

## PUBLIC MEETING

**DARWIN— Thursday 11 August 1988**

PRESENT: —

**Committee:**

Mr T. Harris (Chairman)

Mr B. Ede (absent)

Mr W. Lanhupuy (absent)

Mr M. Perron (absent)

Mr R. Setter

Mr T. Smith

**Officers assisting the committee:**

Mr R. Gray (Executive Officer)

Mr G. Nicholson (Legal Adviser)

**Appearing before the committee:**

Mr Rod ELLIS

Ms Joan WILKINSON - representing the Trades and Labour Council

Mr Kevin ANDERSON - representing NT Community Government Association

Ms Susan ANDRUSZKO - representing the Darwin City Council

Mr John ANTELLA

Mr Noel LYNAGH - representing NT Local Government Association

Mr Raphael CROWE - Director, NT Confederation of Industry and Commerce

Mr Charles JEFFERIES

Mr Francis PERCEVAL

Mr Anthony HOSKING

NOTE: Edited Transcript.

Issued: 21 November 1988.

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Mr HARRIS: Before commencing could I just indicate that this is a select committee of the Legislative Assembly and, as such, evidence by witnesses demands the same respect as proceedings in the House itself. For the Hansard record, I ask witnesses to commence by stating their full names and the capacity in which they appear.

Mr ELLIS: My name is Rod Ellis and I appear with Joan Wilkinson. I hold the position of Assistant Secretary of the Northern Territory Trades and Labour Council and Joan Wilkinson is the Junior Vice-President of the Council.

Mr HARRIS: Thank you. We have before us a submission without prejudice from yourselves. Would you like to address that submission?

Mr ELLIS: Thank you, Mr Chairman. We said at the beginning of our submission, which is dated 14 June, that it was an interim submission. We said that very deliberately because the Trades and Labour Council, as the representative of organised labour in the Northern Territory, believes that many aspects of statehood will affect its constituents and that it may not necessarily be appropriate for the TLC to comment on many aspects of the statehood issue. In our interim submission, we have dealt in particular with the workings of a constitutional convention and the issue of representation on such a commission.

We want to make it very clear that, in dealing with those matters today, we are not debarring ourselves from entering into debate on specific issues as the matter proceeds. We would not like it to be thought that this was the final statement of the views of the Trades and Labour Council. We wish to be heard and represented throughout the discussions on statehood.

The front page of our submission states the policy of the Northern Territory Trades and Labour Council on statehood. That policy, determined at a formally and properly constituted meeting, is that the council rejects any move to have the Territory become a state.

The first reason for this policy relates to population. We do not believe that the Territory has a large enough population base to sustain a viable state. The figures from the Australian Bureau of Statistics, which are not disputed, indicate that the Territory's population is decreasing rather than increasing.

Yesterday I heard a comment by Michael Anthony. He is not someone I normally agree with or quote, but I believe that he was correct when he stated that the only reason many more people have not left is because the real estate market is so bad that people just cannot afford to sell up and leave. He said that if the real estate market was in any way decent, we would be faced with another huge exodus of population. I think that is right.

In fact, rather than attracting people to the Territory, the concept of statehood is causing them to leave. In this context, I refer particularly to the attack on remote locality conditions which has been based upon the argument that the Territory is no longer remote, that Territory workers no longer need specific remote-area conditions in awards and that the Territory is now looking towards statehood. That attack on workers' conditions is causing people to leave the Territory in great droves and, unfortunately, the federal government is in the process of continuing the attack. The Trades and Labour Council believes that the concept of statehood, rather than attracting people and increasing our population, is in fact decreasing it. The factors of climate, distance, cost of living and access to services remain as relevant today as they were in the 1940s.

Mr Chairman, when we say that the cost of living is extraordinarily high, it is sometimes believed that we do so in a trite manner. That is not the case. The reality is that figures from Bureau of Statistics indicate that a household in Darwin can expect to spend some \$620 a week on household expenditure. The next highest figure is \$497 in New South Wales followed by \$490 in Victoria, with Tasmania the lowest of all at \$400. The cost of living remains extraordinarily high here and is a huge disincentive in terms of bringing more people to the Territory.

The population base is vital in terms of creating a real and vibrant democracy, in providing a revenue base sufficient for a state, in generating an adequate level of services and in providing an appropriate range of cultural and entertainment activities. Our population base is simply not large enough to justify statehood at present. I do not think that anyone would be brave enough to say that, in the next 25 to 30 years, our population base will be sufficient for a viable state. This issue of population is a major factor in our argument for the rejection of statehood.

The second part of our argument against statehood is that the Northern Territory does not have a sufficiently large tax base from which to generate its own revenue. It is not our role to make an economic submission, but a brief look at the Territory budget shows that more than 80% of the Territory's revenue still comes from Commonwealth funding. We all remember with some bitterness the trite arguments that were thrown around at the time of self-government when we were told that it would cost no more than a can of beer per Territorian. Well that has been demonstrated to be totally false. The Leader of the Opposition, in a statement in the Sunday Territorian, said that our public debt level was such that nearly \$15 000 was owed for every Territorian. There was a huge outcry when Premier Greiner revealed that the New South Wales figure was \$8000, but here we owe twice as much.

I am familiar with the matter of unfunded superannuation for NT public sector employees. Without taking into account the liabilities which are not funded, in 5 years' time the superannuation liability will be \$247m. This flies in the face of the

baloney propagated by successive Northern Territory governments to the effect that our budget is balanced. It is not. We are running into serious debt problems, which are probably twice as bad as elsewhere else in Australia and that is with a self-governing Northern Territory that is only 10 years old. Heaven help us in the future!

When I looked at the budget last night, I was struck by what has occurred in relation to land sales. In the 10 years since self-government we have sold \$128m worth of public land. In 1985-86, government land sales realised about \$21m, which was 10% of total government revenue in that year. In 1986-87, land sales raised \$22m, which was 8% of total revenue. By 1987-88, the amount has slipped to \$10m, which is 3.6% of total revenue. The very serious question which arises is: have we been selling off the family silver? It appears to me that we have sold a fair bit of it. We have certainly sold off an amount worth \$128m and unless those people who have bought the land suddenly donate it back to the government, which I would think is unlikely, that revenue base has gone. It has been a significant one and the question which arises is: where will that revenue come from in the future? If it is to come from a population which is already 5000 less than it was last year and which is continuing to decline, it is clear that the Trades and Labour Council is correct in arguing that the Northern Territory does not have a sufficiently large tax base to become a state.

Our third argument, which is a matter of substance to us, deals with the industrial relations system in a state of the Northern Territory, and I will cover this in detail in due course

In its fourth argument, the Trades and Labour Council states that it is opposed to giving the Northern Territory government control of Aboriginal land rights due to the racist views of the government. The ACTU policy on Aborigines recognises that Aboriginal people are entitled to special facilities for the attainment of equal rights, equal opportunities and equal responsibilities. The ACTU adopts that policy with specific regard to wage discrimination, education and training, general welfare, housing, land rights and collective enterprises, rights to self-determination and the formation of a national Aboriginal consultative council. We consider that these things are very important, a view that is not held by people in power in the Northern Territory.

Mr SMITH: Sorry, can I interrupt you there Rod? The submission which I have, and I am not sure whether it is the same as the one you have, says that 'Appropriate guarantees of Aboriginal land ownership must be included in the Territory constitution.' I thought that the TLC's position was simply that Aboriginal land should not be transferred to a future Territory government.

Mr ELLIS: Yes. I was just stating the ACTU policy on Aborigines, which recognises particular specific rights of Aborigines. I was about to say further that the unions also support the Aboriginal Land Rights Act of 1976 as a measure which provided a legal mechanism for redress in that it allowed Aborigines to make claims over land in cases where they had been dispossessed, allowed for granted land to be held under inalienable freehold title, and provided for the protection of sacred sites, Aboriginal control over mining on Aboriginal land and access to royalty equivalents for affected Aborigines. It can therefore be said that the unions support the introduction of legislation to cover the registration and protection of sacred sites and the Land Rights Act of 1976. That, however, has not been a position that has been held publicly by the current Northern Territory government.

Mr SMITH: Yes, but would the TLC accept the transfer of the Commonwealth Land Rights Act if sufficient guarantees were placed in the Territory constitution?

Mr ELLIS: Item B on page 3 of our submission talks about sovereignty. I think it does make a statement. The reality is that the subject is probably better dealt with by other groups which will argue more strongly in support of the principles involved. What I am saying today is that we support the principles embodied in the Land Rights Act. We support the ACTU policy and our statement is clear. However, the Trades and Labour Council is not the appropriate body to deal with the legal and other mechanics of transfer of land for Aboriginal people, notwithstanding that our submission makes reference to the significance of the matter.

Page 2 of our submission talks about the justification for statehood and refutes the false statement that the cost of self-government was no more than a can of beer per Territorian. We believe that there should be a genuine justification for statehood. The argument that has been loosely put is that Territorians must be the equals of other Australians. I believe that is a false argument. If one asks the ordinary Territorian in the street if he or she believes him or herself to be less than the equal of a person living in New South Wales or any other part of Australia, the answer would be no. They are not concerned with that argument. I think the ordinary person in the street honestly shudders at the thought that we would elect 12 Senators from such a small population base. There needs to be a genuine justification for statehood, not just trite cliches

referring to costs of cans of beer or the need for equality. Equality exists already.

Our submission discusses the notion of a draft constitution. If there is to be a draft constitution developed by a Constitutional Convention, the process of putting it together must be very broad, enabling full consultation across the widest spectrum of interested parties. Already, probably without any deliberate intention, this select committee has run into trouble from people who have stated that they have not had sufficient time to consider the issues on which their input is sought. The select committee may reply to such people, saying that they have known about its activities for a considerable period and have had ample chance to develop points of view. The reality is, however, that any process of developing a draft constitution must generate its own consultative mechanisms and timing so that everybody has a real opportunity to input and to submit. I believe that there needs to be a long period of time between the preparation and the adoption of a draft constitution.

I now turn to the workings of a constitutional convention and the issue of representation. Firstly, notwithstanding its position on statehood, the TLC wishes to be involved in the debate. As the organisation representing organised labour in the Northern Territory, it must be adequately represented on the convention. Other groups must also be adequately represented. We have not tried to define those groups but, certainly, major groups should be involved. In considering the issue of representation, a couple of relevant criteria apply. Firstly, groups should be represented by peak bodies. For example, the Trades and Labour Council should represent the unions and the Confederation of Industry should represent the employers. Secondly, the groups must represent a significant body of opinion. At the end of the day, it is a numbers game. If we represent some 15 000 to 20 000 workers, we should have greater representation than a group which represents dozens or hundreds. That needs to be taken into account in providing the framework for representation on any constitutional convention. I appreciate that a cast of thousands is not appropriate, but representation should reflect the size of constituencies as far as possible.

We favour a combination of elected and nominated representatives on any constitutional convention. That is because we place particular stress on the participation of key groups and a totally elective process would make that more difficult. Certainly, if the process was totally elective, the Trades and Labour Council would achieve secure representation, but we believe that large and significant groups such as the TLC should be able to nominate representatives to the convention. Without stating how the balance should be achieved, because that is ultimately a numbers game, our submission argues in favour of a combination of elected and nominated representatives.

The TLC does not favour a select committee approach. We discussed the issue at length and, whilst could see the value in having experts in particular fields leading parts of the discussion, debate, workings and writings of the convention, we felt that, at the end of the day, a process which used committees would probably frustrate the aims, aspirations and abilities of the ordinary members of the convention. Our view is that 60-odd people should be on the commission and should themselves determine what committees and expert input are needed. We believe that a select committee approach will simply be a source of frustration to the ordinary members of the convention.

That concludes our thoughts on the membership and workings of the constitutional convention. I now turn to the matters which are more particularly the province of the trade union movement, the first of which is industrial relations.

The Trades and Labour Council strongly favours the retention of the current system. You will be aware, Mr Chairman, that the industrial relations powers were not transferred to the Northern Territory at self-government and remain under the control of the Commonwealth. That arrangement has served the Territory well. It has meant that disputes and other matters have been dealt with by the Conciliation and Arbitration Commission under the Act of 1904. It has meant that decisions have been made in relation to Australia-wide precedent. It has prevented us from becoming isolated and inward-looking, which is always a very grave danger in an isolated place with a small population base.

Our second point, which we make with some vigour, is that any system of conciliation and arbitration requires a genuine independence in decision-making, which must be perceived to be genuine by all parties. In a small community, it is not possible to find commissioners who will be seen in that light, no matter how much integrity they have and no matter how well-respected they are. If they so much as greet or have a cup of coffee with a member of one side of the industrial scene, people on the other side will immediately be alarmed. That is a real problem which needs to be addressed. The Northern Territory population is too small to allow us to supply our own panel and in that situation it has been an advantage to have people from the federal system coming in from outside to handle disputes. With occasional exceptions, they have generally not been considered as having any preconceptions in relation to disputes.

Mr Chairman, we are not saying that the current system should stay in place for all time. We realise that there is a concern in relation to interstate disputes. If the Territory became a state, the present system would require us to find an interstate dispute whenever there was a local dispute and that would be quite stupid in many cases and at other times it would simply be very difficult. We are not putting our heads in the sand and saying that the system should never change. We believe, however, that the present system has worked well and, for the reasons we have advanced, favour the retention of that type of system and those principles.

On the question of human rights, the TLC has not attempted to define specific issues in the Territory context. However, in our 1987 submission to the Commonwealth Constitutional Commission, we talked about the importance of enshrining freedoms in the federal Constitution. That submission talked about democratic and individual rights under the Constitution, Australians and legal process rights, Australians and civil courts, Australians and equity rights, associate economic rights, the right to private property, the right to work, the right to strike and the right to an adequate standard of living. It talked about the rights of Aboriginal Australians, the rights of Australians at the ballot box and constitutional guarantees. We believe that those issues and the data contained in that submission should be considered by any Territory constitutional convention. The development of a Territory constitution would provide a unique opportunity to enshrine the reforms that have occurred in all parts of Australia since federation.

I imagine that the conservatives will argue that the constitution should contain as little as possible. What that means is that decisions will be left as matters of political expediency, to be made on the basis of what the mood of the community is judged to be at any given time. The progressives would argue that we need to enshrine the social and economic advances that have been made in Australia over time. The Trades and Labour Council is very clearly one of society's progressive forces and argues that we should go beyond political expediency and should set in place constitutional guarantees which, for example, would provide for a proper standard of living for all Territorians and would particularly protect the rights of the poor and underprivileged.

A Territory constitution should provide for such things as equality of opportunity, which has been legislated for in most of the states, together with the rights of indigenous people and the other matters I have just mentioned. The formulation of a constitution is a once-only opportunity given to the members of the constitutional commission on behalf of the people of the Northern Territory and it should not be lost.

That concludes my comments on our submission. I reiterate the point that it is an interim submission, without prejudice, which sets out some of the very basic issues which the TLC is concerned about and upon which it has formulated policy. We hope that the move to statehood does not proceed. If it does proceed, however, we wish to be involved in the convention and in the debate on all aspects of statehood, particularly those concerning industrial relations. The unions and the employer groups will be those primarily affected by whatever is delivered at the end of the day and it is, therefore, a very important matter for the people of the Territory.

Mr HARRIS: Thank you very much, Rod. I would say at the outset that the committee acknowledges that yours is an interim submission. In fact, I have mentioned to the other groups which have appeared before us that, if we have further questions in relation to submission after groups have spoken at these hearings, we will contact them. We will definitely keep in touch with you in relation to all of the issues and we are happy for you to be involved at some later stage. We acknowledge that it is important for organisations such as yours to have input into this very important exercise.

I would also state, as I stated yesterday to one of your colleagues, that there appears to be some confusion about the role of this committee. It is not a statehood committee. It is the Select Committee on Constitutional Development. We are not promoting statehood. Similarly, we are not saying that statehood is not the way to go.

Needless to say, Rod, I do not agree with a number of the comments you have made in relation to statehood, particularly those which relate to the costs. We have to pay anyway. The major part of all states' funding comes from the Commonwealth. There are whole range of issues that could be argued on the political front in relation to whether we go to statehood or not. This committee is not going to argue those particular issues. We are trying to obtain input in areas in which people have particular expertise and, in your particular case, that area is industrial relations. Some people live in the Northern Territory because they love the place. They like the climate and a few other things and it is pretty clear that some of us have very strong and differing views about the Territory and why we are here.

I do not agree that the concept of statehood is a factor in causing people to leave the Territory. Of course, such matters can be debated in other forums and I am quite happy for that to occur. I also take issue with the argument that the government

has racist views in relation to Aboriginal land rights. I want to make clear, however, that we are not going to get into the politics of such matters here. We are really looking at the issue of constitutional development.

At one stage, Rod, you commented on people's complaints that they had not had sufficient time to respond to the committee in its consultative process. The confusion seems to have arisen from the fact that there are public meetings and there are public hearings. In the case of the hearings, the people with evidence to present have known that we would be coming to hear them. In Tennant Creek, people mistook the public hearing for an event at which people could get up and talk generally about statehood. It needs to be made clear that public hearings are occasions in which the public is able to be present to hear evidence presented to the committee.

I was interested in your comment, Rod, that ultimately representation on the constitutional convention is a numbers game. That also applies in relation to the representation which we might have, as a state, in the Senate, and whether we might have 12 Senators initially or have to work towards that gradually. That, too, is a numbers game. The arguments about whether or not we have too many politicians do not matter in that context. What we are talking about is the opportunity to have equality in the federal parliament, to put our views, to have clout. That applies with your organisation and it applies with the Territory in its aspirations. I do not see representation on the convention as a numbers game because I think it is important that all of the groups you mentioned must be involved. The union movement has to be there as do other groups with expertise. They should be able to have every opportunity to be involved in that exercise.

Page 3 of your submission talks about sovereignty. You say that the TLC is not the organisation best placed to advise on the specific constitutional measures and so forth, which is fine. However, we also are looking at whether or not those proposals are acceptable to the various groups. Some people have come out quite openly and said that they are totally opposed to including any reference to the fact that Aboriginals have prior ownership of the land, and there is debate over whether any statement on that issue should be in the preamble or in the constitution itself. Those are issues that need to be debated and we need to hear the views of a range of groups.

Mr ELLIS: I accept that point, Mr Chairman. Perhaps I did not express myself clearly, but what I was trying to say is that if, for example, the land councils took a different view to that expressed in our submission, we would not be seeking to disagree with them.

Mr HARRIS: You also discuss human rights and mention a couple of reports. We do not have much to do with those reports. I will leave my comments at this point and ask other members whether they have any questions.

Mr SETTER: Rod, I listened with interest to your submission and, like the Chairman, I disagree with many of the things that you said. However, it is important to reiterate what the Chairman said in relation to the status of this committee. It is a bipartisan committee of the parliament charged with the responsibility of developing a draft constitution for the Northern Territory, should it become a state at some time in the future. It is not a tool of the Northern Territory government and it should not be seen as that. We have adopted this approach all the way down the line and we will continue to do so.

I do not intend to debate the various issues that you raised other than one particular point. In referring to the composition of the constitutional convention, you said: 'At the end of the day, it is a numbers game'. I disagree. It would be very sad if the results of the deliberations of that convention came about as a result of a numbers game played within it. It is very important that the people who represent the Northern Territory on that convention be people who represent the community at large and not major vested interest groups. The interest groups should certainly be represented but in my opinion it should not be a matter of getting the greatest numbers at that particular convention. If that occurs, the convention will not be representative of the whole community.

