

# Northern Territory Parliamentary Report

**Robyn Smith\***

## *Introduction*

The period under review ended with a looming general election<sup>1</sup> for the Northern Territory's 25-member Legislative Assembly. The election is expected before the end of the year, most likely August or September, with Paul Henderson putting himself to the Northern Territory electorate for the first time since assuming the Chief Ministership in November 2007.

The election will be interesting given that a redistribution earlier in the year removed the key Darwin northern suburbs seat of Millner, reducing northern suburbs seats to six from seven. Elections are traditionally won and lost in Darwin's northern suburbs so they carry strategic importance for both the Australian Labor Party (ALP) and Country Liberal Party (CLP). The seat of Millner has effectively been absorbed into other seats, and a new electorate of Fong Lim<sup>2</sup>, well away from the northern suburbs, has presented a challenge for the sitting Member for Millner, the ALP's Matthew Bonson. The Central Australian seat of Barkly, held by the ALP's Elliot McAdam, has been re-named Buchanan<sup>3</sup> and has been extended north to the outskirts of Katherine.

## *Historical Overview*

A limited form of self-government commenced in the Northern Territory on 1 July 1978. From that time until the general election of August 2001, the Country Liberal Party governed the Northern Territory. Clare Martin led the ALP to an historic victory in 2001 and, whilst it was not a landslide win, Labor governed in the Northern Territory for the first time. The general election of June 2005 did result in

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<sup>1</sup> The Chief Minister has between 1 July this year and June next year during which he may call an election.

<sup>2</sup> Named after former Darwin Lord Mayor, the Late Alec Fong Lim

<sup>3</sup> After pioneering drover Nat (Nathaniel) Buchanan

a landslide victory to Martin and the ALP and reduced the Country Liberal Party to four members in the Legislative Assembly.

The table below lists Chief Ministers of the Northern Territory since self-government in 1978:

**Table 1: Chief Ministers of the Northern Territory, 1978-present**

Chief Minister	Party	Dates	Time	Demise
Paul Everingham*	CLP	010778–161084	6y, 3m	Resigned to contest House of Reps
Ian Tuxworth	CLP	171084–140586	1y, 7m	Challenged
Steve Hatton	CLP	150586–130788	2y, 2m	Challenged
Marshall Perron	CLP	140788–260595	6y, 10m	Retired
Shane Stone	CLP	260695–080299	3y, 8m	Challenged
Denis Burke	CLP	090299–260801	2y, 6m	Electoral defeat~
Clare Martin	ALP	161001–261107	6y, 1m	Resigned
Paul Henderson	ALP	261107–present		

\* Everingham was the Majority Leader in the Legislative Council prior to 1978.

~ Burke held his seat of Brennan, but the CLP lost the election.

Whilst the history of self-government is relatively short there have been some turbulent times and the Northern Territory has been the centre of national and international media attention, often for less than desirable reasons. Examples include the rambunctious Chief Minister Paul Everingham calling a 3am media conference in 1984 to announce his government's intention to acquire the Darwin and Alice Springs casinos from Federal Hotels, the company his government engaged to operate them. Chief Minister Ian Tuxworth was beamed around the world media when in 1985 he received a larger pay packet than the Prime Minister. The Territory made international headlines when in 1993 a Minister of the Crown during a media conference wrapped a microphone cord around the neck of a journalist and yanked it, giving rise to a wail of 'Oh, Minister!' from a minder at the back of the room. He was charged, found guilty and placed on a bond to be of good behaviour. Also in 1993 an opposition member confessed to stealing items from Parliament House (including a microwave oven) and pawning them to support habitual gambling. January 1994 proved interesting when a government back-bencher head-butted and punched a journalist in a Darwin bar, later conceding 'I snotted him'. This was not the member's first indiscretion. That notwithstanding, he was promoted to the ministry in July of the same year. In 1997 a Minister of the Crown purchased gay pornographic videos in Sydney's Kings Cross and explained to the Assembly that they were for 'research' purposes. *Hot Firemen* and *Highway*

*Hunks* were ultimately tabled and remain in the custody of the Clerk. The same year Chief Minister and Attorney-General Shane Stone ‘attracted both criticism and ridicule’<sup>4</sup> when he conferred Silk upon himself. Three years later Chief Minister and Attorney-General Denis Burke described the Northern Territory justice system as ‘totally corrupt’, which cannot be reported as having impressed the Chief Justice or his judicial siblings.

The table below details the composition of the Legislative Assembly following general elections (by-elections excluded) since self-government in 1978:

**Table 2: Composition of the Legislative Assembly following General Elections**

Election	CLP	ALP	Ind	Nat
7 June 1980*	11	07	01	--
3 December 1983	18	06	--	--
7 March 1987	17	06	01	01~
27 October 1990	14	09	02	--
4 June 1994	17	07	01	--
30 August 1997	18	07	--	--
18 August 2001	10	13	02	--
18 June 2005	04	19	02	--

\* the Assembly comprised 19 members until the 1983 general election when it changed to 25. It remains at 25.

