

From
Daryl Manzie

[REDACTED]

To
Mr Peter Hallahan
Secretary
Senate Standing Committee on
Legal and Constitutional Affairs
Parliament House
Canberra ACT

Dear Mr Hallahan,

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

I have enclosed a submission to the committee in relation to the above mentioned subject.

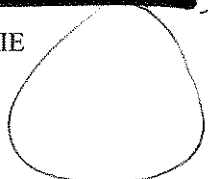
I am a retired member of the Legislative Assembly of the Northern Territory with 18 years experience as both a Minister and member of the Cabinet of the Northern Territory Government from 1983 until 2001. As such I was a member of the Northern Territory Parliament who voted in support of the Northern Territory "Rights of the Terminally Ill" Bill in 1985. More importantly I strongly supported the motion of the Northern Territory Parliament to deliver a Remonstrance to members of the Federal Parliament calling on them to return certain Legislative powers to the Northern Territory Legislative Assembly which were stripped from the duly elected representatives of the people by passage of the "Andrews Bill" in that same Federal Parliament.

I would seek the indulgence of the committee to personally present the submission to the committee when you meet in Darwin.

Yours sincerely

[REDACTED]

Daryl W MANZIE
3rd April 2008



Submission to the Senate Standing Committee on Legal and Constitutional Affairs

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

I would like to take this opportunity to urge the Honourable members of this Committee to support the passage of the above mentioned Bill.

This Bill is in my view not about "Euthanasia Laws, but about restoring a basic democratic right to the people of the Northern Territory, a right which existed after powers were duly granted to the Northern Territory Assembly by the Federal Parliament in 1978, and which were properly acted on by the Northern Territory Parliament, until they were removed by the passage of the Euthanasia Laws Bill of 1996 (The Andrews Bill).

The passage of that Bill enacted Legislation that the Commonwealth could not constitutionally impose upon the existing States. Even though it is acknowledged that the Australian Federal Parliament can undo what a previous Parliament has enacted in respect of the constitutional development of the Northern Territory, it is interesting to note the comments of the Federal Attorney Generals Department at the time which stated that....."this has not happened in Australia's history and it would be politically unthinkable and would only be done in times of revolt or disorder"

I have enclosed copies of the Hansard of part of the debate which resulted in the Northern Territory Legislative Assembly's unanimous support of a Remonstrance calling on the Federal Parliament not to remove the democratic rights of Territorians back in 1996. I have included the entire text of my comments at the time.

The entire debate is recorded in the Northern Territory Hansard of the 10th October 1996, pages 9325 to 9377. May I suggest that those members of the committee who may have not familiarised themselves with the debate, would gain an appreciation of the feeling of the elected representatives of the Northern Territory people at the time the "Andrews Bill was set to remove democratic rights which were, and still are, available to other Australians..

A quote from the International Declaration of Human Rights sums up this situation with great clarity. "EVERYONE HAS A RIGHT TO A GOVERNMENT WHICH CONFORMS TO THE WILL OF THE PEOPLE"

I would appreciate an opportunity to personally present my submission to the committee when it holds hearings in Darwin.

Daryl Manzie
3rd April 2008

Mr STONE (Chief Minister)(by leave): Mr Speaker, I move that the Speaker of the Legislative Assembly, as soon as possible after conclusion of these sittings of the Assembly, proceed to the Commonwealth parliament and there present to the honourable, the President of the Senate, and the honourable, the Speaker of the House of Representatives, copies of the Remonstrance which I have this day tabled in this Assembly.

Mr Speaker, on 28 October, the federal parliament begins a debate in relation to a private member's bill entitled the Euthanasia Laws Bill 1996, introduced by the federal member for Menzies, Mr Kevin Andrews. Last Tuesday evening, the Leader of Government Business in the House of Representatives in the federal parliament moved the suspension of standing sessional orders so that much of the debate in relation to that bill could proceed in the Main Committee rather than in the House of Representatives. For the benefit of honourable members, I will quote that motion:

that so much of the standing and sessional orders be suspended as would prevent the following arrangements applying in relation to the Euthanasia Laws Bill 1996 unless the House otherwise orders:

