

The Senate

Standing Committee on
Legal and Constitutional Affairs

Rights of the Terminally Ill (Euthanasia Laws
Repeal) Bill 2008

June 2008

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ABBREVIATIONS

1997 Euthanasia Inquiry	Senate Legal and Constitutional Legislation Committee, <i>Euthanasia Laws Bill 1996</i> , March 1997
ACL	Australian Christian Lobby
ACT	Australian Capital Territory
AMA	Australian Medical Association
AMSANT	Aboriginal Medical Services Alliance of the Northern Territory
ARDS	Aboriginal Resource and Development Services
Bill	Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008
Euthanasia Act	<i>Euthanasia Laws Act 1997</i> (Cth)
Gilbert and Tobin Centre	Gilbert and Tobin Centre of Public Law
HREOC	Human Rights and Equal Opportunity Commission
ICCPR	<i>International Covenant on Civil and Political Rights</i>
Law Council	Law Council of Australia
NSW	New South Wales
NT	Northern Territory
RTI Act	<i>Rights of the Terminally Ill Act 1995</i> (NT)

CHAPTER 1

INTRODUCTION

Purpose of the Bill

1.1 On 12 March 2008, the Senate referred the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008 (Bill) to the Senate Standing Committee on Legal and Constitutional Affairs for inquiry and report by 1 May 2008. On 18 March 2008, the Senate agreed to extend the reporting date to 23 June 2008.

1.2 The Bill, a private senator's bill introduced by Senator Bob Brown, proposes to repeal the *Euthanasia Laws Act 1997* (Cth) and thereby allow the Northern Territory, the Australian Capital Territory and Norfolk Island to make legislation permitting voluntary euthanasia. It also proposes to revive the Northern Territory *Rights of the Terminally Ill Act 1995*.

Conduct of the inquiry

1.3 The committee advertised the inquiry in *The Australian* newspaper on 26 March 2008. Details of the inquiry, the Bill and associated documents were placed on the committee's website. The committee also wrote to over 85 organisations and individuals inviting submissions by 9 April 2008.

1.4 The committee received over 1800 submissions. These are listed at Appendix 1. A list of submissions was placed on the committee's website. However, not all submissions were published on the committee's website. This was due to the large number of submissions received, and the resources required to publish those submissions. The majority of submissions received merely expressed a short statement in favour of, or opposing, the Bill. While some submitters requested confidentiality, all public submissions are available to the general public and can be provided upon request made to the committee secretariat.

1.5 The committee held public hearings in Darwin on 14 April 2008 and in Sydney on 16 April 2008. A list of witnesses who appeared at the hearings is at Appendix 2 and copies of the Hansard transcript are available through the Internet at <http://www.aph.gov.au/hansard>

Acknowledgement

1.6 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearing.

Scope of the report

1.7 Chapter 2 provides an overview of the Bill and its background. The next two chapters contain a summary of the main arguments for and against the Bill as raised

during the committee's inquiry: Chapter 3 considers legal and constitutional policy issues and Chapter 4 canvasses the key arguments for and against legalising voluntary euthanasia. Chapter 5 contains a summary of the views of committee members, along with the Chair's findings and recommendations. Detailed comments provided by various members of the committee, and participating Senators, follow these chapters.

Note on references

1.8 References in this report are to individual submissions as received by the committee, not to a bound volume. References to Committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard.

CHAPTER 2

OVERVIEW OF THE BILL

Purpose and provisions of the Bill

2.1 Clause 3 of the Bill states that the object of the Bill is:

...in recognising the rights of the people of the Australian Capital Territory, the Northern Territory and Norfolk Island to make laws for the peace, order and good government of their territories, including the right to legislate for the terminally ill, to repeal the *Euthanasia Laws Act 1997* which removed that right.

2.2 Schedule 1 of the Bill contains two items. The first item would repeal the *Euthanasia Laws Act 1997* (Cth) (Euthanasia Act). The second item aims to restore the Northern Territory (NT) *Rights of the Terminally Ill Act 1995* (RTI Act), stating that:

To avoid doubt, the enactment of the Legislative Assembly of the Northern Territory called the *Rights of the Terminally Ill Act 1995* has the same effect after the commencement of this Act as it had before the commencement of the *Euthanasia Laws Act 1997*.

2.3 No Explanatory Memorandum was tabled with the Bill. However, in his second reading speech, Senator Bob Brown explained that:

This is a Bill for an Act to repeal the *Euthanasia Laws Act 1997*, through which the national parliament overturned the Northern Territory *Rights of the Terminally Ill Act 1995*. It restores the legitimacy of the Northern Territory legislation...¹

2.4 Senator Brown also advanced several arguments in favour of the Bill:

Every opinion poll conducted over the last two decades has shown that approximately three-quarters of Australians support the concept of voluntary euthanasia...A Newspoll in February 2007 found that eighty percent Australians believe that terminally ill people should have a right to choose a medically assisted death.²

2.5 He further pointed out that:

In the decade since the Euthanasia Laws Act was introduced here, the legal right to die with dignity has been available to the citizens of The

1 Senator Bob Brown, Second Reading Speech, Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008, *Senate Hansard*, 14 February 2008, p. 8.

2 Senator Bob Brown, Second Reading Speech, Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008, *Senate Hansard*, 14 February 2008, p. 8.

Netherlands, Belgium, Oregon in the United States, Israel and Albania. In Switzerland, assisted suicide has been legal since 1918.³

Background to the Bill

Rights of the Terminally Ill Act 1995 (NT)

2.6 In May 1995, the NT Legislative Assembly enacted the RTI Act. The RTI Act came into force on 1 July 1996.⁴ The Act allowed a doctor, in defined circumstances, to comply with a request from a patient that the doctor assist the patient to end his or her own life. The RTI Act set out certain criteria to be met before such assistance could be provided. These included, for example, that the patient must be at least 18 years old; two medical practitioners must be of the opinion that the patient is suffering from a terminal illness; and a qualified psychiatrist must certify that the patient is mentally competent to elect euthanasia.⁵ Between August 1996 and March 1997, four patients made use of the RTI Act to end their lives.⁶

2.7 The RTI Act was challenged in the NT Supreme Court in 1996.⁷ This challenge queried, among other matters, whether the NT Legislative Assembly had the power to enact the RTI Act. A majority of the Full Court of the NT Supreme Court held that the NT Legislative Assembly had the power and that the RTI Act was a valid law of the NT. An appeal was lodged with the High Court, but this was adjourned until parliament had completed its consideration of the Euthanasia Laws Bill 1996.⁸ As a result of the enactment of the Euthanasia Act, no further action was taken.⁹

2.8 In September 1996, Mr (as he then was) Kevin Andrews, Member for Menzies in the House of Representatives, introduced the Euthanasia Laws Bill 1996 as a private member's bill. The main purpose of that bill was to overturn the NT RTI Act by amending the self-government legislation of the NT to remove the power of the NT Legislative Assembly to make legislation permitting euthanasia.¹⁰

3 Senator Bob Brown, Second Reading Speech, Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008, *Senate Hansard*, 14 February 2008, p. 8.

4 For a more detail examination of the *Rights of the Terminally Ill Act 1995* (NT) and its enactment, see Senate Legal and Constitutional Legislation Committee, *Euthanasia Laws Bill 1996*, March 1997 (1997 Euthanasia Inquiry), Chapter 2, pp 5-11.

5 *Rights of the Terminally Act 1995* (NT), subsection 7(1).

6 1997 Euthanasia Inquiry, pp 10-11.

7 *Wake v Northern Territory* (1996) 124 FLR 298.

8 *Wake v Northern Territory*, High Court of Australia, No. D10 of 1996, transcript of proceedings, 15 November 1996, p. 4.

9 *Wake v Northern Territory* (1996) 124 FLR 298; see also 1997 Euthanasia Inquiry, pp 8-10; Northern Territory Law Reform Committee, *Submission 443*, pp 2-3.

10 At the same time, it also amended the self-government legislation of the Australian Capital Territory (ACT) and Norfolk Island: see discussion of the Euthanasia Act below.

2.9 The Euthanasia Laws Bill 1996 was considered by the then Senate Legal and Constitutional Legislation Committee (1997 Euthanasia Inquiry).¹¹ That inquiry generated considerable interest, and received over 12,000 submissions. An analysis of the submissions received by that inquiry indicated that 93% were in favour of the Bill and/or opposed to euthanasia. However, the majority of that committee made no recommendation to the Senate on the Euthanasia Laws Bill 'because it is a private member's Bill and is subject to a 'conscience vote'.¹² The Euthanasia Laws Bill 1996 was subsequently passed by the Federal Parliament, and the Euthanasia Act came into force on 27 March 1997.

The Euthanasia Act

2.10 The Euthanasia Act amended the *Northern Territory (Self-Government) Act 1978* (Cth); the *Australian Capital Territory (Self-Government) Act 1988* (Cth) and the *Norfolk Island Act 1979* (Cth). The Euthanasia Act removed the power under the Self-Government Acts of the three territories to enact laws:

...which permit or have the effect of permitting (whether subject to conditions or not) the form of intentional killing of another called euthanasia (which includes mercy killing) or the assisting of a person to terminate his or her life.¹³

2.11 The Euthanasia Act provides that each Legislative Assembly does have the power to make laws with respect to:

- (a) the withdrawal or withholding of medical or surgical measures for prolonging the life of a patient but not so as to permit the intentional killing of the patient;
- (b) medical treatment in the provision of palliative care to a dying patient, but not so as to permit the intentional killing of the patient;
- (c) the appointment of an agent by a patient who is authorised to make decisions about the withdrawal or withholding of treatment; and
- (d) the repealing of legal sanctions against attempted suicide.¹⁴

2.12 The Euthanasia Act also contains a clause that specifically provides that the NT's RTI Act 'has no force or effect as a law of the Territory'.¹⁵

11 1997 Euthanasia Inquiry.

12 See further 1997 Euthanasia Inquiry, especially p. 114 and Appendix 1.

13 Euthanasia Act, Schedules 1-3; and the *Northern Territory (Self-Government) Act 1978*, subsection 50A(1); the *Australian Capital Territory (Self-Government) Act 1988*, subsection 23(1A) and the *Norfolk Island Act 1979*, paragraph 19(2)(d).

14 Euthanasia Act, Schedules 1-3; and the *Northern Territory (Self-Government) Act 1978*, subsection 50A(2); the *Australian Capital Territory (Self-Government) Act 1988*, subsection 23(1B) and the *Norfolk Island Act 1979*, subsection 19(2)(2A).

15 Item 2 of Schedule 1 of the Euthanasia Act.

2.13 The Euthanasia Act does not define the terminology it uses.

Terminology

2.14 The original meaning of the Greek word 'euthanasia' is a 'good death'. The Macquarie Dictionary defines 'euthanasia' as 'the deliberate bringing about of the death of a person suffering from an incurable disease or condition, as by administering a lethal drug or by withdrawing existing life-supporting treatments'.¹⁶

2.15 However, the term 'euthanasia' was used in a variety of ways in submissions to the current inquiry. For the purposes of this inquiry, as with the 1997 Euthanasia Inquiry, the committee considers that 'euthanasia' can be divided into four categories:¹⁷

- *Active voluntary euthanasia*: where medical intervention takes place, at a patient's request, in order to end the patient's life.
- *Passive voluntary euthanasia*: where medical treatment is withdrawn or withheld from a patient, at the patient's request, in order to end the patient's life.¹⁸
- *Passive in/non-voluntary*¹⁹ *euthanasia*: where medical treatment or life-support is withdrawn or withheld from a patient, without the patient's request, in order to end the patient's life.
- *Active in/non-voluntary euthanasia*: where medical intervention takes place, without the patient's request, in order to end the patient's life.

2.16 The Bill and the NT RTI Act, and therefore this inquiry and report, focus on active voluntary euthanasia.

2.17 Other important terms used during this report include:

16 See also AMA, *Submission 375*, p. 3.

17 1997 Euthanasia Inquiry, p. xi; also Natasha Cica, *Euthanasia – the Australian Law in an International Context: Part 1: Passive Voluntary Euthanasia*, Research Paper No. 3 1996-97, Parliamentary Research Service, p. iv; and AMA, *Submission 375*, p. 3; and NSW Council for Civil Liberties, *Submission 418*, pp 9-10.

18 Some submissions to this inquiry made a distinction based on intention: that is, if there is no intention to kill, then it is not euthanasia: see, for example, Dr David van Gend, *Submission 413*, p. 8; also Australian Family Association (WA), *Submission 380*, p. 4; Christian Democratic Party, *Submission 1001*, p. 6.

19 Non-voluntary euthanasia can be defined as the killing of a patient who does not have the capacity to understand what euthanasia means and cannot therefore form a request or withhold consent (for example, where a patient is unconscious); involuntary euthanasia refers to a situation where the patient is competent to make a request, but does not do so – so effectively something is done (or not done) in spite of the person's wish to stay alive: see 1997 Euthanasia Inquiry, pp xi-xii.

- *Physician-assisted suicide*: suicide using a lethal substance prescribed and/or prepared and/or given to a patient by a doctor for self-administration for the purpose of assisting the patient to commit suicide.²⁰
- *Double effect*: the administration of drugs (such as large doses of opioids) with the intention of relieving pain, but foreseeing that this might hasten death even though the hastening of death is not actually intended.²¹

Legal position in other Australian jurisdictions

2.18 No Australian state or territory has a law which allows voluntary active euthanasia. Rather, an act of voluntary active euthanasia is considered to be 'assisted suicide', which is a crime; the penalty for which varies in each state or territory jurisdiction.²²

2.19 There have been several inquiries by state and territory parliaments into voluntary euthanasia legislation, as well as several unsuccessful attempts to introduce and/or enact voluntary euthanasia legislation in state and territory jurisdictions, including, for example, in the Australian Capital Territory (ACT), South Australia, New South Wales, Western Australia and Tasmania.²³ In Victoria, a private member's bill, the Medical Treatment (Physician Assisted Dying) Bill 2008, has recently been introduced into the Victorian Parliament. That Bill apparently proposes to allow doctors to prescribe a liquid medication to assist in a patient's death.²⁴

2.20 Some states and territories do have legislation whereby people may be allowed to die through the withdrawal or lack of implementation of medical treatment. For example, under section 6 of the NT *Natural Death Act 1988*, the non-application of medical treatment in compliance with a direction under the Act is not considered a 'cause of death'. Most states and territories also have legislative schemes which allow patients to make 'advance directives' or 'living wills' which provide for patients to

20 *Rights of the Terminally Ill Act 1995* (NT), s. 3 (definition of assist); see also Australian Medical Association, *Submission 375*, p. 3.

21 1997 Euthanasia Inquiry, p. xii; see also Dr Alan Rothschild, *Submission 452*, pp 16-17.

22 For a useful summary and analysis of the Australian law in this area, see Associate Professor Cameron Stewart, *Submission 729*. Note that suicide in itself is no longer a crime in Australia.

23 See, for example, Ben White and Lindy Willmott, "Private thoughts of public representatives: assisted death, voluntary euthanasia and politicians", *Journal of Law and Medicine*, Vol. 11(1), August 2003, pp 77-92; also, Parliament of Tasmania, Community Development Committee, *Report on the Need for Legalisation of Voluntary Euthanasia*, Report No. 6, 1998; Parliament of South Australia, Social Development Committee, *Inquiry into the Voluntary Euthanasia Bill 1996*, 20 October 1999, pp 33-49, available at: <http://www.parliament.sa.gov.au/NR/rdonlyres/A42EAD4B-4D4B-4050-A8DD-F4D209D4CBBB/4724/12threportvoluntaryeuthanasiabill.pdf> (accessed 19 May 2008).

24 It was introduced into the Victorian Parliament on 28 May 2008: see <http://www.legislation.vic.gov.au/> (accessed 12 June 2008); see also Nader, C., "Euthanasia Bill to Bar Death Tourists", *The Age*, 18 March 2008, p. 7; Dying with Dignity Victoria, <http://www.dwdv.org.au/ParliamentaryBill.html> (accessed 19 May 2008).

specify what medical treatments they would like in the future, if at some point they cannot make decisions for themselves. Such directives enable patients to record decisions about their preferences on a range of treatments, including refusal of life-sustaining treatments.²⁵

25 'Advanced directives' are discussed further in Chapter 4 of this report.

CHAPTER 3

LEGAL AND CONSTITUTIONAL POLICY ISSUES

3.1 This chapter examines some of the key legal and constitutional policy issues raised during the committee's inquiry. These include:

- whether it was appropriate for the Federal Parliament to have used its power to override legislation in the territories;
- drafting issues in relation to the Bill; and
- other issues, including issues relating to the NT legislation which the Bill proposes to revise.

3.2 These issues are considered in detail below.

Should Federal Parliament override territory laws?

3.3 Section 122 of the Constitution confers a plenary power on the Commonwealth to make laws for the government of any territory. It is clear that the Commonwealth had the power, under section 122 of the Constitution, to override the laws of the NT as it did when it enacted the Euthanasia Act.

3.4 The key issue, however, is whether the enactment of the Euthanasia Act was an appropriate use of that power from a constitutional policy perspective. Whether Federal Parliament should have used its power to override the NT RTI Act was also a crucial question at the time of the 1997 Euthanasia Inquiry.¹ As the report of that inquiry stated:

The Commonwealth Parliament has the power under s.122 of the Constitution to enact the Bill. Even opponents of the Bill conceded this.

The question for the Committee's inquiry was whether the Parliament should exercise this power.²

3.5 The Parliamentary Library also observed in 1997:

The main constitutional issues raised by the Andrews [Euthanasia Laws] Bill [1996] are political rather than legal. The central question is whether or

1 1997 Euthanasia Inquiry, especially Chapter 3 and pp 111-112.

2 p. 131.

not it is acceptable politically for the Commonwealth to take back part of the legislative powers it conferred on these Territories at self-government.³

3.6 This committee's current inquiry reignited this debate. The key constitutional policy arguments for and against Commonwealth involvement raised during this inquiry are discussed in turn below.

Support for the Bill

3.7 Submissions supporting the Bill on constitutional policy grounds did so on the basis that it was inappropriate for the Federal Parliament to override the decision of the democratically-elected NT Parliament. These objections appeared to be based on three key grounds which are discussed further below – that is, that the Euthanasia Act:

- interfered with democracy and self-government in the territories;
- discriminated against territories and territory citizens when compared to states and state citizens; and
- demonstrated inconsistent treatment of territories by the Commonwealth.

Interference in democratic and self-government processes

3.8 On the first point, several submissions argued that, in enacting the Euthanasia Act, the Commonwealth was interfering in the affairs of the self-governing territories. For example, the NT Law Reform Committee described this 'interference with the policy of a self-governing legislature' as a 'direct contradiction of self-government'.⁴

3.9 Similarly, the Law Council of Australia (Law Council) submitted its belief that the Euthanasia Act 'constituted unnecessary interference by the Commonwealth Parliament in the internal affairs of the properly-elected Northern Territory (NT) government'.⁵ The Law Council expressed the view that, having passed the *Northern Territory (Self Government) Act 1978*, 'the Commonwealth should not seek to derogate from that grant of self-government on a domestic issue'.⁶

3.10 The Hon Austin Asche, President of the NT Law Reform Committee, suggested that:

3 Natasha Cica, "Constitutional Arguments in Favour of Removing the Territories' Power to Make Laws Permitting Euthanasia", *Parliamentary Library Research Note 32 1996-97*, available at: <http://www.aph.gov.au/library/pubs/rn/1996-97/97rn32.htm>; and "Constitutional Arguments Against Removing the Territories' Powers to Make Laws Permitting Euthanasia", *Parliamentary Library Research Note 33 1996-97*; available at: <http://www.aph.gov.au/library/pubs/rn/1996-97/97rn33.htm> (accessed 2 April 2008).

4 *Submission 443*, p. 2.

5 *Submission 442*, p. 2; see also NSW Council for Civil Liberties, *Submission 418*, p. 5.

6 *Submission 442*, p. 2.

Any Commonwealth enactment based on policy—that is, based on a difference of opinion between the Commonwealth and the Territory—is of course an interference with the self-government of the Territory. If the Commonwealth disagrees with a policy of a territory then the grant of self-government is really illusory.⁷

3.11 The Gilbert and Tobin Centre of Public Law (Gilbert and Tobin Centre) expressed the view that the Euthanasia Act was a 'bad law in that it discriminated against the territories and weakened self-government in those jurisdictions'.⁸ The Centre argued that:

The Euthanasia Laws Act 1997 should be repealed because it is inappropriate that the Commonwealth Parliament remove power pre-emptively from any self-governing jurisdiction within Australia. The law is inconsistent with basic principles of democracy and indeed with the very concept of self-government in the Australian Territories.⁹

3.12 The ACT Attorney-General, Mr Simon Corbell MLA, also supported the Bill, stating that:

The ACT's position is that it is simply inappropriate for the Commonwealth parliament to determine a policy setting that is only relevant to the people of the Australian Capital Territory. Senator Brown's bill restores to the territory the ability to legislate as the territory deems fit on the issue of euthanasia. That is entirely consistent with the grant of self-government to the territory, and that is why we support the bill.¹⁰

3.13 The NT Government stated that, in principle, it 'would welcome the removal of the limitation on its self-governing capacity'.¹¹ However, it had reservations about the drafting of the Bill, which will be discussed later in this chapter.

3.14 Several submissions further suggested that, in overriding the laws of a self-governing territory, the Euthanasia Act was against the 'spirit of democracy' because it overturned the laws of a democratically-elected territory parliament.¹²

3.15 The NT Government and NT politicians were particularly vociferous on this point. The NT Government submitted that the passage of the Euthanasia Act 'was a

7 *Committee Hansard*, 14 April 2008, p. 46.

8 *Submission 46*, p. 1.

9 *Submission 46*, p. 1; see also Professor George Williams, *Committee Hansard*, 16 April 2008, p. 2.

10 *Committee Hansard*, 16 April 2008, p. 22.

11 *Submission 446*, p. 4.

12 South Australian Voluntary Euthanasia Society, *Submission 74*, p. 1; see also, for example, Voluntary Euthanasia Society of NSW, *Submission 216*, p. 1; ALP (ACT Branch), *Submission 415*, pp 1-2; Western Australian Voluntary Euthanasia Society, *Submission 370*, p. 1; Civil Liberties Australia, *Submission 365*, p. 1.

fundamental, and unwarranted attack on the democratic rights of the people of the Northern Territory'.¹³ Mr Terry Mills MLA, current Leader of the Opposition in the NT, submitted that, in passing the Euthanasia Act, the Commonwealth Parliament 'directly contradicted the will of the Territory people as expressed through its parliament'.¹⁴ Several submitters noted that the NT Government had undertaken extensive consultation, debate and inquiry prior to the passage of the NT RTI Act.¹⁵

3.16 In this context, Mr Marshall Perron, who was the NT Chief Minister at the time the NT RTI Act was passed, gave the committee a copy of a 'Remonstrance' adopted unanimously by the NT Legislative Assembly and tabled in the Senate on 28 October 1996.¹⁶ The Remonstrance expressed the view that the Euthanasia Act constituted 'a direct attack on the self government powers of the Northern Territory.' Mr Perron further told the committee that:

Representative democratic principles were abandoned when the Euthanasia Laws Act passed through both houses of federal parliament with the support of 126 members, not a single one of them electorally responsible to Territorians.¹⁷

3.17 The Hon Austin Asche further pointed out to the committee that the power of the NT Legislative Assembly to pass the RTI Act, had been challenged and upheld in the courts, as discussed in Chapter 2 of this report.¹⁸ He argued that this was the appropriate way to overturn such laws:

... the only proper way to attack the power of the Territory to pass that particular act was through the courts. That in fact was done by the application to the full court of the Supreme Court. That application was interrupted because the act was then repealed. But had it gone to the full length of an appeal to the High Court—although it may be temerarious to predict what the High Court will do—we feel that the High Court would probably have upheld the decision of the majority of the full court. The point we make is that that is the way to go. Either the Territory has the power, in which case it should be allowed to exercise it because it has been

13 *Submission 446*, p. 4; see also The Hon Daryl Manzie, *Committee Hansard*, 14 April 2008, p. 17; and Mr John Bailey, former member of the NT Legislative Assembly, *Submission 430*, p. 1.

14 *Submission 451*, p. 2.

15 The Hon Daryl Manzie, *Committee Hansard*, 14 April 2008, p. 20; Australian Federation of AIDS Organisations, *Submission 400*, p. 1.

16 *Submission 393*, p. 1; see also The Hon Daryl Manzie, *Submission 411*, pp 1-7; Mr Terry Mills MLA, *Submission 451*, p. 2; and *Journals of the Senate No. 46*, 28 October 1996, p. 765.

17 *Submission 393*, p. 1; see also South Australian Voluntary Euthanasia Society, *Submission 74*, p. 1.

18 *Wake v Northern Territory* (1996) 124 FLR 298.

given self-government, or it does not have the power, in which case the court should so rule.¹⁹

3.18 In the same vein, the ACT Attorney-General, in supporting the Bill, told the committee that:

...only the elected members of the ACT Legislative Assembly can claim a legitimate mandate to represent the views of the people of the territory. It is a direct attack on the democratic principle for others without such a mandate to substitute their own views for the views of those elected to represent the people of the ACT.²⁰

3.19 Mr Corbell further told the committee:

While the ACT government will not necessarily move to make laws to legalise voluntary euthanasia, the issue at stake is the constitutional right of this government to make laws for the governance of the people of the Australian Capital Territory.²¹

3.20 Similarly, the Law Council submitted that:

Territorians elect representatives to their local assemblies in the expectation that those representatives will make laws for the peace, order and good governance of their communities within the parameters of the law making powers afforded them by the self-government Acts. It is an affront to the democratic process in which Territorians participate if legislation lawfully passed by their elected representatives is rendered invalid by the operation of Commonwealth laws, which are not of general application, but which are exclusively targeted at the Territories for the express purpose of interfering in their legislative processes.²²

3.21 Finally, the South Australian Voluntary Euthanasia Society submitted that:

...the overturning of the Rights of the Terminally Ill Act 1995 by the Federal Parliament, which has a minimal representation from the Northern Territory, was an anathema to the spirit of democracy and a contravention of the democratic rights of the people of the Northern Territory. The will of Territorians, which had been decided by their representative agents, who were elected under a free electoral system, was denied by federal groups in which they were minimally represented.²³

19 *Committee Hansard*, 14 April 2008, p. 46; see also Northern Territory Law Reform Committee, *Submission 443*, pp 2-3; and discussion in Chapter 2 of this report.

20 *Committee Hansard*, 16 April 2008, p. 20; see also *Submission 471*, p. 1.

21 *Committee Hansard*, 16 April 2008, p. 20; see also *Submission 471*, p. 2.

22 *Submission 442*, p. 5.

23 *Submission 74*, p. 1.

Discrimination against territories and territory citizens

3.22 It was further suggested that because the Euthanasia Act only applies to territories, not states, it therefore discriminates against territories and the citizens of those territories.²⁴ Some suggested this meant territory citizens were effectively second-class citizens in the Australian Federation. For example, Civil Liberties Australia suggested that the actions of the Federal Parliament in overturning valid territory laws made:

...a mockery of the rights of citizens living in the Territories, and [made] them second-class Australian citizens in relation to the fuller democratic rights held by citizens of Australian States. The Australian Parliament has a clear responsibility to correct this inequality of rights between its citizens. All Australians should have equal rights.²⁵

3.23 Similarly, Darwin Senior Citizens submitted that:

The passage of this bill would redress the injustice done to Australians who happen to live in a territory, instead of a state, by returning to the legislative assemblies the right to make euthanasia laws if they see fit. It may have been only the Northern Territory whose law was overturned but the people of three territories became second-class citizens twelve years ago. We deserve better.²⁶

3.24 As Mr Marshall Perron, former NT Chief Minister, put it: 'we should not be treated disproportionately because, geographically, some citizens want to live in a territory rather than a state'.²⁷

3.25 Dr Philip Nitschke, Director of Exit International, expressed the view that, after the passage of the Euthanasia Act:

...citizens of the Northern Territory realised immediately that their voice was not as significant in Australian society as that of other Australians. The effect was to undermine the status and sense of worth of the people living in the Territories of Australia. This generated resentment and anger from within this part of the Australian population...²⁸

24 For example, Atheist Foundation of Australia, *Submission 55*, p. 1; South Australian Voluntary Euthanasia Society, *Submission 74*, p. 1; Voluntary Euthanasia Society of NSW, *Submission 216*, p. 1; West Australian Voluntary Euthanasia Society, *Submission 370*, p. 1; Council on the Ageing NT, *Submission 373*, p. 1; Darwin Senior Citizens, *Submission 377*, p. 1; ALP (ACT Branch), *Submission 415*, pp 1-2; Civil Liberties Australia, *Submission 365*, p. 1; Gilbert and Tobin Centre, *Submission 46*, p. 1 and Professor George Williams, *Committee Hansard*, 16 April 2008, p. 2; Mr Terry Mills MLA, *Submission 451*, p. 1.

25 *Submission 365*, p. 1.

26 *Submission 377*, p. 1.

27 *Committee Hansard*, 14 April 2008, p. 23; see also *Submission 393*, pp 1-2.

28 *Submission 390*, pp 1-2.

3.26 Ms Judy Dent exemplified this resentment, telling the committee:

I resent being a second-class citizen in my chosen country. I am an Australian citizen...and I choose to live in a territory. I think I should have the same rights in the Territory as someone who lives in South Australia or Queensland or any other part of the country and, therefore, I would like those rights to be restored to the parliament of the Territory...²⁹

Inconsistent treatment of territories

3.27 The Law Council also expressed the view that the 'Commonwealth's interferences in the Territories' law making powers, via the Euthanasia Laws Act was arbitrary and ad hoc'.³⁰ The Law Council then gave two other examples of the Commonwealth's involvement in territory legislation, which it felt:

...demonstrate that the Commonwealth has no consistent, transparent criteria for intervention in the law-making powers of the Territories. These examples suggest that populist political agendas, rather than any objectively assessed national interest criteria, guide the Commonwealth's decision as to whether or how to intervene.³¹

3.28 The first example given by the Law Council was the Commonwealth's decision *not* to intervene to override NT laws for providing a harsh mandatory sentencing regime, despite 'clear evidence that the regime was having a disproportionate impact on the indigenous population' and breached Australia's obligations under international conventions.³² The second example was the disallowance of the ACT's *Civil Unions Act* in 2006 by the Governor-General, on the advice of the Commonwealth Government.³³

3.29 Based on these examples, the Law Council argued that:

...it is clear that Territorians currently live with a degree of uncertainty, unsure of when and how the Commonwealth may seek to intervene in and override the actions of their democratically elected representatives.

