Territory-Canberra Relations
The past, present and future

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INTRODUCTION

The Northern Territory is currently facing a serious financial crisis. If you had any doubt about that, Senator Walsh’s harsh comments during the recent 4 Corners program should have convinced you. As a consequence of this financial crisis, in the coming months and years each and every Territory resident will pay more. You and I will pay more taxes, more stamp duty, more for electricity and more for water. At some time we’ll get less.

The financial crisis has been brought about by an extraordinary combination of political, constitutional and economic factors which have adversely affected the fragile relationship between the Territory and Canberra. In this article I want to consider the past, present and future of Territory-Canberra relations. I want to explore how the Territory was placed in this financial crisis and how the Territory might approach its future so as to avoid a similar crisis re-occurring.

DEEPED IN SUSPICION AND REMOTE CONTROL

Tensions between the Northern Territory and Canberra have never been particularly good. Over the years Canberra’s approach to the Territory has been painted in many ways - arrogance and indifference are two of the more common descriptions. At the same time the Territory’s approach to Canberra has been steeped in suspicion and resentment. Between 1911 and 1968 the Territory was run by public servants appointed from Canberra. Territorians came to resent Canberra’s attitude that they were not capable of looking after their own affairs. It was government by remote control.

Some years ago Mr. D.E. Fairbairn a member of the House of Representatives described the position of Northern Territory residents. He said ‘the only way to deprive oneself of a vote in this country is either to be certified as insane, to be convicted of treason, or to move to the Northern Territory.’ [1] Even when Canberra allowed the Territory a seat in the House of Representatives in 1922 it did not allow that member voting or speaking rights. Indeed it wasn’t until 46 years later that the Territory’s sole representative in Canberra was given full voting and speaking rights. Territorians had to wait until December 1984, just over 8 months ago, before they were first able to vote in a national referendum.

In 1968 Canberra made some changes to the Territory’s constitutional status. These changes were largely cosmetic. Our MHR was granted full voting and
speaking rights and the locally elected or Territory membership of the Legislative Council in the Northern Territory was increased to a majority. The Canberra appointed public servant became a minority. Nonetheless, Canberra still tightly held the reins of power. Our MHR was still only one voice out of 124 and the Legislative Council had very limited control over the Territory’s affairs.

When the Whitlam government decided to establish a fully elected Legislative Assembly in the Territory things looked like improving. After the Legislative Assembly elections in October 1974, our legislature was, for the first time free of Canberra appointed public servants. But, still Canberra tightly held the reins of power. After Cyclone Tracey, Canberra placed Darwin’s future in the hands of the Darwin Reconstruction Commission. The Commission was controlled by Canberra. Many Darwin residents thought Territorians could do as good, if not a better job than the Canberra dominated DRC.

Despite all the promises, by late 1975 the Territory was still very much controlled by Canberra and Territorians were still suspicious and resentful of this state of affairs. Malcolm Fraser’s 1975 election promise to confer statehood on the Northern Territory within 5 years was typical of Canberra’s complete ignorance of the Territory’s feelings. What most Territorians wanted in 1975 was self-rule-control over their own destiny – not an enormous ill considered leap into statehood. It was one promise the Territory was pleased to see Mr. Fraser break.

POLITICAL PROMISES-A CONTRADICTION IN TERMS

Canberra has demonstrated its churlish attitude towards the Northern Territory over issues other than constitutional issues. Not the least of these is its refusal to comply with an agreement it made in 1907 with the State of South Australia to build a railway from Alice Springs to Darwin. For 77 years Canberra has been able to avoid meeting its obligations under that agreement because of the nature of the agreement and specifically because the agreement contained no term or period during which the work should be done.

When South Australia sued the Commonwealth over the agreement in 1962 the High Court found against South Australia’s claim. Mr Justice McTiernan described the 1907 agreement in this way [2]

Mr John Reeves, former N.T. M.H.R.

