Mr M. Thomas,

To: legcon.sen@aph.gov.au

4 April, 2008

Submission in support of

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

.

Dear Sir/Madam,

I understand that a private member's bill has been introduced into the Federal Senate (Terminally Ill (Euthanasia Laws Repeal) Bill 2008) aimed at repealing the Andrew's Bill (Euthanasia Laws Act 1997). I also understand that the Senate Legal and Constitutional Committee is holding an enquiry for which submissions are invited. This is my contribution to that debate which I trust will be considered along with evidence from elsewhere.

Let me state at the outset that I am not writing to you as an emissary of any particular group, but as a private citizen who has followed the Euthanasia debate for a great many years. My views, however, are representative of the views of many Australians who have waited patiently for a more enlightened and less emotional approach to this whole issue.

Whilst I am inexperienced in the correct format and focus of a submission such as this, I have broken the text of my submission into three basic parts. **Part one** is my understanding of the Bill's purpose, **Part two** contains my views about the underlying issue – i.e. Legislation to permit voluntary euthanasia. **Part Three** is a synopsis.

PART ONE.

The Andrews Bill came into being in order to negate and overturn the provisions of existing Euthanasia Laws. These laws were previously enacted (albeit for a brief period) to facilitate medically assisted euthanasia for terminally ill individuals who satisfied certain requirements (specified under the legislation).

My support of the current Bill, which I understand seeks to overturn the Andrew's Bill, is based on a lifetime belief in the right to self-determination (Voluntary Euthanasia). I am firmly of the view that Kevin Andrews, in acting to overturn the Euthanasia legislation, did not act in the best interests of the Australian public, but in response to his own personal agenda. Certainly it was not in the best interests of those who might qualify for assistance under the former legislation. In my opinion his actions were contrary to his charter as an elected minister.

I am also of the view that the overturning of that legislation represented a retrograde step in the treatment of the terminally ill and was an inappropriate and ethically incorrect decision. The reasoning behind my views is documented more fully in Part Two of this submission.

PART TWO.

Ours is an ageing society, and purportedly our government is one which focuses on the needs of the elderly. Much is written about age care and a myriad of ageing issues such as health, welfare and support. There remains nonetheless an appalling denial of the manner in which death sometimes occurs and the very real suffering which can accompany those deaths despite palliative care and other traditional measures.

The logical arguments in favour of voluntary euthanasia are compelling. The inevitability of death is undisputable as is the fact that in certain instances death is a protracted process accompanied by incredible suffering. The ethical and moral considerations central to this legislation can be compared to a number of other self-determination issues, including freedom of religious expression. Ultimately, choices relating to ones own mortality should be amongst those decisions, and the manner of one's death should be a matter of personal choice.

There can be no greater decision in one's life than the decision to end that life. Provided that adequate safeguards are included (as is the case with this proposed legislation), then each individual should have access to whatever facilities are necessary to enable a dignified and humane termination of their existence.

a) The Primary Focus of Euthanasia.

This issue revolves around the rights and decisions of competent, sane and rational adults. This legislation does not concern those who fall outside this definition, and we can therefore immediately exclude all arguments which seek to portray terminal patients as potential victims. Provided that the legislation contains adequate protection and safeguards to protect the vulnerable, the committee should not be distracted by arguments which seek to distort or demonise an issue which is essentially quite straightforward. This legislation seeks to allow ***competent*** individuals the right to choose the method and timing of their death such that (a) suffering is reduced to an absolute minimum, and (b) dignity and input to the process are maximised. It should be emphasised that this legislation does not impact upon those who do not share this desire, and it imposes no coercive influence whatsoever. It is simply recognition of each individual's right to retain control over their own destiny, and their right to terminate their life when continued living becomes unbearable.

b) The Limitations of Palliative Care.

Clearly, a vast majority of deaths do occur without extreme suffering, and a range of palliative measures exist to ease much of the suffering there is. However, this legislation is not about those cases. There will always be those whose suffering cannot be alleviated by palliative care. This is simply a matter of fact.

The fundamental point here is that no matter how many arguments are raised, and despite the best intentions of the palliative care system, there will always be those who die horribly and with great suffering. Even the most skeptical, the most vocal opponents of Euthanasia cannot deny that such cases continue to exist despite our best intentions. If we distil this aspect to its most fundamental level it follows that as long as there is a single case of unresolved suffering, the proposed legislation is necessary for that case if no other, and the palliative care defense becomes redundant. This is a point which bears repeating and emphasising…..***This legislation is predicated upon unresolved suffering – not suffering which can be palliated.***

c) The "slippery slope" Argument.

