

I move

1. That this Assembly recognises
 - a) Australia's democracy is one of the best in the world
 - b) Territory rights are of paramount importance to citizens of the Northern Territory of Australia
 - c) The actions of the Australian Senate on the evening of 15 August 2018 in failing to agree to a legislative proposal to restore the rights of both the Northern Territory and the Australian Capital Territory to consider and pass legislation on behalf of the residents of those Australian territories is a breach of democratic principles for Territorians
 - d) Specifically, the failure of the Australian Parliament to repeal s.50A of the *Northern Territory (Self Government) Act 1978* remains an impediment to democracy for Territorians.
 - e) The ongoing disparity between the legislators elected by the residents of Australian territories and those elected to represent the people in the Australian states in relation to legislative capacity is ant democratic
 - f) The distinction between the capacity to legislate and any actual legislation about the rights of terminally ill persons in the Northern Territory appears to have been deliberately confused by some Senators

And

2. this Assembly agrees

To present a grievance to the presiding officers of the Senate and the House of Representatives of the Australian Parliament which states to the Senators and Members that:

- a) The Federal Parliament should not determine and distinguish between the rights of Australian citizens by virtue of where those Australians reside within this country
- b) The House of Representatives should as soon as practicable consider and pass legislation to repeal section 50A of the *Northern Territory (Self Government) Act 1978*

And

3. The specific wording of the Remonstrance is in the following terms

REMONSTRANCE

The Legislative Assembly of the Northern Territory of Australia respectfully addresses the President of the Senate and Senators and the Speaker and Members of the House of Representatives of the Parliament of Australia.

Preamble

Australian States in our Federation have the capacity to consider and pass laws on voluntary assisted dying, however the Northern Territory remains unable to even consider its own legislation on such matters.

Grievance

The Legislative Assembly of the Northern Territory of Australia presents its grievance to the Australian Parliament following the Senate vote on 15 August 2018 thus:

1. The Federal Parliament should not determine and distinguish between the rights of Australian citizens by virtue of where those Australians reside within this country
2. The House of Representatives should as soon as practicable consider and pass legislation to repeal section 50A of the Northern Territory (Self Government) Act 1978

Petition

The Legislative Assembly of the Northern Territory and its democratically elected Members respectfully request that Senators reflect on their vote of 15 August 2018 which has denied citizens of the Territory their democratic rights and the Members of the House of Representatives allow debate on a bill to repeal s.50A of the *Northern Territory (Self Government) Act 1978* at the earliest opportunity.

PLEASE CHECK AGAINST DELIVERY

Madam Speaker I rise to speak on one if not the most important motions to come before this House in the time that I have had the privilege to be a Member.

The reason I elevate it to that level is because this motion is about the denial of the democratic rights of the citizens of the Northern Territory.

This is about the sheer disappointment and tragedy of Territorians being relegated as second class citizens by the Australian Senate, following their vote on the evening of 15 August 2018 in failing to agree to a legislative proposal to restore the rights of both the Northern Territory and the Australian Capital Territory to consider and pass legislation on behalf of the residents of those Australian territories.

It is fundamentally unfair and unjust that Territorians should be entitled to a less democratic form of government than other Australians.

Madam Speaker this is history repeating itself.

I do not intend to debate the rights or wrongs of euthanasia, as Senator Loinhjelms Private Members Bill was not about euthanasia, it was about democracy.

It was about the integrity of our system of government. It was about a fair go, a fair go for Territorians who want to be included and respected in this system of government.

I will go back and recall for the benefit of members the history, which has now been repeated. I use the reference to Euthanasia in a historical context only because that was the purpose and content of the Bill.

23 years ago, 25 elected members of the Northern Territory Parliament examined a proposal to legalise voluntary assisted dying. They consulted their electorates, established a committee to hear expert evidence, and debated the issues among themselves.

The proposal, called The *Rights of the Terminally Ill Bill* would allow only competent, terminally ill adults to seek medical assistance to die, when, and where, and with whoever they wanted present.

PLEASE CHECK AGAINST DELIVERY

PLEASE CHECK AGAINST DELIVERY

The process could only be initiated by the dying patient, and was voluntary for everyone involved, including doctors.

Despite there being a long list of conditions to be met before assistance could be provided, it would be a law that did not require anybody to do anything.