To move on to the central issue we are here to address, I would like to ask you a couple of questions relative to constitutional development. First of all, should the Territory become a state at some time in the future, would you agree that a completely new constitution should be developed rather than continuing with the Northern Territory (Self-Government) Act, which we currently operate under? If that is the case, would you believe that the best people to do that are Territorians or should we invite people with particular expertise to come in from the south to participate in the constitutional convention?

Mr ELLIS: I want to answer the point you made about the convention representing the people at large. Whilst that might be ideologically pure, it is simply not reality. In fact, the only way of making it completely ideologically pure would be to have a totally elected convention. We would argue strongly against that. Whilst we would not seek to deny any other major

group, the Trades and Labour Council can put up its hand and say that it represents 17 000 people, and organisations which represent that many people should be involved. That is why we say that representation on the convention is ultimately a numbers game. Any organisation which wants to be involved has to be able to demonstrate that it represents a significant number of people. Frankly, Rick, the idea of representing the community at large is just not reality.

In a constitutional convention, the Trades and Labour Council would put forward the views and the aspirations of organised working people in the Northern Territory. Even if the convention was fully elected, our views would be heard. If, for example, I was elected, I can assure you that I would represent the views of the Trades and Labour Council. However, I would rather sit on the convention simply as an official representative of the Northern Territory Trades and Labour Council, if the council elected me to represent its views.

In terms of your question about the development of a constitution, I would make it clear, without compromising the TLC position on statehood in any way whatsoever and addressing the matter purely in a theoretical context, that before we move down that path any distance at all, we would want to see the proposed constitution. Only then can any decision be made as to whether we should have a constitution or continue to operate under the Self-Government Act.

Mr SETTER: We are asking you to have input into the development of that constitution.

Mr ELLIS: Yes, but we might get rolled on every point. In fact, we probably will.

Mr SETTER: Well, we cannot all win all the time, can we?

Mr ELLIS: At the end of the day, we will want to see the document. No decision will be made before that and I would suspect that no thinking person could make a decision before that.

Mr HARRIS: I do not think that you will be rolled on every point, Rod. In fact, the process will be one of obtaining information from the community. This is a very difficult task because, when I talk about the community, I am talking about the whole of the Northern Territory. Our visitation timetable includes all of the major communities and the document we produce will go to parliament. It will then go back to the people. When the people have seen the document, a referendum will be called in relation to it. It is not a matter of seeing these proceedings as the end of the story and then sitting back and waiting to see what will happen. It is a matter of seeking as much input as possible into the areas that you see as important and would like to see covered in the constitution. Whether or not we go down any given line is another matter but I would make the point that this is a fact-finding exercise and we are learning as we go along.

Mr SETTER: Mr Chairman, I would just like to follow up a point that Rod made earlier and clarify my position with regard to the composition. Rod, you said that your organisation represented 17 000 people.

Mr ELLIS: Yes, I think that is the current figure.

Mr SETTER: That is fine but, yesterday, the women's representatives told us that they represent 50% of the population. We know that the Aboriginal people represent in excess of 20% of the population and I suppose that, if we asked how many people supported Australian football out there, that would be a large proportion of the population. It is impossible to organise the constitutional convention solely around the representation of various interest groups. The point that I was trying to make is that representation on the convention needs to be as broadly based as possible, whilst accepting that all of those interest groups will need to be represented.

Mr ELLIS: The point is that there has to be some organisation of those interest groups. You cannot say that, because you have green skin with pink dots and 33% of the population also has it, that you represent all of the people with green skin and pink dots - unless there is some organised structure which creates the representative base. In the case of the Trades and Labour Council, we have a clear representative structure. We have a set of books, office bearers and a constitution. That does not apply to the followers of Australian football.

Mr SMITH: Equally importantly, one of the functions that would be transferred if we became a state is the industrial relations function, in which the Trades and Labour Council has a very direct stake. In fact, I would think that the TLC has a better claim than most organisations.

Ms WILKINSON: Also, the interests of the groups mentioned by Mr Setter would largely be covered by the Trades and Labour Council in any case. The TLC truly represents women through its various women's committees and in other ways.

The footballer out there on the field is probably a union member. The Trades and Labour Council represents the interests of a considerable number of workers in the Northern Territory, from right across the spectrum.

Mr HARRIS: Rick, I will just give Terry the opportunity to ask some questions, because he has to leave shortly.

Mr SMITH: I want to start on the industrial relations section. The fact is that, if we become a state, the industrial relations structure will be transferred from the Commonwealth and, within that framework, we will have to come up with an arrangement that best suits the interests of the new state. It may be possible to arrive at some sort of a lease-back agreement, for want of a better term, in which we continue to use the services of the Conciliation and Arbitration Commission. However I would suspect that the bottom line of a state government of any political complexion would be the desire to have some input into how the Conciliation and Arbitration Commission operated in the Northern Territory.

Rod, I would like to put to you a proposition which we put to Peter Tullgren yesterday, which is that a Northern Territory panel could be created within the Conciliation and Arbitration Commission, with the Northern Territory government having an input in determining the membership of the panel. I am aware that members are appointed on a tripartite basis but there certainly should be an opportunity for the Northern Territory government of the day to have an input. The other thing I would like your comment on is whether it is possible for the operations of such a panel to cover all of the industries and awards which operate in the Northern Territory.

Mr ELLIS: When I put the submission together, I realised that there would be some problems in terms of the industrial relations powers if a state were created. For example, interstate disputes would be a major problem for us. I am talking outside the terms of the TLC submission now, but it may well be that a state of the Northern Territory would, because of problems like that, see it as appropriate to hand the powers back to the Commonwealth in some shape or form. Whilst that might not be politically attractive, there would be some very good reasons for doing it. In such an arrangement, a Northern Territory panel could service both Australian and Northern Territory matters. The commissioners would probably live in other parts of Australia but would be members of the Northern Territory panel. In many ways, there is little difference between that and the arrangement we have now. I imagine that something could be worked out along those lines. I am not sure that we are opposed to the notion of the Northern Territory government having some input in determining the membership of that panel. I suppose that is a fact of life.

Sir John Moore talked briefly with us. As the committee will be aware, the Northern Territory government has commissioned him to prepare options for an industrial relations system in a state of the Northern Territory. We stated our position. We know that there are some legal problems with it but we would like to see Sir John Moore's papers. I understand, Terry, that the proposition which you outlined is one of Moore's options but, before we make any decisions, we would like to see more detail on the options.

I am sorry, could you repeat the last thing you asked me?

Mr SMITH: I think you have covered it. I asked whether all the awards in the Northern Territory could be brought under the operations of that panel.

Mr ELLIS: I think they could be. They would all be federal awards.

Mr SMITH: I think Peter said yesterday that there would be some problems with awards like that covering the waterside workers, because of the national implications.

Mr ELLIS: Yes, but the great majority are federal awards and would remain so whatever the system was.

Mr SMITH: The other thing that needs to be explored, although we really don't have time to do so now, is the issue of costs. I think it is an issue which organisations like yours have to come to grips with. You keep talking about the costs of statehood but you have not been terribly specific about what those costs are.

MR ELLIS: I certainly don't make trite comments likening it to the cost of a can of beer for every Territorian. I have been specific to the extent of quoting your column in last week's paper concerning the huge debt that a self-governing Territory has built up during the last 10 years. I am very well aware of the cost of unfunded superannuation. A debt of \$247m in the next 5 years will certainly affect the Northern Territory. Those debts would not exist if self-government had not been granted. They would still be debts retained by the federal government. They would be retained by all of the people of Australia rather than being the responsibility of a Northern Territory government which has only existed for 10 years.



Mr SMITH: So you are advancing an argument for a return to Commonwealth control rather than arguing against statehood.

Mr ELLIS: No. You have asked me a question about costs and I am trying to answer it. It is within my charter to say to you that there should be a return of Commonwealth control. What I am saying, and what many of our members are saying is: 'Look, let's not vote about statehood. Let's vote about whether we give it back to Canberra'. I put to you that many ordinary people in the street are saying that.

Mr HARRIS: Do those people realise that there will be costs, whatever direction is taken? Are they aware of that?

Mr ELLIS: What is wrong with my argument that we currently owe \$15 000 per person in unfunded liabilities, for which the Northern Territory government is responsible? If there had been no move to self-government, those matters would have remained the responsibility of the Commonwealth government and any liabilities would be shared out among about 16 million Australians rather than 160 000 Territorians, a number which is decreasing rather than increasing.

Mr HARRIS: I do not know if that is the case but what I am saying is ...

Mr ELLIS: Well, why wouldn't it be?

Mr HARRIS: No. I am saying that it has been made very clear to us that the cost to Territorians will remain. The costs will exist whether we like it or not. We are moving into a political debate and I don't wish to do that.

Mr ELLIS: It is not a political debate; it is a money debate.

Mr HARRIS: No, it is a political debate. I do not know if you are aware of it, but the government is preparing a financial options paper which, like the industrial relations paper, will be released so that the issues can be fully debated in the public arena. There will be no problems there. This committee, however, has the task of developing a constitution.

Mr SMITH: To be fair, Mr Chairman, I did raise this matter and Mr Ellis has been responding.

Mr ELLIS: I am not answering the question in a political context. I would say, however, Mr Chairman, that unfunded superannuation is building up a huge liability for the Northern Territory. At the end of the day, the money has to come from somewhere. If it does not come from the Commonwealth, it has to come from raising taxes and charges on Territorians. I have mentioned the sale of about \$130m worth of assets through land sales. I do not know how much land we have left to sell but it seems to me that, if there is not much more, we are in strife because while those sales contributed 10% of our revenue in 1985-86, there was a reduction to 3.6% in 1987-88. I put to you, Mr Chairman, that there is a real money cost associated with self-government and that that will be continued rather than alleviated by statehood. The more decisions that the government makes to embark on projects like the Anderson development, the greater the cost which the Northern Territory people will ultimately have to meet. It is silly to argue otherwise. This is not a political argument, Mr Chairman, it is a money argument.

Mr HARRIS: I am not going to enter into debate on the issue because, as we have said before, this is not the appropriate forum. When such issues are raised, I find it very difficult not to respond. Indeed, at some meetings we have had to deal with quite aggressive approaches in relation to certain activities of the government. I make it very clear, however, that this is a constitutional development committee. It is not a statehood committee. If you want to knock statehood, that is fine. If you want to promote statehood, that is fine, but this is not the place to do either. I realise, Rod, that you were answering a question from Terry and that is fair enough.

Mr SETTER: I have a question about superannuation schemes. Rod, you obviously have considerable knowledge of such schemes around Australia and you have been critical of the Northern Territory government scheme, talking about the extent of liabilities 10 years in the future and so on. Could you tell me what the system is in the other states and in the Commonwealth and whether or not each of those states and the Commonwealth have funded or unfunded schemes. If so, what is their potential liability?

Mr ELLIS: In New South Wales, Premier Greiner has been highlighting the massive extent of public debt. About a quarter of that debt is unfunded public sector superannuation. The state schemes and the Commonwealth scheme are unfunded.

Mr SETTER: Right, so you are saying that all state schemes and the Commonwealth scheme are unfunded, like ours.

Mr ELLIS: Yes, but I am not saying that that makes it right. It is wrong. Australia has outplayed itself in the area of superannuation and has created a huge debt for future Australians which will only be met by reduced standards of living or by massive increases in immigration which will spread the debt more widely.

It is very interesting. I do not want to get into the issue too deeply here but the fact is that the tail of the retiree is growing longer and longer every day. The Commonwealth has never put 1 cent into a retiree - not a cent. The funding comes about because Telecom is forced to pay 20% of its wage bill to the federal government. That meets the whole cost of retirees and that is why Telecom is so keen to develop its own superannuation scheme because it can do it much more cheaply than the 20% of the wage bill paid to the Commonwealth. However, people like Senator Walsh say: 'No way. We want the 20% each pay'. That is a real problem for all Australians to face and just because we are doing it here in the Territory, it does not suddenly become right. It is crook.

Mr SETTER: You would be aware, of course, that public servants in the Northern Territory were operating under the Commonwealth Public Service scheme up until 2 or 3 years ago when the Commonwealth indicated it was going to opt out of that and transfer the responsibility to the Northern Territory government. That is how we became involved.

Mr ELLIS: Yes, I realise that.

Mr HARRIS: Rod, can I ask whether other arms of your organisation throughout the Territory have been informed that we are moving around the Territory?

Mr ELLIS: I think they have.

Mr HARRIS: I wonder if you could make sure that they are informed. I ask this because, at a recent hearing of this committee in Alyangula, we were accused of not talking to the people that really ran the world. We made it clear that we had in fact written to unions and other organisations and groups to let them know that we were looking at the issue of constitutional development. I do not want a repeat of the situation which occurred at that meeting and it would be very helpful if you could again contact your organisations and groups to let them know where we will be appearing. We actually have a list that will be finalised in 2 weeks and we will send you a copy. Hopefully, you will be able to advise your members or branches in the various areas so that they have an opportunity to come forward and express their views.

Mr ELLIS: Will our submission have any additional weight if we deliver it 20 times?

Mr HARRIS: I am sure that you appreciate the problem we have. Although I acknowledge the role of the unions, we have organisations such as the land councils and the Women's Advisory Council which see themselves as representing large segments of the population. As Joan has already mentioned, there is a large contingent of women within the TLC and the union movement. That is in addition to the Women's Advisory Council which says that it represents all the women in the Territory. Every section of the community has to have the opportunity to comment and we are endeavouring to encourage groups with particular expertise to come before this committee. We also want to hear the views of the people in the streets and in the more remote communities. We need to know how they see the future constitution of the Northern Territory and whether it reflects their general thinking. It is important that we acknowledge that all Territorians have to have the opportunity to comment, whether through an organisation or as individuals. I am happy for you to contact your wider organisation, Rod, and hope that people will come forward in various parts of the Territory as a result. I am sure that you would agree that the situation in a place like Alyangula may be very different to the situation in Darwin. Similar differences will occur in relation to other communities.

I would like to thank you for presenting your evidence, Rod, and to indicate that we have noted that your submission is an interim one. We look forward to your further participation in the future.

Mr ELLIS: Thank you, Mr Chairman.

Mr HARRIS: The next submission comes from the representative of the Northern Territory Community Government Association and I will just reiterate that this committee is a select committee of the parliament and as such, evidence by witnesses demands the same respect as proceedings in the House itself. For the Hansard record, please state your full name and the capacity in which you appear before us today.

Mr ANDERSON: My full name is Kevin Anderson and I appear on behalf of the Northern Territory Community

Government Association. The evidence I will present to the committee this morning has the full endorsement of the executive of my association.

Mr HARRIS: You have a written submission before us. Would you like to expand on it?

Mr ANDERSON: By way of preamble, I would say that the introduction of local government into remote communities in the Northern Territory has been one of the greatest initiatives taken by the government of the day in the Northern Territory, supported by the opposition. We believe that it has given people in remote communities an unprecedented opportunity to manage their own affairs and, obviously, our concern with any constitution of a future Northern Territory state is that it should protect the powers which have been devolved through legislation which incorporates remote communities as legitimate partners in the third tier of government. For that reason, our submission states that we would like to see any future constitution enshrine protection clauses for local government generally in the Territory. We do not wish to see any discrimination in terms of the way community government is treated, as opposed to municipal government. We see them both as legitimate types of local government and do not subscribe to any distinction which sees municipal government as a superior form of 'traditional' local government. We believe that all local governing bodies in the Territory, whether in remote locations or in major municipalities, are equal under the law. We would like to see that guaranteed in the constitution.

Our submission argues for constitutional recognition in accordance with 5 principles, these being: general competence and autonomy for each local government body to act for peace, order and good government in its area; a secure financial basis; a proper recognition of the elected member's role; protection from dismissal of individual local government bodies without public inquiry; and due consultation prior to any changes to powers, functions, duties, responsibilities and financial resources.

We believe that the proposed NT constitution provides the opportunity for the enshrinement of local government and we totally support the proposal of the select committee that section 121 of the Australian Constitution be utilised in the creation of a new state, an event which we see as inevitable. There is no way, in the association's opinion, that such a large portion of Australia's land mass should continue to be dependent on the remainder of Australia. We also believe that we are in fact a long way down the road towards statehood, as shown by the fact that the Northern Territory is presently being treated almost equally with the states in terms of financial assistance.

We do not see this select committee or the formation of a convention as in any way foreshadowing any untimely early institution of statehood for the Territory, but we do see the committee's work as a timely early way of preparing for an inevitable event and we therefore support it .

As far as the composition of any future convention is concerned, 3 options are put forward in the discussion paper. The association strongly supports option 1, which is for a highly elective convention, although it is aware of the limitations and problems which that might create and supports option 2 as a second preference, provided that a majority of convention delegates are elected representatives. The association would not support any wholly appointed convention.

Mr Chairman, that concludes my evidence and I am willing to answer any questions that you may think necessary.

Mr HARRIS: Thank you, Kevin. Could I just ask, in relation to your association's support for option 1, whether you would envision people being elected from specifically identified areas of the Northern Territory.

Mr ANDERSON: Yes, that is true.

Mr HARRIS: I would also like to know about your relationship with municipal local government because we will shortly be hearing a submission from the Local Government Association which appears to be at loggerheads with you on a couple of issues, such as in their preference for a fully nominated convention. I am wondering about your relationship generally and whether the 2 associations have discussed their approaches to the constitution.

Mr ANDERSON: We have always had, and probably always will have, a fairly close relationship with the Local Government Association. You are probably aware that we are strongly affiliated with the Australian Local Government Association. The 2 associations in the Territory have not put their heads together to make a joint approach on this particular issue, although we have exchanged correspondence. We are both familiar with the contents of each other's submissions and neither has any problem with the other. In this exercise, Mr Chairman, I am merely expressing the wishes of the executive of the Community Government Association and whether or not its preference for option 1 is purely

idealistic is a matter which can be debated. We are aware of the limitations of the first option but, given the opportunity to comment on 3 options, the executive chose the first with option 2 as its second preference, if I can use that term.

Mr HARRIS: Whatever happens, I take it that your association would wish to be represented in the deliberations of the convention itself.

Mr ANDERSON: We would certainly welcome the opportunity, Mr Chairman, to be represented through either the elective process or by being nominated.

Mr HARRIS: In many cases, community government councils are in areas where they have a relationship with the land councils. The committee has not spoken with the land councils so far. They have not approached us. It will, however, be necessary for us to contact them. I do not know whether you have had any contact with the land councils on this issue or whether they know you are putting forward a submission and what is in that submission.

Mr ANDERSON: I am not sure whether they do, Mr Chairman. In the past we have had contact with the land councils on local government issues in remote communities, particularly Aboriginal communities. Whilst our association has only been in existence for just over 12 months, the relationship between the land councils and ourselves has been developing slowly. We certainly do not take as big an interest in land rights issues as they take in local government. That is probably irrelevant to this enquiry. I doubt that they would be aware that we are putting in a submission unless I told them, which I have not. I do not believe that there is any reason to let the land councils know that we are making a submission on local government issues.