‘The promises on either side are of a political nature and both parties would understand at the time of the agreements were made, that this was the true nature of the promises. Their performance necessarily depends on executive and further parliamentary action, which is at the discretion of the respective government to take such action if and when they see fit to do so. This is not contemplated by either agreement and it is performance could ever be the subject of a judicial order. The real nature of the agreements is that there are no political arrangements between South Australia and the Commonwealth for co-operation between them on projects of national importance.’ The Northern Territory government should have had this decision fixed firmly in its mind in 1978, and afterwards, when the Territory’s financial arrangements were hammered out with Canberra.

SELF GOVERNMENT, THE MEMORANDUM UNDERSTANDING AND A FATAL ERROR

After backing away from its election promise of statehood within five years, the Fraser government acted on the recommendations of the committee on constitutional development for the Territory and
In train the move to self-government. On 1st July 1978, after waiting 87 years, the Territory finally attained real control over its own affairs with Territory self government. Assured finances from Canberra was the big advantage self government had over statehood. In this regard the lynch pin of self government was not the Self Government Act but the Memorandum of Understanding.

The Memorandum of Understanding contains the terms of the understanding reached between the LCP government in Canberra and the Everingham CLP government in Darwin. It is the basis for the finances the Territory receives from Canberra. In the post-1978 government the Territory government lost much of its suspicion of Canberra. In doing so it made a fatal error. Canberra, which had shifted the Territory's constitutional development throughout and ignored its obligations under the 1907 agreement to build the Alice Springs-Darwin railway, had not changed its spots.

Notwithstanding self government, given Canberra's historical attitude and the warning given by the 1962 case on the railway, the Territory government should have retained a healthy suspicion of Canberra and approached all its dealings with extreme caution. Canberra's refusal to give the Territory its two prime assets, Uluru and Kakadu national parks, at the time of self government should have made the Territory government even more suspicious and cautious. At very least the Territory government should have woken up to Canberra when the Fraser government forced a unilateral change to the Memorandum of Understanding in 1981 resulting in the Territory losing as estimated $160 million over the next 4 financial years.

Strangely, the Territory government did nothing. At stage has the Territory government given any sign of having done anything to ensure that the Memorandum of Understanding is legally enforced agreement with legislative backing. The sad fact is that the Memorandum of Understanding is no more than a political understanding they reached - probably over a bottle of scotch in the lodge.

It remains no term or period during which it will exist. It has not been supported by legislation. It is no more than a political agreement between two governments of a similar political persuasion. It has none of the constitutional legislative and legal backing that the various Commonwealth/State financial agreements have. It could be ignored by Canberra with much more ease than it ignored the 1907 railway agreement which was at least put in the form of an agreement and backed by legislation in both the Commonwealth and South Australian parliaments. And yet this document is the basis of the Territory government's financial existence worth $960 million to us last year.

It is a damning indictment of the Northern Territory government that it led us into a hostile political and economic climate without first protecting the very basis of our financial existence. The total lack of legal, legislative and constitutional protection for the Memorandum of Understanding is the root cause of the financial crisis we are now facing.

THE RAILWAY - GETTING OUR PRIORITIES WRONG

While the parlous state of the Memorandum of Understanding is the root cause of the financial crisis we are facing, it was brought to head by other matters which occurred after the election of the Hawke government in March 1983. The process went through four stages. Initially, the Northern Territory government welcomed the new Hawke government with open arms. The Chief Minister Paul Everingham met with the new Prime Minister Bob Hawke and they seemed to get on well. The Chief Minister attended the national economic summit in April 1983 and spoke of the importance of tourism to the Australian economy. Tourism has been the success story of the Northern Territory since self government. By April 1983 the massive Yulara tourist development was nearing completion and two new casinos had been built by Federal Hotels, one in Darwin and the other in Alice Springs.

By early 1983 the Territory needed Canberra to spend big dollars in the Northern Territory to launch the tourist industry into its next stage of development. Hundreds of millions of dollars had to be spent on airports, roads and national parks for the tourist industry. As well, hundreds of millions more were proposed for an air force base at Tindal and of course, the Alice Springs to Darwin railway. Not unusually
the Territory wanted all these things done immediately. Of course, Canberra had to pay; and it had other ideas. With the value of hindsight, it’s easy to say now that the railway was really a low priority for the tourist industry.