This is an entirely unsatisfactory state of affairs in a stable, democratic country committed to the rule of law and open and transparent government.³⁴

3.30 In the same vein, the NT Law Reform Committee pointed out that the Euthanasia Act was:

29 *Committee Hansard*, 14 April 2008, p. 24.

30 *Submission 442*, p. 6.

31 *Submission 442*, p. 7.

32 *Submission 442*, p. 7.

33 *Submission 442*, p. 8.

34 *Submission 442*, p. 8.

...passed on the basis that the Federal Parliament disapproved of the policy of the NT Act. The clear implication is that, if any of the three named Territories passes legislation of which the Federal Parliament disapproves, the Federal Parliament will take away its power to do so.³⁵

3.31 Others suggested that there should be some form of objective and consistent criteria to determine the circumstances where the Commonwealth could appropriately intervene in the affairs of the territories. In particular, Father Frank Brennan, a Professor of Law at the Australian Catholic University, although opposed to the Bill, suggested some specific criteria for the 'very rare circumstances' in which the Commonwealth should exercise its power to overrule territory law. The criteria suggested by Father Brennan (which he felt that the Euthanasia Act met) were:

...where no State has similarly legislated; where the Territory law is a grave departure from the law in all equivalent countries; where the Territory law impacts on the national social fabric outside the Territory; and where the Territory law has been enacted without sufficient regard for the risks and added burdens to its own more vulnerable citizens, especially Aborigines.³⁶

Arguments against the Bill

3.32 Those who opposed the Bill on constitutional policy grounds argued that it was appropriate for the Commonwealth to override territory legislation, particularly since the territories derive their legislative capacity from the Commonwealth, whereas the states do not.³⁷

3.33 In 1997, a Parliamentary Library paper put this argument as follows:

The grant of self-government to the Northern Territory in the *Northern Territory (Self-Government Act) 1978* (Cth) did not erode the supremacy of the Federal Parliament over this Territory. This grant of self-government did not in any way limit the Commonwealth's plenary legislative power over the Territory in section 122 of the Australian Constitution.³⁸

3.34 Several submissions agreed with this argument during this inquiry. For example, the Federal Presbyterian Church of Australia submitted that:

We recognise that some may consider supporting the Bill on something analogous to 'States' Rights' grounds. However, at this stage in our constitutional development, the territories remain subject under the

35 *Submission 443*, p. 2.

36 *Submission 428*, p. 1; see also *Committee Hansard*, 16 April 2008, p. 10.

37 See, for example, Christian Democratic Party, *Submission 1001*, p. 1; Festival of Light Australia, *Submission 361*, p. 9.

38 See Natasha Cica, "Constitutional Arguments in Favour of Removing the Territories' Power to Make Laws Permitting Euthanasia", *Parliamentary Library Research Note 32 1996-97*, available at: <http://www.aph.gov.au/library/pubs/rn/1996-97/97rn32.htm> (accessed 17 March 2008).

Constitution to the oversight of the Federal Parliament, and while this oversight continues, the moral issues addressed in Bills such as this should override all other considerations.³⁹

3.35 Similarly, the Christian Democratic Party submitted that:

We support the Commonwealth Constitution which does not give the two Territory Governments – the ACT and Northern Territory, the same self governing powers as a State Government.

Territorial Assembly legislation can be overruled by the Federal Parliament, when necessary, for a variety of reasons.⁴⁰

3.36 Similarly, Mr John Ryan argued in his personal submission that:

...control of the Northern Territory lies in the hands of the Commonwealth Parliament... A Territory, even the Northern Territory, is not a State and does not have the Constitutional powers and rights of a State...All of the rights of the Northern Territory only exist at the whim of the Commonwealth Parliament.⁴¹

Limits on territories' self-government

3.37 The committee also heard that there are several limits on the powers of the territory governments which are imposed by their self-government legislation as granted by the Commonwealth. As the parliamentary library pointed out in 1997:

When it attained self-government in 1978, the Northern Territory was not granted the full range of legislative and executive powers. For example, the Federal Parliament specifically and expressly withheld from Northern Territory Ministers the executive authority over the mining of uranium and over Aboriginal land rights. These are both matters of political sensitivity and of national importance.⁴²

3.38 The paper therefore put forward an argument in favour of the Euthanasia Act:

Euthanasia is also a politically sensitive issue of national importance. Had the Federal Parliament turned its mind to the issue when it was granting self-government to the Northern Territory, it would have excluded

39 *Submission 366*, p. 1.

40 *Submission 1001*, p. 1.

41 *Submission 409*, p. 1.

42 Natasha Cica, "Constitutional Arguments in Favour of Removing the Territories' Power to Make Laws Permitting Euthanasia", *Parliamentary Library Research Note 32 1996-97*, available at: <http://www.aph.gov.au/library/pubs/rn/1996-97/97rn32.htm> (accessed 17 March 2008); see also Father Frank Brennan, *Submission 428*, p. 1 and Attorney-General's Department, *Answer to Question on Notice*, received 9 May 2008, pp 1-2.

euthanasia from the legislative and/or executive competence of the Territory government.⁴³

3.39 The Law Council recognised that the Commonwealth retains the constitutional power to make laws in respect of territories, and 'retains a largely unfettered power to disallow or override Territory legislation'. The Law Council noted that it was argued during the 1997 Euthanasia Inquiry that:

...the existence of this power is in itself evidence of an intention on the part of both the drafters of the Constitution, and the Parliaments which subsequently passed the self-government Acts, to confer an ongoing responsibility on the Commonwealth to supervise the governance of the Territories and a corresponding power to intervene when deemed appropriate.⁴⁴

3.40 However, the Law Council pointed out that these arguments 'ignore the role of convention in Australia's legal order' and, in particular, the 'strong convention [that] has developed against revoking powers granted to subordinate legislatures'.⁴⁵

3.41 The ACT Attorney-General also acknowledged that the *Australian Capital Territory (Self-Government) Act 1988* (Cth) constrains the ACT from legislating on certain matters, such as in the operations of the Australian Federal Police, industrial relations matters and the ability to increase the number of elected representatives within the ACT Legislative Assembly.⁴⁶ However, the ACT Attorney-General argued that:

...we accept as a territory that there are certain constitutional limits on our activities. The Constitution is clear on the powers of the federal parliament as it relates to territories. Whilst we believe that it would be desirable for those hindrances or restrictions to be removed in the constitutional framework, we also recognise that that is unlikely, at least in the short term or even in the medium term. But there needs to be greater respect given to the territories to determine their own affairs.⁴⁷

3.42 Similarly, the NT Law Reform Committee submitted that the 'Northern Territory Legislative Assembly should have unrestricted plenary legislative power and its supports the primary aim of the Bill for this reason'.⁴⁸

43 See Natasha Cica, "Constitutional Arguments in Favour of Removing the Territories' Power to Make Laws Permitting Euthanasia", *Parliamentary Library Research Note 32 1996-97*, available at: <http://www.aph.gov.au/library/pubs/rn/1996-97/97rn32.htm> (accessed 17 March 2008).

44 *Submission 442*, p. 4; see also 1997 Euthanasia Inquiry, p. 19.

45 *Submission 442*, p. 4.

46 *Committee Hansard*, 16 April 2008, p. 22; see also Attorney-General's Department, *Answer to Question on Notice*, received 9 May 2008, p. 2.

47 *Committee Hansard*, 16 April 2008, p. 23.

48 *Submission 443*, p. 2.

3.43 It was also pointed out to the committee that the Commonwealth – through the Governor-General – retains a power to disallow or override territory legislation. This power is contained in the territories' self-government legislation.⁴⁹

3.44 The former NT Chief Minister, Mr Marshall Perron, argued that 'these procedures obviate the need for the Euthanasia Laws Act'.⁵⁰ Mr Perron further told the committee that this power was not exercised at the time of the NT RTI Act:

...an approach was made to the Prime Minister of the day, Prime Minister Keating, to use exactly those powers and refuse assent to the Northern Territory's legislation through the Governor-General. To his credit, the Prime Minister is on record as saying, in rejecting the approach, that this was a matter for the Territory, not the Commonwealth. That is where I believe the matter should have rested.⁵¹

3.45 The ACT Attorney-General went further, suggesting that these disallowance powers were also inappropriate, and that the ACT's Self-Government Act 'should be amended to remove the power of the Commonwealth executive to recommend the disallowance of territory laws'.⁵²

Issues with territory legislatures

3.46 Many submitters who opposed the Bill suggested that territory legislatures should not be able to legislate on issues such as euthanasia because they are only small legislatures with no upper house of review.⁵³ For example, the Australian Christian Lobby (ACL) submitted that:

The territory legislatures are small assemblies with no upper house of review and very few members (17 members in the ACT and 25 in the NT). In the ACT just nine politicians form a government on behalf of 300,000 people. In the Northern Territory's case, a small territory with the population of a suburban council district in Melbourne or Sydney passed the euthanasia law by one vote.

Such small legislatures with no upper house should not be given the power to make decisions on a life and death issue such as euthanasia which would

49 Law Council of Australia, *Submission 442*, p. 3; and see, for example, s.9 of the *Northern Territory Self-Government Act 1978* (Cth).

50 *Submission 393*, p. 1.

51 *Committee Hansard*, 14 April 2008, p. 19.

52 *Committee Hansard*, 16 April 2008, p. 21.

53 See, for example, Mrs Nita Woodward, *Submission 117*, p. 1; Festival of Light Australia, *Submission 361*, p. 9; Darwin Christian Ministers' Association, *Submission 376*, p. 3; ACL, *Submission 422*, p. 4; Right to Life Australia, *Submission 441*, p. 3; Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Submission 360*, p. 5 and Mr Christopher Meney, *Committee Hansard*, 16 April 2008, pp 30-31; Dr David van Gend, *Submission 413*, p. 2.

radically change the social air we all breathe by severely undermining the protection of life.⁵⁴

3.47 Dr David van Gend, a Senior Lecturer in Palliative Medicine at the University of Queensland,⁵⁵ in his personal submission, agreed:

The Bill before the Committee lacks any sense of 'legislative proportion' in that it would allow a tiny Territory legislature to pass a radical law that no State legislature sees fit to pass.

A legislature which lacks the checks and balances of a house of review, with a constituency comparable to the Toowoomba Regional Council, is not a substantial enough vehicle to carry such weighty legislation.

The existing Federal legislation is not obstructing the valid expression of the will of the Australian people on euthanasia – State parliaments are free to consider euthanasia, which they do from time to time, and wisely they continue to reject it. But a matter of such magnitude, being so radical a departure from settled law, cannot validly be introduced by a subsidiary legislature representing only 1% of the nation.⁵⁶

3.48 Dr van Gend clarified this point further during the committee's hearing in Darwin:

...it is not casting any aspersions on the professionalism or the responsibility of those people who live in the Northern Territory and occupy its legislature. It is simply to say that it is good that at least that legislature cannot make euthanasia laws, and wouldn't it be nice if all legislatures could not.⁵⁷

3.49 In the same vein, Father Frank Brennan suggested that the territories should not be given legislative power in relation to the issue of euthanasia 'unless and until a state parliament in Australia has so legislated'.⁵⁸ Father Brennan told the committee that:

...given that the society we have is a national society, it is wrong for these small legislatures to view themselves as social laboratories for trying different sorts of moral and social answers which are out of kilter with those of the states generally.⁵⁹

54 *Submission 422*, p. 4; see also Mrs Lois Fong, ACL, *Committee Hansard*, 14 April 2008, p. 8.

55 Also a member of the Medical Advisory Board, Toowoomba Regional Hospice and Queensland secretary for "TRUST: Palliative Care, not Euthanasia".

56 *Submission 413*, p. 2.

57 *Committee Hansard*, 14 April 2008, p. 13.

58 *Committee Hansard*, 16 April 2008, p. 10 and pp 12-13; see also Mr Christopher Meney, Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Committee Hansard*, 16 April 2008, p. 31.

59 *Committee Hansard*, 16 April 2008, p. 12.

3.50 Others disputed the criticisms of territory legislatures. In response to these suggestions, the ACT Attorney-General stated that:

The ACT does not view itself as a social laboratory, but I think it is fair to say the ACT does consider itself to be a progressive jurisdiction. Whether it has been a Labor or a Liberal administration, it has always tended to be more progressive on a range of social policy matters.⁶⁰

3.51 The ACT Attorney-General continued:

...one of the strengths of the federation model [is] that states and territories are able to legislate to meet the needs of their particular jurisdiction. The difficulty we have is that we are limited in what we can do in a number of areas—particularly as it relates to euthanasia...⁶¹

3.52 Professor George Williams, Anthony Mason Professor and Foundation Director of the Gilbert and Tobin Centre also observed:

...there is a link between the quality of governance and the size of legislatures, but...[o]nce you get below a size of 150 or so, frankly, it does not make much difference in terms of how the legislature operates. For that reason, I do not think that the size of the legislature there casts any doubt upon their capacity for self-governance. In the same way, I would not cast any doubt on the capacity to govern of the Tasmanian parliament, another very small parliament by Australian standards.⁶²

3.53 Similarly, The Hon Austin Asche, of the Northern Territory Law Reform Committee pointed out that if the size of the legislature or a jurisdiction's population became a reason to query the legitimacy of a legislature, then:

...the Tasmanians ought to be starting to feel very uncomfortable, because there are only 400,000 or so of them. If you do grant self-government to a series of bodies, then you allow them to determine themselves within their own province...If you say that the citizens of the Territory are immature—and that means that perhaps the citizens of Tasmania are just slightly more mature and the citizens of South Australia perhaps a little bit more mature—by all means do so, but that means that you should not be passing self-government acts.⁶³

3.54 As to the absence of a house of review, it was noted that other jurisdictions, including Queensland, also have a unicameral legislature. As Professor Williams told the committee:

...if we took the absence of a house of review as being bad then Queensland is in a difficult position, because it only has one tier of

60 *Committee Hansard*, 16 April 2008, p. 23.

61 *Committee Hansard*, 16 April 2008, p. 23.

62 *Committee Hansard*, 16 April 2008, pp 4-5.

63 *Committee Hansard*, 14 April 2008, p. 47.

government. Equally, you can look, for example, at the United Kingdom. It has the House of Lords, but that house does not have full powers of review. In Canada, their upper house is an appointed upper house and certainly does not operate as an effective house of review. In fact, the Senate is a very unusual chamber by world standards in operating as a house of review...Clearly, the Northern Territory Legislative Assembly—and the ACT Legislative Assembly—is elected by democratic means after fair and free elections. It is a proper representative body of the people.⁶⁴

3.55 The Hon Austin Asche further pointed out to the committee that the power of the NT Legislative Assembly to pass the RTI Act, had been challenged and upheld in the courts, and that this was the proper way to overturn any territory laws.⁶⁵

National interest – national approach?

3.56 Others opposed to the Bill argued that it was in the national interest for the Federal Parliament to override the NT's RTI Act. As Father Frank Brennan put it: 'state and territory rights are not necessarily trumps at the federal card table when an issue affects the national ethos'.⁶⁶

3.57 A key argument against the Bill, and in favour of the Euthanasia Act, was that it was appropriate for the Commonwealth to use its power because the NT RTI Act had implications for the whole of Australia. In particular, the impact of the RTI Act extended outside the NT, since there was no requirement in the NT legislation for a person requesting euthanasia to be a NT resident. Therefore, patients could travel from other parts of Australia to the NT to use the RTI Act and interstate medical specialists could have a role under the Act.⁶⁷ For example, Dr David van Gend was concerned that:

...the nation will be affected by such a law: euthanasia under the ROTI [RTI] Act has no residency test, and would be open to the entire Australian population.⁶⁸

3.58 As Dr David Leaf, a medical practitioner, told the committee:

I think we all realise that if voluntary euthanasia becomes legal in the Northern Territory then it is not just going to be Territorians who seek it—

64 *Committee Hansard*, 16 April 2008, p. 5; see also The Hon Austin Asche, Northern Territory Law Reform Committee, *Committee Hansard*, 14 April 2008, p. 49 and Law Council, *Submission 442*, p. 5.

65 *Committee Hansard*, 14 April 2008, p. 46; see also Northern Territory Law Reform Committee, *Submission 443*, pp 2-3; and discussion in Chapter 2 of this report.

66 *Submission 428*, Attachment, p. 2.

67 See further 1997 Euthanasia Inquiry, p. 14; The Hon Daryl Manzie, *Committee Hansard*, 14 April 2008, p. 21; Dr David van Gend, ACL, *Committee Hansard*, 14 April 2008, p. 13; National Civic Council, *Submission 417*, p. 3.

68 *Submission 413*, p. 2.

unless there is a provision saying that people must live there for a period of time.⁶⁹

3.59 However, as The Hon Daryl Manzie, a former NT Minister and member of the NT Legislative Assembly at the time the NT RTI Act was passed, pointed out to the committee:

We are not talking about first of all forcing people to travel. It is up to them to make a decision that they are going to travel to seek laws in the sorts of jurisdictions where they can see doctors about dying comfortably. Once they reach the Northern Territory, it is still a choice process.⁷⁰

3.60 Others felt that the issue of euthanasia was intrinsically an issue of national interest, due to its moral and social aspects. For example, the Darwin Christian Ministers' Association argued that it was 'imperative' that the Commonwealth use its power 'to protect the people of Australia and the value and dignity of human life in keeping with international conventions'.⁷¹

3.61 Although some considered euthanasia to be an issue of national interest, and were concerned about 'euthanasia tourism' to the NT, others noted that the issue of euthanasia no longer stops at Australia's borders because Australians are now travelling overseas to obtain euthanasia.⁷²

3.62 Nevertheless, several submissions – those expressing views both for and against the Bill – suggested that if the Commonwealth wished to enact laws on the topic of euthanasia, it should take a consistent national approach that applies to all states and territories.⁷³ For example, the Law Council expressed the view that:

If the Commonwealth Parliament believed that euthanasia was an appropriate subject for Commonwealth legislation then it should have explored ways that the Commonwealth could have passed laws of national application, rather than singling-out the Territories.⁷⁴

3.63 Similarly, Mr Gerry Wood MLA, Independent Member for Nelson in the NT, in opposing the Bill, submitted that:

69 *Committee Hansard*, 16 April 2008, p. 19.

70 *Committee Hansard*, 14 April 2008, p. 21.

71 Darwin Christian Ministers' Association, *Submission 376*, p. 3; see also, for example, Festival of Light Australia, *Submission 361*, p. 9; ACL, *Submission 422*, p. 4; Dr David van Gend, *Submission 413*, p. 2; Father Frank Brennan, *Submission 428*, p. 1.

72 See, for example, Dr Philip Nitschke, *Submission 390*, pp 2-3.

73 See, for example, Mr Geoff Bolton, *Submission 101*, p. 1; ALP (ACT Branch), *Submission 415*, p. 2; Darwin Christian Ministers' Association, *Submission 376*, p. 4; Mr Gerry Wood MLA, *Submission 453*, p. 2.

74 *Submission 442*, p. 5; see also Professor George Williams, Gilbert and Tobin Centre, *Committee Hansard*, 16 April 2008, p. 6.

If Mr Brown believes that euthanasia should be legal in Australia then he should argue for it to be legal all over Australia and pass Commonwealth laws to match. By asking the NT to carry the can if this bill...is passed would mean that the Territory (pop. 205 000) would be the centre for those wanting to use euthanasia to end their lives...The NT would become the guinea pig in this debate as it was in 1995.⁷⁵

3.64 However, the committee notes that it is not clear whether the Commonwealth has the constitutional power to pass a national law to prohibit or permit euthanasia.⁷⁶ The committee received evidence that it might be possible, for example, for the Commonwealth to use its external affairs power to legislate to prohibit euthanasia based on Australian's international human rights obligations. Other suggestions included the corporations power, the implied nationhood power, and the appropriations power.⁷⁷ As Professor George Williams from the Gilbert and Tobin Centre told the committee:

It [the Commonwealth] is not shy of intervening in a range of matters where it wishes to or of using the full ambit of its financial and other powers. Given the capacity and ability it has shown in other areas, I would be very surprised if the Commonwealth could not get its way on a topic like this if it so wished.⁷⁸

Drafting issues

3.65 A number of drafting issues were also raised in relation to the Bill during the committee's inquiry. In particular, the NT Government submitted that 'the Bill is poorly drafted and does not provide a sufficiently clear and express indication of intention'.⁷⁹ The following issues will be considered in this section:

- whether the NT RTI Act can be revived;
- whether the Bill should repeal the Euthanasia Act or whether the amendments to the territories self-government legislation made by the Euthanasia Act should be expressly removed from that legislation; and
- whether clause 3 of the Bill is misleading.

75 *Submission 453*, p. 2.

76 This issue was also canvassed during the 1997 Euthanasia Inquiry: see pp 22-24.

77 Law Council of Australia, *Submission 442*, p. 5; Professor George Williams, *Committee Hansard*, 16 April 2008, p. 6; Sydney Centre for International Law, *Submission 421*, p. 4. See also 1997 Euthanasia Inquiry at paragraph 3.45; and Natasha Cica, "Constitutional Arguments Against Removing the Territories' Powers to Make Laws Permitting Euthanasia", *Parliamentary Library Research Note 33 1996-97*, Argument 6.

78 *Committee Hansard*, 16 April 2008, p. 6.

79 *Submission 446*, p. 3.

Can the RTI Act be revived?

3.66 Item 2 of Schedule 1 of the Bill aims to restore the NT RTI Act. However, submissions expressed doubt as to whether the NT RTI Act could in fact be reinstated by the Bill. For example, the Gilbert and Tobin Centre observed that:

...there is significant judicial and academic opinion which suggests that laws made by territory legislatures are not merely suspended or dormant for the duration of any inconsistent Commonwealth law and then enter back into force upon its removal...⁸⁰

3.67 The Centre concluded that:

In short, there are strong grounds for suggesting that item 2 of Schedule 1 is insufficient to revive the *Rights of the Terminally Ill Act 1995* (NT). The rights of individuals and interests at stake are too important to allow uncertainty on this score. The Northern Territory's Legislative Assembly should be advised to re-enact the 1995 legislation if it wishes to do so in order to ensure it is valid and operative after the Commonwealth Parliament passes this bill.⁸¹

3.68 Similarly, the NT Law Reform Committee submitted that:

The argument could be made that the repugnancy of the Territory Act to the federal *Euthanasia Laws Act 1997* (Cth) whilst it was in force, had the effect of rendering the Territory Act null and void. It would not have been held in mere suspension pending the repeal of the Commonwealth statute.⁸²

3.69 On the other hand, the NT Law Reform Committee raised a concern that:

...Item 2 has the potential to provide the basis for an argument that the [NT RTI] Act would be invested with a Federal character that it did not possess prior to the commencement of the *Euthanasia Laws Act 1997* (Cth) or would not possess following the mere repeal of that Act. There is a real danger of the Act becoming entrenched and thus leaving the Assembly powerless to amend or repeal it, should it want to do so once the Bill becomes law. Item 2 of the Schedule should therefore be removed.⁸³

3.70 As the NT Government pointed out 'this is not a subject matter that sits well with legal uncertainty and confusion'. Indeed, it noted that, if the Bill were passed in its current form:

Serious consequences would flow if someone relied on the protections provided by the [Northern] Territory's *Rights of the Terminally Ill Act*, only

80 *Submission 46*, p. 2.

81 *Submission 46*, p. 2.

82 *Submission 443*, p. 3.

83 *Submission 443*, p. 3; see also Mr Nikolai Christrup, NT Law Reform Committee, *Committee Hansard*, 14 April 2008, p. 49.

to find after the event that in fact the Act had not been revived. It would clearly be imprudent to act on the basis that the Territory legislation had been revived by the provisions of the current Bill.⁸⁴

3.71 Professor George Williams of the Gilbert and Tobin Centre told the committee that the Bill should be amended to repeal the limitation in the self-government acts. This would ensure that the territories retain the ability to legislate in the future on the topic of euthanasia. Professor Williams explained that:

That would mean that, instead of the Northern Territory law being revived, the Legislative Assembly there and in the other territories would be able to pass a new law, should they so wish. I think that is appropriate given the principles of democracy involved, given the time that has elapsed and also given the constitutional issues [rather] than to attempt to revive something that may not be possible to do and it would certainly be inappropriate to leave practitioners and others in a situation where they may be unclear as to the legality of their actions.⁸⁵

3.72 The NT Law Reform Committee agreed that the Bill should:

...leave it to the Northern Territory Legislative Assembly as a mature legislature to decide whether to re-enact (so as to remove any doubt regarding its validity) or repeal the Act. The decision whether the Act should again come into operation properly belongs to the Territory Assembly not the Commonwealth Parliament.⁸⁶

3.73 Indeed, a representative of the NT Government told the committee that:

The Territory has doubts as to the legal capacity of reviving an act that has been spent and dormant for over 10 years and, in any event, the Territory is of the view that it is inappropriate through this bill to have the legislation involuntarily re-imposed on us. If the Northern Territory's legislative capacity was restored, it would review its position in regard to euthanasia before deciding whether to amend the old [A]ct or to make new laws in future.⁸⁷

Repeal of the Euthanasia Act

3.74 Another concern raised by the NT Government related to item 1 of Schedule 1 of the Bill. As outlined in Chapter 2, item 1 proposes to repeal the Euthanasia Act, which in turn amended the territories' self-government legislation to insert provisions

84 *Submission 446*, p. 4; see also Professor George Williams, Gilbert and Tobin Centre, *Committee Hansard*, 16 April 2008, pp 2-4; and NT Government, *Committee Hansard*, 14 April 2008, p. 2.

85 *Committee Hansard*, 14 April 2008, p. 2; see also Gilbert and Tobin Centre, *Answer to Question on Notice*, received 6 May 2008, p. 2 for a suggested amended version of the Bill.

86 *Submission 443*, p. 3; see also Law Council, *Submission 442*, pp 8-9.

87 *Committee Hansard*, 14 April 2008, p. 2.

removing the power of their legislative assemblies to enact laws permitting euthanasia.⁸⁸

3.75 The NT Government submitted that it had legal advice to indicate that, by repealing the Euthanasia Act, the Bill's intention was to repeal section 50A of the *Northern Territory (Self-Government) Act 1978* (Cth). This in turn would remove the restriction on the NT's future capacity to legislate in regard to euthanasia. However, the NT Government noted that:

This advice relies on an interpretation of the intent of the bill and s.8 of the *Acts Interpretation Act 1901* (Cth), which provides that where an Act repeals a former Act, then unless a contrary intention appears, the repeal does not revive anything not in force or existing at the time when the repeal takes effect.⁸⁹

3.76 As a representative of the NT Government told the committee:

The intention of the bill would appear to be that section 50A of the Northern Territory (Self-Government) Act is to be repealed. But the bill does not say that directly or explicitly. It goes about the matter in a somewhat roundabout way. To get to the outcome that section 50A of the Northern Territory (Self-Government) Act is repealed, you have to come to a view as to the intention of the proposed legislation and then you have to have a legal interpretation of the Commonwealth Acts Interpretation Act to determine the outcome. Why the proposed legislation cannot simply say, 'Section 50A of the Northern Territory (Self-Government) Act is hereby repealed,' is beyond us.⁹⁰

3.77 In response to the committee's questions on this issue, the Hon Austin Asche agreed that there was some uncertainty in the drafting of the Bill.⁹¹ In a subsequent answer to a question on notice, the NT Law Reform Committee stated that:

...there cannot be any real argument against the proposition that the repeal of the 1997 [Euthanasia] Act will have the effect of removing section 50A of the Northern Territory Self-Government Act 1978 (Cth), notwithstanding the absence of a provision expressly repealing section 50A.⁹²

3.78 The NT Law Reform Committee elaborated on this:

...the conclusion that section 50A and its counterparts are removed from the Self-Government Acts by the repeal of the 1997 Act is inescapable. What other effect could its repeal have? The express repeal of those

88 *Northern Territory (Self-Government) Act 1978*, s.50A; *Australian Capital Territory (Self-Government) Act 1988*, s.23; and *Norfolk Island Act 1979*, s.19.

89 *Submission 446*, p. 3.

90 *Committee Hansard*, 14 April 2008, p. 2.

91 *Committee Hansard*, 14 April 2008, p. 46.

92 *Answer to Question on Notice*, received 6 May 2008, p. 1.

provisions, when coupled with the repeal of the 1997 Act, would be superfluous no doubt, but could also give credence to an argument that something less than the complete repeal of the 1997 Act was intended.⁹³

3.79 Nevertheless, the committee notes again the evidence of the NT Government that 'this is not a subject matter that sits well with legal uncertainty and confusion' and that the Bill 'does not provide a sufficiently clear and express indication of intention; relying as it does on a series of implied consequences'.⁹⁴

Wording of clause 3 of the Bill

3.80 A final drafting issue related to the wording of the objects clause, in clause 3 of the Bill, which states:

The object of this Act is, in recognising the rights of the people of the Australian Capital Territory, the Northern Territory and Norfolk Island to make laws for the peace, order and good government of their territories, including the right to legislate for the terminally ill, to repeal the Euthanasia Laws Act 1997 which removed that right.

3.81 Several submissions took issue with this clause. For example, the ACL submitted that this clause was misleading because 'the territories can already legislate on behalf of the terminally ill: they simply cannot legislate for euthanasia'.⁹⁵ The ACL pointed out that, although the Euthanasia Act removed the power of the three territories to enact laws which permit euthanasia, it does provide each legislative assembly with the power to make laws with respect to other matters which could be characterised as laws for the 'terminally ill'. For example, the territory legislative assemblies may make laws with respect to the 'withdrawal or withholding of medical or surgical measures for prolonging the life of a patient but not so as to permit the intentional killing of the patient'.⁹⁶ The committee was also told that the NT does have a *Natural Death Act 1988* which allows people to withdraw from medical treatment.⁹⁷

3.82 The final point in relation to clause 3 was made by Father Frank Brennan, who pointed out that it is the *legislative assemblies* that have the power to 'make laws

93 *Answer to Question on Notice*, received 6 May 2008, p. 2.

94 *Submission 446*, pp 3 and 4; see also Professor George Williams, Gilbert and Tobin Centre, *Committee Hansard*, 16 April 2008, p. 4.

95 *Submission 422*, p. 6; see also Rita Joseph, *Submission 371*, p. 2; Darwin Christian Ministers' Association, *Submission 376*, p. 3.

96 *Northern Territory (Self-Government) Act 1978*, paragraph 50A(2)(a).

