



SPEAKER

Ms Julie Dennett
Committee Secretary
Legal and Constitutional Affairs—Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Ms Dennett

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

The Northern Territory Legislative Assembly Standing Committee on Legal and Constitutional Affairs is working towards Statehood for the Northern Territory and strongly supports the legislation now being considered by your Committee.

The Northern Territory Committee supports any reform which improves the democratic capacity of a self governing Australian territory to participate as a more equal partner within the broader Australian federal system.

The Northern Territory Committee issued a media release on Wednesday 2 March 2011 urging all Senators to support the *Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010*. A copy is attached for information*.

The Northern Territory Assembly has taken a bi-partisan approach to the constitutional development of the Northern Territory to bring it into line with the same powers and responsibilities as the existing States and encourages the Commonwealth Parliament to adopt the same approach.

The subject Bill provides for the repeal of section 9 of the *Northern Territory (Self Government) Act 1978*.

Section 9 of the *Northern Territory (Self Government) Act* enables the Governor General (on the advice of the Commonwealth Executive) to disallow any law made by the Northern Territory Legislative Assembly within six months of its assent. This ability is inconsistent with the democratic principles of the self governing Northern Territory to govern on behalf of all Territorians.

The Northern Territory Legislative Assembly is the democratically elected body representing the people of the Northern Territory and is responsible for making laws for the peace, order and good government of the Territory.

The Commonwealth Parliament and Government have specific constitutional roles which include the ability to administer territories and allows for the Parliament to admit or create States.

Until the admission of the Northern Territory as a State, the Northern Territory Committee takes the position that everything which can be done to allow for stronger democratic responsible representative self government should be done.

It remains contrary to the principles of democratic government that the laws made by the responsible Parliament in the Northern Territory should be overturned without reference to that Parliament.

Section 99 of the *Australian Constitution* prevents the Commonwealth discriminating in favour of (or against) one State over another, resulting in valid Commonwealth laws which apply equally to all.

Section 9 of the *Self Government Act* deviates from the underlying principle of s.99 and allows the Commonwealth to single out a territory for unequal treatment for no reason other than the Commonwealth has the constitutional power to treat a territory in an inferior manner. If the Commonwealth Government simply does not like a State law, its power to override that law is much more constrained.

Therefore the Committee strongly supports the proposed amendments, and notes that the Bill does not address the issue of the Australian Parliament being able to legislate to overturn any laws made by the Parliament representing the people of the Northern Territory.

To the Committee's knowledge, section 9 of the *Northern Territory (Self Government) Act* has not been exercised; while there have been a number of instances where the Australian Parliament has overturned Territory laws made by those elected to represent the Territory.

To remedy the inferior constitutional status of the people of the Northern Territory, our Legal and Constitutional Affairs Committee has been undertaking extensive consultations on Statehood for the Territory and has made recommendations for a process for drafting a constitution to be voted on by the people of the Territory.

A vital part of this process is engaging with the Australian Parliament and the people of Australia as a whole to consider Statehood for the Territory and the terms and conditions upon which any new State should be made.

We therefore encourage the Senate Legal and Constitutional Affairs Committee to not only give immediate consideration to our submission supporting the passage of this Bill but to also give consideration to the broader issue of constitutional inequality highlighted by this Bill as a matter for independent inquiry.

In summary, the Northern Territory Legal and Constitutional Affairs Committee supports the proposed repeal of section 9 of the *Northern Territory (Self Government) Act* and requests support for the immediate passage of the Bill.

In conjunction with a recent visit by the Northern Territory Committee to the Commonwealth Parliament to meet a number of Members and Senators, we distributed a copy of a Discussion Paper entitled *What Might the Terms and Conditions of Northern Territory Statehood Be?* I commend this Paper to your Committee's attention for further examination and consideration.

We also encourage the Senate Committee to give consideration to the wider constitutional issue of Statehood for the Northern Territory and invite direct discussion with the Committee in this regard.

Thank you for the opportunity to make a submission to this inquiry.

Yours sincerely

JANE AAGAARD
Speaker and Chair of the Legal and Constitutional Affairs Committee

7 March 2011

*enclosure



MEDIA RELEASE

Standing Committee on Legal and Constitutional Affairs

Hon Jane Aagaard MLA Committee Chair
Kezia Purick MLA Deputy Leader of the Opposition

2 March 2011

NT Constitutional Committee Urges Support for Territories Amendment Bill

Speaker of the Legislative Assembly and Chair of the Standing Committee on Legal and Constitutional Affairs, the Hon Jane Aagaard MLA and Deputy Leader of the Opposition and committee member Ms Kezia Purick urge all Senators to support Senator Bob Brown's *Self Government Amendment Bill* due to be debated in the Senate tomorrow.

The Bill would remove the ability of a single Commonwealth Government Minister to overturn a law made by the 25 Member Northern Territory Assembly, but would retain the Commonwealth Parliament's ability to scrutinise and overturn Territory laws. This is separate to Senator Brown's Euthanasia Bill.

Members of the Standing Committee on Legal and Constitutional Affairs visited Canberra on the 7th and 8th of February to continue the fight for Statehood and more Territory self determination. The meetings were with Independent, Green, Government and Opposition Members and Senators.

"The ability of a single Minister to overturn our laws was raised in our discussions with Federal Members and Senators and our concerns will hopefully influence their views when considering this important Bill," Mrs Aagaard said.

"Every Member and Senator we visited expressed in-principle support for the Territory's desire for Statehood and to legislate on behalf of Territorians.

"This is a test of the will of the Commonwealth to respect democracy and acknowledge that voters living in the Territories should have the same democratic rights as those who are resident in the existing states," she said

Ms Purick said support for the Bill would send a message to all Australians that Territory residents should have their laws respected.

"We were ready for self government over 30 years ago and it's time that people in Canberra realised we can make our own decisions on behalf of the people of the Northern Territory," she said.



STATEHOOD STEERING COMMITTEE

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