If one objected to the concept of assisted dying, you could live your life right to the end as if the option did not exist.

The principle behind the proposal was this; *“If there are terminally ill patients who wish to end their suffering by accelerating inevitable death, and there are sympathetic doctors willing to help them die with dignity, then the law should not forbid.”*

The reaction, when the proposal was made public, was overwhelming.

Every Territory MP spoke in the parliamentary debate – each passionately trying to persuade their colleagues to their point of view. The usual partisan approach was dropped, no-one member voted the way they did, because another voted the way they did.

It was a parliament of independents - democracy as it is supposed to operate. The Bill passed into law.

A poll at the time showed 75% community support for what had been done.

The *Rights of the Terminally Ill Act* survived the inevitable court challenge to its validity, and a constitutional veto available to the Governor General, to override any territory law. A threat that does not apply to any state parliament.

Then Prime Minister Paul Keating declined to exercise that executive veto with the words quote *“The Commonwealth Government believes that the Rights of the Terminally Ill Act is a valid law of the Northern Territory and it is up to the people of the Northern Territory to express their views on that legislation rather than the Commonwealth.”*

PLEASE CHECK AGAINST DELIVERY

PLEASE CHECK AGAINST DELIVERY

That was from a Prime Minister who has made his personal views against voluntary assisted dying very clear.

There the matter should have rested.

What the law did not survive was a subsequent attack by a cross party consortium.

The Territory's actions upset the Member for Menzies Kevin Andrews, who introduced a private members bill that had a two- fold effect.

It vetoed the *Rights of the terminally ill Act*, and amended the NT and Australian Capital Territory Self-government Acts, by removing the power to pass a similar law ever again.

Normally just 2% of private members bills make it through the system however this one was given, so it seems, an inside running.

The reasons stated for moving against the Northern Territory was that their parliament had ventured where no parliament anywhere in the world had gone, and that the law they passed was a threat to society.

It is enlightening but a little scary to refer to the Hansard of the period where Members revealed their fears and what would happen if the Territory law was allowed to stand.

I say a little scary because it reveals the level of ignorance that existed at the time. It was obvious that many who spoke did not know what the law they were about to abolish provided for - or prohibited.

Sponsor Kevin Andrews conveniently omitted to use the word 'voluntary' in his speech. He also said that Quote '*Territories do not have rights—they have responsibilities,*' How's that for patronising arrogance.

Predictions of calamity were common.

PLEASE CHECK AGAINST DELIVERY

PLEASE CHECK AGAINST DELIVERY

The utterers of the pearls of wisdom in the debate were saying to Territory politicians, “you do not have the intellectual rigour, the integrity or the moral standards to handle this issue. We do”.

It would seem that Members had either not looked at the Northern Territory legislation or they misrepresented it.

Most members are told how to vote by the party whip, so they do not need to bother with the details of what is happening. With private members bills however, if they want to know what the subject is all about they need to do some home-work.

Ultimately, In March 1997 the Euthanasia Laws Bill passed in the Senate, by just 3 votes.

The Rights of Terminally Ill Act was rendered null and void after 9 months in operation.

The Senate, originally established to protect the states from the unbalanced numbers in the lower house, failed to live up to its charter on that occasion.

Representative democracy was absent that day, not one of the 126 Federal MPs who voted down territories rights was elected by or accountable to the people affected by their decision.

That is not democracy that is the opposite of democracy.

Therein lies the flaw in our system. Had it been a state that passed the Rights of The Terminally Ill Act, like Victoria has done, the Commonwealth would have been powerless to block it.

The constitution undoubtedly gives the Commonwealth authority to make laws for territories but.....

Just because you can, does not mean you should.

Just because you can, does not make it right.

Just because you can, does not make it fair.

PLEASE CHECK AGAINST DELIVERY

PLEASE CHECK AGAINST DELIVERY

Why should 660,000 Australian citizens, who just happen to reside in the Australian Capital Territory or the Northern Territory, continue to be subject to a paternalistic law that has no effect on any state?

Are the people we elect to state parliaments any different to those we elect to Federal parliament? Are federal MPs more intelligent or wise? Are they more competent, than politicians the very same voters elect to administer their state?

I don't think so.