Mr HARRIS: No, I am not saying that there is any reason for that. I am saying, though, that it is important for the land councils to be involved as well as the communities themselves. I am just trying to clarify the relationship so that, when we do come to talk with the various groups, we are aware of the situation.

Mr ANDERSON: To answer your question specifically, Mr Chairman, the land councils probably do not know that we have made a submission or what is in that submission. On the other hand, we do not know whether they are making submissions or what the contents of such submissions might be.

Mr HARRIS: Thank you. Rick, do you have any questions?

Mr SETTER: Yes, Mr Chairman. Kevin, could you describe which communities your organisation represents?

Mr ANDERSON: There are about 49 communities involved. I am not quite sure what you mean by 'describe', Mr Setter.

Mr SETTER: The number is really the major part of the answer I am looking for. I am also interested to learn whether or not you only represent the smaller urbanised communities as opposed to Aboriginal communities where community government is progressively taking hold. I take it, though, from the number of 49 communities, that you are representing both.

Mr ANDERSON: I can be a bit more specific if you like, Mr Setter. The Community Government Association represents all bodies deemed to be local governing bodies for the purpose of financial assistance from the Commonwealth or NT government, other than municipalities.

Mr SETTER: Do you have active participation in your organisation by those Aboriginal communities?

Mr ANDERSON: We certainly do. The 7 members of our executive are all Aboriginal people.

Mr SETTER: Fine. Kevin, you indicated that option 1, which is the wholly elected constitutional convention, is your preferred option. Do you have any idea about how we could go about that?

Mr ANDERSON: I can only follow on from Mr Chairman's suggestion in relation to representation from specific areas of the Territory. Obviously, as Rod said, the convention cannot contain a cast of thousands. The aim would be to have the broadest possible representation of the interests of Territory people in the future administration of the Territory state. The number of areas would obviously have to be limited so that the convention could work reasonably effectively. The division into areas would need to be discussed in detail and people would put themselves forward for election in due course. In other words, nominations would be called and a poll would then be conducted.

Mr SETTER: Yes, the Territory would have to be broken up into zones rather than calling for nominations on a Territory-wide basis.

In terms of option 3, for a partly elected and partly nominated convention, would you accept that it may be in our best interests to invite interstate people to participate? I am thinking of people with specialist knowledge, such as constitutional lawyers and others with relevant expertise.

Mr ANDERSON: Certainly, I would see an advantage in that. They would not necessarily be decision-makers in a convention situation but they could certainly act as advisors to the convention. I do not believe in reinventing the wheel and if people have expertise in an area, albeit they come from outside the Territory ...

Mr SMITH: They are all dead.

Mr ANDERSON: ... or outside the country, why not use that expertise? Sorry, Terry?

Mr SMITH: I was making a facetious comment, Kevin. The last people who participated in the development of an Australian constitution did so in the 1890s.

Mr ANDERSON: I think Mr Setter is referring to academics.

Mr SMITH: Yes, I know.

Mr SETTER: People with professional expertise.

Mr NICHOLSON: In fact, we have some expertise in Australia. Some people in Australia have been involved in preparing constitutions for newly emerging countries.

Mr SMITH: That is true. They have been involved in Papua New Guinea and elsewhere. I apologise; I meant no reflection on anyone.

I had to leave the hearing temporarily to make a courtesy call on a visiting ambassador and I am not sure what has transpired in my absence. Kevin, I wanted to ask for your opinion on the level of awareness and involvement of the councils that you represent. Are they aware of the broad issues that we are discussing here? If they are not, what sort of exercises do you believe we should undertake to raise the level of awareness so that they can become full participants in this debate?

Mr ANDERSON: I take your point, Mr Smith. It is very relevant. The element of remoteness means that there is probably not as deep an understanding of the ramifications of statehood and the development of the constitutional convention in some communities as we would like.

The issue of how to give people the necessary information to enable them to contribute effectively to any future constitution is a difficult one. I am not sure that there is any way of doing that other than by sitting down with people and going through the various processes with them. You could produce ream upon ream of paper and send that out, but I do not think that would be an effective method unless individuals in the communities were able to relay the information, via council meetings or whatever, to the people. I take your point that there needs to be some sort of information dissemination campaign if we are really serious about getting people in remote communities involved in discussion on this issue. I do not know whether it would be possible to use the government's departmental field officers to do that. Perhaps there are some possibilities there.

Mr HARRIS: Kevin, could I just say that we are looking at that as a possibility. Our concern is that we do not want to again politicise the debate in relation to statehood. There is some concern about a possible conflict of interest between the land councils and the communities and we are still considering the issues at present. We tend to agree that it is necessary to move through all the communities and it is our intention to do so. The fact is, however, that it is pointless to carry out that exercise if there is nobody in these places who will discuss the issue in a responsible manner in terms of really understanding the matters we are talking about. We would obviously look to you and your association as a means of giving us information or ideas as to how we can get that message across. I would hope that the community government councils in the areas we visit will make their presence known to the committee.

Mr ANDERSON: Mr Chairman, the association would be only too happy to facilitate communication on local government matters between this committee or, for that matter, the convention, and remote communities. I would not see us getting involved in anything to do with land rights. That is the job of the land councils and we would not get involved. On local government issues, however, we would be only too happy to assist and facilitate communication.

Mr SETTER: Kevin, what would you see as the best communication media in terms of assisting Aboriginal people to get across the issues? I am thinking of things like booklets, videos, radio and audio tapes, as well as face to face communication. What would be the best option in your opinion?

Mr ANDERSON: I believe face to face communication would be best, followed by video. Video is a very popular medium in remote communities and the audiences it attracts are probably larger than even face to face contact would attract. Video would be an excellent means of getting the message across.

Mr HARRIS: Would it work best in comic form?

Mr ANDERSON: Well, I do not think we need to be simplistic about it. I believe there is a fairly high level of understanding out there, particularly if the message is put across in a reasonable way without complicating it too much. It is the same for Joe Citizen in town. The more complicated you make the issues, the less likely he is to listen. However, if video is used to convey a simple message, whether it be in comic form or depicted graphically in some way, I believe people will understand what constitutional development is all about and what the convention is all about.

Mr HARRIS: The committee is formulating a booklet to go out to those communities. In laymen's terms, it spells out what we are about. The committee is presently considering the booklet and, hopefully, we will be able to get something out in the next 4 weeks or so.

Mr ANDERSON: I certainly support that and suggest that it be followed up by video, which will attract the widest possible audience. I would suggest that representatives of the select committee or of any convention, meet with local government councillors from remote communities. That could be done through central meetings in Katherine and Alice Springs or by going out to the communities themselves. Either would be appropriate; it is 6 of one and half a dozen of the other, and cost is obviously a factor. However, I believe that such a combination of approaches would get your message across.

Mr SMITH: I just do not think we should get too carried away about this whilst ignoring the need for awareness in non-Aboriginal communities. There is obviously a major job to be done there as well.

Mr ANDERSON: I think you are right. The association represents only a half a dozen of those communities, most of which are along the track, with the exception of Borroloola. Certainly, such a campaign should extend to open communities as well as Aboriginal communities.

Mr HARRIS: Thank you very much, Kevin, for presenting your evidence to the committee. We will keep in touch and in fact we would like some comment on the booklet from yourself if that is possible. As I said, the committee is still discussing the details of the booklet to consider whether it is appropriate to be released in the remote communities. We will be making an effort to visit as many communities as possible and to ensure that people from those outlying areas are given the opportunity to comment to the committee on this very important issue. I would ask that you relay that message back to your organisation. When our timetable of visits is ready, we could send you a copy and perhaps the association could assist in getting that information out to the communities.

Mr ANDERSON: I would be only too happy to.

Mr HARRIS: Thank you very much.

Mr ANDERSON: Thank you, Mr Chairman.

Mr HARRIS: The next submission is a verbal submission from the Darwin City Council. Could the representative come forward please? I will just reiterate that this is a select committee of the Legislative Assembly and, as such, evidence by witnesses demands the same respect as proceedings in the House itself. For the Hansard record, would you please state your full name and the capacity in which you appear before us today?

Ms ANDRUSZKO: My name is Susan Andriscol and I appear on behalf of Darwin City Council.

Mr HARRIS: Thank you Susan.

Mr SMITH: Susan, could you tell us what position you occupy with the council?

Ms ANDRUSZKO: Executive Assistant to the Town Clerk.

Mr HARRIS: Susan has a verbal submission to present and I invite her to address the committee.

Ms ANDRUSZKO: Mr Chairman and members of the committee, Darwin City Council has considered the discussion papers on the proposed Northern Territory constitution and, although in general agreement with the various proposals, it has confined its comments to the issue of local government and its place in the constitution.

As you are aware, the Northern Territory Local Government Association has made a written submission to the select committee and the Darwin City Council supports the content of that submission. The council appreciates the fact that the select committee favours some constitutional provision for the recognition of local government in the new state. However, it wishes to stress that the issue at hand is the recognition and protection of local government powers, functions, duties, responsibilities and financial resources. At one end of the spectrum is simple recognition of the existence of local government and at the other is the enshrinement of the entire Local Government Act and any necessary amendments in the proposed new constitution. Of course, a realistic position between these 2 poles is desirable.

In addressing this issue, consideration should be given to the principles set out by the Northern Territory Local Government Association in its submission. These are referred to on page 91 of the Discussion Paper on a Proposed New State Constitution for the Northern Territory. This council strongly believes that entrenchment and protection of local government within the constitution must be in accordance with the said principles, primarily to protect the expectation of ordinary residents within the community that the third tier of government, which they have come to rely upon as a fundamental part of their lives, will remain in place as long as acting for peace, order and good government. It is vital that a new Northern Territory state recognise that residents have a right to democratically elect a third tier of government and that this level of government will be afforded legitimate recognition and protection of its powers, functions, duties, responsibilities and financial resources.

It is this council's view in respect of section P, 'Entrenched Provisions Generally', that local government is a matter of vital importance in the functioning of the new state and thus should be entrenched in a certain manner and form so as to require a two-thirds majority of new state electors at a referendum prior to any matter relating to local government being amended or repealed.

It is also this council's view that the new constitution be developed by way of a wholly nominated constitutional convention, of which the majority of delegates should be Territorians. There is scope for a partially nominated, partially elected convention. However, as the committee's paper states, many questions still require answers before a decision can be made. The council also recognises that there may be a need to nominate specialists from interstate or, indeed, overseas.

On behalf of Darwin City Council, I thank the committee for this opportunity to present its view and advise that it looks forward to continued involvement in the process of developing a new state constitution for the Northern Territory.

Mr HARRIS: Thank you, Susan. It is obvious that each group is going to comment. As you mentioned, the Northern Territory Local Government Association has prepared a submission, which will be addressed shortly. Do members have any comments or questions on the Darwin City Council submission?

Mr SETTER: Sue, I was interested in your comment that the council prefers a wholly nominated constitutional convention. Could you expand on the thinking behind that?

Ms ANDRUSZKO: Although it has not considered the matter in great detail, the council's view is that that would be the best way of going about the constitution-making process. I suppose that conditions would have to be placed on those nominations but it is believed that a nominated convention would be the best way of ensuring that the needed specialists and qualified people were members of the convention, together with the broader sections of the Territory community.

Mr SETTER: Is the council saying that individuals should not necessarily be nominated but that organisations should be

targeted and asked to nominate somebody to represent them on the convention?

Ms ANDRUSZKO: That is one way of going about it.

Mr HARRIS: One of the problems with that sort of process is that people perceive that the process is being controlled by individuals who are seen to have expertise in the field rather than people putting the broader views of the community. I think that it is important to acknowledge that we not only need the expertise and views of those with particular interests but that we need to hear from people in the streets as well.

Ms ANDRUSZKO: That is why I think you need fairly well-defined selection criteria to ensure that the necessary representation occurs.

Mr HARRIS: That is right. Terry, do you have questions?

Mr SMITH: It is probably appropriate that I make my comments now that Mr Antella has arrived.

Ms ANDRUSZKO: Would you like Mr Antella to sit down here?

Mr HARRIS: No. His turn will come next.

Mr SMITH: I must say that I am disappointed at the amount of time and effort that the council has put into its submission, and I think that has placed you in a very invidious position, Susan. It seems to me that, if the council was taking this matter seriously, it would have ensured that some aldermen were present along with some more senior members of staff. I want to say, for the record, that I find the council's attitude, as expressed here today, to be less than satisfactory. I would want an assurance from the city council that it is seriously interested in this issue. It would need to do more than it has done today to demonstrate that it has a genuine concern for the development of a constitution of the Northern Territory. I do not intend that in any way to be a personal reflection on you, Susan.

Ms ANDRUSZKO: In commenting briefly on that, I would say firstly that I am a member of the council's senior management team. Secondly, council sees this hearing as part of a long-term process and, based upon the information presented at this stage, many questions remain unanswered. The council sees today as an opportunity to signal that it is interested, that it has looked at the information provided and that it wishes to remain involved and to receive more information as the committee receives feedback from the broad community which the council represents. The council is very keen to be involved.

Mr SMITH: Sue, I do not want to prolong the debate but in my view it is the responsibility of elected members of council, rather than staff, to appear before committees such as this. I am not sure whether other members of the committee share that view but I would like you to take that view of mine back to the council.

Ms ANDRUSZKO: Right. If I could say one more thing on the matter, John Antella was going to appear for the council. However, he had an official engagement with an ambassador which coincided with this part of the hearing.

Mr SMITH: How many councillors are there?

Mr HARRIS: There are about 2 in Darwin at the moment.

Mr SMITH: About 2, right.

Mr HARRIS: Sue, could I just say that one of the problems that we have is generating interest from not only elected members of the various councils but also from members of the Legislative Assembly. In fact, and I am sure Terry would be aware of this, we have an opportunity to debate the issues in the House. I believe that, in this formative stage, members of the Legislative Assembly could also present themselves and take part in this initial process.

One of the things we have learned from this exercise is that a lot of people are waiting in the wings, saying: 'Look, we want to know what this is all about'. The unions have indicated that very clearly in the interim submissions they have made. I will take the council's submission as being interim and will look forward to further input from the council at a later stage.

We had to start somewhere but I am a little disappointed with some of the submissions that have been put forward. There



has been a tendency to agree with the direction in broad terms but to avoid the nitty gritty of what will happen, which is the most important thing. People seem to feel that if they state particular viewpoints, they will have to deal with others coming down hard on them. We are addressing the issue of what will go into our constitution and I believe we need to get past that attitude. We have wasted some time in this initial exercise because, when we have gone into various communities, people have misunderstood what we are about. I hope that, after this initial round of hearings, the community will at least know what we are on about and will be prepared for the next round of discussions.

Rick, would you like to make any further comment?

Mr SETTER: No, other than to thank Susan for coming along and speaking to us today. I support what the Chairman has said. This is an ongoing exercise and I am quite sure that we will be sitting in Darwin at some time in the future when the council will have another opportunity to submit its thoughts. I have no doubt that it will participate, in some shape or form, in the constitutional convention.

Ms ANDRUSZKO: I did have some other comments to make. I thought they would actually arise in response to questions but that has not occurred.

Speaking to a certain extent on behalf of the council as well as an individual - you stated earlier that you were also interested in individual comments, Mr Chairman - there is a need for a commonsense practical approach which accepts local government as a fundamental part of the structure of government. I believe that the community acknowledges that local government plays a very important part in its life and I think that any constitution, as dictated by a state government, has to recognise local government's role in governing specific local areas, without suggesting that it should take on state-type functions. That recognition should be entrenched in the constitution.

Mr SMITH: Should entrenchment go as far as preventing a state government summarily dismissing an elected local government?

Ms ANDRUSZKO: I think I would have to say yes to that, unless an inquiry is first instituted, an inquiry which proves the council to be totally incompetent. The matter should then be put to the people who elected that particular local government. They should be able to have a say in whether they believe their council is doing the right thing.

Mr SMITH: But, under some circumstances, you believe that a state government should be able to dismiss a local government.

Ms ANDRUSZKO: Under some circumstances.

Mr SMITH: After a full inquiry.

Ms ANDRUSZKO: After a full inquiry, possibly followed by a referendum of the electors of that council. At the very least, there should be a full inquiry.

Mr HARRIS: Thank you very much, Sue.

Ms ANDRUSZKO: Thank you, Mr Chairman.

Mr HARRIS: We now move to the next submission on behalf of the Northern Territory Local Government Association. I am sure that both representatives of that organisation will be aware that this is a select committee of the Legislative Assembly and, as such, evidence by witnesses demands the same respect as proceedings in the House itself. For the Hansard record, could you please state your full name, the position you hold in the organisation and the capacity in which are attending this hearing today?

Mr ANTELLA: My name is John Antella and I am the Deputy Lord Mayor of the Darwin City Council and, at present, the Acting Lord Mayor in the absence of the Lord Mayor. I am here to represent the Northern Territory Local Government Association because its president, Dr Charles Gurd, is interstate. The vice-president from Alice Springs, Mr Brown, is also interstate and the other executive members are not available.

Mr LYNAGH: For your information, Mr Chairman, the other executive members are the treasurer, Mr Maley, President of the Litchfield Shire Council, and the immediate past president, Alderman Patricia Davies of Katherine Town Council.

They are also interstate. The other vice-president, Alderman Kennedy of Alice Springs, is heavily involved in budget considerations and was unable to attend. Alderman Antella is the other delegate from the Darwin City Council and he was nominated by Dr Gurd as his proxy.

My name is Noel Lynagh and I hold the position of Secretary of the Northern Territory Local Government Association.

Mr HARRIS: Thank you very much. You have made a written submission. How would you like to present it?

Mr LYNAGH: In what form would you like us to present it?

Mr HARRIS: In any way you prefer. If you wish, you can present it as a written submission and then expand on any areas you wish to highlight during the course of the presentation.

Mr LYNAGH: Could the presentation take the form of a letter addressed to the Chief Minister on 10 February 1988?

Mr HARRIS: Certainly.

Mr LYNAGH: Is the committee in possession of a copy of that letter?

Mr HARRIS: If I could clarify the position, we have your written submission. How you present it is up to you. What we have done in similar cases is to note the contents of written submissions and to ask whether people appearing before the committee wish to enlarge upon any particular matters.

Mr ANTELLA: Thank you, Mr Chairman. I must apologise for the absence of elected members from Darwin City Council from the earlier meeting. We discussed the hearing at a special council meeting on Tuesday but at the moment Alec Fong Lim, Charles Gurd, Robert Crean, Jan Collins, Pat Burke and Dave Fuller are either out of town or about to leave town. I was at an official engagement from 10 am and we simply were not able to muster up any other elected member to attend.

The association's submission is as per the letter of 10 February. The association, representing all councils, considered the discussion papers. How many meetings did that involve, Noel?

Mr LYNAGH: When they were first received, the discussion papers were distributed by the committee. They were circulated to all member councils and were the subject of discussion at 2 general committee meetings.

Mr ANTELLA: The association generally supports the philosophy inherent in the discussion papers and agrees with the various proposals, including the single parliament elected for a 4-year term and the independence of the judiciary. The association's comments regarding Aboriginal land rights are self-explanatory. We have a couple of concerns regarding the form and composition of the legislature, qualifications for members, and in relation to local government.

