

10 March 2011

Submission by David McDonald to the Senate Legal and Constitutional Affairs Committee

Thank you for the opportunity to make a submission on the *Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010*.

Over the years I have lived in both the Northern Territory and the ACT and currently live in New South Wales, so I have had opportunities to understand the governance arrangements for the two Territories.

I write to support the Bill introduced by Sen Bob Brown. In my view, it is an important step for strengthening democracy not just in the Territories but in Australia as a whole. This is because of the inequity in having the people of the Territories having a status lower than people who live in the States. It seems amazing, in this day and age, that an individual member of Parliament has the authority to unilaterally disallow legislation passed by the democratically elected Legislative Assemblies of the Territories.

The arguments that have been proposed in opposition to the Bill by MPs and Senators are quite amazing. To have some of them state that they initially supported the Bill but do not do so now because they have recently become aware that it could open the door to legislation covering euthanasia and/or gay marriage in the Territories indicates that they are either being disingenuous or lacking in understanding of the Australian democratic and legislative processes. Every Senator and Member of Parliament must already be aware that the States currently have the power to legislate in these areas, and also be aware that it is inequitable in the extreme for the people of the Territories not to have the same rights.

The inequity is particularly highlighted when one compares the ACT with Tasmania. The size of the population of the ACT is approaching that of Tasmania. It is a highly problematic historical consequence Tasmania has 10 Senators and the ACT only two, and that the Commonwealth Minister has the power to disallow ACT legislation but not Tasmanian legislation. This anomaly needs to be fixed.

As many commentators have indicated, Sen Brown's Bill does not propose removal of the Commonwealth power to disallow Territory legislation. Rather, it provides for this to be done on the basis of legislation in the Commonwealth Parliament rather than the whim of an individual minister. This seems a fair compromise.

To repeat, I support the Bill and urged the Committee to do likewise.

Yours sincerely,

David McDonald