97 *Natural Death Act 1988*, sections 4 and 6; see also, for example, Darwin Christian Ministers' Association, *Submission 376*, p. 3; Dr Mark Boughey, *Committee Hansard*, 14 April 2008, p. 42; Associate Professor Cameron Stewart, *Submission 729*, p. 6.

for the peace, order and good government' of their territories, rather than the *people* as stated in clause 3 of the Bill.⁹⁸

Other issues

Impact of Euthanasia Act in particular jurisdictions

3.83 Some submissions were concerned about the particular impact of the Bill and/or the Euthanasia Act in certain jurisdictions. For example, some submissions were concerned about the impact of the Bill and the Euthanasia Act on proposals for the NT to become a state.⁹⁹ Indeed, the NT Government suggested that the Bill be replaced by a Bill granting statehood to the Northern Territory.¹⁰⁰ Others were anxious about the impact of euthanasia legislation on the Indigenous community in the Northern Territory – this issue is considered further in Chapter 4 of this report.

3.84 In relation to the ACT, the Gilbert and Tobin Centre was concerned that the Euthanasia Act could have a 'serious long-term impact' on the ACT. This was because, as the seat of federal government under the Constitution, 'unlike the Northern Territory, [the ACT] appears unable ever to escape the affects of the Act because it cannot become a State'.¹⁰¹

3.85 As outlined earlier, the ACT Government supported the Bill, noting that:

The removal of [sub]sections 23(1A) and (1B) of the *Australian Capital Territory (Self-Government) Act 1988* does not necessarily mean that the elected representatives of the Australian Capital Territory would immediately move to enact euthanasia laws. It would simply enable the people of the Australian Capital Territory to determine their own path in relation to this issue. That is the democratic way.¹⁰²

Issues relating to the RTI Act (NT)

3.86 Several submissions suggested that, in any case, the Bill should not revive the RTI Act due to concerns in relation to the content and adequacy of that legislation. For example, Father Frank Brennan told the committee 'if we wanted to design a good

98 *Committee Hansard*, 16 April 2008, p. 9; see, for example, subsection 22(1) of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

99 Despite an unsuccessful referendum on statehood held in the NT in October 1998, proposals are still on foot. In 2004 a NT Statehood Steering Committee was established to assist with the 'development of a new Territory constitution and with promoting statehood education and awareness': see further Dr Nicholas Horne, "Northern Territory statehood: major constitutional issues", *Parliamentary Library Research Paper*, 15 February 2008, no. 21 2007-08.

100 *Submission 446*, p. 4.

101 *Submission 46*, p. 1 cf Festival of Light Australia, *Submission 361*, p. 9.

102 *Submission 471*, p. 2.

euthanasia law we would not simply repeat the Rights of the Terminally Ill Act'.¹⁰³ There was also considerable debate during the committee's inquiry about the operation of the RTI Act while it was in force, and the circumstances of the deaths that did occur under the RTI Act.¹⁰⁴

3.87 A key concern raised in relation to the provisions of the RTI Act was whether the safeguards contained in the RTI Act were adequate. For example, Dr Brian Pollard canvassed many potential problems with the provisions of the RTI Act, and queried whether Federal Parliament should restore legislation which it could not itself amend.¹⁰⁵ Some, as noted earlier, were particularly concerned about the lack of residency requirement in the RTI Act to prevent 'euthanasia tourism' to the NT.¹⁰⁶ However, others believed that the NT legislation's safeguards were adequate.¹⁰⁷

International obligations

3.88 Another issue raised was whether the Bill and the RTI Act are compatible with Australia's international human rights obligations.¹⁰⁸ For example, in opposing the Bill, the ACL argued that 'this bill is totally incompatible with basic human rights as outlined by the United Nations and assented to by Australia'. Citing the *Universal*

103 *Committee Hansard*, 16 April 2008, p. 11; see also Katrina George, University of Western Sydney, *Submission 398*, pp 1-24; Mr John Ryan, *Submission 409*, pp 4-7.

104 In this context, many witnesses and submissions referred to the following study: D.W. Kissane, A. Street, P. Nitschke, "Seven deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia", *The Lancet*, Vol. 352, October 3 1998, pp 1097-1102. See also Dr Philip Nitschke, *Committee Hansard*, 14 April 2008, pp 28-29 and *Submission 390A*; Dr David van Gend, *Committee Hansard*, 14 April 2008, pp 14-15; Professor David Kissane, *Submission 589*; Dr Brian Pollard, *Submission 47* and *Committee Hansard*, 16 April 2008, pp 26-27; ACL, *Submission 422*, p. 5; Festival of Light Australia, *Submission 361*, pp 2-4; Dr Mark Boughey, *Submission 592*, pp 1-3 and *Committee Hansard*, 14 April 2008, p. 38; Dr Alan Rothschild, *Submission 452*, pp 3-4.

105 *Submission 47*, p. 10; see also the NSW Council for Civil Liberties, who supported the Bill and the RTI Act, but made several suggestions for improvements to the RTI Act, which it believed 'might help to allay the fears of some of the RTI Act's critics': *Submission 418*, pp 5-6.

106 See, for example, Dr David van Gend, *Committee Hansard*, 14 April 2008, p. 13; National Civic Council, *Submission 417*, p. 3; Father Frank Brennan, *Committee Hansard*, 16 April 2008, p. 13.

107 See, for example, Associate Professor Cameron Stewart, *Submission 729*, p. 14; Australian Federation of AIDS Organisations, *Submission 400*, pp 2-3; Voluntary Euthanasia Society of Queensland, *Submission 431*, p. 1.

108 See, for example, ACL, *Submission 422*, p. 6; also Dr Brian Pollard, *Committee Hansard*, 16 April 2008, pp 24-25; Rita Joseph, *Submission 371*, pp 4-12; Mrs Lois Fong, *Submission 907*, pp 1-2 and *Committee Hansard*, 14 April 2008, p. 8; cf NSW Council for Civil Liberties, *Submission 418*, pp 2, 9; Sydney Centre for International Law, *Submission 421*. See also Human Rights and Equal Opportunity Commission (HREOC), *Submission 436* and their paper referred to in that submission: "Human Rights and Euthanasia", *Occasional Paper*, December 1996, available at: http://www.humanrights.gov.au/human_rights/euthanasia/index.html (accessed 5 May 2008).

Declaration of Human Rights and the *International Covenant on Civil and Political Rights* (ICCPR), the ACL submitted that:

Like all human beings, people suffering terminal illness have the right to life and to the protection of the law against violation of this right. They also enjoy the right to medical care and social services. People also have the right to effective remedy against violations of these rights, 'notwithstanding that the violation has been committed by persons acting in an official capacity'.

Finally, people are subject to limitations on their freedom by law but only for the purpose of 'securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and general welfare in a democratic society'.¹⁰⁹

3.89 The Sydney Centre for International Law also considered whether the Bill is compatible with Australia's international law obligations, in particular the duty to protect the 'right to life' under article 6(1) of the ICCPR. The Centre concluded that:

...the kind of euthanasia legalised by the *Rights of the Terminally Ill Act 1995* (NT) does not amount to an arbitrary deprivation of life under article 6(1). It is accordingly within the Commonwealth Parliament's power in fulfilling its duty to safeguard against the arbitrary deprivation of life to effectively reinstate the *Rights of the Terminally Ill Act 1995* (NT).¹¹⁰

3.90 At the same time, the Centre suggested that the Commonwealth could consider enacting legislation to:

...specify the minimum safeguards which would be necessary in order for Australia to comply with its obligation to protect the right to life. Such framework legislation could permit variation in State and Territory euthanasia laws as long as such laws remained above the floor laid by the federal legislation.

In our view, the Commonwealth would possess the power to legislate even in respect of the States pursuant to the external affairs power in the Commonwealth Constitution, since such a law would be reasonably appropriate and adapted to fulfilling Australia's international treaty obligation to positively safeguard the right to life under article 6 of the ICCPR.¹¹¹

109 *Submission 422*, pp 6-7; see also Rita Joseph, *Submission 371*, pp 4-12.

110 *Submission 421*, p. 3; see also HREOC, *Submission 436*.

111 *Submission 421*, pp 3-4.

CHAPTER 4

EUTHANASIA POLICY ISSUES

Introduction

4.1 This chapter examines some of the key moral, ethical and social arguments for and against the legalisation of voluntary euthanasia.

4.2 Some submissions expressed the view that the legal and constitutional policy issues were the only issues that should be considered by the committee during its inquiry. For example, the South Australian Voluntary Euthanasia Society submitted that 'the Bill is not about the issue of euthanasia and this should not be considered as its basis'.¹ In contrast, the ACL described claims that the bill is not about euthanasia as 'deeply disingenuous'.² Indeed, some suggested that the moral issues addressed in the Bill should override all other considerations.³

4.3 The legal and constitutional policy issues examined in Chapter 3 raised important threshold issues for the committee. That said, the committee also received a considerable amount of highly polarised evidence focussing on the policy arguments for and against voluntary euthanasia. Further, the committee considers that discussion about the legalisation of voluntary euthanasia cannot be avoided, given that the Bill proposes to revive the NT RTI Act.

4.4 The committee notes that many of the issues raised during this inquiry were similar to those raised, and discussed in detail, during the 1997 Euthanasia inquiry.⁴ The committee therefore refers readers to the 1997 Euthanasia Inquiry report where relevant for a more detailed discussion of some issues. However, this chapter will endeavour to highlight relevant developments that have occurred since 1997.⁵

4.5 This chapter will first examine some of the key arguments in favour of legalising voluntary euthanasia, together with some contrasting perspectives on those arguments. Key arguments against the legislation of voluntary euthanasia will then be discussed, again incorporating some alternative perspectives on those issues.

1 *Submission 74*, p. 1.

2 *Submission 422*, p. 3; see also Mr Marshall Perron, *Committee Hansard*, 14 April 2008, p. 17.

3 See, for example, the Federal Presbyterian Church of Australia, *Submission 366*, p. 1.

4 See 1997 Euthanasia Inquiry, especially Chapters 5-8.

5 The committee notes that some witnesses and submitters expressed the view that little has changed since 1997, or that, if anything, the anti-euthanasia case has slightly strengthened and therefore the current Euthanasia Act should not be changed: see for example, Father Frank Brennan, *Committee Hansard*, 16 April 2008, pp 9-10.

Key arguments in favour of voluntary euthanasia

4.6 In summary, some of the key arguments advanced in support of legislating for voluntary euthanasia included that:

- it is a matter of individual rights, autonomy and choice;
- it is the compassionate and merciful answer to insoluble pain, suffering and indignity in the case of terminal illness;
- it is merely regulating what in reality is already common practice, particularly now that Australians have resorted to travelling overseas to obtain euthanasia;
- opinion polls show that the overwhelming majority of Australians support voluntary euthanasia; and
- several overseas jurisdictions (such as Switzerland, Belgium, the Netherlands and Oregon) have legalised voluntary euthanasia.

These issues are considered in turn below.

Individual rights, autonomy and choice

4.7 Many submissions supporting voluntary euthanasia put forward arguments based on the principle of individual rights and autonomy. That is, a competent individual should have the right to determine how and when to die as long as this does not interfere with the rights of others.⁶

4.8 For example, the NSW Council for Civil Liberties told the committee that 'the principal argument for legalising voluntary euthanasia is that a terminally-ill adult should have the right to choose to end their own suffering.'⁷ The NSW Council for Civil Liberties further submitted its belief that:

...the Bill will restore respect for the rights of the terminally ill in the Northern Territory to choose the time of their own death. The Bill will ensure that the terminally ill, if they so choose, can die with dignity and in a humane manner. The Bill will respect the fundamental principle that the individual is sovereign over their own body and mind.⁸

4.9 The West Australian Voluntary Euthanasia Society submitted that:

6 See, for example, Civil Liberties Australia, *Submission 365*, p. 1; NSW Council for Civil Liberties, *Submission 418*, p. 3; West Australian Voluntary Euthanasia Society, *Submission 370*, p. 2; Council of Australian Humanist Societies, *Submission 396*, p. 1; Voluntary Euthanasia Society of Queensland, *Submission 431*, p. 1; also 1997 Euthanasia Inquiry, pp 57-61.

7 *Submission 418*, p. 3.

8 *Submission 418*, p. 2.

It is time we decided to give the people the right to decide about their life according to their conscience and judgement. It is sheer arrogance to think that anyone else can or should decide someone else's fate.⁹

4.10 Dr David Leaf, a medical practitioner, told the committee that:

...the majority of patients who are facing this terminal stage of illness just want the option of whether to participate in voluntary euthanasia, where they have some control over what is going to happen to their lives, or, frequently, they would elect not to participate in that action as well. One of the options I would like to have as a doctor treating these people is the option to offer them voluntary euthanasia. In the same way that they can have an operation or elect to go down the palliative care route, they would like to have options.¹⁰

4.11 Mr Marshall Perron also argued that:

...voluntary euthanasia legislation does not require anybody to do anything. If you disagree with it, you can go through life pretending that the law does not even exist and it will never affect you.¹¹

4.12 However, concerns were expressed that if a legal right to euthanasia were granted, more vulnerable people would be at risk, particularly if they feel they may be a burden to family or society.¹² As a result, the Australian Catholic Bishops Conference argued that the demands of the common good must be measured against claims of liberties:

A request for voluntary euthanasia is a request to be killed by another. It is not a private matter. Aspects of the common good affected by the legislation of euthanasia include equal protection under the law, the ethos of the practice of medicine, and factors affecting an individual's sense of security at times when they are particularly vulnerable.¹³

4.13 The Australian Family Association (WA) also suggested that euthanasia cannot be considered as autonomous:

Firstly, since it involves at least one other person, it must be viewed as a public action, and so be assessed in relation to its social implications.

Second, as a public act, it should be assessed via the perspective of societal ethics. In other words, does sanctioning private killing benefit society to a greater extent than its prohibition?...[R]ecognition of euthanasia not only extends personal autonomy, but also redefines the concept of private killing

9 *Submission 370*, p. 2.

10 *Committee Hansard*, 16 April 2008, p. 15.

11 *Committee Hansard*, 14 April 2008, p. 20.

12 See, for example, Dr Mark Boughey, *Committee Hansard*, 14 April 2008, p. 40; also Dr David van Gend, ACL, *Committee Hansard*, 14 April 2008, p. 14 and *Submission 413*, p. 6.

13 *Submission 410*, p. 3; see also p. 5.

in society. The magnitude of this change needs to be evaluated, as well as its social impact.

Thirdly, and perhaps ironically, the right to personal autonomy on which euthanasia supposedly depends is actually contradicted when one cedes to another, either directly or indirectly, the right to take one's life. Handing the power over one's life to another destroys one's freedom...¹⁴

Compassionate answer to pain, suffering and indignity

4.14 Proponents also argued that voluntary euthanasia is the compassionate and merciful answer to insoluble pain, suffering and indignity in the case of terminal illness.¹⁵ For example, Emeritus Professor Philip Ley pointed to reasoning given by patients seeking euthanasia in the US state of Oregon and the Netherlands. Key concerns for these patients, included loss of autonomy and dignity and a decreasing ability to participate in activities that make life enjoyable.¹⁶

4.15 The committee also received many submissions detailing case studies of patients who had a difficult death and who may have benefited from the availability of voluntary euthanasia.¹⁷ In this context, Dr David Leaf told the committee that 'death is not the worst outcome for them at times like this':

...if you are...subject to daily incurable pain, loss of dignity, immobility and being a burden to your family, to many such patients that is a worse outcome than quietly passing away at a time of their own choosing in a painless manner.¹⁸

4.16 Dr Leaf further told the committee that a lot of patients:

...do not want to be at a stage where they are immobile, they have a lack of dignity, someone else is cleaning them up several times a day. Even though they might be out of pain, they do not want to be at the stage where a palliative care team, doctors, nurses and GPs, are looking after them.¹⁹

4.17 In contrast, the ACL argued that:

There is no dignity in euthanasia, which effectively means a person's life is viewed as so awful it should be brought to a premature end. Rather there is

14 Australian Family Association (WA), *Submission 380*, p. 4; see also Christian Democratic Party, *Submission 1001*, p. 6.

15 See also 1997 Euthanasia Inquiry, pp 61-62.

16 *Submission 363*, p. 3; see also Oregon Department of Human Services, at <http://oregon.gov/DHS/ph/pas/index.shtml> and "Summary of Oregon's Death with Dignity Act - 2007" at: <http://oregon.gov/DHS/ph/pas/docs/year10.pdf> (accessed 19 May 2008).

17 See, for example, NSW Council for Civil Liberties, *Submission 418*, pp 4-5; Dr David Leaf, *Submission 57*, p. 2 and *Committee Hansard*, 16 April 2008, p. 15.

18 *Committee Hansard*, 16 April 2008, p. 16.

19 *Committee Hansard*, 16 April 2008, p. 17.

dignity and comfort in knowing that Australian society recognises that all human beings, even in the agony of suffering or in a twilight mental state, deserve respect, empathy and protection from abuse, harm, manipulation or wilful neglect and which affirms that every patient, no matter how deformed the body, deranged the mind or diminished the personality, should receive equal protection and medical care.²⁰

4.18 Similarly, Mr Christopher Meney, Director of the Life, Marriage and Family Centre of the Catholic Archdiocese of Sydney told the committee that:

A key element of respecting human dignity is the need to respect and value human bodily life. Hence, the individual and social resolve to respect all human life and to never regard a life as lacking worth is essential for a society that wishes to protect and equally value all its citizens.²¹

4.19 Many submissions opposing euthanasia also pointed to the need for good palliative care (discussed later in this chapter). Others told the committee that 'hard cases make bad laws'.²² However, the Australian Federation of AIDS Organisations argued to the contrary:

...when individual cases are clinically evaluated and confirmed for their presentation and specific circumstances, and it is evident there are no other options to relieve a person's pain and distress, that it is entirely appropriate to have a process whereby that person can rationally request an end to their life...

Surely when no other options are open to a person in the final stages of a terminal illness, a person suffering unrelievable pain and distress who consistently and rationally requests an end to their agony, there should be some process whereby their dying wish can be granted.²³

Opinion polls indicate popular support

4.20 Most submissions supporting the Bill pointed to opinion polls indicating that the vast majority of Australians (80%) support voluntary euthanasia.²⁴ For example, the Voluntary Euthanasia Society of NSW submitted that:

In the last two decades, surveys have consistently shown that a majority of Australians believe that terminally ill individuals should have a right to seek and obtain assistance to end their life with dignity. In 1962 it was close

20 *Submission 422*, p. 16.

21 *Committee Hansard*, 16 April 2008, p. 28; see also p. 29.

22 See, for example, the National Alliance of Christian Leaders, *Submission 359*; Dr Ruth Powys, *Submission 388*, p. 3; Pro-Life Victoria, *Submission 408*, p. 2.

23 *Submission 400*, p. 3.

24 Mr Marshall Perron, *Submission 393*, p. 5; West Australian Voluntary Euthanasia Society, *Submission 370*, p. 2; Humanist Society of South Australia, *Submission 454*, p. 1; Council of Australian Humanist Societies, *Submission 396*, p. 2. See also Chapter 7 of the 1997 Euthanasia Inquiry, which canvasses the history of opinion polls on the issue of euthanasia.

to a majority (47%) and by 1978 it was up to 67%, and in 2002 was 73%+. An independent poll [was] conducted by Newspoll in 2007 and found 80% of Australians in favour, and just 14% opposed.²⁵

4.21 Others disputed the legitimacy of arguments based on opinion polls. For example, Dr Brian Pollard submitted that:

...many people have erroneous ideas of what actually constitutes euthanasia...it is well-known that the wanted results can be manipulated by the structure of the questions, opinion polls can carry no certainty about euthanasia. Would it really become OK to rob old ladies when 80% thought so?²⁶

4.22 Dr Mark Boughey, a palliative care physician, told the committee that, despite these opinion polls, in his experience the reality was quite different:

Even though populist opinion states that euthanasia is popular and is something that the Australian population wants, I think the reality when you are actually working with and dealing with people in the dying phase of their palliative condition is very different. The reality, which we are exposed to every day, is that people are still trying to engage actively in life, even though their life may be fast approaching the end.²⁷

4.23 Support for voluntary euthanasia within the medical profession was a matter for debate. For example, Dying with Dignity Victoria pointed to opinion polls indicating that 78% of Victorian nurses favoured law reform (in 1992), and 80% of nurses in NSW gave support in 1997.²⁸ However, in its submission, the Australian Medical Association (AMA) opposed the Bill and voluntary euthanasia.²⁹ At the same time, it recognised:

...the divergence of views regarding voluntary euthanasia and physician-assisted suicide in Australia. Indeed, the range of views, from those who fully support voluntary euthanasia to those who totally oppose it, is reflected within the medical profession itself.³⁰

Regulating a common practice

4.24 Another argument raised in favour of legalising voluntary euthanasia is that it is regulating what in reality is already common practice.³¹ Submitters pointed to a

25 *Submission 216*, p. 1; see also Humanist Society of Victoria, *Submission 382*, p. 2.

26 *Submission 47*, pp 8-9; see also the Committee on Bioethics of the Uniting Church in Australia (Victorian Synod), *Submission 384*, p 1.

27 *Committee Hansard*, 14 April 2008, p. 37.

28 *Submission 399*, p. 4.

29 *Submission 375*, pp 1-2.

30 *Submission 375*, p. 1.

31 For example, Dying with Dignity Victoria, *Submission 399*, p. 4; Mr Marshall Perron, *Submission 393*, p. 4; see also 1997 Euthanasia Inquiry, pp 62-63 and pp 87-89.

study, also examined during the 1997 Euthanasia Inquiry, indicating that, in practice, many Australian doctors already take steps that lead to an earlier death for patients.³² It was therefore suggested that it was better to regulate the process to ensure that it was open to scrutiny. For example, the Humanist Society of Victoria argued that:

The practice [of euthanasia] occurs frequently, in a clandestine mode, as testified by doctors and nurses. It is essential that the process be open to scrutiny and performed by experienced and accountable medical practitioners.³³

4.25 The Australian Federation of AIDS Organisations similarly submitted that:

...some seek assistance to end their own lives at a time they choose despite the fact that doing so is illegal. Numerous studies and polls suggest that acts of euthanasia and assisted euthanasia are not isolated occurrences...work on HIV positive people also reveals cases of 'botched' suicide attempts resulting from euthanasia's illegality, and the dreadful impact on all involved.³⁴

4.26 In this context, Associate Professor Cameron Stewart, from the Division of Law at Macquarie University, submitted that:

By providing a different process for dying the Rights of the Terminally Ill Act does not depart in a massive way from existing laws but rather it provides a safeguarded process for the management of death in the terminally ill.³⁵

4.27 Dying with Dignity Victoria was also concerned that 'continuous deep terminal sedation' is 'now commonly used in palliative care', in the same circumstances where a person might otherwise request voluntary euthanasia:

Its undoubted advantage is that it relieves intolerable suffering, but it has two major disadvantages. It is often provided without any explicit discussion with the patient, and it may take days before death occurs. In addition there is no reporting procedure and no prescribed safeguards.³⁶

32 See, for example, Emeritus Professor Philip Ley, *Submission 363*, p. 2 and Dr Alan Rothschild, *Submission 452*, pp 17-18, referencing Kuhse, H., Singer, P., Baume, P., Clark, M. and Rickard, M. (1997) "End of Life decisions in Australian Medical practice", *Medical Journal of Australia*, Vol. 166(4), 17 February 1997, pp 191-197. See also 1997 Euthanasia Inquiry, pp 87-89.

33 *Submission 382*, p. 3; see also Council of Australian Humanist Societies, *Submission 396*, p. 2.

34 *Submission 400*, p. 2.

35 *Submission 729*, p. 14.

36 *Submission 399*, p. 6.

4.28 Dying with Dignity Victoria therefore queried 'why it is acceptable to deliberately put a person with intolerable suffering to sleep for days before they die, but not to allow the same person the choice for a quick death.'³⁷

4.29 There also appears to have been another significant development since the 1997 Euthanasia Inquiry: Australians are now travelling overseas to obtain euthanasia. In particular, Dr Philip Nitschke of Exit International gave examples of patients seeking euthanasia who had ended up travelling overseas.³⁸ Dr Nitschke explained that there were two key overseas options. Mexico was the 'predominant choice of nation', as people could lawfully acquire the drug Nembutal and bring it back to Australia (illegally) to die here. Australians are also opting to die in Switzerland under their system of legalised euthanasia, where certain preconditions must be met.³⁹ Indeed, the committee heard directly from submitters who had travelled overseas – for example, one whose husband had travelled to Switzerland to obtain euthanasia,⁴⁰ and another who had travelled to Mexico to obtain 'a product leading to a 'peaceful death'.⁴¹

4.30 Dr Nitschke told the committee that he knew of at least 150 people who made a trip to Mexico last year to obtain the drug Nembutal – and effectively broke Australian law to import a class 1 prohibited drug.⁴² Dr Philip Nitschke told the committee at its hearing in Darwin that:

...what started off as a trickle but has now turned into a flood of people who are taking this so-called overseas option to try and establish for themselves viable end-of-life choices.⁴³

4.31 Supporters of voluntary euthanasia expressed the view that this meant that those who could afford to travel overseas were 'lucky', but that those who could not afford to do so were 'penalised'.⁴⁴

Overseas examples

4.32 In support of the Bill, the committee also heard that several overseas jurisdictions have now legalised voluntary euthanasia. For example, the Voluntary Euthanasia Society of NSW submitted that:

37 *Submission 399*, p. 7; see also Dr Alan Rothschild, *Submission 452*, pp 12-16.

38 *Submission 390*, pp 2-3.

39 *Committee Hansard*, 14 April 2008, p. 26.

40 Mrs Angelika Elliott, *Submission 383*.

41 Mr Don Flounders, *Submission 110*, p. 1; see also *Submission 110A*.

42 *Committee Hansard*, 14 April 2008, p. 25.

43 *Committee Hansard*, 14 April 2008, p. 25.

44 See, for example, Mrs Angelika Elliott, *Submission 383*, p. 2.

In the Netherlands, Belgium, Switzerland, and the American state of Oregon physicians are permitted to assist a patient in ending his or her life by means other than withdrawing life-sustaining medical treatment.⁴⁵

4.33 The committee notes that the practice of euthanasia in the Netherlands, Switzerland and the US State of Oregon were considered during the 1997 Euthanasia Inquiry.⁴⁶ Since then, legislation relating to voluntary euthanasia and/or physician assisted suicide has now come into force in: the Netherlands (in April 2002 – prior to that, guidelines had been in place since 1990);⁴⁷ the US State of Oregon (in October 1997);⁴⁸ and Belgium (in September 2002).⁴⁹

4.34 Some suggested that the experience in those places would reassure those opposed to legalising voluntary euthanasia. For example, Dying with Dignity Victoria submitted that:

Practice in those places has been carefully studied. It is no longer a matter of conjecture as to the effects on the community and the medical profession of such laws. As a result, attitudes of many significant people and bodies have changed towards acceptance of VE [Voluntary Euthanasia].⁵⁰

4.35 However, there was considerable debate in evidence about the practice and regulation of euthanasia overseas, particularly in the Netherlands. Many opposing euthanasia expressed concerns about the experience in the Netherlands.⁵¹ This is discussed further later in this chapter in the section on the potential for a 'slippery slope' in the regulation of euthanasia.

45 *Submission 216*, p. 1; see also Humanist Society of Victoria, *Submission 382*, p. 2; Dying with Dignity Victoria, *Submission 399*, p. 2; Mr Marshall Perron, *Submission 393*, p. 3.

46 1997 Euthanasia Inquiry, Chapter 8, pp 93-110.

47 See further: Ministry of Health, Welfare and Sport (Netherlands), <http://english.justitie.nl/themes/euthanasia/index.aspx> (accessed 20 May 2008); also Dr Alan Rothschild, *Submission 452*, p. 26. For the situation prior to 2002, see 1997 Euthanasia Inquiry, pp 96-106.

48 Note that this legislation was first approved in 1994 but subject to various court challenges: see further: Oregon Department of Human Services, "Death with Dignity Act", <http://oregon.gov/DHS/ph/pas/index.shtml> (accessed 15 May 2008).

49 See further: South Australian Voluntary Euthanasia Society, Fact Sheet 26, Voluntary Euthanasia in Belgium, available at: <http://www.saves.asn.au/resources/facts/fs26.php> (accessed 15 May 2008).

50 *Submission 399*, p. 2; see also Dr Alan Rothschild, *Submission 452*, pp 4-5.

51 See, for example, Dr Brian Pollard, *Committee Hansard*, 16 April 2008, p. 26; Darwin Christian Ministers' Association, *Submission 376*, p. 4; ACL, *Submission 422*, pp 8-9; Festival of Light Australia, *Submission 361*, p. 8.

4.36 Others opposing the Bill pointed to several international inquiries which have rejected proposals for euthanasia.⁵² Many of these inquiries were canvassed by the 1997 inquiry into the Euthanasia Laws Bill 1996.⁵³ Some also noted the defeat of a Bill for voluntary euthanasia in the House of Lords in the United Kingdom in 2006.⁵⁴

Key arguments against voluntary euthanasia

4.37 Some of the key arguments against legislating for voluntary euthanasia included:

- the availability of quality palliative care for people with terminal illnesses;
- the problem of adequate safeguards and the possibility that it would lead to a 'slippery slope' – for example, acceptance of voluntary euthanasia would lead to involuntary euthanasia and/or euthanasia for lesser diseases and conditions;
- the potential for erosion of the doctor-patient relationship;
- that it places pressure on people to end their lives even if they are not ready, for example, to reduce the burden on their family or the health system;
- the sanctity of human life; and
- in the case of the NT legislation, the particular impact on the Indigenous community.

These issues are considered in turn below.

Palliative care

4.38 Many suggested that, rather than legalising voluntary euthanasia, there should be an increased emphasis on, and funding for, palliative care.⁵⁵ For example, Palliative Care Australia submitted that:

...informed community discussion about euthanasia cannot be had until quality palliative care is available for all who require it and there is enhanced community understanding of existing end of life decision making options, including advance care planning.⁵⁶

52 See, for example, Dr David van Gend, *Committee Hansard*, 14 April 2008, p. 9 and *Submission 413*, pp 3-5; Festival of Light Australia, *Submission 361*, pp 5-8; Dr Brian Pollard, *Documents tabled at public hearing of 16 April 2008*.

53 1997 Euthanasia Inquiry, Chapter 8, pp 93-110.

54 Father Frank Brennan, *Committee Hansard*, 16 April 2008, p. 13 and *Submission 428*, p. 2; Festival of Light Australia, *Submission 361*, p. 5.

