



Dear Secretary

This is a submission to your Committee's inquiry into Senator Brown's bill regarding Territory legislative powers.

I am opposed to this Bill.

I strongly support retention of the present arrangement whereby a mechanism exists for the Governor-General in Council to disallow legislation passed by a Territory legislative body. Any such action would, of course, be initiated by a Federal Minister who is part of a Government having the confidence of Parliament.

The Territories (the A.C.T. in particular) are creations of the Commonwealth, as section 122 of the Constitution makes clear. They can never be the equal of the States (whether original or subsequently admitted) and are intrinsically subordinate to the Commonwealth.

Hence it is perfectly sensible for the Commonwealth Executive to have a power of superintendence over the Territories, bearing in mind that the Executive is accountable to the Parliament and a disallowance of Territory legislation can itself be overturned by either House.

To vest the power of disallowance

in the Parliament would be an unnecessarily elaborate process for a straightforward exercise of Commonwealth power.

It is hyperbole to suggest that the exercise of the power of disallowance makes Territory residents into second-class citizens. Territory legislatures are created by the Commonwealth and their powers are conferred by Commonwealth Acts. Why should those Acts not provide an overriding control? Where is the disadvantage to Territory residents?

So far as the A.C.T. is concerned, its residents suffer far more from the way Commonwealth agencies are outside ACT control. For example:

- Commonwealth agencies are exempt from ACT rates and taxes, throwing a financial burden on ACT citizens;
- Commonwealth agencies are exempt from ACT planning rules, and can ignore requirements applicable to everyone else;
- the Commonwealth can sell land without regard to overall planning strategy or practical realities (eg, parking);
- the Commonwealth has created at Canberra Airport what amounts to a feudal fiefdom, exempt from local laws and able to impose its own taxes.

In summary, the present arrangement for the oversight of Territory legislation is appropriate and should be maintained. In a practical sense, it is far less significant than other aspects of the Commonwealth/Territory relationships.

Accordingly, Senator Brown's bill should be rejected.

Yours sincerely

(MR. STEPHEN BROWN)