SUBMISSION BY MISS MARGARET DOIG, PETITIONER 406

To the Scottish Parliament

Law and Code of Practice, current and proposed, governing post mortem, organ removal and retention and disposal of body and organs where deceased has no relatives.

I, the undersigned, declare that I have failed to obtain information concerning current law and code of practice governing post mortem, removal and retention of organs and disposal of the body and parts where the person who has died has no family, no surviving relatives or surviving relatives who are old, infirm or mentally incapacitated or who, for whatever reason, are no longer in communication with the person who has died. On 8th October I received from Mr McAllion MSP for Dundee East a letter enclosing a letter and a booklet from Mr Wallace, Minister for Justice, none of which answered the questions in my letters of 20th April and 14th and 19th July. I have at no time expressed concern that my wishes would not be carried out by executors or attorneys. My concern is that if, for instance, a person dies in hospital executors and attorneys would not be consulted concerning his/her expressed wishes.

The Report of the Review Group set up by Mr Susan Deacon, Minister for Health, whose remit includes adult deaths, does not to my knowledge refer to the above categories nor do the preliminary recommendations. It does, however, say (1.9) that "Whereas an adult deceased has made prior notification of their wishes, these take precedence in terms of law over the wishes of the relatives". In the categories to which I refer, is it not to take precedence over the wishes of clinicians for a post mortem where there is no legal requirement for one and where the cause of death is clear?

8.75 Regarding ultimate disposal hospitals are constrained by Health and Safety Regulations and dispose of organs as clinical waste. What are the constraints? and how do they affect adults who have not agreed to removal and retention of organs? People who have no family have to instruct executors, often solicitors, concerning disposal of their bodies and yet "any stated wish by the person who has died is not binding on the executors or the next of kin in deciding on the type of funeral". Why not? particularly if cremation is not intended.

If whole categories of people are omitted from the first phase of the Report, it cannot provide a sound basis for the establishment of good practice.

The Petitioner therefore requests that the Scottish Parliament redress these omissions and when recommendations for changes in the law and codes of practice are implemented. Where a person who dies in hospital falls into any of the above categories, I submit to Parliament for consideration whether it ought not to be binding on hospital staff to seek consent to post mortem and agreement to removal and retention of organs from executors, attorneys, solicitors and/or any other competent persons appointed by the person who has died so that his/her expressed wishes may be ascertained and carried out. These are matters of public interest and this would ensure a measure of equity which appears not to exist at present.

I the petitioner have already approached organisations, elected representatives and others, listed separately and enclose copies of correspondence, I am sorry that I cannot enclose copies of all my letters as I cannot always get to the nearest copier 3-4 miles away. Their recipients are, however, all honourable men and women and will, I hope, be able to supply my deficiencies.

I take this opportunity to express my appreciation of the prompt and considerate response of Mr Heywood, Regional Procurator Fiscal, and of Miss Wallace of the Crown Office.

I enclose also "What to do after a death in Scotland" with my notes and "As good as dead" from "The New Yorker" August 13, 2001. In the absence of the requisite information from official sources here, I get my information where I can.