55 That is, care that provides coordinated nursing, medical and other allied services for people with a terminal illness: see Palliative Care Australia, *Submission 424*, p. 12. See also, for example, Catholic Health Australia, *Submission 419*, p. 4; Little Company of Mary Health Care, *Submission 425*, p. 5; Family Council of Victoria, *Submission 263*, pp 5-6; and 1997 Euthanasia Inquiry, pp 74-79.

56 *Submission 424*, p. 1.

4.39 Similarly, the ACL submitted that:

Whilst no-one wants to see someone they love endure pain, euthanasia is not the answer to this. Instead, we should put far greater resources into high quality, easily accessible palliative care so that people's last days can be made as comfortable as possible.⁵⁷

4.40 Mrs Lois Fong, NT Director of the ACL told the committee that:

...society's duty to terminally ill people is to improve the quality of their palliative care as well as support those who are isolated and who feel their lives are meaningless...The negative impact on hospice and palliative care if euthanasia is legalised cannot be underestimated.⁵⁸

4.41 Indeed, many were concerned that, if euthanasia were legalised, there would be a negative impact on palliative care. For example, Mr Christopher Meney of the Life and Marriage Centre of the Catholic Archdiocese of Sydney told the committee:

It is also easier and cheaper to kill a patient than to provide palliative care. Good palliative care can become a secondary concern and [is] less likely to be able to be accessed by those patients not wanting to be euthanised.⁵⁹

4.42 Similarly, the ACL argued that:

...once a society rejects the right to life and instead legalises killing as a form of treatment it will quickly begin to ask why it should foot the bill for expensive medical care that will, in any case, fail to save the life of a terminally ill patient. Why bother paying for expensive palliative care and support when euthanasia is so cheap?⁶⁰

4.43 The NSW Council for Civil Liberties disputed these sorts of suggestions:

It is argued that if we allow the 'easy' option of voluntary euthanasia, researchers will not make the effort they otherwise would to improve palliative care, both by relieving pain and by reducing or eliminating the side effects. This supposes that we should require patients to suffer intense pain, so that others will do what they ought to be doing anyway. This is obnoxious: a denial of the moral significance of the person, who is to be used, contrary to his or her own values, for others' benefit. This view also presupposes that everyone will choose voluntary euthanasia.⁶¹

4.44 Other evidence suggested that requests for voluntary euthanasia are often revised when palliative care alternatives are offered. For example, some pointed to

57 *Submission 422*, p. 16.

58 *Committee Hansard*, 14 April 2008, p. 8.

59 *Committee Hansard*, 16 April 2008, p. 28; see also *Medicine with Morality, Submission 242*, pp 1-2.

60 *Submission 422*, p. 11.

61 *Submission 418*, p. 8.

evidence from the US State of Oregon indicating that where palliative care and/or counselling was offered:

...nearly half of those initially requesting PAS [Physician Assisted Suicide] changed their minds after treatment for pain or depression commenced or referral to a hospice was undertaken. Where no active symptom control commenced, only 15% changed their minds.⁶²

4.45 In this context, several submitters emphasised the importance of psychological considerations and counselling.⁶³ For example, Mr Christopher Meney, from the Life, Marriage and Family Centre of the Catholic Archdiocese of Sydney, told the committee that:

A wish to die can often be an expression of depression, pain or poor symptom control rather than a sincere desire to be killed.⁶⁴

4.46 However, the Australian Psychological Society recognised that:

A patient's depression may be a response to a loss of control over the situation which could be alleviated by the perception of choice over terminating one's life. A diagnosis of clinical depression should therefore not automatically negate a person's right to request euthanasia. Rather, the presence of a depressive illness needs to be carefully assessed and treated, and form part of a detailed and thorough clinical assessment, administered on more than one occasion with a reasonable time interval between assessments.⁶⁵

Advance care planning

4.47 In the context of palliative care, several submissions also pointed to the importance of 'advance care planning',⁶⁶ and the developments in advance care planning which have occurred in many state and territory jurisdictions since 1997.⁶⁷

62 Life, Marriage and Family Centre of the Catholic Archdiocese of Sydney, *Submission 360*, p. 4; see also Mr Christopher Meney, *Committee Hansard*, 16 April 2008, pp 31-32.

63 See, for example, Australian Psychological Society, *Submission 429*, pp 1-2; Dr Dianne Grocott, *Submission 387*; Suicide: NO, *Submission 395*, p. 2; ACL, *Submission 422*, pp 12-13.

64 *Committee Hansard*, 16 April 2008, p. 28 and see also *Submission 360*, p. 4.

65 *Submission 429*, pp 1-2. In this context, the Australian Psychological Society was concerned that certain safeguards need to be included in euthanasia legislation, and that the NT RTI Act did not make adequate provision 'to address the psychological needs of close relatives of the patient through counselling'.

66 See, for example, the Australian Nursing Federation, *Submission 591*, p. 1; Palliative Care Australia, *Submission 424*, p. 3.

67 See, for example, Mr Mark Boughey, *Committee Hansard*, 14 April 2008, p. 38; also Associate Professor Cameron Stewart, *Submission 729*, pp 4-5; Australian Federation of AIDS Organisations, *Submission 400*, p. 2.

4.48 Associate Professor Cameron Stewart advised that there are now legislative schemes in most state and territory jurisdictions which have enshrined the right to make an 'advance directive'.⁶⁸ Associate Professor Stewart explained further that:

'Advance directives' or 'living wills' are decisions made by patients about what medical treatments they would like in the future, if at some point, they cannot make decisions for themselves. Advance directives ordinarily record decisions about refusing life-sustaining treatments, but they can also contain the patient's preferences and desires about a whole range of treatment matters.⁶⁹

4.49 In the context of the euthanasia debate, the AMA endorsed advanced care planning 'as a means for supporting patients' wishes in their end of life care'. The AMA submitted that:

Some patients may fear that when they lose decision-making capacity, their goals and values in relation to their end of life care will be unknown or even disregarded by their families and/or the health care team since the patient can no longer actively participate in their own health care decisions. As such, this fear may lead some patients to consider undergoing euthanasia or physician-assisted suicide before they lose decision-making capacity.⁷⁰

4.50 The AMA expressed its view that an advance care plan reassures patients that 'they can participate in future decisions regarding their health care by articulating their wishes and goals of care in their plan'.⁷¹

4.51 Palliative Care Australia further suggested that there should be an inquiry to identify and address the 'barriers to greater use of advance care plans and directives, to ensure patients' rights to determine their course of care are respected'.⁷²

Palliative care in the Northern Territory

4.52 The committee received evidence that, at the time of the enactment of the NT RTI Act, the standard of palliative care in the NT was 'poor'.⁷³ Dr Mark Boughey told the committee that palliative care services have developed significantly in the NT in recent years, and are now probably above national standards.⁷⁴ Indeed, Mr Gerry Wood, MLA, a current member of the NT Legislative Assembly, submitted his belief

68 *Submission 729*, pp 4-5. See especially the table in this submission summarising the regulation of advance directives in each state and territory under common law and legislation.

69 *Submission 729*, pp 4-5; see also AMA, *Submission 375*, p. 3.

70 *Submission 375*, p. 3.

71 *Submission 375*, p. 4.

72 *Submission 424*, p. 2.

73 See, for example, Professor David Kissane, *Submission 589*, p. 1; Mr Gerry Wood MLA, *Submission 453*, p. 1.

74 *Committee Hansard*, 14 April 2008, p. 38; see also *Submission 592*, p. 2.

that 'the NT and specifically Darwin now has a world class Palliative Care Unit'.⁷⁵ He suggested that:

...with the increasing knowledge about palliative care there has been a lessening of support for the option of euthanasia. No doubt there is still support for euthanasia in our community but I feel that with more community education about palliative care more people are realising that you can have death with dignity without deliberately shortening life.⁷⁶

4.53 At the same time, several submissions called for further improvements to palliative care and other medical services in the NT.⁷⁷ Indeed, for these reasons, Dr David Gawler of the Darwin Christian Ministers' Association, told the committee that:

The Northern Territory is really the most unsuitable of all places in Australia to legislate to legalise patient killing. There are insufficient medical services—for example, radiotherapy is not available in Darwin for cancer sufferers. There are remote communities with inadequate health services. There is the tyranny of distance.⁷⁸

Limits to palliative care

4.54 Some suggested that the option of good palliative care makes euthanasia altogether unnecessary – because, for example, it addresses the issue of pain, suffering and indignity in dying.⁷⁹ However, the committee also heard that palliative care does not always provide a solution.⁸⁰ For example, Dr David Leaf told the committee that, in his experience, 'palliative care is like any other medical specialty: it does not always have the answers...palliative care has its limits'.⁸¹

4.55 Similarly, Dying with Dignity Tasmania submitted that:

Advances in palliative care have undoubtedly done much to make the final days of those suffering from terminal disease more comfortable and more bearable. However, there remain a small proportion of patients whose pain can not be relieved and there are others for whom freedom from pain is not the single factor that makes a life worth living. Debilitating factors that

75 *Submission 453*, p. 1.

76 *Submission 452*, p. 1.

77 Darwin Christian Ministers' Association, *Submission 376*, p. 4; Dr David Gawler, *Submission 445*, p. 4.

78 *Committee Hansard*, 14 April 2008, pp 9-10.

79 See, for example, *Medicine with Morality*, *Submission 242*, p. 1; Australian Catholic Bishops Conference, *Submission 410*, p. 6; Catholic Health Australia, *Submission 419*, pp 3-4; Mr Gerry Wood MLA, *Submission 453*, p. 1.

80 See, for example, ACT Committee of the Voluntary Euthanasia Society of NSW, *Submission 238*, p. 1; Emeritus Professor Philip Ley, *Submission 363*, pp 5-6; Dying with Dignity Victoria, *Submission 399*, p. 6; NSW Council for Civil Liberties, *Submission 418*, p. 8.

81 *Committee Hansard*, 16 April 2008, p. 15.

often accompany terminal disease may include extreme fatigue, paralysis, blindness, deafness, aphasia and incontinence and as a consequence, many of the most fruitful and rewarding activities of a previously full working and social life may no longer be possible. After a lifetime of being in control of one's destiny, a future of total dependence on others for all, even the most personal details can be a most horrific prospect.⁸²

4.56 Dr David Leaf told the committee further that:

...there are a minority of patients...in whom the pathway of palliative care is not what they choose, for whatever reason. If it is a misguided idea or lack of education about the specialty then that needs to be corrected. But if it is with informed consent; if they know what the idea of palliative care is about, and they do not wish to pursue it, or frequently they cannot pursue it for whatever reason then this [voluntary euthanasia] should be the next option.⁸³

4.57 However, in this context, the AMA submitted that:

The AMA absolutely recognises that for most patients in the terminal stage of illness, pain and suffering can be alleviated by therapeutic and comfort care; however, there are still currently instances where the satisfactory relief of suffering cannot be achieved.

We must, therefore, ensure that all patients have access to appropriate palliative care and advocate that greater research must go into palliative care so that no patient endures such suffering. No one should feel that their only option for satisfactory relief of pain and suffering is to end their own life.⁸⁴

4.58 Dr Leaf also recognised that the availability of palliative care in rural and regional Australia needs to be increased.⁸⁵ Similarly, Palliative Care Australia submitted that 'services are highly limited in some geographical areas and service demand outstrips supply in many others' and that:

For many Australians access to appropriate care at the end of life is not a reality. For these people the fear of unnecessary pain and suffering, poor quality of life and loss of control over care — which drives much of the community discussion about euthanasia — is justified.⁸⁶

82 *Submission 412*, p. 1.

83 *Committee Hansard*, 16 April 2008, p. 17.

84 *Submission 375*, p. 2.

85 *Committee Hansard*, 16 April 2008, pp 17-18.

86 *Submission 424*, p. 3.

4.59 Palliative Care Australia concluded that further consideration of voluntary euthanasia must be preceded by, among other matters, a guarantee of access to quality care at the end of life for all terminally ill Australians.⁸⁷

Committee view on palliative care

4.60 The committee welcomes evidence that palliative care has improved markedly in the NT since the 1997 Euthanasia Inquiry. Nevertheless, the committee is concerned about evidence, particularly from Palliative Care Australia, that palliative care is not widely available and that demand for palliative care in some areas is not being met. The committee suggests that Commonwealth, state and territory governments consider increasing funding and resources for palliative care as a high priority.

Safeguards and slippery slopes

4.61 Many arguments against voluntary euthanasia were based on the notion of a 'slippery slope' and/or the 'thin edge of the wedge' – that is, for example, that acceptance of voluntary euthanasia would lead to involuntary euthanasia and/or euthanasia for lesser diseases and conditions.⁸⁸ For example, the ACL submitted that:

Once legalised, death becomes an acceptable treatment for an ever-increasing list of treatable, non-terminal conditions such as depression or for those whose quality of life is judged by others to be too poor to make caring for them worthwhile.⁸⁹

4.62 Dr Brian Pollard told the committee:

...voluntary euthanasia tends to morph into non-voluntary euthanasia—that is, taking life without a patient's request...The reason it happens is that when you regard euthanasia as providing those patients who request it with a benefit and you become accustomed to providing euthanasia as a benefit, when you come across other people who are perhaps comatose or for some reason are unable to make their request but who are suffering just as much, then it seems discriminatory to the doctor to withhold that benefit from that patient also.⁹⁰

4.63 Mr Meney of the Life, Marriage and Family Centre of the Catholic Archdiocese of Sydney also suggested that:

...if a patient's suffering is deemed unacceptable by the patient or by others, why does it matter whether or not this suffering is due to a terminal

87 *Submission 424*, p. 4.

88 See, for example, Dr David Gawler, *Submission 445*, p. 2; Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Submission 360*, pp 4-5.

89 *Submission 422*, p. 11; see also Mrs Lois Fong, ACL, *Committee Hansard*, 14 April 2008, p. 8; Medicine with Morality, *Submission 242*, p. 2.

90 *Committee Hansard*, 16 April 2008, p. 27.

illness? If unacceptable suffering is sufficient, as euthanasia advocates appear to imply, there is a broad premise for an ever-widening range of individuals to be killed provided they satisfy this highly subjective criterion. Indeed, the argument which calls for the caring state to euthanise those unfortunate persons usually incapable of articulating a choice—such as the chronically ill, the elderly and the mentally handicapped—is given further momentum.⁹¹

4.64 Others disputed these arguments. For example, the NSW Council for Civil Liberties submitted that:

If there is a real moral difference between two cases, accepting that one is permissible does not in any way commit us to the other. Each case should be accepted on its own merits.⁹²

4.65 Many also argued that the notion of a 'slippery slope' has been disproved by the experience from overseas jurisdictions which have allowed voluntary euthanasia, such as the Netherlands, Oregon in the US and Belgium.⁹³ For example, Dr Alan Rothschild submitted that:

..the *Oregon Dying with Dignity Act*...actually has fewer safeguards than the *Rights of the Terminally Ill Act 1995* but its annual reports show that it has not been abused. The vulnerable such as the poor, uneducated and elderly have not been targeted. Research shows that it is largely the educated, employed, and medically insured who make use of the Oregon Act.⁹⁴

4.66 At the same time, many alluded to the experience in the Netherlands to illustrate their concerns about the potential for a 'slippery slope' in the regulation of euthanasia.⁹⁵ Many pointed to studies indicating a high level of non-voluntary euthanasia in the Netherlands.⁹⁶ Others argued that more recent studies, conducted since the introduction of legislation in 2002, indicate that there is no slippery slope

91 *Committee Hansard*, 16 April 2008, p. 29.

92 *Submission 418*, p. 8.

93 See, for example, the ACT Committee of the Voluntary Euthanasia Society of NSW, *Submission 238*, pp 1-2; Emeritus Professor Philip Ley, *Submission 363*, pp 6-7; Dying with Dignity Victoria, *Submission 399*, pp 2-5; Mr Marshall Perron, *Submission 393*, p. 3.

94 *Submission 452*, p. 4 and see also p. 5; cf Festival of Light Australia, *Submission 361*, pp 7-8; Right to Life Australia, *Submission 441*, p. 5.

95 See, for example, Darwin Christian Ministers' Association, *Submission 376*, p. 4; Committee on Bioethics of the Uniting Church in Australia (Victorian Synod), *Submission 384*, pp 3-4; Katrina George, University of Western Sydney, *Submission 398*; Festival of Light Australia, *Submission 361*, p. 8.

96 See, for example, ACL, *Submission 422*, pp 8-9.

and that both non-voluntary euthanasia and voluntary euthanasia have declined.⁹⁷ However, this was also disputed.⁹⁸

4.67 As noted in Chapter 3, several submissions were concerned about the adequacy of the safeguards in the NT RTI Act, and the operation of the RTI Act while it was in force.⁹⁹ Some queried whether legislation governing euthanasia can ever be properly safeguarded against abuse.¹⁰⁰ For example, Dr Brian Pollard claimed that 'every major published inquiry in the world into the legalisation of euthanasia has independently concluded that such law could never be made safe'.¹⁰¹ Similarly, the ACL expressed the view that:

...euthanasia cannot be controlled once legalised and patients cannot be safeguarded against the fundamental philosophical shift from care to killing. The disturbing ramifications of legalised euthanasia include: the acceptance of killing as a very cost-effective form of treatment; the murder of terminally ill patients who have not asked to die; the 'mercy killing' of wider groups of people whose lives are deemed worthless such as handicapped newborn babies; and a forever changed doctor-patient relationship.¹⁰²

97 Dying with Dignity Victoria, *Submission 399*, p. 4; see also, for example, Dr Alan Rothschild, *Submission 452*, p. 22; and Dutch Ministry of Health, Welfare and Sport in May 2007 at <http://www.minvws.nl/en/themes/euthanasia/default.asp> (accessed 20 May 2008).

98 ACL, *Answers to Questions on Notice*, received 8 May 2008, pp 1-2 and Dr David van Gend, *Answers to Questions on Notice*, received 6 May 2008.

99 In this context, many submissions referred to the following study: D.W. Kissane, A. Street, P. Nitschke, "Seven deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia", *The Lancet*, Vol. 352, October 3 1998, pp 1097-1102. See also Dr Nitschke, *Committee Hansard*, 14 April 2008, pp 28-30 and *Submission 390A*; Dr David van Gend, *Committee Hansard*, 14 April 2008, pp 14-15; Professor David Kissane, *Submission 589*; Dr Mark Boughey, *Committee Hansard*, 14 April 2008, p. 38; ACL, *Submission 422*, p. 9; Festival of Light Australia, *Submission 361*, pp 2-4.

100 See, for example, the Coalition of the Defence of Human Life, *Submission 367*, p. 3; Katrina George, University of Western Sydney, *Submission 398*, pp 1-24; Family Council of Victoria, *Submission 263*, p. 5. It was also noted that several other inquiries, such as House of Lords, *Report of the Select Committee on Medical Ethics*, 1994, and Parliament of Tasmania, Community Development Committee, *Report on the Need for Legalisation of Voluntary Euthanasia*, Report No. 6, 1998, had concluded that voluntary euthanasia legislation could not adequately provide the necessary safeguards against abuse.

101 *Submission 47*, p. 11.

102 *Submission 422*, p. 7.

Impact on doctor-patient relationship

4.68 Several submissions expressed concern about the impact of voluntary euthanasia legislation on the doctor-patient relationship.¹⁰³ The AMA, in opposing the Bill, believed that medical practitioners should not be involved in interventions that have the ending of a person's life as their primary intention:

...medical practitioners participating in euthanasia or physician-assisted suicide undermines the trust that is the cornerstone of the doctor-patient partnership. The public trusts medical practitioners to care for patients (and their families and carers) throughout the course of their disease or condition and to advocate for their health and well-being.

We cannot confuse the role of the medical practitioner as someone who supports life with someone who takes life.¹⁰⁴

4.69 The ACL was similarly concerned that:

Euthanasia is essentially about giving doctors the rights to kill their patients, as the decision over whether to terminate or preserve a patient's life will rest with the medical profession. Such a drastic move severely reduces patient autonomy and gives doctors the power of life or death over those in their care.¹⁰⁵

4.70 However, Dr David Leaf told the committee that 'one of the options I would like to have as a doctor treating these people is the option to offer them voluntary euthanasia'. Dr Leaf emphasised that:

...the term 'voluntary euthanasia' should also mean that it is voluntary for the doctor. I acknowledge that there are some doctors who would not feel comfortable in participating in that. That is their right, and I would seek to protect that. Equally, it is my right, I feel, to say that I would be comfortable to have that to offer my patients, should they so desire—after sufficient screening and sufficient counselling, and ruling out other conditions that would prejudice their ability to make a competent decision.¹⁰⁶

103 See, for example, *Medicine with Morality, Submission 242*, p. 2; Father Frank Brennan, *Committee Hansard*, 16 April 2008, p. 11; Dr David Gawler, *Submission 445*, p. 3 and *Committee Hansard*, 14 April 2008, p. 10; Dr John Murtagh, *Submission 450*, p. 2; Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Submission 360*, p. 3; Australian Catholic Bishops Conference, *Submission 410*, pp 6-7; Dr Christopher Meney, Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Committee Hansard*, 16 April 2008, p. 29; see also Dr Alan Rothschild, *Submission 452*, pp 19-20.

104 *Submission 375*, p. 2.

105 *Submission 422*, p. 7; see also Dr David van Gend, ACL, *Committee Hansard*, 14 April 2008, p. 9.

106 *Committee Hansard*, 16 April 2008, p. 21; see also *Submission 57*, p. 2; and NSW Council for Civil Liberties, *Submission 418*, pp 7-8.

4.71 Dr Leaf also took issue with the AMA's position:

The AMA does not represent all doctors...[T]he AMA is not reflective, in my opinion, of current medical opinion. One of the AMA's chief problems with the voluntary euthanasia bill is that it changes the therapeutic relationship between a doctor and the patient. I do not believe this to be the case. I would say, based on what I have said already, that it would enhance some doctors' relationships with their patients. It would give them another option, and people are looking for options at this stage.¹⁰⁷

4.72 As outlined earlier, others also submitted that, in practice, many Australian doctors already take steps that lead to an earlier death for patients,¹⁰⁸ and that many doctors and other medical professionals support voluntary euthanasia.¹⁰⁹

4.73 The Australian Nursing Federation took a neutral position on the issue of euthanasia. It recognised that its 'members hold a range of ethical views on the subject of voluntary euthanasia'. The Federation further noted that if voluntary euthanasia becomes legalised, 'nurses and midwives have the right to conscientiously object to participating in the carrying out of voluntary euthanasia.'¹¹⁰

Pressure and fear of being a burden

4.74 The committee also received evidence suggesting that the legalisation of voluntary euthanasia would place pressure on people to end their lives even if they are not ready so as to reduce the burden on their family or the health system.¹¹¹ The ACL expressed the view that:

Legalised euthanasia places immense pressure on those who are ill and especially those who feel that they have become a burden to society and especially to their loved ones. In an age of spiralling health costs and complex care needs it is all too easy for some patients to feel that they are

107 *Committee Hansard*, 16 April 2008, p. 16; see also *Dying with Dignity Victoria*, *Submission 399*, p. 4; NSW Council for Civil Liberties, *Submission 418*, pp 7-8.

108 See, for example, Emeritus Professor Philip Ley, *Submission 363*, p. 2, quoting from Kuhse, H., Singer, P., Baume, P., Clark, M. and Rickard, M. (1997) "End of Life decisions in Australian Medical practice", *Medical Journal of Australia*, Vol. 166(4), 17 February 1997, pp 191-197; also *Dying with Dignity Victoria*, *Submission 399*, p. 4.

109 Humanist Society of Victoria, *Submission 382*, p. 3; *Dying with Dignity Victoria*, *Submission 399*, pp 4-5.

110 *Submission 591*, p. 3.

111 *Medicine with Morality*, *Submission 242*, p. 2; see also Dr David van Gend, *Submission 413*, p. 5; Rita Joseph, *Submission 371*, pp 12-13; Dr David Gawler, *Submission 445*, p. 3; Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Submission 360*, pp 3-4; Committee on Bioethics of the Uniting Church in Australia (Victorian Synod), *Submission 384*, p. 2; National Civic Council, *Submission 417*, p. 3.

simply too much of an economic and emotional drain on their families and that the best way out is to end their life.¹¹²

4.75 The ACL was particularly concerned that vulnerable people, such as those who are elderly, lonely, depressed or disabled will feel such pressure.¹¹³ Similarly, Mr Christopher Meney expressed the belief that:

Legalisation over time affects hospital practice and societal expectations, ultimately resulting in undue pressure on patients to not overburden family, medical staff and/or resources. The subtle or not so subtle forms of persuasion ultimately diminish a person's freedom and personal choice.¹¹⁴

4.76 In this context, many submissions noted the 1994 House of Lords Select Committee inquiry into euthanasia, which found that:

We are concerned that vulnerable people – the elderly, lonely, sick or distressed – would feel pressure, whether real or imagined to request early death...[T]he message which society sends to vulnerable and disadvantaged people should not, however obliquely, encourage them to seek death but should assure them of our care and support in life.¹¹⁵

4.77 Dr Mark Boughey informed the committee that 'it is often not the person dying who is expressing the wish to be euthanased', and that the pressure for voluntary euthanasia often comes from families.¹¹⁶ He acknowledged that this pressure occurs even without voluntary euthanasia legislation in place, but considered that it would be a greater problem if voluntary euthanasia were legalised.¹¹⁷

4.78 However, the ACT Committee of the Voluntary Euthanasia Society of NSW claimed that:

Arguments that older people will be exploited by being pressured into decisions to die are disproved by anecdotal and any other evidence available. Younger family members are more likely to resist the rationally thought-out wishes of an older member to seek release.¹¹⁸

112 *Submission 422*, pp 13-14.

113 *Submission 422*, p. 14; see also Australian Catholic Bishops Conference, *Submission 410*, p. 6; and Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Submission 360*, p. 6. See further the Women's Forum Australia, who opposed the Bill based on concerns about the particular impact of euthanasia on women: *Submission 397*.

114 *Committee Hansard*, 16 April 2008, p. 28; see also Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Submission 360*, pp 3-4.

115 See, for example, Dr David van Gend, ACL, *Committee Hansard*, 14 April 2008, p. 9; also 1997 Euthanasia Inquiry, pp 93-94.

116 *Committee Hansard*, 14 April 2008, p. 38; see also pp 39-40 and *Submission 592*, pp 2-3; and Dr Brian Pollard, *Committee Hansard*, 16 April 2008, p. 25.

117 *Committee Hansard*, 14 April 2008, p. 42.

118 *Submission 238*, p. 2.

Sanctity of human life

4.79 Many of those who opposed the Bill and the concept of voluntary euthanasia did so on the basis of the sanctity of human life.¹¹⁹ These arguments were often based on religious beliefs – for example, the Australian Catholic Bishops Conference submitted that the concept of the sanctity of life in the western world 'owes much to the Judeo-Christian tradition which affirms that every individual is made in the image and likeness of God'.¹²⁰

4.80 The Life, Marriage and Family Centre of the Catholic Archdiocese of Sydney submitted that:

...all human life has value and...the life of every person possesses inherent and equal dignity. This is an important principle for the security and safety of us all. The accumulated wisdom of all successful cultures and societies tells us that the most advantageous way to nurture the understanding that all human life is precious and of equal worth is to maintain the prohibition on killing. Human bodily life has intrinsic value and respect for each human life is integral to respect for human dignity.¹²¹

4.81 Mr Christopher Meney, Director of the Life, Marriage and Family Centre of the Catholic Archdiocese of Sydney, told the committee that: 'respect for the inviolability of human life prohibits intentional killing':

...the legalisation of voluntary euthanasia would have damaging private and public effects. It would say that some patients' lives have no value.¹²²

4.82 Others also raised concerns that the Bill would send the wrong message about the sanctity of human life, and could thereby encourage suicide. For example, the organisation 'Suicide: NO' submitted that:

...the underlying message that suicide is ok at least some of the time is highly likely to encourage other suicidal members of Australian society to consider their desire to commit suicide to be a reasonable desire. In other words, the Bill will strengthen the tendency for suicidal people to rationalise their desire to commit suicide.¹²³

119 See, for example, Federal Presbyterian Church of Australia, *Submission 366*, p. 1; Life, Family and Marriage Centre, Catholic Archdiocese of Sydney, *Submission 360*, p. 6; Right to Life Australia, *Submission 381*, p. 1; Australian Catholic Bishops Conference, *Submission 410*, pp 3-4.

120 *Submission 410*, p. 3.

121 *Submission 360*, p. 6.

122 *Committee Hansard*, 16 April 2008, pp 28 and 29.

123 *Submission 395*, p. 3; see also, for example, National Civic Council, *Submission 417*, p. 3; ACT Right to Life Association, *Submission 434*, p. 5; Dr David van Gend, ACL, *Committee Hansard*, 14 April 2008, p. 9; Family Council of Victoria, *Submission 263*, p. 4.

4.83 However, others countered the arguments based on the sanctity of human life with arguments relating to individual autonomy, as outlined earlier in this chapter. In particular, where this argument stemmed from religious beliefs, Emeritus Professor Philip Ley submitted that:

...the issue is voluntary euthanasia. Those with religious beliefs forbidding euthanasia do not have to avail themselves of it. Nor does anybody, religious or not, have to take up the option.¹²⁴

4.84 Similarly, the NSW Council for Civil Liberties pointed to evidence given to the 1997 Euthanasia Inquiry by its Vice President:

It all comes down to choice. If a person disagrees with voluntary euthanasia for a religious reason, whatever reason it might be, that person does not have to exercise the right, but I don't think they should impose that moral or religious view - whatever their view might be - on those who do wish to die.¹²⁵

4.85 Dr Alan Rothschild also argued that:

...the sanctity of life is already compromised, it has exceptions, such as the right of a patient to ask for the withholding or withdrawal of life supporting medical treatment, knowing the result will be that he or she will die.¹²⁶

4.86 Indeed, several submitters were at pains to make a distinction between voluntary euthanasia and the withdrawal of futile treatment.¹²⁷ The committee notes in this context that most submissions commenting on the sanctity of human life had no objection to the refusal or withdrawal of treatment.¹²⁸ This led some, such as the Australian Federation of AIDS Organisations, to argue that:

Laws allowing patients to refuse medical interventions mean those requiring interventions or life support are 'lucky' – they can refuse. Others whose conditions are as painful or worse, are given only the right to refuse palliative care to reduce their pain, ironically the same care which may eventually expedite their deaths.¹²⁹

Impact on the Indigenous community

4.87 Several submissions expressed concerns about the impact of the Bill, and any subsequent voluntary euthanasia legislation, on the Indigenous population in the NT,

124 *Submission 363*, p. 4.

