

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

1975—*Parliamentary Paper No. 134*

JOINT COMMITTEE ON THE NORTHERN TERRITORY

**Report on Constitutional
Development
in the Northern Territory
Second Inquiry**

*Brought up and
ordered to be printed 28 May 1975*

THE GOVERNMENT PRINTER OF AUSTRALIA
CANBERRA 1976

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Commonwealth of Australia 1975

JOINT COMMITTEE ON THE NORTHERN TERRITORY

The Committee was originally appointed in the Twenty-eighth Parliament by resolutions of the House of Representatives on 5 April 1973 and 11 September 1973 and the Senate on 30 August 1973. At the dissolution of the Twenty-eighth Parliament, the Committee had not completed its Inquiry.

In the Twenty-ninth Parliament, the Committee was re-appointed by resolutions of the House of Representatives on 18 July 1974¹ and the Senate on 23 July 1974.²

Original Inquiry

The Terms of Reference of the original Inquiry were¹ :

to examine and report on measures that might be taken in the long and short term to provide the Northern Territory with responsible self-government in relation to local affairs - including appropriate divisions of legislative and executive responsibility at the National and Territorial or other level

1 House of Representatives Votes and Proceedings No.6, 18 July 1974.

2 Journals of the Senate No.7, 23 July 1974.

- having regard to :

- (i) the Government's wish to establish a fully elected Legislative Assembly for the Northern Territory by 31 December 1974;
- (ii) the relationship that will need to exist between a local executive and the National Government;
- (iii) the size, composition and diversity of interest of the population of the Territory including the special difficulty of providing for effective participation by the Aboriginal people in a political system which is alien to their traditional culture;
- (iv) the extent to which the people of the Northern Territory wish to accept greater responsibility for its government;
- (v) any other special considerations which the Committee considers relevant to its conclusions; and
- (vi) financial arrangements.

The Committee tabled its report on the original Inquiry in the Parliament on 26 November 1974.³

Second Inquiry

On 13 February 1975 the Minister for the Northern Territory wrote to the Chairman of the Joint Committee on the Northern Territory requesting that the Committee reconvene to :

inquire into and report whether in view of the devastation of Darwin caused by cyclone Tracy the Committee sees a need to vary any of the recommendations on constitutional development for the Northern Territory contained in the report presented to Parliament by the Committee on 26 November 1974.

3 House of Representatives Votes and Proceedings No.40,
26 November 1974.

Journals of the Senate No.41, 26 November 1974.

Personnel of the Committee

Chairman Mr A.W. James M.P.

Members Senator J.B. Keeffe
Senator the Hon. J.E. Marriott
Senator G.T. McLaren
Senator G. Sheil
Mr S.E. Calder D.F.C., M.P.
Mr J. FitzPatrick M.P.
Hon. C.R. Kelly M.P.
Mr L.G. Wallis M.P.

Clerk to the Committee .. Mr C.S. Boorman

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CONCLUSION AND RECOMMENDATION

The Committee concludes that it should not vary, because of the devastation caused by cyclone Tracy, any of the recommendations it made in its original report. (paragraph 22)

The Committee re-affirms its earlier recommendations (paragraph 118 of its original report), namely :

- (a) that one Australian Government Minister have the executive responsibility for all "state-type" functions retained by the Australian Government and that the administration be vested in one Australian Government department; and
- (b) the establishment of a committee comprising the Minister for the Northern Territory and "Ministers" of the Territory Executive to co-ordinate and consult on major issues, this Committee being chaired by the Minister for the Northern Territory and meeting as required

and recommends that they be implemented as soon as possible.
(paragraph 29)

REPORT ON CONSTITUTIONAL DEVELOPMENT IN THE
NORTHERN TERRITORY - SECOND INQUIRY

1 INTRODUCTION

Activities of the Committee

The Committee advertised its terms of reference in February 1975 and invitations were extended to organisations and interested private citizens to present submissions to it.

2 Public hearings were held in Darwin on 25 and 26 March 1975, and in Canberra on 14 April 1975.

Witnesses

3 Evidence was heard from representatives of 6 organisations, 4 of the 19 elected Members of the Northern Territory Legislative Assembly and 2 private citizens. A list of witnesses who appeared before the Committee is given in the Appendix. Evidence given at the public hearings is available for inspection at the Committee Office of the House of Representatives and at the National Library.

2 THE INQUIRY

4 The Minister for the Northern Territory in his letter to the Chairman of the Committee referred to three considerations that led him to make his request to reconvene the Committee. The three considerations were : imbalance in electorates, establishment of the Darwin Reconstruction Commission, and Administrative capacity. These considerations are discussed in paragraphs 5 - 21.

