that, when the pain got too much, he would help her to die. In their caravan on a block of land outside Melbourne, Alex kept his word. He helped Margaret asphyxiate herself using a plastic bag. He was charged with assisting a suicide.

**Andrew Denton:** I have read your judgement and there is that one quote that stayed with me, when he said, 'Her last wish was to lie in nice clean sheets in a nice clean bed and cuddle up under the doona'. It must be hard not to be struck by the poignancy of that.

**John Coldrey:** Oh yes, I was quite emotional in sentencing him. I mean he was just a thoroughly decent human being. These are very challenging cases, and you wouldn't be human if you weren't vastly moved by the situation.

**Andrew Denton:** A suspended sentence meant that, while a conviction was recorded, there was no further punishment for Alex.

**John Coldrey:** It gives lip service and gives some kind of recognition of the importance of human life. So you send out that message but you say, "OK that's the message," but in this case and in similar cases retribution - general deterrence really has no weight. These are unique cases, and the law doesn't need to imprison people.

**Andrew Denton:** This was not the first time John Coldrey had been faced with a crime of compassion and let the accused walk free. The media like to call them 'mercy killings'. Looking through the files I found dozens of similar cases from around Australia over the last 30 years. For Coldrey, 6 years Victoria's Director Of Public Prosecutions, they represent a law that should be reconsidered.

**John Coldrey:** I would like to see a regime where people who act in this way are not put at risk of criminal charges. It's really as simple as that. You act in this way in an intolerable situation, often for these people... they find themselves often initially charged with murder and .. put in the dock, and really I don't think that society needs or requires that.

**Andrew Denton:** It is illegal in Australia to aid or abet a suicide, no matter the circumstances. This is, rightly, so that people aren't encouraged to take their own life when they are deeply vulnerable or for someone else's personal gain. But it doesn't take into account people like Alex Maxwell who was carrying out his wife's last wish - to help her die - because the pain of her cancer was unbearable and there was no legal way to help her.

**John Coldrey:** These cases don't sit comfortably in a court setting because the person still goes out into the community labelled a murderer, and all they have done - their motive has been compassion and love.

**Andrew Denton:** A scar added to a scar. What does that feel like?

**Cathy Pryor:** I'm still angry. I probably didn't realise until today how angry I am. I mean, it has faded. I've got on with my life, but at the same time I still have a conviction for attempted murder. There are a lot of jobs I cannot get.

**Andrew Denton:** Cathy Pryor was a nurse in her early forties in Tasmania, facing the twin calamities of a father dying of cancer and a mother with severe dementia. Her father, Peter, a doctor, had always been up-front about how he wanted to die.

**Cathy Pryor:** He had always said that he'd stored up something for when the time came, and that was OK.

**Andrew Denton:** One morning Cathy got a phone call from the private hospital where Peter was in care. He was unconscious and they couldn't rouse him.

**Cathy Pryor:** I went round and finally when he did come round and regained consciousness he admitted what he had done. He had taken all his barbiturates. Unfortunately it did not kill him. And he was furious. He was very upset that it did not kill him.

**Andrew Denton:** Trapped in palliative care, Peter realised he had lost his escape plan.

**Cathy Pryor:** I used to go visit him every day, and he was really getting pretty distressed and I said, 'Look Dad, do you really want to go that much?' He said yes. He had some heart medication at home, and I said, "Look, do you want me to bring it in?" He said yes, so I did. Well it was a pretty horrible night, and the phone went the next morning and it was Dad on the phone, going, "It didn't work. My pulse got down to next to nothing. I did not die". It was like, "Oh no!"

**Andrew Denton:** Was he depressed; was he angry?

**Cathy Pryor:** [Sighs] I think he was depressed. I mean it must take a lot to say, "This is it, I'm going to go," but he was adamant.

**Andrew Denton:** In his dying weeks, Peter became desperate.

**Cathy Pryor:** He started talking about trying to either drown himself in the bath or to try and wrap the bell cord around his neck, because by this stage his legs were swelling but he also had terminal hiccups, which is where you just hiccup for hours and hours on end, and it is just exhausting. It was horrible, because the other thing he was having was a thing called bronchial spasms, where your throat constricts and you cannot breathe and you choke. There is nothing they can do about that either. I went in one day and he said, "I so want to go. I just want to go". He knew his death was going to be horrible. So I said, "Look, Dad, if you really want to go that badly, I'll take you home and I will help you".

We went home to his house, and we walked around the garden. He was so calm. We looked at all of his fruit trees and he told me how to prune the fruit trees to make sure people ate the apples and what to do with raspberries. It was quite surreal and finally he said, "No, I've had enough. Let's go and have a glass of wine". So we had a glass of wine, and I said, "Dad, do you really want to do this?" And he said, "I am so happy. This is wonderful. I

am going". He said, "You are so brave to help me do this". And I just said, "Look, hopefully when my time comes, someone will help me".