125 *Submission 418*, p. 3; see also 1997 Euthanasia Inquiry, pp 59-60, para 6.13.

126 *Submission 452*, p. 5.

127 See, for example, AMA, *Submission 375*, p. 2; Mr Christopher Meney, Director, Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Committee Hansard*, 16 April 2008, p. 28.

128 See, for example, Federal Presbyterian Church of Australia, *Submission 366*, p. 1; Life, Marriage and Family Centre, Catholic Archdiocese of Sydney, *Submission 360*, p. 2.

129 *Submission 400*, p. 2.

which comprises approximately 30% of the NT population.¹³⁰ As the Aboriginal Medical Services Alliance of the Northern Territory (AMSANT) submitted:

The jurisdiction of the Northern Territory is comprised of some 30% Indigenous residents, many of who[m] are from remote and isolate communities. This fact marks the NT as being a highly unique jurisdiction in the Australian context with significant cross-cultural issues, challenges and opportunities being a regular part of business and life in the NT.¹³¹

4.88 AMSANT continued:

As such, we believe the NT is a special case when considering such issues as the *Rights of the Terminally Ill Bill* of 2008 in that significant ground-work and consultation needs to occur with Aboriginal residents to ensure understanding of such a Bill and also whether communities are in support of the Bill, or otherwise.¹³²

4.89 It was put to the committee that the Indigenous population of the NT was opposed to euthanasia, or that euthanasia was contrary to Indigenous law.¹³³ For example, the Aboriginal Resource and Development Services (ARDS) submitted that it was opposed to euthanasia on the basis that it conflicts with traditional law. ARDS quoted its Chairperson, Rev Dr Djiniyini Gondarra:

Euthanasia is murder according to our traditional law. If our people want to die because they are in pain the patient tells the whole family that they will close their mouths to water and food and then spend the time left to get ready to transit to the other side. For someone to administer any form of substance to end the life of a person is murder in the eyes of our traditional law.¹³⁴

4.90 The committee also received a standard letter signed by several hundred Indigenous residents of the NT opposing the Bill and raising concerns about the revival of the NT RTI Act.¹³⁵

4.91 However, AMSANT was more circumspect, suggesting that there needs to be full consultation with Indigenous people to ascertain their support or otherwise.¹³⁶

130 See also 1997 Euthanasia Inquiry, Chapter 5; and Father Frank Brennan, *document tabled at hearing on 16 April 2008*: John Collins, Frank Brennan, "Euthanasia and the potential adverse effects for Northern Territory Aborigines", *The Lancet*, Vol. 349, June 28 1997, pp 1907-1908.

131 *Submission 660*, p. 2; see also Dr David Gawler, *Committee Hansard*, 14 April 2008, p. 11.

132 *Submission 660*, p. 2; see also Dr Teem-Wing Yip, *Submission 394*, p. 2.

133 Dr David Gawler, *Committee Hansard*, 14 April 2008, p. 11 and pp 9-10; Ms Isobel Gawler, *Submission 432*, p. 1.

134 *Submission 414*, p. 2.

135 *Submission 447*; see also *Submission 449*.

136 Mr Desmond McKenzie, AMSANT, *Committee Hansard*, 14 April 2008, p. 32; see also *Submission 660*, pp 2-3.

4.92 In response to concerns about opposition from the Indigenous community, Mr Marshall Perron stated:

...prostitution, abortion, organ donation, autopsies and cremation are probably all grossly offensive to Aboriginal culture. A group in our society finding them offensive does not stop us from having laws regulating those areas and indeed permitting them. In regard to the Aboriginal situation, there is clearly a huge amount to be done educating remote Aborigines about the health system, much of which is a complete mystery to truly remote and tribal Aborigines. It is hardly a reason to deny the terminally ill the relief they seek because we have a big job ahead in educating the Aboriginal community...To presume that we should never have voluntary euthanasia legislation because an Aboriginal group somewhere will oppose it is not a sensible way to go.¹³⁷

4.93 However, AMSANT recommended that 'the views of Aboriginal residents of the NT be given pre-eminence in any ultimate decision-making on [the Bill] and the ultimate practice of euthanasia in the NT'.¹³⁸

Fears and impact on Indigenous health

4.94 Many expressed concern that euthanasia legislation in the NT would impact on the willingness of the Indigenous population to seek medical treatment. It was suggested that euthanasia legislation would contradict efforts to close the gap in health and life expectancy between Indigenous and non-Indigenous Australians.¹³⁹ For example, Father Frank Brennan stated that, in his opinion, legislation for voluntary euthanasia would have a negative impact on Aboriginal health.¹⁴⁰

4.95 ARDS submitted that 'the prospect of legalised euthanasia has added to the confusion and fear that Yolngu [of north-east Arnhem Land] have of western medical practices and procedures'.¹⁴¹ ARDS explained that this fear was exacerbated by historical experiences and by the language divide.¹⁴² ARDS was therefore concerned that the Bill could exacerbate the Indigenous health crisis: 'Indigenous health in the Top End of Australia can be expected to worsen even further, as Yolngu stay away from medical professionals and institutions'.¹⁴³

4.96 Similarly, Dr David Gawler told the committee that:

137 *Committee Hansard*, 14 April 2008, p. 20.

138 *Submission 660*, p. 3.

139 Father Frank Brennan, *Submission 418*, p. 3; Dr Teem-Wing Yip, *Submission 394*, p. 2; Standard letter, *Submission 447*, p. 1; Ms Lorraine Erlandson, *Submission 448*, p. 1.

140 *Committee Hansard*, 16 April 2008, p. 13.

141 *Submission 414*, p. 3.

142 *Submission 414*, p. 2; see also Dr David Gawler, *Submission 445*, pp 1-2.

143 *Submission 414*, p. 6 and see also p. 4.

Euthanasia legislation has the potential to prevent Aboriginal people from seeking health care because of the fear that they could be misunderstood, that their lives would not be valued or that they could be put down with a needle.¹⁴⁴

4.97 Dr Gawler continued:

Aboriginal people, with their history of displacement, marginalisation and even massacres at the hands of white people, find it difficult to form trusting relationships with white doctors. In Arnhem Land, the debate continues as to whether doctors are healers or witchdoctors. Consequently, many patients fear visits to white doctors and especially visits to hospitals, where they must often travel long distances to another part of the country. To add to this uncomfortable equation, the knowledge that the doctor may also kill people or have the power to do so will generally increase anxiety and may mean some patients refuse treatment.¹⁴⁵

4.98 The committee also heard anecdotal evidence that Indigenous patients had left hospital when the NT RTI Act was enacted,¹⁴⁶ or had refused immunisations 'because of the perception that doctors could intentionally kill people with those injections'.¹⁴⁷ Similarly, AMSANT also submitted that at the time of the NT RTI Act:

...there was considerable confusion and angst amongst elements of the Aboriginal community, particularly amongst remote area residents, about what the Act actually meant and how it would be applied in practice for Aboriginal people...¹⁴⁸

4.99 Mr McKenzie of AMSANT was concerned that, if euthanasia legislation were re-enacted, Indigenous people would avoid coming to the health services altogether.¹⁴⁹

4.100 However, The Hon Daryl Manzie told the committee that there was some misinformation at the time of the NT RTI Act:

Anecdotally, I was told by some Indigenous people that they were informed that the government was going to be able to give them or their children a needle when they came to Darwin and get rid of them because it does not want too many Aborigines...[M]isinformation can cause a lot of grief.

144 *Committee Hansard*, 14 April 2008, p. 10.

145 *Committee Hansard*, 14 April 2008, p. 10; see also Dr Mark Boughey, *Committee Hansard*, 14 April 2008, p. 37 and p. 39; also *Submission 592*, p. 1.

146 Dr David Gawler, *Committee Hansard*, 14 April 2008, p. 15; see also ARDS, *Submission 414*, p. 4.

147 Dr Teem-Wing Yip, *Submission 394*, pp 2-3.

148 *Submission 660*, p. 2; see also Mr Desmond McKenzie, AMSANT, *Committee Hansard*, 14 April 2008, pp 32-33.

149 *Committee Hansard*, 14 April 2008, p. 33.

These are very sensitive issues but they are also very emotive and they do generate a lot of comment from people. Sometimes it is very ill informed.¹⁵⁰

4.101 In response to questioning from the committee about the impact of euthanasia legislation on Aboriginal communities in the NT, Mr Perron expressed the view that:

If the situation is handled sensibly, there will in my view not be an impact on Aborigines failing to come forward and seeking medical attention.¹⁵¹

4.102 Mr Perron then pointed to evidence given to the 1997 Euthanasia Inquiry which disproved rumours that Indigenous Territorians had avoided attending health services as a result of the RTI Act.¹⁵²

4.103 Indeed, the issue of the impact of the NT RTI Act on the Aboriginal community was also of significant concern during the 1997 Euthanasia inquiry.¹⁵³ The inquiry considered whether misinformation was being provided to Aboriginal communities about the legislation,¹⁵⁴ and whether or not there had been a decrease in the numbers of Indigenous Territorians seeking health care.¹⁵⁵ Appendix 3 of that report outlined statistics, provided by the NT Government, on hospital services supplied to Aboriginal people in the NT, which concluded that:

There is no evidence from hospital separations or patient travel data that the introduction of the Euthanasia Act affected the willingness of Aboriginal people to present to hospital for medical treatment.¹⁵⁶

4.104 AMSANT nevertheless suggested that this Bill be delayed, until an education and awareness campaign on euthanasia is developed and implemented in the NT, with a particular focus on engaging Aboriginal people and communities.¹⁵⁷ Father Frank Brennan agreed that an education campaign would be needed prior to any re-introduction of voluntary euthanasia, and that 'the sort of education which would be required in remote Aboriginal communities is very great'.¹⁵⁸ However, Dr Teem-Wing Yip, a doctor working in the NT, argued that:

...a large amount of resources would be required to adequately educate the NT's indigenous population about the right to ask for a doctor to kill them. Such a use of resources is completely inappropriate in light of the fact that

150 *Committee Hansard*, 14 April 2008, p. 21.

151 *Committee Hansard*, 14 April 2008, p. 21.

152 *Committee Hansard*, 14 April 2008, p. 21.

153 1997 Euthanasia Inquiry, Chapter 5.

154 1997 Euthanasia Inquiry, Chapter 5, pp 40-46.

155 1997 Euthanasia Inquiry, Chapter 5, pp 52-52 and Appendix 3.

156 1997 Euthanasia Inquiry, Appendix 3, p. 198.

157 *Submission 660*, p. 3; see also Mr Desmond McKenzie, AMSANT, *Committee Hansard*, 14 April 2008, pp 34-35.

158 *Committee Hansard*, 16 April 2008, p. 10.

these people are already dying prematurely of preventable diseases at an embarrassingly high rate – diseases that are badly in need of resources to prevent.¹⁵⁹

Conclusion

4.105 This chapter and previous chapters are a summary of the views and evidence presented to the committee during the inquiry. However, there is no majority or minority view attached to this report. The next chapter sets out the views of the Senators who participated in this inquiry.

159 *Submission 394*, p. 3.

CHAPTER 5

SUMMARY OF THE VIEWS OF COMMITTEE MEMBERS

5.1 Committee members elected not to form a majority view on whether or how the Bill should proceed. Recognising that there are significantly diverging views on this issue among committee members, and that issues of this type have always been the subject of a conscience vote, the committee has decided to conclude this report by setting out the views of all Senators who participated in this inquiry.

5.2 Committee members agree that the Bill should not proceed in its current form. Committee members also agree with evidence that there is no room for doubt or uncertainty in the area of regulation of voluntary euthanasia. The committee is also of the view, as suggested at paragraph 4.60 of Chapter 4, that Commonwealth, state and territory governments should consider increasing funding and resources for palliative care as a high priority.

5.3 However, at this point the views of committee members diverge. As outlined in their dissenting report, Senators Barnett (Deputy Chair), Fisher and Trood consider that the Bill should not proceed in any form and that the Euthanasia Act should remain in force. Similarly, Senator Hogg's perspective is that the Euthanasia Act should not be repealed. Senator Bartlett's view is that the Bill should not proceed, and that there should be a debate around a possible legislative framework governing euthanasia at a national level, with any changes to the laws in this area applying consistently to all Australians. The views of these Senators are all expressed in greater detail in their statements following this chapter. Additional comments were also provided by several participating members, and are also included at the end of this report.

5.4 The Chair's view, endorsed by Senators Kirk and Marshall, is that an amended version of the Bill should proceed. These Senators do not necessarily support the legalisation of voluntary euthanasia, but rather are of the view that the territories should have the right to self-government without arbitrary interference from the Commonwealth. Their views are outlined in further detail in the following section.

STATEMENT BY THE CHAIR AND SENATORS KIRK AND MARSHALL

1.1 The Chair acknowledges that the Commonwealth clearly had the power under section 122 of the Constitution to override the NT RTI Act as it did in enacting the Euthanasia Act. However, the committee heard contrasting views on whether the enactment of the Euthanasia Act was an appropriate use of that power.

1.2 On the one hand, many argued persuasively that, in enacting the Euthanasia Act, the Commonwealth inappropriately interfered in the affairs of a democratically-elected self-governing territory, and that the Euthanasia Act effectively discriminates against territories and territory citizens compared to states and state citizens.

1.3 At the same time, the committee heard strong evidence that the Commonwealth was justified in enacting the Euthanasia Act, given the nature of the subject matter, and that the self-government powers of territories are derived from the Commonwealth itself.

1.4 The Chair notes with particular concern the evidence that, at the time of the enactment of the Euthanasia Act, there was little or no exploration of the possibility of a national approach to the issue of voluntary euthanasia – that is, legislation which applies equally to both states and territories.

1.5 Indeed, the Chair is concerned that the Commonwealth's approach to territories in the past has been somewhat inconsistent and even ad-hoc, depending on the particular issue in question. Rather than singling out territories for different treatment, the Chair agrees with evidence that in the future the Commonwealth should either take a national approach to such issues, or alternatively to leave such issues as matters for each state and territory to decide for themselves. At the very least, if the Commonwealth is to intervene in territory matters in the future, there should be some consideration of objective criteria to ensure greater consistency in the use of Commonwealth power to overrule territory legislation. However, in respect of the Commonwealth's approach to the Northern Territory, the Chair supports the position of the Northern Territory Government outlined in their submission:

To provide certainty in regard to the future legislative capacity of the Northern Territory generally, the Territory is of the firm view that the current Bill should not proceed, and instead be replaced by a Bill granting Statehood to the Northern Territory.¹

1.6 The Chair therefore considers that the Bill should be amended in three key ways:

1 *Submission 446*, p. 4.

1. item 2 of Schedule 1 should be deleted and replaced with an item which specifically provides that the *Rights of the Terminally Ill Act 1995* (NT) is NOT revived by the Bill;
2. a provision be included expressly removing section 50A from the *Northern Territory (Self-Government) Act 1978* and equivalent provisions from ACT and Norfolk Island self-government legislation (rather than merely repealing the Euthanasia Act); and
3. clause 3 of the Bill should be amended to accurately reflect the legal position of the powers of territory legislative assemblies.

1.7 The first amendment would be necessary due to the apparent uncertainty as to whether or not the Bill is able to revive the NT RTI Act, which is the aim of item 2 of Schedule 1. The Chair considers that, in any case, it is not appropriate to revive the NT legislation given that over 10 years have now elapsed since the passage of the Euthanasia Act. Rather, the revival or otherwise of the legislation should be left to the NT Government and the NT Legislative Assembly. If the Bill were to proceed, item 2 of Schedule 1 of the Bill should therefore be deleted and replaced with an item which specifically states that the NT RTI Act is NOT revived by the Bill.

1.8 In this context, the Chair notes concerns raised in relation to the operation and provisions of the NT RTI Act, particularly whether that legislation contains adequate safeguards. The Chair considers that this is a matter for the NT Legislative Assembly should it decide to re-enact that legislation (if it were to be given the opportunity through the enactment of an amended version of the Bill). Nevertheless, if the Bill passes, and the NT Government and Legislative Assembly were to reconsider the issue of legalising voluntary euthanasia, the Chair suggests that the NT Government and Legislative Assembly should be mindful of the concerns raised about the RTI Act during this inquiry.

1.9 The second proposed amendment reflects the view of the NT Government that the Bill should not just repeal the Euthanasia Act, but for the sake of clarity should also specifically remove:

- section 50A from the *Northern Territory (Self-Government) Act 1978* (Cth);
- subsections 23(1A) and (1B) from the *Australian Capital Territory (Self-Government) Act 1988* (Cth); and
- paragraph 19(2)(d) and subsection 19(2A) from the *Norfolk Island Act 1979* (Cth).

1.10 The last amendment would be necessary due to the misleading wording in clause 3, as discussed in Chapter 3 of this report. Re-drafting is required to ensure that clause 3 accurately reflects that the Bill and Euthanasia Act affect the powers of territory legislative assemblies (not the people of those territories) to make laws permitting voluntary euthanasia (as opposed to laws for the terminally ill).

1.11 The Chair does not intend to make any findings or recommendations as to whether Federal Parliament, or indeed, any other Australian parliament, should legislate either to prohibit or allow euthanasia. Rather, the Chair considers that this is a matter for parliament, and, if the issue of euthanasia is ever to be considered by the Federal Parliament, is an issue most appropriately left to a conscience vote.

Chair's Recommendation 1

1.12 The Chair recommends that the Bill proceed subject to the following amendments:

- (a) item 2 of Schedule 1 be deleted and replaced with an item which specifically provides that the *Rights of the Terminally Ill Act 1995* (NT) is NOT revived by the Bill;**
- (b) Schedule 1 be amended to include a provision expressly removing section 50A from the *Northern Territory (Self-Government) Act 1978* (Cth) and equivalent provisions from ACT and Norfolk Island self-government legislation (rather than merely repealing the *Euthanasia Laws Act 1997*); and**
- (c) clause 3 of the Bill be amended to accurately reflect the legal position of the powers of territory legislative assemblies by:**
 - deleting the word 'people' and replacing it with 'legislative assemblies'; and**
 - deleting the words 'terminally ill' and replacing them with 'voluntary euthanasia'.**

Senator Trish Crossin

Senator Linda Kirk

Chair

Senator Gavin Marshall

STATEMENT

BY LIBERAL SENATORS

1.1 Liberal Senators are deeply concerned about this Bill and consider that the Bill should not proceed under any circumstances. We are therefore unable to support the Chair's report, for the reasons discussed below.

Concerns with the drafting of the Bill and lack of consultation with NT Government

1.2 There are a number of drafting concerns with the Bill, as highlighted in Chapter 3 of the report. Liberal Senators consider that the evidence indicates that the Bill is inaccurate, unclear and creates considerable uncertainty about the status of the Northern Territory *Rights of the Terminally Ill Act 1995* (RTI Act) and of the powers of the territories' legislatures in relation to euthanasia.

1.3 We further consider that the amendments to the Bill put forward by the Chair would amend the Bill so substantially that it would bear little resemblance to the original legislation as introduced.

1.4 Liberal Senators are also concerned about the lack of consultation with the NT Government prior to the introduction of this Bill.¹ In particular, the Chief Minister of the Northern Territory, The Hon Paul Henderson has drawn attention to the lapse of time since the RTI Act was debated and the need for a fresh consideration of all the issues before it or any similar legislation should be enacted in the Northern Territory:

Mr Henderson says the make up of the Territory Parliament is different and palliative care has improved since the voluntary euthanasia legislation was enacted.

"Back in 1995 I was a supporter of euthanasia, but I have to say I haven't been in to the detail of how we provide palliative care, and all of the legal and ethical issues that are inherent in our society in 2008 as opposed to 1995," he said.²

Problems with RTI Act

1.5 Liberal Senators are particularly disturbed by evidence received during the committee's inquiry relating to the problems with the RTI Act itself. This included evidence about the operation of the RTI Act during the nine month period in which the Act was in effect. Of considerable concern is the study published in *The Lancet*,³

1 NT Government, *Committee Hansard*, 14 April 2008, p. 4.

2 "Brown's moves on NT euthanasia bill labelled arrogant", *ABC News*, 5 February 2008, at: www.abc.net.au/news/stories/2008/02/05/2155259.htm (accessed 16 June 2008).

3 Kissane, D.W., Street, A., Nitschke, P. "Seven deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia", *The Lancet*, Vol. 352, 3 October 1998, pp 1097-1102. See also Professor David Kissane, *Submission 589*.

which has as its principal author Professor David Kissane, a consultant psychiatrist and professor of palliative medicine. Dr Philip Nitschke is a co-author of the paper. Four people were assisted to terminate their lives by Dr Nitschke under the RTI Act. No other medical practitioner made use of the provisions of the Act to assist any other person to terminate his life.

1.6 *The Lancet* study, as well as evidence from Dr Nitschke himself during this inquiry,⁴ raises serious doubts about the effectiveness of the RTI Act in ensuring competent psychiatric assessments of patients before they were administered euthanasia. The previously undisclosed admission that Dr Nitschke personally paid the fee for the psychiatric assessment of one of the patients he euthanased⁵ gives rise to a serious concern about a potential conflict of interest.

1.7 Dr David van Gend summarised other problems with the administration of the RTI Act:

The four levels of medical safeguard that were built into the act were either diminished or blatantly violated, even in the few cases that occurred in 1996-97. My question to the committee is: if, in the early springtime of the law the regulations and safeguards were not met when these cases were under the full spotlight of public attention, what hope have we of safeguards being met for the 102nd death—not the second death?⁶

Aboriginal issues

1.8 We also have considerable concerns about the impact of the Bill, and any subsequent voluntary euthanasia legislation, on the Indigenous population in the NT, as discussed in Chapter 4 of the majority report. For example, the Aboriginal Resource and Development Services explained in its submission that laws permitting euthanasia were not compatible with traditional law.⁷ The committee also received a standard letter signed by several hundred Indigenous residents of the NT raising concerns about the revival of the RTI Act from an Indigenous perspective.⁸ Of particular concern is the evidence outlined in Chapter 4 explaining how the RTI Act poses a threat to Indigenous health.

Euthanasia tourism

1.9 Finally, if the RTI Act were to be revived, this would raise the possibility of euthanasia tourism to the NT. There is no residency requirement in the RTI Act, and it was apparent from evidence received during the committee's inquiry that the revival

4 *Committee Hansard*, 14 April 2008, pp 28-30.

5 *Committee Hansard*, 14 April 2008, p. 29.

6 *Committee Hansard*, 14 April 2008, pp 14-15.

7 *Submission 414*, p. 2.

8 *Submission 447*.

of the RTI Act would lead, as it did in 1996-97, to the provision of legalised euthanasia for all Australians, and indeed any person willing to travel to the NT. Of the four people killed in the NT under the provisions of the RTI Act when it was in effect from 1 July 1996 to 27 March 1997, two of the four people were not residents of the NT but went there from other parts of Australia to access legalised euthanasia.⁹ The committee also heard evidence that if the RTI Act was still in effect, Australians who are currently travelling overseas to obtain euthanasia would instead be travelling to Darwin.¹⁰

Problems with laws permitting euthanasia

1.10 Evidence was given that there is a majority international consensus – especially in the common law nations – that laws permitting euthanasia are intrinsically incompatible with the common good.

1.11 Father Frank Brennan summarised developments since 1997 as follows:

[W]hat has changed in 10 years? In terms of what has changed, if you look at the United States, Oregon is still the only state which has euthanasia. Since the Commonwealth exercise the US Supreme Court has said there is no right to euthanasia. Lord Joffe's United Kingdom legislation has gone down, and we have had very clear statements from the medical authorities in the United Kingdom and a quite eloquent submission here from the AMA. So it would seem to me that on balance nothing has changed or, if anything, the anti-euthanasia case is probably slightly strengthened if we look at developments in equivalent jurisdictions.¹¹

1.12 The Festival of Light Australia expanded on some of these developments, noting that 'on 12 May 2006 the House of Lords voted 148-100 against the Assisted Dying for the Terminally Ill Bill' and that 'from 1994 through 2007, no fewer than 89 legislative proposals in 22 states of the United States that would have legalized assisted suicide have failed'.¹²

1.13 Several submissions drew attention to problems in those jurisdictions where euthanasia (the Netherlands) or physician-assisted suicide (Oregon) is legalised. For example, the Festival of Light Australia pointed out that:

Since legalised euthanasia was introduced in the Netherlands, initially by court decision (1973) and subsequently by statute (2002), there is no doubt that there has been a rapid expansion of the categories of people considered eligible for physician administered death.

9 Dr Philip Nitschke, *Committee Hansard*, 14 April 2008, p. 25.

10 Dr Philip Nitschke, *Committee Hansard*, 14 April 2008, p. 25.

11 *Committee Hansard*, 16 April 2008, pp 9-10.

12 *Submission 361*, pp 5 and 7.

Children aged 16 and over can request euthanasia without parental agreement.

Children aged 12 to 16 can be killed by euthanasia if they request it and a parent agrees.

Children up to the age of 12, including newborns, may be killed by lethal injection with parental consent.

Psychiatric conditions such as depression or anorexia have been accepted as sufficient justification for requesting euthanasia.¹³

1.14 This submission also detailed problems with the administration of Oregon's Death With Dignity Act:

Complications arising from self-administration of medication, including vomiting, and one case of a person being unconscious for 65 hours and then waking up.

Possible coercion or undue influence by a family member on a woman with dementia to request physician assisted suicide.

Patients with a history of depression being prescribed lethal drugs without a psychiatric referral, which is optional under Oregon's law.

Oregon's Medicaid program funds an ever decreasing list of medical treatments while assisted suicide remains Medicaid funded.

Although Oregon's law limits physicians to prescribing lethal drugs to those whose life expectancy is six months or less official reports indicate that several of those who have taken lethal drugs prescribed under the law have done so more than six months after the drugs were prescribed.

Although Oregon's law requires at least 15 days between a patient's first request for a lethal prescription and the supply of the prescription official reports indicate that this condition is often breached.¹⁴

Legitimate role for the Commonwealth

1.15 Chapter 3 of the report discusses the queries raised during the committee's inquiry about the implications of international human rights law for laws permitting euthanasia.¹⁵ These comments highlight the proper role for the Commonwealth in considering any law permitting euthanasia passed by a state or territory legislature for its compatibility with Australia's international human rights obligations. As Professor George Williams of the Gilbert and Tobin Centre admits, there is some doubt about the Commonwealth's constitutional power to take such an action.¹⁶

13 *Submission 361*, p. 8.

14 *Submission 361*, pp 7-8.

15 See, for example, Rita Joseph, *Submission 371*, pp 4-12; ACL, *Submission 422*, p. 6; Dr Brian Pollard, *Committee Hansard*, 16 April 2008, pp 24-25; Sydney Centre for International Law, *Submission 421*; HREOC, *Submission 436*.

16 *Committee Hansard*, 16 April 2008, p. 6.

1.16 So far no state legislature has passed a law permitting euthanasia despite the fact that bills for laws permitting euthanasia have been introduced into several state legislatures so any Commonwealth action in this regard would be both premature and doubtful in its effect. Nonetheless if a state legislature does pass such a law, or appears likely to pass such a law, then it is open for the Commonwealth to explore all avenues to nullify such a law.

1.17 We also note that, at no time in 1997, and in no submission or evidence given to this current inquiry, has anyone raised any doubt whatsoever as to the validity of the *Euthanasia Act Laws Act 1997* as an exercise by the Commonwealth Parliament of the unrestricted power given to it by section 122 of the Constitution to 'make laws for the government of any territory'.

Recommendation 1

1.18 That the Bill should not proceed and the *Euthanasia Laws Act 1997* should remain in force.

Senator Guy Barnett
Deputy Chair

Senator Mary Jo Fisher

Senator Russell Trood

STATEMENT

BY SENATOR ANDREW BARTLETT

1.1 The debate and vote in the federal parliament on the *Euthanasia Laws Act 1997* (often known as the Andrews Bill) occurred just before I entered the Senate. As my term in the Senate expires on 30 June, I will also not be there if any future debate proceeds in the Senate on either some form of the Bill currently before the Committee, or on another Bill dealing with euthanasia issues. If and when such a debate does occur, it is appropriate that it be an informed conscience vote for all members of the Senate at that time.

1.2 However, as someone who has followed the debates on euthanasia closely for many years, and as a member of this Committee for its examination of the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008 put forward by Senator Bob Brown, I feel obliged to express my opinion on the issue in this report.

1.3 There are two main arguments at the heart of the issue put before the Committee. Firstly, whether or not the Territories should have equal rights to the states in legislating on this matter. Secondly, whether laws allowing euthanasia in some form should be adopted.

Equal Rights for the Territories

1.4 I have a lot of sympathy for the view that people in the Territories in Australia should have the same rights in regards to self-government as Australians who live in the states. However, this ideal is not the constitutional reality. The federal parliament has the power to consider laws specific to the territory and should such a law be put before the federal parliament, the Senate has a responsibility to consider it.

1.5 As was made clear in the inquiry, euthanasia is not the only area where the rights of the Northern Territory to legislate as it sees fit is currently overridden by existing federal laws.

Senator BARTLETT— putting aside arguments for and against euthanasia for a minute. On the issue of the power of the federal parliament to override the territories—and I appreciate nobody ever likes to be overridden—my understanding is that currently, under the Northern Territory (Self-Government) Act, the federal parliament and federal laws override in areas of land rights and uranium.

Mr Manzie—And you left out one other issue—that is, two national parks out of the 102 national parks that are run by the Northern Territory.

Senator BARTLETT—Okay. I did not know that. Is it your view that ideally those exceptions would not exist either?

Mr Manzie—Most certainly, and I think without a doubt that the Territory parliament has proved over the years that it has the capacity to handle those issues, and that is something that I think does not need any further discussion from me.¹

1.6 Without commenting on how well or otherwise the Territory parliament has proved its capacity to handle those issues, the argument that it is wrong to prevent the Territory to legislate in regard to euthanasia does not hold water **unless** it is also proposed to remove the current federal laws in the area of Aboriginal Land Rights. Whilst Mr Manzie undoubtedly holds this view, I am not aware of any party in the federal parliament who currently proposes such a course of action. Indeed, in the same week as this Committee's report is tabled, the Senate debated and passed without dissent a Bill dealing with Land Rights issues.

1.7 I believe it would be better to have consistency at national level on euthanasia laws and believe consideration should be given to having constraints or future regulatory controls regarding euthanasia applying equally across the states and territories. But in the absence of such a proposed law being before the Parliament, one can only pass judgement on what is before the Senate, and there is no consistency in invoking the principle of equal rights for the Territory on euthanasia, but not in the area of Land Rights.

