



Senator Trish Crossin
Chair, Senate Legal and Constitutional Affairs Committee
Parliament House, Canberra ACT 2600
Via email: legcon.sen@aph.gov.au

10 March 2011

Dear Senator Crossin,

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

I am writing to make a submission on behalf of Streetlaw, a project of Welfare Rights Legal Centre, which provides outreach legal services across Canberra to people who are homeless or at risk of becoming homeless. We support the objective of the *Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010*, to repeal section 35 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth), and remove the Governor-General's power to disallow or amend any Act of the Legislative Assembly for the Australian Capital Territory.

Streetlaw supports the ability of the citizens of the ACT to vote for representatives to make decisions on their behalf. In our respectful submission, it is clearly undemocratic for the Legislature of the ACT to be subject to the veto of the Federal Executive as set out in section 35. Removing power in this way sends a clear signal that the Commonwealth believes that the Territories are not up to the task of enacting appropriate laws. The Executive's power of veto diminishes the standing of our elected representatives. In 2006, that power was used as a blunt instrument to veto ACT laws when the Howard government used its powers in section 35 to veto the *ACT Civil Unions Act 2006* (ACT). As the submission of the Speaker of the ACT Legislative Assembly, Shane Rattenbury MLA reveals, the veto power has been used as a threat to attempt to coerce action by the Legislative Assembly on at least one occasion since then. It is clear that this power is likely to continue to be used for as long as it remains law.

We note that the repeal of section 35 will not remove the power of the Commonwealth to override any ACT law. Such a power is entrenched by section 122 of the Federal Constitution. We understand that the effect of repealing section 35 is merely to alter the process by which the Commonwealth might override ACT laws. Instead of enabling this to occur under section 35 by way of an executive decision, such an override would need to occur by way of legislation passed through both the House of Representatives and the Senate. This is a more appropriate method of achieving this outcome, and is consistent with the

Phone 6257 2931 | Fax 6257 4801 | email info@streetlaw.org.au | www.streetlaw.org
Post PO Box 337 Civic Square ACT 2608 | Office Havelock House Turner ACT



importance of ensuring that Australian citizens in both States and Territories have the same democratic rights to self-government.

To further this end, we suggest that the Bill should be amended to provide for further changes to the *Australian Capital Territory (Self-Government) Act* as follows:

- amend section 8 to enable the ACT Legislative Assembly to determine its own size; and
- remove the power in section 16 of the Governor General, acting on the advice of the federal executive, to unilaterally dissolve the ACT Legislative Assembly.

Yours sincerely,

Katie Fraser
Community Development Manager

CC: Chief Minister Jon Stanhope
CC: Speaker, Shane Rattenbury MLA

STREET LAY