Territory local government councils are unanimous in their view that elected members of local councils should not have to resign from those positions in order to contest elections for the parliament. It is reasonable that they stand down from council positions during the course of an election but. The current legislation requires that members of councils have to resign those positions in order to contest parliamentary elections.

Mr SMITH: John, do you believe that, under a Northern Territory constitution, members of local councils should have to resign those positions if they are elected to parliament?

Mr ANTELLA: The situation varies from one state to another, Terry. I think it is probably in the interests of good government that they do resign. I would have no problems with occupying both positions because I do not belong to a political party. That, however, is just a personal view.

Mr SMITH: Does the association have a view on that?

Mr LYNAGH: The association subscribes to the view that, if an individual decides to nominate for the Legislative Assembly whilst occupying the position of mayor or alderman, the decision as to whether or not he can serve in both positions is one for that individual rather than one which should be interfered with by any other legislative body. That has been the case in some other jurisdictions in Australia for quite some time. The view has been expressed by ministers of the Northern Territory government that it is not competent for a person to fill both roles. That leans rather heavily on personal views rather than any developed experience of the matter that would justify such an interference in an individual's right to

make up his own mind.

That is some of the background to the general view in the association that the decision as to whether or not it is appropriate for an individual to serve in both jurisdictions is strictly a matter for individual determination.

Mr SMITH: There are some good examples of people who have successfully filled both roles. One which comes to mind is Ted Mack.

Mr LYNAGH: I did not want to draw personalities into it. The central theme is that it is up to the individual.

Mr HARRIS: The big concern has been the potential for a conflict of interest. There is a bill before the Assembly in relation to the other matter. Quite frankly, I do not see why people should have to resign from councils and then fight another election if they are not elected to the parliament.

Mr ANTELLA: I think that was something which was just slipped through without being noticed by anybody.

Mr HARRIS: That issue is being addressed. There is a very real fear, particularly in the context of devolution of powers further down the line, that a situation might arise in which a minister might also be an alderman of a council. That could create considerable problems. I suppose that is the government's view. I do not wish to debate those matters here because it is your views which are of interest here.

Mr ANTELLA: Well, I think that Noel has covered that issue in as much detail as is necessary, Mr Chairman.

I guess the other matter which the association unanimously agrees upon is the need for some constitutional recognition of local government. Being a former alderman yourself, Mr Chairman, you would know that local government has advanced considerably in the 10 years since you served in that role. I have been an alderman for 10 years and all I can say is that the Darwin City Council is a very responsible organisation, and I have no doubt that the same applies to the other councils. We are fairly stable. We do not think that we should continue in the role we sometimes fill, as the whipping boy for the more senior level of government.

Mr HARRIS: We all have that problem, don't we?

Mr ANTELLA: We do. Sometimes it is unnecessary.

Mr SMITH: How would constitutional recognition stop you being the whipping boy, John?

Mr ANTELLA: Constitutional recognition would not necessarily achieve that, Terry, but I am just saying that it is about time we got on with the job.

Mr HARRIS: Earlier this morning, the Northern Territory Community Government Association presented a submission. Its position is similar to yours in most respects, except that it feels that the convention should comprise a combination of elected and appointed members whilst you favour a wholly elected convention. Have you had any formal discussions with the Community Government Association on that issue?

Mr ANTELLA: I would ask Noel to answer that, Mr Chairman.

Mr LYNAGH: There have been no formal discussions. There have been informal discussions, and in fact we have provided the Community Government Association with a copy of our submission. We have not received a copy of its constitution in return. Nevertheless, it would be remarkable if that association did not view constitutional recognition of local government in the Northern Territory constitution as a necessity, given that our objectives and our responsibilities are virtually identical.

In fact, to go beyond the terms of the question a little, it is the view of this association that there should only be 1 association representing local government in the Northern Territory. It is not exactly ludicrous but it is at least a little superfluous to have 2 separate local government associations in the Northern Territory which have identical objectives. Our constitution makes it very clear that any community government, whether formally or informally constituted, may join our association. We have already issued a general invitation to community governments to join us if they wish and the next step will be to send them copies of our constitution as it now reads - there having been some doubt about the position at an earlier stage - and renew the invitation. Indeed, that step was recommended by the present Minister for Local Government.

Mr HARRIS: Have you heard back from them on the subject of coming together under a single umbrella?

Mr LYNAGH: No. The only statements we have heard have been public ones by various officials in the community government councils to the effect that they want to learn to control their own affairs before they try and join a wider forum. We do not see it as wider. They are, however, entitled to their view. We do not wish to denigrate the CGA or its directions in any way, nor to seek to apply any compulsion. We do think that the existence of a second association to some extent weakens the case for local government.

Mr HARRIS: Do you have any timetable for the process which you have just outlined?

Mr LYNAGH: No, that would inject too much of a personal note into the views which I have expressed. I am simply a part-time secretary and there is a limit to how much I can do. I am virtually a 1-man band. The matter is on the agenda, however, and the invitation will be extended.

Mr HARRIS: I only raise the matter because, in terms of our charter, we see would like to see some commonality in the views of municipal local government and community government.

Mr LYNAGH: We believe that it is crucial that there be a common voice on common problems. In fact we have been approached recently by the Community Government Association to join with it in a proposal to the Northern Territory government for some relief from the cost of water tariffs in connection with the maintenance of parks and gardens in municipalities. We gladly took up that issue on its behalf and joined with it in putting the case, which is proceeding at a fairly deliberate rate.

Mr SMITH: We had an interesting proposition advanced to us yesterday, which was that in key areas like the recognition of local government, we should not have precise protection but, rather, what the person described as 'constitutional standards'. These would be a set of principles which would, in this case, govern the relationship between the state government and local governments. The state government would have to comply with those standards when considering such things as changes to local government acts or other matters related to local government. In fact, our respondent went so far as to suggest that there should be a judicial review process, which would apply in situations in which there was dissatisfaction with laws and some question as to whether or not they complied with constitutional standards.

Mr LYNAGH: The laws introduced by the state legislature?

Mr SMITH: Yes. That concept was something members of the committee had not considered before. I just want to put it to you as a proposition which your association might like to consider. In essence, it would mean that the constitution would contain a set of principles rather than a set of protections.

Mr LYNAGH: For many years, there has been a central concept in the thinking of local government in Australia on the issue of recognition. Although it is not drawn out specifically, it is the basis for what appears on the second page of our submission, where we set down our policy for the terms of constitutional recognition: 'a general competence and autonomy for each local government body to act for the peace, order and good government of its people'. That would need to be enshrined in the appropriate legislation but it would give local government a higher stature than it currently has. Throughout Australia at present, local government is very much the creature of another legislature. We believe that it is necessary for it to be regarded as an equal level of government, not a subsidiary level. That, in fact, is the substance of our point (a).

Point (b) consists of 3 words which entail a great deal: secure financial basis. During the last 30 years the responsibilities of local government have widened considerably to embrace services to the population at large rather than to what is virtually an elite group, the property owners in a municipality. We now have universal adult franchise rather than a franchise based on property and a much heavier financial burden which has not been met from its proper source, which is the taxpayer rather than the ratepayer. That is what (b) is about: an acknowledgement that an identified portion of revenues collected at the state and federal level should be directly allocated to local government.

Another point relates to proper recognition of the role of elected member. This comes down primarily to what is known colloquially as parliamentary privilege. There is no protection for an elected member of a local government body who says something in good faith but is seen by someone about whom he is speaking as damaging. It leads to an unhealthy and unnecessarily large amount of in-camera dealings by local government elected groups, such as in committees. That occurs simply because, in making an honest appraisal of things like tenders, contracts and so forth, local government members

need the protection of confidentiality. If their role as freely elected representatives of the public was recognised through the protection of privilege, they would be able to function in the light of day and people would know the actual reasons for decisions.

Mr SMITH: Does parliamentary privilege apply anywhere to local government?

Mr LYNAGH: I think it applies to a fair extent in the USA but I am open to correction on that. I certainly know that it is a matter of concern to local government authorities throughout the country.

Our next point relates to our concern that there be protection from dismissal of individual local government bodies without public inquiry. The crux of the matter is the phrase 'without public inquiry'. That is to say, that there is no objection to the right to dismiss a body whilst local government is a creature of the state rather than a partner. When you are a creature of somebody else, there is an automatic acceptance of subservience. Whilst that state of affairs is not acceptable, whilst it continues and there is a right to dismiss, that right should be subject to examination by way of public inquiry. It should not be within the arbitrary competence of a minister, or a Cabinet for that matter, to dismiss a local government without public exposure of the reasons.

We have referred to the need for due consultation prior to any changes of powers simply because we feel that it is necessary as a safeguard. There have been many instances of decisions, particularly at the federal level, which entail a heavy involvement of local government without any clear idea of who is going to pay the bill at the end. Quite often, after a program has been set up, there is a sudden withdrawal of funding whilst the program continues. That is the reason for referring to the need for consultation in this area. That is virtually the notion of a standard of behaviour, although it does not apply only to the state government. It applies to all 3 spheres of government in their dealings with one another.

Mr SMITH: I accept that point.

Can I ask you specifically about industrial relations? That is one of the powers that will obviously transferred across to a state government upon the achievement of statehood. Has your association looked at any industrial relations models which might apply in a new state? Are you happy with the present arrangement? Have you looked at other arrangements?

Mr LYNAGH: No. At present, there is a general discontent with the rather indeterminate nature of the organisation of industrial relations, particularly our involvement at the federal level in matters which would normally be the province of the states. We would see it as being desirable for industrial relations to be matters which come within the province of the state. Local government should share in that process to the extent that it is feasible.

Mr HARRIS: Rick, do you wish to raise anything?

Mr SETTER: Yes, Mr Chairman. Gentlemen, I draw your attention to page 92 of the Discussion Paper on the Proposed New State Constitution for the Northern Territory. Item 6 says, and I quote, 'Subject to these considerations, the select committee favours some constitutional provisions for the recognition of local government in the new state. It invites public comment on the nature of those provisions'. It can be assumed on that basis that this committee is generally in favour of giving some form of recognition to local government in the new state constitution. I think what is required from your organisation is a detailed response on how we should achieve that - in other words, your submission on how you believe that should be undertaken. That is because, when we consider this matter further, and when the constitutional convention considers the matter, a detailed set of proposals from local government will be very helpful.

Mr LYNAGH: I am very pleased to hear you say that and I have no doubt that the Deputy Lord Mayor of Darwin is also elated to hear it, sir. We put our case, in detail, some 2 years ago. It is in the hands of the Northern Territory Government. It was rejected. We sought the advice of one of the leading authorities on constitutional matters in Australia, Professor Cheryl Saunders of the Melbourne University. She outlined 4 options for the enshrinement and entrenchment of local government in the constitution of the Northern Territory. She examined in detail the apparent conflict between some aspects of federal law and Northern Territory law and spelt out the reasons why, in her view, both enshrinement and entrenchment would be feasible and sensible. That fully developed case is with the Northern Territory government. I am prepared, sir, if it is your wish, to make available the basis for its refusal by the Northern Territory government, but at the moment it is in the nature of correspondence between a minister and an association.

Mr SETTER: Well, let me point out that this is a committee of the parliament as opposed to the Northern Territory government.

Mr LYNAGH: I understand that.

Mr SETTER: To the best of my knowledge we have never seen that submission and, if it represents your current position, I would suggest that you submit it to this committee.

Mr LYNAGH: I can assure you that it is still our position.

Mr SETTER: Right, that is fine.

Mr SMITH: Just before you move away from that subject, I would like to ask a follow-up question. What did the minister refuse to do? Did he state that the government's position was that local government would not be recognised in any future state constitution?

Mr LYNAGH: I am relying on memory now. As a matter of fact, I thought of this in bed last night. I was going to refresh my memory this morning but I did not have time.

As I recall it, the position is that there are aspects of the Northern Territory (Self-Government) Act which make it difficult if not impossible for the Northern Territory government to take action. I believe the Northern Territory Government would have to request the federal government to change the act, and that is not an acceptable action for it to take at this stage.

Mr SMITH: So he did not deny the possibility of providing recognition under a new state constitution.

Mr LYNAGH: I would put it slightly differently. A policy was not expressed. Reference to the legislation cited by our legal advisor was used as the reason for not taking any further action.

Mr SMITH: Does the paper of your legal advisor address the question of recognition based on the present legislation, that is the Self Government Act?

Mr LYNAGH: Yes.

Mr SMITH: So it does not address the question of a state constitution.

Mr LYNAGH: That is correct.

Mr HARRIS: Could I just say to you that we do have the opinion from Cheryl Saunders and perhaps we should ask the government to make those papers available to us.

Mr LYNAGH: Will you do that or do you want me to provide copies of what I have?

Mr HARRIS: No, we could do that. Do you want to follow on from that, Terry?

Mr SMITH: Sorry, I interrupted Rick.

Mr SETTER: I have further questions, Mr Chairman. Gentlemen, you indicated that your preferred option was that of a wholly nominated constitutional convention. Could you expand on your reasons for that position?

Mr ANTELLA: Mr Chairman, I think Mr Lynagh is in a position to answer that in a little more depth than myself.

Mr LYNAGH: I might hedge my bets a little by first saying that one can never be sure that one gets entirely into the minds of people who say things.

The basic reasoning is that this matter is so important and its ramifications for our children and the generations to come are so far-reaching that we should be making use of not only the best knowledge and experience available but also the widest possible sample of opinion, and that we should therefore be confining the consultative process to interaction with people of considerable calibre. The selection of members of the constitutional convention should come about through the careful compilation of an invitation list from an initial, broadly selected group. The consultation should spread not only through informed and competent people in the Northern Territory but nationally - and the only way to do that is by appointment.

Election or any sort of random process could undoubtedly elicit intelligence, competence and high qualification but it may

not be as comprehensive as it should be and it may accidentally be weighted in one direction or another. As far as I can condense a view that is the result of fairly lively argument over a period of 6 months, that is the reasoning behind that particular proposition.

Mr SETTER: Thank you. If I could move along to another point, you stated that the new constitution should allow for local government to be equal and not subservient as you obviously feel it is now. Given the acknowledgement of local government's position in the constitution, would you feel that it should exist as a level of government which operates on the next level down from the state government and therefore receives its funding from that source? Or, conversely, do you see it as a totally separate level of government which would deal directly with the Commonwealth in terms of funding? Is that the option that you are suggesting.

Mr LYNAGH: Not necessarily. In fact, I do not think the association is suggesting that at all. The proposition is hard to reduce to simple terms but it is based on general competence. Local government believes that it deserves, and is entitled to, recognition as a separate and competent sphere of government with a standing and stature that is not outmatched or overborne by its partners in government. Local government is part of the government of Australia. It is, in some respects, the most important part for the people it serves because it looks after their day by day needs.

State governments and federal governments are progressively remote from the daily activities of the population. It is natural that that should be the case. Federal should mean national and state should mean regional. Local means around the corner or in the same street. What local government seeks is recognition of its competence to deal with the matters that are rightly its concern. We also believe that government is about people, not about territory. Population size should be the criterion in determining the size of municipalities, the size of electorates and so on.

Mr SETTER: Thank you. The reality is that state government is, in a way, subservient to the Commonwealth government because it is the Commonwealth that holds the majority of the purse strings.

Mr LYNAGH: In the case of Joh Bjelke Petersen it is fading rapidly, isn't it?

I see what you mean but that argument could be turned around. Have we got time for this sort of philosophical diversion?

Mr SETTER: Please go ahead.

Mr LYNAGH: Strictly speaking, the federal government is a creature of the imperial government of Britain at the instigation and with the acquiescence of the states of Australia. It is the original sixth state, so the role is rather tangled. The vexed question of sovereignty is also very relevant. To argue that the federal government is superior to state government is to ignore the argument about states rights which has been raging since federation and continues to rage now. Indeed, the first question in the referendum on 3 September relates to the role of the Senate as a states House rather than ...

Mr SETTER: We could debate that all day, couldn't we? The states have their view and the Commonwealth has its view.

Mr LYNAGH: All that local government is looking for in this area is an acknowledgment in firm constitutional terms of the lip service that state and federal government has paid to its role as a partner in government. It claims that it is an essential part of government. It should be recognised as such and recognised as competent to carry out its function.

Mr SETTER: Thank you. Could I move on to another subject, Mr Chairman?

There was some discussion earlier with regard to the ability of state governments to dismiss councils. We have seen examples of that during the last couple of decades. My concern about your particular proposal, in as much as it suggests that the state government should not be able to dismiss councils without conducting an inquiry, is that if there is some evidence of malpractice, the state government does not have the option to stand down a council and appoint an administrator while the inquiry is being undertaken. I agree with you that there should be an inquiry but not with the contention that the council should continue whilst the inquiry proceeds. Perhaps a more acceptable option could be to stand down the council and appoint an administrator during the period of the inquiry. That would rule out the possibility of further maladministration occurring during the period of the inquiry. Could you comment on that?

Mr ANTELLA: My personal view is that there is probably nothing wrong with that as an alternative. However, that is not the view of the councils in the Territory. Noel, could you spell that out?

Mr LYNAGH: It is a little bit difficult for me to comment as an official of the association because there is a fairly firm view that dismissal without an inquiry is arbitrary and can be a wilful or capricious act. In fact, people in local government have been sorely troubled by the manner in which Sydney City Council was dismissed by the NSW government. There have been other examples, not only in the last couple of decades, but since federation.

Local government bases its position - that there should be no dismissal or even suspension without an inquiry - on the fact that, in most cases where there has been some culpability, the damage has not been great. In fact, there have been far too many cases in which dismissal has been totally unjustified, being based on political caprice or some such reprehensible motive. To sum up in everyday terms, the state governments have made their beds in relation to this and now they have to lie in them. There is going to be no acceptance of their competence to make the decision in the present climate.

Mr HARRIS: Noel, in cases of what you refer to as capricious dismissal, surely such matters could be brought before the Supreme Court. Have there been challenges?

Mr LYNAGH: I hate to say this, but that avenue was available in New South Wales until recently. In fact, Doug Saunders, the Lord Mayor of Sydney, was actually walking up the courthouse steps as the legislature was withdrawing his right to appeal against what had happened. That withdrawal, by the way, was retrospective.

Mr SMITH: How far will the local government question in the Commonwealth referendum go in terms of meeting the needs of local government? If it is passed, is there a need for a recognition of local government in any state constitution?

Mr LYNAGH: As the question is worded, it will achieve 2 things if passed. It is hard to know exactly how it would be translated into enacting legislation but the key words are: 'There shall be a form of elected local government'. That would remove all our problems with dismissal and the appointment of commissioners or individuals, as distinct from an elected representative body. It would ensure that an election would be held within a reasonable time of the dismissal of any local government. Local government would still be subject to state legislative provisions which means that the power to dismiss would remain, but the word 'elected' would offer some protection in terms of the form of local government in a situation where a council was dismissed.

Apart from those important changes, the referendum question, if passed, would enshrine in the constitution a recognition of the competence of local government as a branch of government. The effect of that at the state level relates to the dismissal process. Whilst local government must be subject to state legislature, there would have to be provision in the state legislature that dismissal is limited to the removal of a council while another one is elected.

Mr SMITH: I just remembered something on the first page of your submission. Can you explain the rationale behind your third paragraph where you state that you would like to see Aboriginal rights and human rights issues dealt with in a general preamble rather than specific enshrinement?