The principle of Euthanasia and the 'right to die'

1.8 As stated above, any proposed law must be a matter of an informed conscience vote for any future Senate which considers it. This inquiry was not comprehensive enough to deal fully with all facets of this very vexed issue.

1.9 I am supportive of the principle of people having the right to decide and control the manner and time of their own death, but am yet to be convinced that such a principle can be safely legislated for, without a genuine risk that more people who are vulnerable and powerless would be subjected to an at least partially unwilling early termination of their lives.

1.10 I fully accept there are grey areas that apply in the current laws which leave people in situations of extreme and unwelcome suffering. But whatever laws are in place will involve grey areas on one of the most fundamental and mysterious questions of human existence. Loosening the historic and almost absolute social prohibition on the deliberate killing of another person should not be done without extremely thorough debate and analysis across our entire society, not just the Parliament.

1.11 I am not convinced that adequate debate of that nature has occurred as yet. I believe it needs to occur. Bills such as that before the Committee are part of that

1 *Committee Hansard*, 14 April 2008, p. 22.

process and I would welcome any future proposed laws on euthanasia being put forward at national level to further facilitate such debate.

1.12 One of the reasons why I retain concerns is the loose use of 'rights' language in this area, with general terms such as 'the right to die' being used without much deep examination of what the full consequences might be should such a right become generally accepted. I am not necessarily opposed to the recognition of such a right, but it should not occur unless society fully understands and accepts what it could mean. As someone who has examined issues of depression and the factors behind suicide over many years, I am uneasy about the potential tangential impacts if our society were to accept a principle which is generally perceived as embodying a 'right to die' and a right to seek help in being able to die.

1.13 The evidence given to the inquiry by Dr Philip Nitschke in Darwin was very informative and he argued his position extremely well. He is consistent in how he approaches the principles in this area.

Senator BARTLETT—This is my final question, given the time: I am interested in the distinction between people who talk about a terminal illness or serious unrelievable suffering—they are usually thinking of a major disease of some sort—and other people regarding what I would call other types of suicide and the potential for people in those circumstances to still make what would in most respects be seen to be a rational decision: they just want to end their life. In terms of terminology like the rights of people to 'a lawful and peaceful death at the time of their choosing', do you think that sort of principle applies with regards to what are called other types of suicide?

Dr Nitschke—My personal position on this issue is one where I generally, by and large, think that adults of sound mind have the right to determine the time when they die. In some ways, our current legislation reflects that, because suicide itself is not a crime. With respect to the idea of whether or not the parliament of Australia—or, indeed, the parliament of the Northern Territory—can make laws which, in some way, allow a certain group of people within society to have access to what no-one else in society has, and that is access to help to die, I think we have to be quite careful here. Because, if we start opening it up to what is a much broader philosophical argument, we will start to find it almost impossible to legislate. I think legislation has to restrict itself to very specific categories. The Territory, in a very sound and safe way, did that. You have to put up the barriers. Clearly, there will be arguments at the edge.²

1.14 I believe the "arguments at the edge" still need to be had before the 'edge' in Australia is moved. Once it is moved, at the national level at least, it is unlikely to be moved back.

1.15 I do not believe the Bill before the Committee should proceed. I believe a debate around a possible legislative framework governing euthanasia should proceed at national level, and any changes to the laws in this area should apply consistently to all Australians.

Senator Andrew Bartlett

Australian Democrats

STATEMENT BY SENATOR JOHN HOGG

- 1.1 The issue of euthanasia is clearly a moral issue.
- 1.2 The Australian Labor Party has long given a conscience vote to the members of its Party on the issue of euthanasia.
- 1.3 I have always chosen to exercise the freedom given to me on that conscience vote.
- 1.4 I have always adopted a consistent pro-life approach whether it be in respect of abortion, the death penalty or euthanasia.
- 1.5 I have always stood for the protection and sanctity of life.
- 1.6 I participated in the debate that passed the *Euthanasia Laws Act 1997 (Cth)* and voted in support of the passage of the Bill at that time.
- 1.7 I have not been persuaded that the status-quo should be changed in any way.
- 1.8 There was no evidence to the Committee that would warrant my making a decision different from that which I previously made.
- 1.9 I therefore do not believe that the *Euthanasia Laws Act 1997 (Cth)* should be repealed.

Senator John Hogg

Australian Labor Party, QLD

STATEMENT BY SENATOR BOB BROWN

1.1 I introduced the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008. It had two aims:

- First, to repeal the *Euthanasia Laws Act 1997* and so restore the rights of elected assemblies in the Northern Territory, Australian Capital Territory and Norfolk Island to legislate for the rights of dying citizens.
- Second, to reinvigorate the historic 1995 Northern Territory legislation which permitted euthanasia if, after repeated requests from an adult citizen of sound mind who was dying with irremediable pain, indignity or other suffering, very strict medical and other requirements were first met.

1.2 The committee hearings, though limited, proved the great value of the Senate interaction with the Australian public. The committee heard from experts in the field and from the Territorians directly affected. However, legal experts argued that my bill may have the unintended consequence of actually entrenching the Northern Territory's *Rights of the Terminally Ill Act 1995*. If so, this would mean that the Legislative Assembly in Darwin could not rescind it. So, to ensure the first aim, the second needs to be set aside.

1.3 I support the Chair's recommendations to the Senate that the bill proceed, subject to the following amendments:

- item 2 of Schedule 1 be deleted and replaced with an item which specifically provides that the *Rights of the Terminally Ill Act 1995* (NT) is NOT revived by the Bill;
- Schedule 1 be amended to include a provision expressly removing section 50A from the *Northern Territory (Self-Government) Act 1978* (Cth) and equivalent provisions from ACT and Norfolk Island self-government legislation (rather than merely repealing the *Euthanasia Laws Act 1997*); and
- clause 3 of the Bill be amended to accurately reflect the legal position of the powers of territory legislative assemblies by:
 - deleting the word 'people' and replacing it with 'legislative assemblies'; and
 - deleting the words 'the terminally ill' and replacing them with 'voluntary euthanasia'.

1.4 The committee was divided on whether to support the bill. I am puzzled by this. I can only think that the committee members who did not support the bill demur in line with, or outright support of, the contention that the Northern Territory Legislative Assembly and ACT and Norfolk Island legislatures are inferior to other parliaments in Australia, or are made up of elected representatives lacking the ability of the Senators sitting in their judgement.

1.5 However, I for one, was not persuaded by the submission from the Chief of Staff of the Australian Christian Lobby, who said that the Northern Territory and Australian Capital Territory had 'immature Territory assemblies [which should not] be given the right to legislate on such serious matters.' This argument is derogatory of both assemblies, and of the people who elected them.

1.6 I recommend the bill be amended as above, and supported by the Senate to ensure the rights of all Territorians are restored.

Senator Bob Brown

Australian Greens

STATEMENT BY FAMILY FIRST

1.1 Family First opposes euthanasia and believes people with suicidal thoughts do not need lethal help, but life-saving assistance.

1.2 The *Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008* is intended to overturn the Federal Government's ban on both the Northern Territory and the Australian Capital Territory having laws to allow euthanasia. It also aims to reinstate the NT's 1995 euthanasia law. Family First opposes the Bill because:

- Legalised euthanasia puts pressure on vulnerable people, who feel they have to justify their existence, because they know their continued illness is putting a strain on family and friends;
- The safeguards in the NT's euthanasia legislation, which operated for nine months in 1996-97, failed on a number of occasions to protect people, who were suffering depression or who may not have been terminally ill, from a lethal injection;
- The NT's euthanasia legislation caused fear in the Territory's Aboriginal population and discouraged people from seeking medical assistance;
- Territories, which represent relatively small numbers of people, should not pass laws on such a contentious issue as euthanasia, which have an impact on all Australians, without there being a broad national consensus;
- It is generally agreed that the Bill would not achieve its objectives and may cause uncertainty in the law.

How did the NT *Rights of the Terminally Ill Act 1995* operate in practice?

1.3 The euthanasia law, the *Rights of the Terminally Ill Act 1995*, operated in the Northern Territory for nine months in 1996-97 and during that time four people died by lethal injection.¹

1.4 David Kissane is Professor of Psychiatry at Cornell University and during 1996-97 when euthanasia operated in the Northern Territory he was Professor and Director of Palliative Medicine at the University of Melbourne. He is arguably the leading authority on the operation of euthanasia in the Northern Territory, having published numerous articles documenting the NT's experience.²

1 Kissane, D, Street, A and Nitschke, P (1998) Seven deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia. *The Lancet*, Vol 352, page 1101

2 Professor Kissane, submission 589

1.5 Professor Kissane found that "... four of the 'Seven deaths in Darwin' revealed prominent features of depression, highlighting its strong role in decision-making by those seeking euthanasia. Alarming, these patients went untreated by a system preoccupied with meeting the requirements of the [euthanasia] Act's schedules rather than delivering competent medical care to depressed patients."³

1.6 Professor Kissane argued that:

The brief period of legalised euthanasia in Australia provided a useful window of opportunity to view the experience of such a social experiment. Despite considerable legislative effort to draft safe regulations that would protect the vulnerable, review of the clinical accounts of patients that sought access to this legislation revealed blatant failure of the Act to achieve its purpose. Given the level of error rate that does occur in medical practice, this experience suggests it would be impossible to safely legislate for doctors to kill. Certainly the gatekeeping roles designed by this Act failed to protect depressed, isolated and demoralized patients. Cast in a legislative and bureaucratic stance, these gatekeepers ceased to practice the craft of medicine, to the neglect of the patients they sought to serve.⁴

Safeguards failed in the Northern Territory

1.7 Professor Kissane's primary concern is that there were a number of instances where what were supposed to be safeguards in the NT's euthanasia law were ignored, calling into question the safety and effectiveness of the legislation:

1.8 For example, there was a requirement in the legislation that doctors certify that a patient was terminally ill before the patient could receive a lethal injection, but the legislation did not say what should happen if doctors had differing opinions. In one particular case in the NT's experience with euthanasia:

... one oncologist gave the patient's prognosis as 9 months, but a dermatologist and a local oncologist judged that she was not terminally ill.⁵

Accurate appraisal of prognosis is notoriously difficult, particularly when the future may yet involve months or years. In this case, there was difference of opinion among clinicians regarding how terminal she was, yet no means within the safeguards to protect the misinformed patient. Wanting to end her life, she sought further opinions until someone certified what she desired.⁶

3 Professor Kissane, submission 589

4 Professor Kissane, submission 589

5 Kissane, D, Street, A and Nitschke, P (1998) Seven deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia. *The Lancet*, Vol 352, page 1101

6 Kissane, D (2000), The Challenge of Informed Consent. *Journal of Pain and Symptom Management*, Vol. 19(6), page 473

1.9 The legislation also said the certifying doctor should have expertise in the patient's condition, but:

... when an orthopaedic surgeon came forward following [Janet] Mill's public appeal for a certifying specialist, and he did not have expert knowledge of mycosis fungoides, a rare tumour involving both the skin and lymphatic systems but not the bones, this was ignored by relevant authorities. Such breaches of the Regulations were permitted by a legal system wanting to facilitate the legislation, thus removing the very safety features that had been designed to protect the vulnerable.⁷

1.10 There was other evidence that legal safeguards were seen as impediments rather than important requirements to protect patients.

1.11 For example, Section 7(1)(c)(iv) of the *Rights of the Terminally Ill Act 1995* required a psychiatrist to have "... confirmed that the patient is not suffering from a treatable clinical depression in respect of the illness" as one of the conditions before a medical practitioner was allowed to give a patient a lethal injection.

1.12 An article in *The Lancet* co-authored by Professor Kissane and Dr Philip Nitschke stated:

Confirmation was not easy since patients perceived such a mandatory assessment as a hurdle to be overcome. PN [Philip Nitschke] understood that every patient held that view. To what extent was the psychiatrist trusted with important data and able to build an appropriate alliance that permitted a genuine understanding of a patient's plight?⁸

1.13 In evidence to the Committee, Dr Nitschke was dismissive of this safeguard in the euthanasia laws:

The question revolved around showing signs of depression in each of the four people who made use of the Northern Territory legislation. All of them showed aspects of depression, and that, to my mind, was entirely expected. Ultimately, the question—and this was not brought out in the *Lancet* article—was: does that mean that they were so debilitated by that psychic condition that they had lost the ability to make rational thought?⁹

1.14 The danger with all legislation is that it can be seen as a list of requirements to overcome, rather than a protection against abuse of patients or against mistakes. In this case, those seeking euthanasia could try multiple doctors until they found enough signatures to meet the requirements. This became evident in Dr Nitschke's comment that "in a sense we were going through the requirements of the legislation."¹⁰

7 Professor Kissane, submission 589

8 Kissane, D, Street, A and Nitschke, P (1998) Seven deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia. *The Lancet*, Vol 352, page 1101

9 Dr Nitschke, Committee Hansard, 14 April 2008, page 28

10 Dr Nitschke, Committee Hansard, 14 April 2008, page 29

1.15 Dr Nitschke told *The Sydney Morning Herald* in 2005 in relation to depression that "... common sense is a good enough indicator. It's not that hard to work out whether you are dealing with a person who is able to make rational decisions or not."¹¹

1.16 But studies show that "... the diagnosis of major depression in the gravely ill is very difficult. Low spirits are to be expected in serious illness, and many of the other features of major depression (such as weight loss and sleep disturbance) are also common in physical illnesses. The difficulty of diagnosis is reflected in studies that reveal that non-psychiatrically trained doctors miss up to half of cases of major depression in the medically ill."¹²

1.17 Another study confirms that "... psychological distress, including depression and hopelessness, are significantly associated with patients' interest in hastening their own death through euthanasia and/or PAS [patient assisted suicide]."¹³

1.18 The interest of depressed people in euthanasia is because they "... often focus on the worst possible outcomes and are impaired by apathy, pessimism and low self-esteem."¹⁴

1.19 The NT euthanasia legislation failed to protect those four people who suffered from depression, some of whom were given a lethal injection. The NT's law should not be revived as it would put more vulnerable people at risk.

Health facilities in the NT

1.20 Medical services in the Northern Territory in the year that the euthanasia bill was passed were limited, with "... no dedicated oncology unit, no radiotherapy, and no dedicated palliative care unit or hospice before the legislation was introduced."¹⁵

1.21 Dr David Gawler, a consultant vascular surgeon at Royal Darwin Hospital, said at the Committee's hearing in Darwin in April that medical services are still inadequate:

There is a massive gap between the health services and health outcomes of the Northern Territory and those of southern states. This is reflected in the 17-year gap in the age of death—and it is my impression that in the town camps of Darwin the gap is much, much bigger than that. ... we lack

11 ACT Right to Life Association Inc, submission 434

12 Ryan, C (1996) Depression, decisions and the desire to die. *Medical Journal of Australia*, Vol 165, page 411

13 Emanuel, E et al (2005) Depression, euthanasia, and improving end-of-life care. *Journal of Clinical Oncology*, Vol. 23(27) page 6456

14 Ganzini, L (2000) Commentary: Assessment of Clinical Depression in Patients Who Request Physician-Assisted Death. *Journal of Pain and Symptom Management*, Vol. 19(6), page 474

15 Professor David Kissane, submission 589

radiation therapy, neurosurgery, open-heart surgery and cardiac endovascular intervention, and patients have to travel far from family and friends and often become isolated. Some choose not to go and would rather die. We need more services.¹⁶

1.22 The relatively poor state of the NT's health services reinforces the conclusion that euthanasia laws are totally inappropriate for the Territory.

Aboriginal people

1.23 The NT's euthanasia law also scared many Aboriginal people away from seeking medical assistance:

... the first time the bill was proposed in the Territory there was a lot of anxiety amongst a lot of the Aboriginal people here. A lot of our mob did not want to come into hospital for specific treatment and all that sort of stuff. The understanding of the whole bill, I think, was one of the sticking points apart from all the other fears that our people had and still have.¹⁷

1.24 The Aboriginal Medical Services Alliance spokesman explained:

The thing is that, if anything, you would have people avoiding coming to the health services altogether. Any one of our old people who have got a terminal illness—although it could even be diabetes or something like that—is going to have in their mind: ‘I am not going into that place because it’s the same old story. I might not come out.’ I guess that fear still remains with our people.¹⁸

1.25 Dr Gawler also offered this perspective from his experience offering medical services to Aboriginal people:

Euthanasia may be offered to Aboriginal people because of the white perception of quality-of-life issues. Euthanasia legislation has the potential to prevent Aboriginal people from seeking health care because of the fear that they could be misunderstood, that their lives would not be valued or that they could be put down with a needle.

I regularly fly out to remote communities ... These good relationships will be undermined by the suspicion that medical nursing staff or health workers may prefer that patients be killed rather than treated. Euthanasia taints the medical profession by introducing the dual role of killing and treating.¹⁹

16 Dr Gawler, Committee Hansard, 14 April 2008, page 10-11

17 Mr McKenzie, Aboriginal Medical Services Alliance, Committee Hansard, 14 April 2008, page 32

18 Mr McKenzie, Aboriginal Medical Services Alliance, Committee Hansard, 14 April 2008, page 33

19 Dr Gawler, Committee Hansard, 14 April 2008, page 10

1.26 Medical services need to become more accessible to Aboriginal people, not less. Parliaments need to be very careful they do not adopt policies that further reduce the health levels of Aboriginal people.

Debate on allowing lethal injections

1.27 Family First believes that it is necessary to keep the prohibition on euthanasia for the common good:

In a democratic society one's claim to liberty to do something has to be measured against the rights of others and the demands of the common good. Sometimes we cannot exercise apparent liberties because to do so would have a detrimental effect on the common good of society, and hence a detrimental effect on other innocent members of society.²⁰

1.28 If euthanasia was again made legal, it would put subtle yet very real pressure on dying people:

Legalised active euthanasia requires every dying person to consider questions like, "Should I end my life now so my estate can educate the grandchildren rather than providing me with nursing care?"²¹

1.29 People do not wish to be a burden to their family and friends, so the reaction of their loved ones is central to their seeking euthanasia:

Acceptance of euthanasia by a family, as exemplified by case four, where five children travelled to Darwin with their mother, might subtly confirm to the patient that he or she would indeed be a burden, interfering with busy lives, and that any remaining length of life was unimportant. These unspoken messages have further profound effects on morale. Many elderly patients fear being a burden, but seek reassurance and expression of gratitude for efforts in years gone by. Families are challenged to take care that they do not misunderstand a tentative suggestion by a family member that they might be a burden. As a clinician, I believe that any patient who is convinced they are a burden has lost perception of their own worth, sacrificing their life heroically to advantage their family. Exploration of such stories invariably reveals a demoralized perspective.²²

1.30 Ethicist Dr Nicholas Tonti-Filippini, who himself has a terminal illness, recounted his experience of feeling a burden:

Every year I receive from my health insurer a letter that tells me how much it costs the fund to maintain my health care. I dread receiving that letter and the psychological reasoning that would seem to motivate it. Every year I am reminded how much of a burden I am to my community. The fear of being a burden is a major risk to the survival of those who are chronically ill. If

20 Australian Catholic Bishops Conference, submission 410

21 Professor Brennan, submission 428

22 Professor Kissane, submission 589

euthanasia were lawful, that sense of burden would be greatly increased for there would be even greater moral pressure to relinquish one's hold on a burdensome life.²³

1.31 Northern Territory palliative care specialist, Dr Mark Boughey gave evidence that often relatives are more distressed than the person dying, which can lead to pressure for euthanasia:

I think it is important to understand that when people are dying—this is in the nitty-gritty day-to-day process of dying—it is often not the person dying who is expressing the wish to be euthanased. Often the relatives and friends who are standing around the bedside are stressed by and distressed at seeing a loved one dying—but it is really not their dying. I think that we sometimes forget that the dying that the person wants and has expressed should be respected. It is of concern that, with a patient's loss of mental capacity and agents speaking on their behalf, undue pressure can somehow be brought to bear on relatives to act towards taking a stance on euthanasia at that stage.²⁴

1.32 The Australian Medical Association points out that "no one should feel that their only option for satisfactory relief of pain and suffering is to end their own life."²⁵

1.33 Former director of palliative care at Concord Hospital in Sydney, Dr Brian Pollard, said:

I did not ever encounter, in five years of this work, any patient for whom we ran out of options. I had patients who would say to me early on, 'I want you to know that I'm in favour of euthanasia,' and I would say to them, 'Okay. You let me know when you reckon things are out of control, and we'll talk about it.' Nobody ever had the opportunity or wanted to raise it with me thereafter. The people who asked me for euthanasia were the families, the distressed relatives. They had their distress even after the patient had been made comfortable, and they would say: 'Look: see how he is suffering.' But he was not suffering any longer; they were.²⁶

1.34 If euthanasia were allowed again in Australia, whatever the so-called safeguards in place, it would be some short steps from voluntary to non-voluntary euthanasia:

... once the law crosses the moral Rubicon of state authorisation of administered death, there is no moral or ethical bar to expansion of that authorisation in the future. If the patient is no longer competent, why shouldn't the relatives be able to make the decision? Then, if there are no relatives, why shouldn't the state be able to make the decision? If the

23 Dr Nicholas Tonti-Filippini, submission 1100

24 Dr Boughey, Committee Hansard, 14 April 2008, page 38-39

25 Australian Medical Association, submission 375

26 Dr Pollard, Committee Hansard, 16 April 2008, page 25

patient is poor and the state under-resourced, why shouldn't the state be able to provide better, cheaper euthanasia services and spend less on palliative care procedures – rendering the 'choice' of voluntary euthanasia more attractive to the poor?²⁷

1.35 Dr Nitschke in his 2005 book *Killing Me Softly* gives a good indication of the agenda of euthanasia campaigners with this comment:

One can but wonder when a government will have the guts to stop digging the fiscal black hole that is their ever-deepening legacy for future generations. While the enabling of end-of-life choices will not fix the economic woes of the next 40 years, it would not hurt, given half a chance. So the next time you hear a government minister trying to argue why this or that payment or welfare program for single mothers or war veterans must be cut, counter their argument with their fiscal irresponsibility on end-of-life choices.²⁸

1.36 The comments by Dr Nitschke are a frightening insight into the way the euthanasia debate may develop in Australia, with arguments moving from helping people with a terminal illness to saving taxpayers money.

Reports on euthanasia

1.37 A number of major national and international reports have examined euthanasia and found that it is dangerous.

1.38 The Southern Cross Bioethics Institute gave details of a study of the experience of The Netherlands with euthanasia and especially with non-voluntary euthanasia:

The authors of the Rummelink study [detailing the Dutch experience with euthanasia] have conceded that voluntary euthanasia inevitably leads to non-voluntary euthanasia. In an essay in the *Hastings Center Report*, the prestigious American bioethics journal, they said:

“But is it not true that once one accepts [voluntary] euthanasia and assisted suicide, the principle of universalizability forces one to accept termination of life without explicit request, at least in some circumstances, as well? *In our view the answer to this question must be affirmative.*” (My emphasis).²⁹

1.39 The UK House of Lords Select Committee on Medical Ethics found that:

It would be next to impossible to ensure that all acts of euthanasia were truly voluntary. We are concerned that vulnerable people - the elderly, lonely, sick or distressed - would feel pressure, whether real or imagined, to request early death. We believe that the message which society sends to

27 Professor Brennan, submission 428

28 ACT Right to Life Association Inc, submission 434

29 Dr John Fleming and Dr Gregory Pike, submission 444

vulnerable and disadvantaged people should not, however obliquely, encourage them to seek death, but should assure them of our care and support in life ...³⁰

1.40 Further, advice to the Senate in the report of the Senate Legal and Constitutional Affairs Committee inquiry into the *Euthanasia Laws Act* argued that:

The potential for ‘guilt feelings’ for being a burden... may become such that they perceive a subtle duty on them to exercise the euthanasia option. The choice may well become a perceived duty. This is so especially when considered in the context of comments by those such as former Governor General, Hon Bill Hayden, that “There is a point when succeeding generations deserve to be disencumbered - to coin a clumsy word - of some unproductive burdens”.³¹

1.41 Each of these reports found that euthanasia could not be kept safe and that vulnerable people would become victim to such a law.

Should territories make laws on euthanasia?

1.42 The Bill also raises the question as to whether territory parliaments should be allowed to make laws on euthanasia.

1.43 Under the *Northern Territory (Self-Government) Act*, the Territory does not have the power to pass laws relating to workplace relations, uranium mining or land rights, as well as euthanasia.³²

1.44 The Australian Capital Territory too is not permitted under its self-government legislation, in addition to the euthanasia ban, to make laws to govern the operation of the Australian Federal Police, in relation to industrial relations and on how many parliamentarians there are in the ACT Legislative Assembly.³³

1.45 Until there is a decision that the territories should become states, it is clear that they will not have the same powers as states and their activities will ultimately always be overseen by the Federal Government.

1.46 Professor Frank Brennan argued that:

... I am one of the view that generally territories should be allowed to exercise the same law-making power as states. I set down what I saw as fairly clear criteria and rare circumstances for exceptions: where no state has similarly legislated, where the territory law is a grave departure from the law in all equivalent countries, where the territory law impacts on the

30 Dr David van Gend, submission 413

31 Dr David van Gend, submission 413

32 Committee Hansard, 14 April 2008, page 3

33 Mr Corbell, Committee Hansard, 16 April 2008, page 22

national social fabric outside the territory and where the territory law has been enacted without sufficient regard for the risks and added burdens to its own more vulnerable citizens, especially Aborigines.³⁴

1.47 Professor Brennan also questioned whether the Bill was drafted to reinstate the Northern Territory's euthanasia law rather than to allow the people of the Territory to re-examine the issue because there is not support for the law:

... I am not aware of any sustained clamour from the Parliament or citizens of the Northern Territory for the repeal of this Commonwealth measure. Perhaps this explains the use of the constitutionally suspect clause (Schedule 1, s.2) purporting to resurrect the operation of the Rights of the Terminally Ill Act 1995 without the need for further legislative action by the Legislative Assembly of the Northern Territory.³⁵

1.48 When the parliament of the second smallest state or territory in Australia passes a law that has an effect on the rights of all Australians without establishing broad consensus across Australia, there is a place for the Federal Parliament to intervene.³⁶

1.49 Family First believes the Australian Parliament does have a legitimate role in overturning the Northern Territory's euthanasia laws and in preventing the territories from making laws on euthanasia.

Would the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008 work as intended?

1.50 It was generally agreed in evidence given to the Committee that the legislation would not achieve its purpose of reinstating the Northern Territory's euthanasia laws.³⁷

1.51 It was pointed out that:

The submissions of the Northern Territory government, the Northern Territory Law Reform Committee, the Gilbert and Tobin Centre of Public Law and the Law Council of Australia are sufficient to highlight that there is a lot of doubt and complexity here. Everyone is agreed, no matter what their view on euthanasia, that there has to be absolute certainty about the law that applies for doctors and patients in these circumstances.³⁸

1.52 The Northern Territory Government was concerned that doubt over the Bill might also lead to doctors being prosecuted for giving patients a lethal injection if it

34 Professor Brennan, Committee Hansard, 16 April 2008, page 10

35 Professor Brennan, submission 428

36 Professor Brennan, submission 428

37 eg Gilbert and Tobin Centre of Public Law, submission 46; Northern Territory Government, submission 446

38 Professor Brennan, Committee Hansard, 16 April 2008, page 9

were later found the Bill did not actually reinstate the Northern Territory's euthanasia laws.³⁹

1.53 The Northern Territory Law Reform Committee also thought that the Bill may mean that the NT Parliament would not be able to amend a euthanasia law reinstated by Commonwealth law.⁴⁰

Conclusion

1.54 Family First opposes euthanasia and believes people with suicidal thoughts do not need lethal help, but life-saving assistance. The Northern Territory's nine month experience with euthanasia demonstrated that the so-called safeguards in the legislation were not effective in protecting vulnerable people from a lethal injection. It caused fear in the Territory's aboriginal community and used the second smallest jurisdiction in the country to force the availability of legal euthanasia on all Australians. The NT's euthanasia bill should not be revived and nor should such a small jurisdiction be allowed to impose its decision on all Australians.

