10 March 2011

Committee Secretary
Senate Legal and Constitutional Committees
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

By email: legcon.sen@aph.gov.au

Re: *Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010* Senate Enquiry

Dear Committee Secretary,

Senator Brown's Private Member's Bill to amend the *Australian Capital Territory (Self-Government) Act 1988* is clearly to remove legislative and political constraints from the ACT Parliament to introduce laws promoting homosexual marriage and euthanasia. The intent to do this is clear from the statements of ACT Greens members and Mr John Stanhope in the article *Greens' gay marriage victory*, in The Australian, by Matthew Franklin and James Massola, 2 March 2011.

> ACT Greens leader Meredith Hunter moved quickly, saying her party could move on same-sex laws and voluntary euthanasia.
>
> Mr Stanhope, who, like Ms Gillard, relies upon Greens support to govern, had no plan to agitate for full same-sex marriage rights, having agreed last year to federal pressure to provide for "civil partnership" ceremonies. But if the Greens put forward a bill reflecting Labor's original proposals for gay marriage, he would expect his caucus would support the change.
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> The Chief Minister said restoring territory rights would have enormous symbolic significance.
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> He opposed euthanasia but judged that such a bill would pass through the assembly on a conscience vote.

Of note, the ACT Labor Party has a pro-Euthanasia platform, as distinct from the Federal Labor Platform, which explains Mr Stanhope's confidence in this passing. Passage of any pro-Euthanasia laws would turn doctors, or others, into legally sanctioned killers, overturning their role as healers, and introduces a practice that can never claim to be foolproof against involuntary euthanasia, as occurs in The Netherlands and Belgium.

From the information I submitted privately to parliamentarians last year on euthanasia:

> In Euthanasia debates the examples of The Netherlands and Belgium are often cited. Please note that in November 2009, Els Borst, who proposed the Euthanasia Bill in The Netherlands, and is still in favour in principle, admits that it was a mistake and that the government should have focussed on palliative care. (See Patrick B. Craine, 'Former Dutch Health Minister Admits Error of Legalizing Euthanasia', http://www.lifesitenews.com/ldn/2009/dec/09120207.html Wednesday December 2, 2009)
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> Also, The Netherlands now allows euthanasia for newborn children under The Groningen Protocol (2005), building upon the initial legalisation. See the proponents explain: "Newborns, however, cannot ask for euthanasia, and such a request by parents, acting as the representatives of their child, is invalid under Dutch law. Does this mean that euthanasia in a newborn is always prohibited? We are convinced that life-ending measures can be acceptable in these cases under very strict conditions".
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> (Source: Eduard Verhagen, M.D., J.D., and Pieter J.J. Sauer, M.D., Ph.D., The Groningen Protocol — Euthanasia in Severely Ill Newborns, *N Engl J Med* 2005; 352:959-962 March 10, 2005 http://www.nejm.org/doi/full/10.1056/NEJMp058026)
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> There are also many cases of involuntary euthanasia in the Netherlands, for example 0.4% of deaths in 2005, which is about the same as in 2002, the year of euthanasia's legalisation. Many other cases that go unreported. (Source: Alex Schadenberg, "Media Spins Report on Netherlands Euthanasia to Falsely Suggest Numbers Have Decreased", 14 May 2007, http://www.lifesitenews.com/ldn/2007/may/07051404.html)
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> Belguim, wanting to enact safeguards so as not to have the same type of problems, fails to prevent involuntary euthanasia. A study published this year of deaths only in Flanders, Belgium, in the second half of 2007, showed that "208 deaths involving the use of life-ending drugs were reported: 142 (weighted prevalence 2.0%) were with an explicit patient request (euthanasia or assisted suicide) and 66 (weighted prevalence 1.8%) were without an explicit request." Also, "of the deaths without an explicit request (code for "involuntary euthanasia"), the decision was not discussed with the patient in 77.9% of cases." The authors favour euthanasia and claim that there is no *rise* in involuntary euthanasia – positing in fact a fall - from prior to legalisation, but that is not the point. *The point is that euthanasia laws cannot prevent involuntary euthanasia* and the authors present no specific solution beyond general suggestions. One is one too many.
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> (Source: Kenneth Chambaere et. al, Physician-assisted deaths under the euthanasia law in Belgium: a population-based survey, *Canadian Medical Association Journal*, May 17, 2010, page 1, http://www.cmaj.ca/cgi/rapidpdf/cmaj.091876v1)

