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- 6 MAY 2003

29 April 2003

Senator Ross Lightfoot
Chairman
Joint Standing Committee on the National Capital and External Territories
Parliament House
CANBERRA ACT 2600

Dear *Ross,*

Norfolk Island Governance Inquiry

I refer to your letter of 4 April inviting me to make submissions in relation to the Terms of Reference of the above Inquiry.

I would be very happy to and indeed I would like to assist the Committee in its consideration of the matters raised in the Terms of Reference. From time to time since I ceased to be the Minister I have had some contact with Norfolk Islanders but I do not have an in depth knowledge of the current day-to-day administration.

The principles lying behind the system of government introduced in the late 70s as I recall them were:

1. To provide a framework within which consensus government could operate.
2. To encourage as far as practicable the adoption of Pitcairn traditions as the cultural heritage of the island.
3. To acknowledge that a diverse community with people coming from different countries (Australia, the United Kingdom, New Zealand) together with the Pitcairnians would necessarily have a different perspective of how they should be governed and their involvement in that government than would mainland Australians.
4. To acknowledge the Pitcairn tradition of self help but also of community care for those in need by allowing the islanders to sustain their own welfare system

except to the extent that those living there might be entitled to pensions or other benefits from Australia or the other countries from which they came.

5. A realistic acceptance of the fact that there would be some services e.g. the airport, large public works such as sewerage, which would be probably beyond the means of the 2,000 islanders to sustain and therefore would need some substantial assistance from the Australian government in providing and sustaining them.
6. To ensure that Norfolk Island did not become and was not used as a tax haven but nevertheless leaving its residents free of Australian income tax in respect of income from sources in Norfolk Island and overseas.
7. To place the responsibility of raising revenue, otherwise, for the local economy on the administration in Norfolk Island through existing systems of taxation e.g. customs duty, leaving them free to adopt other measures through their Legislative Assembly and encouraging them to develop the sale of stamps which had in the past been a very fruitful source of revenue.
8. An acknowledgement that the promotion of tourism was vital to the economy of Norfolk Island and that it should be encouraged as a source of revenue to local business. At the same time this required the Australian government to ensure that a viable airport and air service was available through private enterprise or perhaps through Qantas to the Island.
9. To ensure that the pattern of government in Norfolk Island was broadly consistent with the Westminster System as had been done in other territories such as the Northern Territory. There, in addition to a form of self governing legislature from which the Executive was appointed, there was an Administrator who represented, in effect, the Crown. At the time, and I suspect, still, strong bonds existed between the Crown in the sense of the British Crown and the Islanders.
10. It was also important to make it clear that Norfolk Island was part of Australia because there was a tendency to regard the relationship of Norfolk Island to Australia as being that of a trust territory thereby justifying a claim that it was a trust territory within the United Nations Charter. This view may still be about. My own view at the time was that, although this clearly should not be encouraged, nevertheless, one had to recognise that, it being a population of people with different backgrounds living on an island remote from the Australian mainland, a measure of independence should be expected and accepted. There are many articulate people among the population who probably encourage it. A lot therefore depends on the Administrator to tread a delicate line between an insistence that Norfolk Island is part of Australia and this sense of independence. My judgment is that this has largely worked but this is an observation that I now make from a distance. Norfolk Island has, I understand, had a separate status among other Pacific Islands and I think that is a useful way of acknowledging its position.

11. So far as education was concerned the aim was to ensure that a high standard of education was maintained with assistance from the Australian government and to sustain it up to high school though perhaps not to Higher School Certificate level. The aim was to enable the young people to be educated on the Island if they chose but with the capacity to attend and fit into mainland upper secondary and tertiary institutions.

I sense that these guiding principles may have worked reasonably well and I think it would be wise for the Federal Parliament not to engage in too much social or constitutional re-engineering for the sake of it unless social or economic conditions have substantially changed and require it. The election of a Chief Minister or fixed terms of government may well be justified but they would, in my view, need to be changes with which the residents of Norfolk Island were in sympathy.

Because of the principle of consensus, which I regard as important, the election of a Chief Minister may give too much importance to a single individual and foster division. I regarded the adoption of a Westminster type system as more in keeping with the encouragement of consensus style government. The appointment of an independent speaker for the Assembly might be considered but this could itself create tensions between the Speaker and the Chief Minister in such a small legislative framework. This I would imagine is why the office of Chief Minister and Speaker has at times been combined in the same person.

Fixed terms of government do tend to solidify constitutional situations and make it difficult to introduce change when the population want it. Unless there is instability in the government on the Island through constant elections I think the flexibility which the current system gives would be more consistent with what is required to encourage consensus and discourage party type government.

I have set out above some thoughts about the background and some of the matters raised specifically in the Terms of Reference. However my preference would be, if the Committee wished it, to appear and give oral evidence not necessarily in camera but after some consideration had been given to other submissions and after the Committee had identified the matters (if any) which it might seriously consider recommending as changes to the current system. I could then respond orally in as helpful a way as I could.

You will appreciate that I still have a strong affection for the people of Norfolk Island and also for the reforms that were introduced whilst I was the Minister and would be keen to assist.

Yours sincerely



R J ELLICOTT QC