Senator Steve Fielding
Family First Leader

39 Mr Joyce, NT Government, Committee Hansard, 14 April 2008, page 2

40 Northern Territory Law Reform Committee, submission 443

APPENDIX 1

SUBMISSIONS RECEIVED

Submission Number	Submittor
1	Patti Harris
2	Dr Susie Linder-Pelz
3	Edward Robinson
4	R. & Jane Wingfield
5	Marion Hosking
6	Darrel Killen
7	Linda Stewart
8	Paul & Priscilla Flemming
9	Dr John Anderson
10	Mr David Gross
11	Tony Whelan
12	Anja van Eeuwen
13	Mrs Rhonda Taylor
14	Ms Valda Craig
15	Ms Maree Gill
16	Mrs Marion Fisher
17	Dr Rosemary A. Jones
18	Ms Hilary Webster
19	Ms Julie A. Telenta
20	Tigger & Grahame Wise
21	Ms Gabrielle Mooney
22	Dr M. March and Mrs P. March
23	Mr Bruce Trousdell
24	Ms Christine Shaw
25	Mrs Pauline Williams

26	Mr & Mrs Milne
27	Ms Susan Lesueur
28	Ms Heather Milton
29	Mr Bill Alcock
30	Ms Margaret Sargent
31	Mr John Woodrow
32	Mr Barry Hill
33	Mr & Mrs Mahony
34	Mrs Suzanne Vesque
35	Dr Romaine Rutnam
36	Mr Clive Monty
36a	Mr Clive Monty supplementary submission
37	Mr & Mrs Henderson
38	Mr & Mrs MacKnight
39	Ms Joyce Palmer
40	Mr Harry Rogers
41	Ms Jill Neville
42	Mr Ron McGahan
43	Ms Margot Palmer
44	Ms Alexandra Campbell
45	Mr Peter Peterson
46	Gilbert & Tobin Centre of Public Law
47	Dr Brain Pollard
47a	Dr Brian Pollard supplementary submission
48	Mr Ben Blackburn
49	Dr Gertrud Thompson
50	W. Bovill
51	Mr Germano Brusasco
52	Ms Susan Robinson
53	Dr Linda Hort
54	Bert Sheridan

55	Atheist Foundation of Australia
56	Mr Peter Taylor
57	Dr David Leaf
58a	Northern Territory Voluntary Euthanasia Society
58b	Ms Judy Dent
59	Ms Paula G Martin
60	Mr Ian Wood
61	Ms Dorothy Cora
62	Ms Nola Drum
63	Mrs Verena Gardner
64	Mrs Jenny Michaelson
65	Mr Ian Macindoe
66	Kerie Hooke
67	Ms Jeanne Arthur
68	Mr Damian Moratti
69	Ms Sheila Howe
70	Ms Samantha Bryan
71	Mr George Glanville
72	Ineke Hartman
73	Mrs Jane Govier
74	South Australian Voluntary Euthanasia Society
75	Mr Mark Brown
76	Mr Frank Reale
77	Ms Margaret Kennington
78	Ms Tanya Shliahov
79	Mr John Wong
80	Mr Ron Williamson
81	Dr Robert D Phillips
82	Mr Ian Hooley
83	Ms Pam Harris
84	Ms Alberdina Plug

85	Mr & Mrs Easley
86	Cr Sally Dover
87	Dr Margaret Middleton
88	Ms Julia Anaf
89	Ms June Reeder
90	Ms Marion Bottger
91	Mr & Mrs Franco
92	Mr George Koo
93	Ms Cynthia Coupe
94	Dr David Swanton
95	Dr & Mrs Baker
96	Ms Mary Walsh
97	Ms Jennifer A. Wightman
98	Mr Malcolm Bartsch
99	Ms Heather Newport
100	Mr & Mrs McDonnell
101	Mr Geoff Bolton
102	Ms Alana Wilkes
103	Ms Yvonne Page
104	Ms Thea Lloyd
105	Mr Richard Davis
106	Mr David Harris
107	Mr Gavin Carpenter
108	Ms Debra Battersby
109	Ms Sandra Corbett
110	Donald St John Aloysius Flounders
110a	Donald St John Aloysius Flounders supplementary submission
111	Mr Richard Lethbridge
112	Mr Boyd Craig
113	Leslie T. Kelly
114	Rev David Hawke

115	Ms Margaret Ball
116	Ms Bronwyn Cozens
117	Mrs Nita Woodward
118	Mr Laadan Fletcher
119	Ms Lynne Ferguson
120	Confidential submittor
121	Mr Pieter Verhaart
122	Mr & Mrs Ballast
123	Ms Jenny Sebba
124	Ms Kerry Dowding
125	Mr David Walton
126	Mr Barry Wilson
127	Dr Justin Denholm
128	Ms Amber van Sloten
129	Mr Peter Dolan
130	Mr David Slatyer
131	Mr Adrian Bailey
132	Mrs Marie Tebby
133	Mr Thomas Tebby
134	Mrs Joyce Overell
135	Mrs P. Gilbert
136	Joan Guthrie
137	Dorothy Stringer
138	Maritia Downes
139	R. MacArthur
140	Brenton and Carol Little
141	N. & M. Towell
142	Helen Sheppard
143	Sally de Dear
144	Mrs Pat Christie
145	Mrs Nat Hatchman

146	Betty Cairns
147	E. Watkins
148	P. Siemon
149	Bernice Miller
150	Annie McDowell
151	Kathleen Wilson
152	Doreen Bond
153	Shirley Gibson
154	R. Well
155	Henry Lawton
156	John Watkins
157	G. Wick
158	Merle Hill
162	A. Carrells
160	Barry & Beryl Clarke
161	Mrs Lee Davis
162	Anne Lang
163	Shirley-Ann Mackellar
164	Jenny Smith
165	William Patey
166	Mr J. Dittmar
167	Betty Rogers
168	Bob Stillaway
169	Norman Gardiner
170	H. Throme
171	Mrs E. Sharp
172	Mr John Shepherd
173	Mrs Barbara Murphy
174	Janice Gallahawk
175	Mrs Joan Russ
176	Patricia Williams

177	John Ince
181	Marianne Osborne
179	Mrs Louise Hoan
180	Pat Bacon
181	Ernest Tilbrook
182	Judy & Jeff McConaghy
183	Chris Ansted
184	Hilda Hill
185	Pat & Greg Paul
186	William Carney
187	Roger Heapy
188	Charles Harvey
189	G. Foote
190	Dorothy Chambers
191	Mr & Mrs Hollis
192	Kathryn Ezzy
193	Helen England
194	Annette Marshall
195	Ken Richards
196	Doreen Mavis and Jack Coles
197	Dr R. Crawford
198	Lyn Parke
199	Brian Simonis
200	Name withheld
201	J. Covacevich
202	Haig Katazian
203	Joan Rae
204	Elsie Rogers
205	Bob Meharg
206	Valerie Wade
207	Patricia Barnett

208	Dawn Lepinath
209	Jonathan Peter
210	Ron Bennett
211	Joan Marshall
212	Philip Dobney
213	Doreen Hill
214	Sue Ranford
215	Maureen Aiken
216	Voluntary Euthanasia Society of NSW
217	Janice Oats
218	Sandra Lippiatt
219	Thora Craig
220	Pam Riches
221	Ursula Shepherd
222	Mr Bernard Drum
223	Rev. Captain Andrew Grills
224	Sallyanne Gardner
225	Rick Murray
226	Denis Quinn
227	Judith Renford
228	Mauroveen Aven'el
229	David Perrin
230	Mrs Gillian McCormick
231	Sheila Suttner
232	Sue Carter
233	Ainsley Shepherd
234	Carol Read
235	Cynthia Leech
236	Geoff Taylor
237	Kathryn Cooper
238	ACT Committee of the Voluntary Euthanasia Society of NSW

239	Jenny Carter
240	Aileen Harrison & Harold Montgomery
241	Cyril & Pauline Benjamin
242	Medicine with Morality
243	Peter Williams
244	Paul Agtoft
245	David Taylor
246	Jason Dell
247	Katherina Hunter
248	Michael Green
249	Elaine Arch-Rowe
250	Dorothea Wilkinson
251	Dr Danny Kace
252	John Morrissey
253	Dr Sandra Taylor
254	Michelle Jaksch
255	Carolyne Cohn
256	Dorothy Waterfield
257	Adrian Gunton
258	Dallas Swinstead
259	Chris Dollman
260	Dr John Campbell
264	David Walker
262	Joan Cordell and William Watts
263	Family Council of Victoria
264	Mark Brokenshire
265	Steve Baso
266	Tony Bates & Gillian Molyneux
267	Mrs Catherine Guli
268	Sally Jackson
269	David Grace

270	Juidith Bond
271	Janice Hodgson
272	Rhonda Knowling
273	John O'Callaghan
274	Chris Hood
275	Rev Winston Huizinga
276	Gwyneth Crawford
277	Michael Casanova
278	Margaret Roobol-Hill
279	Des Ritchie
280	M. J. Gonzalez
281	Dr Ray Dallin
282	Kay Scurr
283	Janet Baker
284	Anita Bird
285	Peter Shaw
286	Norman Rogers
287	Pacifico Magno
288	Kathleen Phillips
289	Andrew Munden
290	Joyce Wall
291	Robert Longland
292	Mel Davies
293	John Shenton
294	P. Hudson
295	Mr Sumner Berg
296	Deborah Hudson
297	Catherine Pym
298	Esther Anne Marsden
299	Laura Elizabeth Murchison
300	Nicola Williams

301	Rev Ron Waterhouse
302	Evan Prentice
303	Louise McManus
304	Graeme Cray
305	Pastor Grahame Abrahams
306	Dorte Conroy
307	Brian Bugden
308	Dr Juliet Flesch
309	Keith Morris
310	Karen Ekkel
311	Barry Donaghy
312	Dr Graham Lang
313	Brigitta Wimmer
314	Brian Manning
315	Egon Winner
316	Mavis Gallienne
317	Barry Morgan
318	Trevor Faggotter
319	Annelies Cubis
320	Dr David Miller
321	Mary Winch
322	Dr Mary Stirzaker
323	Elizabeth Caig
324	Geoffrey Tulloch
325	John Greenwell
326	Owen Hitchings
327	Graham & Pat Lawn
328	Various individuals
329	Dr Ralph Blunden
330	Pastor Will Jamieson
331	Lye Shee

332	Ann-Marie Hallows
333	Frank Connell
334	Rev Dr Peter Barnes
335	Evan Morse
336	Alfred and Kathleen Mason
337	James Furlong
338	Peter Dunham
339	T. Allen
340	Frederick Hanson
341	Andreas Flach
342	Pam Robinson and Keith Robinson
343	Sylvia Seiler
344	Mavis Lewins
345	Muriel Prasad
346	Helen Poxon
347	Alfred Prasad
348	John and Brenda Card
349	Jean Helson
350	Michael French
351	Audrey Rimmer
352	Elaine Hall
353	Mrs Gloria McCabe
354	C.J. McCabe
355	Donald Morrow
356	Dr Clem Nommensen
357	The University of Notre Dame
358	Michael Thomas
359	National Alliance of Christian Leaders
360	Life, Marriage and Family Centre, Catholic Archdiocese of Sydney
361	Festival of Light Australia
362	Kevin Mullen

363	Emeritus Professor Philip Ley
364	Endeavour Forum
365	Civil Liberties Australia
366	Federal Presbyterian Church of Australia
367	Coalition for the Defence of Human Life
368	Barrie Burrows
369	Right to Life Australia
370	Western Australian Voluntary Euthanasia Society
371	Rita Joseph
372	Dr Noel Roberts
373	Council on the Ageing (Northern Territory)
374	New Testament House Churches
375	Australian Medical Association
376	Darwin Christian Ministers' Association
377	Darwin Senior Citizens
378	Prayer House Ministries Australia
379	Catholic Women's League Victoria and Wagga Wagga
380	Australian Family Association
381	Right to Life Australia
382	Humanist Society of Victoria
383	Mrs Angelika Elliott
384	Committee on Bioethics of the Uniting Church in Australia (Synod of VIC)
385	Knights of the Southern Cross (NSW)
386	Rev Spencer Gear
387	Dr Dianne Grocott
388	Dr Ruth Powys
389	CONFIDENTIAL
390	Dr Philip Nitschke
390a	Dr Philip Nitschke supplementary submission
391	Dr Roy Goldfinch
392	Dr Gwyneth Findlow

392a	Dr Gwyneth Findlow (CONFIDENTIAL)
393	Marshall Perron
394	Dr Teem-Wing Yip
395	Suicide: NO
396	Council of Australian Humanist Societies
397	Women's Forum Australia
398	University of Western Sydney
399	Dying With Dignity Victoria
400	Australian Federation of AIDS Organisations
401	Macquarie University Catholic Chaplaincy
402	Catholic Women's League (Sydney)
403	Catholic Women's League (Lismore)
404	Catholic Women's League (Armidale)
405	National Association of Catholic Families Australia
406	Salt Shakers
407	Knights of the Southern Cross (Victoria)
408	Pro-Life Victoria
409	John Ryan
410	Australian Catholic Bishops Conference
411	Mr Daryl W Manzie
412	Dying With Dignity (TAS)
413	Dr David van Gend / TRUST Queensland
414	Aboriginal Resource and Development Services
415	Australian Labor Party (ACT Branch)
416	Family Life International (Aust)
417	National Civic Council
418	NSW Council for Civil Liberties
419	Catholic Health Australia
420	The Australian Family Association (NSW)
421	Sydney Centre for International Law (University of Sydney)
422	Australian Christian Lobby

423	Knights of the Southern Cross (Aust)
424	Palliative Care Australia
425	Little Company of Mary Health Care
426	Queensland Right to Life
427	Secular Freethinkers' Society
428	Father Frank Brennan
429	The Australian Psychological Society
430	Mr John Bailey
431	Voluntary Euthanasia Society of Queensland
432	Ms Isobel Gawler
433	Hope Healthcare
434	ACT Right to Life Association
435	Humanist Society of Queensland
436	Human Rights and Equal Opportunity Commission
437	Dr Anthony B. G. Carden
438	Catholic Archdiocese of Adelaide
439	Jack and Nanette Blair
440	Peter Colsell
441	Right to Life Australia
442	Law Council of Australia
443	Northern Territory Law Reform Committee
444	Dr J. Flemming and Dr G. Pike
445	Dr David Gawler
446	Northern Territory Government
447	Standard letter from numerous indigenous people from the Northern Territory
448	Ms Lorraine Erlandson
449	Letter signed by 9 indigenous resident of Wadeye (NT)
450	John Edward Murtagh
451	Northern Territory Leader of the Opposition-Terry Mills MLA
452	Dr Alan Rothschild
453	Independent Member for Nelson - Gerry Wood MLA

454	Humanist Society of South Australia
455	G. W. Perry
456	Graeme John Heap
457	Mrs Genowefa Everett
458	Kitty Noble
459	Marilyn Young
460	James Henry Craft
461	William Ditmarsch
462	George Kariss
463	Manfred Frese
464	Aina Rozenbilds
465	Graham and Evelyn Young
466	Mrs Bethia Walsh
467	David Synnott
468	Dr Vaike Aldridge
469	Ralph White
470	W. K. O'Brien
471	ACT Government
472	Shirley Jones
473	Mrs Eve Robinson
474	Tony Armstrong
475	Mavis Soden
476	Brian Turner
477	Mrs Cicely Minapre Elder
478	S. R. McCullough
479	Paul Allan Scott
480	A.N. & E.M.G Phillipps
481	Patricia Darrovzet
482	Sylvia Law
483	Janice Turl
484	Irene Smith

485	G. & D. Elias
486	Ms Sharyn Hodel
487	Linnett Cox
488	T. R. Ingram
489	Several resident of the Aveo Retirement Village, Cleveland
490	Gloria Robbie
491	Mrs Isobel Front
492	John Sandom
493	Mrs Joyce Johnson
494	Harold Kerswill
495	Bruce Jensen
496	Raymond Griffiths
497	Mary Lacon
498	Leone B. Hux
499	Glenda Pashley
500	Leila Johnson
501	Olga Mihaljevic
502	Christopher Mates
503	Jill Kleinman
504	Ernest Law
505	Fred Short
506	Mrs Bernadette Rochford
507	E. & J. Webb
508	Anthony Topp
509	Pamela Harvey
511	Beryl Gardner
512	Shirley Creans
513	G. H. Field
514	Dawn Creese
514	F. G. Rose
515	Mrs R MacKinnon

516 D. T. & R. E. A. May
517 E. & P. Clayton
518 CONFIDENTIAL
519 CONFIDENTIAL
520 B. & F. Herold
521 Mrs Maxine Regan
522 E. C. Korganow
523 Dr A. W. Fordham
524 John Paul Flavel
525 Sally Eleanor Flavel
526 Bernice Reid
527 Lorraine Pearl Wilson
529 Robert Hall
530 Annette Cament
531 CONFIDENTIAL
532 B. Rutch
533 Margaret Guthrie
534 Lesley Edith Hanson
535 Mrs Lorna Rose
536 June W. Chapman
537 Judith Blundell
538 Keith Stokes
539 Mrs Laima Jankovic
540 Hilton Brown
541 Dorothy Lasscock
542 Kaye Purnell
543 Mrs I Relph
544 Riki & Dave Merritt
545 Mrs M Heselwood
546 Mr N. Beard
547 Name withheld

548	Margaret Borradage
549	Mrs Margaret Gooden
550	John Cowburn
551	Vera Smicka
552	Dorothy and John Randall
553	Mrs Dorothy Joy Jones
554	Raymond Booth
555	Regina Stingiani
556	Vera Krupta
557	Karin Canty
558	Ruby May Edgley
559	Mrs S. J. Stewart
560	Anne Rutherford Wadley
561	L. M. Harris
562	Maria and Francis Toner
563	Valda Duncan
564	Herbert Compton
565	John Martin Wilson
566	George & Margaret Rasmussen
567	K. & M. Garnham
568	Mrs S. A. Russell
569	Alan Russell
570	Rudolf Muller
571	Mrs Jacqueline Donohue
572	Beryl H. Carter
573	Renate Bangert
574	Robert Carpenter
575	Sheila Margaret Carpenter
576	Mrs Marjorie Bierwirth
577	Janette Kent
578	Anglicare South East

579	Vanessa Harris
580	Jane McIntosh
581	Pauline Hyland
582	Alice Glover
583	Milton Caine
584	Sue Pollock
585	Shannon Trevisiol
585	Margaret Muller
585	Lara Trevisiol
585	Rachelle Travioli
585	Anthony Trevisiol
585	Leanne Trevisiol
586	Sharon Colman
587	Margaret-Mary Althaus
588	Rosemary Trestrail
589	Professor David Kissane
590	Anglican Church Sydney Diocese
591	Australian Nursing Federation
592	Dr Mark Boughey
593	Mrs Feleunga Tupou
594	Mrs Wendy Kiefel
595	Tracy Lepinath
596	Michelle White
597	Matt Brazier
598	Anthony Norquay
599	Charles Austin-Wood
600	John Willoughby
601	Adrian S. Selwyn
602	Arthur H. Hatwig
603	Stephen & Monica Tomkins
604	David Clay

605	Yves Dinel
606	Patricia Corben
607	Robert Johnston
608	Dr Tim Coyle
609	Mrs Joan Emily Jones
610	Montague Phillip Bonwick
611	Donna Saltau
612	J. A. Kirkpatrick
613	John Hamilton & Jean Taylor
614	Nicky Link
615	S. M. Bromfield
616	Lillias D. Shellard
617	Dr A. G. Cooper
618	John King
619	Loe J. Mulcahy
620	Nancy Bradford Stempf
621	Ron Williamson
622	Mrs Rose Harrington
623	Vera Ray
624	Dr Meredith Doig
625	Mrs Jocelyn Preece
626	Graham McDonald
627	Christine S. Langelaar
628	Mrs Elwyn Green
629	Tom C. Wise
630	Julie Campbell
631	F. S. Dickson
632	Kay & Lyn Roberts
633	Annie Kopp
634	Dr Rod Phillips
635	Kenneth Howard Hammond

636	Daphne M. Gie
637	D. R. Miller
638	Nick de Weger
639	Kaye Cole
640	Mrs Helen Oliver
641	Christopher Strahan
642	Colin Peter Ross
643	Barbara Wintringham
644	Graeme Robson
645	Faye McGarry
646	Mrs Barbara Phillips
647	Paul Rosenfeldt
648	L. Pascal
649	Mieke & Peter Hammond
650	Carol Munden
651	Peter Ezzy
652	Cher Boyd
653	Bruce & Irene Pringle
654	Gwen Gawne
655	Name unknown
656	Jenny Smith
657	Mike Dennett
658	Mrs Wendy Hay
659	Joy Griffin
660	Aboriginal Medical Services Alliance Northern Territory
661	Gay Layt
662	Malie Wynberg
663	Audrey House
664	Thomas Bisseker
665	U. Guilletarof-Hawkins
666	S. Murphy

667 Lurine Woods
668 Joy White
669 Mrs Judy Grace Cornell
670 Kathleen Hawthorne
671 Owen Rice
672 J. Jefferson, P. Hanlon, R. Horris
673 G. Jones
674 Mr Allan Prisk
675 Mrs Maureen Ann Riley
676 Dorothy Thorne
677 Mrs M. L. Stokes
678 John Gill
679 B. & P. Creevey
680 Name withheld
681 Elizabeth Griffin
682 Pat Meack
683 M. Adam
684 Mr Leslie Clarke
685 Gwendeline Peters
686 Alexander Cornell Stewart
687 R. A. Fisher
688 Maurice Bertram Pears
689 John Mulhern
690 Beverley Parrott
691 Mrs S. E. Purchae
692 Ann Bunn
693 Donald Reece
694 Dulcie McNeill
695 Barbara Jean Donovan
696 Joan Houston
697 Mrs Valmai murray

698	Maxwell & Edna Lotton
699	Ann Hawker
700	Frank McCarthy
701	Petition from the Voluntary Euthanasia Society (SA) signed by 21 individuals
702	Mrs Avon Hyers
703	J. H. Watts
704	Norman Isdale
705	Stuart Warren
706	Graham Molloy
707	Ms A. McCandless
708	Hessie & Keith Lindsell
709	Richard Gartrell
710	Elizabeth Fin
711	Glenorchy McBride
712	Martin Flood
713	Ray & Lina Heins
714	Vicki Salkin
715	Dianna & Alan McNeil
716	Brian Edwards
717	Suzi & Graham Foster
718	J. Loring
719	Donald Sission
720	Klaus Clapinski
721	Margherita Griffin
722	Peter Murray
723	C. Bennett & family
724	Patrick & Ann Hanrahan
725	Dr. A & C Lothian
726	Mr Chris Hilder
727	Jan and Betty Hay
728	June Usher

729	Associate Professor Cameron Sterwart
730	Australian Family Association (SA)
731	Mr John Todd
732	Dr Simon Michael Benson
733	Catholic Women's League Australia
734	Peter George Farrell
735	N. P. & M. M. Jones
736	G. A. Puddifer
737	Edward Ehm
738	Mrs Doris U. Howard
739	Janet James-Wallace
740	Jean O'Donnell
741	Mrs Amy Matthews
742	Moir I. Ritchie
743	Stuart & Lavinia Smith
744	J. Griffiths
745	May Noris
746	E. G. & L. K. Brightford
747	Richard M Buxton
748	E. & D. Newey
749	Geoff & Dawn Pennefather
750	Howard O'Heara
751	Joan Hair
752	Martin Williams
753	Jo Shannon
754	R. Moerke
755	M. Skvor
756	G. M. Thomson
757	Kenneth Robert Christian
758	Russell Bowker-Douglass
759	James Gilbert McMurdo

760	Mrs Grace Helen Webster
761	Pamela Jean French
762	Dr Carl Edmonds
763	L. Jagers
764	Margaret Lees
765	Jim Paterson
766	Pamela Martin
767	F. M. Primmer
768	G. & C. Phillips
769	Hazel Jean Jones
770	Peter John McCreave
771	P. J. McCleave
772	Mrs Gloria L. Frost
773	John & Lilian Forster
774	Ms Heather Williams
775	Earnest Colafranceschi
776	Robert Corcoran
777	Ann Adams
778	Gordon & Joyce Bell
779	J. C. Iltis
780	Dr Margaret Ruth Pfanner
781	Adele Lockyer
782	Margaret Nash
783	Julia Bailey
784	H. C. Griffin
785	G. J. Hosking
786	Ruth McMurtrie
787	Mrs Marie-Claire Nemeč
788	Thomas Schmied
789	Alma Ann Bowes
790	Maxine Hicks

791	R. W. F. Stoopman
792	Millicent Barry
793	Mrs Margaret D. Trevena
794	Jean Stewart
795	Carol Wilson
796	Beverley Ezzy
797	William David Lees
798	Grace Hoffman
799	Norma J. Bruce
800	Elizabeth Warren
801	Rev Djiniyini Gondarra
802	Ms Jeanette Camden
803	Mr Mark Taylor
804	Mr & Mrs Leo Morrissey
805	Mr Keith McKenna
806	Mr Ron Clements
807	Ms Carol Hovenden
808	Pastor Bernie Hartog
809	Mr Brian Allbutt
810	Ms Sue Shearman
811	Ms Ruth Carr
812	Ms Lois Jespersen
813	Mr John Fletcher
814	Ruurd Offringa
815	Mr Andrew Dinham
816	Mr Paul Bizannes
817	Mr David Backstrom
818	Mr John Crotty
819	Mr Roger Bassham
820	Mr & Mrs John Minty
821	Mr & Mrs Thomas G Cranston

822 Mr Alan Hoystead
823 Chris Donnelly
824 Mrs Merle Ross
825 Rev Donald McKay
826 Mr Ronald Van Wegan
827 Ms Jenny March
828 Ms Joan McArthur
829 Mr Jim Bufton
830 Mr Ian Brearley
831 Ms Gaye Fisher
832 Mrs Veronica O'Dwyer
833 Chris Harb
834 Mr & Mrs Trevor Schreiber
835 Ms Liz Morris
836 Mr & Mrs Brian Beeck
837 Mrs Rosalie Huf
838 Ulrich Dolderer
839 Ms Monika James
840 Ms Elaine Chivers
841 Mr & Mrs John Heininger
842 Ms Amanda Kennedy
843 Mr Troy Lynch
844 Ms Sarah Wood
845 Mr Roger Chong
846 Ms Carolyn Weideman
847 Ms Rosemary Drum
848 Ms Maria Ngo
849 Ms Betty Kee
850 Mr Leonard James Bates
851 Ms Judie Strachan
852 Mr Basil Zuino

853 Ms Brenda McDonough
854 Mr & Mrs Nevil Knell
855 Ms Cathy-May Koorts
856 Mr John Hext
857 Ms Cynthia Nicklin
858 Ms Elaina Lewis
859 Mr Leon Voesenek
860 Sue
861 Mr John Carr
862 Mrs Jill Stirling
863 Ms Colleen Turner
864 Mr & Mrs Robert Wyatt
865 Ms Rita Maddox
866 Mr Pete Blake
867 Mr Norton Russell
868 Mr Stephen Wardell-Johnson
869 Ms Gaye Carman
870 Ms Linda Grice
871 A. M. Barlow
872 Mrs Devon Chapman
873 Mr John Murtagh
874 Ms Anne Rasenberger
875 Ms Margaret Lindorff
876 Ms Mary Barnes
877 Miss Christine Gray
878 Mr & Mrs Ed Pitt
879 Gabrielle Walsh
880 Sr Giovanna Sambusida
881 Mr & Mrs Gary Riddle
882 Ms Cathy McNamara
883 Mr Stephen Bell

884	Mr Harry Emmerzael
885	Pastor Phil Cutcliffe
886	Mr Craig Tunney
887	Ms Wendy Toulmin
888	Mr Frank Garlick
889	Mr David Everard
890	Ms Karmel Everett
891	Mr Andrew Southwell
892	Mr David Westaway
893	Ms Rita Zuccher
894	Ms Jean Argyle
895	Ms Patricia Pottle
896	Mr John Haseler
897	Ms Dorothy Miles
898	Mrs Janette Coleman
899	Mr Erik Hoekstra
900	Ms Annette Blaze
901	Jane Munro
902	David Obeid
903	Joseph & Donna Simard
904	Scott Hermann
905	Louisa Yeo
906	Tasmanian Baptist Public Questions Task Force
907	Lois Fong
908	Keith & Marie Jones
909	Mrs C. A. Monaghan
910	Mrs Natalie Lonie
911	Lynda Ingram
912	P. L. Shepman
913	Mrs Carol Simpson
914	Gordon G. Gregg

915	David Winston Gordon Wimblett
916	Maureen Love
917	Mrs Margory Johnson
918	John Love
919	Helga Christian
920	Duncan Ezzy
921	Aileen Manthey
922	Mrs Rosemary A. Palstra
923	Bob Azab
924	Marjorie Alice Mickling
925	Betty Gilbert
926	B. Gilbert
927	Malcolm & Heather Murchison
928	Ione R. Weir
929	Raymond Neil
930	Eva Klein
931	Michael Hardy
932	Bent Weichel
933	Sonia Albahari
934	Matthew Grinter
935	Dennis C. Humphrey
936	Ms C. Minnucci
937	Elizabeth Gill
938	Mr Luke McCormack
939	John de Jongh
940	Mrs Katherine Fishley
941	Trev Bell
942	Patricia and Donald Hood
943	Ken & Val Wishart
944	Rev. Stan Fishley
945	Mrs Sabina Sannen

946	Camille Gray
947	Benwarn Kuiper
948	Neil & Barbara Harvey
949	Joy Woodhead
950	Anne Everett
951	Edward Roose
952	Patricia Bosel
953	Fr Hugh Thomas
954	Garry Weston
955	Elizabeth Spicer
956	Chris Tanna
957	Lyle Hutchinson
958	Dominica Hayward
959	Dr Alexander & Dr Naomi Kochi
960	Rev D. Clarnette
961	Philip & Ann Mollison
962	Norman Cary & June Mansfield
963	J. E. Gaull
964	Mary Grace
965	Lennyce Westaway
966	Adrian Tam
967	Dr Craig Hendry
968	Brian F. Wing
969	Christopher & Margaret Babington
970	S. D. Bickerton
971	Dr Janelle Margaret Feguson
972	Jennifer Thompson
973	Graeme & Julie Watters
974	Ingrid Ross
975	Leanne Malone
976	Graham Chigwidden

977	Michael Nakhla
978	Greg Byrne
979	Caleb Connolly
980	Kim Graham
981	Gerard Purcell
982	Rebecca & David Field
983	Phillip Flores
984	Dr Alison Bignell
985	Rosemary Davies
986	Trevor Aspin
987	Garry & Joan Halvorson
988	John & Patricia Monsour
989	Marjorie Emm
990	Paul & Jennifer Jensen
991	Mr Arend de Weger
992	Helen Mayne
993	Janine Marshall
994	John & Mary Walton
995	Gordon Russell
996	Renee Jefferson-Taite
997	Ashley & Barry Prinable
998	Lisa Holmes
999	Mike Goodridge
1000	Gerard Calihanna
1001	Christian Democratic Party (NSW)
1002	James Glanville
1003	Doreen Roberts
1004	Mrs Beryl Walter
1005	Donald Knowlman
1006	Jane Hinkley
1007	Winfried Dolensky

1008 Powell D. King
1009 Christopher D. King
1010 Mrs Joan Larsen
1011 Joan & John Donovan
1012 N. F. Hale
1013 Mrs Judith S Woollard
1014 J. D. Yallowby
1015 Maureen Lowes
1016 John Moyes
1017 Barbara Ayton
1018 E. Howell
1020 B. P. Driscole
1021 Kevin Dooley
1022 Pamela Elizabeth Fizelle
1023 Mrs Pamela Oelsnik
1024 Ellen Bailey
1025 Jennifer Whately
1026 Mrs Audrey Milligan
1027 John Casanova
1028 Henry Pobjoy
1029 M. W. & C. M. Moller
1030 K. McNeill
1031 John Parkin
1032 Mrs Gloria McEwan
1033 Patrick Flanigan
1034 Mrs Jianne M. Bain
1035 Else Stewart
1036 Josephine Prowse
1037 Mrs Joy Lacey
1038 Barbara Radford
1039 Mr John Iles

1040	P. J. M. Sale
1041	Erhard Lorrain
1042	Graeme G. Stewart
1043	Christina Ray
1044	Jonathan W. Peter
1045	Mrs Helen Russell Walker
1047	Nancy Foxton
1047	Delma Jean Browne
1048	Margaret Manson
1049	Syd Pipe
1050	Mr Ferso Mathews
1051	Peter Fegan
1052	Kathleen Proston
1053	Gwenneth M. Swanson
1054	Dorothy Joy Lloyd
1055	Dr Roderic John Phillips
1056	Clara Curtis
1057	William John Pattison
1058	C. W. & L. E. Plummer
1059	Robert Alex Weis
1060	Mrs Dulcia Gallagher
1061	Christine Reid
1062	Geoff Taylor
1063	Elizabeth Connolly
1064	Pieter van der Kraan & Peggy Hobbs
1065	Rosalie McDonald
1066	Mr & Mrs C. A. Hilder
1067	Mr Graham A. James
1068	Roberta Littlewood
1069	Petition signed by 29 individual members of the Social Justice Group, Ryde, Sydney
1070	Pam Leith

