social issues executive
ANGLICAN CHURCH DIOCESE OF SYDNEY

Inquiry into the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010

The Social Issues Executive of the Anglican Diocese of Sydney (SIE) advises the Diocese on public policy issues, and seeks to uphold and contribute to public governance. We are thankful for the opportunity to comment on this inquiry.

The change being proposed by the *Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010* will remove the ability for the Executive arm of the Australian Government to override an inappropriate enactment by the ACT. We disagree with the proposed change.

The change will set a higher bar for the Commonwealth to exercise its power over the territories, by requiring legislation to be passed through both the House of Representatives and the Senate to disallow an enactment. When (as at present) the Upper House is not controlled by the Government, any such debate becomes compromised by political considerations, rather than directed by the needs of good governance for the people of Australia.

If section 35 of the *Australian Capital Territory (Self-Government) Act 1988* (the Act) is repealed, it would be much more difficult for the Government to disallow idiosyncratic agendas implemented in the ACT that are not in the best interests of the Australian people. The burden of proof remains upon those proposing the change to show against the existing power to disallow enactments.

It is hardly controversial to observe that the ACT is a jurisdiction not representative of the Australian people overall. But if this repeal goes ahead, idiosyncratic policy reforms enacted in the ACT will be dragged onto the national agenda, creating unseemly scenarios where full parliamentary debate is required for matters that don't belong there. This could result in the machinery and operation of the federal Parliament being inappropriately used to advertise and debate territory issues and agendas. This Bill opens the way for the national agenda to be subverted or hijacked.

As things stand, the Commonwealth Executive is in the best position to know what territory policies are likely to have national ramifications, and should be able to continue to use this authority to disallow policies that will not be in the national interest. It is not appropriate for the territories to set agendas that will inevitably spill over into the lives and experiences of NSW residents and residents of other Australian states. Issues such as

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euthanasia (notwithstanding the current prohibition in section 23 of the Act on laws permitting euthanasia, which could be repealed), drug laws, and marriage for same-sex couples are all current topical issues that affect all Australians. It is always desirable for a nation-wide approach to be taken on such high-stakes issues, rather than having them forced onto the agenda by territorial legislation.

For example, euthanasia in one state or territory will result in a kind of 'death tourism', where Australian residents of other states would travel to the jurisdiction where euthanasia is legal. A national approach to such a difficult issue is far more preferable than a piece-meal approach by states and territories. The repeal of section 35 would further compromise the Commonwealth's capacity to effect national policies.

The ACT Legislative Assembly is the smallest legislature in Australia, with just 17 members elected from three electorates. A Legislative Assembly of this size is too small to have unlimited powers (or powers only limited with considerable difficulty). It is appropriate that the Executive arm of the Government continue to be able to override or suggest amendments to enactments made by the ACT Legislative Assembly. It is neither necessary nor appropriate to require the entire machinery of the parliament to be put to work to override the political agenda of such a small legislature, possibly pursuing a controversial agenda.

We note that the inquiry is also considering the impact of similar amendments that might be made to the self-government acts of the Northern Territory and Norfolk Island. In the case of Norfolk Island, it is strange to propose that the territory wield more autonomy, when the current debate is around winding back its self-governance. Again, a territory of just over 2000 people should not be able to enact agendas that are difficult to challenge, and which have ramifications for the Australian people.

Thank you for your consideration of our submission.

Sincerely

Dr Andrew Cameron
Chair, Social Issues Executive, Anglican Diocese of Sydney