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(1) order of the day No 15, private members' business, namely the motion for the second reading of the bill, being called on immediately prior to grievance debate on Monday 28 October 1996, and debate continuing for 1 hour and 30 minutes; the mover of the motion for the second reading of the bill and the next 5 members speaking for a period not exceeding 15 minutes and the debate then being adjourned;

(2) at the conclusion of the proceedings on the bill in the House on Monday 28 October 1996, the bill being referred to the Main Committee for the remainder of the second reading stage up to but not including the putting of any questions at the conclusion of the debate;

(3) in speaking to the motion for the second reading of the bill in the Main Committee each member speaking for a period not exceeding 10 minutes;

(4) during consideration of the bill in the Main Committee, the quorum of the committee being 3 members, comprising the occupant of the Chair and 2 other members; and

(5) the Main Committee continuing debate on the bill regardless of any unresolved questions.

After debate, that motion was duly passed.

I have already announced my intention to go to Canberra with the Deputy Chief Minister to express the Northern Territory government's grave concerns regarding the impact of the legislation. As I said in this House on Tuesday, I am pleased that the Northern Territory Leader of the Opposition has made it abundantly clear that she rejects the course of action proposed by Mr Andrews. However, it is vitally important that this Assembly make clear also to the federal parliament its position in relation to the proposal.

In 1962, the Legislative Council for the Northern Territory, a body made up of elected and non-elected members, was so aggrieved at the unwillingness of the Commonwealth parliament to recognise the legitimate aspirations of Territorians for self-government that it took an action almost unprecedented in Australian history. The council debated, passed and presented a Remonstrance to the Commonwealth parliament. That Remonstrance set out various grievances relating to the lack of authority vested in the people of the Northern Territory in relation to the administration of the affairs of the Northern Territory. In short, Territorians sought the right to govern themselves. The Remonstrance failed, but the mouse had roared. The debate changed forever, and the considerable political and media exposure gained as a result of this agitation for constitutional advancement was an essential precursor to the grant of self-government achieved in July 1978. In short, it was an effective weapon in the fight for the rights of Territorians.

Our predecessors in the Legislative Council fought for what they believed in. They used every legitimate measure at their disposal. Their actions followed a long line of agitation for constitutional advancement - agitation which had never stopped, in some respects, from

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1911 when the Commonwealth took over administration of the Territory and which continues to this day. That is what this motion is about today - standing up for the rights of Territorians and agitating for what we believe in. To walk away from this debate, and to accept the Andrews bill as a fait accompli, is to walk away from the history of the Northern Territory, a history of agitation for the rights of Territorians. I have made it clear that I regard the Andrews bill as a threat to self-government. That is what it is, and that is what it must be seen to be, not only by members of this Assembly, but by every member of the Commonwealth parliament. We must ensure that every Commonwealth parliamentarian is in no doubt as to our views. To my mind, we have no choice but to have this Remonstrance presented to the federal parliament. Our history and our future demand it, and our people deserve it.

The proposed Remonstrance, which I have tabled, follows a course of action dating back to 1641. At that time, the Speaker of the House of Commons which Charles Stuart, who later became Charles I of England, had invaded to arrest the 5 reformers, presented a Remonstrance in such outrage that, to this day, no monarch has dared to set foot in the people's House except by invitation. I tell you this, Mr Speaker: if members of the present Commonwealth parliament come to arrest the democratic progress of this people's House, if they trample on centuries of the Westminster convention and over 150 years of Australia's parliamentary convention, then history will judge them as being unworthy to again step into the parliament of Australia's people. Charles I lost his head to Cromwell, his principal offence being cited as 'crimes against the parliament'. Those who seek to denigrate established convention and diminish democratic principles will lose their heads in good time to the rage of the people they have forgotten how to serve.

Its historical significance in this context is then quite clear. This Remonstrance, like the Grand Remonstrance of 1641, seeks to highlight the concerns of the people of the Northern Territory in relation to the duplicitous nature of the Euthanasia Laws Bill. That bill seeks to remove certain legislative powers from this Assembly, powers duly granted by the federal parliament in 1978 and which have been properly acted upon by this parliament since that grant.

Turning to the Remonstrance itself, it lists 6 grievances on behalf of this Assembly. They are:

(1) The Northern Territory, having been granted self-governing powers, the duly-elected representatives of the people of the Northern Territory are aggrieved that there should be any attempt to diminish these self-governing powers by the proposed enactment of the Euthanasia Laws Bill 1996.