The second common argument against euthanasia relies on the "slippery slope" scenario, which conjures up images of defenseless elderly people being euthanised against their will for monetary or other gain. However, I would ask the Committee to consider the fact that any law can be abused and can result in harm befalling innocent victims. Parliament does not generally avoid legislation simply because of such fears, rather it strengthens its legislation to minimise such possibilities. In this instance, the proposed legislation has been developed over an extended period and similar legislation is already in place in other countries. The test of time has already been met in Oregon, the Netherlands and Belgium over many years. Therefore the fears of abuse are not sustained by any rational evidence, but are founded upon emotive rather than empirical grounds.

Moreover this potential for abuse is significantly outweighed by the very real consequences of not enacting this legislation. As the law now stands it can be clearly demonstrated that *failure to act will most certainly and demonstrably condemn many innocent citizens to suffer and die in inhumane circumstances*. This demonstrated consequence of inaction is surely more compelling than the hypothetical fear of systemic abuses.

The "slippery slope" argument also assumes incapacity on the behalf of legislators to foresee and combat potential abuses or to modify the legislation in the light of subsequent experience. The proposed legislation has been tested globally and already embodies appropriate checks and balances. The factual and empirical basis for this legislation stands in marked contrast to the somewhat emotional and irrational "slippery slope" argument which seeks to capitalise on unsubstantiated fears rather than using demonstrated, objective and documented facts.

d) The psychological benefit to the terminally ill.

The proposed legislation and the underlying philosophy has already been shown to have a positive impact upon the terminally ill, even when the end result is not in fact an assisted death. It has been shown that the availability of a medically facilitated death can prolong both the quality of life and the duration of life. The psychological benefits flow from the increased autonomy a dying person has over their life, and the value of this cannot be underestimated. The suffering and desperation of the terminally ill is, in part, a result of losing control over ones own destiny. Restoring this control can be instrumental in improving an individual's capacity to withstand suffering. Without this element of choice, and in the absence of effective palliative care, there is little to offer a dying person except a distressing and protracted demise over which they have no control.

e) The contradictory treatment of humans and animal.

The Rev. Dr Leslie Weatherhead once noted that "*those who come after us will wonder why on earth we kept a human being alive against this will when all the dignity, beauty and meaning of life had vanished …… and when we should have been punished by the state if we had kept an animal alive in similar conditions*".

I have kept this quote on my wall for many years, and have yet to understand why governments have still not managed to extend to humans the same rights that we accord animals, and I despair of that enlightenment being achieved in this country in my lifetime. I do not wish to be forced into traveling overseas when the time comes, yet this will become an inevitable necessity unless Australian governments extend the

same options as are available in other countries. Whether this be death in a clinical environment or the acquisition of a suitable drug such as Nembutal, these are the choices I and others may face if more humane alternatives are not provided in my own country.

The terminally ill have no fear of legal repercussions, and unless sympathetic legislation provides a solution to this problem the incidence of "law breakers" will continue to increase. With over 80% of polled residents wanting this legislation it is well past the time that governments need to create a positive solution rather than forcing the elderly to take the law into their own hands.

Our society does not condone cruelty to animals yet in stark contrast we continue to allow suffering to be endured by our own kind. This cruelty to our own species is a passive cruelty based upon inaction rather than action. We refuse to abide by the wishes of rational, sentient beings, and by withholding the means to a peaceful death we force our loved ones to suffer ignominious deaths without regard to individual wishes, circumstances or compassion. Essentially, this legislation is aimed at extending the same level of humanity and compassion to ourselves that we apply to animals.

f) The defacto reality of slow euthanasia and physician assisted termination of life.

Our lives are our greatest and most personal possession, and yet the Andrews legislation denied citizens the final say in how that life should end. It has been said that the State has no place in the privacy of our bedrooms, but neither does it have the right to interfere with the decisions of a mature, sane adult in this most important and final chapter of life. It is vital that the committee notes the importance inaction plays in this process. Culpability applies equally to inaction as it does to action. Ignoring the plight of the terminally ill embodies no less culpability than the person who passively stands and watches someone drowning.