Mr LYNAGH: The thinking behind that is not exactly simplistic but it is fairly straightforward. Aboriginals are part of the population. There should be no special treatment, in a constitutional sense, for any part of our population. We are all citizens of Australia and to single out a particular group for whatever reason, be it ethnic origin, place of birth or whatever, is not appropriate in a constitution which should be dealing with general propositions affecting the whole population.

Mr SMITH: We could set a precedent.

Mr LYNAGH: Be that as it may, we do not support the idea that a state constitution should distinguish one group of citizens from the remainder. It is within the competence of the state legislature to make special provisions for special cases. It is not the role of a constitution to do that and that is the reasoning behind the association's position.

Mr SMITH: So you do not believe, in general terms, that the constitution should provide any protection for minority groups.

Mr LYNAGH: It is within the competence of a legislature, operating under the constitution, to look after all its citizens. The basic reasoning behind the association's position is that the constitution should not get too far down into the particular.

I suppose my personal experience is not particularly relevant, but I believe that the problems which relate to Aboriginal people and their life in the Northern Territory and Australia generally, are of such a complex and difficult nature that they need to be addressed as legislative problems rather than constitutional problems. What I am trying to say is that we are not



a group of nations; we are an Australian nation. A lot of my own feelings are coming into this now. I am here to represent the association but, nevertheless, I think that ideas like the ones I have been outlining are what led to the decision that is reflected in that paragraph.

Mr SMITH: Could you just narrow that down a bit? When people talk about entrenching Aboriginal rights, they are obviously talking about Aboriginal land rights. I take it from your comment and the paper that your association does not favour any form of entrenchment of Aboriginal land rights.

Mr LYNAGH: We see administrative incompetencies in the Aboriginal Land Rights Act. For example, many of the community governments in the Northern Territory are, strictly speaking, located on private land and are therefore not entitled to the support of the taxpayer in terms of paying for their access roads or even the internal roads in the communities. In most cases, the roads are situated on land which is the property of a group of individuals who do not even live in the community and certainly do not pay any rates. We have problems with anomalies like that in the Aboriginal Land Rights Act, which has not solved problems so much as added to the problems that already existed.

Mr HARRIS: There is no doubt that the issue of land rights will be one of the most contentious matters which we have to address. There are some options being put forward which aim at a compromise and we are interested in obtaining individual views as well as views from organisations.

Mr LYNAGH: A lot of this hinges upon the ability of the traditional owners of the land to dispose of the land in any way. Although they have certain decision-making rights and powers, they are still subject to a land trust. The land councils service those trusts. The land is private property with freehold title but the traditional owners have no independent right to dispose of it. The act forbids that, except in a very limited way. For example, it cannot be sold.

Mr SMITH: That is right. It also cannot be mortgaged.

Mr LYNAGH: They can't mortgage it either? That is another thing they cannot do.

Whatever value the land has is circumscribed by the inability to sell and further devalued by the inability of traditional owners to use it as collateral for any sort of development or use. From a local government point of view, those aspects of the Aboriginal Land Rights Act are worrying. We cannot charge anyone for rates. We have no right, ultimately, to put a road on private property. In fact, I believe that although there is a provision in the act which allows land to be leased, there is a limit on the term of the lease. A few years ago, when I was directly involved in some of these matters, I think the period was 10 years. It may have been extended now but, nevertheless, provisions like that can create administrative difficulties of horrendous proportions. Indeed, I worry about the fact that, if community governments join our association, some of these problems might start to drop on our policy desk because I am sure that the thinking people amongst the Aboriginals must find them as difficult as do sympathetic observers.

Mr HARRIS: Noel and John, thank you for coming. Could I ask you to prepare a submission to the committee in relation to your comments about the need for privilege for members of local government?

Mr LYNAGH: Without wanting to appear flippant, Mr Chairman, I advise that your request has been anticipated by an alderman in Palmerston, who rang me this morning and asked if ...

Mr SMITH: She was here yesterday.

Mr HARRIS: It is important that we look at all these issues. The whole matter of local government and where it sits is an argument which has been the subject of debate for many years. I happen to believe very strongly and personally that each tier of government has a very important role. Some, however, would argue that state governments should disappear, leaving only the federal government and local governments ...

Mr ANTELLA: I do not think we agree with that overall.

Mr HARRIS: It is a contentious area and I thank you very much for putting forward your submission.

Mr ANTELLA: Thank you, Mr Chairman. The Northern Territory Local Government Association would like to express its thanks for the opportunity to make this submission and to assure the select committee of its willingness to offer full cooperation in the pursuit of this foundation for the state of the Northern Territory. If there are any other matters which

you would like to have our comments on, such as the one you just mentioned, we would be happy to hear from you.

Mr HARRIS: At this stage, I will take the opportunity to again emphasise that this is a constitutional committee rather than a statehood committee.

The next submission comes from the Northern Territory Confederation of Industry and Commerce. I advise that this committee is a select committee of the Legislative Assembly and, as such, evidence by witnesses demands the same respect as proceedings in the House itself. For the Hansard record, Raphael, would you please state your full name and the capacity in which you appear today?

Mr CROWE: My name is Raphael Francis Crowe. I am the Executive Director of the Northern Territory Confederation of Industry and Commerce.

Mr HARRIS: We understand that this is a verbal submission. We have not received any written submission.

Mr CROWE: That is correct.

Mr HARRIS: Could I ask initially why there was no written submission? My only reason for asking is because it is important for us to be able to look at the issues in advance so that we are able to consider our questions.

Mr CROWE: I apologise for the lack of a written submission. We believe that the committee's work is ongoing and we hope to be able to present a written submission at some time in the future. We wrote to the committee earlier this year stating that we would be making a written submission and were given an extension of time in which to do that. The main reason we have not done so is because the confederation does not have the time and resources to complete such an exercise in the necessary depth. As members know, the confederation is the major representative of business, commerce and industry in the Northern Territory. We have 700 members throughout the Northern Territory and we feel that the issues being considered by your committee are of such importance that we should have the time and resources to respond.

I will hand up a copy of a letter which the confederation wrote to the previous Chief Minister on 16 June, in which I advised the Chief Minister that the confederation had formed a working party which had considered the discussion papers and information and wished to prepare a written submission. The letter said, and I quote: 'However, the work envisaged in preparing an appropriate response from business is substantial. My executive committee has met to consider this matter and has asked me to write to you to seek assistance. The confederation strongly believes that the business view on the fundamentals of statehood needs to be put and our members should be aware of the implications of statehood. In order to do this, we submit that your government should provide some assistance, either financially or with resources, to enable us to undertake the task. Please could you advise your views?'

Since that letter of 16 June, I have written to the new Chief Minister asking for his response. We had an acknowledgement of our initial letter but as yet we have no idea whether assistance will be forthcoming. Our position is a very difficult one. I have had to do all of the work for today's hearing by myself, of course with some comment from the confederation's working party which consisted of some of our members, particularly those from the legal profession. The working party felt that the issues were of such importance that we should request additional support, by way of resources or financial assistance, so that we could employ somebody to carry out the mammoth task of preparing and presenting the business view to your committee. That is a long-winded explanation of why we have no written submission today. It is just a lot of work to be done in a short space of time.

Mr HARRIS: It would appear that some groups coming before us are adopting the approach of waiting to see what will happen. We need input. I will take this as an interim submission which can be followed up by a formal written submission at some later stage.

Mr CROWE: Although it may be self-evident to members of the committee, in hearings like this I normally begin by giving some background information explaining the activities of the confederation so that its role and function is clear in the transcript. The confederation is an employer association and, effectively, a member association. As I said earlier we have some 700 members throughout the Northern Territory. We have branches in all of the major centres - Alice Springs, Tennant Creek, Katherine and Nhulunbuy - and, of course, our head office is in Darwin. We have committees in all of the centres I mentioned and I am not sure whether members of our branches have spoken to this committee in Alice Springs or Katherine. The confederation employs staff in Nhulunbuy, Alice Springs and Katherine. These people are considered to be branch executive officers. The confederation is a foundation member of the Confederation of Australian Industry and a

member of the Australian Chamber of Commerce. It is also a member of the Northern Territory Business Council, of which I am the secretary.

I have already indicated that we have sought some assistance from the Northern Territory government to help us to prepare a worthwhile submission. It should be noted that the Northern Territory Business Council also wrote to the previous Chief Minister, followed up by a request to the new Chief Minister, seeking assistance to sponsor a seminar on statehood for business. We are waiting for a response. The Northern Territory Business Council believed that it was very important to clarify the issues to the business community and is prepared to sponsor a seminar with the help of the Northern Territory government.

Part of the confederation's problem arises because of confusion about the timetable for statehood. We appreciate that we have to hasten slowly but it is a bit unclear, from media reports and so forth, what the timetable actually is. In March 1986, a newspaper advertisement sought public submissions by 31 May 1986, which is some time ago. We appreciate that things have changed since then and that the membership of the select committee, including the Chairman, has changed since the election last year. As we understand it, the current work of the committee is, firstly, to prepare a draft constitution and, secondly, to table that constitution in the Legislative Assembly with recommendations for the organisation of a constitutional convention. I do not know whether I am entitled to ask questions but the confederation wants to know whether this is still the case. Is this still the program and if so, what is the timetable for it? To which sittings of the Legislative Assembly will this committee report? That is where the confusion lies within the confederation and that is what tends to sometimes put the issue on the back burner. People react to timetables and if the end to the process is a very long way off, there is a tendency for matters not to receive the attention they deserve.

If the work of the committee is as I have suggested, it is obviously seeking the views of the public to assist in its recommendations pertaining to the constitution. Information Paper No 1 put the matter in very broad terms when it referred to the committee's role in looking at the issues, conditions and procedures pertinent to the entry of the Northern Territory into the federation, as a new state.

As I said earlier, we have formed a working party of members to consider the 3 information papers. We are still waiting to hear back from the Chief Minister in relation to our request for assistance in examining the papers in detail and canvassing our members in the business community.

What I would like to do today is to go through the Discussion Paper on a Proposed New State Constitution for the Territory and pick out some points where there is a need for much more detailed consideration by the business community. That will at least give you some idea of the issues which we feel are worthy of consideration. Just before I do that, though, I want to be clear that the constitution is the first matter which the select committee is looking at and that the constitutional convention comes next. My comments will not contain much detail on the constitutional convention but the confederation's general view is that it needs to develop a position in relation to it. That is why I went through the exercise of explaining the background of the organisation and our importance. We believe that the business view should be represented in the constitutional convention. That is just a general comment and, keeping it in mind, our views on the paper relating to the new state constitution are as follows.

Perhaps I will refer firstly to the the summary of select committee recommendations and endorsements at the beginning of the Discussion Paper on a Proposed New State Constitution for the Northern Territory. We see item (c) on page (v) as one that needs to be further considered by the business community. It relates to the representative of the monarch and the function and powers of that representative. As I said, Mr Chairman, I will not go into any detail but will just make very brief comments.

I have a question in relation to item (b) on page (vi). I am not sure whether it is my place to ask questions but I note that the select committee proposes that the new state parliament should consist of 1 House only. I have read some of the background to that and it is clear that we would need to ask that question in any written submission that we make and to ask the business community about its views. We saw this matter as being rather important.

Mr SMITH: I am rather confused. Are you saying that you are looking at the prospect of having 2 Houses rather than 1 House?

Mr CROWE: We have to look at the traditional system which is used in the states. The discussion paper puts the argument that we should have only 1 House but the business community needs to decide whether that is acceptable. All I am saying

is that issue has been flagged by the working party as one that needs to be looked at in more detail.

Mr SMITH: I suppose your working party would like the second House to be full of businessmen.

Mr CROWE: I do not know.

Mr SMITH: The Business House of Review, or something similar.

Mr CROWE: I do not know whether that is the thinking, Terry. The working party just felt that it was an area that needed to be further considered.

Mr SETTER: Mr Chairman, that is not the case in any other Upper House in Australia these days.

Mr SMITH: No, but it used to be, didn't it?

Mr SETTER: That may have been the case in years gone by. Originally, members of the Upper House were simply appointed.

Mr HARRIS: We have also received the suggestion from some quarters that ministers should be appointed too. Please proceed.

Mr CROWE: Item (e) on page (vi) is also a matter which the business community would like to look into in more detail. Item (h) on page (vii) touches on commercial matters. We agreed with item (j) on page (vii); the working party was in agreement about the retention of the existing term.

Item (l) on page (viii) makes comment on the ability of the Governor to dissolve parliament. The background papers recommend that there be a Governor and it is obvious that the powers of that office will have to be defined. It is obvious from my earlier comments about our views on the role of the Queen's representative that that matter would need to be looked at by the business community.

We need to have a good look at section D, beginning on page (viii). I am a bit confused as to what the second paragraph of that means when it expresses the view that 'the nature of electorates should not be prescribed in the new state constitution but should be left to ordinary legislation'. I do not know whether that raises questions of gerrymanders and so on but we believe that it is a matter of great interest to the business community.

We believe that item (f) on page (ix) is another fundamental issue that needs further consideration. It relates to fundamental matters like secret ballots and 1 person 1 vote.

On page (x) under the heading of 'Other Legislative Matters', item (a) refers to the powers of the Speaker and, again, our question is: why? Obviously, we need to look at that separately.

Items (c) and (d) on page (x) refer to entrenchment. The select committee's position is spelt out in more detail on page 37 where a number of matters which could be considered for entrenchment are listed. These matters have been identified by the working party as being of interest to the business community and we would need to investigate them further. I am just trying to put my finger on exactly what the working party said about them.

Mr HARRIS: When was that working party formed?

Mr CROWE: It was formed in March this year and met on 7 April, when it listed the matters which required further investigation.

In relation to the matters which might be entrenched in the constitution, the working party prefaced its comment by saying that its response might impinge on the political arena, which the confederation does not want to do. The working party said: 'The confederation may wish to make comment on the suggestion that certain things be entrenched in the constitution, particularly a maximum tolerance between electorates ... Because the constitution has a life which, if all things go according to expectation, will last for many centuries, the entrenchment of a fixed maximum tolerance between electorates and a constitution - as distinct from its presence in the electoral act - is rare and should be carefully considered'. That is the sort of comment that was made on that point.

To refer to the summary again, item (b) on page (xvi) states that the select committee is opposed to 'any proposal for including any external controls over borrowing by the new state other than in accordance with the provisions and powers presently applicable to the existing states'. That is something that the business community would need to give careful consideration to.

Items (a) and (b) on page (xvii) refer to the appointment and removal of judges. That, again, needs further consideration. Item (b) reads: 'The select committee favours inclusion of provision for removal of judges in the new state constitution and, in the absence of a national scheme concerning the removal of judges, the existing method of removal, which leaves the question of a determination as to misbehaviour or incapacity to the legislature'. There seems to be some conflict there in terms of whether it is written into the constitution or left as a matter for the legislature

We agree with the need for an independent judiciary, as stated on page (xviii). We would need to have a further look at item (d) on page 19. The question of Aboriginal rights is dealt with on page 20 and the matter of the current Aboriginal Land Rights Acts would also need further discussion with our members in the context of the select committee's recommendation.

That concludes the matters raised by the working party in its consideration of the select committee's discussion papers, Mr Chairman. As I said, the confederation's response is only initial and cursory. It does not go into any depth or try to come up with recommendations. We have been a little bit hamstrung in that we had hoped that by now we would have had some assistance to prepare something more substantial for you. As I said, the letter to the Chief Minister was sent in the middle of June and we have not received any response or indication in reply as yet. We have come along today to inform you that the confederation is very interested in this issue and seeks to prepare a more extensive submission at some time in the future. I would, however, like some indication as to the timetable.

I would also like to make a brief comment about industrial relations under statehood. I cannot put my finger on where that is covered in the document I have been referring to, but only today the confederation put out a media release on the issue. Sir John Moore is, of course, advising the Northern Territory government on this matter and only yesterday we put our views to him. In brief, we believe that the situation in which the federal Conciliation and Arbitration Act has relevance in the Northern Territory should be continued, on the basis that the Northern Territory government can at some stage take on the responsibility itself when it considers that the new state has reached the stage of development where it has the ability to use the industrial relations power under its own legislation. We appreciate the legal and technical difficulties but, in summary, we believe that the Territory Government should accept the industrial relations power but then legislate to adopt the federal Conciliation and Arbitration Act and use the federal commission to assist parties in the Northern Territory to prevent and settle industrial disputes.

As I said, Sir John Moore has our detailed views and I spoke to him yesterday about them. We are not arguing that there is no need to simplify and make more flexible the current federal system and the system of industrial awards to take into account Northern Territory conditions and the Northern Territory population's views, so that, for example, we can compete in the Asian market.

I do not want to go into too much more detail. I presented a paper on this subject at the Industrial Relations Convention only last weekend and I am happy to forward that to you. Whilst it is an address, it certainly captures our views and I will forward it in due course.

Mr HARRIS: I am glad you mentioned industrial relations, Raphael. We are looking at groups such as the confederation to give us their detailed views. The unions are also looking at the issue and have presented some ideas. It is important that we obtain as much information as we can.

I will now turn to a couple of points which you have raised. Firstly, we do not have a set timetable as far as this exercise is concerned. We wish to visit as many areas as possible and to allow the greatest possible number of Territorians to comment on the various matters that have been raised. Indeed, if some have not been raised, they can touch on those as well.

You have correctly outlined the process which the committee is following. We will be putting forward a draft constitution to parliament and that will then go to the constitutional convention. That will produce a document which will go back to the parliament and will then be put to the people in the form of a referendum. Many people seem to be saying that they will wait until the draft is prepared before entering into discussion on the issues. That simply lengthens the process and

makes it more difficult. We need input now. We need to have comment from people in relation to how they see various matters which will be affected by the constitution. Some people, for example, believe that issues relating to Aboriginal land should be covered in a preamble to the constitution whereas others argue that they should be enshrined in the constitution itself. We need to know the views, not only of organisations but of individuals. Unfortunately, if everybody waits for the draft document, we will finish up repeating the whole process. The purpose in preparing the discussion papers was to open up debate and obtain views from the community.

The confederation has flagged its interest in being represented on the constitutional convention. Actually, it will be very difficult to cater for all groups in the community but I would suggest that your group is in the same category as union groups and will be amongst those represented.

Mr SMITH: Tom, can I just clarify one area in which Raphael and yourself may be having some difficulty with the interpretation. It is not the job of this committee to organise the convention. Our job is to report back to the parliament and then the parliament in some way will organise the convention. It might appoint another committee or it might organise the convention itself. It might appoint ...

Mr HARRIS: But it is part of the process.

Mr CROWE: I was not going to comment on that today. I really wanted to concentrate on the actual constitution but I thought it was important that we just flag our interests in being involved when it occurs. Thank you, Terry.

Mr HARRIS: You also said that the areas we were covering were fairly broad. That is because we want comment on as many areas as possible. We are firmly agreed that Territorians should be the ones who decide what should be in their constitution. We are talking to people in remote communities as well as in the urban areas and we will be inviting people to come before the committee.