(2) The duly-elected representatives of the people of the Northern Territory are aggrieved that the Euthanasia Laws Bill 1996 would, if enacted, terminate the future operation of a law already lawfully enacted by the Legislative Assembly of the Northern Territory.

(3) The duly-elected representatives of the people of the Northern Territory are aggrieved that the enactment of the Euthanasia Laws Bill 1996 will create uncertainty as to the operation of other existing laws of the Northern Territory.

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(4) The duly-elected representatives of the people of the Northern Territory are aggrieved, given the significance of the matter, that it is proposed to enact the Euthanasia Laws Bill 1996 through a separate but concurrent sittings of the House of Representatives in a side Chamber, rather than with full debate in the normal parliamentary Chamber.

(5) The duly-elected representatives of the people of the Northern Territory are aggrieved that the Commonwealth Parliament, in debating the Euthanasia Laws Bill 1996, is proposing to enact legislation for self-governing territories that constitutionally it could not enact for existing states.

(6) The duly-elected representatives of the people of the Northern Territory are aggrieved that the Euthanasia Laws Bill 1996 would, if enacted, be inconsistent with the undertakings that have already been given for a grant of statehood for the Northern Territory.

Mr MANZIE (Mines and Energy): Mr Speaker, today we are debating an issue that comes down really to the democratic rights of Territorians. I am certainly very disappointed in the contribution from the member for MacDonnell. I understand his personal feelings in relation to voluntary euthanasia and I know that he had great difficulty in supporting this motion. However, I expected to hear from him something at least in support of the democratic rights of citizens of the Northern Territory, but we heard nothing whatsoever. In fact, for 30 minutes, he bagged everything to do with the issue. He did not make one mention of what I consider to be one of the most important issues at stake here - that is, the political freedom of the Territory.

The last time that a Remonstrance was used, on 22 August 1962, it was in the context of the Territory's Legislative Council making representation to the federal government. A preamble to the 1962 Remonstrance rings as true today as it did then. That preamble cited article 19 of the International Declaration of Human Rights, something that I have heard the member for MacDonnell use in this House: 'Everyone has a right to a government which conforms to the will of the people'. That is what this is all about - the power of this parliament to represent the will of the people of the Territory. I believe that nothing is more important than the democratic processes which most Australians take for granted, but which some people in this country believe can be bandied about in parliaments where there is no responsibility to the people the laws affect. It is important also to examine the quote that was made as a result of a submission by the Commonwealth Attorney-General's Department to the Joint Parliamentary Committee on the Northern Territory in 1974:

Whilst the Australian parliament can undo what a previous parliament has enacted in respect of constitutional development, the Attorney-General's Department states that this has not happened in Australia's history and it would be politically unthinkable and would only be done in times of revolt or disorder.

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That is quite specific, and certainly no revolt or disorder is occurring at present. We have the will of Territory people being expressed through their parliament on an issue that relates only to Territorians and in the jurisdiction of the Territory.

Previous members of the body politic of the Northern Territory should be respected for their views and their hard work. Over many years, they fought to ensure Territorians would have the ability to elect their own parliament to make laws for Territorians. I am talking about previous members such as Dick Ward, Bernie Kilgariff, Joe Fisher, Tiger Brennan, Len Purkiss and Duncan Mathieson. Jock Nelson and Sam Calder have been mentioned also. Those people were united, regardless of their political persuasion, in their aim to ensure that Territorians had the ability to provide a parliament that represented them, which passed laws for them and which was responsive to their views.

We have heard considerable laughter about this in this House today. We have heard some cheap shots taken at federal political members, but the bottom line is that it is not an issue we should be playing politics with. It is not an issue about Labor or CLP. It is about Territorians governing themselves. It is pretty simple. If any member believes that it is not important enough, they should not be in here. The member for Arnhem is giggling. I hope he is doing it out of embarrassment because, if he thinks this is a joke, he should not be in here. The bottom line is that we should be united on this issue.

Members interjecting.

