

Introduction

Background to the inquiry and reference to the Committee

- 1.1 On 1 November 2000, the then Minister for Regional Services, Territories and Local Government, Senator the Hon Ian Macdonald, referred matters relating to eligibility to vote and candidature for the Legislative Assembly of the Territory of Norfolk Island to the Joint Standing Committee on the National Capital and External Territories. The full terms of reference are set out at the beginning of this report.
- 1.2 The inquiry arose following the report in August 1999 of the Senate Legal and Constitutional Legislation Committee (Senate LCLC) on the Norfolk Island Amendment Bill 1999, and the Senate's subsequent rejection of that bill in March 2000.
- 1.3 In addition to altering a number of other unrelated items,¹ the Bill sought to regularise anomalies in Norfolk Island voting and citizenship requirements, which differ significantly from those of other Australian jurisdictions.
- 1.4 The proposal to refer the matter of electoral reform on Norfolk Island for further inquiry and consultation appeared as a recommendation in the dissenting report of the non-government members of the Senate LCLC. The dissenting Senators expressed the view that:

1 The Norfolk Island Amendment Bill 1999 sought to amend the *Norfolk Island Act 1979* in three areas: the appointment of Deputy Administrators, Commonwealth oversight of firearm legislation and electoral issues, only the last of which is relevant to this inquiry.

the matters of electoral reform contained in this Bill require wider consultation and much more consideration than the Senate Legal and Constitutional Committee was able to give.²

- 1.5 The non-government Senators recommended that the Bill not be proceeded with and that the matter of electoral reform in Norfolk Island be referred to the Joint Standing Committee on the National Capital and External Territories (JSCNCET) for an inquiry which would include consultation with the Norfolk Island Government and the residents of Norfolk Island.
- 1.6 Concerns about insufficient consultation were also expressed during debate on the Bill in the Senate, where the non-government parties again suggested that the electoral issues should be referred to the JSCNCET. The second reading of the Bill was resolved in the negative in the Senate on 9 March 2000. The Minister subsequently referred the matter to the JSCNCET, which adopted the reference on 29 November 2000.
- 1.7 The inquiry was advertised in *The Australian* on 6 December 2000, in *The Norfolk Islander* on 9 December 2000 and on the Committee's website.

Conduct of the inquiry

- 1.8 Non-government Senators who opposed the Bill in 1999 did so partly because they felt that there had not been sufficient consultation with the Norfolk Island community about the electoral issues. The Norfolk Island Government of the time made an extensive submission to the Senate LCLC, and some members spoke at length to that committee at a public hearing in Sydney, but the Senate Committee did not travel to Norfolk Island at that time.
- 1.9 The Joint Standing Committee was conscious of the need to address this perceived shortcoming. The Committee endeavoured to ensure that every opportunity was given to Norfolk Island residents to make submissions to the Committee, as it believed that the issues were significant. It allocated a full day for public hearings on Norfolk Island on 22 March 2001, and also held a hearing in Canberra on 2 April 2001. The Norfolk Island hearing was publicised in the local newspaper, and, where possible, the Committee contacted people who had made a submission to the Senate inquiry. At the public hearing on Norfolk Island, the Chairman made a

2 Senate Legal and Constitutional Legislation Committee, *Consideration of legislation referred to the committee: Norfolk Island Amendment Bill 1999*, August 1999, p. 25.

statement inviting further submissions, and leaflets encouraging a further response and providing contact details for the Committee were made available. Submissions continued to be accepted throughout the inquiry. Some Islanders also took the opportunity of sending in relevant background material which became Committee exhibits.

- 1.10 In response to a request from the Norfolk Island Government (NIG) to present further evidence following the public hearing on Norfolk Island, the Committee agreed to representatives of the NIG appearing at the hearing in Canberra on 2 April 2001, scheduled to hear evidence from the Territories Office of the Department of Transport and Regional Services. Bad weather prevented the NIG group from travelling from Norfolk Island for that hearing, but the Committee agreed to accept in writing any further evidence that the NIG wished to present. No further submission was received from the Norfolk Island Government of the Ninth Assembly.
- 1.11 The inquiry lapsed with the dissolution of the 39th Parliament on 8 October 2001. The National Capital and External Territories Committee was re-established on 14 February 2002 in the House of Representatives and 15 February 2002 in the Senate. On 5 April 2002, The Hon Wilson Tuckey, MP, Minister for Regional Services, Territories and Local Government, re-referred the inquiry to the Committee. Given the lapse of time since the last hearings, letters were sent to all previous witnesses to the inquiry asking for any further information in relation to the matter. Three submissions were received and considered by the Committee in the context of the draft report.
- 1.12 The Committee became aware of certain misconceptions among Norfolk Islanders who gave evidence. One was that evidence given in person carried more weight than that presented in writing. The Committee wishes to emphasise that all evidence was given full consideration, and that written submissions and transcripts of public hearings were provided to all Members of the Committee.

Committee concerns

- 1.13 The Committee was required to conduct *in camera* hearings and to receive confidential submissions for this inquiry. The Committee is concerned that, although a number of people expressed opinions contrary to that of the Norfolk Island Government, few of those people were prepared to speak in public about their views. While some witnesses were prepared for their opposing views to be published by the Committee, they stated

that they were fearful or uncomfortable about presenting them in a public forum. The Committee is concerned that some witnesses who gave *in camera* evidence expressed fear of recrimination for speaking to the Committee.

1.14 One correspondent who is a Temporary Entry Permit (TEP) holder stated:

I ask you not to include [my letter] in the public submission record. It bothers me that I have to ask this and I think that this in itself is a matter of concern, that open criticism or opposing views are not tolerated on the island, particularly by people who have no rights.

1.15 The Committee has noted that people who do not attach their names to letters to the editor of the local newspaper, *The Norfolk Islander*, especially TEP holders, are often responded to with derision, and that reasonable arguments are mocked or dismissed as evidence of ignorance of local ways. Some respondents imply that a TEP has no right to offer suggestions or criticism, and express the attitude that ‘if you don’t like the way things are here, leave’, which appears both intolerant and short sighted, given the extent to which Norfolk Island residents depend on the services and expertise provided by TEP holders.

1.16 The Committee is concerned that if intolerance of this kind is displayed openly in signed, public letters, then it is quite reasonable to believe that some people with opinions which challenge the status quo may not have come forward to express them to the Committee. The Committee believes that the strength of a democratic society can be measured by the degree of tolerance it displays for ideas that differ from the mainstream. Any measures that are taken to reduce opportunities for people to make their opinions known may be seen as measures which could undermine the strength of a democratic community.