We had insulin, morphine, pethidine, and he showed me the vein. He injected some of it himself, and then I injected him, and I sat with him until he lost consciousness. And one thing he had said before he died was, "Don't let me survive. Whatever you do, do not let me survive".

**Andrew Denton:** To make it appear as though Peter had suicided, Cathy went home, then came back, expecting to find him dead.

**Cathy Pryor:** I got rid of the syringes and the all rest of it and came back and he was still alive, I mean deeply unconscious but he was alive. I just presumed that we'd give Dad all these drugs and he would die. And because he said, "Do not let me survive," I put a plastic bag over his head and tied the bag around his head, and the noise was awful, because the breathing, the bag was going in and out of his mouth and finally I put a pillow over his head until he died.

I was so naïve, I just did not think of the consequences. All I saw was Dad suffering and for him to not have to endure a terrible death.

**Andrew Denton:** Distressed, Cathy rang the palliative care unit.

**Cathy Pryor:** I said, "Look, I've come back and he's dead; he has committed suicide". Next thing I knew the place was full of police, fingerprinting people, detectives, the doctor from the hospice, a nurse. I rang Malcolm and my brother, who came, and I admitted to them what I had done and they said, "Look, I think you should tell the truth," so I did. And I was arrested for assisting a suicide.

**Andrew Denton:** Having just done the unthinkable as an act of compassion for her father, Cathy found herself in a jail cell.

**Cathy Pryor:** I was in shock. I'd just lost my dad, and I was in this police cell. ..

**Andrew Denton:** She was charged, then released, awaiting trial. And that's when things got complicated. A few days later the police knocked again.

**Cathy Pryor:** Suddenly the detectives were back on my doorstep saying, "We want to talk to you". I thought, "Oh, they're just here about Dad". I said, "Come in," and I offered them a

cup of tea, and they said, “No, we are here to arrest you for the attempted murder of your mother”.

**Andrew Denton:** Cathy and her mum, Anne, were close. Anne had watched her own mum die a lingering death after having a stroke. She had begged for help to die but there was no help to be had. This affected Anne deeply.

**Cathy Pryor:** Mum said, “Don’t ever let me be like that, don’t ever ... If I end up demented, please don’t put me in one of those nursing homes”.

**Andrew Denton:** Anne’s fears came to pass. She fell ill with dementia and it was not the gentle kind.

**Cathy Pryor:** She was agitated and distressed; it was horrible. She was always pacing, she would cry and yell. You could not do anything to calm her down, and it was just so difficult to watch.

**Andrew Denton:** Her father, still six months from death, was visiting his brother overseas. Unable to care for her mother, Cathy put her in respite care.

**Cathy Pryor:** I would go and visit her and she’d be there trying to pull her hair out. She was violent. Because she was incontinent so they’d have to sedate her to change her. You could not leave her on her own. She would try to find the door and get out. It was awful. It was awful. And I adored my mum, so seeing her like that was just — it was just like, Oh my God! I cannot do this to her. I just can’t.

**Andrew Denton:** In desperation Cathy went to a doctor who was a friend of the family, for advice.

**Cathy Pryor:** And I basically said to her, “I’ve never been here, we’ve never had this conversation; I will never mention who you are or what you’ve said. What’s the best way to go?” She said insulin. So I had some insulin...

**Andrew Denton:** You had access to this because you were a nurse?

**Cathy Pryor:** Yes, and so I decided to end my mum’s life. That night I let Mum have a few glasses of wine. She went to bed. I waited until she was asleep and I injected her. Unfortunately she didn’t die. She was deeply unconscious.

**Andrew Denton:** Panicked, Cathy rang the family doctor.

**Cathy Pryor:** She was just horrified. She rang some colleagues. They said, "Get your mum to the hospital. We will not treat her; we will let her go".

**Andrew Denton:** It's such an extraordinary situation. And there is no anchor here, is there?

**Cathy Pryor:** No. I just thought Mum would go and, this is my being naïve again, I thought I would say, "Oh, I found Mum dead," and that would be the end of it. Like how stupid was I, you know? But unfortunately when you're faced with this, you don't think. All I could see was relieving my mum's distress.

So then I went to the hospital, and my brothers both came to the hospital.

**Andrew Denton:** Did you tell them what happened?

**Cathy Pryor:** I did.

**Andrew Denton:** What did they say?

**Cathy Pryor:** They understood. My brother did not want Mum to go to a nursing home either. I spoke to the doctor and she said, "Look, I understand why you've done what you've done. I cannot condone it. Look, you could get into so much trouble for this, but I understand".