The current "solution" to terminal suffering has been an unwritten yet oft practiced form of euthanasia concealed under the mantle of palliative care. The use of morphine to "relieve pain" continues to be a euphemistic solution to a politically sensitive problem. Similarly, protracted use of deep, continuous sedation provides another loophole. Neither of these are satisfactory in providing dignity or control and often run contrary to the specific wishes of the patient. Surely a person's life has more value than a protracted, medically induced coma which neither patient nor family can control and which results in an emotionally draining and unsatisfactory experience for all concerned? There are more humane mechanisms; we simply lack the legislative will to use them.

g) Conclusion.

Finally, common sense suggests that this is an issue which will not go away. Our society is ageing and there is an ever increasing urgency to resolve this problem before each of us come face to face with our own demise. Hopefully none of us will be placed in the specific situation this legislation is designed to resolve. However, life is a lottery and none of us can be certain that we will not be among the few whose lives may end dreadfully and with extreme suffering.

Society and the collective political machinery has tended to avoid this problem due to the difficulties involved and because it has not ranked highly against the more traditional issues which attract the focus of governments in general. In the decades I have been following this issue little progress has resulted simply because of a lack of political will. In that time, many, many people have suffered and died in dreadful circumstances, and with each passing year more people die unpleasantly simply because existing laws offer no viable alternative. In order to die at the time of their choice they are now forced to do so furtively, alone and without the support of loved ones. This is the result of the Kevin Andrews Bill.

Surveys now repeatedly indicate that a vast majority of citizens favor legislation permitting physician aided deaths. The experiences of those countries which have already enacted similar legislation have been positive, with little evidence of the abuse that some have feared. Caring for those who suffer is a sign of a mature society, and yet we continue to allow individuals to die in a way which is shameful and cruel.

I urge the committee to consider these points carefully, and to ignore those arguments which are based upon little more than fear and ignorance. Death is something which none of us can avoid, and it is incumbent upon us as a mature society to ensure that every death is as peaceful, pain free and dignified as is humanly possible. This legislation will go a long way to ensuring that this becomes a reality, and will in the future be looked upon as a huge milestone in the ongoing treatment of our ageing population.

Nothing embodied in this legislation need have any impact upon those who are philosophically opposed to it because the principles apply only to those who wish to embrace them. Those who may have religious or cultural objections are similarly free to choose their own course, and to do what they will when their own lives draw to an end. This legislation is not in any way an imposition, but a freedom which can be accepted or rejected on an individual basis. There can be no greater nor more personal a decision in one's lifetime and it simply requires compassion and common sense to allow us all the option of a dignified death. I strongly urge the committee to endorse those values and to apply them to the task at hand.

PART THREE – SYNOPSIS

1) Governments have an obligation to attend to the needs of all elderly and terminally ill Australians. They also have a moral obligation to ensure that suffering or severe physical hardship and discomfort is minimised, and that every resource possible is directed towards easing the dying process and complying with the wishes of the individual even if this hastens death.
2) The former Euthanasia legislation (since overturned by Kevin Andrews) was a significant and progressive step forward which had the potential to greatly reduce the overall level of suffering experienced by terminally ill Australians.
3) The opposing argument, commonly referred to as the "slippery slope" has no validity given that it has no demonstrated basis in fact. On the contrary, overseas experiences with similar legislation have shown a decreased need for euthanasia and no perceptible abuse of the system.

4) The suggestion that palliative care renders euthanasia legislation redundant is based upon demonstrated factual errors. Case studies show numerous examples where terminal suffering has not been relieved by palliative care and this clearly illustrates the need for an alternative option.
5) The failure of governments to act in this matter and to provide workable options for the terminally ill has forced elderly Australians to seek solutions elsewhere. These alternatives are of necessity illegal and require those individuals to endure more suffering than should be necessary. A controlled process is ultimately a better option than an illicit underground movement.
6) Euthanasia is already practiced on a defacto basis by the medical profession, but cannot be practiced openly due to the Kevin Andrews approach. Accordingly, this form of euthanasia lacks the openness and the level of patient control which a regulated euthanasia system would permit.
7) Every poll of Australian attitudes to euthanasia shows an overwhelming level of public support for the euthanasia movement and its aims, yet governments continue to ignore the issue. Ultimately, it is inevitable that public opinion must be given the attention it deserves.

Thank you for your attention, and I trust that this submission will be considered in your deliberations.

Yours Sincerely,

Michael Thomas.