HOPE
Preventing Euthanasia & Assisted Suicide

SUBMISSION

The Senate Legal and Constitutional Affairs Committee Inquiry
into the
Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010

HOPE: preventing euthanasia & assisted suicide is a national network of Australian citizens opposed to the introduction of euthanasia and assisted suicide legislation.

This submission, on behalf of the network, does not support any of the various bills put forward by Senator Bob Brown with effect upon the Australian Territories and Commonwealth powers in that regard.

The argument put forward in support of the removal of the powers of disallowance in respect to enactments of the Assemblies of the ACT, NT and Norfolk Island is based on a grievance concerned with rights (so-called). It is claimed that the disallowance powers in some ways is a disadvantage and an impediment to the self-determination of the parliaments and citizens of the territories in question.

We find no reason to support this premise. Since the first of the territories achieved self-government in 1978, the disallowance powers have only been used on two occasions to our knowledge; on both occasions in respect to enactments by the ACT and both in respect to matters relating to same-sex unions. On these two occasions the disallowances were made under the advice of the Executive of Government (through the office of the Attorney-General) because said enactments were recognised as not contributing to 'the peace, order and good government' and because the enactments themselves related to powers of the Commonwealth and not of the states or territories (the power to regulate Marriage).

It could hardly be claimed, therefore, that the powers of disallowance had been used in any manner prejudicial to the citizens of the territories and their rights as Australian citizens. Nor does two interventions over the many years of self-government constitute undue interference in the rights of Territorians.

Further, we observe that only one subclause of the disallowance sections of the three self-government acts pertains directly to an action of disallowance (some other clauses are dependent upon and relate to these prime clauses). Another subclause common to all three Commonwealth Acts describes the ability of the Governor-General to recommend

amendments to enactments. These provisions are common in form to the Acts of Constitution of every other Australian State as well as that of the Commonwealth. Removing these clauses puts the territories at variance to other legislatures and could hardly be considered as enhancing territory rights.

We are also concerned that the removal of the disallowance provisions could conceivably result in Acts of the various territories existing for a short time before being overturned by an Act of the Commonwealth Parliament. We believe that this would be prejudicial to good government.

Following the lawful operation of the Northern Territories *Rights of the Terminally Ill Act (ROTI)* in July 1996, four people were known to have died by taking advantage of the Act's provisions to do so. The Executive of the Commonwealth Government of the day chose not to recommend disallowance of ROTI prior to ascent and it was not until March 1997 that the operation of ROTI finally ceased with the passage through the Commonwealth Parliament of the *Euthanasia Laws Act 1997*.

The *Euthanasia Laws Act 1997* and the debate that preceded it, was precisely about whether or not euthanasia and assisted suicide were public goods and in the interests of peace, order and good government. The parliament determined that such provisions did not serve the common good.

Had the Executive acted to advise the Governor-General to disallow ROTI in a timely fashion as provided for, these four people would not have died in the manner and timing that they did and, implicitly, with the blessing of the Territory Government. We could but guess at their ultimate fate, but what is clear in this instance is that the Commonwealth did not consider the manner of their deaths as appropriate in law.

Should the bill under consideration by this committee become law, any similar Act of any of the three self-governing Territories would be fully operational at the time of ascent until such time as the Federal Parliament overturned it. The affect may well be similar to that of ROTI in respect to euthanasia and assisted suicide. In respect to same-sex relationships (the other issue mentioned in relation to the bill) we might well see people taking immediate advantage of the provisions of the act only to find that their relationships formalized in that way became 'null and void' following Federal intervention by the parliament. This uncertainty would not contribute to peace, order and good government.

One could well imagine that those who wished to die under a ROTI-like act or same-sex couples wishing to formalize their relationships under provisions to that effect may well rush to take such advantage. Any subsequent act by the Commonwealth to nullify such provisions would understandably create anguish, disappointment and anger amongst those who had missed out or who had made the efforts to nil effect. Such a rollercoaster is hardly in anyone's best interests.

We also wish to make some observations in respect to this move of a political nature. We do not accept Senator Brown's assertions to the effect that he did not have in mind matters relating to same-sex unions and euthanasia when drafting the bill in question and subsequent amendments. Senator Brown and his colleagues have repeatedly pushed for same-sex marriage and he has personally sponsored two bills in recent times in respect to the Northern Territory and euthanasia.

This bill comes at a time when he and his party (The Greens) are about to enjoy unprecedented political power by the increase in their numbers in the Senate from the first of July. As such, he and his party will exert significant influence over the outcome of bills in both the House of Representatives and the Senate by way of both numbers and political influence over the government of the day.

ACT Chief Minister, The Hon John Stanhope, has acknowledged that, should this bill become law, he would expect the ACT House of Assembly to move upon both substantive issues quickly and that bills in both regards would pass. It is our opinion, upon reflection of such matters, that Senator Brown's bill is a political move to further his and his party's agenda and that the 'rights issue' (so-called) is simply a convenient smokescreen.

The effect of this bill as law would be immediate and enduring in respect to both same-sex relationships and euthanasia (should, as we expect, the Greens move to overturn the Euthanasia Laws Act). Therefore, we submit, this committee of inquiry should take into account such matters in their deliberations and, for the common good, we implore, reject the bill in question.

Regards,

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