~ the Nationals fielded candidates in all 25 seats during the 1987 general election. Ian Tuxworth was the only successful candidate, and he was a former CLP Chief Minister who held his seat of Barkly. There was a second National Party member, Enzo Floriani, who won a by-election in the Alice Springs seat of Flynn in September 1988. He served only the balance of that term before being defeated at the 1990 general election contesting the new seat of Araluen, which absorbed the former seat of Flynn.

Whilst the foregoing may read like an extended episode of *Men Behaving Badly*, it tends to confirm that the Northern Territory is something of anathema in the Australian political context. The image of Australia’s final frontier was a favourite during the earlier years of self-government when pragmatic populism was the catch-cry of the ruling Country Liberal Party and included highly public displays of righteous indignation over most decisions arising from the federal government’s *Aboriginal Land Rights (Northern Territory) Act 1976*. In something of a political irony, it is from the same institution that the Country Liberal Party derived its authority to govern the Northern Territory with state-like powers under the *Northern Territory (Self-Government) Act*.

<sup>4</sup> David Carment in *Australian Journal of Politics and History*, July-December 1997, Vol 44, 1998

## *Statehood*

On 3 October 1998 Territorians faced a referendum on statehood. Rather than the three questions recommended by the Constitutional Convention, Chief Minister Shane Stone rolled them into one and presented voters with a *fait accompli*:

Now that a constitution for a state of the Northern Territory has been recommended by the statehood convention and endorsed by the Northern Territory parliament, do you agree that we should become a state?

The 'constitution' referred to in the referendum question provided for the Premier to sack the Governor, which would render a Governor little more than a public servant and would potentially establish the state of the Northern Territory as a benign dictatorship.

Stone's term as Chief Minister was dogged by controversy, and the Statehood Convention held prior to the referendum was no exception. Delegates were appointed rather than elected, and Indigenous delegates walked out *en masse*. In the ensuing referendum, the Indigenous vote was a solid bloc and the question was narrowly defeated.<sup>5</sup>

Following Clare Martin's victory in 2001, she resurrected the issue of statehood for the Northern Territory during the Charles Darwin University Symposium. Martin pledged not to tie the statehood issue to the Territory's electoral cycle, and to embark on extensive community engagement prior to consideration of any further referenda or any discussion of terms and conditions with the Federal Government.

Thus the Statehood Steering Committee was formed and attached to the Legislative Assembly rather than a government department. The committee is made up of community members and has bipartisan support. Extensive community engagement has been undertaken and particular attention has been paid to Indigenous communities, which were largely ignored during the 1998 attempt. Indeed, following the Indigenous delegates' walk-out from the Statehood Convention, there was an Indigenous Convention at Kalkarindji (the site of the Wave Hill walk-off led by Vincent Lingiari) in August 1998. The Kalkarindji Statement arising from that convention declared:

The Aboriginal nations of Central Australia are governed by our own constitutions (being our systems of Aboriginal law and Aboriginal structures of law and governance, which have been in place since time immemorial). Our constitutions must be recognised on a basis of equality, co-existence and mutual respect with any constitution of the Northern Territory.

On the matter of statehood, the Statement included:

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<sup>5</sup> There was a 51.31% No vote.

1. That we do not consent to the establishment of a new State of the Northern Territory on the terms set out in the Draft Constitution adopted by the Legislative Assembly on 13 August 1998.
2. That we withhold our consent until there are good faith negotiations between the Northern Territory government and the freely chosen representatives of the Aboriginal peoples of the Northern Territory leading to a Constitution based upon equality, co-existence and mutual respect.

A further convention was convened at Batchelor in the Top End in November of 1998. The Batchelor Convention adopted and endorsed the Kalkarindji Statement. The message from both statements was clear: there would be no discussion about statehood unless and until Indigenous Territorians were consulted and included in negotiations.

On the eve of the 30<sup>th</sup> anniversary of self-government, the Statehood Steering Committee launched the next phase of its community engagement campaign: *Walking together towards Statehood*. On that occasion Co-Chair of the Committee Fran Kilgariff said the committee was working towards a Constitutional Convention in 2010.

The anniversary itself was a low key affair marked only by a flag-raising ceremony at Parliament House in Darwin and similar ceremonies at civic centres in other towns. Ordinary Territorians 'celebrated' somewhat differently: the first of July is cracker night, the loss of which rates as one the highest concerns about a grant of statehood.

### ***Indigenous Representation in the Assembly***

Indigenous representation is the highest it has been in Northern Territory political history, broadly reflecting the Indigenous proportion of the population. Following a by-election for the Central Australian seat of Stuart in September 2006, Karl Hampton joined his parliamentary colleagues as the sixth Indigenous member of the Assembly (and Government). The others are Alison Anderson (MacDonnell — ALP), Elliot McAdam (Barkly — ALP), Malarndirri McCarthy (Arnhem — ALP), Marion Scrymgour (Arafura — ALP) and Matthew Bonson (Millner — ALP). Only Bonson holds an urban seat.