Mr MANZIE: I was about to give the member for Nhulunbuy a bit of a wrap up. At a public meeting he attended, he set an example that other members of this House would do well to follow. We know that he is opposed totally and utterly to euthanasia, as is his right. He has spoken eloquently against it and he has voted accordingly. However, he understands what the Andrews bill means. He understands the importance of a democratically-elected parliament representing Territorians. He spoke publicly against the Andrews bill on the basis that it sought to remove the right of the people of the Northern Territory to have a parliament to represent them. I applaud him for that. I say to other members that, regardless of their views on euthanasia, they should speak up for Territorians and for their right to elect a parliament to enact the laws that affect them.

Mr Ah Kit interjecting.

Mr MANZIE: The member for Arnhem continues to laugh. He should not be in here if he thinks this matter is a joke. Many people who have gone before us fought very hard to represent Territorians, and he does not deserve to be in here if he thinks it is a joke. If opposition members think Northern Territory representation is a joke, they should all resign now. Shame on you!

A member: Settle down.

Mr MANZIE: I will not settle down. Over the ages, people have given their lives for the democratic processes that you think are a joke. I will not stand here, and let you get away with ...

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Members interjecting.

Mr MANZIE: I want to ensure that people understand that you think this is a joke. I do not. I think you should talk to the member for Nhulunbuy because he understands what we are talking about. We are talking about a situation that the Standing Committee for the Scrutiny of Bills made very clear to members of the federal parliament is a situation in which they should not be involved. That report states very clearly that the bill Andrews has introduced into federal parliament proposes to amend the Northern Territory (Self-Government) Act, the Australian Capital Territory (Self-Government) Act, and the Norfolk Island Act of 1979. The bill provides that those duly-elected Assemblies, the Territory Assembly, the ACT Assembly and the Norfolk Island Assembly, do not have the power to make laws that will permit intentional euthanasia. The report says:

These 3 Assemblies are all elected on universal adult franchise. Accordingly, they operate within democracies. This bill seeks to take away from the people living within those democracies an ability they now have to elect an assembly with the power to legislate about a matter of great moment.

The other telling comment, at the end of that report, is one we should all heed:

The committee draws Senators' attention to the provisions, as they may be considered to trespass unduly on personal rights and liberties in breach of principle 1 of the committee's terms of reference.

The terms of reference are listed at the very beginning. It is an extract from standing order 24:

At the commencement of each parliament, the Standing Committee for the Scrutiny of Bills should be appointed to report in respect of the clauses of the bills introduced into the Senate in respect of acts of the parliament, whether such bills or acts, by express words or otherwise, trespass unduly on personal rights and liberties.

That is very telling. The Senate's own committee has pointed out that this is not a matter with which the federal government or the federal parliament should be dealing because it trespasses unduly on personal rights and liberties.

If people want any other arguments to persuade them that what is taking place is inappropriate, a poll conducted by the Sydney Morning Herald, and reported on Wednesday 9 October, reveals that 75% of voters do not want the euthanasia law overturned. The public's view is on the record. However, I think we tend to move away from the real issue when we talk about euthanasia. This is not a piece of legislation dealing with euthanasia, but a piece of legislation that seeks to interfere with the political rights of Territorians. This is an issue that this parliament needs to be united on. As politicians representing Territorians, we have a responsibility to ensure that the federal parliament gets the message very strongly, very clearly and very loudly that we have a democratic right to have a parliament that represents our will and that other parliaments do not have morally any right to take that right away from Territorians.

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Regardless of our political persuasions, all members of this House should be doing everything they can to ensure the continuance of the democratic processes that started in the Territory many years ago and which are progressing towards the goal that I believe we all want - statehood for the Territory. We must ensure that that process continues and that there is no removal of powers and responsibilities from this parliament and, consequently, from the people of the Territory. I certainly support the Remonstrance and I urge members opposite to forget about political point-scoring and the argle-bargle about who said what or who did what. We have a responsibility to ensure that those before us who fought for rights for Territorians did not do so in vain. This motion is of that level of importance. I commend the Remonstrance.

Mr STONE: In drawing this debate to a conclusion, it is pleasing to know that we have the unequivocal support of our colleagues in the ACT and the government of Norfolk Island. I thank members for their contributions and for their support. Mr Speaker, as you make your way to Canberra to nail this Remonstrance to the front door of the Commonwealth parliament, we wish you well. You have our unanimous support. It is an important aspect of this debate that, in this Chamber, regardless of whether members support or oppose euthanasia, we are of one mind when it comes to defending the rights of Territorians to determine their own future.

Members: Hear, hear!

Motion agreed to.