



NT Voluntary Euthanasia Society Inc

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Newsletter

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On 21 August 2011, in the wake of the passage of one of Senator Bob Brown's bills in the Senate, Paul Russell from HOPE (Preventing Euthanasia & Assisted Suicide) posted the following article. To read more of what our opposition is saying, go to www.no euthanasia.org.au

What is the Territories Rights bill really about?

On the 18th of August the Senate debated and passed Senator Brown's *Territories Self-Government Legislation Amendment (Disallowance and Amendment of Laws) Act 2011*. Originally titled the *Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010*, the bill was amended to include the Northern Territory during debate (and hence the new name).

The original bill was first introduced in September 2010. Labor caucus adopted a party position in March this year to support the bill. A few days later, after concerns from within Labor ranks were raised to the effect that the bill might be a stalking horse for Senator Brown's known social agenda, the party line was scrapped.

The bill was then referred to the Legal and Constitutional Affairs Legislation Committee for an inquiry which recommended that the bill be supported with a few alterations. In mid-August, Labor once again adopted a party line to support the bill.

Beyond the removal of the right of the Governor General to 'disallow or amend' any territories' acts (leaving the only avenue of redress being a motion agreed to by both houses of the Federal Parliament), there still remain legitimate questions about exactly what this bill will do in practice. Liberals on the committee of inquiry rejected the bill as a 'piece-meal' approach to the rights of the territories and their citizens while two Labor members of the same Senate committee rejected it on the basis of inherent inconsistencies. While it was given mention, no-one rejected it on the basis that it was a stalking horse for Senator Brown's known social agenda – which includes euthanasia.

Reserving comment to euthanasia alone, it is worth noting that nothing in this bill acts to overturn or strike out the amendments to the territories' acts of self-government that became part of those statutes by way of the *Euthanasia Laws Act 1996* (The Andrews' Bill). With variations, the substantive clause reads: Subject to this section the power of the Legislative Assembly conferred by section 6 in relation to the making of laws does not extend to the making of 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.

Given earlier posts on this subject, I could be accused of reading this bill wrongly and of making errant conclusions to the effect that should this bill become law, that new euthanasia laws might indeed be

raised in the territories. In my defence, I was no orphan. Given Senator Brown's known agenda and repeated recent attempts at euthanasia law by Greens MPs in three states, it is, I hope, understandable that we should remain sceptical. However, this is by no means the end of the matter.

Senator Brown also has a bill on the Senate notice paper entitled: *Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2010*. This bill seeks to remove the Andrews' Bill amendments from all territories self-government acts. It has not received any attention in the Senate since October 2010. At that time it had been assumed that Brown's territories rights initiative was simply a change of tactic to the same ends.

If the bill that just passed in the Senate becomes law, we can be almost certain that Brown will attempt to resume the debate on this euthanasia bill in the near future.

South Australia

Dr Peter Sharley, President of the AMA(SA), and MR Ralph Bonig, President of the Law Society of South Australia, jointly stated opposition to Labor MP Steph Key's Medical Defences bill. This opposition was countered by media releases from a group of doctors and from Steph Key.

The following is the statement from 38 national doctors supporting the Medical Defences Bill.

The condemnation of the Medical Defences Bill by the South Australian AMA President, Dr Peter Sharley and South Australian Law Society President, Mr Ralph Bonig is based on inaccuracies and we do not agree with their appraisal.

This legislation would enable doctors to follow their duty of care to relieve the suffering of the most unfortunate minority of people for whom even the best of medical care fails; this minority exists, a fact acknowledged by both the AMA and Palliative Care Australia.

Under this bill a doctor and the medical team, if accused of murder, manslaughter or assisting a suicide when acting to end a patient's life at that patient's request, due to the patient's unrelievable suffering, will have to prove in court that they acted according to the guidelines of the bill, in order to have a successful defence and be acquitted. Under the bill there must be:

- a request from an adult person of sound mind
- who has an illness, injury or other medical condition that irreversibly impairs the person's quality of life so that life has become intolerable to that person.
- conduct in bringing about the end of a person's life must be a reasonable response to such suffering in exceptional circumstances.

A doctor and others in the medical team face being charged with murder, manslaughter or assisting suicide, very serious charges indeed. Demonstrating in court that the conditions are met is a responsibility of the doctor and the team – a responsibility requiring great propriety and care and one that will be essential to a successful defence.