Imbalance in Electorates

5 The Committee was asked to have regard to :

the substantial reduction in the population of Darwin as a result of the cyclone which has resulted in a significant imbalance in electoral districts both within Darwin and as between Darwin and the rest of the Northern Territory. Furthermore, a substantial change in the composition of the population and an increase in its mobility during the reconstruction period is possible.

6 The population of Darwin before cyclone Tracy was approximately 48,000. After the evacuation it was approximately 11,000 in early January 1975, and it has since increased to about 30,000. The total available accommodation of an acceptable standard by 31 July 1975 is expected to house 30,050 people. There is no substantive evidence on the future trend of the population of Darwin.

7 On the question of the resultant imbalance in electoral districts, both within Darwin and as between Darwin and the rest of the Northern Territory, the Chief Australian Electoral Officer (Mr F.L. Ley) said in a letter to the Committee :

where an elector is only temporarily absent from the District for which he is enrolled and he has a fixed intention of returning for the purpose of continuing to live therein, he would be entitled to have his name retained on the roll concerned.

He also said :

no doubt an appreciable number of former elector residents of Darwin will have taken up permanent residence elsewhere and are entitled to enrolment for their new addresses.

8 Evidence was given to the Committee that the Darwin Reconstruction Commission has not yet finalised its plans for the reconstruction of Darwin and it is not possible to indicate the future distribution of population. Accordingly it is not possible to indicate the future number of electors in each electorate.

9 The next election for the Northern Territory Legislative Assembly is not scheduled to be held before October 1977, and because of the considerations mentioned in paragraphs 7 and 8 the Committee considers it is too early to comment on the imbalance of electorates.

10 In any case the Committee considers that the implications of any imbalance in electorates is a matter to be resolved by the Minister for the Northern Territory and the Northern Territory Legislative Assembly under the consultative and co-ordinating arrangements recommended in its original report (paragraph 118) and re-affirmed later in this report.

Establishment of the Darwin Reconstruction Commission

11 The Committee was asked to have regard to :

the proposed establishment of the Darwin Reconstruction Commission and its possible consequences for local/national governmental relationships.

12 The Committee considers that the only major consequence for local/national relationships arising from the establishment of the Darwin Reconstruction Commission is the responsibility for the urban land function, i.e. whether the function which relates to the planning and provision of housing, roads, water, sewerage, electricity, etc. should be the executive responsibility of the Australian Government or the Territory Executive. In its original report (paragraph 74) the Committee included this function amongst those of local significance which it recommended be transferred to the Territory Executive.

13 For up to the next 5 years under the provisions of the Darwin Reconstruction Act 1975 the Commission will be responsible for the urban land function

in Darwin. Therefore it is not possible for the urban land function in respect to Darwin to be transferred to the Territory Executive. The Committee notes however that the Commission proposes to utilise Northern Territory authorities, (e.g. Department of Housing and Construction, Corporation of the City of Darwin, Northern Territory Housing Commission) on an agency basis during the reconstruction period.

14 Whilst the Committee agrees that the Commission needs to have full authority for the reconstruction of Darwin, it considers that the principle it recommended in its original report in respect to the urban land function should not be altered.

15 Before the Darwin Reconstruction Commission has completed its task the Committee would expect that negotiations take place for the transfer of the Darwin urban land function to the Territory Executive. In the meantime, the urban land function in respect to towns outside Darwin could be the subject of negotiation for transfer.

Administrative Capacity

16 The Committee was asked to have regard to :

whether there is sufficient administrative capacity within the Northern Territory to encompass the transfer of functions within the timetable originally envisaged.

17 Substantial evidence was given to the Committee on the accommodation and staffing difficulties of the Department of the Northern Territory arising from the

devastation by cyclone Tracy. Evidence was also given that this has reduced the administrative capacity to encompass the transfer of functions.

18 Because of the reduction in administrative capacity it was suggested to the Committee that consideration be given to delaying, either wholly or in part, the transfer of executive functions to the Northern Territory Legislative Assembly.

19 In its original report the Committee noted evidence (paragraph 55) that it would take 2 to 3 years to implement the major changes that will be necessary. The Committee did not, however, make a specific recommendation on a timetable for the transfer of functions but concluded (paragraph 72) that statutory authorities and functions of local significance administered by Australian Government departments could be transferred to a Territory Executive as soon as possible. It recognised (paragraph 73) that the functions to be transferred should be the result of negotiations between the Australian Government and the Territory Executive.

20 Whilst the Committee does not make any recommendations on the timing of the transfer of functions, it recognises that there could be delays due to problems arising from cyclone Tracy, particularly in respect to functions of local significance.

21 The Committee emphasises that negotiations for the transfer of functions should include, by implication, the timing of transfer of such functions. This view is supported by the bulk of evidence given to the Committee.