**Andrew Denton:** Like her mother before her, Anne lingered for months. For Cathy, it was torture.

**Cathy Pryor:** I was so angry that I let her end her life like that. It was so hard and then finally [crying]... The day that she died they rang me and said, "Look, we think your mum hasn't got long to go," so I went in and sat with her for many, many hours and I just cried the whole time [crying]. I was glad she was gone because the end was awful. It wasn't Mum, and it wasn't fair. So, that happened.

**Andrew Denton:** Would you like a break for a minute?

**Cathy Pryor:** Yes, I would, thank you.

**Andrew Denton:** When she recovered Cathy explained that, while investigating Peter's death, police had spoken to the family GP who'd given Cathy advice about the insulin. She told them of Cathy's panicked phone call six months earlier describing the botched attempt to end her mother's life.

Cathy was charged with attempted murder and all hell broke loose.

### [NEWS BROADCAST DESCRIBING CATHY'S CASE]

**Andrew Denton:** Suddenly she was on the front page of the local paper and on TV as the daughter who had killed one parent and tried to kill the other. She had to resign her job as a nurse and take work picking fruit. Nearly two years later, Cathy came to trial.

**Cathy Pryor:** The jury wouldn't look at me when they came in, and I thought, "OK"; they just wouldn't look at me. They found me guilty. So then I got taken back to the cells. You get strip-searched. You get put in prison clothes. You then get taken in a police van in handcuffs down to Hobart to the maximum security at Risdon. I was terrified, absolutely terrified, thinking, "Oh my God, I'm going to jail. Am I going to get raped? Am I going to get beaten up?"

**Andrew Denton:** Cathy spent 11 days in maximum security while the judge considered his sentence.

**Cathy Pryor:** The day that they took me back to court for sentencing I was waiting down in the cells. My lawyer came to see me and said, "Look, I don't think it's gone well. I think you're going to get at least 18 months up to 10 years". I was just devastated. I just thought, "Oh no!"

**Andrew Denton:** But the judge, instead, met mercy with mercy. Cathy's sentence was suspended.

**Cathy Pryor:** When he finally said, "You're free to go," I just sat there. It wasn't till someone came up to me and said, "Cathy you can go," and it was like, what? I was just in shock.

**Andrew Denton:** Tell me why you think he did not put you back in jail.

**Cathy Pryor:** I felt he really believed I acted with compassion and in total love of my parents in why I did what I did. He also, I think, felt that the community as a whole did not

want me to go to jail. I think people want an answer. And I think it needs to be addressed. And for being loving and compassionate, I don't think you should be punished.

**Andrew Denton:** Over the 8 months I've been making this podcast I've spent time with people who are desperately ill and looking for help to die. Because they are forced to look outside the law for a solution, every one of them lives in fear of what might happen to their families if the police get involved.

The uncertainty this creates for those trying to help them is agonising. Imagine caring for someone who is dying, and who is begging for your help, but being afraid to do so because you don't know what might happen to you.

Coral Levett, a nurse, knows exactly how that feels.

**Coral Levett:** I would go the pan room and cry for 10 minutes because I didn't know what to do or say. I knew I couldn't do it. There was nothing I could do about it. Saying that to a patient who is begging you to die doesn't help. It doesn't change their view to tell them that it's against the law and that there is nothing you can do. They don't see anything other than their own distress and their own suffering. Sometimes you just had to sit there and hold the hand of the person dying so that they could squeeze it and ease their own pain.

**Andrew Denton:** More and more scars, right across Australia. A man who's familiar with them is Melbourne doctor Rodney Syme. If you've just joined us, you can hear his full story in episode 3. Rodney knows only too well the chilling effect the absence of an assisted dying law has had on doctors' good intentions.

**Rodney Syme:** The fear that somebody would make a complaint inhibits people. I'm sure it's a great inhibition in palliative care, where there are all sorts of people watching. That's why they all go so slowly about the process of aiding death. It's incredibly prevalent I think in nursing homes. It's very, very hard for people in nursing homes who are near the end of life, they're just waiting to die. They very, very often have a lot of pain, but it is notoriously ill treated because of fear of being seen to have caused somebody's death by too much medication.

**Andrew Denton:** For over a decade now Rodney has been challenging the law by openly assisting people to die. He estimates the number of people he's helped at over 100.

**Rodney Syme:** What I have done is to help people to end their own lives. I've not ended anybody's life.

For many, many years I thought, “Yes, I'm breaking the law; this is very dangerous”.

**Andrew Denton:** But, even though under the Crimes Act it is a serious criminal offence to aid and abet suicide, Rodney is yet to be charged.