In 1982 about 60,000 people travelled to Alice Springs by rail, while over 200,000 travelled there by plane. Then as now the tourist industry needed new airports at Darwin and Alice Springs. It needed the Stuart highway to Adelaide sealed and it needed tourist facilities developed at Kakadu and Uluru National parks. Realistically, the railway came after all these.

STAGE 1 - THE RAILWAY CONFRONTATION

The announcement in the May 1983 economic statement that the Hawke government was not going to keep its promise to build the railway started a new era of confrontation between the Northern Territory and Canberra governments. Chief Minister Paul Eversingham declared war on Canberra over a project which was objectively a low priority in terms of our success industry, tourism, and at a time when the parlous state of the Memorandum of Understanding could allow Canberra to strike at the Northern Territory with ease. Using the railway as its centrepiece, the Northern Territory embarked on a widespread campaign of Canberra bashing. The project the Territory and the tourist needed most were lost behind the dust of the battle.

The Chief Minister became so obsessed with the railway that he said at one stage, the upgrading of the Stuart Highway would not be needed if the railway went ahead. Yet in the process, Paul Eversingham attracted national media coverage; and the intense dislike of most of the leading ministers in the Hawke government. Some would say such intense dislike is a measure of his success. That is probably correct for Mr. Eversingham personally but not for the Northern Territory. The ‘we want everything now’ confrontation between the Territory and Canberra over the railway was the first stage in bringing our current financial crisis to a head.

STAGE 2 - THE CASINO TAKEOVER

But for the casino issue, the dislike for Paul Eversingham in Canberra would have remained a small part of the mosaic that makes up national politics. To recount all the details of the casino issue would take forever. So far as Territory-Canberra relations are concerned, there are some important elements.

Firstly the Northern Territory government confiscated the assets of a major Australian company. For that reason alone the issue received national media coverage.

Secondly the confiscation was effected in an extraordinary way and for dubious reasons. It was an unprecedented intervention by a government into the activities of private enterprise.

Thirdly the Northern Territory government used public monies in the deal and chose to forgo gaming taxes it would otherwise have collected.

For each of these reasons the matter attracted the attention of Canberra. They discovered what they believed to be an abuse of government power and a flagrant misuse of at least some of the hundreds of millions it paid to the Northern Territory each year.

STAGE 3 - THE 1984 ELECTIONS

Eversingham’s victory on the 1st December 1984 meant two things to Canberra.

The Northern Territory electorate became a low political priority. It is a fact of political life that governments look after their own constituencies first. If they don’t, they don’t stay in power.

When I was elected the member for the Northern Territory in 1983 some ministers were far from ecstatic. I can well remember one [who must remain nameless but whose name is not difficult to guess] saying ‘why the hell did you win the Territory, now we’ll have to pay for it!’ He wasn’t joking. I understand he’s been rubbing his hands with glee since December 1st.

Canberra also regarded the result as a rejection of the program it put to the Northern Territory electorate. The program included the Darwin airport redevelopment, up grading the Stuart Highway and record levels of finance for the Northern Territory government. It interpreted the result as meaning Territorians preferred Paul Eversingham’s program which revolved around the railway and uranium.

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but the Canberra government now feels that it need
no longer give a priority to its rejected program for the
Northern Territory. It has eighty odd other electorates
to think of first when it comes to cutting up the
economic cake.

STAGE 4 - THE DEFICIT. THE $A AND
EXPENDITURE CUTS.

It was an open secret in Canberra after the 1984
budget that the 1985 budget following the predicted
election in December 1984, was going to be extra
tough. The government’s economic strategy was
based on the assumption that there would be an
increase in private sector investment over 84/85. The
government therefore planned to reduce its demands
on the money market by reducing the deficit in the
1985 budget.

Then the $A started to slump and it became absolutely
essential for the government to reduce the deficit to
offset the adverse affects of the dollar’s devaluation.
Together, the other three stages I have already
mentioned, would not have been decisive in causing
our current financial crisis. This fourth stage is
decisive.