Conclusion on variation of recommendations

22 In view of the evidence as discussed in paragraphs 5-21, the Committee concludes that it should not vary, because of the devastation caused by cyclone Tracy, any of the recommendations it made in its original report.

3 CONSULTATION AND CO-ORDINATION

23 In its original report the Committee stressed the need (paragraphs 113 and 115) for continuing and close consultation and co-ordination of effort between the National and Territory Executives on a wide range of matters of interest to both parties. This was emphasised by the Chairman when tabling the report in the Parliament.

24 To achieve this end, the Committee recommended (paragraph 118) that one Australian Government Minister have the executive responsibility for all "state-type" functions retained by the Australian Government and that the administration be vested in one Australian Government department, and that a committee comprising the Minister for the Northern Territory and "Ministers" of the Territory Executive be established to co-ordinate and consult on major issues.

25 Cyclone Tracy and the evidence received during the second Inquiry has emphasised the need for even more consultation and the implementation of the above recommendations.

26 Evidence was given that as many as 8 Australian Government departments may be involved in even minor "state-type" decision-making activities in the Territory - meetings are necessary and the process is long and time consuming. These problems could be readily overcome if the one Australian Government department was responsible. In addition, there is evidence that there has been a breakdown in consultation between Australian

Government departments on "state-type" matters in many areas and that there has been a virtual delegation of authority back to Canberra. The evidence re-affirms what the Committee said in its original report (paragraph 116), namely that the administration of all "state-type" functions in the one Australian Government department would avoid duplication of effort and lack of co-ordination. In support of this view there was evidence that in the emergency situation following cyclone Tracy committees created spontaneously under the overall control of the Director of Emergency Services, worked very efficiently.

27 Evidence was given on the lack of consultation between the Australian Government and the Territory Executive on "state-type" legislation affecting the Northern Territory introduced in the Australian Parliament. In its original report the Committee recommended (paragraph 60(b)) that all such legislation should be introduced into the Legislative Assembly and not the Australian Parliament.

28 On the question of the establishment of the committee of "Ministers" (see paragraph 24 of this report), it was stated in evidence that this could be fairly meaningless until all "state-type" functions were under the control of the one Australian Government Minister. This Committee does not necessarily endorse this viewpoint but considers that the committee of

"Ministers" should be established to consult and co-ordinate on :

- (a) the transfer of statutory authorities and functions of local significance which are the functional responsibility of the Minister for the Northern Territory; and
- (b) other major issues, including the example given in paragraph 27 of this report.

Recommendations on Consultation and Co-ordination

29 The Committee re-affirms its earlier recommendations (paragraph 118), namely :

- (a) that one Australian Government Minister have the executive responsibility for all "state-type" functions retained by the Australian Government and that the administration be vested in one Australian Government department; and

- (b) the establishment of a committee comprising the Minister for the Northern Territory and "Ministers" of the Territory Executive to co-ordinate and consult on major issues, this Committee being chaired by the Minister for the Northern Territory and meeting as required

and recommends that they be implemented as soon as possible.

May 1975

A.W. JAMES
Chairman

APPENDIX

LIST OF WITNESSES
AND
SUBMISSIONS RECEIVED

AH TOY, MR L.C.	Treasurer, Northern Territory Chamber of Commerce.
BRENNAN, ALDERMAN H.	Mayor of the Corporation of the City of Darwin.
ELLIOTT, MR M.R.	Executive Director, Master Builders' Association of the Northern Territory.
EVERINGHAM, MR P.A.E. M.L.A.	Deputy Leader of the Majority Party, Legislative Assembly of the Northern Territory.
FEJO, MRS E.	Councillor, Bagot Council.
GIESE, MR H.C.	Private Citizen, Myilly Point, Northern Territory.
HAIR, MR J.	Director, Chamber of Industries.
LAWRIE, MRS A.D. M.L.A.	Member of the Legislative Assembly of the Northern Territory.
LETTS, DR G.A. M.L.A.	Leader of the Majority Party, Legislative Assembly of the Northern territory.

McHENRY, MR R.W.	First Assistant Secretary, Department of the Northern Territory.
MILNE, MR M.E.	Manager, Civil and Civic Pty Ltd, (Darwin).
O'BRIEN, MR T.A.	Secretary, Department of the Northern Territory.
STACK, DR E.M.	Alderman of the Corporation of the City of Darwin.
TIPUNGWUTI, MR R.	Councillor, Bagot Council.
WALTERS, MR J.B.	Secretary, Northern Territory Branch of the Australian Labor Party.
WITHNALL, MR R.J. M.L.A.	Member of the Legislative Assembly of the Northern Territory.

The following presented submissions which were incorporated in the transcript of evidence :

LEY, MR F.L. O.B.E.	Chief Australian Electoral Officer, Australian Electoral Office, Department of Services and Property.
MARKS, MR G.	Private Citizen, Alice Springs.