Dr Sharley claims there is no proper process, witness, second opinion or required documentation. In its role to represent the diverse views of its membership and protect both the interests of doctors and the community, the AMA would do well instead to support doctors by suggesting guidelines and documentation suitable for the defence process.

Mr Bonig complains about the vagueness of intolerable suffering. It may be vague to him sitting in his office, but it is highly objective to a person with neuropathic pain and terminal cancer. Labor MP, Steph Key, said “it was disappointing that the AMA leadership in South Australia has taken a hardline and rather confused stance against my *Medical Defences – End-of-Life Arrangements Bill*.

On the one hand, the AMA supports palliative care or treatment that may hasten the death of patients. On the other, it claims doctors ‘should not be involved in interventions that have as their primary purpose the ending of a person’s life.’

The AMA also claims that my Bill will lead to abuses. It appears to me that there is a much greater likelihood of this occurring in the absence of effective regulation.

My Bill seeks to do four things.

First, it aims to bring this issue into the light of day and enable it to be properly regulated.

Second, it reassures patients that they can request a hastened end-of-life where they are irreversibly ill and suffering intolerably.

Third, it provides doctors who assist their patients in this way with a legal defence.

Fourth, it ensures that proper safeguards are in place to protect patients.

We know that many doctors agree to their patients’ requests to hasten their death.

A recent survey of 854 Victorian doctors indicated that one third had assisted their patients who had asked directly for drugs to hasten their inevitable death, in spite of the current legal minefield which exists.

Doctors themselves say they cannot be expected to relieve end-of-life suffering if they face the prospect of prosecution. Some dying patients do not receive adequate relief of suffering because their doctors fear criminal charges.

It seems to me that the AMA leadership is out of step with the community which overwhelmingly supports reform in this area and with significant sections of the medical profession itself.

Passage of the Bill will represent a substantial step forward for patients who request this support, the community and the medical profession.”

South African prosecuted for helping his mother to die

Sean Davison, on trial next month in New Zealand, talks about how he supplied the morphine and 'a moment of joy'

Read the lengthy and interesting story in the Guardian, London, at this site

<http://www.guardian.co.uk/world/2011/sep/29/south-african-prosecuted-mothers-death?newsfeed=true>

The Guardian in London also reported 30 September 2011:

Assisted suicide law around the world

The global trend suggests a gradual shift towards the decriminalisation of assisted suicide

By Maya Wolfe-Robinson

The law governing assisted suicide in England and Wales is more than 50 years old and has been criticised for being unclear. Under the Suicide Act 1961, anyone who assists or encourages suicide in England and Wales could face up to 14 years in prison.

But in 2009 Debbie Purdy brought a court challenge that helped clarify when charges will be brought. There have been no prosecutions in the past 18 months since the Crown Prosecution Service issued fresh guidance. The director of public prosecutions says, however, there is no "blanket policy" not to prosecute.

Around the world the trend in legislation suggests a gradual shift towards decriminalisation.

Switzerland, Luxembourg, Belgium, the Netherlands and the US states of Oregon, Montana and Washington have all legislated to allow assisted suicide in clearly defined situations.

The European court of human rights ruled this year that while an individual has a right to decide how and when to die, the state is not obliged to provide the means to do so.

Last year Germany's highest criminal court overturned a lawyer's conviction for attempted manslaughter, ruling that assisted suicide is legal in cases where it is based on the prior request of the patient.

Some countries have specific legislation outlawing assisted suicide, including Italy, Ireland and Canada, while others prosecute cases using manslaughter charges, such as Sweden. In Canada a pro-assisted suicide group is seeking to change the law following the high-profile case of Sue Rodriguez, whose two-year legal battle ended when the Canadian supreme court ruled against her in 1991.

The French senate voted against proposed legislation earlier this year which would have permitted assisted suicide if requested by an adult.

In 2009 a constitutional debate in Italy erupted over the case of Eluana Englaro, who was in a coma following a car crash. Italian prime minister Silvio Berlusconi intervened after consultation with the Vatican in a bid to keep her alive.

The Northern Territory Voluntary Euthanasia Society is a member of YourLastRight.com and a member of the World Federation of Right to Die Societies