**Rodney Syme:** I was interviewed by the police on up to nine occasions and they were sympathetic and apologetic and just going through the motions, so I gradually formed the opinion that really the authorities were just trying to evade this issue.

**Andrew Denton:** A law that no-one wants to enforce? What does a judge make of that?  
John Coldrey.

**John Coldrey:** The fact that those sort of actions can be taken and that there is no official response suggests this law is not working, and if it is regarded as unjust, inappropriate, pointless to enforce it, then let's change it.

**Andrew Denton:** So it would be fair to say it is out of step with community needs today?

**John Coldrey:** Well, it is hard for me to judge that.

**Andrew Denton:** You're a judge. You've got to judge!

**John Coldrey:** That's right! [Laughing] I have been out of it for eight years. But I would suspect that the majority of the community would be sympathetically disposed to some kind of regime that allowed people suffering intolerable pain and incurably ill to be assisted to die.

**Andrew Denton:** Professor Margaret Otlowski, Dean of Law at Tasmania Uni, thinks the lack of response to Rodney Syme's challenge underlines a deeper problem.

**Margaret Otlowski:** He's clearly wanting to provoke a reaction because he's so committed to having law reform, and he's really putting himself forward as a sacrificial sort of lamb to say, “Look, investigate me, I'm admitting this. Either prosecute me or change the law”. I mean I don't think it's really appropriate that society and legal authorities stand by and turn a blind eye to this. It really undermines the authority of the law.

**Tony Abbott:** For all we know, in some cases there may even be a private understanding between the doctor and the patient not to prolong things when the end is near and I say good on people for being so sensible about these very delicate situations.

**Andrew Denton:** When Tony Abbott argues, as many do, that a private understanding between doctors and patients about assisted dying is better than a law, what he's really saying to patients – to us – is, when it comes to the one medical catastrophe we all know we're going to face – our deaths – “good luck in finding the help you might need!”.

As Marshall Perron, former Chief Minister of The Northern Territory and architect of the first law anywhere in the world to legalise assisted dying, points out, this leaves us wide open to abuse.

**Marshall Perron:** Today in Australia a doctor can assist a patient to die with no witnesses, no second opinions, no cooling off periods or whatever, so if you want to have a conspiracy with your doctor to put someone away, now is the time to do it, not when you've got a regime that requires two doctors, independent of each other, psychiatric reports and witnesses to the whole event and the whole thing done over a period of time with a specific procedure, all ending in reports to the Coroner and so on.

**Andrew Denton:** Surveys show that Australian doctors have been helping people to die for many years. Do we know that all of these assisted deaths were above board? That they were what the patient wanted? That no-one stood to make personal gain from them? No we don't. We don't know anything much about them because, unlike countries where laws for euthanasia and assisted dying do exist, there is no system here to tell us – and no clear rules for doctors to follow.

**Margaret Otlowski:** I think for me perhaps that's the most troubling part - in an environment where you can't rely on an open dialogue there is a greater risk, that doctors may tend to make decisions on behalf of patients, so in other words provide assistance in the absence of an explicit request and it seems that the incidence of that is greater in a country such as Australia where ostensibly euthanasia is prohibited than in countries where it is legalised, such as the Netherlands.

**Andrew Denton:** Fancy playing Doctor Lotto at the end of your life? Neither do I.

**Tony Abbott:** These are matters that should be left to the good judgement and common sense of individuals, their families, and the people who want the best for them.

**Andrew Denton:** Tony Abbott speaks for many politicians in Australia when he says that, with assisted dying, we should just keep things as they are – under the radar and off the books.

Let's not try to improve a situation that can never be perfect...

But here's another thought. Let's admit that this situation – for doctors, the police, judges, families and, most especially, the dying – is so far from perfect that it demands improvement.

That a decent society doesn't turn away from other people's pain.

**Andrew Denton:** If you'd like to learn more head to the episode page at [wheelercentre.com/betteroffdead](http://wheelercentre.com/betteroffdead).

Next episode we're going to find out what it's like to live in a society where there is a law to help people die. The Netherlands is home to Europe's longest-running euthanasia legislation. Often we are warned of the dark culture of killing that this has given rise to. But if the laws are that bad, why is public support for them running at over 80%? Perhaps there's more to them than we've been told. Next episode the Dutch get their say.

**[SONG 'FORTY-EIGHT ANGELS' BY PAUL KELLY]**

**Cathy Pryor:** Look, if I could have my parents back at this table now I could look them both in the eye and I'm sure they would say thank you. I don't have any regrets. I just regret that it was not allowed to happen in a legal way.

**[CLOSING CREDITS]**