> Even supporters of euthanasia must concede that there are no effective safeguards against abuse of euthanasia laws. Hence, we cannot afford ever to have such laws in our country. We are not immune from their potential abuse, and abuse in a single case is one too many.
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> With an ageing population and strains on our health system, pressure will be upon those in failing health to use the laws. Legislating out all forms of coercion against the vulnerable is impossible, and many would have a good deal to fear from entering our health system, were these laws in place. Those who consent to euthanasia or physician assisted suicide surrender their autonomy to the health physicians who decide to apply euthanasia provisions to them, making choice an illusion.

Though Simon Crean MP may note that the Andrews Bill would still prevent the ACT Government from legislating for Euthanasia and that "civil unions laws are already on the ACT books courtesy of the McClelland sanctioned 2009 law" (Paul Kelly, *Fresh problems for Labor*, The Australian, 9 March 2011) his position appears naïve. Senator Brown already has Bills before the Senate to overturn the Andrews' Bill, the *Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2010 and Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010*, and he would know that gay activists in the ACT were unhappy with the intervention of Mr Robert McClelland in 2009, as he himself was willing to fight against the Rudd Labor Government should they seek to overturn the ACT legislation.

On the second, both ACT Labor and the ACT Greens were unhappy with the intervention to prevent the ceremonies themselves from becoming legally binding. Papers for such unions were now required for submission to the Registrar five days prior to the ceremony. This is likely to be the first agenda item should Senator Brown's present Bill under discussion pass. The Greens may push for it, but they can count on ACT Labor's support. The push for such ceremonies harms the standing of marriage by parodying it through imitation, and as well as weakening it further, provides momentum for altering the Marriage laws at the Federal level. I believe Senator Brown is fully aware of this.

It also is part of a known incremental strategy to alter a nation's marriage laws, which must not go unchallenged. Jenni Millbank, quoted in the NSW Parliamentary Library Research Service Paper *Legal Recognition of Same-Sex Relationships: Briefing Paper No 9/06* states:

> "No country anywhere in the world has passed laws going from absolutely no form of same-sex relationship recognition directly to same-sex marriage. Rather, over a period of many years, a series of changes have built incrementally on one another. Generally progress has gone along the following sequence: decriminalisation of gay sex, implementation of anti-discrimination protections, some limited recognition of relationships either

> through de facto relationship recognition or limited registration systems, and then through one or more stages a move to broader relationship recognition, then (usually) some parenting recognition, then a status similar to marriage but called something else such as 'civil union' or 'registered partnership', and then, some years later, marriage." (p. 41)

(Source: http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/0/77a5243097257121ca257188001d17d6/$FILE/SameSexFinal&Index.pdf (accessed 10 March 2011)

The ACT Government wishes to play its part and is confident that any laws it passed would not be overturned in a Labor-Greens dominated Senate, as Paul Kelly points out in the article referred to above.

Ideally, the ACT Laws that passed in 2009 should be repealed for the good of marriage in Australia. Marriage is a key social good that provides legal recognition and protection for children of their natural right to a mother and a father, serving the good of the future of this or any nation. Marriage is oriented towards the natural generation of human life and this implication is built into the very origins of the word.

The Senate report into the Marriage Equality Amendment Act 2009 stated:

> "Marriage: from 'maritus' and 'maritata'—'husband and wife' in Latin. 'Matrimonio'; 'matrimonium'—'matrimony'; 'making of a mother'. It already has the two sexes written in the whole etymology of the language." (p27)

To detract from the meaning of this in any way harms marriage by severing its meaning from its purpose. Two men or two women cannot, by definition, be married as it contradicts its very purpose – nor should proximate imitations receive formal support. These are purely private relationships and can never serve the same role and purpose as marriage.

Please reject the *Australian Capital Territory (Self-Government) Act 1988*. The policy implications are socially destructive and arguably deadly.

Yours faithfully,

Gerard Calilhanna