

20 October 2006

The Secretary
House of Representatives Standing
Committee on Legal and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

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Dear Secretary,

I refer to my email correspondence with Dr Mark Rodrigues and submit comments regarding the House of Representatives Standing Committee on Legal and Constitutional Affairs inquiry into Northern Territory statehood.

I am Professor of History and a former Dean of the Faculty of Law, Business and Arts at Charles Darwin University. I have published extensively on Australian political history, Northern Territory history and Northern Territory politics. I am also a former President of the Australian Historical Association, the Historical Society of the Northern Territory and the National Trust of Australia (Northern Territory). I was made a Member of the Order of Australia in 2003. I resided in Darwin between 1981 and March this year. I have travelled very widely within the Northern Territory, including to remote Indigenous communities. While for family reasons I am now based in Sydney, I frequently visit the Territory, which remains the focus of my research. I recently completed the manuscript of a book on politics and identity in the Northern Territory between 1978 and 2001 and am in the early stages of a study of history's role in the campaign for Northern Territory statehood. I strongly support statehood, which is the logical and necessary next stage in the Territory's political and social evolution.

Recent developments in the Northern Territory on the question of statehood

There was surprise among observers of Northern Territory politics when Chief Minister Clare Martin in May 2003 announced a new, community based, campaign for statehood. While in some respects the announcement was designed to appeal to what the journalist Nicolas Rothwell described as a 'fiercely insular brand of local patriotism' in the Territory (*The Weekend Australian*, 28-29 June 2003), the ill-fated 1998 referendum showed that statehood needed very delicate handling. The Chief Minister correctly appeared to believe that consensus on the matter – within the Northern Territory government, between the Commonwealth and Northern Territory governments, between the major political parties and, as far as possible, in the wider Territory community – was essential. She spoke of statehood being part of 'a maturing, the development of a more inclusive Territory, the sense of taking the political tension that was here out of the place' (*The Weekend Australian*, 28-29 June

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2003). In order for this to occur, however, agreement was likely to be needed on matters such as the ownership of parks, uranium mining and Indigenous affairs that had previously aroused considerable political tensions.

It was not until August 2004 that the Legislative Assembly established the Northern Territory Statehood Steering Committee. The Committee was chosen and commenced its work during the first half of 2005. Its 'community based' members include individuals from a quite wide range of backgrounds. Some were appointed as the representatives of various 'stakeholder groups'. While Committee members appear for the most part to be energetic and highly committed, the absence of anyone on the Committee with specialist skills in political history and/or political science is disappointing. The Central Land Council is a stakeholder group represented on the Committee but not the Northern Land Council. Neither of the Northern Territory's tertiary education institutions is represented. The Committee, on the other, hand sensibly includes two lawyers.

Since its establishment the Committee has been energetic and proactive. It is fortunate to have a Co-Chair, Sue Bradley, and an Executive Officer, Michael Tatham, who enthusiastically and effectively bring to their tasks the benefits of considerable and appropriate expertise and experience. Brian Martin, a former Chief Justice of the Northern Territory, has also been an excellent appointment to the Committee. The Steering Committee's report presented to the Legislative Assembly's Standing Committee on Legal and Constitutional Affairs in February 2006 indicates much constructive activity in a range of relevant areas. Worthy of particular praise are the efforts made to communicate with Territory residents during the Show circuit, the use of well structured surveys, visits to Indigenous communities, the informative and user friendly web site and the well written and easily understood fact sheets. The Committee is correct in its view that education remains the essential key to an understanding of statehood.

A major challenge for the Committee is not just to consult with and inform but also to enthuse Territory residents about statehood. In spite of various Territory governments' indefatigable attempts from 1978 to establish and strengthen a clear sense of local identity (for a fuller explanation here see David Carment, 'Unfurling the Flag: History, Historians, Identity and Politics in Australia and the Northern Territory', in *Journal of Northern Territory History*, no 16, 2005), there appears to be quite widespread community indifference to or misunderstanding of notions of local separateness and the related question of whether or not the Territory ought to become a state. Michael Kilgariff, a well known member of a prominent and pioneering Territory family, commented in July 2005 that, 'The degree to which people even want the Territory to be that different from the rest of Australia is changing... In 2001 nearly 25 per cent of Territorians did not even live in the NT only five years earlier... The old mantra of "this is the Territory and we do things different up here" ... is viewed as parochial, slightly humorous and maybe even quaint' (*Northern Territory News*, 16 July 2005). A Charles Darwin University classroom discussion on Northern Territory statehood in an Australian politics unit that took place later in 2005 showed that almost all the twenty or so students present had little, if any, interest in or commitment to statehood in spite of my own arguments supporting it. In explaining this, several said that they only saw themselves as temporary Territory residents. Others said that they were happy with the status quo. For many Indigenous residents, the sense of being 'Territorian', a word used with enormous repetition among Territory politicians and in the local media, is not of great importance. Some with whom I have spoken associate the word with non-Indigenous people and view successive Territory governments as incapable of properly understanding Indigenous