### ***Leadership Changes***

In what was described as a 'bloodless coup' immediately following the federal election of November last year,<sup>6</sup> Chief Minister Clare Martin and her deputy, Father of the House Syd Stirling, unexpectedly resigned and served out their terms on the

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<sup>6</sup> The resignations were formally announced on Monday 26 November 2007; the Federal Election was Saturday 24 November.

back bench. Martin is the Territory's longest-serving Chief Minister (see table above). Paul Henderson became the Territory's second ALP Chief Minister and Marion Scrymgour his Deputy. Scrymgour is the first female Indigenous deputy leader of a party in Australia, Senator Aden Ridgeway being the first Indigenous deputy leader.

The Opposition changed its leadership, too. The general election of June 2005 resulted in Opposition Leader Denis Burke losing his seat to ALP challenger James Burke<sup>7</sup>. Jodeen Carney was elected Leader and remained in the position until January this year when she was challenged by former Opposition Leader Terry Mills. The four Opposition members were locked in a 2-2 vote. Carney was aware that CLP rules provided for a deadlock of this nature to be decided by the party President, whose confidence she did not enjoy, so she 'fell on her sword' and conceded the leadership to Terry Mills. Carney was the first female leader of the CLP<sup>8</sup> and represents the urban Alice Springs constituency of Araluen. Mills holds the only almost-Darwin seat for the Country Liberal Party; his seat of Blain is an urban Palmerston<sup>9</sup> constituency.

### ***Outgoing Members***

Four members of the Legislative Assembly have announced their intentions to retire at the next election. They are the ALP's Clare Martin, former Chief Minister, Syd Stirling, former Deputy Chief Minister, and Elliot McAdam, former Minister for Local Government. Independent Loraine Braham, who holds the urban Alice Springs seat of Braitling, will also retire. Stirling, who holds Nhulunbuy in Arnhem Land, is the Father of the House. Martin holds the inner Darwin seat of Fannie Bay. McAdam, when he first ran during the 2001 election campaign, declared that he would serve only two terms.

### ***Senate Committee Report on the Brown Bill***

On Friday 27 June, the Senate Standing Committee on Legal and Constitutional Affairs reported on the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008, a Private Senator's Bill sponsored by Independent Senator Bob Brown which was referred to the Committee by the Senate. *Inter alia*,<sup>10</sup> the bill seeks to repeal section 50A of the *Northern Territory (Self-Government) Act* and, by so doing, revive the Northern Territory's *Rights of the Terminally Ill Act*.

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<sup>7</sup> No relation and sheer coincidence of spelling.

<sup>8</sup> The CLP had a female President for a number of years, but the parliamentary wing had never been led by a woman.

<sup>9</sup> Palmerston is a satellite city to Darwin.

<sup>10</sup> The bill similarly affects the Australian Capital Territory and Norfolk Island as self-governing jurisdictions.

The Senate Committee was divided and Senators Barnett, Fisher and Trood produced a dissenting report effectively saying that Senator Brown's Bill should not proceed in any form. The Committee Chair, Senator Trish Crossin, supported by Senators Kirk and Marshall, recommended that an amended version of Senator Brown's bill should proceed:

These Senators do not necessarily support the legalisation of voluntary euthanasia, but rather are of the view that the territories should have the right to self-government without arbitrary interference from the Commonwealth.

Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008 Report, p 69.

These Senators were of the view that three amendments are necessary:

1. item 2 of Schedule 1 should be deleted and replaced with an item which specifically provides that the Rights of the Terminally Ill Act 1995 (NT) is NOT revived by the Bill;
2. a provision be included expressly removing section 50A from the Northern Territory (Self-Government) Act 1978 and equivalent provisions from ACT and Norfolk Island self-government legislation (rather than merely repealing the Euthanasia Act); and
3. clause 3 of the Bill should be amended to accurately reflect the legal position of the powers of territory legislative assemblies.

Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008 Report, p 72.

Evidence before the Committee, primarily legal opinion, was sceptical about automatic revival of the *Rights of the Terminally Ill Act* upon repeal of section 50A of the *Northern Territory (Self-Government) Act*, notwithstanding it was never repealed by the Northern Territory Legislative Assembly and has sat, impotent, on the statute books since 27 March 1997. It was the dominant view of legal experts that the *Rights of the Terminally Ill Act* would have to be re-enacted or different legislation introduced in the Legislative Assembly in its stead. Authority for this view varied but included section 8 of the *Acts Interpretation Act* (Cth) 1901, which provides that where an Act repeals a former Act, then unless a contrary intention appears, the repeal does not revive anything not in force or existing at the time when the repeal takes effect.

The Senate Committee also considered whether the Euthanasia Laws Bill 1996, itself a Private Member's Bill sponsored by Kevin Andrews, the Member for Menzies, was an appropriate application of section 122 of the Constitution, which affords the Federal Government plenary power to make laws for the government of any territory. Senators Crossin, Kirk and Marshall concluded that it was an inappropriate and arbitrary exercise of the power.

Senator Brown accepted the recommendations of the three Senators and will amend his Bill accordingly. At the time of writing, it is unclear when the bill will be further debated and whether the parties will allow a conscience vote. ▲