Unfortunately for the Northern Territory, the four
stages have occurred - the confrontation which
required relations, the casino fiasco which gave us
unusually adverse publicity, Paul Everingham’s election
losing the Territory to slip as a political priority, and
the absolute necessity for expenditure cuts.

Worse still the whole basis of the Territory’s financial
arrangements with Canberra, the Memorandum of
Understanding is not in a form which will offer us any
protection.

HOW SAVAGE WILL THE CUTS BE?

I must confess that I have been surprised by the
action of Canberra’s surgery. Its savagery gives
dimpetus to those who argue the Territory is being
punished for voting against the A.L.P. at the last
election. In fact Senator Walsh has always had that
feeling towards the Territory. I’ll tell you about the
electricity subsidy in a moment.

Moreover, it hadn’t occurred to me that Senator Walsh
was quite so far as breaking an existing agreement on
service superannuation contributions. And, I

thought the Darwin Airport might be delayed a year or
so, but not stopped completely! Given those decisions
none of the other major Commonwealth capital works
programs is safe. Included in the list is the Tindal air
force base, the accelerated upgrading of the Stuart
Highway, the Gove Meteorological Station, the Alice
Springs and Tennant Creek airport upgrades and
the Kakadu tourist plan. The defence budget has been
badly affected by the slump in the $A. That devaluation
has apparently added some $400 million to the cost
of overseas defence purchases. In the circumstances,
it would not be surprising to see Tindal shelved or
delayed. The other projects mentioned will either be
scrapped or delayed.

As a result the tourist industry will suffer. Katherine
will not expand as predicted. In general, the
development of the north will be stalled. But that’s
not all. Apart from the capital works programs,
Canberra provides about 86 per cent of the Territory
government’s one billion dollars plus annual budget
under the Memorandum of Understanding.

The Grants Commission has recommended a $15
million minimum decrease in the Territory’s tax
sharing grant. Its report has been greeted with a great
sigh of relief by the Territory government. It’s worth
noting that the Territory government will have to
increase revenue including taxes by over ten percent
to cover that short fall.

More importantly, the Grants Commission’s recom-
dendations have been grossly understated. In fact if
you compare the amount we would have received
under the Memorandum of Understanding this year
with the amount we are likely to get from Mr. Walsh,
the shortfall is about $60 million (Note: Mr. Keating
recently said the grants will be limited to an 8%
increase. Under the Memorandum of Understanding
the increase would be in the vicinity of 15% increase).

Even worse, if the Grants Commission applied the
factor assessment method of calculating our grant,
the cut would be around $100 million. Despite all
this, there seems to be a feeling around the Territory
that Canberra will not touch the Memorandum of
Understanding. It is wishful thinking in the extreme to
imagine that the Memorandum of Understanding will
be left unscathed in the 1985 budget.

As has already been observed, the Memorandum of
Understanding is not legally binding on the present,
nor any future government in Canberra. If it were, the Territory might be able to avoid the extent of the current financial crisis. In this area there's no need for predictions. Most of our fate has already been spelled out for us. Specifically we are almost certain to see the deletion of that part of the tax sharing formula which gives the Territory an allowance for population increases. As well, Canberra will probably alter [to the Territory's detriment] the arrangement whereby Canberra meets the interest on loans raised for the Territory. And finally, Canberra may scrap special funding schemes like BTEC.

Any one of these measures will cost the Territory government and ultimately every Territorian a lot of money. I hasten to add that based on the public service superannuation precedent there are probably many more areas for cuts that I haven't even thought of.

Finally, there is the Electricity Subsidy. The only doubt about that is whether it will be scrapped in one year or over a few years! In May 1983 when Senator Walsh was the Minister for Resources and Energy he had plans well advanced to scrap the subsidy. It was only intervention by the Prime Minister after approaches from Bob Collins and myself that saved it. I wish I was in the position to do that again, but I'm not.

As these decisions start to affect us all, the cost of living will go up, unemployment will go up and our industries, particularly tourism, will falter. Industrial disputation will increase as public service and other groups lose many conditions of service. We'll all pay more to the Territory government in taxes and charges.