On 3 July following the special occasion of 40 years of self- government I wrote to all Australian Senators on the subject of Senator Lionhjelms Private Members Bill urging their support for such legislation, based on the rights of Territorians to have their views reflected in legislation, without interference or intimidation.

Earlier this week I wrote to all Members of the House of Representatives in relation to the Private Members Bill of Andrew Leigh and seconded by Luke Gosling in the hope that Lower House Members will recognise the importance of and respect the right of a democratically elected parliament, this Legislative Assembly, to legislate for the peace, order and good government of its citizens and to allow debate on a bill to repeal section 50A of the *Northern Territory (Self Government) Act 1978* at the earliest opportunity.

Madam Speaker I have a copy of the 'Parliamentarian briefing pack' distributed to Senators ahead of the Vote on the 15th of August.

Madam Speaker I am appalled at how little people outside of the Territory think of us here in this House and wish to read into Hansard the advice of D F Jackson QC. His opinion on the matter concludes as follows:

The territories have small populations. The Northern Territory population is a little over 200, 000, the Australian Capital Territory's under 400,000. The others are all very small indeed....

Any Territory legislatures are inevitably going to be small in their number and their local constituencies will also be relatively few in number. They are capable of becoming the locations to establish activities which the Commonwealth government of the day may or may not wish to have in existence.

PLEASE CHECK AGAINST DELIVERY

PLEASE CHECK AGAINST DELIVERY

To permit debateable activities to obtain a foothold in a territory may be much easier than to do so in a state. Once established in a territory the foothold may become a spring board for adoption of the practice elsewhere. That is why members of the Commonwealth Parliament need to take seriously the Commonwealth's functions Vis a Vis the territories exercise of legislative power.

Euthanasia is an obvious example. The pornography industry has flourished in the Australian Capital Territory because a lack of local control over censorship. Gambling has flourished because of a Northern Territory base.

End quote:

Madam Speaker how dare this barrister take this high moral ground and make such unbecoming comments that reflect on this Assembly and that of the ACT. This is chilling insight as to why we must stand up for ourselves in this House and for Territorians and not have our reputation and rights imputed in this manner.

CONCLUSION

Madam Speaker in concluding my remarks and to summarise:

The *Northern Territory Self-Government Act 1978* ostensibly grants the Territory the same powers to legislate for the peace, order and good government as the States. However, in accord with section 122 of the Australian Constitution, that legislative power is conditional and subject to the superior power of the Legislative Assembly of the Commonwealth of Australia.

On 25 May 1995, the Legislative Assembly of the Northern Territory validly exercised its rights under section 6 of the Self-Government Act and passed the *Rights of the Terminally Ill Act 1995*. Despite surviving challenge in the Northern Territory Supreme Court, attempts to repeal it in the Legislative Assembly and international controversy, the law endured for nearly two years.

Since 1997 the Territory has been denied the right to utilise the full range of its legislative powers, a situation which is—to the minds of most Territorians—untenable and increasingly unacceptable.

For more than half the 40 years since self-government, the Legislative Assembly has been barred from ensuring that all Territorians' voices are heard and their view reflected in the laws which provide for the peace, order and good government of the Territory—including those concerning euthanasia.

PLEASE CHECK AGAINST DELIVERY

PLEASE CHECK AGAINST DELIVERY

It is fundamentally unfair and unjust that Territorians should be entitled to a less democratic form of government than other Australians. The inequity of this situation is underscored by the passage of the *Voluntary Assisted Dying Act 2017* in Victoria, which enshrined the right of Victorians' to have their voices heard on the same issue which is barred from consideration for Territorians.

The time has come to end this imbalance and restore the right of full self-determination to the people of the Northern Territory.

Madam Speaker I support the democratic rights of Territorians, we are not second class citizens of this great nation we call Australia and we should not be treated as such.

I totally support this motion and the grievance as outlined and join with you in **petitioning the Senate and the House of Representatives in the following terms:**

The Legislative Assembly of the Northern Territory and its democratically elected Members respectfully request that Senators reflect on their vote of 15 August 2018 which has denied citizens of the Territory their democratic rights and the Members of the House of Representatives allow debate on a bill to repeal s.50A of the *Northern Territory (Self Government) Act 1978* at the earliest opportunity.

PLEASE CHECK AGAINST DELIVERY