aspirations, rights and needs. Indigenous people in the Territory often see no reason to base their identity on a political entity that emerged as a colonial construct during the nineteenth century. Their sense of belonging is grounded in much longer established ancestral links. My impression is that the Committee is aware of and is addressing the issues that I raise here. The task ahead is going to be difficult but is achievable.

My only really substantial concerns about the Statehood Steering Committee's approach regard what I see as two unnecessary and misleading positions it has adopted regarding the Commonwealth. Both weaken its otherwise convincing arguments in favour of statehood. I have been in correspondence with the Committee about these and I greatly appreciate Sue Bradley's thoughtful and detailed response. That has not, though, altered my views. It is vital that the chauvinistic 'Canberra bashing' that has sometimes been an unfortunate aspect of Territory politics does not, even if unintentionally, become part of the statehood campaign. First, to claim that the 'Northern Territory is not democratically governed because of the ability of the Commonwealth to override decisions of an elected NT Government' (*Northern Territory Statehood Steering Committee*, vol 1, issue 1, June 2006) fails to recognise that other, more significant, criteria for democracy such as freedom of speech and free and fair elections operate in the Territory and that in any democratic country with different levels of government there are restrictions on what those levels can and cannot do. The claim implies that the Commonwealth is undemocratic. Second, the statement that Territory residents lost 'equal rights as Australian citizens on 1 January 1911' (*Northern Territory Statehood Steering Committee*, vol 1, issue 1, June 2006) is, according to Sue Bradley's letter to me of 10 October 2006, based on the loss of parliamentary representation. The great majority of Territory residents in 1911 were of Aboriginal or Asian ancestry. Most either did not have the right to vote or, if they did (as was the case with Aborigines in South Australian elections), were nearly always unable to effectively exercise that right. Parliamentary representation took some years to be restored in the Territory but was in place before self-government in 1978, with, unlike the period before 1911, almost all adult citizens possessing an effective right to vote. Although the Territory's representation in the Commonwealth parliament is not constitutionally guaranteed, I cannot foresee any circumstances in which it is likely to be removed.

Another, but less substantial, concern is that the Statehood Steering Committee appears to have largely accepted on the basis of perceived current community views that there will be no change of name if the Territory becomes a state. The 'State of the Northern Territory' is just as illogical as 'The Republic of the Monarchy' and apparently ignores the meanings of 'territory' in Australia's federal constitutional context. When Van Diemen's Land achieved responsible government in the mid nineteenth century it altered its name to Tasmania to represent a new start and a break from an unfortunate past. There are powerful reasons for the Northern Territory, with its frequently disturbing history of inter-racial conflict and serious economic and social difficulties, doing likewise. I hope that the Statehood Steering Committee will consider a stronger position of leadership on this matter.

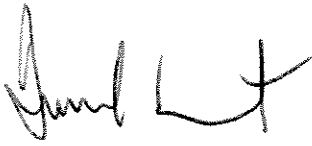
Emerging issues which may have implications for federal arrangements

The recent debate on a proposed radioactive waste management facility in the Northern Territory deserves some attention. The Commonwealth decision to locate the facility in the Northern Territory was at least in part because the Territory was not a state (see the persuasive *Northern Territory Statehood Steering Committee Fact Sheet 22 Statehood and the Proposed Radioactive Waste Management Facility*). It needs, though, to be remembered that the federal government's proposed sites are on

Commonwealth land. The Territory government chose a simplistic and ultimately counter-productive focus on 'Territory rights' in its campaign against the facility. The debate on the issue within the Territory that I have described in more detail elsewhere (David Carment, 'The Politics of Nuclear Waste in the Northern Territory', November 2005, in *Democratic Audit of Australia*, http://democratic.audit.anu.edu.au/papers/200511_carment_nucl.waste_nt.pdf) revealed that the community was deeply divided on the facility and that many people on both sides of the argument regarded relevant environmental and scientific matters as being far more important than the powers of the Territory parliament in relation to those of the federal parliament.

I wish the Standing Committee well in its endeavours.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Carment', with a stylized flourish at the end.

David Carment