Electricity charges will probably 'go through the roof'. At the same time services will be reduced by the Territory government. There will be cuts in education, health, sports and social welfare funding—to mention a few. It's difficult to put a $ figure on all this but in round figures in 1985/86 the Territory could lose as much as $140 million. [Note: $75 million electricity subsidy; $60 million tax sharing; $7 million interest; $1 million superannuation].

In summary, the outlook for the Territory in 1985 is very bad indeed. I must say I don't like being so gloomy and I hope I am quite wrong. Only time will tell.

STATEHOOD - BETTER OR WORSE OFF?

As I have already observed, the main advantage government has over statehood is the special financial arrangements incorporated in the Memorandum of Understanding. The statehood defence was dropped from the political agenda by the North Territor government when the financial disadvantages of statehood became obvious. However, if Canberra takes away those special financial arrangements it will take away the main argument for self government against statehood.

If the current financial crisis results in the North Territory being put in the same financial position as the state there are many good reasons why it should put in the same constitutional position as a state.

To begin with, as a state, the Territory would be entitled to have the Uluru and Kakadu National parks transferred to it. It would also be entitled to corriuranium mining and aboriginal land rights. V many people will shudder at the thought of such transfer of powers it has to be remembered Canberra would still have ultimate constitutional control over both areas of responsibility as it presides in the States.

As a state, the Territory would have an irresistible argument for equal representation in the Senate. Senate was established as the 'States' house simple terms that meant the states were to be equally represented in the Senate regardless of population. Equal state representation in the Senate is important principle upon which our federal state was constructed. Thus any less than equal representation would be, to use the colloquial, a sellout.

With equal representation, our numbers in the Senate would increase from 2 to 12. Such an increase would substantially boost the Territory's significance in the numbers game in Canberra.

Again, many people will shudder at the thought of extra politicians when we already have too many, but solution is to reduce the number of politicians in Legislative Assembly by about 10. Such a step would also increase the numbers where they are needed in Canberra. This would give each Legislative Assembly member 5000 constituents to look after—a massive task and it would save money at the same time.
There will probably be opposition to granting an area with a population of 140,000, twelve senators. However, when Tasmania became a state with equal representation in the Senate [in 1856] it had a population of just over 190,000. Of course Tasmania’s population has increased about 3 fold since federation. On present estimates the Territory will have a population of about 190,000 in about 990 – 5 years away.

But there is a far more important reason for reactivating the statehood debate at this time while we are facing savage cuts from Canberra. That reason is this: The major political parties may slip behind in the Canberra numbers game with the admission of a new state. Specifically, the minor parties would probably increase their hold over the balance of power in the Senate.

Under the Senate’s proportional representation system the quota for the election of 12 senators in the Territory would be just over 5,000 electors. The minor parties would therefore have a good prospect of picking up a number of Senate seats in the Territory. It would therefore be in the interest of the major political parties to discourage any strong move to statehood by maintaining the special financial arrangements in the Northern Territory.

The way things are at present the Territory needs all the help it can get. For this reason alone, reactivating the statehood debate may be a sensible tactic. In any case the Territory cannot remain in a state of constitutional limbo forever, relying on the whims of Canberra for a decent financial deal.

There are a number of constitutional and political hurdles that have to be faced in a move to statehood. They will take many years to sort out. The sooner we sort the better. The sooner we can set a course for a secure constitutional and financial future for the Territory, ignoring the issue is folly.

APPROACH FOR APPROACHING STATEHOOD

Mr. D. Lumb considered this matter in an article he wrote for the Australian Law Journal in 1978 [3]. He pointed out that the Northern Territory has a highly diverse population and that the state government may find it difficult to implement policies that are consistent with the rights of indigenous people. He also noted that the Northern Territory has a unique culture and history that should be preserved.

CONCLUSION

There are few bright spots in the past and present aspects of Territory-Canberra relations. However, if, as a result of this crisis we end up being treated as a state financially, we have little to lose and much to gain by a move to statehood. Indeed, we should accept that self government is really only a half way house and the sooner we establish our future constitutional course the better. Only then will we have a relationship of equals with Canberra. Only then will we truly control our own affairs.