Raphael, you said that the confederation's working party was formed in March and met in April. You also talked about resources. I do not know whether it is necessary to have a lot of resources in order to discuss the issues. You have already prepared a paper and you have spoken about a number of matters. Those are the sorts of things that we want to know. I acknowledge that detailed research on any topic requires assistance and perhaps you can see Rick or Graham in relation to that, even though funds are limited. Generally speaking, I would have thought that it was possible to get members of the confederation throughout the Northern Territory to address some of the issues. You indicated that you considered issues of the Territory's constitutional development to be important and you expanded on some matters but I accept that this has been an interim submission and that you will go into more detail at some later stage.

There has been some comment from various sources in relation to the committee's visits to other communities. Could I ask in that context whether or not you have contacted the various branches of the confederation about the work of this committee? I know the unions have had some trouble in this area and I am not sure whether the information is flowing through. I am not being critical, but I am concerned that the various branches of organisations like yours should be kept informed of the committee's program so that they can come forward when we visit their areas.

Mr CROWE: You seem to be saying that members of the confederation have not come forward at the hearings in Alice Springs and elsewhere along the track. I can advise that, prior to forming the working party, we advised all branches of our activities and sent them copies of the committee's papers. After the working party met in April, I prepared a summary of its comments and circulated them to branches with a request for their responses. Some fairly broad comments came back but, in the context of what you have detailed in terms of the consultations so far, I believe that awareness is gradually being raised although it is still a case of 'out of sight, out of mind' for many people.

It is very difficult for me, in my role as executive director, to spend time getting members of the confederation involved and working through the discussion papers in order to make suggestions. In the end, my executive decided to form the working party from the most active members and several others with particular interest in the matter. Even then, 2 of those did not attend the meeting or did not really have the interest to submit anything to the working party. It was very difficult, certainly back in March and April, to obtain the sort of information that you require. That is why we came to the conclusion that we had to seek some assistance. If I spent all of my time for a significant period in geeing up members, sending out circulars and contacting them, it might be possible to put together a worthwhile submission from the confederation. Quite frankly, though, my executive has said to me: 'You have other things to do. We do not have the resources to go into the issues in depth at present'.

Mr HARRIS: The problem is that it needs to be a planned process. You do not want people coming in at the last minute without knowing exactly what is happening. That is why we put out the discussion papers, in the hope that they would assist people to respond in an organised manner.

Just so that everybody is clear, I will again point out at this stage that this is a constitutional development committee and not a statehood committee. I agree, however, with Raphael's comments in relation to a seminar on statehood. The government may wish to pursue that because it is one way of generating awareness. I don't know whether you have any suggestions, Raphael, in terms of raising community awareness about the issues this committee is looking at. It may be that the issue of statehood will have to be used in the first instance to generate greater awareness.

Mr CROWE: People who have taken the time to look into things appreciate that the area where the real work has to be done is on the constitution and the constitutional convention. However, there is general confusion about the role of this committee. Many people believe that it is a statehood committee and that then raises all sorts of political and other questions which actually have to be divorced from the exercise this committee is engaged in.

I believe that what is really needed - and I have said this to a number of politicians - is some sort of balance sheet which very clearly sets out the costs and the benefits of statehood. I recall that, some years ago, Paul Everingham made a speech in which he said that many people who thought statehood would bring a whole range of powers and revenue opportunities had another think coming. Until people see a clear statement which shows both the costs and the benefits of statehood, they will view these issues as the province of politicians without much relevance to themselves. I must stress that people need to know the costs as well as the benefits. Only when they have all that information will they be in a position to say that the move to statehood is a positive one. Until people have that information, they will have a negative reaction and will lack an understanding of the issues.

Mr HARRIS: Do you believe that statehood will be costly to Territorians?

Mr CROWE: In terms of hip-pocket costs, I do not know. That is why I am arguing that there is a need for more information.

The area I am most familiar with is industrial relations and I would certainly argue that, if a new state of the Northern Territory took on industrial relations powers, that would be very costly. A bureaucracy would have to be set up and that would be costly to the taxpayer. Even if the Commonwealth continues to be involved, it will not be prepared to pay for our industrial system, although a continuing Commonwealth involvement would be the cheaper option.

Mr HARRIS: Terry, do you have any questions?

Mr SETTER: No. Raphael has outlined his organisation's concerns and I hope that the confederation will take the opportunity very quickly to have another look at those concerns. As Tom said, it is important that we get feedback from a wide range of people.

Mr CROWE: There is confusion, Terry. When my executive received a letter from the previous Chairman, dated 6 November 1987, seeking written or verbal submissions by 1 February, its reaction was: 'Put it to the lawyers. It is a constitutional matter and we do not want to have anything to do with it'. We went to some of our larger members organisations which employ corporate lawyers and some of our members from the legal profession. Their response was that the questions posed in the papers were not just matters for constitutional lawyers but matters for the general community, including the business community. The working party came back to the executive with that view and said that matters such as I vote 1 value, the number of Houses and so forth would affect the business community and needed to be properly researched with the business community's views properly presented. At that point, when the importance of the issues had been recognised, the executive decided to make an approach for additional resources. Given the amount of time I had available, and given that the members of the confederation are all heavily involved in their own businesses, that was the only way to go.

Mr SETTER: Mr Chairman, Raphael has raised a number of issues which have already been discussed and there are others which will require more detailed comment as time goes by. No doubt, if and when the confederation obtains the additional resources it is seeking, it will be able to carry out research and develop its positions. I would like to ask Raphael whether his organisation, understanding the role of this Select Committee on Constitutional Development, believes that the parliament is on the right track in moving towards the development of a constitution at this time.

Mr CROWE: From my reading of the papers, the answer is yes. I can only take it that the people who prepared the first information paper have correctly laid down the scenario and the timetable to be followed and, if that is right, you are taking the only possible course. You have to give the broad population of the Northern Territory a chance to consider the issues and it is important that that process not be restricted by too tight a timetable. That is particularly important in view of the fact that, under the favoured option, there is no way that the Commonwealth will grant statehood under section 121 of the Constitution without a referendum.

However, in spite of the obvious reasons for choosing the process you have chosen, my problem is that the timetable at this stage is too open. It does not indicate that, for specific and understood reasons, such as the Territory's further economic development, we need to have the matters sorted out by a specific date, such as the end of this year. I appreciate your reasons for not wanting to do that. You would be accused of all sorts of things and there would probably be legal problems as well. Until that happens, however, confusion will continue. The matter will stay on the shelf and be brought out whenever people feel that there is some additional interest in it. The whole issue was kicked off in 1986 and since then there has been an election, new Chief Ministers and changes in the chairmanship of the committee. People out there in the community wonder how serious the whole business really is.

Mr SETTER: Let me respond quickly to that. This committee was established about 3 years ago when the government of the day decided that it was the time to start a move for statehood. The documents that you see here are the product of those 3 years of consistent work by the committee and many hours of deliberation. Admittedly, a number of members of the committee have changed. The committee has taken advice from highly qualified constitutional lawyers, academic people who have majored in constitutional political science and a whole range of other people. As issues have arisen, they have been considered by the committee. Of course, we have not agreed on everything and that is why the papers contain options. However, they represent the work of 3 years and we are now undertaking the process of discussing that work with the public at large. I agree that we cannot put a firm time frame on this whole exercise. That is because we really have only one chance to address this issue and we have to do it correctly, albeit slowly. We have to work our way through it very gradually. It is a very complex issue and that is why, when the move to statehood was first announced 3 years ago, there was a lot of hype in the media about how many Senators we would have and other issues which are relatively remote. When you look into it, the reality is that it is a very detailed and complex matter.

Mr CROWE: Well, the committee's papers certainly have enlightened the limited number of my members of my organisation who have read them and, certainly, myself. There is no question that a considerable amount of very good work has been done. In fact, I believe that the Law Society has held a convention on the subject. I accept what you say and, with that in mind, maybe the confederation can spend the time within its own resources to respond. If the process is open-ended, we can pick an issue a month, or 1 every 3 months, and finalise our response.

Mr SETTER: Mr Chairman, could I ask your advice on one point? Is it possible that our legal adviser could be available to offer advice to organisations such as the confederation, and others?

Mr HARRIS: I have indicated to Raphael that both Rick and Graham would be available on a limited basis. If you need advice, Raphael, please contact them.

Mr CROWE: I think most of the information in the papers is pretty clear. It might require some clarification but the real problem is in canvassing the views of our members. We consider ourselves to be a democratic organisation and it is not simply a matter of putting down the views of the working party or myself. We cannot just send out a paragraph from the discussion paper and ask for comment either; we simply would not get anything back. Where the time and effort is needed is in contacting members, sitting down with them and explaining the issues and obtaining views. Quite frankly, it is like extracting teeth. I can assure the committee also that this is not the only area in which we have difficulty in informing our members and obtaining feedback.

Mr SETTER: I suppose it is a matter of making a management decision as to whether you are seeking complete consensus or whether the elected representatives may be empowered to make decisions on behalf of the membership.

Mr CROWE: Certainly. That is what we are trying to do through the elected members of our branches.

Mr HARRIS: Perhaps we could offer some assistance in the form of workshops. If your working party wishes, it can contact Rick Gray and he can make the necessary arrangements. We will try to help where we can. That offer will go to other groups as well, including union groups which wish to have that advice.



I would also say that, as far as the committee is concerned, it is disappointing that people see changes in the membership of the committee as being a downgrading or reduction in emphasis in the work of the committee. It is a committee of the parliament and, as such, has to take into account the workload of members and other factors in the life of politicians. It is not always possible to foresee these things and I just hope that people will recognise the amount of work which has gone into the production of the discussion papers as a token of the sincere effort of the parliament to commence work on the very important issue of constitutional development.

I would also indicate that we are required to report back to the Assembly by April next year. That certainly represents a deadline in our timetable in respect of reporting. Bearing that in mind, Raphael, I would appreciate it if we could get something back from your groups by the end of the year or early next year. It would also be useful if you could provide the committee with copies of your detailed submission on industrial relations. It would be greatly appreciated if those could be delivered to Rick Gray, together with any other papers which may assist us in our work.

Mr CROWE: I know that I have only a couple of minutes left but there are a couple of things I would like to clarify.

Obviously, Sir John Moore is not advising this committee. So our submission will not necessarily end up with you unless we give it to you.

Mr HARRIS: That is right.

Mr CROWE: The other thing I would like to explain, Mr Chairman, is that I did not intend to say that the change in the membership of this committee had led to any denigration of its work. I was trying to say that there is confusion in the general community about the push to statehood and, with the new Chief Minister, people have been asking whether there would be a slowing of momentum. I think it is fair to say that there was a perception that Steve Hatton was pushing it too fast. I am not saying that the community perceptions about these sorts of things are accurate. I am saying that, with the changes of Chief Minister and the committee's membership, people tend to react by believing that the committee's work may be sped up or slowed down. I am pleased that you clarified that.

Mr HARRIS: What happens out there in the broad sphere of government is a different matter to what happens here. We have a charter and we are pursuing it and I certainly hope that people do not see changes of membership as being the criterion for judging the emphasis which the parliament places on the committee's work.

Ralph, thank you for presenting your submission. We look forward to seeing a more detailed submission in the near future and I would be pleased if you and your working party could bear in mind the date I have mentioned. I hope that you will be able to get together a further written submission prior to the end of the year.

Mr CROWE: Thank you, Mr Chairman.

Mr HARRIS: The NT Chamber of Mines was due to present the next submission but as its representative is not here at present, I will call upon Charles Jefferies. I will repeat that this committee is a select committee of the Assembly and, as such, evidence of witnesses demands the same respect as proceedings in the House itself. For the Hansard record, would you please state your full name and the capacity in which you appear today?

Mr JEFFERIES: My full name is Charles Edward Jefferies and I am a private citizen and retired public servant.

Mr HARRIS: Thank you very much, Charles. I understand that you wish to present an oral submission to the committee. Please proceed.

Mr JEFFERIES: Without any equivocation, I am 200% in favour of statehood.

Just to give you a bit of background, I have lived in Darwin for the last 28 years. In that time, the Territory's parliamentary representation has gone through considerable changes. Initially, we had a member in the federal parliament with voting powers only on Territory matters. Later, the voting powers were extended to all matters. That was then increased to representation in both federal Houses, and a Legislative Council was created here in the Territory. Initially, the majority of members of the Legislative Council were nominated but, with the passage of time, the elected members became the predominant force. We then proceeded to a fully elected Assembly and self-government.

After self-government, I thought it was logical that statehood would be just around the corner. In effect, I have gone from

being a fourth-class citizen to something like a second-class citizen. I will not, however, achieve first-class citizen status until the Territory becomes a state and we have the full privileges and responsibilities of our fellows down south. It annoys me immensely that we have had self-government for 10 years now. My understanding at the time of the granting of self-government was that we would have statehood within 5 years at the most. We have missed out on an excellent opportunity of gaining statehood in Australia's bicentennial year and the prevarication seems to be going on and on.

Information Paper No 1 states on page 5, referring to the granting of statehood, that 'it is clearly desirable to obtain in advance a public commitment from the Commonwealth government to support the proposed grant'. To my knowledge, the federal opposition has given wishy-washy support to the concept and there is no full support from the federal government. I am not even sure whether there is a bipartisan commitment to statehood from the parliamentary opposition in the Northern Territory.

Under the heading of 'Basic Steps to Statehood', Information Paper No 1 states that: 'Such a commitment is unlikely to be forthcoming unless there is demonstrable support in the Northern Territory for the proposed grant'. At present, people who have arrived in the Territory since the cyclone would outnumber by about 50% those who were in residence before that. Consequently, many residents of the Territory are unaware of our parliamentary situation. In that context, given the phrase 'demonstrable support in the Northern Territory', I would like to know what sort of proposals exist for mobilising that support.

For example, the brochure setting out the terms of reference of this select committee is very informative. However, as people would know, most brochures simply do not get read. I would like to see a program undertaken in which, once a month for a set period, an argument in favour of statehood is put out in brochure form, with all possible supporting detail, so that people at least know exactly what statehood means. During evidence presented by Raphael Crowe, mention was made of the uncertainty that exists, particularly in relation to money matters. I quite frankly cannot see that statehood is going to cost us anything at all. It is certainly going to cost us if we do not achieve statehood.

Mr SMITH: Can you elaborate on that?

Mr JEFFERIES: Yes. For example, 85% of our budget comes from the federal government. Nowhere is any mention made of the amount of royalties that are actually flowing back to the federal government which would automatically flow to us if we were a state.

Mr SMITH: Do you know how much they are?

Mr JEFFERIES: I do not know. That is the whole point. I do not know.

At the present moment, my understanding is that we have something like 37 000 taxpayers in the Territory - that is, wage and salary earners. People believe that, if we become a state, we will have a budget of \$1000m or more and that all that money will have to be raised from those 37 000 tax payers which, of course, is nonsense. It does not matter whether we have 37 000 or 370 taxpayers; the cost of maintaining all of the Territory's infrastructure and so forth would have to come from the federal government of the day, exactly as occurs in the case of Tasmania, which is subsidised to a considerable extent. This does not seem to be widely known and the result is that people are honestly scared of statehood in exactly the same way as they were scared of self-government.

As I said, I have lived in this Territory for 28 years and I hope to be here for a few more years yet. It annoys me intensely that the basic information is not finding its way through to the general public. An education campaign is needed. I do not want to give you a lecture on goals and motivation, but if the goal is to achieve statehood, a number of basic and specific elements are required to achieve it. If the goal is to be a state, you have to set a time. Are we to be a state by 1 January 1990, or by the year 2000 or 2001? You set a time. You make things measurable. There has to be measurement in terms of a referendum on the question of statehood so that the people of the Territory can express their view. Each step has to occur within a specific time frame. The goal has to be achievable.

The committee and others involved with the issue seem to be enthused with the idea that statehood should be achieved through a grant from the federal government under section 121 of the Constitution. I suggest that, if you think that the present federal government will give statehood to the Territory, you have another think coming. At the present moment the federal government is a Labor government, a socialist government, which in my opinion is committed to centralisation. It will not give statehood to the Territory without a fight. Clearly, the first basic step is to obtain a public commitment from the Commonwealth. To my knowledge there has not even been a public commitment from the federal opposition.

We are asking the federal government to give us statehood and, clearly, it will turn around and say that we must come back with overwhelming support from the Territory community. This is touched upon in paragraph 2 on page 5 of Information Paper no 1, where it says: 'To this end, the select committee concurs with the holding of a Territory referendum within a reasonable time to assess support for the proposal generally'. The key words are 'reasonable time'. The select committee is to report back to the parliament next April. But this report will only consist of some paperwork on the proposed constitution. It has nothing at all to do with the question of whether the people of the Territory want statehood. In a sense, the comments which Tom made yesterday morning indicate that, in a sense, this select committee is putting the cart before the horse. Until we get a firm commitment from the people of the Territory indicating that they want statehood, the draft constitution you are working on will be valueless.

A lot of work has gone into the documents prepared by the committee and I commend that work. If you were inventing the wheel, you might have had a fair amount of trouble. In this case, however, 6 wheels are already in existence. Each state has its own Constitution. As an ex public servant, I know only too well that, when you are trying to frame a document, you go to base matter which already exists on file. In this instance, where 6 state constitutions already exist, you pluck out the relevant provisions and cut and paste to produce a document which the people of the Territory can comment on. In my opinion, the Territory is not so unique that it cannot benefit from all of the existing state constitutions.

Another factor which has been raised in relation to statehood is our small population base. Once again, I do not want to give you a history lesson, but when Queensland became a colony in its own right, it had a population of only 250 000. Prior to federation, the populations of the individual states varied from 252 000 to something like 2 million. However, at the time colony status was granted to each of the settled areas, their populations were certainly very small. It needs to be considered that, although federation first became an issue in the 1880s, it was not until 1900 - 15 years after work had commenced - that the final federation document was put to the people.

Are we going to make 15 years the target in relation to the grant of statehood? We have now had self-government for 10 years and the way things are going, unless people are motivated to press for statehood, nothing is going to happen for another 10 years. All your constitutional development work will simply be put into mothballs and, to me, that is simply not good enough. To return to the subject of the publicity campaign, I would like to see the benefits of statehood set out clearly so that everyone knows, without equivocation, exactly what benefits they will enjoy and what responsibilities will come with those. Anything else is, to my mind, superfluous. I think that just about sums up what I have got to say.

Mr HARRIS: Thank you, Charlie. Can I just say that a number of us share your frustrations. The difficulty in the Northern Territory, and the factor which makes our situation both unique and extremely complex, is the fact that 22.4% of our population is Aboriginal.

We also feel very strongly that Territorians must have the say in terms of the development of our constitution. The process of visiting communities throughout the Territory is a lengthy and arduous one, but we have to go through it.

In addition, many of the constitutions which we have - and they are all over there in that little book - are outdated. We have people who are looking at other constitutions but, at present, our main objective at this stage is to allow people to have their say. You commented on my remarks concerning the need to generate interest in the community about statehood and the positive aspects of it. I certainly agree that there is a widespread perception that statehood will increase costs for taxpayers in the Territory. My argument is that, in many ways, we cannot afford not to become a state. Those, of course, are political issues and I think the government needs to be more positive, not necessarily in promoting statehood, but in putting forward the advantages that it will bring to Territorians.

Whilst you stated that we needed to work towards an achievable goal, the problem is that if we went down that line and just started to move for statehood, we would have a great deal of difficulty in obtaining the necessary support from Territorians, even though I believe that the majority are in favour of the idea that we should move towards Statehood.