1071	Peter Dreyndem
1072	Patricia Spencer
1073	Mr Paul Wyatt
1074	Mr Greg Robson
1075	David Jones
1076	Lorna Laurence
1077	Mrs Leonore Hardy
1078	Mrs Beverley Farnik
1079	Dr Anthony Herbert
1080	Ruth Jones
1081	Lois Fleming
1082	Steve and Sandra McNeilly
1083	Helen Nairn
1084	D. Edgley
1085	Mrs Sarah Goodall
1086	R. A. Pinsent
1087	Rebecca Thompson
1088	Nina Syme
1089	Julie Tierney
1090	Donald & Phyllis Spencer
1081	Mieke de Vries
1092	Elizabeth E Brooker
1093	Mr Loreto John York
1094	George Horvath
1095	Dale Allan
1096	Helen Wyborn
1097	Mrs M. H. Nankervis
1098	Des O'Callaghan
1099	Graham Tomkins
1100	Associate Professor Nicholas Tonti-Filippini
1101	G. A. & G. R. Pearce

1102	Denis Strangman
1103	Lyn Swain
1104	Mrs Annie Shepherd
1105	Joan Murfett
1106	Dennis & Barbara Leavesley
1107	Robert Cooper
1108	Bob & Pat Baird
1109	Fae D. Collins
1110	Heather Cooke
1111	Kenneth & Christine Farmer
1112	Christine June Sanders
1113	Louis Geist
1114	Rev Dr Jenifer Joy Ewans
1115	Anthony & Beryl Saclier
1116	Mrs Dorothy Kiers
1117	Patrick Smyth
1118	Mollie MacGregor
1119	Eric & Sydneen Collins
1120	Muriel Arnott
1121	Dr P. U. A. Grossman
1122	Trudi Dittmar
1123	Ron Newlands
1124	Georgette Courtenay
1125	Ross Gillies Johnstone
1126	Dr Charles Carter
1127	Rose Vermeulen
1128	Vanessa Winship
1129	Steven Hum
1130	Anna Sowards
1131	Pamela Barret, Claire Barret & John Murphey, Sue & Chris Carr and Lee Hartz
1132	Wendy Briggs

1133	Mary-Rose Pintado
1134	Steve, Louise and Rachel Zollo
1135	Confidential Submitter
1136	Regina Gonzaga
1137	Matthew Mulvaney
1138	Mrs E. Slee
1139	Nehme Khattar
1140	Catherine Dennise
1141	John Gresser
1142	Particia Druce & Kenneth Miles
1143	Bruce Nickel
1144	Luke Dornan
1145	Dennis Litchfield
1146	Russell Mulder
1147	Raphael Fiore
1148	Jane Poirrier
1149	Rebecca Thompson
1150	Patrick V. Healy
1151	Claire Lindorff
1152	Edward John Hawkins
1153	Mark & Liz Mulder
1154	Laurens & Noleen Schiebaan
1155	Andy Habelito
1156	Jessica Dornan
1157	Dr M. Amjad Tariq
1158	Anthony & Olga Deppe and John & Maire Deppe
1159	Ian & Ruth Emmett
1160	Ted & Bernadette Coonan
1161	Jane Graham
1162	David Orton
1163	Clare Cannon

1164	Richard & Margot Ditterich
1165	Graziella Montano
1166	Tina Elamal
1167	Bob & Wendy Taylor
1168	Andrew McColl
1169	Christopher Rayner
1170	Mary Carolan
1171	Malcolm Bleeker
1172	Jacqueline Hancock
1173	James & Ursula Soulsby
1174	Dr Garrick Small
1175	Peter W. O'Donnell
1176	Chris Bazouni
1177	Geoffrey R. Chamberlain
1178	Rosemary Laing
1179	David Lemewu
1180	Andrew Hill
1181	Mary T. Skidmore
1182	Christine Rhodes
1183	Mary Elias
1184	John DeBattista
1185	Joseph Hopkins
1186	Adele Webb
1187	Anne M. Kirkwood
1188	J. M. Flynn
1189	Anna O'Brien
1190	Mrs Fay O'Grady
1191	Vincent Meney
1192	Colleen Hopewell
1193	Confidential submittor
1194	Peter & Elizabeth Milligan

1195 Dr P. A. McGavin
1196 Joanne Smyth
1197 Rob & Val Pym
1198 David Oei
1199 John & Muriel Eves
1200 Mr Roy Miller
1201 Ms Miriam Pronk
1202 J.G. Sertori
1203 Mr Hugh Rutledge
1204 Ms Barbara Eldred
1205 Ms Sue-Ellen Hollyock
1206 Mr Joseph Matthews
1207 Ms Elizabeth Havenaar
1208 Mr Bruce Bennett
1209 Mr William Trenaman
1210 Mr Oren Tyler
1211 Mr & Mrs Errol Priebbenow
1212 Mr Theo Jorna
1213 Mr & Mrs Alan Pattemore
1214 Mr Jim Hooper
1215 Ms Dorothy Hamilton
1216 Ms Kerry Rowland
1217 Mr & Mrs Dennis Granlund
1218 Ms Fiona Cran
1219 Ms Margaret Prior
1220 Mr & Mrs Dunstan Hartley
1221 Mr Richard Fay
1222 Ms Suzanne O'Sullivan
1223 Confidential submittor
1224 Mr & Mrs Bob Lineage
1225 Ms Lesley Corfield

1226	Chris Broomhead
1227	Mrs Sue Sarantos
1228	Mr John Whitbourn
1229	Dr David Mitchell
1230	Ms Ruth Speldewinde
1231	Mr & Mrs Robert Digan
1232	Mr Gavin Wyatt
1233	Ms Linda Calanna
1234	Mr Michael Purcell
1235	Mr Graham Truscott
1236	Ms Leslie McCawley
1237	Sam
1238	Mr Daniel Hammond
1239	Mr Phillip Barnard
1240	Ms Sharon Jones
1241	Mrs Connie Dekter
1242	Mr Mario Calanna
1243	Ms Naomi Watson
1244	Mr Rod Whitford
1245	Reverend Robert Cotton
1246	Mrs Ruth Allison
1247	Mr Stuart Reece
1248	Mr Paul Whitehead
1249	Mr Brian Hatherly
1250	Ms Margy Woods
1251	Mrs Eileen Talbot
1252	Robin Walker
1253	Dr John Hagidimitriou
1254	Mr & Mrs Noel Carpenter
1255	Emeritus Professor Michael Lawrence
1256	Mr Geoffrey Rees-Thomas

1257 Mr Simon Millie
1258 Ms Trish Scrivener
1259 Mr Bill Robertson
1260 Mr John McCormack
1261 Mr Mark Langworthy
1262 Ms Jill Maclure
1263 Mr Norm Bartlett
1264 Ms Marion Dingwall
1265 Mr Geoffrey Hunt
1266 Professor John Murtagh
1267 Gabriel James
1268 Dr David Chee
1269 Mr & Mrs Mark Hopkins
1270 Confidential submittor
1271 Mr David Collins
1272 Mr Bernard Jones
1273 Mr & Mrs L. Northrop
1274 Mrs Patti Smith
1275 Ms Denise Cameron
1276 Mr John Carolan
1277 Ms Enid Mulcare
1278 Mr Joe Tabone
1279 Dr Donna Purcell
1280 Mr Paul Sutton
1281 Dr L. E. Georgeson
1282 Mr Frank Duff
1283 Mr Reuben Scott
1284 Ms Jenny Hagger
1285 Mr & Mrs Kevin Wilkinson
1286 Mr & Mrs Andrew Hackett
1287 Ms Beth Stewart

1288	Mr Paul Nulley
1289	Mr & Mrs David Walmsley
1290	Mr Peter Iuliano
1291	Mr John Fernandez-Villaverde
1292	Mr Alfred Soliman
1293	Mr & Mrs Phillip Robinson
1294	Mrs Ailsa Andersen
1295	Ms Veronica Winkels
1296	Mr Frank Iuliano
1297	Mr & Mrs Syd Gould
1298	Ms Sara Wilson
1299	Ms Joan Swindells
1300	Ms Bernice McKenna
1301	Mr Paul Folley
1302	Ms Christina Baysari
1303	Ms Shirley Mitchell
1304	Mr Paul Bennett
1305	Mr Paul Sheehan
1306	Francis Vieira
1307	Ms Joy Kersten
1308	Mr Vincent Carolan
1309	Ms Jeannette Smith
1310	Ms Sarah Iuliano
1311	Mr & Mrs Colin Kinsey
1312	Ms Brigid Vieira
1313	Sig Modderman
1314	Mr & Mrs Chris Hohnen
1315	Mr & Mrs Jo & Wayne Whitehead
1316	Ms Kerry Grice
1317	Mr Joe Kellaway
1318	Ms Kirsten Dunkin

1319 Mr John Leach
1320 Ms Catherine McGrath
1321 Mrs Juliet Ballinger
1322 Ms Catherine Bosotti
1323 Mr & Mrs Colin Mulder
1324 Mr Paul Oswald
1325 Mr Gerard Flood
1326 Mr Laurence Van der Plas
1327 Ms Lai Foong Ho
1328 Mr & Mrs A. D. Levick
1329 Mrs Mary Davis
1330 Mr Josh Ferrara
1331 Mrs Margaret Alford
1332 Ms Cait Vieira
1333 Ms Tania Harris
1334 Ms Kimberley Hartig
1335 Mr Ian Walsh
1336 Mr & Mrs John Lewis
1337 Ms Noeline Kelly
1338 Ms Felicity Cox
1339 Mr Daryl Van Den Brink
1340 Mrs Mavis Cottrell
1341 Ms Julie James
1342 Ms Mary McFarlane
1343 Domenico Amato
1344 Mr Andrew Burke
1345 Mr Terry Muller
1346 Leba Sleiman
1347 Paul & Brenda Hoffman
1348 Dr Joy Linton
1349 Mr Thomas Ryan

1350	Dr Teem-Wing Yip
1351	Ms Esther Larkin
1352	Ms Claudia Sadaka
1353	Ms Barbara McDonald
1354	Wesley Bruce
1355	Mr & Mrs Peter & Lyn Bishop
1356	Mr Eddy Brett
1357	Mr Charles Gatt
1358	Mr David Westaway
1359	Mrs Olivia Power
1360	Peter & Diane Newland
1361	Tony & Carolyn Overheu
1362	Mr Jim Beckwith
1363	Ms Veronika Walshe
1364	Chris Noone
1365	Ms Susan Fraser
1366	Mr Anthony Althaus
1367	Dr Veronica O'Connell
1368	Ms Simone Smith
1369	Mr Mark Buhagiar
1370	Alexander Stewart
1371	Mr Neville Lloyd
1372	Mrs Dianne Osborne
1373	Mr William Tie
1374	Ms Rosemary Whitecross
1375	Ms Judy George
1376	Mr John Palm
1377	Angus and Diana Christensen
1378	Merike Johnson
1379	Morna and John Faehrmann
1380	Dr David Charles Fox-Smith

1381	Mrs Judith Marie Lake
1382	Ms Judy Wiltshire
1383	Mr Kenneth Day
1384	Ms Pauline Reilly
1385	Ms Jean Stralow
1386	Mr John Anderson
1387	Ms Erica Dier
1388	Ms Kait Feral
1389	Mr Howard Simco
1390	Mrs Sandra June Ingpen
1391	Ms Leah Van Lieshout
1392	Mrs Jacqueline Cookes
1393	P. F. Van Nimwegen
1394	Ms Susan Brunner
1395	Mr John Zwar
1396	Ms Marilyn Laffer
1397	Mr Allan Peter Fawcett
1398	Ms Carole Lambert
1399	Ms Pamela Dalla Lana
1400	Ms Danielle Dalla Lana
1401	Ms Conny Brandt
1402	Ms Sheila J West
1403	Ms Robyn Malby
1404	Mr David Plane
1405	Dr Robert Gunter
1406	Mr & Mrs Gregory Blaxland
1407	Lyle Cameron
1408	Mr Francis Julian Hurley
1409	Ms Lynette Stead
1410	Bent Weichel
1411	Ms Maureen Fisher

1412 Confidential submittor
1413 Ms Anne Hindson
1414 Mr Ralph Fisher
1415 Ms Helen Tinning
1416 Ms Joy Wilson
1417 Gerda Seaman
1418 Gunther Rothleitner
1419 Mr Robert Braby
1420 Mr Keith Wiltshire
1421 Mr Mark Peachey
1422 Dr James Hurley
1423 Ms Margaret Elsworth
1424 Helga Jewell
1425 Ms Pat Reynolds
1426 Mrs Frances Reay
1427 Ms Mary Mannison
1428 Ms Ann Graves
1429 Mr & Mrs Robert Snell
1430 Mr Steven MacPhail
1431 Ms Shirley Jane Edwards
1432 Mr Victor Stevens
1433 Ms Joan Washington
1434 Mr Paul Jewell
1435 Ms Judith O'Donoghue
1436 John Melford Lewis & Valerie Claire Jacobson
1437 Ms Janine Gebert
1438 Dr Alecia Bellgrove
1439 Ione Carroll
1440 Mr John O'Hara
1441 Mr Bernard Bartsch
1442 Ms Caroline Storm

1443	Ms Linda Moffat Ray
1444	Mr James Mackenzie
1445	Ms Keli Sutherland
1446	Mr Ken Clarke
1447	Mr William Jacobs
1448	Mr John Herbert Millard
1449	Mrs Linda Kocken
1450	Ms Barbara Spalding
1451	Dr Jan Stanes
1452	Dr Yvonne Miels
1453	Mr Gerard Versteeg
1454	Glyn Seymour
1455	Mr Arthur J. G. Browne
1456	Lutheran Church of Australia Commission on Social & Bioethical Questions
1457	Ms Beverley Jennings
1458	Frank O'Connor
1459	Ms Sue McArthur
1460	Ms Jennifer Monaghan
1461	Ms Carol O'Neil
1462	Mr David Fry
1463	Kevin T. Fennell PSM
1464	Mr A. Joy
1465	Ms Caroline Shan Leslie
1466	Ms Anne Riddell
1467	Peter Duyndam
1468	Mrs Mary Virginia Ward
1469	Ms Amy Zelmer
1470	Ms Margaret Miller
1471	Mr John Howard Watts
1472	Mr Nick Bonne
1473	Kanak Ranjan Ray

1474	Mr Jutta Rathgeber
1475	Mr & Mrs G. Lindenmayer
1476	Ms Margaret Perrin
1477	Mr Phillip Wood
1478	Ms Bonney Bombach
1479	Mr Craig Bryant
1480	Mr Graham Dean
1481	Mrs Ann Street
1482	S. & J. Chalmers
1483	Ms Janina Mousley
1484	Mr Angelo Pardo
1485	Mr Garry Dinham
1486	Ms Lorna Williams
1487	Mr Johaan Ernest
1488	Fr John Flader
1489	Ms Yasmin Smith
1490	Ms Kristie Gibbons
1491	Ms Elane Scott
1492	Ms Bernadette McFarlane
1493	Mr & Mrs R. Pental
1494	Mr Ewan McDonald
1495	Mrs Ida Day
1496	Moh Har Yip
1497	Mr Simon Proctor
1498	Submissions citing 12 arguments to oppose the Bill from 7 individuals
1499	A petition circulated by VES SA signed by 15 individuals
1500	Dr Graham Marlin
1501	B. Brougham
1502	Ann Bufton
1503	Eris Smyth
1504	Marie Jean Crisp

1505	Harland Leo Hogan
1506	Angela Smith
1507	Mrs Lee Kendrick
1508	Stephen Hitchings
1509	Roel & Isabella Van de Paar
1510	Mark Stillwell
1511	Dr David Ollerenshaw
1512	Jane Williams
1513	Isaac Scot
1514	Michael & Mary Rose
1515	Kevin Michael Swarts
1516	Philip & Lynnette Dorman
1517	John C. M. Schwarz
1518	Frances Mckenna
1519	Jan Stephens
1520	Judy Curtis
1521	Mr Glen O'Hara
1522	Barbara Tregonning
1523	Alison Muis
1524	Margaret K. Staines
1525	Lloyd & Val Tweedie
1526	Kester Rebbechi
1527	Frank Hoskin
1528	Keith & Judith James
1529	Deborah Williams
1530	Simon Black
1531	Mary Perdiau
1532	Bruno & Margaret D'Elia
1533	Mark Power
1534	Mrs R. Grazules
1535	Betty & John Radstake

1536	Barbara & Lindsay Fell
1537	John Ballantyne
1538	Mrs Rosina Gordon
1539	Nathaniel Dodd
1540	Patricia Orton
1541	David Powys
1542	Mrs Denise Gasparich
1543	Lawrence Davies
1544	Fr Karl Pepping
1545	Jonathan Geddes
1546	Daniel Kensey
1547	Hayley Thomas
1548	Schiebaan family
1549	Dale Shuttleworth
1550	Bridget Anna-Maria Spinks
1551	Heather Dunkin
1552	Kevin Hogan
1553	Ken Glasgow
1554	Mark Griffin
1555	Mark Heuzenroeder
1556	A. Meredith
1557	Dr Geoffrey Chu
1558	Anthony Patrick McGregor
1559	James & Helen McCrohan
1560	Carol Grainger
1561	Mr David Collits
1562	Cynthia Jaucian
1563	Karen Ng & Jerald Chow
1564	Carmen Shaw
1565	Michael McGrillen
1566	Mr & Mrs G. J. Tabuteau

1567	Monica Naughton
1568	Chris Cullen
1569	Petra Margaret O'Donnell
1570	Michelle Shave
1571	Kelly Walsh
1572	Joyce Ritchie
1573	Carolynn Hanley
1574	Gordon Griffiths
1575	David Jackson
1576	Joseph Monaghan
1577	Greg Casey
1578	Mary Treacy
1579	Shann & Jennifer Kellaway
1580	Mark Purcell
1581	Catherine Dowse
1582	Des Kelly
1583	Elizabeth Moore
1584	John & Barbara Coultish
1585	Dorothy & Murray Martin
1586	Mr Soloman Jale
1587	Ian & Beth Smith
1588	Jacinta Cossa
1589	Paul Miller
1590	Brian Moore
1591	Paul H. Sheeran
1592	Martin Fitzgerald
1593	Dr Jeanine Richardson
1594	John Stewart
1595	W. B. Clark
1596	Dominica Lorimer
1597	Baden & Grace Baxter

1598	Ange Braysha
1599	Dr Kevin Tam
1600	Anthony & Glenda Mitchell
1601	Margaret Rothwell
1602	Maree Horne
1603	Mr Daniel Younan
1604	Maurice & Rita Lloyd
1605	Andrew & Jody van Burgel
1606	Mrs Christine Burrows
1607	Ron Cini
1608	Dr Roger Baxendale
1609	Susie Carseldine
1610	R. & A. Brewer
1611	Lester & Melanie Mulder
1612	Kevin Kroeger
1613	Stuart Andrews
1614	Evan & Ingrid Zuesse
1615	David & Anna King
1616	Waren John Ward
1617	Frank Meany
1618	Catholic Women's League (Broken Bay)
1619	Jim Porter
1620	Mimi Choy
1621	Marion Winn
1622	Bette Lyra
1623	Lance Spencer
1624	Congregation of Garden City Churches of Christ (Toowoomba)
1625	Willem Amoraal
1626	Amy Lynch
1627	Derrick Tranter
1628	Maria Abreu

1629	Miguel Zaragoza
1630	Monica Doumit
1631	Jillian Pryor
1632	Madeline Leslie
1633	Owen & Bronya Mulder
1634	Lenis V. H. Wells
1635	Leonardo Contador
1636	Mrs Sue Meehan
1637	Alastair & Cathryn Macdonald
1638	Leonie Wilson
1639	Andrew Cole
1640	Kym Donnellan
1641	Franco Costa
1642	Gillian Fry
1643	Mal Packard
1644	John Wynter
1645	Ronald John Grazules
1646	Geoff Darr
1647	Mrs Marie O'Dwyer
1648	Dagmar Ceramidas
1649	Eamonn & Patricia Keane
1650	Fr Adrian Head
1651	Earl & Valmai Beaham
1652	Claire Stewart
1653	Elaine Hobbins
1654	Dr Julie Waddy
1655	Maryse Usher
1656	Rob & Thea Donker
1657	Carolyn Wightman
1658	Toni Rhodin
1659	Beryl Diggles

1660	Allen Carr
1661	Ken Gellert
1662	Kieran Cummins
1663	Carol & Leo Keutmann
1664	Alexandria Thomas
1665	Helen Green
1666	Mrs Dulcie Wardrop
1667	Bev Byrnes
1668	Laurence D. Smart
1669	Cecilia D. Boller
1670	Mary B. McInerney
1671	John Lewis
1672	Joyce Shaw
1673	Robert Braby
1674	Mrs Denise den-Bakker
1675	Patricia Mills
1676	Tony Plucknett
1677	John M Quinlan
1678	Frances Malcolm
1679	Jann Bonner
1680	John Swan
1681	Judi Flanagan
1682	Teena O'Connor
1683	Ursula Bennett
1684	Martha Birimisa
1685	Mark Hornshaw
1686	Revsion Tam
1687	Confidential submittor
1688	Dragica Sestan
1689	Nick MacFarlane
1690	Rev Fr Michael de Stoop

1691	Fr Marijan Glamocak
1692	Ernie Mitchell
1693	Major General Peter R. Phillips AO MC
1694	Thomas Cecil Clair
1695	Marie Fatima S. Ison
1696	Joe Sestan
1697	Isabella Monual
1698	Duane Fernandez
1699	Gabrielle Tesoriero
1700	Gemma Saccasan
1701	L. Kugel
1702	Dr Gordon McClatchie
1703	Janet Howell
1704	Sally MacPhail
1705	Elise Biggs
1706	Dierk von Behrens
1707	Henry Arthur Ward
1708	Lesley Salmond
1709	Michael Ryan & Cheryl Wright
1710	Jocelyn Hall
1711	Sue Bradley
1712	Andrew Kinna
1713	Sandra Rogers
1714	Paul Woodbury
1715	Lorna May Sparks
1716	Brenda Carew
1717	Vivienne Hilda Noelleen Ward
1718	Robert & Theresa Boys
1719	Gladys Staines
1720	Dr Anthony Herbert
1721	Geoff Dust

1722	Andrew Mullins
1723	Tucker Brown
1724	Robin Dennis
1725	Joshua Lanzarini
1726	Gordana Anic
1727	Gerald & Carolyn den Boer
1728	Chris Williams
1729	Daniel McCaughan
1730	Peter Theodore Greeneklee
1731	Rosemarie Boneham
1732	Katrina Tesoriero
1733	Les Batchelor
1734	Gregory Baker
1735	Marija Sestan
1736	Rebecca Stewart
1737	Rita VanderWal
1738	David Sainty
1739	Matthew Grinter
1740	Luke Verrell
1741	Ben O'Brien
1742	Bernadette Jee
1743	Michael Spies
1744	Glenda Fittler
1745	Joanne Ma
1746	Marianne Chaston
1747	Mrs Karen Mitchell
1748	Confidential submitters
1749	Mathew Woodbury
1750	Rachel Fleurant
1751	Dr John James
1752	Caroline McCormack

1753	Simon Horsfall
1754	Jeremy Coleman
1755	Sr Maria Mori
1756	Ian Mackenzie
1757	Amanda Fairweather
1758	Brett Hurley
1759	Janelle Patch
1760	Giuseppina Iuliano
1761	Edwin Choi
1762	Beth Kendrick
1763	Kevin Tate
1764	Dr J. N. Santamaria
1765	Jim & Purita Mong
1766	Anthony & Mary Buhagiar
1767	Buddy Jilwan
1768	Mary & Gerald Terrill
1769	Joy Salonga
1770	Sophie Willer
1771	Betty Griffin
1772	Rob & Glenda Humphreys
1773	Glen Schultz
1774	Kris Schlyder
1775	Joseph Carolan
1776	Rheannen Mackenzie
1777	Ian Bell
1778	Oliver & Lesley Yeo
1779	Peter Wood-Johnson
1780	Jeanette Clark
1781	Mrs Kerrie Ternes
1782	Nathan Keen
1783	Mrs Anne Buchan

1784	Matt Aldous
1785	John Larkin
1786	R. V. & P. J. Barbero
1787	Gary Coombes
1788	David & Carmel Haire
1789	Robert & Elizabeth Slee
1790	Dr Jim Pendlebury
1791	Doreen Draheim
1792	Joanne Mogg
1793	Julie Hadchiti
1794	Joe Lopez
1795	Charles W. Cribb
1796	Dr Harry Powell
1797	Raphael Saccasan
1798	Carolyn & Geoff Mongan
1799	Dawn McGregor
1800	Paul Johnson
1801	Ivan D'Cruz
1802	Dorothy Shaw
1803	Margaret O'Sullivan
1804	Paul Chong
1805	Howard Davies
1806	Jose Vieira
1807	Mrs Raelene Robinson
1808	Paul Chigwidden
1809	Catherine James
1810	Bianca McBroom
1811	Elizabeth Kelly
1812	Israel Vogel
1813	The Richter Family
1814	Marie-Jelynn Millare

1815	Carmen Casagrande
1816	John Amadio
1817	Mrs Bridget Baumer
1818	Redah Khan
1819	Anna Greenwell
1820	Jordan Gibbons
1821	Bronte Miller
1822	Eris Smyth
1823	Graham Crew
1824	James Burfitt
1825	Rev. Peter Ball
1826	Ronald C. Young
1827	Pat Garttan
1828	Danna Fisher
1829	Mr & Mrs Voesenek
1830	R. Parker
1831	Mailouts from VESQ with expressions of support from 3 individuals
1832	Br James D. Ward
1833	Marie Kleinitz
1834	Fr. Vince Carroll
1835	Ann Meagher
1836	Ms Janet Coombs
1837	K. J. & L. J. Francis
1838	Gretchen Wheen
1839	Spero Katos
1840	Kathleen Horsfall
1841	Amanda Excell
1842	Marie & Peter Bull
1843	Dan & Adeline Keenan
1844	Steven Brennan
1845	Dr John C Richards

1846	Mrs Maureen Jongebloed
1847	Deirdre Palmer
1848	J. F. Lewers
1849	Jessica Kerr
1850	Andrew Wong
1851	Jim Vickers-Willis
1852	Submittor not named
1853	Submittor not named
1854	Greg Goldsmith
1855	Ben Morgan
1856	Benedict Curtis
1857	Sylvia Margaret Mary Nicholas
1858	Joseph Curtis
1859	Dr John Buchanan
1860	Peter Curtis
1861	Dorothy Lamsworth
1862	CONFIDENTIAL
1863	CONFIDENTIAL
1864	CONFIDENTIAL
1865	CONFIDENTIAL
1866	CONFIDENTIAL
1867	CONFIDENTIAL
1868	CONFIDENTIAL
1869	CONFIDENTIAL
1870	Standard form letter in support of the Bill signed by 112 individuals
1871	Standard form letter opposing the Bill signed but 21 individuals

ADDITIONAL INFORMATION

- 1 Answers to Questions on Notice received from Northern Territory Government on 30 April 2008
- 2 Supplementary submission and answers to Questions on Notice received from Dr David Gawler on 5 May 2008
- 3 Answers to Questions on Notice received from Northern Territory Law Reform Committee on 6 May 2008
- 4 Answers to Questions on Notice received from Dr David van Gend for the Australian Christian Lobby on 6 May 2008
- 5 Answers to Questions on Notice received from Gilbert & Tobin Centre of Public Law on 6 May 2008
- 6 Answers to Questions on Notice received from Australian Christian Lobby on 8 May 2008
- 7 Answers to Questions on Notice received from Attorney-General's Department on 9 May 2008
- 8 Documents from Dr David Gawler tabled at a public hearing in Darwin on 14 April 2008
- 9 Documents from Dr David van Gend tabled at a public hearing in Darwin on 14 April 2008
- 10 Documents from Dr Brian Pollard tabled at a public hearing in Darwin on 14 April 2008
- 11 Documents from Father Frank Brennan tabled at a public hearing in Sydney on 16 April 2008
- 12 Answers to Questions on Notice received from Aboriginal Medical Services Alliance Northern Territory on 20 May 2008

APPENDIX 2

WITNESSES WHO APPEARED BEFORE THE COMMITTEE

Darwin, Monday 14 April 2008

ASCHE, The Hon. Keith John Austin, President
Northern Territory Law Reform Committee

BOUGHEY, Dr Mark
Private capacity

BROWNHILL, Ms Sonia Lee, Crown Counsel
Department of Justice, Northern Territory Government

CHRISTRUP, Mr Nikolai, Member
Northern Territory Law Reform Committee

DENT, Ms Judy Barbara, President
Northern Territory Voluntary Euthanasia Society; and Private capacity

FONG, Mrs Lois Kathleen, Northern Territory Director
Australian Christian Lobby

GAWLER, Dr David Martin
Darwin Christian Ministers Association

JOYCE, Mr Tim, Senior Policy Adviser
Department of the Chief Minister, Northern Territory Government

MANZIE, The Hon. Daryl William
Private capacity

McKENZIE, Mr Desmond George, General Practice Registrar Training Advisor and
Project Officer
Aboriginal Medical Services Alliance of the Northern Territory

MURPHY, Mr Simon James
Private capacity

NITSCHKE, Dr Philip, Director
Exit International

PALMER, Ms Jennifer
Private capacity

PERRON, Mr Marshall
Private capacity

van GEND, Dr David, Advisor on Bioethical Issues
Australian Christian Lobby

Sydney, Wednesday 16 April 2008

ALDERSON, Dr Karl John Richard, Assistant Secretary, Criminal Law Branch
Attorney-General's Department

BRENNAN, Father Frank Tenison
Private capacity

CORBELL MLA, Mr Simon, Attorney-General
Australian Capital Territory Government

LEAF, Dr David
Private capacity

MENEY, Mr Christopher Laurence, Director
Life, Marriage and Family Centre, Catholic Archdiocese of Sydney

POLLARD, Dr Brian James
Private capacity

STEWART, Ms Karen Rebecca, Acting Assistant Secretary, Territories East Branch
Attorney-General's Department

WILLIAMS, Professor George
Private capacity