We have to try and make sure that all Territorians are catered for and looked after, despite the feelings of some people in relation to the Aboriginal situation and the questions of land rights, national parks and so forth. Those issues have to be addressed and we are trying to do that as quickly as possible. I do not have to be convinced of the importance of that. However, this is a constitutional development committee and it is up to the Territory government to consider the promotional aspects of the move towards statehood.

Rick, do you have any comments to make?

Mr SETTER: Thank you, Mr Chairman.

Charlie, I also share many of your views and frustrations. I am sure you can recall the time prior to 1978 when the then Chief Minister, Paul Everingham, and the current Chief Minister, Marshall Perron, went down to Canberra and negotiated self-government with the Commonwealth government which subsequently passed the Northern Territory (Self-Government) Act. I suppose that a Territory government could do the same thing and achieve statehood via an act of parliament if we ever had a federal government which supported statehood. That, indeed, is the preferred option under section 121 of the Constitution. That is the short circuit approach. The reality is, with a supportive federal government, it might be possible to do that, firstly without gaining the support of the majority of the Territory people and secondly without addressing all of the very complex constitutional matters with regard to the relationship between the Northern Territory and the Commonwealth.

Since federation, nobody else has gone through the process of establishing a new state. We are breaking new ground in many ways. The parliament of the Northern Territory has taken the view that the best way to accomplish this task in the best interests of all Territorians is to take the tortuous path that we are now following. We are feeling our way. As I said, we are breaking new ground. Certainly the process may be slow and frustrating but, if and when we achieve statehood, we will have the support of the majority of Territorians. That is very important indeed and, though I share your frustrations Charlie, the reality is that we really do not have much option if we are to achieve our objective with the full support of the Territory people.

Mr JEFFERIES: On that point, Rick, can you just clarify one matter? As I understand it, when the constitution is eventually framed, it will be put to the people at a referendum.

Mr SETTER: Eventually, yes.

Mr JEFFERIES: Will there be a totally separate referendum to determine whether we have statehood?

Mr SETTER: I would have to take advice on that point. Graham, what is the position?

Mr NICHOLSON: It is what is indicated in paragraph 2 on page 5.

Mr SETTER: A totally separate referendum.

Mr NICHOLSON: But that would be a matter for the government, not this committee.

Mr SETTER: Yes. It would surely be possible, though, to ask 2 questions in the referendum. People could be asked whether they supported the draft constitution in one and whether they supported statehood in the other.

Mr HARRIS: I believe that statehood will eventually be an election issue. There will be a time when the public will be asked to respond in relation to statehood. In terms of the constitution, we want to have a document that can go out to the public so that they can talk about it and look at it as the constitution that will eventually govern whatever happens in the Territory. As I have said, it is up to the government of the day to determine the schedule for the final step to statehood. We have certainly taken your point, Charlie, that the government should be promoting the positive aspects of statehood.

Mr JEFFERIES: In my opinion, there is nothing to stop the government promoting the concept of statehood and holding a referendum as soon as it can be arranged. We are really in a cleft stick. The information paper says that we cannot go to the federal government and ask for statehood until we can demonstrate overwhelming support from Territorians. On the other hand, we are saying that we have to go down this tortuous path of seeking all the views of Territorians, when we are actually seeking views on 2 completely separate matters. One is the constitution itself and the other is the acceptability of statehood.

Mr HARRIS: Terry, would you like to comment on Charlie's submission?

Mr SMITH: Your views have been expressed very clearly and strongly. I am not sure whether you have had a chance to read the document closely and whether you have any thoughts on particular matters which the constitution has to take into account. For example, do you consider that it is desirable for the constitution to protect land rights as they exist under current legislation?

Mr JEFFERIES: I could speak for the next day and a half on the issue of land rights. I will not bore you by doing so, simply because the issue is a hot potato and will certainly receive more and more attention as we get closer to the time of adopting the constitution. There has been discussion about making some sort of statement in a preamble but I notice that the federal government has not managed to get its particular preamble off the ground. Then there is the question of this forthcoming treaty, which will be a real hot potato. To be quite honest, I would prefer not to bore you with my thoughts on the matter.

Mr HARRIS: Anyway, Charlie, thank you very much for your submission. It is all on the record.

Mr JEFFERIES: Thank you, Mr Chairman.

Mr HARRIS: I note that Mr Perceval is in the gallery. I wonder if he might like to come forward now and present his submission.

I will not go through the normal process other than to ask you, for the Hansard record, to state your full name and the capacity in which you are appearing before us today.

Mr PERCEVAL: My name is Francis James Perceval and I appear as an elector of the Northern Territory.

My submission is not very long and I arranged it so that it relates to each of the 3 booklets put out by the select committee. The first of those is the Discussion Paper on Representation in a Territory Constitutional Convention. The view I wish to put in response to the options set out in that document is that I believe that the membership of the constitutional convention should be partly elected and partly nominated. If the number of delegates is to be between 50 and 60, I consider that a minority of delegates should be nominated. It should be very much a broadly based electoral convention with a minority of delegates representing organisations. The time for organisations to express views is now rather than from seats at the convention. I think that membership of the convention should be, as far as possible, 50% men and 50% women, and that it must reflect the multicultural and, to some extent, multiracial composition of the Territory population.

The second publication is Information Paper No 1, Options for a Grant of Statehood. I think that the option which must be chosen is for a grant of statehood under section 121, although that possibly puts us in the position of becoming what Steve Hatton used to call a Clayton's state. It is, however, the only way to go. It will be a very long time before our population reaches a level that would enable us to have the balance between representation in the House of Representatives and the Senate which is laid down in the Constitution. We will, therefore, have to accept whatever the Australian parliament is prepared to give us in the way of representation. However, I think that it is better to have statehood under that arrangement than to go on as we are.

In response to the third publication, the Discussion Paper on a Proposed New State Constitution for the Northern Territory, I would say in general terms that the constitutional convention, which I believe we must have, presents an opportunity and a challenge not only to the people of the Territory but to the people of Australia. I believe that the people of the Territory would be carrying the flag for the remainder of the people of Australia in terms of establishing an up-to-date constitution in an Australian setting.

With due respect to the authors of the Australian Constitution, they lived 100 years ago. They did not have the benefit of the transport and communication systems which now exist. They lived in another world. The federal Constitution has stood the test of time and I certainly would not want to throw it out holus-bolus. However, I think that the men and women of today have a very different view of the world and, if possible, we should cast our minds 30 years ahead and ask ourselves what the world might be like then. In that regard, although I do not want to inflict more on our education system than it already has to cope with, I would like to see an opportunity for Year 11 and Year 12 students to have an input into our constitution, perhaps by way of an essay competition. They are certainly the people who will have to live with it.

I think that it is very important that we have a preamble to our constitution. The bones of the constitution are well and truly established. We have many models including the Australian Constitution, the state constitutions and the United Nations Declaration of Human Rights. We could look at the Canadian and New Guinea constitutions, and probably any number of others around the world, which are quite unobjectionable and proclaim a lot of universal truths. I believe that, in a preamble for the Northern Territory constitution, we need to look first of all at the very nature of the Northern Territory - and by that I mean its physical nature. In this day and age, it is important that we take account of the land, the water and the vegetation that we have. In these times, we must address conservation issues such as the disappearance of our soils. A preamble can place on record that the people of the Northern Territory think that looking after the Territory,

which is looking after us, is a fairly basic matter.

Paragraph 2(e) on page 3 of this discussion paper states that our traditional constitutions have broadly dealt with the description of the major institutions - the legislature, the executive and the judiciary. Once again, I think that that is quite unexceptionable and acceptable. However, in the late 20th century, we in the Northern Territory have the opportunity to put into our constitution certain provisions of wider concern. In the Australian Constitution, 80 of 128 sections deal with matters relating to the legislature, the executive and the judiciary. Again, that document has stood the test of time and I do not think that we in the Northern Territory would have any great wish to depart from the form of government which is set out there.

However, there are issues which are of growing importance, of which human rights is one, and which can be addressed in the preamble. Such things as the rights of women and children are among those matters which should be expressed as needing protection and particular care and assistance, as I think is the case in the Declaration of Human Rights. I would not like to see them covered in the constitution itself but I think that there is a universal abhorrence of child abuse and the rape and abuse of women and that there is a need for an expression, in the preamble to our constitution, of the particular place of women and children and their particular call upon protection.

By and large, I think that human rights are very well covered by Commonwealth legislation, particularly in the last 20 years or so, and that women's affairs are fairly well covered by organisations such as the Office of Women's Affairs and the Women's Advisory Council.

On page 94 of the discussion paper, reference is made to an address by Ms L. Liddle to the 1986 Law Society Conference on Statehood in which she made comment on the constitutional recognition of Aboriginal citizens in the new state. If the developments in relation to the federal government's treaty or compact do not overtake it, I believe that this can appropriately be addressed in the preamble to our constitution, with a statement acknowledging the position of the Aboriginal people as something special in the state.

I think the committee should be commended on the detail contained in the Discussion Paper on a Proposed New State Constitution for the Northern Territory. It would be possible to go through it, statement by statement, and say that I like this or do not like that. I have gone through the document and would just like to remark on the particular sections which are of special interest to me.

Section B, headed 'The Legislature', raises the issue of whether the representative of the monarch should have the power to suggest amendments to legislation passed by the new state parliament. The committee was divided in relation to this matter. I think that is a constitutional power which should be inserted. If such a situation ever arose, I would imagine that the legislation would be fairly contentious and I think that the governor should have the ability to refer that back to the parliament to perhaps consider it again.

Section C, 'Form and Composition', covers a number of matters in relation to the new state parliament. I believe that there should be only 1 House. I think that such an arrangement will serve the Territory well. It seems to serve Queensland reasonably well, although I guess there might be some debate about that. We should keep our legislature as simple as possible with only the single House. I also believe that there should be provision in the constitution to prevent a member of parliament, having an interest in a contract with the state, from participating in debate or voting on that matter. As far as the length of the parliamentary term is concerned, I think 4 years is reasonable. Very often, 3 years does not seem long enough and 5 years seems too long. The 4-year term is a nice compromise.

In section G, 'Governor and the Crown', mention is made of the existence of direct links with the sovereign, and the view is expressed that this is a matter for the state and its citizens and not for the Commonwealth. I agree very strongly with that even to the extent that, should it be necessary, we recognise the sovereign as being the sovereign of the Northern Territory or whatever the new state may be called. It is certainly not a matter for the Commonwealth to intrude upon.

In section H, 'Powers of the Governor', I think there is an indication that the committee has done very well in envisaging that at some time in the future there may possibly be a female Governor although it is probably quite a long way down the track.

Section J is headed 'Executive Council and Cabinet'. I do not see any need to give constitutional recognition to the institution of Cabinet. I think that is a matter for the Premier and the government of the day.

I believe that there should be a provision in the constitution which enables judges to be removed, a matter which is covered under section N, Judicial Independence. Grounds for removal should include such things as misbehaviour or incapacity, although I understand there might be problems in putting a finger on such things. That would have to be left to the parliament of the day to decide.

The separation of powers doctrine is also covered in section N, where the committee states that it favours inclusion in the constitution of a provision similar to section 159 of the Papua New Guinea Constitution, which provides that nothing in the constitution prevents a law conferring judicial authority on a person or a body outside the judiciary. I do not know what that is meant to reflect but I suspect that, in New Guinea, it may well be an allusion to the ability to recognise tribal or traditional law under the constitution. That would be an important element of the Northern Territory constitution. Bearing in mind that some 25% of our population may well feel that its first allegiance is to traditional law rather than the law we recognise, such a constitutional provision would be very worthwhile.

Section R is headed 'Local Government'. I would certainly like to see constitutional recognition of local government. It may be unnecessary in the Territory context if the local government question in the forthcoming referendum is passed. I imagine that, if local government is recognised in the Territory constitution, there will be provisions recognising various forms of local government organisation, including both municipal and community government schemes. The nature of the Territory at present is that there will continue to be areas which are not covered by those types of local government organisations and I believe that there should be provision under the constitution for communities which may not yet have come into existence to have their own forms of local government. For example, mining towns may be created. Jabiru has gone through the experience of developing local government but there may be situations in which local government organisations may be created and exist only for the life of a particular mine, perhaps a period of 30 years or so. There needs to be scope for that in the constitution.

Section S, 'Aboriginal Rights', discusses the entrenchment of guarantees of Aboriginal ownership in the state constitution. The committee favours such entrenchment, provided that such guarantees can only be amended by following specific entrenchment procedures. At the moment, the question of Aboriginal ownership of land in the Territory is a running sore which may continue to run and be sore for the next 50 years. If entrenchment were enshrined in the constitution, subject to specified entrenchment procedures, the passage of time may see changes in attitudes. For example, there may be moves among Aborigines, in cases where their land contains valuable minerals, to move towards our type of commercialism. Those people may not wish to remain as they are or as they were 40 000 years ago. The type of enshrinement envisaged should allow for changes in Aboriginal society which can then be reflected in the constitution. It is important to allow for unforeseen and unguessed changes in that society.

With that, I conclude my remarks.

Mr HARRIS: Thank you. There are a couple of points I would like to clarify. You mentioned the 4-year term but you did not refer to partially fixed terms. As you know, the 4-year term does not mean that the parliament will actually run for 4 years. Do you think that 4 years should elapse before an election is held? A 4-year term generally means that the parliament runs for 3 years.

Mr PERCEVAL: Right. I take it that you are referring such things as loss of confidence and the Governor's ability to call ...

Mr HARRIS: No. What I am getting at is the difference between a fixed term, in which the parliament must run for the full period, and a partially fixed term in which, for example, a parliament may have to run for a minimum of 3 years of its 4-year term.

Mr PERCEVAL: I agree with that. The term should run for 4 years unless there is something ...

Mr HARRIS: You also mentioned the education system. The difficulty that we have - and I know because I am the Minister for Education - is to be able to develop educational approaches to the issue without bringing politics into schools, depending on who is teaching a specific subject. We are addressing that issue but we certainly do not wish to do so in a way that can be seen as the government forcing statehood on the community.

I continually make the comment that the move to statehood has to come from the people. However, if the people are to make an informed decision, they must have the facts. At the moment, people tend only to have perceptions. Many of the issues can be debated. I might say that one thing is the case and someone else might say the opposite. It is difficult. I

suppose we could get out there tomorrow and promote the issue and set up essay competitions and so forth, but I am sure that Terry would say that that was an attempt by the government to sell statehood. We are looking at the matter and we would like to adopt a bipartisan approach. My concern is in relation to how we go about it. We could, for example, have members of the government and the opposition attending schools to present their cases. The government has to take the whole issue on board.

Mr PERCEVAL: Yes, I agree entirely. Ideally, it should come from parents and that is why I said that I would hesitate to burden the schools further.

Mr HARRIS: Unfortunately, though, parents will come home and say that the whole thing is a load of nonsense. After listening to some people in the hearings of this committee, I am sure that that is what their families would be told.

In terms of your remarks on the Aboriginal scene, there are many difficult issues to come to grips with. I know that the land councils, for example, would feel threatened in relation to the move towards statehood. A compromise was put to use the other day. We could patriate the Land Rights Act back to the Territory with particular safeguards, such as a requirement that any changes to it would require a majority of two-thirds of the legislature plus a referendum. There are ways of addressing such issues so that the constitution reflects broad views and keeps everyone happy. I doubt, though, that everyone would be happy if Aboriginal ownership was enshrined in the constitution.

The important thing is to get people to acknowledge that those things need to be looked at very carefully. We do not want to move to statehood with half the community supporting it and the other half opposing it. We are trying to reach the stage where everyone supports the move and feels good about it. I guess that is the difficulty that we have to come to grips with.

Mr PERCEVAL: It certainly is. Quite frankly, I think there is a long way to go in that regard.

Mr HARRIS: Terry, do you have anything to raise?

Mr SMITH: Francis, you have raised a very good point about the need to involve youth in our deliberations. I think that is something that we need to have a serious look at and, off the top of my head, it would seem to me appropriate to include some Year 11 and Year 12 students in the constitutional convention because they would be at voting age or very close to it. That is something which I had not thought of before and I thank you for raising it.

You said that the constitutional convention should be partially nominated and partially elected, with the majority elected. You went on to say that you did not think that organisations should be represented on the constitutional convention. In your view, who should the nominated people be?

Mr PERCEVAL: Perhaps they should have a special place in the convention. The people I am thinking of would function as guides or sources of information in terms of framing the constitution. I am thinking of people with expertise in such matters as constitutional law.

Quite frankly, I think now is the time for organisations to express their views. This is the forum at which they should be airing their concerns. I would hate to see the convention top heavy with organisational representatives with just 5 or 10 private citizens. It should be the other way around, with a majority of citizens, whatever barrows they wish to push. The organisations should be taking advantage of this process to put their views. I would hope that they are expressing their views privately to the committee. It is quite shameful for organisations to come before this committee saying that they have not had the chance to gain the views of their membership. I think it is incumbent upon them to do that.

Mr HARRIS: I take it from your original comments that you would see organisational representatives being in the minority at the convention.

Mr PERCEVAL: Yes, yes.

Mr HARRIS: I still think that they have to be involved in that exercise, apart from putting their case here. We have seen over the last couple of days that they still have a great deal of work to do in coming to grips with the issues. Organisations tend to be waiting to see what the others are doing. We will, however, bear your comments in mind. You have raised a very important point.

Rick, do you have any questions?



Mr SETTER: Thank you, Mr Chairman. Francis, I also noted your comments regarding a 50% elected and 50% nominated constitutional convention and your further comments that you would like to see 50% men and 50% women. You went on to say that the convention should include multicultural and multiracial groups. I think that was the terminology that you used. I wonder if you could tell me how you think we might achieve that? It seems to be very difficult to encompass all of those groups but then insist on 50% men and women.

Mr PERCEVAL: I agree with you entirely on that. There has to be some leeway - perhaps to the extent of a 60/40 ratio - but an effort needs to be made to keep a balance.

In terms of the multicultural aspect, we should ideally be looking at a 25% Aboriginal representation although I do not think that will happen. On the basis of the percentage of the population which they comprise, perhaps the Timorese, Indonesian and Malay groups could have 1 person at the convention. That may not happen but I think an effort should be made to say: 'Come on, we want to hear your voices'. I have no doubt that there are members of some ethnic groups in our society who may be very glad to be in Australia and do not wish to get up and draw attention to themselves by rocking any boats. Possibly we will not hear from them. However, they should have the opportunity to be heard.

Without doubt, the Northern Territory has a great deal to be proud of in terms of its multicultural and multiracial society. Indeed, it has a lot to show the rest of Australia. We should not be backward in doing that. However, we should not force members of ethnic groups to participate. We should not try to force them to stand up and say what a good place the Northern Territory is but we should certainly extend to them the opportunity to participate in the convention. It may well be, however, that the convention will end up comprising a 60/40 ratio of men to women and be predominantly comprised of people of white Anglo-Saxon background.

Mr SETTER: There is no doubt that establishing the guidelines for the convention will be very difficult, and I am referring here to the options for a fully nominated and fully elected convention as well.

I was also interested in your comment in relation to involving Year 11 and Year 12 students in this exercise. I support what you said, although I believe that there must be a middle ground. We could probably develop a bipartisan program which could be used in our schools at that level to inform young people about the implications of constitutional development. There may also be a strong case for asking students of political science at the Darwin Institute of Technology and the University College to involve themselves in researching these documents and coming forward with submissions. Those people would be well qualified to comment on the content of the documents. I also see a role for young people.

Mr HARRIS: On that point, Rick, the government has developed the programs. The problem is in dealing with the subject matter in a way that is seen to be bipartisan. That is the problem. The programs have been developed.

Mr SETTER: Indeed.

The other issue, Francis, was that of Aboriginal rights. You commented early in your presentation that Aboriginal rights should be included in the preamble, but later in your comments you indicated that you felt that they should be entrenched with the opportunity for modification at some future time. I understood that you meant on that occasion that they should be entrenched in the constitution. Could you clarify that?

Mr PERCEVAL: Yes. I was referring directly to the discussion document when I spoke about entrenchment with the ability to change that under a very tight provision. A lot will depend upon the success of the present Australian government in establishing a treaty or compact. If that occurs, and is generally accepted by the Australian population, it would be unnecessary for the matter to resurface in the Northern Territory constitution. In this context, I think the year 2000 is a reasonable target for the Territory to be operating under its own constitution and perhaps even that is a bit early. Many changes will have taken place in that time. The year 1988 has seen many issues aired in relation to the differences and similarities between white Australia and black Australia and, during the next 5 or 10 years, many of those will have been assimilated into the community. I think that there will be a more general Australia-wide acceptance of the black community. The situation in that respect is already fairly good in the Northern Territory. Failing the development of a treaty or compact, however, I believe that there should be a constitutional enshrinement of the position of Aborigines in Northern Territory society.

Mr SETTER: Enshrinement within the constitution as opposed to in the preamble?

Mr PERCEVAL: Yes. I was thinking of the exercise the Commonwealth government is going through now, which would

remove the necessity to put it in the preamble to our constitution. I would like to see that element in the constitution itself. Perhaps in 50 years - possibly less, possibly more - the need for that may no longer exist and it might be able to be removed with the agreement of the Northern Territory population.

Mr SETTER: Fine.

You also indicated that you believe that the sovereign should be recognised by the new state of the Northern Territory. If we move to statehood under section 121 of the Australian Constitution, through an act of the Australian Parliament, what is the position in relation to acknowledging the sovereign? Does it occur automatically? Perhaps we could have some legal advice from Graham in a moment.

Mr PERCEVAL: I would have thought that the Australian Constitution would have precedence over the state constitution. Perhaps I have been frightened by Sir Joh Bjelke-Petersen's threat to make the Queen the Queen of Queensland. Or did he actually carry it out? In any case, I believe that the constitution would provide a means, assuming that the people of the Territory wish to have a sovereign, of enshrining the position. If Australia were to become a republic, I do not know how we will get around that. I do not know whether it would be possible to have a state within the republic acknowledging a monarch. I guess such a situation is a long way off.

I have noticed throughout the discussion paper that we tend to defer - as we are probably forced to do - to the Commonwealth's power to dictate what the Northern Territory can or cannot do. I think the state has to be a state without the ability of the Commonwealth to pop in and say that it has to do this or that. If the people of the Northern Territory wish to acknowledge the sovereign, that is not the Commonwealth's business. It is the business of the Northern Territory people. I agree that, should Australia at large ever vote to become a republic, we would have to amend our constitution.

Mr HARRIS: Would you like to comment, Graham?

Mr NICHOLSON: The document was written on the premise that Australia has a monarchical system and that system is entrenched in the Australian Constitution. In fact, it was entrenched even more firmly by the passage of the Australia Act in 1986, which determined that, when the Queen acts in relation to Australia, she is no longer the Queen of the United Kingdom or the Commonwealth but the Queen of Australia. As I see the current constitutional position, it is that there is 1 sovereign for the whole of Australia.

The other premise upon which the document was drafted is that each Australian state, including a new state, has a head of state who is the Queen's representative and has the title of Governor or or some other title. At present, all such heads of state are called Governor and, accordingly, the Governor in the new state would be the representative of the Queen of Australia in the new state. Although there may be other opinions about this, I do not believe that it is possible, on the basis of the Australia Act and the Commonwealth Constitution, to establish a republican state within the present Commonwealth model. The discussion paper was drafted on that basis. I anticipated that the new state constitution would establish the office of state Governor as the representative of the Queen in the new state.

Mr SETTER: But is it possible to establish a sovereign state of the Northern Territory within the Commonwealth under section 121?

Mr NICHOLSON: I am not sure that there is any such thing as a sovereign state any more. If we have sovereignty, it is a limited form of sovereignty within the overall federal system whose components are the Commonwealth and the individual states, including the new state. In that context, I am not quite sure how to answer that question.

Mr SETTER: So, all the talk about Queensland seceding was just that - talk.

Mr NICHOLSON: The Commonwealth Constitution talks of an indissoluble federal Commonwealth. It does not contemplate secession and the issue is probably beyond our terms of reference.

Mr HARRIS: Frank, you mentioned the nexus between the Senate and the House of Representatives but I do not recall you saying whether or not you are in favour, in terms of equality, of the state of the Northern Territory having 12 Senators at some stage. If you are in favour of that, how would you see it coming about. Would it be phased in over a period of time? I am sure that you would be aware that one of our problems, when we start to talk about numbers, is that many people say that we have too many politicians now and that we do not want any more. The reality is, however, that it is very important to have equality and I would just like to hear your comments in relation to representation, whether you feel it should be

equal to the other states at some stage, and whether you would see it being phased in.

Mr PERCEVAL: If it were possible to have equal representation from day 1, I would certainly support it. I am certain, though, that the other states would scream about that. If we were to have 12 Senators, strictly speaking we would have to have 24 members in the House of Representatives. Obviously, that is not going to happen. Looking at the current situation, we have 1 member of the House of Representatives and 2 Senators. I think that we should obtain full representation as soon as the other states allow us to have it. However, my general approach is that we should go for statehood sooner rather than later and, if the Commonwealth says that all the new state is initially entitled to is 2 Senators and 1 member of the House of Representatives, we had better take that. I think it is better to start off that way. Even if it takes 100 years for our population to grow to the extent that we are entitled to 12 Senators and 24 members of the House of Representatives, we should take statehood at the earliest possible opportunity.

Mr HARRIS: I suppose the aim is to achieve equality at some stage, whenever it might be.

Mr PERCEVAL: Indeed. As I said, if the other states were to allow it from day 1, I would certainly take it.

Mr SMITH: It needs to be clarified that 12 Senators does not equate to 24 members of the House of Representatives for the Northern Territory. It equates to 24 extra members of the House of Representatives Australia-wide.

Mr HARRIS: That is one of the problems.

Mr SMITH: We might, for example, get 1 of the additional 24 seats.

Mr PERCEVAL: I see. Well, I certainly would go for the 12 Senators from day 1 if that is the case. However, I cannot see the other states allowing that.

Mr SETTER: If it cannot happen initially, do you think that we should ensure that we have an agreed formula in place for the gradual increase in the number of Senators? Do you think that such a formula should be in place prior to the grant of statehood?

Mr PERCEVAL: I would think so. Ultimately, I see it as a matter of equity for the whole of the Australian people to agree to. I do not think that they would accept a state which was other other than a fully fledged state, but I can certainly see that initially, it would be hard to justify 12 Senators with such a small population. It would be beneficial if a gradual process could be set in place. As I have said, I see it very much as a matter of equity not just for the Northern Territory but for Australia.

Mr SETTER: In purely political terms, I understand that the major political parties in Canberra would have great difficulty in accepting an additional 23 members of the House of Representatives coming from the southern states. The political fall-out would be too great.

Mr PERCEVAL: I do not know enough about that but you are probably right.

Mr SETTER: Well, it is a numbers game.

Mr HARRIS: Frank, could you give us your address?. I am very interested in a lot of the comments that you have made and it would be beneficial if we could know where to send any further material which you may be interested in. If you could give that to Rick, it would be appreciated. Thank you for attending and presenting your submission to the committee.

Mr PERCEVAL: Thank you, Mr Chairman.

Our next witness is Mr Hosking, who has prepared a written submission. I advise that this committee is a select committee of the Legislative Assembly and, as such, evidence of witnesses demands the same respect as proceedings in the House itself. For the Hansard record, would you please state your name and the capacity in which you appear today?

Mr HOSKING: My name is Anthony John Hosking. I am a consulting geologist and I appear in that capacity.

Mr HARRIS: Thank you, Anthony. You have a written submission before the committee. Just before you address that submission, I will repeat that this is not a statehood committee as such. It is a constitutional development committee and that needs to be made clear. Would you like to proceed, Anthony?

Mr HOSKING: Thank you, Mr Chairman. I would like to say that I wrote my very short submission in an effort to be practical and to endeavour to point out major economic advantages that might be obtained through the attainment of statehood by the Territory. My views are coloured by my employment as a geologist and it probably does not need stating here that the mining industry considers that there are a number of impediments to people pursuing their careers in the exploration and mining industries in the Territory.

It seems to me that issues of statehood and constitutional development are bound up with the federal government's willingness to permit Territory control in a number of crucial areas. In putting the submission together, my feeling was that until the federal government made statements of principle in respect of those matters, statehood would probably not get very far. The issues I am thinking about are such things as land ownership, the control of national parks and uranium mining. These are the issues which relate to the way in which a great deal of the Territory's natural wealth and employment opportunities are tied up. It seemed of crucial importance that some sort of promise or guarantee be given by the federal government in terms of the handing over, or gradually handing over, control in these areas. I prepared my submission in the context of the economic foundation of the Territory and, basically, my views have not changed. I still feel quite strongly that these economic issues are right at the crux of the whole question of statehood.

Mr HARRIS: Your paper talks about the notion of equality.

Mr HOSKING: Yes, I firmly believe that we should not have second-class statehood. It must be granted on terms which are at least equal to those which apply in the existing states. That is an absolute principle although I accept that it may not be possible to have absolute equality from day 1. It would perhaps be unrealistic to demand that when our population is so small. However, when we compare it with that of Tasmania, there is perhaps not too far to go to achieve an equivalent position. Tasmania also has a small population. As far as I am concerned, the whole issue hinges upon the preparedness of the federal government to give a far greater degree of independence to the Territory in developing its economy.

Mr HARRIS: You also touched on 2 issues which have not been raised by other witnesses. One of those is the name of the future state. I guess some of us have a fairly strong view that it should be called the Northern Territory.

Mr HOSKING: There is a very strong emotional attachment to the word 'Territorian' but if you look around the world, it is evident that territories are dependencies of some other government or political organisation. I am thinking of territories of Canada or territories of the USA. I do not like the idea of the word 'Territorian' disappearing but perhaps there is a better word that could be found. I do not like the idea of using a geographic title like 'North Australia'. That is extremely bland and does not really do a great deal for anybody. As I said in my submission, I would perhaps be tempted to see what young people can come up with. They are the ones who will have to live with the new state. I am thinking of teenagers and kids going through the school system now. This might be a tremendous opportunity to ask them what name they think would be appropriate.

Mr HARRIS: Your submission also said that you believe it is important to have a goal in terms of when statehood should be attained. You said that the centenary of federation, the year 2001, would perhaps be the ideal time.

Mr HOSKING: I think so. There is a lot of indecision and vagueness about the whole proposition in the community at large and it is only through the establishment of a definite plan and timetable that the public will really throw itself behind the whole concept. People will then have a goal to aspire to within a specific timetable. I am sure that an immense amount of political and legislative work will have to occur before the idea can come to fruition. I have no idea of the volume of work involved but I am sure that it is immense. Unless things are put into a time frame, deadlines tend to slip, and vagueness and indecision creep in. If you can work towards a goal, the chance of getting there on time is so much better.

Mr HARRIS: The problem in setting goals, particularly if they are fairly distant, is that time seems to creep up on you and the input required for the making of decisions is not obtained until shortly before the goal is due to be reached. What we are endeavouring to do is to encourage people to come forward from the community and give us their ideas and views. We have had a little trouble in doing that. It has been said today and on other occasions that there needs to be more awareness of the statehood issues in the public arena so that people will put submissions to this committee, as you have done.

Mr HOSKING: I agree. It is very important to get a ground swell of support from the general public. It is really a grassroots issue and support for statehood has to build from the bottom. Unless statehood has widespread support among the general public, I have a sneaking fear that the concept will not advance very quickly because it is not just a Territory issue. It involves state governments; it involves the federal government. It is not just for us to decide what we want to do

with our future. I think that the Territory public is looking for some expression of support from the states and the federal government that the concept is desirable and that this part of Australia should have the same status as the existing states rather than being left as a territory or dependency of Canberra. People are seeking reassurance that that is what offers the best future for the Northern Territory. I do not believe that they have given the matter much thought until now. That may sound like a sweeping generalisation and it probably is. However, statehood certainly is not discussed to any extent in the everyday conversation of my circle of acquaintances and I can imagine that that is fairly typical. In their day-to-day lives, people are not concerned about it.

Mr HARRIS: This committee also has the task of reporting to parliament in relation to the establishment of a constitutional convention and what form it should take. Do you have any views as to whether such a convention should be nominated or elected or partially nominated and elected, or where its membership should be drawn from?

Mr HOSKING: In general terms, the membership should be drawn from as many sources as possible. Practically speaking, I imagine that would mean that it would have to contain a mixture of nominated and elected positions. You would have to somehow canvass the community and ask organisations and individuals if they would wish to serve on that convention. If you ended up with far too many potential starters, I imagine you would have to have some sort of ballot to decide who was on and who was off. I also believe that there would have to be agreement on a core of people who would be automatically represented. A certain number of positions would automatically have to be filled by representatives of government or political parties and major social groups. Aboriginal organisations would have to be represented, solely because Aborigines comprise such a large percentage of our population and because, ultimately, they will probably own half the Territory's land mass. For those 2 reasons alone, I think that Aboriginal organisations would have to be represented.

Mr HARRIS: The issue of Aboriginal land is a very difficult aspect of this exercise. Do you have any views on whether land rights should be patriated back to the state and whether Aboriginal prior ownership should be enshrined in the constitution or mentioned in a preamble?

Mr HOSKING: I believe that these are essentially political issues which have to be resolved by voters in elections. I do not see any other alternative at federal, state or Territory level. I would leave it to the sanctity of the vote to resolve those issues.

Mr HARRIS: It is very difficult because we have a minority group and those issues have to be looked at responsibly. At this point in time, we are trying to get views from the various interest groups and I do not know whether or not the views of the land councils will be similar to the views of community groups.

Mr HOSKING: Those are extremely difficult things to judge and I certainly would not presume to judge them. I would just put my faith in the vote. I really cannot add any more to that.

Mr SMITH: Can you expand on the economic benefits you believe statehood would bring? I think you said that economic independence would result from the Territory becoming a state.

Mr HOSKING: I suppose that is a fairly sweeping statement. However, the situation I would be looking for is one in which the level of subsidy which the Territory receives from the Commonwealth would be the same as the average subsidy received by the states. That would be the basic indicator. As I understand it, the existing subsidy per head of population in the Territory is twice the national average. When we are able to generate far more income from our own resources, presumably that ratio will lower so that it ultimately reaches the national average. I may have the arithmetic all wrong, but I have read in the press that our subsidy is about twice that of the average in the states when all federal grants and subsidies are added up and divided by the population number. It seems to me that it is desirable to bring our figure back to the national average.

My views may be coloured by my involvement in the mining industry, but I am certain that if all royalties resulting from uranium were to flow to the Northern Territory state, the ration would be lowered.

Mr SMITH: Do you know how much money the Commonwealth gets out of royalties from uranium mining in the Territory?

Mr HOSKING: I cannot quote you the exact amount, no.

Mr SMITH: It is between \$2m and \$4m a year, which is not all that much.

Mr HOSKING: There might also be opportunities for additional mines. There has been a lot of publicity lately about the potential for more revenue for the Territory through additional uranium mines. Once again, I cannot quote the exact numbers.

Mr SMITH: Statehood will not affect that because the Commonwealth still has the ultimate control over the uranium industry through its controls over exports. Whether we become a state or not will not alter the controls which the federal government of the day has in that respect.

Mr HOSKING: Royalties would provide the only mechanism for increased revenue in that area.

Mr SMITH: My understanding of what happens at present is that the Commonwealth returns the amount it gets from royalties from uranium mined in the Northern Territory to the Northern Territory. Not all of that goes to the Northern Territory government. The government gets part of it but a substantial part also goes to the Aboriginal Benefit Trust Account.

Mr HOSKING: I cannot really add any more to that.

Mr SETTER: Mr Chairman, I was also interested in Tony's reference to economic independence. Tony, your submission said that '3 areas require major change by the Commonwealth to ensure that the Territory is on an equal footing with the states: land tenure - administration by the Territory; ownership of national parks - Uluru and Kakadu; and ownership of minerals - uranium'. You have already commented on uranium but I would ask you to project your thoughts to take into account the possibility of royalties from the oil and gas reserves off our coast. Also, could you expand on your comment concerning land tenure and ownership of national parks? How do you perceive that would benefit the Territory?

Mr HOSKING: Ultimately, if the Northern Territory controls that land, its government will have the ability to determine how that land is developed and what economic activity occurs on it. That seems to be a more direct way of ensuring that the maximum benefit goes to the owners and occupiers of that land than if it is managed from afar. I admit that my submission put the matter in a general context, in terms of equality with the states. It just seems to me that, if you control your own destiny, you have more freedom of choice and more options in respect of land management. It is not done from afar. The link between the Territory government and the citizens of the Territory is far more direct and immediate than that between the federal government and Northern Territory citizens. It may be a rank generalisation or supposition to argue that there will be greater economic benefit if the link between government and citizens is as close as possible, but I for one believe that that is the case.

Mr SETTER: Would you agree that, upon the transfer of powers from the Commonwealth, we should accept nothing less than equal terms and conditions to those enjoyed by the other states, with the possible exclusion of the extent of representation in the federal Houses of Parliament?

Mr HOSKING: I think so. I believe that the rest of the Australian nation would deem it to be fair that the Territory should not be different. I think that would be the approach to adopt in promoting the concept, both within the Territory and throughout Australia: 'Hey, we have grown up and we want to be just like you'. I know that sounds very simplistic but that is really the way I would deal with it.

Mr HARRIS: Thank you very much for presenting your submission, Tony.

We were also due to receive a submission from the Chamber of Mines, which has apologised for being unable to have a representative present today. If there is no one in the Gallery who wishes to present a further submission, I will thank all members and witnesses for their attendance.

I believe that the exercise of moving throughout the Territory and its communities and obtaining both written and oral submissions is a vital part of this exercise. It will be extremely difficult for us to come to grips with many of the complex issues that we have to look at during the course of developing our constitution. One would hope that enough interest will be generated in the community to enable us to complete our task in a reasonable period of time.

As I have indicated throughout these hearings, it is a disappointment that some organisations and groups have come to us and have not been able to put forward full submissions in relation to matters upon which they should have some definite

views. It is important that people do not play the game of waiting to see what the others are going to say. If you do that, you never get anywhere. Fortunately, a number of groups have entered into the spirit of this committee's business and will be presenting full submissions to the committee in the areas in which they have expertise.

With those words, I declare these hearings closed at 3.35pm.